



Council Meeting Agenda

APRIL 26, 2017

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	John Masson
COUNCIL MEMBERS	Olga Diaz Ed Gallo Michael Morasco
INTERIM CITY MANAGER	Jeffrey Epp
CITY CLERK	Diane Halverson
INTERIM CITY ATTORNEY	Michael McGuinness
DIRECTOR OF COMMUNITY DEVELOPMENT	Bill Martin
DIRECTOR OF ENGINEERING SERVICES	Julie Procopio

ELECTRONIC MEDIA:

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

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

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

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



Council Meeting Agenda

**April 26, 2017
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 LABOR NEGOTIATOR (Government Code §54957.6)**
- a. **Agency Negotiator:** Sheryl Bennett and Jeffrey Epp
Employee Organization: Non-Sworn Police Bargaining Unit
 - b. **Agency Negotiator:** Sheryl Bennett and Jeffrey Epp
Employee Organization: Escondido City Employee Association:
Administrative/Clerical/Engineering Bargaining Unit
 - c. **Agency Negotiator:** Sheryl Bennett and Jeffrey Epp
Employee Organization: Escondido City Employee Association: Supervisory
Bargaining Unit
- II. CONFERENCE WITH LEGAL COUNSEL-- EXISTING LITIGATION (Government Code 54956.9(d)(1))**
- a. **Case Name:** John Myers v. City of Escondido
Case No: WCAB Case No. ADJ15588773

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

- a. **Property:** A parcel on the north side of West Valley Parkway between City Hall and the California Center for the Arts, Escondido; APN 229-372-20
City Negotiator: Jeffrey Epp, Interim City Manager
Negotiating Parties: Craig Clark
Under Negotiation: Price and Terms of Agreement

- b. **Property:** Municipal Parking Lot #1, Municipal Parking Lot #2, and APNs 233-091-01 through -17
City Negotiator: Jeffrey Epp, Interim City Manager
Negotiating Parties: Touchstone Communities
Under Negotiation: Price and Terms of Agreement

- c. **Property:** APNs 238-073-06, -17, -038, -49, -50, -51, -52, -57
City Negotiator: Jeffrey Epp, Interim City Manager
Negotiating Parties: Terry Jackson
Under Negotiation: Price and Terms of Agreement

- d. **Property:** 901 West Washington Avenue (Public Works Yard)
City Negotiator: Jeffrey Epp, Interim City Manager
Negotiating Parties: Prospective Purchasers
Under Negotiation: Price and Terms of Agreement

IV. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION/SIGNIFICANT EXPOSURE (Government Code 54956.9(d)(2))

- a. **One Case:** Claim No. 4838

- b. **One Case:** Diana Provost v. City of Escondido

ADJOURNMENT

A black and white photograph of the Escondido City Council building, a large, classical-style structure with a prominent dome and arched windows. An American flag flies on a tall pole in front of the building. The scene is framed by a thick, dark border.

Council Meeting Agenda

**April 26, 2017
4:30 P.M. Meeting**

Escondido City Council

CALL TO ORDER

MOMENT OF REFLECTION:

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

FLAG SALUTE

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

ORAL COMMUNICATIONS

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

CONSENT CALENDAR

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

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
3. **[APPROVAL OF MINUTES: Regular Meeting of April 5, 2017](#)**

4. **[FISCAL YEAR 2013 STATE AND COMMUNITY CORRECTIONS POLICE GRANT - ADDITIONAL FUNDS AND BUDGET ADJUSTMENT -](#)**

Request the City Council approve accepting Fiscal Year 2013 State & Community Corrections Police Grant funds in the amount of \$37,560; 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.

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

5. **[SUPPORTING THE SAN DIEGO COUNTY WATER AUTHORITY'S LONG TERM WATER SUPPLY PLAN AND LITIGATION AGAINST THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA -](#)**

Request the City Council adopt Resolution No. 2017-53 supporting the San Diego County Water Authority's long term water supply plan and litigation against the Metropolitan Water District of Southern California.

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

RESOLUTION NO. 2017-53

6. **[AUTHORIZE THE MAYOR AND THE CITY CLERK TO EXECUTE MASTER AGREEMENTS FOR FEDERAL-AID AND STATE FUNDED PROJECTS -](#)**

Request the City Council approve authorizing the Mayor and the City Clerk to execute a new Master Agreement for Federal-Aid funded projects and authorize the Director of Engineering Services to execute Program Supplements to Master Agreements for Federal-Aid and State Funded Projects.

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

RESOLUTION NO. 2017-54

7. **[PURCHASE ONE \(1\) FREIGHTLINER CRANE TRUCK FROM NATIONAL AUTO FLEET GROUP -](#)**

Request the City Council approve authorizing the Fleet Services Division to purchase one (1) new 2018 Freightliner M2 chassis, equipped with a Palfinger PK1800EH-C knuckle boom crane in the amount of \$198,069.28, through a Cooperative Purchase Contract with the National Joint Powers Alliance.

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

RESOLUTION NO. 2017-56

8. **[REAUTHORIZATION OF COX COMMUNICATIONS COLLECTION AND REMITTANCE OF PEG FEES TO THE CITY OF ESCONDIDO -](#)**

Request the City Council approve authorizing Cox Communications to continue to collect and remit Public, Education, and Government (PEG) Fees to the City of Escondido.

Staff Recommendation: **Approval (City Manager's Office: Jay Petrek)**

RESOLUTION NO. 2017-57

9. **APPROVAL TO FUND NEXT GENERATION REGIONAL COMMUNICATION SYSTEM (NEXTGEN RCS) INFRASTRUCTURE, RADIOS AND SUPPORT DEVICES, AUTHORIZATION OF A LEASE-PURCHASE AGREEMENT, AND BUDGET ADJUSTMENT -**

Request the City Council approve a budget adjustment involving, a) the first installment of the NextGen RCS 'backbone' infrastructure, and b) the purchase and finance of portable and mobile radios, and support devices necessary to operate the system; and approve authorizing the Administrative Services Director to execute a lease-purchase agreement with "Leasing 2."

Staff Recommendation: **Approval (City Manager's Office: Jay Petrek)**

RESOLUTION NO. 2017-58

10. **NOTICE OF COMPLETION: EMERGENCY REPAIR OF THE SEWER PIPELINE ON NORTH HALE AVENUE -**

Request the City Council approve authorizing the Director of Utilities to file a Notice of Completion for the Emergency Repair of the Sewer Pipeline on North Hale Avenue.

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

RESOLUTION NO. 2017-60

11. **CONTINUING EMERGENCY AND NEED TO REPAIR THE SEWER PIPELINE IN GREEN TREE MOBILE HOME ESTATES -**

Request the City 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. 2017-61

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

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

CURRENT BUSINESS

12. **AMENDMENT TO ARTICLE 70: SECOND DWELLING UNITS OF THE ESCONDIDO ZONING CODE (AZ 16-0007) -**

Request the City Council receive the staff report, provide direction to staff, and then refer this item back to the Planning Commission with direction to form a subcommittee to continue working on the Accessory Dwelling Unit Ordinance for the reasons stated in the staff report. The recommendation of the subcommittee would then go back to the Planning Commission and City Council for reporting and decision-making.

Staff Recommendation: **Refer to Planning Commission (Community Development Department: Bill Martin)**

13. **AMENDMENT TO THE 2012 BICYCLE MASTER PLAN TO INCLUDE CLASS IV BIKEWAY (CYCLE TRACKS) AS PART OF THE BICYCLE MASTER PLAN MISSING LINK PROJECT -**
Request the City Council approve amending the City's Bicycle Master Plan to include Class IV Bikeway (Cycle Tracks) as part of the Bicycle Master Plan Missing Link Project.

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

RESOLUTION NO. 2017-52

14. **AUTHORIZATION FOR PAYMENTS TO THE SAN ELIJO JOINT POWERS AUTHORITY FOR ESCONDIDO'S SHARE OF THE SAN ELIJO LAND OUTFALL REPLACEMENT PROJECT AND BUDGET ADJUSTMENT -**

Request the City Council approve authorizing payments to San Elijo Joint Powers Authority (SEJPA) for Escondido's cost share to replace the portion of the land outfall co-owned by the City of Escondido and SEJPA. Total payments shall be \$7,863,107. Half of this amount, or \$3,931,553.50, will be invoiced to the City in May, with the remaining half to be invoiced in September or later as the project progresses. It is also requested that the City Council approve a budget adjustment in the amount of \$2,000,000 from the Wastewater CIP Reserve Fund to CIP No. 800079 (Outfall Maintenance). This budget adjustment would increase the total funds available to CIP No. 800079 to \$7,945,133.

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

RESOLUTION NO. 2017-62

FUTURE AGENDA

15. **FUTURE AGENDA -**

The purpose of this item is to identify issues presently known to staff or which members of the City 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

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ADJOURNMENT

UPCOMING MEETING SCHEDULE				
Date	Day	Time	Meeting Type	Location
May 10	Wednesday	3:30 & 4:30 PM	Regular Meeting	City Council Chambers
May 17	Wednesday	4:00 PM	Town Hall Meeting	City Council Chambers
May 24	Wednesday	3:30 & 4:30 PM	Regular Meeting	City Council Chambers
May 31	-	-	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
April 5, 2017
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, April 5, 2017 in the City Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE:

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

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

I. CONFERENCE WITH LABOR NEGOTIATOR (Government Code §54957.6)

- a. **Agency Negotiator:** Sheryl Bennett and Jeffrey Epp
Employee Organization: Non-Sworn Police Bargaining Unit
- b. **Agency Negotiator:** Sheryl Bennett and Jeffrey Epp
Employee Organization: Escondido City Employee Association:
Administrative/Clerical/Engineering (ACE) Bargaining Unit
- c. **Agency Negotiator:** Sheryl Bennett and Jeffrey Epp
Employee Organization: Escondido City Employee Association: Supervisory (SUP)
Bargaining Unit

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

Case Name: Southwest Key Programs, Inc. v. City of Escondido
Case No: '15-CV-1115-H (BLM)

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

- a. **Property:** APNs 238-073-06, -17, -038, -49, -50, -51, -52, -57
City Negotiator: Jeffrey Epp, Interim City Manager
Negotiating Parties: Terry Jackson
Under Negotiation: Price and Terms of Agreement
- b. **Property:** Municipal Parking Lot #1, Municipal Parking Lot #2, and APNs
233-091-01 through -17
City Negotiator: Jeffrey Epp, Interim City Manager
Negotiating Parties: Touchstone Communities
Under Negotiation: Price and Terms of Agreement

IV. PUBLIC EMPLOYEE APPOINTMENT AND EVALUATION (Government Code 54957)

a. City Manager

ADJOURNMENT

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

MAYOR

CITY CLERK

DEPUTY CITY CLERK

CITY OF ESCONDIDO
April 5, 2017
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, April 5, 2017 in the City Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION

FLAG SALUTE

Councilmember Diaz led the flag salute.

ATTENDANCE:

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

Also present were: Jeffrey Epp, Interim City Manager; Michael McGuinness, Interim City Attorney; Bill Martin, Director of Community Development; Julie Procopio, Director of Engineering Services; Diane Halverson, City Clerk; and Jennifer Ekblad, Deputy City Clerk.

PROCLAMATIONS

Earth Day and Earth Awareness Month

PRESENTATIONS

Earth Day Poster Contest Award Presentation

ORAL COMMUNICATIONS

Katherine Fromm, Escondido, spoke in opposition of Police Department operations with Immigrations and Customs Enforcement; commented on deportation and immigration issues.

Patti Thompson, Escondido, commented regarding homeless encampments and homelessness issues in the City.

CONSENT CALENDAR

MOTION: Moved by Deputy Mayor Masson and seconded by Councilmember Morasco 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: A) Regular Meeting of March 15, 2017 B) Regular Meeting of March 22, 2017**

4. **FISCAL YEAR 2016 STATE HOMELAND SECURITY GRANT PROGRAM GRANT ACCEPTANCE AND BUDGET ADJUSTMENT -**

Request the City Council approve accepting \$121,095 in funding from the Department of Homeland Security for the FY16 State Homeland Security Grant Program; authorize the Fire Chief to execute, on behalf of the City, all documents required for the management of this grant; and approve the necessary budget adjustment to establish new projects for tracking of these grant funds. (File No. 0480-70)

Staff Recommendation: **Approval (Fire Department: Russ Knowles)**

5. **SENIOR NUTRITION BUDGET ADJUSTMENT**

Request the City Council approve a budget adjustment of \$6,258, resulting from one-time only funds provided by the County of San Diego for the Senior Nutrition Program and authorize the Interim City Manager and Director of Administrative Services to make the necessary budget adjustments to the Senior Nutrition budget. (File No. 0430-80)

Staff Recommendation: **Approval (Community Services Department: Loretta McKinney)**

6. **EXTENSION OF TIME FOR TENTATIVE SUBDIVISION MAP 895 (SUB 15-0030) -**

Request the City Council approve a three-year extension of time for an eight-lot single-family residential Tentative Subdivision Map, originally approved as Tract 895, located at 1537 Boyle Avenue. (File No. 0800-10)

Staff Recommendation: **Approval (Community Development Department: Bill Martin)**

RESOLUTION NO. 2017-40

7. **CITY OF ESCONDIDO LANDSCAPE MAINTENANCE DISTRICT - PRELIMINARY ENGINEER'S REPORT FOR ZONES 1 THROUGH 38 FOR FISCAL YEAR 2017/2018 -**

Request the City Council approve initiating the proceedings for the annual levy of assessments for the City of Escondido Landscape Maintenance Assessment District for Zones 1 through 38 for Fiscal Year 2017/2018; approve the preliminary Engineer's Report for LMD Zones 1 through 38; and set a public hearing date of May 3, 2017, for LMD Zones 1 through 38. (File No. 0685-10)

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

A) RESOLUTION NO. 2017-45 B) RESOLUTION NO. 2017-46

8. **ADOPTION OF A NEW DEBT MANAGEMENT POLICY AS REQUIRED FOR STATE APPROVAL OF THE WASTEWATER STATE REVOLVING FUND LOANS -**

Request the City Council approve establishing a Debt Management Policy for the City of Escondido. (File No. 0430-90)

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

RESOLUTION NO. 2017-47

9. **SECOND AMENDMENT TO LEASE AGREEMENT WITH ESCONDIDO EDUCATION COMPACT AT 220 SOUTH BROADWAY -**

Request the City Council approve authorizing the Real Property Manager and the City Clerk to execute a Second Amendment to the Lease Agreement with Escondido Education COMPACT at 220 South Broadway. (File No. 0600-10 [A-3091])

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

RESOLUTION NO. 2017-50

10. CONTINUING EMERGENCY AND NEED TO REPAIR THE SEWER PIPELINE IN GREEN TREE MOBILE HOME ESTATES -

Request the City 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, and property. (File No. 0600-10 [A-3213])

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

RESOLUTION NO. 2017-51

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

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

CURRENT BUSINESS

11. CITY COUNCIL RESPONSE TO AB 805 -

AB 805 would amend various provisions in the California Public Utilities Code to, among other things, require changes to the agency voting weight and membership of the SANDAG board members and would require changes to the board representation and voting weight of MTS and NCTD member agencies. (File No. 0680-70)

Staff Recommendation: **None (Mayor Abed and Deputy Mayor Masson)**

MOTION: Moved by Deputy Mayor Masson and seconded by Councilmember Morasco to oppose AB 805 and send a letter regarding the City's position to the California State Assembly. Ayes: Abed, Gallo, Masson, Morasco. Noes: Diaz. Motion carried.

12. CITY COUNCIL RESPONSE TO SB 54 -

SB 54 would add several provisions to current state law relating to the Standards for Cooperation in United States Immigration and Customs Enforcement Programs including restrictions on the ability of any California law enforcement agency or official to communicate and cooperate with federal, civil, and criminal immigration law enforcement agencies and personnel. (File No. 0680-70)

Staff Recommendation: **None (Mayor Abed and Councilmember Morasco)**

RESOLUTION NO. 2017-55

MOTION: Moved by Councilmember Morasco and seconded by Deputy Mayor Masson to oppose California Senate Bill No. 54 by adopting Resolution No. 2017-55. Ayes: Abed, Gallo, Masson, Morasco. Noes: Diaz. Motion carried.

13. 2017-2018 DRAFT CITY COUNCIL ACTION PLAN UPDATE -

Request the City Council review the Draft 2017-2018 City Council Action Plan and provide input regarding strategies aimed at accomplishing goals. (File No. 0610-95)

Staff Recommendation: **Provide Direction (City Manager's Office: Jay Petrek)**

Jay Petrek, Assistant City Manager, presented the staff report utilizing a PowerPoint Presentation.

Carol Rea, Escondido, requested consideration for street lighting and sidewalks in the Old Escondido Historic District.

COUNCIL ACTION: City Council provided direction to staff.

FUTURE AGENDA

14. FUTURE AGENDA -

The purpose of this item is to identify issues presently known to staff or which members of the City 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 attended the North County Transit District meeting and reported that the Coastal Corridor is averaging more than one fatality per month; reported attending the SANDAG Borders Committee.

Deputy Mayor Masson attended the League of California Cities meeting and reported the discussion regarding transportation funding package; the League took positions on several State Assembly and State Senate Bills.

Mayor Abed reported that SANDAG passed an Operational Budget and shared that on April 14 the Board of Directors will issue a press release on AB 805. County Selection Committee extended Mayor Abed's term as Chairman of LAFCO for one year; the Committee will meet to vote on representation on the Coastal Commission.

CITY MANAGER'S UPDATE/BRIEFING

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

- **CITY MANAGER'S UPDATE -**

ORAL COMMUNICATIONS

ADJOURNMENT

Mayor Abed adjourned the meeting at 7:02 p.m.

MAYOR

CITY CLERK

DEPUTY CITY CLERK

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 4
Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council
FROM: Craig Carter, Chief of Police
SUBJECT: FY 2013 State and Community Corrections Police Grant - Additional Funds

RECOMMENDATION:

It is requested that the City Council accept additional FY 2013 State & Community Corrections Police Grant funds in the amount of \$37,560; 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.

FISCAL ANALYSIS:

This action will have no impact on the General Fund Budget. Grant funds will be used for part-time salaries, police officer overtime, overhead, and enforcement equipment.

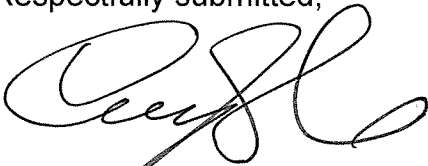
PREVIOUS ACTION:

On November 18, 2015, Council approved State and Community Corrections Grant additional funding in the amount of \$69,400 for overtime, reserve officer salary, overhead, and program supply costs.

BACKGROUND:

The Escondido Police Department has been allocated additional funds under the FY 2013 State and Community Corrections Police Grant. This funding was provided by the State of California Board of Community Corrections, through Assembly Bill 118 and Senate Bill 89, to reduce state prison overcrowding and support local law enforcement efforts. Escondido's allocation is used to support regional and local enforcement efforts. Grant funds will be used for part-time salaries, police officer overtime, overhead, and enforcement equipment.

Respectfully submitted,



Craig Carter
Chief of Police



CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 5

Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Michael R. McGuinness, Interim City Attorney

SUBJECT: Supporting the San Diego County Water Authority's Long Term Water Supply Plan and Litigation Against the Metropolitan Water District of Southern California

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-53 Supporting the San Diego County Water Authority's Long Term Water Supply Plan and Litigation Against the Metropolitan Water District of Southern California.

FISCAL ANALYSIS:

None

BACKGROUND:

The San Diego County Water Authority (SDCWA) is a wholesale water agency created by statute in 1944. The SDCWA serves 3.3 million people and the region's \$222 billion economy and is comprised of 24 member agencies including the City of Escondido.

On March 22, 2017, Maureen Stapleton, General Manager of the SDCWA gave a presentation to the City Council at its regularly scheduled meeting which outlined several water-related issues facing the SDCWA and its customers. A copy of her presentation slides is included with this report.

Included in her presentation, Ms. Stapleton provided an update to the City Council on the history of overcharging by the Metropolitan Water District (MWD) and the litigation to recover monies on behalf of the member agencies and rate payers. The various courts hearing the case have sided with the SDCWA and MWD has appealed the latest ruling. It is estimated that City of Escondido residents and businesses have been overcharged approximately \$7.5 million over the years by MWD.

The SDCWA has sought the support of its members to demonstrate a commitment by the agencies to aggressively fight the past and future rate overcharges by MWD, recover the sums improperly charged and help ensure a reliable, cost-certain and diverse water supply to the regions customers.

Respectfully submitted,

Michael R. McGuinness
Interim City Attorney

San Diego County Water Authority Issues Update

City of Escondido
March 22, 2017



Maureen A. Stapleton, General Manager

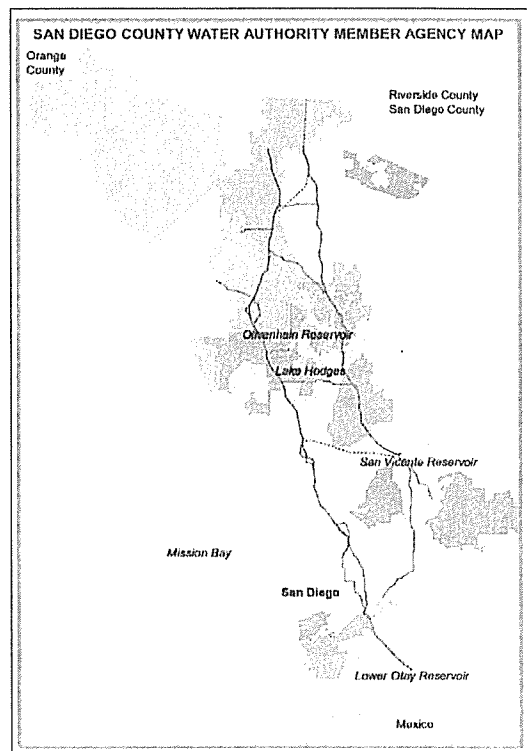
San Diego County Water Authority

Wholesale water agency created by state Legislature in 1944

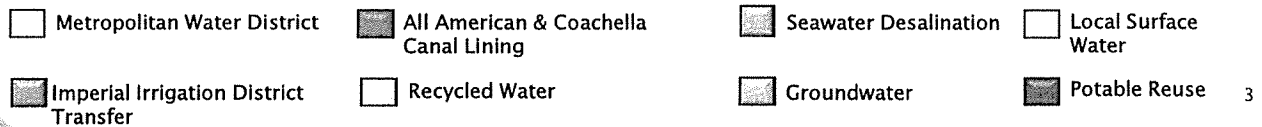
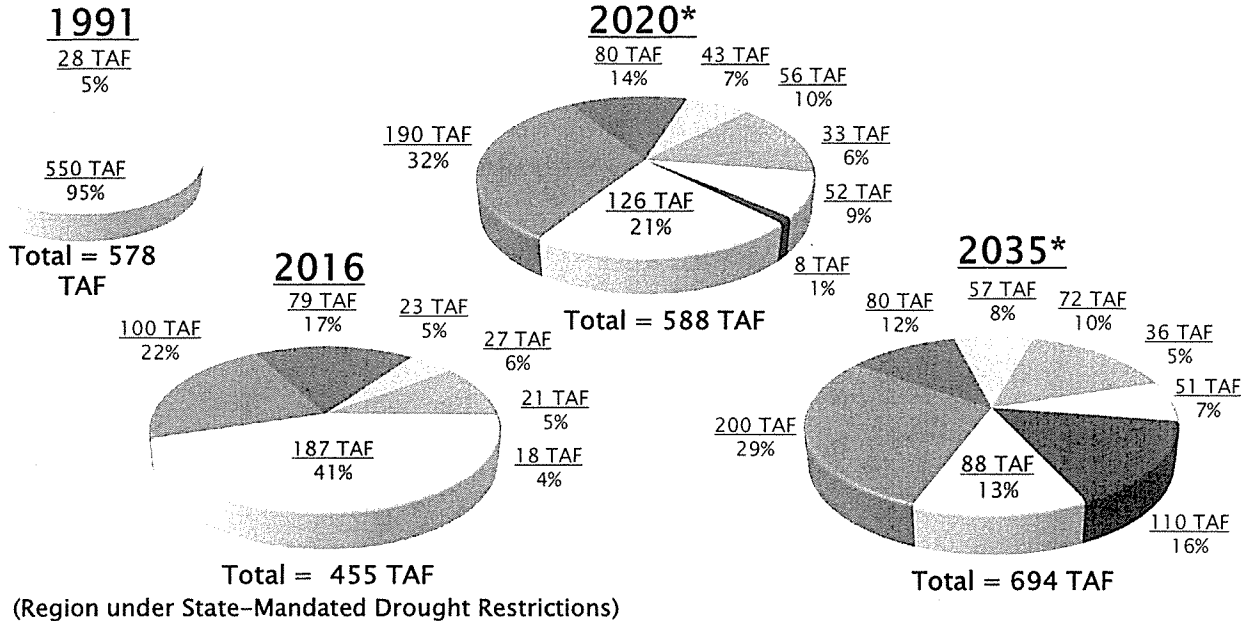
- ▶ Serves 3.3 million people and region's \$222 billion economy
- ▶ 24 member agencies (retailers)

Provides 80–90% of water used in San Diego County

- ▶ Builds, owns, operates and maintains large-scale regional water infrastructure
- ▶ Largest ag-to-urban water conservation & transfer in U.S.
- ▶ Invested more than \$3 billion in facilities (desalination, pipelines, treatment and reservoirs) in the last 15 years



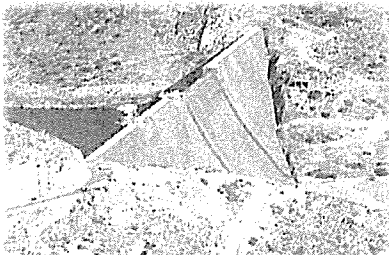
Increasing San Diego County's Water Supply Reliability through Supply Diversification



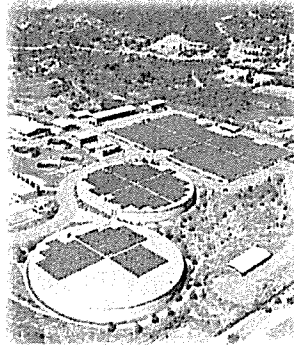
* Includes verifiable and additional planned local supply projects from 2015 UWMP (TAF=Thousand Acre-Feet)

Historic Investments in Infrastructure

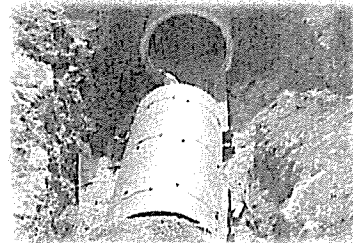
San Vicente Dam Raise & Related Projects
\$816 million



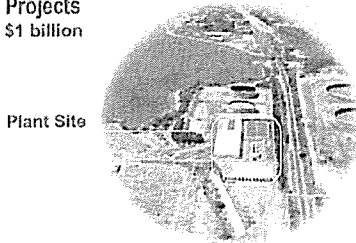
Twin Oaks Valley Water Treatment Plant
\$179 million



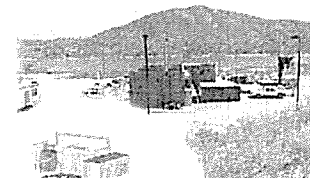
Pipeline Relining
\$493 million



Carlsbad Seawater Desalination Projects
\$1 billion



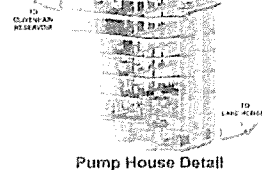
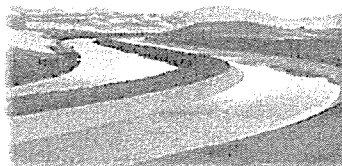
Lake Hodges Projects
\$208 million



Olivenhain Dam & Reservoir
\$198 million

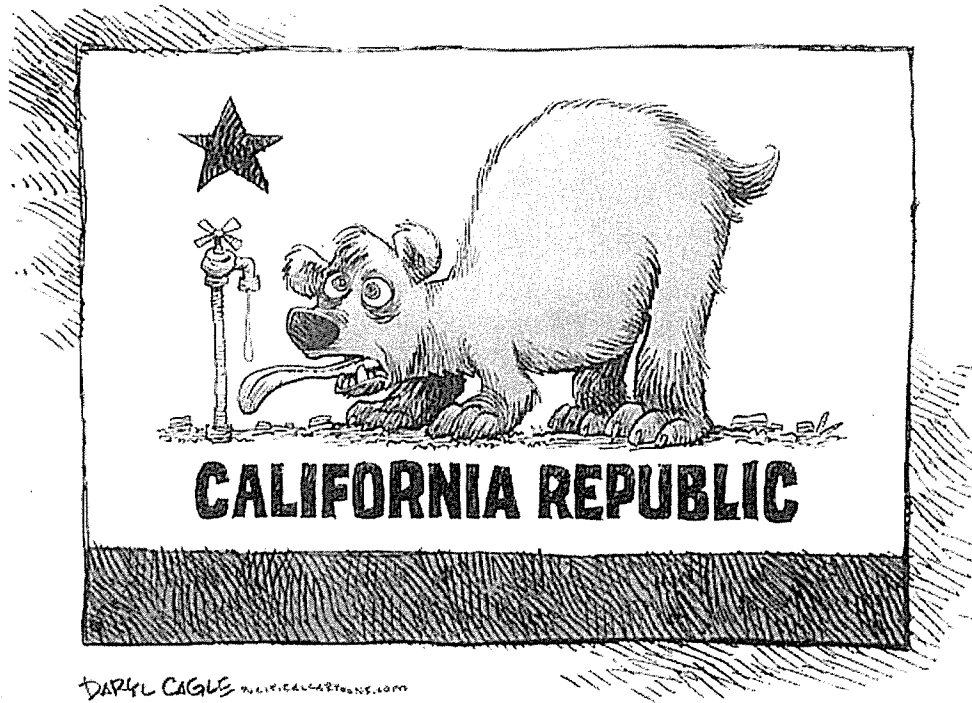


All-American & Coachella Canal Lining Projects
\$447 million
(\$190 million from Water Authority)

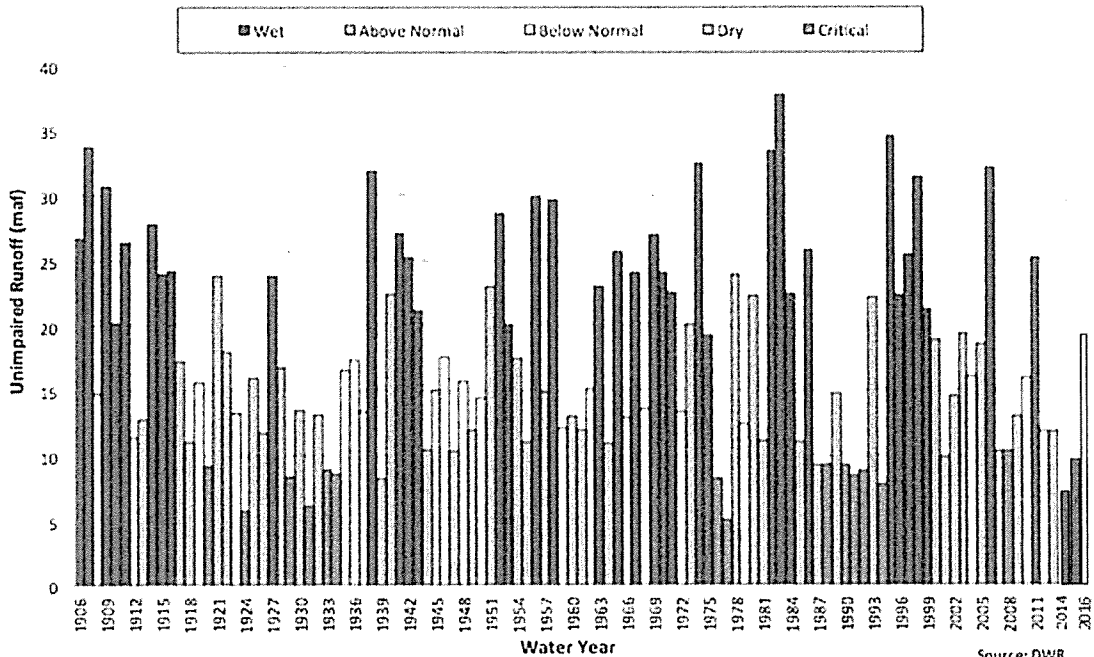


Pump House Detail

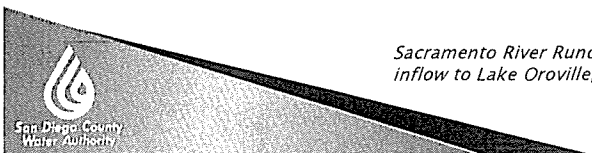
California Drought Update



Droughts are Common in California Sacramento River Unimpaired Runoff through 2016

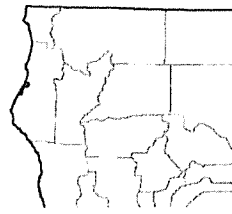
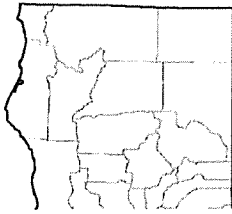


Source: DWR

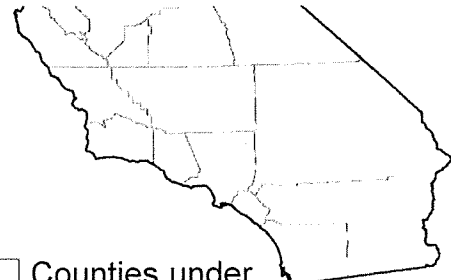
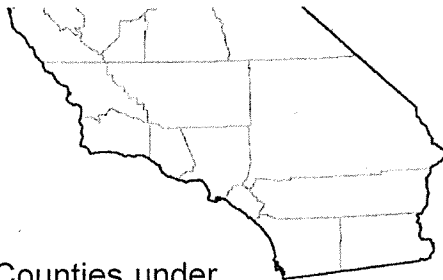


Sacramento River Runoff is the sum of Sacramento River flow at Bend Bridge, Feather River inflow to Lake Oroville, Yuba River flow at Smartville, and American River inflow to Folsom

A Tale of Two Emergencies



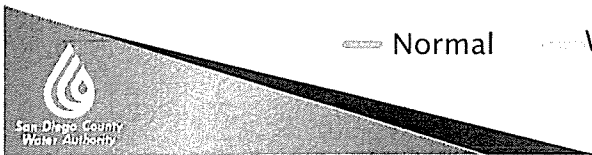
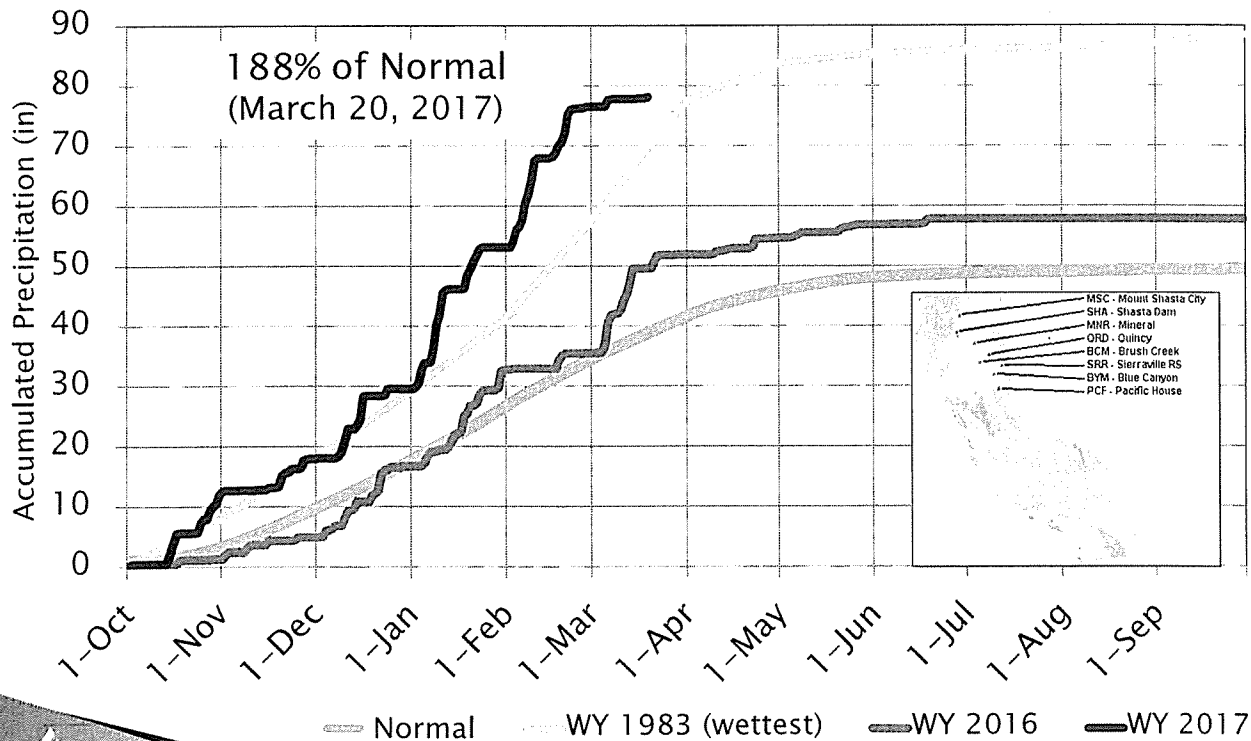
“It was the best of hydrologic times...
it was the worst of hydrologic times”



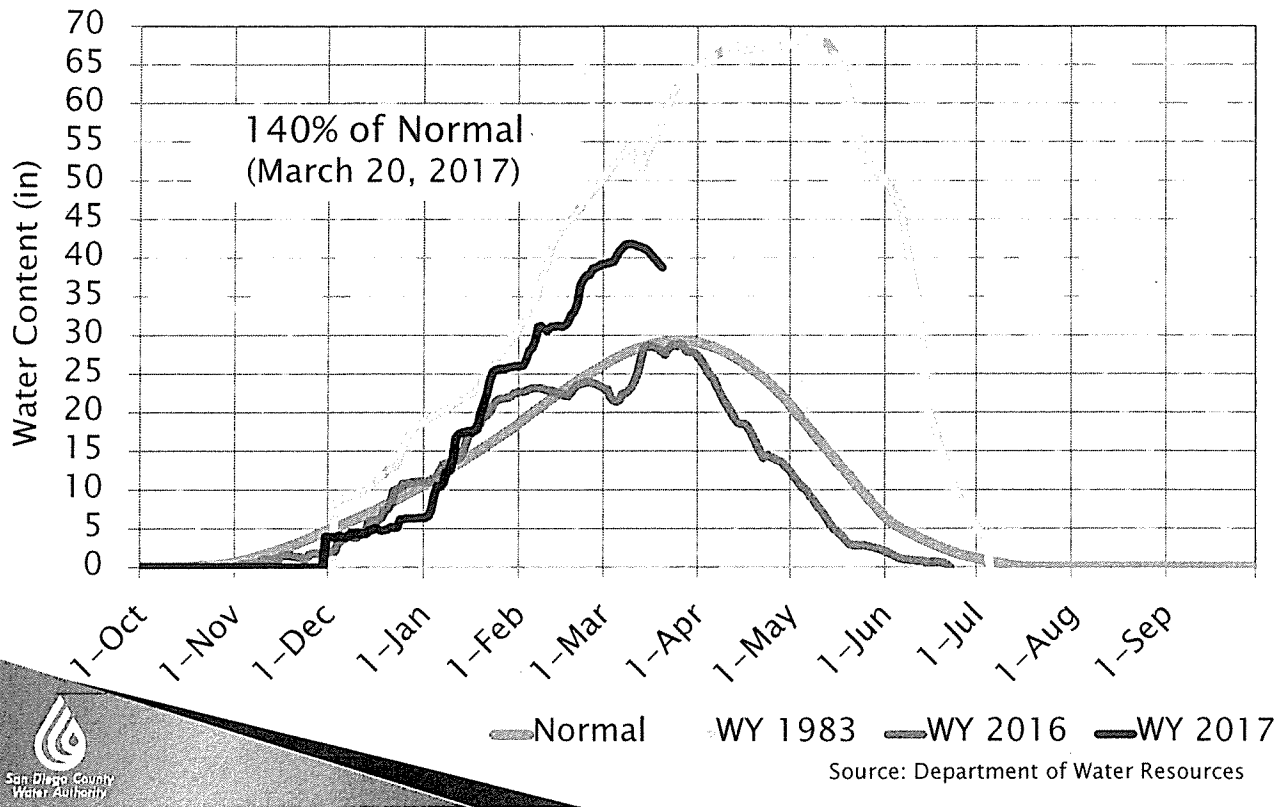
□ Counties under Drought Emergency

□ Counties under Flood Emergency

Northern Sierra Precipitation 8-Station Index

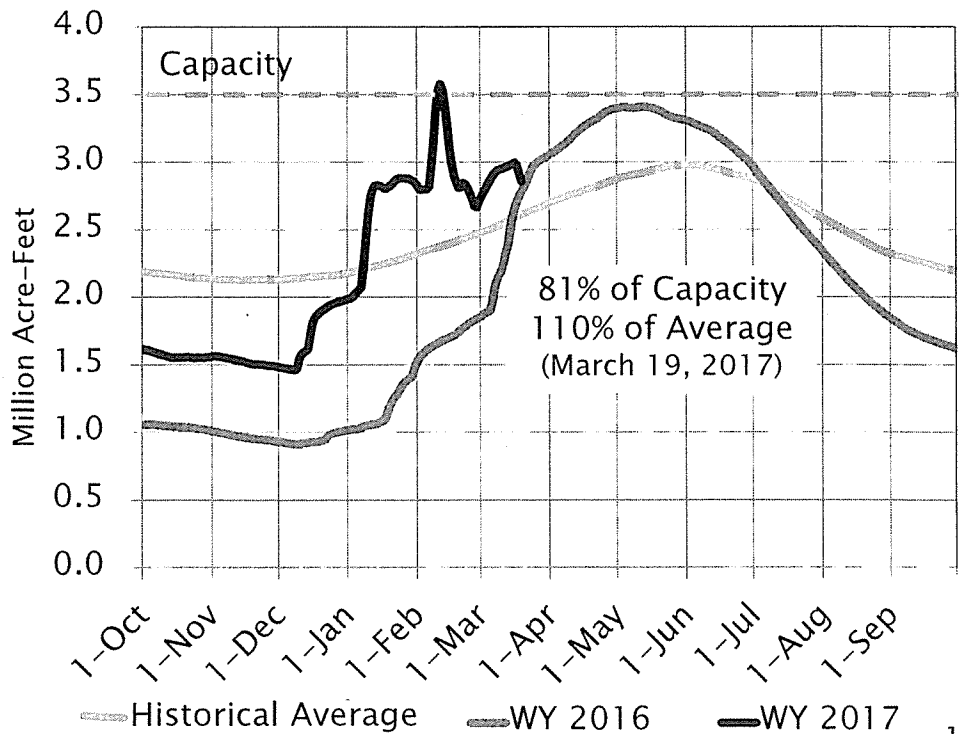
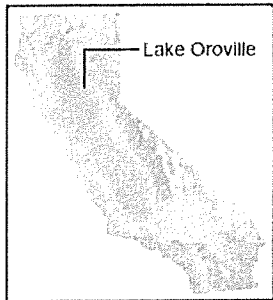


Northern Sierra Snowpack

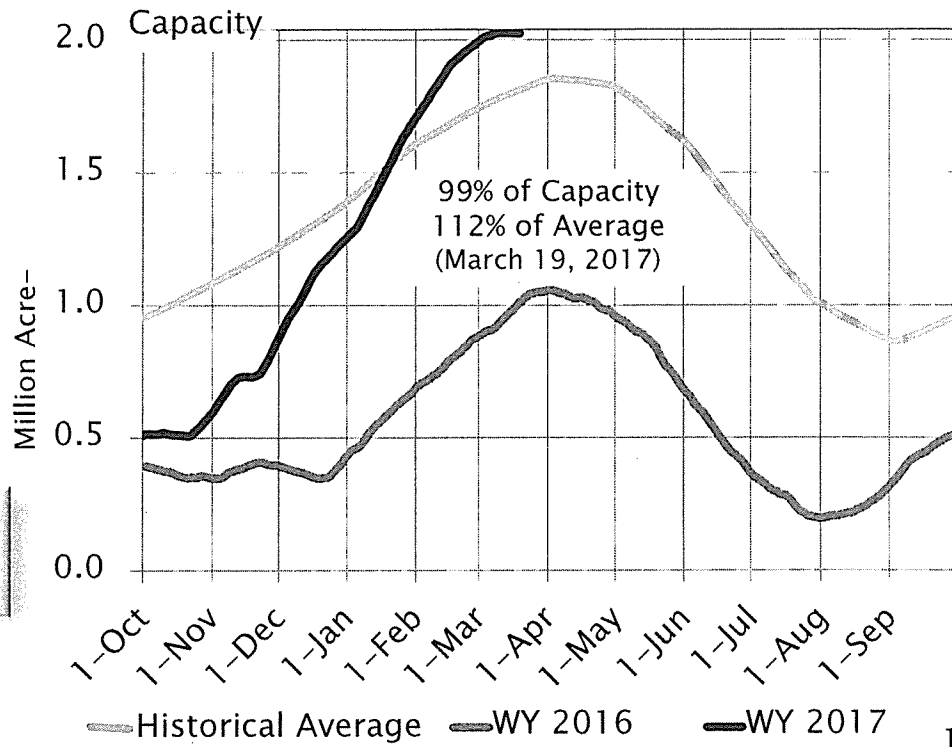
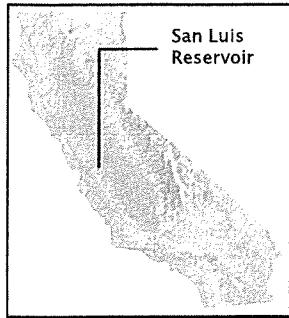


Lake Oroville Storage Volume

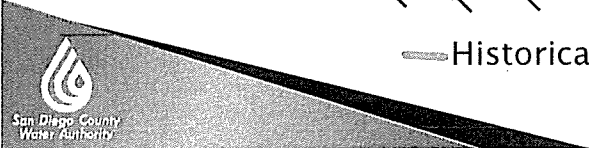
Major Reservoir State Water Project System



San Luis Reservoir Storage Volume Major Reservoir State Water Project System

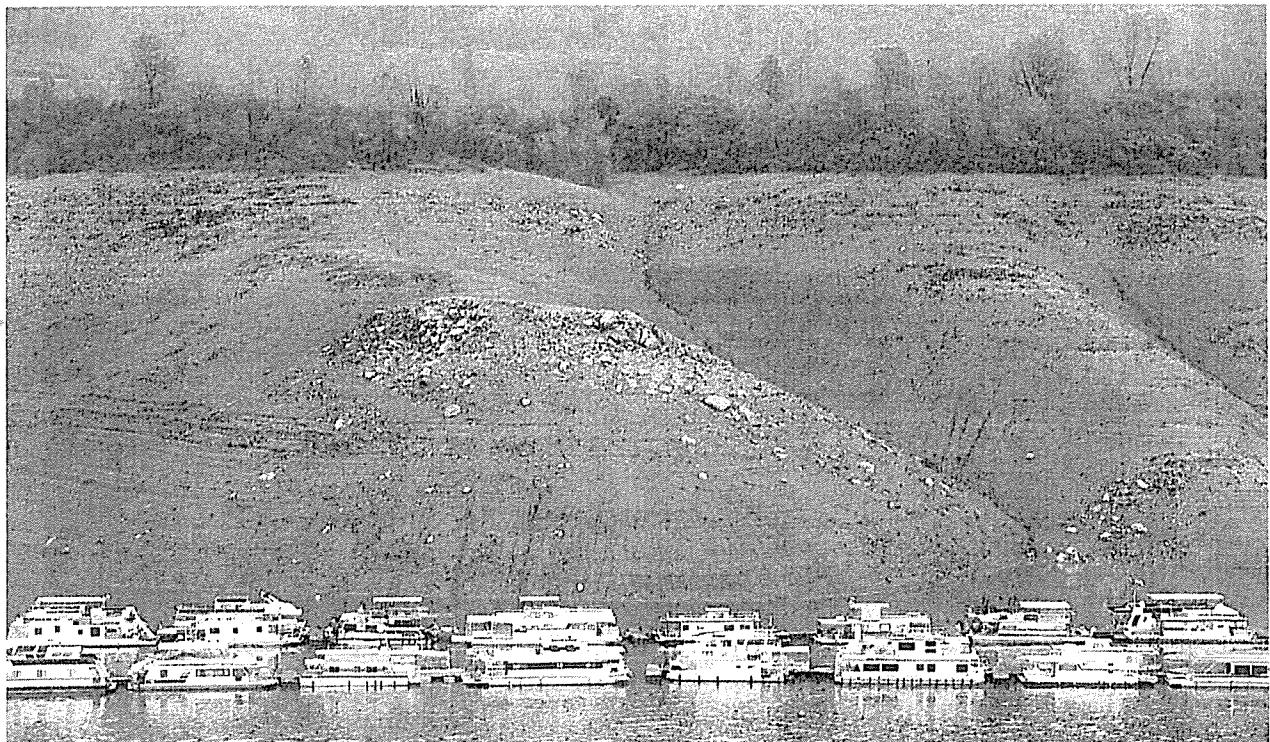


CY 2017 current SWP Allocation: 60%



Source: Department of Water Resources

BEFORE:
Lake Oroville – January 21, 2016 (Bidwell Canyon Marina)



AFTER:
Lake Oroville – January 17, 2017 (Bidwell Canyon Marina)



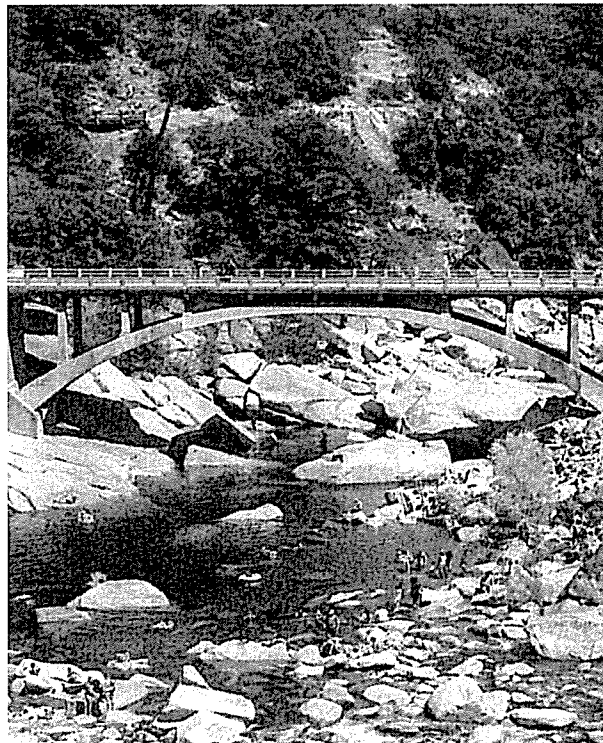
BEFORE:
Truckee River – January 2016



AFTER:
Truckee River – January 2017



BEFORE:
Yuba River, Old Route 49 Bridge - September 2016

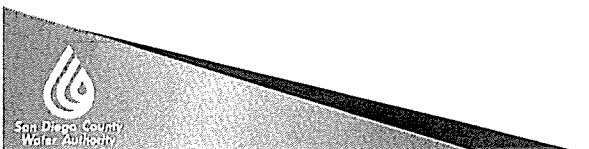
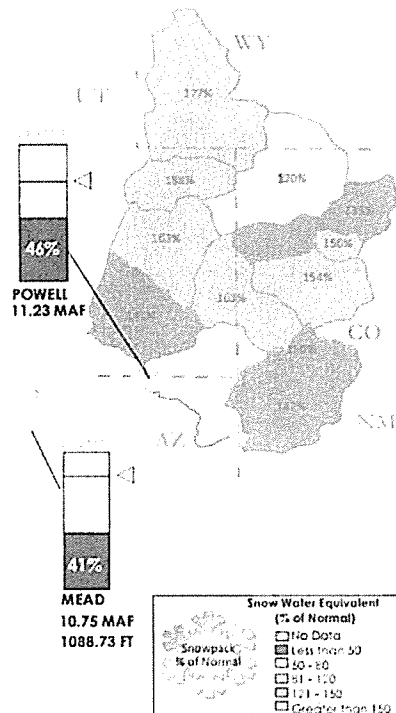


AFTER:
Yuba River, Old Route 49 Bridge – January 2017



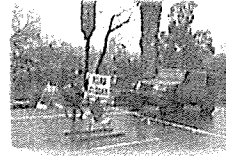
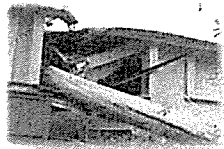
Upper Colorado River Basin

- Precipitation 138 % of normal as of February 21, 2017
- Snow water equivalent 152% normal as of February 20, 2017



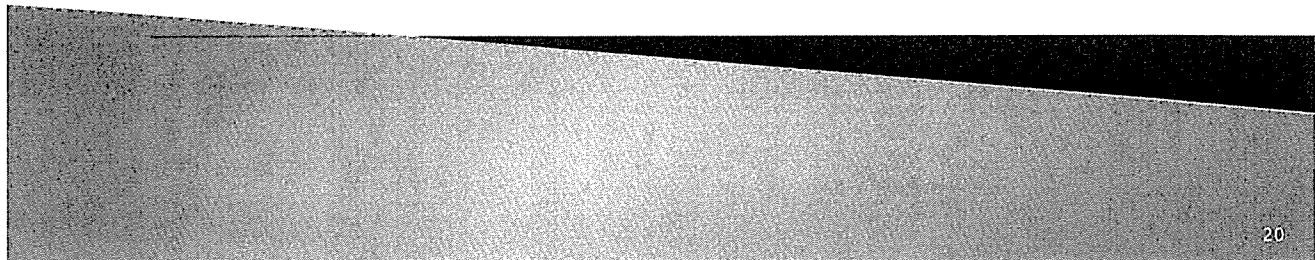
Local Precipitation

Water Year 2017 Precipitation				
	March 1-19, 2017		Since October 1, 2016 (WY 2017 to date)	
Station	Actual	% Normal	Actual	% Normal
Lindbergh Field	0.01 in.	<1%	11.63 in.	135%
Ramona Airport	0.07 in.	3%	21.56 in.	166%

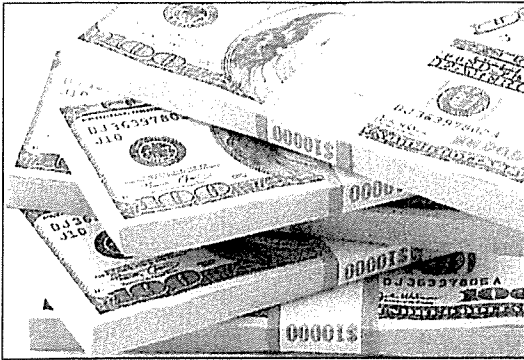


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9

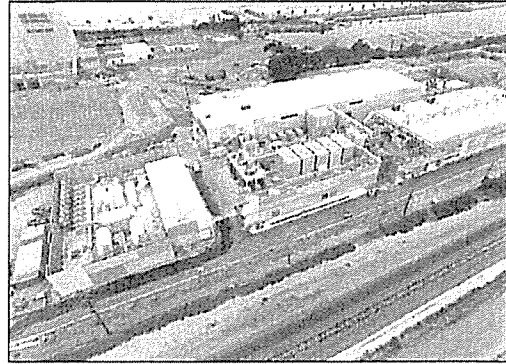
MWD Issues: Rate Case



MWD Litigation: What's at Stake for San Diego County?



- ▶ MWD overcharges estimated at more than **\$537 million** over 8 years; up to **\$7.4 billion** dollars over 45 years



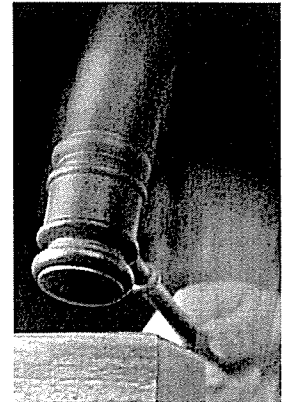
- ▶ Water rights equivalent to \$1B seawater desal project in Carlsbad



21

MWD's Rates Have Been Ruled Illegal and Unconstitutional

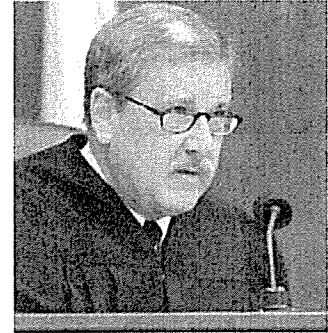
- ▶ Nov. 18, 2015: San Francisco Superior Court Judge Curtis E.A. Karnow ruled MWD's 2011-15 rates:
 - Violate California Constitution Article XIII C (Proposition 26)
 - Violate California Wheeling Statutes
 - Water transportation law
 - Government Code Section 54999.7(a)
 - Limiting rates to cost-of-service
 - Common law rules limiting rates to cost of service
- ▶ **MWD continues to set rates using same formula ruled illegal by the Court**



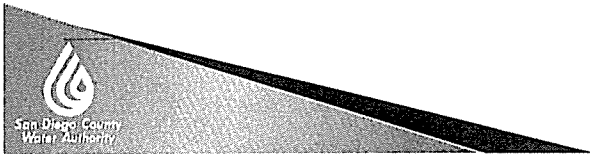
22

Lower Court Decision in Favor of San Diego – Award: \$244M and Growing

- ▶ Damages for four years of overcharges, with interest, costs and attorneys’ fees
- ▶ Interest accrues at 7% per year
- ▶ If upheld and enforced, decision will prevent future MWD overcharges
- ▶ Appeal filed – decision expected in summer/fall 2017



Hon. Curtis E.A. Karnow



What’s at Stake for Water Authority’s Member Agencies

Member Agency	Four Years: 2011-2014	Eight Years: 2011-2018
	Overcharge Net Allocable to Member Agencies ⁽¹⁾	Overcharge Net Allocable to Member Agencies ⁽¹⁾
Carlsbad M.W.D.	\$10,128,399.74	\$20,426,226
Del Mar, City of	644,181	1,307,820
Escondido, City of	10,392,151	21,415,356
Fallbrook P.U.D.	4,864,585	9,761,687
Helix W.D.	17,430,118	35,910,410
Lakeside W.D.	2,079,548	3,999,546
National City, City of	1,137,557	2,790,852
Oceanside, City of	14,058,034	28,513,173
Olivenhain M.W.D.	12,192,543	24,461,646
Otay W.D.	18,925,110	38,124,478
Padre Dam M.W.D.	\$6,648,857	\$13,187,178
Pendleton M.C.B.	29,619	120,455
Poway, City of	7,009,697	13,731,196
Rainbow M.W.D.	7,056,475	14,013,650
Ramona M.W.D.	3,082,086	6,108,185
Rincon Del Diablo M.W.D.	3,714,870	7,356,609
San Diego, City of	106,146,313	221,186,562
San Dieguito W.D.	2,277,933	5,099,947
Santa Fe I.D.	4,604,365	9,656,040
South Bay I.D.	3,979,451	10,209,210
Vallecitos W.D.	9,383,579	18,740,595
Valley Center M.W.D.	5,549,657	10,870,961
Vista I.D.	9,522,410	19,735,330
Yuima M.W.D.	194,070	654,624

¹ Includes pre- and post-judgment interest, attorney fees and court costs.

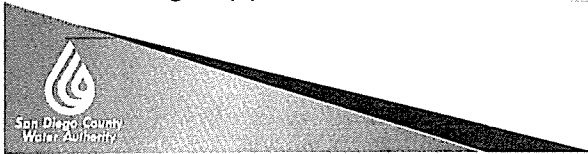
Annual Savings Value of Rate Case Victory Result of Lawful Rates at MWD Going Forward

Estimated Annual Savings
in 2020 Based upon
Proportional Share of
Municipal & Industrial
Deliveries:

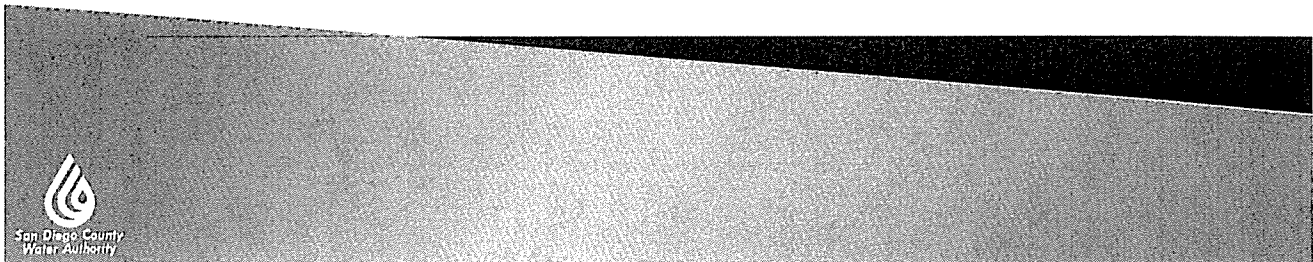
\$81,291,763

2020 value is \$197 per acre-foot,
computed based upon average
member agency purchases 2011-16

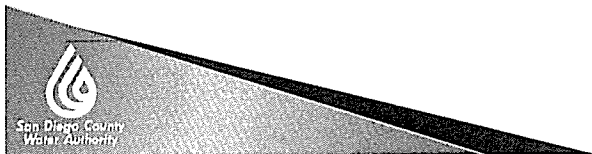
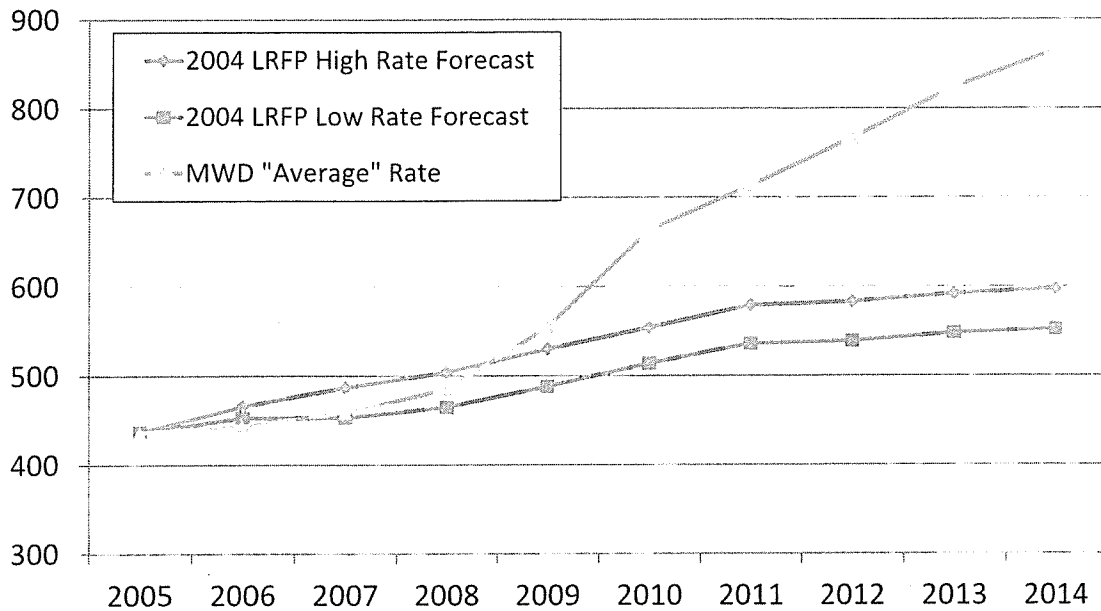
Member Agency	Estimated Annual Savings Value from Rate Litigation Victory
Carlsbad M.W.D.	\$3,097,088
Del Mar, City of	199,266
Escondido, City of	3,202,873
Fallbrook P.U.D.	1,484,586
Helix W.D.	5,359,825
Lakeside W.D.	605,093
National City, City of	428,914
Oceanside, City of	4,328,319
Olivenhain M.W.D.	3,702,413
Otay W.D.	5,781,550
Padre Dam M.W.D.	\$2,000,878
Pendleton M.C.B.	19,013
Poway, City of	2,069,598
Rainbow M.W.D.	2,137,211
Ramona M.W.D.	922,408
Rincon Del Diablo M.W.D.	1,111,428
San Diego, City of	33,506,994
San Dieguito W.D.	758,331
Santa Fe I.D.	1,433,159
South Bay I.D.	1,583,249
Vallecitos W.D.	2,842,005
Valley Center M.W.D.	1,651,787
Vista I.D.	2,966,823
Yuima M.W.D.	98,951
Totals	\$81,291,763



Financial Practices of MWD and the Risk to Southern California Ratepayers



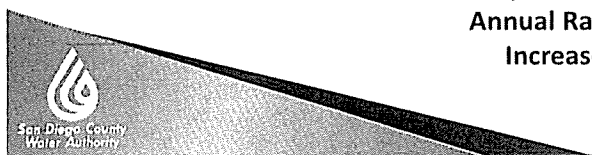
MWD's Last Long-Range Financial Plan was 2004



Data Source: MWD 27

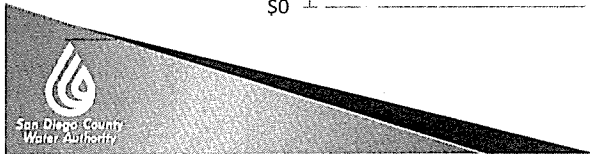
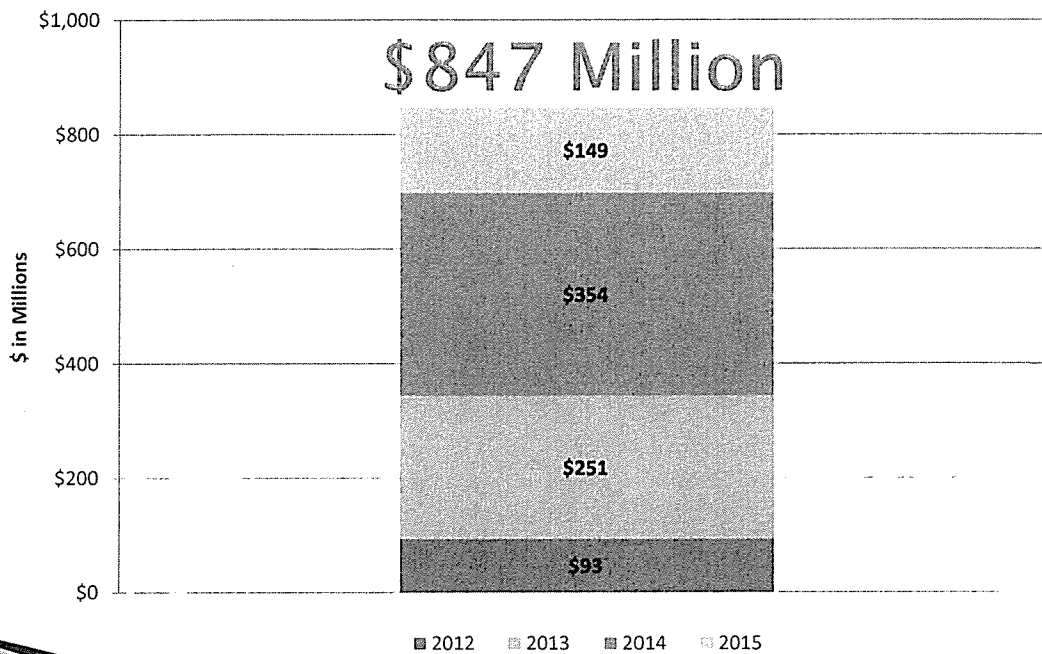
MWD Has Doubled Rates Over Past Decade

Year	MWD Tier 1 Treated Water Rate	
	\$	% Increase
2008	\$508	6.3
2009	\$579	14.0
2010	\$701	21.1
2011	\$744	6.1
2012	\$794	6.7
2013	\$847	6.7
2014	\$890	5.1
2015	\$923	3.7
2016	\$942	2.1
2017	\$979	3.9
2018	\$1,015	3.7
Total % Increase	100%	
Compounded Annual Rate Increases		7.2%



Data Source: MWD 28

MWD Overcharged Ratepayers by \$847 Million (2012-15)



Data Source: MWD

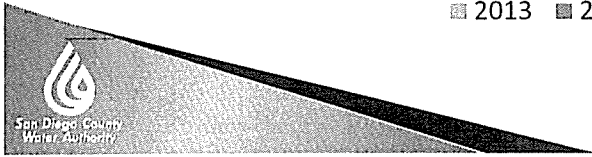
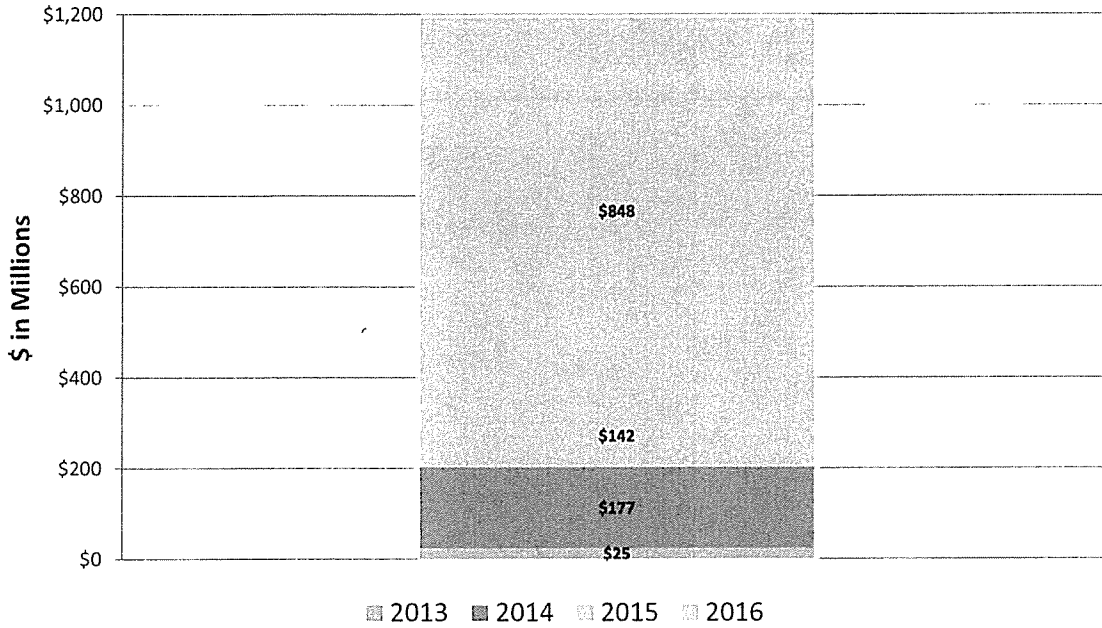
MWD's \$189 Million in Ratepayer Overcharges by Water Authority Member Agencies

Member Agency	Cost to Member Agencies ⁽¹⁾
Carlsbad M.W.D.	\$ 7,332,089
Del Mar, City of	466,331
Escondido, City of	7,523,022
Fallbrook P.U.D.	3,521,540
Helix W.D.	12,617,903
Lakeside W.D.	1,505,413
National City, City of	823,493
Oceanside, City of	10,176,806
Olivenhain M.W.D.	8,826,351
Otay W.D.	13,700,149
Padre Dam M.W.D.	4,813,200
Pendleton M.C.B.	21,442
Poway, City of	5,074,416
Rainbow M.W.D.	5,108,280
Ramona M.W.D.	2,231,165
Rincon Del Diablo M.W.D.	2,689,245
San Diego, City of	76,840,785
San Dieguito W.D.	1,649,028
Santa Fe I.D.	3,333,163
South Bay I.D.	2,880,780
Vallecitos W.D.	6,792,902
Valley Center M.W.D.	4,017,474
Vista I.D.	6,893,404
Yuima M.W.D.	140,490
Our Region Total	\$189,878,877

⁽¹⁾ Allocation based on average of Member Agency purchases from 2011-14.

MWD Overspent Its Budget by \$1.2 Billion (2013-16)

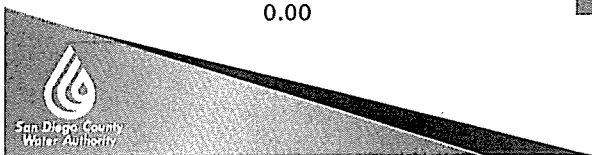
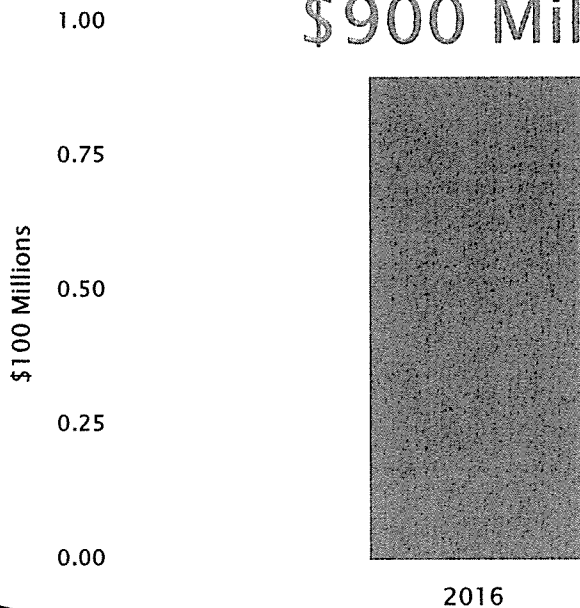
\$ 1.2 Billion



Data Source: MWD

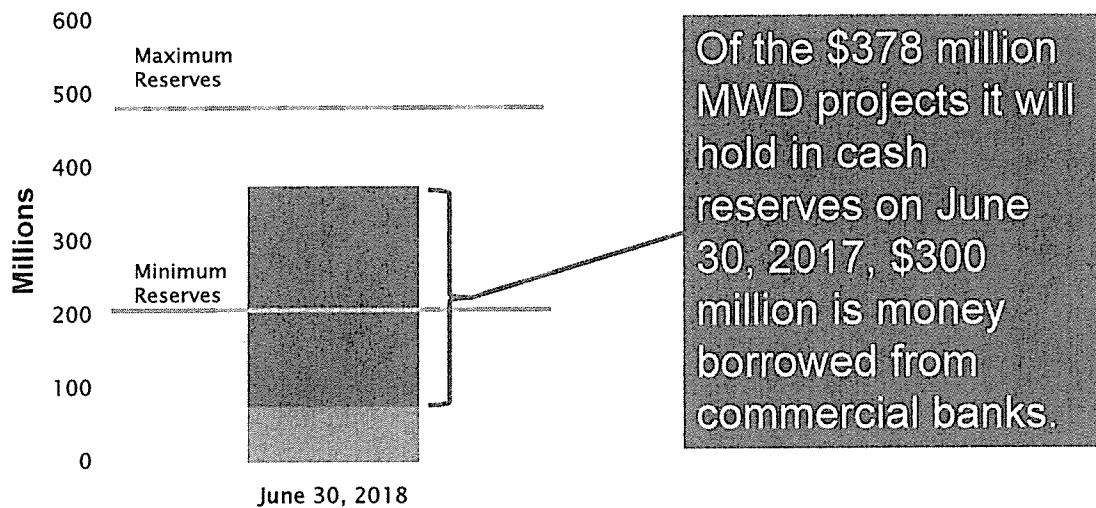
MWD Has Authorized \$900 million in Unplanned Borrowing

\$900 Million



Data Source: MWD

MWD Depletes Cash Reserves; Borrows \$300 Million to Meet Minimum Reserve Requirement

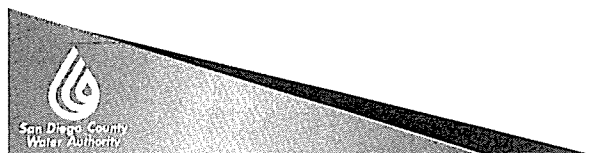


Data Source: MWD

33

Expanded Information Effort

- ▶ Water Authority expanding informational effort beyond San Diego County
 - Engage public officials, civic and opinion leaders throughout MWD's service area
 - Get answers to the questions the Water Authority's MWD Delegates have been asking at MWD
 - Bring about changes in MWD's practices so that it is accountable and sustainable
 - Require transparency in MWD's business practices and decision-making
- ▶ Ultimately, resolve disputes and be part of a sustainable MWD



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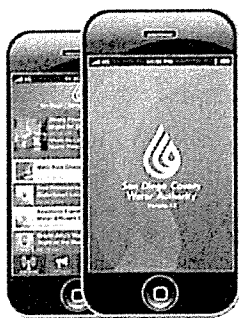
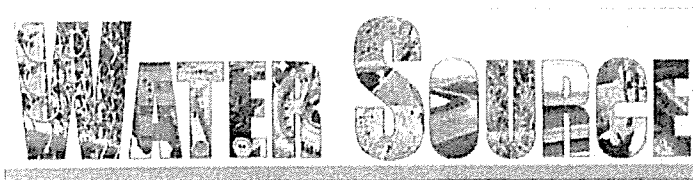
Support Water Authority Efforts

- ▶ Support the Water Authority's pending rate litigation and any future litigation to recover illegal rates
- ▶ Keep apprised of MWD activities that impact our region's ratepayers
- ▶ Utilize opportunities to share information with community members
- ▶ Engage other elected officials throughout Southern California in a dialogue regarding concerns with MWD's fiscal affairs
- ▶ Consider adopting resolution or letter of support



35

Stay in Touch with the Water Authority



sdcwa.org/mobile-news-app



San Diego County Water Authority



@sdcwa
@mwdfacts



facebook.com/
SanDiegoCounty
WaterAuthority

www.sdcwa.org

36

RESOLUTION NO. 2017-53

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
SUPPORTING THE SAN DIEGO COUNTY
WATER AUTHORITY'S LONG TERM WATER
SUPPLY PLAN AND LITIGATION AGAINST
THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA

WHEREAS, San Diego County's \$222 billion economy and 3.3 million people depend on the San Diego County Water Authority ("Water Authority") and its member agencies to provide a reliable water supply at a reasonable cost; and

WHEREAS, the Water Authority is a member agency of the Los Angeles based Metropolitan Water District of Southern California ("MWD"), which has historically supplied the Water Authority with water imported from the Colorado River and through the State Water Project; and

WHEREAS, following a severe drought in which San Diego County experienced 31 percent cutbacks in 1991, and was threatened with 50 percent water supply cutbacks by MWD, a Declaration of Water Independence and Reliability was declared on July 3, 1996, by San Diego civic and business leaders; and

WHEREAS, over the past 20 years, the Water Authority and its member agencies have successfully transformed the San Diego region from being 95 percent dependent on MWD in 1990, to approximately 20 percent by 2020; and

WHEREAS, MWD has fought against the actions the Water Authority has taken to reduce its MWD water purchases including, among other things, establishing rates and charges intended to penalize San Diego and its diversification efforts; and

WHEREAS, these overcharges could cumulatively total more than \$7 billion by 2040; and

WHEREAS, the Water Authority has filed four separate lawsuits against MWD, challenging these rates; and

WHEREAS, a San Francisco Superior Court judge has already ruled in the first two cases that MWD's rates are illegal, awarded the Water Authority more than \$243 million in damages, costs, pre-judgment interest and attorneys' fees, and directed MWD by writ of mandate to set lawful rates; and

WHEREAS, MWD has appealed the Court's ruling, denies that it is required to limit its rates to no more than the cost of the services it provides, and has not changed its rates in response to the Court's ruling; and

WHEREAS, MWD has engaged and is continuing to engage in a number of highly questionable financial practices, including overcharging rate payers \$847 million from 2012-2015 (of which, \$189 million was collected from ratepayers in San Diego County, with over \$7.5 million being overcharged to residents and businesses in Escondido); spending more than \$1.2 billion outside of its adopted budgets from 2013-2016; and making plans to spend billions more without having any plan for how it will allocate these costs; and

WHEREAS, MWD's current financial practices present a grave risk to the people and economy of Southern California; and

WHEREAS, a reliable, cost-certain and diverse water supply is vital to the sustained prosperity of all San Diego County citizens and business enterprises.

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 of Escondido supports fully the Water Authority's rate litigation against MWD that is necessary to recover illegal rates and charges that may be assessed by MWD, now and in the future.
3. That the City of Escondido supports fully the programs of the San Diego County Water Authority and its member agencies, on behalf of San Diego County, as a free and independent community, to continue to diversify San Diego County's water supply, free of any program or influence by, or subordination to MWD.



CITY COUNCIL

For City Clerk's Use:
 APPROVED **DENIED**
 Reso No. _____ File No. _____
 Ord No. _____

Agenda Item No.: 6
Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Julie Procopio, Director of Engineering Services/City Engineer
 Matt Souttere, Associate Engineer

SUBJECT: Authorize the Mayor and the City Clerk to Execute Master Agreements for Federal-Aid and State Funded Projects

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-54, authorizing the Mayor and the City Clerk to execute a new Master Agreement for Federal-Aid funded projects and authorize the Director of Engineering Services to execute Program Supplements to Master Agreements for Federal-Aid and State Funded Projects.

FISCAL ANALYSIS:

None

PREVIOUS COUNCIL ACTION:

On September 1, 2010, the City Council authorized the Mayor and the City Clerk to execute Master Agreement No. 11-5081R for Federal-Aid projects and Master Agreement No. 00323S for State Funded projects. This action also authorized the Director of Engineering Services to execute all Program Supplemental Agreements for these Master Agreements.

BACKGROUND:

The current Master Agreement for Federal-Aid projects (No. 11-5081R) was approved by the Mayor and the City Council on September 15, 2010, and is being replaced with Master Agreement No. 11-5081F15. Master Agreement No. 00323S for State funded projects remains in effect.

Staff recommends that the City Council adopt Resolution 2017-54, authorizing the Mayor and the City Clerk to execute Master Agreement No. 11-5081F15 for Federal-Aid Projects, and authorize the Director of Engineering Services to execute Program Supplemental Agreements to Master Agreement Nos. 11-5081F15 and 00323S.

Respectfully submitted,

Julie Procopio, P.E.
 Director of Engineering Services/City Engineer

Matt Souttere
 Associate Engineer

RESOLUTION NO. 2017-54

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR AND THE CITY
CLERK TO EXECUTE, ON BEHALF OF THE
CITY, MASTER AGREEMENTS FOR FEDERAL-
AID PROJECTS

WHEREAS, the Congress of the United States has enacted the Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA") and subsequent Transportation Authorization Bills to fund Transportation Programs; and

WHEREAS, the State of California and the City of Escondido entered into Local Agency-State Master Agreement No. 11-5081R for Federal-Aid Projects and Local Agency-State Master Agreement No. 00323S for State Funded Projects on September 15, 2010, and September 30, 2010, respectively; and

WHEREAS, Master Agreement No. 11-5081R for Federal-Aid Projects is being replaced to incorporate various changes in regulations and policies, and Master Agreement No. 00323S for State Funded Projects remains in effect; and

WHEREAS, before Federal-Aid funds will be made available for a specific Program Project, the City of Escondido and State are required to enter into a new Master Agreement for Federal-Aid Projects relative to prosecution of said project and maintenance of the completed facility; and

WHEREAS, the Director of Engineering Services recommends the execution of Master Agreement No. 11-5081F15 with the California Department of Transportation for Federal-Aid Projects, and that the Director of Engineering Services be delegated the

authority to execute Program Supplemental Agreements to Master Agreements Nos. 11-5081F15 and S00323S (“Master Agreements”); and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve said master agreements;

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 Engineering Services.
3. The Director of Engineering Services is authorized to execute all Program Supplemental Agreements to the said Master Agreements.
4. That the Mayor and the City Clerk are authorized to execute, on behalf of the City, Master Agreements with the California Department of Transportation for Federal-Aid Projects. Copies of the Master Agreements are attached as Exhibit “1” and Exhibit “2” to this resolution and are incorporated by this reference.

MASTER AGREEMENT
ADMINISTERING AGENCY-STATE AGREEMENT FOR
FEDERAL-AID PROJECTS

Resolution No. 2017-54
Exhibit "1"
Page 1 of 26

11 City of Escondido

District Administering Agency

Agreement No. 11-5081F15

This AGREEMENT, is entered into effective this _____ day of _____, 20____, by and between City of Escondido, hereinafter referred to as "ADMINISTERING AGENCY," and the State of California, acting by and through its Department of Transportation (Caltrans), hereinafter referred to as "STATE", and together referred to as "PARTIES" or individually as a "PARTY."

RECITALS:

1. WHEREAS, the Congress of the United States has enacted the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and subsequent Transportation Authorization Bills to fund transportation programs; and
2. WHEREAS, the Legislature of the State of California has enacted legislation by which certain federal-aid funds may be made available for use on local transportation related projects of public entities qualified to act as recipients of these federal-aid funds in accordance with the intent of federal law; and
3. WHEREAS, before federal funds will be made available for a specific program project, ADMINISTERING AGENCY and STATE are required to enter into an agreement to establish terms and conditions applicable to the ADMINISTERING AGENCY when receiving federal funds for a designated PROJECT facility and to the subsequent operation and maintenance of that completed facility.

NOW, THEREFORE, the PARTIES agree as follows:

ARTICLE I - PROJECT ADMINISTRATION

1. This AGREEMENT shall have no force or effect with respect to any program project unless and until a project-specific "Authorization/Agreement Summary", herein referred to as "E-76" document, is approved by STATE and the Federal Highway Administration (FHWA).
2. The term "PROJECT", as used herein, means that authorized transportation related project and related activities financed in part with federal-aid funds as more fully-described in an "Authorization/ Agreement Summary" or "Amendment/Modification Summary", herein referred to as "E-76" or "E-76 (AMOD)" document authorized by STATE and the Federal Highway Administration (FHWA).
3. The E-76/E-76 (AMOD) shall designate the party responsible for implementing PROJECT, type of work and location of PROJECT.
4. The PROGRAM SUPPLEMENT sets out special covenants as a condition for the ADMINISTERING AGENCY to receive federal-aid funds from/through STATE for designated PROJECT. The PROGRAM SUPPLEMENT shall also show these federal funds that have been initially encumbered for PROJECT along with the matching funds to be provided by ADMINISTERING AGENCY and/or others. Execution of PROGRAM SUPPLEMENT by the PARTIES shall cause ADMINISTERING AGENCY to adopt all of the terms of this AGREEMENT as though fully set forth therein in the PROGRAM SUPPLEMENT. Unless otherwise expressly delegated in a resolution by the governing body of ADMINISTERING AGENCY, and with written concurrence by STATE, the PROGRAM SUPPLEMENT shall be approved and managed by the governing body of ADMINISTERING AGENCY.
5. ADMINISTERING AGENCY agrees to execute and return each project-specific PROGRAM SUPPLEMENT within ninety (90) days of receipt. The PARTIES agree that STATE may suspend future authorizations/obligations and invoice payments for any on-going or future federal-aid project performed by ADMINISTERING AGENCY if any project-specific PROGRAM SUPPLEMENT is not returned within that ninety (90) day period unless otherwise agreed by STATE in writing.
6. ADMINISTERING AGENCY further agrees, as a condition to the release and payment of federal funds encumbered for the PROJECT described in each PROGRAM SUPPLEMENT, to comply with the terms and conditions of this AGREEMENT and all of the agreed-upon Special Covenants or Remarks incorporated within the PROGRAM SUPPLEMENT, and Cooperative/Contribution Agreement where appropriate, defining and identifying the nature of the specific PROJECT.
7. Federal, state and matching funds will not participate in PROJECT work performed in advance of the approval of the E-76 or E-76 (AMOD), unless otherwise stated in the executed project-specific PROGRAM SUPPLEMENT. ADMINISTERING AGENCY agrees that it will only proceed with the work authorized for that specific phase(s) on the project-specific E-76 or E-76 (AMOD). ADMINISTERING AGENCY further agrees to not proceed with future phases of PROJECT prior to receiving an E-76 (AMOD) from STATE for that phase(s) unless no further federal funds are needed or for those future phase(s).

8. That PROJECT or portions thereof, must be included in a federally approved Federal Statewide Transportation Improvement Program (FSTIP) prior to ADMINISTERING AGENCY submitting the "Request for Authorization".
9. ADMINISTERING AGENCY shall conform to all state statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of Federal Regulation (CFR) and 2 CFR part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.
10. If PROJECT is not on STATE-owned right of way, PROJECT shall be constructed in accordance with LOCAL ASSISTANCE PROCEDURES that describes minimum statewide design standards for local agency streets and roads. LOCAL ASSISTANCE PROCEDURES for projects off the National Highway System (NHS) allow STATE to accept either the STATE's minimum statewide design standards or the approved geometric design standards of ADMINISTERING AGENCY. Additionally, for projects off the NHS, STATE will accept ADMINISTERING AGENCY-approved standard specifications, standard plans, materials sampling and testing quality assurance programs that meet the conditions described in the then current LOCAL ASSISTANCE PROCEDURES.
11. If PROJECT involves work within or partially within STATE-owned right-of-way, that PROJECT shall also be subject to compliance with the policies, procedures and standards of the STATE Project Development Procedures Manual and Highway Design Manual and, where appropriate, an executed Cooperative Agreement between STATE and ADMINISTERING AGENCY that outlines the PROJECT responsibilities and respective obligations of the PARTIES. ADMINISTERING AGENCY and its contractors shall each obtain an encroachment permit through STATE prior to commencing any work within STATE rights of way or work which affects STATE facilities.
12. When PROJECT is not on the State Highway System but includes work to be performed by a railroad, the contract for such work shall be prepared by ADMINISTERING AGENCY or by STATE, as the PARTIES may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an agreement with the railroad providing for future maintenance of protective devices or other facilities installed under the contract.
13. If PROJECT is using STATE funds, the Department of General Services, Division of the State Architect, or its designee, shall review the contract PS&E for the construction of buildings, structures, sidewalks, curbs and related facilities for accessibility and usability. ADMINISTERING AGENCY shall not award a PROJECT construction contract for these types of improvements until the State Architect has issued written approval stating that the PROJECT plans and specifications comply with the provisions of sections 4450 and 4454 of the California Government Code, if applicable. Further requirements and guidance are provided in Title 24 of the California Code of Regulations.
14. ADMINISTERING AGENCY will advertise, award and administer PROJECT in accordance with the current LOCAL ASSISTANCE PROCEDURES unless otherwise stated in the executed project-specific PROGRAM SUPPLEMENT.

15. ADMINISTERING AGENCY shall provide or arrange for adequate supervision and inspection of each PROJECT. While consultants may perform supervision and inspection work for PROJECT with a fully qualified and licensed engineer, ADMINISTERING AGENCY shall provide a full-time employee to be in responsible charge of each PROJECT who is not a consultant.

16. ADMINISTERING AGENCY shall submit PROJECT-specific contract award documents to STATE's District Local Assistance Engineer within sixty (60) days after contract award. A copy of the award documents shall also be included with the submittal of the first invoice for a construction contract by ADMINISTERING AGENCY.

17. ADMINISTERING AGENCY shall submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure by ADMINISTERING AGENCY to submit a "Report of Expenditures" within one hundred eighty (180) days of project completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current LOCAL ASSISTANCE PROCEDURES.

18. ADMINISTERING AGENCY shall comply with: (i) section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of disability in federally assisted programs; (ii) the Americans with Disabilities Act (ADA) of 1990 which prohibits discrimination on the basis of disability irrespective of funding; and (iii) all applicable regulations and guidelines issued pursuant to both the Rehabilitation Act and the ADA.

19. The Congress of the United States, the Legislature of the State of California and the Governor of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with public funds. ADMINISTERING AGENCY agrees to comply with the requirements of the FAIR EMPLOYMENT PRACTICES ADDENDUM (Exhibit A attached hereto) and the NONDISCRIMINATION ASSURANCES (Exhibit B attached hereto). ADMINISTERING AGENCY further agrees that any agreement entered into by ADMINISTERING AGENCY with a third party for performance of PROJECT-related work shall incorporate Exhibits A and B (with third party's name replacing ADMINISTERING AGENCY) as essential parts of such agreement to be enforced by that third party as verified by ADMINISTERING AGENCY.

ARTICLE II - RIGHTS OF WAY

1. No contract for the construction of a federal-aid PROJECT shall be awarded until all necessary rights of way have been secured. Prior to the advertising for construction of PROJECT, ADMINISTERING AGENCY shall certify and, upon request, shall furnish STATE with evidence that all necessary rights of way are available for construction purposes or will be available by the time of award of the construction contract.
2. ADMINISTERING AGENCY agrees to indemnify and hold STATE harmless from any liability that may result in the event the right of way for a PROJECT, including, but not limited to, being clear as certified or if said right of way is found to contain hazardous materials requiring treatment or removal to remediate in accordance with Federal and State laws. The furnishing of right of way as provided for herein includes, in addition to all real property required for the PROJECT, title free and clear of obstructions and encumbrances affecting PROJECT and the payment, as required by applicable law, of relocation costs and damages to remainder real property not actually taken but injuriously affected by PROJECT. ADMINISTERING AGENCY shall pay, from its own non-matching funds, any costs which arise out of delays to the construction of PROJECT because utility facilities have not been timely removed or relocated, or because rights of way were not available to ADMINISTERING AGENCY for the orderly prosecution of PROJECT work.
3. Subject to STATE approval and such supervision as is required by LOCAL ASSISTANCE PROCEDURES over ADMINISTERING AGENCY's right of way acquisition procedures, ADMINISTERING AGENCY may claim reimbursement from federal funds for expenditures incurred in purchasing only the necessary rights of way needed for the PROJECT after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY.
4. When real property rights are to be acquired by ADMINISTERING AGENCY for a PROJECT, said ADMINISTERING AGENCY must carry out that acquisition in compliance with all applicable State and Federal laws and regulations, in accordance with State procedures as published in State's current LOCAL ASSISTANCE PROCEDURES and STATE's Right-of-Way Manual, subject to STATE oversight to ensure that the completed work is acceptable under the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
5. Whether or not federal-aid is to be requested for right of way, should ADMINISTERING AGENCY, in acquiring right of way for PROJECT, displace an individual, family, business, farm operation, or non-profit organization, relocation payments and services will be provided as set forth in 49 CFR, Part 24. The public will be adequately informed of the relocation payments and services which will be available, and, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from his/her dwelling or to move his/her business or farm operation without at least ninety (90) days written notice from ADMINISTERING AGENCY. ADMINISTERING AGENCY will provide STATE with specific assurances, on each portion of the PROJECT, that no person will be displaced until comparable decent, safe and sanitary replacement housing is available within a reasonable period of time prior to displacement, and that ADMINISTERING AGENCY's relocation program is realistic and adequate to provide orderly, timely and efficient relocation of PROJECT-displaced persons as provided in 49 CFR, Part 24.

6. ADMINISTERING AGENCY shall, along with recording the deed or instrument evidencing title in the name of the ADMINISTERING AGENCY or their assignee, also record an Agreement Declaring Restrictive Covenants (ADRC) as a separate document incorporating the assurances included within Exhibits A and B and Appendices A, B, C and D of this AGREEMENT, as appropriate.

ARTICLE III - MAINTENANCE AND MANAGEMENT

1. ADMINISTERING AGENCY will maintain and operate the property acquired, developed, constructed, rehabilitated, or restored by PROJECT for its intended public use until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the PROJECT property may transfer this obligation and responsibility to maintain and operate PROJECT property for that intended public purpose to another public entity.

2. Upon ADMINISTERING AGENCY's acceptance of the completed federal-aid construction contract or upon contractor being relieved of the responsibility for maintaining and protecting PROJECT, ADMINISTERING AGENCY will be responsible for the maintenance, ownership, liability, and the expense thereof, for PROJECT in a manner satisfactory to the authorized representatives of STATE and FHWA and if PROJECT falls within the jurisdictional limits of another Agency or Agencies, it is the duty of ADMINISTERING AGENCY to facilitate a separate maintenance agreement(s) between itself and the other jurisdictional Agency or Agencies providing for the operation, maintenance, ownership and liability of PROJECT. Until those agreements are executed, ADMINISTERING AGENCY will be responsible for all PROJECT operations, maintenance, ownership and liability in a manner satisfactory to the authorized representatives of STATE and FHWA. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, is not being properly operated and maintained and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future federal-aid projects of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition of operation and maintenance satisfactory to STATE and FHWA. The provisions of this section shall not apply to a PROJECT that has been vacated through due process of law with STATE's concurrence.

3. PROJECT and its facilities shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as PROJECT reasonably requires. Said operations and maintenance staff may be employees of ADMINISTERING AGENCY, another unit of government, or a contractor under agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

ARTICLE IV - FISCAL PROVISIONS

1. All contractual obligations of STATE are subject to the appropriation of resources by the Legislature and the allocation of resources by the California Transportation Commission (CTC).
2. STATE'S financial commitment of federal funds will occur only upon the execution of this AGREEMENT, the authorization of the project-specific E-76 or E-76 (AMOD), the execution of each project-specific PROGRAM SUPPLEMENT, and STATE's approved finance letter.
3. ADMINISTERING AGENCY may submit signed invoices in arrears for reimbursement of participating PROJECT costs on a regular basis once the project-specific PROGRAM SUPPLEMENT has been executed by STATE.
4. ADMINISTERING AGENCY agrees, at a minimum, to submit invoices at least once every six (6) months commencing after the funds are encumbered on either the project-specific PROGRAM SUPPLEMENT or through a project-specific finance letter approved by STATE. STATE reserves the right to suspend future authorizations/obligations, and invoice payments for any on-going or future federal-aid project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six (6) month period.
5. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.
6. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.
7. Payments to ADMINISTERING AGENCY can only be released by STATE as reimbursement of actual allowable PROJECT costs already incurred and paid for by ADMINISTERING AGENCY.
8. Indirect Cost Allocation Plans/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.
9. Once PROJECT has been awarded, STATE reserves the right to de-obligate any excess federal funds from the construction phase of PROJECT if the contract award amount is less than the obligated amount, as shown on the PROJECT E-76 or E-76 (AMOD).
10. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

11. The estimated total cost of PROJECT, the amount of federal funds obligated, and the required matching funds may be adjusted by mutual consent of the PARTIES hereto with a finance letter, a detailed estimate, if required, and approved E-76 (AMOD). Federal-aid funding may be increased to cover PROJECT cost increases only if such funds are available and FHWA concurs with that increase.

12. When additional federal-aid funds are not available, ADMINISTERING AGENCY agrees that the payment of federal funds will be limited to the amounts authorized on the PROJECT specific E-76 / E-76 (AMOD) and agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY's own funds.

13. ADMINISTERING AGENCY shall use its own non-federal funds to finance the local share of eligible costs and all expenditures or contract items ruled ineligible for financing with federal funds. STATE shall make the determination of ADMINISTERING AGENCY's cost eligibility for federal fund financing of PROJECT costs.

14. ADMINISTERING AGENCY will reimburse STATE for STATE's share of costs for work performed by STATE at the request of ADMINISTERING AGENCY. STATE's costs shall include overhead assessments in accordance with section 8755.1 of the State Administrative Manual.

15. Federal and state funds allocated from the State Transportation Improvement Program (STIP) are subject to the timely use of funds provisions enacted by Senate Bill 45, approved in 1997, and subsequent STIP Guidelines and State procedures approved by the CTC and STATE.

16. Federal funds encumbered for PROJECT are available for liquidation for a period of six (6) years from the beginning of the State fiscal year the funds were appropriated in the State Budget. State funds encumbered for PROJECT are available for liquidation only for six (6) years from the beginning of the State fiscal year the funds were appropriated in the State Budget. Federal or state funds not liquidated within these periods will be reverted unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance (per Government Code section 16304). The exact date of fund reversion will be reflected in the STATE signed finance letter for PROJECT.

17. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

18. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

19. ADMINISTERING AGENCY agrees, and will ensure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

20. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

21. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

22. Should ADMINISTERING AGENCY fail to refund any moneys due upon written demand by STATE as provided hereunder or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT without adequate justification and approval by STATE, then, within thirty 30 days of demand, or within such other period as may be agreed to in writing between the PARTIES, STATE, acting through the State Controller, the State Treasurer, or any other public entity or agency, may withhold or demand a transfer of an amount equal to the amount paid by or owed to STATE from future apportionments, or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other sources of funds, and/or may withhold approval of future ADMINISTERING AGENCY federal-aid projects.

23. Should ADMINISTERING AGENCY be declared to be in breach of this AGREEMENT or otherwise in default thereof by STATE, and if ADMINISTERING AGENCY is constituted as a joint powers authority, special district, or any other public entity not directly receiving funds through the State Controller, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, pursuant to Article IV - 22, from those constituent entities comprising a joint powers authority or by bringing of an action against ADMINISTERING AGENCY or its constituent member entities, to recover all funds provided by STATE hereunder.

24. ADMINISTERING AGENCY acknowledges that the signatory party represents the ADMINISTERING AGENCY and further warrants that there is nothing within a Joint Powers Agreement, by which ADMINISTERING AGENCY was created, if any exists, that would restrict or otherwise limit STATE's ability to recover State funds improperly spent by ADMINISTERING AGENCY in contravention of the terms of this AGREEMENT.

ARTICLE V
AUDITS, THIRD PARTY CONTRACTING, RECORDS RETENTION AND REPORTS

1. STATE reserves the right to conduct technical and financial audits of PROJECT work and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by paragraph three (3) of ARTICLE V.

2. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by STATE.

3. ADMINISTERING AGENCY, ADMINISTERING AGENCY's contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

4. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year. The Federal Funds received under a PROGRAM SUPPLEMENT are a part of the Catalogue of Federal Domestic Assistance (CFDA) 20.205.

5. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

6. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contract over \$10,000, or other contracts over \$25,000 (excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)) on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

7. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions 5, 6, 17, 19 and 20 of ARTICLE IV, FISCAL PROVISIONS, and provisions 1, 2, and 3 of this ARTICLE V, AUDITS, THIRD-PARTY CONTRACTING RECORDS RETENTION AND REPORTS.

8. To be eligible for local match credit, ADMINISTERING AGENCY must ensure that local match funds used for a PROJECT meet the fiscal provisions requirements outlined in ARTICLE IV in the same manner as required of all other PROJECT expenditures.

9. In addition to the above, the pre-award requirements of third-party contractor/consultants with ADMINISTERING AGENCY should be consistent with the LOCAL ASSISTANCE PROCEDURES.

ARTICLE VI - FEDERAL LOBBYING ACTIVITIES CERTIFICATION

1. By execution of this AGREEMENT, ADMINISTERING AGENCY certifies, to the best of the signatory officer's knowledge and belief, that:

A. No federal or state appropriated funds have been paid or will be paid, by or on behalf of ADMINISTERING AGENCY, to any person for influencing or attempting to influence an officer or employee of any STATE or federal agency, a member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any STATE or federal contract, including this AGREEMENT, the making of any STATE or federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any STATE or federal contract, grant, loan, or cooperative contract.

B. If any funds other than federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this AGREEMENT, grant, local, or cooperative contract, ADMINISTERING AGENCY shall complete and submit Standard Form-LLL, "Disclosure Form to Rep Lobbying," in accordance with the form instructions.

C. This certification is a material representation of fact upon which reliance was placed when this AGREEMENT and each PROGRAM SUPPLEMENT was or will be made or entered into. Submission of this certification is a prerequisite for making or entering into this AGREEMENT imposed by Section 1352, Title 31, United States Code. Any party who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. ADMINISTERING AGENCY also agrees by signing this AGREEMENT that the language of this certification will be included in all lower tier sub-agreements which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

ARTICLE VII - MISCELLANEOUS PROVISIONS

1. ADMINISTERING AGENCY agrees to use all state funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution and the relevant Federal Regulations.
2. This AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
3. ADMINISTERING AGENCY and the officers and employees of ADMINISTERING AGENCY, when engaged in the performance of this AGREEMENT, shall act in an independent capacity and not as officers, employees or agents of STATE or the federal government.
4. Each project-specific E-76 or E-76 (AMOD), PROGRAM SUPPLEMENT and Finance Letter shall separately establish the terms and funding limits for each described PROJECT funded under the AGREEMENT. No federal or state funds are obligated against this AGREEMENT.
5. ADMINISTERING AGENCY certifies that neither ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this AGREEMENT. ADMINISTERING AGENCY agrees that it will notify STATE immediately in the event a suspension or a debarment occurs after the execution of this AGREEMENT.
6. ADMINISTERING AGENCY warrants, by execution of this AGREEMENT, that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ADMINISTERING AGENCY for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this AGREEMENT without liability, pay only for the value of the work actually performed, or in STATE's discretion, to deduct from the price of consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
7. In accordance with Public Contract Code section 10296, ADMINISTERING AGENCY hereby certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against ADMINISTERING AGENCY within the immediate preceding two (2) year period because of ADMINISTERING AGENCY's failure to comply with an order of a federal court that orders ADMINISTERING AGENCY to comply with an order of the National Labor Relations Board.
8. ADMINISTERING AGENCY shall disclose any financial, business, or other relationship with STATE, FHWA or Federal Transit Administration (FTA) that may have an impact upon the outcome of this AGREEMENT. ADMINISTERING AGENCY shall also list current contractors who may have a financial interest in the outcome of this AGREEMENT.
9. ADMINISTERING AGENCY hereby certifies that it does not have nor shall it acquire any financial or business interest that would conflict with the performance of PROJECT under this AGREEMENT.

10. ADMINISTERING AGENCY warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE employee. For breach or violation of this warranty, STATE shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the work actually performed, or to deduct from the PROGRAM SUPPLEMENT price or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Any dispute concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by the STATE's Contract Officer who may consider any written or verbal evidence submitted by ADMINISTERING AGENCY. The decision of the Contract Officer, issued in writing, shall be conclusive and binding on the PARTIES on all questions of fact considered and determined by the Contract Officer.

12. Neither the pending of a dispute nor its consideration by the Contract Officer will excuse ADMINISTERING AGENCY from full and timely performance in accordance with the terms of this AGREEMENT.

13. Neither ADMINISTERING AGENCY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE, under or in connection with any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that STATE shall fully defend, indemnify and save harmless the ADMINISTERING AGENCY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this AGREEMENT.

14. Neither STATE nor any officer or employee thereof shall be responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under, or in connection with, any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that ADMINISTERING AGENCY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under this AGREEMENT.

15. STATE reserves the right to terminate funding for any PROJECT upon written notice to ADMINISTERING AGENCY in the event that ADMINISTERING AGENCY fails to proceed with PROJECT work in accordance with the project-specific PROGRAM SUPPLEMENT, the bonding requirements if applicable, or otherwise violates the conditions of this AGREEMENT and/or PROGRAM SUPPLEMENT, or the funding allocation such that substantial performance is significantly endangered.

16. No termination shall become effective if, within thirty (30) days after receipt of a Notice of Termination, ADMINISTERING AGENCY either cures the default involved or, if not reasonably susceptible of cure within said thirty (30) day period, ADMINISTERING AGENCY proceeds thereafter to complete the cure in a manner and time line acceptable to STATE. Any such termination shall be accomplished by delivery to ADMINISTERING AGENCY of a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding of work under this AGREEMENT is terminated and the date upon which such termination becomes effective, if beyond thirty (30) days after receipt. During the period before the effective termination date, ADMINISTERING AGENCY and STATE shall meet to attempt to resolve any dispute. In the event of such termination, STATE may proceed with the PROJECT work in a manner deemed proper by STATE. If STATE terminates funding for PROJECT with ADMINISTERING AGENCY, STATE shall pay ADMINISTERING AGENCY the sum due ADMINISTERING AGENCY under the PROGRAM SUPPLEMENT and/or STATE approved finance letter prior to termination, provided, however, ADMINISTERING AGENCY is not in default of the terms and conditions of this AGREEMENT or the project-specific PROGRAM SUPPLEMENT and that the cost of PROJECT completion to STATE shall first be deducted from any sum due ADMINISTERING AGENCY.

17. In case of inconsistency or conflicts with the terms of this AGREEMENT and that of a project-specific PROGRAM SUPPLEMENT, the terms stated in that PROGRAM SUPPLEMENT shall prevail over those in this AGREEMENT.

18. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY either in whole or in part.

19. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES, and no oral understanding or agreement not incorporated herein shall be binding on any of the PARTIES.

IN WITNESS WHEREOF, the PARTIES have executed this AGREEMENT by their duly authorized officers.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION City of Escondido

By _____ By _____

Chief, Office of Project Implementation
Division of Local Assistance _____
City of Escondido
Representative Name & Title
(Authorized Governing Body Representative)

Date _____ Date _____

EXHIBIT A

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, ADMINISTERING AGENCY will not discriminate against any employee for employment because of race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. ADMINISTERING AGENCY will take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ADMINISTERING AGENCY shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. ADMINISTERING AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 1290-0 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full. Each of the ADMINISTERING AGENCY'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. ADMINISTERING AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this AGREEMENT.

4. ADMINISTERING AGENCY will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which ADMINISTERING AGENCY was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that ADMINISTERING AGENCY has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by ADMINISTERING AGENCY and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to ADMINISTERING AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure ADMINISTERING AGENCY's breach of this Agreement.

NONDISCRIMINATION ASSURANCES

ADMINISTERING AGENCY HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the STATE, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the REGULATIONS), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the ACT, REGULATIONS, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which ADMINISTERING AGENCY receives federal financial assistance from the Federal Department of Transportation. ADMINISTERING AGENCY HEREBY GIVES ASSURANCE THAT ADMINISTERING AGENCY will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the REGULATIONS.

More specifically, and without limiting the above general assurance, ADMINISTERING AGENCY hereby gives the following specific assurances with respect to its federal-aid Program:

1. That ADMINISTERING AGENCY agrees that each "program" and each "facility" as defined in subsections 21.23 (e) and 21.23 (b) of the REGULATIONS, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the REGULATIONS.

2. That ADMINISTERING AGENCY shall insert the following notification in all solicitations for bids for work or material subject to the REGULATIONS made in connection with the federal-aid Program and, in adapted form, in all proposals for negotiated agreements:

ADMINISTERING AGENCY hereby notifies all bidders that it will affirmatively ensure that in any agreement entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

3. That ADMINISTERING AGENCY shall insert the clauses of Appendix A of this assurance in every agreement subject to the ACT and the REGULATIONS.

4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where ADMINISTERING AGENCY receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where ADMINISTERING AGENCY receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That ADMINISTERING AGENCY shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the ADMINISTERING AGENCY with other parties:

Appendix C;

(a) for the subsequent transfer of real property acquired or improved under the federal-aid Program; and

Appendix D;

(b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid Program.

8. That this assurance obligates ADMINISTERING AGENCY for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates ADMINISTERING AGENCY or any transferee for the longer of the following periods:

(a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during which ADMINISTERING AGENCY retains ownership or possession of the property.

9. That ADMINISTERING AGENCY shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that ADMINISTERING AGENCY, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the ACT, the REGULATIONS, this Assurance and the Agreement.

10. That ADMINISTERING AGENCY agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the ACT, the REGULATIONS, and this Assurance.

11. ADMINISTERING AGENCY shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any STATE assisted contract or in the administration on its DBE Program or the requirements of 49 CFR Part 26. ADMINISTERING AGENCY shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in the award and administration of STATE assisted contracts. ADMINISTERING AGENCY'S DBE Implementation Agreement is incorporated by reference in this AGREEMENT. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved DBE Implementation Agreement, STATE may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31USC 3801 et seq.)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to ADMINISTERING AGENCY by STATE, acting for the U.S. Department of Transportation, and is binding on ADMINISTERING AGENCY, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

APPENDIX A TO EXHIBIT B

During the performance of this Agreement, ADMINISTERING AGENCY, for itself, its assignees and successors in interest (hereinafter collectively referred to as ADMINISTERING AGENCY) agrees as follows:

(1) Compliance with Regulations: ADMINISTERING AGENCY shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

(2) Nondiscrimination: ADMINISTERING AGENCY, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. ADMINISTERING AGENCY shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by ADMINISTERING AGENCY for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by ADMINISTERING AGENCY of the ADMINISTERING AGENCY's obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: ADMINISTERING AGENCY shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to ADMINISTERING AGENCY's books, records, accounts, other sources of information, and its facilities as may be determined by STATE or FHWA to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of ADMINISTERING AGENCY is in the exclusive possession of another who fails or refuses to furnish this information, ADMINISTERING AGENCY shall so certify to STATE or the FHWA as appropriate, and shall set forth what efforts ADMINISTERING AGENCY has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of ADMINISTERING AGENCY's noncompliance with the nondiscrimination provisions of this agreement, STATE shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to ADMINISTERING AGENCY under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: ADMINISTERING AGENCY shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. ADMINISTERING AGENCY shall take such action with respect to any sub-agreement or procurement as STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event ADMINISTERING AGENCY becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, ADMINISTERING AGENCY may request STATE enter into such litigation to protect the interests of STATE, and, in addition, ADMINISTERING AGENCY may request the United States to enter into such litigation to protect the interests of the United States.

The following clauses shall be included in any and all deeds effecting or recording the transfer of PROJECT real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that ADMINISTERING AGENCY will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the ADMINISTERING AGENCY all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto ADMINISTERING AGENCY and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on ADMINISTERING AGENCY, its successors and assigns.

ADMINISTERING AGENCY, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and) *

(2) that ADMINISTERING AGENCY shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by ADMINISTERING AGENCY, pursuant to the provisions of Assurance 7(a) of Exhibit B.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to re-enter said land and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of ADMINISTERING AGENCY and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the ADMINISTERING AGENCY, pursuant to the provisions of Assurance 7 (b) of Exhibit B.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.,) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to re-enter said land and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of ADMINISTERING AGENCY, and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

MASTER AGREEMENT
ADMINISTERING AGENCY-STATE AGREEMENT FOR
STATE-FUNDED PROJECTS

11 City of Escondido

District Administering Agency

Agreement No. 00323S

This AGREEMENT, is entered into effective this 30th day of September, 2010, by and between the City of Escondido, hereinafter referred to as "ADMINISTERING AGENCY," and the State of California, acting by and through its Department of Transportation (Caltrans), hereinafter referred to as "STATE", and together referred to as "PARTIES" or individually as a "PARTY."

RECITALS:

1. WHEREAS, the Legislature of the State of California has enacted legislation by which certain State funds are made available for use on local transportation related projects of public entities qualified to act as recipients of these state funds; and
2. WHEREAS, ADMINISTERING AGENCY has applied to the California Transportation Commission (CTC) and/or STATE for funding from either the State Transportation Improvement Program (STIP), or other State-funded programs (herein referred to as STATE FUNDS), as defined in the Local Assistance Program Guidelines (LAPG), for use on local authorized transportation related projects as a local administered project(s), hereinafter referred to as "PROJECT"; and
3. WHEREAS, said PROJECT will not receive any federal funds; and
4. WHEREAS, before STATE FUNDS will be made available for PROJECT, ADMINISTERING AGENCY and STATE are required to enter into an agreement to establish terms and conditions applicable to the ADMINISTERING AGENCY when receiving STATE FUNDS for a designated PROJECT facility and to the subsequent operation and maintenance of that completed facility.

NOW, THEREFORE, the PARTIES agree as follows:

ARTICLE I - PROJECT ADMINISTRATION

1. This AGREEMENT shall have no force or effect with respect to any program project unless and until a project-specific Program Supplement to this AGREEMENT for state funded projects, hereinafter referred to as "PROGRAM SUPPLEMENT", has been fully executed by both STATE and ADMINISTERING AGENCY.
2. The State approved project-specific allocation letter designate the party responsible for implementing PROJECT, type of work and location of PROJECT.
3. The PROGRAM SUPPLEMENT sets out special covenants as a condition for the ADMINISTERING AGENCY to receive STATE FUNDS from/through STATE for designated PROJECT. The PROGRAM SUPPLEMENT shall also show these STATE FUNDS that have been initially encumbered for PROJECT along with the matching funds to be provided by ADMINISTERING AGENCY and/or others. Execution of PROGRAM SUPPLEMENT by the PARTIES shall cause ADMINISTERING AGENCY to adopt all of the terms of this AGREEMENT as though fully set forth therein in the PROGRAM SUPPLEMENT. Unless otherwise expressly delegated in a resolution by the governing body of ADMINISTERING AGENCY, and with written concurrence by STATE, the PROGRAM SUPPLEMENT shall be approved and managed by the governing body of ADMINISTERING AGENCY.
4. ADMINISTERING AGENCY agrees to execute and return each project-specific PROGRAM SUPPLEMENT within ninety (90) days of receipt. The PARTIES agree that STATE may suspend future allocations, encumbrances and invoice payments for any on-going or future STATE FUNDED PROJECT performed by ADMINISTERING AGENCY if any project-specific PROGRAM SUPPLEMENT is not returned within that ninety (90) day period unless otherwise agreed by STATE in writing.
5. ADMINISTERING AGENCY further agrees, as a condition to the release and payment of STATE FUNDS encumbered for the PROJECT described in each PROGRAM SUPPLEMENT, to comply with the terms and conditions of this AGREEMENT and all of the agreed-upon Special Covenants or Remarks incorporated within the PROGRAM SUPPLEMENT, and Cooperative/Contribution Agreement where appropriate, defining and identifying the nature of the specific PROJECT.
6. STATE FUNDS will not participate in any portion of PROJECT work performed in advance of the effective date of the executed PROGRAM SUPPLEMENT for said PROJECT.
7. Projects allocated with STATE FUNDS from the STIP will be administered in accordance with the current CTC STIP Guidelines, as adopted or amended and in accordance with Chapter 23 of the Local Assistance Program Guidelines (LAPG) published by STATE.
8. Projects allocated with STATE FUNDS not programmed in the STIP will be administered in accordance with the applicable chapter of the LAPG and/or any other instructions published by STATE.
9. ADMINISTERING AGENCY's eligible costs for preliminary engineering work includes all preliminary work directly related to PROJECT up to contract award for construction, including, but not limited to, environmental studies and permits (E&P), preliminary surveys and reports, laboratory work, soil investigations, the preparation of plans, specifications and estimates (PS&E), advertising for bids, awarding of a contract and project development contract administration.

10. ADMINISTERING AGENCY's eligible costs for construction engineering includes actual inspection and supervision of PROJECT construction work; construction staking; laboratory and field testing; and the preparation and processing of field reports, records, estimates, final reports, and allowable expenses of employees/consultants engaged in such activities.
11. Unless the PARTIES agree otherwise in writing, ADMINISTERING AGENCY's employees or its sub-contractor engineering consultant shall be responsible for all PROJECT engineering work.
12. ADMINISTERING AGENCY shall not proceed with final design of PROJECT until final environmental approval of PROJECT. Final design entails the design work necessary to complete the PS&E and other work necessary for a construction contract but not required earlier for environmental clearance of that PROJECT.
13. If PROJECT is not on STATE-owned right-of-way, PROJECT shall be constructed in accordance with Chapter 11 of the Local Assistance Procedures Manual (LAPM) that describes minimum statewide design standards for local agency streets and roads. The design standards for projects off the National Highway System (NHS) allow STATE to accept either the STATE's minimum statewide design standards or the approved geometric design standards of ADMINISTERING AGENCY. Additionally, for projects off the NHS, STATE will accept ADMINISTERING AGENCY-approved standard specifications, standard plans, materials sampling and testing quality assurance programs that meet the conditions described in the then current Local Assistance Procedures Manual.
14. If PROJECT involves work within or partially within STATE-owned right-of-way, that PROJECT shall also be subject to compliance with the policies, procedures and standards of the STATE Project Development Procedures Manual and Highway Design Manual and where appropriate, an executed cooperative agreement between STATE and ADMINISTERING AGENCY that outlines the PROJECT responsibilities and respective obligations of the PARTIES. ADMINISTERING AGENCY and its' contractors shall each obtain an encroachment permit through STATE prior to commencing any work within STATE rights of way or work which affects STATE facilities.
15. When PROJECT is not on the State Highway System (SHS) but includes work to be performed by a railroad, the contract for such work shall be prepared by ADMINISTERING AGENCY or by STATE, as the PARTIES may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an agreement with the railroad providing for future maintenance of protective devices or other facilities installed under the contract.
16. The Department of General Services, Division of the State Architect, or its designee, shall review the contract PS&E for the construction of buildings, structures, sidewalks, curbs and related facilities for accessibility and usability. ADMINISTERING AGENCY shall not award a PROJECT construction contract for these types of improvements until the State Architect has issued written approval stating that the PROJECT plans and specifications comply with the provisions of sections 4450 and 4454 of the California Government Code, if applicable. Further requirements and guidance are provided in Title 24 of the California Code of Regulations.
17. ADMINISTERING AGENCY shall provide or arrange for adequate supervision and inspection of each PROJECT. While consultants may perform supervision and inspection work for PROJECT with a fully qualified and licensed engineer, ADMINISTERING AGENCY shall provide a full-time employee to be in responsible charge of each PROJECT.

18. Unless otherwise provided in the PROGRAM SUPPLEMENT, ADMINISTERING AGENCY shall advertise, award, and administer the PROJECT construction contract or contracts.

19. The cost of maintenance, security, or protection performed by ADMINISTERING AGENCY or contractor forces during any temporary suspension of PROJECT or at any other time may not be charged to the PROJECT.

20. ADMINISTERING AGENCY shall submit PROJECT-specific award information, using Exhibit 23-A of the LAPG, to STATE's District Local Assistance Engineer, within sixty (60) days after contract award. A copy of Exhibit 23-A shall also be included with the submittal of the first invoice for a construction contract by ADMINISTERING AGENCY to: Department of Transportation, Division of Accounting Local Programs Accounting Branch, MS #33, PO Box 942874, Sacramento, California 94274-0001.

21. ADMINISTERING AGENCY shall submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure by ADMINISTERING AGENCY to submit a "Report of Expenditures" within 180 days of project completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance Chapters 17 and 19 of the Local Assistance Procedures Manual.

22. ADMINISTERING AGENCY shall comply with the Americans with Disabilities Act (ADA) of 1990 that prohibits discrimination on the basis of disability and all applicable regulations and guidelines issued pursuant to the ADA.

23. The Governor and the Legislature of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with public funds. ADMINISTERING AGENCY agrees to comply with the requirements of the FAIR EMPLOYMENT PRACTICES ADDENDUM, attached hereto as Exhibit A and further agrees that any agreement entered into by ADMINISTERING AGENCY with a third party for performance of work connected with PROJECT shall incorporate Exhibit A (with third party's name replacing ADMINISTERING AGENCY) as parts of such agreement.

24. ADMINISTERING AGENCY shall include in all subcontracts awarded when applicable, a clause that requires each subcontractor to comply with California Labor Code requirements that all workers employed on public works aspects of any project (as defined in California Labor Code sections 1720-1815) be paid not less than the general prevailing wage rates predetermined by the Department of Industrial Relations as effective at the date of contract award by the ADMINISTERING AGENCY.

ARTICLE II - RIGHTS OF WAY

1. No contract for the construction of a STATE FUNDED PROJECT shall be awarded until all necessary rights of way have been secured. Prior to the advertising for construction of PROJECT, ADMINISTERING AGENCY shall certify and, upon request, shall furnish STATE with evidence that all necessary rights-of-way are available for construction purposes or will be available by the time of award of the construction contract.

2. The furnishing of rights of way by ADMINISTERING AGENCY as provided for herein includes, and is limited to, the following, unless the PROGRAM SUPPLEMENT provides otherwise.

(a) Expenditures to purchase all real property required for PROJECT free and clear of liens, conflicting easements, obstructions and encumbrances, after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY.

(b) The cost of furnishing of right-of-way as provided for herein includes, in addition to real property required for the PROJECT, title free and clear of obstructions and encumbrances affecting PROJECT and the payment, as required by applicable law, of damages to owners of remainder real property not actually taken but injuriously affected by PROJECT.

(c) The cost of relocation payments and services provided to owners and occupants pursuant to Government Code sections 7260-7277 when PROJECT displaces an individual, family, business, farm operation or nonprofit organization.

(d) The cost of demolition and/or the sale of all improvements on the right-of-way after credit is recorded for sale proceeds used to offset PROJECT costs.

(e) The cost of all unavoidable utility relocation, protection or removal.

(f) The cost of all necessary hazardous material and hazardous waste treatment, encapsulation or removal and protective storage for which ADMINISTERING AGENCY accepts responsibility and where the actual generator cannot be identified and recovery made.

3. ADMINISTERING AGENCY agrees to indemnify and hold STATE harmless from any liability that may result in the event the right-of-way for a PROJECT, including, but not limited to, being clear as certified or if said right-of-way is found to contain hazardous materials requiring treatment or removal to remediate in accordance with Federal and State laws. ADMINISTERING AGENCY shall pay, from its own non-matching funds, any costs which arise out of delays to the construction of PROJECT because utility facilities have not been timely removed or relocated, or because rights-of-way were not available to ADMINISTERING AGENCY for the orderly prosecution of PROJECT work.

ARTICLE III - MAINTENANCE AND MANAGEMENT

1. ADMINISTERING AGENCY will maintain and operate the property acquired, developed, constructed, rehabilitated, or restored by PROJECT for its intended public use until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the PROJECT property may transfer this obligation and responsibility to maintain and operate PROJECT property for that intended public purpose to another public entity.

2. Upon ADMINISTERING AGENCY's acceptance of the completed construction contract or upon contractor being relieved of the responsibility for maintaining and protecting PROJECT, ADMINISTERING AGENCY will be responsible for the maintenance, ownership, liability, and the expense thereof, for PROJECT in a manner satisfactory to the authorized representatives of STATE and if PROJECT falls within the jurisdictional limits of another Agency or Agencies, it is the duty of ADMINISTERING AGENCY to facilitate a separate maintenance agreement(s) between itself and the other jurisdictional Agency or Agencies providing for the operation, maintenance, ownership and liability of PROJECT. Until those agreements are executed, ADMINISTERING AGENCY will be responsible for all PROJECT operations, maintenance, ownership and liability in a manner satisfactory to the authorized representatives of STATE. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, is not being properly operated and maintained and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future STATE FUNDED PROJECTS of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition of operation and maintenance satisfactory to STATE. The provisions of this section shall not apply to a PROJECT that has been vacated through due process of law with STATE's concurrence.

3. PROJECT and its facilities shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as PROJECT reasonably requires. Said operations and maintenance staff may be employees of ADMINISTERING AGENCY, another unit of government, or a contractor under agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

ARTICLE IV - FISCAL PROVISIONS

1. All contractual obligations of STATE are subject to the appropriation of resources by the Legislature and the allocation of resources by the CTC.
2. STATE'S financial commitment of STATE FUNDS will occur only upon the execution of this AGREEMENT, the execution of each project-specific PROGRAM SUPPLEMENT and/or STATE's approved finance letter.
3. ADMINISTERING AGENCY may submit signed duplicate invoices in arrears for reimbursement of allowable PROJECT costs on a monthly or quarterly progress basis once the project-specific PROGRAM SUPPLEMENT has been executed by STATE.
4. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the STATE FUNDS are encumbered on either the project-specific PROGRAM SUPPLEMENT or through a project-specific finance letter approved by STATE. STATE reserves the right to suspend future allocations and invoice payments for any on-going or future STATE FUNDED project performed by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period
5. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with Chapter 5 of the LAPM.
6. Invoices must have at least one copy of supporting backup documentation for allowable costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.
7. Payments to ADMINISTERING AGENCY can only be released by STATE as reimbursements of actual allowable PROJECT costs already incurred and paid for by ADMINISTERING AGENCY.
8. An indirect cost allocation plan and related documentation are to be provided to STATE (Caltrans Audits & Investigations) annually for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect cost incurred within each fiscal year being claimed for reimbursement. The indirect cost allocation plan must be prepared in accordance with the requirements set forth in Office of Management and Budget Circular A-87 and Chapter 4 of the Local Assistance Procedures Manual.
9. STATE will withhold the greater of either two (2) percent of the total of all STATE FUNDS encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.
10. The estimated total cost of PROJECT, the amount of STATE FUNDS obligated, and the required matching funds may be adjusted by mutual consent of the PARTIES with an allocation letter and finance letter. STATE FUNDING may be increased to cover PROJECT cost increases only if such additional funds are available and the CTC and/or STATE concurs with that increase in the form of an allocation and finance letter.

11. When such additional STATE FUNDS are not available, ADMINISTERING AGENCY agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY's own funds.

12. ADMINISTERING AGENCY shall use its own non STATE FUNDS to finance the local share of eligible costs and all PROJECT expenditures or contract items ruled ineligible for financing with STATE FUNDS. STATE shall make the final determination of ADMINISTERING AGENCY's cost eligibility for STATE FUNDED financing with respect to claimed PROJECT costs.

13. ADMINISTERING AGENCY will reimburse STATE for STATE's share of costs for work performed by STATE at the request of ADMINISTERING AGENCY. STATE's costs shall include overhead assessments in accordance with section 8755.1 of the State Administrative Manual.

14. STATE FUNDS allocated from the STIP are subject to the timely use of funds provisions enacted by Senate Bill 45, approved in 1997, and subsequent STIP Guidelines and State procedures approved by the CTC and STATE.

15. STATE FUNDS encumbered for PROJECT are available for liquidation only for five (5) years from the beginning of the State fiscal year when those funds were appropriated in the State Budget. STATE FUNDS not liquidated within these periods will be reverted unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance in accordance with Government Code section 16304. The exact date of fund reversion will be reflected in the STATE signed PROJECT finance letter.

16. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid to rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand.

17. ADMINISTERING AGENCY agrees to comply with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State and Local Governments, and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

18. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items and (b) those parties shall comply with federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Every sub-recipient receiving PROJECT funds as a contractor or sub-contractor under this AGREEMENT shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. ADMINISTERING AGENCY agrees to comply with the provisions set

forth in 23 CFR Parts 140, 645 and 646 when contracting with railroad and utility companies.

19. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under OMB Circular A-87, 48 CFR, Chapter 1, Part 31, 23 CFR Parts 140, 645 and 646 or 49 CFR, Part 18, are subject to repayment by ADMINISTERING AGENCY to STATE.

20. Upon written demand by STATE, any overpayment to ADMINISTERING AGENCY of amounts invoiced to STATE shall be returned to STATE.

21. Should ADMINISTERING AGENCY fail to refund any moneys due STATE as provided herein or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT without adequate justification and approval by STATE, then, within thirty (30) days of demand, or within such other period as may be agreed to in writing between the PARTIES hereto, STATE, acting through the State Controller, the State Treasurer, the CTC or any other public entity or agency, may intercept, withhold and demand the transfer of an amount equal to the amount paid by or owed to STATE for each PROJECT, from future apportionments, or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other sources of funds, and/or may also withhold approval of future STATE FUNDED projects proposed by ADMINISTERING AGENCY.

22. Should ADMINISTERING AGENCY be declared to be in breach of this AGREEMENT or otherwise in default thereof by STATE, and if ADMINISTERING AGENCY is constituted as a joint powers authority, special district, or any other public entity not directly receiving funds through the State Controller, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, pursuant to Article IV - 21, from those constituent entities comprising a joint powers authority or by bringing of an action against ADMINISTERING AGENCY or its constituent member entities, to recover all funds provided by STATE hereunder.

23. ADMINISTERING AGENCY acknowledges that the signatory party represents the ADMINISTERING AGENCY and further warrants that there is nothing within a Joint Powers Agreement, by which ADMINISTERING AGENCY was created, if any exists, that would restrict or otherwise limit STATE's ability to recover STATE FUNDS improperly spent by ADMINISTERING AGENCY in contravention of the terms of this AGREEMENT.

ARTICLE V

AUDITS, THIRD PARTY CONTRACTING, RECORDS RETENTION AND REPORTS

1. STATE reserves the right to conduct technical and financial audits of PROJECT work and records when determined to be necessary or appropriate and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by paragraph three (3) of Article V.
2. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred PROJECT costs and matching funds by line item for the PROJECT. The accounting system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by STATE.
3. For the purpose of determining compliance with Title 21, California Code of Regulations, Chapter 21, section 2500 et seq., when applicable, and other matters connected with the performance and costs of ADMINISTERING AGENCY's contracts with third parties pursuant to Government Code section 8546.7, ADMINISTERING AGENCY, ADMINISTERING AGENCY's contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above-referenced parties shall make such AGREEMENT and PROGRAM SUPPLEMENT materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of final payment to ADMINISTERING AGENCY under any PROGRAM SUPPLEMENT. STATE, the California State Auditor, or any duly authorized representative of STATE or the United States, shall each have access to any books, records, and documents that are pertinent to a PROJECT for audits, examinations, excerpts, and transactions and ADMINISTERING AGENCY shall furnish copies thereof if requested.
4. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of OMB Circular A-133 if it receives a total of \$500,000 or more in STATE FUNDS in a single fiscal year. The STATE FUNDS received under PROGRAM SUPPLEMENT are a part of the Catalogue of Federal Domestic Assistance (CFDA) 20.205, Highway Planning and Research.
5. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY'S annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with OMB Circular A-133.
6. ADMINISTERING AGENCY shall not award a construction contract over \$10,000 or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. All contracts awarded by ADMINISTERING AGENCY intended or used as local match credit must meet the requirements set forth in this AGREEMENT regarding local match funds.

7. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain all of the provisions of Article IV, FISCAL PROVISIONS, and this ARTICLE V, AUDITS, THIRD-PARTY CONTRACTING, RECORDS RETENTION AND REPORTS and shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as PROJECT costs only after those costs are incurred and paid for by the subcontractors.

8. To be eligible for local match credit, ADMINISTERING AGENCY must ensure that local match funds used for a PROJECT meet the fiscal provisions requirements outlined in ARTICLE IV in the same manner that is required of all other PROJECT expenditures.

9. In addition to the above, the pre-award requirements of third-party contractor/consultants with ADMINISTERING AGENCY should be consistent with LOCAL ASSISTANCE PROCEDURES.

ARTICLE VI - MISCELLANEOUS PROVISIONS

1. ADMINISTERING AGENCY agrees to use all PROJECT funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution and other California laws.
2. ADMINISTERING AGENCY shall conform to all applicable State and Federal statutes and regulations, and the Local Assistance Program Guidelines and Local Assistance Procedures Manual as published by STATE and incorporated herein, including all subsequent approved revisions thereto applicable to PROJECT unless otherwise designated in the project-specific executed PROJECT SUPPLEMENT.
3. This AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
4. ADMINISTERING AGENCY and the officers and employees of ADMINISTERING AGENCY, when engaged in the performance of this AGREEMENT, shall act in an independent capacity and not as officers, employees or agents of STATE.
5. Each project-specific PROGRAM SUPPLEMENT shall separately establish the terms and funding limits for each described PROJECT funded under this AGREEMENT and that PROGRAM SUPPLEMENT. No STATE FUNDS are obligated against this AGREEMENT.
6. ADMINISTERING AGENCY certifies that neither ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this AGREEMENT, and ADMINISTERING AGENCY agrees that it will notify STATE immediately in the event a suspension or a debarment occurs after the execution of this AGREEMENT.
7. ADMINISTERING AGENCY warrants, by execution of this AGREEMENT, that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ADMINISTERING AGENCY for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this AGREEMENT without liability, pay only for the value of the PROJECT work actually performed, or in STATE's discretion, to deduct from the price of PROGRAM SUPPLEMENT consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
8. In accordance with Public Contract Code section 10296, ADMINISTERING AGENCY hereby certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against ADMINISTERING AGENCY within the immediate preceding two (2) year period because of ADMINISTERING AGENCY's failure to comply with an order of a federal court that orders ADMINISTERING AGENCY to comply with an order of the National Labor Relations Board.
9. ADMINISTERING AGENCY shall disclose any financial, business, or other relationship with STATE that may have an impact upon the outcome of this AGREEMENT or any individual PROJECT encompassed within a PROGRAM SUPPLEMENT. ADMINISTERING AGENCY shall also list current contractors who may have a financial interest in the outcome of a PROJECT undertaken pursuant to this AGREEMENT.

10. ADMINISTERING AGENCY hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of any PROJECT initiated under this AGREEMENT.

11. ADMINISTERING AGENCY warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE employee. For breach or violation of this warranty, STATE shall have the right, in its sole discretion, to terminate this AGREEMENT without liability, to pay only for PROJECT work actually performed, or to deduct from a PROGRAM SUPPLEMENT price or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. Any dispute concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by the STATE's Contract Officer, who may consider any written or verbal evidence submitted by ADMINISTERING AGENCY. The decision of the Contract Officer, issued in writing, shall be conclusive and binding on the PARTIES on all questions of fact considered and determined by the Contract Officer.

13. Neither the pending of a dispute nor its consideration by the Contract Officer will excuse the ADMINISTERING AGENCY from full and timely performance in accordance with the terms of this AGREEMENT and each PROGRAM SUPPLEMENT.

14. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under or in connection with any work, authority or jurisdiction of ADMINISTERING AGENCY arising under this AGREEMENT. It is understood and agreed that ADMINISTERING AGENCY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims and suits or actions of every name, kind and description brought forth under, including but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under this AGREEMENT.

15. Neither ADMINISTERING AGENCY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by, under or in connection with any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that STATE shall fully defend, indemnify and save harmless the ADMINISTERING AGENCY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this AGREEMENT.

16. In the event of (a) ADMINISTERING AGENCY failing to timely proceed with effective PROJECT work in accordance with the project-specific PROGRAM SUPPLEMENT; (b) failing to maintain any applicable bonding requirements; and (c) otherwise materially violating the terms and conditions of this AGREEMENT and/or any PROGRAM SUPPLEMENT, STATE reserves the right to terminate funding for that PROJECT upon thirty (30) days' written notice to ADMINISTERING AGENCY.

17. No termination notice shall become effective if, within thirty (30) days after receipt of a Notice of Termination, ADMINISTERING AGENCY either cures the default involved or, if the default is not reasonably susceptible of cure within said thirty (30) day period the ADMINISTERING

AGENCY proceeds thereafter to complete that cure in a manner and time line acceptable to STATE.

18. Any such termination shall be accomplished by delivery to ADMINISTERING AGENCY of a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding of work under this AGREEMENT and the applicable PROGRAM SUPPLEMENT is terminated and the date upon which such termination becomes effective, if beyond thirty (30) days after receipt. During the period before the effective termination date, ADMINISTERING AGENCY and STATE shall meet to attempt to resolve any dispute. In the event of such termination, STATE may proceed with the PROJECT work in a manner deemed proper by STATE. If STATE terminates funding for PROJECT with ADMINISTERING AGENCY for the reasons stated in paragraph sixteen (16) of ARTICLE VI, STATE shall pay ADMINISTERING AGENCY the sum due ADMINISTERING AGENCY under the PROGRAM SUPPLEMENT and/or STATE-approved finance letter prior to termination, provided, however, ADMINISTERING AGENCY is not in default of the terms and conditions of this AGREEMENT or the project-specific PROGRAM SUPPLEMENT and that the cost of any PROJECT completion to STATE shall first be deducted from any sum due ADMINISTERING AGENCY.

19. In the case of inconsistency or conflicts with the terms of this AGREEMENT and that of a project-specific PROGRAM SUPPLEMENT and/or Cooperative Agreement, the terms stated in that PROGRAM SUPPLEMENT and/or Cooperative Agreement shall prevail over those in this AGREEMENT.

20. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY either in whole or in part.

21. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES, and no oral understanding or agreement not incorporated herein shall be binding on any of the PARTIES.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT by their duly authorized officer.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By Wick Ernst

for Chief, Office of Project Implementation
Division of Local Assistance

Date 9/30/10

City of Escondido

By [Signature]
MAYOR

City of Escondido
Representative Name & Title
(Authorized Governing Body Representative)

Date 9/8/10

EXHIBIT A - FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, ADMINISTERING AGENCY will not discriminate against any employee for employment because of race, color, sex, sexual orientation, religion, age, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. ADMINISTERING AGENCY will take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ADMINISTERING AGENCY shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. ADMINISTERING AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, 1290-0 et seq.), and the applicable regulations promulgated thereunder (Cal. Code Regs., Title 2, 7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full. Each of the ADMINISTERING AGENCY'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. ADMINISTERING AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this AGREEMENT.

4. ADMINISTERING AGENCY will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which ADMINISTERING AGENCY was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that ADMINISTERING AGENCY has violated the Fair Employment Practices Act and had issued an order under Labor Code section 1426 which has become final or has obtained an injunction under Labor Code section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by ADMINISTERING AGENCY and by the surety under the performance bond, if any, and STATE may deduct from any moneys due

or thereafter may become due to ADMINISTERING AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure ADMINISTERING AGENCY's breach of this Agreement.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 7
Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council
FROM: Edward N. Domingue, Public Works Director
Joseph Goulart, Fleet Maintenance Superintendent
SUBJECT: Purchase One (1) Freightliner Crane Truck from National Auto Fleet Group

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-56, authorizing the Fleet Services Division to purchase one (1) new 2018 Freightliner M2 chassis, equipped with a Palfinger PK1800EH-C knuckle boom crane in the amount of \$198,069.28, through a Cooperative Purchase Contract with the National Joint Powers Alliance (NJPA).

BACKGROUND:

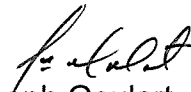
An existing 1990 GMC crane truck utilized by the Water Operations and Wastewater Treatment/Reclamation Divisions is being replaced due to increased downtime, lack of parts availability, and failing mechanical condition. Existing unit #3483 has been in service for more than 28 years. Water Operations utilizes a crane truck for repairs on suspended water lines over bridges and channel crossings along with trench plate installation. This crane truck is an integral part of Water Operations emergency response plan. Wastewater utilizes this crane truck for pump removal and installations at lift stations as well with treatment plant repairs.

Upon approval from the City Council, this 2018 Freightliner M2 crane truck will be purchased from National Auto Fleet Group of Watsonville, California, through a Cooperative Purchasing Contract with NJPA, Contract No. 081716-NAF, in the amount of \$198,069.28, which includes sales tax and all other fees. Escondido Municipal Code Chapter 10, Article 5, Section 10-90, authorizes the purchase of supplies and equipment utilizing cooperative purchase programs.

Respectfully submitted,



for - Edward N. Domingue, P.E.
Public Works Director



Joseph Goulart,
Fleet Maintenance Superintendent

RESOLUTION NO. 2017-56

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE PURCHASE OF ONE
FREIGHTLINER CRANE TRUCK FROM
NATIONAL AUTO FLEET GROUP BY
UTILIZING A COOPERATIVE PURCHASE
CONTRACT THROUGH THE NATIONAL
JOINT POWERS ALLIANCE

WHEREAS, the Fleet Services Division is replacing one (1) existing 1990 GMC 7000 Crane Truck due to excessive engine hours, increased downtime, costly repairs, and exceeding the standard life expectancy of fifteen (15) years; and

WHEREAS, sufficient funds to replace the existing 1990 GMC Crane Truck are located in the Fleet Services Vehicle Replacement Fund, account number 5208-653-715; and

WHEREAS, the Fleet Services Division is requesting to purchase one (1) Freightliner Crane Truck from the National Auto Fleet Group of Watsonville, California; and

WHEREAS, the National Joint Powers Alliance ("NJPA") conducted a competitive bid process for heavy duty trucks and National Auto Fleet Group was deemed to be the lowest responsive bidder; and

WHEREAS, NJPA Contract No. 081716-NAF was awarded to the National Auto Fleet Group on November 15, 2016, and expires on November 15, 2020; and

WHEREAS, the City of Escondido is a member of NJPA; and

WHEREAS, the City is utilizing cooperative purchasing with NJPA; as per the Escondido Municipal Code Chapter 10, Article 5, Section 10-90, the City may utilize a cooperative contract, which has been conducted in a competitive manner by the State, county or any other public or municipal agency; and

WHEREAS, staff recommends purchasing one (1) Freightliner Crane Truck from National Auto Fleet Group in the amount of \$198,069.28 which includes tax and all other fees; and

WHEREAS, the City Council desires at this time and deems it to be the best public interest to authorize the purchase from the National Auto Fleet Group.

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 is authorized to approve on behalf of the City, the Cooperative Purchase through the National Joint Powers Alliance, as allowed per Escondido Municipal Code Chapter 10 Article 5 Section 10-90.
3. That the City Council authorizes the Fleet Services Division to purchase one (1) Freightliner Crane Truck from the National Auto Fleet Group, utilizing a cooperative purchase contract with NJPA, in the amount of \$198,068.28, which includes tax and all other fees.



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 8

Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Michelle Geller, Economic Development Manager

SUBJECT: Reauthorization of Cox Communications' Collection and Remittance of PEG Fees to the City of Escondido

RECOMMENDATION:

It is requested that the City Council adopt Resolution 2017-57, authorizing Cox Communications to continue to collect and remit Public, Education and Government (PEG) Fees to the City of Escondido.

BACKGROUND:

The Digital Infrastructure and Video Competition Act of 2006 (DIVCA) established a state video franchising system to govern video franchises. The intent of DIVCA was to speed new infrastructure investment and promote competition for broadband and video services in California. Under DIVCA, cities have the authority to regulate payment of PEG fees, enforce federal and state customer service standards and perform an annual audit of the gross revenue of any cable company to ensure payment of the required fees.

On June 10, 2009, the City of Escondido adopted Ordinance 2009-12, which requires any state franchisee operating within the boundaries of the City to pay the City a PEG fee of 1 percent of the gross revenue of that state franchisee.

Cox Communications has been collecting and remitting PEG fees to the City of Escondido since the adoption of Ordinance 2009-12. The City of Escondido received a letter from Cox Communications dated February 28, 2017, stating that their state franchise certificate would expire on April 27, 2017. The letter requested that the City adopt a resolution to reauthorize Cox Communications' collection and remittance of PEG fees under their new 10-year franchise term, which begins April 28, 2017.

Adoption of Resolution 2017-57 will allow Cox Communications to continue to collect and remit PEG fees to the City of Escondido.

Respectfully submitted,

Michelle Geller
Economic Development Manager

RESOLUTION NO. 2017-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, THAT COX COMMUNICATIONS COLLECT AND REMIT TO THE CITY OF ESCONDIDO PEG FEES PURSUANT TO THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006 AND ORDINANCE 2009-12

WHEREAS, the Digital Infrastructure and Video Competition Act of 2006 (“DIVCA”) established a state video franchising system to govern video franchises. Under DIVCA, only the state has the authority to grant franchises, regulate build-out and non-discrimination standards, impose user and application fees, and establish franchise fees, and

WHEREAS, under DIVCA, the City of Escondido (“City”) has the authority to manage the rights of way, regulate payment of Public, Education and Government (“PEG”) fees, require the provision on PEG channels, enforce federal and state customer service standards, and perform an annual audit of the gross revenue of any cable company to ensure payment of the required fees, and

WHEREAS, on June 10, 2009, consistent with California Public Utilities Code Section 5870(n), the City adopted Ordinance 2009-12, which requires any State Franchisee operating within the boundaries of the City to pay to the City a PEG fee of 1 percent (1 percent) of the Gross Revenue of that State Franchisee.

WHEREAS, Cox Communications has stated that their original state franchise certificate will expire on April 27, 2017, and Cox Communications intends to apply for and obtain a renewal of its state franchise certificate.

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 upon renewal of Cox Communications' state franchise certificate, pursuant to Public Utilities Code Section 5850, Ordinance 2009-12 requires Cox Communications to collect and remit to the City a PEG fee, which is equal to one percent (1 percent) of the Gross Revenue of that State Franchisee.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. 2017-58

File No. _____

Ord No. _____

Agenda Item No.: 9

Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Jay Petrek, Assistant City Manager

SUBJECT: Approval to Fund Next Generation Regional Communication System (NextGen RCS) Infrastructure, Radios and Support Devices, and Authorization of a Lease-purchase Agreement

RECOMMENDATION:

It is requested that the City Council approve a budget adjustment involving: a) the first installment of the NextGen RCS 'backbone' infrastructure, and b) the purchase and finance of portable and mobile radios, and support devices necessary to operate the system, and adopt Resolution No. 2017-58, authorizing the Administrative Services Director to execute a lease-purchase agreement with "Leasing 2."

FISCAL ANALYSIS:

The purchase of 537 portable and mobile Motorola radios, as well as support devices, will total \$2,868,118.00 (see attached). County staff negotiated a substantial discount (approximately 27 percent) for purchasing the equipment from the manufacturer. Funding will be provided by a combination of Development Impact Fees currently on hand totaling \$659,668.00, and loan proceeds totaling \$2,208,450.00 through a lease-purchase agreement with "Leasing 2." The loan would be amortized over a seven-year period at 2.79 percent with annual payments of approximately \$349,500.00 paid with General Fund Revenues.

The radios are operated through a \$70 million region-wide communication 'backbone' infrastructure system shared among 50 agencies that is financed over a ten-year period. Escondido's first annual installment for its share of the region-wide infrastructure is due on June 1, 2017, and totals \$374,634.00, to be paid with General Fund revenues.

Escondido's capital costs for the NextGen RCS program, including principal, interest, and annual payments, for the radios and support devices (amortized over seven years), as well as Escondido's share of the region-wide infrastructure (amortized over ten years) will total \$6,852,370.00. Based on Escondido's estimated current population of 150,000 residents, this amortizes to approximately \$2.30 per person, per year, for the 20-year program.

COUNCIL ACTION PLAN:

This effort aligns with the Public Safety Goal to more effectively use technology to improve emergency services, reporting requirements and service to the community.

PREVIOUS ACTION:

The City of Escondido, County of San Diego, and multiple participating agencies were originally involved in a Regional Communication System (RCS) that commenced in 1995, was extended several times, and terminated in 2016. As a continuation of this program the City Council, in February 2014, adopted Resolution 2014-22, approving a new 20-year agreement with the County and participating agencies involving the NextGen RCS, which was finalized in August 2016. The agreement obligated the County to purchase, and member agencies to share, the backbone infrastructure costs.

BACKGROUND:

The Regional Communication System (RCS) created by the County of San Diego, involved various public agencies including Escondido, who participated in, and contributed to, the 800 Mhz radio system in San Diego and Imperial counties. The RCS serves as a reliable, inter-operable system that allows Escondido to have instant contact with Sheriff's deputies, police and fire departments, and other departments and agencies utilizing a special dedicated radio frequency. This is a critical feature of the system that has proved particularly important in responding to regional incidents, and providing mutual aid with nearby agencies including all North County communities and tribal police. The RCS has reached the end of its reliable service life and, because of Federal Communications Commission (FCC) directives altering the public safety frequencies, must be replaced.

The new effort, called the Next Generation Regional Communication System (NextGen RCS), will ultimately replace the existing RCS and provide equivalent or better radio coverage as the RCS. The NextGen RCS includes the previously discussed 20-year agreement that commenced in 2016, which defines terms and conditions of participation in the new system. Infrastructure for the system has two components: 1) a shared backbone infrastructure, including the equipment and services to deliver a Voice Land Mobile Radio System, Microwave Transport Network, and Mutual Aid Conventional Radio System; and, 2) each participating agencies' infrastructure equipment and services to connect to the NextGen RCS including connectivity, dispatch center equipment, subscriber radios, and ancillary devices.

ANALYSIS:

The County of San Diego awarded Motorola Solutions with the contract for the NextGen RCS replacement radios on June 30, 2016. The County's contract allows participating agencies to 'piggyback' on this contract with Motorola to obtain subscriber equipment with applicable discounts set forth in the Contract Pricing schedule negotiated by the County. Escondido's Municipal Code allows the City to use another agency's bid wherever possible to take advantage of volume buying as long as the other agency went out to formal bid, awarded the bid to the lowest responsible bidder, and obtained approval for the bid. These procedures were followed by the County of San Diego for the contract awarded to Motorola.

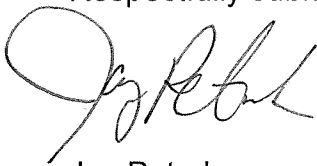
Each City department utilizing the NextGen RCS evaluated their specific needs regarding the type of devices and necessary equipment required to perform their responsibilities. Given the cost of individual radios and mobile devices, departments exercised discretion in ordering only the minimum equipment required to serve their needs. The Motorola radios are issued with a three-year warranty and are expected to have a 20-year life span, similar to the radios used in the current regional communication system.

Development Impact Fees have been identified as an appropriate source of funds to finance the portion of backbone infrastructure, radios, and equipment necessary to serve future growth. This would equate to 23 percent of the total purchase price. The remaining balance, totaling 77 percent of the purchase, would be financed through a low interest loan at a rate matching other infrastructure improvements purchased by the city over time.

CONCLUSION:

Upon approval of this budget adjustment, the first installment for Escondido's share of the NextGen RCS region-wide 'backbone' communication system will be funded. Staff will also place the order for purchasing the mobile and portable radios, and support devices, which will take several months to manufacture, deliver, and program for local use. Because of the number of agencies participating in the NextGen RCS, it will take several months of equipment field testing prior to fully migrating to the new system, which is scheduled for June 19, 2019.

Respectfully submitted,



Jay Petrek
Assistant City Manager

Escondido City Radio Replacement Plan (Page 1 of 2)



Police

Item	Quantity	Total Cost
Portable Radio	145	\$ 708,732.36
Mobile Radio	119	\$ 612,973.73
Base Station Radio	7	\$ 40,881.03
CHP Radio	1	\$ 3,008.94
Accessories		\$ 62,536.75
Software		\$ 199,026.38
		\$ 1,627,159.19



Fire

Item	Quantity	Total Cost
Portable Radio	90	\$ 384,505.88
Mobile Radio	42	\$ 173,270.08
Base Station Radio	10	\$ 35,025.50
Accessories		\$ 66,809.31
Software		\$ 10,586.76
Installation/Labor		\$ 7,864.00
		\$ 678,061.52



Utilities

Item	Quantity	Total Cost
Portable Radio	96	\$ 370,211.76
Mobile Radio	2	\$ 7,174.00
Base Station Radio	2	\$ 4,978.05
Software		\$ 6,734.38
		\$ 389,098.18



Streets and Parks

Item	Quantity	Total Cost
Portable Radio	29	\$ 111,834.80
Accessories		\$ 1,090.97
Software		\$ 1,952.97
		\$ 114,878.74



Escondido City Radio Replacement Plan (Page 2 of 2)



Code Enforcement

Item	Quantity	Total Cost
Portable Radio	14	\$ 53,989.22
Accessories		\$ 2,573.88
Software		\$ 2,357.03
		\$ 58,920.12



Grand Total for Escondido City Radio Replacement **\$ 2,868,117.76**

Includes Software, Accessories and Labor plus:

Portable Radios	374
Mobile Radios	163
Base Station Radios	19
CHP Radio	1

RESOLUTION NO. 2017-58

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE ADMINISTRATIVE SERVICES DIRECTOR, TO EXECUTE, ON BEHALF OF THE CITY, A LEASE-PURCHASE AGREEMENT WITH LEASING 2, INC. FOR THE PURCHASE OF NEXTGEN RCS EMERGENCY RADIOS

WHEREAS, the County of San Diego created a multi-public entity organizational structure in 1995 known as the Regional Communication System ("RCS") to facilitate emergency communications involving various public agencies including Escondido; and

WHEREAS, this system has reached the end of its reliable service life, and because of Federal Communications Commission ("FCC") directives altering the public safety frequencies, it must be replaced; and

WHEREAS, the new program, called the Next Generation Regional Communications System ("NextGen RCS"), will ultimately replace the existing RCS and provide equivalent or better radio coverage as the RCS; and

WHEREAS, acquisition of various equipment is required for City staff to participate in the NextGen RCS; and

WHEREAS, the City of Escondido has determined that a Lease-Purchase Agreement by and between the City of Escondido and Leasing 2 is the most appropriate way to finance the acquisition of the equipment.

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 authorizes the Administrative Services Director to execute a lease-purchase agreement with "Leasing 2" involving the purchase and finance of necessary equipment for utilizing the NextGen RCS and subject to final approval as to form by the City Attorney.



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 10
Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council
FROM: Christopher W. McKinney, Director of Utilities
SUBJECT: Notice of Completion: Emergency Repair of the Sewer Pipeline in North Hale Avenue

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-60, authorizing the Director of Utilities to file a Notice of Completion for the Emergency Repair of the Sewer Pipeline in North Hale Avenue.

FISCAL ANALYSIS:

The total cost of the emergency repair work on the sewer pipeline in North Hale Avenue was \$497,000.

PREVIOUS ACTION:

On February 1, 2017, the City Council adopted Resolution No. 2017-22, approving an emergency public improvement agreement with Shaw Equipment Rentals, Inc. to immediately begin repairs on the 24-inch sewer pipeline on North Hale Avenue, in an amount not to exceed \$350,000.

On March 1, 2017, the City Council adopted Resolution No. 2017-26, authorizing the continuation of the emergency action for the repair of the sewer pipeline in North Hale Avenue.

On March 8, 2017, the City Council adopted Resolution No. 2017-33, authorizing Change Order No. 1 to the public improvement agreement with Shaw Equipment Rentals, Inc., in an amount not to exceed \$147,000.

On March 22, 2017, the City Council adopted Resolution No. 2017-42, authorizing the continuation of the emergency action for the repair of the sewer pipeline in North Hale Avenue.

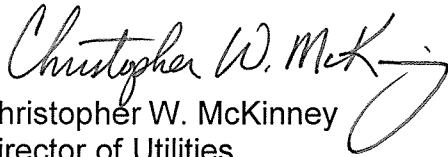
BACKGROUND:

This pipeline conveys raw sewage from approximately 30 percent of the City of Escondido to the Hale Avenue Resource Recovery Facility. The emergency work included replacing approximately 300 feet of damaged and deteriorated sewer pipeline, continuous bypass pumping to route the sewage around

Notice of Completion: Emergency Repair of the Sewer Pipeline in North Hale Avenue
April 26, 2017
Page 2

the damaged section during construction, obtaining a North County Transit District encroachment permit, protection of unmarked and mismarked utility crossings, and extensive traffic control. Shaw Equipment Rentals, Inc. successfully replaced the damaged sewer pipeline, and sewer service has been restored.

Respectfully submitted,

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

Christopher W. McKinney
Director of Utilities

RESOLUTION NO. 2017-60

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE DIRECTOR OF UTILITIES
TO FILE A NOTICE OF COMPLETION FOR
THE EMERGENCY REPAIR OF THE SEWER
PIPELINE IN NORTH HALE AVENUE

WHEREAS, pursuant to Resolution No. 2017-22, the City Council found that the damage to the sewer pipeline was an emergency and approved a Public Improvement Agreement ("Agreement") with Shaw Equipment Rentals, Inc. in an amount not to exceed three hundred fifty thousand dollars (\$350,000); and

WHEREAS, pursuant to Resolution No. 2017-33, the City Council approved Change Order No. 1 to the Agreement with Shaw Equipment Rentals, Inc. in an amount not to exceed one hundred forty seven thousand dollars (\$147,000), bringing the total not to exceed contract value to \$497,000, to fund anticipated costs to complete the emergency project; and

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

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

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

1. That the above recitations are true.

2. That the City Council accepts the recommendation of the Director of Utilities.

3. That the City Council hereby approves the request to file a Notice of Completion for the emergency repair of the sewer pipeline in North Hale Avenue.



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 11
Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council
FROM: Christopher W. McKinney, Director of Utilities
SUBJECT: Continuing Emergency and Need to Repair the Sewer Pipeline in Green Tree Mobile Home Estates

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-61, 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 pipeline 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 \$570,000 without further Council approval.

PREVIOUS ACTION:

On March 8, 2017, the City Council adopted Resolution No. 2017-39, approving an emergency public improvement agreement with Southland Paving, Inc. to immediately begin repairs on the 27-inch sewer pipeline in Green Tree Mobile Home Estates.

On March 22, 2017, the City Council adopted Resolution No. 2017-43, authorizing the continuation of the emergency action for the repair of the sewer pipeline in Green Tree Mobile Home Estates.

On April 8, 2017, the City Council adopted Resolution No. 2017-51, authorizing the continuation of the emergency action for the repair of the sewer pipeline in Green Tree Mobile Home Estates.

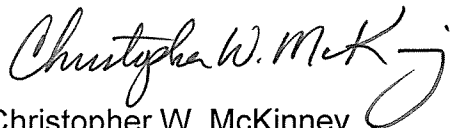
BACKGROUND:

This pipeline conveys raw sewage from approximately 40 percent of the City of Escondido to the Hale Avenue Resource Recovery Facility. Emergency action is required to replace approximately 400 feet

Continuing Emergency and Need to Repair the Sewer Pipeline in Green Tree Mobile Home Estates
April 26, 2017
Page 2

of damaged and deteriorated sewer pipeline. Work is progressing and completion is expected by April 30, 2017.

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 of the name.

Christopher W. McKinney
Director of Utilities

RESOLUTION NO. 2017-61

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 PIPELINE IN
GREEN TREE MOBILE HOME ESTATES

WHEREAS, the City Council recognizes that a portion of the 27-inch sewer pipeline in Green Tree Mobile Home Estates near Pineapple Way has suffered a catastrophic failure; and

WHEREAS, work has commenced on the replacement of the sewer pipeline; and

WHEREAS, pursuant to Resolution No. 2017-39, the City Council previously found that the damage to the 27-inch sewer pipeline was an emergency and approved a Public Improvement Agreement ("Agreement") with Southland Paving, Inc. in an amount not to exceed five hundred seventy thousand dollars (\$570,000); and

WHEREAS, pursuant to Resolution No. 2017-43, the City Council found it to be in the best public interest to continue the emergency action; and

WHEREAS, pursuant to Resolution No. 2017-51, the City Council found it to be in the best public interest to continue 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 sewer pipeline in Green Tree Mobile Home Estates 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 sewer pipeline.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 12
Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Bill Martin, Director of Community Development

SUBJECT: Amendment to Article 70 (Second Dwelling Units) of the Escondido Zoning Code (AZ 16-0007)

STAFF RECOMMENDATION:

It is requested that the City Council receive the staff report, provide direction to staff, and then refer this item back to the Planning Commission with direction to form a subcommittee to continue working on the Accessory Dwelling Unit Ordinance for the reasons stated in this staff report. The recommendation of the subcommittee would then go back to the full Planning Commission and City Council for reporting and decision-making.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission voted 6-1 (Romo opposed) to recommend approval of the proposed Zoning Code amendment as set forth in draft Ordinance No. 2017-06. In addition, the Planning Commission also recommended the formation of a Planning Commission subcommittee to further study and review additional accessory dwelling unit regulation.

PROJECT DESCRIPTION:

Second dwelling units, accessory apartments, accessory dwelling units, or granny flats (hereinafter collectively referred to as accessory dwelling units) provide an important source of housing within existing neighborhoods. Article 70 of the Escondido Zoning Code is being updated to address new accessory dwelling unit regulations as required by State law. To maintain internal consistency between various code sections of the Zoning Code, the request also includes minor technical amendments to Article 1, 7, 8, 10, 12, 13, 14, 39, and 65.

FISCAL ANALYSIS:

None.

GENERAL PLAN ANALYSIS:

The purpose of the proposed amendment is to achieve compliance with new State laws. Updating the ordinance will nevertheless assist in the implementation and administration of the City's Housing Element by promoting the development of accessory dwelling units. More

BACKGROUND:

The City of Escondido already has an accessory dwelling unit Ordinance provided in Article 70 of the Escondido Zoning Code. Recent changes to State law conflicted with portions of Article 70. In response, staff provided a draft Ordinance consistent with the new State regulations for consideration by the Planning Commission.

ENVIRONMENTAL REVIEW:

The proposed Zoning Code amendments are exempt from CEQA, pursuant to Section 15061 (b)(3). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

PLANNING COMMISSION DISCUSSION AND ACTION:

Article 70 was first considered by the Planning Commission on February, 14, 2017. The item was continued to March 14, 2017 to allow for more discussion and to better understand the City's options in compliance with recent changes in State law. Some of the key areas of concern included garage conversions and reduced replacement parking requirements. Public testimony also raised issues related to accessory dwelling unit size and attached vs. detached units. After continued deliberation, the Planning Commission voted 6-1 (Romo opposed) to recommend approval of the proposed Zoning Code amendment as set forth in draft Ordinance 2017-06. The Commission's vote reflected a desire by the majority to move the Ordinance forward to ensure compliance with State requirements while a more thorough and robust analysis of the Ordinance could be accomplished. As part of the motion, the Commission is asking the City Council to direct the Planning Commission to form a subcommittee and study the accessory dwelling unit policy as part of an effort to formulate specific revisions that would address local issues. The subcommittee would make recommendations to the Planning Commission before reporting back to City Council with a recommendation for specific revisions.

PUBLIC COMMENTS:

Both written and oral testimony was provided to the Planning Commission at their February 14, 2017 and March 14, 2017 meetings, and are provided in the attachments. As of this writing, no new correspondence has been received from the public.

Public testimony at the March 14, 2017 Planning Commission hearing was all supportive of accessory dwelling units. Several speakers noted that they hoped to build accessory dwelling units on their properties to keep family together as they care for aging parents. Most speakers generally felt the City's maximum unit size of 640 square feet was too restrictive and that detached accessory dwelling units should be permitted throughout the city, particularly on larger lots.

ANALYSIS:

Accessory dwelling units have become an important component of the housing stock in many communities, both large and small. By providing housing on existing lots in developed

neighborhoods, accessory dwelling units are a form of land use that makes good use of land and public infrastructure investment. Accessory dwelling units increase the housing stock in existing neighborhoods in a manner that is less intense than alternatives and efficiently provide affordable housing opportunities with zero government subsidy.

The proposed Ordinance provides that accessory dwelling units are subject to compliance with the City’s Zoning Code, which includes any applicable overlay zoning districts; and any other local Ordinance or specific plan, unless superseded by State law. Development and design requirements were included to ensure compatibility with established development patterns, such as limitations on building height and placement of entrances so that new accessory dwelling units will respect the look and scale of single-family development.

The proposed amendment to the Zoning Code addressed inconsistencies between State law and Article 70 of the Escondido Zoning Code by utilizing the statutory provisions provided by the State. The following table provides a comparison between the requirements of State law against the City’s existing Zoning Code where they are inconsistent.

State and Local Code Comparison Table

Topic, Rule, or Standard	Current State Law	Current Escondido Zoning Code	Proposed Change in Draft Ordinance
Review authority	Must be ministerial.	Discretionary review process.	Same as State requirement.
Review process timeline	Must be considered within 120 days.	None	Same as State requirement.
Internal access	No passageway shall be required.	Internal passageway required.	Same as State requirement.
Parking requirements	One additional, off street parking space required. Off street parking must be permitted through tandem parking on an existing driveway or in a setback location.	One additional off street parking space covered or uncovered. Shall not be tandem.	Same as State requirement.
Parking requirement waiver	If the unit is located within one-half mile of public transit, a historic district, or near a car sharing program.	None	Same as State requirement.
Garage conversions	No setback shall be required for an existing garage that is converted.	None	Same as State requirement.
Setback requirements when new ADU is added above a garage	Rear and side yard setbacks of only five feet.	Compliance with underlying zone setbacks required.	Same as State requirement.
Garage conversions, replacement parking	Replacement spaces may be located in any configuration.	Replacement spaces must be covered.	Same as State requirement.

While the new State regulations require that a permit be ministerial, the City may regulate the design of accessory dwelling units. Additional criteria were added to address impacts on residential scale and compatibility with the neighborhood. In addition, the proposed Ordinance includes additional standards for design considerations concerning historic structures and resources.

The table above highlights key areas where the existing local code does not meet State law requirements. These areas represent Zone Code sections where amendment is needed. As noted by the Commission during their deliberation, the areas of greatest change also represent the areas of the greatest concern (such as garage conversions and reduced replacement parking requirements). The new State requirements deliberately reduce parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical, or fire and life safety conditions, or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of accessory dwelling units. For that reason, the Commission would like to continue studying the issues and seek ways to minimize the potential impact of the new laws.

Accessory dwelling units help meet the City's affordable housing needs by providing a housing resource for seniors, families, and low- and moderate-income households. The City will continue to apply Zoning Code regulations that allow accessory dwelling units in all single-family zones. Implementation of the current program resulted in the construction of one (1) accessory dwelling unit in 2016. Based on the 2016 year-end report (and prior years of similarly low production) there is a great potential for new housing with accessory dwelling units. The Planning Division has noted a steady increase in inquiries at the public counter regarding accessory dwelling units as the public takes notice of recent State legislation. Additional changes to the Zoning Code, beyond those proposed in the Ordinance, could be studied, reviewed, and considered by the City Council at a later date to incentivize additional production and further promote the development of accessory dwelling units.

Respectfully Submitted,



Bill Martin
Director of Community Development



Mike Strong
Assistant Planning Director

ORDINANCE NO. 2017-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING ARTICLES 1, 7, 8, 10, 12, 13, 14, 39, 65, AND 70 OF THE ESCONDIDO ZONING CODE TO UPDATE THE CITY'S REGULATIONS OF SECOND UNITS (ALSO CALLED ACCESSORY DWELLING UNITS)

APPLICANT: City of Escondido
PLANNING CASE NO.: AZ 16-0007

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

SECTION 1. There is a statutory recognition that the availability of housing is a matter of statewide importance and that the cooperation between government and the private sector is critical to attainment of the State's housing goals.

SECTION 2. Second dwelling units, accessory apartments, or granny flats (hereinafter collectively referred to as accessory dwelling units) provide an important source of rental housing within existing neighborhoods and can provide more housing options for the elderly, in-home health care providers, family members, students, and others.

SECTION 3. California Government Code Section 65852.2 requires that all cities and counties apply specific standards and requirements for the approval of accessory dwelling units in single-family and/or multi-family zones, except as otherwise provided. A city may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of State law.

SECTION 4. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 5. The City Council has duly reviewed and considered all evidence submitted at said hearings, including, without limitation:

- a. Written information;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated April 26, 2017, which along with its attachments is incorporated herein by this reference as though fully set forth herein; and
- d. Additional information submitted during the Public Hearing.

SECTION 6. That the City Council has reviewed and considered the Notice of Exemption prepared for this project, in conformance with the California Environmental Quality Act ("CEQA") Section 15061(b)(3) "General Rule", and has determined that all environmental issues have been addressed and finds that no significant environmental impact will result from approving these code amendments.

SECTION 7. That upon consideration of the staff report, Planning Commission recommendation, Planning Commission staff report, all public testimony presented at the hearing held on this project, and the "Factors to be Considered" attached as Exhibit "A" to this Ordinance and incorporated herein by this reference as though fully set forth

herein, this City Council finds the Zoning Code Amendments are consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 8. That the specified sections of the Escondido Zoning Code Article 70 is amended as set forth in Exhibit "B" to this Ordinance and incorporated herein by this reference as though fully set forth herein.

SECTION 9. 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 10. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 11. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

EXHIBIT "A"

FACTORS TO BE CONSIDERED

AZ 16-0007

Zoning Code Amendment

1. The public health, safety, and welfare would not be adversely affected by the proposed Zoning Code amendments.
2. The proposed Zoning Code amendments would not conflict with any State law. Pursuant to Article XI, Section 7 of the California Constitution, a city may make and enforce within its limits, all police, sanitary, and other ordinances that are not in conflict with general laws. The State Legislature has made recent changes in State law to encourage the creation of Accessory Dwelling Units by easing provisions relating to unit location, parking, fees and other requirements. Pursuant to Section 65852.150 of the Government Code, Accessory Units are a valuable form of housing in California and that those units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, within existing neighborhoods. The proposed Zoning Code amendments will ensure that the City's Zoning Code is consistent with California Government Code requirements for Accessory Units.
3. The proposed Zoning Code amendments would not be detrimental to surrounding properties because the amendments involve existing development application types. The amendment would not expand or reduce the type of land uses that may be established in the City and no other improvements are proposed as part of this Zoning Code amendment. Future construction of Accessory Dwelling Units must comply with any applicable laws and standards. This includes the Building Code, the Fire Code, and any property standards or laws.
4. The proposed Zoning Code amendments would be consistent with the goals and policies of the General Plan because it encourages compact, efficient urban form, which makes more efficient use of existing infrastructure. It also supports increasing the stock of rental accommodation in an area by providing more housing options for extended families or for a live-in caregiver. The proposed Zoning Code amendments would not diminish the Quality of Life Standards of the General Plan, nor adversely impact the community health or natural resources.
5. The proposed Zoning Code amendments do not conflict with any specific plan.

EXHIBIT "B"

PROPOSED CHANGES TO THE ZONING CODE

AZ 16-0007

Amend the various zoning code sections to read as specified below.

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS, SECTION 33-8

Revise the existing definitions as set forth below.

Attached unit means a unit completely within an existing principal building or added to an existing principal building; provided, that both dwelling units shall be attached by a common wall, floor or ceiling, and not simply by an open breezeway or porch; and shall be contained within one (1) building. ~~A second~~ An accessory dwelling unit constructed above an existing detached garage shall be considered an attached unit.

(8) ~~Second~~ Accessory dwelling means a secondary, but independent living facility, which is located or established on the same lot as the primary residence. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation. ~~A second~~ An accessory dwelling unit is could be located within the living area of the existing dwelling; attached, and a part of the existing building on the premises; or located above an existing detached garage.

ARTICLE 7: RESIDENTIAL AGRICULTURE ZONE

Revise Section 33-102 as set forth below.

(r) ~~Second~~ Accessory dwelling units as defined in section 33-8 (with permit as required by section 33-1477 of Article 70);

Revise Section 33-109 (d) as set forth below.

(6) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-109 (e) as set forth below.

Required parking for ~~second~~ accessory dwelling units may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-110 (b) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-110 (c) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-112 (c)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-112(c)(1), but shall meet the minimum unit size requirements of the Uniform Building Code and Uniform Housing California Building Standards Code.

ARTICLE 8: RESIDENTIAL ESTATES ZONE

Revise Section 33-122 as set forth below.

~~(s) Second~~ Accessory dwelling units defined in section 33-8 (with permit as required by section 33-1 ~~of Article 70.~~

Revise Section 33-129 (d) as set forth below.

(6) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-129 (e) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-130 (b) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-130 (c) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-132 (c)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-132(c)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 10: SINGLE FAMILY RESIDENTIAL ZONE

Revise Section 33-162 as set forth below.

(l) ~~Second~~ Accessory dwelling units as ~~defined in~~ section 33-8 (with permit as required by section 33-1477 of Article 70.

Revise Section 33-169 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-169 (e) as set forth below.

Required parking for ~~second~~ accessory dwelling units may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-170 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-170 (c) as set forth below.

Required parking for ~~second~~ accessory dwelling units may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-173 (c)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-173(c)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 12: LIGHT MULTIPLE RESIDENTIAL ZONE

Revise Section 33-212 as set forth below.

(k) ~~Second~~ Accessory dwelling units as defined in section 33-8 (with permit as required by section 33-1477 of Article 70.

Revise Section 33-219 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-219 (e) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-220 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-220 (c) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-222 (d)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-222(e)(1)(d)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 13: MEDIUM MULTIPLE RESIDENTIAL ZONE

Revise Section 33-242 as set forth below.

(k) ~~Second~~Accessory dwelling units as defined in section 33-8 (with permit as required by section 33-1477 of Article 70.

Revise Section 33-249 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-249 (e) as set forth below.

Required parking for a ~~second~~an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-250 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-250 (c) as set forth below.

Required parking for a ~~second~~an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-252 (d)(2) as set forth below.

~~A second~~An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-252(e)(4)(d)(1), but shall meet the minimum unit size requirements of the Uniform Building Code and Uniform Housing California Building Standards Code.

ARTICLE 14: HEAVY MULTIPLE RESIDENTIAL ZONE

Revise Section 33-272 as set forth below.

(i) ~~Second~~Accessory dwelling units as defined in section 33-8 (with permit as required by section 33-1477 of Article 70.

Revise Section 33-280 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-280 (e) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-281 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-281 (c) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-283 (e)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-283 (e)(2), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 39: OFF-STREET PARKING

Revise the *Second dwelling unit* use category in Section 33-765 to *Accessory dwelling unit* [emphasis added to former and latter categories], and revise note as set forth below.

One (1) parking space for the unit, in addition to those spaces required by this section for the primary residential use as provided by section 33-1474 of Article 70. All spaces shall be located on-site.

ARTICLE 65: OLD ESCONDIDO NEIGHBORHOOD

Revise Section 33-1373 (b) as set forth below.

~~Second~~Accessory dwelling units as defined in section 33-8, are permitted subject to a ~~second~~an accessory dwelling unit permit in conformance with Article 70 of this chapter.

ARTICLE 70: SECOND DWELLING UNIT

Replace Article title from *Second Dwelling Units* to *Accessory Dwelling Units* [emphasis added to former and latter titles]. A similar change shall be made, without limitation, to any and all Municipal Code and/or Zoning Code table of contents or charts that reference this article title.

Revise Section 33-1470, Purpose, as set forth below.

The purpose of this article is to provide regulations for the establishment of ~~second~~accessory dwelling units in residential zones. The intent of the article is to provide affordable housing in areas where adequate public facilities and services are available, and where impacts upon the residential neighborhoods directly affected would be minimized. This article shall not be considered the application of any local ordinance, policy, or program to limit residential growth. ~~With second dwelling units shall be designed to minimize the effect of the second dwelling unit on adjacent properties, any potential impacts shall be oriented toward the primary residence.~~

Section 33-1471, Definition

Delete section title and content. Reserve section number for future use.

Revise Section 33-1472, Permitted zones, as set forth below.

~~Second~~Accessory dwelling units shall be permitted in the RA, RE, R1, R2, R3 and R4 zones on properties with only one (1) single-family residence on the lot, subject to the approval of an accessory dwelling unit permit. ~~Second~~Accessory dwelling units within the Old Escondido Neighborhood shall observe the same standards and review procedures required of similar building expansions in that neighborhood. ~~Second~~Accessory dwelling units shall not be permitted on property developed in a planned development zone or as a part of a planned unit approval, unless approved as a part of the original PD or PUA and the subject lot is not less than six thousand (6,000) square feet in size.

Revise Section 33-1473, Occupancy limitations, as set forth below.

- (a) Owner-occupied. The owner of the property shall reside on the parcel on which the ~~second~~second~~accessory~~accessory dwelling unit is located. The ~~second~~second~~accessory~~accessory dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.
- (b) Deed restriction. Building permits will not be issued for the establishment of an ~~second~~second~~accessory~~accessory dwelling unit or its occupancy prior to the applicant's submittal of evidence that a deed restriction, which sets forth the occupancy limitations prescribed by the ordinance, has been filed with the county recorder. This deed restriction shall run with the land; inure to the benefit of the city as well as to the benefit of the other residential property owners within the subdivision; and, be coterminous in tenure with the life of the ~~second~~second~~accessory~~accessory dwelling unit.

Revise Section 33-1474, Development standards, as set forth below.

~~Second~~Second~~Accessory~~Accessory dwelling units shall be subject to the development standards of the zone in which the property is located, except as modified below:

- (a) Lot area. ~~Second~~Second~~Accessory~~Accessory dwelling units may be constructed on any legal lot in a residential zone provided all requirements of this article and the zoning and building codes are met.
- (b) Number of bedrooms. A maximum of one (1) bedroom shall be permitted.
- (c) Location on lot. ~~Second~~Second~~Accessory~~Accessory units must be physically attached to the primary structure by a substantial contiguous shared wall and shall also have access from the primary structure or be located within the living area of the existing dwelling, except for ~~second~~second~~accessory~~accessory dwelling units proposed in the Old Escondido Neighborhood historic district where ~~second~~second~~accessory~~accessory units may be detached when the unit is accessed from an alley or located over a detached garage.
 - (1) Accessory dwelling units shall have independent exterior access.
 - (2) An accessory dwelling unit that is constructed above a garage must have a setback of five feet from the side and rear lot lines.
- (d) Maximum unit size. For lots less than ten thousand (10,000) square feet, attached ~~second~~second~~accessory~~accessory dwelling units shall not exceed five hundred (500) square feet. For lots over ten thousand (10,000) square feet, ~~second~~second~~accessory~~accessory dwelling units shall not exceed six hundred forty (640) square feet. The floor

area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area of the primary residence up to a maximum of 500 square feet or 640 square feet based on lot size.

(e) ~~Minimum unit size. The minimum permitted size of a second~~an accessory dwelling unit shall be defined by the Uniform Building Code and Uniform Housing Code-California Building Standards Code. The minimum unit size of the residential zone shall not apply to the ~~second~~accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.

(f) ~~Height. Second~~Accessory dwelling units shall conform to the height limits of the zone and shall be limited to one (1) story.

(g) ~~Lot coverage. The entire lot shall conform to the lot coverage limitation of the zone in which the property is located.~~

(h) ~~Parking requirements. Off-street parking for the primary dwelling shall conform to the current parking standards, as required in Article 39 of the Escondido Zoning Code and:~~

(1) ~~One (1) additional off-street parking space, covered or uncovered, shall be provided for a second~~an accessory dwelling unit, and shall not be tandem. Parking provisions may provide for tandem parking on an existing driveway or permitted setback area, locations determined to be satisfactory by the Director of Community Development, unless the Director determines that parking in setback areas or tandem parking is not feasible based on specific site or regional topographical, fire and life safety conditions, or not permitted anywhere else in the jurisdiction.

(2) ~~Required parking for the second~~accessory dwelling unit shall be permitted in a side yard or rear yard only when said yard is abutting an alley and a minimum backup of twenty-four (24) feet is provided.

(3) ~~Parking for the second~~accessory dwelling unit shall be accessible, not conflict with access and required parking for the primary structure and be located to minimize impacts on adjacent properties.

(4) Notwithstanding any other law, the City will not impose parking standards for an accessory dwelling unit when the unit is located within one-half mile of public transit, located within the Old Escondido Neighborhood or when there is a car share vehicle located within one block of the unit. The City will also waive parking requirements for new accessory dwelling units when the accessory dwelling unit is contained within the existing living area of the primary residence.

When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, replacement parking may be located in any configuration on the same lot as the accessory unit.

- (i) Design of the unit. Accessory dwelling units shall be designed to minimize the effect of the new accessory dwelling unit on adjacent properties.

(1) Any potential impacts shall be oriented to the primary residence. The second dwelling unit shall not create a second front entrance visible from adjacent streets. Access doors and entry for the second accessory dwelling unit shall not be oriented to the nearest adjacent property line or create a second "front door" entrance. For the purposes of this article, a second front door entrance is a secondary entry way that is comparable to the main entrance. The design, construction, and presence of the accessory dwelling unit shall conform with the single family character of the neighborhood. There may only be one prominent entrance visible to the street.

(2) Proposed accessory dwelling units shall respect the residential scale and design character of existing buildings. The accessory dwelling unit's color and materials must match those of the primary residence, maintaining compatibility with the neighborhood. The planning and zoning director shall review second accessory dwelling unit applications to ensure the addition is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details. Accessory dwelling units added to a site with known historic resources or has been determined have historic value by the Director of Improvements shall retain the historical and/or architectural value and significance of the landmark, historical building, or historical district. The improvements shall be compatible with and retain the texture and material of the primary building and/or structure(s) or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the relationship of such features to similar features of other buildings within an historical district.

- (j) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street.
- (k) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

Revise Section 33-1475, Other regulations, as set forth below.

- (a) Garage conversions. Garage conversions to second accessory dwelling units are prohibited unless replacement covered off-street parking is provided which

~~conforms to Article 39 of this chapter. Converted garages must meet all building code requirements for a dwelling unit and provisions of the ordinance. No setback shall be required for an existing garage that is converted to an accessory dwelling unit.~~

- (b) ~~Guest house. An attached guest house may be converted to a second~~ accessory dwelling unit provided all provisions of this article and the building code and zoning code are met. A guest house and a second accessory dwelling unit may occur on the same lot provided the lot is over twenty thousand (20,000) square feet in area and provided the guest house does not contain kitchen facilities and is not rented. No more than one (1) second accessory dwelling unit or no more than one (1) guest house are permitted on a lot.
- (c) ~~The City may require a new or separate utility connection for any attached or detached accessory dwelling units that are not contained within the existing space of a single family residence or accessory structure.~~

Replace Section 33-1476 title from *Existing nonpermitted second units* to *Existing nonpermitted accessory units* [emphasis added to former and latter titles]

Revise Section 33-1476, Existing nonpermitted accessory units, as set forth below.

This article shall apply to all ~~second accessory~~ second dwelling units which exist on the date of passage of the ordinance. A ~~unit~~ unit which does not have a permit, or cannot receive a permit, upon passage of the ordinance codified herein shall be considered in violation and shall be subject to code enforcement action.

Revise Section 33-1477 application and procedure, as set forth below.

The ~~director~~ Director of Community Development shall approve a ~~second dwelling unit permit for an accessory dwelling unit within 120 days of submission of a complete application, unless he or she determines it is determined that such the permit does not meet the requirements of this article. The director~~ Director may refer any unit to the ~~planning commission or Historic Preservation Commission~~ planning commission or Historic Preservation Commission prior to the ~~director's~~ Director's decision for conformance with the specific criteria outlined in section 33-1474(i).

Revise Section 33-1478, Findings for approval and denial, as set forth below.

The decision to deny an application shall be in writing and shall state the reasons therefor. A permit for an accessory dwelling unit shall be issued upon a finding that all of the following have been established: In granting a second dwelling unit permit, the following findings shall be established as complete without further written action:

- (a) Adequate public facilities and services are available;
- (b) All requirements of this article and the zoning code are met;
- (c) The project will not create a second front entrance;
- (d) The unit is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details; and
- (e) The accessory dwelling unit does not create any adverse impact on any real property that is listed in the local, state, or federal Register of Historic Places.

Revise Section 33-1480, Fees, as set forth below.

- (a) Upon the filing of an permit for an accessory dwelling unit, a fee in an amount to be established by resolution of the city council shall be paid by the applicant to the city.
- (b) Any party who appeals the director's determination made by the Director of the Community Development shall submit an appeal processing fee as determined by the city council.
- (b) For purposes of determining building permit fees, a second dwelling unit shall be considered a room addition and shall be subject to subarea facilities plan fees.

CITY OF ESCONDIDO

**MINUTES OF THE REGULAR MEETING OF THE
ESCONDIDO PLANNING COMMISSION**

March 14, 2017

The meeting of the Escondido Planning Commission Meeting was called to order at 7:00 p.m. by Chairman Weber in the City Council Chambers, 201 North Broadway, Escondido, California.

Commissioners present: Jeffery Weber, Chairman; Don Romo, Vice-Chairman; Michael Cohen, Commissioner; Joe Garcia, Commissioner; James McNair, Commissioner; James Spann, Commissioner; and Stan Weiler, Commissioner.

Commissioners absent: None.

Staff present: Bill Martin, Director of Community Development; Mike Strong, Assistant Planning Director; Owen Tunnell, Principal Engineer; Adam Phillips, Deputy City Attorney; and Ty Paulson, Minutes Clerk.

MINUTES:

Moved by Commissioner Spann, seconded by Commissioner Cohen, to approve the minutes of the February 28, 2017, meeting. Motion carried unanimously. (7-0)

WRITTEN COMMUNICATIONS – Received.

FUTURE NEIGHBORHOOD MEETINGS – None.

ORAL COMMUNICATIONS: None.

PUBLIC HEARINGS:

1. ZONING CODE AMENDMENT – AZ 16-0007 (Continued from 02/14/17):

REQUEST: Amendments to the Escondido Zoning Code (EZC) to bring City regulations of second dwelling units (now called accessory dwelling units) into compliance with recent State law changes. A majority of the proposed changes are focused to Article 70 of the Zoning Code, where specified provisions regarding accessory dwelling units are provided. However, additional EZC amendments are

necessary to help maintain internal consistency between various code sections. No development project is proposed.

PROPERTY SIZE AND LOCATION: Citywide

Mike Strong, Assistant Planning Director, referenced the staff report and noted that as set forth, the Commission will be asked to open the continued public hearing, receive testimony, discuss any policy-related issues, review and consider the draft ordinance, and forward a recommendation to the City Council. Staff recommended approval of the proposed Resolution, recommending that the City Council adopt, with any suggested edits, amendments to Articles 1, 7, 8, 10, 12, 13, 14, 39, 65, and 70 of the Zoning Code, for the following reasons: 1) The proposed amendments to Article 70 of the Zoning Code address recent changes in State law and provide use and development standards to implement relevant State law requirements. (Any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to Accessory Dwelling Unit law are null and void.); 2) the proposed amendments to other code sections help maintain internal consistency between various code sections. They are ancillary to the focused amendments to Article 70 (i.e. they are minor and technical in nature); and 3) it was the intent of State law that any Accessory Dwelling Unit Ordinance ordinances adopted by local agencies are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create Accessory Dwelling Units in zones in which they are authorized. The proposed amendments would help facilitate Accessory Dwelling Unit construction for homeowners to meet current and future housing needs.

Commissioner Weiler and staff discussed the history for the established size limitations for accessory dwelling units. Additionally, they discussed the intent of Item (i) on Page 17 of the staff report.

Commissioner Garcia, Commissioner Romo and staff discussed Item 4 on Page 17 of the staff report.

Alice Davis Winkle, Escondido, referenced an email she had forwarded to the Commission, noting her desire to purchase her parent's home and construct an accessory dwelling unit on the .75-acre property. She stated that being able to construct a second dwelling unit would enable her to take care of her parents, be close to family, and receive help with her children. She indicated that they had no intent to rent the unit. She also felt allowing accessory dwelling units would help alleviate the high cost associated with care facilities.

Douglas Shultz, Escondido, referenced a handout he had provided to the Commission and noted establishing a maximum unit size would help mitigate

issues. He recommended for lots less than 10,000 square feet; attached accessory dwelling units should not exceed 500 square feet. For lots over 10,000 square feet and less than 20,000 square feet, accessory dwelling units should not exceed 640 square feet. For lots over 20,000 square feet, accessory dwelling units should be allowed up to 1,200 square feet and should not contain more than 2 bedrooms and 1 bathroom.

Donna Davis, Escondido, noted that as a realtor she received numerous requests for housing with accessory dwelling units. She stated that the reason varied from wanting to be near family to being able to provide for family members. She felt allowing accessory dwelling units would help the community accommodate family needs. She asked that the Commission consider allowing larger accessory dwelling units on larger lots, noting that 640 square feet would not accommodate two people and a caregiver. She also noted that detached accessory units should be permitted because adding on to her residence would be more impactful than a separate accessory dwelling unit.

Lacie Moretti, Escondido, felt there was a need for more accessory dwelling units in order to accommodate the multi-generational and inter-generational families. She stated that society was changing in that people were living longer. She indicated that older adults were living with their children and families were moving in together, noting that 2.3 million elderly parents lived with their families in the year 2000. She noted that research showed that adding accessory dwelling units provided practical housing for the elderly, disabled, empty nesters, and young workers. Additionally, it could provide additional income for homeowners; increase the housing stock, and the property tax base. She stated that loosening the restrictions on accessory dwelling units would help provide students the opportunity to live within higher quality school districts. She expressed support for detached accessory dwelling units feeling this would provide more opportunity. Ms. Moretti noted that the State was coming together to allow accessory dwelling units and, as such, she asked that the City allow accessory dwelling units.

Roy Garrett, Escondido, stated that he owned six properties with accessory dwelling units which all had alley access, noting they were easy to rent and were affordable. He felt accessory dwelling units provided affordable housing at the least expense. He expressed his view that the subject ordinance was drafted to do the minimum necessary to meet state requirements. He noted that allowing detached accessory dwelling units in Old Escondido was important because it allowed some individuals the ability to save their homes. He felt this should be allowed in other areas of the City as well. He was opposed to requiring the owner occupancy deed restriction, noting this would create financing and resale issues. He then referenced Paragraph (c) on Page 18 of the staff report, feeling the word "may" in the paragraph was vague.

Commissioner Spann felt a sewer connection fee would be appropriate but was opposed to charging for another line. Mr. Strong noted that the current approach would be not to charge a fee if the unit was within the existing footprint of the home and to charge for those outside the footprint of the home.

Commissioner Spann and Mr. Strong discussed the appeal process for historic properties as well as what constituted a manufactured home.

Commissioner Weiler was in favor of accessory dwelling units when used in the way they were intended, noting he did not want to create a situation where the community was impacted by adding another dwelling unit, especially with parking. He felt there were items in the code that helped regulate potential impacts. He suggested referencing sections in the ordinance on the application so applicants were fully aware of the requirements at the beginning. He then questioned why detached accessory dwelling units were not allowed in other parts of the City other than the Old Escondido Neighborhood.

Mr. Martin noted that the accessory dwelling unit regulations in the Old Escondido Neighborhood had just been changed in response to previous inquiries to build detached accessory dwelling units in this neighborhood. He mentioned the Old Escondido Neighborhood had alley access and the Historic Preservation Commission had concurred that detached structures could be added in a way that would still maintain the historic nature of the district. He noted that other areas of the City had not been looked at but the Commission could consider making a recommendation on those areas.

Commissioner Weiler stated that he could support detached accessory dwelling units on larger lots with the assurance there would be no impacts to adjacent neighbors. He questioned how the setback requirements would be met. Mr. Strong noted that a new accessory dwelling unit would have to comply with the underlying zone restrictions.

Chairman Weber expressed his concern with the reduced parking standard established by the State for properties in proximity to public transportation, noting that a bus stop location could change but an accessory dwelling unit will remain in its original location. He felt the subject ordinance had the potential to turn an R-1 zone into an R-2 zone. He was concerned with the potential for a proliferation of Airbnb's, excessive rentals, and the impacts they would have on parking. He felt accessory dwelling units were needed but was not prepared to support until more input and review was considered. He also noted that he was in favor of allowing detached accessory dwelling units on larger lots.

Commissioner Garcia noted that the major complaint in the community was parking. He felt more discussion and public input was needed before action was taken.

Commissioner McNair felt more discussion and public input was needed.

Mr. Strong noted state law was in effect as of January 1 and it was incumbent to work on this diligently, noting that any second dwelling unit requests submitted to the Planning Division would default to State law if the City had nothing in place.

Commissioner Weiler suggested forwarding a recommendation of approval to City Council with a request that Council direct staff and a Commission subcommittee to consider additional refinements to address the parking and detached unit issues that had been expressed.

Commissioner Spann felt the parking needed to be regulated. He concurred with referring this item to City Council and then having it come back for revisions. He stated that he was in favor of allowing accessory dwelling units on larger lots.

Commissioner Romo asked if the City had any current request for accessory dwelling units. Mr. Strong noted that he was aware of three property owners who were waiting to see the outcome of this item.

Commissioner Romo concurred with creating a subcommittee to work on this item.

Commissioners Romo, Cohen, and Weiler volunteered to serve on the subcommittee should Council provide that direction.

ACTION:

Moved by Commissioner Weiler, seconded by Commissioner Spann, to approve staff's recommendation with a request that Council form a Planning Commission subcommittee to review and consider recommendations and revisions that would strengthen the ordinance. Motion carried. Ayes: Weber, Weiler, Spann, Garcia, Cohen, and McNair. Noes: Romo. (6-1)

PROPERTY SIZE AND LOCATION: Citywide.

Mike Strong, Assistant Planner Director, referenced the staff report and noted staff recommended approval based on the following: 1) The purpose of the proposed amendment is to specify how compliance with Government Code Section 65915 will be implemented by the City, as required by Government Code Section 65915(a); and 2) It is the intent of the City to facilitate the development of affordable housing and to implement the goals, objectives, and policies of the Escondido Housing Element.

Discussion ensued regarding a clarification of the area median income (\$65,000+). Additional discussion ensued regarding a clarification of the density bonus law and the benefits of affordable housing being near transportation hub.

ACTION:

Moved by Commissioner Weiler, seconded by Commissioner Cohen, to approve staff's recommendation. Motion carried unanimously. (6-0)

4. ZONING CODE AMENDMENT – AZ 16-0007:

REQUEST: Amendments to the Escondido Zoning Code (EZC) to bring City regulations of second dwelling units (now called accessory dwelling units) into compliance with recent State law changes. A majority of the proposed changes are focused to Article 70 of the Zoning Code, where specified provisions regarding accessory dwelling units are provided. However, additional EZC amendments are necessary to help maintain internal consistency between various code sections. No development project is proposed.

PROPERTY SIZE AND LOCATION: Citywide.

Mike Strong, Assistant Planner Director, referenced the staff report and noted staff recommended approval of the proposed Resolution, recommending that the City Council adopt, with any suggested edits, amendments to Articles 1, 7, 8, 10, 12, 13, 14, 39, 65, and 70 of the Zoning Code, for the following reasons: 1) The proposed amendments to Article 70 of the Zoning Code address recent changes in State law and provide use and development standards to implement relevant State law requirements. (Any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to Accessory Dwelling Unit law are null and void.); 2) Proposed amendments to other code sections help maintain internal consistency between various code sections. They are ancillary to the focused amendments to Article 70 (i.e. they are minor and technical in nature); and 3) It is

the intent of State law that any Accessory Dwelling Unit Ordinance ordinances adopted by local agencies are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create Accessory Dwelling Units in zones in which they are authorized. The proposed amendments would help facilitate Accessory Dwelling Unit construction for homeowners to meet current and future housing needs.

Commissioner Weiler questioned whether the replacement parking had to be covered. Mr. Strong replied that replacement parking could be provided as covered or uncovered in accordance with recent state law changes. He also stated that requiring parking for a second dwelling unit could be waived if it was located within walking distance to transit, as well as other factors as described in state law.

Commissioner Weiler disagreed with the State's position but did agree with second dwelling units serving a beneficial purpose.

Commissioner Spann expressed his concern with the State's mandates and was opposed to garage conversions not requiring covered parking. He felt the City needed to review alternatives. He then questioned whether a property's tax base would be increased upon a garage conversion. Mr. Strong replied in the affirmative.

Interim Chair Romo felt that parking associated with second dwelling units needed to be carefully considered.

Commissioner Spann and staff discussed size requirements for second dwelling units.

Commissioner Weiler expressed his concern with the intrusion of vehicles on the street scene with second dwelling units.

Commissioner Spann expressed his concern with outdoor storage increasing with garage conversion and suggested implementing fines for excessive outdoor storage.

Commissioner Weiler suggested this item be continued in order for staff to come back with some follow-up discussion and action items.

Roy Garrett, Escondido, noted that he and his wife had rentals but had no garage conversions. He stated that the best rental scenario was when there were two units on one lot, noting this allowed for lower rents. He indicated that it was very difficult, if not impossible, to obtain a loan to construct a second dwelling unit. He elaborated that the square footage of a second dwelling unit in many instances was too small to qualify for decent affordable housing. Mr. Garret felt one of the biggest wastes was

back yards and especially those that backed up to alleys where second dwelling units could be provided. He also felt the ordinance needed more review with public input.

ACTION:

Moved by Interim Chair Romo, seconded by Commissioner Cohen, to continue Item H.4 to the March 14, 2017 Planning Commission meeting in order to continue the discussion of the draft ordinance and review additional policy related issues. Motion carried unanimously. (6-0)

ORAL COMMUNATIONS: None.

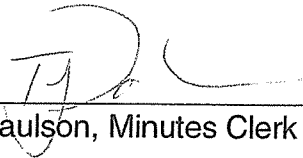
PLANNING COMMISSIONERS: No comments.

ADJOURNMENT:

Interim Chairman Romo adjourned the meeting at 9:07 p.m. The next meeting was scheduled for February 28, 2017, at 7:00 p.m. in the City Council Chambers, 201 North Broadway, Escondido, California.



Mike Strong, Secretary to the Escondido
Planning Commission



Ty Paulson, Minutes Clerk

PLANNING COMMISSION

Agenda Item No.: G.1
Date: March 14, 2017

CASE NUMBER: AZ 16-0007
APPLICANT: City of Escondido
LOCATION: Citywide
TYPE OF PROJECT: Zoning Code Amendment

PROJECT DESCRIPTION: Consideration of amendments to the Escondido Zoning Code to bring City regulations of second dwelling units into compliance with relevant State requirements. No development project is proposed.

BACKGROUND/SUMMARY OF ISSUES: Article 70 of the Escondido Zoning Code is being updated to address new accessory unit regulations as required by State law. To maintain internal consistency between various code sections of the Zoning Code, the request also includes amendments to Article 1, 7, 8, 10, 12, 13, 14, 39, and 65. The Planning Commission opened the Public Hearing on February 14, 2017, reviewed and considered the request, and continued the Public Hearing to March 14, 2017 to continue discussion of the draft ordinance.

During the commission's deliberations, the Commission identified areas of concern, where additional discussion was needed. Attachment "PC-2" has been provided to follow-up on that request to facilitate the commission's review of the amendment request and to encourage additional oral and written input from the public on how best to amend the code in light of the new State laws. This attachment can be used to help organize the Planning Commission's review of "standing" policy-related issues. The February 14th staff report and draft ordinance is included as Attachment "PC-1."

As set forth, the Commission will be asked to open the continued public hearing, receive testimony, discuss any policy-related issues, review and consider the draft ordinance, and forward a recommendation to the City Council.

ATTACHMENTS:

PC-1 Planning Commission staff report and draft ordinance, dated February 14, 2017
PC-2 Areas of additional study/discussion

Respectfully submitted,



Mike Strong
Assistant Planning Director

ATTACHMENT PC-1

**Planning Commission staff report and draft ordinance, dated
February 14, 2017**

PLANNING COMMISSION

Agenda Item No.: H.4
Date: February 14, 2017

CASE NUMBER: AZ 16-0007
APPLICANT: City of Escondido
LOCATION: Citywide
TYPE OF PROJECT: Zoning Code Amendment

PROJECT DESCRIPTION: Consideration of amendments to the Escondido Zoning Code to bring City regulations of second dwelling units into compliance with relevant State requirements. No development project is proposed.

BACKGROUND/SUMMARY OF ISSUES: Government Code Section 65852.2 (Second Dwelling Unit law) was enacted in 1982 to encourage the creation of second dwelling units throughout the State of California. Second dwelling units, accessory apartments, accessory dwelling units, or granny flats (hereinafter collectively referred to as Accessory Dwelling Units) provide an important source of rental housing within existing neighborhoods and can provide more housing options for the elderly, in-home health care providers, family members, students, and others. Despite State efforts to facilitate Second Dwelling Units, many local governments have passed ordinances that constrain their construction. Because the State Legislature wants to ease Second Dwelling Unit restrictions, several State laws were passed over the years to make it easier for homeowners to build or legalize Second Dwelling Units. These State laws were approved and enacted in 1986, 1990, 1994, 2002, and most recently in 2016.

The City of Escondido already has an Accessory Dwelling Unit ordinance in place. Article 70 of the Zoning Code includes specified provisions regarding areas where Accessory Dwelling Units may be located and their associated standards for new construction or conversion into a legalized unit. However, Article 70 is not internally consistent with recent changes in State law or new standards set by the State.

- Assembly Bill (AB) 2299 and Senate Bill (SB) 1069 (Statutes of 2016) mandates easier regulatory processing of Accessory Dwelling Units by eliminating parking requirements under specified circumstances and prohibits a city or county from requiring a new or separate utility connection between the unit and the utility (or imposing a related connection fee or capacity charge). These bills also replace the term "Second Unit" or "Second Dwelling Unit" with "Accessory Dwelling Unit."

Under basic Planning and Zoning laws, the implementation of city and county ordinances must be carried out consistent with relevant State or Federal laws. In response to these recent State law changes, cities and counties across California will be revising their regulations, consistent with the new requirements and/or the new limitations of the Government Code.

The City of Escondido proposes to amend Articles 70 of the City's Zone Code to respond to and fulfill the new State-mandated requirements. Other factors to be considered as part of the amendment request are included as Exhibit "A" to this Staff Report. Exhibit "B" displays those portions of the Escondido zoning regulations that are proposed to be changed. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions, and underlined typeface illustrating new text.

REASONS FOR STAFF RECOMMENDATION: Staff recommends approval of the proposed Resolution, recommending that the City Council adopt, with any suggested edits, amendments to Articles 1, 7, 8, 10, 12, 13, 14, 39, 65, and 70 of the Zoning Code, for the following reasons:

1. The proposed amendments to Article 70 of the Zoning Code address recent changes in State law and provide use and development standards to implement relevant State law requirements. (Any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to Accessory Dwelling Unit law are null and void.)
2. Proposed amendments to other code sections help maintain internal consistency between various code sections. They are ancillary to the focused amendments to Article 70 (i.e. they are minor and technical in nature).
3. It is the intent of State law that any Accessory Dwelling Unit Ordinance ordinances adopted by local agencies are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create Accessory Dwelling Units in zones in which they are authorized. The proposed amendments would help facilitate Accessory Dwelling Unit construction for homeowners to meet current and future housing needs.

Respectfully Submitted,



Mike Strong
Assistant Planning Director

ANALYSIS

ENVIRONMENTAL STATUS:

The proposed zoning code amendments are exempt from CEQA, pursuant to Section 15061 (b)(3). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Accessory Dwelling Units approved are themselves statutorily exempt from CEQA pursuant to Section 15268 (Ministerial Projects) of the CEQA Guidelines and Section 21080(b)(1) of the Public Resources Code. In addition, Accessory Dwelling Units can be found categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA Guidelines, authority cited under Public Resources Code Section 21083 and 21087.

ZONING CODE AMENDMENT ANALYSIS:

In 2016 the legislature passed Assembly Bill (AB) 2299 and Senate Bill (SB) 1069, requiring more simple and inexpensive permitting processes for Accessory Dwelling Units (also known as ADUs, accessory apartments, second dwelling units, or granny flats). Accessory Dwelling Units include a new dwelling unit built on the same property as an existing home. It could also consist of the conversion of part of an existing dwelling or accessory structure, like a garage.

For simplicity, the following table highlights some of the recent changes to State law and provides a reference link to the full text of the three bills.

Bill Number and Author	Bill Summary
<u>AB 2299 (Bloom)</u>	<ul style="list-style-type: none">• Replaces the term “second unit” with “accessory dwelling unit” throughout the law.• Changes setback rules for units constructed above a garage.• Changes the rules for garage conversions. Replacement parking may be located in any configuration on the same lot, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. <p>Full text:</p>

	http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_2251-2300/ab_2299_bill_20160927_chaptered.pdf
<u>SB 1069 (Wieckowski)</u>	<ul style="list-style-type: none"> • Provides that Accessory Dwelling Units shall not be considered new residential uses for the purposes of calculating private or public utility connection fees, including water and sewer service. • Imposes timelines for issuing permits. Requires consideration (approval or denial) within 120 days after receiving an application, unless for projects involving actions at a higher level, then the permit will also be decided upon at that higher level. • Directs agencies to impose standards, including but not limited to, parking, height, setback, lot coverage, architectural review, maximum size of the unit, and standards that prevent adverse impacts to historic property. • Accessory Dwelling Units shall not be required to provide fire sprinklers if they are not required for the primary residence. • Prohibits the imposition of parking standards under specific circumstances. <p>Full text: http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_1051-1100/sb_1069_bill_20160927_chaptered.pdf</p>

As a result of these recent State law changes and based on previous amendments to the law, City staff has determined the extent to which the Escondido Zoning Code diverges from State law and identified all revisions necessary to bring the City into compliance with relevant State requirements. Various planning documents were reviewed to ensure continued consistency and/or to support the implementation of relevant State law changes. Based on this document review, City staff recommends the following sections of the Zoning Code be updated to better align local regulations with recent changes in State law or new standards set by the State.

- Article 70 provides regulations for the establishment of Accessory Dwelling Units in residential zones. The City will continue to apply Zoning Code regulations that allow Accessory Dwelling Units by-right in the RA, RE, R1, R2, R3, and R4 residential zones, in accordance with State law. The draft changes to Article 70 represents the City's effort in responding to State law changes and fulfilling the requirements under revised State law.

Some of the more significant changes proposed to our Zoning Code are related to city permitting requirements, direct access requirements, and imposing more flexible parking standards, as summarized below.

Permitting Procedures: State law requires development applications for Accessory Dwelling Units to be considered ministerially within 120 days of application (i.e. without discretionary review or a hearing). The permit process must apply predictable, fixed, and clear standards. These standards must be administratively applied to the application and may not be subject to discretionary decision-making. Currently, the City of Escondido requires special review by a “second dwelling unit permit.” However, there should be no local legislative, quasi-legislative or discretionary consideration of the application, except provisions for authorizing an administrative appeal of a decision.

Access: The proposed zoning code amendments allow Accessory Dwelling Units to be more “independent” from the primary, single-family residence. Currently, the zoning code requires Accessory Dwelling Units to have direct access from the living area of the primary structure. The proposed zoning code amendment would remove this requirement and instead require independent exterior access. However, the code would continue to require Accessory Dwelling Units to be attached to the primary residence - except in the Old Escondido Neighborhood historic district, where Accessory Dwelling Units may be detached when the unit is accessed from an alley or located over a detached garage.

Parking: The proposed zoning amendment reduces parking requirements for Accessory Dwelling Units. Off street parking is permitted through tandem parking on an existing driveway. Setbacks are not required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an Accessory Dwelling Unit, which conflicts with existing rules in some residential zones. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the Accessory Dwelling Unit can be constructed wholly or partly above the garage, including extending beyond the garage walls. Also, when a garage, carport or covered parking structure is demolished, the replacement parking must be allowed in any “configuration” on the lot, including covered spaces, uncovered spaces, or tandem spaces.

- Minor technical changes to other sections of the Zoning Code are necessary to make sure our local code is internally consistent through references and meanings in its entirety.
 - Article 1 includes a list of Zoning Code-related meanings and definitions. AB 2299 replaces the term “second unit” with “accessory dwelling unit” throughout the law, requiring cities and counties to do the same. Similarly,

Article 1 is proposed to be amended to replace the term “second unit” with accessory dwelling unit.”

- Articles 7, 8, 10, 12, 13, and 14 address permitted uses and development regulations in residential zones ranging from Residential Agriculture (RA) to Heavy Multiple Residential Zone (R4). Because the term “second unit” would be replaced by “accessory dwelling unit” elsewhere in the Zoning Code, Articles 7, 8, 10, 12, 13, and 14 would all have to be amended.
- Article 39 addresses off-street parking requirements for different use categories. Article 39 is proposed to be amended to replace the term “second unit” with “accessory dwelling unit.”
- Article 65 addresses permitted uses and development regulations in the Old Escondido Neighborhood District. Article 65 is proposed to be amended to replace the term “second unit” with “accessory dwelling unit.”

HOUSING ELEMENT LAW AND RHNA ANALYSIS:

There is a statutory recognition that the availability of housing is a matter of statewide importance and that cooperation between government and the private sector is critical to attainment of the State's housing goals. All California localities are required by Article 10.6 of the Government Code (Section 65580-65590) to adopt housing elements as part of their general plans, and submit draft and adopted elements to the Department of Housing and Community Development (HCD) for review of compliance with State law. Cities and counties can employ a variety of development strategies and/or commit specific program actions to address the adequate sites requirements and fulfill their Regional Housing Needs Assessment (RHNA) housing number obligations as part of the Housing Element update process.

For the 2013-2021 Housing Element cycle, the City of Escondido successfully approved a local Housing Element that was found to be in substantial conformance with State law, without the need to monitor Accessory Dwelling Unit construction and its ability to accommodate future housing in the City. Notwithstanding the status of our current Housing Element, it will be necessary to track and monitor Accessory Dwelling Unit activity moving forward.

Subsequent to the approval of this zoning code amendment, City staff will begin tracking Accessory Dwelling Unit construction to monitor the effectiveness of Escondido's efforts to promote Accessory Dwelling Units. By analyzing the housing need by income group that could be accommodated through "independent" Accessory Dwelling Unit development, cities and counties can rely on Accessory Dwelling Units as part of an overall adequate sites strategy to accommodate (a portion) of the regional housing need, which will be helpful for the City of Escondido when seeking compliance with State law (in preparation of the 2021-2028 Housing Element planning cycle). This will reduce the future need for further rezonings in the City to accommodate additional housing. Consistently maintained records between now and the start of the next planning cycle will reveal trends in Accessory Dwelling Unit construction or may support our efforts to count realistic capacity for Accessory Dwelling Unit based on an estimate of affordability at the time of occupancy.

It is important to note that discussions about Housing Element programs and other housing opportunities, such as Junior Dwelling Units, need to be addressed in the future, separately from this action. The Planning Commission need only focus on the regulatory matters before it directly related to updating Article 70 and other relevant sections of the Zoning Code, to ensure basic State law compliance.

EXHIBIT "A"
FACTORS TO BE CONSIDERED
AZ16-0007

Zoning Code Amendment

1. The public health, safety, and welfare would not be adversely affected by the proposed Zoning Code amendments.
2. The proposed zoning code amendments would not conflict with any State law. Pursuant to Article XI, Section 7 of the California Constitution, a city may make and enforce within its limits, all police, sanitary, and other ordinances that are not in conflict with general laws. The State Legislature has made recent changes in State law to encourage the creation of Accessory Dwelling Units by easing provisions relating to unit location, parking, fees and other requirements. Pursuant to Section 65852.150 of the Government Code, Accessory Units are a valuable form of housing in California and that those units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, within existing neighborhoods. The proposed zoning code amendments will ensure that the City's Zoning Code is consistent with California Government Code requirements for Accessory Units.
3. The proposed zoning code amendments would not be detrimental to surrounding properties because the amendments involve existing development application types. The amendment would not expand or reduce the type of land uses that may be established in the City and no physical improvements are proposed as part of this zoning code amendment. Future construction of Accessory Dwelling Units must comply with any applicable laws and standards. This includes the Building Code, the Fire Code, and any property standards by-laws.
4. The proposed zoning code amendments would be consistent with the goals and policies of the General Plan because it encourages compact, efficient urban form, which makes more efficient use of existing infrastructure. It also supports increasing the stock of rental accommodation in an area by providing more housing options for extended families or for a live-in caregiver. The proposed zoning code amendments would not diminish the Quality of Life Standards of the General Plan, nor adversely impact the community health or natural resources.
5. The proposed zoning code amendments do not conflict with any specific plan.

EXHIBIT "B"
PROPOSED CHANGES TO THE ZONING CODE
AZ16-0007

Amend the various zoning code sections to read as specified below.

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS, SECTION 33-8

Revise the existing definitions as set forth below.

Attached unit means a unit completely within an existing principal building or added to an existing principal building; provided, that both dwelling units shall be attached by a common wall, floor or ceiling, and not simply by an attached breezeway or porch; and shall be contained within one (1) building. ~~A second~~An accessory dwelling unit constructed above an existing detached garage shall be considered an attached unit.

(8) ~~Second~~Accessory dwelling means a secondary, but independent living facility, which is located or established on the same lot as the primary residence. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation. ~~A second~~An accessory dwelling unit ~~is~~could be located within the living area of the existing dwelling; attached, and a part of the main building on the premises; or located above an existing detached garage.

ARTICLE 7: RESIDENTIAL AGRICULTURE ZONE

Revise Section 33-102 as set forth below.

(r) ~~Second~~Accessory dwelling units ~~as defined in section 33-8~~ (with permit as required by section 33-1477 of Article 70);

Revise Section 33-109 (d) as set forth below.

(6) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-109 (e) as set forth below.

Required parking for ~~second~~accessory dwelling units may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-110 (b) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-110 (c) as set forth below.

Required parking for a ~~second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-112 (c)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-112(c)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 8: RESIDENTIAL ESTATES ZONE

Revise Section 33-122 as set forth below.

(s) ~~Second~~ Accessory dwelling units as defined in section 33-8 (with permit as required by section 33-1477 of Article 70.

Revise Section 33-129 (d) as set forth below.

(6) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-129 (e) as set forth below.

Required parking for a ~~second~~ an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-130 (b) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-130 (c) as set forth below.

Required parking for a ~~second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-132 (c)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-132(c)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 10: SINGLE FAMILY RESIDENTIAL ZONE

Revise Section 33-162 as set forth below.

(l) ~~Second~~ Accessory dwelling units as defined in section 33-8 (with permit as required by section 33-1477 of Article 70.

Revise Section 33-169 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-169 (e) as set forth below.

Required parking for ~~second~~ accessory dwelling units may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-170 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-170 (c) as set forth below.

Required parking for ~~second~~ accessory dwelling units may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-173 (c)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-173(c)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 12: LIGHT MULTIPLE RESIDENTIAL ZONE

Revise Section 33-212 as set forth below.

(k) ~~Second~~Accessory dwelling units as defined in section 33-8 (with permit as required by section 33-1477 of Article 70.

Revise Section 33-219 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-219 (e) as set forth below.

Required parking for a ~~second~~an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-220 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-220 (c) as set forth below.

Required parking for a ~~second~~an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-222 (d)(2) as set forth below.

~~A second~~An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-222~~(e)(1)~~(d)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~California Building Standards Code.

ARTICLE 13: MEDIUM MULTIPLE RESIDENTIAL ZONE

Revise Section 33-242 as set forth below.

(k) ~~Second~~Accessory dwelling units as defined in section 33-8 (with permit as required by section 33-1477 of Article 70.

Revise Section 33-249 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-249 (e) as set forth below.

Required parking for a ~~second~~ an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-250 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-250 (c) as set forth below.

Required parking for a ~~second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-252 (d)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-252~~(e)(1)(d)(1)~~, but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 14: HEAVY MULTIPLE RESIDENTIAL ZONE

Revise Section 33-272 as set forth below.

(i) ~~Second~~ Accessory dwelling units as ~~defined in section 33-8~~ (with permit as required by section 33-1477 of Article 70).

Revise Section 33-280 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-280 (e) as set forth below.

Required parking for a ~~second~~ an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-281 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-281 (c) as set forth below.

Required parking for a ~~second~~ accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-283 (e)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-283(e)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 39: OFF-STREET PARKING

Revise the *Second dwelling unit* use category in Section 33-765 to *Accessory dwelling unit* [emphasis added to former and latter categories], and revise note as set forth below.

One (1) parking space for the unit, in addition to those spaces required by this section for the primary residential use as provided by section 33-1474 of Article 70. All spaces shall be located on-site.

ARTICLE 65: OLD ESCONDIDO NEIGHBORHOOD

Revise Section 33-1373 (b) as set forth below.

~~Second~~ Accessory dwelling units as defined in section 33-8, are permitted subject to a ~~second~~ accessory dwelling unit permit in conformance with Article 70 of this chapter.

ARTICLE 70: SECOND DWELLING UNIT

Replace Article title from *Second Dwelling Units* to *Accessory Dwelling Units* [emphasis added to former and latter titles]. A similar change shall be made, without limitation, to any and all Municipal Code and/or Zoning Code table of contents or charts that reference this article title.

Revise Section 33-1470, Purpose, as set forth below.

The purpose of this article is to provide regulations for the establishment of ~~second~~ accessory dwelling units in residential zones. The intent of the article is to provide affordable housing in areas where adequate public facilities and services are available, and where impacts upon the residential neighborhoods directly affected would be

minimized. This article shall not be considered in the application of any local ordinance, policy, or program to limit residential growth. ~~Second dwelling units shall be designed to minimize the effect of the new second dwelling unit on adjacent properties, any potential impacts shall be oriented to the primary residence.~~

Section 33-1471, Definition.

Delete section title and content. Reserve section number for future use.

Revise Section 33-1472, Permitted zones, as set forth below.

~~Second~~Accessory dwelling units shall be permitted in the RA, RE, R1, R2, R3 and R4 zones on properties with only one (1) single-family residence on the lot, subject to the approval of an an secondaccessory dwelling unit permit. ~~Second~~Accessory dwelling units within the Old Escondido Neighborhood shall observe the same standards and review procedures required of similar building expansions in that neighborhood.

~~Second~~Accessory dwelling units shall not be permitted on property developed in a planned development zone or as a part of a planned unit approval, unless approved as a part of the original PD or PUA and the subject lot is not less than six thousand (6,000) square feet in size.

Revise Section 33-1473, Occupancy limitations, as set forth below.

(a) Owner-occupied. The owner of the property shall reside on the parcel on which the ~~secondaccessory~~ dwelling unit is located. The ~~secondaccessory~~ dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.

(b) Deed restriction. Building permits will not be issued for the establishment of an secondaccessory dwelling unit or its occupancy prior to the applicant's submittal of evidence that a deed restriction, which sets forth the occupancy limitations prescribed by the ordinance, has been filed with the county recorder. This deed restriction shall run with the land; inure to the benefit of the city as well as to the benefit of the other residential property owners within the subdivision; and, be coterminous in tenure with the life of the ~~secondaccessory~~ dwelling unit.

Revise Section 33-1474, Development standards, as set forth below.

~~Second~~Accessory dwelling units shall be subject to all development standards of the zone in which the property is located, except as modified below:

(a) Lot area. ~~Second~~Accessory dwelling units may be constructed on any legal lot in a residential zone provided all requirements of this article and the zoning and building codes are met.

- (b) Number of bedrooms. A maximum of one (1) bedroom shall be permitted.
- (c) Location on lot. ~~Second~~Accessory units must be physically attached to the primary structure by a substantial contiguous shared wall and shall also have access from the primary structure or be located within the living area of the existing dwelling; except for ~~second~~accessory dwelling units proposed in the Old Escondido Neighborhood historic district where ~~second~~accessory units may be detached when the unit is accessed from an alley or located over a detached garage.
 - (1) Accessory dwelling units shall have independent exterior access.
 - (2) An accessory dwelling unit that is constructed above a garage must have a setback of five feet from the side and rear lot lines.
- (d) Maximum unit size. For lots less than ten thousand (10,000) square feet, attached ~~second~~accessory dwelling units shall not exceed five hundred (500) square feet. For lots over ten thousand (10,000) square feet, ~~second~~accessory dwelling units shall not exceed six hundred forty (640) square feet. The floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area of the primary residence up to a maximum of 500 square feet or 640 square feet based on lot size.
- (e) Minimum unit size. The minimum permitted size of a ~~Second~~an accessory dwelling unit shall be defined by the Uniform Building Code and Uniform Housing Code-California Building Standards Code. The minimum unit size of the residential zone shall not apply to the ~~second~~accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.
- (f) Height. ~~Second~~Accessory dwelling units shall conform to the height limits of the zone ~~and shall be limited to one (1) story.~~
- (g) Lot coverage. The entire lot shall conform to the lot coverage limitation of the zone in which the property is located.
- (h) Parking requirements. Off-street parking for the primary dwelling shall conform to the current parking standards, as required in Article 39 of the Escondido Zoning Code and:
 - (1) One (1) additional off street parking space, covered or uncovered, shall be provided for a ~~second~~an accessory dwelling unit, and shall not be tandem. Parking provisions may be provided as tandem parking on an existing driveway

or permitted within a setback area, in locations determined to be satisfactory by the Director of Community Development, unless the Director determines that parking in setback areas or tandem parking is not feasible based on specific site or regional topographical or fire and life safety conditions, or not permitted anywhere else in the jurisdiction.

(2) Required parking for the ~~second~~ accessory dwelling unit shall be permitted in a side yard or rear yard only when said yard is abutting an alley and a minimum backup of twenty-four (24) feet is provided.

(3) Parking for the ~~second~~ accessory dwelling unit shall be accessible, ~~not conflict with access and required parking for the primary structure~~ and be located to minimize impacts on adjacent properties.

(4) Notwithstanding any other law, the City will not impose parking standards for an accessory dwelling unit when the unit is located within one-half mile of public transit, located within the Old Escondido Neighborhood or when there is a car share vehicle located within one block of the unit. The City will also waive parking requirements for new accessory dwelling units when the accessory dwelling unit is contained within the existing living area of the primary residence.

When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, replacement parking may be located in any configuration on the same lot as the accessory unit.

(i) Design of the unit. Accessory dwelling units shall be designed to minimize the effect of the new accessory dwelling unit on adjacent properties.

(1) Any potential impacts shall be oriented to the primary residence. The second dwelling unit shall not create a second front entrance visible from adjacent streets. Access doors and entry for the second accessory dwelling unit shall not be oriented to the nearest adjacent property line or create a second "front door" entrance. For the purposes of this article, a second front door entrance is a secondary entry way that is comparable to the main entrance. The design, construction, and presence of the accessory dwelling unit shall conform with the single family character of the neighborhood. There may only be one obvious entrance visible to the street.

(2) Proposed accessory dwelling units shall respect the residential scale and design character of existing homes. The accessory dwelling unit's color and materials must match those of the primary residence, maintaining compatibility with the neighborhood. The planning staff/Director shall review second accessory dwelling unit applications to ensure the addition is integrated with the primary

structure with respect to roof design, height, compatible materials, color, texture, and design details. If the accessory dwelling unit is an addition to a site with known historic resources or has been determined have historic value by the Director, all improvements shall retain the historical and/or architectural value and significance of the landmark, historical building, or historical district. The improvements shall be compatible with and retain the texture and material of the primary building(s) and/or structure(s) or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the relationship of such features to similar features of other buildings within an historical district.

- (j) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street.
- (k) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

Revise Section 33-1475, Other regulations, as set forth below.

- (a) Garage conversions. ~~Garage conversions to second~~accessory dwelling units are prohibited unless replacement covered off-street parking is provided which conforms to Article 39 of this chapter. Converted garages must meet all building code requirements for a dwelling unit and provisions of the ordinance. No setback shall be required for an existing garage that is converted to an accessory dwelling unit.
- (b) Guest house. An attached guest house may be converted to a ~~second~~an accessory dwelling unit provided all provisions of this article and the building code and zoning code are met. A guest house and a ~~second~~an accessory dwelling unit may occur on the same lot provided the lot is over twenty thousand (20,000) square feet in area and provided the guest house does not contain kitchen facilities and is not rented. No more than one (1) ~~second~~accessory dwelling unit or no more than one (1) guest house are permitted on a lot.
- (c) The City may require a new or separate utility connection for any attached or detached accessory dwelling units that are not contained within the existing space of a single family residence or accessory structure.

Replace Section 33-1476 title from *Existing nonpermitted second units* to *Existing nonpermitted accessory units* [emphasis added to former and latter titles].

Revise Section 33-1476, Existing nonpermitted accessory units, as set forth below.

This article shall apply to all ~~second~~accessory dwelling units which exist on the date of passage of the ordinance. All units which do not have a permit, or cannot receive a

permit, upon passage of the ordinance codified herein shall be considered in violation and shall be subject to code enforcement action.

Revise Section 33-1477, Application and procedure, as set forth below.

The ~~director~~Director of Community Development shall approve a ~~second dwelling unit permit for an accessory dwelling unit~~ within 120 days of submission of a complete application, unless ~~he or she determines~~it is determined that ~~such~~the permit does not meet the requirements of this article. The ~~director~~Director may refer any unit to the planning commission or Historic Preservation Commission prior to the ~~director's~~Director's decision for conformance with the specific criteria outlined in section 33-1474(i).

Revise Section 33-1478, Findings for approval and denial, as set forth below.

The decision to deny an application shall be in writing and shall state the reasons therefor. A permit for an accessory dwelling unit shall be issued upon a finding that all of the following have been established: ~~In granting a second dwelling unit permit, the following findings shall be established as complete without further written action:~~

- (a) Adequate public facilities and services are available;
- (b) All requirements of this article and the zoning code are met;
- (c) The project will not create a second front entrance;
- (d) The unit is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details; and
- (e) The accessory dwelling unit does not create any adverse impact on any real property that is listed in the local, state, or federal Register of Historic Places.

Revise Section 33-1480, Fees, as set forth below.

- (a) Upon the filing of an permit for an accessory dwelling unit, a fee in an amount to be established by resolution of the city council shall be paid by the applicant to the city.
- (b) Any party who appeals the director's ~~a~~ determination made by the Director of the Community Development shall submit an appeal processing fee as determined by the city council.
- (b) ~~For purposes of determining building permit fees, a second dwelling unit shall be considered a room addition and shall not be subject to subarea facilities plan fees.~~



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

Notice of Exemption

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

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

Project Title/Case No.: Zoning Code Amendment / AZ 16-0007

Project Applicant: City of Escondido

Project Location - Specific: Citywide

Project Location - City: Escondido

Project Location - County: San Diego

Description of Nature, Purpose and Beneficiaries of Project:

Amendment to the Escondido Zoning Code, Article 70, to bring City regulations of second dwelling units (now called accessory dwelling units) into compliance with recent State law changes.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project: Mike Strong, Assistant Planning Director, City of Escondido
Telephone: (760) 839-4556 Address: 201 N. Broadway, Escondido, CA 92025

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

Exempt Status:

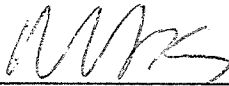
Exemption. CEQA Section 15061(b)(3) "General Rule".

Reasons why project is exempt:

1. The proposed zoning code amendment consists of text changes and does not involve any physical modifications or lead to any physical improvements beyond those typically exempt. The amendment involves only changes to several review processes for existing types of applications and would not have the potential for causing a significant effect on the environment.
2. Future development applications will include environmental review and the preparation of appropriate individual CEQA documents.
3. In staff's opinion, the proposed code amendments would have no impact on fish and wildlife resources, sensitive species or habitat, or affect any cultural or historic resources, since there is no physical development project associated with the code changes.

Lead Agency Contact Person: Mike Strong

Area Code/Telephone/Extension (760) 839-4556
Email: mstrong@escondido.org

Signature: 
Mike Strong, Assistant Planning Director

Date

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant

ARTICLE 70. SECOND DWELLING UNITS

Sec. 33-1470. Purpose.

The purpose of this article is to provide regulations for the establishment of second dwelling units in residential zones. The intent of the article is to provide affordable housing in areas where adequate public facilities and services are available, and where impacts upon the residential neighborhoods directly affected would be minimized. Second dwelling units shall be designed to minimize the effect of the new second dwelling unit on adjacent properties, any potential impacts shall be oriented to the primary residence. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1471. Definition.

Second dwelling unit means a secondary, but independent living facility which is located or established on the same lot as an existing single-family residence (for purposes of this article this existing residence shall be termed "the primary residence"). It includes permanent provisions for living, sleeping, eating, cooking and sanitation. A second dwelling must be attached to the primary residence; except in the Old Escondido Neighborhood historic district where second dwelling units may be detached when the unit is accessed from an alley or located over a detached garage.

Outside the Old Escondido Neighborhood historic district, a second dwelling unit shall be attached to the existing dwelling unit by a contiguous, shared wall and shall also have access from the living area of the primary structure.

For purposes of this article, living area means the interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory structure. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03; Ord. No. 2016-15, § 4, 10-26-16)

Sec. 33-1472. Permitted zones.

Second dwelling units shall be permitted in the RA, RE, R1, R2, R3 and R4 zones on properties with only one (1) single-family residence on the lot, subject to the approval of a second dwelling unit permit. Second dwelling units within the Old Escondido Neighborhood shall observe the same standards and review procedures required of similar building expansions and new structures in that neighborhood. Second dwelling units shall not be permitted on property developed in a planned development zone or as a part of a planned unit approval, unless approved as a part of the original PD or PUA and the subject lot is not less than six thousand (6,000) square feet in size. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03; Ord. No. 2016-15, § 4, 10-26-16)

Sec. 33-1473. Occupancy limitations.

(a) Owner-occupied. The owner of the property shall reside on the parcel on which the second dwelling unit is located. The second dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.

(b) Deed restriction. Building permits will not be issued for the establishment of a second dwelling unit or its occupancy prior to the applicant's submittal of evidence that a deed restriction, which sets forth the occupancy limitations prescribed by the ordinance, has been filed with the county recorder. This deed restriction shall run with the land; inure to the benefit of the city as well as to the benefit of the other residential property owners within the subdivision; and, be coterminous in tenure with the life of the second dwelling unit. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1474. Development standards.

Second dwelling units shall be subject to all development standards of the zone in which the property is located, except as modified below:

(a) Lot area. Second dwelling units may be constructed on any legal lot in a residential zone

provided all requirements of this article and the zoning and building codes are met.

(b) Number of bedrooms. A maximum of one (1) bedroom shall be permitted.

(c) Location on lot. Second dwelling units must be physically attached to the primary structure by a substantial contiguous wall and shall also have access from the primary structure; except for second dwelling units proposed in the Old Escondido Neighborhood historic district where second dwelling units may be detached when the unit is accessed from an alley or located over a detached garage.

(d) Maximum unit size. For lots less than ten thousand (10,000) square feet, attached second dwelling units shall not exceed five hundred (500) square feet. For lots over (10,000) square feet, second dwelling units shall not exceed six hundred forty (640) square feet.

(e) Minimum unit size. The minimum permitted size of a second dwelling unit shall be defined by the Uniform Building Code and Uniform Housing Code. The minimum unit size of the residential zone shall not apply to the second dwelling unit.

(f) Height. Second dwelling units shall conform to the height limits of the zone and shall be limited to one (1) story.

(g) Lot coverage. The entire lot shall conform to the lot coverage limitation of the zone in which the property is located.

(h) Parking requirements. Off-street parking for the primary dwelling shall conform to the current parking standards, as required in Article 39 of the Escondido Zoning Code and:

(1) One (1) additional off street parking space, covered or uncovered, shall be provided for a second dwelling unit, and shall not be tandem.

(2) Required parking for the second dwelling unit shall be permitted in a side yard or rear yard only when said yard is abutting an alley and a minimum backup of twenty-four (24) feet is provided.

(3) Parking for the second dwelling unit shall be accessible, not conflict with access and required

parking for the primary structure and be located to minimize impacts on adjacent properties.

(i) Design of the unit. The second dwelling unit shall not create a second front entrance visible from adjacent streets. Access doors and entry for the second dwelling unit shall not be oriented to the nearest adjacent property line. The planning staff shall review second dwelling unit applications to ensure the addition is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details.

(j) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03; Ord. No. 2008-22, § 8, 9-10-08; Ord. No. 2016-15, § 4, 10-26-16)

Sec. 33-1475. Other regulations.

(a) Garage conversions. Garage conversions to second dwelling units are prohibited unless replacement covered off-street parking is provided which conforms to Article 39 of this chapter. Converted garages must meet all building code requirements for a dwelling unit and provisions of the ordinance.

(b) Guest house. An attached guest house may be converted to a second dwelling unit provided all provisions of this article and the building code and zoning code are met. A guest house and a second dwelling unit may occur on the same lot provided the lot is over twenty thousand (20,000) square feet in area and provided the guest house does not contain kitchen facilities and is not rented. No more than one (1) second dwelling unit or no more than one (1) guest house are permitted on a lot. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1476. Existing nonpermitted second units.

This article shall apply to all second dwelling units which exist on the date of passage of the ordinance. All units which do not have a permit, or cannot receive a permit, upon passage of the ordi-

nance codified herein shall be considered in violation and shall be subject to code enforcement action. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1477. Application and procedure.

The director shall approve a second dwelling unit permit unless he or she determines that such permit does not meet the requirements of this article. The director may refer any unit to the planning commission prior to the director's decision for conformance with the specific criteria outlined in section 33-1474(i). (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03; Ord. No. 2008-22, § 8, 9-10-08; Ord. No. 2011-19R, § 5, 1-11-12)

Sec. 33-1478. Findings for approval and denial.

The decision to deny an application shall be in writing and shall state the reasons therefor. In granting a second dwelling unit permit, the following findings shall be established as complete without further written action:

- (a) Adequate public facilities and services are available;
- (b) All requirements of this article and the zoning code are met;
- (c) The project will not create a second front entrance;
- (d) The unit is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1479. Appeal.

- (a) Upon denial of an application, the applicant may appeal the decision to the planning commission.
- (b) Upon receipt of a written request for a hearing anytime prior to the effective date of a decision on the permit, the director shall notice a public hearing before the planning commission in ac-

cordance with the provisions of section 33-1300 of this chapter.

(c) The appeal hearing shall be conducted in accordance with the provisions of sections 33-1303 and 33-1304 of the Escondido Zoning Code, and shall be acted upon in accordance with the determination and findings specified in section 33-1478 of this article. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1480. Fees.

(a) Any party who appeals the director's shall submit an appeal processing fee as determined by the city council.

(b) For purposes of determining building permit fees, a second dwelling unit shall be considered a room addition and shall not be subject to subarea facilities plan fees. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Secs. 33-1481—33-1489. Reserved.



Courtesy of Karen Chapple, UC Berkeley

California Department of Housing and
Community Development *Where Foundations Begin*

Accessory Dwelling Unit Memorandum

December 2016



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Understanding Accessory Dwelling Units and Their Importance



Courtesy of Karen Chapple, UC Berkeley

California's housing production is not keeping pace with demand. In the last decade less than half of the needed housing was built. This lack of housing is impacting affordability with average housing costs in California exceeding the rest of the nation. As affordability becomes more problematic, people drive longer distances between a home that is affordable and where they work, or double up to share space, both of which reduces quality of life and produces negative environmental impacts.

Beyond traditional market-rate construction and government subsidized production and preservation there are alternative housing models and emerging trends that can contribute to addressing home supply and affordability in California.

One such example gaining popularity are Accessory Dwelling Units (ADUs) (also referred to as second units, in-law units, or granny flats).

What is an ADU

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms:

- *Detached*: The unit is separated from the primary structure
- *Attached*: The unit is attached to the primary structure
- *Repurposed Existing Space*: Space (e.g., master bedroom) within the primary residence is converted into an independent living unit
- *Junior Accessory Dwelling Units*: Similar to repurposed space with various streamlining measures

ADUs offer benefits that address common development barriers such as affordability and environmental quality. ADUs are an affordable type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators. ADUs are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multifamily infill buildings. ADUs can provide as much living space as the new apartments and condominiums being built in new infill buildings and serve very well for couples, small families, friends, young people, and seniors.

ADUs are a different form of housing that can help California meet its diverse housing needs. Young professionals and students desire to live in areas close to jobs, amenities, and schools. The problem with high-opportunity areas is that space is limited. There is a shortage of affordable units and the units that are available can be out of reach for many people. To address the needs of individuals or small families seeking living quarters in high opportunity areas, homeowners can construct an ADU on their lot or convert an underutilized part of their home like a garage

into a junior ADU. This flexibility benefits not just people renting the space, but the homeowner as well, who can receive an extra monthly rent income.

ADUs give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care and helping extended families to be near one another while maintaining privacy.

Relaxed regulations and the cost to build an ADU make it a very feasible affordable housing option. A UC Berkeley study noted that one unit of affordable housing in the Bay Area costs about \$500,000 to develop whereas an ADU can range anywhere up to \$200,000 on the expensive end in high housing cost areas.

ADUs are a critical form of infill-development that can be affordable and offer important housing choices within existing neighborhoods. ADUs are a powerful type of housing unit because they allow for different uses, and serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education and services for many Californians.

Summary of Recent Changes to ADU Laws



Courtesy of Karen Chapple, UC Berkeley

The California legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in single family and multifamily zones provides additional rental housing and are an essential component in addressing housing needs in California. Over the years, ADU law has been revised to improve its effectiveness such as recent changes in 2003 to require ministerial approval. In 2017, changes to ADU laws will further reduce barriers, better streamline approval and expand capacity to accommodate the development of ADUs.

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, friends, students, the elderly, in-home health care providers, the disabled, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the Department has prepared this guidance to assist local governments in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a brief summary of the changes for each bill.

SB 1069 (Wieckowski)

S.B. 1069 (Chapter 720, Statutes of 2016) made several changes to address barriers to the development of ADUs and expanded capacity for their development. The following is a brief summary of provisions that go into effect January 1, 2017.

Parking

SB 1069 reduces parking requirements to one space per bedroom or unit. The legislation authorizes off street parking to be tandem or in setback areas unless specific findings such as fire and life safety conditions are made. SB 1069 also prohibits parking requirements if the ADU meets any of the following:

- Is within a half mile from public transit.
- Is within an architecturally and historically significant historic district.
- Is part of an existing primary residence or an existing accessory structure.
- Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- Is located within one block of a car share area.

Fees

SB 1069 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service.

Fire Requirements

SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

ADUs within Existing Space

Local governments must ministerially approve an application to create within a single family residential zone one ADU per single family lot if the unit is:

- contained within an existing residence or accessory structure.
- has independent exterior access from the existing residence.
- has side and rear setbacks that are sufficient for fire safety.

These provisions apply within all single family residential zones and ADUs within existing space must be allowed in all of these zones. No additional parking or other development standards can be applied except for building code requirements.

No Total Prohibition

SB 1069 prohibits a local government from adopting an ordinance that precludes ADUs.

AB 2299 (Bloom)

Generally, AB 2299 (Chapter 735, Statutes of 2016) requires a local government (beginning January 1, 2017) to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements, as follows:

- The unit is not intended for sale separate from the primary residence and may be rented.
- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- The unit is either attached to an existing dwelling or located within the living area of the existing dwelling or detached and on the same lot.
- The increased floor area of the unit does not exceed 50% of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- The total area of floorspace for a detached accessory dwelling unit does not exceed 1,200 square feet.
- No passageway can be required.
- No setback can be required from an existing garage that is converted to an ADU.

- Compliance with local building code requirements.
- Approval by the local health officer where private sewage disposal system is being used.

Impact on Existing Accessory Dwelling Unit Ordinances

AB 2299 provides that any existing ADU ordinance that does not meet the bill's requirements is null and void upon the date the bill becomes effective. In such cases, a jurisdiction must approve accessory dwelling unit based on Government Code Section 65852.2 until the jurisdiction adopts a compliant ordinance.

AB 2406 (Thurmond)

AB 2406 (Chapter 755, Statutes of 2016) creates more flexibility for housing options by authorizing local governments to permit junior accessory dwelling units (JADU) through an ordinance. The bill defines JADUs to be a unit that cannot exceed 500 square feet and must be completely contained within the space of an existing residential structure. In addition, the bill requires specified components for a local JADU ordinance. Adoption of a JADU ordinance is optional.

Required Components

The ordinance authorized by AB 2406 must include the following requirements:

- Limit to one JADU per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence.
- The owner must record a deed restriction stating that the JADU cannot be sold separately from the single-family residence and restricting the JADU to the size limitations and other requirements of the JADU ordinance.
- The JADU must be located entirely within the existing structure of the single-family residence and JADU have its own separate entrance.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or have its own bath.

Prohibited Components

This bill prohibits a local JADU ordinance from requiring:

- Additional parking as a condition to grant a permit.
- Applying additional water, sewer and power connection fees. No connections are needed as these utilities have already been accounted for in the original permit for the home.

Fire Safety Requirements

AB 2406 clarifies that a JADU is to be considered part of the single-family residence for the purposes of fire and life protections ordinances and regulations, such as sprinklers and smoke detectors. The bill also requires life and protection ordinances that affect single-family residences to be applied uniformly to all single-family residences, regardless of the presence of a JADU.

JADUs and the RHNA

As part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a JADU toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit which is fairly flexible. Local government count units as part of reporting to DOF. JADUs meet these definitions and this bill would allow cities and counties to earn credit toward meeting their RHNA allocations by permitting residents to create less costly accessory units. See additional discussion under JADU frequently asked questions.

Frequently Asked Questions: Accessory Dwelling Units

Should an Ordinance Encourage the Development of ADUs?

Yes, ADU law and recent changes intend to address barriers, streamline approval and expand potential capacity for ADUs recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment and implementation of local ADU ordinances must be carried out consistent with Government Code Section 65852.150:

(a) The Legislature finds and declares all of the following:

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

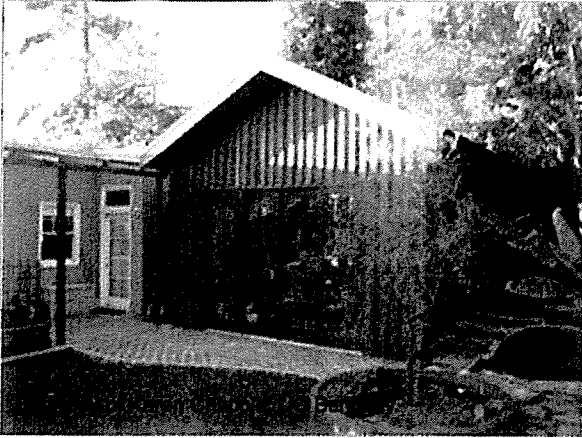
(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

Are Existing Ordinances Null and Void?



Yes, any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to ADU law will be null and void. Until an ordinance is adopted, local governments must apply "state standards" (See Attachment 5 for State Standards checklist). In the absence of a local ordinance complying with ADU law, local review must be limited to "state standards" and cannot include additional requirements such as those in an existing ordinance. .

Are Local Governments Required to Adopt an Ordinance?

No, a local government **is not required** to adopt an ordinance. ADUs built within a jurisdiction that lacks a local ordinance must comply with state standards (See Attachment 5). Adopting an ordinance can occur through different forms such as a new ordinance, amendment to an existing ordinance, separate section or special regulations within the zoning code or integrated into the zoning code by district. However, the ordinance should be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

Can a Local Government Preclude ADUs?

No local government cannot preclude ADUs.

Can a Local Government Apply Development Standards and Designate Areas?

Yes, local governments may apply development standards and may designate where ADUs are permitted (GC Sections 65852.2(a)(1)(A) and (B)). However, ADUs within existing structures must be allowed in all single family residential zones.

For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations. ADUs can be avoided or allowed through an ancillary and separate discretionary process in areas with health and safety risks such as high fire hazard areas. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development. Designating areas where ADUs are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow and public safety. Utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g., no less than 500 feet between ADUs) may unreasonably restrict the ability of the homeowners to create ADUs, contrary to the intent of the Legislature.

Requiring large minimum lot sizes and not allowing smaller lot sizes for ADUs can severely restrict their potential development. For example, large minimum lot sizes for ADUs may constrict capacity throughout most of the community. Minimum lot sizes cannot be applied to ADUs within existing structures and could be considered relative to health and safety concerns such as areas on septic systems. While larger lot sizes might be targeted for various reasons such as ease of compatibility, many tools are available (e.g., maximum unit size, maximum lot coverage, minimum setbacks, architectural and landscape requirements) that allows ADUs to fit well within the built environment.

Can a Local Government Adopt Less Restrictive Requirements?

Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or amending general plan policies.

Santa Cruz has confronted a shortage of housing for many years, considering its growth in population from incoming students at UC Santa Cruz and its proximity to Silicon Valley. The city promoted the development of ADUs as critical infill-housing opportunity through various strategies such as creating a manual to promote ADUs. The manual showcases prototypes of ADUs and outlines city zoning laws and requirements to make it more convenient for homeowners to get information. The City found that homeowners will take time to develop an ADU only if information is easy to find, the process is simple, and there is sufficient guidance on what options they have in regards to design and planning.

The city set the minimum lot size requirement at 4,500 sq. ft. to develop an ADU in order to encourage more homes to build an ADU. This allowed for a majority of single-family homes in Santa Cruz to develop an ADU. For more information, see <http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/accessory-dwelling-unit-development-program>.

Can Local Governments Establish Minimum and Maximum Unit Sizes?

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c)). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.

Can ADUs Exceed General Plan and Zoning Densities?

An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Minimum lot sizes must not be doubled (e.g., 15,000 square feet) to account for an ADU. Further, local governments could elect to allow more than one ADU on a lot.

New developments can increase the total number of affordable units in their project plans by integrating ADUs. Aside from increasing the total number of affordable units, integrating ADUs also promotes housing choices within a development. One such example is the Cannery project in Davis, CA. The Cannery project includes 547 residential units with up to 60 integrated ADUs. ADUs within the Cannery blend in with surrounding architecture, maintaining compatibility with neighborhoods and enhancing community character. ADUs are constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing.

How Are Fees Charged to ADUs?

All impact fees, including water, sewer, park and traffic fees must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact (e.g., significantly less than a single family home).

Fees on ADUs, must proportionately account for impact on services based on the size of the ADU or number of plumbing fixtures. For example, a 700 square foot new ADU with one bathroom that results in less landscaping should be charged much less than a 2,000 square foot home with three bathrooms and an entirely new landscaped parcel which must be irrigated. Fees for ADUs should be significantly less and should account for a lesser impact such as lower sewer or traffic impacts.

What Utility Fee Requirements Apply to ADUs?

Cities and counties cannot consider ADUs as new residential uses when calculating connection fees and capacity charges.

Where ADUs are being created within an existing structure (primary or accessory), the city or county cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge.

For other ADUs, a local agency may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures.

What Utility Fee Requirements Apply to Non-City and County Service Districts?

All local agencies must charge impact fees in accordance with the Mitigation Fee Act (commencing with Government Code Section 66000), including in particular Section 66013, which requires the connection fees and capacity charges to be proportionate to the burden posed by the ADU. Special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Providers should consider a proportionate or sliding scale fee structures that address the smaller size and lesser impact of ADUs (e.g., fees per square foot or fees per fixture). Fee waivers or deferrals could be considered to better promote the development of ADUs.

Do Utility Fee Requirements Apply to ADUs within Existing Space?

No, where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) must not be required.

Does "Public Transit" Include within One-half Mile of a Bus Stop and Train Station?

Yes, "public transit" may include a bus stop, train station and paratransit if appropriate for the applicant. "Public transit" includes areas where transit is available and can be considered regardless of tighter headways (e.g., 15 minute intervals). Local governments could consider a broader definition of "public transit" such as distance to a bus route.

Can Parking Be Required Where a Car Share Is Available?

No, ADU law does not allow parking to be required when there is a car share located within a block of the ADU. A car share location includes a designated pick up and drop off location. Local governments can measure a block from a pick up and drop off location and can decide to adopt broader distance requirements such as two to three blocks.

Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?

Yes, ADU law deliberately reduces parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical or fire and life safety conditions or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of ADUs.

Local governments must provide reasonable accommodation to persons with disabilities to promote equal access housing and comply with fair housing laws and housing element law. The reasonable accommodation procedure must provide exception to zoning and land use regulations which includes an ADU ordinance. Potential exceptions are not limited and may include development standards such as setbacks and parking requirements and permitted uses that further the housing opportunities of individuals with disabilities.

Is Covered Parking Required?

No, off street parking must be permitted through tandem parking on an existing driveway, unless specific findings are made.

Is Replacement Parking Required When the Parking Area for the Primary Structure Is Used for an ADU?

Yes, but only if the local government requires off-street parking to be replaced in which case flexible arrangements such as tandem, including existing driveways and uncovered parking are allowed. Local governments have an opportunity to be flexible and promote ADUs that are being created on existing parking space and can consider not requiring replacement parking.

Are Setbacks Required When an Existing Garage Is Converted to an ADU?

No, setbacks must not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an ADU. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

Also, when a garage, carport or covered parking structure is demolished or where the parking area ceases to exist so an ADU can be created, the replacement parking must be allowed in any "configuration" on the lot, " ...including,

but not limited to, covered spaces, uncovered spaces, or tandem spaces, or....” Configuration can be applied in a flexible manner to not burden the creation of ADUs. For example, spatial configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

Are ADUs Permitted in Existing Residence or Accessory Space?

Yes, ADUs located in single family residential zones and existing space of a single family residence or accessory structure must be approved regardless of zoning standards (Section 65852.2(a)(1)(B)) for ADUs, including locational requirements (Section 65852.2(a)(1)(A)), subject to usual non-appealable ministerial building permit requirements. For example, ADUs in existing space does not necessitate a zoning clearance and must not be limited to certain zones or areas or subject to height, lot size, lot coverage, unit size, architectural review, landscape or parking requirements. Simply, where a single family residence or accessory structure exists in any single family residential zone, so can an ADU. The purpose is to streamline and expand potential for ADUs where impact is minimal and the existing footprint is not being increased.

Zoning requirements are not a basis for denying a ministerial building permit for an ADU, including non-conforming lots or structures. The phrase, “..within the existing space” includes areas within a primary home or within an attached or detached accessory structure such as a garage, a carriage house, a pool house, a rear yard studio and similar enclosed structures.

Are Owner Occupants Required?

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5

Are Fire Sprinklers Required for ADUs?

Depends, ADUs shall not be required to provide fire sprinklers if they are not or were not required of the primary residence. However, sprinklers can be required for an ADU if required in the primary structure. For example, if the primary residence has sprinklers as a result of an existing ordinance, then sprinklers could be required in the ADU. Alternative methods for fire protection could be provided.

If the ADU is detached from the main structure or new space above a detached garage, applicants can be encouraged to contact the local fire jurisdiction for information regarding fire sprinklers. Since ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, students, the elderly, in-home health care providers, the disabled, and others, the fire departments want to ensure the safety of these populations as well as the safety of those living in the primary structure. Fire Departments can help educate property owners on the benefits of sprinklers, potential resources and how they can be installed cost effectively. For example, insurance rates are typically 5 to 10 percent lower where the unit is sprinklered. Finally, other methods exist to provide additional fire protection. Some options may include additional exits, emergency escape and rescue openings, 1 hour or greater fire-rated assemblies, roofing materials and setbacks from property lines or other structures.

Is Manufactured Housing Permitted as an ADU?

Yes, an ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007).

Health and Safety Code Section 18007(a) “**Manufactured home,**” for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

Can an Efficiency Unit Be Smaller than 220 Square Feet?

Yes, an efficiency unit for occupancy by no more than two persons, by statute (Health and Safety Code Section 17958.1), can have a minimum floor area of 150 square feet and can also have partial kitchen or bathroom facilities, as specified by ordinance or can have the same meaning specified in the Uniform Building Code, referenced in the Title 24 of the California Code of Regulations.

The 2015 International Residential Code adopted by reference into the 2016 California Residential Code (CRC) allows residential dwelling units to be built considerably smaller than an Efficiency Dwelling Unit (EDU). Prior to this code change an EDU was required to have a minimum floor area not less than 220 sq. ft unless modified by local ordinance in accordance with the California Health and Safety Code which could allow an EDU to be built no less than 150 sq. ft. For more information, see HCD’s Information Bulletin at <http://www.hcd.ca.gov/codes/manufactured-housing/docs/ib2016-06.pdf>.

Does ADU Law Apply to Charter Cities and Counties?

Yes. ADU law explicitly applies to “local agencies” which are defined as a city, county, or city and county whether general law or chartered (Section 65852.2(i)(2)).

Do ADUs Count toward the Regional Housing Need Allocation?

Yes, local governments may report ADUs as progress toward Regional Housing Need Allocation pursuant to Government Code Section 65400 based on the actual or anticipated affordability. See below frequently asked questions for JADUs for additional discussion.

Must ADU Ordinances Be Submitted to the Department of Housing and Community Development?

Yes, ADU ordinances must be submitted to the State Department of Housing and Community Development within 60 days after adoption, including amendments to existing ordinances. However, upon submittal, the ordinance is not subject to a Department review and findings process similar to housing element law (GC Section 65585)

Frequently Asked Questions: Junior Accessory Dwelling Units

Is There a Difference between ADU and JADU?



Courtesy of Lilypad Homes and Photo Credit to Jocelyn Knight

Yes, AB 2406 added Government Code Section 65852.22, providing a unique option for Junior ADUs. The bill allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to have a private bathroom. Current law does not prohibit local governments from adopting an ordinance for a JADU, and this bill explicitly allows, not requires, a local agency to do so. If the ordinance requires a permit, the local agency shall not require additional parking or charge a fee for a water or sewer connection as a condition of granting a permit for a JADU. For more information, see below.

ADUs and JADUs

REQUIREMENTS	ADU	JADU
Maximum Unit Size	Yes, generally up to 1,200 Square Feet or 50% of living area	Yes, 500 Square Foot Maximum
Kitchen	Yes	Yes
Bathroom	Yes	No, Common Sanitation is Allowed
Separate Entrance	Depends	Yes
Parking	Depends, Parking May Be Eliminated and Cannot Be Required Under Specified Conditions	No, Parking Cannot Be Required
Owner Occupancy	Depends, Owner Occupancy May Be Required	Yes, Owner Occupancy Is Required
Ministerial Approval Process	Yes	Yes
Prohibition on Sale of ADU	Yes	Yes

Why Adopt a JADU Ordinance?

JADUs offer the simplest and most affordable housing option. They bridge the gap between a roommate and a tenant by offering an interior connection between the unit and main living area. The doors between the two spaces can be secured from both sides, allowing them to be easily privatized or incorporated back into the main living area. These units share central systems, require no fire separation, and have a basic kitchen, utilizing small plug in appliances, reducing development costs. This provides flexibility and an insurance policy in homes in case additional income or housing is needed. They present no additional stress on utility services or infrastructure because they simply repurpose spare bedrooms that do not expand the homes planned occupancy. No additional address is required on the property because an interior connection remains. By adopting a JADU ordinance, local governments can offer homeowners additional options to take advantage of underutilized space and better address its housing needs.

Can JADUs Count towards the RHNA?

Yes, as part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, a JADU, including with shared sanitation facilities, that meets the census definition and is reported to the Department of Finance as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. Local governments can track actual or anticipated affordability to assure the JADU is counted to the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit application.

A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

Can the JADU Be Sold Independent of the Primary Dwelling?

No, the JADU cannot be sold separate from the primary dwelling.

Are JADUs Subject to Connection and Capacity Fees?

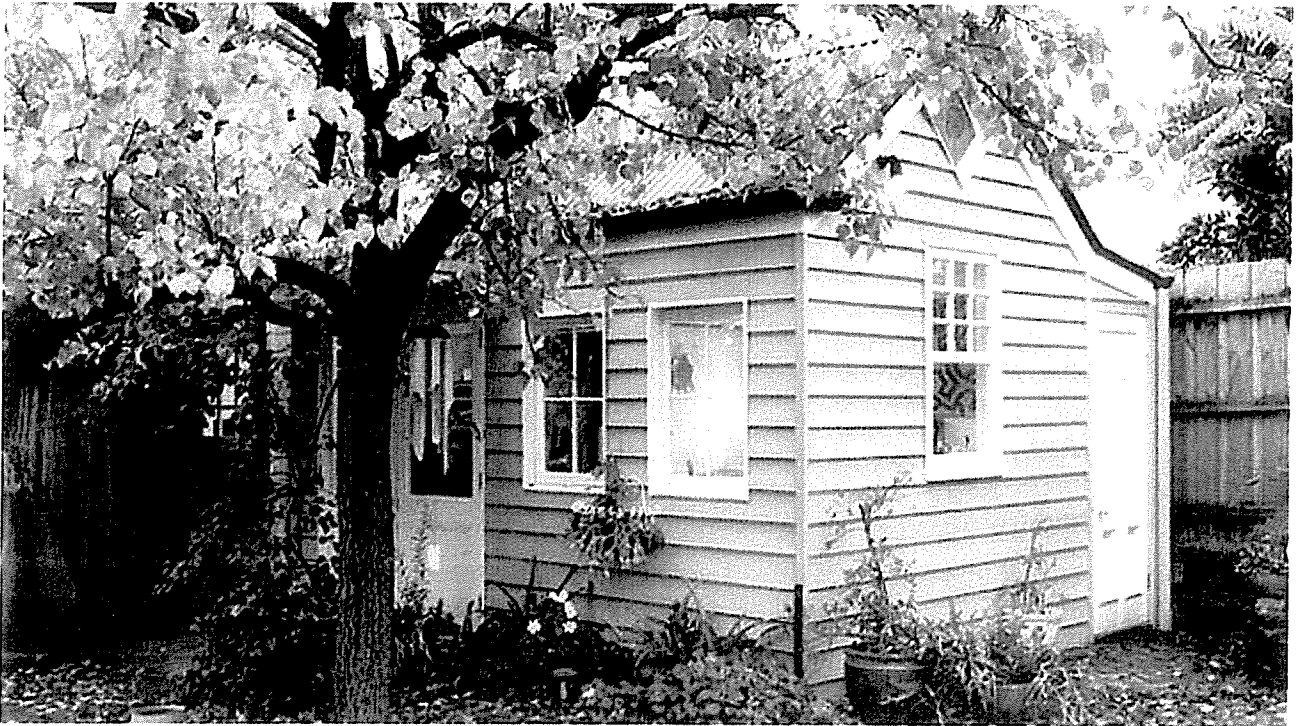
No, JADUs shall not be considered a separate or new dwelling unit for the purposes of fees and as a result should not be charged a fee for providing water, sewer or power, including a connection fee. These requirements apply to all providers of water, sewer and power, including non-municipal providers.

Local governments may adopt requirements for fees related to parking, other service or connection for water, sewer or power, however, these requirements must be uniform for all single family residences and JADUs are not considered a new or separate unit.

Are There Requirements for Fire Separation and Fire Sprinklers?

Yes, a local government may adopt requirements related to fire and life protection requirements. However, a JADU shall not be considered a new or separate unit. In other words, if the primary unit is not subject to fire or life protection requirements, then the JADU must be treated the same.

Resources



Courtesy of Karen Chapple, UC Berkeley

Attachment 1: Statutory Changes (Strikeout/Underline)

Government Code Section 65852.2

(a) (1) Any A local agency may, by ordinance, provide for the creation of ~~second~~-accessory dwelling units in single-family and multifamily residential zones. The ordinance ~~may~~ shall do any all of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second~~-accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of ~~second~~-accessory dwelling units on traffic ~~flow~~- flow and public safety.

(B) (i) Impose standards on ~~second~~-accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that ~~second~~-accessory dwelling units do not exceed the allowable density for the lot upon which the ~~second~~-accessory dwelling unit is located, and that ~~second~~-accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. ~~Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of ADUs.~~ permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of ADUs. an accessory dwelling unit.

(b) (4) (1) An When existing ordinance governing the creation of an accessory dwelling unit by a local agency which has not adopted an ordinance governing ADUs in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a ADU if the ADU complies with all of the following: that complies with this section.

(A) The unit is not intended for sale and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The ADU is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached ADU shall not exceed 30 percent of the existing living area.

(F) The total area of floorspace for a detached ADU shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements which apply to detached dwellings, as appropriate.

(I) Approval by the local health officer where a private sewage disposal system is being used, if required.

~~(2)~~ (5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

~~(3)~~ (6) This subdivision establishes the maximum standards that local agencies shall use to evaluate ~~proposed ADUs on lots~~ a proposed accessory dwelling unit on a lot zoned for residential use which ~~contain~~ that contains an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision~~ (a), subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant~~ owner-occupant or that the property be used for rentals of terms longer than 30 days.

(4) (7) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ADUs an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

~~(5)~~ (8) A ADU which conforms to the requirements of An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use ~~which that is~~ consistent with the existing general plan and zoning designations for the lot. The ADUs accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) (b) No When a local agency shall adopt an ordinance which totally precludes ADUs within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing ADUs within single-family and multifamily zoned areas justify adopting the ordinance. that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

~~(4)~~ (c) A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second~~ accessory dwelling units. No minimum or maximum size for a ~~second~~ an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings which that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the

use of the ADU and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction. Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) ~~(1)~~ Fees charged for the construction of ~~second~~-accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section ~~66000~~), 66000 and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs. an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinances ordinance adopted pursuant to subdivision (a) or (e) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area," area means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) ~~Second~~-Accessory dwelling unit means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second~~-An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for ~~second~~-accessory dwelling units.

Government Code Section 65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A sink with a maximum waste line diameter of 1.5 inches.

(B) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

(C) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether the junior accessory dwelling unit is in compliance with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. A permit shall be issued within 120 days of submission of an application for a

permit pursuant to this section. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For the purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For the purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Attachment 2: Sample ADU Ordinance

Section XXX1XXX: Purpose

This Chapter provides for accessory dwelling units on lots developed or proposed to be developed with single-family dwellings. Such accessory dwellings contribute needed housing to the community's housing stock. Thus, accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities, including near transit on single family lots.

Section XXX2XXX: Applicability

The provisions of this Chapter apply to all lots that are occupied with a single family dwelling unit and zoned residential. Accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot.

Section XXX3XXX: Development Standards

Accessory Structures within Existing Space

An accessory dwelling unit within an existing space including the primary structure, attached or detached garage or other accessory structure shall be permitted ministerially with a building permit regardless of all other standards within the Chapter if complying with:

1. Building and safety codes
2. Independent exterior access from the existing residence
3. Sufficient side and rear setbacks for fire safety.

Accessory Structures (Attached and Detached)

General:

1. The unit is not intended for sale separate from the primary residence and may be rented.
2. The lot is zoned for residential and contains an existing, single-family dwelling.
3. The accessory dwelling unit is either attached to the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
4. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
5. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet.
6. Local building code requirements that apply to detached dwellings, as appropriate.
7. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
8. No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
9. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.

Parking:

1. Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking, including on an existing driveway or in setback areas, excluding the non-driveway front yard setback.
2. Parking is not required in the following instances:
 - The accessory dwelling unit is located within one-half mile of public transit, including transit stations and bus stations.

- The accessory dwelling unit is located in the WWWW Downtown, XXX Area, YYY Corridor and ZZZ Opportunity Area.
 - The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - When there is a car share vehicle located within one block of the accessory dwelling unit.
3. Replacement Parking: When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking shall not be required and may be located in any configuration on the same lot as the accessory dwelling unit.

Section XXX4XXX: Permit Requirements

ADUs shall be permitted ministerially, in compliance with this Chapter within 120 days of application. The Community Development Director shall issue a building permit or zoning certificate to establish an accessory dwelling unit in compliance with this Chapter if all applicable requirements are met in Section XXX3XXXXX, as appropriate. The Community Development Director may approve an accessory dwelling unit that is not in compliance with Section XXX3XXXXX as set forth in Section XXX5XXXXX. The XXXX Health Officer shall approve an application in conformance with XXXXXXX where a private sewage disposal system is being used.

Section XXX5XXX: Review Process for Accessory Structure Not Complying with Development Standards

An accessory dwelling unit that does not comply with standards in Section XXX3XX may be permitted with a zoning certificate or an administrative use permit at the discretion of the Community Development Director subject to findings in Section XXX6XX

Section XXX6XXX: Findings

- A. In order to deny an administrative use permit under Section XXX5XXX, the Community Development Director shall find that the Accessory Dwelling Unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors.
- B. In order to approve an administrative use permit under Section XXX5XXX to waive required accessory dwelling unit parking, the Community Development Director shall find that additional or new on-site parking would be detrimental, and that granting the waiver will meet the purposes of this Chapter.

Section XXX7XXX: Definitions

(1) "Living area means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(3) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(4) (1) "Existing Structure" for the purposes of defining an allowable space that can be converted to an ADU means within the four walls and roofline of any structure existing on or after January 1, 2017 that can be made safely habitable under local building codes at the determination of the building official regardless of any non-compliance with zoning standards.

Attachment 3: Sample JADU Ordinance

(Lilypad Homes at <http://lilypadhomes.org/>)

Draft Junior Accessory Dwelling Units (JADU) – Flexible Housing

Findings:

1. **Causation:** Critical need for housing for lower income families and individuals given the high cost of living and low supply of affordable homes for rent or purchase, and the difficulty, given the current social and economic environment, in building more affordable housing
2. **Mitigation:** Create a simple and inexpensive permitting track for the development of junior accessory dwelling units that allows spare bedrooms in homes to serve as a flexible form of infill housing
3. **Endangerment:** Provisions currently required under agency ordinances are so arbitrary, excessive, or burdensome as to restrict the ability of homeowners to legally develop these units therefore encouraging homeowners to bypass safety standards and procedures that make the creation of these units a benefit to the whole of the community
4. **Co-Benefits:** Homeowners (particularly retired seniors and young families, groups that tend to have the lowest incomes) – generating extra revenue, allowing people facing unexpected financial obstacles to remain in their homes, housing parents, children or caregivers; Homebuyers - providing rental income which aids in mortgage qualification under new government guidelines; Renters – creating more low-cost housing options in the community where they work, go to school or have family, also reducing commute time and expenses; Municipalities – helping to meet RHNA goals, increasing property and sales tax revenue, insuring safety standard code compliance, providing an abundant source of affordable housing with no additional infrastructure needed; Community - housing vital workers, decreasing traffic, creating economic growth both in the remodeling sector and new customers for local businesses; Planet - reducing carbon emissions, using resources more efficiently;
5. **Benefits of Junior ADUs:** offer a more affordable housing option to both homeowners and renters, creating economically healthy, diverse, multi-generational communities;

Therefore the following ordinance is hereby enacted:

This Section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit, permitted as set forth under State Law AB 1866 (Chapter 1062, Statutes of 2002) Sections 65852.150 and 65852.2 and subject to different provisions under fire safety codes based on the fact that junior accessory dwelling units do not qualify as “complete independent living facilities” given that the interior connection from the junior accessory dwelling unit to the main living area remains, therefore not redefining the single-family home status of the dwelling unit.

- A) **Development Standards.** Junior accessory dwelling units shall comply with the following standards, including the standards in Table below:
- 1) **Number of Units Allowed.** Only one accessory dwelling unit or, junior accessory dwelling unit, may be located on any residentially zoned lot that permits a single-family dwelling except as otherwise regulated or restricted by an adopted Master Plan or Precise Development Plan. A junior accessory dwelling unit may only be located on a lot which already contains one legal single-family dwelling.
 - 2) **Owner Occupancy:** The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the accessory dwelling, except when the home is held by an agency such as a land trust or housing organization in an effort to create affordable housing.
 - 3) **Sale Prohibited:** A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

- 4) *Deed Restriction:* A deed restriction shall be completed and recorded, in compliance with Section B below.
- 5) *Location of Junior Accessory Dwelling Unit:* A junior accessory dwelling unit must be created within the existing walls of an existing primary dwelling, and must include conversion of an existing bedroom.
- 6) *Separate Entry Required:* A separate exterior entry shall be provided to serve a junior accessory dwelling unit.
- 7) *Interior Entry Remains:* The interior connection to the main living area must be maintained, but a second door may be added for sound attenuation.
- 8) *Kitchen Requirements:* The junior accessory dwelling unit shall include an efficiency kitchen, requiring and limited to the following components:
 - a) A sink with a maximum waste line diameter of one-and-a-half (1.5) inches,
 - b) A cooking facility with appliance which do not require electrical service greater than one-hundred-and-twenty (120) volts or natural or propane gas, and
 - c) A food preparation counter and storage cabinets that are reasonable to size of the unit.
- 9) *Parking:* No additional parking is required beyond that required when the existing primary dwelling was constructed.

Development Standards for Junior Accessory Dwelling Units

SITE OR DESIGN FEATURE	SITE AND DESIGN STANDARDS
Maximum unit size	500 square feet
Setbacks	As required for the primary dwelling unit
Parking	No additional parking required

- B) *Deed Restriction:* Prior to obtaining a building permit for a junior accessory dwelling unit, a deed restriction, approved by the City Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a junior accessory dwelling unit identified in this Section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Department stating that:
 - 1) The junior accessory dwelling unit shall not be sold separately from the primary dwelling unit;
 - 2) The junior accessory dwelling unit is restricted to the maximum size allowed per the development standards;
 - 3) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory dwelling unit, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or housing organization in an effort to create affordable housing;
 - 4) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a junior accessory dwelling unit on the property.
- C) *No Water Connection Fees:* No agency should require a water connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.
- D) *No Sewer Connection Fees:* No agency should require a sewer connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard

may be assessed.

- E) *No Fire Sprinklers and Fire Attenuation*: No agency should require fire sprinkler or fire attenuation specifications for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.

Definitions of Specialized Terms and Phrases.

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

- (1) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
- (2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Attachment 4: State Standards Checklist (As of January 1, 2017)

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.	65852.2(a)(1)(D)(ii)
	Accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.	65852.2(a)(1)(D)(iv)
	Total area of floor space for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines are not required for an accessory dwelling unit that is constructed above a garage.	65852.2(a)(1)(D)(vii)
	(Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)

* Other requirements may apply. See Government Code Section 65852.2

Attachment 5: Bibliography

Reports

ACCESSORY DWELLING UNITS: CASE STUDY (26 pp.)

By United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities, and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

THE MACRO VIEW ON MICRO UNITS (46 pp.)

By Bill Whitlow, et al. – Urban Land Institute (2014)

Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

RESPONDING TO CHANGING HOUSEHOLDS: Regulatory Challenges for Micro-units and Accessory Dwelling Units (76 pp.)

By Vicki Been, Benjamin Gross, and John Infranca (2014)

New York University: Furman Center for Real Estate & Urban Policy

Library Call # D55 3 I47 2014

This White Paper fills two gaps in the discussion regarding compact units. First, we provide a detailed analysis of the regulatory and other challenges to developing both ADUs and micro-units, focusing on five cities: New York; Washington, DC; Austin; Denver; and Seattle. That analysis will be helpful not only to the specific jurisdictions we study, but also can serve as a model for those who want to catalogue regulations that might get in the way of the development of compact units in their own jurisdictions. Second, as more local governments permit or encourage compact units, researchers will need to evaluate how well the units built serve the goals proponents claim they will.

SCALING UP SECONDARY UNIT PRODUCTION IN THE EAST BAY: Impacts and Policy Implications (25 pp.)

By Jake Webmann, Alison Nemirow, and Karen Chapple (2012)

UC Berkeley: Institute of Urban and Regional Development (IURD)

Library Call # H44 1.1 S33 2012

This paper begins by analyzing how many secondary units of one particular type, detached backyard cottages, might be built in the East Bay, focusing on the Flatlands portions of Berkeley, El Cerrito, and Oakland. We then investigate the potential impacts of scaling up the strategy with regard to housing affordability, smart growth, alternative transportation, the economy, and city budgets. A final section details policy recommendations, focusing on regulatory reforms and other actions cities can take to encourage secondary unit construction, such as promoting carsharing programs, educating residents, and providing access to finance.

SECONDARY UNITS AND URBAN INFILL: A literature Review (12 pp.)

By Jake Wegmann and Alison Nemirow (2011)

UC Berkeley: IURD

Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

YES, BUT WILL THEY LET US BUILD? The Feasibility of Secondary Units in the East Bay (17 pp.)

By Alison Nemirow and Karen Chapple (2012)

UC Berkeley: IURD

Library Call # H44.5 1.1 Y47 2012

This paper begins with a discussion of how to determine the development potential for secondary units, and then provides an overview of how many secondary units can be built in the East Bay of San Francisco Bay Area under current regulations. The next two sections examine key regulatory barriers in detail for the five cities in the study (Albany, Berkeley, El Cerrito, Oakland, and Richmond), looking at lot size, setbacks, parking requirements, and procedural barriers. A sensitivity analysis then determines how many units could be built were the regulations to be relaxed.

YES IN MY BACKYARD: Mobilizing the Market for Secondary Units (20 pp.)

By Karen Chapple, J. Weigmann, A. Nemirow, and C. Dentel-Post (2011)

UC Berkeley: Center for Community Innovation.

Library Call # B92 1.1 Y47 2011

This study examines two puzzles that must be solved in order to scale up a secondary unit strategy: first, how can city regulations best enable their construction? And second, what is the market for secondary units? Because parking is such an important issue, we also examine the potential for secondary unit residents to rely on alternative transportation modes, particular car share programs. The study looks at five adjacent cities in the East Bay of the San Francisco Bay Area (Figure 1) -- Oakland, Berkeley, Albany, El Cerrito, and Richmond -- focusing on the areas within ½ mile of five Bay Area Rapid Transit (BART) stations.

Journal Articles and Working Papers:

BACKYARD HOMES LA (17 pp.)

By Dana Cuff, Tim Higgins, and Per-Johan Dahl, Eds. (2010)

Regents of the University of California, Los Angeles.

City Lab Project Book.

DEVELOPING PRIVATE ACCESSORY DWELLINGS (6 pp.)

By William P. Macht. Urbanland online. (June 26, 2015)

Library Location: Urbanland 74 (3/4) March/April 2015, pp. 154-161.

GRANNY FLATS GAINING GROUND (2 pp.)

By Brian Barth. Planning Magazine: pp. 16-17. (April 2016)

Library Location: Serials

"HIDDEN" DENSITY: THE POTENTIAL OF SMALL-SCALE INFILL DEVELOPMENT (2 pp.)

By Karen Chapple (2011)

UC Berkeley: IURD Policy Brief.

Library Call # D44 1.2 H53 2011

California's implementation of SB 375, the Sustainable Communities and Climate Protection Act of 2008, is putting new pressure on communities to support infill development. As metropolitan planning organizations struggle to communicate the need for density, they should take note of strategies that make increasing density an attractive choice for neighborhoods and regions.

HIDDEN DENSITY IN SINGLE-FAMILY NEIGHBORHOODS: Backyard cottages as an equitable smart growth strategy (22 pp.)

By Jake Wegmann and Karen Chapple. Journal of Urbanism 7(3): pp. 307-329. (2014)

Abstract (not available in full text): Secondary units, or separate small dwellings embedded within single-family residential properties, constitute a frequently overlooked strategy for urban infill in high-cost metropolitan areas in the United States. This study, which is situated within California's San Francisco Bay Area, draws upon data collected from a homeowners' survey and a Rental Market Analysis to provide evidence that a scaled-up strategy emphasizing one type of secondary unit – the backyard cottage – could yield substantial infill growth with minimal public subsidy. In addition, it is found that this strategy compares favorably in terms of affordability with infill of the sort traditionally favored in the 'smart growth' literature, i.e. the construction of dense multifamily housing developments.

RETHINKING PRIVATE ACCESSORY DWELLINGS (5 pp.)

By William P. Macht. Urbanland online. (March 6, 2015)

Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

ADUS AND LOS ANGELES' BROKEN PLANNING SYSTEM (4 pp.)

By CARLYLE W. Hall. The Planning Report. (April 26, 2016).

Land-use attorney Carlyle W. Hall comments on building permits for accessory dwelling units.

News:

HOW ONE COLORADO CITY INSTANTLY CREATED AFFORDABLE HOUSING

By Anthony Flint. The Atlantic-CityLab. (May 17, 2016).

In Durango, Colorado, zoning rules were changed to allow, for instance, non-family members as residents in already-existing accessory dwelling units.

NEW HAMPSHIRE WINS PROTECTIONS FOR ACCESSORY DWELLING UNITS (1 p.)

NLIHC (March 28, 2016)

Affordable housing advocates in New Hampshire celebrated a significant victory this month when Governor Maggie Hassan (D) signed Senate Bill 146, legislation that allows single-family homeowners to add an accessory

dwelling unit as a matter of right through a conditional use permit or by special exception as determined by their municipalities. The bill removes a significant regulatory barrier to increasing rental homes at no cost to taxpayers.

NEW IN-LAW SUITE RULES BOOST AFFORDABLE HOUSING IN SAN FRANCISCO. (3 pp.)

By Rob Poole. Shareable. (June 10, 2014).

The San Francisco Board of Supervisors recently approved two significant pieces of legislation that support accessory dwelling units (ADUs), also known as “in-law” or secondary units, in the city...

USING ACCESSORY DWELLING UNITS TO BOLSTER AFFORDABLE HOUSING (3 pp.)

By Michael Ryan. Smart Growth America. (December 12, 2014).

ATTACHMENT PC-2

Areas of additional study/discussion

This attachment is intended to highlight the policy-related issues that were identified during the February 14, 2017 Planning Commission meeting and put “on hold” for further discussion. The information helps wrap-up the Commission’s review of the proposed draft ordinance, prior to forwarding a recommendation to City Council.

The following information is not intended to limit commissioner deliberations. After receiving written and oral input from the public, the Commission may still discuss other policy-related issues at the March 14, 2017 Public Hearing (and at any additional hearings continued to a date specific the Commission determines necessary).

Uncovered and Tandem Parking:

The details of parking regulations can actually have wide-ranging impacts on a community. For this reason, some members of the Planning Commission expressed concern over new State regulations that reduce the parking requirements for new Accessory Dwelling Units and replacement parking. The requirements, as specified by State law, are provided for reference:

65852.2(d)(x)(I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those off street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

Although recent State law changes have been made in an attempt to respond to a matter of statewide importance, the Legislature also expressed its intent, to some degree, to recognize local regulations. A city may concurrently regulate areas affected by this new State legislation as long as they are compatible. Some policy approaches for discussion include:

1. To minimize any physical impacts of uncovered parking in the front yard, exclude non-driveway areas of the front yard setback area. (Only one driveway can serve the property.)
2. To reduce any visual impacts of uncovered parking in the front yard, require new fencing or a landscaping buffer area around new uncovered parking that is provided in the non-driveway area. (Fencing or walls of a certain height must be located outside of a front yard setback area.)
3. To reduce the amount of vehicle storage or stacking, only allow one set of tandem parking. If both units on the lot use the same driveway for access purposes, then the driveway must be paved to a width of 16 feet.
4. To reduce excessive hardscaping in areas visible to the street, only allow soft surface and permeable parking areas in non-driveway areas.

Garage Conversions:

A residential garage is intended to store one or more personal vehicles. Some garages have enough space, even with cars inside, for the storage of items such as bicycles or a lawnmower; in some cases, there may even be enough space for a workshop. At the February 14, 2017 Public Hearing, some members of the Planning Commission expressed concern over garage conversions.

Some policy approaches for discussion include:

1. Mitigate the loss of household storage space somewhere else on the property.
2. Because a local agency may establish minimum and maximum unit size requirements:
 - Establish that only an efficiency unit can be constructed through a garage conversion. An efficiency unit is 150 square feet, which would leave the remaining garage space area for vehicle and household item storage
 - Require garage conversions to be a minimum of 450 square feet. (Most two-car garages measure 400 square feet.)

All of the options noted above have been provided to help facilitate commissioner discussion and are not intended to represent staff direction. Staff is soliciting commissioner ideas and input on these issues and any others that may be of concern as we move forward to implement State law.

**Written Communications
Agenda Item No. G.1
03/14/17 PC Meeting**

Alice Davis-Winkel
am_davis01@hotmail.com

Hello Board Members,

I'm writing to you about something that is of utmost importance to our family, and I was told would be discussed in the city planning meeting this upcoming Tuesday. The subject that I am interested in hearing more about on Tuesday is the matter of whether or not to update the current city ordinance regarding accessory dwelling units.

Our family is particularly interested in this because we are living as an extended family in a 4 bedroom single family home that is no longer meeting our needs. My husband and I moved into my parents home with my then 2 year old son about 18 months ago after we had exhausted all of our savings to send him to Physician Assistant school at Duke. We believed that we would only be here for 3 months until my husband started his full time contracted job, at which time we believed we could get a home loan. What we didn't realize was that we would need at least a year before we could qualify for a loan based off of our most recent employment history.

We have had ups and downs as far as our family dynamics in our current situation. The best part has been having help from my mom caring for my son, and being able to help my mom care for my 85 year old stepfather. The difficult parts include sharing a 10x11 room with my husband, 2 cats, and all of our personal items; a bath room with a preschooler; a kitchen with my mom; and splitting a home office 3 ways (as all of us work from home at least part time). However, my husband has fallen in love with this property. He and I together make enough to purchase the home from my parents, but as they are getting older I would love for my mom not to have to work as much (we're both in Real Estate) and I want them to be close so we can keep an eye on them.

We had considered doing an attached ADU under the current guidelines, but my parents just aren't interested in moving from a 2600 sqft house into a 640sqft efficiency apartment. I have read the the CA department of housing and development memorandum linked below, and I guess I'm having a hard time understanding why Escondido is still abiding by the 2012 ordinance, when many other cities with affordable housing shortages (like San Francisco) are gladly updating their ordinances to make affordable housing more available. San Francisco is even offering a program to allow illegal granny flats to be brought to code and permitted after the fact without penalty. If the updated ordinance more closely reflects the state's statutory changes, we would love to begin construction on our ADU as soon as possible, as my husband and I are planning on having another child soon. Our lot will easily accept another structure without inhibiting our neighbors, as it is 0.64 acres, and our HOA already has a rule that any additional structures must be similar in appearance to the main house, so it would not stand out much.

As you consider this matter, please think about the difference it will make for families like ours, and do what will keep families together instead of separating them. Thank you for your time.

Sincerely,

Alice Davis-Winkel, MA, ATC, CSCS, CES, CTC

<http://www.hcd.ca.gov/policy-research/docs/2016-12-12-ADU-TA-Memo.docx.pdf>

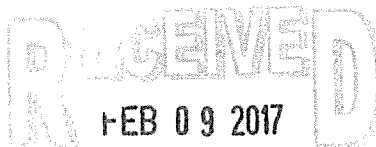
Maximum unit size. For lots less than ten thousand (10,000) square feet, attached accessory dwelling units shall not exceed five hundred (500) square feet. For lots over ten thousand (10,000) and less than twenty thousand (20,000) square feet, accessory dwelling units shall not exceed six hundred forty (640) square feet. For lots over twenty thousand square feet (20,000), accessory dwelling units shall not exceed nine hundred (900) square feet and shall not contain more than 2 bedrooms and 1 bathroom.

Roy Garrett
225 E. Third Ave.
Escondido
760-807-2251

Written Communications
Agenda Item No. H.4
AZ 16-0007
02/14/17 PC Meeting

A PROPOSAL FOR PROVISION OF SOME AFFORDABLE HOUSING ON PRIVATE LAND WITHOUT USE OF PUBLIC SUBSIDY

1. Escondido has many single family houses on large lots, some with alley access. The back yard of those houses is basically wasted land, not used effectively and frequently ignored. The folks who live in those homes are busy, water conscious, and their kids don't play in the back yard; they go to soccer, dance, library, little league or the couch. **THERE IS A LOT OF UNUSED PRIVATE LAND AVAILABLE FOR SMALL HOUSES IN ESCONDIDO.**
2. The owner(s) of houses with that wasted land may be interested in additional income for their future, to cover increasing costs of ownership, and to put some away for reserves, college for the kids, retirement, etc. The second house also increases the value of the property. The owner of the lot can build with union or non union contractors and labor, no PLA is required. **INTERESTED PROVIDERS OF ADDITIONAL HOUSING ARE ALREADY IN PLACE** and are able to cut costs far below public and NGO efforts.
3. Utilities and roads, storm sewers, etc. are already in place. The new small houses will be scattered about town as conditions allow. **A NEW SMALL HOUSE IN THE BACK YARD ADDS NO IMMEDIATE BURDEN TO THE INFRASTRUCTURE OF THE CITY.**
4. Generally the separately fenced auxiliary houses will be one or two bedrooms, 350 to 600 square feet, maybe a bit larger, depending on the lot size, access, etc. Separately metered for G and E, on the same meter for water, sewer and trash with service charges by the City for two houses rather than one. **MANAGEMENT BY THE OWNER IN THE MAIN HOUSE IS SIMPLE.**
5. The front end costs for City permits and fees can be handled by a few simple accounting moves. Those fees the City cannot or won't waive (maybe all of them) can be added to the water bill, payable \$100 per month with a recorded lien for the balance upon sale, (not inheritance), no interest. Alternative secured financing in favor of the City is certainly possible. Since the City is not required to add facilities immediately, it does not need the money immediately, but it does need the affordable housing now. **THE EXTRAORDINARY FRONT END CITY FEES CAN BE AMORTIZED OVER TIME FOR AN AUXILIARY HOUSE ONLY, MAKING CONSTRUCTION MUCH MORE AFFORDABLE.**



PLANNING DIVISION

6. The City can make plan check simple and inexpensive by prior approval of four to six house plans that are available to a homeowner for a small fee. A few of the houses built will look the same, but we are talking about back yards scattered all over town. The task is to cut cost, not build a designer's delight. Use of a pre approved plan means the owner needs a plot plan, a design to hook up to the common sewer and water, set backs and maybe a minimal parking provision if the City requires it. The fire department needs to bring some flexibility to the table also, but generally if the front house can be serviced for fire and rescue, the back house is not that far away, or is on the alley. **THE CITY MUST SHOW SOME FLEXABILITY TO HELP ALLEVIATE THE AFFORDABLE HOUSING SHORTAGE IN ESCONDIDO.**

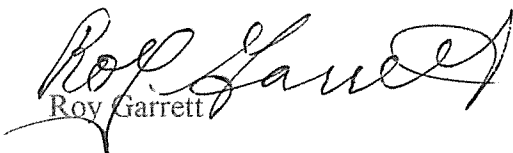
7. An Auxiliary house helps the homeowner retain and maintain the main house, and that is an important goal. More importantly, that small home in back is security for young or old people who are trying to live in security and peace. Reasonable rent for a private home, as small as it may be, is a blessing. **THESE SMALL HOMES CAN AND WILL CHANGE LIVES FOR THE BETTER, AND THAT WILL MAKE OUR CITY BETTER.**

8. **FINANCING:** Possible refi with cash out for construction, possible second from some lenders, some folks may have the cash. Some set aside or state funds might be available as loans for construction and permanent secondary lien financing. If public funds are involved, the City can demand a guarantee of reasonable rent levels by requiring declarations yearly from both the owner and the tenant re the rent during the term of the loan, or for a set period of years. **SUCH EFFORTS MIGHT FULFILL SOME OF THE CITY'S AFFORDABLE HOUSING OBLIGATION**

REQUEST FOR ACTION NOW:

The City Manager (or assistant City Manager) and the Mayor will, I hope, direct the City Attorney to assign an assistant or assistant City Attorney to review zoning, building and fire regulations to determine what needs to be done on paper and by the council to make headway with this proposal. Notably, there has been recent movement in Sacramento in this regard, and I think there may be new legislation on point.

A public report should be circulated and then the planning commission and council can ponder and postulate what it wants to do regarding this proposal. Escondido's City Council can make this work, and if you do you will be leaders in the field, changing a number of lives for the better, which is why you wanted the job in the first place.


Roy Garrett

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 13

Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Julie Procopio, Director of Engineering Services/City Engineer
Miriam Jim, Associate Engineer

SUBJECT: Amendment to the 2012 Bicycle Master Plan to Include Class IV Bikeway (Cycle Tracks) as Part of the Bicycle Master Plan Missing Link Project

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-52, amending the City's Bicycle Master Plan, to include Class IV Bikeway (Cycle Tracks) as part of the Bicycle Master Plan Missing Link Project.

PREVIOUS ACTION:

The City Council adopted the original Bicycle Master Plan in 1993 and Bicycle Master Plan Update in 2012. On March 29, 2012, the Transportation and Community Safety Commission approved the update to the City of Escondido Bicycle Master Plan. This update was later adopted by the City Council on October 17, 2012.

BACKGROUND:

The 2012 Bicycle Master Plan identified the need for the Missing Link Project to fill the gap in the Escondido Creek Bike Path. The 2012 Bicycle Master Plan Missing Link Project proposed Class I Bike Path and Class II Bike Lane facility between N. Broadway and the Escondido Transit Center.

Since the update of the Bicycle Master Plan in 2012, Class IV Bikeway (Cycle Tracks) has been adopted in California and categorized as a new classification of bicycle facilities in September 2014. A Class IV Bikeway (Cycle Tracks) is a bikeway facility located within roadway right-of-way for the exclusive use of bicycles and includes a separation between the bikeway and the vehicular traffic. This separation may include grade separation, flexible posts, inflexible barriers, or on-street parking. The four bicycle classifications in California are shown in "Attachment 1" (page 1).

Missing Link Project

In March 2015 the City was awarded an Active Transportation Program grant of approximately \$1.1 million by SANDAG to fund the design and construction of the Missing Link Project. The current project

proposes a Class I Bike Path on N. Broadway from Woodward Avenue to south of the Escondido Creek, a two-way Class IV Bikeway (Cycle Tracks) on N. Broadway from south of the Escondido Creek to W. Valley Parkway, a two-way Class IV Bikeway (Cycle Tracks) along the north side of W. Valley Parkway between N. Broadway and Centre City Parkway, and a Class I Bike Path from Centre City Parkway to Escondido Transit Center. Figure 1 in "Attachment 1" depicts the alignment of the Missing Link Project.

Two-way Class IV Bikeway (Cycle Tracks)

A two-way Class IV Bikeway (Cycle Tracks) is a bicycle facility that allows bicycle movements in both directions on one side of the roadway and is separated from the through vehicular traffic. The major differences between a two-way Class IV Bikeway (Cycle Tracks) and Class I Bike Paths are: 1) Class IV Bikeway (Cycle Tracks) are located within roadway right-of-way while Class I Bike Paths are located outside the roadway right-of-way; and 2) Class IV facilities are exclusively for bicycle use and distinct from sidewalks, while Class I Bike Paths are for shared-use by bicycle, pedestrian, and other non-motorized travel. Figure 2 in "Attachment 1" provides a photo simulation of the proposed two-way Class IV Bikeway (Cycle Tracks) along N. Broadway adjacent to Grape Day Park.

Other Project Feature

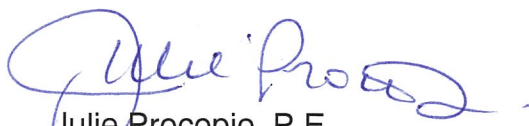
The Missing Link Project also includes the relocation of the existing pedestrian crossing on N. Broadway from south of Pennsylvania Avenue to north of Sherman Place in front of the San Diego Children's Discovery Museum. This pedestrian crossing will be signalized. The proposed crosswalk location will provide a more direct connection between Grape Day Park and the San Diego Children's Discovery Museum for pedestrians and bicyclists. Figure 3 in "Attachment 1" depicts the proposed relocation of the crosswalk.

Transportation and Community Safety Commission voted to recommend approval for the amendment to the 2012 Bicycle Master Plan and relocation of N. Broadway crosswalk at their August 4, 2016 meeting.

RECOMMENDATION:

Staff recommends the City Council adopt Resolution No. 2017-52, to amend the City's Bicycle Master Plan, to include Class IV Bikeway (Cycle Tracks) as part of the Bicycle Master Plan Missing Link Project.

Respectfully submitted,



Julie Procopio, P.E.
Director of Engineering Services/City Engineer



Miriam Jim, P.E., T.E.
Associate Engineer

Bicycle Classifications

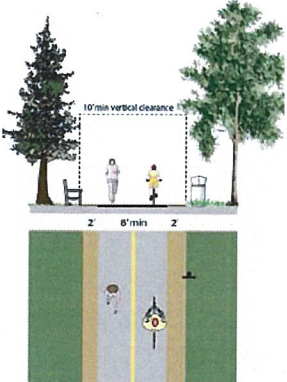
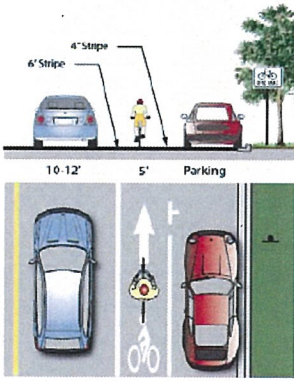
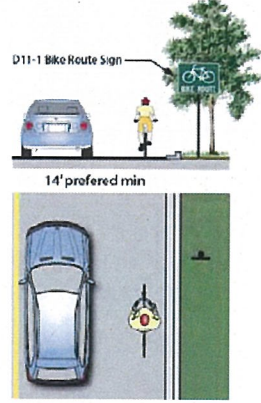
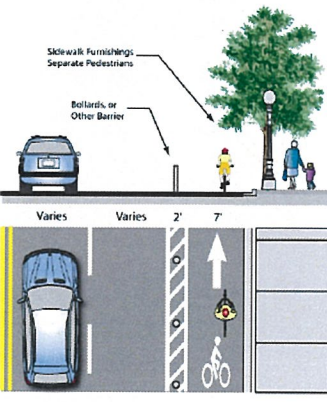
<p>Class I – Bike Path</p>	 <p>The diagram shows a cross-section of a Class I Bike Path. It is a dedicated path with a 10' minimum vertical clearance indicated by a dashed line between two trees. The path width is 8' minimum, with 2' of shoulder on each side. A person on a bicycle is shown riding on the path. Below the cross-section is a top-down view showing a yellow line on the left and a white line on the right, with a bicycle icon in the center.</p>
<p>Class II – Bike Lane</p>	 <p>The diagram shows a cross-section of a Class II Bike Lane. A car is on the left, a person on a bicycle is in the middle, and a car is parked on the right. A 4' stripe separates the car from the bike, and a 6' stripe separates the bike from the parking area. The total width of the bike lane is 5'. A 'Bike Lane' sign is visible. Below the cross-section is a top-down view showing a blue car, a bicycle icon, and a red car in a parking space, with a white arrow pointing forward.</p>
<p>Class III – Bike Route</p>	 <p>The diagram shows a cross-section of a Class III Bike Route. A car is on the left, a person on a bicycle is in the middle, and a 'D11-1 Bike Route Sign' is on the right. A 14' preferred minimum width is indicated. Below the cross-section is a top-down view showing a blue car, a bicycle icon, and a green area on the right.</p>
<p>Class IV – Bikeway (Cycle Tracks)</p>	 <p>The diagram shows a cross-section of a Class IV Bikeway. A car is on the left, a person on a bicycle is in the middle, and a pedestrian is on the right. 'Sidewalk Furnishings: Separate Pedestrians' and 'Bollards, or Other Barrier' are shown. The width of the bike lane is 7', with a 2' section for bollards. Below the cross-section is a top-down view showing a blue car, a bicycle icon, and a grey barrier on the right.</p>

Figure 1: Proposed Missing Link Project Alignment

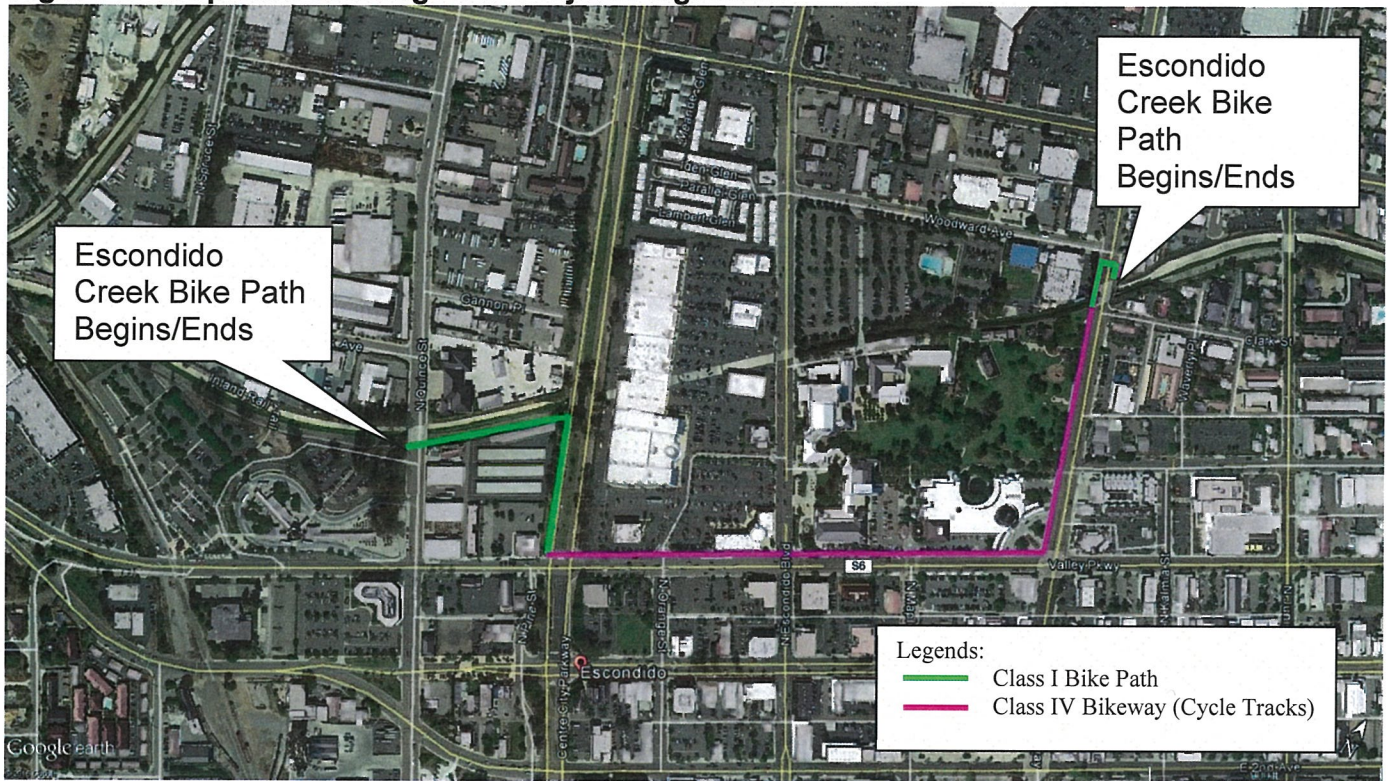
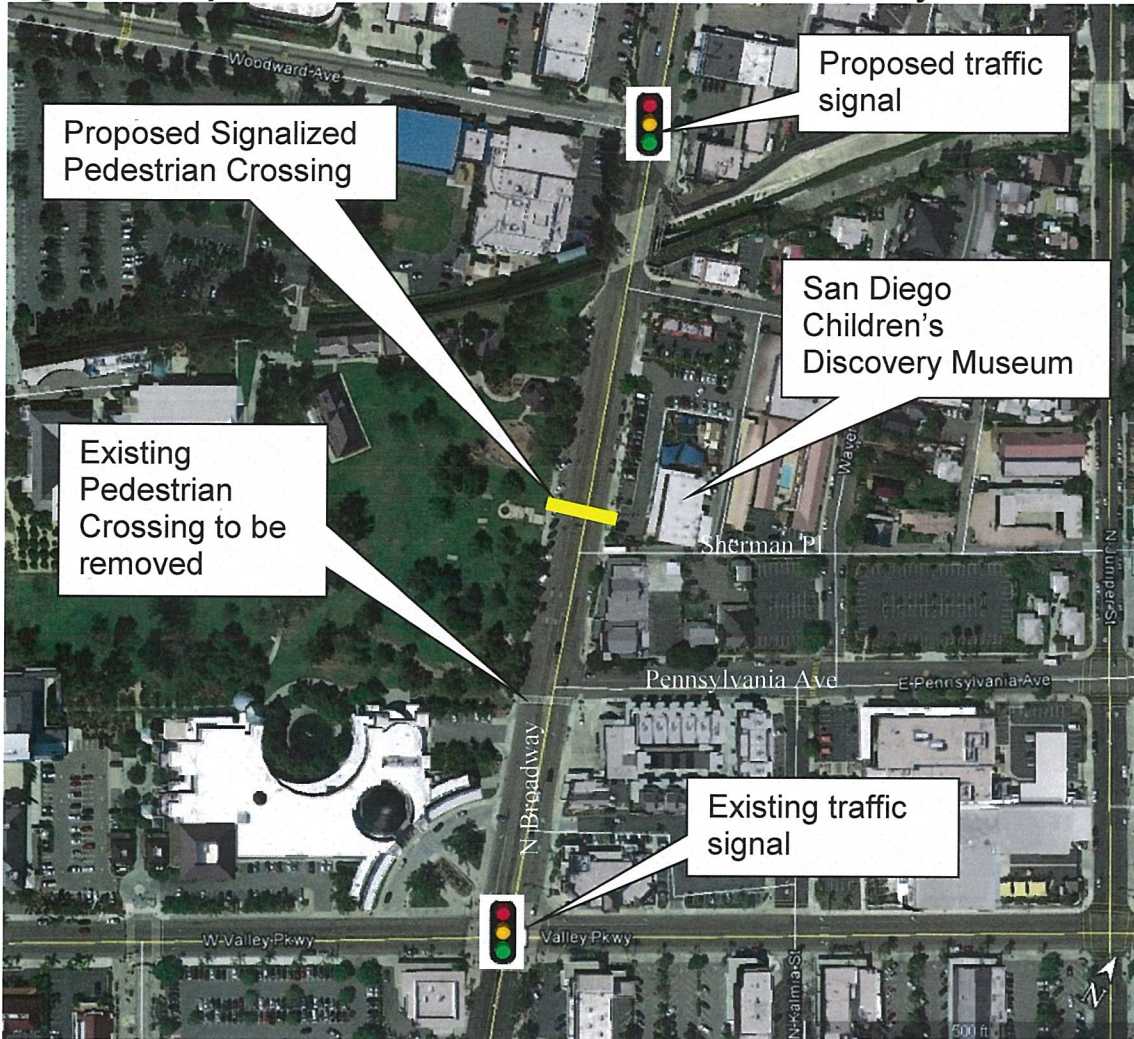


Figure 2: Photo Simulation of the Proposed Class IV Bikeway (Cycle Tracks) on N. Broadway



Figure 3: Proposed Relocation of Crosswalk on N. Broadway



RESOLUTION NO. 2017-52

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AMENDING THE 2012 BICYCLE MASTER
PLAN

WHEREAS, the City Council adopted the original Bicycle Master Plan in 1993; and

WHEREAS, on October 17, 2012, the City Council adopted the updated Bicycle Master Plan; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to amend said Bicycle Master Plan.

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 Bicycle Master Plan be amended to include Class IV Bikeway (Cycle Tracks) along N. Broadway, between W. Valley Parkway and Escondido Creek and along W. Valley Parkway between N. Broadway and Centre City Parkway.



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ file No. _____

Ord No. _____

Agenda Item No.: 14
Date: April 26, 2017

TO: Honorable Mayor and Members of the City Council
FROM: Christopher W. McKinney, Director of Utilities
SUBJECT: Authorization for Payments to the San Elijo Joint Powers Authority for Escondido's Share of the San Elijo Land Outfall Replacement Project

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-62, authorizing payments to the San Elijo Joint Powers Authority (SEJPA) for Escondido's cost share to replace the portion of the land outfall co-owned by City of Escondido and SEJPA ("San Elijo Land Outfall"). Total payments shall be \$7,863,107. Half of this amount, or \$3,931,553.50, will be invoiced to the City in May, with the remaining half to be invoiced in September or later as the project progresses. It is also requested that the City Council approve a budget adjustment in the amount of \$2,000,000 from the Wastewater CIP Reserve Fund to CIP No. 800079 (Outfall Maintenance). This budget adjustment would increase the total funds available in CIP No. 800079 to \$7,945,133.

FISCAL ANALYSIS:

Escondido, as co-owner, has responsibilities to fund the operation, maintenance, and improvement of the San Elijo Land Outfall. Escondido's land outfall joins the SEJPA Wastewater and Recycled Water Treatment Plant Outfall to form the co-owned San Elijo Land Outfall. The San Elijo Land Outfall traverses San Elijo Lagoon; crosses under Interstate 5, North County Transit District's tracks, and Old Highway 101; and finally crosses Cardiff Beach, where it transitions into an ocean outfall. Cost sharing for operating, maintaining, and improving the San Elijo Land and Ocean Outfalls is based on the fraction of the pipelines' capacity owned by agency capacity holders. Escondido holds 79 percent of the pipeline capacity; therefore, Escondido is responsible for \$7,863,107 of the San Elijo Land Outfall Replacement Project.

The Outfall Maintenance CIP No. 800079 has a current balance of \$5,945,133. Past CIP budgets have added to this CIP in anticipation of this project. The requested budget adjustment of \$2,000,000 will increase the balance to \$7,945,133, which will cover the amount needed to fund the SEJPA Outfall Replacement Project.

BACKGROUND:

The SEJPA is a joint powers authority that provides wastewater collection, treatment, and disposal services to parts of Solana Beach, Encinitas, Del Mar, and Rancho Santa Fe. It was formed in the

Payments to SEJPA for the Land Outfall Replacement Project

April 26, 2017

Page 2

1980s after Solana Beach and Encinitas were incorporated, with facilities – including the wastewater treatment plant – once owned and operated by the County of San Diego. Among the facilities transferred from the County to the SEJPA was San Elijo Ocean Outfall, which is co-owned with the City of Escondido.

The San Elijo Land Outfall was constructed in 1965. It is a 30-inch pipeline constructed of asbestos cement that runs for approximately 2,500 feet, from the junction where the Escondido Land Outfall meets with the SEJPA treatment plant outfall, to Cardiff Beach. The path includes the environmentally-sensitive San Elijo Lagoon, as well as two challenging crossings under Interstate 5 and tracks belonging to North County Transit District. The pipeline through San Elijo Lagoon is over 50 years old, and based on the pipe material and corrosive nature of the lagoon soil, is considered to be at or near the end of its useful life. The replacement of this pipeline is a high priority, as failure of the line will have both environmental and financial impacts. The San Elijo Lagoon has been designated by the State of California as a marine reserve due to its biological significance, and discharging treated wastewater into the lagoon would likely result in negative impacts. Furthermore, any spills from the outfall are subject to fines up to \$10 per gallon. Therefore, a significant failure of the outfall pipeline could result in a multi-million dollar fine. To date, there has not been a wastewater spill associated with the outfall, and keeping the pipeline in good operation is of utmost importance. The SEJPA and City staff recommend replacing the land outfall prior to failure.

The preliminary design report (PDR) can be found at:

http://www.sejpa.org/wpro_projects/sejpa/userfiles/SEJPA%20Outfall%20PDR%20Final%206_30_15_REV%20A.pdf

This report examined installation alternatives for replacing or rehabilitating the lagoon / land section of the outfall, was completed in June 2015. The analysis included pipeline rehabilitation and replacement methods, permitting strategies, and cost estimates in order to determine the solution that provides the best value to the agencies. The decision matrix included an evaluation of the following criteria for each proposed method: ease of permitting / minimizing environmental impact, constructability, cost, hydraulic impacts, construction risk, scheduling and coordination with other projects, and expected useful life of each alternative. The PDR identified horizontal directional drilling (HDD) beneath the lagoon from the beach to the Nature Center as the preferred installation alternative. This method has a proven track record of success in San Elijo lagoon, presents the lowest risk of impacts to the environment, maintains the current pipeline capacity, increases the expected useful life of the pipeline, and is the lowest cost option.

A mitigated negative declaration was prepared for the project and approved by the SEJPA Board of Directors on March 7, 2016. The detailed design was completed in January 2017. The design was completed by Kennedy / Jenks Consultants at a cost of \$594,000.

Bids for the San Elijo Land Outfall Replacement Project were opened on March 28, 2017. Four construction firms submitted bids, which are listed below in order of increasing bid amount:

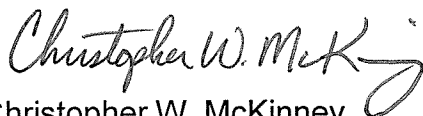
- | | |
|--|--------------|
| 1. Palm Engineering Construction Company, Inc. | \$ 7,933,000 |
| 2. J.R. FILANC Construction Company, Inc. | \$ 8,553,000 |
| 3. James W. Fowler Company | \$ 9,735,000 |
| 4. CCL Contracting, Inc. | \$ 9,869,000 |

The apparent low bidder, Palm Engineering Construction Company, Inc., was deemed to be non-responsive because the firm lacked necessary experience with at least four horizontal directional drilling projects equal or greater than 30 inches in diameter. The second low bidder, J.R. FILANC Construction Company, Inc., is the lowest responsive bidder. Bid documents for the selected bidder can be found at:

http://sejpa.org/wpro_projects/sejpa/userfiles/JR%20Filanc%20-%20Proposal%20for%20Land%20Outfall%20Replacement.pdf

Additional contracts for construction management (\$550,000), and engineering services and environmental monitoring during construction (Kennedy/Jenks Consultants; \$300,000) will be awarded. The total value of these three contracts is \$9,953,300, which includes 10 percent for contingency and change orders. Escondido's share of these contracts is \$7,863,107.

Respectfully submitted,



Christopher W. McKinney
Director of Utilities

RESOLUTION NO. 2017-62

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE DIRECTOR OF
ADMINISTRATIVE SERVICES AND THE
DIRECTOR OF UTILITIES TO PAY THE CITY
OF ESCONDIDO'S SHARE OF COSTS FOR
THE SAN ELIJO LAND OUTFALL
REPLACEMENT PROJECT

WHEREAS, the City of Escondido's Land Outfall from the Hale Avenue Resource Recovery Facility flows into the San Elijo Land Outfall; and

WHEREAS, the City of Escondido and the San Elijo Joint Powers Authority co-own the San Elijo Land Outfall; and

WHEREAS, the City of Escondido controls 79 percent of the capacity in the San Elijo Land Outfall, thus bearing responsibility for 79 percent of the cost of operation, maintenance, and improvement of the San Elijo Land Outfall; and

WHEREAS, the San Elijo Land Outfall is critical for safe discharge of Escondido's treated wastewater; and

WHEREAS, the San Elijo Land Outfall was constructed in 1965, runs through the environmentally sensitive San Elijo Lagoon, and runs underneath other critical regional infrastructure, including Interstate 5, and the North County Transit District's coastal rail route; and

WHEREAS, the San Elijo Land Outfall requires rehabilitation or replacement due to its age and its importance; and

WHEREAS, the City of Escondido's Utilities Department staff and San Elijo Joint Powers Authority staff oversaw the preparation of designs, the environmental review, and solicited bids to complete the pipeline replacement; and

WHEREAS, the San Elijo Joint Powers Authority is the contracting agency for work on the San Elijo Land Outfall; and

WHEREAS, the second low-bidding contractor, JR Filanc Construction Company, Inc., was selected to complete the project because the apparent low bidder was deemed non-responsive due to the lack of required experience; and

WHEREAS, the City of Escondido's cost share of the project, including construction management, engineering services, and contingency, is \$7,863,107.

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 authorizes the Director of Utilities and the Director of Administrative Services to pay invoices from the San Elijo Joint Powers Authority in an amount not to exceed \$7,863,107 for work related to the San Elijo Land Outfall Replacement Project.

FUTURE CITY COUNCIL AGENDA ITEMS

Updated April 20, 2017

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

May 3, 2017
4:30 p.m.
PROCLAMATIONS
Water Awareness Month and Drinking Water Week
Proclamation Honoring the Retirement of Vanita Hartmann
PRESENTATIONS
Be Water Smart Poster Contest Awards Presentation
CONSENT CALENDAR
<p>Increase Level of Pre-Employment Background Checks to FBI (S. Bennett)</p> <p><i>Extending LiveScan access to an FBI Level will allow background checks to provide information about convictions that have occurred outside California. This will provide a thorough and consistent criminal background check of all candidates taking part in the pre-employment process.</i></p>
<p>Request to End Response Level One Water Shortage Watch Condition (C. McKinney)</p> <p><i>Governor Brown declared an end to the drought emergency in the San Diego Region on April 7, 2017. To align with that update, the Level One response can be ended. Response Level One did not institute any water use restrictions, so there are no restrictions to remove. The standard water use efficiency practices outlined in the Municipal Code remain in effect.</i></p>
<p>Amendment to Section 12.H of the Mobilehome Rent Review Board Guidelines (M. McGuinness)</p> <p><i>Request the City Council adopt Resolution No. RRB 2017-02.</i></p>
PUBLIC HEARINGS
<p>One-Year Action Plan for Fiscal Year 2017-2018 HOME Funds for Affordable Housing Activities, CDBG Funds for Community Development Program and Projects, and ESG Funds for Homeless Priorities (J. Petrek)</p> <p><i>This is a required hearing for the Annual Action Plan for allocating federal HOME, CDBG, and ESG funds for projects and programs. The City Council is being asked to adopt the 2017-2018 One-Year Action Plan.</i></p>

May 3, 2017
Continued

PUBLIC HEARINGS Continued
<p>Public Hearing for the City of Escondido Landscape Maintenance District Zones 1 through 38 (E. Domingue)</p> <p><i>As part of the approval process for the annual Engineer's Report for LMD zones 1 through 38, a public hearing is required to receive public input on the proposed assessments for the upcoming fiscal year. No Council action is required.</i></p>
CURRENT BUSINESS
<p>Notice of Completion and Budget Adjustment for the Fiscal Year 2015/2016 Street Rehabilitation and Maintenance Project (J. Procopio)</p> <p><i>The FY 2015/2016 Street Rehabilitation and Maintenance Project was part of the City's annual street improvement program. The project consisted of replacement of broken curb, sidewalk, and pavement, replacement of trees in the parkway, installation of new pedestrian ramps, application of ARAM and other seal coats, additional striping of bike lanes to conform with the City's Bicycle Master Plan, and acceptance of Grant TRP5-14-0012 funding.</i></p>
WORKSHOP
<p>Fiscal Year 2017/18 Budget Briefing and Adoption of Financial Policies (S. Bennett)</p> <p><i>The City Council adopted a two-year budget for the General Fund. The budget consisted of a detailed 2016/17 budget and a summary 2017/18 budget. The Finance Department will take direction from the City Council on preparing an updated 2017/18 budget to be considered in June 2017. Various financial policies will also be presented and recommended for approval.</i></p>
FUTURE AGENDA ITEMS (D. Halverson)

May 10, 2017
4:30 p.m.

PROCLAMATIONS
Historic Preservation Month – May 2017
National Public Works Week
PRESENTATIONS
Presentation of Historic Preservation Awards
CONSENT CALENDAR
<p>Financial Report for Quarter Ended March 31, 2017 and Budget Adjustment (S. Bennett)</p> <p><i>Quarterly financial reports present written financial updates to Council concerning certain funds of the City based on the most recent financial information available. These quarterly financial reports include budgetary information for each fund, along with the actual resources received to date. Funds included in this report are the General Fund, Reidy Creek Golf Course Fund, Recreation Fund, Water and Wastewater Funds.</i></p>

May 10, 2017
Continued

CONSENT CALENDAR Continued
First Quarter 2017 Treasurer's Report (D. Shultz) <i>In accordance with the City's Investment Policy, the City Treasurer is required to submit an investment report to the City Council for review on a quarterly basis. The report will include the type of investment, issuer, date of maturity, par value, book value, and market value for each security held by the City.</i>
PUBLIC HEARINGS
Amendment to Article 67 (Density Bonus and Residential Incentives) of the Escondido Zoning Code (AZ 16-0001) (B. Martin) <i>The State Legislature has made recent changes in State law to clarify the intent of Density Bonus Law and/or expand the ways in which developers may create affordable dwelling units through Density Bonus applications. The proposed Zoning Code amendment represents the bare minimum necessary to ensure that the City's Zoning Code is consistent with State code requirements for Density Bonus project applications.</i>
Amendment to Article 66 (Sign Ordinance) of the Escondido Zoning Code (AZ 17-0001) (B. Martin) <i>Signage in Escondido is regulated by Article 66 of the Zoning Code (also referred to as the Sign Ordinance). It recently has come to staff's attention that the sign regulations for private schools and charter schools do not provide adequate messaging opportunities for those uses when located in residential areas. The proposed amendment would provide more balanced sign standards for accredited public, private, and charter schools.</i>
CURRENT BUSINESS
Washington Park Skate Spot Funding Strategy (L. McKinney) <i>On January 25, 2017, the City Council provided direction to staff to develop a funding strategy for the potential development of a skate spot in Washington Park.</i>
WORKSHOP
Preliminary Five-Year Capital Improvement Program and Project Budgets for Fiscal Year 2017/18 (S. Bennett) <i>Per the City Council's direction, preliminary meeting to discuss staff recommended capital project requests for the 2017/18 Capital Improvement Program and Budget.</i>
FUTURE AGENDA ITEMS (D. Halverson)



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

April 20, 2017

ECONOMIC DEVELOPMENT

Last week, the San Diego North Economic Development Council hosted a North County Economic Summit featuring the unveiling of a study of the tech industry along the 78 corridor. The study was commissioned by Innovate 78, a collaborative economic development effort of the five cities along the corridor. Read KPBS's coverage of the event here <http://www.kpbs.org/news/2017/apr/13/fourth-annual-north-county-economic-summit/>

The full study is available at the following link:

<http://www.sandiegobusiness.org/sites/default/files/TECH%20STUDY%20-%20SAN%20DIEGO'S%2078%20CORRIDOR.pdf>

INFORMATIONAL ITEMS

Volunteer Cleanup Events

This Earth Day, April 22, I Love a Clean San Diego and Escondido Shines will be hosting multiple cleanups around the City and County. Some sites include:

- Mountain View Park and City Hall/Grape Day Park
- Dixon Lake
- Reidy Creek (between El Norte and Lincoln)

For more information on how to get involved visit both websites:

<http://www.ilacsd.org/event/creek-bay-cleanup/>
<http://www.escondidoshines.org/how-can-i-serve/>

Public Works/Parks & Open Space

On April 11, Public Works, working closely with both the Community Development Department and the Housing and Neighborhood Services Section of the City Manager's office, was able to reopen three different park playground areas.

The Public Works Park Division had the playgrounds closed at Grove, Westside and Rod McLeod Parks due to play equipment maintenance requirements. Public Works identified the equipment as under warranty; and with funding secured from Housing Related Parks (HRP) Grants for labor costs, the repairs were made. The play areas are once again open for public use and enjoyment. This is a fine example of departments working together and offering different areas of expertise for one common goal, Making the City of Escondido a better place.

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

COMMUNITY DEVELOPMENT

Major Projects Update

The following major projects are currently being reviewed and coordinated with Planning, Engineering, Fire, Building and Utilities staff. A complete description of each project can be viewed [here](#). Updates provided below cover project milestones that occurred during the last week.

Commercial / Office:

1. Escondido Research and Technology Center – East (ERTC) (Developer: James McCann) – *Project work continues. No significant updates to report this week: A grading plan for a temporary parking lot to serve the hospital was approved June 13, 2016, and the parking lot is now under construction.*
2. Escondido Research and Technology Center – West (ERTC) (Developer: James McCann) – *A revised grading plan recently has been approved and construction is underway on the approximately 76,000 square foot medical office building with a linear accelerator. Palomar Health hosted a groundbreaking ceremony last week for their new outpatient center to be constructed adjacent to the site at 2185 Citracado Parkway.*
3. Centerpointe 78 Commercial (Developer: Lars Andersen, Pacific Development) – *A building permit for the supermarket is ready to issue once the grading plan is approved. Engineering provided comments on the storm water management plan on April 18, 2017 and has noted the grading permit is nearing approval.*
4. Westfield Theater (Developer: Kim Brewer, Westfield) – *This project has been placed on hold by Westfield while they finalize lease negotiations so there is no change from the following update reported last week: No grading, building or improvement plans have been submitted by the developer at this time.*
5. Felicita Development, LLC (Developer: Katherine Park, Creative Design Associates) – *This project is on hold pending further direction and submittal of information from the applicant. Follow-up meetings conducted by the applicant with staff and the wildlife agencies lead staff to believe a revised project is forthcoming.*
6. Springhill Suites (Developer: Raj Patel, San Bernardino Hospitality LLC) – *The applicant is cleared to start construction so there is no change from the following update reported last week: Construction is expected to commence within the next month.*

City Manager's WEEKLY UPDATE to City Council

7. Escondido Auto Park Association (Developer: Tim Brecht, Escondido Auto Park Association)
The applicant is cleared to start construction so there is no change from the following update reported last week: A building permit for the sign was issued on January 19, 2017.
8. Downtown Courtyard Marriott Hotel (Developer: Craig Clark) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week:* The applicant provided revised conceptual drawings on March 17, 2017 to facilitate future project discussions. Those drawings are currently being reviewed by staff.
9. Centre City Commercial Center (Developer: Todd Dwyer) - A Plot Plan and Tentative Parcel Map were submitted on January 31, 2017, and staff review is underway. Last week the applicant notified Engineering that they have hired a local traffic engineer to provide third-party review of their traffic study to evaluate mitigation options.

Industrial

1. StorQuest (Developer: The William Warren Group, Inc.) – Revised building plans for this approved self-storage facility at 220 W. Mission Ave. were submitted to the Building Division on March 22, 2017 and routed to Esgil for re-check. Revised grading plans were received by Engineering last week.
2. Victory Industrial Development (Developer: Scott Merry, Badiie Development) – It is expected the grading permit can be issued once the applicant secures his Army Corps, Regional Board, and CA Fish and Wildlife permits and completes boundary adjustments with three adjoining property owners. Street improvement and signal plans also are nearing approval.
3. Escondido Self-Storage Facility (Developer: Brandywine Homes, Inc.) – *Project work continues. No significant updates to report this week:* Building plans, grading plans, landscape plans and the final map have been submitted and comments have been provided by staff.
4. Innovative Industrial Development (Developer: Scott Merry, Badiie Development) – *Project work continues. No significant updates to report this week:* Grading plans were submitted for plan check on February 27, 2017 and comments have been provided back to the applicant. Building plans were submitted on March 29, 2017 and are being reviewed by staff.
5. North American Self-Storage (Developer: Russ Colvin) – The demo permit has been issued. Plans for the underground water service for fire suppression were submitted on April 17, 2017. The applicant submitted a revised grading plan to Engineering on April 13, 2017. A boundary adjustment to combine the two lots on the site is ready to record.

City Manager's WEEKLY UPDATE to City Council

City Projects

1. Micro-Filtration Reverse Osmosis (Developer: City of Escondido Utilities Department) – *No further updates to this item will be provided while litigation is in progress:* The Planning Commission approved the proposed CUP on December 13, 2016. An appeal of that decision was filed and the City Council denied the appeal on January 11, 2017, and affirmed the Planning Commission's decision to approve the project.
2. Wastewater Collections Yard Expansion (Developer: City of Escondido Utilities Department) – Grading, building and landscape plans are now being reviewed by staff. Utilities staff is assessing value engineering options in an effort to reduce the cost of the facility.
3. HARRF Biogas to Energy Project (Developer: City of Escondido Utilities Department) – *Communications with the applicant are on-going but no construction plans have been submitted since the project was approved. No significant updates to report this week:* A Conditional Use Permit for the project was approved by the Planning Commission December 13, 2016.
4. Lake Wohlford Replacement Dam (Developer: City of Escondido Utilities Department) – *Project work continues. No significant updates to report this week:* A Draft EIR was prepared and issued for a 45-day public review period that began on October 4, 2016 and closed on November 17, 2016. Staff and AECOM are now in the process of coordinating responses to the comments that were received during the public review period.

Institutional

1. Escondido United Reformed Church (Developer: Brent Cooper) – A revised grading plan has been approved. Building plans have gone through one round of plan check and the applicant is now discussing with Planning the possibility of modifying the CUP to add floor area to the sanctuary and classroom building.
2. Emmanuel Faith Community Church (Developer: Jim North, EFCC) – The building permit for the children's building was issued on February 28, 2017. Construction is now underway. No other building phases have been submitted for permits.
3. Self-Realization Fellowship Center (Developer: John Pyjar, Domusstudio Architecture) – *Project work continues. No significant updates to report this week:* The CUP application was submitted on November 14, 2016. Staff reviewed the initial submittal and sent a letter to the applicant on December 14, 2016, indicating that the application was incomplete and specifying the additional information that was necessary to complete the application.

City Manager's WEEKLY UPDATE to City Council

Residential

1. Oak Creek (Developer: Jason Han, New Urban West) – *This project has been placed on hold by the developer while the City completes construction of the Southwest Sewer Project so there is no change from the following update reported last week:* No grading or improvement plans have been submitted by the developer at this time.
2. Amanda Estates (Developer: Jason Han, New Urban West) – *This project has been placed on hold by the developer while the City completes construction of the Southwest Sewer Project so there is no change from the following update reported last week:* No grading or improvement plans have been submitted by the developer at this time.
3. Pradera (Developer: Moses Kim, Lennar Homes) – Another phase of six homes received building permits on April 3, 2017.
4. Lexington (Zenner) (Developer: Eric Johnston, KB Homes) – The applicant received building permits for 10 new homes on April 18, 2017. The applicant is attempting to finish improvements to Vista Avenue this week before the end of spring break for Rincon Middle School.
5. Stella Park Condominiums (Developer: Edward Kaen, ETP, LLC) – A precise grading plan was submitted on March 28, 2017. A final map, street improvement plans and landscape plans were also submitted on April 17, 2017. Building plans were submitted into plan check on April 6, 2017.
6. Wohlford (Developer: Jack Henthorne) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week:* The Draft EIR has been posted on the City website and released for a 45-day public review period commencing on March 27 and ending on May 12, 2017.
7. Latitude II (Developer: Peter Zak, Lyon/NCA) – *Project work continues. No significant updates to report this week:* A grading permit has been issued and grading is back underway. Building plans are nearing approval pending approval of the final map.
8. Canyon Grove Estates Tract 932 (Developer: John Vance, Shea Homes) – Several phases have already received building permits with two additional phases (19 homes) being issued on April 5, 2017. Off-site construction of the traffic signal at Ash Street/Vista Avenue is underway.

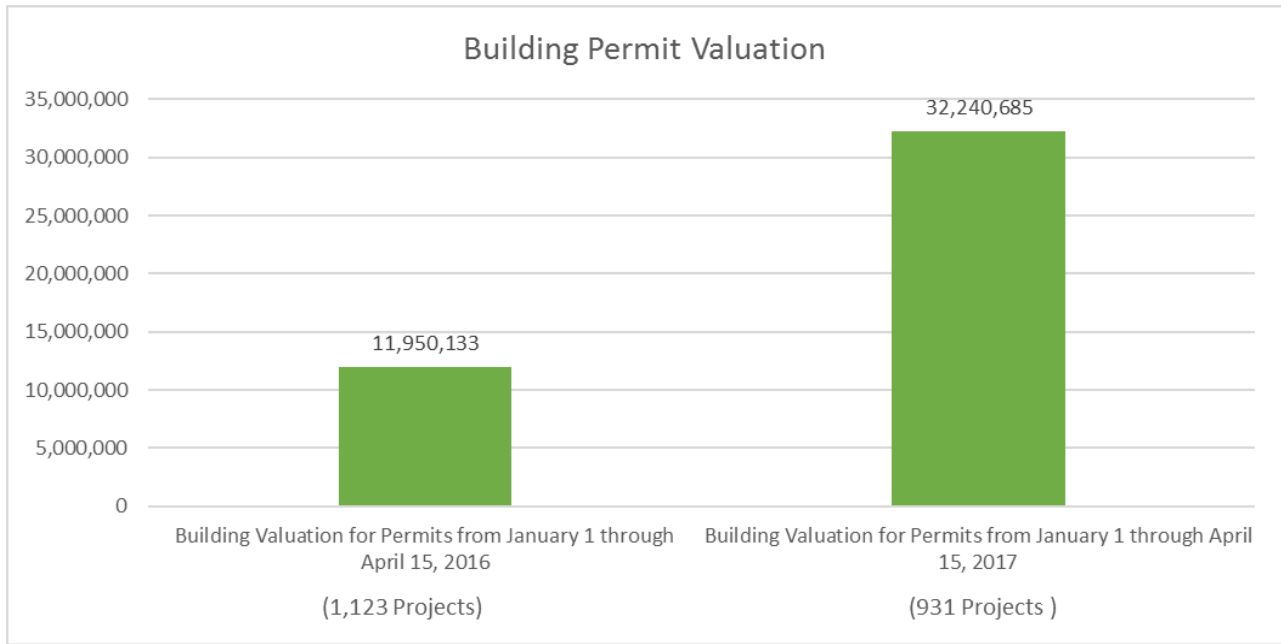
City Manager's **WEEKLY UPDATE** to City Council

9. Safari Highlands Ranch (SHR) (Developer: Jeb Hall, Concordia Homes) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week:* A revised tentative map depicting the site plan changes was submitted on October 17, 2016. Staff comments on the Fire Management Plan were sent to the applicant the week of March 13, 2017.
10. High Pointe Tract 693-J (Developer: Russell Schaeffer, True Life Communities) – *The applicant continues to actively market the property and there is no change from the following update reported last week:* Staff has prepared a bond and fee letter based on the proposed grading and landscape plans, and has sent it to the applicant.
11. Del Prado (Developer: Kerry Garza, Touchstone Communities) – *Communications with the applicant are on-going but there are no new milestones to report this week:* No grading or improvement plans have been submitted by the developer at this time.
12. 701 San Pasqual Valley Rd (Developer: Bob Stewart) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week:* Staff has met several times with the applicant to help work through project design and storm water issues. A Draft Mitigated Negative Declaration has been submitted and staff has provided comments to the applicant on the draft and technical studies.
13. Veterans Village (Developer: Veterans Village of San Diego) – Demolition has been completed. Grading is underway. Building permits were issued on March 31, 2017.
14. Escondido Gateway (Developer: Greg Waite, Integral Communities) – The builder (Lyon Homes) is coordinating with City staff to resolve ownership and title issues regarding three strips of land under existing excess right-of way that is proposed to be vacated for the applicant's use. Engineering provided comments on the rough grading plan and street improvement plans on April 18, 2017.
15. The Villages at Escondido Country Club (Developer: Jason Han, New Urban West, Inc.) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week:* A project resubmittal in response to the City's November 30, 2016 letter was received on March 16, 2017. Planning staff has provided a location on the City's website for ECC project-related documents and plans. The information can be accessed at the following link: [ECC - City of Escondido](#)
16. Ivy/Valley Parkway Mixed-Use Development (Developer: Abad Rahan Pars Inc./ Norm Wieme, Architect) – *Project work continues. No significant updates to report this week:* The applicant has indicated that grading and building plans are expected to be submitted into plan check soon. Utilities staff is currently working on a reimbursement agreement for new water infrastructure that will be installed by the project in the adjoining alley.

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

17. North Avenue Estates (Developer: Casey Johnson) – An application to re-entitle aspects of the previously approved project that have expired and modify the project design to reflect new storm water requirements was submitted to the Planning Division on March 7, 2017. A first round of comments has been provided back to the applicant.

Building Division:



Building Permits Issued Last Week	Total Valuation
71	\$1,046,011

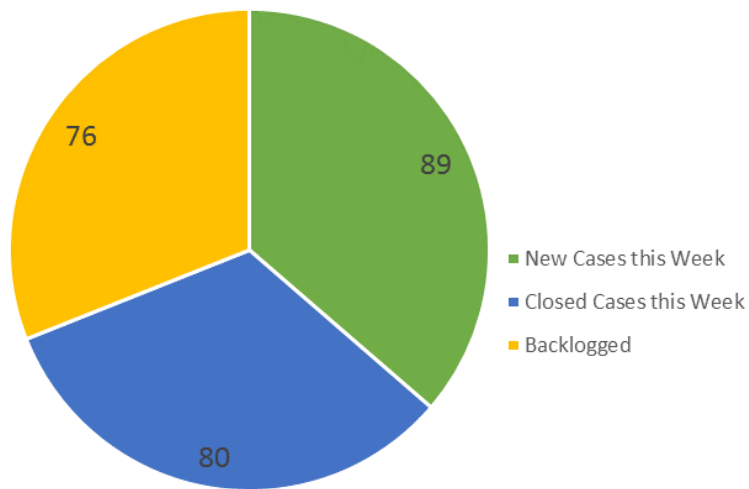
1. Issued permits included two single-family homes at 660 E. Mission Avenue.
2. 158 Building Inspections were performed last week.
3. The construction of the City Plaza three-story mixed use building at 300 S. Escondido Blvd. has completed the podium slab and fourth floor wall framing is progressing.
4. The Solutions for Change affordable housing project at 1560 S. Escondido Blvd. is preparing the building for final inspection.
5. Roof framing is proceeding at The Meadowbrook three-story apartment building with underground garage at 2081 Garden Valley Glen.

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

6. Escondido Disposal is proceeding with the tenant improvement for the existing building and has completed the drywall. Roof framing on their new transfer building also has been completed.
7. Demolition is nearing completion at the former bank building at 444 S. Escondido Blvd.
8. The Popeye's restaurant at 1541 E. Valley Parkway is getting ready for rough framing inspection.
9. The medical office building at 2125 Citracado Parkway has received partial foundation approval.
10. The Westminster Seminary has requested foundation inspection for three of their nine buildings.
11. The children's building at the Emmanuel Faith Community Church has received partial foundation inspection and underground plumbing inspection.

Code Enforcement:

Code Enforcement Cases
as of April 15, 2017

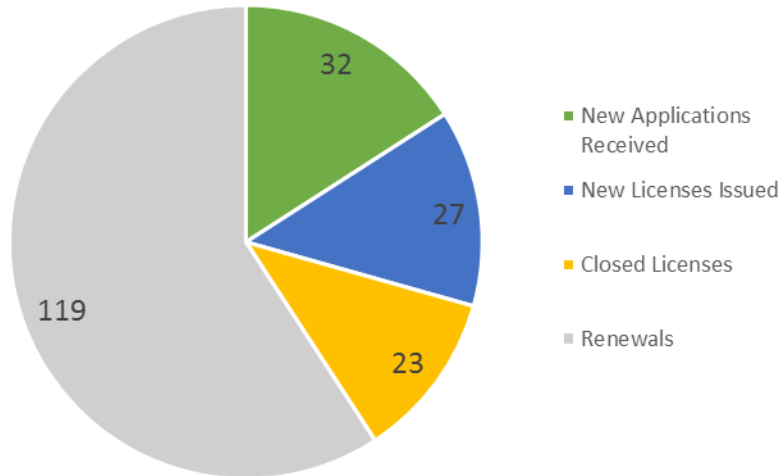


Total Open Code Cases	Illegal Signs Confiscated over the Previous Weekend
480	114

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

Business Licensing:

Business License Activity Last Week



ENGINEERING

CAPITAL IMPROVEMENTS

2015/2016 Street Rehabilitation and Maintenance Project

The contractor has completed 95% of the punch list items. The installation of traffic signs and legends is ongoing throughout the project.

Neighborhood Parking District

The project signs were installed this past week. Permits will go on sale at the May 4 neighborhood meeting, after that time all additional permit requests must be made at the Police Department front desk. The enforcement is scheduled to go into effect on June 1, 2017.

Jim Stone Pool

The first day of construction at the pool was Monday, April 17, the project has 40 contract days for completion. The contractor is in the process of removing the old plaster this week. The pump building shell is in place and the new trussing was delivered on Monday of this week with installation to continue throughout the week.

Indian Creek Channel Repair

The project consists of replacing a 29' section of concrete channel wall that fell earlier this year after one of the winter storms. The channel is located between Industrial Avenue to the south and Simpson Way to the north in the Escondido Industrial Park. The channel wall replacement

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

was formed and poured on Tuesday of this week, work should be completed by Friday, April 21, 2017 with no wet weather expected during this period.

PRIVATE DEVELOPMENT

Pradera - Lennar Communities

No change from the following update reported last week: The developer is working on a schedule for the completion of new striping and signage along the area streets. Phase 7 is now under construction.

Lexington Model Homes - KB Homes

The construction of the new roadway along Vista Avenue is nearing completion with the placement of asphalt pavement on Tuesday of this week. The scheduled water line installation at Vista Avenue and Lehner Avenue intersection has been cancelled due to a conflict that was discovered on Friday, April 14. A water line conflict crossing will now need to be constructed above ground along with water quality testing which could delay completion of this portion of work for up to 4 weeks.

Escondido Boulevard at 3rd Avenue

No changes from the following reported last week: The contractor is using a crane to deliver materials to the third floor, and lane closures along 3rd Avenue will be a regular occurrence to allow for the lifting of construction materials to the newly completed floor.

Tract 932 - Canyon Grove Shea Homes Community

The traffic signal poles for the Ash/Sheridan intersection have been stood, the meter release and installation should be completed later this week. On site construction of water main associated with the Vista flume bypass pipe is ongoing. The removal of ATT/COX utilities from the wooden poles along Ash Street will not be completed until mid-May, this will affect the final construction of remaining storm drain improvements. The 8 model homes are expected to open on April 29, 2017.

Latitude II Condominiums by a Lyon Homes Partnership: Washington Avenue at Centre City Parkway

Construction of the new 10" sewer main to serve the project is continuing with installation this week.

Westminster Theological Seminary Graduate Student Housing: Boyle Avenue at Bear Valley Parkway

The contractor is continuing with the installation of dry utility conduits within the project limits.

Veterans Village

The contractor has begun to pothole existing utilities this week along Escondido Boulevard and 15th Avenue in preparation of constructing the new public improvements.

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

Tract 877 – Bernardo Ave. by Ambient Communities

No changes from the following reported last week: This is a 13 lot single family residential project located at the cul-de-sac end of Bernardo Ave. The construction of the 16' high sound wall along the freeway is ongoing this week. The developer has not notified the City when the grading operations will resume.

Palomar Medical Center

No changes from the following reported last week: The onsite sewer main is still under construction this week, the final plan review for the offsite reclaimed water main is expected this week.

Rincon Water/Ash Street By-Pas Project

The contractor is continuing to install the new 24" water main along Ash Street, the work should be completed by weeks' end. The daytime closures of Ash Street between Vista Avenue and Hubbard Avenue will continue through Friday of this week.

POLICE INCIDENTS

- On 4/9/17, officers responded to El Norte Parkway and Kaile Place in reference to a report of a felony vehicle for a hot prowl burglary. Units located the vehicle at El Norte Pkwy and Conway Drive. Two occupants were taken into custody and both were charged and booked for drug-related offenses. The passenger, who is currently out on bail for numerous residential burglaries (including Escondido), was also charged with committing a felony while out on bail.
- On 4/9/17 at 18:25 hours, officers responded to 485 N. Rose Street and contacted a victim who was assaulted and robbed of \$200. The suspect was known to the victim and a description was broadcasted. While investigating, a beer theft at the 7-11 on N. Midway Drive occurred and the description matched that of the suspect from the robbery. Officers located the suspect on N. Midway Drive, where he was arrested after a brief foot pursuit and use of force; neither the officer nor the suspect were injured. A search of the suspect revealed crystal methamphetamine. The suspect was positively identified by the victims and later booked into the Vista Detention Facility on multiple felony charges.
- On 4/10/17 at 20:17 hours, an officer initiated a traffic enforcement stop at 13th Avenue and Centre City Pkwy. The vehicle failed to stop and was pursued to 1555 S. Escondido Blvd. The driver fled toward S. Orange Street and was not located. Officers contact the Registered Owner and he reported the vehicle stolen.
- On 04/11/17 at 01:31 hours, officers responded to a commercial burglary alarm at Nutrition Zone, located at 1146 W. Valley Pkwy. Officers arrived on scene a short time later and cleared the building with negative results. Suspect(s) forced entry into the business and took an undisclosed amount of money from the cash register.

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

- On 4/11/17, at 12:41 hours, officers were dispatched to the North alley of 4th Avenue at Orange Street regarding a collision involving a vehicle and a child. Officers and Fire paramedics arrived on scene minutes later and attempted life-saving first aid to the child. The child, age two, was transported to Palomar Medical Center with life-threatening injuries, however, she later died. Based on witness statements and physical evidence at the scene, a 33-year-old female resident of Escondido was driving West in the alley between 3rd and 4th Avenue from Orange St. The driver began a parking maneuver when her attention was diverted to a child on the right side of the roadway. Meanwhile another child ran across the alley to the driver's left where the collision occurred. Alcohol or drugs are not a factor in this collision. The traffic investigation is ongoing and is being conducted by Tom Venable of the Traffic Division.
- On 04/11/17 at 23:44 hours, an officer made a pedestrian stop at Centre City Pkwy and Mission Ave. The subject was found to have an arrest warrant. He was initially compliant but became combative after he was handcuffed, and he kicked an officer in the leg. The officer was not injured. The subject was placed in maximum restraints and was later booked at the Vista Detention Facility.
- On 4/12/17 at 19:40 hours, a 15-year-old Hispanic Male was confronted by 2 Hispanic Male Adults in the area of Food 4 Less, located at 644 N. Broadway. They chased the juvenile and stabbed him once on his left side. The juvenile was located on the bike path South of Washington and East of Juniper with a non-life threatening single stab wound. The suspect vehicle is a 2004 Lincoln Aviator Lic#7SAV269 and the suspects have not been located.
- On 4/13/17 at 15:00 hours, a contract employee of the California Center for the Arts Escondido (CCAЕ) was walking to her car in the Woodward Avenue parking lot. The employee saw a male walking opposite her and he asked for the time. She knew the time and replied. As she answered the question the male punched her once in the face. The force of the punch caused her to fall to the pavement. She believed she struck her head on the concrete footbridge. The suspect was described as a light skinned black male or tan white male, 6' 00", about 40 years old, wearing a white tank top, closely cropped hair and pulling a dark, wheeled piece of luggage behind him. After the male knocked the victim down, he walked into the CCAЕ complex southbound. Witnesses saw a person matching his description exiting Grape Day Park near the rest rooms. Patrol units stopped two subjects in the flood channel pathway at Waverly Avenue and one was a close match of the suspect. The victim was brought to the scene for a curbstone, but it was not the correct suspect. The victim was evaluated by paramedics on scene. Patrol handled initial reporting, and Investigations was notified.
- On 4/15/17 at 09:36 hours, dispatch received a call for service at Kit Carson Park, in reference to a suicidal adult male, making threats to drown himself. The subject was ultimately located with the assistance of ASTREA and cell phone GPS, and subsequently transported to Palomar Medical Center West for a mental health evaluation.



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

- On 4/15/17 at 16:44 hours, officers responded to U.S. Bank located inside Albertsons at 1509 E. Valley Pkwy, in reference to a robbery with the suspect not on scene. The suspect approached the teller and demanded money from the drawer. There were no threats made or weapon seen. A hat and sweatshirt matching the suspects clothing description was located at the intersection of E. Grand Ave and Bear Valley Pkwy.
- On 4/15/17 at 23:22 hours, an officer attempted to stop an Acura passenger car (later determined to be stolen) for a vehicle code violation at 7th Avenue and Chestnut Street. The vehicle fled and a pursuit ensued. After a short pursuit, the vehicle finally stopped and the driver fled around 2nd Avenue and Cedar. The driver eventually gave up and was taken into custody. When the suspect initially fled, the stolen vehicle was still in motion and collided into 3 parked cars. The suspect was booked for Auto Theft, Felony Evading and DUI.

NEWS

- The Escondido Police Department was selected by the County of San Diego Health and Human Services Agency (HHS) to receive the HHS Director's Live Well San Diego 2017 Public Health Champion Award. It was awarded in recognition of the Police Department's extraordinary achievement in promoting the health of residents in San Diego County. Chief Carter accepted the award at a ceremony on Friday, April 7, 2017.

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