

CITY MANAGER – Marlene D. Best
CITY ATTORNEY – Shawn D. Hagerty
CITY CLERK – Annette Fagan Ortiz



CITY COUNCIL

Mayor John W. Minto
Vice Mayor Stephen Houlahan
Council Member Ronn Hall
Council Member Laura Koval
Council Member Rob McNelis

STAFF:
ASSISTANT TO THE CITY MANAGER
Kathy Valverde
COMMUNITY SERVICES DIRECTOR
Bill Maertz
DEVELOPMENT SERVICES DIRECTOR
Melanie Kush
FINANCE DIRECTOR/TREASURER
Tim McDermott
FIRE & LIFE SAFETY DIRECTOR/FIRE CHIEF
John Garlow
HUMAN RESOURCES DIRECTOR
Jessie Bishop
LAW ENFORCEMENT
Captain Daniel Brislin

**City of Santee
Regular Meeting Agenda
Santee City Council**

**Wednesday, May 8, 2019
7:00 PM**

**Council Chambers – Building 2
10601 Magnolia Avenue, Santee, CA 92071**

Regular City Council Meeting – 7:00 p.m.

ROLL CALL: Mayor John W. Minto
Vice Mayor Stephen Houlahan
Council Members Ronn Hall, Laura Koval and Rob McNelis

LEGISLATIVE INVOCATION: Todd Tolson – Riverview Community Church

PLEDGE OF ALLEGIANCE

PROCLAMATION: Sam Modica, Santee Santas

ADJOURNMENT IN MEMORY: In Memory of Robert “Bob” Standring (Council Member Koval’s Father)

CONSENT CALENDAR:

Consent Calendar items are considered routine and will be approved by one motion, with no separate discussion prior to voting. Council Members, staff or public may request specific items be removed from the Consent Calendar for separate discussion or action. Speaker slips for this category must be presented to the City Clerk at the start of the meeting. Speakers are limited to 3 minutes.

- (1) Approval of reading by title only and waiver of reading in full of Ordinances and Resolutions on the agenda.**
- (2) Approval of Meeting Minutes of the Santee City Council for the April 24, 2019, Regular Meeting. (City Clerk – Ortiz)**
- (3) Approval of Payment of Demands as presented. (Finance – McDermott)**

- (4) Adoption of a Resolution approving the second amendment to the contract with West Coast Arborists Incorporated, increasing the FY 2018-19 contract amount from \$184,696 to \$227,298 for Urban Forestry Maintenance Services. (Community Services – Maertz)
- (5) Adoption of a Resolution accepting the Bus Stop Concrete Improvements Project (CIP2018-12) as complete. (Development Services – Kush)

NEW BUSINESS:

- (6) Authorize execution of the Fourth Amended San Diego Regional Stormwater Copermittee’s Memorandum of Understanding. (Development Services – Kush)

Recommendation:

Authorize the City Manager to execute the Fourth Amended San Diego Regional Stormwater Copermittee’s Memorandum of Understanding on behalf of the City of Santee.

- (7) Resolution authorizing the City of Santee to participate in the California Statewide Communities Development Authority (CSCDA) Open Pace Program; consenting to the inclusion of properties within the City’s Jurisdiction in the Program; authorizing the CSCDA to accept applications from property owners, conduct contractual assessment proceedings and levy contractual assessments within the territory of the City of Santee; and authorizing related actions. (City Manager – Best)

Recommendation:

Consider adoption of the Resolution.

- (8) Resolution authorizing the City of Santee to participate in the California Municipal Finance Authority (CMFA) Open Pace Program; consenting to the inclusion of properties within the City’s Jurisdiction in the Program; authorizing the CMFA to accept applications from property owners, conduct contractual assessment proceedings and levy contractual assessments within the territory of the City of Santee; and authorizing related actions. (City Manager – Best)

Recommendation:

Consider adoption of the Resolution.

- (9) Fanita Ranch Workshop. (Development Services – Kush)

Recommendation:

Receive report.

NON-AGENDA PUBLIC COMMENT:

Each person wishing to address the City Council regarding items not on the posted agenda may do so at this time. In accordance with State law, Council may not take action on an item not scheduled on the Agenda. If appropriate, the item will be referred to the City Manager or placed on a future agenda.

CITY COUNCIL REPORTS:

(10) Recommendation of Appointment to the Gillespie Field Development Council. (Council – Mayor Minto)

Recommendation:

Confirm Mayor Minto’s recommendation to be presented at the meeting.

CITY MANAGER REPORTS:

CITY ATTORNEY REPORTS:

(11) Follow up to Workshop on Comprehensive Municipal Code Update and Draft Revisions to Municipal Code. (City Attorney – Hagerty)

Recommendation:

Review Staff Report and attachments and provide direction regarding any desired revisions to the Santee Municipal Code.

CLOSED SESSION:

(12) CONFERENCE WITH LABOR NEGOTIATORS

(Government Code Section 54957.6)

City Designated Representative: City Manager

Employee Organization: Santee Firefighters Association

(13) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(Government Code Section 54957(b))

Title: City Clerk

ADJOURNMENT:



May	02	SPARC	Civic Center Building 8A
May	08	Council Meeting	Council Chamber
May	13	Community Oriented Policing Committee	Council Chamber
May	22	Council Meeting	Council Chamber
Jun	06	SPARC	Civic Center Building 8A
Jun	10	Community Oriented Policing Committee	Council Chamber
Jun	12	Council Meeting	Council Chamber
Jun	26	Council Meeting	Council Chamber

The Santee City Council welcomes you and encourages your continued interest and involvement in the City’s decision-making process.


For your convenience, a complete Agenda Packet is available for public review at City Hall and on the City’s website at www.CityofSanteeCA.gov.

The City of Santee complies with the Americans with Disabilities Act. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, as required by Section 12132 of the American with Disabilities Act of 1990 (42 USC § 12132). Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the City Clerk’s Office at (619) 258-4100, ext. 112 at least 48 hours before the meeting, if possible.

AFFIDAVIT OF POSTING AGENDA

State of California	}	
County of San Diego	} ss.	
City of Santee	}	

I, Annette Ortiz, City Clerk of the City of Santee, hereby declare, under penalty of perjury, that a copy of this Agenda was posted in accordance with the Brown Act and Santee Resolution 61-2003 on May 3, 2019, at 4:00 p.m.



 Signature

05/03/19

 Date

City of Santee
COUNCIL AGENDA STATEMENT

PROC

MEETING DATE May 8, 2019

AGENDA ITEM NO.

ITEM TITLE PROCLAMATION: SAM MODICA

DIRECTOR/DEPARTMENT John W. Minto, Mayor

SUMMARY

Santee resident Sam Modica is retiring as President of the Santee Santas Foundation, having been involved with the non-profit organization for more than twelve years.

Established in 1953, Santee Santas Foundation is a local non-profit 501(c)(3) registered organization, annually providing hundreds of families in the community with toys for the children and food for the holidays. Volunteers work all year long preparing for holiday deliveries with food drives at local schools and businesses. They use cash donations to purchase turkeys, potatoes, milk and other perishable items.

In 1953, Santee was mainly farm and dairy land and only four or five families were helped as part of the Holiday Program. In 2018, 216 families consisting of 793 individuals, 385 children and 97 seniors in our community were gifted with deliveries of food and toys for the Holiday season.

A proclamation has been prepared in honor of Sam's leadership and exceptional community spirit and will be presented to him at the City Council meeting.

FINANCIAL STATEMENT N/A

CITY ATTORNEY REVIEW N/A Completed

RECOMMENDATION Present proclamation to Sam Modica.

ATTACHMENTS (Listed Below)

Proclamation.

City of Santee, California

Proclamation

WHEREAS, Santee Santas President Sam Modica has been involved with the Santee Santa's Foundation for more than 12 years; and

WHEREAS, established in 1953, Santee Santas Foundation is an all-volunteer, non-profit organization bringing comfort and joy to Santee residents by providing food and gifts during the holiday season; and

WHEREAS, President Sam Modica was instrumental in moving the Foundation into the 21st century by implementing an online application making it quicker and easier for families to sign up; and

WHEREAS, Santee Santas Foundation has experienced exceptional growth during Sam's time as President; he initiated improvements to the way things are accomplished and will be forever remembered and appreciated by those who worked beside him; and

WHEREAS, after more than a decade of giving his time to others during the holiday season, Sam is looking forward to spending time with his family during the holidays for a change.

NOW, THEREFORE, I, John W. Minto, Mayor of the City of Santee, on behalf of the City Council do hereby proclaim May 9, 2019 as

"SAM MODICA DAY"

in the city of Santee in honor of his sincere dedication to the happiness and wellbeing of the Santee community.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of May, two thousand nineteen, and have caused the Official Seal of the City of Santee to be affixed.



Mayor John W. Minto

City of Santee
COUNCIL AGENDA STATEMENT

ADJ

MEETING DATE May 8, 2019

AGENDA ITEM NO.

ITEM TITLE **ADJOURNMENT IN MEMORY: ROBERT "BOB" C. STANDRING**

DIRECTOR/DEPARTMENT John W. Minto, Mayor

SUMMARY

Tonight's meeting will be adjourned in memory of Robert "Bob" C. Standing, Council Member Laura Koval's father. Bob had a long history in East County, dating back to the late 1940's. He was a police marksman, an actor, an accomplished accordion player (no joke- in the El Cajon Valley high school marching band!), tank battalion marine, outstanding cadet corps member, 32-year veteran of the El Cajon Police Department (retired police captain) and mentor, a model train enthusiast, cold case advisor on a television show & Paul Newman lookalike in his heyday.

A Certificate of Adjournment has been prepared and will be accepted by members of Laura's family at the Council meeting.

FINANCIAL STATEMENT N/A

CITY ATTORNEY REVIEW N/A Completed

RECOMMENDATION Adjourn in memory of Robert "Bob" Standing.

ATTACHMENTS

Certificate of Adjournment.

In Deepest Sympathy

The Santee City Council This Day Adjourned In Memory of

ROBERT C. STANDRING

May 8, 2019

Mayor John W. Minto

Vice Mayor Stephen Houlahan

Council Member Ronn Hall

Council Member Laura Koval

Council Member Rob McNelis



City of Santee
COUNCIL AGENDA STATEMENT

Item 1

MEETING DATE May 8, 2019

AGENDA ITEM NO.

ITEM TITLE **APPROVAL OF READING BY TITLE ONLY AND WAIVER OF READING
IN FULL OF ORDINANCES AND RESOLUTIONS ON THE AGENDA.**

DIRECTOR/DEPARTMENT Annette Ortiz, MBA, CMC, City Clerk 

SUMMARY

This item allows the City Council to approve Ordinances and Resolutions on the Consent Calendar without reading the item in full. Upon approval of this item, all Resolutions included in the motion shall be approved. Resolutions removed from the Consent Calendar and considered under separate action may also be approved without reading of the full text.

FINANCIAL STATEMENT

N/A

CITY ATTORNEY REVIEW N/A Completed

RECOMMENDATION

It is recommended that the Council waive the reading of all Ordinances and Resolutions in their entirety and read by title only.

ATTACHMENTS

None

City of Santee
COUNCIL AGENDA STATEMENT

Item 2

MEETING DATE May 8, 2019

AGENDA ITEM NO.

ITEM TITLE **APPROVAL OF MEETING MINUTES OF THE SANTEE CITY COUNCIL
FOR THE APRIL 24, 2019 REGULAR MEETING.**

DIRECTOR/DEPARTMENT Annette Ortiz, MBA, CMC, City Clerk

SUMMARY

Submitted for your consideration and approval are the minutes of the above meeting.

FINANCIAL STATEMENT N/A

CITY ATTORNEY REVIEW N/A Completed

RECOMMENDATION

Approve Minutes as presented.

ATTACHMENT

April 24, 2019 Regular Meeting Minutes

**Minutes
Santee City Council
Council Chamber – Building 2
10601 Magnolia Avenue
Santee, California
April 24, 2019**

DRAFT

This Regular Meeting of the Santee City Council was called to order by Vice Mayor Stephen Houlahan at 7:02 p.m.

ROLL CALL: Present: Vice Mayor Stephen Houlahan and Council Members Ronn Hall, Laura Koval and Rob McNelis – 4. Absent: Mayor John W. Minto – 1.

Officers present: City Manager Marlene Best, City Attorney Shawn Hagerty and City Clerk Annette Ortiz.

The **INVOCATION** was given by Pastor Marshall Masser of Lakeside Christian Church and the **PLEDGE OF ALLEGIANCE** was led by Vice Mayor Stephen Houlahan.

PROCLAMATION: Charlie Plavi – CPRS Volunteer Recognition

Vice Mayor Houlahan presented the Proclamation to Charlie Plavi in recognition of his volunteer service to Santee.

CONSENT CALENDAR:

Council Member McNelis registered an abstention on Item 5. Council Member Hall registered an abstention on Item 6.

- (1) **Approval of reading by title only and waiver of reading in full of Ordinances and Resolutions on the agenda.**
- (2) **Approval of Meeting Minutes of the Santee City Council for the April 10, 2019 Regular Meeting. (City Clerk – Ortiz)**
- (3) **Approval of Payment of Demands as presented. (Finance – McDermott)**
- (4) **Approval of the expenditure of \$71,258.77 for March 2019 Legal Services and related costs. (Finance – McDermott)**
- (5) **Adoption of a Resolution initiating proceedings and ordering the preparation of an Engineer's Report for the Fiscal Year 2019-20 Santee Landscape Maintenance District Annual Levy of Assessments. (Finance – McDermott) (Reso 022-2019) (McNelis – Abstained)**
- (6) **Adoption of a Resolution initiating proceedings and ordering the preparation of an Engineer's Report for the Fiscal Year 2019-20 Town Center Landscape Maintenance District Annual Levy of Assessments. (Finance – McDermott) (Reso 023-2019) (Hall – Abstained)**

- (7) **Adoption of a Resolution initiating proceedings and ordering the preparation of an Engineer's Report for the Fiscal Year 2019-20 Santee Roadway Lighting District Annual Levy of Assessments. (Finance – McDermott) (Reso 024-2019)**
- (8) **Adoption of a Resolution accepting the Mission Gorge Road Median Installation Project (CIP 2015-13) as complete. (Development Services – Kush) (Reso 025-2019)**
- (9) **Adoption of a Resolution authorizing the seventh amendment to the Agreement between the Metropolitan Transit System (MTS) and the City of Santee for administration of taxicab and other for-hire vehicle regulations (paratransit regulations). (Development Services – Kush) (Reso 026-2019)**

ACTION: Council Member Hall moved approval of the Consent Calendar.

Council Member Koval seconded the motion which carried by the following vote: Ayes: Vice Mayor Houlahan and Council Members Hall, Koval and McNelis – 4. Absent: Mayor Minto – 1. Council Member McNelis abstained on Item 5. Council Member Hall abstained on Item 6.

PUBLIC HEARING:

- (10) **Public Hearing to adopt a Resolution approving the Program Year 2019 Annual Action Plan and authorizing the City Manager to submit a grant application for Community Development Block Grant (CDBG) funds to the Department of Housing and Urban Development (HUD). (Development Services - Kush) (Reso 027-2019)**

The Public Hearing opened at 7:10 p.m. The Senior Management Analyst provided the staff report and responded to Council questions.

ACTION: Council Member Hall moved approval of staff's recommendation.

Council Member McNelis seconded the motion which carried by the following vote: Ayes: Vice Mayor Houlahan and Council Members Hall, Koval and McNelis – 4. Absent: Mayor Minto – 1.

The Public Hearing was closed at 7:15 p.m.

Vice Mayor Houlahan requested staff research how other cities allocate funds each year.

Council Member McNelis requested the process remain the same as years prior.

CONTINUED BUSINESS:

- (11) **Update on Mast Park Improvement Project with a total budget of \$12,400,832. (Community Services – Maertz)**

The Community Services Director provided the staff report and responded to Council questions.

PUBLIC SPEAKERS:

- Van Collinsworth, Preserve Wild Santee

Council received the report.

NEW BUSINESS:

- (12) **Resolution to adopt a list of projects funded by Senate Bill 1, the Road Repair and Accountability Act of 2017, for Fiscal Year 2019-20. (Development Services – Kush) (Reso 028-2019)**

The Principal Civil Engineer provided the staff report and responded to Council questions.

ACTION: Council Member Koval moved approval of staff's recommendation.

Council Member McNelis seconded the motion which carried by the following vote: Ayes: Vice Mayor Houlahan and Council Members Hall, Koval and McNelis – 4. Absent: Mayor Minto – 1.

NON-AGENDA PUBLIC COMMENT: None

CITY COUNCIL REPORTS:

Council Member Hall stated he toured the new trolley line extension that is being built and mentioned there would be a news conference on Friday regarding SANDAG's ideas for the future.

Council Member Koval stated she attended the East County Economic Development Council meeting in which there was discussion about SANDAG's priorities in the future; she also noted the new SANDAG Executive Director would be touring East County.

CITY MANAGER REPORTS:

The City Manager noted she and Mayor Minto would be going to Washington D.C. to meet with Federal Legislators regarding the Highway 52 Coalition; she also mentioned the Mayor was currently attending a League of California Cities conference.

CITY ATTORNEY REPORTS:

- (13) **Workshop on the Comprehensive Municipal Code Update Process and Draft revisions to the Municipal Code. (City Attorney – Hagerty)**

The City Attorney introduced the item and Rebecca Andrews of Best Best and Krieger provided the staff report and responded to Council questions.

PUBLIC SPEAKERS:

- Meredith Riffel, Santee Solutions Coalition
- Jean Duffy, Santee Solutions Coalition, provided handout to Council
- Carol Green, Community Action Service Advocacy (CASA)
- Lorenzo Higley, Community Action Service Advocacy (CASA)

Council Members received the report and provided direction to staff.

Council Members recessed at 9:48 p.m. and convened in Closed Session at 9:55 p.m.

CLOSED SESSION:

- (14) CONFERENCE WITH LABOR NEGOTIATORS**
(Government Code Section 54957.6)
City Designated Representative: City Manager
Employee Organization: Santee Firefighters Association

Council Members reconvened in Open Session at 10:56 p.m. with all members present, except Mayor Minto who was absent. Vice Mayor Houlahan reported that for Item 14, direction was given to staff.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:57 p.m.

Date Approved:

Annette Ortiz, MBA, CMC, City Clerk

City of Santee
COUNCIL AGENDA STATEMENT

Item 3

MEETING DATE May 08, 2019

AGENDA ITEM NO.

ITEM TITLE PAYMENT OF DEMANDS

DIRECTOR/DEPARTMENT Tim K. McDermott, Finance *TM*

SUMMARY

A listing of checks that have been disbursed since the last Council meeting is submitted herewith for approval by the City Council.

FINANCIAL STATEMENT *TM*

Adequate budgeted funds are available for the payment of demands per the attached listing.

CITY ATTORNEY REVIEW N/A Completed

RECOMMENDATION *TM, FAMB*

Approval of the payment of demands as presented.

ATTACHMENTS (Listed Below)

- 1) Summary of Payments Issued
- 2) Voucher Lists

Payment of Demands
Summary of Payments Issued

<u>Date</u>	<u>Description</u>	<u>Amount</u>
04/15/2019	Accounts Payable	\$ 98,465.28
04/15/2019	Accounts Payable	23,345.00
04/16/2019	Accounts Payable	99,547.69
04/17/2019	Accounts Payable	746,543.41
04/25/2019	Payroll	343,853.74
04/25/2019	Accounts Payable	350,170.41
04/25/2019	Accounts Payable	<u>49,723.90</u>
	TOTAL	<u><u>\$1,711,649.43</u></u>

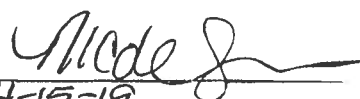
I hereby certify to the best of my knowledge and belief that the foregoing demands listing is correct, just, conforms to the approved budget, and funds are available to pay said demands.

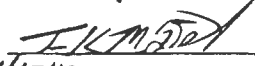


Tim K. McDermott, Director of Finance

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
3156	4/15/2019	10955 DEPARTMENT OF THE TREASURY	April Retirees PPE 04/03/19		FEDERAL WITHHOLDING TAX FED WITHHOLD & MEDICARE	75.00 73,238.99
					Total :	73,313.99
3200	4/15/2019	10956 FRANCHISE TAX BOARD	PPE 04/03/19		CA STATE TAX WITHHELD	25,151.29
					Total :	25,151.29
2 Vouchers for bank code : ubgen					Bank total :	98,465.28
2 Vouchers in this report					Total vouchers :	98,465.28

Prepared by: 
Date: 4-15-19

Approved by: 
Date: 4/15/19


vchlist
04/16/2019 12:17:53PM

Voucher List
CITY OF SANTEE

Bank code : ubgen


Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
573	4/15/2019	10482 TRISTAR RISK MANAGEMENT	106868		PREFUND REQUEST	23,345.00
Total :						23,345.00
1 Vouchers for bank code : ubgen						Bank total : 23,345.00
1 Vouchers in this report						Total vouchers : 23,345.00


Prepared by: 
Date: 4-16-19

Approved by: 
Date: 4/16/19

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
4193	4/16/2019	10353 PERS	04 19 3		RETIREMENT PAYMENT	99,547.69
					Total :	99,547.69
		1 Vouchers for bank code : ubgen			Bank total :	99,547.69
		1 Vouchers in this report			Total vouchers :	99,547.69

Prepared by: 
Date: 4-16-19

Approved by: 
Date: 4/16/19

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121152	4/17/2019	13198 3-D ENTERPRISES, INC	4 4R	52409	MAST PARK IMPROVEMENTS RETENTION	713,643.36 -35,682.17 Total : 677,961.19
121153	4/17/2019	10262 AUSTIN, ROY	APR-JUN 2019		RETIREE HEALTH INSURANCE	1,333.95 Total : 1,333.95
121154	4/17/2019	10021 BOUND TREE MEDICAL LLC	83152569 83154305 83155548	52163 52163 52163	EMS SUPPLIES EMS SUPPLIES EMS SUPPLIES	1,459.29 19.36 118.92 Total : 1,597.57
121155	4/17/2019	10876 CANON SOLUTIONS AMERICA INC	989159425	52240	PLOTTER MAINT & USAGE	31.87 Total : 31.87
121156	4/17/2019	10299 CARQUEST AUTO PARTS	11102-480433 11102-480551 11102-480836	52280 52280 52491	SHOP SUPPLIES VEHICLE REPAIR FLEET SHOP EQUIPMENT	195.06 59.56 1,495.13 Total : 1,749.75
121157	4/17/2019	10569 CHARLENE'S DANCE N CHEER	322		INSTRUCTOR PAYMENT	5,144.85 Total : 5,144.85
121158	4/17/2019	10032 CINTAS CORPORATION #694	4018913149	52207	UNIFORM/PARTS CLEANER RNTL	62.39 Total : 62.39
121159	4/17/2019	10040 COUNTYWIDE MECHANICAL SYSTEMS	13441	52363	HVAC MAINT	1,910.00 Total : 1,910.00
121160	4/17/2019	10333 COX COMMUNICATIONS	094486701		CITY HALL GROUP BILL	3,053.76 Total : 3,053.76
121161	4/17/2019	10043 D & D SERVICES INC	84045	52277	DEAD ANIMAL REMOVAL SERVICE	1,482.89 Total : 1,482.89
121162	4/17/2019	11196 HD SUPPLY FACILITIES	9171121188	52138	STATION SUPPLIES	16.37

Bank code : ubgen


Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121162	4/17/2019	11196 11196 HD SUPPLY FACILITIES	(Continued)			Total : 16.37
121163	4/17/2019	10600 HINDERLITER, DE LLAMAS & ASSOC	0030927-IN (A) 0030927-IN (B)	52342	SVC SALES TAX 1ST QTR 2019 AUDIT SALES TAX QTR 3 2018	1,950.00 1,410.46 Total : 3,360.46
121164	4/17/2019	10272 JENKINS, CARROLL	APR-JUN 2019		RETIREE HEALTH INSURANCE	2,706.84 Total : 2,706.84
121165	4/17/2019	13247 JOHNSON, DOUGLAS	APR-JUN 2019		RETIREE HEALTH INSURANCE	406.50 Total : 406.50
121166	4/17/2019	10079 MEDICO PROFESSIONAL	2360938 2360939	52188 52188	MEDICAL LINEN SERVICE MEDICAL LINEN SERVICE	20.02 8.16 Total : 28.18
121167	4/17/2019	12451 MOBILE GRAPHICS & DESIGN	2019302	52234	BANNERS	450.00 Total : 450.00
121168	4/17/2019	13301 MODERN DAY MERCANTILE	REF000055859		LICENSE TYPE REFUND	39.00 Total : 39.00
121169	4/17/2019	10239 MORRISON, ANNE	03222019		CPRS CONFERENCE	70.92 Total : 70.92
121170	4/17/2019	10308 O'REILLY AUTO PARTS	2968-268549	52148	VEHICLE REPAIR PART	10.45 Total : 10.45
121171	4/17/2019	13300 PACIFIC DRIVE-INS LLC	MJR15001A		DEVELOPER DEPOSIT REFUND	133.03 Total : 133.03
121172	4/17/2019	10344 PADRE DAM MUNICIPAL WATER DIST	24200193 29700016 90000366		10307 MISSION GORGE RD - MEDI/ CONSTRUCTION METER GROUP BILL	206.81 216.05 10,353.36 Total : 10,776.22
121173	4/17/2019	10770 PREHOSPITAL EMS GROSSMONT	03262019		PM FIELD CARE AUDITS	16,492.32


Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121173	4/17/2019	10770 10770 PREHOSPITAL EMS GROSSMONT	(Continued)			Total : 16,492.32
121174	4/17/2019	12062 PURETEC INDUSTRIAL WATER	1705518	52270	DEIONIZED WATER SERVICE	94.50
						Total : 94.50
121175	4/17/2019	10095 RASA	5259	52302	MAP CHECK	1,765.00
			5260	52302	MAP CHECK	580.00
						Total : 2,345.00
121176	4/17/2019	10097 ROMAINE ELECTRIC CORPORATION	12-045611	52139	VEHICLE SUPPLIES	99.24
						Total : 99.24
121177	4/17/2019	13153 ROTO-ROOTER PLUMBING &	SD254325	52367	PLUMBING REPAIRS/MAINT	155.00
						Total : 155.00
121178	4/17/2019	10768 SANTEE SCHOOL DISTRICT	8260	52223	CHET HARRITT FIELD LIGHTS	1,371.00
			8261	52379	JOINT USE FIELDS - RIO SECO	236.80
						Total : 1,607.80
121179	4/17/2019	13171 SC COMMERCIAL, LLC	0650678-IN	52420	DELIVERED FUEL	575.33
			0651921-IN	52420	DELIVERED FUEL	454.32
						Total : 1,029.65
121180	4/17/2019	10110 SECTRAN SECURITY INC	18120408	52488	ARMORED CAR TRANSPORT SVC	127.12
						Total : 127.12
121181	4/17/2019	13299 SEMPER SOLARIS CONSTRUCTION	19STE-PV00096		PERMIT REFUND	251.84
						Total : 251.84
121182	4/17/2019	13206 SHARP BUSINESS SYSTEMS	90001821343	52429	COPIER RENTAL	251.13
			9001661525A	52429	COPIER RENTAL	-137.72
			9001696519A	52429	COPIER RENTAL	-251.13
			9001821346	52429	COPIER RENTAL	251.13
			9001821355	52429	COPIER RENTAL	251.13
						Total : 364.54
121183	4/17/2019	10585 SHARP REES-STEALY MEDICAL	330395131	52455	MEDICAL SERVICES	509.00

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121183	4/17/2019	10585	10585 SHARP REES-STEALY MEDICAL	(Continued)		Total : 509.00
121184	4/17/2019	13271	SHI INTERNATIONAL CORP	B09706188	52489 SOFTWARE RENEWAL	5,297.76
						Total : 5,297.76
121185	4/17/2019	10121	SUPERIOR READY MIX LP	32158	52345 ASPHALT MATERIALS & SUPPLIES	472.46
						Total : 472.46
121186	4/17/2019	10250	THE EAST COUNTY	00078830	PUBLIC NOTICE	150.50
						Total : 150.50
121187	4/17/2019	13273	THE WARM HEARTH FIRESIDE	191427	52494 STATION SUPPLIES	1,464.74
						Total : 1,464.74
121188	4/17/2019	10978	US BANK	5310283	CDC TAB/2011 SERIES A	770.00
				5310284	CDC TAB/2011 SERIES B	770.00
						Total : 1,540.00
121189	4/17/2019	10642	USPS-HASLER	04112019	POSTAGE REIMBURSEMENT	2,215.75
						Total : 2,215.75
38 Vouchers for bank code : ubgen						Bank total : 746,543.41
38 Vouchers in this report						Total vouchers : 746,543.41

Prepared by: 
 Date: 4-17-19

Approved by: 
 Date: 4/17/19

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121203	4/25/2019	10292 ALL STAR FIRE EQUIPMENT INC	214491	52470	SAFETY APPAREL	318.03
					Total :	318.03
121204	4/25/2019	10010 ALLIANT INSURANCE SERVICES INC	1052257		EGGSTRAVAGANZA	2,056.00
					Total :	2,056.00
121205	4/25/2019	11445 AMERICAN MESSAGING	L1072898TD		FD PAGER SERVICE	225.86
					Total :	225.86
121206	4/25/2019	10516 AWARDS BY NAVAJO	0319270		SPARC NAMETAGS AND PLATES	155.56
					Total :	155.56
121207	4/25/2019	10020 BEST BEST & KRIEGER LLP	LEGAL SVCS MAR 2019		LEGAL SVCS MAR 2019	71,258.77
					Total :	71,258.77
121208	4/25/2019	12506 BEST, MARLENE	04222019		HWY 52 COALITION	266.00
					Total :	266.00
121209	4/25/2019	11513 BOND, ELLEN	05012019-263		MEADOWBROOK HARDSHIP PROC	50.99
					Total :	50.99
121210	4/25/2019	13292 BORDER TIRE	8000993	52509	TIRES	1,682.64
			8001249	52509	TIRES	1,677.25
			8001341	52509	TIRES	126.10
			8001557	52509	TIRES	198.45
			8002131	52509	TIRES	219.34
					Total :	3,903.78
121211	4/25/2019	10021 BOUND TREE MEDICAL LLC	83157053	52163	EMS SUPPLIES	34.45
			83160460	52163	EMS SUPPLIES	5.50
			83160461	52163	EMS SUPPLIES	112.00
			83163148	52163	EMS SUPPLIES	220.29
					Total :	372.24
121212	4/25/2019	10098 BURNER, RONALD	33119	52400	ATHLETIC FIELD COORDINATION	2,083.34
					Total :	2,083.34

Voucher List
CITY OF SANTEE

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121213	4/25/2019	10478 CALIFORNIA DEPARTMENT OF	JAN-MAR 2019		USE TAX JAN - MAR 2019	661.00
					Total :	661.00
121214	4/25/2019	10876 CANON SOLUTIONS AMERICA INC	989167504	52240	SCANNER MAINTENANCE	79.98
					Total :	79.98
121215	4/25/2019	11402 CARROLL, JUDI	050102019-96		MEADOWBROOK HARDSHIP PAYM	51.11
					Total :	51.11
121216	4/25/2019	11448 CHEN RYAN ASSOCIATES INC	20191652	52503	ACTIVE TRANS STRATEGY	8,065.00
					Total :	8,065.00
121217	4/25/2019	10032 CINTAS CORPORATION #694	4019325803	52207	UNIFORM/PARTS CLEANER RNTL	64.65
					Total :	64.65
121218	4/25/2019	10050 HCFA	HCA0000268		4TH QTR MEMBER ASSESSMENT	54,965.25
					Total :	54,965.25
121219	4/25/2019	11409 CLAYTON, SYLVIA	05012019-340		MEADOWBROOK HARDSHIP PROC	53.49
					Total :	53.49
121220	4/25/2019	10358 COUNTY OF SAN DIEGO	19CTOFSAN09 19CTOFSASN09	52312 52168	RCS SHERIFF RADIOS & MDT 800 MHZ NETWORK (FIRE/PS)	4,503.00 1,624.50
					Total :	6,127.50
121221	4/25/2019	10486 COUNTY OF SAN DIEGO	04/03/19		SUSTAINABLE SANTEE PLAN - NOI	3,321.00
					Total :	3,321.00
121222	4/25/2019	10333 COX COMMUNICATIONS	052335901		8950 COTTONWOOD AVE	166.58
					Total :	166.58
121223	4/25/2019	10043 D & D SERVICES INC	94752	52277	DEAD ANIMAL REMOVAL SERVICE	1,482.89
					Total :	1,482.89
121224	4/25/2019	12438 DIESEL PRINT CO, LLC	1914	52208	BANNERS	99.72
					Total :	99.72
121225	4/25/2019	10051 EFR ENVIRONMENTAL SERVICES INC	46189-19	52365	HAZARDOUS WASTE DISPOSAL	370.00

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121225	4/25/2019	10051 10051 EFR ENVIRONMENTAL SERVICES INI (Continued)				Total : 370.00
121226	4/25/2019	12593 ELLISON WILSON ADVOCACY, LLC	2019-04-10	52221	LEGISLATIVE ADVOCACY SERVICE	1,500.00
						Total : 1,500.00
121227	4/25/2019	10057 ESGIL CORPORATION	032019		SHARE OF FEES	43,800.92
						Total : 43,800.92
121228	4/25/2019	12495 GROSSMONT UNION	AR010045	52320	SCHOOL RESOURCE OFFICERS	37,500.00
						Total : 37,500.00
121229	4/25/2019	12560 ITERIS, INC.	110252	52473	REPLACEMENT PARTS-TRAFFIC	4,412.36
						Total : 4,412.36
121230	4/25/2019	10997 LAKESIDE FIRE PREVENTION	132		EMS SOFTWARE FEE (50%)	2,740.00
						Total : 2,740.00
121231	4/25/2019	10538 MEALS ON WHEELS	3-19	52373	CDBG SUBRECIPIENT	1,250.00
						Total : 1,250.00
121232	4/25/2019	10079 MEDICO PROFESSIONAL	2364844 2364845	52188 52188	MEDICAL LINEN SERVICE MEDICAL LINEN SERVICE	20.02 8.16
						Total : 28.18
121233	4/25/2019	11783 MINTO, JOHN	04222019		HWY 52 COALITION	266.00
						Total : 266.00
121234	4/25/2019	10451 NEOPOST USA INC	56372100	52235	POSTAGE METER RENTAL	161.63
						Total : 161.63
121235	4/25/2019	10218 OFFICE DEPOT	294321327001 294323616001	52246 52246	OFFICE SUPPLIES OFFICE SUPPLIES	46.75 17.86
						Total : 64.61
121236	4/25/2019	10344 PADRE DAM MUNICIPAL WATER DIST	21105559 24206565 24206698 24218157		9170 VIA DE CRISTINA 10580 PROSPECT AVE 10541 PROSPECT AVE 10054 PROSPECT AVE	202.70 77.25 77.25 41.55

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121236	4/25/2019	10344 PADRE DAM MUNICIPAL WATER DIST	(Continued) 24218344 90000367		10027 PROSPECT AVE GROUP BILL	47.81 7,354.76 Total : 7,801.32
121237	4/25/2019	11442 PATTERSON, LUANNE	05012019-225		MEADOWBROOK HARDSHIP PROC	49.31 Total : 49.31
121238	4/25/2019	13305 PHILLIPS, JERRY	19STE-00264		PERMIT REFUND	108.72 Total : 108.72
121239	4/25/2019	10092 PHOENIX GROUP INFO SYSTEMS	012019031	52322	PARKING CITE PROCESS SVCS	580.60 Total : 580.60
121240	4/25/2019	11891 PRINTER REPAIR DEPOT	46946		PRINTER REPAIR	357.30 Total : 357.30
121241	4/25/2019	10161 PRIZM JANITORIAL SERVICES INC	15584 15830 15831 15832	52192 52293 52192 52192	CUSTODIAL SERVICES - PARKS CUSTODIAL SERVICES - OFFICES CUSTODIAL SERVICES - PARKS CUSTODIAL SERVICES - PARKS	40.00 3,419.67 1,965.02 160.00 Total : 5,584.69
121242	4/25/2019	10101 PROFESSIONAL MEDICAL SUPPLY	B004972 B004973 B004974	52237 52237 52237	OXYGEN CYLINDERS & REFILLS OXYGEN CYLINDERS & REFILLS OXYGEN CYLINDERS & REFILLS	70.77 228.60 67.62 Total : 366.99
121243	4/25/2019	12062 PURETEC INDUSTRIAL WATER	1708251 1708252	52270 52270	DEIONIZED WATER SERVICE DEIONIZED WATER SERVICE	49.61 33.08 Total : 82.69
121244	4/25/2019	10095 RASA	5265	52302	MAP CHECK	895.00 Total : 895.00
121245	4/25/2019	12256 ROE, DARLENE	050102019-318		MEADOWBROOK HARDSHIP PROC	51.83 Total : 51.83

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121246	4/25/2019	10407 SAN DIEGO GAS & ELECTRIC	9746 649 337 8		8751 MAST BLVD TS	19.61
					Total :	19.61
121247	4/25/2019	13061 SAN DIEGO HUMANE SOCIETY &	APRIL-19	52271	ANIMAL CONTROL SERVICES	35,400.33
					Total :	35,400.33
121248	4/25/2019	13171 SC COMMERCIAL, LLC	0653386-IN 0654482-IN	52420 52420	DELIVERED FUEL DELIVERED FUEL	551.82 722.54
					Total :	1,274.36
121249	4/25/2019	13162 SOCAL PPE	1810	52394	TURNOUT CLEANING/REPAIR	573.50
					Total :	573.50
121250	4/25/2019	11403 ST. JOHN, LYNNE	050102019-78		MEADOWBROOK HARDSHIP PROC	51.21
					Total :	51.21
121251	4/25/2019	10217 STAPLES ADVANTAGE	3409356230 3409356234	52226 52226	OFFICE SUPPLIES OFFICE SUPPLIES	146.99 32.27
					Total :	179.26
121252	4/25/2019	10119 STEVEN SMITH LANDSCAPE INC	40978 40982 40983	52198 52198 52198	A1 LANDSCAPE SERVICES A1 LANDSCAPE SERVICES A1 LANDSCAPE SERVICES	34,774.13 110.00 810.00
					Total :	35,694.13
121253	4/25/2019	10611 TRI-GROUP CONSTRUCTION & DEV	6 6R	52358	MISSION GORGE MEDIAN RETENTION	9,046.00 -452.30
					Total :	8,593.70
121254	4/25/2019	10692 UNITED PARCEL SERVICE	000006150X139		SHIPPING CHARGES	4.38
					Total :	4.38
121255	4/25/2019	12480 UNITED SITE SERVICES	114-8220268	52199	PORTABLE TOILETS	71.40
					Total :	71.40
121256	4/25/2019	10475 VERIZON WIRELESS	572028810-00001		CELL PHONE SERVICE	1,253.04
					Total :	1,253.04

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121257	4/25/2019	10136 WEST COAST ARBORISTS INC	146201	52257	URBAN FORESTRY MANAGEMENT	1,050.00
Total :						1,050.00
121258	4/25/2019	10317 WM HEALTHCARE SOLUTIONS INC	0437882-2793-2 0437883-2793-0	52152 52152	BIOMEDICAL WASTE DISPOSAL BIOMEDICAL WASTE DISPOSAL	93.53 93.53
Total :						187.06
121259	4/25/2019	10232 XEROX CORPORATION	096533180 096533182 096533184 096533185 096533187 096533188 096533189	52233 52146 52231 52232 52350 52229 52230	COPY CHARGES COPY CHARGES - STATION 5 COPY CHARGES & LEASE COPY CHARGES & LEASE COPY CHARGES & LEASE COPY CHARGES & LEASE COPY CHARGES & LEASE	182.40 120.12 346.51 620.12 318.10 131.20 299.09
Total :						2,017.54

57 Vouchers for bank code : ubgen

Bank total : 350,170.41

57 Vouchers in this report

Total vouchers : 350,170.41

Prepared by: *Nicole S*

Date: 4-26-19

Approved by: *Neil H. Jennings*

Date: 4-26-19

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121190	4/25/2019	12724 AMERICAN FIDELITY ASSURANCE	B883109		VOLUNTARY LIFE INS-AM FIDELITY	4,434.46
					Total :	4,434.46
121191	4/25/2019	12903 AMERICAN FIDELITY ASSURANCE CO	2036975		FLEXIBLE SPENDING ACCOUNT	2,619.12
					Total :	2,619.12
121192	4/25/2019	12722 FIDELITY SECURITY LIFE	163851076		EYEMED - VOLUNTARY VISION	782.86
					Total :	782.86
121193	4/25/2019	10844 FRANCHISE TAX BOARD	PPE 04/17/19		WITHHOLDING ORDER	25.00
					Total :	25.00
121194	4/25/2019	10508 LIFE INSURANCE COMPANY OF	April 2019		LIFE/LTD INSURANCE	2,727.09
					Total :	2,727.09
121195	4/25/2019	10784 NATIONAL UNION FIRE INSURANCE	April 2019		VOLUNTARY AD&D	93.00
					Total :	93.00
121196	4/25/2019	10335 SAN DIEGO FIREFIGHTERS FEDERAL	April 2019		LONG TERM DISABILITY-SFFA	1,102.50
					Total :	1,102.50
121197	4/25/2019	10424 SANTEE FIREFIGHTERS	PPE 04/17/19		DUES/PEC/BENEVOLENT/BC EXP	2,452.77
					Total :	2,452.77
121198	4/25/2019	12892 SELMAN & COMPANY	April 2019		ID THEFT PROTECTION	170.00
					Total :	170.00
121199	4/25/2019	10776 STATE OF CALIFORNIA	PPE 04/17/19		WITHHOLDING ORDER	308.30
					Total :	308.30
121200	4/25/2019	10001 US BANK	PPE 04/17/19		PARS RETIREMENT	1,458.90
					Total :	1,458.90
121201	4/25/2019	10959 VANTAGE TRANSFER AGENT/457	PPE 04/17/19		ICMA - 457	29,920.66
					Total :	29,920.66
121202	4/25/2019	10782 VANTAGEPOINT TRNSFR AGT/801801	PPE 04/17/19		RETIREE HSA	3,629.24

Bank code : ubgen

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
121202	4/25/2019	10782	10782 VANTAGEPOINT TRNSFR AGT/80180		(Continued)	Total : 3,629.24
13 Vouchers for bank code : ubgen						Bank total : 49,723.90
13 Vouchers in this report						Total vouchers : 49,723.90

Prepared by: 

Date: 4-25-19

Approved by: 

Date: 4-25-19

City of Santee
COUNCIL AGENDA STATEMENT

Item 4

MEETING DATE May 8, 2019

AGENDA ITEM NO.

ITEM TITLE RESOLUTION APPROVING THE SECOND AMENDMENT TO THE CONTRACT WITH WEST COAST ARBORISTS INCORPORATED FOR URBAN FORESTRY MAINTENANCE SERVICES

DIRECTOR/DEPARTMENT Bill Maertz, Community Services *TR for WM*

SUMMARY

At the June 13, 2018 City Council meeting, the Council awarded the contract for Urban Forestry Maintenance Services to West Coast Arborists Incorporated in the amount of \$135,696 and authorized the City Manager to execute the contract and approve change orders in an amount up to 10% of the then-current contract amount for Fiscal Year (FY) 2018-19.

On October 10, 2018, the City Council approved a First Amendment to the contract to add extra work in the amount of \$49,000 to alleviate a fire hazard associated with overgrown brush and trees on an undeveloped city-owned property.

Staff have recently identified the need to remove 83 dead, diseased and poorly structured trees in public parks, rights-of-way and flood channels throughout the City that have been determined to be at-risk of failure with the possibility of causing property damage or injury.

West Coast Arborists Incorporated has prepared a proposal for the removal of at-risk trees totaling \$39,900. Additional expenses, including emergency removal of deteriorated ballfield netting support posts at Woodglen Vista park, total \$2,702. The proposed Second Amendment to the contract with West Coast Arborists will increase the FY 2018-19 contract amount by \$42,602 from \$184,696 to \$227,298. The FY 2019-20 contract amount will revert to \$135,696.

ENVIRONMENTAL REVIEW

This item is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b) (3).

FINANCIAL STATEMENT *mm*

Funding for this contract amendment will be provided by funds available in the FY 2018-19 adopted Community Services Department budget in the General Fund, Gas Tax Fund and Town Center Landscape Maintenance District Fund.

CITY ATTORNEY REVIEW N/A Completed

RECOMMENDATION *m, for MB*

Adopt the attached Resolution approving the Second Amendment to the contract with West Coast Arborists Incorporated increasing the FY 2018-19 contract amount from \$184,696 to \$227,298 and authorizing the City Manager to execute said Second Amendment.

ATTACHMENTS (Listed Below)

Resolution

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTEE,
CALIFORNIA, APPROVING THE SECOND AMENDMENT TO
THE CONTRACT WITH WEST COAST ARBORISTS INCORPORATED FOR URBAN
FORESTRY MAINTENANCE SERVICES**

WHEREAS, on June 13, 2018, the City Council approved a Contract with West Coast Arborists Inc. ("Contractor") for "Urban Forestry Maintenance Services" in the amount of \$135,696 for Fiscal Year 2018-19 and authorized the City Manager to approve change orders in an amount up to 10% of the current contract amount; and; and

WHEREAS, on July 1, 2018, the City and Contractor entered into a Contract for "Urban Forestry Maintenance Services" ("Contract"); and

WHEREAS, on October 10, 2018, the City Council approved a First Amendment to the Contract to increase extra work in the amount of \$49,000 to alleviate a fire hazard associated with trees and brush growing on a City-owned property, thus increasing the FY 2018-19 Contract amount to \$184,696 ("First Amendment"); and

WHEREAS, staff has identified a need to remove 83 dead, dying, diseased or poorly structured trees in City parks, rights-of-way and flood channels that are at risk of failure with the possibility of causing property damage or injury; and

WHEREAS, Contractor, has prepared a proposal for the removal of the at-risk trees totaling \$39,900; and

WHEREAS, Emergency removal of deteriorated ballfield netting support posts at Woodglen Vista park and other miscellaneous expenses, together totaling \$2,702, exceed the Extra Work budget established in the Contract.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Santee, California, that it hereby approves the Second Amendment to the contract with West Coast Arborists to increase the FY 2018-19 contract by \$42,602 from \$184,696 to **\$227,298** and authorizes the City Manager to execute said contract Amendment. The FY 2019-20 contract amount will revert to \$135,696.

ADOPTED by the City Council of the City of Santee, California, at a Regular Meeting thereof held this 8th day of May, 2019, by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

APPROVED:

ATTEST:

JOHN W. MINTO, MAYOR

ANNETTE ORTIZ, MBA, CMC, CITY CLERK

Exhibit A: Second Amendment to Contract for Urban Forestry Management

**AMENDMENT TO CONTRACT
BETWEEN CITY OF SANTEE AND
WEST COAST ARBORISTS INCORPORATED
FOR URBAN FORESTRY MAINTENANCE SERVICES**

THIS SECOND AMENDMENT ("Amendment") is made and entered into as of May __, 2019, by and between the City of Santee, a California charter city ("City") and West Coast Arborists, Inc. ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. This Amendment is made with respect to the following facts and purposes:
 - A. On June 13, 2018, the City Council approved a Professional Services Agreement with West Coast Arborists Inc. for "Urban Forestry Maintenance Services".
 - B. On July 1, 2018, the City and Contractor entered into a Contract for "Urban Forestry Maintenance Services" ("Contract").
 - C. On October 10, 2018, the City Council approved a First Amendment to the Contract increase Extra Work for an amount of \$49,000 for the removal of trees located on city-owned property to eliminate a potential fire hazard, thus increasing the FY 2018-19 Contract amount from \$135,696 to \$184,696 ("First Amendment").
 - D. The parties now desire to amend the Contract as set forth in this Amendment to add Extra Work.
 - E. This Amendment is authorized by Section 18 of the Attachment A to Attachment 1 of the Contract (incorporated into the Contract as a Contract Document pursuant to Section 1 of the Contract).
2. This Amendment will modify the Contract in the following way(s):
 - A. Increase Extra Work in the amount of \$42,602 to remove 83 dead, dying, diseased or poorly structured trees in city parks, rights-of-way and flood channels that are at risk of failure with the possibility of causing property damage or injury, and additional miscellaneous expenses, thus increasing the FY 2018-19 Contract amount from \$184,696 to **\$227,298**. The FY 2019-20 Contract will revert to \$135,696.
3. Except for the changes specifically set forth herein and in any previous amendments, all other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed the day and year above written.

**WEST COAST ARBORISTS
INCORPORATED**

CITY OF SANTEE

Print Name

Marlene Best, City Manager

Date

Date

Approved as to Form City Attorney

Date

City of Santee
COUNCIL AGENDA STATEMENT

Item 5

MEETING DATE

May 8, 2019

AGENDA ITEM NO.

ITEM TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTEE, CALIFORNIA, ACCEPTING THE BUS STOP CONCRETE IMPROVEMENTS PROJECT (CIP2018-12) AS COMPLETE

DIRECTOR/DEPARTMENT

Melanie Kush, Development Services



SUMMARY

This item requests City Council accept the Bus Stop Concrete Improvements Project (CIP 2018-12) as complete.

City Council awarded the construction contract for the Bus Stop Concrete Improvements Project (CIP 2018-12) to KC Equipment, Inc. on February 13, 2019 in the amount of \$31,400.00 with change order authorization up to \$4,710.00. A Notice to Proceed was issued on March 11, 2019 and the work was completed on March 29, 2019. One change order was approved in the amount of \$2,144.00 for additional concrete sidewalk replacement and curbs, making the total contract amount \$33,544.00. The new benches and shelters will be installed by MTS (Metropolitan Transit System) in May and June.

Staff requests City Council accept the project as complete and direct the City Clerk to file a Notice of Completion.

jm

FINANCIAL STATEMENT

The project is included in the adopted Capital Improvement Program Budget for a total amount of \$92,000.00 and is funded through State Transportation Development Act (TDA) Transit funds. The actual amount of TDA funds available to the City for this project is \$96,706. The remaining funds in the amount of \$52,755.44 will be utilized separately by the City to install trash interceptors on storm drain inlets near bus stops.

Design and Bidding	\$ 4,995.78
Construction Contract	31,400.00
Construction Change Orders	2,144.00
Construction Management and Inspection	4,410.78
Project Close Out	<u>1,000.00</u>
Total Project Cost	<u>\$ 43,950.56</u>
Total remaining for trash interceptors	\$ 52,755.44

CITY ATTORNEY REVIEW

N/A

Completed

jm, for MB

RECOMMENDATION

Adopt the attached Resolution accepting the Bus Stop Concrete Improvements Project (CIP 2018-12) as complete.

ATTACHMENTS

Resolution

Exhibit – Map and List of Bus Stop Concrete Improvements Locations

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTEE, CALIFORNIA,
ACCEPTING THE BUS STOP CONCRETE IMPROVEMENTS PROJECT
(CIP2018-12) AS COMPLETE**

WHEREAS, City Council awarded the construction contract for the Bus Stop Concrete Improvements Project (CIP 2018-12) to KC Equipment, Inc. on February 13, 2019 for \$31,400.00; and

WHEREAS, City Council authorized Staff to approve construction change orders not to exceed \$4,710.00; and

WHEREAS, Staff approved one construction change order totaling \$2,144.00 for additional concrete sidewalk replacement and curbs; and

WHEREAS, the project was completed for a total contract amount of \$33,544.00; and

WHEREAS, KC Equipment, Inc. has completed the project in accordance with the contract plans and specifications.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Santee, California, that the work for the construction of the Bus Stop Concrete Improvements Project (CIP 2018-12) is accepted as complete on this date and the City Clerk is directed to record a "Notice of Completion".

ADOPTED by the City Council of the City of Santee, California, at a Regular meeting thereof held this 8th day of May 2019, by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

APPROVED:

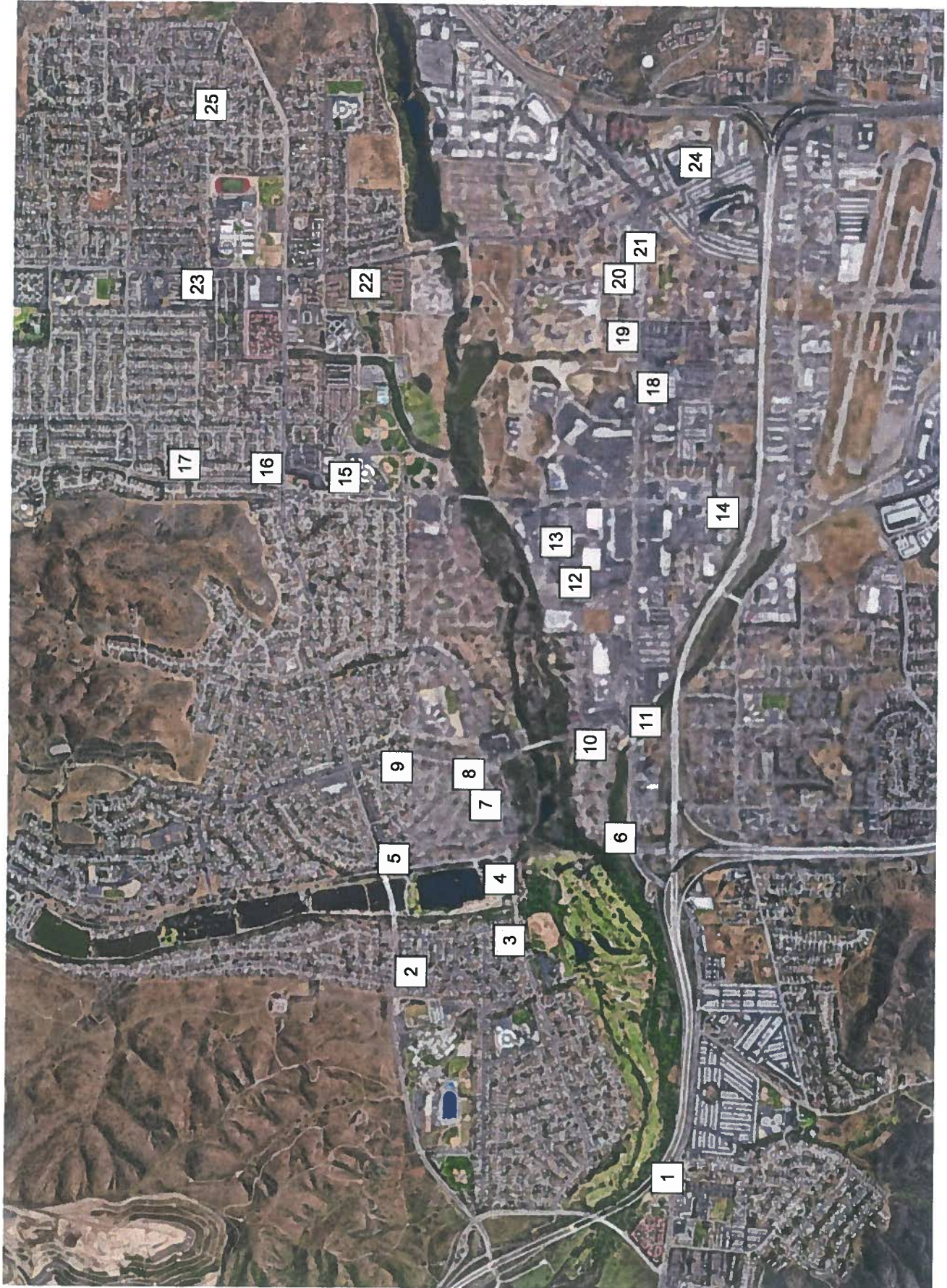
JOHN W. MINTO, MAYOR

ATTEST:

ANNETTE ORTIZ, MBA, CMC, CITY CLERK

Bus Stop Concrete Improvements CIP 2018-12 Exhibit

MAP



List of Bus Stop Concrete Improvements Locations

#	Location description
1	North side of Mission Gorge Rd 60' west of Big Rock Rd
2	South side of Mast Blvd 75' west of St Andrews Dr
3	North side of Carlton Oaks Dr 20' east of Burning Tree Way
4	North side of Carlton Oaks Dr 380' west of Fanita Pkwy
5	South side of Mast Blvd 60' east of Fanita Pkwy
6	North side of Mission Gorge Rd 25' east of Fanita Dr
7	North side of Carlton Oaks Dr 40' east of Darcy Ct
8	West side of Carlton Hills Blvd 130' north of Carlton Oaks Dr
9	West side of Carlton Hills Blvd 60' north of Stoyer Dr
10	West side of Carlton Hills Blvd 60' north of Willowgrove Ave
11	South side of Mission Gorge Rd 20' west of Carlton Hills Blvd
12	South side of Town Center Pkwy 40' east of Costco driveway
13	South side of Town Center Pkwy 630' west of Cuyamaca St
14	West side of Cuyamaca St 60' north of Airport Vista Rd
15	East side of Cuyamaca St 250' south of Riverwalk Dr
16	East side of Cuyamaca St 190' north of Mast Blvd
17	East side of Cuyamaca St 60' north of Beck Dr
18	South side of Mission Gorge Rd 130' east of Tamberly Wy
19	North side of Mission Gorge Rd 70' west of Cottonwood Ave
20	North side of Mission Gorge Rd 100' west of Edgemoor Dr
21	South side of Mission Gorge Rd 30' west of Edgemoor Dr
22	West side of Magnolia Ave 25' north of Frank Ln
23	West side of Magnolia Ave 25' north of 2nd St
24	East side of Magnolia 60' south of Alexander Way
25	North side of 2nd St 30' east of Delia Ln

City of Santee
COUNCIL AGENDA STATEMENT

Item 6

MEETING DATE May 8, 2019

AGENDA ITEM NO.

ITEM TITLE AUTHORIZE EXECUTION OF THE FOURTH AMENDED SAN DIEGO REGIONAL STORMWATER COPERMITTEE'S MEMORANDUM OF UNDERSTANDING *JK*

DIRECTOR/DEPARTMENT Melanie Kush, Development Services

SUMMARY

This item requests that City Council authorize the City Manager to execute the Fourth Amended Memorandum of Understanding ("MOU") with the San Diego Regional Storm Water Copermittees. This five-year Agreement is between the 21 San Diego Copermittees under the National Pollutant Discharge Elimination System (NPDES) Permit, with the County of San Diego acting as the lead, to fund region-wide compliance obligations.

The San Diego Regional Water Quality Control Board (RWQCB) adopted Order No. R9-2013-0001 on May 8, 2013. This Order requires Copermittees to develop and implement various activities and programs to improve receiving water quality conditions. Activities and programs implemented through the MOU include the ongoing development of Regional Design standards, preparing supporting studies and Alternative Compliance Program implementation, a regionally branded outreach and education campaign, regional storm water quality monitoring, strategic planning, and membership to the California Stormwater Quality Association.

ENVIRONMENTAL REVIEW

Activities associated with compliance with the NPDES Permit are exempt from the provisions of the California Environmental Quality Act (CEQA) because the Order is an action by a regulatory agency as authorized by state law, local ordinance or resolution for the protection of natural resources under State CEQA Guidelines section 15307 and the environment under State CEQA Guidelines section 15308.

FINANCIAL STATEMENT *fm*

Funding for the regional compliance component of the NPDES Permit has been identified and will be included in the Storm Water division's annual proposed operating budget. Although this MOU sets forth maximum cost share limits, the values do not represent funding commitments. Approval of any shared costs requires unanimous vote of all Copermittees participating in the cost.

CITY ATTORNEY REVIEW

N/A

Completed

RECOMMENDATION *fm fmb*

Authorize the City Manager to execute the Fourth Amended San Diego Regional Stormwater Copermittee's Memorandum of Understanding on behalf of the City of Santee.

ATTACHMENT

MOU Agreement

Fourth Amended National Pollutant Discharge Elimination System

San Diego Regional Stormwater Copermittees

MEMORANDUM OF UNDERSTANDING

2019

This Memorandum of Understanding (MOU), entered into by the County of San Diego (County), the San Diego Unified Port District (Port), the San Diego County Regional Airport Authority (Airport), and the incorporated cities of San Diego, Carlsbad, Chula Vista, Coronado, Escondido, Imperial Beach, La Mesa, San Marcos, Del Mar, El Cajon, Encinitas, Lemon Grove, National City, Oceanside, Poway, Santee, Solana Beach, and Vista (Cities), collectively called Copermittees, establishes the shared program responsibilities of each party with respect to compliance with the National Pollutant Discharge Elimination System (NPDES) stormwater permit regulations administered by the United States Environmental Protection Agency (U.S. EPA) under the authority granted by the Federal Water Pollution Control Act (Clean Water Act) 33 USCA 1251 et seq. as amended.

RECITALS

WHEREAS, in 1987 Congress amended Section 402 of the Federal Water Pollution Control Act (33 USCA §1342p) to require the U.S. EPA to promulgate regulations for applications for permits for stormwater discharges; and

WHEREAS, the U.S. EPA adopted final permit regulations on November 16, 1990; and

WHEREAS, these permit regulations require the control of pollutants from stormwater discharges by requiring an NPDES permit, which would allow the lawful discharge of stormwater into waters of the United States; and

WHEREAS, the County, the Port, the Airport, and the Cities desire to implement an integrated stormwater management program with the objective of improving surface water quality in the County of San Diego, but do so without waiving and expressly subject to any and all objections and appeals made by any Copermittee in response to any NPDES Permit; and

WHEREAS, the California State Water Resources Control Board (CSWRCB) as designee of the U.S. EPA has delegated authority to the San Diego Regional Water Quality Control Board (Regional Board) for administration of the NPDES stormwater permit within the boundaries of its region; and

WHEREAS, on, May 8, 2013, the Regional Board issued an NPDES permit as Order No. R9-2013-0001, as amended by Order Nos. R9-2015-0001 and R9-2015-0100, NPDES No. CAS0109266, (Permit) governing waste discharge requirements for stormwater and urban runoff from the County, the Port, the Airport, and the Cities, naming these entities as Copermittees; and

WHEREAS, said Permit requires that the Copermittees cooperate in the implementation of various Urban Runoff Management Plans;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. DEFINITIONS

At Large means representing all of the Copermittees of this MOU.

Chair means presiding over and providing leadership and direction to a Working Body. This includes serving as a point of contact to external entities such as Regional Board staff, stakeholders, and industry groups, soliciting group input on and developing meeting content, facilitating meetings, and coordinating with the Secretary or Working Body Support staff to finalize work products for distribution to the Working Body. Chair responsibilities may also be divided between Co-Chairs.

Contract Administration means developing, soliciting, awarding, and managing contracts.

Consensus means general agreement reached between the participants of a Working Body.

Direct Costs mean those costs directly related to the development of a work product, or to the performance of a particular function or service. Direct Costs may include the wages of Copermittee employees engaged in an activity and the cost of materials or supplies needed to support that activity. Depreciation, equipment, and office space are not considered Direct Costs.

Fiscal Year starts on July 1 and ends on June 30 of the following year.

General Programs are collaborative urban runoff management activities which are (1) mandated by or necessary to implement requirements of the Permit, (2) necessary to anticipate the requirements, or prepare for renewal, of the Permit, (3) required to comply with Regional Board Orders or other directives required of Copermittees as dischargers of urban runoff (e.g., 13267 Orders, Total Maximum Daily Loads, etc.), or (4) other urban runoff management activities conducted with the unanimous approval of Copermittees sharing the cost or responsibility.

In-kind Contribution means a non-monetary contribution that can be used to satisfy an equivalent monetary obligation. Examples of In-kind Contributions are equipment or services provided for use.

Program Planning Subcommittee or Planning Subcommittee is composed as described in Section III.C.4 and 5.

Regional General Program(s) are activities that apply to all Copermittees, or that provide a regional benefit to Copermittees as determined by the Regional Management Committee.

Regional Principal Permittee is the County of San Diego unless another Regional Principal Permittee is selected in accordance with Section III.B.5. In addition to the responsibilities of all Copermittees described in Section II, the Regional Principal Permittee provides general coordination for the development and implementation of Regional General Programs, including the specific tasks and responsibilities described in Section III.A.1.b.

Regional Stormwater Management Committee or Management Committee is composed as described in Section III.B.2.

Regional Work Plan is a work plan that is one or more of the following: (1) developed and adopted annually for the purpose of conducting regional business to implement requirements of the Permit, (2) necessary to anticipate the requirements, or prepare for renewal, of the Permit, (3) required to comply with Regional Board Orders or other directives required of Copermittees as dischargers of urban runoff (e.g., 13267 Orders, Total Maximum Daily Loads, etc.), or (4) other urban runoff management activities conducted with the unanimous approval of Copermittees sharing the cost or responsibility.

Representative means a Copermittee staff member or consultant who serves as a point of contact and/or participant in the activities of a Working Body on behalf of the Copermittee. Except as described in Section III.B (Regional Stormwater Management Committee), Representatives are not required to attend meetings, but are expected to maintain a reasonable knowledge of, and involvement in, the activities of

the Working Body. To the best of their ability each Copermittee Representative should have expertise and knowledge in the subject matter of each applicable Working Body.

Secretary means a person who takes responsibility for the records, correspondence, minutes or notes of meetings, and related affairs of a Working Body. This includes: maintaining group contact lists; preparing and sending out meeting notifications and agendas; arranging for meeting rooms and equipment; taking, preparing, and finalizing meeting minutes or notes; and, coordinating with the Chair or Working Body Support staff to organize and distribute work products to the Working Body.

Simple Majority means at least one-half (50%) of applicable Copermittees, rounded up to the nearest integer, or plus one where the number of Copermittees is even. For the purposes of this MOU, a simple majority may never be less than three Copermittees.

Shared Cost Budget is one that is agreed upon and shared by Copermittees for the purpose of conducting stormwater regulatory activities, and can be developed at a watershed, regional or other scale.

Special Formula means any cost share formula that differs from the Default Formula in the selection or weighting of individual factors or in the methodology used to calculate one or more of them.

Three-fourths Majority means at least three-fourths (75%) of applicable Copermittees, rounded up to the nearest integer. For the purposes of this MOU, a Three-fourths Majority may never be less than three Copermittees.

Two-thirds Majority means at least two-thirds (67%) of applicable Copermittees, rounded up to the nearest integer. For the purposes of this MOU, a Two-thirds Majority may never be less than three Copermittees.

Urbanized Land Area means the total of all SANDAG land uses within the geographic area, subject to the cost share, excepting therefrom, the following coded land uses: 1403 Military Barracks; 4102 Military Airports; 6700 Military Use; 6701 Military Use; 6702 Military Training; 6703 Military Weapons; 7209 Casinos; 7603 Open Space Reserves, Preserves; 7609 Undevelopable Natural Areas; 9200 Water; 9201 Bays, Lagoons; 9202 Inland Water; and 9300 Indian Reservations.

Watershed Copermittee means any Copermittee that is identified both as a Copermittee under Table 1.a and a Responsible Copermittee under any Watershed Management Area as defined in Table B-1 of the Permit.

Watershed General Programs are activities that apply to the Copermittees comprising any individual Watershed Management Area (WMA) defined in Table B-1 of the Permit, or providing a general benefit to Copermittees within the WMA as determined by a Working Body.

Working Body means Committees, Subcommittees, Sub-working body(s), or any other working group of Copermittees' employees assembled to conduct specific tasks required by, for, or in furtherance of, compliance with the Permit.

II. RESPONSIBILITIES OF ALL COPERMITTEES

The following apply to General Programs.

A. Performance and Reimbursement of Tasks

1. Any individual Copermittee performing tasks necessary to fulfill budgeted General Program responsibilities for a Working Body is entitled to reimbursement of the costs incurred in accordance with section II.B.

2. Any Copermittee performing contract administration tasks to fulfill budgeted General Program responsibilities for a Working Body is entitled to reimbursement of contract management costs at a rate of 5% of the total contract cost or as otherwise agreed on by the participating Copermittees.
3. Any Copermittee performing tasks other than contract administration or voluntarily serving as a Working Body Chair, Co-chair, or Secretary, is entitled to reimbursement of the Direct Costs of performing those services in accordance with section II.B.
4. A Copermittee shall not be obliged to conduct work, enter into any contract, continue with any work or contract, or incur any other cost on behalf of other Copermittees if each Copermittee has not contributed the funds that it is obliged to contribute toward the activity or program, or if the Copermittee has not received adequate assurances that such funds will be received before payments become due. The Copermittee shall have sole discretion to determine whether assurances that require funds will be timely received or adequate.
5. A member of a Working Body providing Working Body Support may terminate those obligations for convenience, but shall first make a good faith effort to carry out or transfer existing responsibilities to another party by providing written notification of termination to the Copermittees within the Working Body 90 days prior to the intended date of termination.

B. Fiscal Responsibilities

1. Division of Shared General Program Costs
 - a. Prior to the allocation of shared costs, each proposed or approved budget task or sub-task shall be identified as either a Regional General Program cost or a Watershed General Program cost, and the Copermittees sharing that cost shall be identified. The cost of any particular budget element shall be subject to the approval of only the Copermittees to which it applies. The associated costs shall be divided among participating Copermittees as described below.
 - (1) Default Formula. Shared costs shall be divided according to a Default Formula of 45% Urbanized Land Area, 45% Population, and 10% Equal Division unless a Special Formula is approved by the Copermittees to which the cost applies.
 - (a) Population costs shall be divided among the Copermittees as follows: Whenever any geographic portion of the Port or Airport jurisdiction(s), respectively, lies(s) within the geographic area to which the shared program or activity is applicable, the Port or Airport, respectively, will each pay a fixed 0.5% of total Population costs. The remaining percentage of the population costs shall be divided among Copermittees by dividing the total population of each Copermittee by the combined total Copermittee population within the geographic area applicable to the shared program or activity. **These percentages shall be calculated using the most recently available population data available from the San Diego Association of Governments (SANDAG), unless more recent data are available from an equivalent source such as the U.S. Census Bureau, and are determined to be acceptable by the Copermittees sharing the cost.**
 - (b) Urbanized Land Area costs shall be divided among Copermittees by dividing the total Urbanized Land Area of each Copermittee by the combined total Urbanized Land Area of all participating Copermittees within the geographic area applicable to the shared program or activity. Urbanized Land Area shares shall be calculated using the most recently available San Diego Association of Governments (SANDAG) land use statistics. The Urbanized Land Area share

for the County shall include those urbanized lands in the unincorporated portion of the County that are west of the County Water Authority (CWA) service area boundary as it exists on the date of this MOU or as formally amended by the CWA.

- (c) Ten Percent (10%) of the total cost to be shared shall be divided equally amongst all of the Copermittees.
- (d) Modification of the Default Formula requires the unanimous vote of all Copermittees. For cost sharing that applies only to a group that contains fewer than all Copermittees, a unanimous vote is required of all affected Copermittees.

(2) Special Formulas.

Special Formulas may be applied to any shared Regional or Watershed General Program cost, and require the unanimous vote of the Copermittees participating in the cost.

- (3) In-kind Contributions. Subject to approval by the Copermittees participating in a particular shared General Program budget, a Copermittee may provide an in-kind contribution of equal value rather than a monetary contribution toward all or part of the cost of an activity. Copermittee in-kind contributions may include Working Body Support.

2. Work Plans and Shared Cost Budgets

a. Limitations on Cost-sharing

General Program activities that may be cost-shared by the Copermittees include collaborative urban runoff management activities which are

- (1) mandated by or necessary to implement requirements of the Permit,
- (2) necessary to anticipate the requirements, or prepare for renewal, of the Permit, (3) required to comply with Regional Board Orders or other directives required of Copermittees as dischargers of urban runoff (e.g., 13267 Orders, Total Maximum Daily Loads, etc.), or
- (4) other urban runoff management activities conducted with the unanimous approval of Copermittees sharing the cost or responsibility.

Examples of such activities include:

- (1) Development or implementation of any program requirements of the MS4 Permit, such as, the BMP Design Manual, regional education and outreach, or Water Quality Improvement Plans;
- (2) Public participation activities, such as facilitating public meetings and workshops;
- (3) Program assessment;
- (4) Plan updates;
- (5) Water quality monitoring, assessment and reporting;
- (6) Annual reporting, including establishment and management of data and information clearinghouses;

- (7) Preparation of technical analyses, recommendations and comments regarding the MS4 Permit, total maximum daily loads, and other relevant storm water quality regulations;
- (8) Preparation of documents required by the MS4 Permit, such as Reports of Waste Discharge; and
- (9) Special studies related to storm water quality-related pollutants, their sources, and potential best management practices.

b. Work Plans and Shared Cost Budgets

1. **No later than October 31st of each year**, each Working Body shall prepare and submit to the Planning Subcommittee a proposed Work Plan and Shared Costs Budget for the upcoming Fiscal Year.
2. Each Work Plan shall identify the parties that will serve as a Working Body Chair, Co-chair, or Secretary for the upcoming Fiscal Year. These assignments will be served on a fiscal year basis, and shall be for a minimum term of one year.
3. A Copermittee may not be compelled to act, or continue acting, as a Working Body Chair, Co-chair, or Secretary, and may at any time terminate an existing assignment. Before doing so, the Copermittee shall first make a good faith effort to carry out or transfer existing responsibilities.
4. Each budget shall describe major tasks, schedules, and projected costs, which Copermittees will provide Working Body Support, Contract Administration, in-kind contributions, and any other information applicable to regional general program costs.
5. To ensure that each Copermittee governing body has sufficient time to consider fiscal impacts, **the Planning Subcommittee shall prepare a consolidated draft Regional Work Plan and Shared Costs Budget no later than December 31st of each year for the Regional General Programs**. After consideration of comments and discussion, a final Regional Work Plan and Shared Costs Budget shall be prepared, approved by the Management Committee, and distributed to the Copermittees no later than January 31st of each year. The consolidated Regional Work Plan and Shared Costs Budget shall also identify the party or parties serving as Regional General Program operations fund managers.
6. Modifications to any adopted Regional Work Plan and Shared Costs Budget that will result in an overall increase in cost require the approval of the Regional Management Committee.
7. Copermittees from each Working Body, for which costs will be shared, shall prepare, agree upon and distribute to the participating Copermittees in that watershed, a watershed work plan and Shared Costs Budget.
8. Approval of the Shared Costs Budget for each fiscal year is subject to approval by Copermittee governing bodies as part of their regular annual budgeting process.

3. Cumulative Budget Limits

- a. The total Shared Cost Budget authorized under this MOU may not exceed the cumulative limits specified for each spending category in **Table 1**. These values represent the maximum amount that may be cost-shared for each spending category for the duration of this MOU. **They do not represent funding commitments**. Once a cumulative limit has been reached, the Copermittees must establish separate agreements for sharing additional costs for that budget category. The estimated annual limits shown for each fiscal year are for planning purposes only. Where an estimated annual limit is not reached in any fiscal

year, the surplus amount may be carried over into subsequent fiscal years, so long as the cumulative limit is not exceeded. Budget limits apply only to their designated budget category. They may not be exchanged or credited across budget categories. Spending in each budget category may not exceed the applicable cumulative limit under any circumstances.

Table 1: Not-to-exceed Limits by Budget Category

	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	Cumulative Limit
Regional Budgets	\$850,560	\$920,800	\$1,158,300	\$764,000	\$814,000	\$4,507,660
San Luis Rey, SLR	\$1,201,200	\$636,025	\$655,106	\$882,759	\$1,013,502	\$4,388,592
Carlsbad, CAR	\$122,600	\$1,269,200	\$519,200	\$698,700	\$847,200	\$3,456,900
San Dieguito, SDG	\$1,071,250	\$843,750	\$753,750	\$597,500	\$547,500	\$3,813,750
Los Penasquitos, LPQ	\$903,125	\$794,375	\$673,125	\$748,125	\$698,125	\$3,816,875
San Diego River, SDR	\$2,098,688	\$1,181,250	\$984,375	\$1,077,563	\$1,391,250	\$6,733,126
San Diego Bay, SDBay	\$828,000	\$770,000	\$792,000	\$814,000	\$727,000	\$3,931,000
Tijuana, TJ	\$512,000	\$464,000	\$471,000	\$505,000	\$459,000	\$2,411,000
SDR I/O: County of San Diego, Cities of El Cajon, La Mesa, Santee	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$750,000
Bacteria TMDL <i>(Cities of Carlsbad, Del Mar, El Cajon, Encinitas, Escondido, La Mesa, Lemon Grove, Oceanside, Port of San Diego, Poway, San Diego, San Marcos, Santee, Solana Beach, Vista and the County of San Diego.</i>	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$100,000
Total Watershed Management Area (WMA) Budgets	\$6,826,663	\$5,403,300	\$4,937,556	\$5,412,247	\$5,771,777	\$28,351,543
Total WMAs + Regional Budgets	\$7,677,223	\$6,324,100	\$6,095,856	\$6,176,247	\$6,585,777	\$32,859,203

4. Management and Payment of Funds

- a. For Regional General Programs, the Copermittees shall each pay a yearly assessment into one or more Regional General Program operations funds for their respective portion of any Regional Shared Costs Budget approved pursuant to this MOU. The Regional General Program operations fund shall be managed by the Regional Principal Permittee, or any other Permittee on approval of the Copermittees.
- b. For Watershed General Programs, the applicable watershed Copermittees shall each pay an assessment into one or more Watershed General Program operations funds for their assigned portion of any watershed shared costs budget approved pursuant to this MOU. Each Watershed General Program operations fund shall be managed by the watershed lead permittee, or any other watershed permittee on approval of the participating Copermittees.
- c. The Copermittee managing each General Program operations fund shall provide budget balance and expenditure status reports following the end of each fiscal year. This shall include a detailed accounting of all costs and expenses in accordance with the accepted work plan and Shared Costs Budget, including those incurred by Copermittees providing Working Body Support, contracting services, in-kind services, or other applicable costs.
- d. Each Copermittee shall pay invoices within 60 days of receipt from the Copermittee managing the applicable General Program operations fund.
- e. Funds collected and not expended in any fiscal year shall be credited to the Copermittees' share of the next fiscal year's costs in accordance with the Copermittees' defined shared costs.
- f. Copermittees providing Working Body Support, Contract Administration, in-kind services, or incurring other budgeted costs on behalf of other Copermittees shall provide documentation of those expenses as requested by the Copermittee managing the applicable General Program operations fund. They shall only receive credit for those expenses if a detailed accounting of all costs and expenses meeting the minimum standards agreed upon by the Copermittees has been provided.
- g. Differences in the approved actual cost of expenses from those budgeted shall be either credited or added as appropriate to the amount of the Copermittees' share. In the event that any Copermittees' share of the next fiscal year's costs is less than the amount to be credited, the difference shall be refunded to the Copermittee. Refunds shall be provided to Copermittees no later than 90 days after final accounting.
- h. At its discretion, a Copermittee managing a General Program operations fund may, prior to the completion of a fiscal year, make payment to any Copermittee providing Working Body Support, Contract Administration, in-kind services, or incurring other budgeted expenditures on behalf of other Copermittees so long as all of the conditions of Section II B.4.f above have been satisfied and there are sufficient funds available to make a payment without requiring additional contributions or jeopardizing program objectives. If for some reason excess payment is made, the Copermittee receiving the payment agrees to return the additional payment without any recourse against the managing Copermittee.

III. REGIONAL GENERAL PROGRAMS

In addition to the requirements of Section II, the following apply to Regional General Programs.

A. Regional Principal Permittee

1. The County is hereby designated Regional Principal Permittee (Principal Permittee).
 - a. The County or any other Copermittee may not be compelled to act, or continue acting, as Principal Permittee. A Copermittee may at any time terminate its assignment as Principal Permittee, but shall first make a good faith effort to carry out or transfer existing responsibilities.
 - b. In addition to the responsibilities of all Copermittees described in Section II, the Principal Permittee shall provide general coordination for the development and implementation of Regional General Programs, including the following tasks and responsibilities:
 - (1) Establish, chair, and provide overall coordination and leadership of the Regional Stormwater Management Committee (Management Committee) and the Regional Program Planning Subcommittee (Planning Subcommittee).
 - (2) Maintain a current contact list of Copermittees and interested parties.
 - (3) Maintain knowledge of and advise the Copermittees regarding current and proposed state and federal policies, regulations, and other NPDES programs; assist the Copermittees in the development and presentation of positions on these issues before local, state, and federal agencies.

B. Regional Stormwater Management Committee

1. The purpose of the Regional Stormwater Management Committee (Management Committee) is to develop, approve, and coordinate urban runoff management programs, and to explore issues of regional significance.
2. The Management Committee shall consist of one Representative of each Copermittee. Each Copermittee shall have one vote.
3. The Management Committee shall meet at least annually.
4. At a minimum, the Management Committee shall have the following responsibilities:
 - a. Address common issues, promote consistency among jurisdictional and watershed programs, and plan and coordinate activities required under the Permit;
 - b. Develop, implement, and arrange for implementation of Regional General Programs;
 - c. Provide a general forum for informing and receiving input from stakeholders and interested parties;
 - d. Provide a forum for public participation in the development and implementation of regional urban runoff management programs and activities;
 - e. Review specific issues pertaining to Working Bodies, make recommendations, or conduct work in support of shared regional priorities or objectives;
 - f. Formally approve the recommendations, work products, and deliverables of Working Bodies presented for consideration;
 - g. Adopt an Annual Regional Work Plan and Shared Costs Budget in accordance with the budgetary limits set forth in Table 1;
 - h. Approve an Annual Regional Work Plan and Shared Costs Budget; and
 - i. Approve year-end Budget Balance and Expenditure Status Reports.
5. The Management Committee shall be chaired by the Principal Permittee, or may alternatively be chaired or co-chaired by any other Copermittee. A reassignment or change in the responsibilities of the Principal Permittee requires a three-fourths majority approval of all Copermittees.

6. Voting Requirements for the Management Committee

- a. For a meeting or a vote to be held, a quorum of a Two-thirds Majority of voting representatives of the Management Committee must either be present or participate remotely via legally acceptable electronic communication (telephone, voice over internet protocol, etc.).
- b. Management Committee voting shall not be conducted outside of meetings (e.g., by email).
- c. For a motion to be approved, an affirmative vote of a Simple Majority of the Management Committee is needed.
- d. On approval of the Management Committee, activities undertaken by a subset of Copermittees, but providing a regional benefit to Copermittees, may be considered Regional General Programs.
- e. **Approval of any shared cost requires a unanimous vote of all Copermittees participating in the cost.**

C. Regional Program Planning Subcommittee

1. The purposes of the Regional Program Planning Subcommittee (Planning Subcommittee) shall be to provide regional coordination of urban runoff management activities, to develop and implement Regional General Programs, and to coordinate the activities of Working Bodies.
2. At a minimum, the Planning Subcommittee shall have the following responsibilities:
 - a. Serve as an intermediary between the Management Committee and other Copermittee Working Bodies;
 - b. Plan and coordinate Management Committee meetings;
 - c. Review specific issues pertaining to Regional Working Body(s) , make recommendations, or conduct work in support of shared regional priorities or objectives;
 - d. Oversee, coordinate, and track the progress of As-Needed Regional Working Body(s) in developing specific work products, responding to information requests, and completing tasks;
 - e. Establish and maintain a calendar of Copermittee meetings and events;
 - f. Conduct regional program planning including developing an Annual Regional Work Plan and Shared Costs Budget for Management Committee consideration and approval;
 - g. Review and recommend Management Committee approval of work products, recommendations, and requests of Regional Working Body(s) for consideration and approval;
 - h. Annually receive, review, comment on, and consolidate the recommended Work Plans and Shared Costs Budgets of each Regional Working (body(s) ;
 - i. Coordinate and liaise with Regional Board staff, stakeholders, regulated parties, and other interested parties to identify and explore key regional issues and concerns.
 - j. Provide Representation to the California Stormwater Quality Association (CASQA);
 - k. Provide representation or participation for other professional organizations and societies as appropriate and feasible;
 - l. Provide regular updates to Copermittees and interested parties via Management Committee meetings or other appropriate means (e-mail, etc.); and
 - m. Provide subject area input as needed for the development, implementation, review, and revision of General Programs, and the development of associated reports and work products.

3. The Planning Subcommittee shall be chaired by the Principal Permittee, or may alternatively be chaired or co-chaired by any other Copermittee upon approval of the Management Committee.
4. Planning Subcommittee meetings shall be open to all Copermittees; however, voting membership in any year shall be limited to one representative of each Watershed Management Area (WMA) listed in Permit Table a.1 except the South Orange County WMA. Any Copermittee may only represent one WMA. For each fiscal year, each WMA will designate a Copermittee as a voting member of the Planning Subcommittee prior to the beginning of that fiscal year. Each WMA may also designate an alternate voting member.
5. Each voting member shall be considered an at-large member. Their purpose is to represent the interests of all Copermittees of this MOU rather than those of their specific WMAs.
6. The Planning Subcommittee may not alter the responsibilities of, or impose new fiscal obligations on, any Copermittee or Working Body, except as approved by the Management Committee. However, the Planning Subcommittee may approve changes to approved Annual Regional Work Plans and Shared Costs Budgets within approved annual budget limits.
7. Voting Requirements for the Planning Subcommittee:
 - a. The Planning Subcommittee shall only make advisory recommendations for items requiring Management Committee approval.
 - b. The Planning Subcommittee may use any voting methodology it deems appropriate to develop advisory recommendations or conduct other business, and, shall present minority or dissenting recommendations for consideration by the Management Committee as applicable.

IV. DISPUTE RESOLUTION

Should a dispute arise among any of the parties regarding any matter related to this MOU, the parties agree to first meet and confer in good faith to attempt to resolve the dispute. If that fails to resolve the dispute, they shall submit the matter to mediation.

1. **Mandatory Non-binding Mediation.** If a dispute arises out of, or relates to this MOU, or the breach thereof, and if the dispute cannot be settled through normal contract negotiations, the Parties agree to attempt to settle the dispute in an amicable manner, using mediation under the Mediation Rules of the American Arbitration Association [AAA] or any other neutral organization agreed to by the parties. A mediation session is required before having recourse in a court of law. The cost of mediation shall be borne by the parties equally.
2. **Selection of Mediator.** A single Mediator that is acceptable to all Parties shall be used to mediate the dispute. The Mediator may be selected from lists furnished by the AAA or any other agreed upon Mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party.
3. **Conduct of Mediation Sessions.** Mediation hearings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions in the mediation process will be confidential settlement negotiations under Ca. Evidence Code section 1152. The Parties may agree to exchange any information they deem necessary.
 - a. Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either Party may have attorney(s) or expert(s) present.

- b. Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be “non-binding” and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

V. GENERAL PROVISIONS

A. Term of Agreement

1. This MOU shall become effective on the date the last party executes the MOU.
2. The life of the MOU shall be effective through August 2024, or with the life of the current Permit plus twelve months, whichever is longer. For purposes of this paragraph, any permit renewal or replacement after May 2024 shall be considered a new permit; any earlier amendment of the Permit increasing the obligations of the Regional Principal Permittee or a Watershed Lead Permittee may at that Copermittee’s sole option, be declared to be a new permit; and the Management Committee shall determine whether any other earlier amendment to the Permit is of such significance as to effectively be a new Permit.

B. Withdrawal of Copermittee

1. Participation in this MOU may be withdrawn by any Copermittee for any reason only after the Copermittee complies with all of the following conditions of withdrawal:
 - a. The Copermittee shall notify all of the other Copermittees in writing 90 days prior to its intended date of withdrawal.
 - b. Any expenses associated with withdrawal, including but not limited to, filing and obtaining the withdrawing Copermittee’s individual NPDES permit and the amendment of the Permit will be solely the responsibility of the withdrawing Copermittee.
 - c. The withdrawing Copermittee shall be responsible for their portion of any shared costs incurred according to the conditions of this MOU up to the time that each of the conditions in Section V.B.1.a. has been met.
 - d. Any monies paid by withdrawing Copermittee in excess of the amount due under the terms of the MOU shall be refunded to the Copermittee at the time the withdrawal becomes final as set forth in Section V.B.1.a.
 - e. The withdrawing Copermittee shall not be entitled to participate in the division of proceeds in any reserve fund account when the MOU is dissolved.

C. Non-Compliance with MOU Requirements

1. Any participant to this MOU found to be in non-compliance with the conditions of this MOU shall be solely liable for any lawfully assessed penalties resulting from such non-compliance. Failure to comply with MOU conditions within specified or agreed upon timelines shall constitute non-compliance with the MOU.
2. Limitations on Use of Funds. Notwithstanding the rights and obligations of the Parties created by this MOU, no Party may be found in breach of this MOU where compliance would require that Party to violate any law or grant assurance, including but not limited to provisions of the Federal Aviation Administration 1999 Policy and Procedure Concerning the Use of Airport Revenue [64

Fed. Reg. 7696, dated Feb. 16, 1999]; the Airport and Airway Improvement Act of 1982 codified at 49 U.S.C. § 47107(b); the Federal Aviation Administration Authorization Act of 1994, P.L. 103-305 (Aug. 23, 1994); the Airport Revenue Protection Act of 1996, Title VIII of the Federal Aviation Administration Act of 1996, P.L. 104-264 (Oct. 9, 1996), 110 Stat. 3269 (Oct. 9, 1996); 49 U.S.C. § 46301(n)(5); and 49 U.S.C. § 47133. The Parties recognize that the Authority has received federal Airport Improvement Project (“AIP”) grants containing grant assurance 25, which provides: “All revenues generated by the airport . . . will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport.”

D. Amendments to the Memorandum of Understanding

This MOU may be amended only by unanimous consent of all Copermittees. No amendment shall be effective unless it is in writing and signed by the duly authorized representatives of the Copermittees.

E. Governing Law

This MOU shall be governed and construed in accordance with the laws of the State of California. If any provision or provisions shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

The headings used throughout this MOU are for convenience only and do not in any way limit or amplify the terms or provisions of the MOU.

F. Consent and Breach Not Waiver

No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Copermittee to have waived or consented. Any consent by any Copermittee to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

G. No Indemnification

1. Each Copermittee shall have the sole responsibility to comply with the Permit.
2. Each Copermittee shall pay all fines, penalties, and costs which may arise out of such Copermittee’s non-compliance with the Permit.
3. By entering into this MOU, no Copermittee assumes liability for claims or actions arising out of the performance of any work or actions or omissions, by any other Copermittee, its agents, officers, and employees under this MOU.
4. By entering into this MOU, each Copermittee agrees to defend itself from any claim, action or proceeding arising out of the acts or omissions of itself and retain its own legal counsel, and bear its own defense costs.

H. Application of Prior Agreements

This MOU constitutes the entire Agreement between the parties with respect to the subject matter; all prior agreements, representations, statements, negotiations, and undertakings are superseded hereby.

I. Right to Audit

Each Party retains the right to review and audit, and the reasonable right of access to other Parties' respective premises to review and audit the other Parties' compliance with the provisions of this MOU (Party's Right). The Party's Right includes the right to inspect and photocopy same, and to retain copies, outside of the Parties' premises, of any and all records, including any and all books, records, and documents, related to this MOU with appropriate safeguards, if such retention is deemed necessary by the auditing Party in its sole discretion. This information shall be kept by the auditing Party in the strictest confidence allowed by law.

J. Execution of Agreement

This MOU may be executed in counterpart and the signed counterparts shall constitute a single instrument. In the event that any Copermitee is unable to execute this amendment prior to August 31, 2019, execution of this amendment after that date shall constitute ratification of this amendment, and the MOU and extensions shall be in effect once all signatures are obtained.

Except as hereinabove amended, the Fourth Amended National Pollutant Discharge Elimination System, San Diego Regional Stormwater Copermittees, Memorandum of Understanding shall remain in full force and effect. In the event of a conflict between the provision of the MOU and those of this Amendment, this Amendment shall control.

IN WITNESS WHEREOF, this Fourth Amended MOU is executed as follows:

Date: _____

By: _____

Approved as to form and legality.

Date: _____

By: _____

City of Santee
COUNCIL AGENDA STATEMENT

Item 7

MEETING DATE

May 8, 2019

AGENDA ITEM NO.

ITEM TITLE

RESOLUTION AUTHORIZING THE CITY OF SANTEE TO PARTICIPATE IN THE CSCDA OPEN PACE PROGRAM; CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE CITY'S JURISDICTION IN THE PROGRAM; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF SANTEE; AND AUTHORIZING RELATED ACTIONS

DIRECTOR/DEPARTMENT

Kathy Valverde, Assistant to the City Manager *KV*

SUMMARY: CSCDA Open Pace

From 2010 to 2015, the City of Santee approved four "Property Assessed Clean Energy" (PACE) financing programs to operate within the City: CaliforniaFirst, Figtree, HERO and Ygrene. Since then, the City has been approached by other PACE providers who want to do business within our jurisdiction. One of these is a Joint Powers Authority (JPA), known as the California Statewide Communities Development Authority (CSCDA) who operates the CSCDA Open PACE Program.

Like the previous PACE programs, the City must formally adopt a resolution to allow CSCDA Open PACE to operate within the City. One of the distinct differences of this program is that it is an open platform, where multiple PACE providers operate under the program and the City passes a single resolution which allows multiple providers to operate within the City. CSCDA Open PACE currently consists of five PACE providers, and any additional providers that are qualified under CSCDA Open PACE after the City's adoption of the resolution would be automatically authorized to operate within Santee.

PACE programs offer residential and commercial property owners the opportunity to reduce their energy and water costs by financing certain renewable energy, energy efficiency and water conservation projects on their properties. These programs also allow for the installation of seismic strengthening improvements and electric vehicle charging infrastructure. To pay for these improvements, property owners borrow funds from a PACE provider, sponsored by a JPA, and repay the loan via a voluntary property tax assessment. More information and background is provided in the attached staff report.

FINANCIAL STATEMENT *fr*

There is no cost to the City to participate in the CSCDA Open PACE Program. All marketing and financing costs are borne by the program administrators and with private capital. Administrative costs are covered through fees paid by the property owners who choose to voluntarily participate in the program.

CITY ATTORNEY REVIEW

N/A Completed

RECOMMENDATION *fr, for MB*

Consider adoption of the attached Resolution.

ATTACHMENTS

1. Staff Report
2. Resolution

STAFF REPORT
CSCDA Open PACE
Property Assessed Clean Energy Financing
May 8, 2019

Background

California law has long provided counties and cities with the power to issue bonds and levy assessments on property tax bills to finance public projects such as sewers, parks, and the undergrounding of utilities. With the passage of legislation starting in 2008, California cities and counties now also have the ability to create “Property Assessed Clean Energy” (PACE) financing programs for energy and water improvements. Some of the legislation that created PACE, including consumer protection measures, is summarized below.

The intent of PACE programs is to promote renewable energy, energy efficiency and water conservation by making these types of improvements more affordable. PACE loans allow residential and commercial property owners the ability to voluntarily finance the cost of eligible improvements through an assessment on their property. Property owners borrow funds from a PACE provider, sponsored by a Joint Powers Authority (JPA), and repay the loan via a voluntary property tax assessment.

PACE programs offer an alternative to traditional means of financing property improvements, such as paying cash, taking a home equity line of credit (HELOC), or using credit cards. Eligibility for PACE financing is primarily based on property equity rather than the credit worthiness of the applicant. PACE loans have fixed long term interest rates with terms generally longer than those of other private loans, but typically equal to the average useful life of the improvements being installed.

The City of Santee has already approved four PACE providers to operate within the City: CaliforniaFirst, Figtree, HERO and Ygrene.

PACE Legislation

PACE financing can be set up and administered under one of two different pieces of legislation:

AB 811 (2008) allows renewable energy sources and energy efficiency upgrades to be financed through an assessment district. Additional legislation expanded projects eligible for financing to include water efficiency improvements, electric vehicle charging stations, and seismic improvements.

SB 555 (2011) amended the Mello-Roos Community Facilities Act to allow for the creation of Community Facility Districts (CFDs) for the purpose of financing or refinancing the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy, seismic improvements, and electric vehicle charging infrastructure.

PACE is the most comprehensively regulated home improvement financing program available in the State of California. Several bills brought improvements to the industry starting in 2017, including underwriting and reporting requirements, consumer protections

and best practices. The entire PACE industry was also put under the oversight of the California Department of Business Oversight. Legislation to improve PACE included:

AB 2693 (2016) enhanced disclosures to homeowners participating in PACE programs and guarantees the right to cancel PACE financing within three business days of execution. AB 2693 also prohibits marketing promises of monetary or percentage representations of increased value to a property owner regarding the effect the financed improvements will have on the market value of the property unless the market value is estimate using one of specified methods.

SB 242 (2017) requires a recorded telephone call to residential consumers to confirm key terms of the agreement in plain language. This call and contractual documents must be available in one of five enumerated non-English languages as necessary. SB 242 also prohibits kick-backs to contractors for steering consumers into a particular program and any misrepresentation as to tax deductibility of a PACE assessment contract. Lastly, PACE providers are prevented from disclosing to contractors the amount of funds the property is eligible for under a PACE assessment under this law.

AB 1284 (2017) establishes state oversight for California's PACE programs and requires PACE administrators that are not local governments to obtain a license under California Financing Law. They are also held accountable for screening, training, and monitoring the contractors and sales reps enrolled in their programs. PACE providers also have to determine a consumer's ability to repay, including income verification, before entering into a PACE assessment.

Because a PACE assessment is filed as a lien on the property, it may be eligible to transfer with the property upon sale. However, as a result of the first priority lien status of residential PACE financing, which means that PACE loans are paid off ahead of traditional mortgages, the Federal Housing Finance Agency (FHFA) announced its opposition to PACE financing programs in 2010. Fannie Mae and Freddie Mac would not purchase mortgages for homes with PACE obligations unless the PACE assessment was paid off at the time the property was refinanced or sold, the same as would happen with any other asset-backed financing. In response, the State of California created a \$10 million PACE Loan Loss Reserve to keep first mortgage lenders whole during a foreclosure or forced sale of a property with a PACE assessment. To date, no claims to use the Loan Loss Reserve have been filed.

CSCDA Open PACE Program Summary

Launched in 2015, CSCDA Open PACE operates under the AB 811 model and is sponsored by the California Statewide Communities Development Authority (CSCDA), a Joint Powers Authority (JPA) which Santee joined in 1999. One of the distinct differences of this program is that it is an open platform, where multiple PACE providers operate under the program. CSCDA Open PACE vets and prequalifies multiple financing providers in order to offer residential and commercial property owners a choice among various PACE programs, creating competition on terms, service and interest rates. This also allows local governments the ability to pass a single resolution to authorize multiple providers to operate within their jurisdiction.

CSCDA Open PACE currently consists of five PACE providers:

1. AllianceNRG Program – provides residential and commercial PACE programs through collaboration with Leidos Engineering and CounterPointe Energy Solutions
2. CaliforniaFIRST (Renew Financial) – provides residential and commercial PACE, which was approved in Santee in 2010
3. CleanFund Commercial PACE Capital – provides a commercial PACE program
4. PACE Funding Group – provides a residential PACE program
5. Petros PACE Finance – provides a commercial PACE program

NOTE: Any additional PACE providers that are qualified under CSCDA Open PACE after the City's adoption of the CSCDA Open PACE Program would be automatically authorized to operate within Santee.

Some of the benefits of a PACE program include:

- 100% Voluntary: Participation in the any PACE program is completely voluntary. Property taxes for properties in the City that do not choose to participate are unaffected by the program.
- Savings to Property Owners: As energy prices continue to rise, PACE offers property owners the ability to lower their utility costs by installing energy efficient, water efficient and renewable energy improvements.
- No Cost to the City: City staff will provide no administrative or marketing support. All marketing and financing costs are borne by the PACE programs, and administrative costs are covered through fees paid by property owners who choose to participate. The City does not issue bonds or incur debt, nor is City obligated to repay any bonds issued, or pay the assessments levied on the participating properties.
- No Obligation to the City: The City has no direct contractual relationship with property owners. Property owners who choose to participate will contract directly with the PACE program administrators and potential contractors to perform work. All ongoing administration and coordination is managed by the PACE program administrators.

Eleven of the 18 cities in San Diego County currently participate in the CSCDA Open PACE Program: Carlsbad, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, National City, Oceanside, Poway, San Diego and Solana Beach. The County of San Diego also participates in the CSCDA Open PACE Program.

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTEE, CALIFORNIA
AUTHORIZING THE CITY OF SANTEE TO PARTICIPATE IN THE CSCDA OPEN
PACE PROGRAM; CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN
THE CITY'S JURISDICTION IN THE CSCDA OPEN PACE PROGRAM;
AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT
AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT
CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL
ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF SANTEE,
CALIFORNIA; AND AUTHORIZING RELATED ACTIONS**

WHEREAS, the California Statewide Communities Development Authority ("Authority") is a statewide joint powers authority, whose members include numerous cities and counties in the State of California, including the City of Santee ("City"); and

WHEREAS, the Authority has implemented a consortium of Property Assessed Clean Energy ("PACE") programs, which it has designated CSCDA Open PACE; and

WHEREAS, the CSCDA Open PACE Program operates under the provisions of Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29" commonly referred to as "AB 811") on behalf of its member counties and cities throughout the State of California; and

WHEREAS, the various PACE programs under CSCDA Open PACE are each administered by a separate program administrator to allow for the financing or refinancing of renewable energy, energy efficiency, water efficiency, seismic strengthening improvements, electric vehicle charging infrastructure and other such improvements, infrastructure or other work as may be authorized by law from time to time, through the levy of contractual assessments; and

WHEREAS, the program administrators currently active in CSCDA Open PACE are: 1) the AllianceNRG Program (CounterPointe Energy Solutions LLC); 2) CaliforniaFirst (Renew Financial Group LLC); 3) CleanFund Commercial PACE Capital; 4) PACE Funding Group LLC; and 5) Petros PACE Finance; and

WHEREAS, any additional PACE providers that are qualified under CSCDA Open PACE after the adoption by the City of the CSCDA Open PACE Program would be automatically authorized to operate within the City of Santee; and

WHEREAS, the Authority will notify the City in advance of any additions or changes to the program administrators active in CSCDA Open PACE; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner or owners of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow property owners within the City's jurisdiction to participate in the CSCDA Open PACE Program, and allow the Authority to conduct assessment proceedings under Chapter 29 within its territory and issue bonds to finance or refinance Improvements; and

WHEREAS, the City will not be responsible for the administration of any CSCDA Open PACE programs; the distribution of CSCDA Open PACE materials; the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with any of the CSCDA Open PACE programs.

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

Section 1. The City Council hereby authorizes the City of Santee to participate in the CSCDA Open PACE Program.

Section 2. The City Council hereby consents to the inclusion of properties within the territory of the City of Santee in the CSCDA Open PACE Program.

Section 3. The City Council hereby authorizes the Authority to conduct special assessment proceedings pursuant to Chapter 29 and issue bonds in connection with the CSCDA Open PACE Program for the financing or refinancing of Improvements; provided that:

(a) Participating property owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and

(b) The City will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with any of the CSCDA Open PACE programs.

Section 4. The City Council hereby authorizes the City Manager to execute and deliver such certificates, requisitions, agreements and related documents as are reasonably required by the Authority to implement the CSCDA Open PACE Program.

Section 5. The City may withdraw from any or all of the CSCDA Open PACE programs upon six (6) months written notice to the Authority. The City may withdraw its consent and approval for the conduct of special assessment proceedings by any specific program administrator under CSCDA Open PACE within the jurisdictional limits of the City upon thirty (30) days written notice to the Authority without (a) liability to the

Authority or any affiliated entity, and (b) withdrawing its consent and approval for the conduct of special assessment proceedings by any other program administrators under CSCDA Open PACE. The City's withdrawal from any PACE program under CSCDA Open PACE shall not affect the validity of any voluntary assessment contract entered into prior to the date of such withdrawal or entered into after the date of such withdrawal so long as the application for such voluntary assessment contract was submitted to and approved by the Authority prior to the date of the City's notice of withdrawal.

Section 6. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby directed to send a certified copy of this resolution to the Secretary of the Authority at: Secretary of the Board, California Statewide Communities Development Authority, 1400 K Street, Sacramento, CA 95814.

ADOPTED by the City Council of the City of Santee, California, at a Regular meeting thereof held this 8th day of May 2019 by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

JOHN W. MINTO, MAYOR

ATTEST:

ANNETTE ORTIZ, MBA, CMC, CITY CLERK

City of Santee
COUNCIL AGENDA STATEMENT

Item 8

MEETING DATE

May 8, 2019

AGENDA ITEM NO.

ITEM TITLE

RESOLUTION AUTHORIZING THE CITY OF SANTEE TO PARTICIPATE IN THE CMFA OPEN PACE PROGRAM; CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE CITY'S JURISDICTION IN THE PROGRAM; AUTHORIZING THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF SANTEE; AND AUTHORIZING RELATED ACTIONS

DIRECTOR/DEPARTMENT

Kathy Valverde, Assistant to the City Manager *KV*

SUMMARY: CMFA Open Pace

From 2010 to 2015, the City of Santee approved four "Property Assessed Clean Energy" (PACE) financing programs to operate within the City: CaliforniaFirst, Figtree, HERO and Ygrene. Since then, the City has been approached by other PACE providers who want to do business within our jurisdiction. One of these is a Joint Powers Authority (JPA), known as the California Municipal Finance Authority (CMFA) who operates the CMFA Open PACE Program.

Like the previous PACE programs, the City must formally adopt a resolution to allow CMFA Open PACE to operate within the City. One of the distinct differences of this program is that it is an open platform, where multiple PACE providers operate under the program and the City passes a single resolution which allows multiple providers to operate within the City. CMFA Open PACE currently consists of eight PACE providers, and any additional providers that are qualified under CMFA Open PACE after the City's adoption of the resolution would be automatically authorized to operate within Santee.

PACE programs offer residential and commercial property owners the opportunity to reduce their energy and water costs by financing certain renewable energy, energy efficiency and water conservation projects on their properties. These programs also allow for the installation of seismic strengthening improvements and electric vehicle charging infrastructure. To pay for these improvements, property owners borrow funds from a PACE provider, sponsored by a JPA, and repay the loan via a voluntary property tax assessment. More information and background is provided in the attached staff report.

FINANCIAL STATEMENT *mv*

There is no cost to the City to participate in the CMFA Open PACE Program. All marketing and financing costs are borne by the program administrators and with private capital. Administrative costs are covered through fees paid by the property owners who choose to voluntarily participate in the program.

CITY ATTORNEY REVIEW

N/A

Completed

RECOMMENDATION *m. for MB*

Consider adoption of the attached Resolution

ATTACHMENTS

1. Staff Report
2. Resolution

STAFF REPORT
CMFA Open PACE
Property Assessed Clean Energy Financing
May 8, 2019

Background

California law has long provided counties and cities with the power to issue bonds and levy assessments on property tax bills to finance public projects such as sewers, parks, and the undergrounding of utilities. With the passage of legislation starting in 2008, California cities and counties now also have the ability to create “Property Assessed Clean Energy” (PACE) financing programs for energy and water improvements. Some of the legislation that created PACE, including consumer protection measures, is summarized below.

The intent of PACE programs is to promote renewable energy, energy efficiency and water conservation by making these types of improvements more affordable. PACE loans allow residential and commercial property owners the ability to voluntarily finance the cost of eligible improvements through an assessment on their property. Property owners borrow funds from a PACE provider, sponsored by a Joint Powers Authority (JPA), and repay the loan via a voluntary property tax assessment.

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AB 1284 (2017) establishes state oversight for California's PACE programs and requires PACE administrators that are not local governments to obtain a license under California Financing Law. They are also held accountable for screening, training, and monitoring the contractors and sales reps enrolled in their programs. PACE providers also have to determine a consumer's ability to repay, including income verification, before entering into a PACE assessment.

Because a PACE assessment is filed as a lien on the property, it may be eligible to transfer with the property upon sale. However, as a result of the first priority lien status of residential PACE financing, which means that PACE loans are paid off ahead of traditional mortgages, the Federal Housing Finance Agency (FHFA) announced its opposition to PACE financing programs in 2010. Fannie Mae and Freddie Mac would not purchase mortgages for homes with PACE obligations unless the PACE assessment was paid off at the time the property was refinanced or sold, the same as would happen with any other asset-backed financing. In response, the State of California created a \$10 million PACE Loan Loss Reserve to keep first mortgage lenders whole during a foreclosure or forced sale of a property with a PACE assessment. To date, no claims to use the Loan Loss Reserve have been filed.

CMFA Open PACE Program Summary

CMFA Open PACE operates under the AB 811 model and is sponsored by the California Municipal Finance Authority (CMFA) Joint Powers Authority (JPA), which Santee joined in 2010. One of the distinct differences of this program is that it is an open platform, where multiple PACE providers operate under the program. CMFA Open PACE vets and prequalifies multiple financing providers in order to offer residential and commercial property owners a choice among various PACE programs, creating competition on terms, service and interest rates. This also allows local governments the ability to pass a single resolution to authorize multiple providers to operate within their jurisdiction.

CMFA Open PACE currently consists of eight PACE providers:

1. BlueFlame PACE Services – provides a commercial PACE program
2. Energy Efficient Equity (E3) – provides a residential PACE program
3. OnPACE Energy Solutions – provides a commercial PACE program
4. PACE Equity – provides a commercial PACE program
5. Petros PACE Administration – provides a commercial PACE program
6. Samas Capital – provides a commercial PACE program
7. Structured Finance Associates – provides a commercial PACE program
8. Twain Financial Partners – provides a commercial PACE program

NOTE: Any additional PACE providers that are qualified under CMFA Open PACE after the City's adoption of the CMFA Open PACE Program would be automatically authorized to operate within Santee.

Some of the benefits of a PACE program include:

- 100% Voluntary: Participation in the any PACE program is completely voluntary. Property taxes for properties in the City that do not choose to participate are unaffected by the program.
- Savings to Property Owners: As energy prices continue to rise, PACE offers property owners the ability to lower their utility costs by installing energy efficient, water efficient and renewable energy improvements.
- No Cost to the City: City staff will provide no administrative or marketing support. All marketing and financing costs are borne by the PACE programs, and administrative costs are covered through fees paid by property owners who choose to participate. The City does not issue bonds or incur debt, nor is City obligated to repay any bonds issued, or pay the assessments levied on the participating properties.
- No Obligation to the City: The City has no direct contractual relationship with property owners. Property owners who choose to participate will contract directly with the PACE program administrators and potential contractors to perform work. All ongoing administration and coordination is managed by the PACE program administrators.

Twelve of the 18 cities in San Diego County currently participate in the CMFA Open PACE Program: Carlsbad, Chula Vista, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, National City, Oceanside, Poway, San Diego and Solana Beach. The County of San Diego also participates in the CMFA Open PACE Program.

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTEE, CALIFORNIA
AUTHORIZING THE CITY OF SANTEE TO PARTICIPATE IN THE CMFA OPEN
PACE PROGRAM; CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN
CITY'S JURISDICTION IN THE CMFA OPEN PACE PROGRAM; AUTHORIZING THE
CALIFORNIA MUNICIPAL FINANCE AUTHORITY TO ACCEPT APPLICATIONS
FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT
PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE
TERRITORY OF THE CITY OF SANTEE, CALIFORNIA; AND AUTHORIZING
RELATED ACTIONS**

WHEREAS, the California Municipal Finance Authority ("Authority") is a statewide joint powers authority, whose members include numerous cities and counties in the State of California, including the City of Santee ("City"); and

WHEREAS, the Authority has implemented a consortium of Property Assessed Clean Energy ("PACE") programs, which it has designated CMFA Open PACE; and

WHEREAS, the CMFA Open PACE Program operates under the provisions of Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29" commonly referred to as "AB 811") on behalf of its member counties and cities throughout the State of California; and

WHEREAS, the various PACE programs under CMFA Open PACE are each administered by a separate program administrator to allow for the financing or refinancing of renewable energy, energy efficiency, water efficiency, seismic strengthening improvements, electric vehicle charging infrastructure and other such improvements, infrastructure or other work as may be authorized by law from time to time, through the levy of contractual assessments; and

WHEREAS, the program administrators currently active in CMFA Open PACE are: 1) BlueFlame PACE Services LLC; 2) Energy Efficient Equity Inc.; 3) OnPACE Energy Solutions LLC; 4) PACE Equity LLC; 5) Petros PACE Administration; 6) Samas Capital LLC; 7) Structured Finance Associates LLC; and 8) Twain Financial Partners LLC; and

WHEREAS, any additional PACE providers that are qualified under CMFA Open PACE after the adoption by the City of the CMFA Open PACE Program would be automatically authorized to operate within the City of Santee; and

WHEREAS, the Authority will notify the City in advance of any additions or changes to the program administrators active in CMFA Open PACE; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner or owners of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow property owners within the City's jurisdiction to participate in the CMFA Open PACE Program, and allow the Authority to conduct assessment proceedings under Chapter 29 within its territory and issue bonds to finance or refinance Improvements; and

WHEREAS, the City will not be responsible for the administration of any CMFA Open PACE programs; the distribution of CMFA Open PACE materials; the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with any of the CMFA Open PACE programs.

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

Section 1. The City Council hereby authorizes the City of Santee to participate in the CMFA Open PACE Program.

Section 2. The City Council hereby consents to the inclusion of properties within the territory of the City of Santee in the CMFA Open PACE Program.

Section 3. The City Council hereby authorizes the Authority to conduct special assessment proceedings pursuant to Chapter 29 and issue bonds in connection with the CMFA Open PACE Program for the financing or refinancing of Improvements; provided that:

(a) Participating property owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and

(b) The City will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with any of the CMFA Open PACE programs.

Section 4. The City Council hereby authorizes the City Manager to execute and deliver such certificates, requisitions, agreements and related documents as are reasonably required by the Authority to implement the CMFA Open PACE Program.

Section 5. The City may withdraw from any or all of the CMFA Open PACE programs upon six (6) months written notice to the Authority. The City may withdraw its

consent and approval for the conduct of special assessment proceedings by any specific program administrator under CMFA Open PACE within the jurisdictional limits of the City upon thirty (30) days written notice to the Authority without (a) liability to the Authority or any affiliated entity, and (b) withdrawing its consent and approval for the conduct of special assessment proceedings by any other program administrators under CMFA Open PACE. The City's withdrawal from any PACE program under CMFA Open PACE shall not affect the validity of any voluntary assessment contract entered into prior to the date of such withdrawal or entered into after the date of such withdrawal so long as the application for such voluntary assessment contract was submitted to and approved by the Authority prior to the date of the City's notice of withdrawal.

Section 6. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby directed to send a certified copy of this resolution to the Financial Advisor of the Authority at: California Municipal Finance Authority, 2111 Palomar Airport Road, Suite 320, Carlsbad, CA 92011, Attn: Travis Cooper.

ADOPTED by the City Council of the City of Santee, California, at a Regular meeting thereof held this 8th day of May 2019 by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

JOHN W. MINTO, MAYOR

ATTEST:

ANNETTE ORTIZ, MBA, CMC, CITY CLERK

City of Santee
COUNCIL AGENDA STATEMENT

Item 9

MEETING DATE: May 8, 2019

AGENDA ITEM NO.

ITEM TITLE FANITA RANCH WORKSHOP

DIRECTOR/DEPARTMENT

Melanie Kush, Development Services



SUMMARY

In August 2017, HomeFed Fanita Rancho LLC ("HomeFed") submitted development applications for a mixed-use project on the 2,635-acre site commonly known as Fanita Ranch. The applications include a General Plan Amendment, a Specific Plan, a zone district reclassification, a Tentative Map and a Development Review Permit.

This workshop is designed to provide an overview of the project. Subsequent workshops will provide more detail on various project features. The Fanita Ranch project includes the following:

- Clustered, mixed-use development in three villages
 - 2,949 dwelling units, including active adult housing
 - 80,000 square feet of commercial / retail space
- Preservation of over 1,600 acres of the site as permanent habitat preserve
- 31-acre community park
- Neighborhood and pocket parks
- HOA maintained open space
- Kindergarten through eighth grade public school on a 15-acre site
- 36-acre working farm
- Circulation network extensions (Fanita Parkway, Cuyamaca Street, Magnolia Avenue)
- Regional trails connections

ENVIRONMENTAL REVIEW

This workshop is not a project under the California Environmental Quality Act (CEQA).

FINANCIAL STATEMENT

Staff and consultant costs associated with the development planning of Fanita Ranch are fully funded through a developer deposit account.

CITY ATTORNEY REVIEW

N/A

Completed

RECOMMENDATION

m, for MB

Receive report (PowerPoint presentation)

City of Santee
COUNCIL AGENDA STATEMENT

Item 10

MEETING DATE May 8, 2019

AGENDA ITEM NO.

ITEM TITLE **RECOMMENDATION OF APPOINTMENT TO THE GILLESPIE FIELD DEVELOPMENT COUNCIL**

DIRECTOR/DEPARTMENT John W. Minto, Mayor

SUMMARY

In 1974, the County of San Diego and the City of El Cajon executed a Joint Exercise of Powers Agreement (“Agreement”) creating the Gillespie Field Development Council (“GFDC”) to oversee development of Gillespie Field. In 2015, the County and El Cajon amended the Agreement to provide that one member of the five-person GFDC will be selected from qualified candidates identified by the City of Santee. (Agreement, § 3.B.)

The County currently has a vacant seat on the GFDC and would like to fill that seat with a candidate nominated by the City of Santee. The qualifications and requirements for candidates are outlined in the attached Agreement.

At this time, Mayor Minto recommends James Sly for appointment to the GFDC.

FINANCIAL STATEMENT N/A

CITY ATTORNEY REVIEW N/A Completed

RECOMMENDATION

Confirm Mayor Minto’s recommendation to be presented at the meeting.

ATTACHMENTS

Joint Exercise of Powers Agreement

JOINT EXERCISE OF POWERS AGREEMENT BETWEEN THE COUNTY OF SAN DIEGO AND THE CITY OF EL CAJON CREATING AN AGENCY TO BE KNOWN AS THE GILLESPIE FIELD DEVELOPMENT COUNCIL

Incorporating Amendment No. 9, April 8, 2015

THIS AGREEMENT made and entered into this 19th day of March, 1974, by and between the COUNTY OF SAN DIEGO, State of California, a public corporation, hereinafter referred to as "COUNTY", AND THE CITY OF EL CAJON, a municipal corporation of the State of California, hereinafter referred to as "CITY";

WITNESSETH:

WHEREAS, City and County are each empowered by law to operate an airport and to develop an industrial park thereon; and

WHEREAS, it is in the public interest that the County and the City cooperate in the proper development of Gillespie Field; and

WHEREAS, it is in the public interest that the industrial and economic development of Gillespie Field be accelerated in a convenient and orderly manner; and

WHEREAS, in order to achieve proper development of Gillespie Field it is necessary to establish operational guidelines and policies which will provide flexibility and responsiveness to development needs; NOW THEREFORE

In consideration of the premises and their mutual covenants, it is mutually agreed by and between the parties hereto as follows:

SECTION 1. Purpose. This Agreement is made pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 (commencing with Section 6500) of the Government Code of the State of California [the "ACT"] relating to the joint exercise of powers common to the Public Agencies. The Public Agencies each possess the common powers referred to in the recitals hereof. The purpose of this Agreement is to exercise such powers jointly by cooperative implementation of the industrial and economic development of Gillespie Field. Such purpose will be accomplished, and said common powers exercised, in the manner hereinafter set forth.

SECTION 2. Term

A. This Agreement shall commence March 19, 1974 and shall continue in full force and effect until June 30, 2025 or until such lesser time as the parties hereto should mutually find that the objectives of the Agreement have been substantially achieved.

B. In determining whether or not the objectives of the Agreement have been substantially achieved, the following criteria should be considered:

- (1) Extent of development of the field;
- (2) Economic stability of the development;

(3) Continuing need for cooperative implementation of development of the field.

SECTION 3. Gillespie Field Development Council.

A. Creation of Council. There is hereby created the Gillespie Field Development Council, hereinafter referred to as the "COUNCIL". The debts, liabilities and obligations of the Council shall not constitute debts, liabilities or obligations of either City or County.

B. Membership. The Council shall be composed of five (5) members, three of whom shall be nominated by the Board of Supervisors of the County of San Diego and two of whom shall be nominated by the City Council of the City of El Cajon. Of the three nominated by the County, one shall be selected from qualified candidates identified by the City of Santee. If the City of Santee fails to identify qualified candidates, County may nominate members of its own choice. No person shall be nominated or appointed who is a member of the governing body or planning commission or a full-time employee of the County of San Diego, City of Santee or the City of El Cajon. If a member of the Council becomes a member of such governing body or planning commission or a full-time employee of the County of San Diego, City of Santee or City of El Cajon during his/her term of office, he/she shall be removed from the Council and his/her position shall be declared vacant. Appointment of each Member shall be made by mutual agreement of both entities and ratified by actions of both the Board of Supervisors and the City Council.

- (1) To qualify for appointment, a nominee must have expertise and experience in such fields as real estate, finance, industrial development, aviation, or other fields related to the development program for Gillespie Field, and have a demonstrated interest in the economic viability of the field.
- (2) The Board of Supervisors shall nominate one Member for a two-year term and two Members for a four-year term, and the City Council of the City of El Cajon shall nominate one Member for a two-year term and one Member for a four-year term. The initial term shall be computed from the date hereof. Upon the expiration of the initial terms, all succeeding terms shall be for four years. Members shall hold membership during the term for which they were appointed and until their successors have been appointed and qualified except that Members may be removed at any time for any reason by the City Council in the case of Members nominated by said Council or by the Board of Supervisors in the case of Members nominated by said Board. In the case of a vacancy, the same shall be promptly filled by appointment thereto following nomination by the City Council in the case of a vacancy as to which said Council has the power of nomination, or by the Board of Supervisors in the case of a vacancy as to which said Board has the power of nomination. An appointment to fill a vacancy occurring during an unexpired term shall be for the period of the unexpired term.
- (3) Meetings. The Council shall provide for its regular meetings; provided, however, it shall hold at least two meetings in each year and such further meetings as may be necessary. The dates upon which, and the hour and

place at which, any meeting shall be held shall be fixed by the Council. The Council shall adopt rules for conducting its meetings and all other business, and shall elect a Chairperson and Vice Chairperson. All meetings, including without limitation, regular, adjourned regular and special meetings, shall be called, noticed and held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California).

- (4) Quorum. Three members present at a meeting of the Council shall constitute a quorum for the transaction of business, except that a lesser number may adjourn for lack of quorum.
- (5) Officers. The Council shall elect a Chairperson and Vice Chairperson at its first meeting and thereafter at the first meeting held in each succeeding calendar year the Council shall elect or re-elect its Chairperson and Vice Chairperson. In the event that the Chairperson or Vice Chairperson so elected ceases to be a member of the Council, the resulting vacancy shall be filled at the next meeting of the Council held after such vacancy occurs. In the absence or inability of the Chairperson to act, the Vice Chairperson shall act as Chairperson. The Chairperson, or in his/her absence Vice Chairperson, shall preside at and conduct all meetings of the Council. County Airports Division Staff is designated Secretary of the Council. Pursuant to Government Code Section 6505.5 the Auditor and Controller of the County of San Diego is designated Auditor of the of the Council. The Treasurer of the County of San Diego is designated Treasurer of the Council. The County Counsel or the City Attorney upon request shall attend the meetings of the Council and shall also on request advise the Council in connection with any business relating to County or City, respectively. The Council may employ other counsel to represent the Council in any manner, to be paid from funds made available for such purpose by either City or County.

SECTION 4. Powers and Duties of the Council.

A. The Council shall be responsible for the overall execution of the Master Plan for Gillespie Field as adopted by the County of San Diego. The term "Master Plan" as used herein shall include the FAA-approved airport layout plan, applicable County Ordinances, Special Use Permits, Development Standards, Performance Standards, Priorities and Policies approved by the Board of Supervisors.

B. The Council shall develop a set of consistent priorities, policies and standards to be applied to proposed development within the Gillespie Field area which shall take into account both the desirability of various types of development and the sequence of development. The Council shall implement the Master Plan in accordance with such consistent policies and standards.

C. The Council shall make available to the Airports Division such specialized expertise as it has in real estate, industrial development, industrial finance, and related areas, as may be required by said division. However, Council shall not have the authority to retain consultants to advise it as to such matters unless this Agreement is amended to give such authority to the Council.

D. The Council shall have the power to retain legal counsel and to sue and be sued in its own name.

E. The Council shall review and make recommendations to the Board of Supervisors on all expenditures relating to Gillespie Field and the County will appropriate funds necessary for the operation of Gillespie Field and the execution of the terms of this Agreement as the Board of Supervisors deems appropriate.

F. The Council shall, after receipt of staff recommendation, recommend approval or denial of proposals for leases for development of any portion of the Gillespie Field area.

G. The Council shall thereafter forward to the Board of Supervisors recommendations concerning potential leases of property on the field by private enterprise for Board approval only when the Council has determined that such potential lease is in strict conformance with the Master Plan as defined herein.

H. The Council shall make annual reports to the San Diego County Board of Supervisors and the El Cajon City Council concerning progress on development of the field.

I. The Council shall endeavor to cause the use of the commercial, industrial, and aviation-business related properties within the Gillespie Field area in a manner consistent with the Master Plan and the priorities established by the Council.

SECTION 5. Powers and Duties of the Airports Division.

A. The Airports Division of the San Diego County Department of Public Works shall be responsible for the day-to-day execution of the Master Plan for the Gillespie Field area.

B. The Airports Division shall assist the Council in the development of a set of priorities for implementation of the Master Plan.

C. The Airports Division shall be responsible on a day-to-day basis for the solicitation, negotiation, and implementation of all leases consistent with the Master Plan and the priorities established by the Council.

D. The Airports Division shall request the Council to provide for the retention of such technical experts in marketing and development as may be necessary and appropriate.

E. The Airports Division shall refer to the Council any proposals for development and potential leases with the endorsement as to its compliance with the Master Plan and existing Council priorities, policies and standards.

F. The Airports Division shall prepare and deliver to the Council recommendations concerning development of the field.

G. The Airports Division shall be responsible in all respects for operation of both the aviation and non-aviation activities at Gillespie Field, and enforce the provisions of all leases and related covenants.

H. The Airports Division shall report informally to the Council at its meetings, and prepare an annual report for the San Diego County Board of Supervisors and the El Cajon City Council.

SECTION 6. Disposition of Assets. Upon the termination of this Agreement, all property of Council shall be returned to the parties in proportion to the aggregate amount of contributions (moneys and property, not services) if any, made by City and County.

SECTION 7. Assistance to Council. City and County may in appropriate circumstances:

- A. make contributions from their treasuries for the purposes set forth herein,
- B. make advances of public funds to defray the cost of such purposes,
- C. use their personnel, equipment or property in lieu of other contributions or advances.

The provisions of Government Code Section 6513 are hereby incorporated into this Agreement.

SECTION 8. Funds and Accounts

The Treasurer shall receive, have the custody of and disburse funds of all of the accounts, funds and money of the Council from whatever source which shall be deposited to the credit of the Council. The Auditor shall assure that there be strict accountability of all funds and reporting of all receipts and disbursements in accordance with County procedures. The books and records of Council in the hands of the Auditor and Treasurer shall be open to inspection at all reasonable times by representatives of City and County.

A. Audit of Council. The Auditor will comply with the audit requirements set forth in California Government Code Section 6505 (b) and (c). To the extent an audit of the Council is required, all costs associated with the audit will be paid by the Council. In accordance with 6505 (f) the Council may request to replace the annual special audit with an audit covering a two-year period.

B. Fees for Services Provided. In accordance with 6505 (e), the County's Board of Supervisors shall determine charges to be made against the Council for the services of the Treasurer and Auditor."

SECTION 9. Immunities. All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, all pension, relief, disability workers' compensation, and other benefits which shall apply to the activity of officers, agents or employees of the City and County when performing their respective functions, shall apply to the activity of officers, agents or employees of the City and County when performing their respective functions, shall apply to them to the same degree and extent while engaged as members of the Board or otherwise as an officer, agent or other representatives of the Council while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

SECTION 10. Notices. Notices hereunder shall be sufficient if sent by regular mail, postage prepaid, to:

City: City Clerk
City of El Cajon
200 Civic Center Way
El Cajon, California 92020

County: Secretary - GFDC
Department of Public Works – Airports
1960 Joe Crosson Drive
El Cajon, California 92020

SECTION 11. Miscellaneous. The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to. Whenever in this Agreement any consent or approval is required the same shall not be unreasonably withheld. This Agreement is made in the State of California under the Constitution and laws of such State and is to be so construed.

SECTION 12. Severability. Should any part, term, portion or provision of this Agreement, be by the courts decided to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portion or provisions can be construed in substance to continue to constitute the agreement that the parties intended to enter into in the first instance.

SECTION 13. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto.

SECTION 14. Notice of Creation. A notice of the creation of the Council by this Agreement shall be filed with the Secretary of State pursuant to Section 6503.5 of the Government Code by the Agency.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, their official seals to be hereto affixed, as of the date first above written.

City of Santee
COUNCIL AGENDA STATEMENT

Item 11

MEETING DATE May 8, 2019

AGENDA ITEM NO.

ITEM TITLE **FOLLOW UP TO WORKSHOP ON COMPREHENSIVE MUNICIPAL CODE UPDATE AND DRAFT REVISIONS TO MUNICIPAL CODE**

DIRECTOR/DEPARTMENT City Attorney

SUMMARY

At the Municipal Code Update Workshop held on April 24, 2019, the City Council reviewed proposed revisions to the Santee Municipal Code and requested that our office provide specific language or example ordinances regarding the following five policy areas: (1) "Deemed Approved" regulations for alcoholic beverage sales establishments; (2) establishment of an independent special counsel to act as the enforcement authority for the City's Election Campaign Finance and Control Ordinance; (3) a prohibition on smoking in City parks; (4) regulation of shopping carts; and (5) clarification that on-site truck rental activities are allowed in the commercial zone when the fleet is stored off-site.

Each of these issues is discussed in the attached Staff Report, and sample ordinances and draft language are also attached.

FINANCIAL STATEMENT *mm* N/A

CITY ATTORNEY REVIEW N/A Completed

RECOMMENDATION *mm, for MB*
Review Staff Report and attachments, and provide direction regarding any desired revisions to the Santee Municipal Code.

ATTACHMENTS

1. Staff Report
2. El Cajon Deemed Approved Ordinance
3. Encinitas Deemed Approved Ordinance
4. Draft language establishing an independent election counsel to act as enforcement authority
5. Draft language regulating shopping carts

STAFF REPORT

FOLLOW UP TO WORKSHOP ON COMPREHENSIVE MUNICIPAL CODE UPDATE AND DRAFT REVISIONS TO MUNICIPAL CODE

SANTEE CITY COUNCIL MEETING OF MAY 8, 2019

A. INTRODUCTION

At the Municipal Code Update Workshop held on April 24, 2019, the City Council reviewed proposed revisions to the Santee Municipal Code and requested that our office provide specific language or example ordinances regarding the following five policy areas: (1) "Deemed Approved" regulations for alcoholic beverage sales establishments; (2) establishment of an independent special counsel to act as the enforcement authority for the City's Election Campaign Finance and Control Ordinance; (3) a prohibition on smoking in City parks; (4) the regulation of shopping carts; and (5) clarification that on-site truck rental activities are allowed in commercial zones when the fleet is stored off-site. Each of these issues is discussed below.

B. DEEMED APPROVED ORDINANCES

Attached are copies of the Deemed Approved ordinances adopted by El Cajon and Encinitas. Both ordinances are intended to help prevent the nuisance activities often associated with the public consumption of alcoholic beverages, but each city takes a different approach to regulation. The ordinances are summarized below.

El Cajon Ordinance

Subject to certain exceptions, this ordinance requires new alcohol beverage sales establishments to obtain a Conditional Use Permit ("CUP") before operating in the city. The ordinance differentiates between "on-sale" alcoholic beverage establishments (establishments that sell alcoholic beverages for consumption on the premises where sold) and "off-sale" beverage establishments (establishments that sell alcohol for consumption off the premises where sold, but excluding production manufacturers such as wineries, breweries, etc.). New off-sale establishments are subject to more stringent operational standards than new on-sale establishments. For example, new off-sale establishments are subject to alcohol sale limitations and public nuisance prevention measures. The specific regulations are summarized in the chart below.

Any permitted alcoholic beverage sales activity that existed on the effective date of the ordinance, and any activity that is exempt from the CUP requirement, is considered a "deemed approved" activity as long as it complies with the deemed approved performance standards set forth in the ordinance. The ordinance also sets forth grounds for the modification, revocation and termination of CUPs in the case of violations of the ordinance. If it is determined after a hearing that a deemed approved establishment has violated the ordinance, the City may subject the establishment to the more stringent standards that are imposed on new off-sale establishments.

Type of Alcoholic Beverage Establishment	Applicable Regulations
New off-sale establishment	<p>CUP required.</p> <p>Distance requirements: must be 600 feet from residentially zoned property, schools, parks, playgrounds, etc.</p> <p>Operational standards, including, but not limited to:</p> <ul style="list-style-type: none"> • That the activities do not result in adverse effects to health, peace or safety of persons residing or working in the area. • That the activities do not jeopardize or endanger the public health or safety of persons residing in or working in the surrounding area. • That the activities do not result in repeated nuisance activities within the premises or close proximity to the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, harassment of passersby, excessive loud noises, lewd conduct, or police detentions and arrests. • <u>Alcohol sale limitations</u>: no sales of wine with alcoholic content greater than 15%, unless in corked bottles and aged at least two years; no distilled spirits sold in containers of less than 375 ml., except pre-mixed cocktails; no beer, ale or malt liquor for sale in containers greater than 32 ounces, etc. • <u>Public nuisance prevention measures</u>: certain signage, littering, lighting requirements; employees must be required to discourage loiterers; no video games located in the establishment; no sale of cups in quantities less than usual and customary packaging; no sale of drug/tobacco paraphernalia, etc. <p>Specified findings regarding the effect on the neighborhood and the capacity for additional off-sale licenses in the census tract where the establishment will be located are required for approval of CUP.</p> <p>Conditions of approval of CUP, including but not limited to:</p> <ul style="list-style-type: none"> • The applicant must acquire an existing off-sale ABC license from an off-sale establishment located in an over-concentrated census tract in the city and transfer the

	<p>license to an approved location or otherwise extinguish such license.</p> <ul style="list-style-type: none"> • Security cameras may be required. • Security guards may be required.
<p>Modified off-sale establishment</p>	<p>CUP required.</p> <p>Subject to all the operational standards listed above (but not the distance requirements).</p>
<p>New on-sale establishments</p>	<p>CUP required.</p> <p>Distance requirements: 1,000 feet from an existing on-sale establishment and 600 feet from residentially zoned property, schools, parks, playgrounds, etc., subject to certain exceptions.</p> <p>Operational standards:</p> <ul style="list-style-type: none"> • That the activities do not result in adverse effects to health, peace or safety of persons residing or working in the area. • That the activities do not jeopardize or endanger the public health or safety of persons residing in or working in the surrounding area. • That the activities do not result in repeated nuisance activities within the premises or close proximity to the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, harassment of passersby, excessive loud noises, lewd conduct, or police detentions and arrests. • That the establishment complies with all local, state, and federal law and regulations. • That the establishment's upkeep and operating characteristics shall be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. <p>Specified findings regarding the establishment's effect on nearby neighborhoods are required for approval of CUP. If the establishment is located in a high-crime area it must adopt appropriate safeguards to prevent an increase in criminal activity in the area.</p>

<p>Modified on-sale establishments</p>	<p>CUP required.</p>
<p>Existing permitted or conditionally permitted off-sale establishments</p>	<p>Considered deemed approved.</p> <p>Deemed approved performance standards:</p> <ul style="list-style-type: none"> • That the establishment does not cause adverse effects to health, peace or safety of persons residing or working in the surrounding area. • That the establishment does not jeopardize or endanger the public health or safety of persons residing in or working in the surrounding area. • That the establishment does not allow repeated nuisance activities within the premises or close proximity to the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, harassment of passersby, and lewd conduct. • That the establishment complies with all local, state, and federal law and regulations. • That the establishment's upkeep and operating characteristics shall be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. • That a copy of these performance standards, any applicable ABC or city operating conditions, etc. be posted in a prominent place within the interior of the establishment. • That the owner and all employees of the establishment involved in the sale of alcoholic beverages must complete an approved "Responsible Beverage Sales" course within 60 days of hire. <p>Required to pay an annual regulatory fee.</p> <p>Deemed approved status is subject to suspension, revocation or termination. If after a hearing, the City determines that a violation of the requirements has occurred, the City may impose additional or amended conditions on the use, including but not limited to the conditions of approval or operational standards for new off-sale establishments.</p>

<p>General retail store, grocery store, or a pharmacy with at least 10,000 sq. ft. of gross floor space, and maximum of 10% gross floor area used for sale or display of alcoholic beverages.</p>	<p>No CUP required. Subject to deemed approved performance standards (same as above) and annual regulatory fee.</p>
<p>Alcoholic beverage production manufacturer with an accessory tasting room</p>	<p>No CUP required. Subject to deemed approved performance standards (same as above) and annual regulatory fee.</p>

Encinitas Ordinance

This ordinance is much shorter than the El Cajon ordinance, and does not require new establishments to obtain a CUP. The Encinitas ordinance also does not differentiate between different types of alcoholic beverage establishments, and does not regulate the size of alcohol containers, signage, distance from other establishments, etc. Instead, the ordinance applies deemed approved performance standards to all alcoholic beverage serving establishments lawfully operating in the city, whether in existence at the time the ordinance became effective or established thereafter. The deemed approved performance standards adopted by Encinitas are nearly identical to the deemed approved performance standards adopted by El Cajon.

<p>Type of Alcoholic Beverage Establishment</p>	<p>Applicable Regulations</p>
<p>All lawfully operating establishments</p>	<p>Deemed approved performance standards:</p> <ul style="list-style-type: none"> • That the activities do not result in adverse effects to health, peace or safety of persons residing or working in the surrounding area. • That the activities do not result in jeopardizing or endangering the public health or safety of persons residing in or working in the surrounding area. • That the activities do not result in repeated nuisance activities within the premises or close proximity to the premises, including but not limited to, disturbance of the peace, illegal drug activity, public drunkenness, harassment of passersby, excessive loud noises, lewd conduct, or police detentions and arrests. • That the establishment complies with all local, state, and federal law and regulations.

	<ul style="list-style-type: none">• That the establishment's upkeep and operating characteristics are compatible with and do not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.• That personnel (such as managers or servers) do not sell, serve or deliver to a patron any alcoholic beverage unless he or she has completed the Responsible Beverage Service and Sales Training (RBSS) conducted by the ABC or by a certified training provider. <p>Deemed approved status is only maintained if the activities of the establishment comply with all of these performance standards.</p>
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It is requested that Council provide direction as to whether to add a Deemed Approved ordinance to the Municipal Code, and if so, whether Council prefers to adopt the approach taken by El Cajon (different standards for different types of establishments) or the approach taken by Encinitas (one set of standards for all establishments).

C. ENFORCEMENT AUTHORITY FOR ELECTION CAMPAIGN FINANCE AND CONTROL ORDINANCE

At the Workshop, Council requested that we provide draft language to establish an independent special counsel to act as the enforcement authority for the City's Election Campaign Finance and Control Ordinance. The enforcement authority would review complaints of violations of the City's campaign contribution regulations, and prosecute violations. The Cities of Poway and San Marcos have each adopted ordinances that provide for the appointment of an independent enforcement authority, which are briefly summarized below.

The San Marcos ordinance provides that when the city receives a complaint alleging a violation of the campaign contribution regulations, the City Attorney, in consultation with the City Manager, appoints a qualified and independent enforcement authority who reviews and investigates the complaint. If the enforcement authority determines there is good reason to believe that a violation has occurred, the enforcement authority may commence such administrative, civil or criminal legal action as it deems necessary. Activity by the enforcement authority in accordance with the ordinance is not subject to review or control by the City Council or City Attorney.

The Poway ordinance provides that the enforcement authority may be the District Attorney, the Attorney General, another qualified and independent special counsel, or a combination of the foregoing, as appointed by the City Attorney. At least 90 days prior to a City election, the enforcement authority is appointed for that election by the City

Attorney. Should the appointment of additional enforcement authorities become necessary or appropriate, the City Attorney appoints such additional enforcement authorities as may be required. If the enforcement authority determines that there is reason to believe a violation has occurred, it conducts an investigation and may commence such administrative, civil or criminal legal action as it deems necessary. No enforcement or prosecution or action of the enforcement authority pursuant to the ordinance is subject to the review or control of the City Council or the City Attorney.

We recommend that the City add language to the Municipal Code to establish an independent special counsel to be appointed by the City Attorney no later than 120 days before a City election to act as the enforcement authority for the City's Election Campaign Finance and Control Ordinance. We suggest that appointment occur by this 120-day mark to ensure that the enforcement authority has been appointed before the first date on which candidates may file their nomination papers (113 days before the election). Draft language to establish an enforcement authority is attached to the Staff Report.

D. SMOKING IN CITY PARKS

At the Workshop, Council requested that we provide draft language to prohibit smoking in City parks. Section 7.30.030 of the updated Municipal Code prohibits smoking in specified locations. To prohibit smoking in City Parks, we recommend that Section 7.30.030 be revised to add City parks as a location where smoking is prohibited, as follows (additional language underlined):

7.30.030 Prohibitions.

No person is permitted to smoke on a public trail within the City.

No person is permitted to smoke within a City park.

The provisions of this section do not apply in any circumstances where federal or state law regulates smoking if the federal or state law preempts local regulations, or if the federal or state law is more restrictive.

The Director of Community Services is authorized to install and maintain permanent "No Smoking" signs at all public trails and City parks to aid in enforcement of this section.

E. SHOPPING CART REGULATIONS

At the Workshop, Council requested that our office present options for regulating shopping carts that are removed from the owner's premises and abandoned in the City. California's Legislature has declared the retrieval of shopping carts by local government agencies to be a matter of statewide concern and has established the basic framework for the City's regulation of abandoned shopping carts. (Bus. & Prof. Code, § 22435.7

(“Section 22435.7”).) Within this framework, cities in California have adopted ordinances and entered into agreements for the regulation, collection, return and destruction of shopping carts.

Section 22435.7 provides two methods for addressing shopping carts which are located outside the premises or parking area of a retail establishment and which have a proper notice. The first method requires the City to provide notice to the owner before impounding a cart and has a higher likelihood that the City can recover at least a portion of its costs, because if carts are not retrieved within three days, the City may recover its actual costs and collect a fine, up to \$50, for each impound occurrence after three occurrences in a specified six month period. The second method allows the City to impound a cart before providing notice to the owner but creates a lower likelihood that the City can recover its costs, because if the cart is reclaimed within three business days, the impound does not count as an occurrence for the purpose of imposing fees and collecting costs.

Cities favoring the impound-before-notice method have noticed that because the city cannot collect its costs for impounding a cart if the cart is retrieved within three business days, the city tends to collect carts at city-expense without requiring owners to take preventive measures.

Some cities have found that the required three day waiting period to remove an abandoned cart from public or private property is too long. Following state law also means that city employees have to tag abandoned carts, notify the owner, and return three days later before arranging to have the cart removed. As a result, many cities have adopted requirements to ensure that carts are contained on retail sites, or that the business owner is responsible for retrieving carts removed from the premises within 12 or 24 hours.

Requiring retailers to implement cart containment programs can be an effective way to prevent unauthorized removal of shopping carts from a retail facility. These programs generally include the following components:

- A. Signage indicating that unauthorized removal of a shopping cart is illegal
- B. Physical measures to prevent unauthorized removal of shopping carts, which may include the following options:
 - Disabling devices that prevent the cart from rolling beyond the parking area
 - Assigning security guards to the parking area to ensure carts are not removed
 - Restricting use of carts to the interior of the store; carts can only be removed from the store by an employee
 - Installing physical barriers at the perimeter of the parking lot, such as bollards, that prevent removal of carts

- Imposing security deposits or rental fees that must be paid to obtain a cart and are returned when the cart is returned
 - Providing a shuttle to take customers home with their purchases
- C. A plan to secure carts when the business is closed
- D. A plan to educate employees on the cart containment program
- E. A cart retrieval program

The City of El Cajon has adopted an Abandoned Shopping Cart ordinance that requires retailers to implement a cart containment plan, and upon request, submit the plan to the City for review and approval. The ordinance also authorizes the City to impound abandoned carts pursuant to Section 22435.7. Santee could include a similar ordinance in Title 7 of the Municipal Code. Draft language regulating shopping carts is attached, and it includes the following general regulations:

7.15.050 General regulations.

A. All shopping cart owners must implement a shopping cart management plan to effectively manage the control of their shopping carts so that the off-site accumulation of carts does not become a public nuisance.

B. Upon request by the Director, shopping cart owners must submit a plan to the Director for review outlining how the owner is or proposes to manage shopping carts so that they are not a public nuisance. Information requested may include a description of the management control system, a monthly shopping cart inventory, monthly loss and recovery data specific to that business location, and such other information deemed reasonable by the director to determine the adequacy of the shopping cart containment system or control method.

C. If the Director determines that the shopping cart management system being used by a shopping cart owner is creating a public nuisance, and therefore not effective for that store premise, the director may require a shopping cart owner to utilize an alternate, more effective shopping cart management system. Options that may be considered include, but are not limited to: (1) a shopping cart wheel lock system; (2) posting a guard in the parking lot to stop the removal of shopping carts during business hours; (3) requiring an employee to accompany and immediately retrieve every

shopping cart that is removed from a store upon placement of purchases into a customer's vehicle; (4) establishment of an effective off-site shopping cart retrieval system; (5) requiring shopping carts to be secured during nonbusiness hours, and any combination thereof. Approval of an alternate system does not relieve the shopping cart owner of the responsibility to effectively manage the control of their shopping carts so that they are not a public nuisance. Any decision of the Director may be appealed to the City Council.

D. All shopping cart owners shall post a sign not less than eighteen (18) inches in width and twenty-four (24) inches in height with block lettering not less than one-half (1/2) inch in width and two (2) inches in height in a conspicuous place on the building within two (2) feet of all customer entrances and exits stating, at a minimum, the following:

REMOVAL OF SHOPPING CARTS FROM THE PREMISES
IS PROHIBITED BY LAW.

B & P Code Section 22435.2

F. ON-SITE TRUCK RENTAL ACTIVITIES

At the Workshop, Council directed our office to work with staff to provide additional clarity as to when a truck rental business is permitted to operate without a CUP or Minor CUP.

The City has three commercial zone districts (General Commercial (GC), Neighborhood Commercial (NC), and Office Professional (OP)). Currently, truck rental businesses are conditionally allowed in the GC district and prohibited in the NC and OP districts. We propose adding language to the Municipal Code to clarify that truck rental businesses are permitted in all three commercial zone districts when the fleet is stored off-site rather than on-site. The proposed revisions would amend Section 13.12.030(b)(10)(b) as indicated on the chart below (additional language underlined>:

	OP	NC	GC
9. Automotive services including automobiles, trucks, motorcycles, boats, trailers, mopeds, recreational vehicles or other similar vehicles as determined by the Director.			
(a) Sales	—	—	C

(b) Rentals			
(i) <u>With on-site vehicle storage</u>	—	<u>MC</u>	<u>MC</u>
(ii) <u>No on-site vehicle storage</u>	<u>P</u>	<u>P</u>	<u>P</u>
(c) Repairs including painting, body work and services	—	MC	P

G. RECOMMENDATION

That Council review the sample ordinances and proposed language, and provide direction as to any desired changes or additions to the Municipal Code.

H. NEXT STEPS

If Council desires to make any changes or additions to the Municipal Code, our office will incorporate those changes into the Municipal Code Update, which will be presented for first reading at the May 22, 2019 Council meeting.

El Cajon Municipal Code

Title 17 ZONING

Chapter 17.210 ALCOHOL SALES AND DEEMED APPROVED ALCOHOL SALES REGULATIONS

17.210.010 Short title.

This chapter shall be known as the “Alcohol Sales and Deemed Approved Alcohol Sales Regulations Ordinance.” (Ord. 4994 § 3, 2013)

17.210.020 Purpose.

The purpose of this chapter is to list regulations pertaining to the establishment and conduct of alcohol sales in the city under simplified headings.

This chapter requires land use permits for newly established alcoholic beverage sales activities, confers deemed approved status for all existing permitted, conditionally permitted and legal nonconforming off-sale alcoholic beverage sales activities, provides standards for the continued operation of alcoholic beverage sales establishments, sets forth grounds for the modification, revocation and termination of conditional use permits and deemed approved status for establishments violating this chapter, and provides a hearing process to review violations of the standards contained in this chapter in order to protect the general health, safety, and welfare of the residents of the city of El Cajon and to prevent nuisance activities where alcoholic beverage sales occur.

Specific purposes for enacting this chapter are as follows:

- A. To protect residential, commercial, industrial and civic areas from the harmful effects attributable to the sale of alcoholic beverages and minimize the adverse impacts of nonconforming and incompatible uses;
- B. To provide opportunities for alcoholic beverage sales establishments to operate in a mutually beneficial relationship to each other and to other commercial and civic services;
- C. To provide mechanisms to address problems associated with the public consumption of alcoholic beverages such as litter, loitering, graffiti, unruly behavior, violence, vandalism, and escalated noise levels;
- D. To provide that alcoholic beverage sales establishments are not to become the source of undue public nuisances in the community;

E. To provide for properly maintained alcoholic beverage sales establishments so that the secondary effects of negative impacts generated by these activities on the surrounding environment are mitigated;

F. To monitor deemed approved establishments to ensure they do not substantially change in mode or character of operation; and

G. To promote a healthy and safe business environment in the city of El Cajon through appropriate and consistent land use regulations and to encourage the establishment of businesses that will benefit both the local economy and residents while not placing an undue strain on city resources or surrounding businesses.

This chapter alone does not allow or permit alcoholic beverage sales activities, but only applies to these activities where otherwise allowed or permitted within an involved applicable zoning district. The provisions of this ordinance are intended to complement the state of California alcohol-related laws. The city does not intend to replace or usurp any powers vested in the California Department of Alcoholic Beverage Control. (Ord. 4994 § 3, 2013)

17.210.030 Applicability.

A. The provisions of this chapter shall apply to the extent permissible under other laws to all alcoholic beverage sales establishments, as defined in Section 17.210.040, located in the city of El Cajon that sell alcoholic beverages for on- or off-site consumption.

B. Whenever any provision of the alcohol sales and deemed approved alcoholic beverage sales regulations, and any other provision of law, whether set forth in these regulations, in an existing conditional use permit, or in any other law, ordinance, or regulations of any kind, imposes overlapping or contradictory regulations, or contain restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the alcohol sales and deemed approved alcohol sales regulations. (Ord. 4994 § 3, 2013)

17.210.040 Definitions.

The meaning and construction of these words and phrases, as set forth below, shall apply throughout, except where the context clearly indicates a different meaning or construction.

A. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits, wine, or beer, that contains one-half of one percent or more of alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed or combined with other substances, the sale of which requires an ABC license.

B. “Alcoholic beverage production” means manufacturing of alcoholic beverages. A brewery, micro-brewery, winery or distillery are each examples of alcoholic beverage production manufacturers.

C. “Alcoholic beverage sales activity” means the retail sale of alcoholic beverages for on-site or off-site consumption.

D. “Alcoholic beverage sales establishment” means an establishment where an alcoholic beverage sales activity occurs. Alcoholic beverage sales establishments include but are not limited to the following recognized types of establishments: liquor stores, beer and wine stores, convenience markets, markets, neighborhood specialty food markets, retail sales establishments, wine shops, service stations, taverns, clubs, cocktail lounges, ballrooms, cabarets, dance bars, piano bars, billiard or game parlors, bowling alleys, nightclubs, dance halls, cafés, bars, restaurants with bars, full-service restaurants, fast food establishments, and breweries. For purposes of this chapter, an “alcoholic beverage sales establishment” also includes a general retail store, a grocery store and a retail pharmacy that devotes any percentage of its gross floor area to the sale and display of alcoholic beverages.

E. “California Department of Alcoholic Beverage Control” or “ABC” refers to the department of the state of California empowered to act pursuant to Article 20, section 22, of the California Constitution and authorized to administer the provisions of the Alcoholic Beverage Control Act.

F. “Conditions of approval” means all requirements that must be carried out by the owners engaged in the activity of: (1) a new alcoholic beverage sales activity to exercise a land use permit; or (2) an existing permitted, conditionally permitted, or legal nonconforming alcoholic beverage sales activity in order to comply with deemed approved performance standards and to retain its deemed approved status.

G. “Deemed approved activity” means any existing permitted or conditionally permitted alcoholic beverage sales activity (as defined in subsection (P), below), or any legal nonconforming alcoholic beverage sales commercial activity (as defined in subsection (J), below). Such activity shall be considered a deemed approved activity effective November 1, 2013 as long as it complies with the deemed approved performance standards set forth in Section 17.210.230.

H. “Deemed approved status” means the permitted use of land for a deemed approved activity. Deemed approved status replaces permitted and conditionally permitted status (to the extent the establishment is not already required to meet all of the operational standards established in this chapter), and legal non-conforming status for off-sale alcohol establishments with respect to alcoholic beverage sales commercial activity and remains in effect as long as it complies with the deemed approved provisions and performance standards.

I. “Enforcement officer” means the city manager or designee, and chief of police or designee.

J. “Hip flask” means a small flask for potable liquids of a kind designed so that it may be carried in a hip pocket.

K. “Illegal activity” means an activity, which has been finally determined to be in noncompliance with local, state or federal laws, the conditions of any applicable permits, or the deemed approved provisions and performance standards in this chapter. Such an activity may

lose its deemed approved status, and if it does it shall no longer be considered a deemed approved activity.

L. “Legal nonconforming alcoholic beverage sales commercial activity” or “legal nonconforming activity” means an off-sale alcoholic beverage sales commercial activity which was a nonconforming use pursuant to Chapter 17.120, and for which a valid state of California Alcoholic Beverage Control license had been issued and used in the exercise of the rights and privileges conferred by the license at a time immediately prior to November 1, 2013. A “legal nonconforming alcoholic beverage sales commercial activity” or “legal nonconforming activity” includes all beverage sales activities of existing off-sale alcoholic beverage establishments that are not in conformance with the regulations applicable to new off-sale alcoholic beverage establishments contained in this chapter, regardless of whether such activities were allowed as part of a conditional use permit granted prior to November 1, 2013. Such an activity shall be considered a deemed approved activity and shall no longer be considered a legal nonconforming activity.

M. “Modify” or “modified” as used in Sections 17.210.070, 17.210.100 and 17.210.130 of this chapter means the expansion or increase in intensity or substantial change of a use, as these terms are used in Chapter 17.120 of this title.

N. “Off-sale alcoholic beverage establishment” means an establishment that conducts retail sales of alcoholic beverages for consumption off the premises where sold. For purposes of this chapter, an “off-sale alcoholic beverage establishment” does not include a lawfully established alcohol beverage production manufacturer such as a winery, brewery or micro-brewery that sells alcohol for off-site consumption.

O. “On-sale alcoholic beverage establishment” means an establishment that conducts retail sales of alcoholic beverages for consumption on the premises where sold.

P. “Operational standards” means regulations for the business practice activities and land use for locations with a conditional use permit issued in conformance with the regulations in this chapter on or after November 1, 2013 or those further requirements imposed on off-sale alcoholic beverage establishments to achieve the purposes of this chapter. Operational standards constitute requirements which must be complied with by an establishment in order to maintain its conditional use permit or deemed approved status.

Q. “Performance standards” means regulations for the business practice activities and land use for locations with deemed approved status, in whole or in part, or those further requirements imposed to achieve the purposes of this chapter. Performance standards constitute requirements which must be complied with by an off-sale alcoholic beverage establishment in order to retain its deemed approved status.

R. “Permitted or conditionally permitted alcoholic beverage sales commercial activity” or “permitted or conditionally permitted activity” means an off-sale alcoholic beverage sales commercial activity which is a permitted or conditionally permitted activity pursuant to Chapter 17.210 and other applicable provisions of the El Cajon Municipal Code prior to November 1,

2013, and for which a valid state of California Alcoholic Beverage Control license has been issued and was used in the exercise of the rights and privileges conferred by the license at a time immediately prior to November 1, 2013. A “permitted or conditionally permitted alcoholic beverage sales commercial activity” or “permitted or conditionally permitted activity” includes all alcoholic beverage sales activities of any existing off-sale alcoholic beverage establishment that are not in conformance with the regulations applicable to new off-sale alcoholic beverage establishments contained in this chapter, regardless of whether such activities were allowed as part of a conditional use permit granted by the planning commission or otherwise allowed as permissible activities associated with the establishment’s permitted use, prior to November 1, 2013. To the extent that the activity is not in conformance with this chapter, it shall be considered a deemed approved activity.

S. “Premises” means the actual space in a building devoted to alcoholic beverage sales.

T. “Redeveloped” means the demolition of an existing off-sale alcoholic beverage establishment (whether conducting permitted or conditionally permitted activities or deemed approved activities) followed by the immediate reconstruction and operation of a replacement off-sale alcoholic beverage establishment.

U. “Restaurant” means a bona fide eating place whose predominant function is the service of food and where on-sale of alcoholic beverages is incidental or secondary. (Ord. 5033 § 38, 2015)

17.210.050 Public hearing by planning commission.

The planning commission may conduct public hearings and make determinations on whether alcoholic beverage sale establishments are in compliance with conditions of approval, operational standards, or deemed approved performance standards prescribed in these regulations, and may modify, suspend or revoke an establishment’s conditional use permit or deemed approved status in order to obtain the compliance of the particular establishment with the provisions of this chapter. This section is not intended to restrict the powers and duties otherwise pertaining to other city officers or bodies in the field of monitoring and ensuring the harmony of alcoholic beverage sale activities in the city. The planning commission shall have the powers and duties assigned to them by the El Cajon Municipal Code and by this chapter. (Ord. 4994 § 3, 2013)

17.210.060 Inspection and right of entry.

The sale of alcoholic beverages is a closely regulated industry. The officials responsible for enforcement of the El Cajon Municipal Code or other ordinances of the city or their duly authorized representatives may enter on any site or into any structure open to the public for the purpose of investigation provided they shall do so in a reasonable manner whenever they have cause to suspect a violation of any provision of this ordinance or whenever necessary to the investigation of violations to the conditions of approval, operational standards, or deemed approved performance standards prescribed in these regulations. If an owner, occupant or agent refuses permission to enter, inspect or investigate, premises which are not open to the public, the officials or their representatives may seek an inspection warrant under the provisions of

California Code of Civil Procedure section 1822.50 et seq. All such inspections shall be conducted in compliance with the Fourth Amendment to the United States Constitution. (Ord. 4994 § 3, 2013)

17.210.070 New, modified, or redeveloped off-sale alcohol establishment standards.

Except as otherwise provided in this chapter, no person shall establish a new off-sale alcoholic beverage establishment, nor shall any person modify or redevelop an existing off-sale alcoholic beverage establishment, in violation of Section 17.120.030 of this title or an applicable conditional use permit without first obtaining a conditional use permit in the manner provided by this chapter. Furthermore, the standards contained in Sections 17.210.080 through 17.210.120 require new off-sale alcoholic beverage establishments, as defined in this chapter, to secure a conditional use permit in the manner provided in this chapter in order to lawfully engage in the sale of alcoholic beverages from premises located in the city of El Cajon; and require such establishments to manage such premises in accordance with the requirements of such permit, including operational standards and any conditions of approval incorporated as conditions of the permit. (Ord. 4994 § 3, 2013)

17.210.080 Conditional use permit required.

A. Except as provided in subsection B, below, all alcoholic beverage establishments to which this chapter is applicable shall obtain a conditional use permit pursuant to Chapter 17.50 of this title and satisfy all pertinent conditions prior to engaging in any alcoholic beverage sales activity.

B. Unless otherwise required by this chapter, a conditional use permit shall not be required of an alcoholic beverage establishment consisting of a general retail store, a grocery store, or a retail pharmacy, which has (1) at least 10,000 square feet of gross floor space, and (2) a maximum of 10 percent of the gross floor area devoted to the sales and display of alcoholic beverages. A conditional use permit shall not be required of an alcoholic beverage production manufacturer with an accessory tasting room. An alcoholic beverage establishment exempt from the requirement of a conditional use permit pursuant to this subsection is deemed to have been approved to conduct alcoholic beverage sales commercial activity subject to the terms and conditions of a conditional use permit required under this chapter provided, however, that if it is found to be in violation of this chapter such an exempt establishment may lose its exemption and be required to obtain a conditional use permit as set forth in Section 17.210.260. (Ord. 5018 § 96, 2015; Ord. 4994 § 3, 2013)

17.210.090 Distance requirements—applicable to new off-sale alcoholic beverage sales activities.

A. No new off-sale alcoholic beverage establishment shall be located within 600 feet of residentially zoned property, public or private schools, health care facilities, religious facilities, and parks or playgrounds, except:

1. A general retail store, or grocery store, or retail pharmacy with greater than 10,000 square feet of gross floor area and a maximum of 10 percent of the gross floor area devoted to the sale and display of off-sale alcoholic beverages; or

2. A convenience market with a maximum of 10 percent of the retail display area devoted to the sale and display of alcoholic beverages, limited to off-sale beer and wine, non-fortified products only. Retail display area includes all floor area within the establishment that is accessible and within view of customers, including aisles, and floor area occupied by shelves, counters, and refrigerator coolers.

B. For purposes of this section, distances shall be measured between the closest property lines of the affected locations. (Ord. 4994 § 3, 2013)

17.210.100 Operational standards—applicable to new, modified, or redeveloped off-sale alcoholic beverage sales activities.

A. All new, modified, or redeveloped off-sale alcoholic beverage sales activities shall be designed, constructed, and operated to conform to all of the following operational standards:

1. That it does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area.

2. That it does not jeopardize or endanger the public health or safety of persons residing or working in the surrounding area.

3. That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.

4. That it complies with all provisions of local, state or federal laws, regulations or orders, including but not limited to those of the ABC, California Business and Professions Code sections 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual city business license fees.

5. That its upkeep and operating characteristics are compatible with, and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.

6. That it complies with the following alcohol sale limitations:

- a. No wine shall be displayed, sold or given away in containers of less than 750 milliliters, except multipack containers of wine, and multipack wine coolers containing no more than six percent alcohol by volume.
 - b. No wine shall be displayed, sold or given away with an alcoholic content greater than 15 percent by volume unless in corked bottles and aged at least two years.
 - c. No distilled spirits shall be displayed, sold or given away in containers of less than 375 milliliters, including but not limited to, airline bottles, except pre-mixed cocktails.
 - d. Notwithstanding subsection (c) above, no distilled spirits shall be displayed, sold or distributed in 375 milliliters hip flask containers.
 - e. No beer, ale or malt liquor shall be offered for sale in a container with a volume greater than 32 ounces. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of two or more gallons, which are clearly designed to dispense multiple servings.
 - f. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
 - g. No display, sale or distribution of beer or wine, wine coolers or similar alcoholic beverages shall be made from an ice tub, barrel or similar container.
 - h. All display of alcoholic beverages shall be no closer than five feet from the store entrance.
7. That it complies with the following public nuisance prevention measures:
- a. Lighting: Exterior areas of the premises and adjacent parking lots shall be provided with sufficient lighting in a manner that provides adequate illumination for alcohol establishment patrons while not spilling onto surrounding residential and commercial properties. A photometric study may be required to demonstrate compliance.
 - b. Litter: Adequate litter receptacles shall be provided on site and in the building. The premises shall be kept free of the accumulation of litter and shall be removed no less frequently than once each day the business is open.
 - c. Loitering: The following measures may be required:
 - i. No fixtures or furnishings that encourage loitering and nuisance behavior are permitted on the premises. This includes, but is not limited to chairs, seats, stools, benches, tables, crates, etc.
 - ii. The establishment's operators or employees shall be required to discourage loiterers and to ask persons loitering longer than fifteen minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws if persons requested to leave fail to do so.

- iii. No video or other electronic games shall be located in an off-sale alcoholic beverage establishment.
- iv. No pay phones are permitted outside of the off-sale establishment.
- d. Cups: The sale or distribution to the customer of paper or plastic cups in quantities less than their usual and customary packaging is prohibited.
- e. Signage: There shall be no exterior advertising of alcoholic products, or tobacco and paraphernalia or similarly controlled products as defined in Section 8.33.010 of this Municipal Code.
- f. Signs: The following signs shall be required to be prominently posted in a readily visible manner on an interior wall or fixture, and not on windows, in English, Spanish, Arabic and the predominant language of the patrons:
 - i. "California State Law prohibits the sale of alcoholic beverages to persons younger than 21 years of age."
 - ii. "No Loitering or Public Drinking."
 - iii. "It is illegal to possess an open container of alcohol in the vicinity of this establishment."
- g. Presentation of Documents: A copy of the conditions of approval and the California Department of Alcoholic Beverage Control license shall be required to be kept on the premises and presented to any enforcement officer or authorized state or county official upon request.
- h. Mitigating Alcohol Related Problems: The establishment shall be required to operate in a manner appropriate with mitigating alcohol related problems that negatively impact those individuals living or working in the neighborhood including but not limited to sales to minors, the congregation of individuals, violence on or near the premises, drunkenness, public urination, solicitation, drug-dealing, drug use, loud noise and litter.
- i. Drug Paraphernalia: An off-sale alcohol establishment shall be prohibited from selling drug/tobacco paraphernalia products as defined in Health and Safety Code sections 11014.5 and 11364.5. "Drug paraphernalia" means all equipment products and materials of any kind that are used intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the California Uniform Controlled Substances Act commencing with California Health and Safety Code section 11000.

j. Prohibited Vegetation: Exterior vegetation shall not be planted or maintained that could be used as a hiding place for persons on the premises. Exterior vegetation may be planted and maintained in a manner that minimizes its use as a hiding place.

k. Window Obstructions: To ensure a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance, no more than 15% of windows and entry doors shall be blocked by signs, vending machines, shelves, racks, storage, etc.

l. Training: Each off-sale operator and their employees shall complete the Responsible Beverage Service (RBS) Training component. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board or other certifying/licensing body designated by the state of California. Proof of completion shall be submitted to the El Cajon police department.

m. Posting of Documents: A copy of these operational standards, any applicable ABC or city operating conditions, and any training requirements shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment.

B. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit. (Ord. 5033 §§ 39, 40, 2015; Ord. 5012 § 5, 2014)

17.210.110 Required findings—new off-sale alcoholic beverage sales activities.

In addition to the findings listed in Section 17.50.060, the planning commission shall approve issuance of a conditional use permit to allow a new off-sale alcoholic beverage sales activity upon making the following findings:

A. The proposed establishment meets the locational requirements of Section 17.210.090.

B. The proposed alcoholic beverage sales activity will not aggravate existing problems in the neighborhood created by the sale of alcohol such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering.

C. The proposed establishment will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to residential buildings, schools, parks, playgrounds or recreational areas, nonprofit youth facilities, places of worship, hospitals, alcohol or other drug abuse recovery or treatment facilities, county social service offices, or other alcoholic beverages sales activity establishments.

D. The proposed establishment is located in a census tract with capacity for additional off-sale licenses, as defined by the California Department of Alcohol Beverage Control, with low to average crime rates, as defined by the police department annually, subject to the condition that an additional off-sale establishment will not be contradictory to a moratorium. (Ord. 4994 § 3, 2013)

17.210.120 Conditions of approval—new off-sale alcoholic beverage sales activities.

A. In order to make required findings the applicant must acquire an existing off-sale license issued by the ABC from an off-sale alcohol sales establishment located in an over-concentrated census tract in the city of El Cajon and transfer the license to an approved location or otherwise extinguish such license.

B. Conditions of approval that may be imposed as necessary to make required findings include but are not limited to the following:

1. Program: A “complaint response community relations” program adopted and maintained by the establishment conducting the alcoholic beverage sales activity may be required. The program may include the following:

a. Posting at the entry of the establishment providing the telephone number for the watch commander of the police department to any requesting individual.

b. Coordinating efforts with the police department to monitor community complaints about the establishment activities.

c. Having a representative of the establishment meet with neighbors or the applicable neighborhood association on a regular basis and at their request attempt to resolve any neighborhood complaints regarding the establishment.

2. Hours of Operation: In an off-sale alcohol establishment, the sale of alcoholic beverages may be restricted to certain hours of each day of the week unless limited further by the State of California Department of Alcoholic Beverage Control.

3. Security Cameras: At least two high definition 24-hour time lapse security cameras may be required to be installed and properly maintained on the exterior of the building at locations recommended by the police department capable of color recording and storing a minimum of 30 days of continuous video. All criminal and suspicious activities recorded on this surveillance equipment must be reported to local law enforcement. To the extent allowed by law, the establishment operators may be required to provide any tapes or other recording media from the security cameras to the police department.

4. Security Guards: An establishment may be required to retain a specified number of security guards. The number of security guards shall vary based upon the specific facts and circumstances of each establishment site and operation. All security guards shall have all required state and city permits and licenses. (Ord. 4994 § 3, 2013)

17.210.130 New and modified on-sale alcohol establishment standards.

Except as otherwise provided in this chapter, no person shall establish a new on-sale alcoholic beverage establishment or modify an existing on-sale alcoholic beverage establishment in

violation of Section 17.120.030 of this title or an applicable conditional use permit without first obtaining a conditional use permit in the manner provided by this chapter. Furthermore, the standards contained in Sections 17.210.140 through 17.210.160 require on-sale alcoholic beverage establishments to secure a conditional use permit in the manner provided in this chapter in order to lawfully engage in the sale of alcoholic beverages from premises located in the city of El Cajon; and require such establishments to manage such premises in accordance with the requirements of such permit, including operational standards and any conditions of approval incorporated as conditions of the permit. (Ord. 4994 § 3, 2013)

17.210.140 Distance requirements—applicable to new on-sale alcoholic beverage establishments.

A. No new on-sale alcoholic beverage establishment shall be located within 1,000 feet of an existing on-sale alcoholic beverage establishment and/or within 600 feet of residentially zoned property, public or private schools, health care facilities, religious facilities, parks or playgrounds, and off-sale alcoholic beverage establishments, except:

1. A restaurant with an ancillary bar with less total square footage than the restaurant eating area; or
2. On-sale alcoholic beverage establishment with alcohol sales secondary and incidental to an approved, complementary, principal use within the boundaries of Specific Plan No. 182; or
3. An alcoholic beverage manufacturer such as a craft brewery with an ancillary tasting room or craft brewery with a full service restaurant.

B. For purposes of this section, distances shall be measured between the closest property lines of the affected locations.

C. For the purposes of this section, “secondary and incidental,” shall mean that the sales of alcoholic beverage shall be limited to not more than 25 percent of the gross annual retail receipts generated by the use on the site, which shall be calculated on a quarterly basis, for the prior 12-month period ending on the last day of the then concluding quarter of year, and shall further mean that sales of alcoholic beverages are not promoted or advertised in any signs, or the name of the business establishment.

D. For the purposes of this section, “principal use,” may include, but is not limited to, live entertainment, participatory sporting activities, museums, theaters, performing arts center owned by a public agency, hotels, or other, similar uses approved by the city council, so long as the location of the sales of alcoholic beverages occurs on the same premises as the principal use, and the owner of the principal use is the owner of the liquor license. (Ord. 5018 § 98, 2015; Ord. 4994 § 3, 2013)

17.210.150 Operational standards—applicable to new on-sale alcoholic beverage sales activities.

- A. That it does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
- B. That it does not jeopardize or endanger the public health or safety of persons residing or working in the surrounding area.
- C. That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.
- D. That it complies with all provisions of local, state or federal laws, regulations or orders, including but not limited to those of the ABC, California Business and Professions Code §§ 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual city business license fees.
- E. That its upkeep and operating characteristics are compatible with, and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. (Ord. 4994 § 3, 2013)

17.210.160 Required findings—new on-sale alcoholic beverage sales activities.

In addition to the findings listed in Section 17.50.060, the planning commission shall approve issuance of a conditional use permit to allow a new on-sale alcoholic beverage sales activity upon making the following findings:

- A. The proposed alcoholic beverage sales activity will not exacerbate existing problems in the neighborhood created by the sale of alcohol such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering.
- B. The proposed alcoholic beverage sales establishment will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to residential buildings, schools, parks, playgrounds or recreational areas, nonprofit youth facilities, places of worship, hospitals, alcohol or other drug abuse recovery or treatment facilities, county social service offices, or other alcoholic beverages sales activity establishments.
- C. The proposed alcoholic beverage sales establishment is not located in what has been determined to be a high-crime area or where a disproportionate number of police service calls occur. In the alternative, if the proposed alcoholic beverage sales establishment is proposed to be

located in a high-crime area or where a disproportionate number of police service calls occur, the establishment has or will adopt appropriate safeguards, to be set forth in conditions of approval, reasonably intended to prevent any increase in criminal activities and calls for service. (Ord. 4994 § 3, 2013)

17.210.170 Grounds for conditional use permit suspension, revocation or termination.

A. In addition to the grounds for revocation or modification of a conditional use permit contained in Section 17.35.030 of this title, an alcoholic beverage sales establishment's conditional use permit may be suspended for up to one year, modified or revoked by the planning commission after holding a public hearing in the manner prescribed in Chapter 17.25, for failure to comply with operational standards, training requirements or conditions of approval imposed through their conditional use permit. Notice of such hearing by the planning commission at which it will consider the modification, suspension or revocation of an establishment's conditional use permit shall be in writing and shall state the grounds therefore. Notice shall be mailed by first-class mail and certified mail return receipt requested at least 10 days before the date of the hearing.

B. Any conditional use permit issued pursuant to the provisions of this chapter shall be subject to the condition, in addition to any and all other conditions, that it shall terminate and cease to apply to any establishment which:

1. Shall have ceased its operation for a period of 180 or more calendar days, and

a. If there is thereafter filed any application or requested transaction with the California Department of Alcoholic Beverage Control, whereby the laws of the state of California require notice thereof to be filed with the city, and allow the filing of a protest thereon by the city (including person-to-person transfer of existing licenses); or

b. Where after such 180-calendar-day period, the existing license shall have ceased to apply to such establishment; or

2. Where the existing license shall have been surrendered to the California Department of Alcoholic Beverage Control for a period exceeding 180 calendar days. (Ord. 4994 § 3, 2013)

17.210.180 Investigative procedures of potential violation of conditions of approval and operational standards.

Upon the city's receipt of a complaint from the public, police department, city official or any other interested person that a conditional use permit activity is in violation of the operational standards and/or conditions of approval set forth in this chapter, the following procedure shall be followed:

A. An enforcement officer shall assess the nature of the complaint and its validity by conducting an on-site observation and inspection of the premises to assess the activity's compliance with operational standards and/or conditions of approval.

B. If the enforcement officer determines that the activity is in violation of the operational standards and/or conditions of approval, the enforcement officer shall give written notice of the violation to the owner and/or operator of the establishment and seek to remedy the violation under the city's administrative citation procedures contained in Chapter 1.14 of this code. The first notice of violation shall be given in accordance with Section 1.14.040 of this code. If, however, the enforcement officer, in his or her sole discretion, determines that the violation is not capable of correction, presents a serious threat to public health or safety, or otherwise warrants expedited action, he or she may in lieu of following the administrative citation procedure, refer the matter directly to the planning commission for a hearing at which the establishment's conditional use permit may be suspended, modified or revoked.

C. Any administrative citation issued under this section shall be issued, processed, and enforced in compliance with all of the provisions of Chapter 1.14 of this code, unless otherwise expressly provided by this chapter. If the owner or operator receiving an administrative citation contests the citation and a hearing is held pursuant to Chapter 1.14, the hearing officer may, in addition to exercising all powers designated in Chapter 1.14, make a recommendation to the planning commission to suspend, modify or revoke the establishment's conditional use permit if in the judgment of the hearing officer, based upon information then before him or her, such action is necessary to ensure compliance with this chapter. Such recommendation may include the suggestion of additional or amended reasonable conditions on the use, including but not limited to, the conditions listed in Section 17.210.120, and the operational standards listed in Section 17.210.100 of this chapter.

D. If a hearing before the planning commission is conducted on a potential violation in the manner prescribed in Chapter 17.25, it shall determine whether the activity is in compliance with the operational standards and/or conditions of approval. Based on this determination, the planning commission may suspend, modify or revoke the activity's conditional use permit or impose additional or amended conditions on the use, including but not limited to the conditions listed in Section 17.210.120, and the operational standards listed in Section 17.210.100, of this chapter, based upon the information then before it. In reaching a determination as to whether a use has violated the operational standards or conditions of approval, or as to the appropriateness of suspending, modifying, or revoking of a conditional use permit, or the imposition of additional or amended conditions on a use, the planning commission may consider the following:

1. The length of time the activity has been out of compliance with the operational standards and/or conditions of approval.
2. The impact of the violation of the operational standards and/or conditions of approval on the community.
3. Any information regarding the owner of the activity's efforts to remedy the violation of the operational standards and/or conditions of approval.

E. "Efforts to Remedy" shall include, but are not limited to:

1. Timely calls to the police department that are placed by the owner and/or operator of the establishment, his or her employees, or agents.

2. Requesting that those persons engaging in activities causing violations of the operational standards and or conditions of approval cease those activities, unless the owner or operator of the activity, or his or her employees or agents feels that their personal safety would be threatened in making that request.

3. Making improvements to the establishment's property or operations, including but not limited to the installation of lighting sufficient to illuminate the area within the use's property line, the installation of security cameras, the clearing of window obstructions, the cleaning of sidewalks and the abatement of graffiti within three days.

F. If in the judgment of the planning commission, the operations of the owner or operator of the establishment constitute a nuisance, the owner or operator is unable or unwilling to abate the nuisance and the nuisance is shown to be a threat to the public health and safety of the surrounding neighborhood, the planning commission may suspend, modify or revoke the activity's conditional use permit. All determinations, decisions, and conditions made or imposed regarding the use of an activity shall run with the land.

G. The decision of the planning commission shall be final and conclusive, unless appealed in writing to the city council within 10 days of planning commission action. (Ord. 4994 § 3, 2013)

17.210.190 Appeal from suspension, modification or revocation of conditional use permit.

Any applicant or other person aggrieved by a decision of the planning commission from a suspension, modification or revocation of a conditional use permit pursuant to this chapter may appeal the decision to the city council pursuant to Chapter 17.30 of this code. (Ord. 4994 § 3, 2013)

17.210.200 Deemed approved alcoholic beverage sales regulations.

Except as otherwise provided in this chapter, any permitted or conditionally permitted off-sale alcoholic beverage establishment, and legal nonconforming off-sale alcoholic beverage establishment lawfully operating prior to November 1, 2013 pursuant to an ABC license that authorizes the retail sale of alcoholic beverages for off-site consumption shall thereafter be an establishment with deemed approved status in accordance with Section 17.210.220. In addition, any alcoholic beverage establishment exempt from the requirement to obtain a conditional use permit pursuant to subsection (B) of Section 17.210.080 that lawfully commences operations on or after November 1, 2013 shall be an establishment with deemed approved status for purposes of this chapter. Such establishment may continue to lawfully operate provided the operation is conducted in compliance with the performance standards contained in Section 17.210.230, has satisfied the applicable training requirement and paid the annual permit fee required by this chapter. (Ord. 4994 § 3, 2013)

17.210.210 Applicability of deemed approved alcoholic beverage sales regulations.

The deemed approved alcoholic beverage sales regulations shall apply to all permitted or conditionally permitted off-sale alcoholic beverage sales activities and legal nonconforming alcoholic beverage sales activities for off-site consumption existing and operating within the City on November 1, 2013 and to all alcoholic beverage sales establishments exempt from the requirement to obtain a conditional use permit pursuant to subsection (B) of Section 17.210.080 that lawfully commence operations on or after November 1, 2013. (Ord. 4994 § 3, 2013)

17.210.220 Automatic deemed approved status.

All alcoholic beverage sales commercial activities not consistent with the standards and regulations set forth in this chapter that were conducted by permitted or conditionally permitted activities, and all legal nonconforming activities for off-sale alcohol establishments, on November 1, 2013, shall automatically become deemed approved activities as of November 1, 2013, and shall no longer be considered permitted, conditionally permitted or legal nonconforming activities. In addition, all alcoholic beverage sales commercial activities of an alcoholic beverage sales establishment exempt from the requirement to obtain a conditional use permit pursuant to subsection (B) of Section 17.210.080 that lawfully commence operations on or after November 1, 2013 that are not consistent with the standards and regulations set forth in this chapter are deemed approved activities. Each deemed approved activity shall retain its deemed approved status as long as it complies with the performance standards of this ordinance. (Ord. 4994 § 3, 2013)

17.210.230 Deemed approved performance standards for off-sale alcohol establishments.

The provisions of this section shall be known as the deemed approved performance standards. The purpose of these standards is to control dangerous or objectionable environmental effects of alcoholic beverage sales activities. These standards shall apply to all deemed approved alcoholic beverage sales activities that hold deemed approved status pursuant to this chapter. An off-sale alcoholic beverage sales activity shall retain its deemed approved status only if it conforms to all of the following deemed approved performance standards:

- A. The off-sale alcohol establishment shall not cause adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
- B. The off-sale alcohol establishment shall not jeopardize or endanger the public health or safety of persons residing or working in the surrounding area.
- C. The off-sale alcohol establishment shall not allow repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, or lewd conduct.

D. The off-sale alcohol establishment shall comply with all provisions of local, state or federal laws, regulations or orders, including but not limited to those of the ABC, California Business and Professions Code sections 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual city business license fees.

E. The off-sale alcohol establishment's upkeep and operating characteristics shall be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.

F. A copy of these performance standards, any applicable ABC or city operating conditions, and any training requirements shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment.

G. The owners and all employees of the alcohol beverage sales establishment involved in the sale of alcoholic beverages shall complete an approved course in "Responsible Beverage Sales" (RBS) within 60 days of hire for employees hired after the passage of this ordinance or within six months of the passage of this ordinance for existing employees. To satisfy this requirement, a certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service (CCC/RBS) or other certifying/licensing body designated by the state of California. (Ord. 4994 § 3, 2013)

17.210.240 Notification to owners of off-sale establishments conducting deemed approved activities.

The city's community development department shall notify the owner and/or operator of an off-sale alcohol establishment of each deemed approved activity as shown on their city business license, and also, if not the same, any property owner at the address shown on the county assessor's property tax assessment records, of the activity's deemed approved status. The notice shall be sent by first-class mail and certified mail return receipt requested and shall include a copy of the performance standards in this chapter with the requirement that they be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review. This notice shall also provide that the activity is required to comply with all performance standards, and that the activity is required to comply with all other aspects of the deemed approved regulations. Should the notice be returned, then the notice shall be sent via regular mail. Failure of any person to receive notice given pursuant to this chapter shall not affect the deemed approved status of the activity. (Ord. 4994 § 3, 2013)

17.210.250 Grounds for deemed approved status suspension, revocation or termination.

A. An alcoholic beverage sales establishment's deemed approved status may be suspended for up to one year, modified or revoked by the planning commission after holding a public hearing in the manner prescribed in Chapter 17.25, for failure to comply with the performance standards set forth in Section 17.210.230. Notice of such hearing by the planning commission at which it will consider the modification, suspension or revocation of an establishment's deemed approved

status shall be in writing and shall state the grounds therefore. Notice shall be mailed by first-class mail and certified mail return receipt requested at least 10 days before the date of the hearing.

B. The occurrence of any of the following shall terminate the deemed approved status of the alcoholic beverage sales activity after notice and a hearing in front of the planning commission in accordance with Chapter 17.25, and require the issuance of a conditional use permit in order to continue the alcoholic beverage sales activity:

1. An existing alcoholic beverage sales activity changes its activity so that ABC requires a different type of license.

2. There is a substantial modification to the mode or character of operation.

3. As used herein, the phrase “substantial modification to the mode or character of operation” includes but is not be limited to the following:

a. The off-sale alcoholic beverage sales activity establishment increases the floor or land area or shelf space devoted to the display or sales of any alcoholic beverage.

b. The off-sale alcoholic beverage sales activity establishment extends the hours of operation.

c. The off-sale alcoholic beverage sales activity establishment proposes to reinstate alcohol sales after the ABC license has been either revoked or suspended for a period 180 days or greater by ABC.

d. The off-sale alcoholic beverage sales activity voluntarily discontinues active operation for more than 180 consecutive days or ceases to be licensed by the ABC.

4. A “substantial change in the mode of character of operation” shall not include:

a. Re-establishment, restoration or repair of an existing off-sale alcoholic beverage sales activity on the same premises after the premises have been rendered totally or partially inaccessible by a riot, insurrection, toxic accident or act of God, provided that the re-establishment, restoration or repair does not extend the hours of operation of any establishment or add to the capacity, floor or land area or shelf space devoted to alcoholic beverages of any establishment that sells any alcoholic beverages for off-site consumption.

b. Temporary closure for not more than 180 days in cases of vacation or illness or for purposes of repair, renovation, or remodeling if that repair, renovation, or remodeling does not change the nature of the premises and does not extend the hours of operation of any establishment, or add to the capacity, floor or land area, or shelf space devoted to alcoholic beverages of any establishment that sells any alcoholic beverages for off-site consumption, provided notice is provided to the City. The planning commission may, upon request of an owner of an alcoholic beverage sales establishment made prior to the expiration of 180 days, grant one or more

extensions to the period of temporary closure, none of which may exceed 60 days, and together not to exceed 180 days.

5. Once it is determined by the City that there has been a discontinuance of active operation for 180 consecutive days or a cessation of ABC licensing, it may be resumed only upon the granting of a conditional use permit as provided in Sections 17.210.070 to 17.210.120 of this chapter. In the event that any active operation is discontinued on a property for a period of 180 consecutive days, such discontinuance shall be presumed to be abandonment of the use by the property owner. At any time after any active operation is discontinued for a period of 180 consecutive days or more, the City Manager's designee shall notify the property owner in writing of the determination of presumed abandonment of the active operation. Pursuant to Chapter 17.30 of this title, the property owner may appeal the determination to the planning commission, which may overturn the determination only upon making a finding that the evidence supports the property owner's position that the nonconforming use was not discontinued for a period of 180 consecutive days or more. The property owner shall be notified by the city of the termination of the deemed approved status and shall be informed of the property owner's right to appeal the City's decision to the planning commission. (Ord. 4994 § 3, 2013)

17.210.260 Investigative procedures of potential violation of performance standards by establishment with deemed approved status.

Upon the City's receipt of a complaint from the public, police department, city official or any other interested person that a deemed approved use is in violation of the performance standards set forth in this chapter, the following procedure shall be followed:

A. An enforcement officer shall assess the nature of the complaint and its validity by conducting an on-site observation and inspection of the premises to assess the activity's compliance with performance standards.

B. If the enforcement officer determines that the deemed approved activity is in violation of the performance standards, the enforcement officer shall give written notice of the violation to the owner and/or operator of the establishment and seek to remedy the violation under the city's administrative citation procedures contained in Chapter 1.14 of this code. The first notice of violation shall be given in accordance with Section 1.14.040 of this code. If, however, the city manager, in his or her sole discretion, determines that the violation is not capable of correction, presents a serious threat to public health or safety, or otherwise warrants expedited action, he or she may in lieu of following the administrative citation procedure, refer the matter directly to the planning commission for a hearing at which the deemed approved activity's deemed approved status may be suspended, modified or revoked.

C. Any administrative citation issued under this section shall be issued, processed, and enforced in compliance with all of the provisions of Chapter 1.14 of this code, unless otherwise expressly provided by this chapter. If, the owner or operator receiving an administrative citation contests the citation and a hearing is held pursuant to Chapter 1.14, the hearing officer may, in addition to exercising all powers designated in Chapter 1.14, make a recommendation to the planning commission to suspend, modify or revoke the deemed approved activity's deemed

approved status if in the judgment of the hearing officer, based upon information then before him or her, such action is necessary to ensure compliance with this chapter. Such recommendation may include the suggestion of additional or amended reasonable conditions on the use, including but not limited to, the conditions listed in Section 17.210.120 and the operational standards listed in Section 17.210.100, of this chapter.

D. If a hearing is conducted on a potential violation in the manner prescribed in Chapter 17.25, the planning commission shall determine whether the deemed approved activity is in compliance with the performance standards. Based on this determination, the planning commission may suspend, modify or revoke the deemed approved activity's deemed approved status or impose additional or amended conditions on the use, including but not limited to the conditions listed in Section 17.210.120, and the operational standards listed in Section 17.210.100, of this chapter, based on information then before it. In reaching a determination as to whether a use has violated the performance standards, or as to the appropriateness of suspending, modifying or revoking a deemed approved activity's deemed approved status, or imposing additional or amended conditions on the use, the planning commission may consider:

1. The length of time the deemed approved activity has been out of compliance with the performance standards.
2. The impact of the violation of the performance standard(s) on the community.
3. Any information regarding the owner of the deemed approved activity's efforts to remedy the violation of the performance standard(s).

E. "Efforts to Remedy" shall include, but are not limited to:

1. Timely calls to the police department that are placed by the owner and/or operator of the deemed approved activity, his or her employees, or agents.
2. Requesting that those persons engaging in activities causing violations of the performance standard(s) cease those activities, unless the owner of the deemed approved activity, or his or her employees or agents feels that their personal safety would be threatened in making that request.
3. Making improvements to the deemed approved activity's property or operations, including but not limited to the installation of lighting sufficient to illuminate the area within the use's property line, the installation of security cameras, clear unobstructed windows, clean sidewalks and graffiti abated within three days.

F. If in the judgment of the planning commission, the operations of the owner or operator of the deemed approved activity constitute a nuisance, the owner is unable or unwilling to abate the nuisance and the nuisance is shown to be a threat to the public health and safety of the surrounding neighborhood, the planning commission may suspend, modify or revoke the activity's deemed approved status. If suspended, any continued operation of the business shall require a conditional use permit approved by the planning commission. All determinations,

decisions, and conditions made or imposed regarding the use of a deemed approved activity shall run with the land.

G. The decision of the planning commission shall be final and conclusive, unless appealed in accordance with the provisions of Chapter 17.30 of this title.

H. All hearings held pursuant to this section shall be conducted in the manner set forth in Chapter 1.36. (Ord. 4994 § 3, 2013)

17.210.270 Appeal from suspension, modification or revocation of deemed approved status.

Any applicant or other person aggrieved by a decision of the planning commission from a suspension, modification or revocation of an establishment's deemed approved status pursuant to this chapter may appeal the decision to the city council pursuant to Chapter 17.30 of this code. All hearings held pursuant to this section shall be conducted in the manner set forth in Chapter 1.36. (Ord. 4994 § 3, 2013)

17.210.280 Alcoholic beverage sales activity penalties.

A. Any person violating any of the provisions of this chapter or who causes or permits another person to violate any provision of this chapter may be charged with either an infraction or a misdemeanor, and shall be subject to the provisions of the general penalty clause as set forth in Section 1.24.010 of this code.

B. In addition to the penalties provided in this section, any use or condition caused or permitted to exist in violation of any of the provisions of these regulations shall be and is declared to be a public nuisance and may be abated as such by the City.

C. Nothing in this chapter shall be construed to prevent the city of El Cajon from pursuing any and all other legal remedies that may be available, including but not limited to civil actions filed by the city attorney seeking any and all appropriate relief such as civil injunctions and penalties.

D. Notwithstanding Chapter 1.24 General Penalty, Chapter 1.16 Nuisance, Chapter 1.14 Administrative Citation Procedures, or any other section of this code to the contrary, any person, entity, or organization that violates the provisions of this chapter may be subject to civil penalties up to \$1,000 for each day said violation is in existence.

E. Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of these regulations is committed, continued, permitted, or caused by such violator and shall be punishable accordingly.

F. In addition to the punishment provided by law a violator is liable for such costs expenses and disbursements paid or incurred by the City or any of its contractors in correction, abatement and prosecution of the violation. Re-inspection fees to ascertain compliance with previously noticed or cited violations may be charged against the owner of the establishment conducting the deemed approved activity or owner of the property where the establishment is located. The

enforcement officer shall give the owner or other responsible party of such affected premises a written notice showing the itemized cost of such chargeable service and requesting payment thereof. Should the bill not be paid in the required time, the charges shall be placed as a lien against the property. (Ord. 4994 § 3, 2013)

17.210.290 Annual alcohol sales regulatory fee.

A. The intent and purpose of this section is to impose a regulatory fee upon all off-sale alcohol establishments that either hold deemed approved status pursuant to this chapter or obtained a conditional use permit after November 1, 2013. This fee shall provide for the enforcement and regulation of the conditions of approval, operational standards, performance standards and other applicable regulations set forth in this chapter with regard to off-sale alcohol establishments.

B. The annual alcohol sales regulatory fee shall be established by resolution of the city council. The fee shall be calculated so as to recover the total cost of both administration and enforcement of the performance standards and other applicable regulations set forth under this chapter upon all off-sale alcohol establishments that either hold deemed approved status pursuant to this chapter or obtained a conditional use permit after the November 1, 2013, including, for example, notifying establishments of their deemed approved status, administering the program, establishment inspection and compliance checks, documentation of violations, conducting hearings and prosecution of violators, but shall not exceed the cost of the total program. All fees shall be used to fund the program. Fees are nonrefundable except as may be required by law. (Ord. 4994 § 3, 2013)

17.210.300 Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections subsections, sentences, clauses or phrases may be declared invalid. (Ord. 4994 § 3, 2013)

Encinitas Municipal Code

Title 9 PUBLIC SAFETY, PEACE, AND WELFARE

Chapter 9.27 DEEMED APPROVED ALCOHOLIC BEVERAGE SERVING ESTABLISHMENT REGULATIONS

9.27.010 Title, Purpose and Applicability.

The purpose of this chapter is to specify the title, purpose and applicability of the deemed approved alcoholic beverage serving establishment regulations and to require conformity to require compliance with the same. (Ord. 2017-08)

9.27.020 Title of Deemed Approved Alcoholic Beverage Serving Establishment Regulations.

The provisions of this chapter shall be known as the “Deemed Approved Alcoholic Beverage Serving Establishment Regulations.” (Ord. 2017-08)

9.27.030 Purpose of Deemed Approved Alcoholic Beverage Serving Establishment Regulations.

The purpose of the deemed approved alcoholic beverage serving establishment regulations is to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare by requiring that all alcoholic beverage serving establishments lawfully operating pursuant to a valid ABC license (that authorizes the retail sale of alcoholic beverages for on-site consumption) comply with the deemed approved performance standards of this chapter and achieve the following objectives:

- A. Protect residential, commercial, industrial, and civic areas and minimize the adverse impacts of nonconforming and incompatible uses;
- B. Provide opportunities for businesses with retail sale of alcoholic beverages for on-site consumption to operate in a mutually beneficial relationship to each other and to other commercial and civic services;
- C. Provide mechanisms to address problems often associated with the public consumption of alcoholic beverages such as litter, loitering, graffiti, unruly behavior and escalated noise levels;
- D. Provide that alcoholic beverage serving establishment activities are not the source of undue public nuisances in the community;
- E. Provide for properly maintained alcoholic beverage serving establishments so that negative impacts generated by these activities are not harmful to the surrounding environment in any way; and

F. Monitor deemed approved activities so that they do not substantially change in mode or character of operation. (Ord. 2017-08)

9.27.040 Applicability of Deemed Approved Alcoholic Beverage Sale Regulations.

A. Applicability. The deemed approved alcoholic beverage serving establishment regulations shall apply, to the extent permissible under other laws, to all alcoholic beverage serving establishments lawfully operating pursuant to a valid ABC license (that authorizes the retail sale of alcoholic beverages for on-site consumption) within the City as of the effective date of the ordinance codified in this chapter.

B. Duplicated Regulations. Whenever any provision of the deemed approved alcoholic beverage serving establishment regulations and any other provision of law, whether set forth in this Code, or in any other applicable law, ordinance, or resolution of any kind, imposes overlapping or contradictory regulations, or contain restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the deemed approved alcoholic beverage serving establishment regulations.

C. Relationship to State and Federal Regulations. The deemed approved alcoholic beverage serving establishment regulations shall be imposed as a matter of municipal law, and are in addition to any federal regulations or state alcoholic beverage regulations or license/permit conditions that may apply. (Ord. 2017-08)

9.27.050 Definitions.

The meaning and construction of words and phrases as hereinafter set forth shall apply throughout the deemed approved alcoholic serving establishment regulations, except where the context of such words or phrases clearly indicates a different meaning or construction.

“Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances, and sales of which requires a State Department of Alcoholic Beverage Control license.

“Alcoholic beverage serving establishment” means any establishment engaged in the retail sale (pursuant to a valid State Department of Alcoholic Beverage Control (ABC) license) of any alcoholic beverage for on-site consumption. The term alcoholic beverage serving establishment shall include: (1) any alcoholic beverage serving establishment that is not in existence on the effective date of the ordinance codified in this chapter, but that is later permitted by the City and issued a valid ABC license; (2) any alcoholic beverage serving establishment engaged in the retail sale of any alcoholic beverage pursuant to a conditional use permit, adopted prior to the effective date of the ordinance codified in this chapter, and a valid ABC license; and (3) any legal nonconforming alcoholic beverage serving establishment activity operating pursuant to a valid ABC license.

“Alcoholic beverage serving establishment activity” means the lawful operation of retail sale, for on-site consumption, of liquor, beer, wine or other alcoholic beverages.

“Condition of approval” means a requirement which must be carried out by the activity in order to retain its deemed approved status.

“Deemed approved activity” means any alcoholic beverage serving establishment lawfully operating pursuant to a valid ABC license (that authorizes the retail sale of alcoholic beverages for on-site consumption) as long as it complies with the deemed approved performance standards as set forth in Section 9.27.070 of this chapter.

“Deemed approved performance standards” means regulations contained in Section 9.27.070 of this chapter.

“Deemed approved status” means the status conferred upon a deemed approved activity. Deemed approved status replaces legal nonconforming activity status.

“Illegal activity” means an activity which has been determined to be in violation with the deemed approved performance standards of this chapter (pursuant to this chapter, such an activity shall forfeit its deemed approved status and shall no longer be considered a deemed approved activity).

“Legal nonconforming alcoholic beverage serving establishment activity” means a commercial alcoholic beverage serving establishment activity which was a nonconforming use pursuant to the provisions of Chapter 30.76 of the Municipal Code and for which a valid State of California ABC license had been issued and used in the exercise of the rights and privileges conferred by the license at a time prior to the effective date of the ordinance codified in this chapter (such an activity shall convert to a deemed approved activity and shall no longer be considered a legal nonconforming activity).

“Premises” means the actual space within a building or any area either directly or indirectly supporting alcoholic beverage sales. (Ord. 2017-08)

9.27.060 Administrative Hearing Officer.

The City Manager shall designate a fair and impartial Administrative Hearing Officer for administrative hearings (pursuant to law) necessary to implement the provisions of this chapter. The Administrative Hearing Officer shall conduct public hearings for the purpose of achieving compliance with this chapter. This section is not intended to restrict the powers and duties otherwise pertaining to other City officers or bodies, related to monitoring and ensuring the harmony of alcoholic beverage serving establishment activities in the City. (Ord. 2017-08)

9.27.070 Deemed Approved Performance Standards and Deemed Approved Activities.

The provisions of this section shall be known as the deemed approved performance standards. The purpose of these standards is to control dangerous or objectionable environmental effects or potential effects of alcoholic beverage serving establishment activities. These standards shall apply, upon the effective date of the ordinance codified in this chapter, to all deemed approved alcoholic beverage serving establishment activities (i.e., possessing deemed approved status pursuant to this chapter).

Deemed approved status shall only be maintained if the activities of the alcoholic beverage serving establishment complies with all of the following deemed approved performance standards:

- A. Does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
- B. Does not result in jeopardizing or endangering the public health or safety of persons residing or working in the surrounding area.
- C. Does not result in repeated nuisance activities within the premises or in close proximity of the premises, including, but not limited to, disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises (especially in the late night or early morning hours) traffic violations, curfew violations, lewd conduct, or police detentions and arrests.
- D. Does not result in violations to any applicable city, state or federal laws or regulations, ordinance or statute.
- E. Upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
- F. Personnel (such as managers or servers) do not sell, serve or deliver to a patron any alcoholic beverage unless he or she has completed the Responsible Beverage Service and Sales Training (RBSS) conducted by the California Department of Alcoholic Beverage Control or by a certified RBSS Training Provider in accordance with City regulations. (Ord. 2017-08)

9.27.080 Automatic Deemed Approved Status.

All alcoholic beverage serving establishment activities, new or existing, including legal nonconforming activities established pursuant to Chapter 30.76 of the Municipal Code, shall automatically become deemed approved activities as of the effective date of the ordinance codified in this chapter. Each such deemed approved activity shall retain its deemed approved status as long as it complies with the deemed approved performance standards. (Ord. 2017-08)

9.27.090 Notification to Owners of Deemed Approved Activities.

The City or its designated enforcement authority shall:

- A. Provide a notice to the owner of each alcoholic beverage serving establishment with deemed approved status within the City, and also the property owner (if not the same), of the establishment's deemed approved status authorizing the establishment to lawfully continue its operation in the manner required by this chapter.
- B. Provide the owner of any alcoholic beverage serving establishment with deemed approved status with a copy of Municipal Code Chapter 9.27 (Deemed Approved Alcoholic Beverage Serving Establishment Regulations); inform the owner of the requirement that the establishment shall be operated in accordance with the deemed approved performance standards; and inform the owner of the requirement that the deemed approved performance standards shall be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review.
- C. The notices shall be sent via first class and certified return receipt mail. Should the notice be returned, then the notice shall be sent via regular U.S. mail. Failure of any person to receive notice given pursuant to this chapter shall not affect the deemed approved status of the activity. (Ord. 2017-08)

9.27.100 Deemed Approved Use—Discontinuance.

Whenever an alcoholic beverage serving establishment activity discontinues active operation for more than 180 consecutive days, or ceases to be licensed by the State Department of Alcoholic Beverage Control, the deemed approved status shall automatically be terminated.

This requirement shall not apply to a closure for restoration of premises rendered totally or partially inaccessible by an extraordinary natural event that cannot be reasonably foreseen or prevented (such as a flood or earthquake) or a toxic type of accident, provided that the restoration does not increase the square footage of the alcoholic beverage serving establishment. Nor shall this requirement apply to a closure for purposes of repair, if that repair does not change the nature of the premises and does not increase the square footage of the alcoholic beverage serving establishment. (Ord. 2017-08)

9.27.110 Procedure for Consideration of Violations to Deemed Approved Performance Standards and/or Conditions of Approval.

The provisions of this section shall outline the process by which deemed approved activities are required to be reviewed.

Upon the City receiving a complaint from the public, Sheriff's Department, Code Enforcement Officer, or any other interested party that a deemed approved activity is in violation of the deemed approved performance standards or that there has been a failure to comply with any condition of approval, the following procedure shall be followed:

A. A Code Enforcement Officer shall assess the nature of the complaint and its validity by conducting an on-site observation and inspection of the premises to assess the activity's compliance with the deemed approved performance standards. If the Code Enforcement Officer determines that the deemed approved activity is in violation of the deemed approved performance standards, an administrative warning shall be issued.

B. If upon reinspection or another similar complaint is filed that verifies that the violation is not corrected or appears to be continuing, the Code Enforcement Officer shall issue administrative penalties by giving written notice of the violation to the owner and/or operator of the establishment. Penalties shall be as follows:

1. For the first administrative penalty within any 12-month period following the administrative warning, the penalty shall be a fine of \$500.00;

2. For a second administrative penalty within any 12-month period following the administrative warning, the penalty shall be a fine of \$1,000.00 and the owner and/or operator of the establishment shall be referred to an Administrative Hearing Officer for an administrative public hearing. Notification shall be in accordance with Section 30.01.070 of the Municipal Code.

C. Any administrative penalty issued under this section shall be issued, processed, enforced, and appealable in compliance with all of the provisions of Chapter 1.08 of the Municipal Code, unless otherwise expressly addressed by this chapter.

D. The purpose of the public hearing is to receive testimony and determine whether violations to the deemed approved performance standards and/or violations to any conditions of approval applicable to the premises have occurred. While the hearing is open, any interested party must enter into the record oral, written or documentary evidence to the Administrative Hearing Officer for his or her consideration; failure to do so shall preclude the party from introducing such evidence during the appeal hearing and/or in a court proceeding.

E. At the public hearing, the Administrative Hearing Officer shall determine whether: (1) the deemed approved activity conforms to the deemed approved performance standards and to any other conditions or requirements, and may maintain the deemed approved status for the activity in question; or (2) to require changes, or impose reasonable conditions of approval that in the judgment of the Administrative Hearing Officer, are necessary to ensure compliance with the deemed approved performance standards or other applicable conditions or requirements, and these conditions shall be based on the evidence presented; or (3) to revoke the activity's deemed approved status. In reaching a determination as to the appropriateness of modifying or revoking an establishment's deemed approved status, or imposing additional or amended conditions on the use, the Administrative Hearing Officer may consider:

1. The length of time the deemed approved activity has been out of compliance with the deemed approved performance standard(s).

2. The impact of the violation of the deemed approved performance standard(s) on the community.

3. Any information regarding the owner of the deemed approved activity's efforts to remedy the violation of the deemed approved performance standard(s).

"Efforts to remedy" shall include, but are not limited to:

a. Timely calls to the police department that are placed by the owner and/or operator of the deemed approved activity, his or her employees, or agents.

b. Requesting that those persons engaging in activities causing violations of the deemed approved performance standard(s) cease those activities, unless the owner of the deemed approved activity, or his or her employees or agents feel that their personal safety would be threatened in making that request.

c. Making improvements to the deemed approved activity's property or operations, including, but not limited to, the installation of security cameras, clear unobstructed windows, clean sidewalks and graffiti abated within three days.

F. Any determination made by the Administrative Hearing Officer shall be supported by written findings that the establishment as operated or maintained constitutes a nuisance.

G. New conditions of approval imposed as part of the administrative hearing process shall be made a part of the deemed approved status and the alcoholic beverage serving establishment shall be required to comply with these conditions of approval. The determination of the Administrative Hearing Officer shall become final 15 calendar days after the date of decision unless appealed to the City Council in accordance with Chapter 1.12 of the Municipal Code.

H. If the Code Enforcement Officer determines that the violation is not capable of correction, presents a serious threat to public health or safety, or otherwise warrants expedited action, he or she may in lieu of issuing an administrative warning or an administrative penalty, refer the matter directly to an Administrative Hearing Officer for an administrative public hearing at which the establishment's deemed approved status may be modified or revoked.

I. Any party seeking to appeal the determination shall be limited to issues and/or evidence presented to the Administrative Hearing Officer prior to the close of the Administrative Hearing Officer's public hearing on the matter, as the appeal is not de novo. The decision of the Administrative Hearing Officer shall be final unless appealed to the City Council in accordance with Section 9.27.120 of this chapter. (Ord. 2017-08)

9.27.120 Appeal on the Revocation of a Deemed Approved Status to the City Council.

An appeal of a decision of the Administrative Hearing Officer shall be filed pursuant to Chapter 1.12 of this Code. In considering the appeal, the Council shall determine whether the deemed approved activity complies with the deemed approved performance standards, and may affirm or

turn over, in whole or in part, the Administrative Hearing Officer's determination and require changes thereto by imposing conditions of approval as it may determine in its reasonable discretion that are necessary to achieve compliance. (Ord. 2017-08)

9.27.130 Official Action.

All officials, departments, and employees of the City vested with the authority to issue permits, certificates, or licenses shall adhere to, and require compliance with this chapter. (Ord. 2017-08)

9.27.140 Violations and Penalties.

A. **Infractions.** Any person who violates, causes, or permits another person to violate any provision of these regulations shall be guilty of an infraction unless otherwise provided.

B. **Separate Offenses for Each Day.** Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of these regulations is committed, continued, permitted, or caused by such violator and shall be punishable accordingly.

C. **Any Violation Shall Constitute a Public Nuisance.** In addition to the penalties provided in this section, any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is declared to be a public nuisance and may be summarily abated as such by the City pursuant to applicable law.

D. **Injunction as Additional Remedy.** Any violation of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief.

E. **Penalties.** Any person convicted of an infraction under the provisions of this Section shall be punishable by a fine to the maximum permitted under state law. Any violation beyond the second conviction within a one-year period may be charged by the City Attorney or District Attorney as a misdemeanor, and the penalty for conviction shall be punishable by a fine or imprisonment to the maximum permitted under state law.

F. **Liability for Expenses.** In addition to the punishment provided by law, a violator is liable for such costs, expenses, and disbursements paid or incurred by the City or any of its contractors in correction, abatement, and prosecution of the violation. Reinspection fees to ascertain compliance with previously noticed or cited violations shall be charged against the owner of the deemed approved activity. The inspection official shall give the owner or other responsible party of such affected premises a written notice showing the itemized cost of such chargeable service and requesting payment thereof. Should the violator fail to pay the fees due and owing in the required time, the charges shall be placed as a lien against the property pursuant to applicable law. (Ord. 2017-08)

9.27.150 Enforcement.

The City shall designate the appropriate personnel to enforce the provisions of these regulations.
(Ord. 2017-08)

Draft Language Establishing Enforcement Authority

2.40.030 Definitions.

...

“Enforcement authority” under this chapter, means that special counsel appointed by the City Attorney pursuant to Section 2.40.120.

...

2.40.120 Enforcement.

A. The City Attorney must not investigate or prosecute any alleged violation of this Chapter, but will defend the constitutionality and legality of this Chapter in any civil proceeding in which the City or the City Council is a party.

B. Review of complaints of violation of this Chapter and criminal prosecution thereof may be commenced only by the enforcement authority appointed by the City Attorney. The Enforcement Authority is authorized to commence and prosecute civil litigation to compel compliance with this Chapter or to enjoin conduct in violation of this Chapter. At least 120 days prior to a City election, the City Attorney will appoint an Enforcement Authority for that election. If the appointment of an additional Enforcement Authority becomes necessary or appropriate, the City Attorney will appoint such additional Enforcement Authority as may be required. No enforcement or prosecution or action of the Enforcement Authority is subject to the review or control of the City Council or the City Attorney.

C. Any person residing in the City who believes that a violation of this Chapter has occurred may file a written complaint requesting investigation of such violation by the Enforcement Authority. If the Enforcement Authority determines that there is reason to believe a violation of this Chapter has occurred, the Enforcement Authority conduct an investigation and may commence such administrative, civil or criminal legal action as it deems necessary for the enforcement of this Chapter. The Enforcement Authority must decline to investigate any alleged violation hereof which is also an alleged violation of State law and is the subject of a complaint filed with the Fair Political Practices Commission, until the investigation of that complaint is complete.

D. The Enforcement Authority has such investigative powers as are necessary for the performance of duties described in this Chapter and may demand and be furnished records of campaign contributions and expenditures of any person or committee at any time. In the event that production of such records is refused, the Enforcement Authority may commence civil litigation to complete such production.

E. The Enforcement Authority is immune to liability for its enforcement of this Chapter.

F. Any action alleging violation of this Chapter must be commenced within two years of the time the alleged violation occurred.

Draft Language Regulating Shopping Carts

Chapter 7.15 ABANDONED SHOPPING CARTS

7.15.010 Short title.

This Chapter shall be known as the “Abandoned Shopping Carts” ordinance.

7.15.020 Purpose and Intent

The off-site accumulation of wrecked, dismantled or abandoned shopping carts, or parts thereof, reduces property values, promotes blight and deterioration, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is aesthetically detrimental to the community and injurious to the health, safety and general welfare. Responsibility for minimizing or eliminating this impact rests with individuals who use shopping carts and the businesses, which provide shopping carts for their patrons. Therefore, effective containment or control of the shopping carts is necessary, and the presence of wrecked, dismantled or abandoned shopping carts, or parts thereof, within the City, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this Chapter.

7.15.030 Definitions.

The following words and phrases, when used in this Chapter, have the meanings in this Section unless, from the context, a different meaning is intended or specifically defined:

- A. “Abandoned shopping cart” means a shopping cart located outside the premises or parking lot or facility of the business establishment, which furnishes the shopping cart for use by its patrons.
- B. “Director” means the Director of Community Services or his or her designee.
- C. “Shopping cart” means any basket of any size, mounted on wheels or a similar device, including parts thereof, provided by a store operator for the purpose of transporting goods of any kind within a business establishment and/or designated parking or loading area of that business establishment.
- D. “Shopping cart owner” means the owner of the shopping cart, the agent of the owner of the shopping cart, including individuals or business entities, or the business establishment, which furnishes the shopping cart for use.
- E. “Store premises” mean the lot area, maintained and managed by the business, that may include the building, parking lot and adjacent walkways, and where the business’ shopping carts are permitted.

7.15.040 Administration and enforcement.

The provisions of this Chapter are administered and enforced by the Community Services Department, or the Sheriff's Department, as noted below. In enforcing the provisions of this Chapter, employees of the aforementioned departments may enter onto both public and private property to examine a shopping cart or parts thereof, or to obtain information as to the identity of a shopping cart owner, and to remove, or cause the removal of a shopping cart, or parts thereof, in conformance with state law, when found to be abandoned pursuant to this Chapter.

7.15.050 General regulations.

A. All shopping cart owners must implement a shopping cart management plan to effectively manage the control of their shopping carts so that the off-site accumulation of carts does not become a public nuisance.

B. Upon request by the Director, shopping cart owners must submit a plan to the Director for review outlining how the owner is or proposes to manage shopping carts so that they are not a public nuisance. Information requested may include a description of the management control system, a monthly shopping cart inventory, monthly loss and recovery data specific to that business location, and such other information deemed reasonable by the director to determine the adequacy of the shopping cart containment system or control method.

C. If the Director determines that the shopping cart management system being used by a shopping cart owner is creating a public nuisance, and therefore not effective for that store premise, the Director may require a shopping cart owner to utilize an alternate, more effective shopping cart management system. Options that may be considered include, but are not limited to: (1) a shopping cart wheel lock system; (2) posting a guard in the parking lot to stop the removal of shopping carts during business hours; (3) requiring an employee to accompany and immediately retrieve every shopping cart that is removed from a store upon placement of purchases into a customer's vehicle; (4) establishment of an effective off-site shopping cart retrieval system; (5) requiring shopping carts to be secured during nonbusiness hours, and any combination thereof. Approval of an alternate system does not relieve the shopping cart owner of the responsibility to effectively manage the control of their shopping carts so that they are not a public nuisance. Any decision of the Director may be appealed to the City Council.

D. All shopping cart owners shall post a sign not less than eighteen (18) inches in width and twenty-four (24) inches in height with block lettering not less than one-half (1/2) inch in width and two (2) inches in height in a conspicuous place on the building within two (2) feet of all customer entrances and exits stating, at a minimum, the following:

**REMOVAL OF SHOPPING CARTS FROM THE PREMISES
IS PROHIBITED BY LAW.
B & P Code Section 22435.2**

7.15.060 Unauthorized removal or possession.

Procedures related to the unauthorized removal and possession of any shopping cart pursuant to Business and Professions Code, Sections 22435.2—22435.5 shall be administered by the Sheriff's Department, if deemed warranted by the City Manager.

7.15.070 Abandoned shopping carts—Abatement, removal and storage.

A. Procedures related to the abatement, removal, and storage of abandoned shopping carts pursuant to Business and Professions Code, Section 22435.7 shall be administered by the Community Services Department, if deemed warranted by the City Manager.

B. The administrative fees for the removal and storage of shopping carts shall be established or modified by resolution of the City Council and shall include the actual cost of removal and storage of any shopping cart, or parts thereof, plus the proportionate share of administrative costs in connection therewith. The schedule for such fees shall remain on file and be available in the finance department of the City. The Director of Community Services shall review the fees charged for such service at least once annually, and may, with the approval of the City Manager, recommend changes to the Council when the costs for such services make it appropriate.

7.15.080 Chapter not exclusive.

This Chapter is not to be construed as the exclusive regulation of wrecked, dismantled or abandoned shopping carts within the City. It shall supplement and be in addition to other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City, state or any other legal entity or agency having jurisdiction.