



Council Meeting Agenda

JANUARY 7, 2015
CITY COUNCIL CHAMBERS
4:30 P.M. Regular Session
201 N. Broadway, Escondido, CA 92025

MAYOR	Sam Abed
DEPUTY MAYOR	Michael Morasco
COUNCIL MEMBERS	Olga Diaz Ed Gallo John Masson
CITY MANAGER	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

**January 7, 2015
4:30 P.M. Meeting**

Escondido City Council

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

ORAL COMMUNICATIONS

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

CONSENT CALENDAR

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

- 1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
- 2. APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
- 3. [APPROVAL OF MINUTES: Special Meeting of December 3, 2014 and Regular Meeting of December 10, 2014](#)**

4. **FIRST AMENDMENT TO COMPUTER AIDED DISPATCH MASTER AGREEMENT -**
Request Council approve authorizing the Mayor and City Clerk to execute a first amendment to the Computer Aided Dispatch (CAD) Master Agreement.

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

RESOLUTION NO. 2015-14

5. **BID AWARD FOR THE FISCAL YEAR 2014-2015 STREET REHABILITATION PROJECT -**
Request Council approve authorizing the bid award to George Weir Asphalt Construction Inc., determined to be the lowest responsive and responsible bidder and authorize the Mayor and City Clerk to execute a Public Improvement Agreement in the amount of \$3,078,289 for the FY 2014-2015 Street Rehabilitation Project.

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

RESOLUTION NO. 2015-06

6. **AWARD BID FOR SIX MID-SIZE TRUCKS -**
Request Council approve awarding the bid for the purchase of six 2015 mid-size trucks from Quality Chevrolet of Escondido in the amount of \$156,579.06, which includes sales tax, documentation fees and California State Tire Recycling fee. The existing vehicles have been in service between ten and eleven years and are being replaced due to exceeding their standard service life expectancy, excessive mileage and rundown conditions.

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

RESOLUTION NO. 2015-04

7. **A FIRST AMENDMENT TO THE CONSULTING AGREEMENT WITH LANCE, SOLL AND LUNGHARD, LLP FOR FINANCIAL STATEMENT AUDIT SERVICES -**
Request Council approve authorizing the Director of Administrative Services to execute a First Amendment to the Consulting Agreement with Lance, Soll, and Lunghard, LLP in the amount of \$47,830 for one additional year of audit services.

Staff Recommendation: **Approval (Administrative Services: Sheryl Bennett)**

RESOLUTION NO. 2015-05

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.)

8. **AMENDMENT TO THE ZONING CODE PERTAINING TO OUTDOOR LIGHTING (AZ 14-0002)**
Approved on December 10, 2014 with a vote of 5/0

ORDINANCE NO. 2014-20 (Second Reading and Adoption)

PUBLIC HEARINGS

9. **SIXTEENTH AMENDMENT TO CONTRACT WITH ESCONDIDO DISPOSAL FOR ANNUAL CONSUMER PRICE INDEX INCREASE TO SOLID WASTE AND RECYCLING RATES AND FEES FOR COMMERCIAL COLLECTIONS -**

Request Council approve revising the rates for Commercial Solid Waste and Recycling Services. Effective January 7, 2015, a 1.4752 percent increase would apply to all commercial collection services.

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

RESOLUTION NO. 2015-12

10. **SIXTEENTH AMENDMENT TO CONTRACT WITH ESCONDIDO DISPOSAL FOR ANNUAL CONSUMER PRICE INDEX INCREASE TO SOLID WASTE AND RECYCLING RATES AND FEES FOR RESIDENTIAL COLLECTIONS -**

Request Council approve revising the rates for Residential Solid Waste and Recycling Services. Effective March 1, 2015, a 2.4313 percent increase would apply to all residential collection services.

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

RESOLUTION NO. 2015-13

11. **2015-2019 CONSOLIDATED PLAN PRIORITIES -**

Request Council receive information and direct staff to report back on the results of the community assessment currently underway that will establish updated CDBG and HOME priorities for the 2015-2019 Consolidated Plan.

Staff Recommendation: **Provide Direction (Community Development Department: Barbara Redlitz & Public Works Department: Ed Domingue)**

12. **MUNICIPAL AND ZONING CODE AMENDMENTS PERTAINING TO MASSAGE ESTABLISHMENTS (AZ 14-0004) -**

Request Council approve amending Chapter 16A and Article 38 of the Escondido Municipal and Zoning Codes respectively, adopting application requirements, locational provisions, operating standards and licensing certifications governing the approval of massage establishments.

Staff Recommendation: **Approval (Community Development Department: Barbara Redlitz & Police Department: Craig Carter)**

ORDINANCE 2015-01 (Introduction and First Reading)

13. **TAX EQUITY AND FISCAL RESPONSIBILITY ACT HEARING FOR THE CROSSINGS AT ESCONDIDO MANOR -**

Request Council approve the issuance by California Statewide Communities Development Authority (CSCDA) of Multifamily Housing Revenue Bonds in an amount not to exceed \$7,000,000 for The Crossings at Escondido Manor at 1150-66 North Escondido Boulevard, Escondido, California, 92026.

Staff Recommendation: **Approval (Community Development Department: Barbara Redlitz)**

RESOLUTION NO. 2015-02

14. **TAX EQUITY AND FISCAL RESPONSIBILITY ACT HEARING FOR CYPRESS COVE APARTMENTS -**

Request Council approve the issuance by California Statewide Communities Development Authority (CSCDA) of Multifamily Housing Revenue Bonds for Cypress Cove Apartments at 260 North Midway Drive, Escondido, California 92027 in an amount not to exceed \$32,000,000.

Staff Recommendation: **Approval (Community Development Department: Barbara Redlitz)**

RESOLUTION NO. 2015-03

15. **TAX EQUITY AND FISCAL RESPONSIBILITY ACT HEARING FOR SUMMIT ROSE APARTMENTS -**

Request Council approve the issuance by California Statewide Communities Development Authority (CSCDA) of Multifamily Housing Revenue Bonds in an amount not to exceed \$10,000,000 for Summit Rose Apartments at 460 East Washington, Escondido, California 92025.

Staff Recommendation: **Approval (Community Development Department: Barbara Redlitz)**

RESOLUTION NO. 2015-08

CURRENT BUSINESS

16. **URBAN STREAMS RESTORATION PROGRAM GRANT APPLICATION -**

Request Council approve authorizing the Environmental Programs Manager or her designee to submit grant documents for an amount up to \$1,000,000 to the California Department of Water Resources (DWR) for Urban Streams Restoration Program funds; accept the grant funds; and complete necessary documents required by DWR for participation in the Urban Streams Restoration Program for the installation of drainage improvements to the earth-lined portions of the channel draining the Spruce Street area ("Mission Pools") near the Transit Station.

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

RESOLUTION 2015-10

17. **PUBLIC WORKS YARD NEEDS ASSESSMENT STUDY -**

Request Council receive and file the Public Works Yard Needs Assessment Study and provide direction on future actions.

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

FUTURE AGENDA

18. **FUTURE AGENDA -**

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

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

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

CITY MANAGER'S UPDATE/BRIEFING

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

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

ORAL COMMUNICATIONS

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

ADJOURNMENT

UPCOMING MEETING SCHEDULE

Date	Day	Time	Meeting Type	Location
January 14	Wednesday	3:30 & 4:30 p.m.	Regular Meeting	Council Chambers
January 21	-	-	No Meeting	-
January 28	-	-	No Meeting	-
February 4	Wednesday	3:30 & 4:30 p.m.	Regular Meeting	Council Chambers

TO ADDRESS THE COUNCIL

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

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

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

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

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

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

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

LIVE BROADCAST

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

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

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

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

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



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

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

December 3, 2014
7:00 P.M. Draft Special Meeting Minutes
Escondido City Council

CALL TO ORDER

The Special Meeting of the Escondido City Council was called to order at 7:00 p.m. on Wednesday, December 3, 2014 in the Council Chambers at City Hall with Mayor Abed presiding.

FLAG SALUTE:

Police and Fire Color Guard led the flag salute.

NATIONAL ANTHEM:

Officer Beverly Holtz sang the National Anthem.

INVOCATION:

Dennis Keating gave the invocation.

ROLL CALL:

The following members were present: Councilmember Gallo, Councilmember Masson, Councilmember Morasco, and Mayor Abed. Diaz absent. Quorum present.

Also present were: Clay Phillips, City Manager; Jeffrey Epp, City Attorney; Diane Halverson, City Clerk; and Eva Heter, Assistant City Clerk.

ORAL COMMUNICATIONS

CONSENT CALENDAR

Attorney Jeffrey Epp requested the addition of one item to the agenda.

MOTION: Moved by Councilmember Gallo, seconded by Councilmember Masson to add the following item to the Consent Calendar pursuant to Government Code Section 54954.2(b)(2); that the need to take immediate action arose subsequent to the posting of the agenda. Ayes: Abed, Gallo, Morasco, Masson. Noes: None. Absent: Diaz. Motion carried.

- 5. SETTLEMENT AGREEMENT AND IMPLEMENTING AGREEMENT WITH THE SECRETARY OF THE INTERIOR** - Authorize the Mayor and City Clerk to execute a settlement agreement between the United States and the La Jolla, Rincon, Pala, Pauma and San Pasqual Bands of Mission Indians and the San Luis Rey Indian Water Authority and the City of Escondido and Vista Irrigation District; and Implementing agreement among the City of Escondido, California, on its own behalf and as Successor to the Escondido Mutual Water Company, the Vista Irrigation District, the San Luis Rey River Indian Water Authority and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians pursuant to the San Luis Rey Indian Water Rights Settlement Act, Public Law 100-675, as amended. (File No. 0600-10)

Staff Recommendation: **Approval (City Attorney, Jeffrey Epp)**

RESOLUTION NO. 2014-181

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Masson to authorize the Mayor and City Clerk to execute a settlement agreement between the United States and the La Jolla, Rincon, Pala, Pauma and San Pasqual Bands of Mission Indians and the San Luis Rey Indian Water Authority and the City of Escondido and Vista Irrigation District; and Implementing agreement among the City of Escondido, California, on its own behalf and as Successor to the Escondido Mutual Water Company, the Vista Irrigation District, the San Luis Rey River Indian Water Authority and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians pursuant to the San Luis Rey Indian Water Rights Settlement Act, Public Law 100-675, as amended. Ayes: Abed, Gallo, Morasco, Masson. Noes: None. Absent: Diaz. Motion carried.

1. CERTIFICATION OF 2014 GENERAL MUNICIPAL ELECTION RESULTS -

Request Council approve certifying the November 4, 2014 City of Escondido General Municipal Election and declare the results. (File No. 0650-40)

Staff Recommendation: **Approval (City Clerk's Office: Diane Halverson)**

RESOLUTION NO. 2014-173

MOTION: Moved by Councilmember Masson and seconded by Councilmember Morasco to approve certifying the November 4, 2014 City of Escondido General Municipal Election and declare the results. Ayes: Abed, Gallo, Morasco, Masson. Noes: None. Absent: Diaz. Motion carried.

INSTALLATION CEREMONIES

2. INSTALLATION OF OFFICERS: The Honorable Judge Harry Elias

- Sam Abed, Mayor
- Ed Gallo, Councilmember - District One
- John Masson, Councilmember - District Two

The Honorable Judge Harry Elias administered the Oath of Office to the newly elected Mayor Sam Abed, Councilmember Ed Gallo, and Councilmember John Masson.

3. COMMENTS FROM NEWLY ELECTED OFFICERS

CURRENT BUSINESS

4. APPOINTMENT OF DEPUTY MAYOR -

Staff Recommendation: **None**

MOTION: Moved by Mayor Abed and seconded by Councilmember Masson to appoint Councilmember Morasco as Deputy Mayor. Ayes: Abed, Gallo, Morasco, Masson. Noes: None. Absent: Diaz. Motion carried.

ORAL COMMUNICATIONS

ADJOURNMENT/RECEPTION

Mayor Abed adjourned the meeting at 7:33 p.m.

MAYOR

CITY CLERK

ASSISTANT CITY CLERK

CITY OF ESCONDIDO
December 10, 2014
4:30 P.M. Draft Meeting Minutes

Escondido City Council
Mobile Home Rent Review Board
and as Successor Agency to the CDC

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 4:30 p.m. on Wednesday, December 10, 2014 in the Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION:

Enrique Moreno led the Moment of Reflection.

FLAG SALUTE

Mayor Abed led the Flag Salute.

ATTENDANCE:

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

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

ORAL COMMUNICATIONS

Jerry Richardson, Escondido, requested the Council reconsider the denial of the community garden proposal.

Zoe Sanchez Richardson, Escondido, stated that parking is available at the proposed community garden site, and asked the Council to reconsider their decision to deny the project.

David Sichmeller, Escondido, noted that currently the proposed community garden lot is in poor condition and requested the Council reconsider their decision to deny the proposal.

CONSENT CALENDAR

Councilmember Diaz removed items 6 and 7, Mayor Abed removed item 10 and Councilmember Masson removed item 12 from the Consent Calendar for discussion.

MOTION: Moved by Councilmember Masson and seconded by Deputy Mayor Morasco that the following Consent Calendar items be approved with the exception of items 6, 7, 10 and 12. Motion carried unanimously.

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
3. **APPROVAL OF MINUTES: Regular Meeting of November 19, 2014**

4. **NOTICE OF COMPLETION FOR MAPLE STREET PEDESTRIAN PLAZA MODIFICATIONS -**
Request Council approve and accept the public improvements and authorize staff to file a Notice of Completion for the Maple Street Pedestrian Plaza Modifications. (File No. 0600-10 [A-3123])

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

5. **AGREEMENT FOR EMERGENCY USE OF FACILITIES WITH CALFIRE AT KIT CARSON PARK**
Request Council approve authorizing the Real Property Manager to execute an Agreement for Emergency Use of Facilities with CALFIRE at Kit Carson Park. (File No. 0600-10 [A-3139])

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

RESOLUTION NO. 2014-177

6. **HIRE A REGULAR FULL-TIME FIRE DIVISION CHIEF TO OVERSEE TRAINING AND THE EMERGENCY MEDICAL SERVICES PROGRAM AND BUDGET ADJUSTMENT -**
Request Council approve the hiring of a Fire Division Chief to oversee Training and the Emergency Medical Services Program ("EMS") by utilizing the savings from the revised Cooperative EMS Program, savings from restructuring the Fire Prevention Bureau and savings from converting the EMS delivery service from an alternating 12/24-hour shift schedule to a 24-hour schedule. (File No. 0430-80)

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

RESOLUTION NO. 2014-178

Councilmember Diaz requested information on the proposed changes.

Michael Lowry, Fire Chief, presented the staff report, utilizing a PowerPoint Presentation

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Diaz to approve the hiring of a Fire Division Chief to oversee Training and the Emergency Medical Services Program ("EMS") by utilizing the savings from the revised Cooperative EMS Program, savings from restructuring the Fire Prevention Bureau and savings from converting the EMS delivery service from an alternating 12/24-hour shift schedule to a 24-hour schedule and adopt Resolution No. 2014-178. Motion carried unanimously.

7. **ANNUAL FINANCIAL REPORT ON CAPITAL FUNDS FUNDED BY DEVELOPER FEES PER GOVERNMENT CODE SECTION 66006 -**
Request Council receive and file the Annual Financial Report on Capital Funds. (File No. 0430-20)

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

Councilmember Diaz requested an explanation of the park development fund and questioned whether funds would be used to perform renovations to the Grape Day Park restrooms.

City Manager Phillips explained that development funding is used on new construction for facilities.

Councilmember Masson requested clarification about Public Facility Fees being used for road and bridge improvements.

City Manager Phillips stated that fees are appropriated for facilities and not roadways.

MOTION: NO ACTION, INFORMATION ONLY

- 8. TREASURER'S INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 30, 2014 -**
Request Council receive and file the Quarterly Investment Report. (File No. 0490-55)

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

- 9. FISCAL YEAR 2014 URBAN AREA SECURITY INITIATIVE GRANT - SECURITY ENHANCEMENT GRANT AND BUDGET ADJUSTMENT -**

Request Council approve accepting a FY 2014 UASI Grant in the amount of \$59,865 from the City of San Diego Office of Homeland Security; authorize the Chief of Police or his designee to execute contract documents on behalf of the City; and approve budget adjustments needed to spend grant funds. (File No. 0480-70)

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

- 10. FISCAL YEAR 2015 CALIFORNIA GANG REDUCTION, INTERVENTION AND PREVENTION GRANT AND BUDGET ADJUSTMENT -**

Request Council approve accepting a CalGrip Grant in the amount of \$1,500,000 from the Board of State and Community Corrections; authorize the Chief of Police or his designee to execute contract documents on behalf of the City; and approve budget adjustments needed to spend grant funds. (File No. 0480-70)

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

Mayor Abed recognized the partnership with the Escondido Education Compact and stated that the funds are used to help reduce gang violence.

Bob Benton, Assistant Chief of Police, presented the staff report

MOTION: Moved by Mayor Abed and seconded by Councilmember Masson to approve accepting a CalGrip Grant in the amount of \$1,500,000 from the Board of State and Community Corrections; authorize the Chief of Police or his designee to execute contract documents on behalf of the City; and approve budget adjustments needed to spend grant funds. Motion approved unanimously.

- 11. CALHOME GRANT AWARD BUDGET ADJUSTMENT -**

Request Council approve budget adjustments totaling \$1,902,000 for owner occupied rehabilitation projects in conjunction with use of California Department of Housing and Community Development (HCD) CalHOME program funds and authorize one grant-funded staff position to administer the program. (File No. 0480-70)

Staff Recommendation: **Approval (Community Development Department: Barbara Redlitz)**

- 12. EXTENSION OF LOAN AGREEMENT FOR LAS CASITAS TRANSITIONAL HOUSING -**

Request Council approve extending the loan period for a 1989 Community Development Commission loan for Las Casitas Transitional Housing at 1203 S. Maple Street for an additional 15 years to December 31, 2029; authorize the Mayor and City Clerk to execute a Loan Agreement with all necessary supporting agreements in forms acceptable to the City Attorney; and authorize the forgiveness of the 2000 HOME loan for renovation of the Las Casitas units, in accordance with the agreement. (File No. 0875-12)

Staff Recommendation: **Approval (Community Development Department: Barbara Redlitz)**

RESOLUTION NO. 2014-179

Councilmember Masson requested clarification about refinancing and the forgiving of debt on loans.

Karen Youel, Housing Department, presented the financial information on loans.

MOTION: Moved by Councilmember Masson and seconded by Deputy Mayor Morasco to approve extending the loan period for a 1989 Community Development Commission loan for Las Casitas Transitional Housing at 1203 S. Maple Street for an additional 15 years to December 31, 2029; authorize the Mayor and City Clerk to execute a Loan Agreement with all necessary supporting agreements in forms acceptable to the City Attorney; and authorize the forgiveness of the 2000 HOME loan for renovation of the Las Casitas units, in accordance with the agreement and adopt Resolution No. 2014-179. Motion carried unanimously.

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.)

- 13. UPDATE TO CHAPTER 7, LOCAL EMERGENCY, OF THE ESCONDIDO MUNICIPAL CODE -**
Approved on November 19, 2014 with a vote of 5/0 (File No. 0680-50)
ORDINANCE 2014-16 (Second Reading and Adoption)
- 14. MODIFICATION TO THE MASTER DEVELOPMENT PLAN FOR THE LOWE'S COMMERCIAL CENTER (PHG 14-0012) -**
Approved on November 19, 2014 with a vote of 5/0 (File No. 0800-40)
ORDINANCE 2014-18 (Second Reading and Adoption)
- 15. MODIFICATION TO A MASTER AND PRECISE DEVELOPMENT PLAN FOR "THE POINT" OFFICE BUILDING LOCATED IN THE LA TERRAZA CORPORATE CENTER (PHG 14-0022) -**
Approved on November 19, 2014 with a vote of 5/0 (File No. 0800-40)
ORDINANCE 2014-19(R) (Second Reading and Adoption)

PUBLIC HEARINGS

- 16. AMENDMENT TO THE ZONING CODE PERTAINING TO OUTDOOR LIGHTING (AZ 14-0002)**
Request Council approve the amendments to the Zoning Code Article 35, Outdoor Lighting and certify the environmental determination. (File No. 0810-20)

Staff Recommendation: **Approval (Community Development Department: Barbara Redlitz)**
ORDINANCE 2014-20 (Introduction and First Reading)

Barbara Redlitz, Director of Community Development, presented the staff report, utilizing a PowerPoint Presentation.

Gary Nelson Silverman III, North County San Diego, shared information about the importance of stars.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Masson to approve the amendments to the Zoning Code Article 35, Outdoor Lighting and certify the environmental determination and introduce Ordinance 2014-20. Motion carried unanimously.

- 17. SHORT-FORM RENT INCREASE APPLICATION FOR GREENCREST MOBILEHOME PARK -**
Request Council approve the short-form rent increase application submitted by Greencrest Mobile Home Park and approve granting an increase of seventy-five percent (75%) of the change in the Consumer Price Index, or 1.823% (an average of \$7.70) for the period of June 30, 2013 to June 30, 2014. (File No. 0697-20-10011)

Staff Recommendation: **Approval (Community Development Department: Barbara Redlitz)**

RRB RESOLUTION NO. 2014-09

Karen Youel, Housing Department, presented the staff report, utilizing a PowerPoint Presentation.

Jim Younce, Escondido, Park Owner Representative, was available to answer questions.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Masson to approve the short-form rent increase application submitted by Greencrest Mobile Home Park and approve granting an increase of seventy-five percent (75%) of the change in the Consumer Price Index, or 1.823% (an average of \$7.70) for the period of June 30, 2013 to June 30, 2014 and to adopt RRB Resolution No. 2014-09. Motion carried unanimously.

CURRENT BUSINESS

- 18. FINANCIAL STATUS REPORT FOR FISCAL YEAR 2013/2014 AND BUDGET ADJUSTMENT -**
Request Council receive and file the annual financial status report for FY 2013/2014; approve the budget adjustment that recommends using the year end General Fund surplus of \$2,297,000 to fund specific department funding request totaling \$551,000, to transfer \$1,000,000 to the General Liability Fund Reserve; and to adopt Resolution 2014-174 which recommends transferring the remaining balance of \$746,000 to the General Fund Reserve bringing the year-end Reserve balance to \$17,319,659. (*continued from November 19, 2014*) (File No. 0430-30)

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

RESOLUTION NO. 2014-174

Sheryl Bennett, Director of Administrative Services; Joan Ryan, Assistant Finance Director; Scott Petersen, Finance Department; and Michelle LeFever, Finance Department, presented the staff report, utilizing a PowerPoint Presentation.

Karen Jovey, Chairman of the Board for the CA Center for the Arts, thanked the Council for a positive working relationship that has benefitted the Center.

MOTION: Moved by Councilmember Masson and seconded by Deputy Mayor Morasco to receive and file the annual financial status report for FY 2013/2014; approve the budget adjustment that recommends using the year end General Fund surplus of \$2,297,000 to fund specific department funding request totaling \$551,000, to transfer \$1,000,000 to the General Liability Fund Reserve; and to adopt Resolution 2014-174 which recommends transferring the remaining balance of \$746,000 to the General Fund Reserve bringing the year-end Reserve balance to \$17,319,659 and adopt Resolution No. 2014-174. Motion carried unanimously.

- 19. AD HOC COMMITTEE RECRUITMENT -**
Request Council approve the creation of a Mayoral appointed Ad Hoc Committee to assist and provide feedback to the City Manager related to the recruitment process of hiring an Assistant City Manager. (File No. 0610-55)

Staff Recommendation: **Approval (City Manager's Office: Clay Phillips)**

RESOLUTION NO. 2014-180

MOTION: Moved by Councilmember Masson and seconded by Councilmember Diaz to approve the creation of a Mayoral appointed Ad Hoc Committee to assist and provide feedback to the City Manager related to the recruitment process of hiring an Assistant City Manager and adopt Resolution No. 2014-180. Motion carried unanimously.

- 20. REVIEW AND UPDATE OF CURRENT COUNCIL SUBCOMMITTEE MEMBER ASSIGNMENTS -**
Request Council make determinations and ratify members to serve on the Council/Mayoral appointed subcommittees per the attached listing. (File No. 0610-55)

Staff Recommendation: **None**

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Diaz to appoint Councilmember Ed Gallo to the North County Transit District, and Deputy Mayor Morasco as alternate; Mayor Abed to SANDAG, Councilmember Masson as first alternate, and Councilmember Gallo as second alternate; Councilmember Diaz to San Dieguito River Valley Regional Open Space Park JPA Board, and Deputy Mayor Morasco as alternate. Motion carried unanimously.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Diaz to appoint Mayor Abed to ABAG; Councilmember Masson to the League of California Cities; Deputy Mayor Morasco to the Regional Solid Waste Association Board; Councilmember Diaz to the Escondido Creek Watershed Alliance; and Councilmember Gallo to the San Diego County Water Authority. Motion carried unanimously.

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Masson to appoint Councilmember Masson and Deputy Mayor Morasco to the Annual Award Selection Subcommittee; Councilmember Gallo and Deputy Mayor Morasco to the CCAE Subcommittee; Mayor Abed and Councilmember Masson to the Economic Development Subcommittee; Deputy Mayor Morasco and Councilmember Diaz to the School Subcommittee; and Councilmember Gallo and Deputy Mayor Morasco to the Utilities Subcommittee. Motion carried unanimously.

MOTION: Moved by Councilmember Masson and seconded by Councilmember Diaz to appoint Councilmembers Diaz and Gallo to the Downtown Parking Committee. Motion carried unanimously.

FUTURE AGENDA

21. FUTURE AGENDA -

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

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

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

Councilmember Masson reported that the League of California Cities outlined strategic priorities for 2015.

Councilmember Gallo reported on the SANDAG Borders Committee indicating that the San Ysidro Border Crossing is the busiest in the western hemisphere.

Mayor Abed reported on the SANDAG Regional Transportation Plan (2050).

CITY MANAGER'S UPDATE/BRIEFING

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

- **CITY MANAGER'S UPDATE –**

ORAL COMMUNICATIONS

ADJOURNMENT

Mayor Abed adjourned the meeting at 6:48 p.m.

MAYOR

CITY CLERK

ASSISTANT CITY CLERK

CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 4

Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Craig Carter, Chief of Police
Mark Becker, Director of Information Systems

SUBJECT: First Amendment to Computer Aided Dispatch (CAD) Master Agreement

RECOMMENDATION:

It is requested that City Council adopt Resolution No. 2015-14, authorizing the Mayor and City Clerk to execute a first amendment to the Computer Aided Dispatch (CAD) Master Agreement.

FISCAL ANALYSIS:

The Police Department General Fund Budget will cover the cost of the CAD Software Maintenance Amendment. The following costs will be incurred from 2015 through 2019:

<u>Calendar Year</u>	<u>Annual CAD Maintenance Cost</u>
2015	\$144,450
2016	\$151,673
2017	\$159,257
2018	\$167,220
2019	\$175,581

PREVIOUS ACTION:

On July 23, 2014, Council approved a Computer Aided Dispatch (CAD) Upgrade.

BACKGROUND:

The Northrop Grumman CommandPoint Computer-Aided Dispatch (CAD) system was installed in November 2008 and was supported for 12 months under a warranty provision in the original implementation contract. The CAD system is running on 11 servers that support 24/7/365 Dispatch, Police and Fire Emergency operations. There are approximately 200 CAD users (25 workstations and 175 Mobile computers) connected to the system.

A five-year, software maintenance agreement was signed with Northrop Grumman in January 2010 which included the following:

- 24/7/365 technical support for the CAD software, Mobile Data Computer (MDC) software, and the data interfaces for external applications that receive data from the CAD system.

- 24/7/365 first-line support for the CAD system hardware. Northrop Grumman assists with the diagnosis of server/hardware issues and will assist with the referral to Hewlett Packard (HP) for final diagnosis/replacement of faulty equipment. A separate maintenance agreement exists with HP for maintenance of the CAD servers/hardware.
- Software upgrades to the CommandPoint CAD system. This would include application bug fixes and functional enhancements to the base CAD system software. Northrop Grumman guarantees continued compatibility with Escondido data interfaces with delivered software upgrades.

This amendment is an extension of the original five-year maintenance agreement established in January 2010. Your approval today will allow police and fire personnel to continue using the CommandPoint CAD system.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Craig Carter', written in a cursive style.

Craig Carter
Chief of Police

RESOLUTION NO. 2015-14

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 FIRST AMENDMENT TO THE MASTER MAINTENANCE AGREEMENT WITH NORTHROP GRUMMAN FOR COMPUTER AIDED DISPATCH SOFTWARE MAINTENANCE SERVICES

WHEREAS, on January 6, 2010, City Council approved a five-year, computer aided dispatch ("CAD") Master Maintenance Agreement with Northrop Grumman; and

WHEREAS, the Chief of Police recommends the approval of a First Amendment to the Master Maintenance Agreement to extend software maintenance services for five additional years; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve the First Amendment to the CAD Master Maintenance Agreement.

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 Chief of Police.
3. That the Mayor and City Clerk are authorized to execute, on behalf of the City, a First Amendment to the CAD Master Maintenance Agreement ("First Amendment"), with Northrop Grumman, for five additional years of CAD software maintenance services. A copy of the First Amendment is attached as Exhibit "1" and is incorporated by this reference.



CITY OF ESCONDIDO
FIRST AMENDMENT TO PUBLIC SERVICE AGREEMENT

This "Amendment" is made this _____ day of January, 2015.

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

And: Northrop Grumman Systems Corporation
 15010 Conference Center Drive
 Chantilly, VA 20151-3801
 Attn: Sue Jun
 ("CONTRACTOR")

Witness that whereas:

- A. CITY and CONTRACTOR entered into an agreement on January 6, 2010, ("Agreement"), wherein CITY retained CONTRACTOR to provide software maintenance for the Computer Aided Dispatch (CAD) system;

- B. CITY and CONTRACTOR desire to amend the Agreement to include additional work, which is defined in "Attachment A" to this Amendment, which is incorporated by reference;

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

- 1. The CONTRACTOR will furnish the services described in "Attachment A" to this Amendment.

- 2. CITY will compensate the CONTRACTOR in an additional amount not to exceed \$798,181, pursuant to the conditions contained in "Attachment A" to this Amendment.

- 3. All other terms of the original Agreement between CITY and CONTRACTOR shall remain in full force and effect; in the event of any conflict between any specific provision of the original Agreement and this Amendment, this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

CITY OF ESCONDIDO

Date: _____

Sam Abed
Mayor

Date: _____

Diane Halverson
City Clerk

Date: _____

Sue Jun, Contracts Administrator
(The above signature should be notarized)

APPROVED AS TO FORM:

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

BY: _____

Attachment A

**Amendment No. 1 to the Agreement
 Between the City of Escondido and Northrop Grumman Systems Corporation**

This First Amendment is entered into effective January 7, 2015, between **Northrop Grumman Systems Corporation**, hereinafter referred to as "Northrop Grumman", and the **City of Escondido**, hereinafter referred to as "Customer".

The parties entered into a Master Maintenance Agreement ("Agreement") effective January 1, 2010 through December 31, 2014 for the software maintenance of the Customer's Computer Aided Dispatch System. The parties hereby extend the term of this agreement for an additional five (5) years at the price shown below:

	Period 6 1/1/15 - 12/31/15	Period 7 1/1/16 - 12/31/16	Period 8 1/1/17 - 12/31/17	Period 9 1/1/18 - 12/31/18	Period 10 1/1/19 - 12/31/19
CommandPoint™ CAD/MIS	\$ 104,378	\$ 109,597	\$ 115,077	\$ 120,831	\$ 126,872
AVL with AVRR	\$ 4,881	\$ 5,125	\$ 5,381	\$ 5,650	\$ 5,933
CLETS via eSUN	\$ 6,110	\$ 6,416	\$ 6,736	\$ 7,073	\$ 7,427
CommandPoint™ Map	\$ 583	\$ 612	\$ 643	\$ 675	\$ 709
CommandPoint™ GDI Tools	\$ 2,426	\$ 2,547	\$ 2,675	\$ 2,808	\$ 2,949
CommandPoint™ Mobile	\$ 26,072	\$ 27,376	\$ 28,745	\$ 30,183	\$ 31,691
Total Due	\$ 144,450	\$ 151,673	\$ 159,257	\$ 167,220	\$ 175,581

10 CommandPoint™ CAD and 25 CommandPoint™ Mobile licenses are included in above 5YR Software maintenance pricing.

Option:

	Period 6 1/1/15 - 12/31/15	Period 7 1/1/16 - 12/31/16	Period 8 1/1/17 - 12/31/17	Period 9 1/1/18 - 12/31/18	Period 10 1/1/19 - 12/31/19
*HW Refresh	\$ 42,750	\$ 44,888	\$ 47,132	\$ 49,489	\$ 51,963

**This includes the new hardware with equivalent or better hardware specifications than the bill of materials for the Hardware Upgrade as set forth in September, 2014. Also included is the integration services to install, configure, test and migrate over all CAD environments to the new hardware.*

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 5

Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer
Matt C. Souttere, Associate Civil Engineer

SUBJECT: Bid Award for the FY 2014-2015 Street Rehabilitation Project

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-06 authorizing the bid award to George Weir Asphalt Construction Inc., determined to be the lowest responsive and responsible bidder; and authorizing the Mayor and City Clerk to execute a Public Improvement Agreement in the amount of \$3,078,289 for the FY 2014/2015 Street Rehabilitation Project.

FISCAL ANALYSIS:

This project will be awarded using available funds from TransNet, Gas Tax and the Street Projects Fund that were part of the FY 2014/2015 Capital Improvement Program Budget.

BACKGROUND:

This project is the first of a two-part annual pavement maintenance and rehabilitation program. Work for this project involves patching and replacement of pavement and asphalt overlays. A second project to apply seal coats will be bid in Spring 2015, for completion in Fall 2015. Combined, the two projects will seal or replace over 3.47 million square feet of pavement.

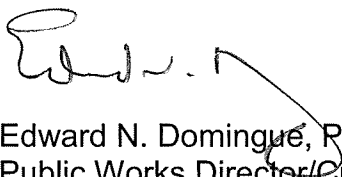
This year's pavement program will focus on residential streets located in Zone CN, which includes the area bordered by Lincoln Avenue on the north, Interstate 15 to the west, Ash Street to the east, and Fifth Avenue to the south. In addition, substantial work will take place on Broadway, Centre City Parkway, Escondido Boulevard, Mission Avenue, and streets in the Nordahl Industrial Park. Specific streets to be repaired are shown in Exhibit 1, Attachment A.

On December 18, 2014, the City of Escondido received five (5) sealed bids in response to its advertised request for bids on this project. The bids were opened by the City Clerk with the following bid results:

George Weir Asphalt Construction, Inc.	\$3,078,289.00
TC Construction Company, Inc.	\$3,162,158.15
PAL General Engineering Inc.	\$3,279,549.00
All American Asphalt	\$3,600,000.00
SRM Contracting & Paving	\$3,610,880.00

Staff recommends that the bid submitted by George Weir Asphalt Construction, Inc. be considered the lowest responsive and responsible bid, and that the contract be awarded to George Weir Asphalt Construction, Inc. in the amount of \$3,078,289.00. George Weir's bid was 11.3% lower than the Engineer's Estimate of \$3.47 million.

Respectfully submitted,



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



Matthew C. Souttere
Associate Civil Engineer

2014 Street Rehab Project

Exhibit 1, Attachment A

Primary List

Area	Street Name	Beg Location	End Location
1	CENTRE CITY PARKWAY - M0006	WASHINGTON AVE	MISSION AVE
1	CENTRE CITY PARKWAY - M0006	MISSION AVE	WASHINGTON AVE
1	CENTRE CITY PARKWAY - M0006	SR 78 WB	MISSION AVE
1	CENTRE CITY PARKWAY - M0006	MISSION AVE	SR 78 WB
1	CENTRE CITY PARKWAY - M0006	GRAND AVE	VALLEY PARKWAY
2	ESCONDIDO BOULEVARD - C0010	CREST STREET	MISSION AVENUE
2	ESCONDIDO BOULEVARD - C0010	MISSION AVENUE	WASHINGTON AVENUE
2	ESCONDIDO BOULEVARD - C0010	3RD AVENUE	5TH AVENUE
3	MISSION AVENUE - M0010	ASH STREET	FIG STREET
3	MISSION AVENUE - M0010	ESCONDIDO BOULEVARD	CENTRE CITY PARKWAY
3	MISSION AVENUE - M0010	BROADWAY	ESCONDIDO BOULEVARD
3	MISSION AVENUE - M0010	QUINCE STREET	ROCK SPRINGS ROAD
3	MISSION AVENUE - M0010	ROCK SPRINGS ROAD	METCALF STREET
3	MISSION AVENUE - M0010	METCALF ST	WASHINGTON AVENUE
3	MISSION AVENUE - M0010	MIDWAY DRIVE	ROSE STREET
4	5TH AVENUE - C0012	CENTRE CITY PARKWAY	ESCONDIDO BOULEVARD
6	MEYERS AVENUE - N0479	AUTO PARKWAY	BARHAM DRIVE
6	COUNTRY CLUB DRIVE - L0057	HILL VALLEY DRIVE	AUTO PARKWAY
6	CORPORATE DRIVE - N0482	MEYERS AVENUE	PROGRESS PLACE
6	EXECUTIVE PLACE - N0483	CORPORATE DRIVE	END
6	PROGRESS PLACE - N0484	COUNTRY CLUB DRIVE	END
7	BROADWAY - M0005	WASHINGTON AVENUE	VALLEY PARKWAY
7	GRAND AVENUE - C0014	BROADWAY S	VALLEY PARKWAY
7	GRAND AVENUE - C0014	2ND AVENUE	S Hickory St
10	ORANGE STREET - N0257	VALLEY PARKWAY	3RD AVE
10	2ND AVENUE - C0031	CCP	ORANGE STREET
11	WASHINGTON AVENUE - C0039	CENTRE CITY PKWY	SPRUCE ST
12	VIA RANCHO PARKWAY - A0004	GRENADINE GLEN	EUCALYPTUS AVE
13	FIG STREET - C0013	SHERIDAN AVENUE	EL NORTE PARKWAY
14	BROADWAY - M0005	LINCOLN AVE	LINCOLN PARKWAY
15	9TH AVENUE - C0025	CENTRE CITY PKWY	TULIP ST
15	9TH AVENUE - C0025	MAPLE ST	ESCONDIDO BLVD
15	9TH AVENUE - C0025	ESCONDIDO BLVD	CENTRE CITY PKWY
17	2ND AVENUE - C0031	GRAND AVE	JUNIPER ST
18	PENNSYLVANIA AVENUE - N0024	ASH STREET	VALLEY PARKWAY
18	3RD AVENUE - N0020	BROADWAY	ORANGE ST
18	5TH AVENUE - C0012	HICKORY	JUNIPER STREET
18	5TH AVENUE - C0012	BROADWAY	JUNIPER STREET
18	5TH AVENUE - C0012	ESCONDIDO BOULEVARD	BROADWAY
18	KALMIA STREET - N0270	2ND AVE	5TH AVE
18	MAPLE STREET - N0267	2ND AVE	5TH AVE
18	JUNIPER STREET - C0019	2ND AVENUE	5TH AVE
18	JUNIPER STREET - C0019	WASHINGTON AVENUE	VALLEY PARKWAY
18	KALMIA STREET - N0270	PENNSYLVANIA AVE	2ND AVE
18	BROADWAY - M0005	2ND AVENUE	5TH AVENUE

RESOLUTION NO. 2015-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AWARDING A BID FOR THE FY 2014-2015 STREET REHABILITATION PROJECT AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, A PUBLIC IMPROVEMENT AGREEMENT WITH GEORGE WEIR ASPHALT CONSTRUCTION INC.

WHEREAS, the City Council has allocated funding for the FY 2014-2015 Street Rehabilitation Project ("Project"); and

WHEREAS, a notice inviting bids for said improvements was duly published; and

WHEREAS, pursuant to said notice, five (5) sealed bids for the Project were opened and evaluated on December 18, 2014; and

WHEREAS, George Weir Asphalt Construction, Inc. was determined to be the lowest responsive and responsible bidder; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to award this contract to George Weir Asphalt Construction, Inc. in the amount of \$3,078,289;

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

1. That the above recitations are true.
2. That the Mayor and the City Clerk are authorized to execute, on behalf of the City, a Public Improvement Agreement with George Weir Asphalt Construction, Inc.

in substantially similar form to that which is attached and incorporated to this Resolution as Exhibit "2," and subject to final approval as to form by the City Attorney.

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 George Weir Asphalt Construction, 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

FY 2014/2015 Street Rehabilitation Project

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 Three Million Seventy Eight Thousand Two Hundred Eighty Nine Dollars, and No Cents (\$3,078,289.00).
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 **fifty five (55) 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 \$500/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 that **\$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.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 6
Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Sheryl Bennett, Director of Administrative Services
Joan Ryan, Assistant Finance Director

SUBJECT: Award Bid for Six Mid-Size Trucks

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-04 to award the bid for the purchase of six 2015 mid-size trucks from Quality Chevrolet of Escondido in the amount of \$156,579.06, which includes sales tax, documentation fees, and California State Tire Recycling fee. The existing vehicles have been in service between ten and eleven years and are being replaced due to exceeding their standard service life expectancy, excessive mileage, and rundown conditions.

FISCAL ANALYSIS:

Sufficient funds are available in the Fleet Service Vehicle Replacement Fund.

BACKGROUND:

Requests for bids were mailed to thirteen vendors on November 10, 2014. Seven bids were received, opened, and evaluated on December 3, 2014. The bid results are as follows:

Vendor	Amount
Quality Chevrolet	\$ 155,129.74 (includes 1% local sales tax credit)
Toyota of Escondido	173,694.80 (includes 1% local sales tax credit)
Toyota of Poway	174,293.22
Toyota of Carlsbad	174,759.74
Temecula Valley Toyota	180,023.70
Reynolds Buick	149,000.67 (disqualified)
Lake Chevrolet	153,114.02 (disqualified)

After reviewing Reynolds Buick and Lake Chevrolet's bids, the City determined that their bids were non-responsive because they did not meet the City's minimum bid specifications. Details why these vendors were disqualified may be found on the Fleet Superintendent's memo which is attached. Whenever possible, the City encourages the purchase of goods with local vendors; therefore, it is requested to take advantage of the 1% local sales tax vendor credit with Quality Chevrolet of Escondido as per Escondido Municipal Code Section 10-85, Local Purchases.

Staff has reviewed all the bids and recommends the bid award to Quality Chevrolet of Escondido in the amount of \$156,579.06 as the lowest and responsive bidder who conformed to the City's bid specifications and requirements.

Respectfully submitted,



Sheryl Bennett,
Director of Administrative Services



Joan Ryan,
Assistant Finance Director

DATE December 10, 2014

TO: Blanca Wolf, Purchasing Supervisor

FROM: Joseph Goulart, Fleet Maintenance Superintendent

SUBJECT: Bid Award for Six 2015 Mid-Size Trucks to Quality Chevrolet of Escondido

After reviewing all seven (7) bids received for bid number, 14-05 Mid-Size Trucks, on December 3, 2014, I am recommending that we reject the lowest bid submitted from Reynolds Buick Inc. due to not meeting the 14-05 bid specification. Reynolds Buick failed to submit a bid that included crew cab trucks. Bid number 14-05 requested six (6) mid-size trucks, four (4) extended cab and two (2) crew cab trucks.

I am also recommending that we reject the second lowest bid received from Lake Chevrolet for not meeting bid number 14-05 bid specifications. Lake Chevrolet submitted a bid that included crew cab trucks, but failed to include either a limited slip differential or an automatic locking rear differential. Bid number 14-05 bid specifications require at a minimum of a limited slip rear differential. The bid submitted from Lake Chevrolet configured all six (6) trucks with an open rear differential.

I am recommending that we accept the third lowest bid received from Quality Chevrolet of Escondido, in the amount of \$156,579.06. Quality Chevrolet of Escondido was the lowest and most responsive bidder who conformed to the City's bid specifications. Quality Chevrolet of Escondido complied in all areas of the bid specification.

RESOLUTION NO. 2015-04

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING CITY COUNCIL TO
APPROVE THE BID AWARD FOR THE
PURCHASE OF SIX MID-SIZE TRUCKS
FROM QUALITY CHEVROLET OF
ESCONDIDO

WHEREAS, sufficient funds are located in the Fleet Services Vehicle Replacement Fund; and

WHEREAS, the City of Escondido duly published an invitation for bids for six 2015 mid-size trucks to include detailed bid specifications; and

WHEREAS, request for bids for six 2015 mid-size trucks were mailed to vendors on November 10, 2014; and

WHEREAS, seven bids were received, opened, and evaluated on December 3, 2014; and

WHEREAS, after reviewing Reynolds Buick and Lake Chevrolet's bids, the City determined that their bids were non-responsive because they did not meet the City's minimum bid specifications; and

WHEREAS, whenever possible, the City encourages the purchase of goods with local vendors and to take advantage of the 1% local sales tax vendor credit as per Municipal Code Section 10-85, Local Purchases; and

WHEREAS, the apparent low bid submitted by Quality Chevrolet of Escondido

was determined to be the lowest most responsive and responsible bid that met the City's bid specifications; and

WHEREAS, staff recommends awarding the bid to Quality Chevrolet of Escondido in the amount of \$156,579.06 not including the 1% local sales tax credit; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to award the bid to Quality Chevrolet of Escondido.

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 City Council accepts the recommendation of staff and finds Quality Chevrolet of Escondido to be the lowest most responsive and responsible bidder who met the City's bid specifications.
3. That the City Council is authorized to approve on behalf of the City, the bid award to Quality Chevrolet of Escondido for the purchase of six 2015 mid-size trucks.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 7

Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Sheryl Bennett, Director of Administrative Services
Joan Ryan, Assistant Finance Director

SUBJECT: A First Amendment to the Consulting Agreement with Lance, Soll and Lunghard, LLP for Financial Statement Audit Services

RECOMMENDATION:

It is requested that City Council adopt Resolution No. 2015-05, authorizing the Director of Administrative Services to execute a First Amendment to the Consulting Agreement with Lance, Soll and Lunghard, LLP in the amount of \$47,830 for one additional year of audit services.

FISCAL ANALYSIS:

The cost for additional services in fiscal year 2015 are not to exceed \$47,830 and includes a City financial statement audit, Successor Agency audit, Housing Successor Agency audit, a Single Audit of Federal Expenditures, and a GANN Limit Review.


PREVIOUS ACTION:

On May 26, 2010, City Council approved a five-year consulting agreement with Lance, Soll & Lunghard, LLP, for financial statement audit services.

BACKGROUND:

The current consulting agreement with Lance, Soll & Lunghard, LLP for audit services expired with the issuance of the June 30, 2014 reports. The Governmental Accounting Standards Board (GASB) issued a new accounting standard, GASB 68, pertaining to the reporting of PERS information that the City is required to implement in the June 30, 2015 financial statement report. This new standard is a significant change in financial reporting requirements and as a result the Finance Department anticipates a challenging year for both finance staff and the audit team. In order to ensure a timely and accurate financial statement is issued next fiscal year, Finance recommends extending the current consulting agreement for one additional year.

Respectfully submitted,


Sheryl Bennett
Director of Administrative Services


Joan Ryan
Assistant Finance Director

RESOLUTION NO. 2015-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE DIRECTOR OF ADMINISTRATIVE SERVICES, TO EXECUTE, ON BEHALF OF THE CITY, A FIRST AMENDMENT TO THE CONSULTING AGREEMENT WITH LANCE, SOLL AND LUNGHARD, LLP FOR FINANCIAL STATEMENT AUDIT SERVICES

WHEREAS, on May 26, 2010, City Council approved a five-year audit service contract with Lance, Soll & Lunghard, LLP; and

WHEREAS, the Director of Administrative Services recommends the approval of a First Amendment to the Consulting Agreement to extend audit services for one additional year in an amount not to exceed \$47,830; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve the First Amendment to the Consulting Agreement.

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 Administrative Services.
3. That the Director of Administrative Services is authorized to execute, on behalf of the City, a First Amendment to the Consulting Agreement ("First Amendment") with Lance, Soll & Lunghard, LLP for one additional year of audit services. A copy of the First Amendment is attached as Exhibit "1" and is incorporated by this reference.



CITY OF ESCONDIDO
FIRST AMENDMENT TO CONSULTING AGREEMENT

This "Amendment" is made this 7th day of January, 2015.

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

And: Lance, Soll & Lunghard, LLP
203 North Brea Boulevard Suite 203
Brea, CA 92821
Attn: Richard Kikuchi
714-672-0331
("CONSULTANT")

Witness that whereas:

- A. CITY and CONSULTANT entered into an agreement on May 26, 2010 ("Agreement"), wherein CITY retained CONSULTANT to provide services for the City's annual Financial Statement Audit; and
- B. CITY and CONSULTANT desire to amend the Agreement to include additional work for an additional period of time, which is defined in "Attachment A" to this Amendment, which is incorporated by reference;

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

- 1. The CONSULTANT will furnish the services described in "Attachment A" to this Amendment.
- 2. CITY will compensate the CONSULTANT in an additional amount not to exceed \$47,830, pursuant to the conditions contained in "Attachment A" to this Amendment.

3. All additional terms under the Agreement between CITY and CONSULTANT still apply to the additional work for an additional period of time to be performed by CONSULTANT under this Amendment. If any of the terms of this Amendment conflict with the Agreement, this Amendment must prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

CITY OF ESCONDIDO

Date: _____

Sheryl Bennett
Director of Administrative Services

Lance, Soll & Lunghard, LLP
203 North Brea Boulevard Suite 203
Brea, CA 92821

Date: _____

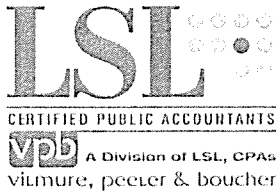
Richard Kikuchi
Partner

(The above signature should be notarized)

APPROVED AS TO FORM:

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

By: _____



• David E. Hale, CPA, CFP • Bryan S. Gruber, CPA
• Donald G. Slater, CPA • Deborah A. Harper, CPA
• Richard K. Kikuchi, CPA • Gary A. Cates, CPA
• Susan F. Matz, CPA • Michael D. Mangold, CPA
• Shelly K. Jackley, CPA • David S. Myers, CPA

October 27, 2014

Ms. Sheryl Bennett
Director of Administrative Services
City of Escondido
201 North Broadway
Escondido, CA 92025

Dear Ms. Bennett:

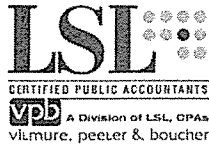
As you are aware, our contract with the City of Escondido for auditing services expires with the fiscal year ending June 30, 2014. Over the past years, we have provided the City with auditing and accounting services which:

- Produced a CAFR meeting all the requirements necessary to receive the Government Finance Officers Association Award for Excellence in Financial Reporting.
- Provided assistance and information to City staff when required and helpful recommendations to management.

We have made it an *absolute priority* to provide the City of Escondido with the best service available and we would like to continue to provide this level of service to the City. Since LSL specializes in the audits of cities and has an extensive government services staff, this will enable us to structure staff rotation on your engagement so that the City will always receive a fresh look at its system and records. **GASB 68** will require significant changes to your financial reporting requirements and because of our experience with the City of Escondido; LSL will be able to provide the highest level of assistance and guidance throughout the implementation.

Towards this end, we would like to propose a new one year contract in order to provide continuous and uninterrupted auditing services to the City. As a part of our services, LSL will continue to provide extensive Government Accounting Standards Board (GASB) assistance to the City throughout the year.

Please see the attached **Appendix A** for our proposed fees. The services to be performed, fee structure and billing methods would remain unchanged from our original agreement.



City of Escondido
October 27, 2014

Again, LSL looks forward to continue to provide quality services to the City of Escondido. Please sign below to acknowledge your acceptance of this agreement and return to my attention. Should you or any other representative of the City have additional questions regarding this agreement, please do not hesitate to contact Rich Kikuchi, Partner at (714) 672-0022.

Very truly yours,

Lance, Soll & Loughard, LLP

Sheryl Bennett, Director of Admin Services

Date

Appendix A

City of Escondido
Lance, Soll & Lunghard, LLP - Quote for Audit Services

<u>Financial Audits</u>	<u>FY 2015</u>
City Audit	\$ 33,570
Successor Agency	4,510
Single Audit	4,750
GANN Limit Review	500
Housing Successor	4,500
	<u>\$ 47,830</u>

ORDINANCE NO. 2014-20

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AMENDING ESCONDIDO ZONING CODE
ARTICLE 35 PERTAINING TO OUTDOOR
LIGHTING

Planning Case No. AZ 14-0002

WHEREAS, the Escondido General Plan was adopted on May 23, 2012, by the City Council, and includes Community Character Policy 1.10 regarding light pollution and preserving the night sky; and

WHEREAS, the City Council desires to promote outdoor lighting design that provides for public safety, utility and productivity while conserving energy and resources and minimizing light spill-over, glare and sky glow for the benefit of all citizens and astronomical research at Palomar Observatory; and

WHEREAS, the City Council desires to adopt standards for new energy efficient lighting technology.

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

SECTION 1. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. That the City Council has reviewed and considered the Notice of Exemption prepared for this project and issued on October 20, 2014, in conformance with Title 14 California Code of Regulation, California Environmental Quality Act ("CEQA") Section 15061(b)(3) "General Rule", and has determined that all

**A COMPLETE COPY OF THIS ORDINANCE
IS ON FILE IN THE OFFICE OF THE CITY
CLERK FOR YOUR REVIEW.**



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9
Date: January 7, 2015

TO: Honorable Mayor and City Council
FROM: Edward N. Domingue, Public Works Director/City Engineer
SUBJECT: Sixteenth Amendment to Contract with Escondido Disposal (EDI) For Annual Consumer Price Index (CPI) Increase to Solid Waste and Recycling Rates and Fees for Commercial Collections

RECOMMENDATION:

City Council approval of Resolution No. 2015-12 to revise the rates for Commercial Solid Waste and Recycling Services. Effective January 7, 2015, a 1.4752 percent increase would apply to all commercial collection services.

FISCAL ANALYSIS:

The increase in solid waste and recycling rates for commercial accounts will result in an approximate 1.5 percent increase in the franchise fees received by the General Fund for revenues related to commercial solid waste and recycling services. Commercial solid waste and recycling customer rates will increase by \$1.42 per month.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

The continued provision of solid waste, recycling, litter prevention, and household hazardous waste collection services and programs serves to enhance the image and appearance of the city's private and public areas as designated in the Image and Appearance section of the City Council Action Plan.

PREVIOUS ACTION:

On October 6, 1999, the Council approved a contract with Escondido Disposal, Inc., and Escondido Resource Recovery, divisions of Refuse Services, Inc., specifying rates to be charged for solid waste and recycling services. The contract established initial maximum rates paid by the ratepayers and gave the contractor the right to increase the maximum rates annually according to the change in the previous year's Consumer Price Index (CPI).

The contract specifies that if the Escondido ratepayers' effective mean rate (the rate not including AB939, Household Hazardous Waste and Franchise fees) is not within the lowest 25 percent being

charged in San Diego County, the City has the right to propose that EDI adjust its proposed rates to fall within the lowest 25 percent.

In accordance with these contract specifications, the following rate increases have been granted to EDI for basic residential and commercial collection services over the last ten years:

Date	Residential Increase	Commercial Increase
July 2004	2.9%	3.4%
January 2006	1.13%	3.97%
January 2007	0%	3.38%
March 2007	2.4%	0%
January 2008	0%	1.316%
January 2009	0%	4.39%
April 2009	1.045%	0%
January 2012	1.29%	0.895%
January 2014	0.9032%	0%
Proposed January 2015	0%	1.4752%

Household Hazardous Waste fees and AB939 fees were established in 1994 at \$0.25 and \$0.21 per month, respectively. On July 1, 2003, Household Hazardous Waste fees were increased from \$0.25 to \$0.35 per month. On January 1, 2006, Household Hazardous Waste fees were increased from \$0.35 to \$0.52 per month. No increases in either the AB939 or Household Hazardous Waste Fees are being requested at this time. The franchise fee also remains at ten percent of gross receipts. These fees apply equally to both residential and commercial collections and all solid waste and recycling services.

BACKGROUND:

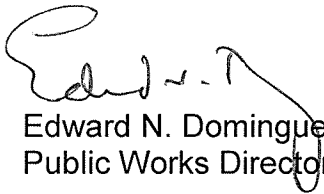
On October 13, 2014, the City received notification from Escondido Disposal, Inc. (EDI) regarding an increase in the solid waste and recycling rates in accordance with Section 8 (C) of the Solid Waste

Disposal and Recycling Franchise Agreement. The rate increase is based on the 2.4313 percent change in the CPI between the first half of 2013 and the first half of 2014 (Exhibit 1, Attachment A). To maintain the Escondido ratepayers' effective mean rate within the lowest 25 percent in San Diego County, it was determined that the contractual CPI formula allows for a 1.4752 percent commercial rate increase, effective January 7, 2015. A direct mailing noticing the commercial rate increase was mailed to all commercial customers in November 2014.

Under the proposed CPI rate increase of 1.4752 percent for commercial accounts, the total monthly rate for a three-yard permanent bin collected once per week will increase from \$97.14 to \$98.56. The commercial effective mean rate (the rate not including AB939, Household Hazardous Waste and Franchise fees) for the same service is currently \$86.77 and is proposed to increase to \$88.05.

The proposed 1.4752 percent commercial rate increase for CPI will become effective January 7, 2015 and applies to all commercial collection rates and services as presented in Exhibit 1, Attachment A.

Respectfully submitted,



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

CONSUMER PRICE INDEX CALCULATION
CPI: 2.4313%

EXHIBIT 1, ATTACHMENT A

Last 12 month period for which statistics are available is the first half of 2013 compared to the first half of 2014 in the San Diego area

All Urban Consumers (all items), base period of 1982-84 = 100

Current CPI 265.251 (first half of 2014)
 Previous CPI 258.955 (first half of 2013)

Change 6.296 points
 Percentage change 2.4313%

Actual Percentage Rate Change 1.4752% (for Commercial Permanent Basic Bin Service Only)

BASIC COMMERCIAL RATE

	Current 1/1/2012	Proposed 1/1/2015
3yard 1/week	\$ 86.77	\$ 88.05
Franchise Fee	9.64	9.78
AB939	0.21	0.21
HHW	0.52	0.52
Total	\$ 97.14	\$ 98.56

PERMANENT BINS

<u>BIN SIZE</u>	<u>1 x WK</u>	<u>2 x WK</u>	<u>3 x WK</u>	<u>4 x WK</u>	<u>5 x WK</u>	<u>6 x WK</u>
1 1/2 YARD	66.26	132.48	198.76	265.01	331.26	397.49
3 YARD	98.56	197.12	295.66	394.22	492.76	591.32
4 YARD	129.01	258.02	387.03	516.02	516.02	774.02

ALL RATES BELOW HAVE BEEN INCREASED BY 2.4313%

EXTRA DUMP CHARGES FOR PERMANENT BINS

	<u>1 1/2 YARD</u>	<u>3 YARD</u>	<u>4 YARD</u>
Per Bin Dump	19.18	28.37	35.49

T-BINS

Customer is allowed to keep bin for 1 week

86.34 103.58

GREENS T-BIN

77.01 95.30

CONSTRUCTION BINS

<u>BIN SIZE</u>	<u>1 x WK</u>	<u>2 x WK</u>	<u>3 x WK</u>	<u>4 x WK</u>	<u>5 x WK</u>
1 1/2 YARD	95.18	150.13	205.11	260.06	315.01
3 YARD	134.86	244.79	354.75	464.65	574.60
4 YARD	154.28	300.90	447.44	594.04	740.62

NOTE: ALL CONSTRUCTION BINS HAVE A ONE TIME DELIVERY FEE OF \$31.01

EXTRA DUMP CHARGES FOR CONSTRUCTION BINS

	<u>1 1/2 YARD</u>	<u>3 YARD</u>	<u>4 YARD</u>
Per Bin Dump	24.82	33.78	41.06

OFF-RD BINS

<u>BIN SIZE</u>	<u>1 x WK</u>	<u>2 x WK</u>	<u>3 x WK</u>	<u>4 x WK</u>	<u>5 x WK</u>
1 1/2 YARD	115.71	221.54	327.34	433.18	539.02
3 YARD	133.36	256.81	380.26	503.74	627.20
4 YARD	145.10	280.37	415.60	550.88	686.11

NOTE: ALL OFF ROAD BINS HAVE A ONE TIME DELIVERY FEE OF \$32.19

EXTRA DUMP CHARGES FOR OFF ROAD BINS

	<u>1 1/2 YARD</u>	<u>3 YARD</u>	<u>4 YARD</u>
	24.82	33.78	41.07

MATRIX FOR 3 YARD AND 4 YARD BINS

THESE RATES BELOW HAVE BEEN INCREASED BY 1.4752%

3 YARD BINS

# OF BINS	DUMPS PER WEEK					
	1	2	3	4	5	6
1	98.56	197.12	295.66	394.22	492.76	591.32
2	197.12	344.90	492.75	640.51	788.28	936.04
3	295.66	517.37	739.11	960.76	1,182.44	1,404.06
4	394.22	689.84	985.49	1,280.99	1,576.58	1,872.08
5	492.76	862.29	1,231.87	1,601.26	1,970.75	2,340.12
6	591.32	1,034.74	1,478.26	1,921.54	2,364.84	2,808.12
7	689.89	1,207.21	1,724.65	2,241.77	2,759.01	3,276.13
8	788.44	1,379.67	1,758.15	2,562.04	3,153.13	3,744.16
9	886.98	1,552.12	1,977.91	2,882.28	3,547.29	4,212.19
10	985.56	1,724.57	2,197.69	3,202.54	3,941.41	4,680.18

4 YARD BINS

# OF BINS	DUMPS PER WEEK					
	1	2	3	4	5	6
1	129.01	258.02	387.03	516.02	645.05	774.02
2	258.02	458.64	659.30	859.93	1,060.58	1,261.18
3	387.03	687.96	988.96	1,289.90	1,590.84	1,891.80
4	516.02	917.28	1,318.57	1,719.89	2,121.13	2,522.40
5	645.05	1,146.60	1,648.24	2,149.88	2,651.42	3,152.99
6	774.02	1,375.92	1,977.88	2,579.83	3,181.71	3,783.58
7	903.03	1,605.24	2,307.53	3,009.81	3,711.99	4,414.19
8	1,032.06	1,834.55	2,637.16	3,439.79	4,242.29	5,044.80
9	1,161.06	2,063.86	2,966.84	3,869.75	4,772.54	5,675.39
10	1,290.06	2,293.19	3,296.46	4,299.72	5,302.84	6,305.97

ALL RATES BELOW HAVE BEEN INCREASED BY 2.4313%

Multi-Family Recycling Fee \$.97 per month per dwelling unit

COMPACTOR / DOB RATES

COMPACTORS:

"C"	207.62	+ \$44.43 Per Ton Landfill fees
"D"	211.93	+ \$44.43 Per Ton Landfill fees
"F"	222.00	+ \$44.43 Per Ton Landfill fees
"P"	187.40	+ \$44.43 Per Ton Landfill fees

<u>DOB'S</u>	<u>Haul</u>	<u>Disposal (6 tons)</u>	<u>Sub-total</u>	<u>Del Charge</u>	<u>Total</u>
14 YARD (8' X 16' X 3')	209.05	266.58	\$475.63	49.35	\$524.98
25 YARD (8' X 18' X 5')	209.05	266.58	\$475.63	49.35	\$524.98
38 YARD (8' X 22' X 6')	209.05	266.58	\$475.63	49.35	\$524.98
<u>GREENS DOB:</u>	224.64	195.79	\$420.43	54.82	\$475.25
<u>SCRAP METAL DOB</u>	224.64	125.56	\$350.20	54.82	\$405.02
<u>CARDBOARD DOB</u>	224.64	\$0.00	\$224.64	54.82	\$279.46

STEAM CLEAN:	31.71	Per hour
UNABLE TO SERVICE:	75.19	
STANDBY TIME:	2.95	Per minute
DOB DEL. CHARGE:	49.35	(One time charge)
Container Rental	3.52	Per day starting with the 8th day (temporary boxes)
	3.52	Per day starting with the 13th day (permanent boxes 3 months or more)

DOB - MANIFESTED WASTE:

	<u>Haul</u>	<u>Disposal (6 tons)</u>	<u>Sub-total</u>	<u>Del Charge</u>	<u>Total</u>
14 YARD (8' X 16' X 3')	209.05	362.49	\$ 571.54	49.35	\$ 620.89
25 YARD (8' X 18' X 5')	209.05	362.49	\$ 571.54	49.35	\$ 620.89
38 YARD (8' X 22' X 6')	209.05	362.49	\$ 571.54	49.35	\$ 620.89
MANIFEST FEE:			56.50		
SPECIAL HANDLING:			56.50		
PORTAL TO PORTAL CHARGE:			109.78	Per hour	

RECYCLE BIN RATES

	<u>1 x WK</u>	<u>2 x WK</u>	<u>3 x WK</u>	<u>4 x WK</u>	<u>5 x WK</u>
1 1/2 YARD	40.44	83.78	127.10	170.44	213.75
3 YARD	50.56	93.89	137.21	180.55	223.88
4 YARD	64.99	108.32	151.65	194.99	238.32

EXTRA DUMP CHARGES FOR OFF-ROAD RECYCLING BINS

<u>1 1/2 YARD</u>	<u>3 YARD</u>	<u>4 YARD</u>
20.22	29.93	37.43

<u>95 GALS</u>	<u>Commercial Recycling Carts</u>	<u>SERVICE</u>	<u>RATE/MO OR FEE</u>
950T	Extra Dump		7.94 Fee
950N	Newspaper	1 X WK	18.07 Per month
950G	Glass	1 X WK	18.07 Per month
950P	Plastic & Aluminum	1 X WK	18.07 Per month
950GR	Green Waste	1 X WK	3.07 Per month Per Cart

COMPACTOR BIN FORMULA

Less bin rental	470.36	- \$18 =	\$ 452.36
Divide by 4.333 weeks	\$ 452.36	/ 4.333 =	\$ 104.40
Divide by # of days pick up	\$ 104.40	/ 6 =	\$ 17.40
Multiply by 3 to 1 ratio	\$ 17.40	x 3 =	\$ 52.20
Multiply by # of days pick up	\$ 52.20	x 6 =	\$ 313.20
Multiply by 52 weeks	\$ 313.20	x 52 =	\$ 16,286.40
Divide by 12 months	16,286.40	/ 12 =	\$ 1,357.20

COMPACTOR PER DUMP FORMULA

FOR EXTRA DUMPS

Rate less bin rental	99.56	- \$18 =	\$ 81.56
Divide by 4.333	\$ 81.56	/ 4.333 =	\$ 18.82
Multiply by 3 to 1 ratio	\$ 18.82	x 3 =	\$ 56.46
Add'l overhead labor cost			21.71
Total per dump			<u>\$ 78.17</u>

COMPACTOR BOX RENTAL Large Compactors 131.67 Per month

ROLL OUT FEE SCHEDULE:

ANYTHING UNDER 25 FEET IS FREE; OVER IS \$.05 PER FOOT
i.e. Roll out 100 ft is figured as follows:

100 ft - 25 ft = 75 ft x 2 (number of days dumped per week) = 150 x \$.053674 (per foot charge)
\$8.04 (weekly charge) x 52 (weeks per year) = \$418.08 (yearly charge / 12 (months per year)
\$34.88 (monthly charge) then add to regular charges.
Minimum charge is \$1.00 per month.

MISCELLANEOUS COMMERCIAL FEES

Locking Lids	5.74	Per Month
Balanced Lids	6.89	Per Month
Enclosure Cleaning	51.69	Minimum-subject to estimate
Brakes	57.44	1 time charge
Bar Locks	34.86	1 time charge
Extra Keys	1.72	each
Locks	17.80	each
Lock & Unlock Charge (Barlock Bins)	1.15	for each lock/unlock (x per wk service)

RESOLUTION NO. 2015-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, A SIXTEENTH AMENDMENT TO THE FRANCHISE AGREEMENT WITH REFUSE SERVICES, INC. FOR THE ANNUAL CONSUMER PRICE INDEX INCREASE TO COMMERCIAL SOLID WASTE RATES, AND AN AMENDMENT TO SECTION 8 (C) OF THE FRANCHISE AGREEMENT

WHEREAS, in October 1999 the City entered into a Solid Waste Disposal and Recycling Franchise Agreement (the "Agreement") with Escondido Resource Recovery and Escondido Disposal, Inc., Divisions of Refuse Services, Inc. to provide residential, commercial and industrial trash and recycling collection services; and

WHEREAS, Section 8 (C) of the Agreement grants an annual increase in the rates not to exceed the percentage increase in the Consumer Price Index ("CPI") for the year, upon receipt of written notice of the proposed increase, no later than 60 days prior to the effective date of the proposed increase; and

WHEREAS, Section 8 (C) of the Agreement requires each annual increase to be incorporated as an amendment to the Agreement before the increase becomes effective; and

WHEREAS, Escondido Disposal has requested in a letter dated and received October 13, 2014, an increase in the commercial rates and fees to be effective January 7, 2015; and

WHEREAS, revised commercial rates and fees were last approved on November 16, 2011, with a January 1, 2012, effective date; and

WHEREAS, although the rates are being implemented pursuant to a franchise agreement, the City is complying with the notice and majority protest requirements of Proposition 218 (California Constitution, Article XIII D, Section 6); and

WHEREAS, a Public Notice was mailed to property owners/customers of record on November 21, 2014, which started the 45 day opportunity to protest the rate adjustment formulas for commercial rates and fees; and

WHEREAS, the City has conducted the majority protest process per State regulations and held a public hearing on January 7, 2015; and

WHEREAS, California Government Code Section 53756 permits the adoption of a schedule of fees authorizing automatic adjustments for a period not to exceed five years; and

WHEREAS, the final tally of written protests received by the City Clerk, approves the residential and commercial rates adjustment.

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

1. That the above recitations are true.
2. That the Mayor and City Clerk are authorized to execute, on behalf of the City, a Sixteenth Amendment to the Franchise Agreement with Refuse Services Inc. to:

a. Revise commercial rates and fees for Solid Waste Disposal and Recycling Services effective January 7, 2015; and

b. Amend the Agreement to remove the requirement for future annual amendments to revise residential and commercial rates and fees. A copy of the Sixteenth Amendment to the Franchise Agreement is attached as Exhibit "1" and is incorporated by this reference.



CITY OF ESCONDIDO
SIXTEENTH AMENDMENT TO FRANCHISE AGREEMENT

This "Amendment" is made effective _____, 2015.

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

And: Refuse Services, Inc.
dba Escondido Disposal, Inc.
P.O. Box 1818
Escondido, CA 92033
("CONTRACTOR")

Witness that whereas:

- A. CITY and CONTRACTOR entered into an agreement on October 12, 1999 ("Agreement"), wherein CITY retained CONTRACTOR to provide services for Solid Waste and Recycling Services throughout the City of Escondido; and
- B. Section 8 (C) of the Agreement authorizes annual amendments pertaining to increases in rates for Solid Waste and Recycling Services provided by CONTRACTOR and currently requires an amendment to the Agreement before such increase becomes effective; and
- C. On December 4, 2013, the Fifteenth Amendment to the Franchise Agreement was executed to revise residential rates and fees, effective January 1, 2014; and
- D. CITY and CONTRACTOR now desire to amend the Agreement to include an increase in the commercial and residential rates and

fees, effective January 7, 2015, and, March 1, 2015 respectively, as set forth in Attachment A to this Amendment which is incorporated by reference; and

- E. CITY and CONTRACTOR desire to amend the Agreement to eliminate the requirement that the Agreement be amended each time residential and/or commercial rates and fees are increased, and instead allow rate and fee increases to be adopted by City Council resolution.

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

1. The CITY hereby adopts the new commercial and residential rates as set forth in Attachment A to this Amendment, effective January 7, 2015, and March 1, 2015, respectively; and
2. Section 8 (C) of the Agreement shall be amended to read as follows:

SECTION 8 (C). Contractor's Right to Increase Maximum Rates

Commencing on July 1, 2000, and upon each one year anniversary thereof for the remainder of the term, the Maximum Rates (excluding any Franchise Fee or other "pass-throughs") shall increase by an amount not to exceed the product of the previous year's rate multiplied by the percentage change in the San Diego, CA area Consumer Price Index for All Urban Consumers (all items), base period of 1982 – 84 = 100, published by the United States Department of Labor, Bureau of Labor Statistics for the latest twelve-month period for which statistics are available ("Applicable CPI Increase"). The formula for calculating the percentage adjustment shall be:

Current Period CPI – Previous Period CPI = index point change/previous period
CPI * 100 = percent change

In the event that the Consumer Price Index referred to above shall no longer be published, then another similar generally recognized index may be substituted

upon approval by the City Manager. All service rate increases must first be reviewed by the City Council, which may, by written resolution, amend the service rates from time to time. All service rate increases must first be adopted by written resolution of the City Council before such increase becomes effective. Nothing in this section shall affect in any way the rights guaranteed to the citizens of Escondido pursuant to Proposition 218 and the California Constitution.

The Contractor's right to increase the Maximum Rate is contingent upon the Contractor providing written notice to the City Manager or his or her designee of a proposed increase, including proposed rates for all Generator classes of fees, and to all affected Escondido Ratepayers by no later than 45 days prior to the effective date of the proposed increase. At the City's discretion, failure to comply with this notice requirement may be deemed to be a final decision by the Contractor not to increase rates for the upcoming year.

If the Contractor elects to not increase a service rate in any year, or elects to increase a service rate, but not up to the allowable Maximum Rate for such year, the Contractor's unused ability to increase rates in any given year shall not be carried forward to subsequent years.

The Contractor agrees to coordinate, whenever possible, the concurrent imposition of any pending service rate increase with any pending Franchise Fee or regulatory fee increases by the City.

3. All other terms of the Agreement between CITY and CONTRACTOR shall remain in full force and effect. In the event of any conflict between any specific provision of the Agreement and this Amendment, this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

CITY OF ESCONDIDO

Date: _____

Sam Abed, Mayor

Date: _____

Diane Halverson, City Clerk

REFUSE SERVICES, INC.

Date: _____

Edward G. Burr, Chairman

Date: _____

Jeff Ritchie, Vice President/General Manager

(The above signature must be notarized)

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

By: _____

CONSUMER PRICE INDEX CALCULATION
CPI: 2.4313%

ATTACHMENT A

Last 12 month period for which statistics are available is the first half of 2013 compared to the first half of 2014 in the San Diego area

All Urban Consumers (all items), base period of 1982-84 = 100

Current CPI 265.251 (first half of 2014)
 Previous CPI 258.955 (first half of 2013)

Change 6.296 points
 Percentage change 2.4313%

Actual Percentage Rate Change 1.4752% (for Commercial Permanent Basic Bin Service Only)

BASIC COMMERCIAL RATE

	Current 1/1/2012	Proposed 1/1/2015
3yard 1/week	\$ 86.77	\$ 88.05
Franchise Fee	9.64	9.78
AB939	0.21	0.21
HHW	0.52	0.52
Total	\$ 97.14	\$ 98.56

PERMANENT BINS

<u>BIN SIZE</u>	<u>1 x WK</u>	<u>2 x WK</u>	<u>3 x WK</u>	<u>4 x WK</u>	<u>5 x WK</u>	<u>6 x WK</u>
1 1/2 YARD	66.26	132.48	198.76	265.01	331.26	397.49
3 YARD	98.56	197.12	295.66	394.22	492.76	591.32
4 YARD	129.01	258.02	387.03	516.02	516.02	774.02

ALL RATES BELOW HAVE BEEN INCREASED BY 2.4313%

EXTRA DUMP CHARGES FOR PERMANENT BINS

	<u>1 1/2 YARD</u>	<u>3 YARD</u>	<u>4 YARD</u>
Per Bin Dump	19.18	28.37	35.49

T-BINS

Customer is allowed to keep bin for 1 week

86.34 103.58

GREENS T-BIN

77.01 95.30

CONSTRUCTION BINS

<u>BIN SIZE</u>	<u>1 x WK</u>	<u>2 x WK</u>	<u>3 x WK</u>	<u>4 x WK</u>	<u>5 x WK</u>
1 1/2 YARD	95.18	150.13	205.11	260.06	315.01
3 YARD	134.86	244.79	354.75	464.65	574.60
4 YARD	154.28	300.90	447.44	594.04	740.62

NOTE: ALL CONSTRUCTION BINS HAVE A ONE TIME DELIVERY FEE OF \$31.01

EXTRA DUMP CHARGES FOR CONSTRUCTION BINS

	<u>1 1/2 YARD</u>	<u>3 YARD</u>	<u>4 YARD</u>
Per Bin Dump	24.82	33.78	41.06

OFF-RD BINS

<u>BIN SIZE</u>	<u>1 x WK</u>	<u>2 x WK</u>	<u>3 x WK</u>	<u>4 x WK</u>	<u>5 x WK</u>
1 1/2 YARD	115.71	221.54	327.34	433.18	539.02
3 YARD	133.36	256.81	380.26	503.74	627.20
4 YARD	145.10	280.37	415.60	550.88	686.11

NOTE: ALL OFF ROAD BINS HAVE A ONE TIME DELIVERY FEE OF \$32.19

EXTRA DUMP CHARGES FOR OFF ROAD BINS

	<u>1 1/2 YARD</u>	<u>3 YARD</u>	<u>4 YARD</u>
	24.82	33.78	41.07

MATRIX FOR 3 YARD AND 4 YARD BINS
THESE RATES BELOW HAVE BEEN INCREASED BY 1.4752%

3 YARD BINS

# OF BINS	DUMPS PER WEEK					
	1	2	3	4	5	6
1	98.56	197.12	295.66	394.22	492.76	591.32
2	197.12	344.90	492.75	640.51	788.28	936.04
3	295.66	517.37	739.11	960.76	1,182.44	1,404.06
4	394.22	689.84	985.49	1,280.99	1,576.58	1,872.08
5	492.76	862.29	1,231.87	1,601.26	1,970.75	2,340.12
6	591.32	1,034.74	1,478.26	1,921.54	2,364.84	2,808.12
7	689.89	1,207.21	1,724.65	2,241.77	2,759.01	3,276.13
8	788.44	1,379.67	1,758.15	2,562.04	3,153.13	3,744.16
9	886.98	1,552.12	1,977.91	2,882.28	3,547.29	4,212.19
10	985.56	1,724.57	2,197.69	3,202.54	3,941.41	4,680.18

4 YARD BINS

# OF BINS	DUMPS PER WEEK					
	1	2	3	4	5	6
1	129.01	258.02	387.03	516.02	645.01	774.02
2	258.02	458.64	659.30	859.93	1,060.58	1,261.18
3	387.03	687.96	988.96	1,289.90	1,590.84	1,891.80
4	516.02	917.28	1,318.57	1,719.89	2,121.13	2,522.40
5	645.05	1,146.60	1,648.24	2,149.88	2,651.42	3,152.99
6	774.02	1,375.92	1,977.88	2,579.83	3,181.71	3,783.58
7	903.03	1,605.24	2,307.53	3,009.81	3,711.99	4,414.19
8	1,032.06	1,834.55	2,637.16	3,439.79	4,242.29	5,044.80
9	1,161.06	2,063.86	2,966.84	3,869.75	4,772.54	5,675.39
10	1,290.06	2,293.19	3,296.46	4,299.72	5,302.84	6,305.97

ALL RATES BELOW HAVE BEEN INCREASED BY 2.4313%
 Multi- Family Recycling Fee \$.97 per month per dwelling unit

COMPACTOR / DOB RATES

COMPACTORS:

"C"	207.62	+ \$44.43 Per Ton Landfill fees
"D"	211.93	+ \$44.43 Per Ton Landfill fees
"F"	222.00	+ \$44.43 Per Ton Landfill fees
"P"	187.40	+ \$44.43 Per Ton Landfill fees

DOB'S	Haul	Disposal (6 tons)	Sub-total	Del Charge	Total
14 YARD (8' X 16' X 3')	209.05	266.58	\$475.63	49.35	\$524.98
25 YARD (8' X 18' X 5')	209.05	266.58	\$475.63	49.35	\$524.98
38 YARD (8' X 22' X 6')	209.05	266.58	\$475.63	49.35	\$524.98
GREENS DOB:	224.64	195.79	\$420.43	54.82	\$475.25
SCRAP METAL DOB	224.64	125.56	\$350.20	54.82	\$405.02
CARDBOARD DOB	224.64	\$0.00	\$224.64	54.82	\$279.46

STEAM CLEAN:	31.71	Per hour
UNABLE TO SERVICE:	75.19	
STANDBY TIME:	2.95	Per minute
DOB DEL. CHARGE:	49.35	(One time charge)
Container Rental	3.52	Per day starting with the 8th day (temporary boxes)
	3.52	Per day starting with the 13th day (permanent boxes 3 months or more)

DOB - MANIFESTED WASTE:

	Haul	Disposal (6 tons)	Sub-total	Del Charge	Total
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EXTRA DUMP CHARGES FOR OFF-ROAD RECYCLING BINS

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Multiply by 3 to 1 ratio	\$ 17.40	x 3 =	\$ 52.20
Multiply by # of days pick up	\$ 52.20	x 6 =	\$ 313.20
Multiply by 52 weeks	\$ 313.20	x 52 =	\$ 16,286.40
Divide by 12 months	16,286.40	/ 12 =	\$ 1,357.20

COMPACTOR PER DUMP FORMULA

FOR EXTRA DUMPS			
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Divide by 4.333	\$ 81.56	/ 4.333	\$ 18.82
Multiply by 3 to 1 ratio	\$ 18.82	x 3 =	\$ 56.46
Add'l overhead labor cost			21.71
Total per dump			<u>\$ 78.17</u>

COMPACTOR BOX RENTAL	Large Compactors	131.67	Per month
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ROLL OUT FEE SCHEDULE:

ANYTHING UNDER 25 FEET IS FREE; OVER IS \$.05 PER FOOT

i.e. Roll out 100 ft is figured as follows:

100 ft - 25 ft = 75 ft x 2 (number of days dumped per week) = 150 x \$.053674 (per foot charge)

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\$34.88 (monthly charge) then add to regular charges.

Minimum charge is \$1.00 per month.

MISCELLANEOUS COMMERCIAL FEES

Locking Lids	5.74	Per Month
Balanced Lids	6.89	Per Month
Enclosure Cleaning	51.69	Minimum-subject to estimate
Brakes	57.44	1 time charge
Bar Locks	34.86	1 time charge
Extra Keys	1.72	each
Locks	17.80	each
Lock & Unlock Charge (Barlock Bins)	1.15	for each lock/unlock (x per wk service)

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 10
Date: January 7, 2015

TO: Honorable Mayor and City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer

SUBJECT: Sixteenth Amendment to Contract with Escondido Disposal (EDI) For Annual Consumer Price Index (CPI) Increase to Solid Waste and Recycling Rates and Fees for Residential Collections

RECOMMENDATION:

City Council approval of Resolution No. 2015-13 to revise the rates for Residential Solid Waste and Recycling Services. Effective March 1, 2015, a 2.4313 percent increase would apply to all residential collection services.

FISCAL ANALYSIS:

The increase in solid waste and recycling rates for residential accounts will result in an approximate 2.5% increase in the franchise fees received by the General Fund for revenues related to residential solid waste and recycling services. Residential solid waste and recycling customer rates will increase by \$0.42 per month.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

The continued provision of solid waste, recycling, litter prevention, and household hazardous waste collection services and programs serves to enhance the image and appearance of the City's private and public areas as designated in the Image and Appearance section of the City Council Action Plan.

PREVIOUS ACTION:

On October 6, 1999, the Council approved a contract with Escondido Disposal, Inc., and Escondido Resource Recovery, divisions of Refuse Services, Inc., specifying rates to be charged for solid waste and recycling services. The contract established initial maximum rates paid by the ratepayers and gave the contractor the right to increase the maximum rates annually according to the change in the previous year's Consumer Price Index (CPI).

The contract specifies that if the Escondido ratepayers' effective mean rate (the rate not including AB939, Household Hazardous Waste and Franchise fees) is not within the lowest 25 percent being

charged in San Diego County, the City has the right to propose that EDI adjust its proposed rates to fall within the lowest 25 percent.

In accordance with these contract specifications, the following rate increases have been granted to EDI for basic residential and commercial collection services over the last ten years:

Date	Residential Increase	Commercial Increase
July 2004	2.9%	3.4%
January 2006	1.13%	3.97%
January 2007	0%	3.38%
March 2007	2.4%	0%
January 2008	0%	1.316%
January 2009	0%	4.39%
April 2009	1.045%	0%
January 2012	1.29%	0.895%
January 2014	0.9032%	0%
Proposed March 2015	2.4313%	0%

Household Hazardous Waste fees and AB939 fees were established in 1994 at \$0.25 and \$0.21 per month, respectively. On July 1, 2003, Household Hazardous Waste fees were increased from \$0.25 to \$0.35 per month. On January 1, 2006, Household Hazardous Waste fees were increased from \$0.35 to \$0.52 per month. No increases in either the AB939 or Household Hazardous Waste Fees are being requested at this time. The franchise fee also remains at ten percent of gross receipts. These fees apply equally to both residential and commercial collections and all solid waste and recycling services.

BACKGROUND:

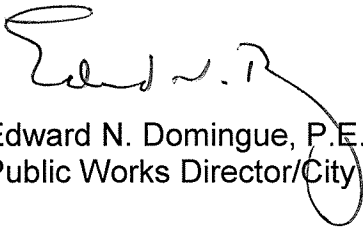
On October 13, 2014, the City received notification from Escondido Disposal, Inc. (EDI) regarding an increase in the solid waste and recycling rates in accordance with Section 8 (C) of the Solid Waste

Disposal and Recycling Franchise Agreement. The rate increase is based on the 2.4313 percent change in the CPI between the first half of 2013 and the first half of 2014 (Exhibit 1, Attachment A). To maintain the Escondido ratepayers' effective mean rate within the lowest 25 percent in San Diego County, it was determined that the contractual CPI formula allows for a 2.4313 percent residential rate increase, effective March 1, 2015. A direct mailing noticing the residential rate increase was mailed to all residential customers in November 2014.

Under the proposed CPI rate increase of 2.4313 percent for residential accounts, the total monthly rate for curbside trash and recycling collection will increase by \$0.42 per month from \$18.29 to \$18.71. The residential effective mean rate (the rate not including AB939, Household Hazardous Waste and Franchise fees) for the same service is currently \$15.80 and is proposed to increase to \$16.18. The last residential rate increase was effective January 2014 and was 0.9032 percent.

The proposed 2.4313 percent residential rate increase for CPI will become effective March 1, 2015 and applies to all residential collection rates and services as presented in Exhibit 1, Attachment A.

Respectfully submitted,



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

CONSUMER PRICE INDEX CALCULATION**CPI: 2.4313%**

Last 12 month period for which statistics are available is the first half of 2013 compared to the first half of 2014 in the San Diego area

All Urban Consumers (all items), base period of 1982-84 = 100

Current CPI 265.251 (first half of 2014)
Previous CPI 258.955 (first half of 2013)

Change 6.296 points
Percentage change 2.4313%

Actual Percentage Rate Change 2.4313%

BASIC RESIDENTIAL RATE
Residential Rate Increase 2.4313%

	<u>1/1/2014</u>	<u>Proposed Effective</u>
	<u>1/1/2014</u>	<u>1/1/2015</u>
Base	\$ 15.80	\$ 16.18
Franchise Fee	1.76	1.80
AB939	0.21	0.21
HHW	0.52	0.52
Total	\$ 18.29	\$ 18.71

MISCELLANEOUS

Bulk item	11.27 per item
Tires (under 17") Rim Diam.	3.37 /each
(17" - 23") Rim Diam.	13.52 /each
(Over 23") Rim Diam.	225.25 /each
Refrigerator, freezer, air conditioner	45.06 /each
Bags (under 25 lbs.)	1.13 /each

RESIDENTIAL RATE

Service 18.71 Per month

MOBILE HOME CURB SERVICE RATE

Service 18.71 Per month

ADDITIONAL CART

Trash 3.94 Per additional cart (3 month minimum)
Recycling 0.00 Per additional cart

AUTOMATED OVERTAGE CHARGES

11.27 Trip charge
1.14 Per bag

GREEN WASTE CART RENTAL 3.07 additional 4th cart and above

RESOLUTION NO. 2015-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, A SIXTEENTH AMENDMENT TO THE FRANCHISE AGREEMENT WITH REFUSE SERVICES, INC. FOR THE ANNUAL CONSUMER PRICE INDEX INCREASE TO RESIDENTIAL SOLID WASTE RATES, AND AN AMENDMENT TO SECTION 8 (C) OF THE FRANCHISE AGREEMENT

WHEREAS, in October 1999 the City entered into a Solid Waste Disposal and Recycling Franchise Agreement (the "Agreement") with Escondido Resource Recovery and Escondido Disposal, Inc., Divisions of Refuse Services, Inc. to provide residential, commercial and industrial trash and recycling collection services; and

WHEREAS, Section 8 (C) of the Agreement grants an annual increase in the rates not to exceed the percentage increase in the Consumer Price Index ("CPI") for the year, upon receipt of written notice of the proposed increase, no later than 60 days prior to the effective date of the proposed increase; and

WHEREAS, Section 8 (C) of the Agreement requires each annual increase to be incorporated as an amendment to the Agreement before the increase becomes effective; and

WHEREAS, Escondido Disposal has requested in a letter dated and received October 13, 2014, an increase in the residential rates and fees to be effective March 1, 2015; and

WHEREAS, revised residential rates and fees were last approved on December 4, 2013, with a January 1, 2014, effective date; and

WHEREAS, although the rates are being implemented pursuant to a franchise agreement, the City is complying with the notice and majority protest requirements of Proposition 218 (California Constitution, Article XIII D, Section 6); and

WHEREAS, a Public Notice was mailed to property owners/customers of record on November 21, 2014, which started the 45 day opportunity to protest the rate adjustment formulas for residential and commercial rates and fees; and

WHEREAS, the City has conducted the majority protest process per State regulations and held a public hearing on January 7, 2015; and

WHEREAS, California Government Code section 53756 permits the adoption of a schedule of fees authorizing automatic adjustments for a period not to exceed five years; and

WHEREAS, the final tally of written protests received by the City Clerk, approves the residential and commercial rates adjustment.

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

1. That the above recitations are true.
2. That the Mayor and City Clerk are authorized to execute, on behalf of the City, a Sixteenth Amendment to the Franchise Agreement with Refuse Services Inc. to:

a. Revise residential and rates and fees for Solid Waste Disposal and Recycling Services effective March 1, 2015; and

b. Amend the Agreement to remove the requirement for future annual amendments to revise residential and commercial rates and fees. A copy of the Sixteenth Amendment to the Franchise Agreement is attached as Exhibit "1" and is incorporated by this reference.



CITY OF ESCONDIDO
SIXTEENTH AMENDMENT TO FRANCHISE AGREEMENT

This "Amendment" is made effective _____, 2015.

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

And: Refuse Services, Inc.
dba Escondido Disposal, Inc.
P.O. Box 1818
Escondido, CA 92033
("CONTRACTOR")

Witness that whereas:

- A. CITY and CONTRACTOR entered into an agreement on October 12, 1999 ("Agreement"), wherein CITY retained CONTRACTOR to provide services for Solid Waste and Recycling Services throughout the City of Escondido; and
- B. Section 8 (C) of the Agreement authorizes annual amendments pertaining to increases in rates for Solid Waste and Recycling Services provided by CONTRACTOR and currently requires an amendment to the Agreement before such increase becomes effective; and
- C. On December 4, 2013, the Fifteenth Amendment to the Franchise Agreement was executed to revise residential rates and fees, effective January 1, 2014; and
- D. CITY and CONTRACTOR now desire to amend the Agreement to include an increase in the commercial and residential rates and

fees, effective January 7, 2015, and, March 1, 2015 respectively, as set forth in Attachment A to this Amendment which is incorporated by reference; and

- E. CITY and CONTRACTOR desire to amend the Agreement to eliminate the requirement that the Agreement be amended each time residential and/or commercial rates and fees are increased, and instead allow rate and fee increases to be adopted by City Council resolution.

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

1. The CITY hereby adopts the new commercial and residential rates as set forth in Attachment A to this Amendment, effective January 7, 2015, and March 1, 2015, respectively; and
2. Section 8 (C) of the Agreement shall be amended to read as follows:

SECTION 8 (C). Contractor's Right to Increase Maximum Rates

Commencing on July 1, 2000, and upon each one year anniversary thereof for the remainder of the term, the Maximum Rates (excluding any Franchise Fee or other "pass-throughs") shall increase by an amount not to exceed the product of the previous year's rate multiplied by the percentage change in the San Diego, CA area Consumer Price Index for All Urban Consumers (all items), base period of 1982 – 84 = 100, published by the United States Department of Labor, Bureau of Labor Statistics for the latest twelve-month period for which statistics are available ("Applicable CPI Increase"). The formula for calculating the percentage adjustment shall be:

Current Period CPI – Previous Period CPI = index point change/previous period
CPI * 100 = percent change

In the event that the Consumer Price Index referred to above shall no longer be published, then another similar generally recognized index may be substituted

upon approval by the City Manager. All service rate increases must first be reviewed by the City Council, which may, by written resolution, amend the service rates from time to time. All service rate increases must first be adopted by written resolution of the City Council before such increase becomes effective. Nothing in this section shall affect in any way the rights guaranteed to the citizens of Escondido pursuant to Proposition 218 and the California Constitution.

The Contractor's right to increase the Maximum Rate is contingent upon the Contractor providing written notice to the City Manager or his or her designee of a proposed increase, including proposed rates for all Generator classes of fees, and to all affected Escondido Ratepayers by no later than 45 days prior to the effective date of the proposed increase. At the City's discretion, failure to comply with this notice requirement may be deemed to be a final decision by the Contractor not to increase rates for the upcoming year.

If the Contractor elects to not increase a service rate in any year, or elects to increase a service rate, but not up to the allowable Maximum Rate for such year, the Contractor's unused ability to increase rates in any given year shall not be carried forward to subsequent years.

The Contractor agrees to coordinate, whenever possible, the concurrent imposition of any pending service rate increase with any pending Franchise Fee or regulatory fee increases by the City.

3. All other terms of the Agreement between CITY and CONTRACTOR shall remain in full force and effect. In the event of any conflict between any specific provision of the Agreement and this Amendment, this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

CITY OF ESCONDIDO

Date: _____

Sam Abed, Mayor

Date: _____

Diane Halverson, City Clerk

REFUSE SERVICES, INC.

Date: _____

Edward G. Burr, Chairman

Date: _____

Jeff Ritchie, Vice President/General Manager

(The above signature must be notarized)

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

By: _____

ATTACHMENT A

CONSUMER PRICE INDEX CALCULATION

CPI: 2.4313%

Last 12 month period for which statistics are available is the first half of 2013 compared to the first half of 2014 in the San Diego area

All Urban Consumers (all items), base period of 1982-84 = 100

Current CPI 265.251 (first half of 2014)
 Previous CPI 258.955 (first half of 2013)

Change 6.296 points
 Percentage change 2.4313%

Actual Percentage Rate Change 2.4313%

BASIC RESIDENTIAL RATE
Residential Rate Increase 2.4313%

	<u>1/1/2014</u>	<u>Proposed Effective</u>
	<u>1/1/2014</u>	<u>1/1/2015</u>
Base	\$ 15.80	\$ 16.18
Franchise Fee	1.76	1.80
AB939	0.21	0.21
HHW	0.52	0.52
Total	\$ 18.29	\$ 18.71

MISCELLANEOUS

Bulk item	11.27 per item
Tires (under 17") Rim Diam.	3.37 /each
(17" - 23") Rim Diam.	13.52 /each
(Over 23") Rim Diam.	225.25 /each
Refrigerator, freezer, air conditioner	45.06 /each
Bags (under 25 lbs.)	1.13 /each

RESIDENTIAL RATE

Service 18.71 Per month

MOBILE HOME CURB SERVICE RATE

Service 18.71 Per month

ADDITIONAL CART

Trash 3.94 Per additional cart (3 month minimum)
 Recycling 0.00 Per additional cart

AUTOMATED OVERAGE CHARGES

11.27 Trip charge
 1.14 Per bag

GREEN WASTE CART RENTAL

3.07 additional 4th cart and above

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 11
Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer
Barbara Redlitz, Director of Community Development
Danielle Lopez, Neighborhood Services Manager
Karen Youel, Management Analyst

SUBJECT: 2015-2019 Consolidated Plan Priorities

RECOMMENDATION:

Receive information and direct staff to report back on the results of the community assessment currently underway that will establish updated CDBG and HOME priorities for the 2015-2019 Consolidated Plan.

FISCAL ANALYSIS:

The City of Escondido receives annual federal entitlements from the U.S. Department of Housing and Urban Development (HUD) for housing and community development activities. If the Community Development entitlements remain consistent with previous years' awards, the City anticipates receiving approximately \$7,000,000 in Community Development Block Grant (CDBG) and \$2,000,000 in HOME Investment Partnerships Program (HOME) funds over the next five years.

The Consolidated Plan will provide guidance for the expenditure of these funds for fiscal years 2015-2019. CDBG projects will be funded solely by grant money received and will not impact the general fund.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

This item relates to the Council's Action Plan regarding Neighborhood Improvement.

PREVIOUS ACTION:

On March 24, 2010, Council held a public hearing and approved the FY 2010-2015 Consolidated Plan. The Plan established priorities for the use of federal funds (including HOME and CDBG) over the five-year period, ending June 30, 2015, to benefit low-income residents and neighborhoods in the City of Escondido.

Prior to May of 2015, the City Council will be required to adopt a new Five-Year Consolidated Plan to guide the use of the HOME and CDBG funds over the next five-year period beginning July 1, 2015 and ending June 30, 2020.

BACKGROUND:

The Consolidated Plan is a federally-required document for communities that receive funds from the federal housing and community development programs, including Community Development Block Grant Program (CDBG) and the Home Investment Partnerships Program (HOME). The Plan is intended to provide a comprehensive, strategic framework for a community to establish a unified vision and action plan to address the needs of low-income individuals, families and neighborhoods. The goals of CDBG and HOME programs covered by the Consolidated Plan are to provide decent housing, a suitable living environment and to expand economic opportunities. The City of Escondido receives only CDBG and HOME program funds directly.

HUD requirements for the development of the Consolidated Plan include a community assessment of the City's housing and community development needs, including homeless and non-homeless needs; the development of a comprehensive citizen participation plan; the development of a five-year strategic plan; the identification of priorities to benefit low-income individuals; and the development of a one-year action plan to address the established priorities. The one-year action plan, required for each year of the Consolidated Plan period, will set goals, objectives and performance benchmarks for community development actions and will specify how CDBG and HOME entitlement funds are spent. Projects must meet the Consolidated Plan goals to provide decent housing, a suitable living environment, or expand economic opportunities within the community.

Citizen participation is a primary requirement for the preparation of a new Consolidated Plan. The current Consolidated Plan was developed through an extensive community process that included a comprehensive needs assessment conducted by staff. The needs assessment was critical in establishing a baseline of community needs and was instrumental in helping to establish priorities for the current five-year period.

Over the next three months, Neighborhood Services and Housing will conduct community meetings to solicit additional comments from stakeholders. Based on the recent community assessment, an analysis of all the comments provided and the ongoing feedback system, staff will review current CDBG and HOME priorities and present the Consolidated Plan development process for 2015-2019 CDBG and HOME funding.

Escondido has developed significant relationships with residents of low-income areas and receives community input both formally and informally on a continual basis. In addition, community input is

regularly gathered in a multitude of ways including dialogue with parent groups and school administrators at area schools, resident surveys administered at community events, formal workshops conducted by staff, ongoing consultations with local area agencies and neighboring municipalities, and Neighborhood Group meetings. These methods directly incorporate the ideas and perspectives of local residents, businesses, service providers and interested parties. Community surveys, reports, and demographic data were also evaluated to determine specific needs.

FY 2010-2015 Community Development Priorities

In the FY 2010-2015 Consolidated Plan, the City adopted the following community development priorities:

1. Youth: Increase quality-of-life opportunities for Mission Park Area students and their families by improving their social and physical environment.
2. Economic Development: Provide economic development opportunities for Mission Park Area residents.
3. Transportation Alternatives for Seniors: Continue to provide coordinated, low-cost, flexible transportation alternatives for seniors.
4. Neighborhood Revitalization: Identify and improve low-income neighborhoods appropriate for revitalization incorporating direct citizen involvement.
5. Homelessness/AIDS: Support comprehensive, integrated service systems to transition local homeless families and individuals, as well as persons with AIDS, to permanent or residential housing and self-sufficiency.
6. ADA Improvements to Public Facilities: 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.

Anticipated FY 2015-2019 Community Development Priorities

Based on the community needs assessment in progress the six priorities from the FY 2010-2015 Consolidated Plan continue to be areas of need within the community: Youth, Economic Development, Transportation for Seniors, Neighborhood Revitalization, Homelessness/AIDS and ADA improvements to public facilities. Staff also recommends once again concentrating future CDBG resources in targeted low-income areas, where appropriate, to achieve a more concentrated benefit versus the dispersed service delivery approach of earlier Consolidated Plan years.

FY 2010-2015 Housing Priorities

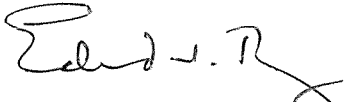
In the FY 2010-2015 Consolidated Plan, the City adopted six housing priorities. Many of these priorities overlap and can be achieved within the same activities:

1. Increasing homeownership opportunities
2. Conserving the supply of existing ownership housing
3. Expanding the stock of affordable rental housing
4. Promoting neighborhood stability by increasing the length of stay in rental housing
5. Increasing the supply of well-designed multi-family housing units
6. Expanding the supply of three- and four-bedroom rental units.

Anticipated FY 2015-2019 Housing Priorities

Based on the community needs assessment currently underway, these needs appear to remain the priorities of the community. Staff anticipates combining two priorities, expanding the stock of affordable rental housing and increasing the supply of well-designed multi-family housing units, into a single priority.

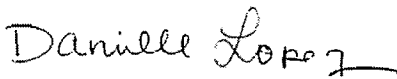
Respectfully submitted,



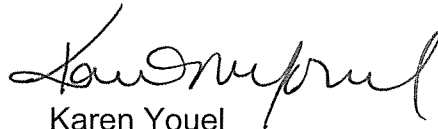
Edward N. Domingue, P.E.
Public Works Director/City Engineer



Barbara Redlitz
Director of Community Services



Danielle Lopez
Neighborhood Services Manager



Karen Youel
Management Analyst

CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. 2015-01

Agenda Item No.: 12
Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Barbara J. Redlitz, Director of Community Development,
Craig Carter, Chief of Police

SUBJECT: Municipal and Zoning Code Amendments Pertaining to Massage Establishments;
Planning Case No.: AZ 14-0004

STAFF RECOMMENDATION:

It is requested that Council introduce Ordinance No. 2015-01 amending Escondido's Municipal and Zoning Codes.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission voted unanimously to recommend approval of the Ordinance.

PROJECT DESCRIPTION:

Establishment of Article 38 of the City's zoning code and amendment to zoning code Articles 19 and 39 (Commercial Zones and Off-Street Parking respectively), amendment to Municipal Code Chapter 16A, and modifications to the East Valley Parkway and Escondido Boulevard Area Plans, as well as Downtown Specific Plan adopting application requirements, locational provisions, operating standards, and licensing certifications governing the approval of massage establishments. The proposal also includes the adoption of the environmental determination prepared for the project.

LOCATION:

Citywide

FISCAL ANALYSIS:

No permit or impact fees are being modified at this time, the proposed update would not impact the General Fund.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

This item relates to the Council's Action Plan regarding Image & Appearance; and Public Safety.

GENERAL PLAN ANALYSIS:

Neighborhood Maintenance & Preservation Policy 4.2 states that: “residential neighborhoods shall be protected from the encroachment of incompatible activities or land uses . . . which may have a negative impact on the residential living environment.” Commercial Land Use Policy 8.6 states that: “future commercial activities shall be organized into planned, grouped concentration . . . and incorporate features that minimize impacts on adjacent sensitive uses associated with noise, property maintenance, product deliveries, trash service, and other potentially incompatible characteristics.”

Police Services Policy 3.8 states “Enhance crime prevention by working with human care agencies, recreational agencies, educational services and community groups to (a) reduce victimization . . . and, (c) maintain awareness of potential problem areas.” Based on staff’s analysis, the proposed code amendments conform to Escondido’s General Plan policies.

ENVIRONMENTAL STATUS:

Pursuant to California Environmental Quality Act (CEQA) Section 15601(b)(3) the project is exempt.

PREVIOUS ACTION:

The Police Department conducted a workshop to discuss Assembly Bill (AB) 1147, outline pending regulations, and discuss issues with massage representatives on December 4, 2014. Seven massage establishment representatives attended the meeting and staff responded to questions regarding licensing, fingerprinting and the schedule for the Massage Establishment Ordinance public hearings.

BACKGROUND:

Local jurisdictions’ ability to regulate massage establishments was significantly constrained in 2008 with the adoption of Senate Bill (SB) 731 that established a voluntary certification process through the California Massage Therapy Council (CAMTC) for massage professionals and restricted local regulation of massage businesses. With the enactment of SB 731, the City could no longer regulate massage parlors through a local permit process. CAMTC’s role involves certifying massage professionals, conducting background checks, and investigating schools offering massage. While CAMTC is responsible for the certification of massage professionals, it does not have the authority to regulate the businesses or their owners.

Escondido has experienced a tremendous increase in the number of massage establishments, particularly illicit establishments, since the enactment of SB 731. The City had 12 massage establishments in 2009, near 30 in 2014, and the number continues to grow. The prohibition on local regulation appears to have created opportunities for brothels and human trafficking, which have been encountered in Escondido. Closing illicit businesses has been difficult and costly. Police stings have resulted in arrests of both certified and uncertified workers, but it is not unusual for the affiliated massage establishments to continue operating.

Assembly Bill 1147, otherwise known as the Massage Therapy Act, was supported by the League of California Cities and the CAMTC and became effective on January 1, 2015. The new legislation re-establishes the authority of local jurisdictions to impose land use regulations on massage establishments and once again allows cities to issue massage establishment permits. The League of California Cities recently distributed succinct information and responses to frequently asked questions to the AB 1147 changes and is included as Attachment 1. The legislative authors stated, “. . . we carried this legislation to return the broad control over land use to local governments in regulating massage establishments in the best interests of the individual community.” Significant changes authorized by AB 1147 include:

- Cities and counties may adopt or enforce a local ordinance governing zoning, business licensing, or reasonable health and safety requirements for all massage establishments.
- Cities and counties may, by local ordinance, require that all massage establishments obtain a license, permit, certificate, or other authorization in order to operate lawfully in their jurisdiction.

After reviewing Escondido’s massage establishment regulations, City staff determined it needed to be refined and updated with regard to recent changes afforded by AB 1147. The proposed revisions are necessary to protect the public health, safety and welfare of the community by:

- 1) Mitigating and reducing the judicially recognized potential adverse secondary effects of illicit massage establishments, including but not limited to, increased crime, the proliferation of blight in neighborhoods;
- 2) Protecting the quality of life and neighborhoods in the city, the city’s retail and commercial trade, and local property values, and minimizing the potential for nuisances related to the operation of illicit massage establishments; and,
- 3) Protecting the peace, welfare and privacy of persons who own, operate and/or patronize legitimate massage establishments.

DETAILED DESCRIPTION:

The proposed amendments affect several adopted codes and ordinances. Exhibits referenced in this staff report are located in the attached December 9, 2014, Planning Commission staff report (Attachment 2), specifically:

- 1) Establish Article 38 “Massage Establishments” (Exhibit C) of the Zoning Code to:
 - a) Include up-to-date language describing the Article’s purpose
 - b) Define a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage, as determined by the Municipal Code.
 - c) Identify locations where massage establishments are permitted by right within nine developed commercial shopping centers totaling approximately 180 acres situated throughout the community (Exhibit B):

Center Name	Address
Civic Center Plaza	311 - 445 N. Escondido Boulevard
Del Norte Plaza	302 - 358 W. El Norte Parkway
El Norte Parkway Plaza	1000 W. El Norte Parkway
Escondido Gateway	810 - 860 W. Valley Parkway
Escondido Promenade Center	1200 - 1290 Auto Parkway
Ferrara Plaza	2401 - 2447 E. Valley Parkway
Major Market Shopping Center	1805 - 1895. S. Centre City Parkway
Plaza las Palmas	970 - 1138 W. Valley Parkway
Westfield North County	200 - 298 E. Via Rancho Parkway

Massage establishments, as defined in Chapter 16A of the Municipal Code, *not* located within commercial shopping centers listed above would be subject to a conditional use permit in the General Commercial (CG) zone unless otherwise prohibited.

- 2) Amend the following zoning codes to provide consistency with Article 38 "Massage Establishments":
 - a) Zoning Code Article 16 (Commercial Zones): Amend Table 33-332 (Permitted and Conditionally Permitted Principal Uses) to add 'massage establishments* (Article 38)' to the "Medical, Dental, and Related Health Services" category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment's location (Exhibit D).
 - b) Zoning Code Article 39 (Off-Street Parking): Amend Sec. 33-765 (Parking Spaces Required) to rename the existing land use "massage parlor" (listed as a retail use) to "massage establishment," and to reclassify as an office use and retain the current parking requirement of one (1) space per 100 sq. ft. gross floor area (Exhibit E).
 - c) East Valley Parkway Area Plan: Amend Table 4.1 (Permitted and Conditionally Permitted Principal Uses) to add "Massage Establishments (Article 38*)" in the "Medical, Dental, and Related Health Services" category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment's location (Exhibit F).
 - d) South Escondido Boulevard Area Plan: Amend Ordinance 92-1, Section 8 (Conditional Use Permits) to add land use code #6296 with a Use Title: "Massage Establishments pursuant to Article 38." (Exhibit G)
 - e) Downtown Specific Plan: Amend Figure II-2 (Permitted and Conditional Uses) to add "massage establishments" in the "Health and Personal Services" category as permitted (P) in the Center City Urban (CCU) district with the following footnote: Massage Establishments may be permitted only in certain centers pursuant to Article 38 (Exhibit H).
- 3) Amend Chapter 16A of the City's Municipal Code "Massage Establishments":
 - a) Establish an up-to-date purpose and definition of massage establishments;
 - b) Prescribe operating standards for massage establishments;
 - c) Establish an annual "Massage Establishment Permit" processing and procedures.

ANALYSIS:

The proposed amendment represents the most recent and legally-defensible provisions pertaining to massage establishments, based on staff's study and analysis of AB 1147. The proposed amendments comply with the new legislation and are appropriate based on analysis and comparison with case law, and judicial rulings.

Escondido businesses are permitted to involve ancillary uses constituting a distinct minority percentage of the establishment's activities. Staff has historically defined 15% as an appropriate limitation for ancillary activities associated with a business's primary use.

Identifying appropriate locations for establishing massage businesses as a permitted use within well-maintained, heavily trafficked commercial shopping centers totaling approximately 180 acres will provide sufficient opportunities for legitimate establishments to operate. Requiring a conditional use permit (CUP) for massage establishments seeking to locate in the General Commercial (CG) zone elsewhere in the community allows the City to individually regulate the operating characteristics of the business with the intent to protect the community from potential adverse effects of illicit massage establishments.

The re-instatement of massage establishment permits will place minimal burdens on legitimate massage businesses while providing the police department additional tools to address illicit activities that have been known to occur in certain businesses. Staff proposes a 60-day transition period following passage of this ordinance to allow current massage establishments to complete the permit process. Prior to SB 731, the City charged \$295 to process an initial massage permit and \$150 for the annual permit renewal. Staff will recommend a similar cost recovery based fee in the next update to the City fee schedule. Until the City Council updates the City fee schedule, there will be no charges to obtain a massage establishment permit.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission voted unanimously to recommend approval of the zoning code amendments. Commissioner Winton inquired about the Massage License processing and whether it would impact police staffing, a representative from the police department indicated it would not. Chairman Weber inquired about staff's selection of shopping centers that would allow massage establishments as a permitted use. Staff responded that the intent was to select well-maintained and heavily trafficked centers where visibility was high and adequate property maintenance was being conducted. Additionally, staff sought to ensure adequate acreage for locating massage establishments was selected in the community. No members of the public spoke at the hearing regarding the proposed update.

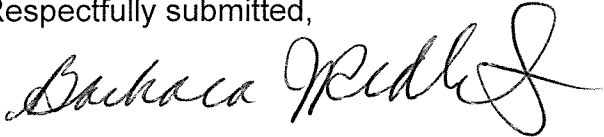
PUBLIC COMMENTS:

None.

SUMMARY:

Staff feels that the proposed code changes are consistent with new state legislation that will serve to protect integrity of legitimate massage establishments while incorporating licensing requirements to assist law enforcement in eradicating illicit establishments, and recommends approval.

Respectfully submitted,

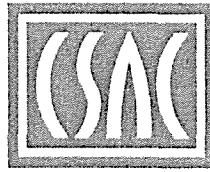


Barbara J. Redlitz
Community Development Director



Craig Carter
Chief of Police

ATTACHMENT "1"



December 3, 2014

To: City and County Officials

From: Assembly Members Susan Bonilla, Jimmy Gomez and Chris Holden

Re: Implementation of AB 1147

As authors of AB 1147, we carried this legislation in order to return broad control over land use to local governments in regulating massage establishments in the best interests of the individual community.

While the bill does not go into effect until January 1, 2015, many jurisdictions are considering, or are in the process of updating their ordinances. There have been numerous questions regarding what AB 1147 authorizes and what it prohibits. As authors of this bill, we have worked together with the League of California Cities, the California State Association of Counties, the American Planning Association, California Chapter and the California Police Chiefs Association to help answer some of these questions.

The answers to these questions are presented for informational purposes only and do not constitute legal advice from the organizations involved with putting together this document. Each jurisdiction should consult with its city attorney/county counsel to gain a complete understanding of AB 1147, its impact on the existing ordinances, and its legal authority to regulate massage therapy businesses.

Sincerely,

Handwritten signature of Susan A. Bonilla.

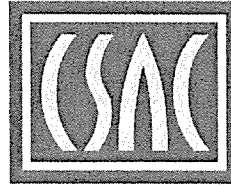
The Honorable Susan Bonilla
Assembly Member, 14th District

Handwritten signature of Jimmy Gomez.

The Honorable Jimmy Gomez
Assembly Member, 51st District

Handwritten signature of Chris Holden.

The Honorable Chris Holden
Assembly Member, 41st District



FAQs with Regards to Implementation of AB 1147

The answers to these FAQs are presented for informational purposes only and do not constitute legal advice from the organizations involved with putting together this document. Each jurisdiction should consult with its city attorney/county counsel to gain a complete understanding of AB 1147, its impact on the jurisdiction's existing ordinances, and its legal authority to regulate massage therapy businesses. The provisions of AB 1147 take effect January 1, 2015.

1) Q: Is a massage business that only uses certified massage professionals exempt from local regulation?

A: No. Article XI, section 7 of the California Constitution as well as Business and Professions Code section 460(c), Government Code section 37101, Business and Professions Code 16000 and Government Code 51034 all recognize the authority of a city to regulate businesses that provide massage therapy services. Under AB 1147, cities and counties may regulate the business that provides the massage therapy services and California Massage Therapy Council (CAMTC) may regulate the individuals who apply for certification to provide massage therapy services. This division of authority and responsibility is reflected in the following statement of Legislative intent: "It is the intent of the Legislature that broad control over land use in regulating massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community, and that the requirements and practice of the profession of massage remain a matter of statewide concern, regulation, and oversight" (Business & Professions Code 4600.5(b)).

2) Q. What limitations does AB 1147 impose on local regulation of certified massage professionals?

A. A local jurisdiction may not (1) prohibit a person of one sex from engaging in the massage of a person of the other sex; (2) define a massage establishment as an adult entertainment business, or otherwise regulate a massage establishment as adult entertainment; (3) require a massage establishment to have windows or walls that do not extend from the floor to ceiling or have other internal physical structures (such as windows) that interfere with a client's privacy; (4) impose client draping requirements or otherwise require clients to wear special clothing; (5) prohibit a massage establishment from locking its external doors if the business is owned by one individual with one or no employees; (6) require a massage establishment to post any notice in an area that may be viewed by clients that contain explicit sexual language; (7) require a person certified by CAMTC to take any test, medical examination, or background check; (8) require a person certified by CAMTC to get a license, permit, or other authorization to provide massage unless that person is a business owner; (9) impose a dress code stricter than that imposed by AB 1147; or (10) prohibit massage techniques permitted by CAMTC (Government Code 51034(c)).

3) Q: Can a jurisdiction require independent contractors, sole providers, and owners of a massage business to obtain a business license, massage permit, register with the police, or get a background check?

A: Yes. Under Government Code 51034(c)(8), a city may require a massage business owner, including a sole provider or independent contractor who is CAMTC certified, to obtain a business license, and/or massage permit or other entitlement to carry on the business of massage therapy. Independent contractors in the "business" of providing massage therapy can be regulated as a "business."

4) Q: As part of its regulation of massage therapy businesses, can a jurisdiction require the business owner to provide a current listing of its employees and independent contractors, their CAMTC certifications and other relevant information?

A: Yes. A jurisdiction's business regulation ordinance may require a business owner to submit a list of all of its employees and independent contractors, their certification status, and notify the local government when this information changes.

5) Q: Can a jurisdiction require a conditional use permit (CUP) for massage businesses?

A: Yes. Business and Professions Code 460(c) provides explicit authorization to adopt land use regulations pertaining to massage businesses. A jurisdiction may amend its zoning ordinance to require a CUP for a massage business. However, a jurisdiction may not impose conditions on the conditional use permit that would violate the provisions of Government Code 51034(c)(1)-(10) as described in Question No. 2. An application for a CUP for a massage business would be considered under the same procedures provided in the jurisdiction's zoning ordinances for other uses for which a CUP is required. Jurisdictions should review their zoning ordinances to determine whether a massage business in operation prior to January 1, 2015 is a lawful non-conforming use.

6) Q: Can a jurisdiction impose a restriction on the location of a massage business? i.e. 300 feet from a school, park etc.

A: AB 1147 gives local governments broad authority to use its Constitutional police power to select zoning districts that are most appropriate for massage. However, a jurisdiction may not define or otherwise regulate a massage establishment as "adult entertainment." A zoning ordinance that imposes a restriction on the location of a massage establishment such as 300 feet from a school or park will be reviewed under a "reasonable and not arbitrary" standard.

7) Q. Can a jurisdiction require individual massage therapists (who operate as employees) to obtain a business license, massage permit, register with the police, or get a background check?

A. No. A jurisdiction may not require an individual massage therapist who holds a certificate from CAMTC and operates as an employee to obtain any kind of license or permit or meet any other educational requirements, or to register with the police or submit to a background investigation (Government Code 51034(c)(8)).

8) Q: What is the best way to make sure that only CAMTC-certified massage professionals work in my jurisdiction?

A. AB 1147 separates the certification of massage therapists from the regulation of massage businesses. The certification of massage therapists is the responsibility of the CAMTC. The regulation of massage businesses is the responsibility of local jurisdictions. Therefore, the best way to make sure that only CAMTC-certified massage professionals work in a jurisdiction is to adopt an ordinance that requires massage businesses to use CAMTC-certified massage professionals only. Another way is to adopt an ordinance that prohibits a person from working in the jurisdiction as a massage therapist without a certificate issued by CAMTC. Because it's possible that the latter way might be interpreted as conflicting with the CAMTC's role in certifying massage therapists, we believe that imposing the restriction on the business is preferable.

9) Q: Can jurisdictions regulate the hours of operation of a massage business?

A: Yes. Jurisdictions can specify hours of operation based upon such factors as a commercial use in a residential neighborhood or other reasonable requirements.

10) Q: Can a jurisdiction prohibit a massage professional from working out of his or her home?

A: A jurisdiction can impose restrictions on massage professionals working out of their homes in the same manner that a jurisdiction regulates other professionals or business owners operating out of their homes. Some local governments regulate business owners operating from their homes through a home occupation permit.

11) Q: Can a jurisdiction limit the number of massage establishments in its jurisdiction?

A: A jurisdiction may limit the number of massage establishments in its jurisdiction if the jurisdiction is able to articulate a reasonable basis for the cap.

12) Q: Is a jurisdiction prohibited from requiring physical improvements, such as transparent exterior windows?

A: No. However, a list of physical improvements that may not be required is described in the answer to Question #2.

13) Q: Can a jurisdiction adopt regulations to prohibit a massage business from opening in the same location as a previous business with illegal activity?

A: Yes, if there is a reasonable basis for this regulation.

14) Q: Can a jurisdiction adopt regulations holding the owner accountable for the actions of its employees and independent contractors?

A: Yes. An ordinance regulating massage businesses may include a provision holding the business owner responsible for how the business is conducted by its employees or independent contractors. In addition, Business and Professions Code section 4607 provides that CAMTC may discipline an owner or operator of a massage business or establishment who is CAMTC-certified for the conduct of all individuals providing massage for compensation on the business premises.

15) Q: May a jurisdiction impose land use regulations on massage businesses that are different than those imposed on other professional services?

A: Yes. This is one of the most significant changes to the law made by AB 1147. Prior to AB 1147, jurisdictions were allowed to regulate businesses using certified massage professionals only to the extent that the jurisdiction uniformly applied those regulations to all other business professionals. This is no longer the law.

16) Q: Can a jurisdiction enter massage establishments and make reasonable inspections?

A: Yes. Jurisdictions can conduct reasonable inspections as part of its ordinance requirements as well as recover the reasonable costs of these inspections and other regulatory requirements.

17) Q: Is a conditional use permit fee of \$20,000-\$30,000 legal?

A: It depends. Fees, charges and rates are generally imposed in return for a specific benefit conferred or privilege granted. A local government has the authority to impose fees, charges and rates under its police power through California Constitution Article XI, §7. A fee may not exceed the estimated reasonable cost of providing the service or regulatory act for which the fee is charged. A fee that does exceed such cost may be considered a special tax. In addition, fees, charges and rates must be reasonable, fair and equitable in nature and proportionately representative of the costs incurred by the regulatory agency. AB 1147 includes the following statement of Legislative intent: "It is the intent of the Legislature that local governments impose and enforce only reasonable and necessary fees...."

18) Q: Can a jurisdiction prohibit condoms on the premises?

A: Yes. A jurisdiction can prohibit condoms on the premises of a massage establishment as a standard in its ordinance if there is a reasonable basis for this requirement.

19) Q: How can a jurisdiction handle a massage business that (after a police sting and surrender of the business license) transfers the business to another individual?

A: A jurisdiction may include in its ordinance a requirement that prohibits a massage business permit from being transferred without notice to and consent of the local government.

20) Q: Can a jurisdiction adopt and enforce a dress code for massage therapists?

A: Yes. AB 1147 includes certain restrictions on how certified massage therapists may dress. A jurisdiction may include those restrictions in its ordinance. Be aware, however, that a jurisdiction may not include stricter requirements for certified therapists. If dress code restrictions are included in a jurisdiction's ordinance, and an employee violates those restrictions, then the jurisdiction may enforce those provisions of its ordinance against the business as it determines appropriate. Violations of a municipal code may be enforced civilly, criminally, or through administrative enforcement. A jurisdiction is also encouraged to use the procedure outlined in question no. 23 to notify CAMTC of a violation.

21) Q: What impact will AB 1147 have on existing massage businesses?

A: Each jurisdiction should carefully review the provisions of its municipal code regarding non-conforming uses of land and imposing new regulations on existing businesses.

22) Q: Can a jurisdiction impose a temporary moratorium on approval of massage businesses?

A: Yes. AB 1147 takes effect on January 1, 2015. State law allows a city to adopt an interim ordinance that prohibits otherwise allowed uses when those uses conflict with a pending land use study. Such a measure requires a 4/5 vote of the jurisdiction; must contain a finding that there is a current and immediate threat to the public health, safety or welfare; and may be adopted without following the notice and adoption procedures required for other ordinances. The measure has an initial duration of 45 days and may be extended as specified by Government Code 65858. Jurisdictions should exercise caution before imposing a temporary moratorium if they have previously adopted a moratorium on the approval of massage businesses.

23) Q: Is there a process for a jurisdiction to follow if it wishes to inform CAMTC that it believes that a certified massage therapist is in violation of state or local law?

A: Yes. A city is encouraged to report that information to CAMTC by going to CAMTC's homepage (www.camtc.org) and clicking on the link to "File a Complaint Against a CAMTC Certificate Holder."

24) Q: If a massage therapist with a CAMTC certificate is arrested for prostitution or violating the Sex Offender Registration Act, will his or her certificate be revoked?

A: If CAMTC receives notice that a certificate holder has been arrested and charges have been filed alleging prostitution or a violation of the Sex Offender Registration Act, the council is required to immediately suspend the certificate and notify the city or county in which the certificate holder lives or works of the suspension. If the person is convicted, the certificate is permanently revoked. If a certificate holder commits a different act that is punishable as a sexually related crime or otherwise violates provisions of AB 1147, CAMTC may (but is not required to) take disciplinary action including, for some violations, suspending the certificate.

25) Q: Who should jurisdictions report violations to?

A: Violations of local ordinances should be prosecuted administratively, civilly, or criminally in accordance with the provisions of the jurisdiction's municipal code. If a jurisdiction believes that a CAMTC certified massage therapist is violating state law, then the jurisdiction is additionally encouraged to inform CAMTC as described under question no.23.

26) Q. What prompts the inspection/investigation of a massage therapy school that could change the status to "unapproved"?

A: CAMTC explains that when it receives credible information alleging that the massage therapy school has violated one of the provisions of its Procedures for Un-Approval of Schools (available at www.camtc.org/Schools.aspx); this information prompts the investigation of a school. CAMTC also looks for anomalies or changing patterns in applications and transcripts that may warrant investigation.

27) How does CAMTC obtain the actual certificate of those persons whose certification has been suspended or revoked?

A: CAMTC explains that it requests that revoked certificate holders return their certificates and ID cards to CAMTC. In order to check whether a specific person has an active and valid CAMTC certificate, local jurisdictions can check the "Verify Certification" link on CAMTC's website.

28) Q. Does AB 1147 apply to massage therapists who do not have a CAMTC certificate?

A: No. AB 1147 only applies to massage therapists who have a CAMTC certificate. AB 1147 does not affect the authority of a city to regulate massage therapists who do not have CAMTC certificates or massage businesses who employ massage therapists who do not have CAMTC certificates.



PLANNING COMMISSION

Agenda Item No.: G.3
Date: December 9, 2014

CASE NUMBER: AZ 14-0004

APPLICANT: City of Escondido

LOCATION: Citywide

TYPE OF PROJECT:

A Zone Code Amendment to establish permitted locations, standards, definitions, and processing procedures for massage establishments in concert with recent state legislation effective January 2015. The amendment would: 1) Establish Article 38 pertaining to 'Massage Establishments,' 2) Amend Article 16 of the Zoning Code (Commercial Zones), 3) Amend Article 39 of the Zoning Code (Off-Street Parking), 4) Amend the East Valley Parkway, South Escondido Boulevard Area Plans, and Downtown Specific Plan. The project also involves amending Section 16A of the Escondido Municipal Code pertaining to Massage Establishments that will be considered separately by the City Council.

PROJECT DESCRIPTION:

- 1) Establish Article 38 "Massage Establishments" (Exhibit C) of the Zoning Code to:
 - a) Include up-to-date language describing the Article's purpose
 - b) Define a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage, as determined by the Municipal Code.
 - c) Identify locations where massage establishments are permitted by right and by conditional use permit. As proposed, massage establishments would be classified as permitted uses within nine specified commercial shopping centers totaling approximately 180 acres situated throughout the community. These centers are currently developed; massage establishments proposing to operate as a permitted use would be required to locate within one of the following centers (also see Exhibit B):

Center Name	Address
Civic Center Plaza	311 - 445 N. Escondido Boulevard
Del Norte Plaza	302 - 358 W. El Norte Parkway
El Norte Parkway Plaza	1000 W. El Norte Parkway
Escondido Gateway	810 - 860 W. Valley Parkway
Escondido Promenade Center	1200 - 1290 Auto Parkway
Ferrara Plaza	2401 - 2447 E. Valley Parkway
Major Market Shopping Center	1805 - 1895. S. Centre City Parkway
Plaza las Palmas	970 - 1138 W. Valley Parkway
Westfield North County	200 - 298 E. Via Rancho Parkway

Massage establishments, as defined in Chapter 16A of the Municipal Code, *not* located within commercial shopping centers listed above would be subject to a conditional use permit in the General Commercial (CG) zone unless otherwise prohibited.

- 2) Amend the following codes to provide consistency with Article 38:
- a) Zoning Code Article 16 (Commercial Zones): Amend Table 33-332 (Permitted and Conditionally Permitted Principal Uses) to add 'massage establishments* (Article 38)' to the "Medical, Dental, and Related Health Services" category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment's location (Exhibit D).
 - b) Zoning Code Article 39 (Off-street Parking): Amend Sec. 33-765 (Parking Spaces Required) to rename the existing land use "massage parlor" (listed as a retail use) to "massage establishment," and to reclassify as an office use and retain the current parking requirement of one (1) space per 100 sq. ft. gross floor area (Exhibit E).
 - c) East Valley Parkway Area Plan: Amend Table 4.1 (Permitted and Conditionally Permitted Principal Uses) to add "Massage Establishments (Article 38*)" in the "Medical, Dental, and Related Health Services" category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment's location (Exhibit F).
 - d) South Escondido Boulevard Area Plan: Amend Ordinance 92-1, Section 8 (Conditional Use Permits) to add land use code #6296 with a Use Title: "Massage Establishments pursuant to Article 38." (Exhibit G)
 - e) Downtown Specific Plan: Amend Figure II-2 (Permitted and Conditional Uses) to add "massage establishments" in the "Health and Personal Services" category as permitted (P) in the Center City Urban (CCU) district with the following footnote: Massage Establishments may be permitted only in certain centers pursuant to Article 38 (Exhibit H).

Note: Chapter 16A of the City's Municipal Code "Massage Establishments" is proposed for separate consideration by the City Council. A draft is attached as Exhibit I for the Planning Commission's information. The Municipal Code Amendment would:

- a) Establish an up-to-date purpose and definition of massage establishments;
- b) Prescribe operating standards for massage establishments;
- c) Establish "Massage Establishment permit," as well as the processing procedures for obtaining said permits.

STAFF RECOMMENDATION: The Commission should recommend **approval** of the proposed code amendment, including the environmental documentation associated with the project, to the City Council (see Exhibit C).

GENERAL PLAN DESIGNATION: Citywide

ENVIRONMENTAL STATUS: Pursuant to California Environmental Quality Act (CEQA) Section 15601(b)(3) the project is exempt.

BACKGROUND/SUMMARY OF ISSUES:

California did not regulate massage businesses or massage professionals prior to 2009. Local jurisdictions were able to regulate the industry by ordinances imposing standards related to hours of operation, sanitary conditions, education and other areas of interest and concern. Regulations varied from jurisdiction to jurisdiction; Escondido exercised its land-use and zoning authority to address local concerns associated with massage establishments. With the rise in prominence of several franchise massage businesses, the massage industry began lobbying for the creation of a certification process that emphasized the professionalism of massage practitioners and therapists.

The massage industry helped craft Senate Bill (SB) 731 in 2008 which established a voluntary certification process for massage professionals through the California Massage Therapy Council (CAMTC), a nonprofit public benefit corporation. CAMTC comprises 20 board members who are primarily owners of massage establishments and representatives of massage associations or schools that offer massage. The board also includes one member appointed by the League of California Cities, one appointed by the California State Association of Counties (CSAC) and one by the Department of Consumer Affairs. The bill's intent was to professionalize the industry by creating uniform standards for massage practitioners and therapists, with the idea that the massage industry should be treated "no better and no worse" than any other professional service provider. The bill authorized CAMTC to certify massage professionals, conduct background checks and investigate schools offering massage degrees.

The current law allows jurisdictions to regulate businesses that provide massage services through employees or independent contractors who are not certified by CAMTC. But the law does not allow a jurisdiction to regulate CAMTC-certified massage therapists or businesses that employ certified massage therapists unless the jurisdiction applies the regulations to other professional services in a uniform manner. In addition, legislation provides that certified massage therapists have the right to practice massage without any other license, permit or authorization.

Other provisions require local governments to charge the lowest business license fee of any professional service to massage establishments and prohibit local governments from requiring restrooms, showers or other facilities not uniformly required of other professional services. Local jurisdictions are also prohibited from requiring unlocked doors when no staff is available. The statute is set to expire on January 1, 2015.

Since the enactment of SB 731, some jurisdictions, including Escondido have seen a tremendous increase in the number of massage establishments as a whole, particularly the increase in illicit massage establishments. Escondido had 12 massage establishments in 2009, and over 25 establishments in 2014, and the number continues to grow.

The prohibition on local regulation appears to have created additional opportunities for brothels and human trafficking, which has been encountered in Escondido and other jurisdictions. According to law enforcement personnel, indications of illegal activity exist at businesses that:

- Claim to offer massage but have locked doors with security cameras;
- Employ only women;
- Have a strictly male clientele;
- Employ individuals with no identification or passports; and
- Present indications of people sleeping on-site at the business.

While CAMTC is responsible for the certification of massage professionals, it does not have the authority to regulate the businesses or their owners. Closing these illicit businesses has proved difficult and costly. Police stings have resulted in arrests of both certified and uncertified workers. It is not unusual for these massage establishments to remain open for business.

Assembly Bill (AB) 1147, otherwise known as the Massage Therapy Act was supported by CAMTC, signed into law on September 18, 2014, and will go into effect on January 1, 2015. The existence of CAMTC continues under AB 1147 until January 1, 2017, and makes other significant changes to existing law. The new legislation substantially expands the authority of cities and counties to impose land use regulations on massage businesses, but that authority is not unlimited. Jurisdictions are restricted in the regulations they can impose on *individual* CAMTC certificate holders. However, AB 1147 changes the ability of cities and counties to impose land use regulations on massage *businesses*. As of January 1, 2015, the law provides that:

- No city or county shall prohibit a person or group of persons certified by CAMTC from engaging in their business, occupation, or profession, or any portion of that business, occupation, or profession.
- No city or county shall prohibit a person certified by CAMTC from engaging in any act or performing any procedure that falls within their professionally recognized scope of practice.
- Cities and counties may adopt or enforce a local ordinance governing zoning, business licensing, or reasonable health and safety requirements for all massage establishments.
- Cities and counties may, by local ordinance, require that all massage establishments obtain a license, permit, certificate, or other authorization in order to operate lawfully in their jurisdiction.

It should be noted that AB 1147 specifically prohibits jurisdictions from:

- Defining or regulating any massage establishment as adult entertainment, regardless of whether the establishment is using CAMTC certified individuals to provide massage for compensation or not.

- Requiring massage establishments to have windows or walls that don't extend from floor to ceiling or have other internal physical structures that interfere with a client's reasonable expectation of privacy.
- Requiring client draping that goes beyond the covering of genitalia and female breasts, or mandating that the client wear special clothing.
- Not allowing a massage establishment to lock its external doors if the establishment is a business entity owned by one individual with one or no employees or independent contractors.
- Refer to Exhibit J for additional information from the League of California Cities, including frequently asked questions.

The City regularly reviews and updates its codes and ordinances. Modifications are typically necessary to respond to changes in the law and judicial rulings. After reviewing Escondido's massage establishment regulations, City staff determined it needed to be refined and updated with regard to recent changes afforded by AB 1147. The proposed revisions are necessary to protect the public health, safety and welfare of the community by:

- 1) Mitigating and reducing the judicially recognized potential adverse secondary effects of illicit massage establishments, including but not limited to, increased crime, the proliferation of blight in neighborhoods;
- 2) Protecting the quality of life and neighborhoods in the City, the City's retail and commercial trade, and local property values, and minimizing the potential for nuisances related to the operation of illicit massage establishments; and,
- 3) Protecting the peace, welfare and privacy of persons who own, operate and/or patronize legitimate massage establishments.

A summary of issues include:

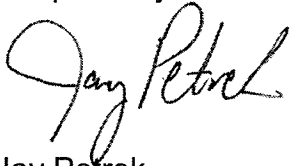
- 1) Whether the proposed amendment is in conformance with AB 1147.
- 2) Whether defining a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage is appropriate.
- 3) Whether the proposed locational requirements will mitigate adverse secondary impacts associated with illicit massage establishments.

REASONS FOR STAFF RECOMMENDATION:

- 1) The proposed amendment represents the most recent and legally-defensible provisions pertaining to massage establishments, based on extensive study and analysis of AB 1147. The proposed amendments comply with AB 1147 and are appropriate based on analysis and comparison with other adopted ordinances, case law, and judicial rulings.

- 2) Escondido businesses are permitted to involve ancillary uses constituting a distinct minority percentage of the establishment's activities. Staff has historically defined 15% as an appropriate limitation for ancillary activities associated with a business's primary use.
- 3) Identifying appropriate locations for establishing massage businesses as a permitted use within well-maintained, heavily trafficked commercial shopping centers totaling approximately 180 acres will provide sufficient opportunities for legitimate establishments to operate. Requiring a conditional use permit (CUP) for massage establishments seeking to locate in the General Commercial (CG) zone elsewhere in the community allows the city to individually regulate the operating characteristics of the business with the intent to protect the community from potential adverse effects of illicit massage establishments.

Respectfully Submitted,

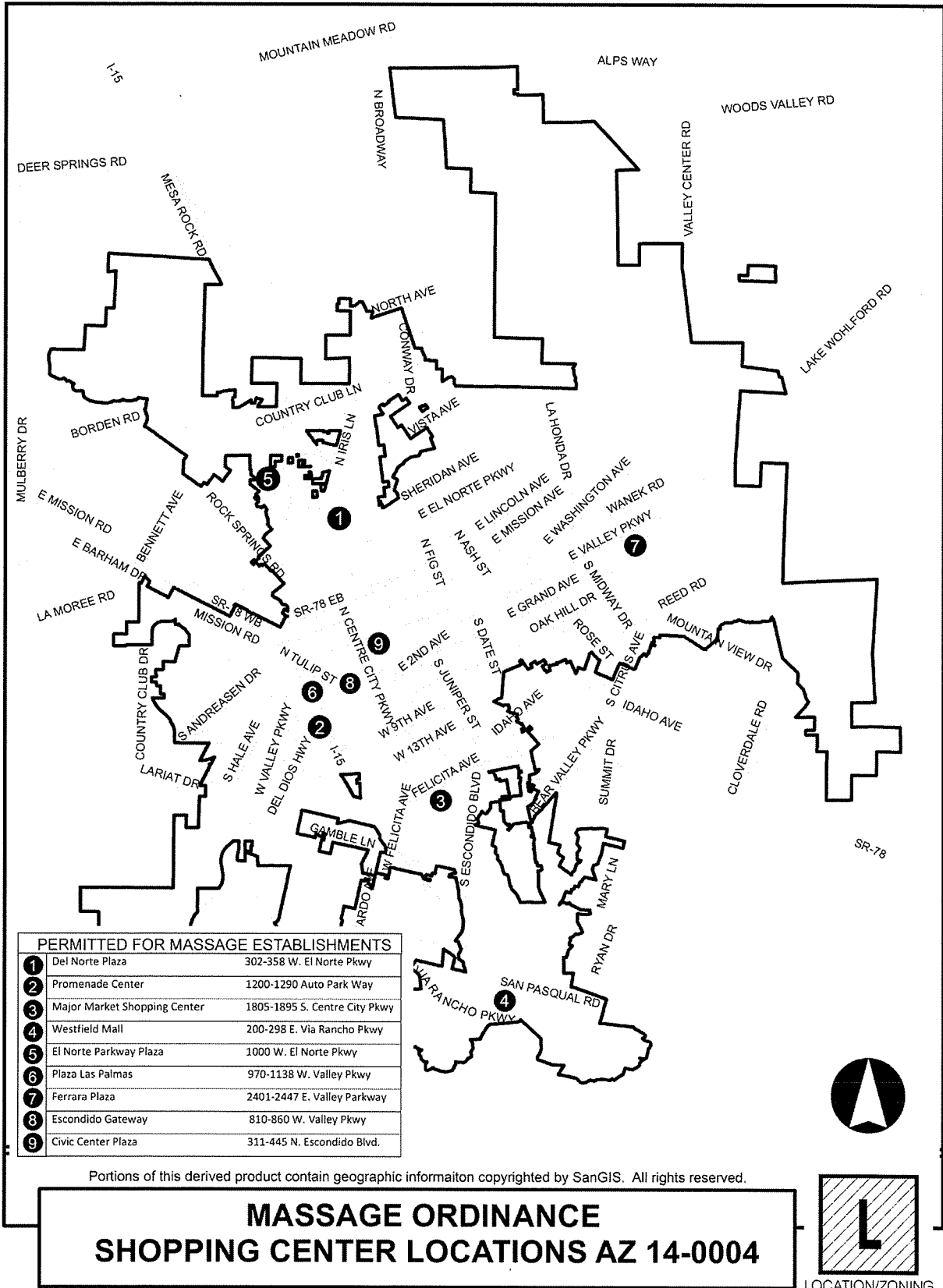
A handwritten signature in black ink that reads "Jay Petrek". The signature is written in a cursive, flowing style.

Jay Petrek
Assistant Planning Director

EXHIBIT A
AZ 14-0004
FACTORS TO BE CONSIDERED

- 1) Including those factors discussed in the staff report, approval of the proposed ordinance amendment will not be adverse to the public health, safety and welfare and will not be injurious to the property or improvements in the zone or vicinity in which the property is located. The proposed ordinance provides operational standards and business licence provisions for massage establishments to address the adverse secondary effects of illicit massage establishments while providing sufficient avenues to operate legitimate massage establishments as afforded by law.
- 2) The proposed amendment will not impact parking, ingress and egress, landscaping and design requirements for massage establishments since they will be primarily directed to operate in existing shopping centers totaling approximately 180 acres that already have approved development standards. Massage establishments that choose not to locate within an identified shopping center identified in the ordinance may locate in the CG (General Commercial) zone with a conditional use permit subject to discretionary approval unless otherwise restricted.
- 3) The proposed amendment establishes a protocol for the licensing of massage establishments in such a manner to minimize the potential negative secondary effects of crime, lowered property values and higher vacancy rates in an area thus implementing the goals and policies of the General Plan as stated in Land Use and Community Form Policies that call for the strengthening and promoting of existing commercial uses.

EXHIBIT B
 LOCATIONS FOR MESSAGE ESTABLISHMENTS AS A PERMITTED USE



ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

Commercial and/or residential properties exist in the four cardinal directions of surrounding each of the nine shopping centers. Residential properties do not orient toward the front of any of the centers with the exception of El Norte Parkway Plaza (1000 W. El Norte Parkway), and Ferrara Plaza (2401 - 2447 E. Valley Parkway), which are located across from residential developments.

B. AVAILABILITY OF PUBLIC SERVICES

1. Effect on Police Service – The Police Department has worked closely with staff regarding the preparation of the proposed amendment. The Department supports the amendments and has expressed no concern regarding their ability to monitor any massage establishment or fulfill the obligations set forth in the proposed ordinance.

The Police Department conducted a workshop for massage establishment owners to discuss AB 1147, outline pending regulations, and discuss issues on December 4, 2014. Seven massage establishment representatives attended the meeting and staff responded to questions regarding licensing, fingerprinting and the schedule for the Massage Establishment Ordinance public hearings.

2. Effect on Fire Service – The Fire Department has expressed no concerns relative to its ability to provide service any future massage establishments. The locations where massage establishments locate are within commercial zones that are in close proximity to existing fire stations.
3. Traffic – The Engineering Department has expressed no concerns regarding the proposed amendment to the Zoning Code.
4. Utilities – The Engineering Department has indicated that the proposed amendment will not significantly affect utilities.
5. Drainage – The Engineering Department has indicated that the proposed amendment will not significantly affect drainage.

C. ENVIRONMENTAL STATUS

1. Pursuant to California Environmental Quality Act (CEQA) Section 15061(b)(3) the code amendment is exempt. A Notice of Exemption was issued on December 2, 2014.
2. In staff's opinion, no significant issues remain unresolved through compliance with code requirements and the recommended conditions of approval.

3. The project will not impact on fish and wildlife resources as no sensitive or protected habitat occurs on-site or will be impacted by the proposed development since locations for massage establishments are developed commercial areas containing no fish or wildlife resources.

D. CONFORMANCE WITH CITY POLICY

General Plan -

Neighborhood Maintenance & Preservation Policy 4.2 states that: "residential neighborhoods shall be protected from the encroachment of incompatible activities or land uses...which may have a negative impact on the residential living environment." Commercial Land Use Policy 8.6 states that: "future commercial activities shall be organized into planned, grouped concentrations....and incorporate features that minimize impacts on adjacent sensitive uses associated with noise, property maintenance, product deliveries, trash service, and other potentially incompatible characteristics." Police Services Policy 3.8 states "Enhance crime prevention by working with human care agencies, recreational agencies, educational services and community groups to (a) reduce victimization....and, (c) maintain awareness of potential problem areas." Based on staff's analysis, the proposed code amendments conform to Escondido's General Plan policies.

E. ISSUE ANALYSIS:

- 1) *Whether the proposed amendment is in conformance with AB 1147.*

The City Attorney's Office, Police Department, Planning and Code Enforcement Divisions routinely monitor other agencies' ordinance amendments, court rulings and changes in the law to determine appropriate changes to Escondido's ordinances. Staff finds that these studies and recent legislation afforded by AB 1147 are relevant to the problems addressed by the City in enacting this Ordinance.

Licensing or regulatory permits and operating standards for massage establishments are allowed by AB 1147. These provisions are considered a legitimate and reasonable means to help assure that such businesses comply with reasonable regulations that minimize and control problems associated with illicit massage establishments. The proposed modifications are designed to strengthen provisions in the Zoning Code by establishing updated definitions, standards and regulations for massage establishments in concert with AB 1147. The amendments take into account protecting fundamental freedoms, recognizing the benefits of legitimate massage establishments, and ensuring the community's desire to protect public health and safety.

2) Whether defining a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage is appropriate.

Escondido businesses are permitted to include ancillary use(s) and activities that constitute a distinct minority percentage of the establishment's primary activities. Many businesses include massage as a component to the services they offer including physicians, chiropractors, physical therapists, day spas, beauty parlors, etc. It is not the intent of this code amendment to classify every business that offers massages as a 'massage establishment.'

Staff has historically defined 15% as an appropriate limitation for conducting ancillary activities associated with a business's primary use. As an example, a manufacturing business is allowed up to 15% of its gross floor area for the retail sale of the product manufactured on-site. Defining a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage is appropriate based on staff's historical determination of primary versus ancillary business activities. In addition, the definition would not restrict the location of businesses that involve massage as an ancillary component of its operations beyond that which is already regulated in the zoning code.

3) Whether the proposed changes will mitigate adverse secondary impacts associated with illicit massage establishments.

There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by illicit massage establishments, including but not limited to the crimes of prostitution, human trafficking, violence against persons and property. The convincing evidence is that illicit massage establishments have a negative effect on nearby businesses and residential areas, causing, among other adverse secondary effects, an increase in general crime and a decrease in property values. Regulations for massage establishments are appropriate to prevent potential deterioration and/or degradation of the vitality of the community before problems intensify, rather than waiting for additional problems to be created.

Establishing locational standards for massage establishments, as permitted by AB 1147, is a legitimate and reasonable means of ensuring that the potential adverse secondary impacts generated by illicit massage establishments are mitigated. Staff further recognizes that the regulation of massage establishments in and of itself is not sufficient to preclude the above noted secondary effects, and that zoning restrictions regarding the appropriate locations for such facilities are necessary in order to combat these secondary effects. The regulations will also protect citizens from increased crime, preserve the quality of life, preserve property values and the character of surrounding neighborhoods and businesses, and deter the spread of urban blight.

The locational requirements contained in this Ordinance do not unreasonably restrict the establishment or operation of massage establishments in the City and a sufficient and reasonable number of alternative locations for massage establishments are provided by this Ordinance totaling approximately 180 acres. It should be noted that nothing in the proposed Ordinance is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any City ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof. Licensing and operational standards are a legitimate and reasonable means of accountability to ensure that operators of massage establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

G. CONCLUSION / RECOMMENDATION:

Staff has been advised that the proposed text is the most legally defensible based on existing law and judicial rulings pertaining to massage establishments. Therefore staff recommends approval of the proposed ordinance with the noted modifications.

EXHIBIT C

ARTICLE 38. MASSAGE ESTABLISHMENTS

Sec. 33-750. Purpose.

It is the purpose and intent of this chapter to regulate the operations of massage establishments, which tend to have judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of massage establishments; decreases in property values in the vicinity of massage establishments; increases in vacancies in residential and commercial areas in the vicinity of massage establishments; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of massage establishments as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Special regulation of these businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of massage establishments.

Sec. 33-751. Definitions.

In addition to any other definitions contained in the municipal code, all words and phrases included in this chapter pertaining to massage establishments shall be consistent with the definitions in Chapter 16A, Article 1, section 16A-1, unless it is clearly apparent from the context that another meaning is intended.

Businesses, including day spas, salons, beauty parlors, barber shops etc., that provide up to 15% of their gross floor area for massage activities are not considered massage establishments, however, persons administering massages at said establishments shall comply with all state and local licensing provisions.

Sec. 33-752. Location of massage establishments.

(a) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code, shall be a permitted use only in certain commercial shopping centers listed below:

Center Name	Address
Civic Center Plaza	311 - 445 N. Escondido Boulevard
Del Norte Plaza	302 - 358 W. El Norte Parkway
El Norte Parkway Plaza	1000 W. El Norte Parkway
Escondido Gateway	810 - 860 W. Valley Parkway
Escondido Promenade Center	1200 - 1290 Auto Parkway
Ferrara Plaza	2401 - 2447 E. Valley Parkway
Major Market Shopping Center	1805 - 1895. S. Centre City Parkway
Plaza las Palmas	970 - 1138 W. Valley Parkway
Westfield North County	200 - 298 E. Via Rancho Parkway

(b) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code, not located within commercial shopping centers listed in sec. 33-752(a) shall be permitted in the General Commercial (CG) zone subject to a conditional use permit pursuant to Article 61 unless otherwise prohibited.

(c) A massage establishment legally established prior to the adoption of this ordinance operating with a valid business license and other appropriate approvals that does not comply with sec. 33-752 (a) or (b) shall be considered a legal non-conforming use pursuant to Article 61, Division 3.

(d) Any person violating or causing the violation of any locational provisions regulating massage establishments pursuant to sec. 33-752 shall be subject to the remedies of section 33-753 of this article.

(e) The requirements of subsections (a), (b), and (c) of this section shall be in addition to any other relevant provisions of this code.

Sec. 33-753. Violations.

(a) Any person operating or causing the operation of a massage establishment on any parcel in which no application for a massage establishment permit under Chapter 16A has been granted, or any person violating or causing the violation of any of the locational provisions regulating massage establishments shall be subject to license revocation/suspension pursuant to section 16A-16, a fine of not more than one thousand dollars (\$1,000.00) pursuant to Government Code Sections 36900 and 36901, and any and all other civil remedies. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

(b) In addition to the remedies set forth in sec. 33-753(a), any violation of any of the locational provisions pursuant to sec. 33-752 regulating massage establishments is hereby declared to constitute a public nuisance and may be abated or enjoined.

(c) If a massage establishment permit is revoked or not renewed, no massage establishment permit may be issued for a massage establishment at the same location for one year.

Sec. 33-754. Regulations Nonexclusive.

The provisions of this chapter regulating massage establishments are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other provisions of the municipal code and/or any other regulations pertaining to the operation of businesses as adopted by the city council of the City of Escondido.

Sec. 33-755. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter and the ordinance to which it is a part, or any part thereof is held for any reason to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, the remaining sections, subsections, paragraphs, sentences, clauses, and phrases shall not be affected thereby. The city council hereby declares that it would have adopted this chapter and the ordinance to which it is a part regardless of the fact that one or more sections, subsections, paragraphs, sentences, clauses, or phrases may be determined to be unconstitutional, invalid, or ineffective.

Secs. 33-756—33-759. Reserved.

EXHIBIT D

Zoning Code Article 16 (Commercial Zones): Amend Table 33-332 (Permitted and Conditionally Permitted Principal Uses) to add 'massage establishments* (Article 38)' to the "Medical, Dental, and Related Health Services" category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment's location.

Table 33-332

PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES

The conversion of existing or vacant automobile dealerships to a new, substantially different, use shall require plot plan review pursuant to section 33-344 of this article.

Use Title	CG	CN	CP
Residential and Lodging			
Bed and breakfast* (Article 32)	C		
Hotels and motels* (Article 63)	C		
Mobilehome parks or travel trailer parks* (Articles 45 & 46)	C		
Manufacturing, Wholesale Trade, and Storage			
Mini-warehouse storage facilities* (section 33-339)	C		
Newspaper printing and publishing	P		
Retail Trade			
Automotive and marine craft			
Sales lots and parts and accessories sale and supply (including autos, motorcycles, trailers, campers, recreational vehicles and marine craft vehicles excluding farm and construction vehicles, three-axle trucks, and buses)	P		
Gasoline service stations including concurrent sale of alcoholic beverages and motor vehicle fuel* (Articles 57 and Council Resolution #5002)			
With facilities to dispense gasoline to 4 or fewer vehicles at a time	P		
With facilities to dispense gasoline to 5 or more vehicles at a time	C		
Food and liquor			
Food stores (grocery, produce, candy, baked goods, meat, delicatessen, etc.), off-sale beer and wine, off-sale general license excluding concurrent sale	P	P	
With facilities to dispense gasoline to 4 or fewer vehicles at a time* (Article 57)	P		
With facilities to dispense gasoline to 5 or more vehicles at a time* (Article 57)	C		
Liquor stores, packaged (off-sale)	P	P	
General retail			

Use Title	CG	CN	CP
Building materials and supplies including lumber, heating, plumbing, and electrical equipment, etc. (outdoor storage or sale subject to CUP)	P		
Drugstores	P	P	P
Pharmacies	P	P	P
Florists, gifts, cards, newspapers and magazines	P	P	P
Furniture, home and office furnishing and equipment, electrical appliances, and office machines and supplies	P		
General retail, NEC (as determined by the director of community development, based on conformance with the purpose of the specific zone, interaction with customers, the appearance of the building, the general operating characteristics, and the type of vehicles and equipment associated with the use, and including incidental assembling of customized items)	P	P	
Hospital/medical equipment sales	P		P
Nurseries and garden supply stores	P	P	
Outdoor retail, NEC (as a principal use)	C		
Sporting goods (includes ammunition and firearms, fishing, hunting, golf, playground equipment, etc.)	P		
Temporary seasonal sales such as Christmas tree and wreath sales, pumpkin sales, etc., on vacant lots subject to site plan approval	P	P	P
Eating and Drinking Establishments			
Cabarets and nightclubs (with or without alcoholic beverages, including comedy clubs, magic clubs, etc.)	C		
Drinking places—alcoholic beverages (on-sale beer and wine and on-sale general licenses and public premises) includes bars and taverns, does not include restaurants serving alcoholic beverages	C		
Restaurants, cafés, delicatessens, sandwich shops, etc.			
Without alcoholic beverages	P	P	P
With on-sale beer and wine and on-sale general licenses	P	C	C
Auto oriented (drive-in,* drive-through*) (section 33-341)	P		
Specialized food sales from pushcart facilities* (section 33-342)	P	P	P
Services			
Animal care (excluding kennels)	P	P	
Automotive services (including motorcycles, marine craft and recreational vehicles)			
Car-wash, polishing, detailing	P		
Rental and leasing* (Article 57 and Council Resolution #73-264-R) with or without drivers, taxicab service	P		
Repair and related services, except tire retreading and auto body	P		
Auto body	C		
Miscellaneous auto service, except repair and wash (includes motor clinics, auto towing service only)	P		

Use Title	CG	CN	CP
Educational services			
Day nurseries, child care centers* (Article 57)	P	C	C
Schools, including kindergarten, elementary, junior, and senior high schools* (Article 57)	P		C
University, college, junior college, and professional schools	P		C
Vocational and trade schools	P		C
Other special training (including art, music, drama, dance, language, etc.)	P	P	
Special needs education	P	P	P
Government services			
Administrative centers and courts	P	C	P
Other government services NEC excluding correctional institutions	C		C
Police and fire stations	C	C	C
Financial services and institutions (including banks, securities brokers, credit offices, real estate services)			
Insurance	P	P	P
Hospital and medical service organizations (including Blue Cross, Blue Shield, etc.)	P		P
Medical, dental and related health services			
Hospitals, excluding small medical clinics	C		C
<u>Massage Establishments* (Article 38)</u>	<u>P/C</u>		
Medical, dental and optical laboratories	P		P
Medical clinics and blood banks	P		P
Medical, dental, optical, and other health care offices	P	P	P
Other medical and health services NEC	P		P
Sanitariums, convalescent and licensed residential care facilities Sanitariums, convalescent and residential care facilities approved prior to the effective date of Ordinance 2014-15 are exempt from voluntary work limitations identified in section 33-1243 (Exceptions to nonconforming use provisions). Expansions and/or intensification of said facilities shall require a conditional use permit subject to Article 61.	C		C
Offices and business services, except medical			
General business services (including advertising, credit reporting, building services, news syndicate, employment services, computer services, drafting, detective/protective services, etc.)	P	P	P
General office use (includes professional offices)	P	P	P
Mailing, accounting and office services	P	P	P
Travel agencies and services	P	P	P
Repair services, except automotive			
Apparel and shoe repair and alteration	P	P	
Bicycle repair	P	P	

Proposed
Text
Change



Use Title	CG	CN	CP
Locksmiths and key shops	P	P	P
Miscellaneous repair services (excluding machine shops and welding services)	P		
Small appliance repair and services (including TV, radio, small electronics, computers, household appliances, etc.)	P	P	
Watch, clock, and jewelry repair	P	P	P
Social, professional, and religious organizations and services			
Churches, synagogues, temples, missions, religious reading rooms, and other religious activities* including columbariums and mausoleums* as an incidental use (Article 57) Religious establishments listed above and/or assembly uses on property designated Planned Office in the general plan: Existing churches may operate subject to their approved conditional use permits. Expansions may occur subject to Article 57 that do not increase the boundary of the conditional use permit, including parking areas within the Planned Office designation. No new religious establishments and/or assembly uses are permitted on land in the general plan designated Planned Office.	P	C	C
Social and professional organizations (political membership, veterans, civic, labor, charitable and similar organizations, etc.)	P	C	P
Youth organizations* (Article 57)	P	C	
Other services			
Assembly halls, fraternities, sororities, lodges, etc.	C		
Barber, beauty, nail, and tanning services	P	P	P
Equipment rental and leasing service* (Article 57 and Council Resolution #73-264-R) (includes airplanes, business equipment, furniture, construction equipment, sanitation units, sports equipment, etc.)	P		
Mortuary (excluding crematories and mausoleums)	P		
Hospital/medical equipment rental and leasing	P		P
Laundry and dry cleaning services			
Self-service, coin-operated	P	P	
Pick-up service only	P	P	P
Dry cleaning, laundering, pressing and dying for on-site retail customers only	P		
Personal services, NEC (including clothing and costume rental, tattooing, marriage bureaus, baby-sitting services, etc.)	P		
Photographic and duplicating services:			
Blueprinting	P		P
Photocopying	P	P	P
Studios, developing, printing, and similar services, except commercial photography	P	P	P
Commercial photography, including aerial photographs and	P		P

Use Title	CG	CN	CP
mapping services			
Picture framing, assembly only	P	P	
Recycling services* (Article 33):			
Reverse vending machines occupying a total of 50 square feet or less	P	P	P
Small collection facilities occupying a total of 500 square feet or less	P	P	P
Aluminum can and newspaper redemption center without can crushing facilities	C		
Cultural Entertainment and Recreation			
Adult entertainment establishments* (Article 42)	P		
Cultural, including museums, art galleries, etc.	P		C
Entertainment assembly, amphitheater, concert halls, exhibit halls	C		
Health and fitness facilities, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc.	P	P	C
Swimming schools and pools	C	C	
Libraries	P	P	C
Parks	P	P	P
Sports and recreation facilities, including bowling alleys, billiards, indoor and outdoor skating facilities, batting cages, riding schools and stables, etc.	C		
Theaters, indoor motion picture	P		
Transportation, Communications and Utilities			
Transportation			
Ambulance and paramedic	C		C
Bus and train depots	P		
Helipad (as an incidental use only)* (Article 57)	C		C
Park-and-ride facilities	P	P	P
Parking lots and parking structures (short-term)	P		P
Taxicab stand	P		P
Communications (telephone, telegraph, radio, TV, etc.)			
Broadcasting (radio and/or television), recording, and/or sound studios	P		P
Personal wireless service facilities* (subject to Article 34)			
Roof-mounted or building-mounted facilities incorporating stealthy designs and/or screened from public ways or significant views	P	P	P
Pole-mounted or ground-mounted facilities that incorporate stealthy designs and do not exceed 35' in height	P	P	P
Pole-mounted or ground-mounted facilities that exceed 35' in height or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered	C	C	C

Use Title	CG	CN	CP
stealthy			
Other communications, NEC	C		C
Radio and television transmitting towers	C		C
Telephone exchange stations and telegraph message centers	P	P	P
Utilities (electric, gas, water, sewage, etc.)			
Central processing, regulating, generating, control, collection, storage facilities and substations	C	C	C
Distribution facilities	P	P	P

- a) * = Subject to special regulations—see Article in parentheses.
- b) P = Permitted use;
- c) C = Conditionally Permitted Use [subject to a Conditional Use Permit (CUP)] pursuant to section 33-1200 et seq.
- d) NEC = Not Elsewhere Categorized.

EXHIBIT E

Zoning Code Article 39 (Off-street Parking): Amend Sec. 33-765 (Parking Spaces Required) to rename the existing land use “massage parlor” (listed as a retail use) to “massage establishment,” and to reclassify as an office use and retain the current parking requirement of one (1) space per 100 sq. ft. gross floor area.

Sec. 33-765. Parking spaces required.

Except as specifically required in applicable zoning regulations, specific plans, or in section 33-782, Parking for historic structures, the number of off-street parking spaces shall be not less than that specified below. When an addition is made to an existing building, only the square footage in such addition need be used in computing the required off-street parking.

Use	Parking Spaces Required
Residential	
Single-family and two (2) family residences	Two (2) car garage or carport for each unit.
Bed and breakfast	One (1) parking space for each sleeping room available for rent, in addition to those spaces required by this section for the primary residential use. All spaces shall be located on-site.
Second dwelling units	One (1) parking space for the unit, in addition to those spaces required by this section for the primary residential use. All spaces shall be located on-site.
Multiple Dwellings	
Bachelor	One (1) parking space per unit.
One (1) bedroom	One and one-half (1 1/2) parking space per unit.
Two (2) bedroom	One and three-quarter (1 3/4) parking space per unit.
Three (3) or more bedrooms	Two (2) parking spaces per unit.
	Each unit shall have a minimum of one (1) covered parking space. In addition, there shall be provided a guest parking space for each four (4) units or fraction thereof. On-street parking spaces, when approved by the staff development committee, may be counted toward fulfilling this requirement. Street frontages abutting the subject property and which are included in the circulation element of the general plan shall not be included in fulfilling this requirement.
Mobilehome parks	Two (2) parking spaces for each site. Parking may be in tandem. In addition, one (1) space for each ten (10) sites for the laundry and recreation facilities.

Planning Commission
 December 9, 2014
 AZ 14-0004

Use	Parking Spaces Required
Rooming houses, lodging houses, clubs and fraternities having sleeping rooms	One (1) parking space for each two (2) sleeping rooms.
Sanitariums, children's homes, homes for the aged, asylums, nursing homes	One (1) parking space for each three (3) beds.
Commercial	
Automobile accessory shops	One (1) parking space for each six hundred (600) square feet of gross floor area.
Automobile service stations	One (1) parking space for each service stall.
Banks, and savings and loans	One (1) parking space for each two hundred (200) square feet of gross floor area.
Barber shops and beauty salons	One (1) parking space for every six hundred (600) square feet of gross floor area.
Furniture, large appliance stores and personal computer stores	One (1) parking space for each eight hundred (800) square feet of gross floor area.
Hotel, motel, and bed and breakfast facility	One (1) parking space for each sleeping unit, plus one (1) parking space for the resident manager, plus one (1) loading space, minimum size ten (10) feet wide, thirty-five (35) feet long and fourteen (14) feet high for each twenty thousand (20,000) square feet of commercial use included in the facility (restaurant, bar, store, etc.), one (1) parking space for each one hundred (100) square feet of restaurant gross floor area, one (1) parking space for each one hundred (100) square feet of assembly area (meeting halls, auditoriums, conference rooms, etc.).
Motor vehicle, machinery sales and repair garages (excluding motorcycles)	One (1) parking space for each one thousand (1,000) square feet of display floor area, one (1) space for each eight hundred (800) square feet of storage area, one (1) space for each two hundred fifty (250) square feet of garage floor area.
Truck or motor home repair vehicles twenty-five (25) feet or longer	One (1) space for every one thousand (1,000) square feet.
Motorcycle sales and repair	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Pushcart food sales	No parking shall be required for pushcart food sales facilities except as required on a case-by-case basis as determined by the community development director as part of plot plan review procedure.
Offices	

Proposed
Text
Change

Use	Parking Spaces Required
General business and professional	Four (4) parking spaces or one (1) parking space for each three hundred (300) square feet of gross floor area, whichever is greater. For offices in the industrial park zone or industrial park overlay, the requirement shall be one (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Medical, dental and clinics	One (1) parking space for each two hundred (200) square feet of gross floor area.
<u>Massage Establishments</u>	<u>One (1) space per one hundred (100) square feet.</u>
Restaurants/Food	
Restaurants, bars, night clubs and others	
Having less than four thousand (4,000) square feet	One (1) parking space for each one hundred (100) square feet of gross floor area. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Having four thousand (4,000) square feet	Forty (40) parking spaces plus one (1) for each fifty (50) square feet of gross floor area over four thousand (4,000) square feet. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Drive-in, drive-up, drive-thru	Twenty (20) parking spaces plus one (1) for each one hundred (100) square feet of gross floor area over four thousand (4,000) square feet. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Product specialty, donuts, ice cream, bakery, etc.	One (1) parking space for each one hundred fifty (150) square feet. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Retail	
General retail, except as otherwise specified herein	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Coin operated laundry	One (1) space per two hundred fifty (250) square feet.
Open retail, nurseries and vehicle sales lots not otherwise specified	One (1) parking space for each one thousand (1,000) square feet of lot area.
Trailer and boat sales lots	One (1) space per two thousand (2,000) square feet of lot supplies.

Proposed
Text
Change

Use	Parking Spaces Required
Shopping center (for the purpose of this article, a shopping center shall have a minimum lot area of three (3) acres and have multiple uses)	One (1) parking space for each two hundred (200) square feet of gross floor area.
Stamp redemption centers	One (1) space.
Tailor shops, shoe repair	Three (3) parking spaces or one (1) parking space for each six hundred (600) square feet of gross floor area, whichever is greater.
Massage parlor	One (1) space per one hundred (100) square feet.
Recreational	
Auditoriums and other places of public assembly and clubs, lodges having no sleeping facilities	One (1) parking space for each five (5) seats and one (1) for each one hundred (100) square feet of assembly area not having fixed seats.
Bowling alleys	Four (4) parking spaces for each alley. In addition, spaces for incidental uses shall be provided in accordance with standards specified for the particular use.
Game and athletic courts	Two (2) parking spaces for each court.
Gymnasium, skating rinks, billiard halls, dance schools, karate schools	One (1) parking space for each five (5) seats plus one (1) for each two hundred (200) square feet of recreation floor area.
Golf driving ranges	One (1) parking space for each driving tee.
Miniature or pitch and putt golf courses	Three (3) parking spaces for each hole or two (2) for each hole plus the requirement for the accessory uses, whichever is greater.
Swimming pools	One (1) parking space for each one hundred fifty (150) square feet of gross water surface area.
Theaters and auctions	One (1) parking space for each five (5) seats or one (1) parking space for each thirty-five (35) square feet of assembly area.
Industrial	
Kennels, veterinary hospitals and veterinary offices	One (1) parking space for each two hundred (200) square feet of examining and operating areas, plus one (1) parking space for each four hundred (400) square feet of additional floor area.
Recycling facility	One (1) space for each five hundred (500) square feet of material processing area; one (1) space for each five thousand (5,000) square feet of outdoor storage area; one (1) space for each scale or bin plus one (1) space (for waiting) per two (2) scales or bins for customer parking.

Use	Parking Spaces Required										
Manufacturing uses, research and testing laboratories, food processing, printing and engraving shops and contractors	A. Parking standards for the M-1 and M-2 zones. One (1) space for each vehicle used in conjunction with the business, plus one (1) parking space for each five hundred (500) square feet of open or enclosed area devoted to the primary use, except contractors' open storage yards one (1) space per one thousand (1,000) square foot lot.										
	<p>B. Parking standards for the IP and IP-O zones.</p> <table border="1" data-bbox="370 594 1450 890"> <thead> <tr> <th data-bbox="370 594 1003 651">Suite Size</th> <th data-bbox="1003 594 1450 651">Space/Sq. Ft.</th> </tr> </thead> <tbody> <tr> <td data-bbox="370 651 1003 709"><5,000 sq. ft.</td> <td data-bbox="1003 651 1450 709">1/400</td> </tr> <tr> <td data-bbox="370 709 1003 768">5,000 to 9,999 sq. ft.</td> <td data-bbox="1003 709 1450 768">1/500</td> </tr> <tr> <td data-bbox="370 768 1003 827">10,000 to 19,999 sq. ft.</td> <td data-bbox="1003 768 1450 827">1/575</td> </tr> <tr> <td data-bbox="370 827 1003 890">>20,000 sq. ft.</td> <td data-bbox="1003 827 1450 890">1/650</td> </tr> </tbody> </table> <p>Plus one (1) space per one thousand (1,000) square foot lot for contractors' open storage yards.</p>	Suite Size	Space/Sq. Ft.	<5,000 sq. ft.	1/400	5,000 to 9,999 sq. ft.	1/500	10,000 to 19,999 sq. ft.	1/575	>20,000 sq. ft.	1/650
Suite Size	Space/Sq. Ft.										
<5,000 sq. ft.	1/400										
5,000 to 9,999 sq. ft.	1/500										
10,000 to 19,999 sq. ft.	1/575										
>20,000 sq. ft.	1/650										
Salvage yard, junk yards, auto wrecking, storage yards, lumber yards and similar uses	One (1) parking space per employee on the largest shift or one (1) space per five thousand (5,000) square feet of lot area, whichever is greater.										
Truck terminals	One (1) parking space for each three thousand (3,000) square feet of lot area.										
Warehouse and wholesale business and mini-storage	A. Parking standards for the M-1 and M-2 zones. One (1) parking space for each eight hundred (800) square feet of gross floor area. One (1) space per five thousand (5,000) square feet of floor area and storage lot for mini-storage.										
	<p>B. Parking standards for the IP and IP-O zones.</p> <table border="1" data-bbox="370 1344 1450 1640"> <thead> <tr> <th data-bbox="370 1344 1003 1400">Suite Size</th> <th data-bbox="1003 1344 1450 1400">Space/Sq. Ft.</th> </tr> </thead> <tbody> <tr> <td data-bbox="370 1400 1003 1459"><5,000 sq. ft.</td> <td data-bbox="1003 1400 1450 1459">1/500</td> </tr> <tr> <td data-bbox="370 1459 1003 1518">5,000 to 9,999 sq. ft.</td> <td data-bbox="1003 1459 1450 1518">1/600</td> </tr> <tr> <td data-bbox="370 1518 1003 1577">10,000 to 19,999 sq. ft.</td> <td data-bbox="1003 1518 1450 1577">1/700</td> </tr> <tr> <td data-bbox="370 1577 1003 1640">>20,000 sq. ft.</td> <td data-bbox="1003 1577 1450 1640">1/800</td> </tr> </tbody> </table> <p>One (1) parking space per five thousand (5,000) square feet of floor area and storage lot for mini-storage.</p>	Suite Size	Space/Sq. Ft.	<5,000 sq. ft.	1/500	5,000 to 9,999 sq. ft.	1/600	10,000 to 19,999 sq. ft.	1/700	>20,000 sq. ft.	1/800
Suite Size	Space/Sq. Ft.										
<5,000 sq. ft.	1/500										
5,000 to 9,999 sq. ft.	1/600										
10,000 to 19,999 sq. ft.	1/700										
>20,000 sq. ft.	1/800										
Miscellaneous											
Churches, chapels, religious meeting halls and their accessory uses	One (1) parking space for each five (5) seats or one (1) parking space for every one hundred (100) square feet of gross floor area for assembly areas without fixed seating (twenty-two (22) inches of linear bench constitutes one (1) seat).										

Planning Commission
 December 9, 2014
 AZ 14-0004

Use	Parking Spaces Required
Hospitals	One and one-quarter (1 1/4) parking spaces for each bed.
Libraries, museums and library stations	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Mortuaries	One (1) parking space for every fifty (50) square feet of gross assembly floor area.
Schools, private and public:	
Grade schools, elementary and junior high schools	One (1) parking space for each employee and faculty member.
Senior high schools	One (1) parking space for each employee and one (1) for each three (3) students for which the facility is designed.
Trade schools, business colleges and commercial schools	One (1) parking space for each one and one-half (1 1/2) students of the maximum capacity of the classroom plus one (1) space for each faculty member.
Emergency shelters	One (1) parking space for each employee, volunteer, service provider and non-client who will be on-site during peak periods, plus one (1) space per three (3) beds.
Transportation terminals and facilities, public utilities, colleges, stadiums, sport arenas and golf courses	Adequate number as determined by the planning commission after special study has been performed.

EXHIBIT F

East Valley Parkway Area Plan: Amend Table 4.1 (Permitted and Conditionally Permitted Principal Uses) to add “Massage Establishments (Article 38*)” in the “Medical, Dental, and Related Health Services” category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment’s location.

EAST VALLEY PARKWAY AREA PLAN

Table 4.1

PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES

USE TITLE	CG	CP	HP
RESIDENTIAL AND LODGING:			
• Bed and Breakfast (Article 32*)	C*		C*
• Hotels and Motels (Article 63*)	C*		
• Lodging for organization members only	C		
• Mobile home or travel trailer parks (Articles 45 & 46*)	C*		
• Multi-family residential as part of a mixed-use project	PD		
MANUFACTURING, WHOLESALE TRADE, AND STORAGE:			
• Any use or structure permitted or conditionally permitted in a zone and involving hazardous materials (Section 33-666*)	C*	C*	C*
• Mini-warehouse storage facilities (Section 33-339*)	C*		
• Newspaper printing and publishing	P		
RETAIL TRADE:			
Automotive and marine craft			
• Automotive parts and accessories sales with no repair or installation	P		
• Gasoline service stations including concurrent sale of alcoholic beverages and motor vehicle fuel (Article 57* and Council Resolution #5002*)	C*		
Food Sales			
• Food stores (grocery, produce, candy, baked goods, meat, delicatessen, etc.), excluding sale of liquor, tobacco and smoking-related products as primary use	P		
• With facilities to dispense gasoline (Article 57*)	C*		
General Retail			
• Antique and Consignment stores	P		
• Building materials and supplies including lumber, heating, plumbing, and electrical equipment, etc. (Outdoor storage or sale subject to CUP)	P		
• Drugstores	P	P	

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> • Florists, gifts, cards, newspapers and magazines • Furniture, home and office furnishing and equipment, electrical appliances, and office machines and supplies 	P	P	P
<ul style="list-style-type: none"> • General retail of new merchandise, NEC (as determined by the Director of Community Development, based on conformance with the purpose of the specific zone, interaction with customers, the appearance of the building, the general operating characteristics, the type of vehicles and equipment associated with the use, and including incidental assembling of customized items); • Hospital/medical equipment sales • Nurseries and garden supply stores • Outdoor retail, NEC (as a principal use) • Pharmacies • Sporting goods (includes ammunition and firearms, fishing, hunting, golf, playground equipment, etc.) • Temporary seasonal sales such as Christmas tree and wreath sales, pumpkin sales, etc., on vacant lots subject to site plan approval 	P		
<p>EATING AND DRINKING ESTABLISHMENTS:</p>			
<p>Cabarets and nightclubs (with or without alcoholic beverages, including comedy clubs, magic clubs, etc.)</p>	C		
<p>Drinking places-alcoholic beverages (on-sale beer and wine and on-sale general licenses and public premises) includes bars and taverns, does not include restaurants serving alcoholic beverages.</p>	C		
<p>Restaurants, cafes, delicatessens, sandwich shops, etc. without alcoholic beverages</p>	P	P	P
<ul style="list-style-type: none"> • With on-sale beer and wine and on-sale general licenses • Auto oriented drive-in, drive-through (Section 33-341*) • Specialized food sales from pushcart facilities (Section 33-342*) 	P		
<p>SERVICES:</p>			
<p>Animal Care (excluding kennels)</p>	P		
<p>Automotive services (including motorcycles, motorized vehicles, marine craft and recreational vehicles)</p>			
<ul style="list-style-type: none"> • Auto repair and service in freestanding or single tenant building 	C		
<ul style="list-style-type: none"> • Auto repair and service in multi-tenant centers which were comprehensively designed and approved for automotive 	P		

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> repair prior to Area Plan <ul style="list-style-type: none"> • Car-wash, polishing, detailing as primary use 	C		
Educational services			
<ul style="list-style-type: none"> • Day nurseries, child care centers (Article 57*) 	C*	C*	C*
<ul style="list-style-type: none"> • Schools, including kindergarten, elementary, junior, and senior high schools (Article 57*) 	P*		C*
<ul style="list-style-type: none"> • Special needs education 	P	P	P
<ul style="list-style-type: none"> • University, college, junior college, and professional schools 	P	P	C
<ul style="list-style-type: none"> • Vocational and trade schools 	P	P	
<ul style="list-style-type: none"> • Other special training (including art, music, drama, dance, language, etc.) 	P		
Government services			
<ul style="list-style-type: none"> • Administrative centers and courts 	P	P	C
<ul style="list-style-type: none"> • Employment and training services 	P	P	P
<ul style="list-style-type: none"> • Operation Centers 	C	C	C
<ul style="list-style-type: none"> • Police and fire stations 	C	C	C
<ul style="list-style-type: none"> • Postal services 	P	P	P
Financial services and institutions			
<ul style="list-style-type: none"> • Banks, securities brokers, credit offices (excluding check cashing as a primary use) 	P	P	
<ul style="list-style-type: none"> • Insurance 	P	P	P
Medical, dental and related health services			
<ul style="list-style-type: none"> • Counseling services 	C	C	C
<ul style="list-style-type: none"> • Hospitals, excluding small medical clinics 	C	C	C
<ul style="list-style-type: none"> • Medical clinics and blood banks 	P		P
<ul style="list-style-type: none"> • Medical, dental, optical, and other health care offices and laboratories 	P	P	P
<ul style="list-style-type: none"> • Sanitariums, convalescent and residential care facilities 	C		C
<ul style="list-style-type: none"> • Other medical and health services NEC 	C	C	C
<ul style="list-style-type: none"> • <u>Massage Establishments (Article 38*)</u> 	P/C		
Offices and business services, except medical			
<ul style="list-style-type: none"> • Call centers and telemarketing services 	C	C	C
<ul style="list-style-type: none"> • General business services (including advertising, building services, credit reporting, detective/protective services, drafting, employment services, news syndicate, computer services, etc.) 	P	P	P
<ul style="list-style-type: none"> • General office use (includes professional offices, legal services) 	P	P	P
<ul style="list-style-type: none"> • Mailing, stenographic, accounting and office services 	P	P	P
<ul style="list-style-type: none"> • Messenger services 	P	P	P
<ul style="list-style-type: none"> • Real estate services 	P	P	

Proposed
Text
Change

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> • Travel agencies and services 	P	P	
Repair services, except automotive			
<ul style="list-style-type: none"> • Apparel and shoe repair and alteration 	P		
<ul style="list-style-type: none"> • Bicycle repair 	P		
<ul style="list-style-type: none"> • Locksmiths and key shops 	P	P	
<ul style="list-style-type: none"> • Miscellaneous repair services (excluding machine shops and welding services) 	P		
<ul style="list-style-type: none"> • Small appliance repair and services (including TV, radio, VCR, computers, household appliances, etc.) 	P		
<ul style="list-style-type: none"> • Watch, clock, and jewelry repair 	P	P	
Social, professional, and religious organizations and services			
<ul style="list-style-type: none"> • Churches, synagogues, temples, missions, religious reading rooms, and other religious activities including columbaria and mausoleums as an incidental use (Article 57*) 	C*	C*	C*
<ul style="list-style-type: none"> • Professional organizations (political membership, veterans, civic, labor, and similar organizations, etc.) 	P	P	P
<ul style="list-style-type: none"> • Social services and charitable organizations including only office and administrative activities, and excluding direct distribution of goods or services to the ultimate client at this location 	P	P	P
<ul style="list-style-type: none"> • Youth Organizations (Article 57*) 	C*		
Other services			
<ul style="list-style-type: none"> • Assembly halls, fraternities, sororities, lodges, etc. 	C		
<ul style="list-style-type: none"> • Barber, beauty, nail, and tanning services, excluding tattoo parlors 	P	P	P
<ul style="list-style-type: none"> • Hospital/medical equipment rental and leasing 	P		P
<ul style="list-style-type: none"> • Laundry and dry cleaning services: <ul style="list-style-type: none"> • Self-service, coin-operated • Pick-up service only • Dry cleaning, laundering, pressing and dyeing for on-site retail customers only 	P		
<ul style="list-style-type: none"> • Mortuary (excluding crematories and mausoleums) 	P		P
<ul style="list-style-type: none"> • Personal services, NEC (including clothing and costume rental, marriage bureaus, baby-sitting services, etc.) 	P		
<ul style="list-style-type: none"> • Photographic and duplicating services: <ul style="list-style-type: none"> • Blueprinting and photocopying • Studios, developing, printing, and similar services, except commercial photography • Commercial photography, including aerial photographs and mapping services 	P	P	P
<ul style="list-style-type: none"> • Studios, developing, printing, and similar services, except commercial photography 	P	P	P
<ul style="list-style-type: none"> • Commercial photography, including aerial photographs and mapping services 	P		P

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> Picture framing, assembly only 	P		
<ul style="list-style-type: none"> Recycling Services 			
<ul style="list-style-type: none"> <ul style="list-style-type: none"> Reverse vending machines occupying a total of fifty (50) square feet or less (Article 33*): 	P*	P*	P*
<ul style="list-style-type: none"> <ul style="list-style-type: none"> Small collection facilities occupying a total of five hundred (500) square feet or less (Article 33*): 	P*	P*	P*
<ul style="list-style-type: none"> <ul style="list-style-type: none"> Aluminum can and newspaper redemption center without can crushing facilities (Article 33*): 	C*		
<p>CULTURAL ENTERTAINMENT AND RECREATION:</p>			
<ul style="list-style-type: none"> Adult entertainment establishments (Article 42*) 	P*		
<ul style="list-style-type: none"> Amusement assembly, including amusement parks, arcades, dance halls, drive-in movie theaters, miniature golf, go-carts, electronic game centers, etc. 	C		
<ul style="list-style-type: none"> Cultural, including museums, art galleries, etc. 	P	P	
<ul style="list-style-type: none"> Entertainment assembly, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc. 	C		
<ul style="list-style-type: none"> Health and fitness facilities, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc. 	P	C	C
<ul style="list-style-type: none"> Libraries 	P	P	C
<ul style="list-style-type: none"> Parks 	P	P	P
<ul style="list-style-type: none"> Sports and recreation facilities, including bowling alleys, billiards, indoor and outdoor skating facilities, batting cages, riding schools and stables, etc. 	C		
<ul style="list-style-type: none"> Swimming schools and pools 	C		
<ul style="list-style-type: none"> Theaters, indoor motion picture and legitimate 	P		
<p>TRANSPORTATION, COMMUNICATIONS AND UTILITIES:</p>			
<p>Transportation</p>			
<ul style="list-style-type: none"> Ambulance and paramedic 	C		C
<ul style="list-style-type: none"> Bus and train depots 	P		
<ul style="list-style-type: none"> Park-and-ride facilities 	P	P	P
<ul style="list-style-type: none"> Parking lots and parking structures (short term) 	P	P	P
<ul style="list-style-type: none"> Taxicab stand 	P		P
<p>Communications (telephone, telegraph, radio, TV, etc.)</p>			
<ul style="list-style-type: none"> Broadcasting (radio and/or television), recording, and/or sound studios 	P	P	
<ul style="list-style-type: none"> Personal wireless service facilities 			
<ul style="list-style-type: none"> <ul style="list-style-type: none"> roof-mounted or building-mounted facilities 	P*	P*	P*

USE TITLE	CG	CP	HP
incorporating stealthy designs and/or screened from public ways or significant views (Article 34*)			
<ul style="list-style-type: none"> • pole-mounted or ground-mounted facilities that incorporate stealthy designs and do not exceed 35' in height (Article 34*) 	P*	P*	P*
<ul style="list-style-type: none"> • pole-mounted or ground-mounted facilities that exceed 35' in height or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy (Article 34*) 	C*	C*	C*
<ul style="list-style-type: none"> • Other communications, NEC 	C	C	
<ul style="list-style-type: none"> • Radio and television transmitting towers 	C	C	
<ul style="list-style-type: none"> • Telephone exchange stations and telegraph message centers 	P	P	
Utilities (electric, gas, water, sewage, etc.)			
<ul style="list-style-type: none"> • Central processing, regulating, generating, control, collection, storage facilities and substations 	C	C	C
<ul style="list-style-type: none"> • Distribution facilities 	P	P	P

* = Subject to special regulations –see Zoning Code Article in parentheses

NEC = Not Elsewhere Categorized

EXHIBIT G

South Escondido Boulevard Area Plan: Amend Ordinance 92-1, Section 8 (Conditional Use Permits) to add land use code #6296 with a use Title: "Massage Establishments pursuant to Article 38."

**South Escondido Boulevard Area Plan
 Section 8. Conditional Use Permits.**

(a) The uses which are normally allowed by right in the CG or CT zones and are not listed as permitted uses within this ordinance shall require a conditional use permit and are subject to Section 33-1203 of Article 61 of the Zoning Code. Such conditional uses include, but are not limited to, those which special emphases are listed below:

<u>Use No.</u>	<u>Use Title</u>
1400	Mobile home Parks
1500	Transient lodgings (requires Planning Commission consideration and City Council approval) (pursuant to Ord. 87-28; 8/7/87, and Ord. 91-5; 4/3/91) (See also (c) and (d) of this section)
4753	Satellite dish antennas pursuant to Article 34
5210	Lumber and other building material
5410	Groceries to include concurrent sale of alcoholic beverages and motor vehicle fuel, and convenience stores (See Sec. 8(g)) (Ord. 87-69; 2/6/88)
5511	Auto sales – new and used
5512	Auto sales – used
5520	Tires, batteries and accessories (excluding recapping and vulcanizing)
5530	Gasoline service stations (in accordance with Section 33-1115 (to include concurrent sale of alcoholic beverages and motor vehicle fuel with four or fewer pumps) (Ord. 87-69; 2/6/88)
5820	Drinking places – alcoholic beverages
6100	Finance services with drive-thru tellers
<u>6296</u>	<u>Massage Establishments pursuant to Article 38</u>
6397	Auto, truck and trailer rental (Area B only)
6411	Automobile repair (except body shop) (Area A)
6412	Tire rethreading and recapping (Area A)
6416	Automated Carwashes (Area B only)
6416-6417	Carwash Facilities (within Area "A" only on properties where automotive businesses [a gas station, car lots, auto sales and/or service, etc.] have been previously located and permitted)
6419	Other automobile services, except repair and wash, NEC

Proposed
Text
Change



- 6513-6516 Sanitariums, convalescent and rest home facilities (Area A) (Permitted in Area B)
- 6910 Religious activities

(b) An existing Conditional Use Permit may be expanded by ten percent or 1,000 SF, whichever is less and may be exempted by the Director of Planning and Building from Conditional Use Permit processing requirements. Expansion beyond the established thresholds shall conform to this Article.

(c) Transient lodging existing at the time of adoption of this ordinance may continue to operate and shall be subject to Ord. 91-5. 4/3/91, and Ord. 89-36. 8/2/89.

(d) Existing transient lodging whereby the average length of stay exceeds the 30 day limit requirement established in Ord. 91-05 may be exempt from those provisions, as determined by the Director of Planning and Building, provided the following findings are made:

1) The property has been historically used for transient lodging in which the average stay exceeds 30 days.

2) The structures do not threaten the public health, safety and welfare.

3) Smoke detectors have been provided in each unit and inspections of heating and ventilation systems shall be performed biyearly and evidence of these inspections are submitted to the satisfaction of the Planning and Building Department.

(f) All drive-through facilities such as drive-through restaurants, drive-through dairies, drive-through grocery stores, and drive-through banks which are either an incidental use to the primary use or constitute the primary use require a conditional use permit.

(g) A convenience market includes the retail sales of food, beverages and small convenience items primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building. This definition excludes delicatessens and other specialty food shops and establishments having a sizeable assortment of fresh fruits and vegetables and fresh cut meat.

EXHIBIT H

Downtown Specific Plan: Amend Figure II-2 (Permitted and Conditional Uses) to add "Massage Establishments" in the "Health and Personal Services" category as permitted (P) in the Center City Urban (CCU) district with the following footnote: Massage Establishments may be permitted only in certain centers pursuant to Article 38.

(Note: Amended Figure II-2 begins on the next page)

**Downtown Specific Plan
FIGURE II-2
PERMITTED AND CONDITIONAL USES**
(Page 1 of 6)

LAND USE	HD*	PV	CCU	GT	M	SG*	CN
RESIDENTIAL AND LODGING (in accordance with Figure II-3A)							
Bed-and-breakfast establishments (subject to regulations of Article 32 of the Zoning Code)						C	C
Residential-care facilities						C	C
Hotels and Motels (subject to regulations of Article 63 of the Zoning Code)	C	C	C	C	C	C3	
Residential above ground floor in specified areas, in conjunction with permitted non-residential use on ground floor (refer to Figure II-3 for appropriate locations and housing types)	P	P9	P	P	P	P	P
Residential, on ground floor in specified areas (refer to Figures II-3 and II-4 for appropriate locations and housing types)	P7, P8	P8, P9	P8	P8	P8	P8	P
Home Occupations (subject to regulations of Article 44 of the Zoning Code)	P5	P5	P5	P5	P5	P5	P5
GENERAL RETAIL							
New merchandise sold in department stores, drugstores, pharmacies, and retail establishments selling toys, flowers, gifts, stationery, jewelry, leather, apparel, shoes (including repair), china, glassware, pottery, crafts, cigars, yardage goods, pets, hobbies, art supplies, automobile supply stores (without installation), video sales and rental, music (including incidental recording, instruction and instrument repair), books / magazines / newspapers, sporting goods, bicycles / cameras / electronics / office business / small household appliance sales and service, and other similar retail goods and incidental services NEC. Prohibited uses include retail uses with across the board maximum pricing or "everything under" pricing and surplus goods.	P	P	P	P	P	P3	P6
Previously owned goods and merchandise including antiques, collectibles, coins, consignment and stamps, excluding pawn shops, second hand and thrift stores.							
Automobile supply stores with incidental installation					P		P3

NOTES:

- P = Permitted C = Conditional Use Permit required
- 1 Under 3,000 square feet.
 - 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
 - 3 Only permitted on Escorrido Boulevard.
 - 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
 - 5 Only in conjunction with an approved residential project.
 - 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
 - 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
 - 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
 - 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escorrido Boulevard and Broadway.
 - 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
 - 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

- | | |
|-----|------------------------|
| HD | Historic Downtown |
| PV | Park View |
| CCU | Centre City Urban |
| GT | Gateway Transit |
| M | Mercado |
| SG | Southern Gateway |
| CN | Creekside Neighborhood |

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

**FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 2 of 6)**

LAND USE	HD*	PV	CCU	GT	M	SG*	CN
GENERAL RETAIL (continued)							
Carpet and floor covering and installations	P6			P		P3	P6
Large appliance sales	P7	P	P	P	P1	P3	P6
Home Furnishings with retail display (not including "mattress only", carpet, and discount furniture stores)	P	P	P	P	P1	P3	P6
Hardware, paint, glass, tools, home improvement	P	P	P	P	P1	P1, P3	P6
Medical equipment sales/rentals and supplies	P7		P	P	P1	P3	P6
Outdoor vending machines		P					
EATING AND DRINKING ESTABLISHMENTS							
All types of eating establishments providing meal service from an on-site operating commercial-grade kitchen, and / or dessert service from an on-site operating commercial-grade freezer / refrigerator facility with, or without, incidental sale of alcohol (including micro-breweries and outdoor dining, but with no drive-through), with no live amplified entertainment or dancing	P	P	P	P	P	P3, P11	
Eating establishments (as defined above) with indoor amplified entertainment and/or dancing	P	P	P	P	P	C3	
Wine- and beer-tasting establishments (only with retail sales involving related merchandise that includes a significant portion of the sales area)	P	P	P	P	P	P3	
Drinking establishments, bars and nightclubs serving alcohol with or without live entertainment and / or dance	C	C	C	C	C	C3	

NOTES:

- P = Permitted C = Conditional Use Permit required
- Under 3,000 square feet.
 - Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
 - Only permitted on Esccondido Boulevard.
 - Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
 - Only in conjunction with an approved residential project.
 - Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalnia and Ivy Streets.
 - Not allowed along Grand Avenue on ground floor within the "retail core area."
 - Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
 - No residential uses permitted between Woodward Avenue, Washington Avenue, Esccondido Boulevard and Broadway.
 - Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
 - Permitted on Local Historic Register properties.
 - Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

- HD Historic Downtown
 PV Park View
 CCU Centre City Urban
 GT Gateway Transit
 M Mercado
 SG Southern Gateway
 CN Creekside Neighborhood

NOTE:

Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

**FIGURE II-2
PERMITTED AND CONDITIONAL USES**
(Page 3 of 6)

LAND USE	HD*	PV	CCU	GT	M	SG*	CN
FOOD AND LIQUOR SALES (excluding convenience and package stores)							
General grocery stores less than 7,000 SF and specialty foods, including imported and/or unique food products, produce, candy, baked goods, meat, etc., specialty liquor sales involving off-sale unique brands of beer, wine, and distilled spirits	P	P	P	P	P	P3	P6
General grocery stores exceeding 7,000 SF of sales area with, or without, alcohol sales	P7	P	P	C	P	P3	P6
Convenience markets, excluding package stores		C	C	C			
GENERAL OFFICE AND FINANCIAL SERVICES							
Administrative, business and professional offices, employment agencies, secretarial services, realtors/real estate offices and counseling services, travel and ticket agencies	P2	P	P	P	P	P	P6
Short-term political campaign offices with a maximum duration of six months	P	P	P	P	P	P	P6
Financial institutions, banks, savings and loans (excluding check cashing and/or payday loans as a primary use), visitor and information center (including Downtown Business Association), governmental services, police and fire stations, etc. that provide direct contact with the public	P	P	P	P	P	P	P6
Off-site sales and call centers	P10					P	P6
HEALTH AND PERSONAL SERVICES							
Medical/dental/optical/offices, clinics and laboratories, licensed alternative health-care establishments, day spas, excluding acupuncture and massage establishments as primary uses.	P2	P	P	P	P	P	P6
Barber, beauty salons including cosmetology involving ear piercing, permanent eye and lip lining, excluding other body piercing, body art, and inking parlors	P	P	P	P	P	P3	P6
Massage Establishments (permitted in centers pursuant to Article 38)			P				

Proposed
Text
Change

NOTES:

- 1 P = Permitted C = Conditional Use Permit required
- 2 Under 3,000 square feet.
- 3 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- 4 Only permitted on Escondido Boulevard.
- 5 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 6 Only in conjunction with an approved residential project.
- 7 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- 8 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 9 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 10 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 11 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- * Permitted on Local Historic Register properties.

DOWNTOWN DISTRICTS:

- HD Historic Downtown
- PV Park View
- CCU Centre City Urban Gateway Transit
- GT Mercado
- M Southern Gateway
- SG Southern Gateway
- CN Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

**FIGURE II-2
PERMITTED AND CONDITIONAL USES**

(Page 4 of 6)

LAND USE	HD*	PV	CCU	GT	M	SG*	CN
SPECIALTY SERVICES (includes similar ancillary uses NEC)							
Animal services (indoor only) to include pet training, boarding, pet spas, pet day care and veterinary clinics, excluding kennels	P7		P	P	P	P3	P6
Photographic developing and photocopy services, watch and clock repair, locksmiths	P	P	P	P	P	P	P6
Music recording/practice studios	P2	P4	P	P	P	P4	P1, 6
Custom-furniture upholstery and repair	P7					P3	P6
Picture framing shops	P	P4	P	P	P	P3	P6
Postal services including parcel delivery (public/private)	P2	P	P	P	P	P	P
Cleaning and laundering services without on-site cleaning	P7	P1	P1	P1		P1, 4	P1, 5, 6
Cleaning establishments and laundries, self-service or coin operated	P10	P				C	P1, 5, 6
Mortuaries	C10	C				C	C6
Tailors and dressmakers and alterations	P2	P	P	P	P	P	P5, 6
ENTERTAINMENT, RECREATION AND CULTURAL							
Dance facilities, pinball and electronic game arcades	C		C		C		
Athletic clubs, health studios, yoga, jazzercise, aerobics, zumba and similar programs	P7	P	P	P	P	P3	P6

NOTES:

P = Permitted C = Conditional Use Permit required

- 1 Under 3,000 square feet.
- 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- 3 Only permitted on Escondido Boulevard.
- 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 5 Only in conjunction with an approved residential project.
- 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Permitted on Local Historic Register properties.

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

DOWNTOWN DISTRICTS:

- | | |
|-----|------------------------|
| HD | Historic Downtown |
| PV | Park View |
| CCU | Centre City Urban |
| GT | Gateway Transit |
| M | Mercado |
| SG | Southern Gateway |
| CN | Creekside Neighborhood |

**FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 5 of 6)**

<u>LAND USE</u>	<u>HD*</u>	<u>PV</u>	<u>CCU</u>	<u>GT</u>	<u>M</u>	<u>SG*</u>	<u>CN</u>
ENTERTAINMENT AND RECREATION (continued)							
Galleries and studios pertaining to artists, craft workers and photographers (including incidental developing and printing), libraries, museums, etc., including incidental sale of merchandise pertaining to the primary use	P	P	P	P	P	P	P6
Dance studios and schools	P	P	P	P	P	P3	P6
Marital arts schools and training facilities	P10		P	P	P	P3	P6
Entertainment establishments (including internet cafes) with incidental sale of food or alcohol (excluding incidental entertainment in restaurants)	C	C	C	C	C	C3	C6
Parks - general recreation	P	P	P	P	P	P	P
Roller-skating and bowling alleys and similar indoor arena sports			P	P	C		
Swimming pools and schools		P					P6
Theater, live and motion picture	P	P	P	P			
SOCIAL, PROFESSIONAL, RELIGIOUS ORGANIZATIONS							
Churches, synagogues, temples, missions, religious reading rooms, and other religious activities (not allowed within Grand Avenue "historic retail core area")	C7	C	C	C	C	C	C
Social and professional organizations that conduct group and/or membership meetings on the premises, including political, veterans, civic, labor, charitable and similar organizations	C2	C	C	C	C	C	C
Youth Organizations		C	C	C	C	C	C

NOTES:

- P = Permitted C = Conditional Use Permit required
- 1 Under 3,000 square feet.
- 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- 3 Only permitted on Escondido Boulevard.
- 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 5 Only in conjunction with an approved residential project.
- 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

- HD Historic Downtown
- PV Park View
- CCU Centre City Urban
- GT Gateway Transit
- M Mercado
- SG Southern Gateway
- CN Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

**FIGURE II-2
PERMITTED AND CONDITIONAL USES**
(Page 6 of 6)

LAND USE	DOWNTOWN DISTRICTS:													
	HD*	PV	CCU	GT	M	SG*	CN	HD	PV	CCU	GT	M	SG*	CN
EDUCATION														
Educational facilities for adults	C	P	C	P	P	P	C6							
Daycare facilities	C10	C	C	C	C	C	C6							
Schools-(primary education)		C		C	C	C	C							
Schools-(secondary education)		C6	C		C	C	C							
COMMUNICATIONS (wireless facilities subject to Article 34)														
Broadcasting (radio and/or television stations)	C7	C	C	C	C	C	C6							
Newspaper printing and publishing	C7		C1	C1	C1	C1	C6							
TRANSPORTATION AND MISCELLANEOUS SERVICES														
Car-rental services, excluding maintenance and repair of vehicles			C	C										
Parking lots (municipal)	P	P	P	P	P	P	P							
Parking lots (private full fee)	C	C	C	C	C	C	C							
Taxicab, trolley, shuttle and pedicab stands	P	P	P	P	P	P	P							
Transit stations and car-rental services, including maintenance and repair				P										
Seasonal sales not exceeding 30 days, (including pumpkin, Christmas tree and wreath sales between October 1 and December 31, both dates inclusive, to the extent permitted by other statutory and ordinance provisions). Structures and materials used for seasonal sales shall be removed from the premises immediately after December 31 and the property shall be restored to a neat condition	P	P	P	P	P	P	P							
Miscellaneous Government Operations that do not provide direct contact with the public	C	C	C	C	C	C	C							

NOTES:

- 1 Under 3,000 square feet.
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DOWNTOWN DISTRICTS:

- HD Historic Downtown
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- M Mercado
- SG Southern Gateway
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NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

EXHIBIT I
Draft Municipal Code Amendment

Chapter 16A MASSAGE REGULATION

ARTICLE 1. GENERAL

Sec. 16A-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

(a) *California Massage Therapy Council (CAMTC)* shall mean the state organized non-profit organization created to regulate the massage industry set forth in Chapter 10.5 of Division 2 of the Business and Professions Code of the state (commencing with Section 4600).

(b) *CAMTC certificate* shall mean a current and valid certificate issued by the California Massage Therapy Council to a massage technician.

(c) *City* shall mean the City of Escondido.

(d) *Hearing Officer* shall mean any *person* appointed by the city manager to preside over the administrative hearings provided by this code.

(e) *Massage* shall mean any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body with the hands or the other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances or with or without such supplementary aids as rubbing alcohol, liniments, antiseptic, oils, powder, creams, lotions, ointments, or other preparations commonly used in this practice. It does not include contact with specified anatomical areas, as defined herein, which is prohibited by this chapter and by Chapter 16E of the Escondido Municipal Code.

(f) *Massage establishment* shall mean a business or organization where an individual, firm, association, partnership, corporation, or other combination of individuals, certified in accordance with California Business and Professions Code sections 4600 through 4620, provide, offer, sell, deliver, or dispense massage as a distinct service for compensation. The terms "massage business" or "certified massage business" are included within this definition for the purposes of this chapter.

(g) *Massage establishment permit* shall mean a regulatory license issued by the Chief of Police upon submission of satisfactory evidence as required that a massage business employs or uses only certified massage therapists or practitioners possessing valid and current state certifications and has satisfied all other requirements pursuant to the provisions of this chapter.

(h) *Massage technician* shall mean any person who gives or administers to another person, for any form of consideration whatsoever, a massage as defined in this chapter. The terms "massage therapist," "massage practitioner," or any other terms used within the massage industry are included within this definition for the purposes of this chapter.

(i) *Operator* shall mean any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operation, conduct, or activities of a massage establishment.

(j) *Owner* shall mean any of the following individuals:

- (1) The sole practitioner of a sole proprietorship operating a massage establishment.
- (2) Any general partner of a general or limited partnership that owns a massage establishment.
- (3) Any person who has ten (10) percent or greater ownership interest in a corporation that owns a massage establishment.
- (4) Any person who is a member of a limited liability company that owns a massage establishment.
- (5) All owners of any other type of business entity that owns a massage establishment,
- (6) Any person identified as an owner on the massage establishment permit.

(k) *Person* shall mean any individual, firm, association, business, trust, organization, corporation, partnership, company, or any other entity which is recognized by law as the subject of rights or duties.

(l) *Specified anatomical areas* shall mean any of the following areas of the human body: pubic region, human genitals, perineum, anal region, and the areas of the female breasts that include the areola and the nipple.

Sec. 16A-2. Exemptions.

This chapter does not apply to the following:

(a) State-licensed professionals while engaged in the performance of the duties of their respective professions and while limited to the scope of their California state licenses including acupuncturists, aestheticians, barbers, chiropractors, cosmetologists, exercise physiologists, manicurists, nurses, naturopathic doctors, occupational therapists, osteopaths, physical therapists, and physicians.

(b) Trainers of any semiprofessional or professional athlete or athletic team, or athletic trainers hired by a local, state or federal government agency.

(c) Any educational institution regulated by the State of California, including any portion of the institution providing massage services, such as student clinics and work study programs, regulated under such state license. (Ord. No. 2011-17 § 2, 12-7-11)

Sec. 16A-3 – 16A-5. Reserved.

ARTICLE 2. MASSAGE CERTIFICATION AND OPERATION

Sec. 16A-6. Massage certification required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises within the city the business of providing massage, for any compensation without being in possession of a valid CAMTC certificate.

Sec. 16A-7. Owner and operator requirements.

(a) It is unlawful for any person to own, manage, or operate in or upon any premises within the city a massage establishment in the absence of a massage establishment permit as provided issued pursuant to this chapter.

(b) It is unlawful for the owner or operator of any massage establishment to allow any person to perform massage at the massage establishment while committing any violation of this chapter.

(c) It is unlawful for the owner or operator of any massage establishment to offer or provide massage services unless the owner or a designated on-site operator is present at the massage establishment.

(d) It is unlawful for a person to own or operate a massage establishment that does not meet one of the following conditions:

- (1) The massage establishment is a sole proprietorship and the sole proprietor possesses a valid CAMTC certificate; or
- (2) The massage establishment only employs or uses massage technicians who possess a valid CAMTC certificate.

(e) It is unlawful for an owner or operator to fail to properly supervise any employee or independent contractor working in their massage establishment. Owners and operators are responsible for the conduct of their massage technicians at the massage establishment. A violation of any regulation by a massage technician contained in this chapter shall be prima facie evidence of the failure to supervise.

(f) It is unlawful for an owner or operator to operate a massage establishment without posting a list of services and the name of the on-site operator on the wall closest to the main entrance in the massage establishment.

(g) It is unlawful for an owner or operator to operate a massage establishment unless the CAMTC certificate for each massage technician is posted in public view or maintained in a clearly labeled and identifiable binder that is kept in the immediate vicinity of the cash register.

(h) It is unlawful for an owner or operator to allow or permit a massage technician to provide any services not specifically provided on the posted list of services as required in subsection (f) or for an owner or operator to receive any compensation for additional services not specifically included on the posted list of services.

(i) It is unlawful for an owner or operator to allow a massage technician to lock any door or doors leading to a room used to provide massage. This provision shall not apply when there is no staff available to ensure the security for clients and staff who are behind closed doors. A patron may lock any door when alone in any room at any time.

(j) It is unlawful for an owner or operator to fail to maintain a record of services provided for each treatment. The record of treatment shall include the name and address of the patron, the name of the massage technician, the name of the operator, the type of service provided, and the time the service began and ended.

(k) It is unlawful for the owner or operator to provide any massage between the hours of 10:00 p.m. and 7:00 a.m. or to remain open and provide any other services between the same hours.

(l) It is unlawful for an owner or operator to fail to provide to all patrons clean and sanitary towels, and opaque coverings capable of covering the patron's specified anatomical areas. Such coverings shall be used for one customer and shall not be reused without first being cleaned.

(m) It is unlawful for an owner or operator to fail to provide or use disinfecting agents and sterilizing equipment sufficient to assure cleanliness.

(n) It is unlawful for an owner or operator to fail to provide or use disposable or washable protective coverings on massage tables and all massage tables shall be covered with durable, washable plastic, or other waterproof material.

(o) It is unlawful for an owner or operator to fail to keep or maintain on file and ready for inspection a statement designating the individual operator(s) responsible for the day-to-day operations when the massage establishment owner is not on the premises.

(p) It is unlawful for an owner or operator to not have a designated owner or operator on the premises at all times the massage establishment is open.

(q) It is unlawful for an owner or operator to engage in, conduct or carry on business of a massage establishment unless they have a policy of insurance issued by an insurance company authorized to do business in the State of California evidencing that the person is insured under a liability insurance policy providing minimum coverage of one million dollars (\$1,000,000.00) for injury or death to any person arising out of the operation of any massage establishment and the administration of a massage. Evidence of such a policy should be available at inspection upon request.

(r) It is unlawful for an owner or operator to operate a massage establishment if the main entrance to a massage establishment is locked during posted business hours. An owner or operator shall ensure at least one (1) employee or independent contractor directly observes the entrance, without use of camera surveillance equipment, to ensure access to the main entrance and to ensure the security of all patrons.

(s) It is unlawful for an owner or operator to operate a massage establishment if any external door is locked, unless the business is owned by one individual with one or no employees or independent contractors.

(t) It is unlawful for an owner or operator to operate a massage establishment unless every employee or independent contractor of a massage establishment wears a uniform consistent with the service provided. The uniform shall be made of non-transparent material and may not expose any specified anatomical area. Swimwear, lingerie, and undergarments may not be used as a uniform or displayed as part of a uniform.

(u) It is unlawful for an owner or operator to operate a massage establishment which is used for residential or sleeping purposes.

(v) It is unlawful for an owner or operator to fail to notify the Chief of Police in writing of any changes in massage technicians, including proof of CAMTC certificate, or of a change in ownership interest or designated operator within seven calendar days of such change.

(w) It is unlawful for an owner or operator to operate a massage establishment in which any unprofessional conduct occurs as defined by Business & Professions Code section 4609.

Sec. 16A-8. Inspection by officials.

The investigating officials of the city shall have the right as otherwise provided for by law to enter the premises of a massage establishment from time to time during regular business hours for the purpose of making a reasonable inspection to enforce compliance with this chapter.

Sec. 16A-9. Massage technician requirements.

(a) It is unlawful for any person to give, provide, or administer to another person for any form of consideration a massage as defined in this chapter at a massage establishment or any location removed from a massage establishment within the city without a valid CAMTC certificate.

(b) It is unlawful for a massage technician to practice massage for any form of consideration within the city without providing their CAMTC certificate to the department of community development as part of the business licensing process. The registration application shall include the: (1) massage technician's name, residence address and telephone number; (2) the employer name, work addresses and telephone number; and (3) a copy of the massage technician's CAMTC certificate.

(c) It is unlawful for any person to give, provide, or administer to another person for any form of compensation whatsoever a massage as defined in this chapter at a massage establishment or any location from a massage establishment within the city in the absence of a valid business license pursuant to Chapter 16 of the Escondido Municipal Code. A separate business license is required for each location if a massage technician works at multiple massage establishments.

(d) It is unlawful for a massage technician to provide any service not specifically listed on the massage establishment's posted list of services.

(e) It is unlawful for a massage technician to remove any article of the massage establishment uniform or other article of clothing while providing any massage service.

(f) It is unlawful for a massage technician to provide massage when any specified anatomical areas of either patron or massage technician are exposed.

(g) It is unlawful for a massage technician to touch the specified anatomical area of a patron.

(h) It is unlawful for a massage technician to lock the door to the room where massage is provided or to provide massage unless no staff is available to ensure security for clients and massage staff.

(i) It is unlawful for a massage technician to accept direct payment or gratuity from any patron.

(h) It is unlawful for a massage technician to engage in any unprofessional conduct as defined by Business & Professions Code section 4609.

Sec. 16A-10 – 16A-15. Reserved.

ARTICLE 3. ENFORCEMENT

Sec. 16A-16. Violations.

Violation of any provisions of this chapter shall be treated as a strict liability offense, regardless of intent. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in an amount not to exceed one thousand dollars (\$1,000.00), or imprisonment in the county jail not to exceed six (6) months, or both. Any violation may also be subject to civil penalties and any other legal remedy provided in this code or state law. Each violation described in this chapter may be charged as a separate count for each day the violation occurs.

Sec. 16A-17. Unlawful operation declared a nuisance.

In addition to the legal remedies provided for in this code, the violation of any provision of this chapter shall be and the same is hereby declared to be unlawful and a public nuisance. The City Attorney may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or injunction thereof, in the manner provided by law. The City Attorney shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as shall abate or remove such massage establishment and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter.

Sec. 16A-18. Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The council hereby declares that it would have adopted the division and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases be declared invalid.

Sec. 16A-19—16A-24. Reserved.

ARTICLE 4. Massage Establishments

Sec. 16A-25. Massage establishment permit.

No person may own or operate a massage establishment without an annual permit issued by the Chief of Police. The Chief of Police, or designee, shall have the power and authority to promulgate rules, regulations and requirements that are consistent with the provisions of this Chapter and applicable state law to investigate, issue, suspend or revoke massage establishment permits. The Chief of Police shall collect a non-refundable fee, as established by city council resolution, to recoup all investigate costs. A massage establishment permit is not transferrable. A business providing massage services by certified massage technicians as an incidental use to their primary business, as authorized by the Escondido Zoning Code, are exempt from the requirements of this article.

Sec. 16A-26. Massage establishment registration certificate expiration and renewal

A massage establishment registration certificate shall be valid for one year, coinciding with the city business license effective and expiration dates.

Sec. 16A-27. Permit application.

(a) An application for a massage establishment permit shall be filed by an Owner on a form provided by the City submitted under penalty of perjury and shall include the following information:

- (1) The full, true name under which the business will be conducted and proposed location.
- (2) A complete description of all services to be provided at the proposed massage establishment.
- (3) The full, true name, residential address, telephone number and date of birth of the massage establishment owner(s). Each corporate officer or partner of a massage establishment shall provide their individual information as required on the application.
- (4) A valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government.
- (5) If the owner is a domestic stock, domestic nonprofit and qualified foreign corporations, limited liability company, general partnership and limited partnership information of record with the California Secretary of State, then the owner shall include copies of the following:
 - a. A Business Entity Status Report, issued by the California Secretary of State.

- b. Articles of incorporation, charter, articles of association, statement of partnership authority, certificate of limited partnership or similar foundational document.
 - c. Residential and business addresses of each person with more than a 5 percent ownership interest in the massage establishment business entity.
- (6) Two passport size photographs of the owner or the designated officer or partner authorized to apply for the massage establishment permit.
 - (7) Tax identification number.
 - (8) The name, address and telephone number of the lessor real property owner and a copy of lease or rental agreement.
 - (9) The original valid and current state certificate issued by CAMTC for each massage technician who will work in the massage establishment.
 - (10) The name and address of any massage business or other similar business providing massage services owned or operated by any person whose name is required to be given pursuant to this section for the five (5) years immediately preceding this filing of the application.
 - (11) A complete statement listing and explaining any and all aliases and fictitious names used by the owner(s) within the last five (5) years.
 - (12) A signed statement authorizing the City, its officers, agents and employees, to conduct a background check of the owner(s), to seek information and conduct an investigation into the trust of the statements set forth in the application and to ensure continual compliance with all applicable provisions of law.
 - (13) Completed fingerprinting and background check for the owner(s) applying for an establishment permit unless otherwise certified by CAMTC.
 - (14) Proof of required liability insurance.
 - (15) Any other information as may be reasonably required by the Chief of Police to identify the business owner, applicant and business entity, and to ensure compliance with all applicable laws and regulations.

(b) If the owner is a legal entity other than a natural person, the legal entity shall authorize, in writing, at least one of its officers or partners to act as its behalf. The owner(s) or designated officer or partner shall complete and sign all application forms required of an individual applicant under this chapter. The legal entity's representative must, at all times, meet all of the requirements set by this chapter or the massage establishment permit shall be suspended or revoked.

(c) The owner(s) shall acknowledge responsibility for the conduct of all employees or independent contractors working on the premises of the business and acknowledging that failure to comply with the California Business and Professions Code section 4600 et seq. with any local, state or federal law, or with the provisions of this chapter may result in the suspension or revocation of the massage establishment permit.

(d) Upon receipt of the completed application, the Chief of Police, or designee, may refer the application to other city department that may inspect the premises proposed to be used as a massage business and shall make a written recommendation to the Police Chief or designee concerning compliance with the respective requirements. The Police Chief or designee shall have up to 30 days after the submission of all required information to complete an investigation.

Sec. 16A-28. Approval or denial of massage establishment permit.

A massage establishment regulatory license shall be issued by the Chief of Police, or designee, to any massage establishment that demonstrates all of the following:

(a) The operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including, but not limited to, the City's building, zoning, business license, and health regulations and all requirements listed in this chapter;

(b) The massage establishment employs or uses only massage practitioners with CAMTC state certificates whose certifications are valid and current and that owners of the state certificates are the same persons who whom CAMTC issued valid and current identification cards; and

(c) The applicant has provided all information, assurances, or documentation required by this chapter, has not failed to reveal any fact material to qualification, and has not supplied information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

(d) The background check for any applicant/owner authorized by the chapter shows that such person has not been required to register under the provisions of Section 290 of the California Penal Code; there exists no probable cause to believe a violation of the crimes indicated in this Article or California Penal Code section 415; has not had an individual or business permit or license with any agency, board, city, county, territory, or state denied, revoked, restricted, or suspended within the last five (5) years; and has not been subject to an injunction for nuisance under Penal Code section 11225 through 11235 within the last five years.

Sec. 16A-29. Massage establishment permit suspension or revocation.

(a) An establishment permit may be suspended or revoked upon any of the following grounds:

- (1) There is cause to believe an owner or operator has committed a violation that could have caused denial of the massage establishment regulatory license.
- (2) There is cause to believe an owner has made a material misrepresentation on the application for a massage establishment regulatory license or renewal.
- (3) There is cause to believe the owner or operator or massage technician has engaged in conduct in a manner which violates any of the provisions of this chapter, any conditions of the massage establishment permit, or any of

the laws which would have been grounds for denial of the massage establishment regulatory license.

- (4) Violations of this chapter or of California Business and Professions Code section 4600 et seq. have occurred on the business premises.
- (5) The owner or operator has failed to comply with one or more of the owner and operation requirements under this chapter.
- (6) The registered license holder has engaged in fraud, misrepresentation, or false statements in obtaining an establishment registration certificate.

(b) Any repeat violations or any arrests that result in criminal charges shall provide a prima fascia basis for revocation.

Sec. 16A-30. Appeals.

(a) Notice of Permit Denial, Suspension or Revocation shall contain a statement of the violation(s) which constitute the basis for the suspension or revocation and information about the right to appeal. Notice of the Suspension or Revocation shall be given by first class mail to the owner and real property owner at the addresses shown on the massage establishment permit. Service shall be deemed complete when the Notice is mailed by first class mail. The owner shall have ten (10) calendar days from the date the Notice is served to appeal to the City Manager in writing and upon payment of a administrative decision appeal fee. Upon issuance of a Notice of Suspension or Revocation, the massage establishment permit shall be surrendered and no massage activity may occur while any appeal proceeds.

(b) Upon receipt of an appeal, the City Manager shall appoint a hearing officer. A hearing shall be scheduled upon not less than ten (10) calendar days and not more than 30 days, unless extended by mutual agreement. Notice of the hearing shall be given by first class mail to the owner and real property owner at the addresses shown on the massage establishment permit. Service shall be deemed complete when the Notice is mailed.

(c) The hearing officer's jurisdiction is limited to determining whether evidence exists to provide grounds for the massage establishment permit denial, suspension or revocation.

(d) The City shall provide proof of any violations by a preponderance of the evidence. Formal rules of evidence shall not apply to the hearing.

(e) The hearing officer shall:

- (1) Receive evidence regarding the proposed suspension, revocation or permit denial.
- (2) Maintain a record of all evidence introduced.
- (3) Record the hearing.
- (4) Consider the nature, volume, severity, and frequency of any violations.
- (5) Decide whether grounds exist of the suspension or revocation or denial.

- (6) Issue a written decision within 7 days of the hearing that includes the factual and legal basis of the decision and a notice of the appeal rights contained in this chapter.

(f) The hearing officer's decision shall be final upon mailing by first class mail to the owner and real property owner at the addresses listed on the massage establishment permit application.

(g) The hearing officer's decision is subject to review under Code of Civil Procedure section 1094.6.

Sec. 16A-31. Reapplication after denial of massage establishment permit.

If a massage establishment permit is revoked or not renewed, no massage establishment permit may be issued for a massage establishment at the same location for one year.

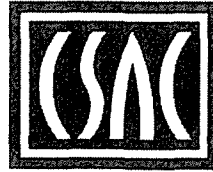


EXHIBIT "J"

December 3, 2014

To: City and County Officials

From: Assembly Members Susan Bonilla, Jimmy Gomez and Chris Holden

Re: Implementation of AB 1147

As authors of AB 1147, we carried this legislation in order to return broad control over land use to local governments in regulating massage establishments in the best interests of the individual community.

While the bill does not go into effect until January 1, 2015, many jurisdictions are considering, or are in the process of updating their ordinances. There have been numerous questions regarding what AB 1147 authorizes and what it prohibits. As authors of this bill, we have worked together with the League of California Cities, the California State Association of Counties, the American Planning Association, California Chapter and the California Police Chiefs Association to help answer some of these questions.

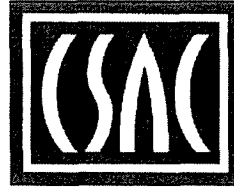
The answers to these questions are presented for informational purposes only and do not constitute legal advice from the organizations involved with putting together this document. Each jurisdiction should consult with its city attorney/county counsel to gain a complete understanding of AB 1147, its impact on the existing ordinances, and its legal authority to regulate massage therapy businesses.

Sincerely,

The Honorable Susan Bonilla
Assembly Member, 14th District

The Honorable Jimmy Gomez
Assembly Member, 51st District

The Honorable Chris Holden
Assembly Member, 41st District



FAQs with Regards to Implementation of AB 1147

The answers to these FAQs are presented for informational purposes only and do not constitute legal advice from the organizations involved with putting together this document. Each jurisdiction should consult with its city attorney/county counsel to gain a complete understanding of AB 1147, its impact on the jurisdiction's existing ordinances, and its legal authority to regulate massage therapy businesses. The provisions of AB 1147 take effect January 1, 2015.

- 1) **Q: Is a massage business that only uses certified massage professionals exempt from local regulation?**
A: No. Article XI, section 7 of the California Constitution as well as Business and Professions Code section 460(c), Government Code section 37101, Business and Professions Code 16000 and Government Code 51034 all recognize the authority of a city to regulate businesses that provide massage therapy services. Under AB 1147, cities and counties may regulate the business that provides the massage therapy services and California Massage Therapy Council (CAMTC) may regulate the individuals who apply for certification to provide massage therapy services. This division of authority and responsibility is reflected in the following statement of Legislative intent: "It is the intent of the Legislature that broad control over land use in regulating massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community, and that the requirements and practice of the profession of massage remain a matter of statewide concern, regulation, and oversight" (Business & Professions Code 4600.5(b)).
- 2) **Q. What limitations does AB 1147 impose on local regulation of certified massage professionals?**
A. A local jurisdiction may not (1) prohibit a person of one sex from engaging in the massage of a person of the other sex; (2) define a massage establishment as an adult entertainment business, or otherwise regulate a massage establishment as adult entertainment; (3) require a massage establishment to have windows or walls that do not extend from the floor to ceiling or have other internal physical structures (such as windows) that interfere with a client's privacy; (4) impose client draping requirements or otherwise require clients to wear special clothing; (5) prohibit a massage establishment from locking its external doors if the business is owned by one individual with one or no employees; (6) require a massage establishment to post any notice in an area that may be viewed by clients that contain explicit sexual language; (7) require a person certified by CAMTC to take any test, medical examination, or background check; (8) require a person certified by CAMTC to get a license, permit, or other authorization to provide massage unless that person is a business owner; (9) impose a dress code stricter than that imposed by AB 1147; or (10) prohibit massage techniques permitted by CAMTC (Government Code 51034(c)).
- 3) **Q: Can a jurisdiction require independent contractors, sole providers, and owners of a massage business to obtain a business license, massage permit, register with the police, or get a background check?**
A: Yes. Under Government Code 51034(c)(8), a city may require a massage business owner, including a sole provider or independent contractor who is CAMTC certified, to obtain a business license, and/or massage permit or other entitlement to carry on the business of massage therapy. Independent contractors in the "business" of providing massage therapy can be regulated as a "business."
- 4) **Q: As part of its regulation of massage therapy businesses, can a jurisdiction require the business owner to provide a current listing of its employees and independent contractors, their CAMTC certifications and other relevant information?**

A: Yes. A jurisdiction's business regulation ordinance may require a business owner to submit a list of all of its employees and independent contractors, their certification status, and notify the local government when this information changes.

5) Q: Can a jurisdiction require a conditional use permit (CUP) for massage businesses?

A: Yes. Business and Professions Code 460(c) provides explicit authorization to adopt land use regulations pertaining to massage businesses. A jurisdiction may amend its zoning ordinance to require a CUP for a massage business. However, a jurisdiction may not impose conditions on the conditional use permit that would violate the provisions of Government Code 51034(c)(1)-(10) as described in Question No. 2. An application for a CUP for a massage business would be considered under the same procedures provided in the jurisdiction's zoning ordinances for other uses for which a CUP is required. Jurisdictions should review their zoning ordinances to determine whether a massage business in operation prior to January 1, 2015 is a lawful non-conforming use.

6) Q: Can a jurisdiction impose a restriction on the location of a massage business? i.e. 300 feet from a school, park etc.

A: AB 1147 gives local governments broad authority to use its Constitutional police power to select zoning districts that are most appropriate for massage. However, a jurisdiction may not define or otherwise regulate a massage establishment as "adult entertainment." A zoning ordinance that imposes a restriction on the location of a massage establishment such as 300 feet from a school or park will be reviewed under a "reasonable and not arbitrary" standard.

7) Q. Can a jurisdiction require individual massage therapists (who operate as employees) to obtain a business license, massage permit, register with the police, or get a background check?

A. No. A jurisdiction may not require an individual massage therapist who holds a certificate from CAMTC and operates as an employee to obtain any kind of license or permit or meet any other educational requirements, or to register with the police or submit to a background investigation (Government Code 51034(c)(8)).

8) Q: What is the best way to make sure that only CAMTC-certified massage professionals work in my jurisdiction?

A. AB 1147 separates the certification of massage therapists from the regulation of massage businesses. The certification of massage therapists is the responsibility of the CAMTC. The regulation of massage businesses is the responsibility of local jurisdictions. Therefore, the best way to make sure that only CAMTC-certified massage professionals work in a jurisdiction is to adopt an ordinance that requires massage businesses to use CAMTC-certified massage professionals only. Another way is to adopt an ordinance that prohibits a person from working in the jurisdiction as a massage therapist without a certificate issued by CAMTC. Because it's possible that the latter way might be interpreted as conflicting with the CAMTC's role in certifying massage therapists, we believe that imposing the restriction on the business is preferable.

9) Q: Can jurisdictions regulate the hours of operation of a massage business?

A: Yes. Jurisdictions can specify hours of operation based upon such factors as a commercial use in a residential neighborhood or other reasonable requirements.

10) Q: Can a jurisdiction prohibit a massage professional from working out of his or her home?

A: A jurisdiction can impose restrictions on massage professionals working out of their homes in the same manner that a jurisdiction regulates other professionals or business owners operating out of their homes. Some local governments regulate business owners operating from their homes through a home occupation permit.

11) Q: Can a jurisdiction limit the number of massage establishments in its jurisdiction?

A: A jurisdiction may limit the number of massage establishments in its jurisdiction if the jurisdiction is able to articulate a reasonable basis for the cap.

12) Q: Is a jurisdiction prohibited from requiring physical improvements, such as transparent exterior windows?

A: No. However, a list of physical improvements that may not be required is described in the answer to Question #2.

13) Q: Can a jurisdiction adopt regulations to prohibit a massage business from opening in the same location as a previous business with illegal activity?

A: Yes, if there is a reasonable basis for this regulation.

14) Q: Can a jurisdiction adopt regulations holding the owner accountable for the actions of its employees and independent contractors?

A: Yes. An ordinance regulating massage businesses may include a provision holding the business owner responsible for how the business is conducted by its employees or independent contractors. In addition, Business and Professions Code section 4607 provides that CAMTC may discipline an owner or operator of a massage business or establishment who is CAMTC-certified for the conduct of all individuals providing massage for compensation on the business premises.

15) Q: May a jurisdiction impose land use regulations on massage businesses that are different than those imposed on other professional services?

A: Yes. This is one of the most significant changes to the law made by AB 1147. Prior to AB 1147, jurisdictions were allowed to regulate businesses using certified massage professionals only to the extent that the jurisdiction uniformly applied those regulations to all other business professionals. This is no longer the law.

16) Q: Can a jurisdiction enter massage establishments and make reasonable inspections?

A: Yes. Jurisdictions can conduct reasonable inspections as part of its ordinance requirements as well as recover the reasonable costs of these inspections and other regulatory requirements.

17) Q: Is a conditional use permit fee of \$20,000-\$30,000 legal?

A: It depends. Fees, charges and rates are generally imposed in return for a specific benefit conferred or privilege granted. A local government has the authority to impose fees, charges and rates under its police power through California Constitution Article XI, §7. A fee may not exceed the estimated reasonable cost of providing the service or regulatory act for which the fee is charged. A fee that does exceed such cost may be considered a special tax. In addition, fees, charges and rates must be reasonable, fair and equitable in nature and proportionately representative of the costs incurred by the regulatory agency. AB 1147 includes the following statement of Legislative intent: "It is the intent of the Legislature that local governments impose and enforce only reasonable and necessary fees...."

18) Q: Can a jurisdiction prohibit condoms on the premises?

A: Yes. A jurisdiction can prohibit condoms on the premises of a massage establishment as a standard in its ordinance if there is a reasonable basis for this requirement.

19) Q: How can a jurisdiction handle a massage business that (after a police sting and surrender of the business license) transfers the business to another individual?

A: A jurisdiction may include in its ordinance a requirement that prohibits a massage business permit from being transferred without notice to and consent of the local government.

20) Q: Can a jurisdiction adopt and enforce a dress code for massage therapists?

A: Yes. AB 1147 includes certain restrictions on how certified massage therapists may dress. A jurisdiction may include those restrictions in its ordinance. Be aware, however, that a jurisdiction may not include stricter requirements for certified therapists. If dress code restrictions are included in a jurisdiction's ordinance, and an employee violates those restrictions, then the jurisdiction may enforce those provisions of its ordinance against the business as it determines appropriate. Violations of a municipal code may be enforced civilly, criminally, or through administrative enforcement. A jurisdiction is also encouraged to use the procedure outlined in question no. 23 to notify CAMTC of a violation.

12/03/2014

21) Q: What impact will AB 1147 have on existing massage businesses?

A: Each jurisdiction should carefully review the provisions of its municipal code regarding non-conforming uses of land and imposing new regulations on existing businesses.

22) Q: Can a jurisdiction impose a temporary moratorium on approval of massage businesses?

A: Yes. AB 1147 takes effect on January 1, 2015. State law allows a city to adopt an interim ordinance that prohibits otherwise allowed uses when those uses conflict with a pending land use study. Such a measure requires a 4/5 vote of the jurisdiction; must contain a finding that there is a current and immediate threat to the public health, safety or welfare; and may be adopted without following the notice and adoption procedures required for other ordinances. The measure has an initial duration of 45 days and may be extended as specified by Government Code 65858. Jurisdictions should exercise caution before imposing a temporary moratorium if they have previously adopted a moratorium on the approval of massage businesses.

23) Q: Is there a process for a jurisdiction to follow if it wishes to inform CAMTC that it believes that a certified massage therapist is in violation of state or local law?

A: Yes. A city is encouraged to report that information to CAMTC by going to CAMTC's homepage (www.camtc.org) and clicking on the link to "File a Complaint Against a CAMTC Certificate Holder."

24) Q: If a massage therapist with a CAMTC certificate is arrested for prostitution or violating the Sex Offender Registration Act, will his or her certificate be revoked?

A: If CAMTC receives notice that a certificate holder has been arrested and charges have been filed alleging prostitution or a violation of the Sex Offender Registration Act, the council is required to immediately suspend the certificate and notify the city or county in which the certificate holder lives or works of the suspension. If the person is convicted, the certificate is permanently revoked. If a certificate holder commits a different act that is punishable as a sexually related crime or otherwise violates provisions of AB 1147, CAMTC may (but is not required to) take disciplinary action including, for some violations, suspending the certificate.

25) Q: Who should jurisdictions report violations to?

A: Violations of local ordinances should be prosecuted administratively, civilly, or criminally in accordance with the provisions of the jurisdiction's municipal code. If a jurisdiction believes that a CAMTC certified massage therapist is violating state law, then the jurisdiction is additionally encouraged to inform CAMTC as described under question no.23.

26) Q. What prompts the inspection/investigation of a massage therapy school that could change the status to "unapproved"?

A: CAMTC explains that when it receives credible information alleging that the massage therapy school has violated one of the provisions of its Procedures for Un-Approval of Schools (available at www.camtc.org/Schools.aspx); this information prompts the investigation of a school. CAMTC also looks for anomalies or changing patterns in applications and transcripts that may warrant investigation.

27) How does CAMTC obtain the actual certificate of those persons whose certification has been suspended or revoked?

A: CAMTC explains that it requests that revoked certificate holders return their certificates and ID cards to CAMTC. In order to check whether a specific person has an active and valid CAMTC certificate, local jurisdictions can check the "Verify Certification" link on CAMTC's website.

28) Q. Does AB 1147 apply to massage therapists who do not have a CAMTC certificate?

A. No. AB 1147 only applies to massage therapists who have a CAMTC certificate. AB 1147 does not affect the authority of a city to regulate massage therapists who do not have CAMTC certificates or massage businesses who employ massage therapists who do not have CAMTC certificates.

Planning Commission
December 9, 2014
AZ 14-0004



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

Notice of Exemption

To: San Diego County Recorder's Office
Attn: James Scott
1600 Pacific Highway #260
P.O. Box 121750
San Diego, CA 92112-1750

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

Project Title/Case No.: AZ 14-0004

Project Location - Specific: Citywide.

Project Location - City: Escondido

Project Location - County: San Diego

Description of Project:

To amend Section 16A of the Escondido Municipal Code, establish Article 38 of the Escondido Zoning Code, amend Article 16 of the Zoning Code (Commercial Zones), amend Article 39 of the Zoning Code (Off-Street Parking), amend the East Valley Parkway, South Escondido Boulevard Area Plans, and amend the Downtown Specific Plan to establish permitted locations, standards, definitions, and processing procedures for massage establishments in concert with recent state legislation effective in January 2015.

Name of Public Agency Approving Project: City of Escondido


Name of Person or Agency Carrying Out Project: City of Escondido: Telephone: (760) 839-4671
Address: 201 North Broadway, Escondido, CA 92025 Local public agency

Exempt Status: Categorical Exemption. Type and section number: 15061(b)(3), "General Rule."

Reasons why project is exempt:

1. The proposed Amendments to the Zoning Code and Municipal Code do not involve any physical modifications or lead to any physical improvements beyond those typically exempt. The Amendment involves only a modification to the permitted use matrix in various commercial sectors of the Zoning Code, establishing a new section in the Zoning Code pertaining specifically to massage establishments, and an amendment to the Municipal Code to ensure consistency.
2. There is no possibility that the proposed Amendments would have a significant effect on the environment, since they consist of text changes and a new section related to massage establishments. No physical modifications are proposed and no development standards are being modified. A separate environmental review would be required for any future projects, and they would be conditioned to comply with adopted development standards.
3. In staff's opinion the proposed amendments would have no impact on fish and wildlife resources, since no sensitive species or habitat would be impacted by the proposed provisions. The amendments involve language modifications to the Zoning Code and Municipal Code only and no physical or property zone changes are proposed.

Lead Agency Contact Person: Jay Petrek Area Code/Telephone/Extension (760) 839-4556

Signature: 
Assistant Planning Director

December 2, 2014
Date

- Signed by Lead Agency
- Signed by Applicant

Date received for filing at OPR: _____

ARTICLE 38. MASSAGE ESTABLISHMENTS

Sec. 33-750. Purpose.

It is the purpose and intent of this chapter to regulate the operations of massage establishments, which tend to have judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of massage establishments; decreases in property values in the vicinity of massage establishments; increases in vacancies in residential and commercial areas in the vicinity of massage establishments; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of massage establishments as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Special regulation of these businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of massage establishments.

Sec. 33-751. Definitions.

In addition to any other definitions contained in the municipal code, all words and phrases included in this chapter pertaining to massage establishments shall be consistent with the definitions in Chapter 16A, Article 1, section 16A-1, unless it is clearly apparent from the context that another meaning is intended.

Businesses, including day spas, salons, beauty parlors, barber shops etc., that provide up to 15% of their gross floor area for massage activities are not considered massage establishments, however, persons administering massages at said establishments shall comply with all state and local licensing provisions.

Sec. 33-752. Location of massage establishments.

(a) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code, shall be a permitted use only in certain commercial shopping centers listed below:

Center Name	Address
Civic Center Plaza	311 - 445 N. Escondido Boulevard
Del Norte Plaza	302 - 358 W. El Norte Parkway
El Norte Parkway Plaza	1000 W. El Norte Parkway
Escondido Gateway	810 - 860 W. Valley Parkway
Escondido Promenade Center	1200 - 1290 Auto Parkway
Ferrara Plaza	2401 - 2447 E. Valley Parkway
Major Market Shopping Center	1805 - 1895. S. Centre City Parkway
Plaza las Palmas	970 - 1138 W. Valley Parkway
Westfield North County	200 - 298 E. Via Rancho Parkway

(b) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code, not located within commercial shopping centers listed in sec. 33-752(a) shall be permitted in the General Commercial (CG) zone subject to a conditional use permit pursuant to Article 61 unless otherwise prohibited.

(c) A massage establishment legally established prior to the adoption of this ordinance operating with a valid business license and other appropriate approvals that does not comply with sec. 33-752 (a) or (b) shall be considered a legal non-conforming use pursuant to Article 61, Division 3.

(d) Any person violating or causing the violation of any locational provisions regulating massage establishments pursuant to sec. 33-752 shall be subject to the remedies of section 33-753 of this article.

(e) The requirements of subsections (a), (b), and (c) of this section shall be in addition to any other relevant provisions of this code.

Sec. 33-753. Violations.

(a) Any person operating or causing the operation of a massage establishment on any parcel in which no application for a massage establishment permit under Chapter 16A has been granted, or any person violating or causing the violation of any of the locational provisions regulating massage establishments shall be subject to license revocation/suspension pursuant to section 16A-16, a fine of not more than one thousand dollars (\$1,000.00) pursuant to Government Code Sections 36900 and 36901, and any and all other civil remedies. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

(b) In addition to the remedies set forth in sec. 33-753(a), any violation of any of the locational provisions pursuant to sec. 33-752 regulating massage establishments is hereby declared to constitute a public nuisance and may be abated or enjoined.

(c) If a massage establishment permit is revoked or not renewed, no massage establishment permit may be issued for a massage establishment at the same location for one year.

Sec. 33-754. Regulations Nonexclusive.

The provisions of this chapter regulating massage establishments are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other provisions of the municipal code and/or any other regulations pertaining to the operation of businesses as adopted by the city council of the City of Escondido.

ORDINANCE NO. 2015-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, REPEALING AND REPLACING ESCONDIDO MUNICIPAL CODE CHAPTER 16A, MASSAGE REGULATION; ADDING ARTICLE 38, MASSAGE ESTABLISHMENTS, TO ESCONDIDO ZONING CODE, CHAPTER 33; AND REPEALING AND REPLACING SEVERAL SECTIONS OF THE ESCONDIDO ZONING CODE AND THE EAST VALLEY PARKWAY AREA, SOUTH ESCONDIDO BOULEVARD AREA AND DOWNTOWN SPECIFIC PLANS TO ENSURE INTERNAL CONSISTENCY WITH ARTICLE 38, MASSAGE ESTABLISHMENTS

APPLICANT: City of Escondido
PLANNING CASE NO: AZ 14-0004

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

SECTION 1. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. That the City Council has reviewed and considered the Notice of Exemption prepared for this project and issued on December 2, 2014, in conformance with Title 14 California Code of Regulation, California Environmental Quality Act ("CEQA") Section 15061(b)(3) "General Rule", and has determined that all environmental issues have been addressed and finds that no significant environmental impact will result from approving these code amendments.

SECTION 3. That upon consideration of the staff report, Planning Commission

evidence supporting the findings and all public testimony presented at the hearing held on this project, and all incorporated by these references, this City Council finds the Zoning and Municipal Code Amendments are consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 4. That Escondido Municipal Code Chapter 16A, Massage Regulation, is repealed and replaced as set forth in Attachment "1" to this Ordinance and incorporated by this reference.

SECTION 5. That Article 38, Massage Establishments, is added to Chapter 33 of the Escondido Municipal Code as set forth in Attachment "2" to this Ordinance and incorporated by this reference.

SECTION 6. That Table 33-332, Permitted and Conditionally Permitted Principal Uses, found in Escondido Municipal Code, Chapter 33, Article 16, Commercial Zones, is repealed and replaced with Table 33-332 as set forth in Attachment "3" to this Ordinance and incorporated by this reference.

SECTION 7. That Escondido Municipal Code, Chapter 33, Article 39, Off-Street Parking, Section 33-765, is repealed and replaced as set forth in Attachment "4" to this Ordinance and incorporated by this reference.

SECTION 8. That Table 4-1, Permitted and Conditionally Permitted Principal Uses, of the East Valley Parkway Area Plan, is repealed and replaced as set forth in Attachment "5" to this Ordinance and incorporated by this reference.

SECTION 9. That Section 8, Conditional Use Permits, in the South Escondido Boulevard Area Plan is repealed and replaced as set forth in Attachment "6" to this Ordinance and incorporated by this reference.

SECTION 10 That Figure II-2, Permitted and Conditional Uses, in the Downtown Specific Plan is repealed and replaced as set forth in Attachment "7" to this Ordinance and incorporated by this reference.

SECTION 11. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

SECTION 12. That if any section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional for any reason by a 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 13. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Chapter 16A MASSAGE REGULATION

ARTICLE 1. GENERAL

Sec. 16A-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

(a) *California Massage Therapy Council (CAMTC)* shall mean the state organized non-profit organization created to regulate the massage industry set forth in Chapter 10.5 of Division 2 of the Business and Professions Code of the state (commencing with Section 4600).

(b) *CAMTC certificate* shall mean a current and valid certificate issued by the California Massage Therapy Council to a massage technician.

(c) *City* shall mean the City of Escondido.

(d) *Hearing Officer* shall mean any person appointed by the city manager to preside over the administrative hearings provided by this code.

(e) *Massage* shall mean any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body with the hands or the other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances or with or without such supplementary aids as rubbing alcohol, liniments, antiseptic, oils, powder, creams, lotions, ointments, or other preparations commonly used in this practice. It does not include contact with specified anatomical areas, as defined herein, which is prohibited by this chapter and by Chapter 16E of the Escondido Municipal Code.

(f) *Massage establishment* shall mean a business or organization where an individual, firm, association, partnership, corporation, or other combination of individuals provide, offer, sell, deliver, or dispense massage as a distinct service for compensation.

(g) *Massage establishment permit* shall mean a regulatory license issued by the Chief of Police upon submission of satisfactory evidence as required that a massage business employs or uses only certified massage therapists or practitioners possessing valid and current state certifications and has satisfied all other requirements pursuant to the provisions of this chapter.

(h) *Massage technician* shall mean any person who gives or administers to another person, for any form of consideration whatsoever, a massage as defined in this chapter. The terms "massage therapist," "massage practitioner," or any other terms used within the massage industry are included within this definition for the purposes of this chapter.

(i) *Operator* shall mean any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operation, conduct, or activities of a massage establishment.

(j) *Owner* shall mean any of the following individuals:

(1) The sole practitioner of a sole proprietorship operating a massage establishment.

(2) Any general partner of a general or limited partnership that owns a massage establishment.

(3) Any person who has ten (10) percent or greater ownership interest in a corporation that owns a massage establishment.

(4) Any person who is a member of a limited liability company that owns a massage establishment.

(5) All owners of any other type of business entity that owns a massage establishment.

(6) Any person identified as an owner on the massage establishment permit.

(k) Person shall mean any individual, firm, association, business, trust, organization, corporation, partnership, company, or any other entity which is recognized by law as the subject of rights or duties.

(l) Specified anatomical areas shall mean any of the following areas of the human body: pubic region, human genitals, perineum, anal region, and the areas of the female breasts that include the areola and the nipple.

Sec. 16A-2. Exemptions.

This chapter does not apply to the following:

(a) State-licensed professionals while engaged in the performance of the duties of their respective professions and while limited to the scope of their California state licenses including acupuncturists, aestheticians, barbers, chiropractors, cosmetologists, exercise physiologists, manicurists, nurses, naturopathic doctors, occupational therapists, osteopaths, physical therapists, and physicians.

(b) Trainers of any semiprofessional or professional athlete or athletic team, or athletic trainers hired by a local, state or federal government agency.

(c) Any educational institution regulated by the State of California, including any portion of the institution providing massage services, such as student clinics and work study programs, regulated under such state license.

Sec. 16A-3 – 16A-5. Reserved.

ARTICLE 2. MASSAGE CERTIFICATION AND OPERATION

Sec. 16A-6. Massage certification required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises within the city the business of providing massage, for any compensation without being in possession of a valid CAMTC certificate.

Sec. 16A-7. Owner and operator requirements.

(a) It is unlawful for any person to own, manage, or operate in or upon any premises within the city a massage establishment in the absence of a massage establishment permit as provided issued pursuant to this chapter.

(b) It is unlawful for the owner or operator of any massage establishment to allow any person to perform massage at the massage establishment while committing any violation of this chapter.

(c) It is unlawful for the owner or operator of any massage establishment to offer or provide massage services unless the owner or a designated on-site operator is present at the massage establishment.

(d) It is unlawful for a person to own or operate a massage establishment that does not meet one of the following conditions:

(1) The massage establishment is a sole proprietorship and the sole proprietor possesses a valid CAMTC certificate; or

(2) The massage establishment only employs or uses massage technicians who possess a valid CAMTC certificate.

(e) It is unlawful for an owner or operator to fail to properly supervise any employee or independent contractor working in their massage establishment. Owners and operators are responsible for the conduct of their massage technicians at the massage establishment. A violation of any regulation by a massage technician contained in this chapter shall be prima facie evidence of the failure to supervise.

(f) It is unlawful for an owner or operator to operate a massage establishment without posting a list of services and the name of the on-site operator on the wall closest to the main entrance in the massage establishment.

(g) It is unlawful for an owner or operator to operate a massage establishment unless the CAMTC certificate for each massage technician is posted in public view or maintained in a clearly labeled and identifiable binder that is kept in the immediate vicinity of the cash register.

(h) It is unlawful for an owner or operator to allow or permit a massage technician to provide any services not specifically provided on the posted list of services as required in subsection (f) or for an owner or operator to receive any compensation for additional services not specifically included on the posted list of services.

(i) It is unlawful for an owner or operator to allow a massage technician to lock any door or doors leading to a room used to provide massage. This provision shall not apply when there is no staff available to ensure the security for clients and staff who are behind closed doors. A patron may lock any door when alone in any room at any time.

(j) It is unlawful for an owner or operator to fail to maintain a record of services provided for each treatment. The record of treatment shall include the name and address of the patron, the name of the massage technician, the name of the operator, the type of service provided, and the time the service began and ended.

(k) It is unlawful for the owner or operator to provide any massage between the hours of 10:00 p.m. and 7:00 a.m. or to remain open and provide any other services between the same hours.

(l) It is unlawful for an owner or operator to fail to provide to all patrons clean and sanitary towels, and opaque coverings capable of covering the patron's specified anatomical areas. Such coverings shall be used for one customer and shall not be reused without first being cleaned.

(m) It is unlawful for an owner or operator to fail to provide or use disinfecting agents and sterilizing equipment sufficient to assure cleanliness.

(n) It is unlawful for an owner or operator to fail to provide or use disposable or washable protective coverings on massage tables and all massage tables shall be covered with durable, washable plastic, or other waterproof material.

(o) It is unlawful for an owner or operator to fail to keep or maintain on file and ready for inspection a statement designating the individual operator(s) responsible for the day-to-day operations when the massage establishment owner is not on the premises.

(p) It is unlawful for an owner or operator to not have a designated owner or operator on the premises at all times the massage establishment is open.

(q) It is unlawful for an owner or operator to engage in, conduct or carry on business of a massage establishment unless they have a policy of insurance issued by an insurance company authorized to do business in the State of California evidencing that the person is insured under a liability insurance policy providing minimum coverage of one million dollars (\$1,000,000.00) for injury or death to any person arising out of the operation of any massage establishment and the administration of a massage. Evidence of such a policy should be available at inspection upon request.

(r) It is unlawful for an owner or operator to operate a massage establishment if the main entrance to a massage establishment is locked during posted business hours. An owner or operator shall ensure at least one (1) employee or independent contractor directly observes the entrance, without use of camera surveillance equipment, to ensure access to the main entrance and to ensure the security of all patrons.

(s) It is unlawful for an owner or operator to operate a massage establishment if any external door is locked, unless the business is owned by one individual with one or no employees or independent contractors.

(t) It is unlawful for an owner or operator to operate a massage establishment unless every employee or independent contractor of a massage establishment wears a uniform consistent with the service provided. The uniform shall be made of non-transparent material and may not expose any specified anatomical area. Swimwear, lingerie, and undergarments may not be used as a uniform or displayed as part of a uniform.

(u) It is unlawful for an owner or operator to operate a massage establishment which is used for residential or sleeping purposes.

(v) It is unlawful for an owner or operator to fail to notify the Chief of Police in writing of any changes in massage technicians, including proof of CAMTC certificate, or of a change in ownership interest or designated operator within seven calendar days of such change.

(w) It is unlawful for an owner or operator to operate a massage establishment in which any unprofessional conduct occurs as defined by Business & Professions Code section 4609.

Sec. 16A-8. Inspection by officials.

The investigating officials of the city shall have the right as otherwise provided for by law to enter the premises of a massage establishment from time to time during regular business hours for the purpose of making a reasonable inspection to enforce compliance with this chapter.

Sec. 16A-9. Massage technician requirements.

(a) It is unlawful for any person to give, provide, or administer to another person for any form of consideration a massage as defined in this chapter at a massage establishment or any location removed from a massage establishment within the city without a valid CAMTC certificate.

(b) It is unlawful for a massage technician to practice massage for any form of consideration within the city without providing their CAMTC certificate to the department of community development as part of the business licensing process. The registration application shall include the: (1) massage technician's name, residence address and telephone number; (2) the employer name, work addresses and telephone number; and (3) a copy of the massage technician's CAMTC certificate.

(c) It is unlawful for any person to give, provide, or administer to another person for any form of compensation whatsoever a massage as defined in this chapter at a massage establishment or any location from a massage establishment within the city in the absence of a valid business license pursuant to Chapter 16 of the Escondido Municipal Code. A separate business license is required for each location if a massage technician works at multiple massage establishments.

(d) It is unlawful for a massage technician to provide any service not specifically listed on the massage establishment's posted list of services.

(e) It is unlawful for a massage technician to remove any article of the massage establishment uniform or other article of clothing while providing any massage service.

(f) It is unlawful for a massage technician to provide massage when any specified anatomical areas of either patron or massage technician are exposed.

(g) It is unlawful for a massage technician to touch the specified anatomical area of a patron.

(h) It is unlawful for a massage technician to lock the door to the room where massage is provided or to provide massage unless no staff is available to ensure security for clients and massage staff.

(i) It is unlawful for a massage technician to accept direct payment or gratuity from any patron.

(h) It is unlawful for a massage technician to engage in any unprofessional conduct as defined by Business & Professions Code section 4609.

Sec. 16A-10 – 16A-15. Reserved.

ARTICLE 3. ENFORCEMENT

Sec. 16A-16. Violations.

Violation of any provisions of this chapter shall be treated as a strict liability offense, regardless of intent. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in an amount not to exceed one thousand dollars (\$1,000.00), or imprisonment in the county jail not to exceed six (6) months, or both. Any violation may also be subject to civil penalties and any other legal remedy provided in this code or state law. Each violation described in this chapter may be charged as a separate count for each day the violation occurs.

Sec. 16A-17. Unlawful operation declared a nuisance.

In addition to the legal remedies provided for in this code, the violation of any provision of this chapter shall be and the same is hereby declared to be unlawful and a public nuisance. The City Attorney may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof, in the manner provided by law. The City Attorney shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as shall abate or remove such massage establishment and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter.

Sec. 16A-18. Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The council hereby declares that it would have adopted the division and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases be declared invalid.

Sec. 16A-19—16A-24. Reserved.

ARTICLE 4. Massage Establishments

Sec. 16A-25. Massage establishment permit.

No person may own or operate a massage establishment without an annual permit issued by the Chief of Police. The Chief of Police, or designee, shall have the power and authority to promulgate rules, regulations and requirements that are consistent with the provisions of this Chapter and applicable state law to investigate, issue, suspend or revoke massage establishment permits. The Chief of Police shall collect a non-refundable fee, as established by city council resolution, to recoup all investigative costs. A massage establishment permit is not transferrable. A business providing massage services by certified massage technicians as an incidental use to their primary

business, as authorized by the Escondido Zoning Code, are exempt from the requirements of this article.

Sec. 16A-26. Massage establishment registration certificate expiration and renewal

A massage establishment registration certificate shall be valid for one year, coinciding with the city business license effective and expiration dates.

Sec. 16A-27. Permit application.

(a) An application for a massage establishment permit shall be filed by an Owner on a form provided by the City submitted under penalty of perjury and shall include the following information:

(1) The full, true name under which the business will be conducted and proposed location.

(2) A complete description of all services to be provided at the proposed massage establishment.

(3) The full, true name, residential address, telephone number and date of birth of the massage establishment owner(s). Each corporate officer or partner of a massage establishment shall provide their individual information as required on the application.

(4) A valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government.

(5) If the owner is a domestic stock, domestic nonprofit and qualified foreign corporations, limited liability company, general partnership and limited partnership information of record with the California Secretary of State, then the owner shall include copies of the following:

a. A Business Entity Status Report, issued by the California Secretary of State.

b. Articles of incorporation, charter, articles of association, statement of partnership authority, certificate of limited partnership or similar foundational document.

c. Residential and business addresses of each person with more than a 5 percent ownership interest in the massage establishment business entity.

(6) Two passport size photographs of the owner or the designated officer or partner authorized to apply for the massage establishment permit.

(7) Tax identification number.

(8) The name, address and telephone number of the real property owner and a copy of lease or rental agreement, if applicable.

(9) The original valid and current state certificate issued by CAMTC for each massage technician who will work in the massage establishment.

(10) The name and address of any massage business or other similar business providing massage services owned or operated by any person whose name is required to be given pursuant to this section for the five (5) years immediately preceding this filing of the application.

(11) A complete statement listing and explaining any and all aliases and fictitious names used by the owner(s) within the last five (5) years.

(12) A signed statement authorizing the City, its officers, agents and employees, to conduct a background check of the owner(s), to seek information and conduct an investigation into the trust of the statements set forth in the application and to ensure continual compliance with all applicable provisions of law.

(13) Completed fingerprinting and background check for the owner(s) applying for an establishment permit unless otherwise certified by CAMTC.

(14) Proof of liability insurance.

(15) Any other information as may be reasonably required by the Chief of Police to identify the business owner, applicant and business entity, and to ensure compliance with all applicable laws and regulations.

(b) If the owner is a legal entity other than a natural person, the legal entity shall authorize, in writing, at least one of its officers or partners to act as its behalf. The owner(s) or designated officer or partner shall complete and sign all application forms required of an individual applicant under this chapter. The legal entity's representative must, at all times, meet all of the requirements set by this chapter or the massage establishment permit shall be suspended or revoked.

(c) The owner(s) shall acknowledge responsibility for the conduct of all employees or independent contractors working on the premises of the business and acknowledging that failure to comply with the California Business and Professions Code section 4600 et seq. with any local, state or federal law, or with the provisions of this chapter may result in the suspension or revocation of the massage establishment permit.

(d) Upon receipt of the completed application, the Chief of Police, or designee, may refer the application to other city department that may inspect the premises proposed to be used as a massage business and shall make a written recommendation to the Police Chief or designee concerning compliance with the respective requirements. The Police Chief or designee shall have up to 30 days after the submission of all required information to complete an investigation.

Sec. 16A-28. Approval or denial of massage establishment permit.

A massage establishment regulatory license shall be issued by the Chief of Police, or designee, to any massage establishment that demonstrates all of the following:

(a) The operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including, but not limited to, the City's building, zoning, business license, and health regulations and all requirements listed in this chapter;

(b) The massage establishment employs or uses only massage practitioners with CAMTC state certificates whose certifications are valid and current and that owners of the state certificates are the same persons who whom CAMTC issued valid and current identification cards; and

(c) The applicant has provided all information, assurances, or documentation required by this chapter, has not failed to reveal any fact material to qualification, and has not supplied information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

(d) The background check for any applicant/owner authorized by the chapter shows that such person has not been required to register under the provisions of Section 290 of the California Penal Code; there exists no probable cause to believe a violation of the crimes indicated in this Article or California Penal Code section 415; has not had an individual or business permit or license with any agency, board, city, county, territory, or state denied, revoked, restricted, or suspended within the last five (5) years; and has not been subject to an injunction for nuisance under Penal Code section 11225 through 11235 within the last five years.

Sec. 16A-29. Massage establishment permit suspension or revocation.

(a) An establishment permit may be suspended or revoked upon any of the following grounds:

(1) There is cause to believe an owner or operator has committed a violation that could have caused denial of the massage establishment regulatory license.

(2) There is cause to believe an owner has made a material misrepresentation on the application for a massage establishment regulatory license or renewal.

(3) There is cause to believe the owner or operator or massage technician has engaged in conduct in a manner which violates any of the provisions of this chapter, any conditions of the massage establishment permit, or any of the laws which would have been grounds for denial of the massage establishment regulatory license.

(4) Violations of this chapter or of California Business and Professions Code section 4600 et seq. have occurred on the business premises.

(5) The owner or operator has failed to comply with one or more of the owner and operation requirements under this chapter.

(6) The registered license holder has engaged in fraud, misrepresentation, or false statements in obtaining an establishment registration certificate.

(b) Any repeat violations or any arrests that result in criminal charges shall provide a prima fascia basis for revocation.

Sec. 16A-30. Appeals.

(a) Notice of Permit Denial, Suspension or Revocation shall contain a statement of the violation(s) which constitute the basis for the suspension or revocation and information about the right to appeal. Notice of the Suspension or Revocation shall be

given by first class mail to the owner and real property owner at the addresses shown on the massage establishment permit. Service shall be deemed complete when the Notice is mailed by first class mail. The owner shall have ten (10) calendar days from the date the Notice is served to appeal to the City Manager in writing and upon payment of an administrative decision appeal fee. Upon issuance of a Notice of Suspension or Revocation, the massage establishment permit shall be surrendered and no massage activity may occur while any appeal proceeds.

(b) Upon receipt of an appeal, the City Manager shall appoint a hearing officer. A hearing shall be scheduled upon not less than ten (10) calendar days and not more than 30 days, unless extended by mutual agreement. Notice of the hearing shall be given by first class mail to the owner and real property owner at the addresses shown on the massage establishment permit. Service shall be deemed complete when the Notice is mailed.

(c) The hearing officer's jurisdiction is limited to determining whether evidence exists to provide grounds for the massage establishment permit denial, suspension or revocation.

(d) The City shall provide proof of any violations by a preponderance of the evidence. Formal rules of evidence shall not apply to the hearing.

(e) The hearing officer shall:

(1) Receive evidence regarding the proposed suspension, revocation or permit denial.

(2) Maintain a record of all evidence introduced.

(3) Record the hearing.

(4) Consider the nature, volume, severity, and frequency of any violations.

(5) Decide whether grounds exist of the suspension or revocation or denial.

(6) Issue a written decision within 7 days of the hearing that includes the factual and legal basis of the decision and a notice of the appeal rights contained in this chapter.

(f) The hearing officer's decision shall be final upon mailing by first class mail to the owner and real property owner at the addresses listed on the massage establishment permit application.

(g) The hearing officer's decision is subject to review pursuant to California Code of Civil Procedure section 1094.6.

Sec. 16A-31. Reapplication after denial of massage establishment permit.

If a massage establishment permit is revoked or not renewed, no massage establishment permit may be issued for a massage establishment at the same location for one year.

ARTICLE 38. MASSAGE ESTABLISHMENTS

Sec. 33-750. Purpose.

It is the purpose and intent of this chapter to regulate the operations of massage establishments, which tend to have judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of massage establishments; decreases in property values in the vicinity of massage establishments; increases in vacancies in residential and commercial areas in the vicinity of massage establishments; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of massage establishments as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Special regulation of these businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of massage establishments.

Sec. 33-751. Definitions.

In addition to any other definitions contained in the municipal code, all words and phrases included in this chapter pertaining to massage establishments shall be consistent with the definitions in Chapter 16A, Article 1, section 16A-1, unless it is clearly apparent from the context that another meaning is intended.

Businesses, including day spas, salons, beauty parlors, barber shops etc., that provide up to 15% of their gross floor area for massage activities are not considered massage establishments, however, persons administering massages at said establishments shall comply with all state and local licensing provisions.

Sec. 33-752. Location of massage establishments.

(a) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code, shall be a permitted use only in certain commercial shopping centers listed below:

Center Name	Address
Civic Center Plaza	311 - 445 N. Escondido Boulevard
Del Norte Plaza	302 - 358 W. El Norte Parkway
El Norte Parkway Plaza	1000 W. El Norte Parkway
Escondido Gateway	810 - 860 W. Valley Parkway
Escondido Promenade Center	1200 - 1290 Auto Parkway
Ferrara Plaza	2401 - 2447 E. Valley Parkway
Major Market Shopping Center	1805 - 1895. S. Centre City Parkway
Plaza las Palmas	970 - 1138 W. Valley Parkway
Westfield North County	200 - 298 E. Via Rancho Parkway

(b) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code, not located within commercial shopping centers listed in sec. 33-752(a) shall be permitted in the General Commercial (CG) zone subject to a conditional use permit pursuant to Article 61 unless otherwise prohibited.

(c) A massage establishment legally established prior to the adoption of this ordinance operating with a valid business license and other appropriate approvals that does not comply with sec. 33-752 (a) or (b) shall be considered a legal non-conforming use pursuant to Article 61, Division 3.

(d) Any person violating or causing the violation of any locational provisions regulating massage establishments pursuant to sec. 33-752 shall be subject to the remedies of section 33-753 of this article.

(e) The requirements of subsections (a), (b), and (c) of this section shall be in addition to any other relevant provisions of this code.

Sec. 33-753. Violations.

(a) Any person operating or causing the operation of a massage establishment on any parcel in which no application for a massage establishment permit under Chapter 16A has been granted, or any person violating or causing the violation of any of the locational provisions regulating massage establishments shall be subject to license revocation/suspension pursuant to section 16A-16, a fine of not more than one thousand dollars (\$1,000.00) pursuant to Government Code Sections 36900 and 36901, and any and all other civil remedies. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

(b) In addition to the remedies set forth in sec. 33-753(a), any violation of any of the locational provisions pursuant to sec. 33-752 regulating massage establishments is hereby declared to constitute a public nuisance and may be abated or enjoined.

(c) If a massage establishment permit is revoked or not renewed, no massage establishment permit may be issued for a massage establishment at the same location for one year.

Sec. 33-754. Regulations Nonexclusive.

The provisions of this chapter regulating massage establishments are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other provisions of the municipal code and/or any other regulations pertaining to the operation of businesses as adopted by the city council of the City of Escondido.

Sec. 33-755. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter and the ordinance to which it is a part, or any part thereof is held for any reason to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, the remaining sections, subsections, paragraphs, sentences, clauses, and phrases shall not be affected thereby. The city council hereby declares that it would have adopted this chapter and the ordinance to which it is a part regardless of the fact that one or more sections, subsections, paragraphs, sentences, clauses, or phrases may be determined to be unconstitutional, invalid, or ineffective.

Secs. 33-756—33-759. Reserved.

ATTACHMENT 3

**Table 33-332
 PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES**

The conversion of existing or vacant automobile dealerships to a new, substantially different, use shall require plot plan review pursuant to section 33-344 of this article.

Use Title	CG	CN	CP
Residential and Lodging			
Bed and breakfast* (Article 32)	C		
Hotels and motels* (Article 63)	C		
Mobilehome parks or travel trailer parks* (Articles 45 & 46)	C		
Manufacturing, Wholesale Trade, and Storage			
Mini-warehouse storage facilities* (section 33-339)	C		
Newspaper printing and publishing	P		
Retail Trade			
Automotive and marine craft			
Sales lots and parts and accessories sale and supply (including autos, motorcycles, trailers, campers, recreational vehicles and marine craft vehicles excluding farm and construction vehicles, three-axle trucks, and buses)	P		
Gasoline service stations including concurrent sale of alcoholic beverages and motor vehicle fuel* (Articles 57 and Council Resolution #5002)			
With facilities to dispense gasoline to 4 or fewer vehicles at a time	P		
With facilities to dispense gasoline to 5 or more vehicles at a time	C		
Food and liquor			
Food stores (grocery, produce, candy, baked goods, meat, delicatessen, etc.), off-sale beer and wine, off-sale general license excluding concurrent sale	P	P	
With facilities to dispense gasoline to 4 or fewer vehicles at a time* (Article 57)	P		
With facilities to dispense gasoline to 5 or more vehicles at a time* (Article 57)	C		
Liquor stores, packaged (off-sale)	P	P	
General retail			
Building materials and supplies including lumber, heating, plumbing, and electrical equipment, etc. (outdoor storage or sale subject to CUP)	P		
Drugstores	P	P	P
Pharmacies	P	P	P
Florists, gifts, cards, newspapers and magazines	P	P	P
Furniture, home and office furnishing and equipment, electrical appliances, and office machines and supplies	P		
General retail, NEC (as determined by the director of community development, based on conformance with the purpose of the specific zone, interaction with customers, the appearance of the building, the general operating characteristics, and the type of vehicles and equipment associated with the use, and including incidental assembling of customized items)	P	P	
Hospital/medical equipment sales	P		P

Use Title	CG	CN	CP
Nurseries and garden supply stores	P	P	
Outdoor retail, NEC (as a principal use)	C		
Sporting goods (includes ammunition and firearms, fishing, hunting, golf, playground equipment, etc.)	P		
Temporary seasonal sales such as Christmas tree and wreath sales, pumpkin sales, etc., on vacant lots subject to site plan approval	P	P	P
Eating and Drinking Establishments			
Cabarets and nightclubs (with or without alcoholic beverages, including comedy clubs, magic clubs, etc.)	C		
Drinking places—alcoholic beverages (on-sale beer and wine and on-sale general licenses and public premises) includes bars and taverns, does not include restaurants serving alcoholic beverages	C		
Restaurants, cafés, delicatessens, sandwich shops, etc.			
Without alcoholic beverages	P	P	P
With on-sale beer and wine and on-sale general licenses	P	C	C
Auto oriented (drive-in,* drive-through*) (section 33-341)	P		
Specialized food sales from pushcart facilities* (section 33-342)	P	P	P
Services			
Animal care (excluding kennels)	P	P	
Automotive services (including motorcycles, marine craft and recreational vehicles)			
Car-wash, polishing, detailing	P		
Rental and leasing* (Article 57 and Council Resolution #73-264-R) with or without drivers, taxicab service	P		
Repair and related services, except tire retreading and auto body	P		
Auto body	C		
Miscellaneous auto service, except repair and wash (includes motor clinics, auto towing service only)	P		
Educational services			
Day nurseries, child care centers* (Article 57)	P	C	C
Schools, including kindergarten, elementary, junior, and senior high schools* (Article 57)	P		C
University, college, junior college, and professional schools	P		C
Vocational and trade schools	P		C
Other special training (including art, music, drama, dance, language, etc.)	P	P	
Special needs education	P	P	P
Government services			
Administrative centers and courts	P	C	P
Other government services NEC excluding correctional institutions	C		C
Police and fire stations	C	C	C
Financial services and institutions (including banks, securities brokers, credit offices, real estate services)			
Insurance	P	P	P
Hospital and medical service organizations (including Blue Cross, Blue Shield, etc.)	P		P
Medical, dental and related health services			
Hospitals, excluding small medical clinics	C		C
<u>Massage Establishments* (Article 38)</u>	<u>P/C</u>		
Medical, dental and optical laboratories	P		P

Use Title	CG	CN	CP
Medical clinics and blood banks	P		P
Medical, dental, optical, and other health care offices	P	P	P
Other medical and health services NEC	P		P
Sanitariums, convalescent and licensed residential care facilities Sanitariums, convalescent and residential care facilities approved prior to the effective date of Ordinance 2014-15 are exempt from voluntary work limitations identified in section 33-1243 (Exceptions to nonconforming use provisions). Expansions and/or intensification of said facilities shall require a conditional use permit subject to Article 61.	C		C
Offices and business services, except medical			
General business services (including advertising, credit reporting, building services, news syndicate, employment services, computer services, drafting, detective/protective services, etc.)	P	P	P
General office use (includes professional offices)	P	P	P
Mailing, accounting and office services	P	P	P
Travel agencies and services	P	P	P
Repair services, except automotive			
Apparel and shoe repair and alteration	P	P	
Bicycle repair	P	P	
Locksmiths and key shops	P	P	P
Miscellaneous repair services (excluding machine shops and welding services)	P		
Small appliance repair and services (including TV, radio, small electronics, computers, household appliances, etc.)	P	P	
Watch, clock, and jewelry repair	P	P	P
Social, professional, and religious organizations and services			
Churches, synagogues, temples, missions, religious reading rooms, and other religious activities* including columbariums and mausoleums* as an incidental use (Article 57) Religious establishments listed above and/or assembly uses on property designated Planned Office in the general plan: Existing churches may operate subject to their approved conditional use permits. Expansions may occur subject to Article 57 that do not increase the boundary of the conditional use permit, including parking areas within the Planned Office designation. No new religious establishments and/or assembly uses are permitted on land in the general plan designated Planned Office.	P	C	C
Social and professional organizations (political membership, veterans, civic, labor, charitable and similar organizations, etc.)	P	C	P
Youth organizations* (Article 57)	P	C	
Other services			
Assembly halls, fraternities, sororities, lodges, etc.	C		
Barber, beauty, nail, and tanning services	P	P	P
Equipment rental and leasing service* (Article 57 and Council Resolution #73-264-R) (includes airplanes, business equipment, furniture, construction equipment, sanitation units, sports equipment, etc.)	P		
Mortuary (excluding crematories and mausoleums)	P		
Hospital/medical equipment rental and leasing	P		P

Use Title	CG	CN	CP
Laundry and dry cleaning services			
Self-service, coin-operated	P	P	
Pick-up service only	P	P	P
Dry cleaning, laundering, pressing and dyeing for on-site retail customers only	P		
Personal services, NEC (including clothing and costume rental, tattooing, marriage bureaus, baby-sitting services, etc.)	P		
Photographic and duplicating services:			
Blueprinting	P		P
Photocopying	P	P	P
Studios, developing, printing, and similar services, except commercial photography	P	P	P
Commercial photography, including aerial photographs and mapping services	P		P
Picture framing, assembly only	P	P	
Recycling services* (Article 33):			
Reverse vending machines occupying a total of 50 square feet or less	P	P	P
Small collection facilities occupying a total of 500 square feet or less	P	P	P
Aluminum can and newspaper redemption center without can crushing facilities	C		
Cultural Entertainment and Recreation			
Adult entertainment establishments* (Article 42)	P		
Cultural, including museums, art galleries, etc.	P		C
Entertainment assembly, amphitheater, concert halls, exhibit halls	C		
Health and fitness facilities, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc.	P	P	C
Swimming schools and pools	C	C	
Libraries	P	P	C
Parks	P	P	P
Sports and recreation facilities, including bowling alleys, billiards, indoor and outdoor skating facilities, batting cages, riding schools and stables, etc.	C		
Theaters, indoor motion picture	P		
Transportation, Communications and Utilities			
Transportation			
Ambulance and paramedic	C		C
Bus and train depots	P		
Helipad (as an incidental use only)* (Article 57)	C		C
Park-and-ride facilities	P	P	P
Parking lots and parking structures (short-term)	P		P
Taxicab stand	P		P
Communications (telephone, telegraph, radio, TV, etc.)			
Broadcasting (radio and/or television), recording, and/or sound studios	P		P
Personal wireless service facilities* (subject to Article 34)			
Roof-mounted or building-mounted facilities incorporating stealthy designs and/or screened from public ways or significant views	P	P	P
Pole-mounted or ground-mounted facilities that incorporate	P	P	P

Use Title	CG	CN	CP
stealthy designs and do not exceed 35' in height			
Pole-mounted or ground-mounted facilities that exceed 35' in height or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C
Other communications, NEC	C		C
Radio and television transmitting towers	C		C
Telephone exchange stations and telegraph message centers	P	P	P
Utilities (electric, gas, water, sewage, etc.)			
Central processing, regulating, generating, control, collection, storage facilities and substations	C	C	C
Distribution facilities	P	P	P

- a) * = Subject to special regulations—see Article in parentheses.
- b) P = Permitted use;
- c) C = Conditionally Permitted Use [subject to a Conditional Use Permit (CUP)] pursuant to section 33-1200 et seq.
- d) NEC = Not Elsewhere Categorized.

ATTACHMENT 4

Sec. 33-765. Parking spaces required.

Except as specifically required in applicable zoning regulations, specific plans, or in section 33-782, Parking for historic structures, the number of off-street parking spaces shall be not less than that specified below. When an addition is made to an existing building, only the square footage in such addition need be used in computing the required off-street parking.

Use	Parking Spaces Required
Residential	
Single-family and two (2) family residences	Two (2) car garage or carport for each unit.
Bed and breakfast	One (1) parking space for each sleeping room available for rent, in addition to those spaces required by this section for the primary residential use. All spaces shall be located on-site.
Second dwelling units	One (1) parking space for the unit, in addition to those spaces required by this section for the primary residential use. All spaces shall be located on-site.
Multiple Dwellings	
Bachelor	One (1) parking space per unit.
One (1) bedroom	One and one-half (1 1/2) parking space per unit.
Two (2) bedroom	One and three-quarter (1 3/4) parking space per unit.
Three (3) or more bedrooms	Two (2) parking spaces per unit.
	Each unit shall have a minimum of one (1) covered parking space. In addition, there shall be provided a guest parking space for each four (4) units or fraction thereof. On-street parking spaces, when approved by the staff development committee, may be counted toward fulfilling this requirement. Street frontages abutting the subject property and which are included in the circulation element of the general plan shall not be included in fulfilling this requirement.
Mobilehome parks	Two (2) parking spaces for each site. Parking may be in tandem. In addition, one (1) space for each ten (10) sites for the laundry and recreation facilities.
Rooming houses, lodging houses, clubs and fraternities having sleeping rooms	One (1) parking space for each two (2) sleeping rooms.
Sanitariums, children's homes, homes for the aged, asylums, nursing homes	One (1) parking space for each three (3) beds.
Commercial	
Automobile accessory shops	One (1) parking space for each six hundred (600) square feet of gross floor area.
Automobile service stations	One (1) parking space for each service stall.

Use	Parking Spaces Required
Banks, and savings and loans	One (1) parking space for each two hundred (200) square feet of gross floor area.
Barber shops and beauty salons	One (1) parking space for every six hundred (600) square feet of gross floor area.
Furniture, large appliance stores and personal computer stores	One (1) parking space for each eight hundred (800) square feet of gross floor area.
Hotel, motel, and bed and breakfast facility	One (1) parking space for each sleeping unit, plus one (1) parking space for the resident manager, plus one (1) loading space, minimum size ten (10) feet wide, thirty-five (35) feet long and fourteen (14) feet high for each twenty thousand (20,000) square feet of commercial use included in the facility (restaurant, bar, store, etc.), one (1) parking space for each one hundred (100) square feet of restaurant gross floor area, one (1) parking space for each one hundred (100) square feet of assembly area (meeting halls, auditoriums, conference rooms, etc.).
Motor vehicle, machinery sales and repair garages (excluding motorcycles)	One (1) parking space for each one thousand (1,000) square feet of display floor area, one (1) space for each eight hundred (800) square feet of storage area, one (1) space for each two hundred fifty (250) square feet of garage floor area.
Truck or motor home repair vehicles twenty-five (25) feet or longer	One (1) space for every one thousand (1,000) square feet.
Motorcycle sales and repair	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Pushcart food sales	No parking shall be required for pushcart food sales facilities except as required on a case-by-case basis as determined by the community development director as part of plot plan review procedure.
Offices	
General business and professional	Four (4) parking spaces or one (1) parking space for each three hundred (300) square feet of gross floor area, whichever is greater. For offices in the industrial park zone or industrial park overlay, the requirement shall be one (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Medical, dental and clinics	One (1) parking space for each two hundred (200) square feet of gross floor area.
Massage Establishments	One (1) space per one hundred (100) square feet.
Restaurants/Food	
Restaurants, bars, night clubs and others	
Having less than four thousand (4,000) square feet	One (1) parking space for each one hundred (100) square feet of gross floor area. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.

Use	Parking Spaces Required
Having four thousand (4,000) square feet	Forty (40) parking spaces plus one (1) for each fifty (50) square feet of gross floor area over four thousand (4,000) square feet. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Drive-in, drive-up, drive-thru	Twenty (20) parking spaces plus one (1) for each one hundred (100) square feet of gross floor area over four thousand (4,000) square feet. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Product specialty, donuts, ice cream, bakery, etc.	One (1) parking space for each one hundred fifty (150) square feet. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Retail	
General retail, except as otherwise specified herein	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Coin operated laundry	One (1) space per two hundred fifty (250) square feet.
Open retail, nurseries and vehicle sales lots not otherwise specified	One (1) parking space for each one thousand (1,000) square feet of lot area.
Trailer and boat sales lots	One (1) space per two thousand (2,000) square feet of lot supplies.
Shopping center (for the purpose of this article, a shopping center shall have a minimum lot area of three (3) acres and have multiple uses)	One (1) parking space for each two hundred (200) square feet of gross floor area.
Stamp redemption centers	One (1) space.
Tailor shops, shoe repair	Three (3) parking spaces or one (1) parking space for each six hundred (600) square feet of gross floor area, whichever is greater.
Recreational	
Auditoriums and other places of public assembly and clubs, lodges having no sleeping facilities	One (1) parking space for each five (5) seats and one (1) for each one hundred (100) square feet of assembly area not having fixed seats.
Bowling alleys	Four (4) parking spaces for each alley. In addition, spaces for incidental uses shall be provided in accordance with standards specified for the particular use.
Game and athletic courts	Two (2) parking spaces for each court.
Gymnasium, skating rinks, billiard halls, dance schools, karate schools	One (1) parking space for each five (5) seats plus one (1) for each two hundred (200) square feet of recreation floor area.
Golf driving ranges	One (1) parking space for each driving tee.

Use	Parking Spaces Required	
Miniature or pitch and putt golf courses	Three (3) parking spaces for each hole or two (2) for each hole plus the requirement for the accessory uses, whichever is greater.	
Swimming pools	One (1) parking space for each one hundred fifty (150) square feet of gross water surface area.	
Theaters and auctions	One (1) parking space for each five (5) seats or one (1) parking space for each thirty-five (35) square feet of assembly area.	
Industrial		
Kennels, veterinary hospitals and veterinary offices	One (1) parking space for each two hundred (200) square feet of examining and operating areas, plus one (1) parking space for each four hundred (400) square feet of additional floor area.	
Recycling facility	One (1) space for each five hundred (500) square feet of material processing area; one (1) space for each five thousand (5,000) square feet of outdoor storage area; one (1) space for each scale or bin plus one (1) space (for waiting) per two (2) scales or bins for customer parking.	
Manufacturing uses, research and testing laboratories, food processing, printing and engraving shops and contractors	A. Parking standards for the M-1 and M-2 zones. One (1) space for each vehicle used in conjunction with the business, plus one (1) parking space for each five hundred (500) square feet of open or enclosed area devoted to the primary use, except contractors' open storage yards one (1) space per one thousand (1,000) square foot lot.	
	B. Parking standards for the IP and IP-O zones.	
	Suite Size	Space/Sq. Ft.
	<5,000 sq. ft.	1/400
	5,000 to 9,999 sq. ft.	1/500
	10,000 to 19,999 sq. ft.	1/575
	>20,000 sq. ft.	1/650
	Plus one (1) space per one thousand (1,000) square foot lot for contractors' open storage yards.	
Salvage yard, junk yards, auto wrecking, storage yards, lumber yards and similar uses	One (1) parking space per employee on the largest shift or one (1) space per five thousand (5,000) square feet of lot area, whichever is greater.	
Truck terminals	One (1) parking space for each three thousand (3,000) square feet of lot area.	
Warehouse and wholesale business and mini-storage	A. Parking standards for the M-1 and M-2 zones. One (1) parking space for each eight hundred (800) square feet of gross floor area. One (1) space per five thousand (5,000) square feet of floor area and storage lot for mini-storage.	
	B. Parking standards for the IP and IP-O zones.	
	Suite Size	Space/Sq. Ft.
	<5,000 sq. ft.	1/500
	5,000 to 9,999 sq. ft.	1/600
	10,000 to 19,999 sq. ft.	1/700
	>20,000 sq. ft.	1/800

Use	Parking Spaces Required	
	One (1) parking space per five thousand (5,000) square feet of floor area and storage lot for mini-storage.	
Miscellaneous		
Churches, chapels, religious meeting halls and their accessory uses	One (1) parking space for each five (5) seats or one (1) parking space for every one hundred (100) square feet of gross floor area for assembly areas without fixed seating (twenty-two (22) inches of linear bench constitutes one (1) seat).	
Hospitals	One and one-quarter (1 1/4) parking spaces for each bed.	
Libraries, museums and library stations	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.	
Mortuaries	One (1) parking space for every fifty (50) square feet of gross assembly floor area.	
Schools, private and public:		
	Grade schools, elementary and junior high schools	One (1) parking space for each employee and faculty member.
	Senior high schools	One (1) parking space for each employee and one (1) for each three (3) students for which the facility is designed.
	Trade schools, business colleges and commercial schools	One (1) parking space for each one and one-half (1 1/2) students of the maximum capacity of the classroom plus one (1) space for each faculty member.
Emergency shelters	One (1) parking space for each employee, volunteer, service provider and non-client who will be on-site during peak periods, plus one (1) space per three (3) beds.	
Transportation terminals and facilities, public utilities, colleges, stadiums, sport arenas and golf courses	Adequate number as determined by the planning commission after special study has been performed.	

EAST VALLEY PARKWAY AREA PLAN

Table 4.1

PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES

USE TITLE	CG	CP	HP
RESIDENTIAL AND LODGING: <ul style="list-style-type: none"> • Bed and Breakfast (Article 32*) • Hotels and Motels (Article 63*) • Lodging for organization members only • Mobile home or travel trailer parks (Articles 45 & 46*) • Multi-family residential as part of a mixed-use project 	C* C* C C* PD		C*
MANUFACTURING, WHOLESALE TRADE, AND STORAGE: <ul style="list-style-type: none"> • Any use or structure permitted or conditionally permitted in a zone and involving hazardous materials (Section 33-666*) • Mini-warehouse storage facilities (Section 33-339*) • Newspaper printing and publishing 	C* C* P	C*	C*
RETAIL TRADE:			
Automotive and marine craft <ul style="list-style-type: none"> • Automotive parts and accessories sales with no repair or installation • Gasoline service stations including concurrent sale of alcoholic beverages and motor vehicle fuel (Article 57* and Council Resolution #5002*) 	P C*		
Food Sales <ul style="list-style-type: none"> • Food stores (grocery, produce, candy, baked goods, meat, delicatessen, etc.), excluding sale of liquor, tobacco and smoking-related products as primary use) <ul style="list-style-type: none"> • With facilities to dispense gasoline (Article 57*) 	P C*		
General Retail <ul style="list-style-type: none"> • Antique and Consignment stores • Building materials and supplies including lumber, heating, plumbing, and electrical equipment, etc. (Outdoor storage or sale subject to CUP) • Drugstores • Florists, gifts, cards, newspapers and magazines • Furniture, home and office furnishing and equipment, electrical appliances, and office machines and supplies 	P P P P P	P P	P
<ul style="list-style-type: none"> • General retail of new merchandise, NEC (as determined by the Director of Community Development, based on conformance with the 	P		

USE TITLE	CG	CP	HP
<p>purpose of the specific zone, interaction with customers, the appearance of the building, the general operating characteristics, the type of vehicles and equipment associated with the use, and including incidental assembling of customized items);</p> <ul style="list-style-type: none"> • Hospital/medical equipment sales • Nurseries and garden supply stores • Outdoor retail, NEC (as a principal use) • Pharmacies • Sporting goods (includes ammunition and firearms, fishing, hunting, golf, playground equipment, etc.) • Temporary seasonal sales such as Christmas tree and wreath sales, pumpkin sales, etc., on vacant lots subject to site plan approval 	<p>P P C P P P</p>	<p>P</p>	<p>P P</p>
<p>EATING AND DRINKING ESTABLISHMENTS:</p>			
<p>Cabarets and nightclubs (with or without alcoholic beverages, including comedy clubs, magic clubs, etc.)</p>	<p>C</p>		
<p>Drinking places-alcoholic beverages (on-sale beer and wine and on-sale general licenses and public premises) includes bars and taverns, does not include restaurants serving alcoholic beverages.</p>	<p>C</p>		
<p>Restaurants, cafes, delicatessens, sandwich shops, etc. without alcoholic beverages</p>	<p>P</p>	<p>P</p>	<p>P</p>
<ul style="list-style-type: none"> • With on-sale beer and wine and on-sale general licenses 	<p>P</p>		
<ul style="list-style-type: none"> • Auto oriented drive-in, drive-through (Section 33-341*) 	<p>P*</p>		
<ul style="list-style-type: none"> • Specialized food sales from pushcart facilities (Section 33-342*) 	<p>P*</p>	<p>P*</p>	<p>P*</p>
<p>SERVICES:</p>			
<p>Animal Care (excluding kennels)</p>	<p>P</p>		
<p>Automotive services (including motorcycles, motorized vehicles, marine craft and recreational vehicles)</p>			
<ul style="list-style-type: none"> • Auto repair and service in freestanding or single tenant building 	<p>C</p>		
<ul style="list-style-type: none"> • Auto repair and service in multi-tenant centers which were comprehensively designed and approved for automotive repair prior to Area Plan 	<p>P</p>		
<ul style="list-style-type: none"> • Car-wash, polishing, detailing as primary use 	<p>C</p>		
<p>Educational services</p>			
<ul style="list-style-type: none"> • Day nurseries, child care centers (Article 57*) 	<p>C*</p>	<p>C*</p>	<p>C*</p>

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> Schools, including kindergarten, elementary, junior, and senior high schools (Article 57*) 	P*		C*
<ul style="list-style-type: none"> Special needs education 	P	P	P
<ul style="list-style-type: none"> University, college, junior college, and professional schools 	P	P	C
<ul style="list-style-type: none"> Vocational and trade schools 	P	P	
<ul style="list-style-type: none"> Other special training (including art, music, drama, dance, language, etc.) 	P		
<p>Government services</p>			
<ul style="list-style-type: none"> Administrative centers and courts 	P	P	C
<ul style="list-style-type: none"> Employment and training services 	P	P	P
<ul style="list-style-type: none"> Operation Centers 	C	C	C
<ul style="list-style-type: none"> Police and fire stations 	C	C	C
<ul style="list-style-type: none"> Postal services 	P	P	P
<p>Financial services and institutions</p>			
<ul style="list-style-type: none"> Banks, securities brokers, credit offices (excluding check cashing as a primary use) 	P	P	
<ul style="list-style-type: none"> Insurance 	P	P	P
<p>Medical, dental and related health services</p>			
<ul style="list-style-type: none"> Counseling services 	C	C	C
<ul style="list-style-type: none"> Hospitals, excluding small medical clinics 	C	C	C
<ul style="list-style-type: none"> Medical clinics and blood banks 	P		P
<ul style="list-style-type: none"> Medical, dental, optical, and other health care offices and laboratories 	P	P	P
<ul style="list-style-type: none"> Sanitariums, convalescent and residential care facilities 	C		C
<ul style="list-style-type: none"> Other medical and health services NEC 	C	C	C
<ul style="list-style-type: none"> <u>Massage Establishments (Article 38*)</u> 	<u>P/C</u>		
<p>Offices and business services, except medical</p>			
<ul style="list-style-type: none"> Call centers and telemarketing services 	C	C	C
<ul style="list-style-type: none"> General business services (including advertising, building services, credit reporting, detective/protective services, drafting, employment services, news syndicate, computer services, etc.) 	P	P	P
<ul style="list-style-type: none"> General office use (includes professional offices, legal services) 	P	P	P
<ul style="list-style-type: none"> Mailing, stenographic, accounting and office services 	P	P	P
<ul style="list-style-type: none"> Messenger services 	P	P	P
<ul style="list-style-type: none"> Real estate services 	P	P	
<ul style="list-style-type: none"> Travel agencies and services 	P	P	
<p>Repair services, except automotive</p>			
<ul style="list-style-type: none"> Apparel and shoe repair and alteration 	P		

USE TITLE	CG	CP	HP
fifty (50) square feet or less (Article 33*):			
<ul style="list-style-type: none"> Small collection facilities occupying a total of five hundred (500) square feet or less (Article 33*): 	P*	P*	P*
<ul style="list-style-type: none"> Aluminum can and newspaper redemption center without can crushing facilities (Article 33*): 	C*		
CULTURAL ENTERTAINMENT AND RECREATION:			
<ul style="list-style-type: none"> Adult entertainment establishments (Article 42*) 	P*		
<ul style="list-style-type: none"> Amusement assembly, including amusement parks, arcades, dance halls, drive-in movie theaters, miniature golf, go-carts, electronic game centers, etc. 	C		
<ul style="list-style-type: none"> Cultural, including museums, art galleries, etc. 	P	P	
<ul style="list-style-type: none"> Entertainment assembly, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc. 	C		
<ul style="list-style-type: none"> Health and fitness facilities, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc. 	P	C	C
<ul style="list-style-type: none"> Libraries 	P	P	C
<ul style="list-style-type: none"> Parks 	P	P	P
<ul style="list-style-type: none"> Sports and recreation facilities, including bowling alleys, billiards, indoor and outdoor skating facilities, batting cages, riding schools and stables, etc. 	C		
<ul style="list-style-type: none"> Swimming schools and pools 	C		
<ul style="list-style-type: none"> Theaters, indoor motion picture and legitimate 	P		
TRANSPORTATION, COMMUNICATIONS AND UTILITIES:			
Transportation			
<ul style="list-style-type: none"> Ambulance and paramedic 	C		C
<ul style="list-style-type: none"> Bus and train depots 	P		
<ul style="list-style-type: none"> Park-and-ride facilities 	P	P	P
<ul style="list-style-type: none"> Parking lots and parking structures (short term) 	P	P	P
<ul style="list-style-type: none"> Taxicab stand 	P		P
Communications (telephone, telegraph, radio, TV, etc.)			
<ul style="list-style-type: none"> Broadcasting (radio and/or television), recording, and/or sound studios 	P	P	
<ul style="list-style-type: none"> Personal wireless service facilities 			
<ul style="list-style-type: none"> <ul style="list-style-type: none"> roof-mounted or building-mounted facilities incorporating stealthy designs and/or screened from public ways or significant views (Article 34*) 	P*	P*	P*
<ul style="list-style-type: none"> <ul style="list-style-type: none"> pole-mounted or ground-mounted facilities that incorporate stealthy designs and do not exceed 35' in height (Article 34*) 	P*	P*	P*

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> • pole-mounted or ground-mounted facilities that exceed 35' in height or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy (Article 34*) 	C*	C*	C*
<ul style="list-style-type: none"> • Other communications, NEC 	C	C	
<ul style="list-style-type: none"> • Radio and television transmitting towers 	C	C	
<ul style="list-style-type: none"> • Telephone exchange stations and telegraph message centers 	P	P	
Utilities (electric, gas, water, sewage, etc.)			
<ul style="list-style-type: none"> • Central processing, regulating, generating, control, collection, storage facilities and substations 	C	C	C
<ul style="list-style-type: none"> • Distribution facilities 	P	P	P

* = Subject to special regulations –see Zoning Code Article in parentheses

NEC = Not Elsewhere Categorized

ATTACHMENT 6

South Escondido Boulevard Area Plan Section 8. Conditional Use Permits.

(a) The uses which are normally allowed by right in the CG or CT zones and are not listed as permitted uses within this ordinance shall require a conditional use permit and are subject to Section 33-1203 of Article 61 of the Zoning Code. Such conditional uses include, but are not limited to, those which special emphases are listed below:

<u>Use No.</u>	<u>Use Title</u>
1400	Mobile home Parks
1500	Transient lodgings (requires Planning Commission consideration and City Council approval) (pursuant to Ord. 87-28; 8/7/87, and Ord. 91-5; 4/3/91) (See also (c) and (d) of this section)
4753	Satellite dish antennas pursuant to Article 34
5210	Lumber and other building material
5410	Groceries to include concurrent sale of alcoholic beverages and motor vehicle fuel, and convenience stores (See Sec. 8(g)) (Ord. 87-69; 2/6/88)
5511	Auto sales – new and used
5512	Auto sales – used
5520	Tires, batteries and accessories (excluding recapping and vulcanizing)
5530	Gasoline service stations (in accordance with Section 33-1115 (to include concurrent sale of alcoholic beverages and motor vehicle fuel with four or fewer pumps) (Ord. 87-69; 2/6/88)
5820	Drinking places – alcoholic beverages
6100	Finance services with drive-thru tellers
6296	Massage Establishments pursuant to Article 38
6397	Auto, truck and trailer rental (Area B only)
6411	Automobile repair (except body shop) (Area A)
6412	Tire rethreading and recapping (Area A)
6416	Automated Carwashes (Area B only)
6416-6417	Carwash Facilities (within Area "A" only on properties where automotive businesses [a gas station, car lots, auto sales and/or service, etc.] have been previously located and permitted)
6419	Other automobile services, except repair and wash, NEC
6513-6516	Sanitariums, convalescent and rest home facilities (Area A) (Permitted in Area B)
6910	Religious activities

(b) An existing Conditional Use Permit may be expanded by ten percent or 1,000 SF, whichever is less and may be exempted by the Director of Planning and Building from Conditional Use Permit processing requirements. Expansion beyond the established thresholds shall conform to this Article.

(c) Transient lodging existing at the time of adoption of this ordinance may continue to operate and shall be subject to Ord. 91-5. 4/3/91, and Ord. 89-36. 8/2/89.

(d) Existing transient lodging whereby the average length of stay exceeds the 30 day limit requirement established in Ord. 91-05 may be exempt from those provisions, as determined by the Director of Planning and Building, provided the following findings are made:

1) The property has been historically used for transient lodging in which the average stay exceeds 30 days.

2) The structures do not threaten the public health, safety and welfare.

3) Smoke detectors have been provided in each unit and inspections of heating and ventilation systems shall be performed biyearly and evidence of these inspections are submitted to the satisfaction of the Planning and Building Department.

(f) All drive-through facilities such as drive-through restaurants, drive-through dairies, drive-through grocery stores, and drive-through banks which are either an incidental use to the primary use or constitute the primary use require a conditional use permit.

(g) A convenience market includes the retail sales of food, beverages and small convenience items primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building. This definition excludes delicatessens and other specialty food shops and establishments having a sizeable assortment of fresh fruits and vegetables and fresh cut meat.

**Downtown Specific Plan
FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 1 of 6)**

<u>LAND USE</u>		HD*	PV	CCU	GT	M	SG*	CN
RESIDENTIAL AND LODGING (in accordance with Figure II-3A)								
Bed-and-breakfast establishments (subject to regulations of Article 32 of the Zoning Code)								
Residential-care facilities								
Hotels and Motels (subject to regulations of Article 63 of the Zoning Code)								
Residential above ground floor in specified areas, in conjunction with permitted non-residential use on ground floor (refer to Figure II-3 for appropriate locations and housing types)								
Residential, on ground floor in specified areas (refer to Figures II-3 and II-4 for appropriate locations and housing types)								
Home Occupations (subject to regulations of Article 44 of the Zoning Code)								
GENERAL RETAIL								
New merchandise sold in department stores, drugstores, pharmacies, and retail establishments selling toys, flowers, gifts, stationery, jewelry, leather, apparel, shoes (including repair), china, glassware, pottery, crafts, cigars, yardage goods, pets, hobbies, art supplies, automobile supply stores (without installation), video sales and rental, music (including incidental recording, instruction and instrument repair), books / magazines / newspapers, sporting goods, bicycles / cameras / electronics / office business / small household appliance sales and service, and other similar retail goods and incidental services NEC. Prohibited uses include retail uses with across the board maximum pricing or "everything under" pricing and surplus goods.								
Previously owned goods and merchandise including antiques, collectibles, coins, consignment and stamps, excluding pawn shops, second hand and thrift stores.								
Automobile supply stores with incidental installation								

NOTES:

P = Permitted C = Conditional Use Permit required

- 1 Under 3,000 square feet
- 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- 3 Only permitted on Escondido Boulevard.
- 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 5 Only in conjunction with an approved residential project.
- 6 Not allowed along Grand Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- 7 Not permitted on Pennsylvania Avenue and the north side of the building within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

- | | |
|-----|------------------------|
| HD | Historic Downtown |
| PV | Park View |
| CCU | Centre City Urban |
| GT | Gateway Transit |
| M | Mercado |
| SG | Southern Gateway |
| CN | Creekside Neighborhood |

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

**FIGURE II-2
PERMITTED AND CONDITIONAL USES**
(Page 2 of 6)

LAND USE	HD*	PV	CCU	GT	M	SG*	CN
GENERAL RETAIL (continued)							
Carpet and floor covering and installations	P6			P		P3	P6
Large appliance sales	P7	P	P	P	P1	P3	P6
Home Furnishings with retail display (not including "mattress only", carpet, and discount furniture stores)	P	P	P	P	P1	P3	P6
Hardware, paint, glass, tools, home improvement	P	P	P	P	P1	P1, P3	P6
Medical equipment sales/rentals and supplies	P7		P	P	P1	P3	P6
Outdoor vending machines		P					
EATING AND DRINKING ESTABLISHMENTS							
All types of eating establishments providing meal service from an on-site operating commercial-grade kitchen, and / or dessert service from an on-site operating commercial-grade freezer / refrigerator facility with, or without, incidental sale of alcohol (including micro-breweries and outdoor dining, but with no drive-through), with no live amplified entertainment or dancing	P	P	P	P	P	P3, P11	
Eating establishments (as defined above) with indoor amplified entertainment and/or dancing	P	P	P	P	P	C3	
Wine- and beer-tasting establishments (only with retail sales involving related merchandise that includes a significant portion of the sales area)	P	P	P	P	P	P3	
Drinking establishments, bars and nightclubs serving alcohol with or without live entertainment and / or dance	C	C	C	C	C	C3	

NOTES:

P = Permitted C = Conditional Use Permit required

- 1 Under 3,000 square feet.
- 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- 3 Only permitted on Escondido Boulevard.
- 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 5 Only in conjunction with an approved residential project.
- 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

- HD Historic Downtown
- PV Park View
- CCU Centre City Urban
- GT Gateway Transit
- M Mercado
- SG Southern Gateway
- CN Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 3 of 6)

LAND USE		HD*	PV	CCU	GT	M	SG*	CN
FOOD AND LIQUOR SALES (excluding convenience and package stores)								
General grocery stores less than 7,000 SF and specialty foods, including imported and/or unique food products, produce, candy, baked goods, meat, etc., specialty liquor sales involving off-sale unique brands of beer, wine, and distilled spirits		P	P	P	P	P	P3	P6
General grocery stores exceeding 7,000 SF of sales area with, or without, alcohol sales		P7	P	P		P	P3	P6
Convenience markets, excluding package stores			C	C	C			
GENERAL OFFICE AND FINANCIAL SERVICES								
Administrative, business and professional offices, employment agencies, secretarial services, realtors/real estate offices and counseling services, travel and ticket agencies		P2	P	P	P	P	P	P6
Short-term political campaign offices with a maximum duration of six months		P	P	P	P	P	P	P6
Financial institutions, banks, savings and loans (excluding check cashing and/or payday loans as a primary use), visitor and information center (including Downtown Business Association), governmental services, police and fire stations, etc. that provide direct contact with the public		P	P	P	P	P	P	P6
Off-site sales and call centers		P10					P	P6
HEALTH AND PERSONAL SERVICES								
Medical/dental/optical/offices, clinics and laboratories, licensed alternative health-care establishments, day spas, excluding acupuncture and massage establishments as primary uses.		P2	P	P	P	P	P	P6
Barber, beauty salons including cosmetology involving ear piercing, permanent eye and lip lining, excluding other body piercing, body art, and inking parlors		P	P	P	P	P	P3	P6
Massage Establishments (permitted in centers pursuant to Article 38)				P				

NOTES:

P = Permitted C = Conditional Use Permit required

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- 3 Only permitted on Escondido Boulevard.
- 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 5 Only in conjunction with an approved residential project.
- 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kaimia and Ivy Streets.
- 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

- HD Historic Downtown
- PV Park View
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- GT Gateway Transit
- M Mercado
- SG Southern Gateway
- CN Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

**FIGURE II-2
PERMITTED AND CONDITIONAL USES**
(Page 4 of 6)

<u>LAND USE</u>		HD*	PV	CCU	GT	M	SG*	CN
<u>SPECIALTY SERVICES (includes similar ancillary uses NEC)</u>								
Animal services (indoor only) to include pet training, boarding, pet spas, pet day care and veterinary clinics, excluding kennels		P7		P	P	P	P3	P6
Photographic developing and photocopy services, watch and clock repair, locksmiths		P	P	P	P	P	P	P6
Music recording/practice studios		P2	P4	P	P	P	P4	P1, 6
Custom-furniture upholstery and repair		P7					P3	P6
Picture framing shops		P	P4	P	P	P	P3	P6
Postal services including parcel delivery (public/private)		P2	P	P	P	P	P	P
Cleaning and laundering services without on-site cleaning		P7	P1	P1	P1		P1, 4	P1, 5, 6
Cleaning establishments and laundries, self-service or coin operated		P10	P				C	P1, 5, 6
Mortuaries		C10	C				C	C6
Tailors and dressmakers and alterations		P2	P	P	P	P	P	P5, 6
<u>ENTERTAINMENT, RECREATION AND CULTURAL</u>								
Dance facilities, pinball and electronic game arcades		C		C		C		
Athletic clubs, health studios, yoga, jazzercise, aerobics, zumba and similar programs		P7	P	P	P	P	P3	P6

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- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

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FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 5 of 6)

LAND USE	HD*	PV	CCU	GT	M	SG*	CN
ENTERTAINMENT AND RECREATION (continued)							
Galleries and studios pertaining to artists, craft workers and photographers (including incidental developing and printing), libraries, museums, etc., including incidental sale of merchandise pertaining to the primary use	P	P	P	P	P	P	P6
Dance studios and schools	P	P	P	P	P	P3	P6
Marital arts schools and training facilities	P10		P	P	P	P3	P6
Entertainment establishments (including internet cafes) with incidental sale of food or alcohol (excluding incidental entertainment in restaurants)	C	C	C	C	C	C3	C6
Parks - general recreation	P	P	P	P	P	P	P
Roller-skating and bowling alleys and similar indoor arena sports		P	P	P	C		P6
Swimming pools and schools		P					
Theater, live and motion picture	P	P	P	P			
SOCIAL, PROFESSIONAL, RELIGIOUS ORGANIZATIONS							
Churches, synagogues, temples, missions, religious reading rooms, and other religious activities (not allowed within Grand Avenue "historic retail core area")	C7	C	C	C	C	C	C
Social and professional organizations that conduct group and/or membership meetings on the premises, including political, veterans, civic, labor, charitable and similar organizations	C2	C	C	C	C	C	C
Youth Organizations		C	C	C	C	C	C

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**FIGURE II-2
PERMITTED AND CONDITIONAL USES**
(Page 6 of 6)

LAND USE	HD*	PV	CCU	GT	M	SG*	CN
EDUCATION							
Educational facilities for adults	C	P	C	P	P	P	C6
Daycare facilities	C10	C	C	C	C	C	C6
Schools-(primary education)		C		C	C	C	C
Schools-(secondary education)	C6	C		C	C	C	C
COMMUNICATIONS (wireless facilities subject to Article 34)							
Broadcasting (radio and/or television stations)	C7	C	C	C	P	C	C6
Newspaper printing and publishing	C7		C1	C1	C1	C1	C6
TRANSPORTATION AND MISCELLANEOUS SERVICES							
Car-rental services, excluding maintenance and repair of vehicles			C	C			
Parking lots (municipal)	P	P	P	P	P	P	P
Parking lots (private full fee)	C	C	C	C	C	C	C
Taxicab, trolley, shuttle and pedicab stands	P	P	P	P	P	P	P
Transit stations and car-rental services, including maintenance and repair				P			
Seasonal sales not exceeding 30 days, (including pumpkin, Christmas tree and wreath sales between October 1 and December 31, both dates inclusive, to the extent permitted by other statutory and ordinance provisions). Structures and materials used for seasonal sales shall be removed from the premises immediately after December 31 and the property shall be restored to a neat condition	P	P	P	P	P	P	P
Miscellaneous Government Operations that do not provide direct contact with the public	C	C	C	C	C	C	C

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CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 13
Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Barbara Redlitz, Director of Community Development
SUBJECT: TEFRA Hearing for The Crossings at Escondido Manor (Case Number: 0873-01-23)

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-02 approving the issuance by California Statewide Communities Development Authority (CSCDA) of Multifamily Housing Revenue Bonds in an amount not to exceed \$7,000,000 for The Crossings at Escondido Manor at 1150-66 North Escondido Boulevard 92026.

FISCAL ANALYSIS:

There will be no impact on the General Fund. The proposed obligations to be issued by the CSCDA will be the sole responsibility of UHC 00670 Escondido, L.P., and the City will have no financial or legal obligation for repayment. No financial obligations are placed on the City for project financing costs or debt repayment.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

This item relates to the Council's Action Plan regarding Neighborhood Improvement.

PREVIOUS ACTION:

On August 7, 2014, the Housing Division released a Request for Proposals (RFP) inviting for-profit, non-profit and Community Housing Development Organizations (CHDOs) to submit requests for funding for the provision of affordable rental housing or first-time homebuyer opportunities through the rehabilitation of blighted properties or acquisition of long-term affordability covenants. The RFP originally included a total of \$1,000,000 in Affordable Housing Funds, including federal Home Investment Partnerships (HOME) Program funds and Successor Housing Agency (SHA) funds; additional funds were made available due to repayments and relinquishment of funds previously conditionally committed.

On October 22, 2014, City Council adopted City Council Resolution No. 2014-154 authorizing a conditional commitment of federal HOME funds and Successor Housing Agency (SHA) funds (formerly Low and Moderate Income Set-Aside funds) in an amount not to exceed \$4,100,000 to

Urban Housing Communities (UHC) for the acquisition and rehabilitation of a 44-unit affordable multi-family rental development located at 1150-66 North Escondido Boulevard, Escondido 92026.

BACKGROUND:

California Statewide Communities Development Authority (CSCDA)

The CSCDA is a Joint Powers Authority, organized and existing under the laws of the State of California (specifically, California Government Code Section 6500 and following), and is sponsored by the League of California Cities and the California State Association of Counties. The CSCDA was created in 1988, under California's Joint Exercise of Powers Act, to provide California's local governments with an effective tool for the timely financing of community-based public benefit projects. CSCDA's goal is to stimulate economic development throughout California by financing projects that provide public benefit by creating jobs, health care, affordable housing, infrastructure, schools and other fundamental services that enrich and improve the quality of life in local communities. With respect to the Authority, over 500 California cities, counties and special districts have entered into and executed the Agreement to become a member of the Authority, including the City of Escondido.

TEFRA Hearing

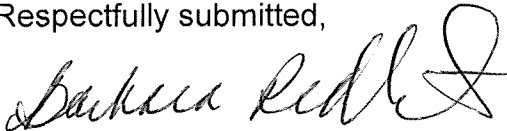
As required by the Tax Equities and Fiscal Responsibility Act of 1982 (TEFRA), in order for the Obligations to qualify as tax-exempt bonds, the City of Escondido must conduct a public hearing (the "TEFRA Hearing") providing the members of the community an opportunity to comment on the use of tax-exempt bonds for the financing of the Project. Prior to conducting the TEFRA Hearing, reasonable notice must be provided to the community. Following the close of the TEFRA Hearing, an "applicable elected representative" of the governmental unit hosting the Project must provide its approval of the issuance of the Loans for the financing of the Project which is provided for in Resolution No 2015-02.

Project to be financed

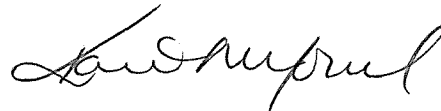
Urban Housing Communities (UHC) is a "mission driven" for-profit affordable housing developer that has developed over 800 units of housing in California and Hawaii since 2003, including 55 units known as The Crossings at Mission Grove Place in Escondido. The Crossings at Mission Grove Place reengineered the old blighted, gang impacted Elder Place neighborhood and has helped to decrease crime in the neighborhood. UHC has a purchase contract in place for 1150-66 North Escondido Blvd, a 44-unit complex built in 1979. UHC will perform a substantial remodel on the property, including interior improvements, a new roof and significant improvements to the site. The TEFRA Hearing is a necessary step for the acquisition of 4% tax credits as proposed in UHC's project financing.

UHC 00670 Escondido, L.P. (the "Borrower"), a wholly owned subsidiary of UHC, has requested that the CSCDA serve as the issuer of multifamily housing revenue obligations in an aggregate principal amount not to exceed \$7,000,000 (the "Obligations"). The proceeds of the Obligations will enable the Borrower to finance the acquisition and rehabilitation of multifamily residential rental facilities, located at 1150-1166 N. Escondido Blvd. in Escondido, California (the "Project"). The Project will provide the City of Escondido with 44 units of newly affordable housing to families in the community. 100% of the units at the Project will be reserved for tenants whose incomes are at or below 50 and 60% of the Area Median Income level. The owners will record 55 year affordability covenants on the property.

Respectfully submitted,



Barbara Redlitz
Director of Community Development



Karen Youel
Management Analyst

RESOLUTION NO. 2015-02

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING THE ISSUANCE BY THE
CALIFORNIA STATEWIDE COMMUNITIES
DEVELOPMENT AUTHORITY OF MULTIFAMILY
HOUSING REVENUE BONDS AT ESCONDIDO
MANOR

(1150-1166 N. Escondido Blvd, Escondido, California)
File Numbers: 0873-01-23

WHEREAS, the California Statewide Communities Development Authority (the "Authority") is authorized pursuant to the provisions of California Government Code Section 6500 et seq. and the terms of an Amended and Restated Joint Exercise of Powers Agreement, dated as of June 1, 1988 (the "Agreement"), among certain local agencies throughout the State of California, including the City of Escondido (the "City"), to issue revenue bonds in accordance with Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code for the purpose of financing multifamily rental housing projects; and

WHEREAS, UHC 00670 Escondido, L.P., or related entities, has requested that the Authority adopt a plan of financing providing for the issuance of multifamily housing revenue bonds (the "Bonds") in one or more series issued from time to time, including bonds issued to refund such revenue bonds in one or more series from time to time, and at no time to exceed \$7,000,000 in outstanding aggregate principal amount, to finance the acquisition and rehabilitation of a 44-unit multifamily rental housing project located at

WHEREAS, the Bonds or a portion thereof will be “private activity bonds” for purposes of the Internal Revenue Code of 1986 (the “Code”); and

WHEREAS, pursuant to Section 147(f) of the Code, prior to their issuance, private activity bonds are required to be approved by the “applicable elected representative” of the governmental units on whose behalf such bonds are expected to be issued and by a governmental unit having jurisdiction over the entire area in which any facility financed by such bonds is to be located, after a public hearing held following reasonable public notice; and

WHEREAS, the members of this City Council (this “City Council”) are the applicable elected representatives of the City of Escondido (the “City”); and

WHEREAS, there has been published, at least 14 days prior to the date hereof, in a newspaper of general circulation within the City, a notice that a public hearing regarding the Bonds would be held on a date specified in such notice; and

WHEREAS, such public hearing was conducted on such date, at which time an opportunity was provided to interested parties to present arguments both for and against the issuance of the Bonds; and

WHEREAS, the Authority is also requesting that the City Council approve the issuance of any refunding bonds hereafter issued by the Authority for the purpose of refinancing the Bonds which financed the Project (the “Refunding Bonds”), but only in such cases where federal tax laws would not require additional consideration or approval by the City Council; and

WHEREAS, it is intended that this resolution shall constitute the approval of the issuance of the Bonds required by Section 147(f) of the Code and Section 9 of the Agreement.

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 City Council hereby approves the issuance of the Bonds and the Refunding Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the Bonds for the purposes of (a) Section 147(f) of the Code and (b) Section 9 of the Agreement.
3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing approved hereby.
4. The City Clerk shall forward a certified copy of this Resolution and a copy of the affidavit of publication of the hearing notice to:

Justin Cooper, Esq.
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, California 94105

5. This resolution shall take effect immediately upon its passage.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 14
Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Barbara Redlitz, Director of Community Development
SUBJECT: TEFRA Hearing for Cypress Cove Apartments (Case Number: 0873-01-23)

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-03 approving the issuance by California Statewide Communities Development Authority (CSCDA) of Multifamily Housing Revenue Bonds for Cypress Cove Apartments at 260 North Midway Drive, Escondido, California 92027 in an amount not to exceed \$32,000,000.

FISCAL ANALYSIS:

There will be no impact on the General Fund. The proposed obligations to be issued by the CSCDA will be the sole responsibility of Bear Valley Housing Associates, L.P., and the City will have no financial or legal obligation for repayment. No financial obligations are placed on the City for project financing costs or debt repayment.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

This item relates to the Council's Action Plan regarding Neighborhood Improvement.

PREVIOUS ACTION:

On August 7, 2014, the Housing Division released a Request for Proposals (RFP) inviting for-profit, non-profit and Community Housing Development Organizations (CHDOs) to submit requests for funding for the provision of affordable rental housing or first-time homebuyer opportunities through the rehabilitation of blighted properties or acquisition of long-term affordability covenants. The RFP originally included a total of \$1,000,000 in Affordable Housing Funds, including federal Home Investment Partnerships (HOME) Program funds.

On October 22, 2014, City Council adopted City Council Resolution No. 2014-154 authorizing the Housing staff to restrict 2013 and 2014 HOME Allocations for use as CHDO funds and conditionally commit federal HOME/CHDO funds in an amount not to exceed \$1,000,000 to Community HousingWorks (CHW) for the acquisition and rehabilitation of 10 affordable multi-family rental units within a 200 unit development located at 260 Midway Drive, Escondido 92027.

BACKGROUND:

California Statewide Communities Development Authority

The CSCDA is a Joint Powers Authority, organized and existing under the laws of the State of California (specifically, California Government Code Section 6500 and following), and is sponsored by the League of California Cities and the California State Association of Counties. The CSCDA was created in 1988, under California's Joint Exercise of Powers Act, to provide California's local governments with an effective tool for the timely financing of community-based public benefit projects. CSCDA's goal is to stimulate economic development throughout California by financing projects that provide public benefit by creating jobs, health care, affordable housing, infrastructure, schools and other fundamental services that enrich and improve the quality of life in local communities. With respect to the Authority, over 500 California cities, counties and special districts have entered into and executed the Agreement to become a member of the Authority, including the City of Escondido.

TEFRA Hearing

As required by the Tax Equities and Fiscal Responsibility Act of 1982 (TEFRA), in order for the Obligations to qualify as tax-exempt bonds, the City of Escondido must conduct a public hearing (the "TEFRA Hearing") providing the members of the community an opportunity to comment on the use of tax-exempt bonds for the financing of the Project. Prior to conducting the TEFRA Hearing, reasonable notice must be provided to the community. Following the close of the TEFRA Hearing, an "applicable elected representative" of the governmental unit hosting the Project must provide its approval of the issuance of the Loans for the financing of the Project which is provided for in Resolution No 2015-03.

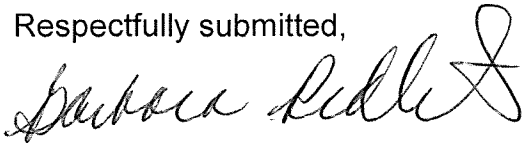
Project to be financed

Community HousingWorks (CHW) has a 30-year history as a non-profit developer and owner of affordable housing communities across San Diego County, with its roots in Escondido. CHW qualifies as a CHDO with its strong emphasis on incorporating the voices of low-income residents in their communities in order to fulfill their mission "to help people and communities move up in the world through opportunities to own, rent and achieve." CHW has purchased Cypress Cove Apartments, their seventh community in Escondido. Built in 1977, the complex has 27 buildings and was modestly renovated in 2000 with tax credits and tax exempt bonds. This TEFRA Hearing is a necessary step for the acquisition of 4% tax credits, as proposed in CHW's project financing.

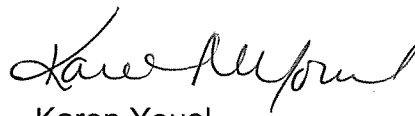
Bear Valley Housing Associates, L.P. (the "Borrower"), a wholly owned subsidiary of CHW, has requested that the CSCDA serve as the issuer of multifamily housing revenue obligations in an aggregate principal amount not to exceed \$32,000,000 (the "Obligations"). The proceeds of the Obligations will enable the Borrower to finance the acquisition and rehabilitation of multifamily

residential rental facilities, located at 260 North Midway Drive in Escondido, California (the "Project"). The Project will provide the City of Escondido with 198 units of preserved affordable housing to families in the community. 100% of the units at the Project will be reserved for tenants whose incomes are at or below 50 and 60% of the Area Median Income level. The owners will record 55 year affordability covenants on the property.

Respectfully submitted,



Barbara Redlitz
Director of Community Development



Karen Youel
Management Analyst

RESOLUTION NO. 2015-03

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING THE ISSUANCE BY THE
CALIFORNIA STATEWIDE COMMUNITIES
DEVELOPMENT AUTHORITY OF MULTIFAMILY
HOUSING REVENUE BONDS FOR CYPRESS
COVE APARTMENTS

(260 North Midway Drive, Escondido, California)
File Number: 0873-01-23

WHEREAS, the California Statewide Communities Development Authority (the "Authority") is authorized pursuant to the provisions of California Government Code Section 6500 et seq. and the terms of an Amended and Restated Joint Exercise of Powers Agreement, dated as of June 1, 1988 (the "Agreement"), among certain local agencies throughout the State of California, including the City of Escondido (the "City"), to issue revenue bonds in accordance with Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code for the purpose of financing multifamily rental housing projects; and

WHEREAS, Bear Valley Housing Associates, L.P., or related entities, has requested that the Authority adopt a plan of financing providing for the issuance of multifamily housing revenue bonds (the "Bonds") in one or more series issued from time to time, including bonds issued to refund such revenue bonds in one or more series from time to time, and at no time to exceed \$32,000,000 in outstanding aggregate principal amount, to finance the acquisition and rehabilitation of a 198-unit multifamily rental housing project located at 260 North Midway Drive, Escondido, California, generally

known as Cypress Cove Apartments (the "Project") and operated by ConAm Management; and

WHEREAS, the Bonds or a portion thereof will be "private activity bonds" for purposes of the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, pursuant to Section 147(f) of the Code, prior to their issuance, private activity bonds are required to be approved by the "applicable elected representative" of the governmental units on whose behalf such bonds are expected to be issued and by a governmental unit having jurisdiction over the entire area in which any facility financed by such bonds is to be located, after a public hearing held following reasonable public notice; and

WHEREAS, the members of this City Council (this "City Council") are the applicable elected representatives of the City of Escondido (the "City"); and

WHEREAS, there has been published, at least 14 days prior to the date hereof, in a newspaper of general circulation within the City, a notice that a public hearing regarding the Bonds would be held on a date specified in such notice; and

WHEREAS, there has been published, at least 14 days prior to the date hereof, in a newspaper of general circulation within the City, a notice that a public hearing regarding the Bonds would be held on a date specified in such notice; and

WHEREAS, the Authority is also requesting that the City Council approve the issuance of any refunding bonds hereafter issued by the Authority for the purpose of refinancing the Bonds which financed the Project (the "Refunding Bonds"), but only in

such cases where federal tax laws would not require additional consideration or approval by the City Council; and

WHEREAS, it is intended that this resolution shall constitute the approval of the issuance of the Bonds required by Section 147(f) of the Code and Section 9 of the Agreement.

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 City Council hereby approves the issuance of the Bonds and the Refunding Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the Bonds for the purposes of (a) Section 147(f) of the Code and (b) Section 9 of the Agreement.
3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing approved hereby.
4. The City Clerk shall forward a certified copy of this Resolution and a copy of the affidavit of publication of the hearing notice to

Justin Cooper, Esq.
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, California 94105

5. This resolution shall take effect immediately upon its passage.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 15

Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Barbara Redlitz, Director of Community Development
SUBJECT: TEFRA Hearing for Summit Rose Apartments

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-08 approving the issuance by California Statewide Communities Development Authority (CSCDA) of Multifamily Housing Revenue Bonds in an amount not to exceed \$10,000,000 for Summit Rose Apartments at 460 E Washington, Escondido, California 92025.

FISCAL ANALYSIS:

There will be no impact on the General Fund. The proposed obligations to be issued by the CSCDA will be the sole responsibility of Summit Rose Apartments, L.P., and the City will have no financial or legal obligation for repayment. No financial obligations are placed on the City for project financing costs or debt repayment.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

This item relates to the Council's Action Plan regarding Neighborhood Improvement.

PREVIOUS ACTION:

None.

BACKGROUND:

California Statewide Communities Development Authority

The CSCDA is a Joint Powers Authority, organized and existing under the laws of the State of California (specifically, California Government Code Section 6500 and following), and is sponsored by the League of California Cities and the California State Association of Counties. The CSCDA was created in 1988, under California's Joint Exercise of Powers Act, to provide California's local governments with an effective tool for the timely financing of community-based public benefit projects. CSCDA's goal is to stimulate economic development throughout California by financing projects that

provide public benefit by creating jobs, health care, affordable housing, infrastructure, schools and other fundamental services that enrich and improve the quality of life in local communities. With respect to the Authority, over 500 California cities, counties and special districts have entered into and executed the Agreement to become a member of the Authority, including the City of Escondido.

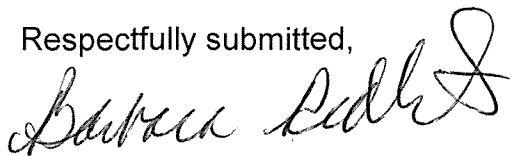
TEFRA Hearing

As required by the Tax Equities and Fiscal Responsibility Act of 1982 (TEFRA), in order for the Obligations to qualify as tax-exempt bonds, the City of Escondido must conduct a public hearing (the "TEFRA Hearing") providing the members of the community an opportunity to comment on the use of tax-exempt bonds for the financing of the Project. Prior to conducting the TEFRA Hearing, reasonable notice must be provided to the community. Following the close of the TEFRA Hearing, an "applicable elected representative" of the governmental unit hosting the Project must provide its approval of the issuance of the Loans for the financing of the Project which is provided for in Resolution No 2015-08.

Project to be financed

Summit Rose Apartment, L.P. (the "Borrower") has requested that the CSCDA serve as the issuer of multifamily housing revenue obligations in an aggregate principal amount not to exceed \$10,000,000 (the "Obligations"). The proceeds of the Obligations will enable the Borrower to finance the acquisition and rehabilitation of multifamily residential rental facilities, located at 460 East Washington in Escondido, California (the "Project"). Summit Rose Apartments was originally built in 1974 and is currently operated as a Low Income Housing Tax Credit property. Issuing this bond will allow the developer to complete an approximately \$2,500,000 renovation by March 2016. The Project will provide the City of Escondido with 91 units of preserved affordable housing to families in the community. 100% of the units at the Project will be reserved for tenants whose incomes are at or below 50 and 60% of the Area Median Income level. The owners will record 55 year affordability covenants on the property.

Respectfully submitted,



Barbara Redlitz
Director of Community Development



Karen Youel
Management Analyst

RESOLUTION NO. 2015-08

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING THE ISSUANCE BY THE
CALIFORNIA STATEWIDE COMMUNITIES
DEVELOPMENT AUTHORITY OF MULTIFAMILY
HOUSING REVENUE BONDS FOR SUMMIT
ROSE APARTMENTS

(460 E. Washington Avenue, Escondido, California)

WHEREAS, the California Statewide Communities Development Authority (the "Authority") is authorized pursuant to the provisions of California Government Code Section 6500 et seq. and the terms of an Amended and Restated Joint Exercise of Powers Agreement, dated as of June 1, 1988 (the "Agreement"), among certain local agencies throughout the State of California, including the City of Escondido (the "City"), to issue revenue bonds in accordance with Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code for the purpose of financing multifamily rental housing projects; and

WHEREAS, Summit Rose Apartments, L.P., or related entities, has requested that the Authority adopt a plan of financing providing for the issuance of multifamily housing revenue bonds (the "Bonds") in one or more series issued from time to time, including bonds issued to refund such revenue bonds in one or more series from time to time, and at no time to exceed \$10,000,000 in outstanding aggregate principal amount, to finance the acquisition and rehabilitation of a 91-unit multifamily rental housing project located at 460 E. Washington Avenue, Escondido, California, generally known as Summit Rose Apartments (the "Project") and operated by VPM Management Inc.; and

WHEREAS, the Bonds or a portion thereof will be “private activity bonds” for purposes of the Internal Revenue Code of 1986 (the “Code”); and

WHEREAS, pursuant to Section 147(f) of the Code, prior to their issuance, private activity bonds are required to be approved by the “applicable elected representative” of the governmental units on whose behalf such bonds are expected to be issued and by a governmental unit having jurisdiction over the entire area in which any facility financed by such bonds is to be located, after a public hearing held following reasonable public notice; and

WHEREAS, the members of this City Council (this “City Council”) are the applicable elected representatives of the City of Escondido (the “City”); and

WHEREAS, there has been published, at least 14 days prior to the date hereof, in a newspaper of general circulation within the City, a notice that a public hearing regarding the Bonds would be held on a date specified in such notice; and

WHEREAS, such public hearing was conducted on such date, at which time an opportunity was provided to interested parties to present arguments both for and against the issuance of the Bonds; and

WHEREAS, the Authority is also requesting that the City Council approve the issuance of any refunding bonds hereafter issued by the Authority for the purpose of refinancing the Bonds which financed the Project (the “Refunding Bonds”), but only in such cases where federal tax laws would not require additional consideration or approval by the City Council; and

WHEREAS, it is intended that this resolution shall constitute the approval of the

issuance of the Bonds required by Section 147(f) of the Code and Section 9 of the Agreement.

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 City Council hereby approves the issuance of the Bonds and the Refunding Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the Bonds for the purposes of (a) Section 147(f) of the Code and (b) Section 9 of the Agreement.
3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing approved hereby.
4. The City Clerk shall forward a certified copy of this Resolution and a copy of the affidavit of publication of the hearing notice to:

Justin Cooper, Esq.
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, California 94105

5. This resolution shall take effect immediately upon its passage.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 16
Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Helen Davies, Environmental Programs Manager
SUBJECT: Urban Streams Restoration Program Grant Application

RECOMMENDATION:

The Utilities Department requests that the City Council (1) adopt Resolution No. 2015-10 authorizing the Environmental Programs Manager or her designee to submit grant documents for an amount up to \$1,000,000 to the California Department of Water Resources (DWR) for Urban Streams Restoration Program funds; and (2) if awarded, to accept the grant funds and complete necessary documents required by DWR for participation in the Urban Streams Restoration Program for the installation of drainage improvements to the earth-lined portions of the channel draining the Spruce Street area ("Mission Pools") near the Transit Station.

FISCAL ANALYSIS:

Total project construction costs for drainage improvements and maintenance of the "Mission Pools"/Spruce Street Channel between 3rd Avenue and Escondido Creek are estimated at \$2,563,000. Construction costs for the upstream earth-lined portions are estimated to cost between \$900,000 and \$1,500,000. The DWR grant will provide up to \$1,000,000 for installation of drainage improvements to the earth-lined portions of the tributary to Escondido Creek near the Transit Station. Additional grant funding will be sought for work on the concrete-lined portions of the channel.

PREVIOUS ACTION:

On July 13, 2011, the City Council adopted Resolution No 2011-97, which authorized the Director of Utilities to pursue a Regional General Permit (RGP) through the US Army Corps of Engineers to regularly maintain Escondido's natural and modified drainages (i.e., remove sediment and vegetation that impedes flow and supports habitat for mosquitos and vectors).

On May 23, 2012, the City Council adopted Resolution No 2012-77, authorizing two applications to the County Department of Environmental Health for Vector Habitat Remediation Program grants.

On October 3, 2012, City Council authorized the acceptance of a \$226,000 Vector Habitat Remediation Program grant for a study project to improve conditions at Mission Pools.

On December 11, 2013, City Council adopted Resolution No 2013-164 authorizing the execution of a consulting agreement with AECOM in the amount of \$159,309 for engineering services to provide initial (30%) design plans for the Mission Pools Area Drainage Restoration Project.

BACKGROUND:

The California Department of Water Resources (DWR) is soliciting proposals for Urban Streams Restoration Program (USRP) grants. The legislature enacted Section 7048 of the California Water Code establishing the USRP to protect, restore, and enhance urban creek channels through effective and efficient flood damage reduction approaches that will preserve, restore, and enhance natural environmental values to local communities. The legislation also allows DWR to fund such projects through a competitive grants program to the extent funds are provided in the State budget process. The intent of this program is to fund projects that use innovative non-structural methods to return streams impacted by urban development to a more natural, stable state with the goals of 1) protecting and enhancing the natural, ecological value of streams, 2) preventing future property damage caused by flooding and bank erosion, and 3) promoting community involvement, education, and stewardship.

All proposals must have two applicants, a sponsor and a co-sponsor. One applicant must be a local public agency and the other a citizen's group. The Escondido Creek Conservancy has agreed to act as a citizen group co-sponsor and approved a resolution on December 8, 2014 to support the City in our grant application.

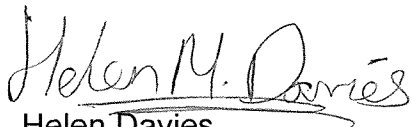
In 2012, the City applied for and was awarded funds by the County of San Diego for a study project to eliminate Vector Habitat (mosquito breeding grounds) at "Mission Pools"/Spruce Street Channel. The Spruce Street storm water conveyance channel has suffered from delayed maintenance. Grading variances and sediment deposits within the channel have created drainage problems. In December 2014, the City received draft 30% drawings for an engineering design for a variety of drainage improvements to eliminate vector-breeding and nuisance water issues by:

- Clearing excessive vegetation overgrowth and accumulated sediment within the drainage;
- Integrating new slope and bottom configuration designs for the soft-bottom channels to safely convey the 100-year flood event; and
- Offering optional considerations for capturing sediment at a location that allows for maintenance access and provides for future opportunities to incorporate sustainable design features.

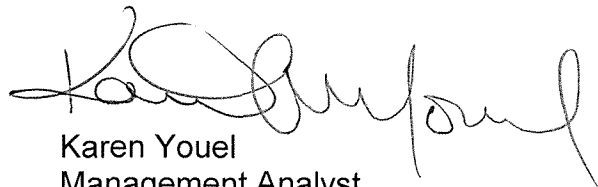
Remaining Vector Habitat Remediation grant funds will be used to obtain environmental clearances (CEQA) and permits in order to implement the plan as funds become available. Total project

construction costs for drainage improvements and maintenance between 3rd Avenue and Escondido Creek are \$2,563,000. Construction costs for the earth-lined portions are estimated to be between \$900,000 - \$1,500,000. The DWR grant will provide up to \$1,000,000 for installation of drainage improvements to the earth-lined portions of the tributary to Escondido Creek near the Transit Station. Additional funding will be sought for work on the concrete-lined portions of the channel. The City will be able to use funds spent from the Vector Habitat Remediation grant as match funds. There is no specific match amount required by this grant offering. The initial grant period will be for 3 years; the City will be permitted to request an extension if necessary.

Respectfully submitted,



Helen Davies
Environmental Programs Manager



Karen Youel
Management Analyst

RESOLUTION NO. 2015-10

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
ENDORING AN APPLICATION FOR AN
URBAN STREAMS RESTORATION PROGRAM
GRANT

WHEREAS, the California Department of Water Resources, FloodSAFE Environmental Stewardship and Statewide Resources Office, Urban Streams Restoration Program has announced the availability of funds for grants; and

WHEREAS, said grants are intended to help solve flooding and erosion problems in a way that provides environmental enhancement; and

WHEREAS, the City of Escondido ("City") has proposed to sponsor a grant application with The Escondido Creek Conservancy; and

WHEREAS the City has concluded the project proposed for funding with grants would be environmentally beneficial; and

WHEREAS, the City will undertake to complete a California Environmental Quality Act ("CEQA") document and will comply with all requirements of CEQA and other environmental permits prior to implementation of the project; and

WHEREAS, the City considers the prospects of receiving a grant to be reasonably likely.

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

1. That the City Council approves the joint application with The Escondido Creek Conservancy for an Urban Streams Restoration Program grant.

2. That if offered such a grant, the City Council authorizes the Environmental Programs Manager or her designee to accept and sign any agreement for administration of the grant funds, and the Environmental Programs Manager or her designee to act as Project Manager for the project.

3. That the City Council hereby delegates authority to the Project Manager to manage the agreement including the submission of invoices, and to delegate authority to others to provide management and support services required for performance of the work and administration of the agreement.

CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 17
Date: January 7, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Joyce Masterson, Director of Economic Development and Community Relations
SUBJECT: Public Works Yard Needs Assessment Study

RECOMMENDATION:

It is requested that Council receive and file the Public Works Yard Needs Assessment Study and provide direction on future actions.

FISCAL ANALYSIS:

None

PREVIOUS ACTION:

City Council authorized \$50,000 for the Needs Assessment Study in the Fiscal Year 2014-2015 Capital Improvement Budget (229-558401)

BACKGROUND:

The City Council has expressed its desire to explore the potential relocation of the Public Works Yard which is located at 475 N. Spruce Street (eastern yard) and at 901 W. Washington Avenue (western yard). A Request for Qualifications was distributed in April 2014 and six responses were received in June from the following architects: Gillis & Panichapan Architects, Inc., HB&A Architects, Platt/Whitelaw Architects, Ruhnau Ruhnau Clarke Architects, Jeff Katz Architecture; and the IBI Group. Gillis + Panichapan Architects, Inc. was selected to perform the Needs Assessment Study and began working with city staff in July 2014. A hard copy of the 128-page Needs Assessment Study was distributed to the City Council in December 2014 to review prior to this meeting and an electronic copy was made available on the City's public website at: <https://www.escondido.org/Data/Sites/1/media/PDFs/PublicWorksFacilityAssessmentReport.pdf>

Respectfully submitted,



Joyce Masterson
Director of Economic Development and Community Relations



FUTURE CITY COUNCIL AGENDA ITEMS
December 31, 2014

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

January 14, 2015
4:30 p.m.

	CONSENT CALENDAR
	<p>City Council Meeting Times (S. Abed)</p> <p><i>Adopt Ordinance 2015-06 to move the regular City Council meeting times up one half hour to increase the efficiency of conducting public business.</i></p>
	<p>Special Event Ordinance (J. Masterson)</p> <p><i>The Council has not revised the Special Event Ordinance since 1995 and it needs updating.</i></p>
	<p>Housing-Related Parks Program Grant Application (E. Domingue)</p> <p><i>The Council is being asked to approve an application to the Department of Housing and Community Development (HCD) for a Housing-Related Parks (HRP) Program Grant.</i></p>
	<p>Notice of Completion for Fiscal Year 2013/2014 Street Maintenance Project (E. Domingue)</p> <p><i>The project consisted of placing surface treatments such as ARAM, Scrub and Slurry Seal.</i></p>
	PUBLIC HEARINGS
	CURRENT BUSINESS
	<p>Award of Contract: Channel Maintenance Regional General Permit – Implementation Phase (C. McKinney)</p> <p><i>The Council is being asked to approve a contract with AECOM to provide the City with Services to ensure permit compliance. These services include wetland mitigation plan implementation, on-call pre-activity surveys, follow-up biological surveys, resource monitoring during maintenance activities and permit compliance support for channel maintenance.</i></p>
	Future Agenda Items (D. Halverson)

January 21, 2015
No Meeting (MLK Holiday)



❖ City Manager's Update

- No materials available at this time