



OCTOBER 16, 2013

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

Olga Diaz

COUNCIL MEMBERS

Ed Gallo

John Masson

Michael Morasco

CITY MANAGER

Clay Phillips

CITY CLERK

Diane Halverson

CITY ATTORNEY

Jeffrey Epp

DIRECTOR OF COMMUNITY DEVELOPMENT

Barbara Redlitz

DIRECTOR OF PUBLIC WORKS

Ed Domingue

ELECTRONIC MEDIA:

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

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

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

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



Council Meeting Agenda

October 16, 2013

3:30 P.M. Meeting

Escondido City Council

CALL TO ORDER

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.) 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, Clay Phillips |
| | Employee organization: | Escondido Firefighters' Association |
| b. | Agency negotiator: | Sheryl Bennett, Clay Phillips |
| | Employee organization: | Escondido Police Officers' Association |

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

- | | | |
|----|---------------------|------------------------------------|
| a. | Property: | 2120 Harmony Grove Road |
| | City Negotiator | Debra Lundy, Real Property Manager |
| | Negotiating parties | Koochen Vagner's Brewing Company |
| | Under negotiation | Price and Terms of Agreement |

CLOSED SESSION CONTINUED

b.	Property:	APN 240-230-29, 30 & 31
	City Negotiator	Debra Lundy, Real Property Manager
	Negotiating parties	Charles Lypps
	Under negotiation	Price and Terms of Agreement

ADJOURNMENT



Council Meeting Agenda

**October 16, 2013
4:30 P.M. Meeting**

**Escondido City Council
Mobilehome Rent Review Board**

CALL TO ORDER

MOMENT OF REFLECTION:

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

FLAG SALUTE

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

PRESENTATIONS: Disaster Preparedness

PROCLAMATIONS: The General Federation of Women's Clubs
Escondido's 125th Anniversary

ORAL COMMUNICATIONS

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

COUNCIL MEMBERS' REPORTS/BRIEFING

CONSENT CALENDAR

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

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
3. **[APPROVAL OF MINUTES: Regular Meeting of September 11, 2013](#)**

4. **APPROVE PURCHASE OF NETWORK EQUIPMENT -**

Request Council approve the purchase of consolidated networking equipment from Dell Inc. in the amount of \$291,460.

Staff Recommendation: **Approval (Information Systems: Mark Becker)**

RESOLUTION NO. 2013-137

5. **APPROVAL OF CALPERS INDUSTRIAL DISABILITY RETIREMENT FOR DANIEL GARCIA**
Request Council approve the California Public Employees' Retirement System (CalPERS) Industrial Disability Retirement for Police Officer Daniel Garcia.

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

RESOLUTION NO. 2013-142

6. **CONTINUED EMERGENCY CONTRACTING FOR STREET REPAIRS -**

Request Council approve by a four-fifths vote determining that there is need to continue emergency street repairs on Washington Avenue required as a result of a water main leak.

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

RESOLUTION NO. 2013-147

7. **AWARD BID FOR THE PURCHASE OF TWENTY-THREE POLICE VEHICLES -**

Request Council approve awarding the bid for the purchase of twenty-three 2014 Ford Police Interceptor Vehicles to Wonderies Fleet Group in the amount of \$635,639.

Staff Recommendation: **Approval (Finance Department: Gilbert Rojas)**

RESOLUTION NO. 2013-125

8. **NOTICE OF COMPLETION FOR THE 2011 WATER MAIN REPLACEMENT PROJECT PHASE 1 -**

Request Council authorize the filing of a Notice of Completion for the 2011 Miscellaneous Water Main Replacement Project.

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

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

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

PUBLIC HEARINGS

9. BID AWARD FOR THE GRAPE STREET IMPROVEMENT PROJECT AND BUDGET ADJUSTMENT -

Request Council approve amending the Fiscal Year 2013-2014 One-Year Action Plan for Community Development Block Grant (CDBG); and approve a budget adjustment transferring \$375,000 from the Elm Street/Habitat Project and \$136,332 from the unallocated fund balance to the Grape Street Improvement Project.; and approve rejecting Southland Paving Inc.'s bid in the amount of \$678,297 and Dick Miller Inc.'s bid in the amount of \$729,360 as non-responsive; and determine the bid submitted by LB Civil Construction to be the lowest responsive and responsible bid; and authorize the Mayor and City Clerk to execute a Public Improvement Agreement with LB Civil Construction in the amount of \$741,700 for the Grape Street Improvement Project.

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

RESOLUTION NO. 2013-123

10. RENT REVIEW BOARD HEARING FOR RECOVERY OF LEGAL FEES FOR SUNDANCE MOBILEHOME PARK LOCATED AT 2250 N BROADWAY (CASE #: 0697-20-9917) -

Request Council consider amending RRB NO. 2013-07 allowing a temporary \$17.07 increase of the 29 spaces subject to the allowed rent increase in order to recover \$25,000 in legal and professional expenses.

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

RRB RESOLUTION NO. 2013-10

11. CLARIFICATION OF ZONING CODE AMENDMENT TO IMPLEMENT COTTAGE FOOD OPERATIONS, REVISE THE NONCONFORMING USE CODE AND CLEANUP ITEMS (AZ 13-0004) -

Request Council determine that the CEQA Notice of Exemption is complete and adequate for the project and approve amending the Zoning Code and implementing Cottage Food Operations as a home occupation.

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

ORDINANCE NO. 2013-07(R) (Introduction and First Reading)

CURRENT BUSINESS

12. **LIBRARY EXPANSION CONCEPTUAL DESIGN** - Request Council receive the Library Conceptual Design as presented by Group 4 Architecture, Research + Planning, Inc. as part of the Phase 1 Expansion of the Escondido Public Library and provide direction on the next phase of the project.

Staff Recommendation: **Receive presentation and provide direction to staff (Library and Community Services: Loretta McKinney)**

WORKSHOP

13. **PRELIMINARY CITY COUNCIL ACTION PLAN – FISCAL MANAGEMENT** - Request Council provide direction to staff on the proposed content of the Fiscal Management element of the 2013-2014 City Council Action Plan.

Staff Recommendation: **Provide direction to staff (City Manager's Office: Joyce Masterson)**

FUTURE AGENDA

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

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

ORAL COMMUNICATIONS

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ADJOURNMENT

UPCOMING MEETING SCHEDULE				
Date	Day	Time	Meeting Type	Location
October 23	Wednesday	3:30 & 4:30 p.m.	Council Meeting	Council Chambers
October 30	-	-	No Meeting	-
November 6	Wednesday	3:30 & 4:30 p.m.	Council Meeting	Council Chambers
November 13	-	-	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 839-4641. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

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

CITY OF ESCONDIDO
September 11, 2013
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, September 11, 2013 in the Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE

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

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Morasco to recess to Closed Session. Motion carried unanimously.

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

- a. **Agency negotiator:** Sheryl Bennett, Clay Phillips
Employee organization: Escondido Firefighters' Association
- b. **Agency negotiator:** Sheryl Bennett, Clay Phillips
Employee organization: Escondido Police Officers' Association

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

- a. **Case Name:** Harmon v. City of Escondido
Case No: 37-2013-00039841-CU-MC-NC
- b. **Case Name:** City of Escondido v. Escondido Country Club Inc.
Case No: 37-2013-00041988-CU-MC-NC

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

- a. **Property:** 2005 Harmony Grove Road
 City Negotiator: Debra Lundy, Real Property Manager
 Negotiating Parties: Harmony Grove Property Company, LLC
 Under Negotiation: Price and Terms of Agreement

ADJOURNMENT

Mayor Abed adjourned the meeting at 4:25 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
September 11, 2013
4:30 P.M. Meeting Minutes

Escondido City Council
Mobilehome Rent Review Board

CALL TO ORDER

The Regular Meeting of the Escondido City Council and Mobilehome Rent Review Board was called to order at 4:30 p.m. on Wednesday, September 11, 2013 in the Council Chambers at City Hall with Mayor Abed presiding.

FLAG SALUTE

Mayor Abed led the flag salute.

ATTENDANCE

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

Also present were: Clay Phillips, City Manager; Jeffrey Epp, City Attorney; Jay Petrek, Principal Planner; Ed Domingue, Public Works Director; Diane Halverson, City Clerk; and Liane Uhl, Minutes Clerk.

PRESENTATIONS

Mayor Abed introduced Kimberly Cardoso who gave a presentation on Palomar Health's program for Victims of Child Abuse.

PROCLAMATIONS

Mayor Abed introduced Helen Davies, Environmental Manager, who received a proclamation for Pollution Prevention Week, September 15-21, 2013.

Mayor Abed introduced Regent Nancy Christianson who received a proclamation for Constitution Week, September 17-23, 2013.

ORAL COMMUNICATIONS

Terry Miller, Escondido Pacific Belles Chorus, invited high school students to attend a youth harmony festival on Saturday, October 12, 2013 at the Redeemer by the Sea Lutheran Church in Carlsbad.

Jeffrey Flynt, Escondido, voiced concern with the Cimarron HOA sewer system billing.

Cassie Lieurance, Escondido, voiced concern with former Police Chief Maher's settlement.

Robert Simpson, Escondido, announced that a community forum on the new districting process would be held in the Escondido Public Library on Tuesday, September 24, 2013 at 6:00 p.m.

Maria Regan, Escondido, translated Robert Simpson's message in Spanish.

Nicole Downey, Escondido, expressed concern with former Police Chief Maher's settlement.

JC voiced several concerns with the city.

COUNCIL MEMBERS' REPORTS/BRIEFING

Deputy Mayor Diaz attended the Escondido Creek Watershed Alliance meeting where pollutants were discussed. She indicated she would be participating in Constitution Day at Orange Glen High School the following week and she was selected to serve as alternate on the Coastal Commission.

Councilmember Gallo stated that if one adult Sprinter/Breeze pass was purchased for the month of September, NCTD was offering the October pass for free. He indicated that Councilmember John Masson and City Manager Clay Phillips would be attending the League of California Cities meeting in Sacramento the following week.

Councilmember Masson attended the grand openings for Taco Caliente and Walmart. He indicated that the Classical Academy was hosting an open house on Thursday, September 26, 2013 from 6:30 pm – 7:30 p.m. The Caballo Park Master Plan meeting will be held on Saturday, September 21, 2013 from 12:30 p.m. – 3:30 p.m. at the East Valley Community Center. The Grand Woofstock dog event was scheduled for Saturday, September 28, 2013 from 10:00 a.m. – 4:00 p.m. at Grand and Broadway. He and Mayor Abed met with the Escondido Union High School Board and Mayor Abed had written a letter to the Postal Commission asking them not to close the Escondido Blvd. Post Office. He attended a League of California Cities meeting and would be traveling to Sacramento next week to attend a three-day conference. He met with the Escondido Charros Association who requested the city enter into a long-term lease with them.

Councilmember Morasco met with the Escondido Charros Association and suggested a long-term lease between them and the city. He stated the Grape Day Festival held in Grape Day Park on September 7, 2013 was a success. He attended the ECCHO Country Club meeting and the grand opening for Walmart. He indicated there were many new stores opening on East Valley Parkway.

Mayor Abed attended grand opening of Walmart this morning at 7:15 a.m. and indicated he was selected to be on the LAFCO Commission. He stated SANDAG was moving forward with the regional plan with discussions on the Highway 78 widening. The Citracado Parkway extension has been delayed due to environmental issues. He, Councilmember John Masson and City Manager met with the Escondido School District.

CONSENT CALENDAR

Councilmember Diaz removed item 10, Councilmember Gallo removed item 9, Councilmember Morasco removed items 6 and 8 and Mayor Abed removed item 5 from the Consent Calendar for discussion.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Morasco that the following Consent Calendar items, including item 10, be approved with the exception of items 5, 6, 8, and 9. Ayes: Abed, Gallo, Masson and Morsaco. Noes: Diaz. Absent: None. Motion carried.

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
3. **APPROVAL OF MINUTES:** Special Meeting of August 14, 2013
Regular Meeting of August 14, 2013
Regular Meeting of August 21, 2013
4. **APPROVAL OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 13-14B) FOR THE PERIOD JANUARY 2014 THROUGH JUNE 2014** - Request Council adopt the Recognized Obligation Payment Schedule (ROPS 13-14B) so that the Successor Agency may continue to make payments due for enforceable obligations. (File No. 0440-35)

Staff Recommendation: **Approval (Finance Department: Gilbert Rojas)**

RESOLUTION NO. 2013-108

5. **AUTHORIZATION TO PURCHASE ONE (1) 100-FOOT AERIAL PLATFORM FIRE TRUCK** - Request Council approve the purchase of one (1) 100-foot Aerial Platform Fire Truck from the Sutphen Corporation utilizing a joint purchase "tag-on" to an existing contract with the Orange County Fire Authority; and authorize entering into a seven (7) year lease purchase agreement with Leasing 2, Incorporated. (File No. 0470-35)

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

RESOLUTION NO. 2013-119

Mayor Abed asked if a financial analysis was done on the proposed lease.

Gil Rojas, Finance Director, stated the proposed lease was financially sound for the City.

MOTION: Moved by Mayor Abed and seconded by Councilmember Morasco to approve the purchase of one (1) 100-foot Aerial Platform Fire Truck from the Sutphen Corporation utilizing a joint purchase "tag-on" to an existing contract with the Orange County Fire Authority; and authorize entering into a seven (7) year lease purchase agreement with Leasing 2, Incorporated and adopt Resolution No. 3013-119. Motion carried unanimously.

6. **CONSTRUCTION COOPERATION AGREEMENT: SAN DIEGO COUNTY'S BEAR VALLEY PARKWAY NORTH ROAD WIDENING PROJECT AND BUDGET ADJUSTMENT** - Request Council authorize the Mayor and City Clerk to execute a Construction Cooperation Agreement with the County of San Diego for the Bear Valley Parkway (San Pasqual to Boyle) project; and approve a budget adjustment. (File No. 0600-10 [A-3097])

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

RESOLUTION NO. 2013-105

Councilmember Morasco asked if a specific portion of the road was being considered for widening.

Ed Domingue, Public Works Director, indicated that there was no change in the project at this time.

MOTION: Moved by Councilmember Masson and seconded by Councilmember Diaz to authorize the Mayor and City Clerk to execute a Construction Cooperation Agreement with the County of San Diego for the Bear Valley Parkway (San Pasqual to Boyle) project; approve a budget adjustment and adopt Resolution No. 2013-105. Motion carried unanimously.

- 7. BID AWARD FOR THE VISTA VERDE RESERVOIR REPLACEMENT PROJECT - PHASE 1 -** Request Council authorize the Mayor and City Clerk to execute a Public Improvement Agreement with Spiess Construction Company, Inc. in the amount of \$805,010 for the Vista Verde Reservoir Replacement Project – Phase 1. (File No. 0600-10 [A-3094])

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

RESOLUTION NO. 2013-112

- 8. ADOPT RESOLUTION APPROVING SAFE HARBORS UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT -** Request Council approve designating look-back measurement periods and other safe harbors per the Patient Protection and Affordable Care Act. (File No. 0720-24)

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

RESOLUTION NO. 2013-98

Councilmember Morasco asked if a complete analysis had been completed.

Matilda Hlawek, Human Resources Assistant Director, answered that the impact to the City was being investigated.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Morasco to approve designating look-back measurement periods and other safe harbors per the Patient Protection and Affordable Care Act and adopt Resolution No. 2013-98. Motion carried unanimously.

- 9. SONOMA COURT RESYNDICATION AND REHABILITATION – 508 E. MISSION AVENUE (FILE NO.: 0873-05) -** Request Council authorize Escondido Gardens LP, consisting of Affirmed Housing Group and San Diego County SER/jobs for Progress, Inc., to resyndicate and allow the new syndicate to assume current affordable housing loans in order to apply for financing for the rehabilitation of the buildings and grounds of Sonoma Court, located at 508 East Mission Avenue; and authorize the Mayor and City Clerk to execute a development agreement and all necessary loan and supporting agreements with Escondido Family Housing Partners, LP in a form acceptable to the City Attorney. (File No. 0600-10 [A-2137])

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

RESOLUTION NO. 2013-115

Councilmember Gallo voiced concern with the cost of the project.

Karen Youel, Housing Department, gave a presentation on the costs of the proposed project.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Morasco to authorize Escondido Gardens LP, consisting of Affirmed Housing Group and San Diego County SER/jobs for Progress, Inc., to resyndicate and allow the new syndicate to assume current affordable housing loans in order to apply for financing for the rehabilitation of the buildings and grounds of Sonoma Court, located at 508 East Mission Avenue; and authorize the Mayor and City Clerk to execute a development agreement and all necessary loan and supporting agreements with Escondido Family Housing Partners, LP in a form acceptable to the City Attorney and adopt Resolution No. 2013-115. Ayes: Abed, Diaz, Gallo and Morasco. Noes: None. Abstain: Masson. Absent: None. Motion carried.

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.)

- 10. LONG-FORM RENT REVIEW BOARD HEARING FOR SUNDANCE MOBILEHOME PARK (CASE #: 0697-20-9917)** - Approved on August 28, 2013 with a vote of 4/1, Diaz voting no. (File No. 0697-20-9917)

RESOLUTION NO. RRB 2013-07

PUBLIC HEARINGS

- 11. ZONING CODE AMENDMENT TO ALLOW STATE-MANDATED COTTAGE FOOD OPERATIONS IN RESIDENTIAL UNITS, HOME OCCUPATION PERMITS FOR EXISTING NONCONFORMING RESIDENTIAL UNITS AND GENERAL CLEANUP OF THE NONCONFORMING CODE (CASE AZ 13-0004)** - Request Council determine that the CEQA Notice of Exemption is complete and adequate for the project; and approve amendments to the Escondido Zoning Code Chapter 33, Article 16: Commercial Zones; Articles 26: Industrial Zones; Article 44: Home Occupations; Article 56: Miscellaneous Development Standards; Article 57: Miscellaneous Use Restrictions; and Article 61, Division 3: Nonconforming Uses and Structures. (File No. 0810-20)

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

ORDINANCE NO. 2013-07 (Introduction and First Reading)

Rozanne Cherry, Planning Department, gave the staff report and presented a series of slides.

Mayor Abed opened the public hearing and asked if anyone would like to speak on this issue in any way. No one asked to be heard. Therefore he closed the public hearing.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Masson to continue this item to the October 16, 2013 meeting.

CURRENT BUSINESS

- 12. BID AWARD FOR THE CONSTRUCTION OF OPERATIONS BUILDING AT HALE AVENUE RESOURCE RECOVERY FACILITY (HARRF) AND BUDGET ADJUSTMENT** - Request Council authorize the Mayor and City Clerk to execute a Public Improvement Agreement with Keeton Construction Co., Inc. in the amount of \$5,489,000 for the construction of the Operations Building at the Hale Avenue Resource Recovery Facility (HARRF); and approve a budget adjustment in the amount of \$1,318,143. (File No. 0600-10 [A-3092])

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

RESOLUTION NO. 2013-110

Christopher McKinney, Utilities Director, gave the staff report and presented a series of slides.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Masson to authorize the Mayor and City Clerk to execute a Public Improvement Agreement with Keeton Construction Co., Inc. in the amount of \$5,489,000 for the construction of the Operations Building at the Hale Avenue Resource Recovery Facility (HARRF); and approve a budget adjustment in the amount of \$1,318,143 and adopt Resolution No. 2013-110. Motion carried unanimously.

- 13. INITIATION OF AN ANNEXATION AND PREZONE FOR AN 11.3 ACRE PARCEL LOCATED AT THE NORTHERLY TERMINUS OF AMANDA LANE, NORTH OF GAMBLE LANE, ADDRESSED AS 2115 AMANDA LANE (AMANDA LANE ANNEXATION INITIATION)** - Request Council consider the request from New Urban West, Inc. to initiate an Annexation and Prezone to facilitate a proposal for a planned residential development on approximately 11.3 acres of land. (File No. 0850-20)

Staff Recommendation: **Provide direction to staff (Community Development/Planning: Barbara Redlitz)**

Bill Martin, Planning Department, gave the staff report and presented a series of slides.

Jason Han, New Urban West, listed the qualities of the project and urged Council to approve the annexation.

Bernie Blaney, Escondido, indicated she supported the annexation and asked Council to approve it.

Bill Ewing, Escondido, stated he supported New Urban West and their project.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Diaz to consider the request from New Urban West, Inc. to initiate an Annexation and Prezone to facilitate a proposal for a planned residential development on approximately 11.3 acres of land. Motion carried unanimously.

WORKSHOP

- 14. GRAFFITI PREVENTION AND REMOVAL WORKSHOP** - Request Council provide direction to staff on the proposed content of a Graffiti Management Plan and Policy to address graffiti. (File No. 0110-20)

Staff Recommendation: **Provide direction to staff (City Manager's Office: Charles Grimm)**

Charles Grimm, Assistant City Manager, and Bud Olivera, Public Works Operations Deputy Director, gave the staff report and presented a series of slides.

Nicole Downey, Escondido, suggested that students be involved with painting electrical boxes to remove graffiti in the City.

Linda Sheridan, Escondido, proposed that a Graffiti Education and Mural Arts Program be implemented in the City's schools.

COUNCIL ACTION: Directed staff to use Façade Improvement Program funds to buy equipment and technology and return to the Council with a priority list for spending those funds.

- 15. PRELIMINARY CITY COUNCIL ACTION PLAN – PUBLIC SAFETY** - Request Council provide direction to staff on the proposed content of the Public Safety element of the 2013-2014 City Council Action Plan. (File No. 0610-95)

Staff Recommendation: **Provide direction to staff (City Manager's Office: Joyce Masterson)**

Michelle Geller, Economic Development Department, Police Chief Craig Carter, and Fire Chief Michael Lowry, gave the staff report and presented a series of slides.

COUNCIL ACTION: No action, information only.

FUTURE AGENDA

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

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

ORAL COMMUNICATIONS

Bob Wise, Escondido, indicated the Sundance Mobilehome Park Resident Representative was very ill and requested that Council delay their decision on the proposed rent increase.

Dave Connors, Escondido, voiced concern with the discussion on agenda item 10.

Alejandro Sanchez, Vista, stated he liked the discussion on agenda item 14.

ADJOURNMENT

Mayor Abed adjourned the meeting at 9:15 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No. 4

Date: October 16, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Mark Becker, Director of Information Systems

SUBJECT: Approve Purchase of Network Equipment

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2013-137 approving the purchase of consolidated network equipment from Dell Inc. for \$291,460.

FISCAL ANALYSIS:

Funding is available in the 2013/14 – 2017/18 Five-Year Capital Improvement Program, under the Network Backbone Upgrade project.

PREVIOUS ACTION:

On June 19, 2013, Council approved the 2013/14 – 2017/18 Five-Year Capital Improvement Plan that included the Network Backbone Upgrade project.

BACKGROUND:

All network communications use the network backbone as a pathway to and from required resources. Many of the City's backbone components are technically obsolete and are limiting the speed and throughput of the network. To meet current and future needs the City Hall Server Room and connections to the Police and Fire Headquarters will be upgraded from 1 Gb (Gigabit) to 10 Gb, communications to desktops within City Hall will increase from 100 Mb (Megabit) to 1 Gb.

These changes represent a tenfold increase in communication speed. The upgrade will enhance current server virtualization, disaster recovery, and backup projects. It will also create the state of the art infrastructure we need to move forward with Voice over IP (VoIP) phone systems and put us in position to leverage future technology trends in multimedia services, cloud services and Software as a Service.

Newer City facilities have already been built or are being built with these capabilities in mind. Staff has evaluated network equipment from the leading network hardware vendors and has selected Dell Inc. as a preferred vendor based on price, performance and a history of good customer service. The

network equipment will be purchased directly from Dell Inc. in the amount of \$291,460. The price is based on the Western States Contracting Alliance (WSCA) cooperative purchasing program. The funds are available in the Network Backbone Upgrade CIP previously approved by Council.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark Becker', followed by a long horizontal line extending to the right.

Mark Becker
Director of Information Systems

RESOLUTION NO. 2013-137

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF ESCONDIDO,
CALIFORNIA, AUTHORIZING ISSUANCE
OF A NETWORKING EQUIPMENT
PURCHASE ORDER TO DELL COMPUTER
CORPORATION FOR CONSOLIDATED
NETWORKING EQUIPMENT

WHEREAS, Information Systems currently budgets for, purchases, and replaces technically obsolete networking backbone equipment as part of the Network Backbone Upgrade project previously approved by the City Council in the 2013/14 - 2017/18 Five-Year Capital Improvement Program; and

WHEREAS, in anticipation of the increasing demand for high bandwidth applications, virtual environments, improved network security, Voice over IP ("VoIP") and to provide updated redundancy between City Hall and the Police and Fire Headquarters, it is necessary to upgrade to the City's network backbone; and

WHEREAS, to receive the largest possible purchasing discount, Information Systems has evaluated networking equipment from leading network equipment vendors and consolidated the purchase of networking backbone equipment from the Dell Computer Corporation in the amount of \$291,460; and

WHEREAS, the City Council determines it is in the best public interest to approve said purchase.

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

1. The above recitations are true.

2. That the City Council accepts the recommendation of the Information Systems Director and finds that Dell Computer Corporation will combine the City of Escondido's ("City") purchase requests enabling the City to receive additional savings on hardware purchases.

3. That the City Council hereby approves issuance of a purchase order to Dell Computer Corporation for a consolidated networking equipment purchase as shown in Exhibit "A," attached to this Resolution and incorporated by this reference.



EXHIBIT "A"

Resolution No. 2013-137
 EXHIBIT A
 Page 1 of 11

QUOTATION

Quote #: 662670057
 Customer #: 000142504
 Contract #: WN99ABZ
 Customer Agreement #: WSCA B27160
 Quote Date: 09/09/2013
 Customer Name: CITY OF ESCONDIDO

Date: 9/9/2013

Thanks for choosing Dell! Your quote is detailed below; please review the quote for product and informational accuracy. If you find errors or desire certain changes please contact your sales professional as soon as possible.

Sales Professional Information

SALES REP:	NICHOLAS LAUCK	PHONE:	1800 - 8793355
Email Address:	Nicholas_Lauck@Dell.com	Phone Ext:	5139099

GROUP: 1 QUANTITY: 1 SYSTEM PRICE: \$3,355.51 GROUP TOTAL: \$3,355.51

Description	Quantity
PowerEdge R420 (225-2987)	1
Dell Hardware Limited Warranty Plus On Site Service Initial Year (939-8097)	1
Dell Hardware Limited Warranty Plus On Site Service Extended Year (939-8107)	1
Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-945-3355 (989-3439)	1
Non-Mission Critical: 4-Hour 7x24 On-site Service After Problem Diagnosis, Initial Year (996-2111)	1
Non-Mission Critical: 4-Hour 7x24 On-site Service After Problem Diagnosis, 2 Year Extended (996-2141)	1
ProSupport: 7x24 HW / SW Tech Support and Assistance, 3 Year (996-2331)	1
On-Site Installation Declined (900-9997)	1
Proactive Maintenance Service Declined (926-2979)	1
Shipping Material,PowerEdge R420 (331-7127)	1
PCIE Riser for Chassis with 2 Proc (331-7125)	1
On-Board Broadcom 5720 QUAD Port 1GBE (430-4715)	1
Broadcom 5720 DP 1Gb Network Interface Card, Low Profile (430-4424)	1
iDRAC Port Card (421-5340)	1
iDRAC7 Enterprise (421-6085)	1
3.5" Chassis with up to 4 Hard Drives (318-2081)	1
SAS Cable for 3.5" in Hot Plug Chassis (331-6959)	1
Bezel-4/8 Drive Chassis (318-1431)	1
No RAID for H310 (1-8 HDDs) (331-7171)	1
PERC H310 Integrated RAID Controller (342-3528)	1
Heat Sink,PowerEdge (317-9826)	1
Intel Xeon E5-2420 1.90GHz, 15M Cache, 7.2GT/s QPI, Turbo, 6C, 95W (319-0020)	1
Heat Sink,PowerEdge (317-9826)	1
Intel Xeon E5-2420 1.90GHz, 15M Cache, 7.2GT/s QPI, Turbo, 6C, 95W (319-0029)	1

8GB RDIMM, 1333 MT/s, Low Volt, Dual Rank, x4 Data Width (317-9644)	4
1333 MHz RDIMMs (331-4422)	1
Performance Optimized (331-4428)	1
1TB 7.2K RPM Near-Line SAS 6Gbps 3.5in Hot-plug Hard Drive (342-2098)	2
300GB 15K RPM SAS 6Gbps 3.5in Hot-plug Hard Drive (342-2078)	2
Electronic System Documentation and OpenManage DVD Kit for R420 (331-7129)	1
DVD, SATA (318-2099)	1
ReadyRails Sliding Rails With Cable Management Arm (331-4765)	1
Power Distribution Board for Hot Plug Power Supplies (331-7027)	1
Dual Hot Plug Power Supplies 550W (331-7131)	1
Power Cord, NEMA 5-15P to C13, 15 amp, wall plug, 10 feet / 3 meter (310-8509)	2
No Operating System (420-6320)	1
No Media Required (421-5736)	1

*Total Purchase Price:		\$3,544.05
Product Subtotal:		\$3,355.51
Tax:		\$188.54
Shipping & Handling:		\$0.00
State Environmental Fee:		\$0.00
Shipping Method:		LTL 5 DAY OR LESS

(* Amount denoted in \$)

Statement of Conditions

The information in this document is believed to be accurate. However, Dell assumes no responsibility for inaccuracies, errors, or omissions, and shall not be liable for direct, indirect, special, incidental, or consequential damages resulting from any such error or omission. Dell is not responsible for pricing or other errors, and reserves the right to cancel orders arising from such errors. Dell may make changes to this proposal including changes or updates to the products and services described, including pricing, without notice or obligation.

This proposal is not intended to create a contractual relationship. Unless expressly agreed otherwise in a writing signed by the parties, all orders by CITY OF ESCONDIDO for Dell products and services shall be subject to Dell's Terms and Conditions of Sale-Direct, which can be found at www.dell.com/terms, and which incorporate Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. Please read those terms carefully and in their entirety, and note in particular that Dell EqualLogic and EqualLogic-branded products, Dell|EMC and EMC-branded products, PowerVault ML6000 tape libraries, non-Dell-branded enterprise products, enterprise software, and customized hardware or software products may not be returned at any time. Orders also shall be subject to the terms of any applicable service contract(s), which can be found at www.dell.com/servicecontracts.

All information supplied to CITY OF ESCONDIDO for the purpose of this proposal is to be considered confidential information belonging to Dell.

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QUOTATION

Resolution No. 2013-137
 EXHIBIT A
 Page 3 of 11

Quote #: 664091372
 Customer #: 000142504
 Contract #: WN99ABZ
 Customer Agreement #: WSCA B27160
 Quote Date: 09/25/2013
 Customer Name: CITY OF ESCONDIDO

Date: 9/25/2013

Thanks for choosing Dell! Your quote is detailed below; please review the quote for product and informational accuracy. If you find errors or desire certain changes please contact your sales professional as soon as possible.

Sales Professional Information

SALES REP:	NICHOLAS LAUCK	PHONE:	1800 - 8793355
Email Address:	Nicholas_Lauck@Dell.com	Phone Ext:	5139099

GROUP: 1 QUANTITY: 4 SYSTEM PRICE: \$2,233.21 GROUP TOTAL: \$8,932.84

Description	Quantity
Dell PowerEdge Energy Smart 4020S Rack with Doors and Side Panels, Ground Ship, NOT for AK / HI (225-1849)	4
Dell Hardware Limited Warranty Initial Year (933-8357)	4
Dell Hardware Limited Warranty Extended Year(s) (937-6208)	4
Basic Hardware Services: Business Hours (5X10) Next Business Day Parts Delivery 2 Year Extended (955-2792)	4
Basic Hardware Services: Business Hours (5X10) Next Business Day Parts Delivery Initial Year (958-8160)	4
On-Site Installation Declined (900-9997)	4
Rack Interconnect Kit, PS to PS (330-3601)	4
Vertical Cable Manager with cover (332-1329)	8
1U Horizontal Crossover Panel (332-1330)	32
Metal Cable Rings, Quantity 10 (332-1327)	4
Hook and Loop Straps, Quantity 10 (332-1332)	20
PDU Temperature/Humidity Sensor for Mtr and Mng PDUs only (330-9607)	4

GROUP: 2 QUANTITY: 1 SYSTEM PRICE: \$3,763.64 GROUP TOTAL: \$3,763.64

Description	Quantity
PE4220 42U Wide Rack with Doors and Side Panels, Ground Ship, NOT for AK/HI (224-9996)	1
Dell Hardware Limited Warranty Initial Year (925-9227)	1
Basic Hardware Services: Business Hours (5X10) Next Business Day On Site Hardware Warranty Repair 2 Year Exten (931-9042)	1
Dell Hardware Limited Warranty Extended Year(s) (932-2028)	1
Basic Hardware Services: Business Hours (5X10) Next Business Day On Site Hardware Warranty Repair Initial Year (936-9200)	1
On-Site Installation Declined (900-9997)	1
Vertical Cable Manager with cover (332-1329)	2

2U Horizontal Crossover Panel (332-1331)	8
Hook and Loop Straps, Quantity 10 (332-1332)	5
Metal Cable Rings, Quantity 10 (332-1327)	1
Rack Interconnect Kit, PS to PS (330-3601)	1
Power Cord, C13 to C14, PDU Style, 12 Amps, 2 meter, Qty 1 (330-3151)	80
PDU Temperature/Humidity Sensor for Mtr and Mng PDUs only (330-9607)	1
PDU Power Cord L5-20P to C19, 20A, 125V, 3.7m (330-6396)	2
PDU,Managed,16A,120-240V,(21)C13,(3)C19,Vertical,input cord not included (330-9601)	2
1U Closeout Filler Panel For Dell Racks, Plastic, Qty 100 (330-8834)	1

SOFTWARE & ACCESSORIES		GROUP TOTAL: \$5,760.00	
Product	Quantity	Unit Price	Total
PDU,Managed,16A,120-240V,(21)C13,(3)C19,Vertical,w L5-20P to C19,125V,3.7m cord,CusKit (330-9622)	10	\$576.00	\$5,760.00

*Total Purchase Price:	\$19,871.15
Product Subtotal:	\$18,456.48
Tax:	\$1,414.67
Shipping & Handling:	\$0.00
State Environmental Fee:	\$0.00
Shipping Method:	LTL 5 DAY OR LESS

(* Amount denoted in \$)

Statement of Conditions

The information in this document is believed to be accurate. However, Dell assumes no responsibility for inaccuracies, errors, or omissions, and shall not be liable for direct, indirect, special, incidental, or consequential damages resulting from any such error or omission. Dell is not responsible for pricing or other errors, and reserves the right to cancel orders arising from such errors. Dell may make changes to this proposal including changes or updates to the products and services described, including pricing, without notice or obligation.

This proposal is not intended to create a contractual relationship. Unless expressly agreed otherwise in a writing signed by the parties, all orders by CITY OF ESCONDIDO for Dell products and services shall be subject to Dell's Terms and Conditions of Sale-Direct, which can be found at www.dell.com/terms, and which incorporate Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. Please read those terms carefully and in their entirety, and note in particular that Dell EqualLogic and EqualLogic-branded products, Dell EMC and EMC-branded products, PowerVault ML6000 tape libraries, non-Dell-branded enterprise products, enterprise software, and customized hardware or software products may not be returned at any time. Orders also shall be subject to the terms of any applicable service contract(s), which can be found at www.dell.com/servicecontracts.

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QUOTATION

Resolution No. 2013-137
EXHIBIT A
Page 5 of 11

Quote #: 664152668
Customer #: 000142504
Contract #:
Customer Agreement #:
Quote Date: 09/26/2013
Customer Name: CITY OF ESCONDIDO

Date: 9/26/2013

Thanks for choosing Dell! Your quote is detailed below; please review the quote for product and informational accuracy. If you find errors or desire certain changes please contact your sales professional as soon as possible.

Sales Professional Information

SALES REP:	NICHOLAS LAUCK	PHONE:	1800 - 8793355
Email Address:	Nicholas_Lauck@Dell.com	Phone Ext:	5139099

GROUP: 1 QUANTITY: 13 SYSTEM PRICE: \$5,078.00 GROUP TOTAL: \$66,014.00

Description	Quantity
PCT7048, 48 port Power over Ethernet+ Managed Switch, 1 GbE with 10Gb and Stacking capabilities (225-0136)	13
Dell Hardware Limited Warranty Initial Year (931-3067)	13
Dell Hardware Limited Warranty Extended Year(s) (935-7588)	13
ProSupport: Next Business Day Onsite Service After Problem Diagnosis, 2 Year Extended (939-8212)	13
ProSupport: 7x24 HW / SW Tech Support and Assistance, 3 Year (939-8252)	13
ProSupport: Next Business Day Onsite Service After Problem Diagnosis, Initial Year (954-2230)	13
Lifetime Limited Hardware Warranty with Basic Hardware Service Next Business Day Parts Only on Your PowerConnect (954-2350)	13
Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-945-3355 (989-3439)	13
On-Site Installation Declined (900-9997)	13
Declined Remote Consulting Service (973-2426)	13
Stacking Module, 64Gbps, Includes 0.3m Stacking Cable (331-2446)	13
10GbE Uplink Module for SFP+, supports up to 2 SFP+ (optics not included) (331-2445)	13
Dell Networking, Transceiver, SFP+, 10GbE, SR, 850nm Wavelength, 300m Reach (407-BBEF)	13
PowerConnect-M1000 External Power Supply for PCT7000 PoE+ Switches (331-2439)	13

GROUP: 2 QUANTITY: 4 SYSTEM PRICE: \$3,376.50 GROUP TOTAL: \$13,506.00

Description	Quantity
PCT7024, 24 port Power over Ethernet+ Managed Switch, 1 GbE with 10Gb and Stacking capabilities (225-0133)	4
Dell Hardware Limited Warranty Initial Year (931-3067)	4
Dell Hardware Limited Warranty Extended Year(s) (935-7588)	4

ProSupport: Next Business Day Onsite Service After Problem Diagnosis, 2 Year Extended (939-8212)	4
ProSupport: 7x24 HW / SW Tech Support and Assistance, 3 Year (939-8252)	4
ProSupport: Next Business Day Onsite Service After Problem Diagnosis, Initial Year (954-2230)	4
Lifetime Limited Hardware Warranty with Basic Hardware Service Next Business Day Parts Only on Your PowerConne (954-2350)	4
Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-945-3355 (989-3439)	4
On-Site Installation Declined (900-9997)	4
Declined Remote Consulting Service (973-2426)	4
10GbE Uplink Module for SFP+, supports up to 2 SFP+ (optics not included) (331-2445)	4
Dell Networking, Transceiver, SFP+, 10GbE, SR, 850nm Wavelength, 300m Reach (407-BBEF)	4

GROUP: 3 QUANTITY: 1 SYSTEM PRICE: \$2,377.00 GROUP TOTAL: \$2,377.00	
Description	Quantity
PCT7024,24 port Power over Ethernet+ Managed Switch, 1 GbE with 10Gb and Stacking capabilities (225-0133)	1
Dell Hardware Limited Warranty Initial Year (931-3067)	1
Dell Hardware Limited Warranty Extended Year(s) (935-7588)	1
ProSupport: Next Business Day Onsite Service After Problem Diagnosis, 2 Year Extended (939-8212)	1
ProSupport: 7x24 HW / SW Tech Support and Assistance, 3 Year (939-8252)	1
ProSupport: Next Business Day Onsite Service After Problem Diagnosis, Initial Year (954-2230)	1
Lifetime Limited Hardware Warranty with Basic Hardware Service Next Business Day Parts Only on Your PowerConne (954-2350)	1
Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-945-3355 (989-3439)	1
On-Site Installation Declined (900-9997)	1
Declined Remote Consulting Service (973-2426)	1

GROUP: 4 QUANTITY: 1 SYSTEM PRICE: \$2,527.00 GROUP TOTAL: \$2,527.00	
Description	Quantity
PCT7024,24 port Power over Ethernet+ Managed Switch, 1 GbE with 10Gb and Stacking capabilities (225-0133)	1
Dell Hardware Limited Warranty Initial Year (931-3067)	1
Dell Hardware Limited Warranty Extended Year(s) (935-7588)	1
ProSupport: Next Business Day Onsite Service After Problem Diagnosis, 2 Year Extended (939-8212)	1
ProSupport: 7x24 HW / SW Tech Support and Assistance, 3 Year (939-8252)	1
ProSupport: Next Business Day Onsite Service After Problem Diagnosis, Initial Year (954-2230)	1
Lifetime Limited Hardware Warranty with Basic Hardware Service Next Business Day Parts Only on Your PowerConne (954-2350)	1

Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-945-3355 (989-3439)	1
On-Site Installation Declined (900-9997)	1
Declined Remote Consulting Service (973-2426)	1
Dell Networking, Transceiver, SFP, 1000BASE-SX, 850nm Wavelength, 550m Reach (407-BBDB)	1

GROUP: 5 QUANTITY: 6 SYSTEM PRICE: \$3,831.50 GROUP TOTAL: \$22,989.00	
Description	Quantity
PCT7024, 24 port Managed Switch, 1 GbE with 10Gb and Stacking capabilities (225-0131)	6
Dell Hardware Limited Warranty Initial Year (931-3067)	6
Dell Hardware Limited Warranty Extended Year(s) (935-7588)	6
MISSION CRITICAL PACKAGE: Enhanced Services, 3 Year (936-4279)	6
Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, 2 Year Extended (939-8172)	6
ProSupport: 7x24 HW / SW Tech Support and Assistance, 3 Year (939-8272)	6
Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (954-2190)	6
Lifetime Limited Hardware Warranty with Basic Hardware Service Next Business Day Parts Only on Your PowerConnect (954-2350)	6
Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-945-3355 (989-3439)	6
On-Site Installation Declined (900-9997)	6
Declined Remote Consulting Service (973-2426)	6
10GbE Uplink Module for SFP+, supports up to 2 SFP+ (optics not included) (331-2445)	6
Dell Networking, Transceiver, SFP+, 10GbE, LR, 1310nm Wavelength, 10km Reach (407-BBEE)	6
Dell Networking, Cable, SFP+ to SFP+, 10GbE, Copper Twinax Direct Attach Cable, 1 Meter (470-AAGN)	6

GROUP: 6 QUANTITY: 2 SYSTEM PRICE: \$7,236.20 GROUP TOTAL: \$14,472.40	
Description	Quantity
Force10, S55, 1RU, 44 x 10/100/1000 BASE-T, 4 x 1GbE SFP, 1 x AC PSU, 2 x FM, IO to PSU Panels (Normal) (225-2503)	2
Force10, User Documentation for S55/S60, DAO/BCC (331-6271)	2
Dell Hardware Limited Warranty Initial Year (935-1367)	2
Dell Hardware Limited Warranty Extended Year(s) (938-7578)	2
Dell ProSupport Plus. For tech support, visit www.dell.com/prosupport/regionalcontacts (951-2015)	2
ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (951-4573)	2
ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, 2 Year Extended (951-4581)	2
ProSupport Plus : 7x24 HW / SW Tech Support and Assistance , 3 Years (951-4595)	2
SW Support, Force10 Software , 5 Years (995-9649)	2
Force10, 5 Year Return To Depot Service, Base Warranty (996-0540)	2

On-Site Installation Declined (900-9997)	2
Declined Remote Consulting Service (973-2426)	2
Force10, Adapter, Card, 10 GbE, 2 Port, SFP+, S55 (331-5392)	2
Force10, S55, AC Power Supply, IO to PSU Panels (Normal) (331-5243)	2
Dell Networking, Cable, SFP+ to SFP+, 10GbE, Copper Twinax Direct Attach Cable, 7 Meter (470-AAGT)	4
Force10, Power Cord, 125V, 15A, 10 Feet, NEMA 5-15/C13, S-Series (331-5996)	4
Force10, Rear Rack Mounting Bracket, 4 Post, S55 (331-5252)	2

GROUP: 7 QUANTITY: 1 SYSTEM PRICE: \$31,327.72 GROUP TOTAL: \$31,327.72

Description	Quantity
Force10, S4810P, 1RU, 48 x 10GbE SFP+, 4 x 40GbE QSFP+, 1 x AC PSU, 2 x FM, IO to PSU Panels (Normal) (225-2477)	1
Force10, User Documentation for S4810, DAO/BCC (331-6279)	1
SW Support, Force10 Software, 5 Years (938-8088)	1
Dell ProSupport Plus. For tech support, visit www.dell.com/prosupport/regionalcontacts (951-2015)	1
ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (951-5584)	1
ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, 4 Year Extended (951-5601)	1
ProSupport Plus: 7x24 HW/SW Tech Support and Assistance, 5 Year (951-5614)	1
Dell Hardware Limited Warranty Initial Year (996-2670)	1
Dell Hardware Limited Warranty Extended Year(s) (996-2760)	1
On-Site Installation Declined (900-9997)	1
Declined Remote Consulting Service (973-2426)	1
Force10, S4810P, AC Power Supply, IO to PSU Panels (Normal) (331-5103)	1
Dell Networking, Transceiver, SFP+, 10GbE, LR, 1310nm Wavelength, 10km Reach (407-BBEE)	2
Dell Networking, Transceiver, SFP+, 10GbE, SR, 850nm Wavelength, 300m Reach (407-BBEF)	17
Dell Networking, Cable, SFP+ to SFP+, 10GbE, Copper Twinax Direct Attach Cable, 7 Meter (470-AAGT)	10
Force10, Power Cord, 125V, 15A, 10 Feet, NEMA 5-15/C13, S-Series (331-5996)	2
Force10 Customer not deploying this switch in iSCSI or FCOE environment. (332-0139)	1
Force10, Rear Rack Mounting Bracket, 4 Post, S4810 (331-5393)	1

GROUP: 8 QUANTITY: 1 SYSTEM PRICE: \$13,818.00 GROUP TOTAL: \$13,818.00

Description	Quantity
PowerConnect 8132F, 24x 10GbE SFP+ base ports, up to 32 ports max via optional 40GbE Uplink/Stacking Module (225-3586)	1
Lifetime Limited Hardware Warranty with Basic Hardware Service Next Business Day Parts Only on your Power Conn (967-1567)	1
Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (967-1575)	1

Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, 4 Year Extended (967-2164)	1
ProSupport: 7x24 HW / SW Tech Support and Assistance, 5 Year (967-2172)	1
Dell Hardware Limited Warranty Initial Year (967-2444)	1
MISSION CRITICAL PACKAGE: Enhanced Services, 5 Year (967-2447)	1
Dell Hardware Limited Warranty Extended Year(s) (967-2500)	1
Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-945-3355 (989-3439)	1
On-Site Installation Declined (900-9997)	1
Declined Remote Consulting Service (973-2426)	1
Dell Education Services-PCT Networking-No Training Requested (973-0924)	1
Dell Networking, Transceiver, SFP+, 10GbE, LR, 1310nm Wavelength, 10km Reach (407-BBEE)	2
Dell Networking, Transceiver, SFP, 1000BASE-SX, 850nm Wavelength, 550m Reach (407-BBDB)	10
Dell Networking, Cable, SFP+ to SFP+, 10GbE, Copper Twinax Direct Attach Cable, 7 Meter (470-AAGT)	6
Dell Networking, Cable, QSFP+ to QSFP+, 40GbE Passive Copper Direct Attach Cable, 3 Meter (470-AAGI)	1
QSFP+ 40GbE Module, 2-Port, Hot Swap, used for 40GbE Uplink, Stacking, or 8x 10GbE Breakout (331-8186)	1

GROUP: 9 QUANTITY: 2 SYSTEM PRICE: \$7,236.20 GROUP TOTAL: \$14,472.40	
Description	Quantity
Force10, S55, 1RU, 44 x 10/100/1000 BASE-T, 4 x 1GbE SFP, 1 x AC PSU, 2 x FM, IO to PSU Panels (Normal) (225-2503)	2
Force10, User Documentation for S55/S60, DAO/BCC (331-6271)	2
Dell Hardware Limited Warranty Initial Year (935-1367)	2
Dell Hardware Limited Warranty Extended Year(s) (938-7578)	2
Dell ProSupport Plus. For tech support, visit www.dell.com/prosupport/regionalcontacts (951-2015)	2
ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (951-4573)	2
ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, 2 Year Extended (951-4581)	2
ProSupport Plus : 7x24 HW / SW Tech Support and Assistance , 3 Years (951-4595)	2
SW Support,Force10 Software ,5 Years (995-9649)	2
Force10, 5 Year Return To Depot Service, Base Warranty (996-0540)	2
On-Site Installation Declined (900-9997)	2
Declined Remote Consulting Service (973-2426)	2
Force10, Adapter, Card, 10 GbE, 2 Port, SFP+, S55 (331-5392)	2
Force10, S55, AC Power Supply, IO to PSU Panels (Normal) (331-5243)	2
Dell Networking, Cable, SFP+ to SFP+, 10GbE, Copper Twinax Direct Attach Cable, 7 Meter (470-AAGT)	4
Force10, Power Cord, 125V, 15A, 10 Feet, NEMA 5-15/C13, S-Series (331-5996)	4
Force10, Rear Rack Mounting Bracket, 4 Post, S55 (331-5252)	2

GROUP: 10 QUANTITY: 1 SYSTEM PRICE: \$3,093.00 GROUP TOTAL: \$3,093.00	
Description	Quantity
PCT7024F,24 GbE SFP Ports,Managed Switch, 10GbE and Stacking Capable (225-0132)	1
Dell Hardware Limited Warranty Initial Year (931-3067)	1
Dell Hardware Limited Warranty Extended Year(s) (935-7588)	1
ProSupport: Next Business Day Onsite Service After Problem Diagnosis, 2 Year Extended (939-8212)	1
ProSupport: 7x24 HW / SW Tech Support and Assistance, 3 Year (939-8252)	1
ProSupport: Next Business Day Onsite Service After Problem Diagnosis, Initial Year (954-2230)	1
Lifetime Limited Hardware Warranty with Basic Hardware Service Next Business Day Parts Only on Your PowerConne (954-2350)	1
Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-945-3355 (989-3439)	1
On-Site Installation Declined (900-9997)	1
Declined Remote Consulting Service (973-2426)	1
Powercord,125 Volt,15Amp,10 Foot, C13 to NEMA 5-15 (330-6870)	1

SOFTWARE & ACCESSORIES		GROUP TOTAL: \$68,741.02	
Product	Quantity	Unit Price	Total
Dell SonicWALL SuperMassive 9200 Secure Upgrade Plus - 3-Year (A6830732)	2	\$29,959.05	\$59,918.10
Dell SonicWALL Analyzer for E-Class NSA & SuperMassive - license (A5530509)	2	\$687.50	\$1,375.00
Dell Networking, Cable, SFP+ to SFP+, 10GbE, Copper Twinax Direct Attach Cable, 5 Meters, Cust Kit (332-1666)	12	\$110.00	\$1,320.00
Dell Education Services - FT Networking-No Training Requested (973-0925)	2	\$0.00	\$0.00
Dell Education Services - FT Networking-No Training Requested (973-0925)	1	\$0.00	\$0.00
Intel Ethernet X520 DP 10Gb DA/SFP+ Server Adapter, Low Profile, Customer Install (430-4436)	10	\$425.00	\$4,250.00
10 GB LC/LC Duplex 50/125 Multimode Fiber Aqua Patch Cable - 3.28 ft (A2125953)	40	\$19.89	\$795.60
CABLES TO GO 3M 10GB LC/LC DUPLEX MM AQUA FIBER - 50 (A5284034)	12	\$22.76	\$273.12
Dell Education Services - FT Networking-No Training Requested (973-0925)	2	\$0.00	\$0.00
Dell SonicWALL 1000BASE-LX SFP+ Long Haul Module (A7004440)	2	\$404.60	\$809.20

*Total Purchase Price:		\$268,043.83
Product Subtotal:		\$253,337.54
Tax:		\$14,706.29

Shipping & Handling:	\$0.00
State Environmental Fee:	\$0.00
Shipping Method:	LTL 5 DAY OR LESS

(* Amount denoted in \$)

Statement of Conditions

The information in this document is believed to be accurate. However, Dell assumes no responsibility for inaccuracies, errors, or omissions, and shall not be liable for direct, indirect, special, incidental, or consequential damages resulting from any such error or omission. Dell is not responsible for pricing or other errors, and reserves the right to cancel orders arising from such errors. Dell may make changes to this proposal including changes or updates to the products and services described, including pricing, without notice or obligation.

This proposal is not intended to create a contractual relationship. Unless expressly agreed otherwise in a writing signed by the parties, all orders by CITY OF ESCONDIDO for Dell products and services shall be subject to Dell's Terms and Conditions of Sale-Direct, which can be found at www.dell.com/terms, and which incorporate Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. Please read those terms carefully and in their entirety, and note in particular that Dell EqualLogic and EqualLogic-branded products, Dell|EMC and EMC-branded products, PowerVault ML6000 tape libraries, non-Dell-branded enterprise products, enterprise software, and customized hardware or software products may not be returned at any time. Orders also shall be subject to the terms of any applicable service contract(s), which can be found at www.dell.com/servicecontracts.

All information supplied to CITY OF ESCONDIDO for the purpose of this proposal is to be considered confidential information belonging to Dell.

About Dell

Dell Inc. (NASDAQ: DELL) listens to customers and delivers innovative technology and services they trust and value. Uniquely enabled by its direct business model, Dell is a leading global systems and services company and No. 34 on the Fortune 500. For more information, visit www.dell.com.

Privacy Policy

Dell respects your privacy. Across our business, around the world, Dell will collect, store, and use customer information only to support and enhance our relationship with your organization, for example, to process your purchase, provide service and support, and share product, service, and company news and offerings with you. Dell does not sell your personal information. For a complete statement of our Global Privacy Policy, please visit dell.com/privacy.

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 5

Date: October 16, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Sheryl Bennett, Director of Human Resources
Cheri Lowry, Risk & Safety Coordinator

SUBJECT: Approval of CalPERS Industrial Disability Retirement for Daniel Garcia

RECOMMENDATION:

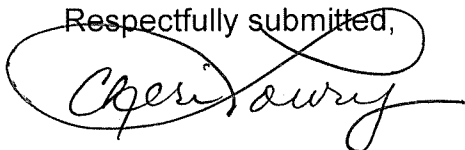
It is requested that Council adopt Resolution No. 2013-142 – approving the California Public Employees' Retirement System (CalPERS) Industrial Disability Retirement for Police Officer Daniel Garcia.

BACKGROUND:

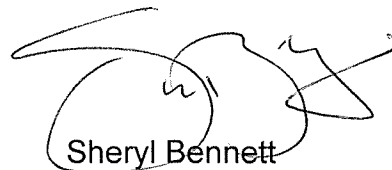
Mr. Garcia is a 32-year-old male Police Officer. He has been employed by the City of Escondido for approximately three and one half years. The basis for Mr. Garcia's Industrial Disability Retirement application is confirmed by medical reports from Dr. Ramin Raiszadeh, M.D. Mr. Garcia's condition is orthopedic in nature. Accordingly, Mr. Garcia is incapacitated within the meaning of the Public Employees' Retirement Law for the performance of his usual and customary duties in the position of Police Officer.

Under State Law, the City Council is required to adopt a Resolution determining that competent medical evidence supports the granting of an Industrial Disability Retirement. Based on medical evidence, staff recommends the City Council adopt Resolution No. 2013-142 approving the CalPERS Industrial Disability Retirement, for Daniel Garcia to be effective November 2, 2013.

Respectfully submitted,



Cheri Lowry
Risk & Safety Coordinator



Sheryl Bennett
Human Resources Director

RESOLUTION NO. 2013-142

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING THE CALPERS INDUSTRIAL
DISABILITY RETIREMENT FOR DANIEL
GARCIA

WHEREAS, the City of Escondido (hereinafter referred to as "Agency") is a contracting agency of the California Public Employees' Retirement System (CalPERS); and

WHEREAS, the California Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law; and

WHEREAS, an application for Industrial Disability Retirement of Daniel Garcia employed by the Agency in the position of Police Officer has been filed with CalPERS; and

WHEREAS, the City of Escondido has reviewed the medical and other evidence relevant to such alleged disability.

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

1. That the above recitations are true.
2. The City Council of the City of Escondido does find and determine that Daniel Garcia is incapacitated within the meaning of the Public Employees' Retirement Law for performance of his usual duties in the position of Police Officer; and

3. The City Council of the City of Escondido does find and determine that such disability is a result of injury or disease arising out of and in the course of employment.

4. Neither Daniel Garcia nor the agency, the City of Escondido, has applied to the Workers' Compensation Appeals Board for a determination pursuant to Section 21166 as to whether such disability is industrial.

5. There is not a possibility of third party liability.

6. No advanced disability pension payments will be made. Mr. Garcia's last day on payroll will be November 1, 2013.

7. The City Council of the City of Escondido finds that Mr. Garcia's primary disability is orthopedic.

CITY COUNCIL

For City Clerk's Use:

☐

APPROVED

☐

DENIED

Reso No. _____

File No. _____

Ord No. _____

Agenda Item No.: 6
Date: October 16, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer
Christopher McKinney, Director of Utilities

SUBJECT: Continued Emergency Contracting for Street Repairs

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2013-147 by a four-fifths vote determining that there is need to continue emergency street repairs on Washington Avenue required as a result of a water main leak.

FISCAL ANALYSIS:

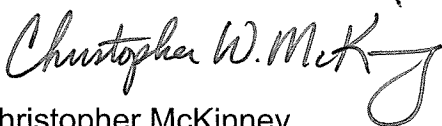
Funding for the emergency street repairs is available in the Water Budget.

BACKGROUND:

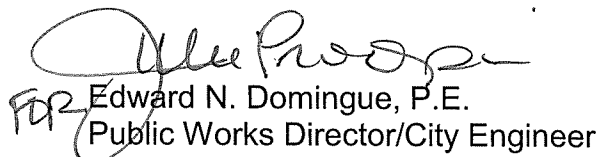
On September 27, 2013, pavement distress due to a leak in a 60 year old 8" waterline evolved into a large sinkhole on Washington Avenue near Waverly. On October 2, 2013, City Council adopted Resolution No. 2013-140 declaring that the public interest and necessity demanded an immediate expenditure to safeguard life, health or property and authorized execution of a Public Service Agreement with George Weir Asphalt, Inc. The public contract code requires that City Council review the status and re-affirm the need for emergency contracting every fourteen days.

Temporary patching and filling of the sinkhole has been completed; however, additional repairs are needed to allow the full re-opening of the street. It is expected that street repairs will be completed in the next week. Staff recommends that Council adopt Resolution No. 2013-147 by a four-fifths vote determining that there is a need to continue emergency contracting to repair and re-open the street.

Respectfully submitted,



Christopher McKinney
Director of Utilities



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

RESOLUTION NO. 2013-147

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AWARDING A BID FOR THE FY 13-14 STREET PROJECT AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, A PUBLIC IMPROVEMENT AGREEMENT WITH GEORGE WEIR ASPHALT CONSTRUCTION INC.

WHEREAS, the City Council has allocated funding for the 2011-2012 Street Maintenance Project; and

WHEREAS, a notice inviting bids for said improvement was duly published and, pursuant to said notice, George Weir Asphalt Construction, Inc. submitted a bid; and

WHEREAS, nine sealed bids for the Project were opened and evaluated on March 15, 2012; and

WHEREAS, the apparent low bid, submitted by Construction Testing and Engineering was determined to be non-responsive; and

WEREAS, Granite Construction Company has submitted a letter withdrawing their bid; and

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

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to award this contract to George Weir Asphalt Construction, Inc. in the amount of \$5,020,004.35;

CITY COUNCIL

For City Clerk's Use:

☐

APPROVED

☐

DENIED

Reso No. _____

File No. _____

Ord No. _____

Agenda Item No.: 7

Date: October 16, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Gilbert Rojas, Director of Finance

SUBJECT: Award Bid for the Purchase of Twenty-Three Police Vehicles

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2013-125 to award the bid for the purchase of twenty-three 2014 Ford Police Interceptor vehicles to Wonderies Fleet Group in the amount of \$635,639.06. Our existing Ford Crown Victoria patrol vehicles, which have been in service between eight (8) and eleven (11) years, are being replaced due to exceeding their standard service life expectancy, excessive mileage, and rundown condition.

FISCAL ANALYSIS:

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

BACKGROUND:

Requests for bids were mailed to nineteen vendors on August 21, 2013 and six bids were received and opened on September 17, 2013. The bid results are as follows:

Vendor	Amount
Wonderies Fleet Group	\$ 635,639.06
Kearny Pearson Fort	635,969.54
Fairview Ford	637,195.34
North County Ford	641,593.10
Raceway Ford	654,357.62
Heller Ford	674,332.22

Joe Goulart, Fleet Services Superintendent, reviewed the bids and recommends the bid award to Wonderies Fleet Group in the amount of \$635,639.06 as the lowest most responsive bidder who conformed to the City's bid specifications and requirements.

Respectfully submitted,



Gilbert Rojas,
Director of Finance

RESOLUTION NO. 2013-125

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING CITY COUNCIL TO
APPROVE THE BID AWARD FOR THE
PURCHASE OF TWENTY-THREE POLICE
VEHICLES TO WONDERIES FLEET GROUP

WHEREAS, police vehicles are routinely replaced due to exceeding their standard service life expectancy, excessive mileage, and rundown conditions; and

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

WHEREAS, the City of Escondido duly published an invitation for bids for twenty-three police vehicles to include detailed bid specifications and requirements; and

WHEREAS, request for bids for the purchase of twenty-three 2014 police vehicles were mailed to vendors on August 21, 2013; and

WHEREAS, six bids were opened and evaluated on September 17, 2013; and

WHEREAS, the apparent low bid submitted by Wonderies Fleet Group was determined to be the lowest and responsive bidder who conformed to the City's bid specifications and requirements;

WHEREAS, staff recommends awarding the bid to Wonderies Fleet Group in the amount of \$635,639.06; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to award the bid to Wonderies 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 City Council accepts the recommendation of staff and finds Wonderies Fleet Group to be the lowest and responsive bidder who conformed to the City's bid specifications and requirements.
3. That the City Council is authorized to approve on behalf of the City, the bid award to Wonderies Fleet Group for the purchase of twenty-three 2014 police vehicles.

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 8

Date: October 16, 2013

TO: Honorable Mayor and Members of the City Council
FROM: Christopher W. McKinney, Director of Utilities
SUBJECT: Notice of Completion for the 2011 Water Main Replacement Project Phase 1

RECOMMENDATION:

The Utilities Department requests Council approval of Resolution 2013-129 and authorization to file a Notice of Completion for the 2011 Water Main Replacement Project.

FISCAL ANALYSIS:

Funds for this project were budgeted in the Water Capital Improvement Fund #704003.

PREVIOUS ACTION:

On December 7, 2011 Council approved resolution 2011-150 authorizing the award of a Public Improvement Agreement with Shaw Equipment Rental Incorporated in the amount of \$1,782,000. On May 1, 2013 Council approved resolution 2013-47 approving a contract change order in the amount of \$256,907.20 required to fix additional problems found in the area of Via Lomita.

BACKGROUND:

This water project replaced mains that had been problematic for leaks causing emergency repair call-outs and outages for the residents. Much of the work replaced haphazard development from when the areas were in the County of San Diego and the water purveyor was the Escondido Mutual Water Company. Many water meters were re-located from residents' back yards to a conventional location on the frontage. It is anticipated that the Project will save overtime repair costs and expedite meter reading.

Respectfully submitted,

Christopher W. McKinney

Christopher W. McKinney
Director of Utilities

RESOLUTION NO. 2013-129

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 2011 MISCELLANEOUS WATER MAIN
REPLACEMENT PROJECT

WHEREAS, the Escondido City Council authorized the award of a Public Improvement Agreement with Shaw Equipment Rental Incorporated ("Shaw") on December 7, 2011, in the amount of \$1,782,000; and

WHEREAS, the Escondido City Council authorized a contract change order with Shaw on May 1, 2013, in the amount of \$256,907.20, which in addition to staff approved changes, resulted in a final contract amount of \$2,205,601.20; and

WHEREAS, the City of Escondido Staff and the Director of Utilities deem the filing of the Notice of Completion to be valid and recommend 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; and

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 of the City of Escondido hereby approve the request to file a Notice of Completion for the 2011 Water Main Replacement Project Phase 1.

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9

Date: October 16, 2013

TO: Honorable Mayor and Members of the City Council

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

SUBJECT: Bid Award for the Grape Street Improvement Project

RECOMMENDATION:

It is requested that Council conduct a public hearing to amend the FY 2013-2014 One-Year Action Plan for Community Development Block Grant (CDBG) and approve a budget adjustment transferring \$375,000 from the Elm Street/Habitat Project and \$136,332 from the unallocated fund balance to the Grape Street Improvement Project.

It is requested that Council adopt Resolution No. 2013-123 to reject Southland Paving Inc.'s bid in the amount of \$678,297 and Dick Miller Inc.'s bid in the amount of \$729,360 as non-responsive; and determine the bid submitted by LB Civil Construction to be the lowest responsive and responsible bid and authorizing the Mayor and the City Clerk to execute a Public Improvement Agreement with LB Civil Construction in the amount of \$741,700 for the Grape Street Improvement Project.

FISCAL ANALYSIS:

The City of Escondido receives annual formula allocations of CDBG program funding from the U.S. Department of Housing and Urban Development (HUD). This project will be funded with CDBG allocations and will not impact the General Fund.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

This item relates to the Council's Action Plan regarding Image and Appearance.

PREVIOUS ACTION:

On October 12, 2011, Council approved an amendment to the FY 2011-2012 One-Year Action Plan for Community Development Block Grant (CDBG) to re-open and allocate \$75,000 in unallocated CDBG funds to the Grape Street Neighborhood Improvement Project.

On April 25, 2012, Council approved the FY 2012-2013 One-Year Action Plan for use of Community Development Block Grant (CDBG) and HOME Investment Partnership funds (HOME) allocating \$200,000 to the Grape Street Neighborhood Improvement Project.

On May 1, 2013, Council approved the FY 2013-2014 One-Year Action Plan for use of Community Development Block Grant (CDBG) and HOME Investment Partnership funds (HOME) allocating \$272,000 to the Grape Street Neighborhood Improvement Project.

BACKGROUND:

The Grape Street Improvement Project will consist of full street improvements including paving, streetlights, curbs and gutters, sidewalks and retaining walls. The street improvements will extend on Grape Street from East Washington Avenue to East Mission Avenue.

The City of Escondido received twelve sealed bids for this project ranging from \$678,297 to \$944,820. The Engineers estimate for the project was \$880,000.

Sealed bids were opened by the City Clerk on September 19, 2013, with the following results:

1. Southland Paving, Inc.	\$678,297.00
2. Dick Miller Inc.	\$729,360.00
3. LB Civil Construction	\$741,700.00
4. Tri-Group Const. & Dev.	\$773,680.00
5. Ramona Paving and Construction	\$798,391.00
6. Blue Pacific Engineering & Construction	\$828,810.00
7. Marathon General, Inc.	\$869,040.00
8. Byrom-Davey, Inc.	\$872,230.20
9. PAL General Engineering, Inc.	\$896,408.00
10. HTA Engineering Construction, Inc.	\$928,490.00
11. Hazard Construction	\$944,529.00
12. Portillo Concrete, Inc.	\$944,820.00

Bid Award for the Grape Street Improvement Project
October 16, 2013
Page 3

After review of the bid documents, the apparent low bidder, Southland Paving Inc. was found to be non-responsive. Per Public Contract Code the City was unable to consider Southland's bid for failure to fill out the bid bond. The second lowest bidder, Dick Miller Inc., was also found to be non-responsive for failure to provide HUD required Section 3 information. As a result, staff recommends Southland Paving Inc. and Dick Miller Inc.'s bids be rejected as non-responsive and that Council award the bid to the third lowest bidder LB Civil Construction in the amount of \$741,700.00.

Respectfully submitted,


FOR Edward N. Domingue
Public Works Director/City Engineer


Rich Buquet
Neighborhood Services Manager



CITY OF ESCONDIDO
BUDGET ADJUSTMENT REQUEST

Date of Request: 10/7/13
Department: Public Works/Engineering
Division: Neighborhood Services
Project/Budget Manager: Rich Buquet 4579
Name Extension
Council Date (if applicable): October 16, 2013
(attach copy of staff report)

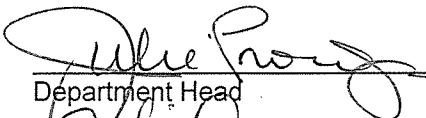
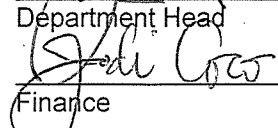
For Finance Use Only	
Log #	_____
Fiscal Year	_____
_____	Budget Balances
_____	General Fund Accts
_____	Revenue
_____	Interfund Transfers
_____	Fund Balance

Project/Account Description	Account Number	Amount of Increase	Amount of Decrease
Elm St./Habitat for Humanity	115- 338590		\$375,000
CDBG Unallocated Fund	115-CDBGUF		\$136,332
Grape St. Improvements	115- 338449	\$511,332	

Explanation of Request:

The Grape Street Improvement Project will consist of full street improvements including paving, streetlights, curbs and gutters, sidewalks and retaining walls. The street improvements will extend on Grape Street from East Washington Avenue to East Mission Avenue. Pending council approval, LB Civil Construction will be awarded the bid in the amount of \$741,700 for the Grape Street Improvement Project.

APPROVALS

 10/7/13
Department Head Date
 10/8/13
Finance Date

City Manager Date

City Clerk Date

Distribution (after approval):

Original: Finance

RESOLUTION NO. 2013-123

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR AND CITY CLERK,
TO EXECUTE, ON BEHALF OF THE CITY, A
PUBLIC IMPROVEMENT AGREEMENT WITH LB
CIVIL CONSTRUCTION FOR THE GRAPE
STREET IMPROVEMENT PROJECT

WHEREAS, the City Council authorized an invitation for bids for the Grape Street Improvement Project ("Project"); and

WHEREAS, the City of Escondido opened the sealed bids for the Project on September 19, 2013; and

WHEREAS, Southland Paving Inc., the lowest bidder, failed to fill out the bid bond; and

WHEREAS, Dick Miller Inc., the second lowest bidder, failed to provide the Housing and Urban Development ("HUD") required Section 3 information; and

WHEREAS, the Public Works Director/City Engineer recommends awarding the bid to LB Civil Construction, the lowest responsive and responsible bidder; and

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

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

1. That the above recitations are true and correct.

2. That the City Council determines the bids submitted by Southland Paving Inc. and Dick Miller Inc. are non-responsive.

3. That the City Council accepts the recommendation of the Public Works Director/City Engineer and finds LB Civil Construction to be the lowest responsive and responsible bidder.

4. That the Mayor and the City Clerk are authorized to execute, on behalf of the City, a Public Improvement Agreement ("Agreement") with LB Civil Construction for the Project. A copy of the Agreement is attached as Exhibit "A" to this resolution and is incorporated by this reference.

PUBLIC IMPROVEMENT AGREEMENT

This "Agreement", dated the _____ day of _____, 20____, in the County of SAN DIEGO, State of California, is by and between **THE CITY OF ESCONDIDO** (hereinafter referred to as "CITY"), and _____ (hereinafter referred to as "CONTRACTOR").

The CITY and the CONTRACTOR, for the consideration stated herein, agree as follows:

1. The complete contract includes all of the Project Documents described in the General Conditions, which are incorporated by reference. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.
2. CONTRACTOR shall perform, within the time set forth in Paragraph 4 of this Agreement, everything required and reasonably inferred to be performed, and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services as described in the complete contract and required for construction of

GRAPE STREET IMPROVEMENT PROJECT

All of said work to be performed and materials to be furnished shall be completed in a good workmanlike manner, free from defects, in strict accordance with the plans, drawings, specifications and all provisions of the complete contract as hereinabove defined. The CONTRACTOR shall be liable to the CITY for any damages and resulting costs, including consultants' costs, arising as a result of a failure to fully comply with this obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of the Architect, Engineer, Inspector, or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the requirements of the Project Documents, and unless the CONTRACTOR protests at the time of such alleged prevention that the act or omission is preventing the CONTRACTOR from fully complying with the Project documents. Such protest shall not be effective unless reduced to writing and filed with the CITY within **three (3) working days** of the date of occurrence of the act or omission preventing the CONTRACTOR from fully complying with the Project documents.

3. CITY shall pay to the CONTRACTOR, as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the Project documents, the sum of _____ Dollars (\$_____).
4. The work shall be commenced on or before the twenty-first (21st) day after receiving the CITY'S Notice to Proceed and shall be completed within **Sixty (60) working or calendar days** from the date specified in the Notice to Proceed.
5. Time is of the essence. If the work is not completed in accordance with Paragraph 4 above, it is understood that the CITY will suffer damage. It being impractical and infeasible to determine the amount of actual damage(s), in accordance with Government Code Section 53069.85, it is agreed that CONTRACTOR shall pay to CITY as fixed and liquidated damages, and not as a penalty, the

- (b) Any injury to or death of any person(s) or damage, loss or theft of any property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm, or corporation employed by the CONTRACTOR, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs on or off City property.
- (c) Any and all liabilities, claims, actions, causes of action, proceedings, suits, administrative proceedings, damages, fines, penalties, judgments, orders, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements, arising out of any violation, or claim of violation of the San Diego Municipal Storm Water Permit (Order No. 2001-01), and updates or renewals, of the California Regional Water Quality Control Board Region 9, San Diego, which the CITY might suffer, incur, or become subject by reason of or occurring as a result of or allegedly caused by the construction, reconstruction, maintenance, and/or repair of the work under this Agreement.

The CONTRACTOR, at CONTRACTOR's own expense, cost, and risk shall defend any and all actions, suit, or other proceedings that may be brought or instituted against the CITY, its governing board, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the CITY, its governing board, officers, agents or employees in any action, suit or other proceedings as a result thereof.

- 8. CONTRACTOR shall take out, prior to commencing the work, and maintain, during the life of this contract, and shall require all subcontractors, if any, of every tier, to take out and maintain:
 - (a) General Liability and Property Damage Insurance as defined in the General Conditions in the amount with a combined single limit of not less than **\$3,000,000 per occurrence**.
 - (b) Course of Construction / Builder's Risk Insurance. See Article 5.2 of General Conditions.
 - (c) Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to the above-mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:
 - (1) Automotive and truck where operated in amounts as above
 - (2) Material hoist where used in amounts as above
 - (d) Workers' Compensation Insurance.
 - (e) Each insurance policy required above must be acceptable to the City Attorney, as follows:
 - (1) Each policy must name the CITY specifically as an additional insured under the policy on a separate endorsement page, with the exception of the workers' compensation and the Errors and Omissions policies.
 - (2) Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage must be provided by an A.M. Best's A-rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.

- (3) All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.
- (f) In executing this Agreement, CONTRACTOR agrees to have completed insurance documents on file with the CITY within 14 days after the date of execution. Failure to comply with insurance requirements under this Agreement will be a material breach of this Agreement, resulting in immediate termination at CITY's option.
9. This Agreement is subject to California Public Contract Code Section 22300, which permits the substitution of securities for any monies withheld by the City under this Agreement, and permits the CONTRACTOR to have all payments of earned retentions by the City paid to an escrow agent at the expense of the CONTRACTOR.
10. Each and every provision of law and clause required by law to be inserted in this Agreement or its attachments shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction, without further changes to the remainder of the Agreement.
11. The complete contract as set forth in Paragraph 1 of this Agreement constitutes the entire Agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Escondido City Council.
12. CONTRACTOR shall comply with those provisions of the Labor Code requiring payment of prevailing wages, keeping of certified payroll records, overtime pay, employment of apprentices, and workers' compensation coverage, as further set forth in the General Conditions, and shall file the required workers' compensation certificate before commencing work.
13. The terms "Project Documents" and/or "Contract Documents" where used, shall refer to those documents included in the definition set forth in the General Conditions made a part hereof.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of CITY by its officers thereunto authorized and by CONTRACTOR, the date and year first above written.

CITY OF ESCONDIDO
a municipal corporation
201 North Broadway
Escondido, CA 92025

By: _____
Diane Halverson, City Clerk

By: _____
Sam Abed, Mayor

By: _____

CONTRACTOR

By: _____
Signature

By: _____
Signature*

Print Name

Print Name

Title

Title

(Second signature required only for corporation)

By: _____
Signature**

Print Name

Title

(CORPORATE SEAL OF CONTRACTOR, if
corporation)

Contractor's License No.

Tax ID/Social Security No.

*If CONTRACTOR is a corporation, the first signature must be by one of the following officers of the corporation: Chairman of the Board, President, or any Vice President.

**If CONTRACTOR is a corporation, the second signature must be by a different person from the first signature and must be by one of the following officers of the corporation: Secretary, any Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.

APPROVED AS TO FORM:

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

By: _____

SECTION A-00610 - FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENT,

That _____ ("Contractor") and
_____ ("Surety") are held and firmly bound unto the CITY OF
ESCONDIDO ("Owner") in the sum of _____
Dollars, for the payment of which sum well and truly to be made,
we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and
severally, firmly by these presents.

WHEREAS, Contractor has been awarded and is about to enter into a contract with Owner to
perform all work required under the Bid Schedule(s) of the Owner's specifications entitled,

GRAPE STREET IMPROVEMENT PROJECT

WHEREAS, the provisions of the Contract are incorporated by reference into this Faithful
Performance Bond and shall be part of Surety's obligation hereunder.

NOW THEREFORE, if Contractor shall perform all the requirements of said contract required to
be performed on his part, at the times and in the manner specified herein, then this obligation
shall be null and void, otherwise, it shall remain in full force and effect.

PROVIDED, that

- (1) Any alterations in the work to be done or the materials to be furnished, which may be
made pursuant to the terms of the Contract, shall not in any way release Contractor or
Surety thereunder;
- (2) Any extensions of time granted under the provisions of Contract shall not release either
Contractor or Surety from their respective obligations to Owner;
- (3) Notice of any such alterations or extensions of the Contract is hereby waived by Surety;
- (4) Any payments (including progress payments) made on behalf of Owner to Contractor
after the scheduled completion of the work to be performed pursuant to the Contract shall
not release either Contractor or Surety from any obligations under the Contract or this
Faithful Performance Bond, or both, including any obligation to pay liquidated damages
to Owner; and
- (5) To the extent Owner exercises its rights pursuant to this Bond, Owner shall be entitled to
demand performance by the surety and be further entitled to recover, in addition to all
other remedies afforded by law, its reasonably incurred costs to complete the work,

attorneys fees and consultant costs, as well as actual costs incurred by OWNER for the increased dedication/commitment of time of OWNER employees to the Project.

SIGNED AND SEALED, this _____ day of _____, 20____.

Contractor

Surety

Address

Phone No.

(SEAL)

BY _____
Signature

Signature

(SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY)

APPROVED AS TO FORM:

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

By: _____

SECTION A-00620 - LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENT,

That _____ as Contractor, and _____ as Surety, are held and firmly bound unto the CITY OF ESCONDIDO, hereinafter called Owner, in the sum of _____ dollars, for the payment of which sum well and truly to be made, we bind ourselves our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Contractor has been awarded and is about to enter into the annexed contract with said Owner to perform all work required under the Bid Schedule(s) of the Owner's specifications entitled,

GRAPE STREET IMPROVEMENT PROJECT

NOW THEREFORE, if said Contractor, or subcontractor, fails to pay for any materials, equipment, or other supplies, or for rental of same, used in connection with the performance of work contracted to be done, or for amounts due under applicable State law for any work or labor thereon, or for amounts due under the Unemployment Insurance Code, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Contractor and its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such labor, said Surety will pay for the same in an amount not exceeding the sum specified above, and, in the event suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court. This bond shall inure to the benefit of any persons, companies or corporations entitled to file claims under applicable State law.

PROVIDED, that any alterations in the work to be done or the materials to be furnished, which may be made pursuant to the terms of said contract, shall not in any way release either said Contractor or said Surety thereunder, nor shall any extensions of the time granted under the provisions of said contract release either said Contractor or said surety, and notice of such alterations or extensions of the contract is hereby waived by said Surety.

SIGNED AND SEALED, this _____ day of _____, 20__.

Contractor

Surety

Address

Phone No.

(SEAL)

BY _____
Signature

Signature

(SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY)

APPROVED AS TO FORM:

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

By: _____

SECTION A-00630 - CITY OF ESCONDIDO BUSINESS LICENSE

In accordance with Municipal Code Section 16, the successful bidder is required to obtain a City of Escondido Business License prior to execution of contract.

The following information must be submitted to the City Clerk prior to execution of contract:

City of Escondido Business License No. _____

Expiration Date _____

Name of Licensee _____

SECTION A-00660 - WORKERS' COMPENSATION INSURANCE CERTIFICATE

If self-insured for Workers' Compensation, the Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, Sections 1860 and 1861, and I will comply with such provisions before commencing the performance of the work of the contract.

Dated: _____

Contractor

By: _____
Signature

SAMPLE NOTICE
(REQUIRED UNDER GENERAL CONDITIONS, ARTICLE 6.1.B)
TO THE PEOPLE ON THIS STREET:

WITHIN THE NEXT FEW DAYS, WORK WILL BE STARTED ON THE FOLLOWING PROJECT:

GRAPE STREET IMPROVEMENT PROJECT

The work may cause some inconvenience, but will be of permanent benefit.

We shall appreciate your cooperation in the following matters:

1. Please be alert when driving or walking in the construction area.
2. Tools, materials and equipment are attractive to children. For the safety of the children, please keep them away.
3. Please report all inconvenience to the Foreman on the job, or to the City of Escondido Field Engineering Inspection Office, 839-4664. The name and phone number of the contractor are given below.

This work is being performed for the City of Escondido by:

We will endeavor to complete this work as rapidly as possible and with a minimum of inconvenience to you.

RENT REVIEW BOARD

For City Clerk's Use:

☐

APPROVED

☐

DENIED

Reso No. RRB _____

File No. _____

Ord No. RRB _____

Agenda Item No.: 10

Date: October 16, 2013

TO: Honorable Chairman and Members of the Rent Review Board

FROM: Barbara Redlitz, Director of Community Development

SUBJECT: Rent Review Board Hearing for Recovery of Legal Fees for Sundance Mobile Home Park Located at 2250 N Broadway (Case #0697-20-9917)

RECOMMENDATION:

It is requested that Council consider for approval RRB 2013-10 amending RRB 2013-07 and allowing a temporary \$17.07 increase of the 29 spaces subject to the allowed rent increase in order to recover \$25,000 in legal and professional expenses.

INTRODUCTION/BACKGROUND:

On August 28, 2013, Council accepted the staff report and heard public testimony regarding a long-form rent increase application for Sundance Mobile Home Park, an 88 space mobilehome park. After deliberation, the Council determined, using a Maintenance of Net Operating Income approach, that \$124.37 was a fair, just and reasonable rent increase for the 29 spaces regulated by the Escondido Mobilehome Rent Protection Ordinance.

On September 11, 2013, Resolution No RRB 2013-07 granting the rent increase was adopted and permits the park owner to recover \$25,000 towards legal and professional expenses amortized over 5 years at an interest rate of 7%, and spreads that cost over all 88 spaces in the park. This determination referenced an August 2013 Analysis of Sundance Mobilehome Park Owner's Rent Increase Petition completed by Dr. Kenneth Baar which states: "Although the application affects only 29 spaces, it would not be reasonable to require that those spaces incur the whole cost of preparing and presenting a rent increase application because the Park Owner has entered into leases with the other 59 spaces in the park which exempt him from any of the rent restrictions in the City's ordinance. If all of the application costs could be passed through to the spaces covered by the ordinance, then the cost incurred by each covered space would increase as the Park Owner obtained an increasing number of exemptions from the ordinance." (page 34)

The park owner has expressed a concern that the \$25,000 in fees should be spread over only those 29 spaces subject to the rent increase. A letter from the park owner's attorney states: "The resolution is inconsistent with the decision you voted to approve and violates the law. The City does not have authority to require exempt spaces to pay an increase and the park owner cannot collect it. The effect is to prevent the park owner from collecting a vast majority of the awarded costs."

October 16, 2013

Rent Review Board Hearing for Recovery of Legal Fees for Sundance Mobile Home Park Located at
2250 N Broadway (Case #0697-20-9917)

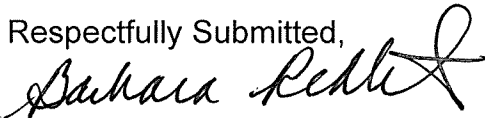
Page 2

A review of the Board's deliberation regarding whether the motion intended to allow the park owner to recoup legal and professional expenses from 29 or 88 spaces did not produce a definitive answer. The Board is asked to determine the appropriate method of distributing the allowed \$25,000 in legal and professional fees.

ADDITIONAL FACTORS AFFECTING THE APPLICATION:

The decision of the Board will be finalized by adoption of the Resolution confirming the findings of the Board. Staff will mail a Notice of Determination to the applicant and residents immediately upon adoption of the Resolution. The Park owner may send the 90-day notice of any rent increase granted to the residents upon the adoption of the Resolution.

Respectfully Submitted,



Barbara Redlitz
Director of Community Development



Karen Youel
Management Analyst

RESOLUTION NO. RRB 2013-10

A RESOLUTION OF THE ESCONDIDO
MOBILEHOME RENT REVIEW BOARD
AMENDING RRB 2013-07

WHEREAS, Article V of Chapter 29 of the Escondido Municipal Code is a codification of the Escondido Mobilehome Rent Protection Ordinance ("Ordinance") which was adopted as an initiative measure by the voters in 1988 and provides for mobilehome space rent regulation; and

WHEREAS, the City of Escondido Mobilehome Rent Review Board ("Board") is charged with the responsibility of considering and making decisions on applications for rent increases.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board does find, declare, and order as follows:

1. That the above recitations are true.
2. That a long-form rent increase application pursuant to the Rent Review Board Guidelines was filed on January 3, 2013, by attorney Mark D. Alpert on behalf of Amicorp Enterprises, Inc., owners of Sundance Mobile Home Park ("Sundance"). Sundance is an 88-space mobilehome park located at 2250 N Broadway, Escondido, California. The application sought a rent increase for 29 of the 88 spaces in the park. The other 59 spaces in the park are on long-term leases and therefore not subject to regulation from the Ordinance.

3. The public hearing on the rent increase was opened on August 28, 2013, at which time public testimony was taken and the hearing was held.

4. The hearing was then closed, at which time the Board deliberated, asked questions of the applicant, residents, and staff, and made its decision on the rent increase application. The Board voted to grant a \$124.37 per month space rent increase subject to the findings and final decision to be expressed in Resolution No. 2013-07. The Board also granted the applicant an increase of \$25,000 to recover the costs associated with preparing and presenting the rent increase application.

5. On September 11, 2013, the Board approved Resolution No. 2013-07 implementing the rent increase and granting \$25,000 to recover the costs associated with preparing and presenting the rent increase application, to be divided over the 88 spaces in the park, spread over five years, at a seven percent interest rate.

6. On September 16, 2013, the applicant wrote a letter to the Board stating that it is impossible to collect the full \$25,000 granted by the Board for the cost of preparing and presenting the application if the amount is spread out over 88 spaces because only 29 spaces are subject to the Ordinance and application.

7. Notice was given to all affected parties that on October 16, 2013, the Board would consider amending Resolution No. 2013-07 by spreading the \$25,000 increase granted for the cost of preparing and presenting the rent increase application over 29 spaces, instead of 88 spaces. All affected parties were notified of the time, date and place of the Boards' consideration of this issue and provided an opportunity to offer testimony on the issue.

8. The Board determines that the applicant should be granted an increase of \$25,000 for the costs associated with preparing and presenting the application. Resolution No. 2013-07 would not permit the applicant to recover the amount granted by the Board because it spread the \$25,000 increase over spaces that are not subject to the Ordinance or application.

9. The Board determines that Resolution No. 2013-07 should be amended by spreading the \$25,000 increase granted for the cost of preparing and presenting the application over the 29 spaces subject to the application, instead of 88 spaces.

10. The Board determines that Resolution No. 2013-07 should be amended as follows:

a. Paragraph 14 shall be amended to read as follows:

The hearing was then closed, at which time the Board deliberated, asked questions of the applicant, residents, and staff, and made its decision on the rent increase application. The Board voted to grant a \$124.37 per month space rent increase subject to the findings and final decision to be expressed in this resolution. The Board also granted the applicant an increase of \$25,000 to recover the costs associated with preparing and presenting the rent increase application to be divided among the 29 spaces subject to the application, spread over five years, at a seven percent interest rate.

b. Paragraph 30 shall be amended to read as follows:

The Board determined that the applicant's claim for costs associated with preparing and presenting the rent increase application should be partially granted. The applicant requested \$55,675 for the costs associated with preparing and presenting the increase application. The full amount requested by the applicant for preparing and presenting this rent increase is unreasonable. The Board grants an increase of \$25,000, to be divided among the 29 spaces subject to the application, amortized over five years, at a seven percent interest rate. The applicant may recover \$17.07 per month per space for five years from each of the 29 spaces subject to this Resolution.

11. The increase may be implemented upon the expiration of the required 90-day notice to the residents which may be issued upon the adoption of this amending Resolution.

CITY COUNCIL

For City Clerk's Use:

☐

APPROVED

☐

DENIED

Reso No. _____

File No. _____

Ord No. _____

Agenda Item No.: 11

Date: October 16, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Barbara J. Redlitz, Director of Community Development

SUBJECT: Clarification of Zoning Code Amendment to Implement Cottage Food Operations, Revise the Nonconforming Use Code and Cleanup Items (Case: AZ 13-0004)

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommended approval on August 13, 2013 (Vote 6-0, Winton absent) with the condition that the Home Occupation conditions listed in Article 44 be revised to limit odors and potentially hazardous materials in the wastewater system to levels typically associated with residential uses. Revised conditions (l) and (m) of Section 33-852 implement this recommendation.

STAFF RECOMMENDATION:

It is requested that Council determine that the CEQA Notice of Exemption is complete and adequate for the project and adopt Ordinance No. 2013-07(R) amending the zoning code and implementing Cottage Food Operations as a home occupation.

PROJECT DESCRIPTION:

Amendments to the Escondido Zoning Code (EZC) adding conditions for Cottage Food Operations (CFOs) as a home occupation and other code revisions recommended for the implementation of the CFOs, which affect Article 44: Home Occupations; Article 16: Commercial Zones; Article 26: Industrial Zones; Article 56: Miscellaneous Development Standards; Article 57: Miscellaneous Use Restrictions; and Article 61, Division 3: Nonconforming Uses and Structures.

LOCATION: Citywide.

PREVIOUS ACTION:

The Council continued this item from the September 11, 2013 meeting, requesting clarification on the minimum state requirements for CFOs.

FISCAL ANALYSIS:

All CFOs would be required to obtain a Business License (as are all home occupations) and pay City license fees.

BACKGROUND:

The proposed ordinance implements new state legislation pertaining to Cottage Food Operations, AB 1616 the California Homemade Food Act. The legislation was enacted to:

1. Encourage the growth of community-based food production;
2. To connect food to local communities, small businesses, and environmental sustainability; and
3. To increase opportunities for microenterprises to supplement household incomes.

A CFO is an enterprise at a private home where specific low-risk food products that do not require refrigeration are prepared or packaged for sale to consumers. A CFO may be allowed in any dwelling where the CFO operator resides, regardless of zoning. The State restricts the size of CFO sales, the type of specific foods that can be prepared or packaged, and imposes operational requirements related to the CFO kitchen, equipment, and operators/employees. The San Diego County Department of Environmental Health – Food and Housing Division is the Local Enforcement Agency and responsible for issuing the health department registrations and permits for CFOs. The City Business License/Home Occupation Permit would be in addition to the health permits.

The State law stipulates that a CFO shall not constitute a change of residential occupancy for purposes of the State Housing Law, the State Uniform Building Standards Code and local building and fire codes. See attached FAQs from the CA Department of Public Health for more details on the state requirements for cottage food operators and the current list of permitted food types.

CORRELATION TO THE CITY COUNCIL ACTION PLAN AND GENERAL PLAN:

The Council's Action Plan includes objectives to stimulate the creation of jobs and improve median income. The General Plan Economic Prosperity Policies 3.1 and 3.2 say that the City should facilitate the attraction, retention and expansion of small businesses and remove obstacles to the formation and expansion of local businesses. Establishing standards for CFOs would expand opportunities for home based businesses that potentially could grow into larger enterprises. The additional changes proposed to the nonconforming ordinance would encourage further voluntary improvements in residential neighborhoods consistent with Council's Action Plan objectives for Neighborhood Improvement.

ENVIRONMENTAL REVIEW:

The proposed code amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15061(b) "General Rule." The proposal does not have the possibility to have a significant effect on the environment. Therefore, the project is not subject to CEQA.

PUBLIC COMMENT:

No one from the public spoke at the Planning Commission hearing and staff has not received any correspondence/calls regarding the proposed changes to the Zoning Code.

DISCUSSION:

CFO Permit Type and Minimum State Requirements -

Since a CFO would be operated from a principal residence, it is similar to home businesses that are currently permitted in Escondido with a Home Occupation Permit and Business License. Rather than create a new application, staff recommends using the existing home occupation permit process for CFOs. Article 44 regulates home occupations and includes restrictions that minimize impacts to surrounding uses in order to maintain the character of the neighborhood. These restrictions are included on the Home Occupation Permit application as conditions. When the applicant signs the application, he/she is acknowledging that he/she has read and understood the conditions and limitations and agrees to comply. Failure to comply may result in revocation of the home occupation permit.

Modifications to the City's home occupation permit process are needed in order to be consistent with State Law and to provide standards to ensure neighborhood compatibility. See the attached "Comparison Chart" for a summary of the minimum State requirements for CFO's. State law requires local jurisdictions to allow non-resident employees and customers to come to the CFO residence. The city's current home occupation regulations prohibit non-resident employees, and prohibit customers coming to the home. Article 44 has been revised to specifically exempt only CFO's from these conditions. The State does allow local jurisdictions to include reasonable standards and restrictions concerning concentration, traffic control, and parking. To address Council's comments about maintaining the neighborhood character and reducing potential parking impacts, the code revisions include limitations that no more than one CFO home occupation permit would be issued per legally established dwelling unit, and staff has added restrictions that non-resident employees of a CFO are limited to working only between the hours of 8 AM and 5 PM up to a maximum of 40 hours per week, and that no more than one part-time non-resident employee may be working on the premises at a time. This would be consistent with the State's standard that allows one full-time equivalent non-resident employee. This restriction would also limit employee parking to standard business hours when presumably the neighborhood parking demand would be low and spaces would be available.

Other Related Code Changes -

As a CFO is to be allowed in any primary residence, additional code revisions in other Articles are needed to ensure equal implementation, minimize impacts to the neighbors and eliminate inconsistencies. For example, currently Home Occupation Permits are restricted to residentially zoned dwellings and are not issued for legal nonconforming dwelling units located in commercial/industrial zones, i.e., residential units in the HP zone. Since the State requires us to allow CFOs in any principal residence, the commercial and industrial zones need to be revised to indicate that CFOs are a permissible accessory use. Then to ensure equal implementation, the home occupation and nonconforming use code would be revised to allow any home occupation permit in any legally established dwelling unit regardless of zone and clarify that the issuance of a home occupation permit does not constitute an extension or enlargement of the nonconforming use. Property owners and Home Owners Associations (HOA) could establish restrictions on CFOs and home occupation permits as a private matter through the lease or rental agreement and the CC&Rs of the HOA.

Proposed Code Changes Not Related to CFOs -

Staff proposes several cleanup amendments to the nonconforming use ordinance to provide greater flexibility for voluntary improvements to single family residences that are nonconforming. Council need not approve these revisions in order to implement the CFOs. See attached "Summary Table." Staff has had requests from owners of nonconforming single-family residences to allow higher valuation thresholds in order to improve their current home rather than to have to move to another house in order to meet their needs, i.e., add a bath and bedroom or enlarge the kitchen. The Nonconforming Use Code, Article 61, Division 3, currently restricts alterations to nonconforming properties that would expand the nonconformity or make it more permanent. This would occur if the expenditures on the alterations exceeded 25% of the replacement value of the nonconforming use/structure. For single-family residences (SFRs) in a single-family zone, the valuation threshold is 50% of the replacement value. Staff recommends amending this threshold to also apply to SFRs located in the R-2 zone where SFRs remain a permitted housing type under the General Plan.

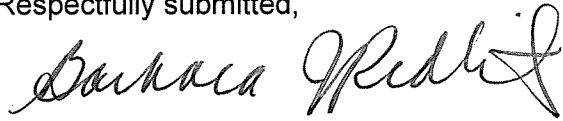
Other clean-up type items are proposed to clarify that the cost of improvements that bring a nonconforming property more into compliance with the zoning would not be included in the valuation limitation, and to add a section that identifies certain specific nonconforming situations as being exempt from the provisions of the nonconforming code. These include narrower residential receptor lots created in the Old Escondido Neighborhood Historic District pursuant to Article 65, Section 33.1376, and single-family residential lots that were created legally but now do not meet the current minimum lot width, lot frontage or lot area for the zone where those are the only reasons for the property to be nonconforming.

SUMMARY:

Staff recommends approving all of the code revisions as detailed in the Revised Exhibit "B" attached. This would implement Cottage Food Operations as a home occupation permit, allow residents of dwelling units in non-residential zones to obtain home occupation permits, allow owners of nonconforming single-family residences in the R-2 zone some additional valuation within which to make improvements to the property, and cleanup outdated references. Staff feels the revisions will help implement the Council's Action Plan objectives for neighborhood improvement.

As an alternative, Council could direct staff to only implement the code changes related to the CFOs and staff would return at a later date with a revised Ordinance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barbara J. Redlitz". The signature is fluid and cursive, with a large, stylized "B" and "R".

Barbara J. Redlitz
Director of Community Development

A handwritten signature in black ink, appearing to read "Rozanne Cherry". The signature is cursive and elegant, with a large, stylized "R" and "C".

Rozanne Cherry
Principal Planner

**COMPARISON CHART
OF EXISTING HOME OCCUPATION PERMIT STANDARDS
AND COTTAGE FOOD OPERATIONS**

	EXISTING HOME OCCUPATIONS EZC Article 44	STATE STANDARDS FOR CFOs	PROPOSED CODE
Permit	Home Occupation Permit required for a home-based business.	State law authorizes Cottage Food Operations as a home-based business and allows cities to prescribe reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes.	Require a Home Occupation Permit for CFOs. When signing the application, the applicant acknowledges that they will comply with the conditions listed in the permit application and Article 44.
Number of Employees	Non-resident employees not allowed.	State law allows one full-time non-resident employee or equivalent at the home for CFOs.	Non-resident employees allowed only for CFOs and limited to working 8 AM to 5 PM, 40 hours /week max. and only 1 employee at the CFO at a time.
Sales Locations	Customers at the residence not allowed.	State law allows customers to come to the CFO residence.	Customers at the residence only allowed for CFOs.
Traffic and Parking	Home occupations shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the zone in which the use is located.	State law allows cities to prescribe reasonable restrictions regarding traffic control and parking	CFO employees and customers would park where any guest of the resident (CFO operator) would typically park. Employees limited to working 8 AM to 5 PM, 40 hours /week max. and only 1 employee at the CFO at a time.
Planning Commission Recommendation: Restrict Potential Impacts from Odors & Hazardous Materials in the Wastewater System	Odors and hazardous materials not specifically listed.	Not addressed in CFO standards.	Adds odors and impacts to the wastewater system to the characteristics listed in Article 44 that cannot exceed typical residential levels. These standards would apply to all home occupations.

SUMMARY TABLE
OF OTHER CODE CHANGES
AZ 13-0004

	CURRENT CODE	PROPOSED CHANGE
Article 61, Division 3 Nonconforming Uses and Structures	A nonconforming use/structure may not be altered in such a way that the nonconforming use becomes more permanent or is expanded. This would occur if the expenditures on the alterations exceed 25% percent of the replacement value of the nonconforming use.	Same and clarify that it is based on the cumulative expenditures and that it would not include the cost of work that brings the property more into conformance with the current code.
	Alterations or enlargements may be made to SFR structures in <u>single-family</u> zones up to 50% of the replacement value of the nonconforming use/structure.	Also allow alterations or enlargements to SFR structures in the <u>R-2 residential</u> zone up to 50%.
		Add exemptions to the nonconforming code for: 1. Residential receptor lots in the OEN created per EZC Sec. 33-1376; and 2. Single-family residential lots that were created legally but now do not meet the current minimum lot width, lot frontage or lot area for the zone.
		Simplify the purpose section and update titles and references.



California Homemade Food Act

Frequently Asked Questions

AB 1616 (Gatto) - Cottage Food Operations

When does the new Cottage Food Law go into effect? The new law became effective January 1, 2013. The law requires the California Department of Public Health (CDPH) to carry out certain tasks associated with implementation, and imposes certain responsibilities on local planning and environmental health jurisdictions. Further information regarding the status of implementation can be obtained from your local environmental health agency.

1. **What is a cottage food operation (CFO)?** A CFO is an enterprise at a private home where specific low-risk food products that do not require refrigeration are prepared or packaged for sale to consumers.
2. **What is meant by a private home?** "Private home" means a dwelling, including an apartment or other rented space, where the CFO operator resides.
3. **Are there limitations on the size of CFO sales?**
 - \$35,000 or less in gross sales annually in 2013
 - \$45,000 or less in gross sales annually in 2014
 - \$50,000 or less in gross sales annually in 2015 and beyond
4. **Can a CFO have employees?** A CFO can have one full-time equivalent employee (not counting family members or household members).
5. **What cottage foods are CFOs permitted to produce?** Only specific foods that are defined as "non-potentially hazardous" are approved for preparation by CFOs. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick.

CDPH will establish and maintain a list of approved cottage food categories on their website. The list included in the new law includes:



Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas
Candy, such as brittle and toffee
Chocolate-covered nonperishable foods, such as nuts and dried fruit
Dried fruit
Dried pasta
Dry baking mixes
Fruit pies, fruit empanadas, and fruit tamales
Granola, cereals, and trail mixes
Herb blends and dried mole paste
Honey and sweet sorghum syrup
Jams, jellies, preserves, and fruit butter that comply with the standard described in **Part 150 of Title 21 of the Code of Federal Regulations**.
Nut mixes and nut butters
Popcorn
Vinegar and mustard
Roasted coffee and dried tea
Waffle cones and pizzelles

6. What are the two classifications of CFO's?

"Class A" CFOs are only allowed to engage in **"direct sale"** of cottage food.

"Class B" CFO's may engage in both **"direct sale"** and **"indirect sale"** of cottage food.

7. What is meant by "direct sale" of cottage food? "Direct sale" means a transaction between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers' markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation within the jurisdiction of the local environmental health agency in which the CFO is permitted or registered.

8. What is meant by "indirect sale" of cottage food? "Indirect sale" means an interaction between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the local environmental health agency in their jurisdiction. Indirect sales include, but are not limited to, sales made to retail food facilities including markets, restaurants, bakeries, and delis, where food may be immediately consumed on the premises.



9. What are limitations on Internet sales and delivery of cottage food products? A cottage food operator may advertise as well accept orders and payments via Internet or phone. However, a CFO must deliver (in person) to the customer. A CFO may not deliver any CFO products via US Mail, UPS, FedEx or using any other third-party delivery service. A cottage food operator may not introduce a CFO product into interstate commerce.

10. What are limitations on advertising of CFO products? It is unlawful for any person to disseminate any false advertising of any food. An advertisement is false if it is false or misleading in any particular. A cottage food product that is found to be falsely advertised would be subject to enforcement action.

11. Do I need any special training or certification to make cottage foods? A person who prepares or packages cottage food products must complete a food processor course instructed by the CDPH within three months of being registered or permitted.

12. Does a CFO need a permit to operate?

Planning and zoning: All CFO's need to obtain approval from their local city or county planning department. The Homemade Food Act gives planning departments several options to consider, so planning department requirements may vary between jurisdictions.

Environmental Health: For "Class A" CFO's (direct sale only), **registration** with the local enforcement agency and submission of a completed "self-certification checklist" approved by the local environmental health agency. For "Class B" CFO's (either direct and indirect or indirect only), a **permit** from the local environmental health agency is required.

Other requirements: Check on other state or local requirements that may be applicable, such as Sellers Permits through the Board of Equalization, or Business Licenses through your city or county.

Registrations and permits are nontransferable between:

- 1) Persons
- 2) Locations
- 3) Type of food sales [i.e., direct sales ("Class A") vs. indirect sales ("Class B")]
- 4) Type of distribution

13. How much will the permit or registration cost the CFO? Each local jurisdiction will establish fees that are not to exceed the cost of providing the service. Additional fees may be charged for inspection and/or enforcement activities if



the cottage food operation is found to be in violation of California food safety laws on cottage food operations.

14. Will my CFO registration/permit allow me to sell at other retail venues? There may be health permits required to sell at other locations, such as Certified Farmers' Markets, Swap Meets or community events. Please check with your local environmental health department for additional permit requirements.

15. How often will a CFO be inspected?

"Class A" CFO kitchens and food storage areas (referenced in the law as the "registered or permitted area") are not subject to initial or routine inspections.

"Class B" CFO kitchens and food storage areas are inspected initially prior to permit issuance.

"Class A or B" (complaint inspections) - The local environmental health agency may access, for inspection purposes, the registered or permitted area where a cottage food operation is located if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated California food safety laws.

16. What are CFO operational requirements? All CFOs must comply with the following:

No domestic activity in kitchen during cottage food preparation

No infants, small children, or pets in kitchen during cottage food preparation

Kitchen equipment and utensils kept clean and in good repair

All food contact surfaces and utensils washed, rinsed, and sanitized before each use

All food preparation and storage areas free of rodents and insects

No smoking in kitchen area during preparation or processing of cottage food

A person with a contagious illness shall refrain from preparing or packaging cottage food products

Proper hand-washing shall be completed prior to any food preparation or packaging

Water used in the preparation of cottage food products must be potable

Cottage food preparation activities include:

- Washing, rinsing, and sanitizing of any equipment used in food preparation
- Washing and sanitizing hands and arms
- Water used as an ingredient of cottage food.



17. What has to be on my cottage food label?

All cottage food products must be properly labeled in compliance with the Federal, Food, Drug, and Cosmetic Act (**21 U.S.C. Sec. 343 et seq.**).

The label must include:

- The words “Made in a Home Kitchen” in 12-point type.
- The name commonly used to describe the food product.
- The name city, state and zip code of the cottage food operation which produced the cottage food product. If the CFO is not listed in a current telephone directory then a street address must also be declared. (A contact phone number or email address is optional but may be helpful for consumers to contact your business.
- The registration or permit number of the CFO which produced the cottage food product and, in the case of “Class B” CFOs, the name of the county where the permit was issued.
- The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more ingredients.
- The net quantity (count, weight, or volume) of the food product, it must be stated in both English (pound) units and metric units (grams).
- A declaration on the label in plain language if the food contains any of the eight major food allergens such as milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, and soybeans. There are two approved methods prescribed by federal law for declaring the food sources of allergens in packaged foods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list.
- The use of the following eleven terms are considered nutrient content claims (nutritional value of a food): free, low, reduced, fewer, high, less, more, lean, extra lean, good source, and light. Specific requirements have been established for the use of these terms. Please refer to the **Cottage Food Labeling Guideline** for more details.
- A health claim is a statement or message on the label that describes the relationship between a food component and a disease or health-related condition (e.g., sodium and hypertension, calcium and osteoporosis). Please refer to the Cottage Food Labeling Guideline for more details.
- If the label makes approved nutrient content claims or health claims, the label must contain a “Nutrition Facts” statement on the information panel.



- Labels must be legible and in English (accurately translated information in another language may also be included on the label). Labels, wrappers, inks, adhesives, paper, and packaging materials that come into contact with the cottage food product by touching the product or penetrating the packaging must be food-grade (safe for food contact) and not contaminate the food.

In a permitted retail food facility (such as a restaurant, market, or deli), cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or in another easily accessible location that would reasonably inform the consumer that the food or an ingredient in the food has been made in a private home.

18. What is my legal responsibility as a cottage food operator in ensuring that my food product is safe? Cottage food operators and/or their employees shall not commit any act that may cause contamination or adulteration of food.

This would include making foods that are not on the approved food list and or making foods under unsanitary conditions or with spoiled or rancid ingredients.

A cottage food operation that is not in compliance with the requirements of AB 1616 would be subject to enforcement action taken by the local environmental health agency and/or the California Department of Public Health.

19. What if I find out an ingredient I used has been recalled because it can make people sick or has been identified as the cause of food borne illness? You should notify your local environmental health agency or CDPH immediately and do not distribute anymore product. You may need to notify your customers and request that they return or dispose of the products. For specific food recall information, you can contact CDPH at: (916) 650-6500 or email: FDBinfo@cdph.ca.gov.

20. What is my liability as a cottage food business operating out of my home? You should check with your homeowner insurance company or your landlord if you are operating out of a rental property. Many homeowner insurance policies will not extend liability coverage to liabilities arising out of home-based businesses.



- 21. What other educational resources and guidelines are available to assist me in ensuring I am making a safe food product?** Please see the CDPH website or contact your local environmental health agency for guidance and resource documents or web links.
- 22. What can I do to ensure I am still meeting legal requirements if my cottage food operation grows to exceed the gross annual sales limit and/or I decide want to make another type of food product that is not on the approved food list?** Please contact CDPH for registration and facility requirements for food processors.
- 23. Where can I file a complaint about a cottage food operation or cottage food product?** You can file a complaint at the CDPH toll-free complaint line – 1-800-495-3232.

Exhibit “A”

FACTORS TO BE CONSIDERED AZ 13-0004

1. The public health, safety and welfare would not be adversely affected by the proposed amendments to the Zoning Code Article 16 (Commercial Zones), Article 27 (Industrial Zones), Article 44 (Home-Occupations), Article 56 (Miscellaneous Development Standards), Article 57 (Miscellaneous Use Restrictions), and Article 61, Division 3 (Nonconforming Uses and Structures) because the amendments would: allow Cottage Food Operations use in residential units consistent with State law; allow Home Occupation permits in legal nonconforming residential units in commercial and industrial zones; clarify and clean up deficiencies in the current Nonconforming Uses and Structures sections; and eliminate errors and inconsistencies throughout the articles named, all to facilitate the ongoing efforts to promote business growth, economic stability and conservation of resources.
2. The proposed amendments to Articles 16, 26 and 61 involving Home Occupations in non-residential zones would not be detrimental to surrounding properties, since those properties are already operating as businesses and are located in areas where business-oriented infrastructure exists.
3. The proposed Zoning Code amendments would be consistent with the General Plan because they would provide a greater opportunity for home businesses to become established and expand the City's economy.
4. The proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15061(b) "General Rule." The proposal does not have the possibility to have a significant effect on the environment.

**REVISED
EXHIBIT “B”
Draft Amendment Language**

ARTICLE 16: Commercial Zones

Sec. 33-333. Permitted accessory uses and structures.

Accessory uses and structures are permitted in commercial zones, provided they are incidental to, and do not substantially alter the operating character of the permitted principal use or structure as determined by the director of planning and building. Such permitted accessory uses and structures include, but are not limited to, the following:

Table 33-333

PERMITTED ACCESSORY USES AND STRUCTURES

Use Title	CG	CN	CP	HP
Accessory buildings such as garages, carports and storage buildings clearly incidental to a permitted use	P	P	P	P
Bus stop shelters* (Article 57 & Article 9, Chapter 23 EMC)	P	P	P	P
Caretaker’s or resident manager’s quarters (for lodgings, motels, hotels, and funeral parlors)	P			P
<u>Cottage Food Operations and Home Occupations as provided for in Article 44.</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Employee recreational facilities	P		P	P
Live entertainment	P	P	P	P
Outdoor dining in conjunction with an approved eating place* (Article 57)	P	P	P	P
Outdoor display of merchandise* (Article 73)	P	P	P	P
Satellite dish antennas* (Article 34, CUP required for some sizes and heights)	P/C	P/C	P/C	P/C
Storage of materials used for the construction of a building, including the contractor’s temporary office, provided that such use is on the building site or immediately adjacent thereto and provided further, that such use shall be permitted only during the construction period and the thirty (30) days thereafter	P	P	P	P
Swimming pools* (Article 57) and tennis courts	P		P	P
Temporary outdoor sales* (Article 73) and special events subject to the issuance of a temporary use permit	P	P	P	P
Vending machines* (Article 33)	P	P	P	P

* = Subject to special regulations—see Article in parentheses.

P = Permitted Accessory Use

(Ord. No. 97-02, § 2 Exh. A., 1-22-97)

Sec. 33-334. Prohibited uses.

(a) All uses and structures not listed as permitted primary or accessory uses, or conditionally permitted uses shall be prohibited. However, the director of planning and building, may approve a use, after study and deliberation, which is found to be consistent with the purposes of this article, similar to the uses listed as permitted uses, and not more detrimental to the zone than those uses listed as permitted uses.

(b) Any existing residential structure shall not be used for both residential and commercial purposes at the same time, except as provided for in Article 44- (Ord. No. 97-02, § 2 Exh. A, 1-22-97)

ARTICLE 26: INDUSTRIAL ZONES

Sec. 33-565. Accessory uses and structures.

Accessory uses and structures are permitted in the industrial zones, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include but are not limited to the following:

Table 33-565

PERMITTED ACCESSORY USES AND STRUCTURES

Use Title	I-O	M-1	M-2	I-P
Bus stop shelters**	P	P	P	P
Cafeteria, operated in conjunction with a permitted use for the convenience of persons employed upon the premises	P	P	P	P
Caretakers' or watchman's dwelling	P	P	P	P
<u>Cottage Food Operations and Home Occupations as provided for in Article 44.</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Commercial sales and service clearly incidental and secondary to a principal permitted use	P	P	P	P
Employee recreational facilities and play areas	P	P	P	P
Other accessory uses and buildings customarily appurtenant to a permitted use	P	P	p	p
Satellite dish antennas*	P	P	P	P
Storage buildings incidental to a permitted use	P	P	P	P

* Subject to special regulations—see Section 33-700.

** Subject to special regulations—see Section 33-1118.

(Ord. 94-37 § 1 (part), 11-9-94)

ARTICLE 44: Home Occupations

Sec. 33-850. Permit required.

A ~~legally established dwelling or dwelling unit in residential zone~~ shall not be used for business purposes unless a home occupation permit has first been issued by the planning department. A Cottage Food Operation, as defined in the California Homemade Food Act, shall obtain a home occupation permit. (Zoning Code, Ch. 108, § 1087.1)

Sec. 33-851. Procedure.

The ~~planning director of community development~~ may upon application issue a home occupation permit which shall state the home occupation permitted, the conditions attached and any time limitations thereon. The permit shall not be issued unless the ~~planning~~ director is satisfied that the applicant will meet all the conditions listed in section 33-852 of this article and the applicant has agreed in writing to comply with the conditions. (Zoning Code, Ch. 108, § 1087.3)

Sec. 33-852. Conditions.

Each and every one of the following conditions must be observed at all times by the holder of a home occupation permit.

(a) Employees or assistants who are not occupants of the dwelling shall not be employed on the premises, except where specifically permitted by law.

(b) The home occupation shall be conducted wholly within the structures on the premises and shall not exceed twenty-five (25) percent of the total floor area of said structures. Required residential parking shall be maintained and available for residential parking.

(c) Inventory and supplies for the home occupation shall not occupy more than fifty (50) percent of the permitted area.

(d) No customer services or sales of goods, wares or merchandise shall be made on the premises, except where specifically permitted by law.

(e) No sign or advertising shall be displayed on the premises except ~~as may be expressly where specifically permitted by law this division.~~

(f) No display of any kind shall be visible from the exterior of the premises.

(g) No mechanical or electrical apparatus, equipment or tools shall be permitted except those items which are commonly associated with residential use or use customary to home crafts.

(h) All maintenance, ~~or service, or commercial~~ vehicles, trailers and equipment, or any vehicle bearing any advertisement related to the home occupation or any other similar vehicle shall be garaged parked or stored entirely within a building or structure.

(i) The home occupation shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the zone in which the use is located.

(j) There shall be complete conformity with fire, building, plumbing, electrical and health codes and to all state and city laws and ordinances.

(k) The home occupation shall not cause a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential uses.

(l) The home occupation shall not create impacts on municipal or utility services or community facilities from hazardous materials and other materials introduced into the wastewater system in excess of levels usually and customarily related to residential uses.

~~(lm)~~ The home occupation shall not alter the residential character of the premises or unreasonably disturb the peace and quiet, including radio and television reception of the neighborhood by reason of color, design, materials, construction, lighting, odors, sounds, noises or vibrations.

~~(mn)~~ Any special condition established by the ~~planning~~ director and made of record in the home occupation permit, as he/she may deem necessary to carry out the intent of this section, shall be met.

~~(no)~~ No more than one (1) Home Occupation Permit for Cottage Food Operations is permissible per legally established dwelling unit.

~~(p)~~ Non-resident employees of Cottage Food Operations are limited to working 8 AM to 5 PM, 40 hours/week maximum. No more than one part time non-resident Cottage Food Operation employee is allowed on the premises at a time.

~~(oq)~~ All home occupation permits are subject to immediate cancellation in the event that the zoning regulations applicable to the premises are amended to prohibit such use. (Zoning Code, Ch. 108, § 1087.5)

Sec. 33-853. Noncompliance.

Any home occupation permit shall be revoked by the ~~planning~~ director upon violation of any requirements of this article, or upon failure to comply with any of the conditions or limitations of the permit, unless such violation is corrected within three (3) days of the giving of written notice thereof. A permit may be revoked for repeated violation of the requirements of this article, notwithstanding compliance ~~of~~ with the notice. (Zoning Code, Ch. 108, § 1087.7)

Sec. 33-854. Denial or revocation.

In the event of denial of any permit, or the revocation thereof, or of objection to the limitations placed thereon, appeal may be had to the planning commission, whose decision shall be final. (Zoning Code, Ch. 108, § 1087.8)

Sec. 33-855. Business license also required.

A home occupation permit is not a business license and the granting of a home occupation permit shall not relieve the permittee of any other requirements of this code pertaining to business licenses and license taxes. (Zoning Code, Ch. 108, § 1087.9)

Secs. 33-856—33-859. Reserved.

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1070. Purpose.

The purpose of this article is to provide for the several miscellaneous land development standards which are applicable throughout the city regardless of zones. The requirements of this article shall be in addition to the property development standards for each zone. The provisions of this article shall prevail over conflicting provisions of any other article. (Zoning Code, Ch. 107, § 1075.00)

Sec. 33-1071. Prohibitions.

No lot shall be created, nor shall any structure be erected, nor shall any existing lot or structure be altered or changed in any manner which would result in noncompliance with the property development standards set forth in this article, except as allowed in Article 61, Division 3, Nonconforming Uses, Structures and Land, or where a variance has been granted in accordance with the provisions of this article. (Zoning Code, Ch. 107, § 1075.05)

ARTICLE 57: Miscellaneous Use Restrictions

Sec. 33-1123. _____ Cottage Food Operations.

_____ Cottage Food Operations, as defined in the California Homemade Food Act and Article 44 of this chapter.

Sec. 33-1124 --- 33-1129. Reserved.

ARTICLE 61, DIVISION 3. NONCONFORMING USES, ~~AND STRUCTURES, AND LAND~~

Sec. 33-1240. Definition and purpose.

Nonconforming use, as used in this division, is the use of any building, structure or land which is prohibited by any city law, but which use was lawful prior to the effective date of such law. ~~Whenever property is initially zoned or annexed to the city, such property is subject to this division. The failure of certain uses and structures to meet applicable requirements of the Escondido Municipal Code and this chapter results in such uses and structures being incompatible with the purposes of such code and chapter. Therefore, it is intended that these uses and structures be brought into compliance with such code and chapter as quickly as the fair interests of the parties will permit. The purpose of this division is to provide for the control, improvement and termination of uses, structures or parcels which do not conform to the current regulations for the land on which they are located.~~ (Zoning Code, Ch. 108, § 1084.01; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1241. Continuing nonconforming use.

(a) A nonconforming use may be continued even though such use does not conform with the revised provisions of applicable regulatory ordinances, but only if such use constitutes a legal nonconforming use as determined by the provisions of this division.

(b) This division does not authorize or approve the continuance of the use of any land, building or structure which was in violation of law at the commencement of such use.

(c) Nonconforming structures which have been designated as historical landmarks listed on the City's Local Register of Historic Places pursuant to the provisions of Article 40 of this chapter are ~~deemed to be legal nonconforming uses and are exempt from the provisions of this division.~~

(d) Alterations or enlargements may be made to single-family residential structures in residential single-family zones notwithstanding the fact that such structure or lots may not conform to the minimum setback, lot size or lot width requirements of the current applicable zoning regulations, if the residential structure was built in conformity with the development standards in force at the time of construction.

Alterations or enlargements made to such nonconforming structures shall observe current front and rear yard setbacks, but may observe prior established nonconforming sideyard setbacks subject to current applicable building code requirements and subject to the limitations of section 33-1243.

(e) Notwithstanding the provisions of this chapter, the director of planning and building community development ("director") may determine that nonconforming status exists for residential, commercial or industrial zoned properties, even though permit documentation is not available, subject to the following findings:

(1) The structure was constructed prior to 1976 and subsequently annexed to the city.

(2) The structure or building does not create a public nuisance as a result of conditions that threaten the public health, safety and welfare.

(3) Except as noted in this subsection, all other provisions of this article shall apply.

(f) Investigation. Any request brought pursuant to this subsection, shall be made in writing to the director of planning and building, and shall be accompanied by a filing fee, which shall be established by resolution of the city council. The director shall initiate an investigation of the request, together with any other information deemed relevant or necessary by the director. Any necessary information shall be the responsibility of the applicant to provide. Upon making the required findings of this subsection, the director shall grant, deny, or conditionally grant the request subject to the provisions of this article. (Zoning Code, Ch. 108, § 1084.02; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 96-7, § 1, 2-28-96; Ord. No. 96-20, § 1, 7-24-96)

Sec. 33-1242. Inapplicability of this division.

The following properties shall not be entitled to legal nonconforming use status under section 33-1241:

(a) Abandoned use of property. Any discontinuance of a nonconforming use for a continuous period of six (6) months shall be deemed to constitute abandonment of any preexisting nonconforming rights and such property shall not thereafter be returned to such nonconforming use;

(b) Altered property use. Nonconforming uses may not be repaired, altered, improved or reconstructed in such a way that the nonconforming use becomes more permanent or is expanded. Alterations, improvements and reconstruction are deemed to make the nonconforming use more permanent or expanded if cumulative expenditures on the nonconforming use exceed the percentages of replacement value set forth in section 33-1243. All percentages used in section 33-1243 shall be calculated on a cumulative basis commencing with the initial expenditure. Replacement values shall be calculated by the director of planning and building (~~"director"~~), using the most recent table of valuation multipliers of the International Conference of Building Officials, San Diego Chapter Code Council;

(c) Changed use. A nonconforming building, structure or use shall not be changed to another nonconforming use;

(d) Extended nonconforming use. A nonconforming use shall not be physically extended or enlarged, except as permitted in section 33-1243. Minor expansions of nonconforming buildings are permitted provided the degree of nonconformity is not increased and all applicable development standards are met. The extension or enlargement of a lawful use to any portion of a nonconforming use, or the issuance of a home occupation permit pursuant to Article 44, shall not be deemed the extension of such nonconforming use. (Zoning Code, Ch. 108, § 1084.03; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 92-11, §§ 1 and 2, 3-4-92; Ord. No. 92-47, § 5, 11-18-92; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1243. Exceptions to nonconforming use provisions.

(a) Routine maintenance. Nothing in this division shall prevent a property owner from performing routine maintenance on a nonconforming use. For the purposes of this section, the term, "routine maintenance," is minor work on a nonconforming use which does not require a permit of any kind and is

primarily related to the aesthetics of a use or to alleviate normal wear and tear. Common examples of routine maintenance include, but are not limited to, painting, scraping, ~~window replacement~~, cleaning, pruning and so forth;

(b) Voluntary work. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a nonconforming use provided that the total cumulative costs of such work do not exceed twenty-five (25) percent of the replacement value of the nonconforming use. The twenty-five (25) percent limitation shall include the replacement costs of work conducted pursuant to subsection (c) of this section and shall not include work that brings the property more into conformance with the current code:

(1) Improvements, additions and/or alterations for a nonconforming single-family residential structure(s) in a residential~~single-family~~ zone, including restoration pursuant to government order, may exceed the twenty-five (25) percent limitation up to fifty (50) percent of the replacement value of the nonconforming structure,

(2) Improvements, additions and/or alterations above fifty (50) percent for a nonconforming single-family residential structure(s) in a single-family zone, including restoration pursuant to governmental order, may be approved or conditionally approved by the director, pursuant to an administrative adjustment, upon demonstration that the proposed adjustment will be compatible with and will not be detrimental to adjacent property or improvements,

(3) The application for the administrative adjustment shall include a fee to the city in an amount to be established by resolution of the city council. The director may agendaize the application for consideration by the planning commission. Replacement values shall be calculated by the director using the most recent table of valuation multipliers of the ~~International Conference of Building Officials, San Diego Chapter~~ Code Council,

(4) A nonconforming sign may be altered, improved or remodeled notwithstanding this section provided the cumulative costs of such improvements or remodeling of the sign does not exceed fifty (50) percent of the cost of reconstruction of the building, as determined by the director,

(5) City-wide zone change. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a residential use considered nonconforming due to the city-wide zone change program; provided, that the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value of the nonconforming use, except as permitted within this subsection. ~~The fifty (50) percent limitation shall include the replacement costs of work conducted to section 33-1243;~~

(c) Restoration pursuant to governmental order. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any portion of a nonconforming use if such work is ordered by a governmental authority having jurisdiction or if such work is necessary to bring the nonconforming use into compliance with any applicable building, plumbing, electrical or similar codes, provided the total cost of such work includes only restoration pursuant to government order to ensure health, safety and welfare;

(d) Restoration following disaster. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any nonconforming use damaged by fire, collapse, explosion or acts of God, provided the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value. Nonconforming residential structures are exempt from the fifty (50) percent limitation set forth in this subsection and may be constructed, repaired and rebuilt to nonconforming densities and the use thereof may

be continued following damage by fire, collapse, explosion or acts of God without limitation as to cost. The percent limitations set forth in this subsection do not include work pursuant to subsections (b) or (c) of this section;

(e) Low and very low-income housing. Low and very low-income housing units may be repaired, altered, improved or reconstructed to a condition complying with all applicable building, electrical, plumbing and similar codes without regard to the percent limitations set forth in subsections (c) or (d) of this section, if the following conditions are satisfied:

(1) The housing units at issue have been inhabited continuously by individuals with low or very low income for at least one (1) year prior to the date of the proposed alteration, improvement or reconstruction,

(2) The property owner restricts the property for occupation solely by individuals of families of low and very low income for a period of at least ten (10) years. Such restrictions shall be in a form satisfactory to the city attorney,

(3) The property owner does not charge rent for the property which is in excess of thirty (30) percent of the gross household income of the residents of the property;

(f) Income definition. For the purposes of subsection (e) of this section, the term "low and very low income" shall mean eighty (80) percent and fifty (50) percent respectively of median income of the San Diego County metropolitan statistical area adjusted for household size or any more recent definition adopted by the Department of Housing and Urban Development;

(g) Any property owner electing to not be subject to restrictions imposed pursuant to subsection (e)(2) of this section shall immediately notify the city and shall terminate, demolish or bring the nonconforming use into compliance with all relevant zoning, building, plumbing, electrical and similar codes within thirty (30) days of terminating the low income use.

(h) Miscellaneous Exceptions. The following nonconforming situations are not subject to this division:

(1) Lots created in the Old Escondido Neighborhood Historic District pursuant to Article 65, Sec. 33-1376,

(2) Single Family residential lots that were created legally but now do not meet minimum lot width, lot frontage or lot area.

(Zoning Code, Ch. 108, § 1084.04; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2005-10R, § 4, 7-13-05; Ord. No. 2008-22, § 6, 9-10-08; Ord. No. 2011-19R, § 5, 1-11-12)

Sec. 33-1244. Appeals.

Any owner of a nonconforming use or structure who is notified by the city of the nonconformance and/or ordered to remove or abate said structure or use may appeal such order to the director pursuant to the terms and procedures set forth in the following sections of this division. (Zoning Code, Ch. 108, § 1084.05; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1245. Time for appeal.

Any notice of nonconformance or order for removal or abatement shall become final upon the expiration of thirty (30) days from the date of posting and mailing of the notice and order, unless an appeal to the director is filed prior to the expiration of said period of time. In the event that an appeal is timely filed, all action to be commenced against a nonconforming structure or use shall be stayed until said appeal is finally decided, unless there is an immediate and imminent threat to the public health, safety or welfare, as determined by the director. (Zoning Code, Ch. 108, § 1084.06; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1246. Procedure for appeals.

(a) Form. Any appeal brought pursuant to section 33-1244 shall be submitted on an application form to be provided by the planning division~~city clerk~~ and shall be filed with the planning division~~city clerk~~. An appellant shall provide the following information as to each nonconforming structure or use that is the subject of an appeal:

(1) A detailed description of the use or structure, including legal description, assessor's parcel number, the method of its construction and dimensions;

(2) The name and address of each owner, occupant or tenant of the property upon which the use or structure is located;

(3) The date and value of original construction of the nonconforming structure or the date of commencement of the nonconforming use and investment in such use;

(4) The date and cost of appellant's purchase of the use or structure;

(5) The date or dates, and all expenditures for repairs, alterations, improvements or reconstruction on the nonconforming use;

(6) The current value of the use or structure.

(b) Investigation. The director shall initiate an investigation of each of the above points, together with any other information deemed relevant or necessary by the director. (Zoning Code, Ch. 108, § 1084.07; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1247. Hearing on appeal.

Within thirty (30) days of the filing of the appeal, the director shall commence a hearing during which the appellant may present evidence and argument. The Building Advisory and Appeals Board~~director~~ may grant or deny the appeal upon determining that the application of this division to the appellant is neither arbitrary nor unreasonable. (Zoning Code, Ch. 108, § 1084.08; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1248. Findings.

The Building Advisory and Appeals Board~~director~~ shall not grant an appeal until the following findings are made:

(a) The use or structures to which the legal nonconforming use applies was lawfully in existence prior to the imposition of the law to which the current use or structures do not conform;

(b) The use of the property or building does not constitute a public nuisance as a result of conditions that threaten the public health, safety and welfare. (Zoning Code, Ch. 108, § 1084.09; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1249. Appeal to planning commission and city council.

The decision of the Building Advisory and Appeals Board~~director~~ may be appealed to the planning commission and subsequently to the city council pursuant to section 33-1303 of this chapter. (Zoning Code, Ch. 108, § 1084.10; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1250. Future entitlements.

A copy of all determinations on appeal shall be permanently maintained on file with the planning department. No building permit or any land use entitlement shall be issued for any property which does not conform to current laws. (Zoning Code, Ch. 108, § 1084.11; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Secs. 33-1251—33-1259. Reserved.

ORDINANCE NO. 2013-07(R)

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AMENDING THE ESCONDIDO ZONING CODE
ARTICLES 16, 26, 44, 56, 57 AND 61,
DIVISION 3, REGARDING COTTAGE FOOD
OPERATIONS, HOME OCCUPATION
PERMITS, AND NONCONFORMING USES,
STRUCTURES AND LAND

Planning Case No. AZ 13-0004

WHEREAS, the California Homemade Food Act ("AB 1616") became effective January 1, 2013, and requires that cities allow Cottage Food Operations ("CFO's") in residential units, and

WHEREAS, the City Council desires to facilitate the attraction, retention, and expansion of small businesses and stimulate the creation of jobs and improve median income.

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

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

SECTION 2. That the City Council has reviewed and considered the Notice of Exemption prepared for this project and issued on August 6, 2013, in conformance with Title 14 California Code of Regulation, California Environmental Quality Act ("CEQA") Section 15061(b) "General Rule", and has determined that all environmental issues have been addressed and finds that no significant environmental impact will result from approving these code amendments.

SECTION 3. That the City Council has considered the Environmental Review, Factors to be Considered, attached as Exhibit "A" to this Ordinance and incorporated by this reference, the staff report and all public testimony presented at the hearing held on this project, and this City Council finds the Zone Changes are consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 4. That specific sections of six (6) Articles of the Escondido Zoning Code Chapter 33 are amended as set forth in and attached as Exhibit "B": Article 16, Exhibit "C": Article 26, Exhibit "D": Article 44, Exhibit "E": Article 56, Exhibit "F": Article 57, and Exhibit "G": Article 61, Division 3 to this Ordinance and incorporated by these references.

SECTION 5. 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 6. That as of the effective date of this Ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. That the City Clerk shall certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the City of Escondido.

EXHIBIT "A"
FACTORS TO BE CONSIDERED
AZ 13-0004

1. The public health, safety and welfare would not be adversely affected by the proposed amendments to the Zoning Code Article 16 (Commercial Zones), Article 27 (Industrial Zones), Article 44 (Home-Occupations), Article 56 (Miscellaneous Development Standards), Article 57 (Miscellaneous Use Restrictions), and Article 61, Division 3 (Nonconforming Uses and Structures) because the amendments would: allow Cottage Food Operations use in residential units consistent with State law; allow Home Occupation permits in legal nonconforming residential units in commercial and industrial zones; clarify and clean up deficiencies in the current Nonconforming Uses and Structures sections; and eliminate errors and inconsistencies throughout the articles named, all to facilitate the ongoing efforts to promote business growth, economic stability and conservation of resources.
2. The proposed amendments to Articles 16, 26 and 61 involving Home Occupations in non-residential zones would not be detrimental to surrounding properties, since those properties are already operating as businesses and are located in areas where business-oriented infrastructure exists.
3. The proposed Zoning Code amendments would be consistent with the General Plan because they would provide a greater opportunity for home businesses to become established and expand the City's economy.
4. The proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15061(b) "General Rule." The proposal does not have the possibility to have a significant effect on the environment.

EXHIBIT "B"

ARTICLE 16: Commercial Zones

Sec. 33-333. Permitted accessory uses and structures.

Accessory uses and structures are permitted in commercial zones, provided they are incidental to, and do not substantially alter the operating character of the permitted principal use or structure as determined by the director of planning and building. Such permitted accessory uses and structures include, but are not limited to, the following:

Table 33-333
PERMITTED ACCESSORY USES AND STRUCTURES

Use Title	CG	CN	CP	HP
Accessory buildings such as garages, carports and storage buildings clearly incidental to a permitted use	P	P	P	P
Bus stop shelters* (Article 57 & Article 9, Chapter 23 EMC)	P	P	P	P
Caretaker's or resident manager's quarters (for lodgings, motels, hotels, and funeral parlors)	P			P
Cottage Food Operations and Home Occupations as provided for in Article 44.	P	P	P	P
Employee recreational facilities	P		P	P
Live entertainment	P	P	P	P
Outdoor dining in conjunction with an approved eating place* (Article 57)	P	P	P	P
Outdoor display of merchandise* (Article 73)	P	P	P	P
Satellite dish antennas* (Article 34, CUP required for some sizes and heights)	P/C	P/C	P/C	P/C
Storage of materials used for the construction of a building, including the contractor's temporary office, provided that such use is on the building site or immediately adjacent thereto and provided further, that such use shall be permitted only during the construction period and the thirty (30) days thereafter	P	P	P	P
Swimming pools* (Article 57) and tennis courts	P		P	P
Temporary outdoor sales* (Article 73) and special events subject to the issuance of a temporary use permit	P	P	P	P
Vending machines* (Article 33)	P	P	P	P

* = Subject to special regulations—see Article in parentheses.

P = Permitted Accessory Use

(Ord. No. 97-02, § 2 Exh. A., 1-22-97)

Sec. 33-334. Prohibited uses.

(a) All uses and structures not listed as permitted primary or accessory uses, or conditionally permitted uses shall be prohibited. However, the director of planning and building may approve a use, after study and deliberation, which is found to be consistent with the purposes of this article, similar to the uses listed as permitted uses, and not more detrimental to the zone than those uses listed as permitted uses.

(b) Any existing residential structure shall not be used for both residential and commercial purposes at the same time, except as provided for in Article 44 (Ord. No. 97-02, § 2 Exh. A, 1-22-97)

EXHIBIT "C"

ARTICLE 26: INDUSTRIAL ZONES

Sec. 33-565. Accessory uses and structures.

Accessory uses and structures are permitted in the industrial zones, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include but are not limited to the following:

Table 33-565
PERMITTED ACCESSORY USES AND STRUCTURES

Use Title	I-O	M-1	M-2	I-P
Bus stop shelters**	P	P	P	P
Cafeteria, operated in conjunction with a permitted use for the convenience of persons employed upon the premises	P	P	P	P
Caretakers' or watchman's dwelling	P	P	P	P
Cottage Food Operations and Home Occupations as provided for in Article 44.	P	P	P	P
Commercial sales and service clearly incidental and secondary to a principal permitted use	P	P	P	P
Employee recreational facilities and play areas	P	P	P	P
Other accessory uses and buildings customarily appurtenant to a permitted use	P	P	p	p
Satellite dish antennas*	P	P	P	P
Storage buildings incidental to a permitted use	P	P	P	P

* Subject to special regulations—see Section 33-700.

** Subject to special regulations—see Section 33-1118.

(Ord. 94-37 § 1 (part), 11-9-94)

EXHIBIT "D"

ARTICLE 44: Home Occupations

Sec. 33-850. Permit required.

A legally established dwelling unit shall not be used for business purposes unless a home occupation permit has first been issued by the planning department. A Cottage Food Operation, as defined in the California Homemade Food Act, shall obtain a home occupation permit. (Zoning Code, Ch. 108, § 1087.1)

Sec. 33-851. Procedure.

The director of community development may upon application issue a home occupation permit which shall state the home occupation permitted, the conditions attached and any time limitations thereon. The permit shall not be issued unless the director is satisfied that the applicant will meet all the conditions listed in section 33-852 of this article and the applicant has agreed in writing to comply with the conditions. (Zoning Code, Ch. 108, § 1087.3)

Sec. 33-852. Conditions.

Each and every one of the following conditions must be observed at all times by the holder of a home occupation permit.

(a) Employees or assistants who are not occupants of the dwelling shall not be employed on the premises, except where specifically permitted by law.

(b) The home occupation shall be conducted wholly within the structures on the premises and shall not exceed twenty-five (25) percent of the total floor area of said structures. Required residential parking shall be maintained and available for residential parking.

(c) Inventory and supplies for the home occupation shall not occupy more than fifty (50) percent of the permitted area.

(d) No customer services or sales of goods, wares or merchandise shall be made on the premises, except where specifically permitted by law.

(e) No sign or advertising shall be displayed on the premises except where specifically permitted by law.

(f) No display of any kind shall be visible from the exterior of the premises.

(g) No mechanical or electrical apparatus, equipment or tools shall be permitted except those items which are commonly associated with residential use or use customary to home crafts.

(h) All maintenance, service, or commercial vehicles, trailers and equipment bearing any advertisement related to the home occupation or any other similar parked or stored entirely within a building or structure.

(i) The home occupation shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the zone in which the use is located.

(j) There shall be complete conformity with fire, building, plumbing, electrical and health codes and to all state and city laws and ordinances.

(k) The home occupation shall not cause a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential uses.

(l) The home occupation shall not create impacts on municipal or utility services or community facilities from hazardous materials and other materials introduced into the wastewater system in excess of levels usually and customarily related to residential uses.

(m) The home occupation shall not alter the residential character of the premises or unreasonably disturb the peace and quiet, including radio and television reception of the neighborhood by reason of color, design, materials, construction, lighting, odors, sounds, noises or vibrations.

(n) Any special condition established by the director and made of record in the home occupation permit, as he/she may deem necessary to carry out the intent of this section, shall be met.

(o) No more than one (1) Home Occupation Permit for Cottage Food Operations is permissible per legally established dwelling unit.

(p) Non-resident employees of Cottage Food operations are limited to working 8 AM to 5 PM, 40 hours/week maximum. No more than one part time non-resident Cottage Food Operation employee is allowed on the premises at a time.

(q) All home occupation permits are subject to immediate cancellation in the event that the zoning regulations applicable to the premises are amended to prohibit such use. (Zoning Code, Ch. 108, § 1087.5)

Sec. 33-853. Noncompliance.

Any home occupation permit shall be revoked by the director upon violation of any requirements of this article, or upon failure to comply with any of the conditions or limitations of the permit, unless such violation is corrected within three (3) days of the giving of written notice thereof. A permit may be revoked for repeated violation of the requirements of this article, notwithstanding compliance with the notice. (Zoning Code, Ch. 108, § 1087.7)

Sec. 33-854. Denial or revocation.

In the event of denial of any permit, or the revocation thereof, or of objection to the limitations placed thereon, appeal may be had to the planning commission, whose decision shall be final. (Zoning Code, Ch. 108, § 1087.8)

Sec. 33-855. Business license also required.

A home occupation permit is not a business license and the granting of a home occupation permit shall not relieve the permittee of any other requirements of this code pertaining to business licenses and license taxes. (Zoning Code, Ch. 108, § 1087.9)

Secs. 33-856—33-859. Reserved.

EXHIBIT "E"

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1070. Purpose.

The purpose of this article is to provide for the several miscellaneous land development standards which are applicable throughout the city regardless of zones. The requirements of this article shall be in addition to the property development standards for each zone. The provisions of this article shall prevail over conflicting provisions of any other article. (Zoning Code, Ch. 107, § 1075.00)

Sec. 33-1071. Prohibitions.

No lot shall be created, nor shall any structure be erected, nor shall any existing lot or structure be altered or changed in any manner which would result in noncompliance with the property development standards set forth in this article, except as allowed in Article 61, Division 3, Nonconforming Uses, Structures and Land, or where a variance has been granted in accordance with the provisions of this article. (Zoning Code, Ch. 107, § 1075.05)

EXHIBIT "F"

ARTICLE 57: Miscellaneous Use Restrictions

Sec. 33-1123. Cottage Food Operations.

Cottage Food Operations, as defined in the California Homemade Food Act and Article 44 of this chapter.

Sec. 33-1124 --- 33-1129. Reserved.

EXHIBIT "G"

ARTICLE 61, DIVISION 3. NONCONFORMING USES, STRUCTURES, AND LAND

Sec. 33-1240. Definition and purpose.

Nonconforming use, as used in this division, is the use of any building, structure or land which is prohibited by any city law, but which use was lawful prior to the effective date of such law. The purpose of this division is to provide for the control, improvement and termination of uses, structures or parcels which do not conform to the current regulations for the land on which they are located. (Zoning Code, Ch. 108, § 1084.01; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1241. Continuing nonconforming use.

(a) A nonconforming use may be continued even though such use does not conform to the revised provisions of applicable regulatory ordinances, but only if such use constitutes a legal nonconforming use as determined by the provisions of this division.

(b) This division does not authorize or approve the continuance of the use of any land, building or structure which was in violation of law at the commencement of such use.

(c) Nonconforming structures listed on the City's Local Register of Historic Places pursuant to the provisions of Article 40 of this chapter are exempt from the provisions of this division.

(d) Alterations or enlargements may be made to single-family residential structures in residential zones notwithstanding the fact that such structure or lots may not conform to the minimum setback, lot size or lot width requirements of the current applicable zoning regulations, if the residential structure was built in conformity with the development standards in force at the time of construction.

Alterations or enlargements made to such nonconforming structures shall observe current front and rear yard setbacks, but may observe prior established nonconforming sideyard setbacks subject to current applicable building code requirements and subject to the limitations of section 33-1243.

(e) Notwithstanding the provisions of this chapter, the director of community development ("director") may determine that nonconforming status exists for residential, commercial or industrial zoned properties, even though permit documentation is not available, subject to the following findings:

(1) The structure was constructed prior to 1976 and subsequently annexed to the city.

(2) The structure or building does not create a public nuisance as a result of conditions that threaten the public health, safety and welfare.

(3) Except as noted in this subsection, all other provisions of this article shall apply.

(f) Investigation. Any request brought pursuant to this subsection, shall be made in writing to the director, and shall be accompanied by a filing fee, which shall be established by resolution of the City Council. The director shall initiate an investigation of the request, together with any other information deemed relevant or necessary by the director. Any necessary information shall be the responsibility of the applicant to provide. Upon making the required findings of this subsection, the director shall grant, deny, or conditionally grant the request subject to the provisions of this article. (Zoning Code, Ch. 108, § 1084.02; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 96-7, § 1, 2-28-96; Ord. No. 96-20, § 1, 7-24-96)

Sec. 33-1242. Inapplicability of this division.

The following properties shall not be entitled to legal nonconforming use status under section 33-1241:

(a) Abandoned use of property. Any discontinuance of a nonconforming use for a continuous period of six (6) months shall be deemed to constitute abandonment of any preexisting nonconforming rights and such property shall not thereafter be returned to such nonconforming use;

(b) Altered property use. Nonconforming uses may not be repaired, altered, improved or reconstructed in such a way that the nonconforming use becomes more permanent or is expanded. Alterations, improvements and reconstruction are deemed to make the nonconforming use more permanent or expanded if cumulative expenditures on the nonconforming use exceed the percentages of replacement value set forth in section 33-1243. All percentages used in section 33-1243 shall be calculated on a cumulative basis commencing with the initial expenditure. Replacement values shall be calculated by the director, using the most recent table of valuation multipliers of the International Code Council;

(c) Changed use. A nonconforming building, structure or use shall not be changed to another nonconforming use;

(d) Extended nonconforming use. A nonconforming use shall not be physically extended or enlarged, except as permitted in section 33-1243. Minor expansions of nonconforming buildings are permitted provided the degree of nonconformity is not increased and all applicable development standards are met. The extension or enlargement of a lawful use to any portion of a nonconforming use, or the issuance of a home occupation permit pursuant to Article 44, shall not be deemed the extension of such nonconforming use. (Zoning Code, Ch. 108, § 1084.03; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 92-11, §§ 1 and 2, 3-4-92; Ord. No. 92-47, § 5, 11-18-92; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1243. Exceptions to nonconforming use provisions.

(a) Routine maintenance. Nothing in this division shall prevent a property owner from performing routine maintenance on a nonconforming use. For the purposes of this section, the term, "routine maintenance," is minor work on a nonconforming use which does not require a permit of any kind and is primarily related to the aesthetics of a use or to alleviate normal wear and tear. Common examples of routine maintenance include, but are not limited to, painting, scraping, cleaning, pruning and so forth;

(b) Voluntary work. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a nonconforming use provided that the total cumulative costs of such work do not exceed twenty-five (25) percent of the replacement value of the nonconforming use. The twenty-five (25) percent limitation shall include the replacement costs of work conducted pursuant to subsection (c) of this section and shall not include work that brings the property more into conformance with the current code:

(1) Improvements, additions and/or alterations for a nonconforming single-family residential structure(s) in a residential zone, including restoration pursuant to government order, may exceed the twenty-five (25) percent limitation up to fifty (50) percent of the replacement value of the nonconforming structure,

(2) Improvements, additions and/or alterations above fifty (50) percent for a nonconforming single-family residential structure(s) in a single-family zone, including restoration pursuant to governmental order, may be approved or conditionally approved by the director, pursuant to an administrative adjustment, upon demonstration that the proposed adjustment will be compatible with and will not be detrimental to adjacent property or improvements,

(3) The application for the administrative adjustment shall include a fee to the city in an amount to be established by resolution of the City Council. The director may agendize the application for consideration by the planning commission. Replacement values shall be

calculated by the director using the most recent table of valuation multipliers of the International Code Council,

(4) A nonconforming sign may be altered, improved or remodeled notwithstanding this section provided the cumulative costs of such improvements or remodeling of the sign does not exceed fifty (50) percent of the cost of reconstruction of the building, as determined by the director,

(5) City-wide zone change. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a residential use considered nonconforming due to the city-wide zone change program; provided, that the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value of the nonconforming use, except as permitted within this subsection;

(c) Restoration pursuant to governmental order. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any portion of a nonconforming use if such work is ordered by a governmental authority having jurisdiction or if such work is necessary to bring the nonconforming use into compliance with any applicable building, plumbing, electrical or similar codes, provided the total cost of such work includes only restoration pursuant to government order to ensure health, safety and welfare;

(d) Restoration following disaster. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any nonconforming use damaged by fire, collapse, explosion or acts of God, provided the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value. Nonconforming residential structures are exempt from the fifty (50) percent limitation set forth in this subsection and may be constructed, repaired and rebuilt to nonconforming densities and the use thereof may be continued following damage by fire, collapse, explosion or acts of God without limitation as to cost. The percent limitations set forth in this subsection do not include work pursuant to subsections (b) or (c) of this section;

(e) Low and very low-income housing. Low and very low-income housing units may be repaired, altered, improved or reconstructed to a condition complying with all applicable building, electrical, plumbing and similar codes without regard to the percent limitations set forth in subsections (c) or (d) of this section, if the following conditions are satisfied:

(1) The housing units at issue have been inhabited continuously by individuals with low or very low income for at least one (1) year prior to the date of the proposed alteration, improvement or reconstruction,

(2) The property owner restricts the property for occupation solely by individuals of families of low and very low income for a period of at least ten (10) years. Such restrictions shall be in a form satisfactory to the city attorney,

(3) The property owner does not charge rent for the property which is in excess of thirty (30) percent of the gross household income of the residents of the property;

(f) Income definition. For the purposes of subsection (e) of this section, the term "low and very low income" shall mean eighty (80) percent and fifty (50) percent respectively of median income of the San Diego County metropolitan statistical area adjusted for household size or any more recent definition adopted by the Department of Housing and Urban Development;

(g) Any property owner electing to not be subject to restrictions imposed pursuant to subsection (e)(2) of this section shall immediately notify the city and shall terminate, demolish or bring the nonconforming use into compliance with all relevant zoning, building, plumbing, electrical and similar codes within thirty (30) days of terminating the low income use.

(h) Miscellaneous Exceptions. The following nonconforming situations are not subject to this division:

(1) Lots created in the Old Escondido Neighborhood Historic District pursuant to Article 65, Sec. 33-1376,

(2) Single Family residential lots that were created legally but now do not meet minimum lot width, lot frontage or lot area.

(Zoning Code, Ch. 108, § 1084.04; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2005-10R, § 4, 7-13-05; Ord. No. 2008-22, § 6, 9-10-08; Ord. No. 2011-19R, § 5, 1-11-12)

Sec. 33-1244. Appeals.

Any owner of a nonconforming use or structure who is notified by the city of the nonconformance and/or ordered to remove or abate said structure or use may appeal such order to the director pursuant to the terms and procedures set forth in the following sections of this division. (Zoning Code, Ch. 108, § 1084.05; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1245. Time for appeal.

Any notice of nonconformance or order for removal or abatement shall become final upon the expiration of thirty (30) days from the date of posting and mailing of the notice and

order, unless an appeal to the director is filed prior to the expiration of said period of time. In the event that an appeal is timely filed, all action to be commenced against a nonconforming structure or use shall be stayed until said appeal is finally decided, unless there is an immediate and imminent threat to the public health, safety or welfare, as determined by the director. (Zoning Code, Ch. 108, § 1084.06; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1246. Procedure for appeals.

(a) Form. Any appeal brought pursuant to section 33-1244 shall be submitted on an application form to be provided by the planning division and shall be filed with the planning division. An appellant shall provide the following information as to each nonconforming structure or use that is the subject of an appeal:

(1) A detailed description of the use or structure, including legal description, assessor's parcel number, the method of its construction and dimensions;

(2) The name and address of each owner, occupant or tenant of the property upon which the use or structure is located;

(3) The date and value of original construction of the nonconforming structure or the date of commencement of the nonconforming use and investment in such use;

(4) The date and cost of appellant's purchase of the use or structure;

(5) The date or dates, and all expenditures for repairs, alterations, improvements or reconstruction on the nonconforming use;

(6) The current value of the use or structure.

(b) Investigation. The director shall initiate an investigation of each of the above points, together with any other information deemed relevant or necessary by the director. (Zoning Code, Ch. 108, § 1084.07; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1247. Hearing on appeal.

Within thirty (30) days of the filing of the appeal, the director shall commence a hearing during which the appellant may present evidence and argument. The Building Advisory and Appeals Board may grant or deny the appeal upon determining that the application of this division to the appellant is neither arbitrary nor unreasonable. (Zoning Code, Ch. 108, § 1084.08; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1248. Findings.

The Building Advisory and Appeals Board shall not grant an appeal until the following findings are made:

(a) The use or structures to which the legal nonconforming use applies was lawfully in existence prior to the imposition of the law to which the current use or structures do not conform;

(b) The use of the property or building does not constitute a public nuisance as a result of conditions that threaten the public health, safety and welfare. (Zoning Code, Ch. 108, § 1084.09; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1249. Appeal to planning commission and City Council.

The decision of the Building Advisory and Appeals Board may be appealed to the Planning Commission and subsequently to the City Council pursuant to section 33-1303 of this chapter. (Zoning Code, Ch. 108, § 1084.10; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Sec. 33-1250. Future entitlements.

A copy of all determinations on appeal shall be permanently maintained on file with the planning department. No building permit or land use entitlement shall be issued for any property which does not conform to current laws. (Zoning Code, Ch. 108, § 1084.11; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93)

Secs. 33-1251—33-1259. Reserved.

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 12

Date: October 16, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Loretta McKinney, Director of Library and Community Services

SUBJECT: Library Expansion Conceptual Design

RECOMMENDATION:

It is requested that the City Council receive the Library Conceptual Design as presented by Group 4 Architecture, Research + Planning, Inc. as part of the Phase I expansion of the Escondido Public Library and provide direction on the next phase of the project.

FISCAL ANALYSIS:

It is anticipated that the cost of the next aspect of Phase I, Design Development, will be approximately \$600,000. There currently are no funds budgeted for this next phase.

PREVIOUS ACTION:

At the City Council Meeting of February 28, 2010, the Escondido Library Board of Trustees and the Escondido Library Endowment Foundation presented a concept for a phased approach to the development of a new, modern, state-of-the-art library for Escondido. At the June 16, 2010, City Council Meeting, \$200,000 was approved as part of the Capital Improvement Program to move forward with additional studies and a conceptual plan. On February 16, 2011, the City Council adopted Resolution No. 2011-28 approving a consultant agreement with Group 4 Architecture, Research + Planning, Inc. in the amount of \$188,555 for the conceptual design for the Phase I expansion of the Escondido Library.

BACKGROUND:

The current Escondido Public Library opened its doors in 1980 and is heavily used by the community (approximately 1,656 people per day/505,099 people annually, with a circulation of library materials of 2,228 per day and 679,740 annually). The Library's expansion project is the City Council's acknowledgement of the need for a 21st Century library in Escondido. Since the year 2001, Library administration has been working on a variety of methods to secure funding and formal designs for an expanded library. The demand for a library with access to print and media collections, space for all ages to read, study, and conduct research; meet, collaborate and attend informational and cultural programs as well as have access to technology is high within the Escondido community.

The recent economic downturn halted the City's ability to move forward with the plans created since 2001. However, a new study was completed regarding the changes of library services over the years, with an emphasis on the impact of technology. As a result of the study, a phased approach was adopted, which included the renovation of the current interior building and a conceptual design of a new addition to the existing facility.

Due diligence to seek community comments on interior and exterior preferences and service priorities has been performed through conducting community meetings with a formally organized Task Force of citizens, handing out surveys at various community functions as well as providing online surveys via the Library's web site. A Conceptual Design Team consisting of Assistant City Manager Charlie Grimm, Director of Library and Community Services Loretta McKinney, Deputy Director Cynthia Smith, along with Jack Anderson, President of the Escondido Library Foundation has worked with consultants from Group 4 Architects in an effort to incorporate input from the community, as well as from City and library staff into the Conceptual Design.

OPTIONS:

It is anticipated that the cost of the next aspect of Phase I, Design Development will be \$600,000. There currently are no funds budgeted for this next phase. The Design Development process includes refining the building program; refining the site and floor plans, building elevations, and building sections; developing lists of shelving, furniture, and equipment; initiating the design of major engineered building systems (structural, mechanical, electrical, etc.); and revising the project budget to reflect the refined design. It will also include the development of materials such as renderings, computer models, etc. to support public communications and funding development activities for the project. Options regarding the Design Development process for Council consideration are:

1. Defer the Design Development process until a funding source is identified. Staff will continue to pursue grants and alternative funding sources to fund the Design Development phase. This option also provides the Escondido Library Foundation the opportunity to explore the feasibility of raising sufficient funds to assist with construction costs of the expansion project. Staff will report back to City Council within one year with an update on viable funding options.
2. Move forward with the Design Development process. Council could approve \$600,000 from reserve funds to continue with the Design Development phase.

Respectfully submitted,



Loretta McKinney, Director of Library and Community Services

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 13
Date: October 16, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Joyce Masterson, Director of Economic Development and Community Relations

SUBJECT: Preliminary City Council Action Plan – Fiscal Management

RECOMMENDATION:

It is requested that Council provide direction to staff on the proposed content of the Fiscal Management element of the 2013-2014 City Council Action Plan.

FISCAL ANALYSIS:

None

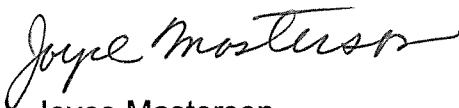
PREVIOUS ACTION:

The City Council held a workshop for the development of the 2013-2014 Council Action Plan on February 27, 2013. On June 26, 2013, Council provided direction on the Economic Development element of the Action Plan. On August 14, 2013 Council provided direction on the Neighborhood Improvement element of the Action Plan. On September 11, 2013, the Council provided direction on the Public Safety element of the Action Plan.

BACKGROUND:

The City Council Action Plan represents the City Council's collective vision for Escondido's future and the key strategies that will be used to achieve it. It is developed biennially following a workshop where key policy goals are identified and discussed. At its February 27, 2013, workshop the City Council identified the following four key categories: Economic Development, Fiscal Management, Neighborhood Improvement and Public Safety. Staff has presented a draft of each element of the Action Plan at separate workshops. A final draft will be presented to Council for approval on November 6, 2013. After the Council Action Plan is adopted, the City Council will receive periodic updates of the progress being made. The draft Public Safety element is attached to this document as Attachment 1.

Respectfully submitted,



Joyce Masterson
Director of Economic Development and Community Relations

City Council Action Plan Fiscal Management

October 16, 2013

Goal	Current Reality	Strategy	Evaluation Measure
Improve the City's A+ Bond Rating	Ratings are influenced by factors beyond the city's control including regional economic factors, local unemployment, etc. The best Standard & Poor's ratings are AAA, AA, and A. These are sometimes supplemented with a plus (+) or a minus (-) sign to raise or lower a bond's position within the group. According to definition, the "A" represents a "strong capacity to meet financial commitments, but somewhat susceptible to adverse economic conditions and changes in circumstances". The "+" indicates a standing at the top of the scale. The City's current bond Rating for General Obligation Bonds is A+. The City's Water and Wastewater Bond Rating is AA-.	1. Create a list and implementation dates of economic factors that the city can control that may assist the City in raising its bond rating.	1. Implementation of economic factors within the city's control

Goal	Current Reality	Strategy	Evaluation Measure
Reduce Pension Debt	PERS is addressing this issue by implementing increased city contribution rates over the next five years that will be dedicated to lower the unfunded liability amount. The PERS actuarial report released in November of 2013 will have more information regarding these specific rates. The City needs to address this extra retirement cost in our future projections.	2. Present a five year projection, adding in a new retirement cost dedicated to eliminate the unfunded liability in 30 years.	2. Review of PERS report

Goal	Current Reality	Strategy	Evaluation Measure
Maintain Reserve fund at 25% of the General Fund but never lower than 25 million dollars	The City has had a standard policy of keeping a minimum of 15% of General Fund operating revenue in a reserve. Past year's analysis show that the General Fund should have a minimum of 15 million dollars to cover cash flow during the July to December time period. Currently the General fund reserve is \$16.5 million dollars. The City has a policy requiring any land sales proceeds to be placed in the Reserve Fund.	3. Establish a projection of how soon the City can expect to establish a \$25 million reserve under normal circumstances and have alternatives to achieve this goal faster.	Achieve a minimum reserve of \$25 million

Goal	Current Reality	Strategy	Evaluation Measure
Resubmit the Charter City Proposal to voters without district language	The previous Charter City Proposal included language about voting districts and was not approved by voters in November 2012. Pending state legislation may have a significant impact on charter cities. SB 7, which is expected to be signed by the Governor, prohibits a charter city from receiving or using state funding for a construction project if the city has a charter provision or ordinance that authorizes a contractor not to comply with prevailing wage requirements on any public works contract, as specified."	4. Hold public hearings on a revised Charter City Proposal for possible inclusion in 2014 election ballot.	Election result

FUTURE CITY COUNCIL AGENDA ITEMS
October 10, 2013

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

OCTOBER 23, 2013
4:30 p.m.

PRESENTATION

Excellence in Escondido's Public Schools

CONSENT CALENDAR

Industrial Disability Retirement for Melvin Argent
(S. Bennett)

Approve the Industrial Disability Retirement for Police Officer Melvin Argent.

Tow Fee Schedule
(C. Carter)

Chapter 27 of the Municipal Code authorizes the City to enter into contract for Police tow, impound and referral tow services. Agreements with tow companies allow vendors to collect set fees for services rendered under the agreements including towing, impounding and storing vehicles. They also state that the City will review fees annually. Tow companies are requesting fee adjustments so they may recover operating costs including diesel fuel, insurance premiums and salaries.

Notice of Completion: Digester Cleaning 2013 Project
(C. McKinney)

The three primary digesters and one secondary digester at the Hale Avenue Wastewater Plant were cleaned. The work is preventive maintenance and will be scheduled again in approximately six years.

Cemetery Pipeline Replacement Project: Easement Acquisition
(E. Domingue)

The Cemetery Pipeline Replacement Project will involve the abandonment of approximately 17,500 linear feet of existing potable water pipeline and the construction of approximately 12,600 linear feet of new replacement potable water transmission and distribution pipeline. The project also includes 2,545 linear feet of new recycled water pipeline. The property owners impacted by the Project have been asked to dedicate the new easement interests in exchange for the City quitclaiming the existing easements encumbering their properties. The new easement interest across the Lypps property crosses land that is improved with an avocado grove. The City commissioned an appraisal of the trees in order to provide just compensation to the property owner for the impacted trees. The Settlement and Release Agreement provides for payment in the amount of \$8,655, for the value of the trees, as determined by the City's appraiser.

Bid Award of the Encino and El Dorado Drive Storm Drain Replacement Project and Approval of a Budget Adjustment
(E. Domingue)

A citizen reported concerns regarding a sinkhole developing on a private storm drain system. City Council budgeted funds to replace the private storm drain with a public system as a part of the Fiscal Year 13/14 CIP budget. In order to expedite delivery of the project, staff requests authorization to award the project to the lowest responsible, responsive bidder, provided that their bid amount is no more than 10% greater than the Engineer's estimate.

OCTOBER 23, 2013
Continued

CONSENT CALENDAR Continued

Lease Agreement with Dave McMahon Construction at 525 N. Quince Street and Budget Adjustment
(E. Domingue)

Dave McMahon Construction desires to lease 525 N. Quince Street for storage of construction materials and equipment as an interim use until the site is required for development of the Business Park. The proposed lease agreement contains a three year term, with flexibility for either party to terminate after the initial 18 months, without penalty.

Recycled Water Easterly Main Extension Project and Mitigated Negative Declaration (ENV 13-0007)
(B. Redlitz)

The City of Escondido is proposing to expand its existing recycled water conveyance system to deliver recycled water to identified customers located east of the City's existing recycled water service area. In order to provide recycled water to additional customers, the City would expand the existing recycled water pipeline approximately 7.4 miles and construct and operate a new recycled water pump station (6,000 gpm) currently proposed to be located within Mountain View Park, and a new recycled water storage tank (up to 2 MG) located near the City's existing Hogback Potable Reservoir (tank) on privately owned property within the County. Additionally, the project would include installation of a 12-inch brine disposal pipeline and fiber optic cables parallel to the proposed recycled water pipeline from existing infrastructure located near the City's Hale Avenue Resource Recovery Facility (HARRF). The proposed pipeline would primarily be located within City right-of-way stretching from the City's Hale Avenue Resource Recovery Facility located within the southwestern area of the City and generally following the Escondido Creek Channel to Citrus Avenue, and then along Glenridge Road and Mountain View Road through the Oak Hill Memorial Park, then along Canyon Crest Drive to County area near the existing Hogback Reservoir Tank located within the eastern area of the City.

Fiscal Year 2014 Economic Development Assistance Programs Grant Application
(E. Domingue and J. Masterson)

The Council is being asked to approve an application to the Economic Development Administration for a federal FY 2014 Economic Development Assistance Programs grant in conjunction with the Citracado Parkway Extension Project.

PUBLIC HEARINGS:

Short-form Rent Review Board Hearing for Casa De Amigos (Case No. 0697-20-9961)
(B. Redlitz)

This application meets all eligibility criteria for submittal of a short-form rent increase application. The amount requested covers an 18 month period of consideration from December 31, 2011 to June 30, 2013. 75% of the change in the CPI for the period is 1.654%. The average space rent for the 40 spaces subject to rent control is \$588.57. The average requested increase per space is approximately \$9.73.

Zoning Code Amendment AZ 13-0006
(B. Redlitz)

State law mandates that the City identify a zone where year-round emergency shelters are permitted by right. The proposed Zoning Code Amendment implements one of the implementation programs of the recently adopted Housing Element of the General Plan. The proposed Amendment establishes a zoning overlay and associated development standards for emergency shelters.

CURRENT BUSINESS

Graffiti Program Options and Budget Adjustment
(E. Domingue)

On September 11, 2013 Council directed staff to budget adjust the remaining funds from the Façade Improvement Program to augment the Graffiti Program and outline the proposed uses for those funds.

Future Agenda Items (D. Halverson)

OCTOBER 30, 2013
NO MEETING (5th Wednesday)