



Council Meeting Agenda

SEPTEMBER 2, 2015
CITY COUNCIL CHAMBERS
3:30 P.M. Closed Session; 4:30 P.M. Regular Session
201 N. Broadway, Escondido, CA 92025

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

**September 2, 2015
3:30 P.M. Meeting**

Escondido City Council

CALL TO ORDER

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

ORAL COMMUNICATIONS

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

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

- I. CONFERENCE WITH LEGAL COUNSEL-- EXISTING LITIGATION (Government Code 54956.9(d)(1))**
- Case Name:** Stuck in the Rough, LLC. v. City of Escondido, et al.
Case No: 37-2013-00074375-CU-WM-NC
- II. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)**
- a. **Property:** 901 West Washington Avenue
City Negotiator: Debra Lundy, Real Property Manager
Negotiating Parties: Multiple Offers:
Finest City Realty Advisors
Newport National
SR Commercial
Washington Ventures, LLC
North County Transit
Under Negotiation: Price and Terms of Agreement
- III. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION/SIGNIFICANT EXPOSURE (Government Code 54956.9(d)(2))**
- a. One Case

ADJOURNMENT



Council Meeting Agenda

**September 2, 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

PRESENTATIONS: SANDAG Presentation on Arterial Way-Finding Program
San Diego Gas & Electric Vehicle Grid Integration

ORAL COMMUNICATIONS

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

CONSENT CALENDAR

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

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
3. **[APPROVAL OF MINUTES: A\) Regular Meeting of August 5, 2015 B\) Regular Meeting of August 12, 2015 C\) Regular Meeting of August 19, 2015](#)**

4. **[SECOND AMENDMENT TO LEASE AGREEMENT WITH KATHLEEN CARR AT 1045 WEST MISSION AVENUE \(CITY RECORDS CENTER\) -](#)**

Request Council approve authorizing the Real Property Manager and City Clerk to execute a Second Amendment to the Lease Agreement with Kathleen Carr at 1045 West Mission Avenue.

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

RESOLUTION NO. 2015-150

5. **[FIRST AMENDMENT TO LEASE AGREEMENT WITH NORTH COUNTY KIA AT FLOOD CONTROL CHANNEL ADJACENT TO 1501 AUTO PARK WAY SOUTH -](#)**

Request Council approve authorizing the Real Property Manager and City Clerk to execute a First Amendment to the Lease Agreement with North County Kia at the Flood Control Channel property adjacent to 1501 Auto Park Way South.

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

RESOLUTION NO. 2015-151

6. **[LEASE AGREEMENT WITH PATIO PLAYHOUSE, INC. AT KIT CARSON PARK AMPHITHEATER \(3333 BEAR VALLEY PARKWAY\) -](#)**

Request Council approve authorizing the Real Property Manager and City Clerk to execute a Lease Agreement with Patio Playhouse, Inc. at the Kit Carson Park Amphitheater (3333 Bear Valley Parkway).

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

RESOLUTION NO. 2015-152

7. **[AUTHORIZATION TO ACQUIRE RIGHT-OF-WAY AND EXPEND FUNDS -](#)**

Request Council approve authorizing the Real Property Manager to acquire each of the rights-of-way needed for the East Valley Parkway/Valley Center Road Project and expend funds from the EVP/VCR Capital Improvement Project Budget accordingly.

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

RESOLUTION NO. 2015-154

8. **[WRITE-OFF OF CITY RECEIVABLES BUDGET ADJUSTMENT - FISCAL YEAR 2014/2015 -](#)**

Request Council approve the write-off of various receivables and related budget adjustment.

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

9. **[YEAR 2016 HOLIDAYS -](#)**

Request Council approve designating the days that City offices will be closed in the year 2016 for holiday observances.

Staff Recommendation: **Approval (Human Resources Department: Sheryl Bennett)**

RESOLUTION NO. 2015-155

10. CONTINUING EMERGENCY AND NEED TO REPAIR THE ESCONDIDO SEWER OUTFALL IN THE ESCONDIDO CREEK -

Request Council approve declaring that, pursuant to the terms of Section 22050 of the California Public Contract Code, the City Council finds there is a need to continue the emergency action and pass a resolution by four-fifths vote declaring that public interest and necessity demand the expenditure to safeguard life, health, or property.

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

RESOLUTION NO. 2015-153

11. SERENITY VILLAGE LOAN MODIFICATION -

Request Council approve authorizing HealthRIGHT 360 to assume the affordable housing loans made to North County Serenity House, Inc. in order to continue operation of Serenity Village, located at 643, 637, 627, and 619 East Second Avenue, as a transitional housing facility and authorize the Mayor and City Clerk to execute an assumption and modification agreement, and supporting agreements with HealthRIGHT 360, in a form acceptable to the City Attorney.

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

RESOLUTION NO. 2015-156

12. HOUSING RELATED PARKS PROGRAM BUDGET ADJUSTMENT -

Request Council approve budget adjustments totaling \$685,450 for park improvement projects in conjunction with the award of Program Year 2014 Housing Related Parks Program funds from the Department of Housing and Community Development.

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

13. NOTICE OF COMPLETION FOR TRACT 874 - FERRARA COURT -

Request Council approve and accept the public improvements and authorize staff to file a Notice of Completion for Tract 874 - Ferrara Court.

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

14. AMENDMENT TO ESCONDIDO MUNICIPAL CODE SECTION 20-2 -

Request Council approve an amendment to the Escondido Municipal Code permitting no more than three (3) members of the Planning Commission to reside outside the City limits so long as the residence is within the geographic area covered by the City's general plan.

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

ORDINANCE NO. 2015-18 (Introduction and First Reading)

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

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

PUBLIC HEARINGS

15. [PASS-THROUGH OF PENALTIES FOR EXCESSIVE USE OF AGRICULTURAL WATER IN FISCAL YEAR 2016 -](#)

Request Council approve the adoption of Resolution No. 2015-130 approving pass-through of any future penalties imposed by the San Diego County Water Authority for delivery of agricultural water in excess of delivery limits imposed on customers participating in the Transitional Special Agricultural Water Rate and the Special Agricultural Water Rate.

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

RESOLUTION NO. 2015-130

CURRENT BUSINESS

16. [APPOINTMENT TO PUBLIC ART COMMISSION -](#)

Request Council ratify the Mayor's appointment to fill an unscheduled vacancy on the Public Art Commission, term to expire March 31, 2018.

Staff Recommendation: **Ratify the Mayor's Appointment (City Clerk's Office: Diane Halverson)**

17. ["WORKING TOGETHER TO GET TO YES!" UPDATE -](#)

Request Council receive and file a report regarding the City's "Working Together to Get to YES!" program.

Staff Recommendation: **Receive and File (City Manager's Office: Graham Mitchell)**

18. [AUTHORIZE AN ENERGY SERVICE CONTRACT FOR ENERGY DEMAND REDUCTION AT MULTIPLE CITY FACILITIES -](#)

Request Council approve authorizing the Mayor and the City Clerk to execute a ten-year Energy Service Contract with Green Charge Networks to install and maintain a battery powered energy storage system to reduce the demand charge at multiple City facilities. This project will be funded at no cost to the City.

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

RESOLUTION NO. 2015-144

FUTURE AGENDA

19. [FUTURE AGENDA -](#)

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

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

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

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
September 9	-	-	No Meeting	-
September 16	Wednesday	4:30 p.m.	Town Hall Meeting	Council Chambers
September 23	Wednesday	3:30 & 4:30 p.m.	Regular Meeting	Council Chambers
September 30	-	-	No Meeting	-

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.

CITY OF ESCONDIDO
August 5, 2015
3:30 P.M. Meeting Minutes
Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 3:30 p.m. on Wednesday, August 5, 2015 in the Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE:

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

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

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

Case Name: City of Chula Vista, et al. v. Tracy Sandoval
Case No: 34-2014-80001723-CU-WM-GDS

II. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)

- a. **Property:** 131 S. Broadway (APNs: 233-062-10-01 & 233-072-06-01)
City Negotiator: Debra Lundy, Real Property Manager
Negotiating Parties: 131 Broadway Escondido III, LLC.
Under Negotiation: Price and Terms of Agreement
- b. **Property:** 418 East Second Avenue
City Negotiator: Debra Lundy, Real Property Manager
Negotiating Parties: Talking Bibles, Inc.
Under Negotiation: Price and Terms of Agreement
- c. **Property:** 901 West Washington Avenue (City Public Works Yard)
City Negotiator: Clay Phillips, City Manager
Negotiating Parties: James Crone & Associates
Under Negotiation: Price and Terms of Agreement

ADJOURNMENT

Mayor Abed adjourned the meeting at 4:00 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
August 5, 2015
4:30 P.M. Meeting Minutes

Escondido City Council
Mobilehome Rent Review Board

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 4:30 p.m. on Wednesday, August 5, 2015 in the Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION:

Mike Lutsch led the Moment of Reflection.

FLAG SALUTE

Mayor Abed led the Flag Salute.

PROCLAMATIONS:

Recognition of Louise Thurber's Years of Community Service

PRESENTATIONS:

A Step Beyond - Frank Foster

ROLL CALL:

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; Michael McGuinness, Assistant City Attorney; Barbara Redlitz, Community Development Director; Ed Domingue, Director of Public Works; Diane Halverson, City Clerk; and Michael Thorne, Minutes Clerk.

ORAL COMMUNICATIONS

CONSENT CALENDAR

Deputy Mayor Morasco removed item 6, Mayor Abed removed item 7, and Councilmember Masson removed item 8 from the Consent Calendar for discussion.

MOTION: Moved by Councilmember Masson and seconded by Deputy Mayor Morasco to approve the following Consent Calendar items with the exception of items 6, 7, and 8. 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: A) Regular Meeting of June 24, 2015 B) Regular Meeting of July 8, 2015**

4. **FISCAL YEAR 2015 U.S. DEPARTMENT OF JUSTICE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT - LOCAL SOLICITATION AND BUDGET ADJUSTMENT -**
Request Council approve authorizing the Chief of Police to receive a \$42,352 Fiscal Year 2015 Edward Byrne Memorial Justice Assistance Grant (JAG); authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. (File No. 0480-70)

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

5. **AUTHORIZATION TO REFURBISH AND REMOUNT ONE (1) LIFELINE AMBULANCE PATIENT COMPARTMENT ONTO A CITY SUPPLIED FORD E450 CHASSIS -**
Request Council approve the Escondido Fire Department's request to have Emergency Vehicle Group of Anaheim, California, refurbish and remount one (1) existing Lifeline ambulance patient compartment onto a City supplied Ford E450 chassis in the current fleet instead of purchasing one (1) new ambulance. The refurbishment includes an electrical system upgrade to accommodate changes in lighting technology. (File No. 0370-30)

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

6. **CONTINUING EMERGENCY AND NEED TO REPAIR THE ESCONDIDO SEWER OUTFALL IN THE ESCONDIDO CREEK -**
Request Council approve declaring that, pursuant to the terms of Section 22050 of the California Public Contract Code, the City Council finds there is a need to continue the emergency action and pass a resolution by four-fifths vote declaring that public interest and necessity demand the expenditure to safeguard life, health, or property. (File No. 1330-45)

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

RESOLUTION NO. 2015-137

Deputy Mayor Morasco questioned if the proposed cost of the project had changed.

Nelson Nuezca, Engineering, noted that no costs have changed.

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Masson to approve declaring that, pursuant to the terms of Section 22050 of the California Public Contract Code, the City Council finds there is a need to continue the emergency action and pass a resolution by four-fifths vote declaring that public interest and necessity demand the expenditure to safeguard life, health, or property and adopt Resolution No. 2015-137. Motion carried unanimously.

7. SANDAG TRANSNET ACTIVE TRANSPORTATION PROGRAM GRANT - ESCONDIDO CREEK BIKEWAY MISSING LINK PROJECT AND BUDGET ADJUSTMENT -

Request Council approve authorizing the Director of Public Works/City Engineer to execute on behalf of the City a funding agreement between San Diego Association of Governments (SANDAG) and the City of Escondido for the Escondido Creek Bikeway Missing Link Project and approve a budget adjustment to spend grant funding in the amount of \$1,092,000. (File No. 0480-70)

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

RESOLUTION NO. 2015-136

Mayor Abed noted the importance of resolving this missing link on the bikeway.

MOTION: Moved by Mayor Abed and seconded by Councilmember Gallo to approve authorizing the Director of Public Works/City Engineer to execute on behalf of the City a funding agreement between San Diego Association of Governments (SANDAG) and the City of Escondido for the Escondido Creek Bikeway Missing Link Project and approve a budget adjustment to spend grant funding in the amount of \$1,092,000 and adopt Resolution No. 2015-136. Motion carried unanimously.

8. FIRST AMENDMENT TO THE 2014 ENGINEERING DESIGN STANDARDS AND STANDARD DRAWINGS –

Request Council approve a First Amendment to the 2014 Engineering Design Standards and Standard Drawings. (File No. 0680-50)

Staff Recommendation: **Approval (Public Works Department/Engineering: Ed Domingue and Utilities Department: Christopher W. McKinney)**

RESOLUTION NO. 2015-134(R)

Councilmember Masson questioned if easements will be required to be marked, and stated that alleyways should remain at the current City standards for new construction.

Julie Procopio, Assistant Director of Public Works, stated that markings are used to notify the homeowner of easements.

Ed Domingue, Director of Public Works, explained why the Fire Department requires wider alleyways for specific vehicles.

MOTION: Moved by Councilmember Masson and seconded by Councilmember Gallo to approve a First Amendment to the 2014 Engineering Design Standards and Standard Drawings and adopt Resolution No. 2015-134 (R). 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.)

9. SPECIAL EVENT PERMITS -

Approved on July 8, 2015 with a vote of 4/0/1 (Diaz absent) (File No. 0680-10)

ORDINANCE NO. 2015-05 (Second Reading and Adoption)

10. AMENDMENT OF ESCONDIDO MUNICIPAL CODE SECTION 17-5 AND 18-107 -

Approved on July 8, 2015 with a vote of 4/0/1 (Diaz absent) (File No. 0680-50)

ORDINANCE NO. 2015-15 (Second Reading and Adoption)

PUBLIC HEARINGS

11. **SHORT-FORM RENT REVIEW BOARD HEARING FOR CASA GRANDE MOBILE ESTATES -**

Request Council consider the short-form rent increase application submitted by Casa Grande Mobile Estates, and if approved grant an increase of seventy-five percent (75%) of the change in the Consumer Price Index, or 2.260% (an average of \$11.56) for the period of December 31, 2012 to December 31, 2014. (File No. 0697-20-10038)

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

RRB RESOLUTION NO. 2015-05

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

Jamie Zeller, Code Enforcement, was available to answer questions.

Kent Johns, Owners Representative, was available to answer questions, and addressed changes that have been made in the park.

Marko McNeil and Joan DeVries, Escondido, Residents Representatives, spoke about comments made by park residents.

MOTION: Moved by Councilmember Gallo and seconded by Deputy Mayor Morasco to consider the short-form rent increase application submitted by Casa Grande Mobile Estates, and if approved grant an increase of seventy-five percent (75%) of the change in the Consumer Price Index, or 2.260% (an average of \$11.56) for the period of December 31, 2012 to December 31, 2014 and adopt RRB Resolution No. 2015-05. Motion carried unanimously.

CURRENT BUSINESS

12. **DISPOSITION OF PROPERTY: 700 WEST GRAND AVENUE -**

Request Council approve authorizing the Real Property Manager and City Clerk to execute a purchase agreement and escrow documents necessary to complete the sale of 700 West Grand Avenue to Integral Partners Funding, LLC. (File No. 0690-20)

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

RESOLUTION NO. 2015-132

Debra Lundy, Real Property Manager, presented the staff report, utilizing a PowerPoint presentation.

Gil Miltenberger, Interval Communities Representative, presented information on the project site.

Mayor Abed abstained and left the dais.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Masson to approve authorizing the Real Property Manager and City Clerk to execute a purchase agreement and escrow documents necessary to complete the sale of 700 West Grand Avenue to Integral Partners Funding, LLC and adopt Resolution No. 2015-132. Ayes: Diaz, Gallo, Masson, and Morasco. Noes: None. Abstained: Abed. Motion carried.

13. ADOPT THE 2013 UPDATE OF THE SAN DIEGO INTEGRATED REGIONAL WATER MANAGEMENT PLAN -

Request Council approve the adoption of the 2013 update of the San Diego Integrated Regional Water Management Plan which will qualify the City of Escondido for grant opportunities from the California Department of Water Resources. (File No. 1320-85)

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

RESOLUTION NO. 2015-129

Helen Davies, Utilities, presented the staff report, utilizing a PowerPoint presentation.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Diaz to approve the adoption of the 2013 update of the San Diego Integrated Regional Water Management Plan which will qualify the City of Escondido for grant opportunities from the California Department of Water Resources and adopt Resolution No. 2015-129. Motion carried unanimously.

14. MUNICIPAL CODE AMENDMENT REGARDING EXPEDITED ROOF TOP RESIDENTIAL SOLAR PERMITS -

Request Council approve amending the Escondido Municipal Code Chapter 6, Article 1 to establish streamlined procedures to expedite the processing of residential roof top solar permits. (File No. 0680-50)

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

ORDINANCE NO. 2015-16 (Introduction and First Reading)

Barbara Redlitz, Director of Community Development, introduced Tim Draper, Building Official, who presented the staff report, utilizing a PowerPoint presentation.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Masson to approve amending the Escondido Municipal Code Chapter 6, Article 1 to establish streamlined procedures to expedite the processing of residential roof top solar permits and introduce Ordinance No. 2015-16. Motion carried unanimously.

FUTURE AGENDA

15. FUTURE AGENDA -

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

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

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

Councilmember Gallo noted the 32 percent reduction of water use in Escondido.

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 6:15 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
August 12, 2015
4:30 P.M. Meeting Minutes

Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 4:30 p.m. on Wednesday, August 12, 2015 in the Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION:

Melvin Bittner 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; Julie Procopio, Assistant Director of Public Works; Diane Halverson, City Clerk; and Michael Thorne, Minutes Clerk.

ORAL COMMUNICATIONS

Jim Hamerly, Poway, introduced himself as the Dean of the College of Business, Cal State San Marcos; Noted new improvements on the Campus and how the college is adapting to the needs of the local business community.

CONSENT CALENDAR

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Diaz to approve all Consent Calendar items. Motion carried unanimously.

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

4. **APPROVAL OF BUNDLED PACKAGE FOR SOFTWARE, LICENSING, AND IMPLEMENTATION COSTS FOR UPGRADING TO ORACLE'S CUSTOMER CARE AND BILLING PRODUCT AND APPROVAL OF THE RELATED BUDGET ADJUSTMENT TO FULLY FUND THE PROJECT -**

Request Council approve the Oracle bundled package for software, licensing, and implementation service costs in the amount of \$1,437,693 to upgrade the existing Utility Billing/CIS software to Oracle's Customer Care and Billing product; authorize the Director of Utilities to execute necessary contracts to initiate the upgrade; and approve the budget adjustment in the amount of \$1,200,000 to fully fund this upgrade project. (File No. 0600-10 [Misc])

Staff Recommendation: **Approval (Information Systems Department: Mark Becker and Utilities Department: Christopher W. McKinney)**

RESOLUTION NO. 2015-139

5. **SUMMARY VACATION OF AN IRREVOCABLE OFFER OF DEDICATION PER STREETS AND HIGHWAYS CODE §8334(A) -**

Request Council approve authorizing the summary vacation of an Irrevocable Offer of Dedication recorded on May 24, 1978 for a public highway. (File No. 0690-40)

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

RESOLUTION NO. 2015-133

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.)

6. **MUNICIPAL CODE AMENDMENT REGARDING EXPEDITED ROOF TOP RESIDENTIAL SOLAR PERMITS -**

Approved on August 5, 2015 with a vote of 5/0 (File No. 0680-50)

ORDINANCE NO. 2015-16 (Second Reading and Adoption)

CURRENT BUSINESS

7. BID AWARD FOR THE UPGRADE TO THE COUNCIL CHAMBERS AUDIO/DIGITAL SOUND PROCESSOR CONTROL SYSTEM AND THE VOTING SYSTEM -

Request Council approve authorizing the Mayor and City Clerk to execute a public services agreement with Triton Technology of San Juan Capistrano in the amount of \$228,851.33, which includes equipment, sales tax, and labor, for the upgrading of the audio/digital sound processor control system and the voting system in the City Council Chambers. (File No. 0600-10 [A-3159])

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

RESOLUTION NO. 2015-142

Joyce Masterson, Director of Economic Development, presented the staff report.

MOTION: Moved by Councilmember Masson and seconded by Councilmember Diaz to approve authorizing the Mayor and City Clerk to execute a public services agreement with Triton Technology of San Juan Capistrano in the amount of \$228,851.33, which includes equipment, sales tax, and labor, for the upgrading of the audio/digital sound processor control system and the voting system in the City Council Chambers and adopt Resolution No. 2015-142. Motion carried unanimously.

8. 2015-2016 CITY COUNCIL ACTION PLAN -

Request Council approve the adoption of the 2015-2016 City Council Action Plan. (File No. 0610-95)

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

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

MOTION: Moved by Councilmember Masson and seconded by Deputy Mayor Morasco to approve the adoption of the 2015-2016 City Council Action Plan and request staff explore possibilities to use remaining CDBG funds to aid the completion of the highest priority action plan projects. Motion carried unanimously.

FUTURE AGENDA

9. 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 on the League of California Cities meeting and SB16, a bill to provide money to improve roads; noted a letter from the San Diego County Sheriff's Department thanking the Escondido Police.

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 6:15 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
August 19, 2015
3:30 P.M. Meeting Minutes
Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 3:30 p.m. on Wednesday, August 19, 2015 in the Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE:

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

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

- I. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)**
- a. **Property:** 3310 Bear Valley Parkway
City Negotiator: Debra Lundy, Real Property Manager
Negotiating Parties: Patio Playhouse
Under Negotiation: Price and Terms of Agreement
 - b. **Property:** 418 East Second Avenue
City Negotiator: Debra Lundy, Real Property Manager
Negotiating Parties: Talking Bibles, Inc. & Grand Dentistry
Under Negotiation: Price and Terms of Agreement

ADJOURNMENT

Mayor Abed adjourned the meeting at 3:51 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
August 19, 2015
4:30 P.M. Meeting Minutes

Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 4:30 p.m. on Wednesday, August 19, 2015 in the Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION:

Sharon Allison 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, Director of Public Works; Diane Halverson, City Clerk; and Michael Thorne, Minutes Clerk.

ORAL COMMUNICATIONS

Patsy Dixon, Escondido, expressed concern for her personal safety.

Dolores McQuiston, Escondido, asked the question "What is 'next door'?"

Beverly Seikar, Escondido, representative for the East Valley Parkway Business Group; explained that the newly formed group meets regularly to create solutions that support local businesses.

CONSENT CALENDAR

Mayor Abed removed item 6, and Councilmember Diaz removed item 8 from the Consent Calendar for discussion.

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Masson to approve the following Consent Calendar items. Motion carried unanimously.

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

4. VACATION OF RIGHT-OF-WAY AND DISPOSITION OF PROPERTY: 165 EAST LINCOLN AVENUE -

Request Council approve authorizing the summary vacation of excess right-of-way and authorize the Real Property Manager and City Clerk to execute documents necessary to complete the sale of said right-of-way, with an address of 165 East Lincoln Avenue. (File No. 0690-40)

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

A) RESOLUTION NO. 2015-141 B) RESOLUTION NO. 2015-145

5. GRANTING OF EASEMENT FOR GREASE INTERCEPTOR -

Request Council approve authorizing the Real Property Manager to execute an Easement Deed for the purpose of allowing Burger Bench to install a grease interceptor under a City-owned driveway behind 235 East Grand Avenue. (File No. 0690-81)

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

RESOLUTION NO. 2015-146

6. SET THE DATE OF SEPTEMBER 23, 2015 FOR A PUBLIC HEARING TO CONSIDER ADOPTING A RESOLUTION OF NECESSITY AUTHORIZING THE CITY ATTORNEY TO INITIATE CONDEMNATION PROCEEDINGS -

Request Council approve setting the date of September 23, 2015 at 4:30 p.m. for a Public Hearing to consider the adoption of a Resolution of Necessity authorizing the City Attorney to initiate condemnation proceedings to acquire the property rights across portions of Assessor Parcel Number 235-050-15 (Pacific Harmony Grove Development, LLC & Mission Valley Corporate Center, LTD.) for construction of the Citracado Parkway Extension Project. (File No. 0690-50)

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

RESOLUTION NO. 2015-131

Vikki Radcliff, Escondido, indicated there may be legal issues involved if an easement is granted on the property.

MOTION: Moved by Councilmember Diaz and seconded by Deputy Mayor Morasco to approve setting the date of September 23, 2015 at 4:30 p.m. for a Public Hearing to consider the adoption of a Resolution of Necessity authorizing the City Attorney to initiate condemnation proceedings to acquire the property rights across portions of Assessor Parcel Number 235-050-15 (Pacific Harmony Grove Development, LLC & Mission Valley Corporate Center, LTD.) for construction of the Citracado Parkway Extension Project. Motion carried unanimously.

7. UNCLASSIFIED SERVICE SCHEDULE AND SALARY PLANS -

Request Council approve amending the following salaries and positions: Unclassified Management Salary Bands, Unclassified Clerical/Technical Salary Plans, and Unclassified Service Schedule List. (File No. 0720-20)

Staff Recommendation: **Approval (Human Resources Department: Sheryl Bennett)**

A) RESOLUTION NO. 2015-121 B) RESOLUTION NO. 2015-122
C) RESOLUTION NO. 2015-123

8. ESTABLISHING THE PROPERTY TAX RATE AND FIXED CHARGE ASSESSMENTS FOR GENERAL OBLIGATION BONDED INDEBTEDNESS -

Request Council approve establishing the property tax rate and fixed charge assessments for bonded indebtedness for Fiscal Year 2015-16. (File No. 0480-40)

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

RESOLUTION NO. 2015-138

Councilmember Diaz commented that proceeds from the sale of the Police Department property should be used to pay down this bond.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Masson to approve establishing the property tax rate and fixed charge assessments for bonded indebtedness for Fiscal Year 2015-16. Motion carried unanimously.

9. NOTICE OF COMPLETION FOR HALE AVENUE RESOURCE RECOVERY FACILITY OPERATIONS BUILDING -

Request Council approve authorizing the Director of Utilities to file a Notice of Completion for the Hale Avenue Resource Recovery Facility Operations Building. (File No. 0600-10 [A-3028])

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

RESOLUTION NO. 2015-114

10. CONTINUING EMERGENCY AND NEED TO REPAIR THE ESCONDIDO SEWER OUTFALL IN THE ESCONDIDO CREEK -

Request Council approve declaring that, pursuant to the terms of Section 22050 of the California Public Contract Code, the City Council finds there is a need to continue the emergency action and pass a resolution by four-fifths vote declaring that public interest and necessity demand the expenditure to safeguard life, health, or property. (File No. 1330-45)

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

RESOLUTION NO. 2015-148

11. NOTICE OF COMPLETION FOR THE 2014-2015 STREET REHABILITATION PROJECT -

Request Council approve accepting the public improvements and authorize staff to file a Notice of Completion for the 2014-2015 Street Rehabilitation Project. (File No. 0600-10 [A-3135])

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

12. ALL WAY STOP CONTROL REQUEST FOR THE INTERSECTION OF ASH STREET AND SHERIDAN AVENUE -

Request Council approve amending the schedule of stop signs to add two (2) new stop signs on Ash Street at the intersection of Sheridan Avenue. (File No. 1050-50)

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

RESOLUTION NO. 2015-143

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

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

PUBLIC HEARINGS

13. ADOPTION OF MITIGATED NEGATIVE DECLARATION FOR THE SOUTHWEST SEWER REALIGNMENT PROJECT (ENV 14-0009) -

Request Council approve the adoption of the Mitigated Negative Declaration for the Southwest Sewer Realignment Project that eliminates Sewer Lift Stations 6, 9, and 11. Elimination of Lift Stations 6, 9, and 11 would require replacement and new sewer pipelines along an approximately 3.4-mile alignment within the City and unincorporated San Diego County to redirect wastewater flows down to Lift Station 1 located near I-15/Via Rancho Parkway. (File No. 0820-20)

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

RESOLUTION NO. 2015-117

Bill Martin, Deputy Director of Planning, presented the staff report, utilizing a PowerPoint presentation.

Eva Salazar, Escondido, expressed concern about chemical levels in the area and the effects of rain during the winter season.

Laura Hunter, Escondido, stated that a risk management plan and health safety plan are not included in the assessment; expressed concern about other hazardous materials that could be found at the site.

Carolina Valder, Escondido, stated that the health risk assessment is deficient and is concerned about hazardous effects resulting from the project.

Michael Crews, Representative for TetraTech, provided information regarding the Health Risk Assessment and Risk Management plan.

Member of the Public, shared his concern with the project.

MOTION: Moved by Councilmember Gallo and seconded by Deputy Mayor Morasco to approve the adoption of the Mitigated Negative Declaration for the Southwest Sewer Realignment Project that eliminates Sewer Lift Stations 6, 9, and 11. Elimination of Lift Stations 6, 9, and 11 would require replacement and new sewer pipelines along an approximately 3.4-mile alignment within the City and unincorporated San Diego County to redirect wastewater flows down to Lift Station 1 located near I-15/Via Rancho Parkway and adopt Resolution No. 2015-117. Ayes: Gallo, Masson, Morasco and Abed. Noes: Diaz. Abstained: None.

14. LATITUDE II - 112-UNIT CONDOMINIUM PLANNED DEVELOPMENT AND TENTATIVE SUBDIVISION MAP (SUB 15-0003) -

Request Council approve a one-lot Tentative Subdivision Map in conjunction with a Master and Precise Development Plan for 112 residential condominium units on a 3.44-acre parcel in the Centre City Urban District of the Downtown Specific Plan. The proposed development includes 60 one-bedroom and 52 two-bedroom units ranging in size from 788 SF to 1336 SF, and would require several exceptions to established design standards of the Downtown Specific Plan including parking and sign setbacks, amount of open space provided, and covered parking. (File No. 0800-10)

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

A) RESOLUTION NO. 2015-135(R) B) ORDINANCE NO. 2015-17(R) (First Reading and Introduction)

Bill Martin, Deputy Director of Planning, presented the staff report, utilizing a PowerPoint presentation.

Councilmember Masson abstained and left the dais.

Girish Hagan, Co-Owner of the Escondido Inn, stated he has reached an agreement with Lyon Communities to reduce the number of trees on the western edge of his property to aid with visibility. Noted an easement would be required to maintain repairs on the existing Escondido Inn advertising sign and expressed concern regarding the projects landscaping.

Peter Zach, Newport Beach, President of NCA Developments and Lyon Communities, noted the completion of the Latitude 33 project and the goal of building another high quality project in the area; they accept all the conditions placed on the project, requested that the first two sentences of Planning Commission item 20 relating to required parking be eliminated.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Diaz to approve a one-lot Tentative Subdivision Map in conjunction with a Master and Precise Development Plan for 112 residential condominium units on a 3.44-acre parcel in the Centre City Urban District of the Downtown Specific Plan. The proposed development includes 60 one-bedroom and 52 two-bedroom units ranging in size from 788 SF to 1336 SF, and would require several exceptions to established design standards of the Downtown Specific Plan including parking setbacks, amount of open space provided, and covered parking, adopt Resolution No. 2015-135(R) and introduce Ordinance No. 2015-17(R). Ayes: Diaz, Gallo, Morasco, and Abed. Noes: None. Abstained: Masson.

CURRENT BUSINESS

15. LIBRARY EXPANSION UPDATE -

Request City Council provide direction regarding the City's Library expansion project. The staff report presents the following five options for discussion: take no action, collect funds for eventual expansion, explore financing strategies, seek joint development partnerships and seek Library grant funding opportunities. (File No. 0110-20)

Staff Recommendation: **Provide Direction (City Manager's Office: Graham Mitchell and Community Services Department: Loretta McKinney)**

Graham Mitchell, Assistant City Manager, Loretta McKinney, Director of Library and Community Services, and Cynthia Smith, Deputy City Librarian, presented the staff report, utilizing a PowerPoint presentation.

Jack Anderson, Escondido, member of the Escondido Library Foundation, expressed his support for the Library Expansion Project and suggested revitalizing the existing Library using funds from General Obligation Bonds.

Elmer Cameron, Escondido, President of Friends of the Escondido Public Library, thanked the Council for supporting the Library and stated that continued support is needed from the Council and community moving forward.

COUNCIL PROVIDED DIRECTION TO STAFF TO EXPLORE GENERAL OBLIGATION BONDS, INCLUDING THE HIRING OF CONSULTANTS TO PROVIDE STRATEGIC PLANNING AND POLLING, WHILE EXPLORING JOINT DEVELOPMENT PARTNERSHIP OPPORTUNITIES.

WORKSHOP

16. DOWNTOWN PARKING WORKSHOP -

Request Council receive presentation on the status of Downtown Parking and provide direction to staff. (File No. 1060-75)

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

Abraham Bandegan, Engineering, presented the staff report, utilizing a PowerPoint presentation.

Sue Dusharme, Escondido, supports increasing timed parking on Grand Avenue from two hours to three hours.

Louisa Magoon, Escondido, owner of the Grand Tea Room, stated that three hour parking would benefit her business.

Dan Forster, Escondido, Vice President of the Escondido Downtown Business Association, supports diagonal parking and changing enforcement times to three hours.

COUNCIL PROVIDED DIRECTION TO STAFF TO IMPLEMENT THREE HOUR PARKING ON GRAND AVENUE AS A PILOT PROGRAM AND PURSUE SANDAG PLANNING AND CONSTRUCTION GRANTS TO DEVELOP A "DOWNTOWN VISION" ADDRESSING PARKING, APPEARANCE, PEDESTRIAN AMENITIES, EMERGENCY VEHICLE ACCESS, AND TRAFFIC MANAGEMENT.

FUTURE AGENDA

17. FUTURE AGENDA -

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

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

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 OFFICE -**

ORAL COMMUNICATIONS

ADJOURNMENT

Mayor Abed adjourned the meeting at 8:15 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 4

Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Debra Lundy, Real Property Manager

SUBJECT: Second Amendment to Lease Agreement with Kathleen Carr at 1045 West Mission Avenue (City Records Center)

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-150 authorizing the Real Property Manager and City Clerk to execute a Second Amendment to Lease Agreement with Kathleen Carr at 1045 West Mission Avenue.

FISCAL ANALYSIS:

A monthly rent of \$3,674.00 is paid out of the City's General Fund.

PREVIOUS ACTION:

Resolution 2000-89 authorized the first lease agreement, which was subsequently renewed by Council action in 2009 via Resolution No. 2009-118 and again in 2012 by Resolution No. 2012-160.

BACKGROUND:

The City has been leasing the subject property for its Records Center since 2000 when it relocated from another leased facility to reduce the square footage to meet requirements of the City's Records Management Plan. The facility has been retrofitted to meet specific criteria for the Records Center and the City Clerk's Office desires to continue use for another term. The First Amendment to the Lease Agreement expires on September 30, 2015 and contains two options to extend the term for additional 3-years each. This Second Amendment will serve to exercise the first option to extend the term to September 30, 2018.

Respectfully submitted,



Debra Lundy
Real Property Manager

RESOLUTION NO. 2015-150

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE REAL PROPERTY
MANAGER AND CITY CLERK TO EXECUTE,
ON BEHALF OF THE CITY, A SECOND
AMENDMENT TO LEASE AGREEMENT
WITH KATHLEEN CARR

(City of Escondido Records Center)

WHEREAS, Kathleen Carr owns certain real property located at 1045 West Mission Avenue; and

WHEREAS, the City has been leasing this property for its Records Center since 2000; and

WHEREAS, said real property is functional and meets the City's needs for its Records Center; and

WHEREAS, the current lease agreement expires on September 30, 2015, and contains two options to extend the term an additional 3-years each; and

WHEREAS, the City desires to exercise, and Kathleen Carr desires to grant the first of two options to extend the term for an additional three years to allow the City continued occupancy at said real property for the operation of its Records Center through September 30, 2018; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve of the Second Amendment to Lease 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 Real Property Manager and City Clerk are authorized to execute, on behalf of the City, the Second Amendment to Lease Agreement with Kathleen Carr, which is attached hereto as Exhibit "1" and incorporated by this reference.

SECOND AMENDMENT TO LEASE AGREEMENT

(1045 W. Mission Avenue)

This FIRST AMENDMENT TO LEASE AGREEMENT is made as of this _____ day of _____, 2015.

Between: City of Escondido,
201 North Broadway
Escondido, California 92025
("City")

And: Kathleen Carr
1968 Willow Ridge Drive
Vista, CA 92085
("Lessor")

WITNESSES THAT WHEREAS:

- A. City and Lessor entered into a Lease Agreement dated October 1, 2009, ("ORIGINAL AGREEMENT") for the lease of real property for the City's Records Center, at 1045 W. Mission Avenue, Escondido, California ("Premises"); and
- B. The ORIGINAL AGREEMENT was subsequently amended by First Amendment to Lease Agreement, dated October 4, 2012 ("FIRST AMENDMENT"), to extend the lease term to September 30, 2015 and contained two additional 3-year options to extend the lease; and
- C. City desires to exercise and Lessor desires to grant the first of two 3-year options to extend the lease term to September 30, 2018.

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

1. The term of the lease as specified in Section 2 of the ORIGINAL AGREEMENT shall be extended to **September 30, 2018**.
2. All other terms and conditions of the ORIGINAL AGREEMENT shall remain in full force and effect.
3. This SECOND AMENDMENT, the FIRST AMENDMENT and the ORIGINAL AGREEMENT, together with their respective attachments, are the entire understanding of the parties, and there are no other terms or conditions, written or oral, controlling this matter.

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

CITY OF ESCONDIDO (LESSEE)

Date: _____

Debra Lundy
Real Property Manager

Date: _____

Diane Halverson
City Clerk

KATHLEEN CARR (LESSOR)

Date: _____

Kathleen Carr

Approved as to Form:

Office of the City Attorney
JEFFREY R. EPP, City Attorney

By: _____
Deputy City Attorney

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 5

Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Debra Lundy, Real Property Manager

SUBJECT: First Amendment to Lease Agreement with North County Kia at Flood Control Channel (Por.) Adjacent to 1501 Auto Park Way South.

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-151 authorizing the Real Property Manager and City Clerk to execute a First Amendment to Lease Agreement with North County Kia at Flood Control Channel property adjacent to 1501 Auto Park Way South.

FISCAL ANALYSIS:

A monthly rent of \$1,716.84 is deposited into the City's General Fund. Annual rent adjustments by the Consumer Price Index are made each September.

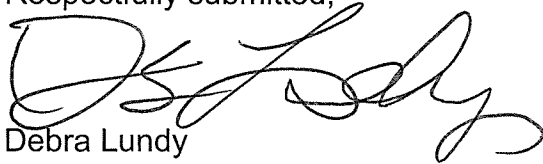
PREVIOUS ACTION:

Resolution 2000-121 authorized the original lease agreement.

BACKGROUND:

This property has been leased to the adjacent auto sales business since 2000, when it was determined that the surface area is not required by the City other than for access to the City's underground utilities lines. The Lease expires on August 31, 2015, however contains a provision for another five-year term extension. This First Amendment would serve to exercise that option and renew the lease for an additional five-year term through August 31, 2020.

Respectfully submitted,



Debra Lundy
Real Property Manager

RESOLUTION NO. 2015-151

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE REAL PROPERTY
MANAGER AND CITY CLERK TO EXECUTE,
ON BEHALF OF THE CITY, A FIRST
AMENDMENT TO THE LEASE AGREEMENT
WITH NORTH COUNTY KIA

WHEREAS, the City of Escondido ("City") owns certain Flood Control Channel property located adjacent to 1501 Auto Park Way; and

WHEREAS, the City has been leasing this property to the adjacent auto sales businesses since 2000; and

WHEREAS, the surface area is not needed by the City other than to provide ongoing access to the underground utilities lines; and

WHEREAS, the current Lease Agreement with North County Kia expires on August 31, 2015, and contains an option to extend the term an additional five years; and

WHEREAS, the parties desire to extend the term for an additional five 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 Lease Agreement with North County Kia.

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 Real Property Manager and City Clerk are authorized to execute, on behalf of the City, the First Amendment to the Lease Agreement with North County Kia, which is attached hereto as Exhibit "1" and incorporated by this reference.

FIRST AMENDMENT TO LEASE AGREEMENT

(Flood Control Channel Por. Adjacent to 1501 Auto Park Way South)

This FIRST AMENDMENT TO LEASE AGREEMENT is made as of this _____ day of _____, 2015.

Between: City of Escondido,
201 North Broadway
Escondido, California 92025
("City")

And: North County Kia
1501 Auto Park Way South
Escondido, CA 92029
("Lessor")

WITNESSES THAT WHEREAS:

- A. City and Lessor entered into a Lease Agreement dated September 1, 2000, ("ORIGINAL AGREEMENT") for the lease of excess flood control channel property adjacent to 1501 Auto Park Way, Escondido, California ("Premises"); and
- B. The ORIGINAL AGREEMENT expired on August 31, 2015 and contains a final option to renew for an additional five-year term through August 31, 2020; and
- C. City and Lessor desire to extend the term of the lease for another five year term.

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

- 1. The term of the lease as specified in Section 3 of the ORIGINAL AGREEMENT shall be extended to August 31, 2020.
- 2. All other terms and conditions of the ORIGINAL AGREEMENT shall remain in full force and effect.
- 3. This FIRST AMENDMENT and the ORIGINAL AGREEMENT, together with their respective attachments, are the entire understanding of the parties, and there are no other terms or conditions, written or oral, controlling this matter.

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

CITY OF ESCONDIDO (LESSOR)

Date: _____

Debra Lundy
Real Property Manager

Date: _____

Diane Halverson
City Clerk

NORTH COUNTY KIA (LESSEE)

Date: _____

Print Name & Title

Approved as to Form:

Office of the City Attorney
JEFFREY R. EPP, City Attorney

By: _____
Deputy City Attorney

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 6

Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Debra Lundy, Real Property Manager

SUBJECT: Lease Agreement with Patio Playhouse, Inc. at Kit Carson Park Amphitheater (3333 Bear Valley Parkway)

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-152 authorizing the Real Property Manager and City Clerk to execute a Lease Agreement with the Patio Playhouse, Inc. at the Kit Carson Park Amphitheater (3333 Bear Valley Parkway).

FISCAL ANALYSIS:

Seasonal rent in the amount of \$1,030 will be deposited into the Recreation Fund for non-exclusive use of the amphitheater between June 1st and October 15th. Additionally, rent in the amount of \$130/month will be charged for off-season storage (October 16th through May 30th). The total annual rent paid into the Recreation Fund will be \$2,005 and will increase annually by 3%.

PREVIOUS ACTION:

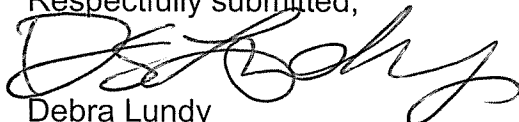
N/A

BACKGROUND:

Patio Playhouse is interested in a non-exclusive lease agreement for seasonal use of the amphitheater for theatrical community performances. The group will be taking over the lease from Plays in the Park, which ran from 2010-2014. The performances will be scheduled from June 1st through October 15th each year. Additionally, they are seeking to maintain items of personal property related to the theater (such as the staging platforms, additional seating, etc.) during the off-season. Under the terms of the proposed lease, storage will only be permissible in accordance with City rules, regulations and permitting requirements. The Lessee will have three months, or as may be extended by mutual written agreement, from the effective date of the lease to properly store and screen the items of personally property currently located on the premises or to relocate the items off the property.

The facility will continue to be available for rent by other groups and members of the community when not in use by the Lessee.

Respectfully submitted,



Debra Lundy
Real Property Manager

RESOLUTION NO. 2015-152

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE REAL PROPERTY
MANAGER AND CITY CLERK TO EXECUTE,
ON BEHALF OF THE CITY, A LEASE
AGREEMENT WITH PATIO PLAYHOUSE,
INC. AT THE KIT CARSON PARK
AMPHITHEATER

(3333 Bear Valley Parkway)

WHEREAS, the City owns the real property located at 3333 Bear Valley Parkway
(Kit Carson Park); and

WHEREAS, the amphitheater has been leased for community theatrical
performances since 2010 on a seasonal basis from June 1st through October 15th; and

WHEREAS, other groups and members of the public are able to rent the facility
when not in use by Patio Playhouse; and

WHEREAS, the lease of this site will generate income for the Recreation Fund in
the amount of \$2,005, which rent will increase annually 3%.

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 that the Real Property Manager and City Clerk are authorized to
execute, on behalf of the City, a lease with Patio Playhouse, Inc. for amphitheater at
3333 Bear Valley Parkway, Escondido, CA., which lease shall be in the form found at
Exhibit "A," which is incorporated by reference.



3333 Bear Valley Road (Kit Carson Park Amphitheater) LEASE AGREEMENT

Lessee: Patio Playhouse, Inc.

Term: Three Years

Premises: 3333 Bear Valley Road (Kit Carson Park Amphitheater)

Date: September 2015

Lease Agreement between the City of Escondido and Patio Playhouse, Inc. for use of the property at 3333 Bear Valley Parkway, Escondido, CA 92025 for specific purposes as set forth below.

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**CITY OF ESCONDIDO
LEASE AGREEMENT**

This Lease Agreement is made as of September ____, 2015 between the City and Patio Playhouse, Inc..

Section 1 Definition of Terms

The following words in this Lease Agreement shall have the significance attached to them in this Section unless otherwise apparent from their context.

City. The City means the City of Escondido, a California general law City.

Lease. Lease means this Lease Agreement.

Lease Administrator. The Lease Administrator means the City of Escondido Real Property Manager or, upon written notice to Lessee, such other person as shall be designated from time to time by City.

Lessee. Lessee means Patio Playhouse, Inc. and does not include its heirs, assigns, or successors-in-interest.

Premises. Premises means the real property commonly known as the Kit Carson Park Amphitheater, located at 3333 Bear Valley Parkway, Escondido, CA.

Section 2 Administration

This Lease will be administered on behalf of City by the Lease Administrator, whose address is:

City of Escondido
Attn: Real Property Manager
201 North Broadway
Escondido, CA 92025

and on behalf of Lessee by _____, whose address is:

Patio Playhouse
201 East Grand Avenue, #1D
Escondido, CA 92025

Section 3 Term

3.1 The term of this Lease shall be three years, commencing as of the date of the final signature. Theater programming will be seasonal, from June 1 through October 15th. During the off-season, Lessee shall continue to use the premises for storage of

theater-related items only. Lessee shall not permit other parties to use the premises without the City's written permission.

3.2 Hold Over. The occupancy of the Premises by Lessee, after the expiration of the Term shall be construed as a month to month tenancy, and all other terms and conditions of this Lease Agreement shall continue in full force and effect, on a month to month basis. The City shall have the right to terminate the month to month tenancy without cause and for any reason by giving sixty (60) days prior notice to Lessee.

Section 4 Termination of Lease

4.1 Each party shall have the right to terminate this Lease early without penalty by providing the other with a written notice 90 days in advance.

4.2 Default. If the City discovers at any time during the Lease Term that the Lessee or any other party has used, is using, or will use the Premises in an unlawful manner or for an unlawful purpose the City may terminate the lease immediately. If the City discovers that Lessee has used, is using, or will use the Premises in any manner that is inconsistent with any provision of this Lease, City may notify Lessee of the failure to perform and terminate the Lease in accordance with this Section.

4.3 Right to Cure. Lessee must cure any failure to perform any of the terms, conditions, or covenants of this Lease to be observed or performed by Lessee within thirty (30) days after receiving notice from the City of the default. The City may grant additional time to cure any failure to perform as may be reasonably required, as determined by the City which must be in writing. This provision is not applicable to default that arises from unlawful or illegal activity.

4.4 Termination upon Default. Upon the occurrence and failure to cure a default of the Lease within the time period in Section 4.3, the City may, at its option, and in addition to any and all other rights to which it may be entitled under this Lease or applicable law, elect to terminate this Lease. Any such termination will be effective as of the date specified in such election.

Section 5 Options to Renew

Upon each expiration, and by providing the City with a written request at least three (3) months prior, upon City approval, Lessee shall have two (2) additional options to extend the lease for three additional years. The City reserves the right to increase rent at each option.

Section 6 Annual Vacation of Premises (each October 15)

At the conclusion of each season, on or before October 15th, with the exception of theater-related items of personal property properly stored year-round, Lessee shall peaceably vacate and deliver the Premises to City in the same condition as Lessee

found them upon its acceptance of the Premises hereunder, excepting ordinary wear and tear and conditions caused by acts of God.

Upon such season conclusion, Lessee shall immediately:

- A. Arrange and pay for the disconnection of all utilities and services ordered by Lessee;
- B. Remove all items of exclusive-use personal property stored on the premises; and
- C. At the conclusion of the lease term, turn over all keys and access codes to the City of Escondido.

Section 7 Rent

7.1 Base Rental Rate. In consideration of the possession and use of the Premises, Lessee shall deliver and pay rent to the City a seasonal rent in the amount of \$1,030 and an off-season storage rent in the amount of \$975. The total rent of **\$2,005** will be due annually on or prior to the anniversary date of this lease agreement, which shall be the date of the final signature on this agreement.

7.2 Hold Over Rental Rate. The rent payments for any Hold Over will be equal to the previous year's Rental Rate plus ten percent (10%).

Section 8 Annual Adjustment

Each year on the anniversary date of this lease, the rent shall increase 3%.

Section 9 Late Payment

Rent payments received after the 5th day of any month will be charged an additional 20% late payment fee.

Section 10 Utilities Payments

Lessee agrees to provide and pay for all utilities and services necessary for the occupancy and use of the Premises, including, but not limited to: gas, water, electricity, sewage charges or septic service, trash and any telecommunications services.

Section 11 Taxes, Assessments and Fees

The terms of this Lease may result in the creation of a possessory interest. If such a possessory interest is vested in Lessee, Lessee may be subjected to the payment of personal property taxes levied on such interest. Lessee shall be responsible for the payment of, and shall pay before delinquent, all taxes, assessments, and fees assessed

or levied upon Lessee, on said Premises or any interest therein, on any buildings, structures, machines, appliances, or other improvements of any nature whatsoever, or on any interest therein.

Lessee further agrees not to allow such taxes, assessments, or fees to become a lien against said premises or any improvement thereon. Nothing herein contained shall be deemed to prevent or prohibit Lessee from contesting the validity of amount of any such tax, assessment, or fee in any manner authorized by law.

Section 12 Acceptance and Maintenance

Lessee hereby acknowledges that Lessee has inspected the Premises, that Lessee accepts said Premises "as is" and "where is," that the Premises are in a good and sanitary order, condition, and repair and suitable for the uses as specified in this Lease.

Lessee agrees to maintain the Premises in good condition and in compliance with all applicable property maintenance and related laws. Lessee releases the City from the obligation to maintain any portion of the Premises. Said release is part of the consideration for the rental of the Premises, and Lessee therefore waives all rights it may otherwise have under Sections 1941 and 1942 of the Civil Code.

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

Section 13 Alterations

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

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

Lessor or its representatives shall have the right to go upon and inspect the Demised Premises at all reasonable times and shall have the right to post and keep posted thereon notices of nonresponsibility, or such other notices which the Lessor may deem to be proper for the protection of the Lessor's interest in the Demised Premises.

Section 14 Use

Lessee agrees to use the Premises for its summer theater program, in accordance with the provisions and requirements contained in any permits required by the City of Escondido. Additionally, Lessee shall use the Premises for theater-related, non-

exclusive items of personal property, which storage shall meet the requirements of the City Planning Division, Community Services Director and any/all City regulations. Lessee shall have three months from the effective date of this lease to obtain proper storage. Lessee shall not use, nor permit the use of, the Premises other than as described. In any case where Lessee is, or should reasonably be, in doubt as to the propriety of any particular use, Lessee may request, and will not be in breach or default if Lessee abides by, the written determination of the Lease Administrator that such use is or is not permitted.

Section 15 Occupancy, Assignment and Subletting

The Premises shall only be occupied by Lessee except with prior written consent of the Lease Administrator. Lessee may not assign or sublease any interest in this Lease to any other party, at any time, including a transferee of a controlling interest in Lessee without written consent from the Lease Administrator. At least 30 days in advance of each season, Lessee shall provide to City for approval a list of all program partners anticipated to perform at the theater under this lease, along with a program schedule. It is understood by the Lessee that when not in use by Lessee, the amphitheater shall be available to the City to rent to third parties.

Section 16 Conduct

Lessee and guests of Lessee shall at all times conduct themselves in a quiet and dignified manner so as to cause no annoyance or inconvenience to neighbors of Lessee. Lessee shall not violate, or permit the violation of, any City or County ordinance, or state or federal law, in or about the Premises. Noncompliance by Lessee with any provision of this Section shall allow the Lease Administrator to terminate this Lease.

Section 17 Pets

No pets or livestock of any kind may be kept on the Premises without the prior written consent of the Lease Administrator.

Section 18 Notices

Any notice required or permitted to be given by this Lease must either be personally served on the other party or served by certified mail, return receipt requested, to the addressee. Notices served by mail shall be sent to the address listed above. A change of either party's address must also be immediately served in the manner described above.

Section 19 Right of Inspection

City reserves the right for its agents or employees to enter upon and inspect the Premises at any reasonable time to ascertain if Lessee is complying with the provisions of this Lease.

Section 20 Insurance

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

- A. General liability insurance with at least \$2 Million combined single-limit coverage per occurrence for bodily injury and property damage.
- B. Automobile liability insurance of \$1 Million combined single-limit per accident for bodily injury and property damage for any and all vehicles that are owned by the Lessee (if applicable).
- C. Workers' compensation and employer's liability insurance as required by the California Labor Code, as amended, or certificate of sole proprietorship.
- D. Commercial property insurance in an amount commensurate with the value of the improvements on the Premises.
- E. During the construction of Tenant Improvements, insurance in an amount no less than to cover construction risks, etc.

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

- F. Each policy must name the City specifically as an additional insured under the policy on a separate endorsement page, with the exception of the workers' compensation policy.
- G. 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.
- H. All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.

Lessee agrees to deposit with City, on or before the effective date of this Lease, one certificate of insurance for each of the policy or policies necessary to satisfy the insurance provisions of this Lease and to keep such insurance in effect during the entire term of this Lease. This certificate must be reviewed by, and acceptable to, the City Attorney, prior to commencement of the Lease Term. Lessee will also deposit with the City within 60 days of the Effective Date of this Lease, an additional insured endorsement naming City specifically and separately as an "additional

insured", with the exception of the worker's compensation policy. The appropriate endorsements described above shall follow within sixty (60) days. Noncompliance by Lessee with any provision of this Section shall allow the Lease Administrator to terminate this Lease.

City shall retain the right at any time to review the coverage, form and amount of the insurance required hereby. If, in the opinion of the Lease Administrator, the insurance provisions in this Lease do not provide adequate protection for City and for members of the public using the Premises, City may require Lessee to obtain insurance sufficient in coverage, form and amount to provide adequate protection from and against the kind and extent of risks which exist or are foreseeable at the time a change in insurance is required. City's requirements shall be reasonable, but shall be designed to assure adequate protection of the City's interests. The Lease Administrator shall notify Lessee in writing of changes in the insurance requirements and, if Lessee does not deposit with City within sixty (60) days of receipt of such notice a new Certificate of Insurance for each policy or policies of insurance incorporating such changes, this Lease shall be deemed in default without further notice to Lessee and may be forthwith terminated by the Lease Administrator.

The procuring of such required policy or policies of insurance shall not be construed to limit Lessee's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policy or policies of insurance, Lessee shall be obligated for the full and total amount of any damage, injury or loss attributable to any act or omission of it or its agents, customers or guests in connection with this Lease or with use or occupancy of the Premises.

Noncompliance by Lessee with any provision of this Section shall allow the Lease Administrator to terminate this Lease.

Section 21 Indemnification

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

Section 22 Attorney's Fees, Costs and Expenses

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

Section 23 Non-Discrimination

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

Section 24 Supersedure

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

Section 25 Hazardous and/or Contaminated Soil and Material

Lessee will not place or permit to be placed materials and/or contaminated soils on the premises which under federal, state, or local law, statute, ordinance, or regulations require special handling in collection, storage, treatment, and/or disposal. Lessee also hereby covenants and agrees that, if at any time it is determined there are materials and/or contaminated soils located on the premises which under any environmental requirement require special handling in collection, storage, treatment, or disposal, Lessee shall notify City. Within thirty (30) days after written notice to City or from City, Lessee shall commence to take and thereafter diligently complete, at Lessee's sole expense, such actions as may be necessary to comply with environmental requirements.

Section 26 Law to Govern; Venue

This Agreement is governed by the laws of the State of California. Venue for all actions arising from this Agreement must be exclusively in the North County Division of the San Diego County Superior Court or federal courts located in San Diego County, California.

Section 27 Special Provisions

Lessee hereby acknowledges that Lessee waives all rights to any form of relocation assistance provided for by local, state, or federal law to which Lessee may be entitled by reason of this Lease.

Section 28 Americans with Disabilities Act

It is the duty of the Lessee while operating under this Lease to comply with all local, state, and federal laws, including, but not limited to, the Americans with Disabilities Act and to indemnify City from any violation of any such law. Failure to comply with a provision of local, state, or federal law is grounds for the Lease Administrator's immediate termination of this Lease. The Premises being leased has not undergone inspection by a Certified Access Specialist.

Section 29 Amendment

This Agreement may not be amended, modified, or supplemented except by a writing executed both Parties.

Section 30 Waiver

No waiver by a Party of any provision of this Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision. The exercise by a Party of any right or remedy provided in this Agreement or provided by law shall not prevent the exercise by that Party of any other remedy provided in this Agreement or under the law.

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

CITY OF ESCONDIDO (LESSOR)

Date: _____

Debra Lundy, Real Property Manager

Date: _____

Diane Halverson, City Clerk

PATIO PLAYHOUSE (LESSEE)

Date: _____

By: _____

Print Name/Title

Date: _____

By: _____

Print Name/Title

APPROVED AS TO FORM:

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

By: _____



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 7
Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Debra Lundy, Real Property Manager
SUBJECT: Authorization to Acquire Right-of-Way and Expend Funds

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-154 authorizing the Real Property Manager to acquire each of the rights-of-way needed for the East Valley Parkway/Valley Center Road Project ("EVP/VCR" or "Project") and expend funds from the EVP/VCR Capital Improvement Project Budget accordingly.

FISCAL ANALYSIS:

The total right-of-way required for this project has been appraised. Up to \$67,450 will be paid to impacted property owners for the required right-of-way out of Capital Improvement Fund No. 690219.

PREVIOUS ACTION:

N/A

BACKGROUND:

As part of the City's adopted Circulation Element, East Valley Parkway/Valley Center Road will be widened to six lanes. The Project includes widening of the road to prime arterial standards, raised landscaped median, a single bike lane and curb/gutter/sidewalks in each direction. SDG&E utility undergrounding plans are being initiated and the Project is anticipated to be fully funded for construction in the summer of 2017.

The right-of-way acquisition required for the Project is fully funded and appraisals have been completed. Offers are in the progress of being made in accordance with Government Code section 7267.2(a). There are eight parcels, with seven owners, that will be impacted by the proposed Project:

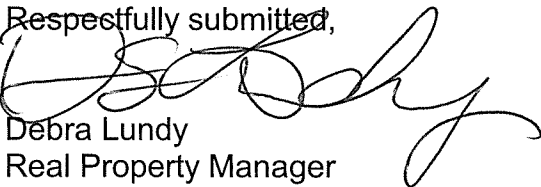
- APN: 240-020-31 (Lark & Sons, LLC)
- APN: 240-02-23 (Serrato Revocable Living Trust)
- APN: 240-020-27 (Norman Living Trust)
- APN: 240-011-12 & -13 (Smith Trust)
- APN: 240-011-01 (Toscano Family Trust)
- APN: 240-011-03 (Heath)
- APN: 240-301-09 (Jauregui Family Trust, et al)

EVP/VCR Right of Way Acquisition
September 2, 2015
Page 02

Of the impacted parcels, one owner has previously entered into an agreement with the City committing to the granting of the easement at no charge to the City (Lark & Sons) and a second owner has accepted the City's offer and signed the easement deeds (Norman).

Staff is seeking authority to engage in all the necessary action related to the acquisitions, which include the authority to accept and record each of the deeds, as well as expend funds to acquire each of the rights-of-way for this Project. All efforts will be made to acquire the rights-of-way by negotiation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'DLundy', written over the typed name 'Debra Lundy'.

Debra Lundy
Real Property Manager

RESOLUTION NO. 2015-154

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE REAL PROPERTY MANAGER, ON BEHALF OF THE CITY, TO ACQUIRE RIGHT-OF-WAY AND EXPEND RELATED FUNDS FOR THE EAST VALLEY PARKWAY/VALLEY CENTER ROAD PROJECT

APNs: 240-020-31(Lark & Sons, LLC); 240-02-23 (Serrato Living Trust); 240-020-27 (Norman Living Trust); 240-011-12 & -13 (Smith Trust); 240-011-01 (Toscano Family Trust); 240-011-03 (Heath); and 240-301-09 (Jauregui Family Trust, et al)

WHEREAS, the City has designed a road widening project to increase East Valley Parkway/Valley Center Road to six lanes ("Project") in accordance with the City's adopted Circulation Element; and

WHEREAS, certain rights-of-way will be required for the Project, which areas have been appraised; and

WHEREAS, offers are in progress in accordance with Government Code section 7267.2(a); and

WHEREAS, there are eight parcels, with seven owners that will be impacted by the proposed Project; and

WHEREAS, City Council deems it to be in the best interest of the City to acquire the rights-of-way necessary for the Project.

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

1. That the above recitations are true and correct.

2. That the City Council authorizes the Real Property Manager to engage in all the necessary action related to the acquisitions, which include the authority to accept and record each of the deeds, as well as expend funds to acquire each of the rights-of-way for this Project.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 8

Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council

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

SUBJECT: Write-off of City Receivables Budget Adjustment – Fiscal Year 2014/2015

RECOMMENDATION:

It is requested that Council approve the write-off of various receivables and related budget adjustment

FISCAL ANALYSIS:

The total amount of the write-off is \$237,356.07. All reasonable means of collection and/or recouping funds have been completed. This write off of uncollectable loans is necessary to accurately report the City's overall financial status without overstating assets.

PREVIOUS ACTION:

On December 12, 2012 the City Council adopted Resolution No. 2012-172 establishing policies for uncollectible receivables and setting the standards of when the City should remove the receivable from the financial records. In accordance with the policy all amounts over \$5,000 are being submitted to the City Council as a group.

BACKGROUND:

The current fiscal year write off includes sixteen housing loans. A list of accounts is attached in Exhibit A.

HOUSING LOAN WRITE-OFFS:

The Housing Division currently oversees 636 active home assistance loans made to promote home ownership, and provide safe and sanitary housing for target households. The funding for these loans has the express purpose of assisting households with specific income limitations and has no bearing on the General Fund.

Housing Division staff works closely with the City Attorney's office regarding all housing loan defaults, foreclosures, and settlement negotiations with property owner and/or their representatives in an effort to secure partial payment opportunities prior to writing off loans. Over the past three years, Housing Division staff has worked to clean-up its loan portfolio to better reflect anticipated loan receivables.

The initial focus was on the two first-time homebuyer programs. In June 2014, Housing completed the clean-up of old loans issued to first-time homebuyers and began to focus on old owner-occupied rehabilitation loans.

The current loan write-off request is composed of three groups. The first group of loans is for first-time homebuyer loans that completed the foreclosure or short-sale process during the current fiscal year. There are five (5) loans with a total write-off amount of \$73,856.70. The Housing Division initiated a more rigorous loan screening process in 2012 involving front-end and back-end ratios, and "gap" analysis. Applicants involved in this cycle's housing loan write-offs were provided prior to 2012 and did not undergo this new screening process.

The second group of loans is for mobile home rehabilitation loans that completed the warehouse lien process or short-sale during the current fiscal year. There are two (2) loans with a total write-off of \$20,498.37.


The final group of loans is for the clean-up of the mobile home rehabilitation loans. This group of write-offs is for loans that have completed the warehouse lien process and the mobile homes are no longer occupied by the individual borrowers. There are nine (9) loans with a total write-off amount of \$143,001. This group of loans represents the completion of Housing's efforts to clean-up old and closed files within its loan programs.

In considering the write-off of these uncollectable loans, the Council should note:

- The highest percentage of housing loan write-offs involves assisting mobile home residents.
- In many other jurisdictions, the funding is written as grants, eliminating any opportunity for repayments to be recycled back into housing programs.
- Rehabilitation projects were concentrated on bringing highly deteriorated housing to a decent, safe and sanitary level without a focus on the sustainability of the program. Typical work included repairs due to leaks and water damage, repairing or replacing stairs, replacing worn flooring and kitchen/bathroom repairs.
- Most of the loans being written off were not paid when the borrower died or had to move (the median age of these borrowers was 71 years old for loans made between 1990 and 2010) due to changes in the mobile home market.

A new owner-occupied rehabilitation program has been funded through a state grant for work on single family homes and mobile homes. Assistance for mobile home owners will be in the form of a long-term forgivable loan with more a vigorous screening process.

Respectfully submitted,



Sheryl Bennett
Director of Administrative Services



Joan Ryan
Assistant Finance Director

**CITY OF ESCONDIDO FINANCE DEPARTMENT
 WRITE-OFF REQUEST (Greater Than \$5,000)
 FOR THE FISCAL YEAR ENDING JUNE 30, 2015**

<u>Account Type</u>	<u>Justification</u>	<u>Amount</u>
First Time Homebuyer Loan - HOME	Foreclosure (2015)	10,000.00
First Time Homebuyer Loan - HOME	Short Sale (2014)	7,856.70
First Time Homebuyer Loan - HELP	Foreclosure/Trustee Sale (2014)	25,000.00
First Time Homebuyer Loan - HELP	Foreclosure/Trustee Sale (2015)	13,500.00
First Time Homebuyer Loan - HELP	Short Sale (2014)	17,500.00
Mobilehome Rehabilitation Loan	Deceased (2015)	498.37
Mobilehome Rehabilitation Loan	Deceased (2015)	20,000.00
Mobilehome Rehabilitation Loan	Deceased (2012)	20,000.00
Mobilehome Rehabilitation Loan	Foreclosure (2011)	19,867.00
Mobilehome Rehabilitation Loan	Foreclosure (2013)	20,000.00
Mobilehome Rehabilitation Loan	Foreclosure (2011)	15,000.00
Mobilehome Rehabilitation Loan	Foreclosure (2012)	19,697.00
Mobilehome Rehabilitation Loan	Foreclosure (2013)	19,532.00
Mobilehome Rehabilitation Loan	Deceased (2012)	16,355.00
Mobilehome Rehabilitation Loan	Deceased (2011)	7,050.00
Mobilehome Rehabilitation Loan	Deceased (2011)	5,500.00

Total Fiscal Year 2014/2015 Write Off \$ 237,356.07

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9
Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Sheryl Bennett, Director of Administrative Services
SUBJECT: Year 2016 Holidays

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-155 to designate the days that City offices will be closed in the year 2016 for holiday observances.

FISCAL ANALYSIS:

None

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

Not applicable.

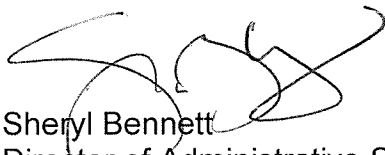
PREVIOUS ACTION:

Each year the City Council adopts a resolution, as required by State law, to designate the days that City offices will be closed for holiday observances.

BACKGROUND:

Holidays are considered to be an employee benefit and are, therefore, a part of the negotiation process with our various bargaining units. There are ten recognized holidays each year.

Respectfully submitted,



Sheryl Bennett
Director of Administrative Services



Clay Phillips
City Manager

RESOLUTION NO. 2015-155

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
DESIGNATING HOLIDAYS ON WHICH CITY
OFFICES SHALL BE CLOSED FOR
CALENDAR YEAR 2016

WHEREAS, Section 6700 of the California Government Code designates days that are holidays in the State; and

WHEREAS, Section 6702 of the California Government Code provides that City offices shall be closed on designated State holidays unless otherwise provided by the City; and

WHEREAS, this City Council desires and deems it to be in the best public interest to designate those holidays on which City offices will be closed;

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 public offices of the City shall be closed on the following dates set forth in Exhibit "A" attached to this resolution and incorporated by this reference.

City Recognized Holidays Year 2016

New Year's Day	Friday, January 1, 2016
Martin Luther King Day	Monday, January 18, 2016
Presidents' Day	Monday, February 15, 2016
Memorial Day	Monday, May 30, 2016
Independence Day	Monday, July 4, 2016
Labor Day	Monday, September 5, 2016
Veterans' Day	Friday, November 11, 2016
Thanksgiving Day	Thursday, November 24, 2016
Day after Thanksgiving	Friday, November 25, 2016
Christmas Day	Sunday, December 25, 2016 <i>Observed Monday, December 26, 2016</i>

***The following facilities will close at 3:00 pm on Saturday, December 24, 2016 and Saturday, December 31, 2016:*

- *Escondido Public Library*
- *Park Avenue Community Center*
- *East Valley Community Center*
- *Sports Center at Kit Carson Park*

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 10
Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Christopher W. McKinney, Utilities Director

SUBJECT: Continuing Emergency and Need to Repair the Escondido Sewer Outfall in the Escondido Creek

RECOMMENDATION:

The Utilities Department requests that Council adopt Resolution No. 2015-153 declaring that, pursuant to the terms of Section 22050 of the California Public Contract Code, the City Council finds there is a need to continue the emergency action and pass a resolution by four-fifths vote declaring that public interest and necessity demand the expenditure to safeguard life, health, or property.

FISCAL ANALYSIS:

Funding for this emergency sewer outfall work is available in the Wastewater Fund. The contract is a Time and Materials contract, meaning that the contractor will bill for staff time, equipment, and construction materials necessary to complete the repairs. The contract value is not to exceed \$350,000 without further Council approval.

BACKGROUND:

Existing flow in Escondido Creek is undermining supporting material from beneath the pipeline, and emergency action is required to replace the wire mesh and rock to prevent failure of the Sewer Outfall. Such failure could result in discharge of millions of gallons of secondary treated wastewater into Escondido Creek, which would violate terms of our existing discharge permits and expose the City to significant liability.

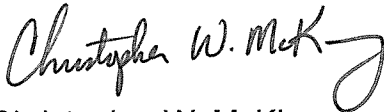
Previously, the City Council adopted Resolution No. 2015-128, approving an emergency contract with TC Construction Company, Inc. to immediately begin the process to repair the Sewer Outfall. Then on August 5 and August 19, 2015, the City Council adopted Resolution Nos. 2015-137 and 2015-148 approving the continuation of the emergency action to repair the Sewer Outfall.

City Staff has been working with HELIX Environmental Planning, Inc. to insure compliance with environmental regulations (completion of Environmental Constraints and Opportunities Mapping and Bird Survey's) and proper notifications of environmental agencies. A survey of the site and the design

Continuing Emergency and Need to Repair the Escondido Sewer Outfall in the Escondido Creek
September 2, 2015
Page 2

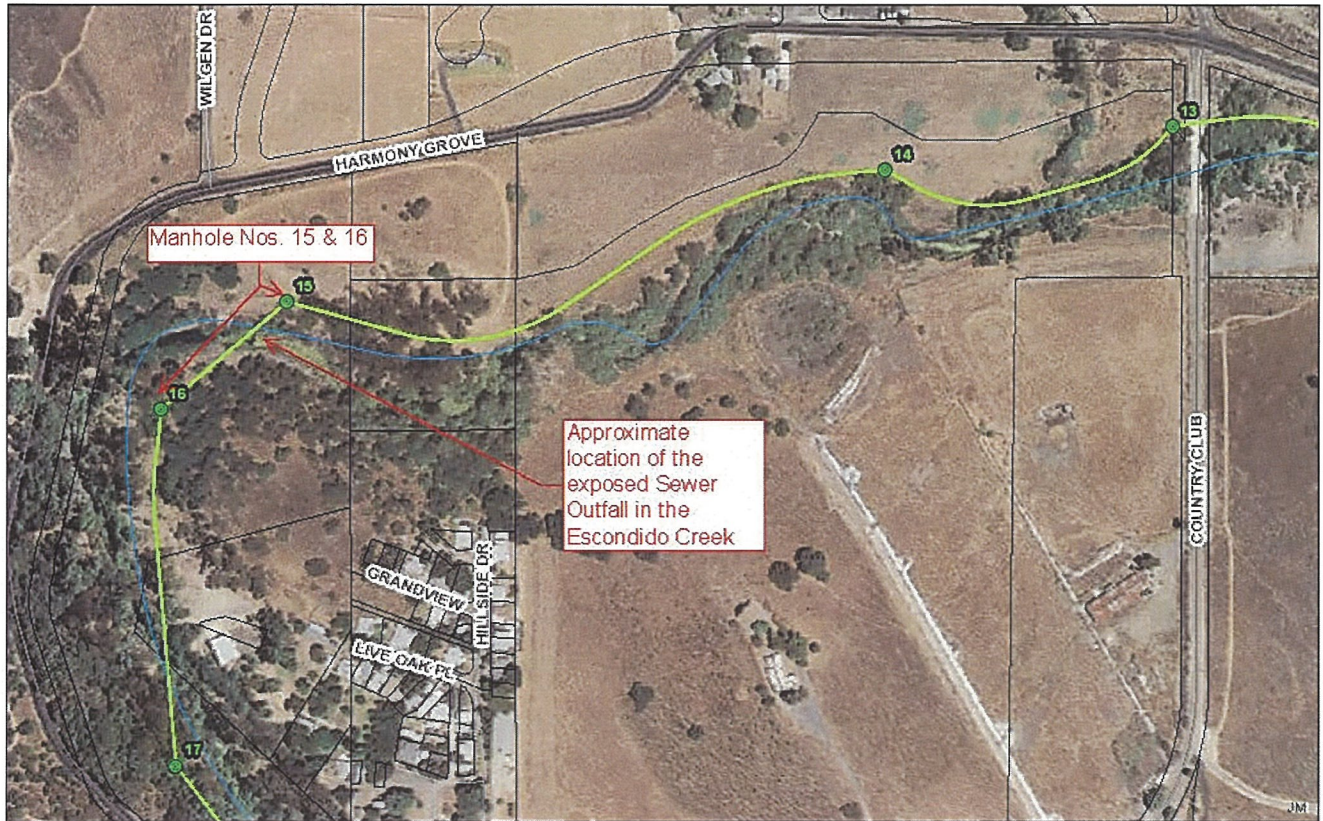
for the repair has been completed. All the necessary environmental agencies have approved the project, and construction to repair the Sewer Outfall began August 7. Construction is presently ongoing. However, the contractor's work schedule is being driven by limited access to excavate around and underneath the pipe, the provision of proper support for the pipe during construction, and daily removal of water from the trench due to groundwater infiltration. Furthermore, now that the pipe is exposed, hand-digging is required to avoid damaging the pipe with the large equipment. These site conditions have delayed the anticipated completion date until September 17, 2015.

Respectfully submitted,

A handwritten signature in black ink that reads "Christopher W. McKinney". The signature is written in a cursive style with a large, sweeping flourish at the end.

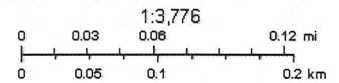
Christopher W. McKinney
Director of Utilities

Continuing Emergency and Need to Repair the Escondido Sewer Outfall in the Escondido Creek
 September 2, 2015
 Page 3



June 30, 2015

- Escondido City Boundary
- Blue: Band_3
- Red: Band_1
- Green: Band_2
- Escondido Sewer Outfall



DISCLAIMER: This Map is provided without warranty of any kind, either expressed or implied. By accepting this material you agree the City of

RESOLUTION NO. 2015-153

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
FINDING THAT AN EMERGENCY CONTINUES
TO REQUIRE THE IMMEDIATE REPAIR OF
THE ESCONDIDO SEWER OUTFALL IN THE
ESCONDIDO CREEK

WHEREAS, the City Council recognizes that the existing protective mesh and rock installed around the Escondido Sewer Outfall ("Outfall") is deteriorated and no longer exists causing the Outfall to be exposed and subject to a catastrophic failure; and

WHEREAS, the water flowing down Escondido Creek is undermining the supporting soil around the Outfall and creating a potential point of failure; and

WHEREAS, pursuant to Resolution No. 2015-128, the City Council previously found that the damage to the Outfall was an emergency and approved the agreement entered into with TC Construction Company, Inc. in an amount not to exceed three hundred fifty thousand dollars (\$350,000) ("Agreement"); and

WHEREAS, pursuant to Resolution Nos. 2015-137 and 2015-148, the City Council previously approved the continuation of the emergency action; and

WHEREAS, pursuant to Section 22050 of the Public Contract Code, the City Council must review the emergency action every 14 days and determine by a four-fifths vote there is a need to continue the action; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to continue the emergency action;

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

1. That the above recitations are true.
2. That the Mayor and City Council finds the damage to the outfall is a public health and safety emergency, that this emergency will not permit the delay that would result from a competitive bidding process, and that the action is still necessary to respond to the emergency requiring immediate repair of the Outfall.

CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 11

Date: September 02, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Barbara Redlitz, Director of Community Development
SUBJECT: Serenity Village Loan Modification (File No.: 0873-11)

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-156 authorizing HealthRIGHT 360 to assume the affordable housing loans made to North County Serenity House, Inc. ("NCSH") in order to continue operation of Serenity Village, located at 643, 637, 627, and 619 E. 2nd Avenue, as a transitional housing facility; and authorizing the Mayor and City Clerk to execute an assumption and modification agreement, and supporting agreements with HealthRIGHT 360, in a form acceptable to the City Attorney.

FISCAL ANALYSIS:

There will be no effect on the General Fund. No new affordable housing funds will be added to the project. The City has made two non-interest bearing affordable housing loans to NCSH.

PREVIOUS ACTION:

On August 22, 2001, the Community Development Commission of the City of Escondido ("CDC") approved a \$300,000 forgivable loan from the Low and Moderate Income Housing Set-Aside Fund ("Set-Aside") to NCSH for the purchase of real property located on Second Avenue.

On November 20, 2002, City Council approved a \$300,000 forgivable HOME loan for the construction of four additional units of transitional housing on the property owned by NCSH.

BACKGROUND:

Serenity Village is an existing 8-unit transitional housing development that provides affordable transitional housing to extremely low-income women in recovery from alcohol and/or drug abuse, which opened in 2007. No rehabilitation of the development is necessary at this time.

In November 2011 the City of Escondido became aware of financial issues at NCSH. In May 2012 the City received a letter from Executive Director Jim Jackson informing the City that NCSH was going to lease two of the cottages to another non-profit, which would be subject to all previous agreements, including regulatory agreements. Subsequently, it was determined that NCSH's activities violated the signed regulatory agreements. After working with HUD and the other governmental lenders for the project, Serenity Village was brought back into compliance.

In January 2014, the NCSH entered into an agreement to merge with HealthRIGHT 360, a San Francisco-based health care non-profit, which opened its doors in 1967. HealthRIGHT 360 has been expanding its services and service area in recent years. As of June 30, 2014, HealthRIGHT 360 has \$46,320,000 in assets and experience with local, state, and federal funding.

Assumption of the current loans is necessary for the merger and required City approval. The merger will allow for the continued operation as transitional housing and future stability of Serenity Village. At the completion of the merger, NCSH will dissolve as a legal entity. This action will preserve the current affordability of the development.

Respectfully submitted,



Barbara Redlitz
Director of Community Development



Karen Youel
Management Analyst

RESOLUTION NO. 2015-156

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING HEALTHRIGHT 360 TO ASSUME THE AFFORDABLE HOUSING LOANS FOR SERENITY VILLAGE, LOCATED AT 643, 637, 627, AND 619 E. 2ND AVENUE; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, ALL NECESSARY AGREEMENTS, LOAN DOCUMENTS AND GRANT DEEDS

(File No.: 0873-11)

WHEREAS, on August 22, 2001, the Community Development Commission of the City of Escondido ("CDC") approved a \$300,000 forgivable loan from the Low and Moderate Income Housing Set-Aside Fund ("Set-Aside") to NCSH for the purchase of real property located on Second Avenue; and

WHEREAS, on November 20, 2002, City Council approved a \$300,000 forgivable HOME loan for the construction of four additional units of transitional housing on the property owned by NCSH; and

WHEREAS, North County Serenity House, Inc ("NCSH") requests that the City allow them to merge with HealthRIGHT 360 to better serve their clients; and

WHEREAS, the City desires at this time, and deems it to be in the best public interest to allow for the new merged non-profit to assume the debt of NCSH, and to authorize the execution of all agreements, loan documents and grant deeds necessary for the preservation of affordable housing.

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 approves the merger of NCSH and HealthRIGHT 360 and assumption of existing affordable housing loans by the entity.
3. That the Mayor and City Clerk are hereby authorized to execute, on behalf of the City, in a form approved by the City Attorney, any agreements and loan documents necessary to provide such funds and property for the development of affordable housing.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 12
Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council

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

SUBJECT: Housing Related Parks Program Budget Adjustment

RECOMMENDATION:

It is requested that Council approve budget adjustments totaling \$685,450 for park improvement projects in conjunction with the award of Program Year (PY) 2014 Housing Related Parks (HRP) Program funds from the Department of Housing and Community Development (HCD).

FISCAL ANALYSIS:

The City was informed of a PY 2014 HRP award of \$685,450 on June 26, 2015. No match is required.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

This item relates to the Council's Action Plan regarding Neighborhood Improvement through maintenance of recreational facilities, programs and parks.

PREVIOUS ACTION:

The City received \$251,750 in PY 2011 HRP funds for improvements to Grape Day Park, Jim Stone Pool, and Washington Park. The City received \$674,850 in PY 2013 HRP funds for improvements to Jim Stone Pool, Washington Park Pool, and East Valley Community Center.

On January 14, 2015, Council authorized an application to HCD for PY 2014 HRP Program funds and the acceptance of grant funds if awarded, via Resolution No. 2015-16.

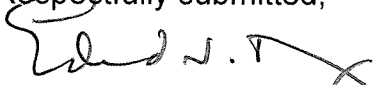
BACKGROUND:

The CA Department of Housing and Community Development (HCD) administers the Housing-Related Parks (HRP) Program (Program) which was designed to encourage cities and counties to develop new residential housing by rewarding those jurisdictions that approve housing affordable to lower-income households. The HRP Program was funded through Proposition 1C, the Housing and Emergency

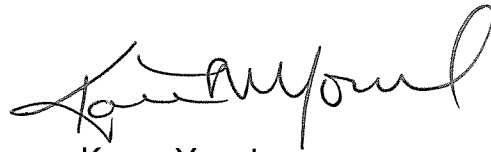
Shelter Trust Fund Act of 2006, Health and Safety Code Section 53545, subdivision (d) and originally established pursuant to Chapter 641, Statutes of 2008 (AB 2494, Caballero), at Chapter 8 of Part 2 of Division 31 of the Health and Safety Code (commencing with Section 50700) and subsequently amended pursuant to Chapter 779, Statutes 2012 (AB 1672, Torres).

Staff requests that PY 2014 HRP funds be allocated to the seven projects in the HRP application: \$30,050 for playground equipment at Grape Day Park; \$50,000 and \$10,400 respectively for painting and improvements to Washington Park Pool and Jim Stone Pool; \$275,000 for shade structure improvements, painting, carpeting and kitchen/bathroom improvements at Park Avenue Community Center (PACC), \$35,000 for painting at East Valley Community Center (EVCC); \$59,000 for painting and fencing improvements to Oak Hill Activity Center, and \$226,000 for reroofing and repainting the Santa Fe Depot in Grape Day Park.

Respectfully submitted,



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



Karen Youel
Management Analyst

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 13

Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Edward N. Domingue, Public Works Director/City Engineer
Dan Higbee, Construction Project Manager
SUBJECT: Notice of Completion for Tract 874 – Ferrara Court

RECOMMENDATION:

It is requested that Council approve and accept the public improvements and authorize staff to file a Notice of Completion for Tract 874 – Ferrara Court.

FISCAL ANALYSIS:

No direct fiscal impact.

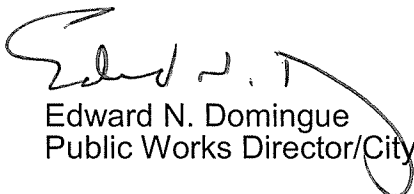
PREVIOUS ACTION:

The final map was recorded on August 14, 2015.

BACKGROUND:

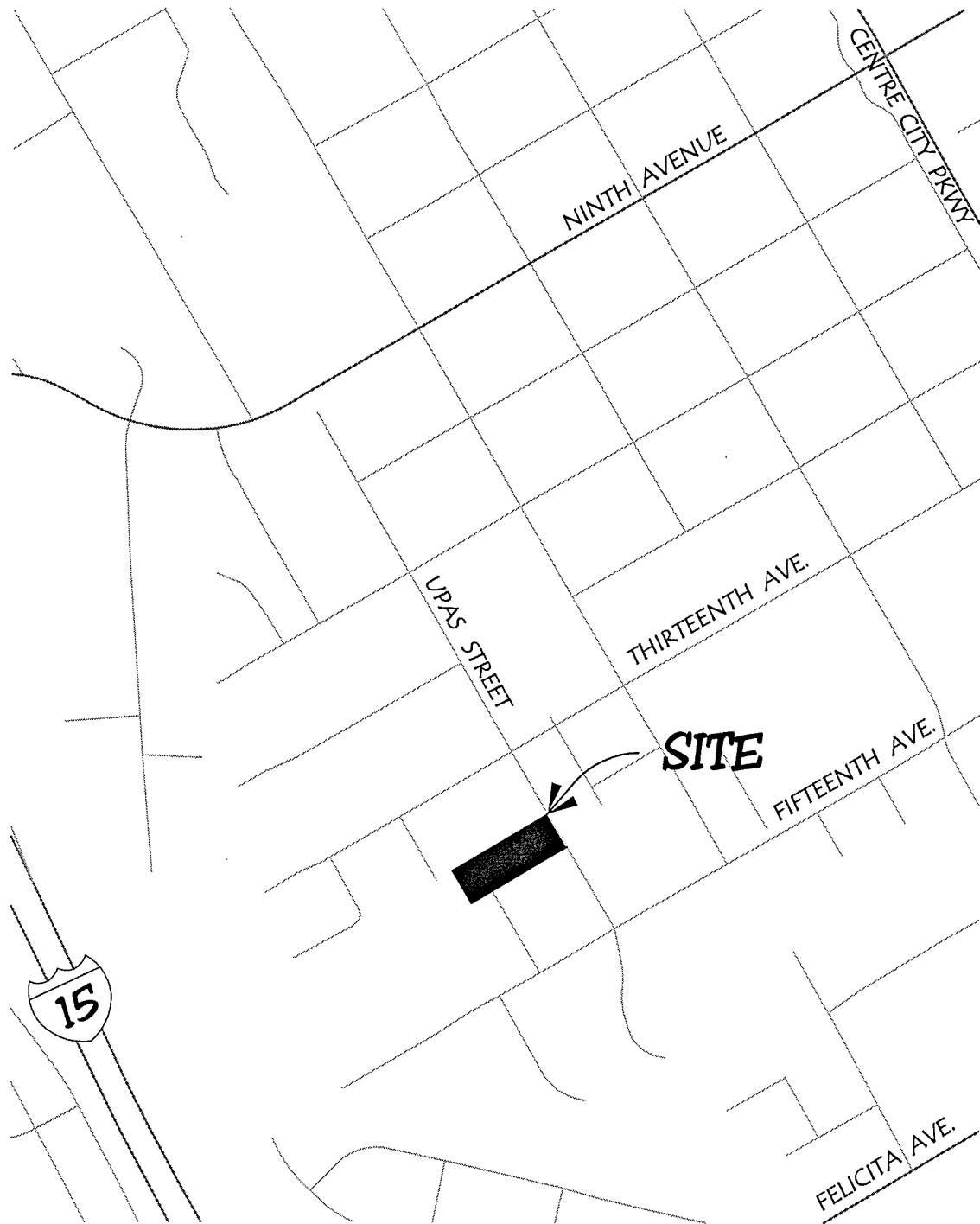
Tract 874 is a four (4) lot residential development located at 1401, 1404, 1406 and 1412 Ferrara Court; formerly 1321 and 1355 Upas Street. The project included installation of new sidewalks, curb and gutter, street improvements, service and lateral connections to existing water and sewer mainlines.

Respectfully submitted,


Edward N. Domingue
Public Works Director/City Engineer


Dan Higbee,
Construction Project Manager

TRACT 874 - FERRARA COURT



NOTICE OF COMPLETION
CITY COUNCIL MEETING 08-20-2015





CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 14
Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Samantha Foulke, Deputy City Attorney
SUBJECT: Amendment of Escondido Municipal Code Section 20-2

RECOMMENDATION:

It is requested that Council introduce Ordinance No. 2015-18.

BACKGROUND:

In May of 2007, City Council approved a change to the composition of the Planning Commission which allowed one member to reside outside the city limits so long as the residence was within the geographic area covered by the City's general plan. Prior to that change, Section 20-2 required only that commission members reside within the general plan area. The proposed amendment would permit up to three members of the seven member commission to reside within the City's sphere of influence outside the city limits.

The Planning Commission should include members of the general public and licensed design professionals. The proposed amendment will increase the number of qualified applicants for commission membership. The proposed language for Section 20-2 of the Escondido Municipal Code is attached in redline form for your consideration and will be adopted by Ordinance No 2015-18.

Respectfully submitted,

SAMANTHA FOULKE
Deputy City Attorney

Attachments: Escondido Municipal Code Chapter 20, Section 20-2 (Attachment A)

Attachment A

The planning commission created by this chapter shall consist of seven (7) members who shall be appointed by the city council. All members must reside within the geographic area covered by the city's general plan and no more than ~~three~~ one (3-1) members may reside outside the city limits. The planning commission should include members of the general public and licensed design professionals. Members of the planning commission shall serve at the pleasure of the council, and may be removed from office at any time, without cause.

ORDINANCE NO. 2015-18

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AMENDING ESCONDIDO MUNICIPAL CODE
CHAPTER 20 PLANNING COMMISSION,
SECTION 20-2

WHEREAS, the City of Escondido seeks to amend Escondido Municipal Code Section 20-2 to permit no more than three (3) members of the Planning Commission to reside outside the city limits so long as the residence is within the geographic area covered by the city's general plan.

Now, therefore, the City Council of the City of Escondido, California, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That Escondido Municipal Code Chapter 20 Planning Commission, Section 20-2, is hereby repealed and replaced as follows:

Sec. 20-2. Composition; appointment of members.

The planning commission created by this chapter shall consist of seven (7) members who shall be appointed by the city council. All members must reside within the geographic area covered by the city's general plan and no more than three (3) members may reside outside the city limits. The planning commission should include members of the general public and licensed design professionals. Members of the planning commission shall serve at the pleasure of the council, and may be removed from office at any time, without cause.

SECTION 2. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by

any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

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

SECTION 4. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be prepared in accordance with Government Code section 36933, 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.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 15

Date: September 2, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Christopher McKinney, Director of Utilities

SUBJECT: Pass-through of Penalties for Excessive Use of Agricultural Water in FY 2016

RECOMMENDATION:

The Utilities Department requests that Council adopt Resolution No. 2015-130 approving pass-through of any future penalties imposed by the San Diego County Water Authority (SDCWA) for delivery of agricultural water in excess of delivery limits imposed on customers participating in the Transitional Special Agricultural Water Rate (TSAWR) and the Special Agricultural Water Rate (SAWR).

BACKGROUND:

The Transitional Special Agricultural Water Rate (TSAWR) is a rate consideration given to commercial agricultural water users meeting certain eligibility requirements and voluntarily choosing to participate in the program. Participants pay less per unit volume of water than members of other customer classes. The lower rate for TSAWR customers is given with the understanding that they will not benefit from emergency storage projects constructed by the San Diego County Water Authority (SDCWA). Because they do not benefit from additional emergency storage, they do not support the funding of these storage projects with their water rates (hence their lower rate for water). In times of curtailed supply, water deliveries to them will be reduced before limits will be imposed on other customers.

On May 14, 2015, the Board of Directors of the SDCWA authorized a limit on water deliveries to TSAWR customers. Deliveries to these customers will be limited in Fiscal Year (FY) 2016 (July 2015 through June 2016) to 15% less than deliveries during FY 2015. SDCWA calculations of the water delivery limits are done at the retail agency level (e.g., Escondido) and are not calculated for individual customers. For the City of Escondido in FY 2016, total deliveries to TSAWR customers over 2,750 acre-feet (af) will be subject to a financial penalty.

Table 1 on the following page details the penalties that will be imposed on the City of Escondido if deliveries to TSAWR customers during Fiscal Year 2016 are in excess of the limit of 2,750 af.

TABLE 1 – PENALTIES FOR EXCESS TSAWR DELIVERIES IN FY 2016

Use by TSAWR Customers as a Percentage of the Allocation	Total Use by all TSAWR Customers within the Escondido Water Service Area (in acre-feet)	Penalty	
		Per acre-foot	Per 1,000 gallons
Up to 100%	Up to 2,750	No penalty	No penalty
100% to 115%	More than 2,750 and up to 3,162	\$1,480	\$4.54
More than 115%	Equal to or more than 3,163	\$2,960	\$9.08

Referencing the table above, one can see that if total TSAWR deliveries are 3,000 af, the SDCWA will charge a penalty of \$370,000 (250 af x \$1,480 per af). If total TSAWR deliveries are 3,200 af, the SDCWA will charge a penalty of \$722,240 ([412 af x \$1,480 per af] + [38 af x \$2,960 per af]).

Utilities staff recommend passing through to TSAWR customers any penalties imposed by the SDCWA for excess deliveries. In no case will the penalty charged to individual customers per af of overuse exceed the penalty imposed by the SDCWA per af of overuse. However, the exact amount of penalties that will be charged, if any, will not be known until FY 2016 deliveries are tabulated.

The SDCWA will calculate penalties based on the total deliveries to Escondido for TSAWR customers. It is possible that some customers will exceed the individual limit while the total deliveries to Escondido are below the penalty limit. In this case, no penalty will be charged to any customers.

In June 2015, the Utilities Department notified each TSAWR customer of his or her individual annual water use limit for FY 2016 based on the amount of water used in FY 2015. Staff propose that any penalty imposed by the SDCWA be passed-through to only those TSAWR customers that exceed their individual FY 2016 water use limit. These limits have been calculated for individual customers using the same methods that the SDCWA used to calculate the agency-wide delivery limit. For example, if 10 customers are over the individual limit and the City is charged a penalty of \$10,000, each of these 10 customers will be charged a fraction of the \$10,000 penalty equal to the that customer's fraction of the excess use by those 10 customers.

DEFINITIONS OF TERMS TO BE USED IN PROPOSED METHODS AND FORMULAS FOR CALCULATING INDIVIDUAL PENALTIES

The following defined terms will be used throughout the remainder of this staff report:

“Individual Annual Limit” shall mean that water volume previously fixed for each customer of the Transitional Special Agricultural Water Rate (“TSAWR”) as that customer’s limit for water deliveries from the City for the period between July 1, 2015 and June 30, 2016.

“Type 1 Penalty” shall mean that amount of financial penalty which has been imposed on the City of Escondido by the San Diego County Water Authority for total TSAWR water use of at least 2,750 af but not more than 3,162 af for the period between July 1, 2015 and June 30, 2016. The rate of this penalty will be \$1,480 per af.

“Type 2 Penalty” shall mean that amount of financial penalty which has been imposed on the City of Escondido by the San Diego County Water Authority for total TSAWR water use more than 3,162 acre feet for the period between July 1, 2015 and June 30, 2016. The rate of this penalty will be \$2,960 per af.

“Individual Excess Delivery” shall mean water volume by which an individual customer exceeded their Individual Annual Limit.

“Total Individual Excess Deliveries” shall mean the sum total water volume of Individual Excess Deliveries to all customers who exceeded their Individual Annual Limit.

“Minor Excess” shall mean an Individual Excess Delivery that is up to 15% in excess of the Individual Annual Limit.

“Major Excess” shall mean an Individual Excess Delivery that is greater than 15% in excess of the Individual Annual Limit.

“Total Individual Minor Excess Deliveries” shall mean the sum total volume of Individual Excess Deliveries to all customers who exceeded their Individual Annual Limit that falls under the category of Minor Excess. This sum will include the portion of Individual Excess Delivery for customers whose deliveries constitute a Major Excess that is up to 15% over these customers’ Individual Annual Limits.

PROPOSED METHODS AND FORMULAS FOR CALCULATING INDIVIDUAL PENALTIES

The following methods and formulas are proposed by staff to calculate the penalties to be charged to individual customers in the event that the City is charged penalties by the SDCWA. Three examples follow this section to illustrate actual penalty calculations. The numbers of the examples in the following section corresponds to the number of the calculation method in this section.

- 1. If total deliveries to the City are equal to or less than 2,750 af, no penalty will be charged to the City by the SDCWA and no penalty will be charged to any TSAWR customer, even those exceeding the Individual Annual Limit.**
- 2. To the extent the City is charged a Type 1 Penalty by the SDCWA, each customer will be charged as follows:**
 - a. For customers that do not exceed their Individual Annual Limit, no penalty will be charged.

- b. Otherwise, the penalty for a sample Customer A will be calculated by:

$$\text{Customer A Penalty} = (\text{Total City Penalty}) \times (\text{Customer A Individual Excess Delivery} \div \text{Total Individual Excess Deliveries})$$

3. To the extent the City is charged a Type 2 Penalty by the SDCWA, each customer will be charged as follows:

- a. For customers that do not exceed their Individual Annual Limit, no penalty will be charged.

- b. For customers with no Major Excess (i.e. customers who exceed the Individual Annual Limit by no more than 15%), the penalty for a sample Customer B will be calculated by:

$$\text{Customer B Penalty} = \$609,760 \times (\text{Customer B Excess Deliveries} \div \text{Total Individual Minor Excess Deliveries})$$

*Note: \$609,760 is the max. Type 1 Penalty for the entire City
\$609,760 = 412 af x \$1,480 per af
412 af = 3,162 af – 2,750 af*

- c. For customers with a Major Excess, the penalty for a sample Customer C shall be the sum of two separate formulas and will be calculated as follows:

- i. First, Customer C's penalty for Minor Excess will be calculated by:

$$\text{Customer C Type 1 Individual Penalty} = \$609,760 \times (\text{Customer C Minor Excess} \div \text{Total Individual Minor Excess Deliveries})$$

- ii. Second, Customer C's penalty for Major Excess will be calculated by:

$$\text{Customer C Type 2 Individual Penalty} = \$2,960 \times (\text{Customer C Major Excess})$$

Note: \$2,960 per af is the penalty for deliveries over 115% of the limit.

- iii. The total penalty shall be calculated by:

$$\text{Total Customer C Penalty} = \text{Customer C Type 1 Individual Penalty} + \text{Customer C Type 2 Individual Penalty}$$

EXAMPLES TO ILLUSTRATE PROPOSED RATE IMPACTS

To assist customers in understanding how potential penalties will be passed through, pending Council approval, the following three examples are provided:

EXAMPLE 1: TEN TSAWR CUSTOMERS EXCEED THEIR INDIVIDUAL ANNUAL LIMITS; ALL OTHER TSAWR CUSTOMERS ARE AT OR BELOW THEIR INDIVIDUAL ANNUAL LIMITS; THE TOTAL WATER VOLUME DELIVERED TO ALL CUSTOMERS IS AT OR BELOW THE CITY'S LIMIT.

Result if pass through is approved: In this case, the City would not be charged a penalty by the SDCWA because the City's water deliveries to TSAWR customers did not exceed the limit. Therefore, no customers – even those who exceeded their individual annual limits – will pay a penalty.

EXAMPLE 2: TEN TSAWR CUSTOMERS EXCEED THEIR INDIVIDUAL ANNUAL LIMIT BY A TOTAL OF 200 ACRE-FEET; ALL OTHER TSAWR CUSTOMERS ARE BELOW THEIR INDIVIDUAL ANNUAL LIMIT BY A TOTAL OF 100 ACRE-FEET; THE TOTAL WATER VOLUME DELIVERED TO ALL CUSTOMERS IS IN EXCESS OF THE CITY'S LIMIT BY 100 ACRE-FEET.

Result if pass through is approved: In this case, the City would be charged a penalty of \$148,000 (\$1,480 per acre-foot x 100 acre-feet). This penalty will be distributed among the customers whose deliveries exceeded their individual annual limits. Other customers will receive no penalty. The fraction of the total penalty charged to each overusing customer will be equal to the fraction of the total overuse that is attributed to that individual customer. In this particular example, a customer who used 20 acre-feet in excess of their individual annual limit would be charged a penalty of \$14,800 (that is, 10% of the total penalty) because that customer's overuse was 10% of the total overuse of those exceeding their individual annual limits.

EXAMPLE 3: TEN TSAWR CUSTOMERS EXCEED THEIR INDIVIDUAL ANNUAL LIMIT BY A TOTAL OF 1,000 ACRE-FEET; ALL OTHER TSAWR CUSTOMERS ARE BELOW THEIR INDIVIDUAL ANNUAL LIMIT BY A TOTAL OF 500 ACRE-FEET; THE TOTAL WATER VOLUME DELIVERED TO ALL CUSTOMERS IS IN EXCESS OF THE CITY'S LIMIT BY 500 ACRE-FEET.

Result if pass through is approved: In this case, the City would be charged a penalty of \$870,240 ([\$1,480 per acre-foot x 412 acre-feet] + [\$2,960 per acre-foot x 88 acre-feet]). In this example, 88 acre-feet of the overuse is penalized at the higher rate. As with example 2, this penalty will be distributed among the customers whose deliveries exceeded their individual annual limits. Since the penalty charged in this example covers both penalty bands (Type 1 and Type 2 Penalties), the fraction of the penalties charged to each customer will be equal to the fraction of that customer's overuse within each penalty band. For this particular example, consider two customers with individual annual limits of 40 acre-feet. The first customer exceeds the individual annual limit by 6 acre-feet, or by 15%. The second customer exceeds

Pass-through of Penalties for Excessive Use of Agricultural Water in FY 2016

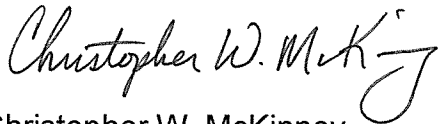
September 2, 2015

Page 6

the individual annual limit by 12 acre-feet, or 30%. Both customers will pay an equal share of the Type 1 Penalty charged to the City ($\$609,760$ times 6 acre-feet divided by 412 acre-feet, or $\$8,880$). However, only the second customer will pay a share of the Type 2 Penalty ($\$260,480$ times 6 acre-feet divided by 88 acre-feet, or $\$17,760$).

There are two important points about the proposed pass through that can be observed in these examples. First, for customers whose overuse is in the lower penalty band ($\$1,480$ per acre-foot), the actual penalty charged to a customer, if any, will be equal to or less than $\$1,480$ per acre-foot. Second, any overuse in the higher penalty band ($\$2,960$ per acre-foot) will be charged the full penalty rate.

Respectfully submitted,

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

Christopher W. McKinney
Director of Utilities

RESOLUTION NO. 2015-130

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
ESTABLISHING A METHOD TO PASS-
THROUGH PENALTIES CHARGED TO THE
CITY BY THE SAN DIEGO COUNTY WATER
AUTHORITY FOR DELIVERIES IN EXCESS OF
IMPOSED LIMITS

WHEREAS, the Escondido Municipal Code authorizes the City Council to set and adjust water rates and service charges from time to time by duly adopted resolution; and

WHEREAS, nearly 200 water customers of the City of Escondido are participants in the Transitional Special Agricultural Water Rate ("TSAWR"); and

WHEREAS, the TSAWR is a program administered by the San Diego County Water Authority ("SDCWA") that offers lower volumetric rates to commercial agricultural customers that meet certain requirements; and

WHEREAS, in exchange for the lower volumetric rate, participants in the TSAWR agree that they will receive no benefit from certain emergency water storage projects that were funded and constructed by the SDCWA; and

WHEREAS, in exchange for the lower volumetric rate, participants in the TSAWR also agree that they will be subject to water delivery curtailments during period of drought; and

WHEREAS, the Board of Directors of the SDCWA passed an Ordinance on May 14, 2015, that limited water deliveries to TSAWR customers in the City of Escondido

service area to 2,750 acre-feet between July 1, 2015 and June 30, 2016; and

WHEREAS, said SDCWA Ordinance authorized penalties of \$1,480 per acre-foot of water delivered to TSAWR customers in Escondido for water deliveries in excess of 2,750 acre-feet; and

WHEREAS, said SDCWA Ordinance further authorized penalties of \$2,960 per acre-foot of water delivered to TSAWR customers in Escondido for water deliveries in excess of 3,162 acre-feet, or 115% of 2,750 acre-feet; and

WHEREAS, these penalties, if any, will be calculated by the SDCWA and charged to the City sometime after July 1, 2016, but will be imposed at the retail (City of Escondido) level rather than on individual customers; and

WHEREAS, City staff has corresponded with City water customers participating in the TSAWR rate programs and notified each customer of the restrictions on their accounts, and the City Council has conducted a public hearing and has considered comments and input from interested parties; and

WHEREAS, forty-five days prior to the public hearing, the proposed fees were noticed to all customers participating in the TSAWR rate program in accordance with Proposition 218; and

WHEREAS, it is necessary for the City to adopt a methodology by which a lump sum increase from the San Diego County Water Authority for the TSAWR program can be passed along to individual participants in the program in a fair and equitable manner; and

WHEREAS, the City Council desires at this time and deems it to be in the best public interest to establish a method for passing through any penalties levied by the SDCWA for over-delivery of water to TSAWR customers.

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 definitions and formulas set forth in Exhibit "1," attached to this resolution and incorporated by this reference, will be used to calculate the penalty, if any, charged to each customer participating in the TSAWR program for taking delivery of water in excess of their previously determined limit for the period from July 1, 2015 through June 30, 2016.
3. That these increases shall be effective upon adoption but shall not be imposed prior to July 1, 2016. Upon imposition, such increases shall be due and payable in the same manner as City water bills for agricultural customers, generally.

EXHIBIT "1"

DEFINITIONS

"Individual Annual Limit" shall mean that water volume previously fixed for each customer of the Transitional Special Agricultural Water Rate ("TSAWR") as that customer's limit for water deliveries from the City for the period between July 1, 2015 and June 30, 2016.

"Type I Penalty" shall mean that amount of financial penalty which has been imposed on the City of Escondido by the San Diego County Water Authority for total TSAWR water use of at least 2,750 af but not more than 3,162 af for the period between July 1, 2015 and June 30, 2016. The rate of this penalty will be \$1,480 per af.

"Type 2 Penalty" shall mean that amount of financial penalty which has been imposed on the City of Escondido by the San Diego County Water Authority for total TSAWR water use more than 3,162 acre feet for the period between July 1, 2015 and June 30, 2016. The rate of this penalty will be \$2,960 per af.

"Individual Excess Delivery" shall mean water volume by which an individual customer exceeded their Individual Annual Limit.

"Total Individual Excess Deliveries" shall mean the sum total water volume of Individual Excess Deliveries to all customers who exceeded their Individual Annual Limit.

"Minor Excess" shall mean an Individual Excess Delivery that is up to 15% in excess of the Individual Annual Limit.

"Major Excess" shall mean an Individual Excess Delivery that is greater than 15% in excess of the Individual Annual Limit.

"Total Individual Minor Excess Deliveries" shall mean the sum total volume of Individual Excess Deliveries to all customers who exceeded their Individual Annual Limit that falls under the category of Minor Excess. This sum will include the portion of Individual Excess Delivery for customers whose deliveries constitute a Major Excess that is up to 15% over these customers' Individual Annual Limits.

METHODS FOR CALCULATING INDIVIDUAL PENALTIES FOR WATER OVERUSE BY TSAWR CUSTOMERS DURING THE PERIOD FROM JULY 1, 2015 THROUGH JUNE 30, 2016

- 1. If total deliveries to the City are equal to or less than 2,750 af, no penalty will be charged to the City by the SDCWA and no penalty will be charged to any TSAWR customer, even those exceeding the Individual Annual Limit.**
- 2. To the extent the City is charged a Type 1 Penalty by the SDCWA, each customer will be charged as follows:**

- a. For customers that do not exceed their Individual Annual Limit, no penalty will be charged.
- b. Otherwise, the penalty for a sample Customer A will be calculated by:

$$\begin{aligned} \text{Customer A Penalty} = \\ & (\text{Total City Penalty}) \times (\text{Customer A Individual Excess Delivery} \div \\ & \text{Total Individual Excess Deliveries}) \end{aligned}$$

3. To the extent the City is charged a Type 2 Penalty by the SDCWA, each customer will be charged as follows:

- a. For customers that do not exceed their Individual Annual Limit, no penalty will be charged.
- b. For customers with no Major Excess (i.e. customers who exceed the Individual Annual Limit by no more than 15%), the penalty for a sample Customer B will be calculated by:

$$\begin{aligned} \text{Customer B Penalty} = \\ & \$609,760 \times (\text{Customer B Excess Deliveries} \div \text{Total Individual Minor} \\ & \text{Excess Deliveries}) \end{aligned}$$

*Note: \$609,760 is the max. Type 1 Penalty for the entire City
\$609,760 = 412 af x \$1,480 per af
412 af = 3,162 af – 2,750 af*

- c. For customers with a Major Excess, the penalty for a sample Customer C shall be the sum of two separate formulas and will be calculated as follows:
 - i First, Customer C's penalty for Minor Excess will be calculated by:

$$\begin{aligned} \text{Customer C Type 1 Individual Penalty} = \\ & \$609,760 \times (\text{Customer C Minor Excess} \div \text{Total Individual} \\ & \text{Minor Excess Deliveries}) \end{aligned}$$

- ii Second, Customer C's penalty for Major Excess will be calculated by:

$$\begin{aligned} \text{Customer C Type 2 Individual Penalty} = \\ & \$2,960 \times (\text{Customer C Major Excess}) \end{aligned}$$

Note: \$2,960 per af is the penalty for deliveries over 115% of the limit.

- iii The total penalty shall be calculated by:

$$\begin{aligned} \text{Total Customer C Penalty} = \\ & \text{Customer C Type 1 Individual Penalty} + \\ & \text{Customer C Type 2 Individual Penalty} \end{aligned}$$

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 16

Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Diane Halverson, City Clerk

SUBJECT: Appointment to Public Art Commission

RECOMMENDATION:

It is requested that the City Council ratify the Mayor's appointment to fill an unscheduled vacancy on the Public Art Commission, term to expire March 31, 2018.

BACKGROUND:

Following a letter of resignation from Steffi Harrison, indicating that she was no longer able to serve on the Public Art Commission, a Notice of Unscheduled Vacancy was duly posted for a 10-day period in accordance with State law and City policy. The City Clerk's Office has four applications on file:

- ◆ Nicole Downey
- ◆ Theodore Kilman

- ◆ Mayra Salazar
- ◆ Phyllis Savin

Respectfully submitted,



Diane Halverson, CMC
City Clerk

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 17

Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Graham Mitchell, Assistant City Manager

SUBJECT: "Working Together to Get to YES!" Update

RECOMMENDATION:

It is requested that the City Council receive a report regarding the City's "Working Together to Get to YES!" program.

BACKGROUND:

In 2014 the City launched the "Working Together to Get to YES!" program (YES Program) in an effort to streamline business and development approval processes. Since its inception, the City has made progress in implementing key elements of the program. The YES Program demonstrates the City's intent to create a conducive and enticing environment for private sector investment in the community. Ultimately, the YES Program seeks to align policies and codes with City Council priorities, increase administrative discretion in approving projects, enhance internal and external communication, and eliminate steps in the approval process.

In preparing for this report, staff met with key City staff and representatives of the development community to ascertain successes and opportunities for improvement. This report identifies implemented elements of the YES Program, previews seven recommended next steps to continue to improve the business/development approval processes, and identifies an implementation schedule.

CITY COUNCIL ACTION PLAN:

This item is identified as a strategy under the Economic Development goal to "Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development."

DISCUSSION:

The following sections identify implemented elements of the YES Program as well as recommendations for further implementation.

Implemented Objectives

One of the primary objectives of the YES Program is to enhance communication internally between departments and externally with applicants. Increased communication ensures that plans are processed efficiently and that expectations are more effectively managed with the applicant. The City has implemented four YES Program goals related to communication and three strategies that help streamline the approval process:

- 1) The City assigns a single point of contact through Community Development for each submitted application.
- 2) City staff, from various departments, meet weekly to discuss applications in the pipeline—these meetings ensure robust communication between departments.
- 3) The City conducts a voluntary pre-application meeting with the applicant to review and provide verbal comments about applications.
- 4) City staff meet with the project engineer for each initial plan submittal to assist in completing the material necessary for plan check.
- 5) The City has recently updated engineering design standards to help facilitate project approvals (reducing alley widths, allowing PVC piping, utility easements in side yards, etc.).
- 6) Staff has discretion to reduce some development standards (parking, landscaping, setbacks, etc.) by up to 25 percent.
- 7) To help with the flow of processing plan checks, staff has blocked times for those conducting plan checks in order to work without interruptions.

Recommendations

This section identifies seven recommendations to further implement the YES Program. The recommendations are broken into three categories – entitlement process, plan check process, and business license issuance. Many of the recommendations will be implemented at the staff level; others will eventually require City Council consideration.

Entitlement Process

- 1) Enhance Communication and Transparency – the City will further enhance communication and transparency during the entitlement process by implementing four strategies:
 - Prepare a flowchart and introduction document that explains the entitlement process. The document will include realistic timelines to complete different processes. Stating the processing time informs a potential developer, holds staff and the applicant accountable, and provides staff a tool to explain the importance to the developer of submitting quality work and a complete package to the City.

- Require a pre-application meeting for larger projects to provide assistance to applicants.
 - Modify the City’s “incomplete” letter to applicants so that each correction listed is identified as either an item from a previous incomplete letter or a new item.
 - Depending on the submittal, require a meeting with staff and the applicant prior to releasing plans or accepting re-submitted plans.
 - Publish an internal monthly status report that provides a summary of each project in the entitlement process.
- 2) Grant Staff More Discretionary Authority – there are four areas in which staff could be granted more discretionary authority, expediting processing times. These recommendations, which will be presented to the City Council at a later date for consideration, also result in cost savings to the City and the applicant.
- Consolidate the Planned Development application process to eliminate the Preliminary Plan application and allow administrative approval for minor amendments to Planned Developments (currently a minor amendment requires Planning Commission action).
 - Revive and expand the role of the “Zoning Administrator” to include minor CUP applications for administrative approval (currently requires Planning Commission action).
 - Allow staff to approve project time extensions and grading exemptions (currently requires Planning Commission action).
 - Consider having all design review of improvements to historic resources conducted at the staff level (currently requires Historic Preservation Commission action).
- 3) Modify the Zoning Code, changing the following five uses from requiring a Conditional Use Permit to being permitted outright:
- Cell towers that are integrated into building architecture;
 - Electrical generating substations subject to specified development/ operating standards;
 - Parcel maps involving private roads or easement access;
 - Second dwelling units constructed in the Old Escondido Neighborhood subject to specified development standards; and
 - Dog boarding facilities in industrial zones (per Council direction).
- 4) Modify the City’s Zoning Code and Design Standards as follows:
- Allow Conditional Use Permits to determine appropriate parking demand/requirements rather than following strict requirements of the parking ordinance—this will allow projects to meet market demands rather than an arbitrary standard.

- Modify the Code to allow more than 15 percent ancillary retail use associated with industrial uses, on a case-by-case basis.
 - Continue updating engineering design standards to improve guidance on waterline looping, traffic impact study preparation, fire access roads and other items needed to reflect current technology and to clarify standards.
- 5) Require outsourcing of the preparation of Draft Negative Declaration and Mitigated Negative Declaration CEQA documents by applicant consultants. Currently, this has only been a suggestion to applicants. When applicants follow the suggestion, the applicant has greater control over the schedule to complete the document.

Plan Check Process

- 6) The plan check and inspection workload is significant and is expected to increase over the next year. Staff is exploring the option of having an on-call contract firm capable of expediting plan checks (planning, engineering, and building) and inspection services for those interested paying an expedite fee for the service.

Business License Issuance

- 7) The City process approximately 150 new business applications monthly. The City will streamline its approval process to ensure that new business licenses are issued in no more than ten business days, and, in some cases, over-the-counter upon submittal.

Implementation

The recommendations identified in this memo achieve the intent of the YES Program. Staff plans to implement Recommendation #1 within the next three months. Many of the elements of Recommendations #2, #3, #4, and #5 require City Council consideration and staff plans to present these recommendations as a package of Code modifications to the City Council within the next eight months.

Staff is analyzing Recommendations #6 and #7 and will present an update to the City Council within six months regarding its efforts.

Respectfully submitted,



Graham Mitchell
Assistant City Manager

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 18

Date: September 2, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer
Richard O'Donnell, Deputy Director of Public Works/Maintenance

SUBJECT: Authorize an Energy Service Contract for Energy Demand Reduction at Multiple City Facilities

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2015-144 authorizing the Mayor and the City Clerk to execute a ten-year Energy Service Contract with Green Charge Networks to install and maintain a battery powered energy storage system to reduce the demand charge at multiple City facilities. This project will be funded at no cost to the City.

FISCAL ANALYSIS:

Green Charge Networks will install and maintain the equipment. They will receive approximately 70% of the savings. The City's share of the total savings in energy cost would be approximately 30%. Over the ten-year period, the projected demand charge savings for the City is \$451,153.

PREVIOUS ACTION:

N/A

BACKGROUND:

Green Charge Networks is proposing to reduce the demand charge at multiple City facilities by utilizing a battery system that activates during the peak demand for energy use. By reducing the peak demand charge, the City will see a savings in energy costs that is shared with Green Charge Networks over a ten-year period. City will not pay anything to Green Charge Networks if there are no savings. Installation and maintenance at each location are the responsibility of Green Charge Networks at no cost to the City.

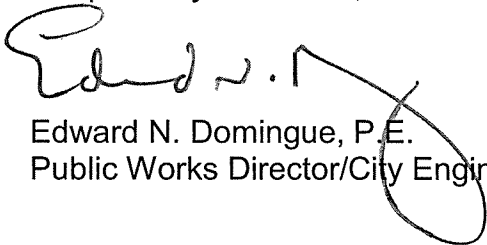
Based on the City's energy use Green Charge Networks did an analysis on ten facilities that had Time of Use (TOU) electric meters. Of those ten sites, seven locations were viable candidates for the peak demand reduction program. The proposed facilities are: City Hall, Police and Fire Headquarters, Main Library, Park Avenue Community Center, East Valley Community Center, Kit Carson Skate Park, and the CCAE Central Plant.

Authorize Agreement for Energy Demand Reduction
September 2, 2015
Page 2


Since there is no cost to the City for the installation of the equipment the bid process is not being used for this project.

One other company has a similar program, however, the agreement lasts twenty years, the City would receive 25% of the savings, and the City would have the burden of paying if no savings were realized.

Respectfully submitted,



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



Richard O'Donnell
Deputy Director of Public Works/Maintenance

RESOLUTION NO. 2015-144

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, AN ENERGY SERVICE CONTRACT
WITH GREEN CHARGE NETWORKS FOR
THE INSTALLATION OF ENERGY DEMAND
CHARGE REDUCTION EQUIPMENT

WHEREAS, the City of Escondido is interested in operating its facilities in an energy efficient manner; and

WHEREAS, Green Charge Networks proposes to reduce the energy demand charge at multiple City facilities; and

WHEREAS, the equipment will be installed and maintained at no cost to the City; and

WHEREAS, the demand charge savings will be shared between the City and Green Charge Networks for a ten-year period; and

WHEREAS, the Director of Public Works/City Engineer recommends approving the Energy Service Contract ("Agreement") with Green Charge Networks; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve the Agreement with Green Charge Networks.

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 Public Works/City Engineer to enter an Agreement with Green Charge Networks.
3. That the Mayor and City Clerk are authorized to execute, on behalf of the City, the Agreement with Green Charge Networks for the installation and maintenance of equipment to reduce the energy demand charge at multiple City facilities, and share the savings with Green Charge Networks. A copy of the Agreement is attached as Exhibit "A" to this resolution and is incorporated by this reference.

ENERGY SERVICE CONTRACT

This Power Efficiency Agreement (this "Agreement") is made and entered into as of the ____ day of _____, 2015 (the "Effective Date"), by and between the City of Escondido, with offices located at 201 North Broadway, Escondido, CA 92025 ("Host"), and Green Charge Networks Energy Services, LLC, a Delaware limited liability company with offices located at 4151 Burton Drive, Santa Clara, CA 95054 ("Owner" and, together with Host, each, a "Party" and together, the "Parties").

RECITALS

WHEREAS, Host owns and occupies certain premises as identified in Exhibit A (collectively, the "Premises");

AND WHEREAS, Owner develops, constructs and installs energy storage systems to reduce customer demand charges;

AND WHEREAS, Owner has conducted an analysis of Host's energy usage and electric utility bills and completed a demand charge reduction proposal requiring installation of an energy storage system, as more fully described on Exhibit B hereto (collectively, the "System"), on a portion of the Premises;

AND WHEREAS, the purpose of installing the System is to generate electric utility bill savings for Host by reducing Host's peak demand for electrical energy through storage and discharge of electrical energy on and from the System (such energy savings services, the "Conservation Services");

AND WHEREAS, Host desires to enter into this Agreement for Conservation Services in order to reduce demand charges that Host pays from time to time to its local utility provider, and Owner is willing to provide the Conservation Services, on the terms and subject to the conditions set forth herein.

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. TERM AND TERMINATION;

1.1 Term. The term of this Agreement with respect to any Site (as defined in Subsection 1.5), and the Conservation Services provided under it, shall commence on the Effective Date and shall run for a period ending on the Ten (10) year anniversary of the Site Commercial Operation Date (as defined in Section 3.8 below) applicable to such Site (the "Initial Term"), unless terminated earlier pursuant to the provisions of this Agreement. Provided that there has not been an early termination pursuant to the provisions of this Agreement, after the Initial Term, Host may elect to (a) require removal of the system by Owner pursuant to Section

1.2 of this Agreement; (b) purchase the System at fair market value to be agreed upon by the Parties; or (c) request that Host and Owner negotiate a renewal term ("Renewal Term") for this Agreement (Host elections (a) (b) and (c) of this Section 1.1 referred to "Host Termination Options").

At least ninety (90) days, but no more than one-hundred and eighty (180) days prior to the expiration of the Initial Term, Host shall notify Owner which of the Host Termination Options it wishes to elect. If Host elects Host Termination Option (b) or (c), but the Parties are unable to agree on the terms for a fair market value purchase or a Renewal Term (as the case may be), Owner shall remove the System in accordance with Section 1.2 of this Agreement. The Initial Term and the Renewal Term, if any, are referred to collectively as the "Term." The date on which the Term ends is referred to herein as the "Expiration Date."

1.2 Removal of System. Owner shall, at Owner's sole expense, remove all tangible property comprising the System from the Premises on a mutually convenient date, but in no event later than thirty (30) days after the Expiration Date or earlier termination of this Agreement in accordance with its terms. Owner shall undertake such removal in such a manner as to not interrupt operation of the business at the Premises, including an interruption of electrical power. In connection with such removal, Owner shall remove above ground support structures and repair any damage to the Site and any other area in which any portion of the System was installed and restore such areas to their original condition, excluding ordinary wear and tear, provided that Owner shall not be required to remove large electrical conduits which Owner shall cause to be capped and secured. Owner shall leave the Premises in neat and clean order. If Owner fails to completely remove the System and repair the affected area as provided above, within forty-five (45) days of the Expiration Date, Host may, upon ten (10) business days prior written notice to Owner, complete the necessary removal and/or restoration and Owner shall reimburse Host for the costs incurred by Host within ten (10) days after presentation by Host to Owner of documentation describing the work performed and the cost thereof. In addition, should Owner fail to remove the System within such forty-five (45) day period, Owner will be deemed to have abandoned the System and Host may, at Owner's sole cost, remove and dispose of the System, including by sale or otherwise, as Host sees fit in its discretion, provided that if Host realizes any proceeds from the sale of the System (which may or may not occur) Host will credit such proceeds against the cost of removal.

1.3 Host's Right to Terminate this Agreement. Host shall have the right to terminate this Agreement, without penalty:

- (a) upon any Owner Default;
- (b) in consideration of Government Code sections 4217.10 et seq, upon ninety (90) days' notice if Host is not realizing any cost savings under this Agreement, as measured on a rolling twelve-month period throughout the Term, to be calculated by comparison of (i) Host's actual electrical energy costs with the System installed versus (ii) Host's estimated electrical energy costs based on actual energy usage at the then actual Host tariff rates in effect at the respective times, assuming that the System was not operational.

1.4 Owner's Right to Terminate this Agreement. Owner shall have the right to terminate this Agreement with regard to one or all Sites, without penalty:

- (c) upon any Host Default;
- (d) upon ninety (90) days' notice, if an unstayed order of a court or administrative agency is entered having the effect of subjecting the provision and/or sale of the Power Efficiency Service to federal or state regulation of prices and/or service;
- (e) upon ninety (90) days' notice, if the Host load profile or electricity provider changes the manner in which Host's rate structures and demand charges are calculated which results in an actual materially lower Demand Charge Reduction Savings;
- (f) if at any time during the first ninety (90) days following the Effective Date Owner determines that the Site conditions are not optimal for installation of the System.
- (g) if at any time Owner determines that it will not receive continued funding of the SGIP Incentive or financing; or
- (h) if Owner is unable to obtain proper permits or interconnection with the Local Provider.

1.5 Site Access.

(a) Host does hereby provide access to Owner to certain space at each location comprising the Premises as identified on Exhibit A attached hereto (each space at each location, a "Site") for the sole purpose of installing, maintaining, operating, accessing, removing and replacing the System on such Site and otherwise satisfying its obligations and availing itself of the rights set forth in this Agreement. Owner may install, with Host's prior written consent, any improvements on each Site that Owner determines are reasonably necessary for the efficient operation of the System and provision of the Conservation Services.

(b) Owner shall provide Host prior written notice at least five (5) business days before it or its contractors and/or subcontractors commence installation at any Site.

(c) At all times during the Term, Owner shall maintain insurance coverage as set forth in Section 16 to cover any damage caused to the Premises resulting from the installation, maintenance and operation of the System.

2. CONTINGENCIES.

2.1 Contingencies Available to Host. Host shall have the option to rescind this Agreement in the event of the following contingent events:

(a) Site. Host may rescind this Agreement in respect of a Site, if the Site conditions are not optimal for installation of the System, and only if Host provides Owner with written notice of the rescission prior to the time installation of the System has

commenced at the Site but in no event later than sixty (60) days following the Effective Date (the "Site Contingency Period").

(b) Notice to Proceed. At any time prior to the expiration of the Site Contingency Period Host may waive all its available contingencies and rescission rights thereunder (as set forth above in Section 2.11(a)) by issuing to Owner a written notice advising Owner to proceed with activities necessary to the sourcing of components for and installation of the System at a particular Site (the "Notice to Proceed"). Email shall be an acceptable method for delivery of the Notice to Proceed. Once such Notice to Proceed is given Host may not exercise its rescission rights specified in subparagraphs (a) and (b) of this Subsection.

2.2 Post-Rescission. In the event Host exercises its rescission rights as set forth above in Section 2.1, Host shall have no further liability to Owner and shall not be obligated to pay Owner a termination payment or termination of this Agreement in respect of the relevant Site(s).

3. CONSTRUCTION, INSTALLATION AND TESTING OF SYSTEM.

3.1 Use of Contractors and Sub-contractors. Owner shall be permitted to use contractors and sub-contractors to perform its obligations under this Agreement. Owner shall continue to be responsible for the quality of the work performed by its contractors and sub-contractors. Owner shall remain responsible for obligations, services and functions performed by sub-contractors to the same extent as if such obligations, services and functions were performed by Owner's employees and for purposes of this Agreement such work shall be deemed work performed by Owner.

3.2 Liens and Payment of Contractors and Suppliers. Owner shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Owner in connection with work to be performed in connection with this Agreement ("Charges") and shall keep the Facility free and clear of any liens related to such Charges. Owner shall indemnify Host for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection with such Charges; provided, however, that Owner shall have the right to contest any such lien and related Charges, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Site and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Site and the Premises. Owner will give Host copies of certificates of completion or similar documentation from Owner's contractors or sub-contractors, along with copies of all final lien waivers from Owner's contractors or sub-contractors, within thirty (30) days of installation on the Premises.

3.3 Notice to Contractors and Sub-contractors. Owner shall, prior to commencing construction or maintenance of the System, notify all contractors and sub-contractors that Host shall not be responsible for payment for their work done on the Site, and all contractors and sub-contractors shall acknowledge in writing receipt of such notice.

3.4 Access Rights. Owner and its employees, agents, financiers, representatives and sub-contractors, if any, is granted the right to use such portions of the Premises as are reasonably required in order for Owner and its employees, contractors and sub-contractors, if any, to install,

operate, maintain, and remove the System and otherwise satisfy its obligations under this Agreement. Owner shall notify Host prior to entering the Premises except in situations where there is imminent risk of damage to persons or property.

3.5 OSHA Compliance; Compliance with Law. Owner shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws or codes are adhered to in its performance under this Agreement. Owner shall comply with all applicable laws in its performance hereunder.

3.6 Approvals; Installation, Permitting and Interconnection. Owner shall submit detailed drawings (including, without limitation, an electrical plan showing all planned modifications to the existing electrical systems of the Site and such other plans as may be reasonably requested by Host) related to the installation of the System at a particular Site to Host for approval. Owner shall, at Owner's sole cost and expense, obtain all governmental approvals and other permits and approvals required for the installation and operation of the System, including approval for interconnection (the "Interconnection Notice") of the System with the local electricity provider or utility serving the Site (the "Local Provider"). Owner will be responsible for all permits, applications or other fees required in connection with the foregoing. Host will, if necessary, cooperate with Owner's reasonable requests to assist Owner in obtaining such permits or approvals, but shall not be required to incur any costs or expenses in connection with such cooperation.

3.7 Financial Incentives. Unless expressly provided otherwise, all Rebates, or incentives available in connection with the System are owned by Owner. "Rebates" shall mean any and all federal, state, local or Local Provider rebates, grants, or other funding offered for the development, installation or operation of energy system projects, including, but not limited to the Self Generation Incentive Program, Investment Tax Credit or local incentive programs. Host agrees, if necessary, to take all actions reasonably requested by Owner in order for Owner to obtain all rebates or subsidies made available in connection with the installation and operation of the System by any federal government, state government, local government, Local Provider or other source. Per the SGIP program, all SGIP application fees will be refunded to Host. Upon receipt of the SGIP refund, Owner will add this amount to the next invoice.

3.8 Commercial Operation Date. The commercial operation of the System with respect to each Site will commence on the date specified in the Interconnection Notice for such Site (each, a "Site Commercial Operation Date"). Host will use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things reasonably necessary to result in Owner being able to obtain or issue the Interconnection Notice and obtain all other approvals needed to install, operate and maintain the System with respect to each Site.

4. SYSTEM OPERATIONS.

4.1 Owner as Owner and Operator. Host shall have no ownership rights in the System. Notwithstanding that it will be affixed to the Sites, the System will not be deemed a part of, or a fixture to, the Premises or any portion of it. The System shall at all times retain the legal status of personal property of Owner (or its operating subcontractor, as applicable) who shall pay any personal property assessments or charges owed on the System. Owner shall assure that all statements for personal property or other taxes applicable to the existence of, or operation of,

the System are sent by the taxing authority(ies) directly to Owner. Owner shall at all times keep the System in good operating condition and in compliance with all manufacturer specifications, including periodic maintenance, and shall assure that all warranties remain in effect. Owner shall operate and perform, or cause to be performed, all repairs to, or maintenance of, the System at its sole cost and expense, except to the extent that any necessary repairs result from the sole, gross negligence or willful misconduct of Host.

4.2 Tax Returns. Host will not take a position on any tax return or in other filings suggesting that it is anything other than a purchaser of the Power Efficiency Service and Owner shall be treated as the owner of the System for federal and state income tax purposes and shall retain title to any tax credits available under federal or state law with respect to the System.

5. DELIVERY OF SERVICES; FEES.

5.1 Calculation of Demand Charge Reduction Savings; Power Efficiency Fees.

(a) It is anticipated by the Parties that the operation of the System at each Site will result in a reduction in the demand charge, power or Kilowatt (KW) portion of Host's obligations to its Local Provider (such reduction in demand charges that would otherwise be paid, with respect to all Sites, in the aggregate, the "Demand Charge Reduction Savings") listed in Exhibit C. Owner shall calculate and provide to Host the amount of Demand Charge Reduction Savings on a monthly basis. This calculation will be based upon comparing the actual charges due to "demand charge" portion of Host's utility bills issued from its Local Provider to the avoided "demand charge" that Owner calculates that Host would otherwise have had to pay without the use of the System. In consideration of the Conservation Services provided hereunder, Host shall pay to Owner an amount equal to the applicable percentage of the Demand Charge Reduction Savings applicable to such Site as set forth in Exhibit C (the "Power Efficiency Fee"). Host shall make all of its invoices/statements with its Local Provider available to Owner for purposes of calculating the Power Efficiency Fee promptly after Host receives such invoices/statements. If a payment to Owner would not result in a cost savings when compared to the previous year, then no payment shall be due.

(b) Owner shall invoice Host for the amounts due hereunder on a monthly basis or as otherwise agreed to by the parties, and undisputed bills shall be paid within thirty (30) days of receipt by Host.

5.2 Operational Change. If at any time during this Agreement Host makes any changes to its business operations that reduce the amount or peaks of its electrical energy usage with its Local Provider by more than 20% of the previous year's demand for the same consecutive three-month billing period (an "Operational Change"), then Host agrees to increase Owner's percentage of the monthly Power Efficiency Fee to an amount that most closely approximates the monthly Power Efficiency Fee paid for the relevant three-month billing period in the prior year before such Operational Change, but in no event shall the Power Efficiency Fee exceed 95% of the Demand Charge Reduction Savings. The increased Power Efficiency Fee shall continue for the remainder of the Term unless and until such time as Host's usage of electrical energy over a three-month billing period increases to a level higher than the usage during the relevant three-month billing period in the year preceding such Operational Change.

5.3 Environmental Attributes. Host's purchase of Power Efficiency Service pursuant to this Agreement does not include any entitlement to Environmental Attributes, tax benefits or other attributes of ownership of the System. All Environmental Attributes shall be retained by Owner, and may be used or disposed of by Owner in its sole discretion. For the purposes hereof, the term "Environmental Attributes" means any and all marketable environmental attributes or renewable energy credits, including but not limited to, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags and tradable renewable credits, provided that in no event will the foregoing sever, erode or affect Host's right, title and interest in and to the Premises.

5.4 Risk of Loss. As between the Parties, Owner shall be deemed to have exclusive control (and shall be responsible for any property damage or injuries caused thereby) of the System and the electricity generated up to and including the point at which the System is interconnected to the customer meter. Owner shall bear all risk of loss or damage to the System whatsoever, except to the extent resulting from the willful misconduct or sole, gross negligence of Host (to the extent not otherwise covered by Owner's insurance). Owner shall be required to carry casualty and property insurance sufficient to protect Owner's interest in the System, as provided by Section 15 below.

5.5 ISO Markets & Demand Response Programs. Upon mutual agreement (Host's agreement not to be unreasonably withheld or delayed), Owner may secure additional revenue streams for both Host and Owner, and Owner may aggregate the System and the electrical energy stored in the System with other customers of Owner that have similar systems in order to allow Owner to operate as a participating generator for an Independent System Operator ("ISO") or Local Provider. As a participating generator to an ISO or Local Provider or participating in a utility "Demand Response Program", Owner would be able to provide capacity, transmission and ancillary services to the electrical power system for a fee. Similarly, Host will cooperate with Owner to enter into any "Demand Response Programs using the System that Owner believes may generate additional savings beyond the Demand Charge Reduction Savings. Any revenue generated from Owner's operation as a participating generator to an ISO, Local Provider or from entering into any Demand Response Programs will be mutually agreed upon.

6. RELOCATION OF SYSTEM.

Notwithstanding anything to the contrary in this Agreement, if Host ceases to operate at and/or vacates the Premises or is prevented from operating the System at the Premises at any time after the Site Commercial Operation Date (defined in Section 3.8 above) and prior to the expiration of the Term, Host shall have the option to provide Owner with a mutually agreeable substitute premises, but only to the extent that Host assumes the responsibility and risk for the substitute site complying with the SGIP regulations and the substitute site is located within the same Local Provider district as the terminated System. Host shall provide written notice of this intended substitution at least ninety (90) days prior to the date of decommissioning the System. In connection with such substitution, Host shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) Site Access, which will be amended to grant rights in the Premises where the System relocated to; and (iii) Term, which will be the remainder of the Term of this Agreement and such amended agreement shall be deemed to be a continuation of this Agreement without termination. Host agrees to pay "relocation fees" in connection with any such substitution as follows: all direct relocation costs

to the relocated Premises (including any costs associated with Owner removing and relocating the System or returning the Premises to its original condition). Owner shall remove and relocate the System from the vacated Premises (at Host's cost). Excluding ordinary wear and tear, Owner shall return the Premises to its original condition including the removal of System support structures in accordance with Section 1.2 (at Host's cost). If Host does not provide a substitute premises to which to relocate the System that meets the above requirements (including compliance with the SGIP regulations to allow Owner to continue to receive all applicable SGIP payments, an early termination treated as a default by Host in accordance with Section 1.4(a) of this Agreement will be deemed to have occurred.

7. OPERATIONS AND MAINTENANCE.

7.1 O&M Services. Owner shall be responsible for performing, or causing to be performed, all operation, repair, maintenance and monitoring services for the System during the Term. At all times, Owner shall promptly provide Host with all information reasonably requested relating to the operation, use, or any other matter relating to the System, subject, however, to any confidentiality requirements set forth herein. Owner shall be permitted, upon mutual agreement, to re-baseline, recalibrate and otherwise make modifications to the System, including, but not limited to, adding modular components such as additional batteries or inverters. Notwithstanding the foregoing and anything in this Agreement to the contrary, all damage or injury to the System, whether requiring structural or nonstructural repairs, that are directly caused by, or that result solely from the gross negligence of, Host may be repaired by Owner, at Host's sole cost and expense, to the condition that existed before the damage.

7.2 The O&M and system warranty will be provided for a 10 year period or the term of this contract. The O&M and system warranty will provide support, problem diagnosis, on-site repair and preventative maintenance to make sure the system is functioning correctly for 10 years after the Site Commercial Operational Date.

7.3 Host Site Obligations. Host shall take reasonable precautions to protect the System from vandalism. Notwithstanding anything to the contrary in this Agreement, Host shall not be required to undertake any additional measures related to the monitoring and security of the System than it otherwise would in its normal course of business if the System were not installed on the Premises. For the avoidance of doubt, Host shall be under no obligation to maintain the System or any other equipment installed by Owner within the Site.

7.4 Host Rights to Premises. Host further represents, warrants and covenants that it has obtained or it shall obtain from any third parties (i) with an interest in the Premises (including, without limitation, any owner, lender, lessee, ground lessor, or any party to any reciprocal easement agreement) or (ii) whose consent is otherwise required under conditions, covenants and restrictions documents, declarations or similar agreements affecting the Premises, any and all consents or approvals required in order for Host to grant to Owner the access to the Premises contemplated under Section 1.5 of this Agreement and to perform its obligations under this Agreement, and for Owner to take the actions with respect to the Premises contemplated in this Agreement.

7.5 Suspension of Service. Owner shall be entitled to reasonably suspend delivery of Power Efficiency Service to the Premises for the purpose of maintaining and repairing any

System and such suspension of service shall not constitute a breach of this Agreement. Owner shall ensure that any suspension in the delivery of Power Efficiency Service to Host shall not cause an interruption of electricity service to the Premises supplied by the Local Provider.

7.6 Notifications of Malfunctions and Emergencies. Each Party shall notify the other as soon as reasonably practicable following the discovery by it of any material malfunction of the System or interruption in the supply of Power Efficiency Service from the System ("System Emergency"). Each Party shall designate and advise the other Party in writing of personnel to be notified in the event of a System Emergency.

7.7 Structural Damage to Site Premises. Subject to Sections 13 and 16 below, Owner shall be liable for any damage caused by the System or Owner's access to the Premises hereunder, including, without limitation, any damage to the Premises, damage to property, or injury to persons, or from any operation and/or maintenance activity of Owner resulting in such damage. Owner shall, within ten (10) business days from receiving notice of any such damage make all repairs. In the event Owner does not complete the repairs within twenty (20) business days, Host shall have a right to make all repairs, and Owner shall reimburse Host for all costs related thereto incurred by Host within ten (10) days after presentation by Host to Owner of supporting documentation describing the work performed and the cost thereof.

8. GENERAL COVENANTS.

8.1 Owner's Covenants. As a material inducement to Host's execution and delivery of this Agreement, Owner covenants and agrees to the following:

(a) Health and Safety. Owner shall strictly comply with all applicable laws, statutes, rules, regulations and ordinances for the Premises (if any).

(b) Notice of Damage. Owner shall immediately notify Host of any matters it is aware of pertaining to any actual or potential damage to or loss of the use of the System or the Premises or that could reasonably be expected to adversely affect the System (or the operation of the System) or the Premises.

(c) Liens. Owner shall not directly or indirectly cause, create, incur, assume or suffer to exist any liens (other than those temporary liens that automatically arise as a matter of law) on or with respect to the Premises or any interest therein except that Owner may grant a lien on or security interest in its rights and interests in the Agreement for financing purposes. If Owner breaches its obligations under this Section, it shall promptly cause any liens to be discharged and released of record without cost to Host.

(d) Host's Reservation of Rights. Owner shall not inhibit Host from access to the Site.

8.2 Host's Covenants. As a material inducement to Owner's execution and delivery of this Agreement, Host covenants and agrees that it shall not alter, repair, modify or otherwise tamper or interfere with the System without the prior written consent of Owner. Host agrees to cooperate in all reasonable manner to enable Owner to execute and perform its obligations under the Agreement.

9. REPRESENTATIONS AND WARRANTIES.

9.1 Warranties Relating to Agreement Validity. In addition to any other representations and warranties contained in this Agreement, each Party represents and warrants to the other as of the Effective Date that:

(a) it is duly organized and validly existing and in good standing in the jurisdiction of its organization;

(b) it has the full right and authority and has taken all requisite corporate or other action to enter into, execute, deliver, and perform its obligations under this Agreement;

(c) it has the financial resources necessary to perform its obligations under this Agreement;

(d) this Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms;

(e) there is no litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other governmental authority by, against, affecting or involving any of its business or assets that would affect its ability to carry out the transactions contemplated herein; and

(f) Neither the execution and delivery of this Agreement by such Party nor the performance by such Party of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which such Party is a party or by which such Party is bound.

9.2 Owner's Warranties. Owner represents and warrants the following:

(a) Quality of Services. The Conservation Services will be performed in a diligent and professional manner, in accordance with the highest industry standards by qualified workers experienced in performing the type of work specified herein.

(b) In Accordance with the Agreement. The Conservation Services shall be performed strictly in accordance with the requirements of the Agreement.

(c) In Accordance with the Law. The Conservation Services shall be performed strictly in accordance with all applicable laws, statutes, rules, regulations and ordinances for the Premises (if any).

(d) Permits. Owner has and shall maintain all necessary permits and certifications required by any governmental authority to perform the Conservation Services; any such permits, governmental approvals and certifications will be maintained current and valid throughout the Term hereof.

(e) Intellectual Property. Owner is the lawful owner or licensee of all intellectual property used by Owner in the performance of the Conservation Services.

With respect to any application or hosted software that Owner uses in performing the Conservation Services ("Software"), Owner warrants that: (a) Owner is the lawful owner or licensee of all Software and has the right to license Host to use it; and (b) all Software is free of any defect or computer virus that could impact Host and will function in accordance with its specifications.

(f) Third Party. The Conservation Services will not violate or in any way infringe upon the rights of third parties, including proprietary information and non-disclosure rights, or any trademark, copyright or patent rights.

10. TAXES AND GOVERNMENTAL FEES.

Owner shall be responsible for paying and remitting all income, gross receipts, ad valorem, personal property or real property or other similar taxes and any and all franchise fees or similar fees assessed by a governmental authority against it due to its ownership of the System. If a tax is imposed upon Host related to the improvement of real property by the existence of the System on the Premises, Owner shall reimburse Host for such tax.

11. FORCE MAJEURE.

11.1 Excused Performance. Except as otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with the Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief under this Article 11 shall (a) as soon as practicable after occurrence of the claimed Force Majeure event notify the other Party in writing of the existence and nature of the Force Majeure Event, (b) promptly exercise all reasonable efforts necessary to minimize impact on the respective obligations of the parties under this Agreement caused by such Force Majeure Event, (c) promptly notify the other Party in writing of the cessation or termination of said Force Majeure Event, and (d) resume performance of its obligations hereunder as soon as practicable thereafter. For the purposes hereof, a "Force Majeure Event" means the failure or interruption of the production, delivery, or acceptance of Conservation Services resulting from any of the following events to the extent not caused by the Party claiming a Force Majeure Event: (a) war, riot, acts of a public enemy, insurrection, acts of terrorism, or civil disturbance; and (b) acts of God, including but not limited to storms, flood, lightening, earthquake, hailstorms, ice storms, tornados, hurricanes, landslides, fires (whether deliberately set or otherwise); (c) Owner is required by Utility or local authority to stop operation of system; and (d) limited access to the Site(s) due to labor disturbance or investigations by policing authorities.

11.2

11.3 Consequence of Force Majeure Event. If the System is substantially damaged or destroyed by a Force Majeure Event, Owner shall elect, upon written notice to Host given within ten (10) days after receipt of notice of such substantial damage or destruction, to repair or replace the System and upon commencement of operation of the replacement System all terms and conditions of this Agreement shall remain in effect, including the remaining Term of this Agreement. Alternatively, if the System is substantially damaged or destroyed by a Force Majeure Event, Owner or Host may, by providing written notice to the other within twenty (20)

days, terminate this Agreement without fault or liability to the other. Owner shall have sixty (60) days after either giving or receiving notice of termination pursuant to this section to remove a damaged or destroyed System; otherwise, it shall be considered abandoned and Host may remove and dispose of the System pursuant to Section 1.2.

12. DEFAULT.

12.1 Owner Defaults and Host Remedies. The following events shall be defaults with respect to Owner (each, an "Owner Default"):

(a) A breach by Owner of a material term of this Agreement that remains uncured for twenty (20) business days after Host provided Owner with notice or a breach by Owner that by its nature may not be cured.

(b) If any representation or warranty of Owner proves at any time to have been incorrect in any material respect when made.

In the event of an Owner Default, Host may, in addition to any other remedy available at law or in equity, immediately terminate this Agreement pursuant to Section 1.3(a) above.

12.2 Host Defaults and Owner Remedies. The occurrence of any of the following events shall be deemed a "Host Default" for purposes of this Agreement:

(a) Host breaches any material term of this Agreement that remains uncured for twenty (20) business days after Owner provided Host with notice or a breach by Host that by its nature may not be cured;

(b) If any representation or warranty of Host proves at any time to have been incorrect in any material respect when made;

(c) Host fails to pay Owner any amount owing to Owner under this Agreement, including any Power Efficiency Fee, within thirty (30) days of receiving written notice from Owner that such undisputed amount is past due.

In the event of a Host Default, Owner may, in addition to any other remedy available at law or in equity, terminate this Agreement pursuant to Section 1.4(a) above.

13. LIMITATION OF LIABILITY.

EXCEPT AS OTHERWISE PROVIDED HEREIN, FOR BREACHES OF CONFIDENTIALITY OBLIGATIONS, FOR VIOLATION OF ANY APPLICABLE LAW BY OWNER OR ITS SUBCONTRACTORS, AND TO THE EXTENT ASSERTED BY A THIRD PARTY AS PART OF A CLAIM COVERED BY THE INDEMNIFICATION OBLIGATIONS OF SECTION 16, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ITS INDEMNIFIED PERSONS FOR ANY

INDIRECT, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT.

EACH PARTY'S TOTAL LIABILITY FOR ANY AND ALL LIABILITY TO THE OTHER PARTY AND TO SUCH OTHER PARTY'S SUBCONTRACTORS OR AFFILIATES OR THEIR RESPECTIVE REPRESENTATIVES, AGENTS, OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, ELECTED OFFICIALS OR EMPLOYEES (ON AN AGGREGATE BASIS) ARISING OUT OF OR IN CONNECTION THIS AGREEMENT WHETHER IN CONTRACT OR IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) SHALL NOT EXCEED TWO MILLION DOLLARS (\$2,000,000.00).

14. ASSIGNMENT.

14.1 Except as provided in Sections 14.2 and 14.3 below, this Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees. Any prohibited assignment is void.

14.2 Owner's Rights.

(a) Notwithstanding anything to the contrary in Section 14.1, Owner may assign or subcontract any of the terms or obligations under this Agreement. Host acknowledges and agrees that Owner intends to assign and subcontract certain of its rights and obligations under this Agreement, including relating to construction, installation, testing, operation and maintenance, and a sublease of its rights to the Site for such purposes; Host hereby consents to such assignment and subcontracting. Owner shall be entitled to, and is hereby authorized to, file one or more precautionary UCC Financing Statements or fixture filings, as applicable, in such jurisdictions as it deems appropriate with respect to the Systems in order to protect its rights in the Systems, provided, however, in no event shall Owner be permitted to make any filings that would be an encumbrance on title to the real property on which the System is situated.

14.3 Host's Rights.

(b) Host may assign its rights and interests in and to this Agreement to any successor owner or person lawfully occupying the Premises, provided that any such assignee shall agree in writing to be bound by the terms of this Agreement.

14.4 Exceptions

(a) Notwithstanding anything to the contrary in Section 14.1, each of the Parties shall have the right without any requirement to obtain consent hereunder, to assign this Agreement to a subsidiary or affiliate, or a successor by merger, acquisition or consolidation, or to an acquirer of all or substantially all of the assets of such Party, its subsidiary or affiliate, provided that such assignment shall be effective upon the assigning Party providing written notice of such assignment to the other Party.

(b) Notwithstanding anything to the contrary in Section 14.1, Owner may assign its rights hereunder for the purposes of arranging financings, provided Owner shall remain bound by all obligations under the Agreement. In the event Owners seeks to arrange such financings, Host shall cooperate by providing written acknowledgements and consents, provided that doing so does not impose any obligation, cost or financial burden on Host and provided that doing so does not create an encumbrance on Host's interest in the Premises. Further, provided, that such assignment shall be effective upon Owner providing written notice of such assignment to Host.

15. CONFIDENTIALITY.

14.1 Confidential Information. If either Party provides confidential information, including, without limitation, business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Host's business ("Confidential Information") to the other, or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) to the extent permitted by law, refrain from using such Confidential Information, except to the extent necessary in the negotiation and performance of this Agreement. A Party may provide such Confidential Information to its, officers, directors, members, managers, elected officials, employees, agents, contractors and consultants (collectively, "Representatives"), and affiliates, lenders, investors, potential lenders, actual or potential investors and potential assignees of this Agreement (provided and on condition that such potential lenders, potential or actual investors and potential assignees agree in writing to be bound by the terms of this Section 15), in each case whose access is reasonable only to the extent necessary to the negotiation and performance of this Agreement, the financing of the System or the sale of any interest in Owner. In any event, except where disclosure was required by law, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 15, except as set forth in Section 15.2. All Confidential Information shall remain the property of the disclosing Party and, except where retention is required by law, shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. The parties agree that should either Party breach or otherwise indicate that it intends to breach the provisions in this Section 15.1, the non-breaching Party will suffer irreparable damages and its remedy at law will be inadequate. Therefore, if a party indicates that it will breach or actually breaches this Section 15.1, the non-breaching party shall be entitled, in addition to all other remedies available to it at law or in equity, to the following: (a) equitable relief, including specific performance and injunctive relief to enforce the provisions of this Section 15.1 and to restrain the breaching party from using or disclosing, in whole or in part, directly or indirectly, any Confidential Information, without having to prove that actual damages or monetary damages would not be an adequate remedy, and without having to post a bond; and (b) recovery for damages, losses, and expenses (including, but not limited to, attorneys' fees and other litigation expenses) arising out of the breach or

indicated intention to breach. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 15.1, but shall be in addition to all other remedies available at law or in equity.

14.2 Permitted Disclosures. Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that:

- (a) becomes publicly available other than through the receiving Party;
- (b) is required to be disclosed by it or its affiliates pursuant to applicable law or regulation, a subpoena or order of a court, or for evidentiary purposes in any relevant action, proceeding or arbitration to which the receiving Party or any of its partners, officers, directors, shareholders, members or affiliates is a party; provided in the event that the receiving Party receives a request to disclose any Confidential Information under such subpoena, order or otherwise, the Party receiving the subpoena or court order shall, to the extent permitted by applicable law: (i) promptly notify the other Party thereof, (ii) consult with the other Party on the advisability of taking steps to resist or narrow such request, and (iii) if disclosure is required, reasonably cooperate with the other Party in any attempt that it may make to obtain an order or other reliable assurance that confidential treatment will be accorded to the Confidential Information. Any such efforts shall be at the sole cost of the Party wishing to prevent or limit disclosure of the Confidential Information;
- (c) is independently developed by the receiving Party; or
- (d) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality.

16. INDEMNIFICATION.

Subject to the limits set forth in Section 13 above, Owner agrees to indemnify, defend, and hold harmless Host from all claims, lawsuits, damages, judgments, loss, liability, or expenses, including attorneys' fees, for any of the following; provided, however, that Host shall not, however, be required to reimburse or indemnify Host for any such losses to the extent such losses are caused by the sole negligence or willful misconduct of Host or Host's conduct in breach of this Agreement:

- a. Any claim of liability arising out of the negligence or any acts or omissions of Owner in the performance of this Agreement;
- b. Any personal injuries, property damage or death that Owner may sustain while using Host-controlled property or equipment, while participating in any activity sponsored by Host, or from any dangerous condition of property; or
- c. Any injury or death which results or increases by any action taken to medically treat Owner.

17. INSURANCE. Owner, at its own expense, shall provide and maintain insurance coverage during the complete term of the Agreement that conforms in all material respects with the following requirements:

17.1 Workers' Compensation and Employer's Liability Insurance. Statutory Workers' Compensation coverage for all of its employees, including occupational disease coverage, as

required by applicable law, and employer's liability with limits of at least \$1,000,000 bodily injury each accident, \$1,000,000 bodily injury by disease per employee, and \$1,000,000 bodily injury by disease in the aggregate.

17.2 Commercial General Liability Insurance. Commercial General Liability Insurance written on an "occurrence" basis with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate, including bodily injury, hazards of operation, broad form property damage liability coverage, products/completed operations coverage, independent contractor coverage and broad form contractual coverage for liability assumed under the Agreement, to the extent insurable under the policy. Coverage shall include liability arising out of acts of agents or contractors of Owner.

17.3 Automobile Liability Insurance. Coverage for all motor vehicles operated by or for Owner, including protection for automobiles and trucks used by Owner either on or away from the sites at which work is being performed, with a combined single limit of at least \$1,000,000 per occurrence for bodily injury and property damage. The policy shall include coverage for all hired, owned and non-owned vehicles.

17.4 Insurance Requirements Applicable to Contractors. Owner shall require each of its contractors to maintain policies of insurance of the types described above with insurance limits as are customary for the industry in which each such contractor operates and coverage limits as are commercially reasonable given the nature of the work to be provided by such contractor.

17.5 Policy Provisions. Owner agrees that it will maintain insurance to cover any indemnity obligation that it has assumed under this Agreement. All policies will be primary and at Owner's sole expense. Host will be included as an additional insured on all coverage listed above with the exception of Workers' Compensation, Employer's Liability, Property, and Professional Liability. All workers compensation, general liability, and auto liability insurance policies will include provisions that the insurers waive the rights of recovery or subrogation against Host. Insurance coverage will be in a form and carrier acceptable to Host with a minimum A.M. Best rating of A-/VII or higher. The insolvency, bankruptcy or failure of any insurance company shall not relieve Owner of any of its obligations herein. Within five (5) days of a request by Host, Owner shall provide certificates of insurance including additional insured endorsements.

17.6 Certificates. A certificate of insurance evidencing the above must be presented and satisfactory to Host prior to commencement of the Conservation Services. Owner must provide ten (10) days' notice to Host in the event of cancellation of such coverage and ten (10) days' notice in the event of non-payment of premium; and, Owner shall notify Host in the event of material change or cancellation.

18. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile, overnight courier service or e-mail during Owner's and Host's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage

prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

<u>If to Host:</u> City of Escondido Attn: Director of Public Works 201 North Broadway Escondido, CA 92025 Fax: 760-839-4597	<u>If to Owner:</u> Green Charge Networks Attn: Legal Department 4151 Burton Drive Santa Clara, CA 95054 Fax: _____
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19. MISCELLANEOUS.

19.1 Integration; Exhibits. This Agreement, together with any Exhibits and Schedules attached hereto, constitutes the entire agreement and understanding between Owner and Host with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect.

19.2 Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of Owner or Host shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

19.3 Limited Effect of Waiver. The failure of Owner or Host to enforce any of the provisions of this Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.

19.4 Changes and Modifications to the Agreement. Any modification, alteration or change to this Agreement shall be made only by written amendments executed by the Parties.

19.5 Governing Law Provision: The validity of the Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by, and construed in accordance with, the laws of the State of California, without giving effect to conflict of laws principles. Each Party irrevocably agrees that any legal action, suit or proceeding brought by it that in any way arises out of the Agreement ("Proceeding") must be litigated exclusively in the State of California, except on an appeal that by its nature must occur outside the State of California.

19.6 Severability. If any term, covenant or condition in this Agreement shall, to any extent, be invalid or unenforceable in any respect under applicable law, the remainder of this Agreement shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law.

19.7 Successors and Assigns. This Agreement and the rights and obligations under this Agreement shall be binding upon and shall inure to the benefit of Owner and Host and their respective permitted successors and assigns.

19.8 Survival. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive.

19.9 No Partnership. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.

19.10 No Third Party Beneficiaries. Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.

19.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which may be delivered by facsimile transmission or electronically in .PDF format and each of which shall be an original but all of which together will constitute one instrument, binding upon all parties hereto, notwithstanding that all of such parties may not have executed the same counterpart.

17.12 Location of Execution. This Agreement is executed and entered into in the City of Escondido, California.

[Signature page follows]

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Owner and Host have executed this Agreement as of the Effective Date.

HOST:

CITY OF ESCONDIDO

By: _____
Name: Sam Abed
Title: Mayor

By: _____
Name: Diane Halverson
Title: City Clerk

OWNER:

GREEN CHARGE NETWORKS ENERGY SERVICES, LLC

By: _____
Name: Vic Shao
Title: Chief Executive Officer

EXHIBIT A

Site Locations

City of Escondido Sites	Address
Police and Fire HQ	1163 N. Centre City Pkwy
EVCC	2245 E. Valley Pkwy
City Hall 2	201 N. Broadway
Park Ave CC	210 Park Ave
Kit Carson Skate Park	3333 Bear Valley Pkwy
Library	239 S Kalmia
Central Plant	400 N. Escondido Blvd

EXHIBIT B

[System –Specifications]

City of Escondido Sites	Size kW	Size kWh	Green Charge Product ID #	Number of Green Charge Units
Police and Fire HQ	250	500	GreenStation 3.1	1
EVCC	60	120	GreenStation 2.1	2
City Hall 2	60	120	GreenStation 2.1	2
Park Ave CC	60	120	GreenStation 2.1	2
Kit Carson Skate Park	30	60	GreenStation 2.1	1
Library	30	60	GreenStation 2.1	1
Central Plant	30	60	GreenStation 2.1	1

EXHIBIT C

[Annual Demand Charge Reduction Savings]

Expected savings for Year 1

Site	Address	Account ID	Meter #	Power Efficiency Fee	% Shared Savings to the City of Escondido	Total First Year Expected Demand Savings
Police and Fire HQ	1163 N. Centre City Pkwy	3776196405	6583957	66.80%	33.20%	\$47,806.00
EVCC	2245 E. Valley Pkwy	1237351353	6576546	74.00%	26.00%	\$15,817.00
City Hall 2	201 N. Broadway	6715252123	6572873	67.70%	32.30%	\$15,527.00
Park Ave CC	210 Park Ave	6711384553	6697854	72.10%	27.90%	\$13,444.00
Kit Carson Skate Park	3333 Bear Valley Pkwy	8560688804	6700938	72.30%	27.70%	\$7,916.00
Library	239 S Kalmia	7786181858	6688045	62.69%	37.31%	\$7,877.00
Central Plant	400 N. Escondido Blvd	8965235954	6701453	72.10%	27.90%	\$6,597.00



FUTURE CITY COUNCIL AGENDA ITEMS
August 27, 2015

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

September 9, 2015
No Meeting (Labor Day)

September 16, 2015
4:30 p.m. Town Hall Meeting

City Manager's **WEEKLY UPDATE** to City Council

August 26, 2015

PREPARATIONS FOR POTENTIAL WINTER STORMS

A team of city employees representing Public Works, Police, Fire, Engineering, Utilities and the City Manager's Office has been formed to ensure the City is properly prepared for potential heavy rains related to the El Niño phenomenon. A public education effort is also being developed to inform the public about the City's preparations, as well as what residents can do to be prepared also.

DALEY RANCH RESTROOM CONSTRUCTION

The restroom pad has been completed and the pre-fabricated restroom building will arrive on Tuesday, September 1, 2015 and likely will be put into place by a crane on Thursday, September 3. Various site improvements including the connection to the septic system will take place over the following month. It is anticipated the restrooms will be available for public use in October.

KIT CARSON PARK CONCESSION STAND

The City has been approached by the Escondido Girl Softball League (EGSL) to initiate repairs to the concession stand adjacent to the girls' softball fields. The repairs, required by the County Health Department, would allow for the sale of food and drink during games. The information provided by the County to the City and to the EGSL differs. City staff has completed some initial research on the condition of the concession stands and plans to meet with EGSL representative and County staff to verify what will be required. Once staff fully understands the County's requirements, staff will present several options to the City Council for consideration. Attached is a memo providing background information regarding the matter.

SPECIAL EVENTS

- No special events this week.
- For information about activities taking place in Escondido, please visit www.visitescondido.com

PUBLIC WORKS UPDATE

- The replacement pool filter installation project has been completed at the Washington Park pools. The system is operational and the pools have been in use since last Wednesday, August 19th.

City Manager's WEEKLY UPDATE to City Council

- The Drainage Crew has started cleaning the City's channel system. The work has begun at the channel located in the vicinity of El Norte and I-15 adjacent to the two gas stations in the area.
- A structural failure occurred last Wednesday to one of the pepper trees in Grape Day Park at the Veterans Memorial closest to Broadway. The tree ultimately required complete removal because of structural deficiencies. An inspection of the remaining pepper trees in the area revealed all the pepper trees in this area have structural damage. The trees will be removed and replacement trees planted. Public Works is working with the Planning Department staff to insure the replacement trees are complementary to the tree palette developed for the park.
- Public Works Tree Crews have been tasked with the pruning and removal of the seed pods of the approximate 5,000 queen palms located in the City's right-of-way. This work is expected to take approximately one month. Maintenance activities associated with the Urban Forest will be discontinued, except for emergencies, during this time.
- Moses Chairez, one of our Streets Maintenance Technicians, was recognized by Senator Joel Anderson for his work at the 32nd Annual National Night Out Against Crime. Moses has been employed with the City since Oct. 20, 2014.

COMMUNITY DEVELOPMENT

Planning:

- The Planning Commission approved the modification to the Conditional Use Permit for Escondido Disposal, Inc. for the phased expansion of the solid waste Transfer Station (TS) and Materials Recovery Facility (MRF) located at 1044 W. Washington Ave. and 1021 W. Mission Ave.(5-1, Romo voted No). The CUP modification is final unless appealed.
- Property owners along the north side of North Avenue have been soliciting neighborhood interest in a potential annexation. Owners are concerned about the adequacy of the septic systems serving these properties and potential problems which may be caused by predicted El Nino weather conditions. The City has no pending annexation application for this area and has advised residents that annexation would likely require formation of an assessment district since the majority of properties are already developed. At least one owner is experiencing a failing septic system which may trigger a request for an Out-of-Agency sewer agreement.
- Major Projects Update:

City Manager's WEEKLY UPDATE to City Council

- Oak Creek (NUW) – A LAFCO hearing date has been tentatively scheduled for October 5th.
- Amanda Estates (NUW) – LAFCO approved the reorganization (annexation) at their August 3rd meeting.
- Centerpointe 78 Commercial – The Draft Environmental Impact Report (EIR) has been released for a 45 day public review period ending Sept. 28th. The Draft EIR is available at the following link:
- <http://www.escondido.org/centerpointe-78-commercial-project.aspx>
- Pradera - Grading is underway. Plan check comments have been provided on the building permit applications for the model homes. Staff is preparing a fee deferral agreement as requested by the applicant per City policy. A variance application to address setback issues relating to the location of the perimeter walls has been submitted and is tentatively scheduled for Planning Commission in September.
- Zenner - LAFCO has tentatively scheduled the project for consideration on Sept. 14th.
- Kaen Planned Development (2516 S. Escondido Blvd.) – Staff is reviewing a revised planned development submittal for “Stella Point Condominiums”, submitted on Aug. 5th. The applicant is pursuing selection of consultants for preparation of numerous technical studies and the CEQA document which is anticipated to be a mitigated negative declaration.
- Wohlford – A letter has been sent for the proposed 55-unit residential subdivision and planned development at 661 Bear Valley Parkway advising the applicant that the application is incomplete and identifying the necessary submittals to continue processing the application. The applicant is coordinating with staff regarding a Specific Alignment Plan for Bear Valley Parkway and is conducting technical studies. Staff is preparing a Request for Qualifications for consultant preparation of an EIR. Tribal consultation has been requested by the Rincon Band pursuant to AB52.
- Latitude II – The project was approved by the City Council on August 19th.
- Shea Homes (Tract 932) – Staff approved the substantial conformance determination for the revised tentative map for the 179-lot residential subdivision known as Hidden Valley Ranch. Comments have been provided on the grading plan. The Final Map has been submitted and is under review. The Precise Plan application was submitted on Aug. 6th and is under review; the application will include review of proposed park amenities as well as setback issues on 9 lots where the proposed units do not meet the setback requirements of the planned development.
- Safari Highlands – The tentative map and specific plan application have been routed to outside agencies for comment. Staff is reviewing qualifications for an extension of staff for engineering services. Discussions are underway regarding the need for consulting services to prepare the Municipal Services Review and Sphere of Influence (SOI) update. A status update is scheduled for City Council discussion on Aug. 26th regarding expanded boundaries for the SOI update.

City Manager's WEEKLY UPDATE to City Council

- Felicita Development, LLC - The proposed planned development includes the phased development of a 140-unit hotel, an 80-unit extended stay hotel, a 120-bed assisted living facility and a gas station and car wash located at the southeast corner of Felicita Rd. and Gamble Lane. Additional technical analysis and coordination is needed to address traffic, biology, water and sewer service, geotechnical and storm water concerns, along with a market study for the proposed uses. A letter addressing items and technical studies needed to complete the application has been sent. Staff is coordinating with the applicant regarding a date for a neighborhood meeting.
- EDI – The CUP modification to expand the existing facility was approved by the Planning Commission on August 25th.
- Westfield Theater – The Economic Development Subcommittee authorized expedited processing of the modification to the planned development for the proposed 10-auditorium movie theater. The project will bypass the Planning Commission and will be directly considered by the City Council at a future public hearing. A draft Mitigated Negative Declaration has been submitted and is under review.
- Paseo Escondido – The Phair Company application for a mixed-use planned development for the property at the southwest corner of Ash Street and Washington Ave. (currently owned by the City) is under review. The proposed project consists of 26 one-bedroom and 96 two-bedroom apartments (122 units total) in three four-story buildings, and two 5,000 SF commercial buildings (10,000 SF total) oriented around an outdoor plaza. Staff is meeting with the applicant this week to discuss additional submittals required to complete the application.
- Valiano (County project) - Staff met with County staff to discuss concerns regarding the EIR traffic analysis and need for offsite street improvements within the City to address significant traffic impacts for the proposed 326-unit residential project located in the unincorporated area of Eden Valley.
- High Pointe (Palos Vista Neighborhood 3) – Staff is reviewing revised landscape and grading plans in order to prepare a bond letter.
- Lopez Market - The demolition permit was issued yesterday for the former Lopez Market, located on the City-owned property at 201 S. Pine St.

Housing Division:

Staff is expediting processing of two First Time Home Buyer (FTHB) loans. FTHB loan activity has diminished since HUD issued a new rule in 2013 establishing a cap on the purchase price of eligible homes; the number of available homes on the market at or below this cap is limited.

Building Division:



City Manager's **WEEKLY UPDATE** to City Council

1. The Building Division issued 86 permits for the week with a total valuation of \$2,464,383.
2. 36 photovoltaic permits were issued for the week. Building has issued 785 solar permits so far this year compared to 414 issued at the same time last year (an increase of nearly 90%). Staff is consulting with SDG&E regarding their forecast or projections for residential roof top solar permitting activity for 2016. We are also inquiring as to the status of any rebates or incentives that may be driving any current or future increase in activity.
3. Building inspectors and counter staff had a very busy week with inspections averaging 31 inspections per day with 17 inspections on Friday and counter contacts averaging 40 per day with 26 on Friday.
4. Due to the heavy inspection requests this week, the Building Division "held over" 2 inspections on Friday to be completed on Monday and the city's Deputy Building Official was sent out to conduct inspections on Monday and Tuesday to keep up with the increased work load. Staff is exploring strategies to address the demand for inspection services, which is anticipated to increase through 2016.
5. Permits were issued for the new 24 Hour Fitness at the Westfield North County Mall.
6. The 76 unit apartments on 2412 S. Escondido Blvd has received underground plumbing and foundation inspections for all three buildings and is beginning to frame the buildings.
7. The Black Angus restaurant at the Westfield North County Mall has received framing inspection approval and is beginning to wrap exterior of the building.
8. The Habitat for Humanity residential project at 537 N. Elm St has 3 remaining buildings that need final occupancy approval.
9. The Meadowbrook Village 3-story apartment building has received underground utility and partial foundation inspection approval.

Code Enforcement:

1. As of August 24th, the total number of open code enforcement case is 432 cases, with a backlog of an additional 22 cases not yet opened for assignment and investigation. During the prior week, 60 new cases were opened, and 61 cases were closed. A total of 84 PRRs have been processed this year to date. A total of 163 signs were pulled. Recruitment is underway for one full-time and two part-time vacant officer positions to assist with the backlog.

City Manager's WEEKLY UPDATE to City Council

2. Last week the Business License Division received 27 new applications and 175 renewals, and issued 32 new licenses.

CAPITAL IMPROVEMENTS

FY 2014-2015 Maintenance Project:

Notice to Proceed for this project was issued on August 6, 2015. The project has 40 working days for completion which includes crack filing, slurry seal, ARAM and street restriping. The dig out operation started on Tuesday, August 25th with approximately 400 tons of asphalt being replaced at the street failure location. The ARAM operation is set to begin on Wednesday, August 26th; this portion of the project will treat over 136,000 square feet of roadway. The striping subcontractor began striping removal on Monday, August 24; this item must be completed in advance of the ARAM application. Included in this project is the Chip Seal of downtown alleys.

Private Development

Bear Valley Parkway between Boyle Avenue and San Pasqual Valley Road (County Project):

The roadway widening of the southern portion of Bear Valley Parkway between Suburban Hills Drive and San Pasqual Valley Road (SR78) is continuing this week with base pavement being placed on the northbound lane on Wednesday, August 26th. The 16" gas main welding is continuing this week. The affected homes have been notified to expect noise and odor from the release of pressure associated with the 16" gas main tie in. The next phase of water tie-ins at the Boyle Avenue intersection is scheduled for later this week.

2412 South Escondido Boulevard:

On site construction of new homes is continuing this week

Pradera - Lennar Communities: The grading contractor is actively grading phase 3 through 5 of the project. The import of dirt material has resumed this week with modified work times to provide safe passage during the school hours drop off and pick times. The offsite improvement for water line construction is proceeding to the testing phase this week with water quality testing.

St. Mary's Church: The grading and work on the public water mains is ongoing.

Taco Bell Restaurant on Escondido Boulevard:

The old structure has been removed and grading is underway for the new restaurant building which is expected to be reopened by the end of October of this year.

PUBLIC SAFETY

City Manager's WEEKLY UPDATE to City Council

Police:

INCIDENTS

- On 8/16/2015, officers responded to a report of a structure fire in the 800 block of Pico Pl. Officers provided traffic and scene control for about an hour.
- On 8/18/2015, officers responded to the 200 block of E. Via Rancho Parkway on a report of a burglary. Three males attempted to smash a jewelry case but were unsuccessful.
- On 8/18/2015, officers responded to a report of a "Hot Prowl" burglary in the 400 block of E. Washington Ave. A "Hot Prowl" burglary occurs when the occupant is present at the time the burglary attempt is made. A female victim reported three subjects came to her door armed with a handgun. The suspects ransacked the residence and struck the victim in the head.
- On 8/18/2015, officers responded to a report of a Hit & Run collision in the 700 block of Camellia St. Upon arrival, officers discovered the involved vehicle was reported stolen. An officer stopped two juveniles nearby and determined they were the suspects.
- On 8/19/2015, responded to Palomar Medical Center on a report of a rape that had occurred at another location.
- On 8/19/2015, officers responded to a burglary alarm in the 300 block of S. Juniper St. Upon arrival, officers found the front door kicked in. No suspects were located.
- On 8/20/2015, officers responded to two burglary reports, one in the 200 block of S. Broadway and one in the 400 block of S. Juniper St. Unique property was taken in both burglaries. Approximately two hours later, officers located a subject in possession of some of the stolen property. The subject was arrested and the remaining property was recovered.
- On 8/22/2015, approximately 300 people staged a protest at the Planned Parenthood office in the 300 block of W. Mission Ave. The protest was peaceful.
- On 8/22/2015, officers responded to the 600 block of N. Broadway on a report of a shoplifter in custody. Officers took custody of the subject and transported him to the Police and Fire Headquarters. The subject became violent in the jail and an officer received minor injury.
- On 8/22/2015, officers responded to the intersection of El Norte Pkwy. and Lincoln Ave. on a report of a vehicle collision. Upon arrival, officers discovered one of the drivers had fled on foot. The missing driver later called to report his vehicle as stolen and was subsequently arrested for felony Hit & Run.

EVENTS

- On 8/21/2015, officers conducted a DUI saturation patrol, resulting in 4 arrests for driving under the influence and 7 vehicle impounds.



City Manager's **WEEKLY UPDATE** to City Council

- On 8/22/2015, a DUI checkpoint was conducted in the 700 block of W. Grand Ave. During the event, 2,368 vehicles drove through the checkpoint, 1060 vehicles were screened in primary, 81 vehicles were sent to secondary (drivers who could not provide a driver's license or who were suspected of DUI), 2 Field Sobriety Tests were administered resulting in 2 DUI arrest, 47 citations were issued (9 for suspended license, 30 for unlicensed driver, and 10 for no insurance), 15 vehicles were impounded and 18 vehicles were released to the owner or designated driver.

###

August 26, 2015

TO: Clay Phillips, City Manager

FROM: Graham Mitchell, Assistant City Manager

SUBJECT: Concession Stand Status Report

You asked that I investigate and provide a summary regarding the condition of the concession stands at Kit Carson Park. This memo provides an assessment of three stands at the Park and a description of required repairs by the County Department of Health in order to sell food. The memo also addresses an offer of assistance from the Escondido Girls Softball League.

Five concession stands are located at Kit Carson Park. One stand, located at the Ray Love Tennis Center, is currently leased and operates with a Health Permit. The other stands are located at the Adult Softball Complex, the Girls Softball Fields, the Little League Fields and the Sports Center (this memo does not address the condition of the Sports Center stand). I had an opportunity to visit the stands with staff to assess their conditions and to understand the needed improvements.

Improvement costs to one concession stand ranges from approximately \$111,000 to \$250,000 (depending on the level of food service being provided). The cost to repair all three stands range from \$333,000 to \$750,000. In preparation for this memo, staff spoke to Mr. Snowden (who offered to initiate improvements to the girls softball fields stand) and with Escondido Girls Softball League president (Chia Grossmann).

Adult Softball Complex Concession Stand

The concession stand adjacent to the Adult Softball Complex has not been in use for approximately two years. When it was open, it did not operate with a County health permit. The City's CIP allocates \$134,000 to repair the facility. Staff believes that the funds currently set aside will bring the facility into conformance with County standards, allowing the sale of pre-packaged foods and beverages. Some of the more costly repairs include:

- Installing equipment in order to provide hot water in the nearby restrooms,
- Replacement of countertops,
- New flooring,
- Electrical upgrades, and
- Painting.

If the City intends to allow for the sale of non-prepackaged foods (food prepared and served on site), another \$120,000 would need to be invested in the site. The additional work would include the installation of a grease interceptor, a three compartment sink,

additional floor drains, air conditioner, Plexiglas barriers at serving windows, an insect control air curtain, and complete Title 24 building code upgrades.

Staff intends to solicit interest in leasing the stand after its budgeted improvements are completed. Staff anticipates generating approximately \$3,000 annually in lease revenue from the stand.

Girls Softball Fields Concession Stand

The concession stand that has been used by the Escondido Girls Softball League (EGSL) does not operate with a County health permit. The EGSL typically sells prepared foods (i.e. hamburgers, nachos, hotdogs, etc.). The stand raises funds to help defray league costs. EGSL begins its fall season (not as large as its spring season) in October.

County staff has informed City staff that repairs to the stand are required in order to sell both pre-packaged and/or prepared foods. The required improvements and costs are similar to that of the Adult Softball Complex concession stand—approximately \$110,000 in order to allow the sale of pre-packaged foods and up to \$250,000 for prepared/cooked foods.

Charlie Snowder, a volunteer with the EGSL, recently made contact with the County Health Department. The County provided EGSL with a list of required upgrades to the stand, which differ from what the County provided to the City. According to Mr. Snowder, EGSL can secure a County “finish only” permit for improvements at the facility and will obtain a health permit. This would allow them to sell pre-packaged foods. The cost of this approach is substantially less than the City’s \$110,000 repair estimate, which is based on County information.

Because the information provided by the County to the City differs from what was provided to EGSL, staff is establishing a meeting approximately in mid-September with County staff, City staff, and EGSL representatives (Ms. Grossmann and Mr. Snowder). The goal of the meeting is to determine if the less stringent regulations provided to Mr. Snowder can be applied.

If the less stringent regulations are applicable, EGSL has offered to begin repairs to the concession stand with volunteers. EGSL has preliminarily indicated that it may make three requests to the City:

- 1) Clean and repair the floor, which may require replacement of the current tiles (it is possible the tiles are secured with glue containing asbestos),
- 2) Install a hot water system in the adjoining restrooms if required by the County, and
- 3) Donate \$5,000 to the volunteer project.

Staff estimates the floor portion of the remodel could cost up to \$15,000 and the restroom hot water system will cost up to \$38,500. Depending on the meeting with the County, staff will determine options for City Council consideration.

Little League Fields Concession Stand

The concession stand adjacent to the Little League fields is in similar repair to that of the girls softball concession stand. It also has operated without a health permit. Costs to bring it to County standards are similar to both of the softball concession stands.

Solutions

Once the City obtains clear direction from the County, staff will develop options for City Council consideration. Because there are no funds budgeted for upgrades beyond those to the Adult Softball concession stand, some options may include shifting existing CIP funds from other projects to the EGSL and Little League concession stand projects, allocating General Fund reserves, and/or seeking outside funding sources.