

# CITY OF POWAY CITY COUNCIL AGENDA

**TUESDAY, SEPTEMBER 18, 2018  
REGULAR CITY COUNCIL MEETING – 7:00 P.M.**

**COUNCIL CHAMBERS | 13325 CIVIC CENTER DRIVE | POWAY, CALIFORNIA 92064**

*The City Council also sits as the City of Poway Planning Commission, Poway Housing Authority, Public Financing Authority and Successor Agency to the Poway Redevelopment Agency*

The City of Poway welcomes you and encourages your continued interest and involvement in the City's decision-making process.

**MEETINGS:** Regular City Council meetings are held on the first and third Tuesday of the month at 7:00 p.m.

**PUBLIC MEETING ACCESS:** Regular City Council meetings are broadcast live on Cox Communications Channel 24 and Time Warner Channel 19. Council meeting videos are archived and available for viewing on the City's website.

**AGENDA MATERIALS:** This agenda contains a brief summary of each item the Council will consider. The Agenda and Agenda Packet is posted 7 days prior to regular City Council meetings and are available for viewing on the City's website at [www.poway.org](http://www.poway.org) or in the City Clerk's office of City Hall, 13325 Civic Center Drive. Sign up at [www.poway.org](http://www.poway.org) to receive email notifications when City Council agendas are published online.

**SPEAKERS:** Persons wishing to address the Council on matters not on the agenda may do so under Public Comments. Those wishing to speak on items on the agenda may do so when the item is being considered. Please submit a Speaker's Slip to the City Clerk prior to the meeting or the announcement of the item. All comments will be limited to three (3) minutes.

**AMERICAN DISABILITIES ACT TITLE II:** In compliance with the Americans with Disabilities Act of 1990, persons with a disability may request an agenda in appropriate alternative formats as required by Title II. 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 858.668.4530 at least 24 hours prior to the meeting.

**REMINDER:** As a courtesy to all attendees, please silence all electronic devices and engage in conversations outside the Council Chambers.

**John Mullin**  
Deputy Mayor

**Steve Vaus**  
Mayor

**Dave Grosch**  
Councilmember

**Caylin Frank**  
Councilmember

**Barry Leonard**  
Councilmember

## **CALL TO ORDER**

## **ROLL CALL**

Leonard, Frank, Grosch, Mullin, Vaus

## **PLEDGE OF ALLEGIANCE**

## **PRESENTATION**

MTS Presentation – Free Ride Day

## **PUBLIC ORAL COMMUNICATIONS**

NOTE: In accordance with state law, an item not scheduled on the agenda may be brought forward by the general public for comment; however, the City Council will not be able to discuss or take action on any issue not included on the agenda. If appropriate, your concerns will be referred to staff. Comments are limited to three (3) minutes. Speakers will have only one opportunity to address the Council under Public Oral Communications.

## **CONSENT CALENDAR (Approved By Roll Call Vote)**

The Consent Calendar may be enacted in one motion by the Council without discussion unless a Councilmember, a member of the public, or City staff requests that an item be removed for discussion.

- 1.1 Approval of Reading by Title only and Waiver of Reading in full of Ordinances on Agenda
- 1.2 Ratification/Approval of Warrant Registers for the Periods of July 30 through August 3, August 6 through August 10, August 13 through August 17, and August 20 through August 24, 2018
- 1.3 Approval of the August 7, 2018 and August 21, 2018 Regular City Council meeting minutes
- 1.4 Award of Occupancy License to R & B Pinto Properties, LLC, for the Lake Poway Concession Services; RFP #18-022
- 1.5 Acceptance of the 2017-2018 Street Overlay Project; Bid No. 18-014 SRM Contracting & Paving
- 1.6 Award of Contract to Ace Electric, Inc. for the Community Park Electrical Upgrades Project; Bid No. 19-002
- 1.7 Approval of Consultant Agreement between the City of Poway and Pure Technologies U.S. Inc. for Design Services for the Steel Water Main Assessment Project (CIP #1774)
- 1.8 Approval of Consultant Agreements with RSG, Inc. and Keyser Marston Associates, Inc. for Real Estate and Fiscal Analysis Consulting Services; RFP No. 19-002.
- 1.9 Approval of an Extension to the Exclusive Negotiation Agreement with Meridian Development, LLC and Sudberry Properties, Inc. for City and Housing Authority Parcels bearing Assessor Parcel Numbers 317-101-06; 317-472-12; 317-472-18; 317-472-23; 317-472-24; 317-472-25; 317-472-01; 317-472-06

## **2. ORDINANCE**

None.

### **3. PUBLIC HEARING**

- 3.1 Environmental Assessment, Tentative Tract Map 17-003 and Development Review 18-003: Request for Approval to Subdivide a Vacant Parcel located at the Western Terminus of Danes Road and to Develop Seven Single-Family Residences

**City Manager's Recommendation:** It is recommended that the City Council take public input, close the public hearing and adopt Resolutions entitled 1) "A Resolution of the City Council of the City of Poway, California, Adopting a Mitigated Negative Declaration for Tentative Tract Map 17-003 and Development Review 18-003, Assessor Parcel Number 317-534-20;" and 2) "A Resolution of the City Council of the City of Poway, California, Approving Tentative Tract Map 17-003 and Development Review 18-003 Assessor Parcel Number 317-534-20."

- 3.2 Conditional Use Permit 18-013; a proposal to amend an existing Conditional Use Permit to allow outdoor storage at 12675 Stowe Drive

**City Manager's Recommendation:** It is recommended that the City Council take public input, close the public hearing and adopt a Resolution entitled "A Resolution of the City Council of the City of Poway, California, Approving Conditional Use Permit 18-013 Assessor's Parcel Number 317-223-01 and 317-223-02."

- 3.3 Adoption of an Ordinance amending Title 17 of the Poway Municipal Code (PMC) Establishing Accessory Dwelling Unit Regulations; Zoning Ordinance Amendment (ZOA) 18-002

**City Manager's Recommendation:** It is recommended that the City Council take public input, close the public hearing and introduce the Ordinance for first reading by title only, waive further reading, and set second reading and adoption for October 2, 2018.

- 3.4 Adoption of an Ordinance Amending Title 17 of the Poway Municipal Code Regarding Regulation of Boardinghouses; Zoning Ordinance Amendment (ZOA) 18-003

**City Manager's Recommendation:** It is recommended that the City Council take public input; close the public hearing and introduce the Ordinance for first reading by title only, waiving further reading, and set second reading and adoption for October 2, 2018.

### **4. STAFF REPORT**

- 4.1 Approval of the Amended and Restated Regional Wastewater Disposal Agreement with the City of San Diego

**City Manager's Recommendation:** It is recommended that the City Council adopt a Resolution entitled "A Resolution of the City Council of the City of Poway, California, Approving the Amended and Restated Regional Wastewater Disposal Agreement between the City of Poway and the City of San Diego," and authorize the City Manager to execute the agreement.

### **5. WORKSHOP**

- 5.1 Public Employees' Retirement System (PERS) Actuarial Analysis

**City Manager's Recommendation:** It is recommended that the City Council provide direction to staff to: 1) Pursue establishing an Internal Revenue Code Section 115 trust; and 2) Return with a recommendation with the FY 2017-18 year-end close report to use a portion of any year-end surplus to make an initial deposit into a Section 115 trust, as well as make an additional contribution to CalPERS to pay down a portion of the City's unfunded liability using the shortest amortization period.



**6. MAYOR AND CITY COUNCIL-INITIATED ITEMS**

**COUNCILMEMBER COMMITTEE REPORTS** – Pursuant to AB1234 - (G.C. 53232(d))

BARRY LEONARD

CAYLIN FRANK

DAVE GROSCH

JOHN MULLIN

STEVE VAUS

**7. CITY MANAGER ITEMS**

**8. CITY ATTORNEY ITEMS**

**CLOSED SESSION:**

**8.1 Conference with Legal Counsel:**

Existing Litigation (Gov. Code § 54956.9(a)) – two (2) cases:

*City of Poway v. Rothbart*, San Diego Superior Court Case No. 37-2016-00033532-CU-OR-CTL

*Kirkland v. Poway Housing Authority*, United States District Court for the Southern District of California Case No. 18-CV-1878

**8.2 Conference with Legal Counsel:**

Anticipated Litigation (Gov. Code § 54956.9(d)(2)) – one (1) potential case: Litigation threatened by Kevin T. Kelly

**8.3 Conference with Real Property Negotiator (Gov. Code § 54956.8):**

Property: APN 317-222-21-00

Agency Negotiator: City Manager Tina White

Negotiating Parties: Kraig Clark and Todd Lutes, Clarks Corner Investments LLC

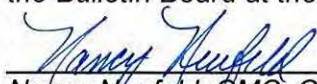
Under Negotiation: Price and Terms of Payment

**ADJOURNMENT**

State of California                     )  
  ) ss.  
County of San Diego                    )

***AFFIDAVIT OF POSTING***

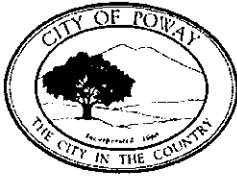
*I, Nancy Neufeld, CMC, City Clerk of the City of Poway, hereby declare under penalty of perjury that this notice of a Regular Meeting as called by the City Council of the City of Poway was posted and provided on September 11, 2018 at 3:30 p.m. Said meeting to be held at 7:00 p.m., September 18, 2018, in the Poway City Council Chambers, 13325 Civic Center Drive, Poway, California. Said notice was posted on the Bulletin Board at the entrance to City Hall.*

  
\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk



## Item 1.1

Approval of Reading by Title Only and  
Waiver of Reading in Full of Ordinances  
on Agenda.



# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Donna Goldsmith, Director of Finance *DG*  
**CONTACT:** Andrew White, Finance Manager *AW*  
858-668-4426 or awhite@poway.org  
**SUBJECT:** Ratification of Warrant Registers for the Periods of July 30 through August 3, August 6 through August 10, August 13 through August 17, and August 20 through August 24, 2018

## Summary:

The attached warrant register reports for the periods of July 30 through August 3, August 6 through August 10, August 13 through August 17, and August 20 through August 24, 2018 are submitted to the City Council for ratification/approval.

## Recommended Action:

It is recommended that the City Council ratify/approve the attached warrant registers.

## Discussion:

Weekly registers of audited demands are periodically submitted to the City Council by the Finance Director for ratification/approval. During the transition from the Banner financial system to the Tyler Munis financial system, this agenda report will include warrant registers from both systems.

<u>Date</u>	<u>Amount</u>
July 30 through August 3, 2018	\$3,714,478.01

Warrants for amounts in excess of \$100,000 for this period include:

<u>Warrant</u>	<u>Check Number</u>	<u>Amount</u>
July 2018 Water Purchase	00303680	\$ 1,120,381.14
Treasury Note Investment	904785	\$ 1,497,949.22
Payroll 7-6-18, Retirement	904786	\$ 125,402.94
Payroll 8-3-18	904787	\$ 570,095.33

<u>Date</u>	<u>Amount</u>
August 6 through August 10, 2018	\$907,569.51

Warrants for amounts in excess of \$100,000 for this period include:

<u>Warrant</u>	<u>Check Number</u>	<u>Amount</u>
Poway Center for the Performing Arts Annual Contribution and Ticket Sales	400344	\$ 138,721.00
Payroll 8-3-18, Withholding	904797	\$ 102,961.55

<u>Date</u>	<u>Amount</u>
August 13 through August 17, 2018	\$1,024,883.30

Warrants for amounts in excess of \$100,000 for this period include:

<u>Warrant</u>	<u>Check Number</u>	<u>Amount</u>
Payroll 7-20-18, Retirement	904804	\$ 131,823.10
Payroll 8-17-18	904805	\$ 626,582.03

<u>Date</u>	<u>Amount</u>
August 20 through August 24, 2018	\$1,555,008.11

Warrants for amounts in excess of \$100,000 for this period include:

<u>Warrant</u>	<u>Check Number</u>	<u>Amount</u>
August 2018 Medical Insurance	400494	\$ 188,934.82
Wastewater Treatment Charges	400495	\$ 886,427.00
Payroll 8-17-18, Withholding	904813	\$ 114,486.29

**Environmental Review:**

This item is not subject to CEQA review.

**Fiscal Impact:**

The total amount of warrants for the period of July 30 through August 3, 2018, is \$3,714,478.01.

The total amount of warrants for the period of August 6 through August 10, 2018, is \$907,569.51.

The total amount of warrants for the period of August 13 through August 17, 2018, is \$1,024,883.30.

The total amount of warrants for the period of August 20 through August 24, 2018, is \$1,555,008.11.

**Public Notification:**

None.

**Attachments:**

- A. Warrant Register for the period of July 30 through August 3, 2018
- B. Warrant Register for the period of August 6 through August 10, 2018
- C. Warrant Register for the period of August 13 through August 17, 2018
- D. Warrant Register for the period of August 20 through August 24, 2018

Reviewed/Approved By:

Reviewed By:

Approved By:

\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

\_\_\_\_\_  
  
Tina M. White  
City Manager



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ATTACHMENT A

September 18, 2018, Item #1.2

Check											
Number	Date	Payee/Vendor	Invoice	Comment	Fund	Orgn	Acct	Prog	Check Amt		
00303662	03-Aug-18	@00000145	Accurate Bookkeeping Service LLC	ANGK-26-8CC6	Fire Station #3: Washer Repair	100	0419	4120	300	97.06	
00303663		@00002106	Airgas USA, LLC	9954667279	Medical Oxygen	100	0501	4760	200	38.40	
				9954667279	Medical Oxygen	100	0503	4750	200	1,474.42	
				9954667280	Medical Oxygen	100	0503	4750	200	431.62	
				9954667281	Training Tower Supplies	100	0501	4790	200	32.50	
				9954707162	Water Treatment: Supplies	510	0402	4760	300	107.55	
Total for Check 00303663										2,084.49	
00303664	03-Aug-18	@00000105	American Locker Security	80016	Lifeguard Lockers	100	0203	6199	400	6,620.00	
00303665		----	Balbuena, Rogelio	2012850.001	Deposit Refund CP Permit 20244 w/Charges	100	0208	7471	400	142.60	
00303666		@00011742	Bartel Associates, LLC	18-619	Actuarial Consulting Services	100	0100	1799	100	3,975.00	
00303667		@00011106	Boomers Vista	P1800332	Day Camp Field Trip (Group Wristband)	100	0202	4760	400	945.35	
00303668		@00011305	Boot Barn	IVC0143258	Safety Shoes Allowance: Greschke & Mohamad 231		0412	4928	300	141.26	
				IVC0143258	Safety Shoes Allowance: Greschke & Mohamad 520		0403	4928	300	177.78	
Total for Check 00303668										319.04	
00303669	03-Aug-18	@00006901	California Commercial Asphalt, LLC	203973	Asphalt Course 1/2 inch	211	0411	4320A	300	6,061.05	
00303670		----	Cox, Julianne	2012874.001	Refund Deposit Permit # 20428	100	0205	7471	400	200.00	
00303671		@00004524	D-Max Engineering Inc	4445	JRMP Annual Report FY17/18	100	0308	4120	100	5,902.50	
00303672		@00005573	DBX, Inc.	P1800203-RET	Traffic Signal Communication Improvements	1342A	1000P	4120	600	2,548.15	
00303673		@00010930	Division of the State Architect	FY18 QTR4 FEES	FY18 SB1186 Disability Access Fees Apr-Jun	283		8636		233.60	
00303674		@00006933	Fastenal Company	CAPOW46360	Water Treatment: Supplies	510	0402	4760	300	47.58	
00303675		@00005088	Harper & Associates Engineering Inc	ENG-5952	Consultant Engineering Services	1767A	1000P	1714G	600	2,210.00	
00303676		----	Lincoln, Dalton	LINCOLN-071818	Reimbursement for Paramedic License Renewal	100	0503	3140	200	200.00	
00303677		@00005825	Neal Electric, Inc	69841	Theater Seating Repair	100	0204	4304	400	1,745.00	
00303678		@00010546	Palm Engineering Construction Co.	P1800206-RET	Smart Irrigation Controllers Project	1637A	1000P	4120	100	10,441.75	
00303679		----	Palomar Solar	B18-0832	B18-0832 Refund Permit Fee for 12792 Gate Dr.	100	0303	7714	100	140.00	
00303680		@00002290	San Diego County Water Authority	0618-11	Untreated Water, CWA and Transportation	510	0402	2710C	300	353,339.34	
				0618-11	Untreated Water, CWA and Transportation	510	0402	2710A	300	679,618.80	
				0618-11	Untreated Water, CWA and Transportation	510	0402	2710B	300	87,423.00	
Total for Check 00303680										1,120,381.14	
00303681	03-Aug-18	@00010645	Siemens Industry Inc	5610105663	Street Light Pole Painting	275	0470	4327	300	5,310.00	
				5610124873	Pomerado Road at Leone Way	275	0470	4326	300	18,030.00	
				5610127955	Relocate cameras @ Glen Oak and Pomerado	275	0470	6138	300	8,900.00	
				5620021008	LED Light Installation:Twin Peaks & Woodcreek	275	0470	4327	300	529.56	
Total for Check 00303681										32,769.56	
00303682	03-Aug-18	@00002986	Sloan Electric	0070110	PS-2/Pump #4: Contract Labor	510	0402	4308	300	32,075.14	

Warrants From 7/30/2018 - 8/3/2018

## Check

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Number	Date	Payee/Vendor	Invoice	Comment	Fund	Orgn	Acct	Prog	Check Amt
00303683	03-Aug-18	@00005541	Statewide Safety & Signs, Inc	01004002	Custom Sign - Country Creek/Tierra Bonita	211	0411	4514 300	176.71
00303684		@00001238	Terra Costa Consulting Group	180607	Poway Dam Surveillance 6/1/18 - 6/30/18	510	0402	4112B 300	4,800.00
00303685		@00010371	U.S. Bank Corporate Payment System-CS	1761-1106-6/18	CSD Calcard - Annie Ransom - 6/18	100	0207	4760 400	65.51
				1761-1106-6/18	CSD Calcard - Annie Ransom - 6/18	100	0207	4928 400	109.00
Total for Check 00303685									174.51
00303686	03-Aug-18	@00002466	Underground Service Alert	620180530	June Database Maintenance Fee	510	0404	4120 300	161.80
00303687		@00011504	Union Bank	12500008-0618	SSD Credit Card Charges	100	0504	4937 200	1,956.99
00303688				14041621JUL18C	Credit Card Expenditure	100	0010	4904 100	300.00
00303689		---	Verma, Anita	2012852.001	Deposit Refund CP Permit 20643	100	0208	7471 400	200.00
00303690		@00002663	Village Lock and Key	15093	Locksmith Service - Business Park	269	0425	4770 300	16.16
00303691		@00002730	Waxie	77555662	Lake Rec. Center - Sanitary Supplies	100	0419	4720 300	990.05
00303692		@00005639	West Coast Arborists, Inc.	138358	Parks: Tree Maintenance	100	0418	4120 300	1,400.00
00303693		@00002794	Western Mower and Engine	55577	Parks: Repair & Maintenance Supplies	100	0418	4308 300	115.72
00303694		@00002797	Western Pump	W91401	FA9125 Pendant Assembly Two Post Mod-30	611	0413	6199 300	2,824.73

Finance Director Approved

Date 9-10-18

Register Total

1,242,255.68



The City of Poway Director of Finance Submits the Following Register of Demands  
for the period 7/30/2018 - 8/3/2018 and Recommends its Ratification/Approval:

Run Date: 14-Aug-18

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400191	03-Aug-18	999991 - GC ELECTRIC CORPORATION	FLD18-0005	Refund Permit Fee	305030	77350		\$231.00
400192	03-Aug-18	999995 - Gore, Jon	2012858.001	Deposit Refund Permit 20772	208020	74710		\$300.00
400193	03-Aug-18	999995 - Tse, Wamer	2012844.001	Reduced Hours on Lake Permit 20744	202020	74710		\$96.00
400194	03-Aug-18	999999 - CREST PARTNERS - POWAY ONE DANIELSON LLC	3234801600-F-3	Final Assessment Refund CFD #88-1 APN#3234801600	80103351	57400		\$314.40
			3234801600-2	Assessment Refund CFD #88-1 APN# 3234801600	80103351	57400		\$805.03
Total for Check 400194:								\$1,119.43
400195	03-Aug-18	999999 - Dancing DJ Productions	08/16/18	Volunteer Appreciation Dinner	200020	49040		\$400.00
400196	03-Aug-18	999999 - Halcore Group, Inc.	90240737	Unit 950 - Parts - Latch Flush Pull	413010	47900		\$39.91
400197	03-Aug-18	999999 - CREST PARTNERS - POWAY ONE DANIELSON LLC	3234801600-F-2	Final Assessment Refund CFD #88-1 APN# 3234801600	80103351	57400		\$2,137.91
400198	03-Aug-18	999997 - Donna Baker	20855900-09	Closing Balance Refund: Overpay #20855900-09	F5100	81020		\$92.25
400199	03-Aug-18	999997 - Mark Barry	15009010-04	Closing Balance Refund: Overpay #15009010-04	F5100	81020		\$162.54
400200	03-Aug-18	999997 - Peter or Martha Cannon	49600550-12	Closing Balance Refund: Overpay #49600550-12	F5100	81020		\$9.80
400201	03-Aug-18	506 - A O REED & CO	295840	Facilities: Contractual Services	415010	41200		\$436.10
			295722	Facilities: Contractual Services	415010	41200		\$281.43
Total for Check 400201:								\$717.53
400202	03-Aug-18	1731 - ACRO INSTRUMENT COMPANY	21137	Wastewater: Parts	403570	47500		\$160.00
400203	03-Aug-18	834 - ALPHA-NUMERIC DESIGN, INC.	1426	Office supplies	502050	47100		\$213.35
			1425	Office Supplies - Labels	101010	47100		\$213.35
Total for Check 400203:								\$426.70
400204	03-Aug-18	13 - AMERICAN PUBLIC WORKS ASSOCIATION	690531 - Crosby	Membership Renewal: S. Crosby 10/2018 - 9/2019	305030	14010		\$221.00
400205	03-Aug-18	835 - AT&T	11600476	BAN 9391026536	402060	33010		\$20.29
			11584587	BAN 9391026542	423040	22000		\$20.27
			11674055	Group Bill BAN #9391026567 - Jul 2018	114010	33010		\$663.76
			11674515	Network - City Hall - Jul 2018	114010	22000		\$611.75
			11674221	BAN 9391031631 6/24/18 - 7/23/18	421040	22000		\$18.65
			11674219	BAN 9391031630 6/24/18 - 7/23/18	423040	22000		\$20.31
			11674056	BAN 9391026568 6/24/18 - 7/23/18	426040	22000		\$40.58
			11674050	Comm Park BAN 9391026561 6/24-7/23/18	208020	33010		\$58.15

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400205	03-Aug-18	835 - AT&T	11674044	Kumeyaay Fax Line BAN 9391026555	207020	33010		\$57.61
			11674053	Meadowbrook Alarm BAN 9391026564 6/24-7/23/2018	201020	33010		\$57.61
Total for Check 400205:								\$1,568.98
400206	03-Aug-18	453 - BAY CITY ELECTRIC WORKS INC	W194978	13100 Bowron Rd. Generator Maintenance July 2018	413010	41200		\$140.00
			W194980	14415 Lake Poway Rd. Generator Maint. July 2018	413010	41200		\$140.00
			W194983	14467 Lake Poway Rd. Generator Maint. July 2018	413010	41200		\$140.00
			W194986	15498 Espola Rd. Generator Maintenance July 2018	413010	41200		\$140.00
			W194987	16914 Westling Court Generator Maint. July 2018	413010	41200		\$140.00
			W194981	763A Wisperwatt Generator Maintenance July 2018	413010	41200		\$140.00
			W194979	13325 Civic Center Dr. Generator Maint. July 2018	413010	41200		\$140.00
Total for Check 400206:								\$980.00
400207	03-Aug-18	131 - BNC MOBIL AUTO REPAIR INC.	825	Unit 97 - A/C System Service	413010	43120		\$1,028.15
400208	03-Aug-18	408 - BOOT WORLD INC	1159415-IN	FY19 Boot Allowance: Jon Wagner	414040	49280		\$99.87
400209	03-Aug-18	1498 - BRAINSHINE	4155	Fall Community Services Guide Graphic Design	200020	17999		\$3,300.00
400210	03-Aug-18	445 - CAL-STATE AUTO PARTS INC	968234	Unit 900 - Parts	413010	47900		\$881.29
400211	03-Aug-18	47 - CALIFORNIA PARK & RECREATION SOCIETY	002794-FY19	Annual Agency Membership 9/1/18 - 8/31/19	200020	49240		\$480.00
400212	03-Aug-18	1126 - CALIFORNIA SAFETY PRODUCTS	2018-178	Warehouse: Flex fit safety hats	F1000	81350		\$660.78
400213	03-Aug-18	69 - CHILDRESS, DEBBORA	3000.101.18	Instructor Payment Camps 2018	208020	41300		\$1,452.00
400214	03-Aug-18	72 - CITY OF SAN DIEGO TREASURER	1000232347	First Quarter of Fiscal Yr 2019 (O&M)	403070	28020		\$28,139.00
400215	03-Aug-18	1694 - COASTAL APPLIANCE	396982	Facilities: Services	415010	41200		\$140.00
400216	03-Aug-18	1599 - COMMCINEMA MOBILE DIGITAL CINEMA	072218-04	Production Services July 21 Movie in the Park	208020	41200		\$445.00
400217	03-Aug-18	286 - COSTCO WHOLESALE	7755189823	Volunteer Meeting Annual Re-Certification Supplies	204020	47600		\$189.22
			7755154823	Volunteer Meeting Annual Re-Certification Supplies	204020	47600		\$79.51
Total for Check 400217:								\$268.73
400218	03-Aug-18	108 - CULLIGAN WATER CONDITIONING	1103378	Softener Equipment	402060	41200		\$280.00
400219	03-Aug-18	455 - DIAMOND ENVIRONMENTAL SERVICES	0001578033	Blue Sky Portable Services (7/16-8/12/18)	207020	41200		\$338.97
400220	03-Aug-18	1575 - ENGINEER SUPPLY	11184723	Master Order No.2252131 - Manager 37 Map Boxes	303030	47100		\$133.98
400221	03-Aug-18	465 - EVOQUA WATER TECHNOLOGIES LLC	903619900	Old Coach Golf Estates	403070	45200		\$2,413.00

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September 18, 2018, Item #1.2

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400222	03-Aug-18	350 - EWING IRRIGATION	5797166	Parks: Supplies	414040	47700		\$61.51
			5816135	Parks: Supplies	414040	47700		\$354.83
			5824860	Parks: Supplies	414040	47700		\$206.73
Total for Check 400222:								\$623.07
400223	03-Aug-18	724 - FASTENAL COMPANY	CAPOW46710	Warehouse: Paint	F1000	81350		\$198.80
			CAPOW46622	Warehouse: Caution Tapes	F1000	81350		\$207.07
Total for Check 400223:								\$405.87
400224	03-Aug-18	116 - FERGUSON WATERWORKS	0639872	Warehouse: Flanged Ball Curb Stop with Lockwing	F5100	81350		\$1,338.20
			0641273	Water Treatment: Supplies	402060	47600		\$348.58
			0640676	Warehouse: Utility pumps	F1000	81350		\$280.15
Total for Check 400224:								\$1,966.93
400225	03-Aug-18	362 - FIREWORKS & STAGE FX AMERICA	18221	July 4th Fireworks Display Balance	202020	41200		\$9,000.00
400226	03-Aug-18	120 - GRAINGER INC	9845019935	Water: Supplies	402060	47600		\$229.94
400227	03-Aug-18	117 - HAAKER EQUIPMENT COMPANY	C44133	Unit 7 - Parts	413010	47900		\$377.09
400228	03-Aug-18	415 - HAL SNYDER, SIGNWRITER	72518	Deposit for OPP Picnic Area Signs	205020	45300		\$500.00
400229	03-Aug-18	346 - HAWTHORNE POWER SYSTEMS	83511201	Water Treatment: Rental Supplies	402060	49360		\$694.00
400230	03-Aug-18	557 - HD SUPPLY FACILITIES MAINTENANCE	9164656446	Warehouse: Flush Valves	F1000	81350		\$1,222.97
400231	03-Aug-18	152 - HOME DEPOT COMMERCIAL ACCOUNT	8222573	T-10 Chlorine Analyzer	402060	47600		\$7.68
			8210086	Facilities: Supplies	415010	47600		\$26.82
			9222557	Water Distribution.: Supplies	402560	47600		\$81.22
			8222572	Facilities: Supplies	415010	47600		\$121.73
			4222585	Parks: Supplies	414040	47600		\$97.32
Total for Check 400231:								\$334.77
400232	03-Aug-18	648 - INGERSOLL-RAND COMPANY	24499567	Water Treatment: Supplies	402060	47600		\$1,014.61
400233	03-Aug-18	511 - JOHN ZETTNER FLOOR COVERING INC.	26689	Facilities: Other Contractual Services	415010	41200		\$1,325.00
400234	03-Aug-18	129 - JRC PRINTING LLC	38279	Document Coil Binding	300030	49220		\$12.93
400235	03-Aug-18	910 - LOWE'S	01471	Parks: Supplies	414040	47600		\$13.30
400236	03-Aug-18	516 - MAD SCIENCE OF SAN DIEGO	2100.101.18	Instructor Payment Camps 2018	208020	41300		\$1,382.40
400237	03-Aug-18	603 - MASON'S SAW & LAWNMOWER SERVICE	477256	Unit 594 - Parts	413010	47900		\$67.39
400238	03-Aug-18	1293 - MASTER SPORTS	6009.104-106.18	Instructor Payment Camps 2018	208020	41300		\$3,660.30
400239	03-Aug-18	156 - MCMASTER-CARR SUPPLY CO	68018920	Facilities Maintenance: Supplies	415010	47600		\$119.83
400240	03-Aug-18	1300 - JOSHUA C. MILLER	2101.100-01.18	Instructor Payment Camps 2018	208020	41300		\$2,625.00
400241	03-Aug-18	860 - MRO WAREHOUSE	116300	Warehouse: Hand Sanitizer	F1000	81350		\$208.26

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400242	03-Aug-18	175 - NAPA AUTO PARTS/POWAY	315804	Unit 902 - Parts	413010	47900		\$37.69
			314841	Credit for Invoice 314686	413010	47600		(\$43.10)
			316279	Unit 97 - Parts	413010	47900		\$45.22
			316540	Stock - Air Filter	413010	47900		\$83.64
			316536	Unit 88 - Parts	413010	47900		\$97.49
							Total for Check 400242:	\$220.94
400243	03-Aug-18	565 - NEAL ELECTRIC, INC	69830	Facilities: Labor	415010	41200		\$156.12
400244	03-Aug-18	1707 - NGUOI VIET TODAY NEWS	8338	2018 Notice of Election Publication	101010	49100		\$60.00
400245	03-Aug-18	84 - OFFICE DEPOT BUSINESS SERVICES DIVISION	169825155-001	Office Supplies	301030	47100		\$106.49
			171260739-001	Office Supplies - 2nd Floor	300030	47100		\$94.74
			172367283-001	Office Supplies - 2nd Floor	306030	47100		\$74.33
			174273189-001	HP90A Toner Cartridge	301030	47100		\$169.25
							Total for Check 400245:	\$444.81
400246	03-Aug-18	430 - ORKIN EXTERMINATING, INC.	171670944	Pest Control: Big Stone Lodge, July 2018	309030	41200		\$101.12
400247	03-Aug-18	1473 - PACIFIC AQUAFARMS	108858	1,300 Lbs Catfish Stock	202020	45120		\$4,810.00
400248	03-Aug-18	186 - PACIFIC PIPELINE SUPPLY	323701	Utilities: Parts	402060	47600		\$889.54
400249	03-Aug-18	194 - PARKHOUSE TIRE INC	3010278179	Unit 926 - Tires	413010	47900		\$1,985.36
			3010278965	Fleet: Hazardous Waste Removal	413010	29100		\$188.56
			3010276848	Fleet: Hazardous Waste Removal	413010	29100		\$268.30
			3010278171	Fleet: Hazardous Waste Disposal	413010	29100		\$211.19
							Total for Check 400249:	\$2,653.41
400250	03-Aug-18	220 - PETTY CASH GENERAL	07-24-2018	Reimburse General Petty Cash 7-24-18	100010	14010		\$167.00
			07-24-2018	Reimburse General Petty Cash 7-24-18	101010	47100		\$10.78
			07-24-2018	Reimburse General Petty Cash 7-24-18	114010	47600		\$32.44
			07-24-2018	Reimburse General Petty Cash 7-24-18	300030	31010		\$16.35
			07-24-2018	Reimburse General Petty Cash 7-24-18	300030	57300		\$38.00
			07-24-2018	Reimburse General Petty Cash 7-24-18	301030	31010		\$29.44
							Total for Check 400250:	\$294.01
400251	03-Aug-18	25 - POWAY CENTER FOR THE PERFORMING ARTS FOUNDATION	072318	Foundation Ticket Sales Transfer - PCPA	F1000	86330		\$13,414.00
400252	03-Aug-18	1495 - POWAY RODEO	2018 Rodeo	Community Contribution 2018 Rodeo	100010	49040		\$2,500.00
400253	03-Aug-18	274 - POWAY SENIOR CENTER	947	Phone/cable reimbursement 7/15/18 - 8/14/18	114010	33010		\$250.00
			947	Phone/cable reimbursement 7/15/18 - 8/14/18	114010	22000		\$98.81
							Total for Check 400253:	\$348.81

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September 18, 2018, Item #1.2

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400254	03-Aug-18	386 - PROFESSIONAL TREE CARE ASSOCIATION	00647	Membership dues	412040	14010		\$125.00
400255	03-Aug-18	1058 - R & B PINTO PROPERTIES LLC	LKCONC 7/18-22	Wkly Concession Pmnt (7/18-7/22/18) - June CC Chgs	F1000	86360		\$5,373.44
			LKCONC 7/18-22	Wkly Concession Pmnt (7/18-7/22/18) - June CC Chgs	202020	51130		(\$489.12)
Total for Check 400255:								\$4,884.32
400256	03-Aug-18	1669 - RELIANT AQUARIUM DESIGN INC.	16865	Aquarium Maintenance	206020	43040		\$65.00
			16940	Aquarium Maintenance	206020	43040		\$65.00
			17005	Aquarium Maintenance	206020	43040		\$65.00
			17040	Aquarium Maintenance & Sea Salt	206020	43040		\$88.69
Total for Check 400256:								\$283.69
400257	03-Aug-18	638 - ROCHESTER MIDLAND CORPORATION	INV00056953	Sanor Mark V Restroom Service July 2018	415010	41400		\$623.29
400258	03-Aug-18	221 - SAN DIEGO GAS & ELECTRIC	99522976016-7/18	14401 Pomerado Rd 06/13/18-07/15/18	414040	21010		\$187.22
			83800796106-7/18	14155 1/2 Pomerado Rd 06/13/18-07/15/18	414040	21010		\$10.09
			71205215723-7/18	13221 Midland Road 06/13/18-07/15/18	414040	21010		\$55.87
			64025166945-7/18	13544 Aubrey St. 06/13/18-07/15/18	414040	21010		\$1,835.11
			48745089461-7/18	13100 Poway Rd 06/13/18-07/15/18	414040	21010		\$8.47
			89922224091-7/18	14038 Midland Road 06/13/18-07/15/18	414040	21010		\$106.24
			15011872037-7/18	15401 1/2 Pomerado Rd 06/13/18-07/16/18	430050	21020		\$9.56
Total for Check 400258:								\$2,212.56
400259	03-Aug-18	VOID	82475997643-7/18	13306 1/2 Midland Rd 06/13/18-07/15/18	414040	21010		\$0.00
400260	03-Aug-18	VOID	Multiple	Legal Ads	Multiple	Multiple		\$0.00
400261	03-Aug-18	VOID	072418	Mileage Reimbursement	300030	31010		\$0.00
400262	03-Aug-18	VOID	6004.100-107.18	Instructor Payment Camps & Summer Class	208020	41300		\$0.00
400263	03-Aug-18	VOID	Multiple	Fuel Delivery	413010	31020		\$0.00
400264	03-Aug-18	VOID	8050568391	Binders for Corey	402060	47100		\$0.00
400265	03-Aug-18	VOID	14688776	Copier 6/25/18 - 7/24/18	114010	43080		\$0.00
400266	03-Aug-18	VOID	Multiple	Mats & Uniforms	Multiple	Multiple		\$0.00
400267	03-Aug-18	1085 - UNITIS CONTRACTOR SUPPLIES	149113	Warehouse: Shovels	F1000	81350		\$187.42
400268	03-Aug-18	231 - UNIVERSITY OF CALIFORNIA REGENTS	10771431	Municipal Law Handbook 2018	101010	49240		\$431.86
400269	03-Aug-18	696 - USA BLUE BOOK	626028	Water Treatment: Supplies	402060	47600		\$513.29
400270	03-Aug-18	321 - VERIZON WIRELESS	9811294586	Field / Mobile Broadband Data - Jul 2018	113010	22000		\$76.02

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400271	03-Aug-18	259 - VILLAGE LOCK AND KEY	15113	Facilities Maintenance: Supplies	415010	47600		\$51.54
			15117	Facilities Maintenance: Supplies	415010	47600		\$19.00
							Total for Check 400271:	\$70.54
400272	03-Aug-18	414 - VINING WHOLESALE LIGHTING SUPPLY	58770	House Lighting PCPA	204020	47600		\$400.83
400273	03-Aug-18	272 - WAXIE	77579657	Facilities: Supplies	415010	47200		\$1,131.85
			77594284	Facilities: Supplies	415010	47200		\$226.43
			77592613	Facilities: Supplies	415010	47200		\$1,100.02
							Total for Check 400273:	\$2,458.30
400274	03-Aug-18	540 - WEST COAST ARBORISTS, INC.	138763	Parks: Contractual Services	414040	41200		\$3,053.16
400275	03-Aug-18	280 - WESTERN MOWER AND ENGINE	55940	Parks: Parts	414040	43080		\$29.04
			56155	Stormwater: Parts	412040	47600		\$36.42
			55835	Stormwater: Utilities	412040	43080		\$40.00
			55765	Stormwater: Utilities	412040	43080		\$40.00
			55764	Stormwater: Utilities	412040	43080		\$40.00
							Total for Check 400275:	\$185.46
400276	03-Aug-18	1629 - WILLIS INSURANCE SERVICES OF CA	2095549	Consulting Fees: October - December 2018	F1000	87399		\$38,250.00
400277	03-Aug-18	1052 - WIMACTEL INC.	000176877	City Pay Phones - Jul 2018	114010	33010		\$354.00
400278	03-Aug-18	1573 - ZORO TOOLS, INC.	INV4754925	Warehouse: Supplies	F1000	81350		\$250.00
			INV4746423	Warehouse: Digging Bars	F1000	81350		\$220.72
							Total for Check 400278:	\$470.72
400279	03-Aug-18	221 - SAN DIEGO GAS & ELECTRIC	82475997643-7/18	13306 1/2 Midland Rd 06/13/18-07/15/18	414040	21010		\$48.07
400280	03-Aug-18	837 - SAN DIEGO UNION TRIBUNE	5688951	Legal Ad 18-062 PO 5688951 07/05/2018	101010	49320		\$111.60
			5688979	Legal Ad 18-063 PO 5688979 07/05/2018	101010	49320		\$93.00
			5689080	Legal Ad 18-072 PO 5689080 07/05/2018	101010	49320		\$186.00
			5689122	Legal Ad 18-073 PO 5689122 07/05/2018	101010	49320		\$186.00
			5689136	Legal Ad 18-074 PO 5689136 07/05/2018	101010	49320		\$186.00
			5689149	Legal Ad 18-075 PO 5689149 07/05/2018	101010	49320		\$186.00
							Total for Check 400280:	\$948.60
400281	03-Aug-18	1645 - MARIE SANDERS	072418	Mileage Reimbursement	300030	31010		\$117.72
400282	03-Aug-18	1169 - SD SKATE LIFE	6004.100-107.18	Instructor Payment Camps & Summer Class	208020	41300		\$2,615.40
400283	03-Aug-18	829 - SOCO GROUP INC.	0555966-IN	Fuel - Safety Services 07/19/2018	413010	31020		\$1,790.36
			0558260-IN	Fleet: Fuel Delivery 07/24/2018	413010	31020		\$5,943.23
							Total for Check 400283:	\$7,733.59

**September 18, 2018, Item #1.2**

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
904791	03-Aug-18	616 - MANUFACTURERS & TRADERS TRUST CO. BANK	ROTH PPE 7/29/18	ROTH IRA employee contributions PPE 7/29/18	F1000	86220		\$495.00
904792	03-Aug-18	616 - MANUFACTURERS & TRADERS TRUST CO. BANK	RHE PPE 7/29/18	Retirement Health Savings Plan (Safety) PPE 7/29/1	F1000	87004		\$12,056.09
904793	03-Aug-18	616 - MANUFACTURERS & TRADERS TRUST CO. BANK	RHS PPE 7/29/18	Retirement Health Savings Plan (Safety) PPE 7/29/1	F1000	87004		\$1,698.24
904794	03-Aug-18	785 - U.S. BANK N.A.	PARS-ARS PE#2018-16	PARS-ARS PE#2018-16	F1000	87200		\$2,195.38
904795	03-Aug-18	785 - U.S. BANK N.A.	PARS-REP PE#2018-16	PARS-REP PE#2018-16	F1000	87210		\$12,455.15
904796	03-Aug-18	785 - U.S. BANK N.A.	PARS-REP EX #2018-16	PARS-REP EXCESS PE#2018-16	F1000	87210		\$18,150.00

Register Total: \$2,472,222.33

Director of Finance Approved: \_\_\_\_\_

Date: \_\_\_\_\_

9-10-18

The City of Poway Finance Director Submits the Following Register of Demands for the period  
8/6/2018 - 8/10/2018 and Recommends its Ratification/Approval:

Run Date: 08-Aug-18

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ATTACHMENT B

September 18, 2018, Item #1.2

Check											
Number	Date	Payee/Vendor	Invoice	Comment	Fund	Orgn	Acct	Prog	Check Amt		
00303695	09-Aug-18	@00004756	Cal-State Auto Parts Inc	03436961	Battery Core Credit	611	0413	4799	300	-56.03	
				03938062	Fleet: Stock (Batteries)	611	0413	4799	300	363.09	
				03955986	Fleet: Stock	611	0413	4799	300	71.33	
Total for Check 00303695										378.39	
00303696	09-Aug-18	@00010170	City Electric Supply	POW/016136	Street Light Repair	275	0470	4327	300	2,268.14	
00303697		@00000539	City Treasurer	1000232518	Sewer Transportation 04/01/18 - 6/30/18	520	0403	2840	300	10,803.35	
00303698		@00000942	Crystal Gardens	06302018	Flowers for Concession Resale	100	0204	4799	400	100.00	
00303699		@00010127	Dave's Sport Sales & Screenprinting	15300	Uniforms - Technical Staff - PCPA	100	0204	4928	400	776.45	
				15301	Uniforms - Front of House - PCPA	100	0204	4928	400	610.67	
Total for Check 00303699										1,387.12	
00303700	09-Aug-18	@00000443	Department of Fish and Wildlife	2017CHANNEL MO2	Permit No. 1600-2008-0321-R5	231	0412	5730	300	1,124.00	
00303701		----	Duarte, Alejandra	2012880.001	Deposit Refund OPP Permit 19290	100	0205	7471	400	300.00	
00303702		@00005838	ElderHelp of San Diego	JUN-18	FY17/18 HomeShare & Community Connection	5961K	5000P	1799	600	6,396.36	
00303703		@00003690	Hawthorne Power Systems	21574	Fleet: Stock	611	0413	4799	300	20.90	
				83458901	Forklift Rental	100	0205	4936	400	645.55	
				SS100110857	PS 6 - High Valley - Equipment Repairs	510	0402	4760	300	2,033.23	
Total for Check 00303703										2,699.68	
00303704	09-Aug-18	@00006467	HMS Construction Inc.	P1800190-2	Traffic Signal Controller Upgrades Project	1343A	1000P	4120	600	42,705.35	
00303705		@00010756	International Air Tool & Industrial Supply Company	9531	Water - Equipment Repair	510	0404	4308	300	280.30	
00303706		@00005709	Lautzenhiser's Stationery	12176	Official Seal/Embosses	100	0011	4710	100	292.85	
00303707		@00006713	Mallory Safety & Supply LLC	4486177	C.O. Monitor Repair	100	0501	4308	200	818.90	
00303708		@00005537	Ninyo & Moore	219906	Alta Mira Reservoir: Special Inspection Service	1763A	1000P	1799	600	4,344.00	
				219907	Pomerado Reservoir: Special Inspection Service	1771A	1000P	1799	600	1,419.98	
				219908	Swirn Center Mechanical Upgrades	1632A	1000P	1799	100	1,410.00	
				219909	Espola Rd Safety Imp. Geotechnical Services	12010A	1000P	1799	600	2,568.00	
Total for Check 00303708										9,741.98	
00303709	09-Aug-18	@00011384	NV5 Inc.	86046	Consulting Services	1198A	1000P	4120	600	1,336.25	
				88967	Consulting Services	1198A	1000P	4120	600	411.50	
Total for Check 00303709										1,747.75	
00303710	09-Aug-18	@00002007	Pacific Pipeline Supply	322336	Warehouse: Supplies	510		8189		471.51	
00303711		@00002741	Poway Unified School District	FY18 QTR4 FINES	70% Share PHS Parking Fines: Apr-Jun 2018	100	0504	7310	5000	3,302.60	
00303712		@00011743	Q3 Consulting	13294	Engineering Services - Poway Dam Inundation	510	0402	1726	300	3,747.30	
00303713		@00010911	R & B Pinto Properties LLC	66928	Minn Kota C2 Trolling Motors, 30 Lb. Thrust	100	0202	4760	400	2,149.61	
00303714		-----	Railworks Track Services	150023	OPP Train Track Inspection	100	0205	4120	400	1,040.00	

## Check

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Number	Date	Payee/Vendor	Invoice	Comment	Fund	Orgn	Acct	Prog	Check Amt
00303715	09-Aug-18	@00011523 Randall Lamb Associates, Inc.	103160	Design Services - City Hall Hydronic Pipe	3502I	1000P	1799	600	2,250.00
00303716		@00006857 Savmart Pharmaceutical Service	608356	Medical Supplies	100	0503	4740	200	35.10
00303717		@00010645 Siemens Industry Inc	5620018763	Light Pole Repairs	275	0470	4327	300	1,156.98
			5620020438	Light Pole Repairs	275	0470	4327	300	762.00
			5620021470	Street Light Painting	275	0470	4327	300	295.00
Total for Check 00303717									2,213.98
00303718	09-Aug-18	@00002986 Sloan Electric	0070119	Replacement Pump at Training Tower	100	0501	4304	200	6,225.00
00303719		@00011412 Stericycle Environmental Solutions	72402092399	Management of Household Hazardous Waste	1697A	1000P	4120	600	21,945.50
			72402157223	Mgmt. Household Hazardous Waste Facility Jun	1697A	1000P	4120	600	23,831.00
Total for Check 00303719									45,776.50
00303720	09-Aug-18	@00011334 SYNCB/AMAZON	8781042209 7/18	Amazon.com Purchases	1567A	1000P	4120	600	95.88
			8781042209 7/18	Amazon.com Purchases	100	0602	4750	100	505.28
Total for Check 00303720									601.16
00303721	09-Aug-18	@00004950 Truesdail Laboratories, Inc	1802111	Water Testing	510	0402	4120	300	281.27
			1803643	Water Testing	510	0402	4120	300	720.00
Total for Check 00303721									1,001.27
00303722	09-Aug-18	@00010371 U.S. Bank Corporate Payment System-CS	0001-0444-6/18	CSD Calcard-Greg Sundberg - 6/18	100		8644		-24.59
			0001-0444-6/18	CSD Calcard-Greg Sundberg - 6/18	100	0202	4710	400	10.58
			0001-0444-6/18	CSD Calcard-Greg Sundberg - 6/18	100	0202	4760	400	14.01
			0001-0444-6/18	CSD Calcard-Greg Sundberg - 6/18	100	0202	4710	400	341.43
			0001-0444-6/18	CSD Calcard-Greg Sundberg - 6/18	100	0202	4760	400	260.22
			0026-7424-6/18	CSD Calcard-Christine Hill - 6/18	100	0205	4928	400	273.69
			0026-7424-6/18	CSD Calcard-Christine Hill - 6/18	100	0205	4720	400	215.35
			0026-7424-6/18	CSD Calcard-Christine Hill - 6/18	100	0205	4932	400	102.80
			0026-7424-6/18	CSD Calcard-Christine Hill - 6/18	100	0205	4760	400	182.55
			0031-5760-07/18	CSD CalCard-RJ Saldana July 2018	100	0201	4514	400	131.29
			0031-5760-07/18	CSD CalCard-RJ Saldana July 2018	100	0208	4304	400	264.99
			0031-5760-07/18	CSD CalCard-RJ Saldana July 2018	100	0208	4760	400	113.92
			0031-5760-07/18	CSD CalCard-RJ Saldana July 2018	100	0201	4760	400	1,287.16
			0034-8159-6/18	CSD Calcard-Allie Margis - 6/18	100	0202	4760	400	2,425.81
			00459054618B	CSD CalCard - Brook Walsh - June 2018B	100	0203	4760	400	652.46
			00459054618B	CSD CalCard - Brook Walsh - June 2018B	100		8644		-58.82
			00459054618B	CSD CalCard - Brook Walsh - June 2018B	100	0203	4308	400	22.35
			00459054618B	CSD CalCard - Brook Walsh - June 2018B	100	0203	4760	400	36.47
			00459054618B	CSD CalCard - Brook Walsh - June 2018B	100	0203	4308	400	425.87
			00459054618B	CSD CalCard - Brook Walsh - June 2018B	100	0203	4750	400	36.69
			00459054618B	CSD CalCard - Brook Walsh - June 2018B	100	0203	4720	400	31.34

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Warrants From 8/6/2018 - 8/10/2018

## Check

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Number	Date	Payee/Vendor	Invoice	Comment	Fund	Orgn	Acct	Prog	Check Amt
00303722	09-Aug-18	@00010371 U.S. Bank Corporate Payment System-CS	0053-8964-6/18	CSD Calcard-Sarah Becker - 6/18	100	0205	4760	400	1.46
			0053-8964-6/18	CSD Calcard-Sarah Becker - 6/18	100		8644		-1.46
			0053-8964-6/18	CSD Calcard-Sarah Becker - 6/18	100	0205	4514	400	500.00
			0053-8964-6/18	CSD Calcard-Sarah Becker - 6/18	100	0205	5730	400	460.60
			0053-8964-6/18	CSD Calcard-Sarah Becker - 6/18	100	0205	4760	400	121.61
			1761-1684-07/18	CSD CalCard - Lisa Najmi July 2018 (FY18)	100		8644		-26.74
			1761-1684-07/18	CSD CalCard - Lisa Najmi July 2018 (FY18)	100	0204	4760	400	26.74
			1761-1684-07/18	CSD CalCard - Lisa Najmi July 2018 (FY18)	100	0204	4799	400	3,624.83
			1761-1684-07/18	CSD CalCard - Lisa Najmi July 2018 (FY18)	100	0204	4760	400	1,227.98
			1761-1684-07/18	CSD CalCard - Lisa Najmi July 2018 (FY18)	100	0204	4710	400	48.48
			1993-3326-07/18	CSD CalCard - Kelcie Kopf July 2018 (FY18)	100	0204	6199	400	1,983.18
			1993-3326-07/18	CSD CalCard - Kelcie Kopf July 2018 (FY18)	100	0204	4799	400	19.33
Total for Check 00303722									14,731.58

Finance Director Approved

Date

9-10-18

Register Total

164,589.78



The City of Poway Director of Finance Submits the Following Register of Demands  
for the period 8/6/2018 - 8/10/2018 and Recommends its Ratification/Approval:

Run Date: 14-Aug-18

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400287	09-Aug-18	999991 - ELEVEN WESTERN BUILDINGS INC	MDRA16-053	Release Erosion Control - MDRA16-053	390030	59800		\$2,000.00
400288	09-Aug-18	999991 - PETER MARLOW	G17-0007	Partial Release of Securities for G17-0007	390030	59800		\$55,400.00
400289	09-Aug-18	999998 - Mitchell, Brian	Chief Fire Officer 3	Tuition Reimbursement: Chief Fire Officer 3 Course	121010	14040		\$116.00
400290	09-Aug-18	999995 - Esgil, A Safebuilt Company	2012871.001	Refund Parking Passes Permit # 20682	202020	72360		\$25.00
400291	09-Aug-18	815 - AFLAC	449763	July 2018 Premiums	F1000	86140		\$581.60
400292	09-Aug-18	6 - AGRICULTURAL PEST CONTROL	461878	Parks: Contractual Service	414040	41200		\$855.00
			462575	Facilities Maintenance: Contractual Service	415010	41200		\$570.36
Total for Check 400292:								\$1,425.36
400293	09-Aug-18	418 - ANTHEM BLUE CROSS	000566254C	Vision Insurance Premiums: August 2018	F1000	87371		\$2,746.16
			000566254C	Vision Insurance Premiums: August 2018	F1000	87372		\$74.76
Total for Check 400293:								\$2,820.92
400294	09-Aug-18	21 - ARAMARK REFRESHMENT SERVICES	1532727	Aramark Refreshments: City Hall	114010	47600		\$25.07
400295	09-Aug-18	835 - AT&T	11674043	BAN 9391026538 06/24/18 - 07/23/18	414040	22000		\$20.31
			11674042	BAN 9391026534 06/24/18 - 07/23/18	414040	22000		\$20.31
			11674058	BAN 9391026570 06/24/18 - 07/23/18	414040	22000		\$20.31
			11661142	BAN 9391050366 06/20/18 - 07/19/18	430050	23010		\$1,051.74
			11674052	BAN 9391026563 6/24/18 - 7/23/18	402060	33010		\$76.27
			11601466	BAN 9391053607 Lake Poway Phone - 7/18	202020	33010		\$57.76
			11674059	BAN 9391026571 Lake Modern Line - 7/18	202020	33010		\$20.31
Total for Check 400295:								\$1,267.01
400296	09-Aug-18	32 - SUSAN BAINBRIDGE	3100.102-08.18	Instructor Payment Camps 2018	208020	41300		\$3,537.00
400297	09-Aug-18	453 - BAY CITY ELECTRIC WORKS INC	W195579	Water Treatment: Contractual Service	402060	41200		\$140.00
400298	09-Aug-18	1489 - BENETRAC	623720	Employee Vendor Management System: August 2018	F1000	87399		\$780.00
400299	09-Aug-18	916 - C.A. SHORT COMPANY	1367612	Service Awards: Fried, Snider & Withey	121010	45500		\$296.73
400300	09-Aug-18	717 - CALIFORNIA COMMERCIAL ASPHALT, LLC	203165	Street Maintenance: 64.31 Ton	415010	43040		\$3,811.17
			202858	Street Maintenance: 25.67 Ton	415010	43040		\$1,521.27
			203222	Street Maintenance: 53.83 Ton	415010	43040		\$3,190.10
			203601	Street Maintenance: 35.65 Ton	415010	43040		\$2,112.71
			203912	Street Maintenance: 3.08 Ton	415010	43040		\$199.12

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400320	09-Aug-18	350 - EWING IRRIGATION	5824859	Parks: Supplies	414040	47700		\$1,033.29
			5894680	Parks: Landscape Supplies	414040	47700		\$425.11
			5855888	Parks: Landscape Supplies	414040	47700		\$191.71
			5912519	Parks: Landscape Supplies	414040	47700		\$478.50
			5921157	Parks: Landscape Supplies	414040	47700		\$962.97
			5921158	Parks: Landscape Supplies	414040	47700		\$61.33
Total for Check 400320:								\$3,152.91
400321	09-Aug-18	724 - FASTENAL COMPANY	CAPOW46482	Parks: Supplies	414040	47600		\$29.09
400322	09-Aug-18	116 - FERGUSON WATERWORKS	0641400	Water Distribution: Parts	402560	61180		\$807.12
			0640780	Water Distribution: Parts	402560	47600		\$13.77
			0640775	Water Distribution: Parts	402560	47600		\$130.16
			0642108	Water Distribution: Parts	402560	47600		\$559.37
Total for Check 400322:								\$1,510.42
400323	09-Aug-18	979 - FIRE SERVICE CORP	19M 778139	Facilities Maintenance: Contractual Service	415010	41200		\$420.77
			19M 778138	Facilities Maintenance: Contractual Service	415010	41200		\$138.35
Total for Check 400323:								\$559.12
400324	09-Aug-18	1706 - FRANCHISE TAX BOARD	PPE 7/29/18	Payroll Garnishment	F1000	86150		\$100.00
400325	09-Aug-18	1706 - FRANCHISE TAX BOARD	PPE 7-29-18	Payroll Garnishment	F1000	86150		\$500.00
400326	09-Aug-18	120 - GRAINGER INC	9854135416	Water Treatment: Supplies	402060	47600		\$40.84
400327	09-Aug-18	483 - HANSON AGGREGATES PACIFIC SOUTHWEST, INC	1924958	Water Distribution: Supplies	402560	47600		\$1,044.31
400328	09-Aug-18	494 - HARBOR FREIGHT TOOLS	02509422	Parks: Supplies	414040	47600		\$98.76
400329	09-Aug-18	123 - HARRINGTON INDUSTRIAL PLASTICS INC	00417001	Refund Inv 00415202: Connector Flare	402060	47600		(\$88.57)
			00417492	Water Treatment: Parts	402060	47600		\$310.73
Total for Check 400329:								\$222.16
400330	09-Aug-18	152 - HOME DEPOT COMMERCIAL ACCOUNT	2222491	Water Treatment: Repair Supplies	402060	47600		\$30.54
			8210034	Repair Supplies	402060	47600		\$56.90
			2210110	Facilities Maintenance: Supplies	415010	47600		\$42.48
			2222591	Facilities Maintenance: Repair	415010	43040		\$151.83
			3222588	Facilities Maintenance: Supplies	415010	47600		\$30.06
			3210108	Water Treatment: Supplies	414040	47600		\$77.28
			3222586	Facilities Maintenance:Supplies	414040	47600		\$32.29
			92222565	Parks: Tools	414040	45600		\$48.42
			1210114	Facilities Maintenance: Supplies	415010	47600		\$24.75

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400330	09-Aug-18	152 - HOME DEPOT COMMERCIAL ACCOUNT	7210131	Facilities Maintenance: Supplies	415010	47600		\$72.49
			6210134	Facilities Maintenance: Supplies	415010	47600		\$40.32
			6210136	Facilities Maintenance: Operating Supplies	415010	47600		\$12.54
			7222577	Fly System and Booth Repairs	204020	43040		\$206.81
			1222539	Bolts and Supplies	204020	47600		\$100.34
			1222540	Backstage Repairs	204020	43040		\$312.44
			5210147	Facilities Maintenance: Supplies	415010	47600		\$35.49
Total for Check 400330:								\$1,274.98
400331	09-Aug-18	129 - JRC PRINTING LLC	38287	Business Cards - Reynolds	402560	47600		\$34.48
			38269	Printing	502050	47100		\$214.42
			38262	Lake Posters & Flyers	202020	49220		\$37.71
			38295	Business Cards - Old Poway Park	205020	49220		\$47.41
			38274	Parks: Printing	414040	49220		\$322.17
Total for Check 400331:								\$656.19
400332	09-Aug-18	133 - KAISER FOUNDATION HEALTH PLAN INC	000104676-0000 08/18	Health Insurance Premiums: August 2018	F1000	87310		\$76,384.26
			000104676-0000 08/18	Health Insurance Premiums: August 2018	F1000	87311		\$3,971.45
Total for Check 400332:								\$80,355.71
400333	09-Aug-18	134 - KAISER FOUNDATION HEALTH PLAN INC (COBRA)	000104676-7000 08/18	Health Insurance Premiums, COBRA: August 2018	F1000	87311		\$975.62
400334	09-Aug-18	757 - KOI CITY	017-1350	Facilities Maintenance: Contractual Service	415010	41200		\$300.00
			017-1364	Facilities Maintenance: Contractual Service	415010	41200		\$16.14
Total for Check 400334:								\$316.14
400335	09-Aug-18	141 - RICHARD LEATHERMAN	6005.100-04.18A	Instructor Payment Summer Classes 2018	208020	41300		\$2,688.00
400336	09-Aug-18	910 - LOWE'S	01132	Parks: Supplies	414040	47600		\$120.68
400337	09-Aug-18	546 - MDP CATERING & EVENTS INC.	E37550	Catering and Equipment	200020	49040		\$9,457.01
400338	09-Aug-18	175 - NAPA AUTO PARTS/POWAY	317925	Stormwater: Safety Supplies	412040	47500		\$6.45
400339	09-Aug-18	84 - OFFICE DEPOT BUSINESS SERVICES DIVISION	176628476-001	Office Supplies: 2nd Floor	306030	47100		\$61.95
			163099733-001	Office & Recruitment Supplies	120010	47100		\$5.19
			163099733-001	Office & Recruitment Supplies	121010	49340		\$6.91
			163099733-001	Office & Recruitment Supplies	122010	47100		\$50.66
			166803908-001	FOG Binder Supplies	403570	49220		\$103.12
			170676693-001	PW: Office Supplies	410060	47100		\$136.74
			169782250-001	Office Supplies	122010	47100		\$7.32
			169782250-001	Office Supplies	121010	49340		\$132.56

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400339	09-Aug-18	84 - OFFICE DEPOT BUSINESS SERVICES DIVISION	165037123-001	Lake Office Supplies	202020	47100		\$56.00
			174454295-001	Office Supplies	111010	47100		\$22.40
			173255192-001	Blue Sky Office Supplies	207020	47100		\$28.45
Total for Check 400339:								\$611.30
400340	09-Aug-18	194 - PARKHOUSE TIRE INC	3010278633	Fleet: Stock	413010	47900		\$589.80
			3010278809	Fleet: Stock	413010	47900		\$679.50
Total for Check 400340:								\$1,269.30
400341	09-Aug-18	518 - PAVEMENT RECYCLING SYSTEMS, INC.	PR1000001849-A	Facilities Maintenance: Repair	415010	43040		\$9,392.00
400342	09-Aug-18	1212 - PCMG	B08844770101	Microsoft Licensing P1 Councilmember Password Sync	115010	61222		\$233.82
400343	09-Aug-18	1134 - PLAY-WELL TEKNOLOGIES	4100.100-06.18	Instructor Payment Camps 2018	208020	41300		\$7,728.00
400344	09-Aug-18	25 - POWAY CENTER FOR THE PERFORMING ARTS FOUNDATION	07302018	Foundation Ticket Sales Transfer - PCPA	F1000	86330		\$10,371.00
			18-19 Contribution	2018-2019 City Contribution to PCPA Foundation	204020	41200		\$128,350.00
Total for Check 400344:								\$138,721.00
400345	09-Aug-18	265 - POWAY FIREFIGHTERS ASSOCIATION	DUES PPE 7/29/18	Fire Association dues for PPE 7/29/18	F1000	86100		\$2,123.00
400346	09-Aug-18	671 - PRODUCTIVITY PLUS ACCOUNT	31001517-07/18	Vehicle Maintenance: Supplies	413010	47900		\$155.24
400347	09-Aug-18	524 - PROGRESSIVE TECHNOLOGY SECURITY SYSTEMS INC	42875	Support Services: Equipment Repair	114010	43080		\$852.60
400348	09-Aug-18	1058 - R & B PINTO PROPERTIES LLC	LKCONC 7/25-29	Weekly Concession Payment (7/25-7/29/18)	F1000	86360		\$4,008.50
400349	09-Aug-18	205 - REGIONAL TRAINING CENTER	40215	SDRTC Training Course (Mann)	410060	14010		\$150.00
400350	09-Aug-18	218 - SAN DIEGO GAS & ELECTRIC/SUNDRY	049444400390718	Special Districts 06/10/2018 - 07/10/2018	421040	21010		\$60.65
			049444400390718	Special Districts 06/10/2018 - 07/10/2018	423040	21010		\$39.12
			049444400390718	Special Districts 06/10/2018 - 07/10/2018	424040	21010		\$20.66
			049444400390718	Special Districts 06/10/2018 - 07/10/2018	425040	21010		\$28.02
			049444400390718	Special Districts 06/10/2018 - 07/10/2018	426040	21010		\$235.43
			049444400390718	Special Districts 06/10/2018 - 07/10/2018	424140	21010		\$19.44
			049444400390718	Special Districts 06/10/2018 - 07/10/2018	425140	21010		\$20.47
			049444400390718	Special Districts 06/10/2018 - 07/10/2018	421240	21010		\$9.82
			049444400390718	Special Districts 06/10/2018 - 07/10/2018	430050	21020		\$1,216.67
Total for Check 400350:								\$1,650.28
400351	09-Aug-18	218 - SAN DIEGO GAS & ELECTRIC/SUNDRY	31507776772-07/18	Group Sundry Bill - Jul 2018	205020	21010		\$555.04
			31507776772-07/18	Group Sundry Bill - Jul 2018	430050	21020		\$1,805.18
			31507776772-07/18	Group Sundry Bill - Jul 2018	430050	21030		\$28,812.84

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400351	09-Aug-18	218 - SAN DIEGO GAS & ELECTRIC/SUNDRY	31507776772-07/18	Group Sundry Bill - Jul 2018	414040	21010		\$22.91
Total for Check 400351:								\$31,195.97
400352	09-Aug-18	221 - SAN DIEGO GAS & ELECTRIC	14532237960-07/18	13094 Civic Center Drive 6/30-07/31/18	208020	21010		\$41.88
			3222233251-07/18	14560 Lake Poway Rd Electric - 7/18	202020	21010		\$1,112.19
Total for Check 400352:								\$1,154.07
400353	09-Aug-18	221 - SAN DIEGO GAS & ELECTRIC	95321310795-07/18	Station 3 - 14322 Pomerado Rd.	501050	21010		\$4,319.66
400354	09-Aug-18	201 - SAN DIEGO HUMANE SOCIETY AND SPCA	08-01-18-ACP	August Animal Control Services	200020	41010		\$20,062.96
400355	09-Aug-18	744 - SIGN UP	24401	ERC Banner	121010	14030		\$154.08
400356	09-Aug-18	645 - SO CAL SIGNS, INC.	6131A	Brenda Sylvia Name Plate	200020	49220		\$37.00
400357	09-Aug-18	1031 - SPECIAL SERVICES GROUP LLC	9364	Mobile Data GPS	504050	22000		\$600.00
400358	09-Aug-18	528 - STATEWIDE SAFETY & SIGNS, INC	01004230	Parks: Sign Maintenance	414040	45300		\$155.16
400359	09-Aug-18	312 - SUPERIOR READY MIX	974286	Facilities Maint.: Repair	415010	43040		\$334.89
400360	09-Aug-18	1580 - UNIFIRST CORPORATION	361 0035287	Towels and mats for Station 1	501050	49280		\$29.88
			361 0034511	Towels and mats for Station 2	501050	49280		\$21.12
			361 0035448	Twin Peaks: Mats and mops	415010	41200		\$11.37
			361 0035449	Lake: Mats	415010	41200		\$9.89
			361 0035286	City Hall: Mats	415010	41200		\$17.21
			361 0035445	Parks: Uniforms	414040	49280		\$29.39
			361 0035441	Facilities: Uniforms	415010	49280		\$8.83
			361 0035438	Warehouse: Mats and Uniforms	410060	49280		\$5.55
			361 0035438	Warehouse: Mats and Uniforms	415010	41200		\$1.22
			361 0035435	Fleet: Supplies	415010	41200		\$8.81
			361 0035435	Fleet: Supplies	413010	49280		\$46.02
			361 0035447	Public Works: Mats	415010	41200		\$6.45
			361 0035285	Senior Center: Mats	415010	41200		\$14.77
			361 0036064	Facilities and Parks: Uniforms	415010	41200		\$34.51
			361 0036064	Facilities and Parks: Uniforms	414040	49280		\$21.33
			361 0035290	Facilities and Parks: Uniforms	415010	41200		\$34.51
			361 0035290	Facilities and Parks: Uniforms	414040	49280		\$21.33
			361 0035289	PCPA Weekly Mat Service 7/25/18	204020	49280		\$9.63
			361 0036060	Facilities Maintenance: Contractual Service	415010	41200		\$17.21
			361 0036231	Lake: Mats	415010	41200		\$9.89

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400360	09-Aug-18	1580 - UNIFIRST CORPORATION	361 0036229	Public Works: Mats	415010	41200		\$6.45
			361 0036227	Parks: Uniforms	414040	49280		\$27.96
			361 0036218	Stormwater: Uniforms	412040	49280		\$21.55
			361 0036217	Fleet: Mats, Wipes and Uniforms	415010	41200		\$8.81
			361 0036217	Fleet: Mats, Wipes and Uniforms	413010	49280		\$46.02
			361 0036223	Facilities: Uniforms	415010	49280		\$8.83
			361 0036220	Warehouse: Mats and Uniforms	410060	49280		\$6.77
			361 0036059	Senior Center: Mats	415010	41200		\$14.77
Total for Check 400360:								\$500.08
400361	09-Aug-18	655 - UNITED SITE SERVICES	114-7045036	Training Tower Restroom	501050	47900		\$147.47
400362	09-Aug-18	1612 - USAFACT, INC.	8072024	Background Investigations	121010	17999		\$138.10
			8072730	Background Investigations	121010	17999		\$15.89
Total for Check 400362:								\$153.99
400363	09-Aug-18	321 - VERIZON WIRELESS	9811330310	Emergency Phones - Jul 2018	114010	33010		\$3.94
400364	09-Aug-18	321 - VERIZON WIRELESS	9811796797	858-395-1298 PIO phone	103010	33011		\$25.17
400365	09-Aug-18	321 - VERIZON WIRELESS	9810469213	SSD Cell Phones	503050	33011		\$304.08
			9810469213	SSD Cell Phones	500050	22000		\$76.02
			9810469213	SSD Cell Phones	501050	33011		\$5.82
			9810469213	SSD Cell Phones	502050	33011		\$59.98
			9810469213	SSD Cell Phones	503050	22000		\$304.08
			9810469213	SSD Cell Phones	504050	22000		\$38.01
			9810469213	SSD Cell Phones	500050	33019		\$58.74
			9810469213	SSD Cell Phones	504050	22000		\$0.54
Total for Check 400365:								\$847.27
400366	09-Aug-18	259 - VILLAGE LOCK AND KEY	15121	Facilities Maintenance: Repair	415010	43040		\$76.00
			15120	Facilities Maintenance: Repair	415010	43040		\$19.00
Total for Check 400366:								\$95.00
400367	09-Aug-18	1634 - VINYARD DOORS, INC.	96730	Facilities Maintenance: Services	415010	41200		\$665.00
400368	09-Aug-18	272 - WAXIE	77570495	Community Center: Sanitary Supplies	415010	47200		\$448.36
			77583480	Facilities: Sanitary Supplies	415010	47200		\$912.86
			77609222	Lake: Sanitary Supplies	415010	47200		\$563.02
			77606973	Community Center: Sanitary Supplies	415010	47200		\$453.23
			77623104	Facilities Maintenance: Supplies	415010	41200		\$527.23

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400368	09-Aug-18	272 - WAXIE	77627913	Facilities Maintenance: Supplies	415010	47200		\$73.74
			77624961	Facilities Maintenance: Supplies	415010	47200		\$251.35
Total for Check 400368:								\$3,229.79
400369	09-Aug-18	280 - WESTERN MOWER AND ENGINE	56202	Parks: Repair	414040	43080		\$65.27
			56168	Stormwater: Maintenance and Repair	412040	43080		\$111.72
			56215	Parks: Equipment Repair	414040	43080		\$46.45
			56517	Parks: Supplies	414040	47600		\$307.09
Total for Check 400369:								\$530.53
400370	09-Aug-18	1629 - WILLIS INSURANCE SERVICES OF CA	2095548	Consulting Fees: July through September 2018	F1000	87399		\$38,250.00
904797	06-Aug-18	941 - U.S. DEPT. OF THE TREASURY	Fed WH PE#2018-16	FED W/H EFT PE#2018-16	F1000	86160		\$80,334.65
			Fed WH PE#2018-16	FED W/H EFT PE#2018-16	F1000	86180		\$22,626.90
Total for Check 904797:								\$102,961.55
904798	06-Aug-18	942 - DEPT. OF CHILD SUPPORT SERVICES	CLD WH PE#2018-16	Payroll Garnishment	F1000	86150		\$2,079.67
904799	06-Aug-18	97 - EMPLOYMENT DEVELOPMENT DEPARTMENT	CAL WH PE#2018-16	CAL W/H PE#2018-16	F1000	86170		\$32,788.94
904800	06-Aug-18	334 - UNION BANK-SAN DIEGO	073118 DISC BEN	Flexible Spending Register Jul 2018	F1000	80050		\$3,433.98
			073118 DISC BEN	Flexible Spending Register Jul 2018	F1000	80050		(\$3,433.98)
			073118 DISC BEN	Flexible Spending Register Jul 2018	F1000	86190		\$3,433.98
Register Total:								\$742,979.73

Director of Finance Approved: \_\_\_\_\_

Date: \_\_\_\_\_

9-10-18

September 18, 2018, Item #1.2



The City of Poway Finance Director Submits the Following Register of Demands for the period  
8/13/2018 - 8/17/2018 and Recommends its Ratification/Approval:


Run Date: 22-Aug-18

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ATTACHMENT C

Check											
Number	Date	Payee/Vendor	Invoice	Comment	Fund	Orgn	Acct	Prog	Check Amt		
00303723	17-Aug-18	@00005371	A O Reed & Co	91101	HVAC Maintenance Library	100	0206	4302	400	1,078.66	
				91102	HVAC Maintenance PCPA	100	0204	4302	400	2,674.67	
				91103	HVAC Maintenance Facilities	100	0419	4302	300	5,477.67	
Total for Check 00303723										9,231.00	
00303724	17-Aug-18	@00006672	Centre For Organization Effectiveness, The	TCFOE2256	START Academy for Katie O'Reilly	100	0208	1430	400	399.00	
00303725		@00000301	D & D Services Inc.	320	FY 17-18 Dead Animal Removal Services	100	0301	4120	100	2,120.00	
00303726		---	Legends Concert Productions	07182018	PCPA Deposit Return - Show Cancellation	100	0204	7471	400	600.00	
00303727		@00011351	Michael Baker International Inc.	1017593	SR-67 ATP Crossing Feasibility Study	12016A	1000P	4120	600	3,645.00	
				1018734	Professional Services: 6/4/18 - 7/1/18	100	0305	4122	100	4,884.00	
				1018734	Professional Services: 6/4/18 - 7/1/18	763	0399	5910	100	1,584.00	
				1018734	Professional Services: 6/4/18 - 7/1/18	763	0399	5940	100	264.00	
				1019170	SR-67 ATP Crossing Feasibility Study	12016A	1000P	4120	600	8,250.00	
Total for Check 00303727										18,627.00	
00303728	17-Aug-18	@00002814	Sharp Rees-Stealy Medical Center	320842203	Hep B SUR AB	100	0601	4916	100	52.00	
00904802	14-Aug-18	@00000845	Employment Development Department	04/01-06/30/18	Unemployment Reimbursement 4/1-6/30/18	100		8262		382.00	

Finance Director Approved   
Date 9-10-18

Register Total 31,411.00

September 18, 2018, Item #1.2



The City of Poway Director of Finance Submits the Following Register of Demands  
for the period 8/13/2018 - 8/17/2018 and Recommends its Ratification/Approval:

Run Date: 28-Aug-18

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400371	17-Aug-18	999993 - James D. McCarthy	MDRA16-020	Release Erosion Control MDRA16-020	390030	59800		\$2,000.00
400372	17-Aug-18	999993 - JBW Prop Account	G16-0011	Partial Release Grading Bond Belvedere Dr G16-0011	390030	59800		\$25,060.00
400373	17-Aug-18	999993 - MK Developers	MDRA16-004	Release Erosion Control MDRA16-004	390030	59800		\$2,000.00
400374	17-Aug-18	999993 - Nicolas Naatz	MDRA14-033	Release Erosion Control MDRA14-033	390030	59800		\$2,000.00
400375	17-Aug-18	999993 - Strata Development	MDRA17-006	Release Erosion Control MDRA17-006	390030	59800		\$2,000.00
400376	17-Aug-18	999993 - Strata Development, LLC	MDRA17-005	Release Erosion Control MDRA17-005	390030	59800		\$2,000.00
400377	17-Aug-18	999993 - Trevin Schall Architect, Inc	MDRA17-015	Release Erosion Control MDRA17-015	390030	59800		\$2,000.00
400378	17-Aug-18	999991 - Tetrad Contracting Group, Inc	ERA18-0013	Refund Encroachment Removal Agreement	305030	77360		\$308.00
400379	17-Aug-18	999991 - Tetrad Contracting Group, Inc	ERA18-0014	Refund Encroachment Removal Agreement	305030	77360		\$308.00
400380	17-Aug-18	999991 - Tetrad Contracting Group, Inc	ERA18-0015	Refund Encroachment Removal Agreement	305030	77360		\$308.00
400381	17-Aug-18	999998 - TOM WHITE	CROSS CERT 18 WHITE	Cross-Connection Control Specialist Cert (White)	402060	49240		\$80.00
400382	17-Aug-18	506 - A O REED & CO	293115	Facilities Maintenance: Air Conditioning Repair	415010	43020		\$6,940.32
			296670	Facilities Maintenance: Air Conditioning Repair	415010	43020		\$429.89
							Total for Check 400382:	\$7,370.21
400383	17-Aug-18	940 - A-CHECK GLOBAL	59-0555149	Medical exams	501050	49160		\$17.50
400384	17-Aug-18	630 - ADVANCED CHEMICAL TRANSPORT, INC.	195638	Fleet: Hazardous Waste Removal	413010	29100		\$579.60
400385	17-Aug-18	196 - AIRGAS WEST	9078327531	EMS oxygen	503050	47500		\$188.77
			9078474631	Tower Smoke	501050	47900		\$214.51
			9078522198	Tower Smoke	501050	47900		\$106.51
							Total for Check 400385:	\$509.79
400386	17-Aug-18	683 - ALLSTAR FRESH WATER SYSTEMS, INC.	293840	Facilities Maintenance: Contractual Service	415010	41200		\$120.00
400387	17-Aug-18	834 - ALPHA-NUMERIC DESIGN, INC.	1426-A	Office supplies	502050	47100		\$213.35
400388	17-Aug-18	10 - AMERICAN BACKFLOW SPECIALTIES INC	INV46274	Water Distribution: Supplies	402560	47600		\$1,429.01
			INV46275	Water Distribution: Supplies	402560	47600		\$703.44
							Total for Check 400388:	\$2,132.45
400389	17-Aug-18	953 - AMERICAN MESSAGING	L1073904SH	Dispatch pagers	501050	41050		\$739.96
400390	17-Aug-18	721 - AMERICAN TECHNOLOGIES, INC.	AC64713459-001	Facilities Maintenance: Contractual Service	415010	41200		\$7,485.53
			AC6-45-13354-07/18	Facilities Maintenance: Contractual Service	415010	41200		\$7,557.17
							Total for Check 400390:	\$15,042.70
400391	17-Aug-18	563 - APPLEONE EMPLOYMENT SERVICES	01-4925479	Temp Service: Admin Assist III (Nabi)	401060	15010		\$1,102.50

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400391	17-Aug-18	563 - APPLEONE EMPLOYMENT SERVICES	01-4931627	Temp Service: Admin Asst III (Nabi)	401060	15010		\$850.50
			01-4937757	Temp Service: Admin Asst III (Nabi)	401060	15010		\$1,386.00
			01-4943963	Temp Service: Admin Asst III (Nabi)	401060	15010		\$850.50
			Total for Check 400391:					\$4,189.50
400392	17-Aug-18	1207 - ARROW INTERNATIONAL INC.	9500359863	EMS supplies	503050	47400		\$1,195.07
400393	17-Aug-18	32 - SUSAN BAINBRIDGE	3100.104-09.18	Instructor Payment Summer Camps 2018	208020	41300		\$1,809.00
400394	17-Aug-18	453 - BAY CITY ELECTRIC WORKS INC	W195568	Sewer Pumping: Contractual Service	403070	41200		\$140.00
			W195571	Water Treatment: Contractual Service	402060	41200		\$954.08
			W195569	Water Treatment: Contractual Service	402060	41200		\$140.00
			W195589	Water Treatment: Contractual Service	402060	41200		\$140.00
			W195577	Water Treatment: Contractual Service	402060	41200		\$140.00
			W195578	Water Treatment: Contractual Service	402060	41200		\$140.00
			W195581	Water Treatment: Contractual Service	402060	41200		\$140.00
			W195588	Water Treatment: Contractual Service	402060	41200		\$390.00
			W199582	Water Treatment: Contractual Service	402060	41200		\$140.00
			W199584	Water Treatment: Contractual Service	402060	41200		\$140.00
			W195586	Water Treatment: Contractual Service	402060	41200		\$140.00
			W199587	Water Treatment: Contractual Service	402060	41200		\$140.00
			Total for Check 400394:					\$2,744.08
400395	17-Aug-18	131 - BNC MOBIL AUTO REPAIR INC.	840	Unit 88 - Parts - Radiator	413010	47900		\$269.38
400396	17-Aug-18	46 - CALIFORNIA FIRE CHIEFS ASSOCIATION	Poway-2018/2019	FY19 CFCA membership for Sanchez/Canavan	502050	49240		\$190.00
			Poway-2018/2019	FY19 CFCA membership for Sanchez/Canavan	500050	49240		\$410.00
			Total for Check 400396:					\$600.00
400397	17-Aug-18	497 - COMPRESSED AIR SPECIALTIES, INC	00033538	SCBA Fill Station Maintenance	501050	43080		\$77.24
400398	17-Aug-18	1309 - CORODATA SHREDDING, INC.	DN1198335	Services through 07/31/2018	101010	41200		\$66.37
400399	17-Aug-18	714 - EAST COUNTY ALIGNMENT	169687	Unit 64 Alignment	413010	43120		\$125.00
400400	17-Aug-18	1714 - WINSUPPLY VISTA CA CO	016274 02	Water Supply: Supplies	402060	47600		\$203.68
400401	17-Aug-18	924 - ENDRESS + HAUSER, INC.	6001986341	Water Treatment: Supplies	402060	47600		\$480.95
400402	17-Aug-18	101 - ESGIL CORPORATION	Poway-07/18	Fire plan check and inspections - July 2018	502050	17050		\$2,162.25
400403	17-Aug-18	724 - FASTENAL COMPANY	CAPOW46537- CM	CREDIT Parks: Supplies	414040	47600		(\$44.18)
			CAPOW46825	Water Supply: Supplies	402060	47600		\$79.74
			CAPOW46482-CM	Credit Memo: Parks: Supplies	414040	47600		(\$29.09)
			Total for Check 400403:					\$6.47

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September 18, 2018, Item #1.2

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400404	17-Aug-18	746 - FIRE INNOVATIONS	18-570917	Personal protective equipment	501050	47600		\$637.55
400405	17-Aug-18	27 - FLEET PRIDE/ASSOCIATED TRUCK PARTS	8191744	Fleet: Shop Stock	413010	47900		\$107.25
400406	17-Aug-18	636 - FORESTRY SUPPLIERS, INC	390123-00	Personal Protection Equipment	501050	47600		\$565.42
400407	17-Aug-18	114 - FULL COMPASS SYSTEMS LTD.	INC00700164	Wireless Mic Stand	204020	47600		\$63.08
			INC00698014	Boom Arm for Mic Stand	204020	47600		\$68.11
			INC00697277	Glow Tape	204020	47600		\$48.57
			INC00696188	Overhanging Mics	204020	47600		\$900.40
Total for Check 400407:								\$1,080.16
400408	17-Aug-18	957 - GARDA CL WEST INC.	10416661	Armored Car Service - Aug 2018	114010	41200		\$435.28
400409	17-Aug-18	573 - GOVCONNECTION, INC.	55993341	Color LaserJet Professional CP5225dn Printer	115010	61212		\$1,729.31
400410	17-Aug-18	120 - GRAINGER INC	9837654533	Water Treatment: Supplies	402060	47600		\$52.16
400411	17-Aug-18	1106 - GUARDIAN EMS PRODUCTS	5813773	EMS supplies	503050	47400		\$268.73
400412	17-Aug-18	117 - HAAKER EQUIPMENT COMPANY	C44134	Unit 7 - Parts	413010	47900		\$125.54
400413	17-Aug-18	123 - HARRINGTON INDUSTRIAL PLASTICS INC	00417002	Credit on Original Invoice 00416257	402060	47600		(\$38.07)
			00417689	Water Treatment: Operating Supplies	402060	47600		\$621.29
			00417688	Water Treatment: Operating Supplies	402060	47600		\$104.11
Total for Check 400413:								\$687.33
400414	17-Aug-18	1416 - HDS WHITE CAP CONST SUPPLY	10009200149	Warehouse: Hand saw diamond blade	F1000	81350		\$295.54
400415	17-Aug-18	1738 - HEARTLAND FIRE TRAINING AUTHORITY	072618-1	Rescue Systems 1 enrollment - McKeever/Lincoln	501050	14010		\$1,384.00
400416	17-Aug-18	152 - HOME DEPOT COMMERCIAL ACCOUNT	4210155	Facilities Maintenance: Supplies	415010	47600		\$18.53
			8222659	Parks: Supplies	414040	47600		\$47.57
			7222666	Facilities Maintenance: Supplies	415010	47600		\$120.50
			9210170	Facilities Maintenance: Supplies	415010	47600		\$141.89
			2222590	Water Treatment: Supplies	402060	47600		\$176.65
			8210088	Water Distribution: Supplies	402560	47600		\$9.63
			0222548	Water Treatment: Supplies	402560	47600		\$129.14
			5210146	Water Treatment: Supplies	402060	47600		\$84.34
Total for Check 400416:								\$728.25
400417	17-Aug-18	391 - LIFE-ASSIST, INC.	866211	Medical supplies	503050	47400		\$546.81
			866196	Medical supplies	503050	47400		\$2,938.43
			867120	EMS supplies	503050	47400		\$124.03
			866735	EMS supplies	503050	47400		\$75.62

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400417	17-Aug-18	391 - LIFE-ASSIST, INC.	867004	EMS supplies	503050	47400		\$176.17
Total for Check 400417:								\$3,861.06
400418	17-Aug-18	148 - LIGHTHOUSE INCORPORATED	0426839	Fleet: Stock	413010	47900		\$157.10
400419	17-Aug-18	933 - MAIL DISPATCH	160168	Mail Courier Service - Aug 2018	114010	41200		\$1,253.56
400420	17-Aug-18	972 - MUNICIPAL EMERGENCY SERVICES, INC.	IN1250340	Class A Foam x13	501050	47600		\$1,456.78
			IN1251168	Class A Foam x3	501050	47600		\$336.18
Total for Check 400420:								\$1,792.96
400421	17-Aug-18	175 - NAPA AUTO PARTS/POWAY	315890	Sewer: Supplies	403070	47600		\$2.41
400422	17-Aug-18	175 - NAPA AUTO PARTS/POWAY	318482	Fleet: Stock	413010	47900		\$27.89
			318176	Unit 50 Parts	413010	47900		\$13.10
			317710	Fleet: Stock	413010	47900		\$34.63
			318458	Fleet: Shop Tool	413010	45600		\$9.44
			318481	Fleet: Stock	413010	47900		\$91.79
			317639	Fleet: Stock	413010	47900		\$82.66
			314225	Credit- Original Invoice 300391 - Unit 611	413010	47900		(\$266.59)
			317638	Fleet: Shop Stock	413010	47900		\$45.00
			315979	Credit for Original Invoice 314192	413010	47900		(\$32.31)
Total for Check 400422:								\$5.61
400423	17-Aug-18	1268 - NEOPOST USA INC.	55995145	Postage Machine Meter Rental - Sept 2018	114010	43080		\$56.96
400424	17-Aug-18	1056 - NORTH COUNTY BUICK CADILLAC GMC	177779	Fleet: Supplies	413010	47900		\$566.56
400425	17-Aug-18	84 - OFFICE DEPOT BUSINESS SERVICES DIVISION	179077653-001	Office supplies	502050	47100		\$333.25
			172236018-001	PCPA Office Supplies	204020	47100		\$24.72
			172236394-001	PCPA Office Supplies	204020	47100		\$43.90
			171326309-001	PCPA Office Supplies	204020	47100		\$62.28
			169627581-001	Office Supplies for Director	200020	47100		\$149.64
			185395572-001	Office Supplies - 2nd Floor	304030	47100		\$44.30
			166803376-001	Office Supplies: FOG Binder Supplies	403570	49220		\$73.38
			166803376-001	Office Supplies: FOG Binder Supplies	400060	47100		\$13.16
Total for Check 400425:								\$744.63
400426	17-Aug-18	84 - OFFICE DEPOT BUSINESS SERVICES DIVISION	182165750-001	City Hall Cleaning Supplies	114010	47600		\$66.35
400427	17-Aug-18	194 - PARKHOUSE TIRE INC	3010279103	Fleet: Stock	413010	47900		\$1,950.83
			3010279058	Fleet: Stock	413010	47900		\$470.28

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400427	17-Aug-18	194 - PARKHOUSE TIRE INC	3010279577	Unit 96 Tires	413010	47900		\$470.28
Total for Check 400427:								\$2,891.39
400428	17-Aug-18	1256 - PINE ENVIRONMENTAL SERVICES LLC	US1-180063860	Water Treatment: Supplies	402060	47600		\$210.12
400429	17-Aug-18	762 - PINPOINT PEST CONTROL CO. INC.	411143	Bee Removal: Meter Box	112010	41200		\$85.00
400430	17-Aug-18	25 - POWAY CENTER FOR THE PERFORMING ARTS FOUNDATION	08062018	Foundation Ticket Sales Transfer - PCPA	F1000	86330		\$5,825.00
400431	17-Aug-18	274 - POWAY SENIOR CENTER	950	Dishwasher Lease Reimbursement 8/1-8/28/18	208020	41200		\$145.35
400432	17-Aug-18	862 - PRINTSTAR	21251	Warehouse: Envelopes	F1000	81350		\$611.80
			21274	Warehouse: Envelopes	F1000	81350		\$611.80
Total for Check 400432:								\$1,223.60
400433	17-Aug-18	1058 - R & B PINTO PROPERTIES LLC	LKCONC 8/1-8/5	Weekly Concession Payment (8/1-8/5/18) & July CC Charges	F1000	86360		\$4,625.66
			LKCONC 8/1-8/5	Weekly Concession Payment (8/1-8/5/18) & July CC Charges	202020	51130		(\$569.84)
Total for Check 400433:								\$4,055.82
400434	17-Aug-18	614 - RANCHO BERNARDO PRINTING, INC	43106	Lake Resident Parking Stickers	202020	47600		\$1,009.62
400435	17-Aug-18	1717 - AIR QUALITY COMPLIANCE SOLUTIONS INC	11033	Environmental Compliance Consultant Services	413010	41200		\$920.00
400436	17-Aug-18	229 - RUPE'S HYDRAULICS	P171453	Fleet: Unit 41 Repairs	413010	43120		\$1,828.60
400437	17-Aug-18	366 - SAN DIEGO COASTER CO	3268004000	Admission for Lake Poway Day Camp	202020	47600		\$1,225.90
400438	17-Aug-18	214 - SAN DIEGO COUNTY FIRE CHIEFS ASSOCIATION	Poway-2018/2019	SDCFCA dues Sanchez/Canavan/Fried/Post/Mitchell	500050	49240		\$300.00
400439	17-Aug-18	221 - SAN DIEGO GAS & ELECTRIC	07047022786-07/18	Training Tower Utility	501050	21010		\$2,319.58
400440	17-Aug-18	837 - SAN DIEGO UNION TRIBUNE	5696961	Legal Ad 18-078 PO 5696961 07/26/18 and 08/02/18	101010	49320		\$129.52
400441	17-Aug-18	711 - SAVMART PHARMACEUTICAL SERVICE	611120	ALS medication	503050	47400		\$258.50
400442	17-Aug-18	1128 - SEATADVISOR INC.	516491	Per Ticket Fee - Box & Int - July 2018 - PCPA	204020	51130		\$874.00
400443	17-Aug-18	282 - SHARP REES-STEALY MEDICAL CENTER	322393646	Vaccinations	501050	49160		\$111.00
400444	17-Aug-18	1161 - SKYRIVER COMMUNICATIONS INC.	INV00102098	City Hall Backup Internet - Sept. 2018	114010	22000		\$499.00
400445	17-Aug-18	645 - SO CAL SIGNS, INC.	6131	Council Chambers Name Plates	101010	47100		\$74.00
400446	17-Aug-18	829 - SOCO GROUP INC.	0561733-IN	Fuel Delivery: 8/2/18 Fire Station 3	413010	31020		\$1,323.83
400447	17-Aug-18	776 - SOUTH COAST EMERGENCY VEHICLE SERVICE	490505	Fleet: Stock	413010	47900		\$289.23
400448	17-Aug-18	831 - STATE WATER RESOURCES CONTROL BOARD-OPCERT	D5CERT APP DUMBRIQUE	Application Fee for D5 Cert. (Dumbrique)	401060	49240		\$105.00
400449	17-Aug-18	715 - STERICYCLE, INC.	3004348358	Hazmat Disposal	503050	29100		\$3,376.49
400450	17-Aug-18	1517 - SWAGIT PRODUCTIONS, LLC	11284	Video Streaming Services - Jul 2018	114010	41200		\$725.00

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Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400451	17-Aug-18	248 - TIFCO INDUSTRIES	71379230	Fleet: Supplies	413010	47900		\$135.01
400452	17-Aug-18	1696 - TRANSUNION RISK AND ALTERNATIVE DATA SOLUTIONS INC	3081831-07/18	Data information systems - July 2018	504050	41200		\$125.40
400453	17-Aug-18	34 - U.S. BANK	5066204	Trustee fee for 2015 TAB Refunding	105080	51130		\$2,920.00
400454	17-Aug-18	1580 - UNIFIRST CORPORATION	361 0036667	Towels and mats for Station 3	501050	49280		\$43.51
			361 0036832	Towels and mats for Station 2	501050	49280		\$21.89
			361 0036831	Towels and mats for Station 1	501050	49280		\$29.88
			361 0036062	Towels and mats for Station 2	501050	49280		\$21.89
			361 0036063	PCPA Weekly Mat Service 8/1/18	204020	49280		\$9.63
			361 0036993	Twin Peaks: Mats and Mops	415010	41200		\$11.37
			361 0036992	Public Works: Mats	415010	41200		\$6.45
			361 0036981	Stormwater: Uniforms	412040	49280		\$21.55
			361 0036980	Fleet: Mats, Wipes and Uniforms	415010	41200		\$8.81
			361 0036980	Fleet: Mats, Wipes and Uniforms	413010	49280		\$46.02
			361 0036990	Parks: Uniforms	414040	49280		\$27.96
			361 0036986	Facilities: Uniforms	415010	49280		\$8.83
			361 0036989	Water Treatment: Mats, Wipes and Uniforms	401060	49280		\$34.25
			361 0036983	Warehouse: Mats and Uniforms	415010	41200		\$1.22
			361 0036983	Warehouse: Mats and Uniforms	410060	49280		\$5.55
			361 0036834	Parks: Mats and Uniforms	415010	41200		\$34.51
			361 0036834	Parks: Mats and Uniforms	414040	49280		\$21.33
			361 0036830	City Hall: Mats	415010	41200		\$17.21
			361 0035444	Utilities: Mats	401060	49280		\$34.25
			361 0035442	Water Distribution: Uniforms	402560	49280		\$44.91
			361 0035439	Reclaimed Water: Uniforms	405060	49280		\$5.44
			361 0035440	Wastewater: Uniforms	403570	49280		\$26.76
			361 0036226	Water Treatment: Wipes and Uniforms	401060	49280		\$34.25
			361 0034341	Towels and mats for Station #3	501050	49280		\$34.03
			361 0036225	Water Treatment: Mats and Uniforms	415010	41200		\$8.54
			361 0036225	Water Treatment: Mats and Uniforms	402060	49280		\$24.94
			361 0036222	Waste water: Mats	403570	49280		\$26.76
			361 0035126	Towels and Mats for Station #3	501050	49280		\$39.63
			361 0035288	Towels and mats for Station #2	501050	49280		\$25.00
			361 0036224	Water Distribution: Uniforms	402560	49280		\$32.45

September 18, 2018, Item #1.2



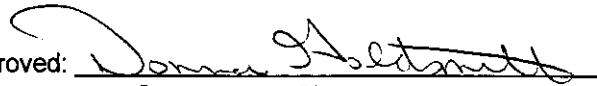
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September 18, 2018, Item #1.2

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400454	17-Aug-18	1580 - UNIFIRST CORPORATION	361 0036061	Towels and mats for Fire Station #1	501050	49280		\$29.88
			361 0036221	Recycled Water: Uniforms	405060	49280		\$5.44
Total for Check 400454:								\$744.14
400455	17-Aug-18	422 - UNIFORM SPECIALIST	83588	Uniform boots	501050	49280		\$121.23
400456	17-Aug-18	321 - VERIZON WIRELESS	9811928224	Wireless Services: July 2018	301030	22000		\$76.02
			9811928224	Wireless Services: July 2018	306030	22000		\$114.03
Total for Check 400456:								\$190.05
400457	17-Aug-18	474 - VIP JANITORIAL SERVICE	4885	PCPA Monthly Janitorial 7/18	204020	41400		\$1,297.80
400458	17-Aug-18	540 - WEST COAST ARBORISTS, INC.	138762	Stormwater: Contractual Service	412040	41200		\$555.12
400459	17-Aug-18	280 - WESTERN MOWER AND ENGINE	56601	Fleet: Unit SE418 - Parts	413010	47900		\$39.07
			56599	Fleet: Unit SE411 Parts	413010	47900		\$89.43
Total for Check 400459:								\$128.50
400460	17-Aug-18	914 - WESTNET, INC.	25082	Station alerting system	501050	43040		\$4,023.80
400461	17-Aug-18	1340 - WORLD ADVANCEMENT OF TECHNOLOGY FOR EMS AND RESCUE	959	Patient care reporting software - July 2018	503050	41200		\$1,094.00
400462	17-Aug-18	1573 - ZORO TOOLS, INC.	INV4797431	Warehouse: Safety Glasses	F1000	81350		\$163.56
904801	13-Aug-18	785 - U.S. BANK N.A.	PARS REPEX	PARS REP EXCESS	F1000	87210		\$1,900.00
904803	14-Aug-18	1740 - GE ENERGY FINANCIAL	129988-2018-07	Electricity Supplied 07/01/18-07/31/18	204020	21010		\$13,258.51
904804	15-Aug-18	788 - CALPERS	PE2018-15	PERS EFT Debit for PE#2018-15	F1000	87100		\$131,823.10
904805	16-Aug-18	334 - UNION BANK-SAN DIEGO	PPE 8/12/18	Transfer net payroll to Union Bank PPE 8/12/18	F1000	80030		\$626,582.03
904806	17-Aug-18	616 - MANUFACTURERS & TRADERS TRUST CO. BANK	457 PPE 8/12/18	ICMA 457 deferred comp deductions PPE 8/12/18	F1000	86120		\$33,517.79
904807	17-Aug-18	616 - MANUFACTURERS & TRADERS TRUST CO. BANK	457R PPE 8/12/18	ROTH 457 deferred comp deductions PPE 8/12/18	F1000	86120		\$3,146.53
904808	17-Aug-18	616 - MANUFACTURERS & TRADERS TRUST CO. BANK	401A PPE 8/12/18	401a employer contributions PPE 8/12/18	F1000	86130		\$11,596.38
904809	17-Aug-18	616 - MANUFACTURERS & TRADERS TRUST CO. BANK	ROTH PPE 8/12/18	ROTH IRA employee contributions PPE 8/12/18	F1000	86220		\$495.00
904810	17-Aug-18	616 - MANUFACTURERS & TRADERS TRUST CO. BANK	RHS PPE 8/12/18	Retirement Health Savings Plan (Safety) PE 8/12/18	F1000	87004		\$1,662.86
904811	17-Aug-18	785 - U.S. BANK N.A.	PARS-ARS PE#2018-17	PARS-ARS PE#2018-17	F1000	87200		\$2,194.55
904812	17-Aug-18	785 - U.S. BANK N.A.	PARS-REP PE#2018-17	PARS-REP PE#2018-17	F1000	87210		\$30,669.12
Register Total:								\$993,472.30

Director of Finance Approved:

Date:

  
9-10-18

The City of Poway Finance Director Submits the Following Register of Demands for the period  
8/20/2018 - 8/24/2018 and Recommends its Ratification/Approval:

Run Date: 27-Aug-18

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Check

Number	Date	Payee/Vendor	Invoice	Comment	Fund	Orgn	Acct	Prog	Check Amt
00303729	23-Aug-18	@00011305 Boot Barn	IVC0143258-1	Safety Shoes - Thompson	520	0405	4928	300	200.00
00303730		Carl Warren & Company	1848172	Subrogation Fee: #1977436	100	0602	5760	100	24.00
00303731			1845278	Subrogation Fee: #1977436	100	0602	5760	100	24.00
00303732		@00001840 Napa Auto Parts/Poway	295306	Fleet: Stock	611	0413	4799	300	33.47
00303733		@00010905 North County Buick Cadillac GMC	175869	Unit 71 - Parts	611	0413	4799	300	566.56
			176968	Unit 57 - Switch	611	0413	4799	300	70.32
			CM176968	Unit 57 - Credit for Switch	611	0413	4799	300	-70.32
Total for Check 00303733									566.56
00303734	23-Aug-18	@00003764 RoadOne	A670448	Wrecked Vehicles for Training	100	0501	4799	200	700.00
00303735		@00005730 Shields, Linda	MILEAGE 06/18	Mileage Reimbursement	100	0602	3110	100	122.73
Register Total									1,670.76

Finance Director Approved

Date

9-10-18

ATTACHMENT D

September 18, 2018, Item #1.2



The City of Poway Director of Finance Submits the Following Register of Demands  
for the period 8/20/2018 - 8/24/2018 and Recommends its Ratification/Approval:

Run Date: 28-Aug-18

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September 18, 2018, Item #1.2

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400463	21-Aug-18	1500 - UNION BANK	9960 07/13/18	Credit Card Expenditures	103010	49320		\$198.00
400464	21-Aug-18	1500 - UNION BANK	1226 07/13/18	Credit Card Expenditures	100010	49220		\$398.68
400465	23-Aug-18	999993 - KL Ventures Inc	MDRA16-003	Erosion Control Release - MDRA16-003	390030	59800		\$2,000.00
400466	23-Aug-18	999998 - Charles Tucker	2018-T8PMI Reimb.	2018 T8PMI Certification Reimbursement	413010	31040		\$77.00
400467	23-Aug-18	999998 - Margis, Allie	01511B	Reimburse Lake Poway Day Camp Excursion	202020	47600		\$117.00
400468	23-Aug-18	999998 - Romero, Belinda	01183D	Reimburse Robin Bettin Retirement	121010	14030		\$168.31
400469	23-Aug-18	999998 - Watson, Bill	0976065201	FY19 Boot Allowance: Bill Watson	202020	49280		\$199.32
400470	23-Aug-18	999998 - Brian Gaines	G9QSA/1	Tuition Reimbursement: Distribution System Review	121010	14040		\$149.95
400471	23-Aug-18	999998 - Emily Wolf	Mileage: 8/10/18	Mileage: CalPELRA Conference, 8/9-8/10/18	121010	14010		\$85.66
400472	23-Aug-18	999998 - Forrest Damon	132669 Medic License	Reimbursement for state paramedic license	503050	31040		\$200.00
400473	23-Aug-18	999995 - Gucwa, Lance	2012918.001	Charges Refund Cancelled OPP Permit 20869	205020	74710		\$121.00
			2012919.001	Deposit Refund Cancelled OPP Permit 20869	205020	74710		\$197.00
Total for Check 400473:								\$318.00
400474	23-Aug-18	999995 - Prindle, Emily	2012920.001	Deposit Refund OPP Permit 20447	205020	74710		\$300.00
400475	23-Aug-18	999995 - Murthy, Savitri	2012915.001	Deposit Refund CP Permit 20217	208020	74710		\$200.00
400476	23-Aug-18	999995 - Okeson, Kim	2012910.001	Deposit Return OPP Permit 20064	205020	74710		\$300.00
400477	23-Aug-18	999995 - Rocamora, Charlene	2012911.001	Deposit Refund Lake Permit 20785	202020	74710		\$200.00
400478	23-Aug-18	999997 - Daniel Percival	10238900-49	Closing Balance Refund Overpay #10238900-49	F5100	81020		\$246.96
400479	23-Aug-18	586 - ACTIVE NETWORK LLC	CB2017Q4_018	Reimbursing ActiveNet Charge Back from Customer	201020	51130		\$204.50
400480	23-Aug-18	630 - ADVANCED CHEMICAL TRANSPORT, INC.	198254	Hazardous Waste Removal	413010	29100		\$583.78
400481	23-Aug-18	1428 - AIRGAS NATIONAL CARBONATION	34905236	Pool CO2 Tank Rental - July 2018	203020	49360		\$115.95
400482	23-Aug-18	196 - AIRGAS WEST	9955395453	Water Supply: Safety Supplies	402060	47500		\$110.67
			9955357349	Medical oxygen	501050	47600		\$39.68
			9955357349	Medical oxygen	503050	47500		\$1,474.42
			9955357350	Medical oxygen	503050	47500		\$431.62
			9955357351	Tower smoke	501050	47900		\$32.50
Total for Check 400482:								\$2,088.89
400483	23-Aug-18	577 - ALLIANT INSURANCE SERVICES, INC.	843091	Commercial Crime Liability: FY19	122010	51080		\$2,650.00
400484	23-Aug-18	834 - ALPHA-NUMERIC DESIGN, INC.	1427	Folders for Recruitment Files	121010	49340		\$124.60

**September 18, 2018, Item #1.2**

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September 18, 2018, Item #1.2

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400502	23-Aug-18	286 - COSTCO WHOLESale	7751233636	JPIA Training Refreshments 8/14/18	400060	47600		\$115.37
400503	23-Aug-18	286 - COSTCO WHOLESale	7751328938	PW All Hands Meeting Refreshments 8/15/18	400060	14010		\$156.34
400504	23-Aug-18	94 - COX COMMUNICATIONS	128803201-0718	Kumeyaay Internet Line - 7/18	207020	33010		\$80.98
400505	23-Aug-18	1263 - CREATIVE BRAIN LEARNING	4001.101.18	Instructor Payment Summer Camps 2018	208020	41300		\$891.00
400506	23-Aug-18	108 - CULLIGAN WATER CONDITIONING	1106214	Softener Equipment	402060	41200		\$280.00
			1105534	Salt	402060	45200		\$422.38
Total for Check 400506:								\$702.38
400507	23-Aug-18	1737 - DANIELS TIRE SERVICE	220119489	Unit 902 - Tires	413010	47900		\$560.06
			220120067	Unit 48A - Tires	413010	47900		\$557.34
Total for Check 400507:								\$1,117.40
400508	23-Aug-18	627 - DEPARTMENT OF JUSTICE	319068	Fingerprinting: July 2018	121010	49340		\$433.00
400509	23-Aug-18	949 - DUNN EDWARDS PAINTS	2072147261	Water Distribution: Supplies	402560	47600		\$82.19
			2072147967	Water Distribution: Supplies	402560	47600		\$51.44
Total for Check 400509:								\$133.63
400510	23-Aug-18	1714 - WINSUPPLY VISTA CA CO	016133 02	Water Supply: Supplies	402060	47600		\$42.15
400511	23-Aug-18	740 - ENNISS INC.	996307	Street Maintenance: Dump fees	411040	29050		\$42.83
			132981	Street Maintenance: Dump Fees	411040	29050		\$42.83
			132059	Street Maintenance: Dump Fees	411040	29050		\$42.83
Total for Check 400511:								\$128.49
400512	23-Aug-18	350 - EWING IRRIGATION	5967734	Parks: Landscape Supplies	414040	47700		\$792.10
400513	23-Aug-18	1189 - EYE/COMM, INC.	51646	CUP17-012 and DR17-008 Occupant Notice	301030	41200		\$273.89
			51647	CUP17-011 and DR17-007 Occupant Notice	301030	41200		\$302.12
Total for Check 400513:								\$576.01
400514	23-Aug-18	724 - FASTENAL COMPANY	CAPOW46820	Water Supply: Supplies	402060	47600		\$14.40
400515	23-Aug-18	913 - FILIPINO PRESS	5732-18	Notice of Election Ad	101010	49100		\$100.00
400516	23-Aug-18	27 - FLEET PRIDE/ASSOCIATED TRUCK PARTS	8539146	Unit 46 - Parts	413010	47900		\$213.17
			8598491	Unit 46 - Parts	413010	47900		\$135.61
Total for Check 400516:								\$348.78
400517	23-Aug-18	1380 - FLYERS ENERGY LLC	CFS1650651	Fuel - Safety Services 07/16/18 - 07/31/18	413010	31020		\$1,294.09
400518	23-Aug-18	1706 - FRANCHISE TAX BOARD	PPE 8/12/18	Payroll Garnishment	F1000	86150		\$100.00
400519	23-Aug-18	1706 - FRANCHISE TAX BOARD	PPE 8-12-18	Payroll Garnishment	F1000	86150		\$500.00
400520	23-Aug-18	114 - FULL COMPASS SYSTEMS LTD.	INC00699797	Boom Stand: Mics	204020	47600		\$30.17

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September 18, 2018, Item #1.2

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400520	23-Aug-18	114 - FULL COMPASS SYSTEMS LTD.	INC00711594	Tech - Mic Booms	204020	47600		\$90.51
Total for Check 400520:								\$120.68
400521	23-Aug-18	838 - GEMALTO COGENT	394481	Fingerprinting: July 2018	121010	49340		\$10.50
400522	23-Aug-18	573 - GOVCONNECTION, INC.	56014520	LTO-8 Ultrium WORM Labeled Data Cartridge (14)	115010	61212		\$2,371.97
			56019029	LTO-8 Ultrium WORM Labeled Data Cartridge (6)	115010	61212		\$1,016.56
Total for Check 400522:								\$3,388.53
400523	23-Aug-18	120 - GRAINGER INC	9870548949	Water Supply: Supplies	402060	47600		\$570.65
			9872074852	Water Supply: Supplies	402060	47600		\$790.45
Total for Check 400523:								\$1,361.10
400524	23-Aug-18	120 - GRAINGER INC	9869374562	Water Distribution: Supplies	402060	47600		\$17.26
			9860461715	Boat Motor Fuses & Supplies	202020	47600		\$43.03
			9867465511	Lake Entry Station Supplies	202020	47600		\$39.22
Total for Check 400524:								\$99.51
400525	23-Aug-18	566 - HACH COMPANY	11068411	Water Treatment: Supplies	402060	47600		\$717.62
			11071546	Water Treatment: Supplies	402060	47600		\$1,060.26
			11067460	Water Treatment: Supplies	402060	47600		\$1,606.27
Total for Check 400525:								\$3,384.15
400526	23-Aug-18	494 - HARBOR FREIGHT TOOLS	851946	Parks: Supplies	414040	47600		\$98.76
400527	23-Aug-18	142 - HEAVILAND ENTERPRISES INC	20030	Parks: Landscape Maintenance	414040	41600		\$260.00
400528	23-Aug-18	146 - HINDERLITER, DELLAMAS & ASSOCIATES	0029611-IN	Sales Tax Consultant & Audit Services 3rd Qtr 2018	111010	17999		\$900.00
			0029611-IN	Sales Tax Consultant & Audit Services 3rd Qtr 2018	111010	71310		\$6,667.30
Total for Check 400528:								\$7,567.30
400529	23-Aug-18	152 - HOME DEPOT COMMERCIAL ACCOUNT	0222633	Wastewater: Supplies	403570	47600		\$8.58
			9222644	Water Supply: Supplies	402060	47600		\$15.80
			8222654	Sewer Pumping: Supplies	403070	47600		\$94.53
			9222652	Street Maintenance: Supplies	411040	47600		\$165.16
			3222696	Facilities Maintenance: Supplies	415010	47600		\$39.30
			3222685	Facilities Maintenance: Supplies	415010	47600		\$94.56
			0210216	Parks: Supplies	414040	47600		\$82.04
			1210205	Park: Small Tools	414040	45600		\$160.55

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September 18, 2018, Item #1.2

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400529	23-Aug-18	152 - HOME DEPOT COMMERCIAL ACCOUNT	1210202	#748A Tarp & Washer Fluid	412040	47600		\$30.63
			1210198	Water Treatment: Supplies	402060	47600		\$78.00
			2210190	Facilities Maintenance: Supplies	415010	47600		\$69.93
			2210194	Facilities Maintenance: Supplies	415010	47600		\$24.74
			1222708	Facilities Maintenance: Supplies	415010	47600		\$10.47
			9222717	Water Supply: Supplies	402060	47600		\$526.77
			5210226	Parks: Supplies	414040	47600		\$202.59
			4222581	Street Maintenance: Tools	411040	45600		\$9.67
			2222593	Street Maintenance: Supplies	411040	47600		\$77.78
			8210089	Lift Station Supplies/Unit 90 Supplies	403070	47600		\$101.31
			8210089	Lift Station Supplies/Unit 90 Supplies	401060	45600		\$32.29
			5210148	Street Maintenance: Supplies	411040	47600		\$19.63
			5222609	Street Maintenance: Supplies	411040	47600		\$58.64
Total for Check 400529:								\$1,902.97
400530	23-Aug-18	699 - HOSE & RUBBER PRODUCTS	73124	Unit SE411 - Parts	413010	47900		\$90.37
400531	23-Aug-18	644 - INFOSEND	140032	Mailing Statements 7-17-18 to 7-31-18	112010	41200		\$795.32
			140032	Mailing Statements 7-17-18 to 7-31-18	112010	33020		\$1,395.78
Total for Check 400531:								\$2,191.10
400532	23-Aug-18	648 - INGERSOLL-RAND COMPANY	30692976	Water Treatment: Supplies	402060	41200		\$598.50
400533	23-Aug-18	129 - JRC PRINTING LLC	38319	Business Cards - Carcamo	110010	49220		\$47.41
			38318	Blue Sky Hoot, Howl & Prowl Flyer Printing	207020	49220		\$31.25
			38358	Business Cards: Phan, Vaus, Grosch	100010	49220		\$68.96
			38358	Business Cards: Phan, Vaus, Grosch	305030	49220		\$34.48
Total for Check 400533:								\$182.10
400534	23-Aug-18	139 - LEADER INDUSTRIES	90251737	Unit 951 - Parts	413010	47900		\$86.05
400535	23-Aug-18	391 - LIFE-ASSIST, INC.	870572	Medical Supplies	503050	47400		\$3,320.57
400536	23-Aug-18	910 - LOWE'S	14612	Facilities Maintenance: Supplies	415010	47600		\$27.21
400537	23-Aug-18	516 - MAD SCIENCE OF SAN DIEGO	2100.103-08.18	Instructor Payment Summer Camps 2018	208020	41300		\$2,611.20
400538	23-Aug-18	170 - MIRAMAR BOBCAT INCORPORATED	P96967	Unit 531 - Parts	413010	47900		\$543.45
400539	23-Aug-18	628 - MOTOROLA SOLUTIONS INC.	16007644	Warehouse: Batteries (20)	F1000	81350		\$1,743.83
400540	23-Aug-18	1687 - MUNICIPAL ALARM TRACKING	52	Services for July 2018	301030	41200		\$1,202.00
400541	23-Aug-18	175 - NAPA AUTO PARTS/POWAY	321207	Water Distribution: Supplies	402560	47600		\$15.06
400542	23-Aug-18	175 - NAPA AUTO PARTS/POWAY	319079	Unit 62 - Parts	413010	47900		\$211.05



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September 18, 2018, Item #1.2

Check Number	Check Date	Payee/Vendor	Invoice Number	Description	Org	Object	Project	Check Amount
400542	23-Aug-18	175 - NAPA AUTO PARTS/POWAY	319241	Unit 775 - Parts	413010	47900		\$185.53
			319242	Unit 775 - Parts	413010	47900		\$57.15
			319449	Unit 513 - Parts	413010	47900		\$103.89
			298467	Credit for Invoice 296886	413010	47900		(\$96.98)
			314879	Streets Maintenance: Supplies	411040	47600		\$17.22
Total for Check 400542:								\$477.86
400543	23-Aug-18	411 - NATIONAL SAFETY COMPLIANCE, INC	73734	DOT Testing: July 2018	121010	49160		\$69.95
400544	23-Aug-18	565 - NEAL ELECTRIC, INC	69904	Facilities: Contractual Services	415010	41200		\$351.27
400545	23-Aug-18	437 - NORTH COUNTY REBUILDERS	92141	Unit 82 - Parts	413010	47900		\$128.22
400546	23-Aug-18	84 - OFFICE DEPOT BUSINESS SERVICES DIVISION	177445660-001	Office supplies	501050	47100		\$93.55
			179078275-001	Office supplies	501050	47100		\$177.18
			182158981-001	Office Supplies	110010	47100		\$4.41
			182158981-001	Office Supplies	111010	47100		\$4.34
			182158981-001	Office Supplies	112010	47100		\$38.99
			173254792-001	Blue Sky Office Supplies	207020	47100		\$7.53
			169627876-001	Office Supplies for New Director	200020	47100		\$23.69
			169627877-001	Office Supplies for New Director	200020	47100		\$13.89
			186963041-001	Office Supplies for New Director	200020	47100		\$26.75
			186952664-001	Office Supplies for New Director	200020	47100		\$34.79
			186963042-001	Office Supplies for New Director	200020	47100		\$40.93
			170317848-001	Office supplies	501050	47100		\$73.18
			177104944-001	Office Supplies	121010	49340		\$9.84
			177104944-001	Office Supplies	121010	47100		\$52.29
Total for Check 400546:								\$601.36
400547	23-Aug-18	937 - ONTARIO REFRIGERATION INC.	C10640	Facilities: Air Conditioning Maintenance	415010	43020		\$695.00
400548	23-Aug-18	430 - ORKIN EXTERMINATING, INC.	173076175	Pest Control: Big Stone Lodge, August 2018	309030	41200		\$101.12
400549	23-Aug-18	1473 - PACIFIC AQUAFARMS	108861	1,300 Lbs Catfish Stock	202020	45120		\$4,810.00
400550	23-Aug-18	195 - PARKWAY BUSINESS CENTRE	410-110-CU 8/1-9/1	Assessment Fees	410060	57300		\$2,370.93
			410-110-CU 8/1-9/1	Assessment Fees	414040	57300		\$1,530.07
Total for Check 400550:								\$3,901.00
400551	23-Aug-18	689 - PARS	40871	Monthly Admin Fee: Jun 2018	F1000	87220		\$2,500.00
400552	23-Aug-18	223 - PHYSIO-CONTROL INC.	418179660	EKG monitor annual maintenance	503050	43080		\$13,053.60
400553	23-Aug-18	25 - POWAY CENTER FOR THE PERFORMING ARTS FOUNDATION	08132018	Poway OnStage Ticket Sales Transfer - PCPA	F1000	86330		\$18,650.00

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400554	23-Aug-18	265 - POWAY FIREFIGHTERS ASSOCIATION	DUES PE 8/12/18	Fire Association dues for PPE 8/12/18	F1000	86100		\$2,074.75
400555	23-Aug-18	1058 - R & B PINTO PROPERTIES LLC	LKCONC 8/8-8/12	Weekly Concession Payment (8/8-8/12/18)	F1000	86360		\$3,534.30
400556	23-Aug-18	1144 - RADICAL REPTILES AND FRIENDS	5005.100.18	Instructor Payment Summer Camps 2018	208020	41300		\$1,989.00
400557	23-Aug-18	205 - REGIONAL TRAINING CENTER	14939	Employment Relations Consortium Fees: FY18/19	121010	17999		\$1,795.00
400558	23-Aug-18	210 - REX TROPHIES	4892	ERC MVE Trophy	121010	14030		\$30.17
400559	23-Aug-18	1538 - RTANAG, LLC	5004.102-07.18	Instructor Payment Summer Camps 2018	208020	41300		\$4,869.60
400560	23-Aug-18	218 - SAN DIEGO GAS & ELECTRIC/SUNDRY	36194890059-07/18	Group Sundry Bill - Jul 2018	208020	21010		\$9,356.54
			36194890059-07/18	Group Sundry Bill - Jul 2018	203020	21010		\$10.00
			36194890059-07/18	Group Sundry Bill - Jul 2018	204020	21010		\$240.38
			36194890059-07/18	Group Sundry Bill - Jul 2018	205020	21010		\$460.49
			36194890059-07/18	Group Sundry Bill - Jul 2018	413010	21010		\$1,331.48
			36194890059-07/18	Group Sundry Bill - Jul 2018	402560	21010		\$10.66
			36194890059-07/18	Group Sundry Bill - Jul 2018	414040	21010		\$889.49
			36194890059-07/18	Group Sundry Bill - Jul 2018	421040	21010		\$21.91
			36194890059-07/18	Group Sundry Bill - Jul 2018	421040	21010		\$22.93
			36194890059-07/18	Group Sundry Bill - Jul 2018	421040	21010		\$9.29
			36194890059-07/18	Group Sundry Bill - Jul 2018	423040	21010		\$65.11
			36194890059-07/18	Group Sundry Bill - Jul 2018	423040	21010		\$9.85
			36194890059-07/18	Group Sundry Bill - Jul 2018	424040	21010		\$9.82
			36194890059-07/18	Group Sundry Bill - Jul 2018	426040	21010		\$15.43
			36194890059-07/18	Group Sundry Bill - Jul 2018	430050	21020		\$2,146.85
							Total for Check 400560:	\$14,600.23
400561	23-Aug-18	218 - SAN DIEGO GAS & ELECTRIC/SUNDRY	70037975983-07/18	Group Sundry Bill - Jul 2018	114010	21010		\$1,015.46
			70037975983-07/18	Group Sundry Bill - Jul 2018	208020	21010		\$3,715.29
			70037975983-07/18	Group Sundry Bill - Jul 2018	202020	21010		\$2,784.18
			70037975983-07/18	Group Sundry Bill - Jul 2018	204020	21010		\$241.51
			70037975983-07/18	Group Sundry Bill - Jul 2018	205020	21010		\$1,520.43
			70037975983-07/18	Group Sundry Bill - Jul 2018	205020	21010		\$187.95
			70037975983-07/18	Group Sundry Bill - Jul 2018	421040	21010		\$38.07
			70037975983-07/18	Group Sundry Bill - Jul 2018	423040	21010		\$30.10
			70037975983-07/18	Group Sundry Bill - Jul 2018	425040	21010		\$17.82
			70037975983-07/18	Group Sundry Bill - Jul 2018	430050	21020		\$173.41

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400561	23-Aug-18	218 - SAN DIEGO GAS & ELECTRIC/SUNDRY	70037975983-07/18	Group Sundry Bill - Jul 2018	501050	21010		\$4,932.04
Total for Check 400561:								\$14,656.26
400562	23-Aug-18	218 - SAN DIEGO GAS & ELECTRIC/SUNDRY	04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21010		\$862.85
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21041		\$7,538.86
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21043		\$1,289.46
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21049		\$4,283.88
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21050		\$2,288.89
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21051		\$8,610.05
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21052		\$8,340.65
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21054		\$3,639.33
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21056		\$12,369.16
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21057		\$1,367.59
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21059		\$1,499.58
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	402060	21061		\$1,661.10
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	403070	21042		\$2,976.66
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	403070	21048		\$114.91
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	403070	21055		\$1,527.22
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	403070	21060		\$127.95
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	405060	21058		\$1,990.53
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	410060	21010		\$2,247.28
			04920133400-07/18	Water Treatment 6/11/18-7/11/18	403070	21053		\$1,306.64
Total for Check 400562:								\$64,042.59
400563	23-Aug-18	221 - SAN DIEGO GAS & ELECTRIC	26480327247-08/18	12250 1/2 Meadowbrook Lane 7/10/18 - 8/08/18	201020	21010		\$264.31
			93224921321-07/18	14103 1/2 Stowe Drive 7/11/18 - 8/9/18	426040	21010		\$11.02
			23194668909-07/18	12325 Crosthwaite Circle 7/11/18 - 8/9/18	410060	21010		\$259.57
			51260647432-07/18	13966 Rock Creek Road 7/11/18 - 8/9/18	423040	21010		\$9.54
			37750258723-07/18	13725 Poway Road 7/11/18 - 8/9/18	430050	21020		\$52.68
			70195729909-07/18	12150 1/2 Sage View Rd 7/10/18 - 8/8/18	425040	21010		\$11.02
			32430844182-07/18	14022 1/2 Pomerado Rd 7/10/18 - 8/8/18	414040	21010		\$10.48
			86797737652-08/18	13250 Pomerado Rd 7/10/18-8/8/18	414040	21010		\$10.75
			41639610229-07/18	15001 Highway 67 MP 7/11/18 - 8/9/18	414040	21010		\$9.00
			11183824070-07/18	16275 Espola Rd 7/11/18 - 8/9/18	414040	21010		\$9.00

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400563	23-Aug-18	221 - SAN DIEGO GAS & ELECTRIC	48301450768-07/18	14283 Silver Ridge Rd 7/11/18 - 8/9/18	414040	21010		\$10.75
			37325763074-07/18	12207 Old Pomerado Rd 7/11/18 - 8/9/18	414040	21010		\$30.49
			59531914804-08/18	13053 Poway Rd 7/11/18 - 8/9/18	104030	41200		\$85.60
			82058271564-08/18	14467 Lake Poway Rd 7/11/18 - 8/9/18	400060	21010		\$2,435.25
			07047022786-08/18	Electricity for Training Tower	501050	21010		\$2,963.62
			95321310795-08/18	Station #2 7/10/18 - 8/8/18	501050	21010		\$4,710.82
			99580161733-07/18	14135 Midland Rd-Veterans Park 7/15/18 - 8/13/18	205020	21010		\$62.56
			60153342241-07/18	13104 Silver lake Dr.-Kumeyaay 7/11/18 - 8/9/18	207020	21010		\$98.51
			32089688823-07/18	13090 Civic Center Drive 7/11/18-8/9/18	208020	21010		\$377.37
			48262466316-07/18	12490 1/2 Old Pomerado Rd - 7/12/18-8/10/18	414040	21010		\$86.34
			82081137485-08/18	15498 Espola Road - Monthly Electric PCPA 8/18	204020	21010		\$2,509.17
			3222233251-08/18	14560 Lake Poway Rd - Lake Electric - 8/18	202020	21010		\$2,513.98
			14532248918-07/18	13094 Civic Center Dr. -Pool Electric- 08/18	203020	21010		\$2,230.54
Total for Check 400563:								\$18,762.37
400564	23-Aug-18	221 - SAN DIEGO GAS & ELECTRIC	82033128582-07/18	13325 Civic Center Dr - Jul 2018	114010	21010		\$24,770.20
400565	23-Aug-18	837 - SAN DIEGO UNION TRIBUNE	5743532	Legal Ad 18-084 PO 5743532 08/09/2018	101010	49320		\$186.00
			5743472	Legal Ad 18-083 PO 5743472 08/09/2018	101010	49320		\$186.00
Total for Check 400565:								\$372.00
400566	23-Aug-18	1169 - SD SKATE LIFE	6004.104-09.18	Instructor Payment Summer Camps 2018	208020	41300		\$1,269.00
400567	23-Aug-18	282 - SHARP REES-STEALY MEDICAL CENTER	322539718	Preplacement	121010	49160		\$60.00
			322539717	Non DOT Urine Drug Screen	121010	49160		\$32.00
			322259883	Preplacement	121010	49160		\$60.00
			322259884	Non DOT Urine Drug Screen	121010	49160		\$32.00
			322258125	Non DOT Urine Drug Screen	121010	49160		\$32.00
			322283124	Preplacement	121010	49160		\$60.00
			322305551	Quant TB	121010	49160		\$45.00
			322283125	Non DOT Urine Drug Screen	121010	49160		\$32.00
			322378186	Preplacement	121010	49160		\$60.00
			322378187	Quant TB	121010	49160		\$45.00
			322378185	Non DOT Urine Drug Screen	121010	49160		\$32.00
			322306676	Preplacement	121010	49160		\$60.00
			322306677	Quant TB	121010	49160		\$45.00

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400567	23-Aug-18	282 - SHARP REES-STEALY MEDICAL CENTER	322306678	Non DOT Urine Drug Screen	121010	49160		\$32.00
			322305539	Preplacement	121010	49160		\$60.00
			322305540	Quant TB	121010	49160		\$45.00
			322305541	Non DOT Urine Drug Screen	121010	49160		\$32.00
Total for Check 400567:								\$764.00
400568	23-Aug-18	829 - SOCO GROUP INC.	0564184-IN	Fuel Delivery - Fleet 08/08/2018	413010	31020		\$7,457.25
			0566663-IN	Oil Delivery - Fleet 08/15/18	413010	47900		\$627.89
Total for Check 400568:								\$8,085.14
400569	23-Aug-18	776 - SOUTH COAST EMERGENCY VEHICLE SERVICE	490527	Fleet: Stock	413010	47900		\$112.47
			490537	Unit 925 - Parts	413010	47900		\$120.98
			490576	Unit 925 - Parts	413010	47900		\$55.13
			490595	Unit 920 - Parts	413010	47900		\$93.25
Total for Check 400569:								\$381.83
400570	23-Aug-18	1457 - KIMBERLY ANNE MOSER	6010.101-02.18	Instructor Payment Summer Camps 2018	208020	41300		\$2,310.00
400571	23-Aug-18	880 - STAPLES ADVANTAGE	8050729959	Water Treatment: Supplies	402060	47100		\$326.41
400572	23-Aug-18	528 - STATEWIDE SAFETY & SIGNS, INC	01004274	Street: Sign Maintenance	411040	45300		\$66.81
			01004186	Water Treatment: Supplies	402060	47500		\$53.88
Total for Check 400572:								\$120.69
400573	23-Aug-18	984 - STEVEN ENTERPRISES INC.	0401400-IN	Annual Maintenance Agreement for OCE PW 300	300030	43080		\$1,292.00
			0401400-IN	Annual Maintenance Agreement for OCE PW 300	306030	43080		\$1,292.00
Total for Check 400573:								\$2,584.00
400574	23-Aug-18	312 - SUPERIOR READY MIX	977770	Street Maintenance: Sidewalk Repair	411040	43240		\$998.64
			978560	Street Maintenance: Repairs	411040	45900		\$127.15
			979285	Street Maintenance: Sidewalk Repair	411040	43240		\$806.84
			972102	Crossway Circle: Asphalt	411040	43201		\$295.02
Total for Check 400574:								\$2,227.65
400575	23-Aug-18	1041 - T-MAN TRAFFIC SUPPLY	8139	Warehouse: Supplies	F1000	81350		\$114.11
400576	23-Aug-18	1453 - TEAM TOUCHE FENCING LLC	6006.101.18	Instructor Payment Summer Camps 2018	208020	41300		\$710.40
400577	23-Aug-18	642 - THATCHER COMPANY OF CALIFORNIA, INC.	254654	10.8529 Units of Aluminum Sulfate	402060	45200		\$3,962.28
400578	23-Aug-18	631 - TOMAHAWK	74841	Vehicle detail supplies	501050	43080		\$620.80
400579	23-Aug-18	897 - U.S. BANK CORPORATE PAYMENT SYSTEM-CS	0510-07/18	Community Service July 2018 Statement	F1000	86020		\$4,880.45
400580	23-Aug-18	1511 - U.S. BANK CORPORATE PAYMENT SYSTEM-SS	9376-07/18	Safety July 2018 Statement	F1000	86020		\$9,942.48

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400581	23-Aug-18	1512 - U.S. BANK CORPORATE PAYMENT SYSTEM-PW	6896-07/18	Public Works July 2018 Statement	F1000	86020		\$1,440.41
400582	23-Aug-18	1513 - U.S. BANK CORPORATE PAYMENT SYSTEM-LG	2521-07/18	Legislative Services July 2018 Statement	F1000	86020		\$977.27
400583	23-Aug-18	1566 - U.S. BANK CORPORATE PAYMENT SVC - IT	7016-07/18	Finance/HR July 2018 Statement	F1000	86020		\$1,666.07
400584	23-Aug-18	236 - UNDERGROUND SERVICE ALERT	720180533	Water Distr.: Contractual Serv.	402560	49240		\$120.55
400585	23-Aug-18	1580 - UNIFIRST CORPORATION	361 0036994	Lake: Mats	415010	41200		\$9.89
			361 0036985	Wastewater: Uniforms	403570	49280		\$22.25
			361 0036982	Streets: Uniforms	411040	49280		\$41.10
			361 0036984	Recycled Water: Uniforms	405060	49280		\$5.44
			361 0036987	Water Distribution: Uniforms	402560	49280		\$32.45
			361 0036988	Water Treatment: Mats and Uniforms	402060	49280		\$24.94
			361 0036988	Water Treatment: Mats and Uniforms	415010	41200		\$8.54
			361 0036829	Senior Center: Mats	415010	41200		\$14.77
			361 0037613	Station #1: Towels and Mats	501050	49280		\$29.88
			361 0037770	Stormwater: Uniforms	412040	49280		\$21.55
			361 0037771	Streets: Uniforms	411040	49280		\$41.10
			361 0037773	Recycled Water: Uniforms	405060	49280		\$5.44
			361 0037774	Wastewater: Uniforms	403570	49280		\$41.13
			361 0037776	Water Distribution: Uniforms	402560	49280		\$32.45
			361 0036833	PCPA Weekly Mat Service 8/8/18	204020	49280		\$9.63
			361 0037615	PCPA Weekly Mat Service 8/15/18	204020	49280		\$9.63
			361 0033108	Lake: Uniforms	411040	49280		\$41.10
			361 0033871	Uniforms	411040	49280		\$41.10
			361 0034674	Streets: Uniforms	411040	49280		\$41.10
			361 0035443	Water Treatment: Mats and Uniforms	415010	41200		\$8.54
			361 0035443	Water Treatment: Mats and Uniforms	402060	49280		\$24.94
			361 0036219	Streets: Uniforms	411040	49280		\$41.10
Total for Check 400585:								\$548.07
400586	23-Aug-18	1500 - UNION BANK	1621-08/18	Director's Credit Card PW: Closing 8/13/18	414040	47600		\$744.77
			1621-08/18	Director's Credit Card PW: Closing 8/13/18	415010	14010		\$395.00
			1621-08/18	Director's Credit Card PW: Closing 8/13/18	400060	47600		\$18.51
			1621-07/18	Director's Credit Card PW: Closing 7/13/18	411040	14010		\$150.00
			1621-07/18	Director's Credit Card PW: Closing 7/13/18	402060	47600		(\$620.50)
			1621-07/18	Director's Credit Card PW: Closing 7/13/18	400060	14010		(\$340.00)


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400586	23-Aug-18	1500 - UNION BANK	1621-07/18	Director's Credit Card PW: Closing 7/13/18	401060	31040		\$565.80
Total for Check 400586:								\$913.58
400587	23-Aug-18	1500 - UNION BANK	1166 9960 08/13/18	Credit Card Expenditure	103010	49320		\$95.00
			1166 9960 08/13/18	Credit Card Expenditure	103010	41200		\$299.88
			1166 9960 08/13/18	Credit Card Expenditure	103010	41200		\$3.55
Total for Check 400587:								\$398.43
400588	23-Aug-18	1500 - UNION BANK	1163 1226 08/13/18	Credit Card Expenditures	100010	47100		\$22.97
			1163 1226 08/13/18	Credit Card Expenditures	100010	41200		\$148.22
			1163 1226 08/13/18	Credit Card Expenditures	100010	49220		\$11.70
			1163 1226 08/13/18	Credit Card Expenditures	121010	14030		\$120.66
			1163 1226 08/13/18	Credit Card Expenditures	504050	49040		\$35.97
			1163 1226 08/13/18	Credit Card Expenditures	121010	14030		\$64.95
			1163 1226 08/13/18	Credit Card Expenditures	103010	41200		\$5.59
Total for Check 400588:								\$420.74
400589	23-Aug-18	1500 - UNION BANK	3004-08/18	Robert J. Manis Credit Card	306030	31040		\$425.00
			3004-08/18	Robert J. Manis Credit Card	300030	14010		\$31.94
Total for Check 400589:								\$456.94
400590	23-Aug-18	655 - UNITED SITE SERVICES	114-7102901	Lake Portable Services (7/25-8/21/18)	202020	41200		\$584.90
			114-7159283	Training Tower Portable services	501050	47900		\$147.47
Total for Check 400590:								\$732.37
400591	23-Aug-18	321 - VERIZON WIRELESS	9811929383	Telemetry	503050	33011		\$93.28
			9812326279	MIFI for Backup Internet - PCPA Box Office 8/18	204020	22000		\$38.01
Total for Check 400591:								\$131.29
400592	23-Aug-18	272 - WAXIE	77644254	Facilities: Janitorial	415010	47200		\$331.70
			77641799	Janitorial supplies	501050	47200		\$1,023.00
Total for Check 400592:								\$1,354.70
400593	23-Aug-18	540 - WEST COAST ARBORISTS, INC.	138538	SS Lake Poway Rd. Tree & Stump Removal	411040	41200		\$3,775.36
400594	23-Aug-18	280 - WESTERN MOWER AND ENGINE	55766	Stormwater & Flood Control - Equipment Repairs	412040	43080		\$54.02
			55836	Stormwater & Flood Control - Equipment Repairs	412040	43080		\$54.86

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400594	23-Aug-18	280 - WESTERN MOWER AND ENGINE	56306	Street Maintenance: Supplies	411040	47600		\$34.37
Total for Check 400594:								\$143.25
400595	23-Aug-18	1340 - WORLD ADVANCEMENT OF TECHNOLOGY FOR EMS AND RESCUE	986	EPCR software	503050	41200		\$1,094.00
400596	23-Aug-18	962 - YOUTH TECH INC.	4101.101-08.18	Instructor Payment Summer Camps 2018	208020	41300		\$6,714.00
904813	20-Aug-18	941 - U.S. DEPT. OF THE TREASURY	FED WH PE#2018-17	FED W/H EFT PE#2018-17	F1000	86160		\$89,882.27
			FED WH PE#2018-17	FED W/H EFT PE#2018-17	F1000	86180		\$24,604.02
Total for Check 904813:								\$114,486.29
904814	20-Aug-18	97 - EMPLOYMENT DEVELOPMENT DEPARTMENT	CAL WH PE#2018-17	CAL W/H PE#2018-17	F1000	86170		\$38,476.84
904815	20-Aug-18	942 - DEPT. OF CHILD SUPPORT SERVICES	CLD WH PE#2018-17	Payroll Garnishment	F1000	86150		\$2,079.67
Register Total:								\$1,553,337.35

Director of Finance Approved: 

Date: 9-10-18





# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Nancy Neufeld, City Clerk *nn*  
(858) 668.4535 or [nneufeld@poway.org](mailto:nneufeld@poway.org)

**SUBJECT:** Approval of Minutes

## Summary:

The City Council Meeting Minutes submitted hereto for approval are:

- August 7, 2018 Regular City Council Meeting Minutes
- August 21, 2018 Regular City Council Meeting Minutes

The Poway City Council sits as the Poway Planning Commission, the Poway Housing Authority, the Public Financing Authority, and the Successor Agency to the Poway Redevelopment Agency.

## Recommended Action:

It is recommended that the City Council approve the Minutes as submitted.

## Public Notification:

None.

## Attachments:

- A. August 7, 2018 Regular City Council Meeting Minutes
- B. August 21, 2018 Regular City Council Meeting Minutes

Reviewed/Approved By:

Reviewed By:

Approved By:

\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

*Tina M. White*  
\_\_\_\_\_  
Tina M. White  
City Manager

**CITY OF POWAY  
CITY COUNCIL REGULAR MEETING  
MINUTES**

**August 7, 2018  
City Council Chambers  
13325 Civic Center Drive, Poway, California**

(Per Government Code 54953)

*(Meeting Called to Order as City Council/City of Poway Planning Commission/Poway Housing Authority/Public Financing Authority and Successor Agency to the Poway Redevelopment Agency)*

**CALL TO ORDER**

Mayor Vaus called the Regular Meeting to order at 7:00 p.m.

**ROLL CALL** Leonard, Frank, Grosch, Mullin, Vaus

**STAFF MEMBERS PRESENT**

City Manager Tina White; Assistant City Manager Wendy Kaserman; City Attorney Alan Fenstermacher; City Clerk Nancy Neufeld; Community Services Director Brenda Sylvia; Development Services Director Bob Manis; Finance Director Donna Goldsmith; Human Resources/Risk Management Director Jodene Dunphy; Public Works Director Michael Obermiller; Deputy Fire Chief Jon Canavan; Captain Jeff Duckworth, Sheriff's Department.

*(Note: Hereinafter the titles Mayor, Deputy Mayor, Councilmember, City Manager, Assistant City Manager, City Attorney, City Clerk and Director of Finance shall be used to indicate Mayor/Chair, Deputy Mayor/Vice Chair, Councilmember/Director, City Manager/Executive Director, Assistant City Manager/Assistant Executive Director, City Attorney/Counsel, City Clerk/Secretary and Director of Finance/Finance Officer.)*

**PLEDGE OF ALLEGIANCE**

Deputy Mayor Mullin led the pledge of allegiance.

**PRESENTATION**

Mayor Vaus presented a Certificate of Recognition to the members of the Oversight Board to the Successor Agency of the Poway Redevelopment Agency acknowledging and thanking them for their dedication and hard work serving on the committee. Members present included Lois Fong-Sakai, Tom Scott, and Carmen Coniglio.

**PUBLIC ORAL COMMUNICATIONS**

Joel Bocanegra expressed concerns regarding the effect on traffic from the Espola Road Safety Improvements Project.

Hector Garcia expressed concerns regarding activity in the neighborhood near Papago and Carriage Road.

## City of Poway – Minutes – August 7, 2018

Kathleen Lippitt expressed appreciation for Poway's marijuana ordinance.

### 1. CONSENT CALENDAR (Approved By Roll Call Vote)

**Councilmember Frank announced she would abstain from the vote on Item 1.3 as she was not on the Council at the time of those meetings.**

**Motioned by Deputy Mayor Mullin, seconded by Councilmember Grosch, to approve Consent Calendar Items 1.1 through 1.6. Motion carried by the following roll-call vote with Councilmember Frank abstaining on Item 1.3:**

<b>Ayes:</b>	<b>Leonard, Frank, Grosch, Mullin, Vaus</b>
<b>Noes:</b>	<b>None</b>
<b>Absent:</b>	<b>None</b>

- 1.1 Approval of Reading by Title only and Waiver of Reading in full of Ordinances on Agenda
- 1.2 Ratification/Approval of Warrant Registers for the Periods of June 25 through June 29, July 2 through July 6, and July 9 through July 13, 2018.
- 1.3 Approval of the June 8, 2018 and June 18, 2018 Special City Council meeting minutes
- 1.4 Approval of Consultant Agreement for Municipal Alarm Services/False alarm tracking
- 1.5 Acceptance of the Pomerado Reservoir Rehabilitation Project; Bid No. 18-011
- 1.6 Request from the Public Works Department for Authorization to Reclassify 1.0 Full-Time Equivalent (FTE) Management Analyst Position to 1.0 FTE Senior Management Analyst (Utilities Division) and Establish a Temporary Two Month Overlap of the 1.0 FTE Senior Management Analyst Position and Request for Authorization to Establish a Temporary Five Month Overlap of the 1.0 FTE Senior Management Analyst Position (Public Works Director Division) and Approval of the Appropriation of Funds to Cover the Overlap in FTE Positions

### 2. ORDINANCE

None.

### 3. PUBLIC HEARING

- 3.1 Resolution Renewing the Fire Protection Special Tax to be Collected on the Property Tax Rolls for Fiscal Year 2018-19

Director of Finance Donna Goldsmith gave a brief overview of the report.

*No speakers.*

**Motioned by Councilmember Grosch, seconded by Deputy Mayor Mullin to close the public hearing. Motion carried unanimously.**

In response to Council inquiry, Ms. Goldsmith confirmed that the funds collected from the fire protection special tax can only be used to support fire protection services and remains the same as last year's rate.

## City of Poway – Minutes – August 7, 2018

Motioned by Deputy Mayor Mullin, seconded by Councilmember Grosch, to adopt Resolution No. 18-060 entitled "A Resolution of the City Council of the City of Poway, California, Renewing the Fire Protection Special Tax to be Collected on the Property Tax Roll for Fiscal Year 2018-19." Motion carried unanimously.

### 4. STAFF REPORT

None.

### 5. WORKSHOP

None.

### 6. MAYOR AND CITY COUNCIL-INITIATED ITEMS

The Mayor and Council made announcements and reported on various events taking place in the City. No action was taken.

#### COUNCILMEMBER COMMITTEE REPORTS - Pursuant to AB1234 – G.C. §53232.3(d)

Deputy Mayor Mullin reported on the July meeting for the Board of Directors of the Metropolitan Transit District and stated that a consultant was selected for planning services for a potential sales tax ballot measure.

Deputy Mayor Mullin reported on the Metro Wastewater JPA and stated that a cost sharing formula was approved and an Amended and Restated Regional Wastewater Disposal Agreement will be presented at an upcoming Council meeting for consideration.

Mayor Vaus reported on the progress for the selection of an Executive Director for SANDAG.

### 7. CITY MANAGER ITEMS

None.

### 8. CITY ATTORNEY ITEMS

City Attorney Fenstermacher gave a brief update on the *Higginson vs. Poway* case. He stated that the plaintiffs have refiled their motion for a preliminary injunction which seeks to force the City to go back to at-large elections. The hearing is scheduled for September 10, 2018; however, due to the proximity of the election, the City plans to oppose any effort to enjoin district elections for the November 2018 election, and will continue to proceed with district elections.

### ADJOURNMENT

The meeting was adjourned at 7:27 p.m.

---

Nancy Neufeld, CMC  
City Clerk  
City of Poway, California



**CITY OF POWAY  
CITY COUNCIL REGULAR MEETING  
MINUTES**

**August 21, 2018  
City Council Chambers  
13325 Civic Center Drive, Poway, California**

(Per Government Code 54953)

*(Meeting Called to Order as City Council/City of Poway Planning Commission/Poway Housing Authority/Public Financing Authority and Successor Agency to the Poway Redevelopment Agency)*

**CALL TO ORDER**

Mayor Vaus called the Regular Meeting to order at 7:00 p.m.

**ROLL CALL** Leonard, Frank, Grosch, Mullin, Vaus

**STAFF MEMBERS PRESENT**

City Manager Tina White; Assistant City Manager Wendy Kaserman; City Attorney Alan Fenstermacher; City Clerk Nancy Neufeld; Community Services Director Brenda Sylvia; Development Services Director Bob Manis; Finance Director Donna Goldsmith; Human Resources/Risk Management Director Jodene Dunphy; Public Works Director Michael Obermiller; Fire Chief Mark Sanchez; Captain Jeff Duckworth, Sheriff's Department.

*(Note: Hereinafter the titles Mayor, Deputy Mayor, Councilmember, City Manager, Assistant City Manager, City Attorney, City Clerk and Director of Finance shall be used to indicate Mayor/Chair, Deputy Mayor/Vice Chair, Councilmember/Director, City Manager/Executive Director, Assistant City Manager/Assistant Executive Director, City Attorney/Counsel, City Clerk/Secretary and Director of Finance/Finance Officer.)*

**PLEDGE OF ALLEGIANCE**

The Senior Volunteer Patrol members presented the Colors and led the pledge of allegiance.

**PRESENTATION**

Mayor Vaus presented Senior Volunteer Patrol Founders, Walt Schutz and Ernie Hernandez, with a Certificate of Recognition upon their retirement and thanked them for their many years of service to the community.

**PUBLIC ORAL COMMUNICATIONS**

Joe St. Lucas spoke regarding fire conditions and State water use limits.

Ken Hilzinger spoke regarding traffic concerns due to the Espola Road Safety Improvements project.

Hiram Soto spoke against the process to fill the Council vacancy by appointment.

## City of Poway – Minutes – August 21, 2018

Victoria Marshall relayed her concern with the effect of the LED lights used in the pilot program.

Jon Ryan spoke against the process to fill the Council vacancy by appointment.

Yuri Bohlen stated he is a candidate for Mayor and opposes recent development projects.

Torrey Powers, candidate in November's election, spoke against the appointment process.

Chris Olps spoke against the process to fill the Council vacancy by appointment.

Celeste Larson spoke regarding the pilot testing of LEDs to replace current street lights.

Frank Kenny expressed concerns with recent development projects and opposes the appointment process to fill the Council vacancy.

Gail Heard spoke regarding the LED street light pilot program.

### 1. **CONSENT CALENDAR** *(Approved By Roll Call Vote)*

Chris Olps requested to speak on Item 1.4.

**Motioned by Deputy Mayor Mullin, seconded by Councilmember Leonard, to approve Consent Calendar Items 1.1 through 1.7. Motion carried by the following roll-call vote:**

<b>Ayes:</b>	<b>Leonard, Frank, Grosch, Mullin, Vaus</b>
<b>Noes:</b>	<b>None</b>
<b>Absent:</b>	<b>None</b>

- 1.1 Approval of Reading by Title only and Waiver of Reading in full of Ordinances on Agenda
- 1.2 Ratification/Approval of Warrant Registers for the Periods of July 16 through July 20, and July 23 through July 27, 2018
- 1.3 Approval of the June 19, 2018 and July 17, 2018 Regular City Council meeting minutes
- 1.4 Cancellation of the September 4, 2018 Regular City Council Meeting  
*Chris Olps spoke against the cancellation of the September 4, 2018 City Council meeting.*
- 1.5 Acceptance of Poway Center for the Performing Arts Window Repair, Bid 18-015
- 1.6 City's Investment Report as of June 30, 2018
- 1.7 Adoption of Resolution No. 18-061 entitled "A Resolution of the City Council of Poway, California, Terminating Bid Process for the FY 17/18 ADA Barrier Removal - Lake Poway Pathways Project and Directing Readvertisement for Competitive Bids."

### 2. **ORDINANCE**

None.

### 3. PUBLIC HEARING

- 3.1 Conditional Use Permit 17-011 and Development Review 17-007, A request to develop and establish a 15-person senior residential care facility on the vacant property located at 13612 Aubrey Street

Associate Planner Carol Rosas presented the report along with a PowerPoint presentation. Ms. Rosas stated that the proposed 6,078 square-foot residential care facility would serve 7 to 15 elderly residents. The property is zoned RS-2 which allows the residential care facility use with the approval of a conditional use permit.

*Submitted a speaker slip in support but did not wish to speak: Tony Arcangeli*

*Neutral speaker: Dee Fleischman*

**Motioned by Councilmember Leonard, seconded by Councilmember Grosch to close the public hearing. Motion carried unanimously.**

**Motioned by Councilmember Leonard, seconded by Councilmember Grosch, to adopt Resolution No. P-18-21 entitled "A Resolution of the City Council of the City of Poway, California, Approving Conditional Use Permit 17-011 and Development Review 17-007 Assessor's Parcel Number 314-193-48." Motion carried unanimously.**

- 3.2 Conditional Use Permit 17-012 and Development Review 17-008, is a proposal to develop and establish a 15-person senior residential care facility on the vacant property located at 13608 Aubrey Street

Associate Planner Carol Rosas presented the report along with a PowerPoint presentation. Ms. Rosas stated that the proposed 6,336 square-foot residential care facility would serve 7 to 15 elderly residents. The property is zoned RS-2 which allows the project with the approval of a conditional use permit.

*Submitted a speaker slip in support but did not wish to speak: Tony Arcangeli*

**Motioned by Councilmember Grosch, seconded by Deputy Mayor Mullin to close the public hearing. Motion carried unanimously.**

**Motioned by Mayor Vaus, seconded by Deputy Mayor Mullin, to adopt Resolution No. P-18-22 entitled "A Resolution of the City Council of the City of Poway, California, Approving Conditional Use Permit 17-012 and Development Review 17-008 Assessor's Parcel Number 314-193-49." Motion carried unanimously.**

### 4. STAFF REPORT

- 4.1 Purchase of Real Property in Rattlesnake Canyon for Open Space Assessor's Parcel Numbers (APN) 321-100-22-00 and 321-100-24-00

Development Services Director Bob Manis presented the report along with a PowerPoint presentation. Mr. Manis stated that one of the objectives of the Poway Subarea Habitat Conservation Plan is to maintain viable populations of biological resources which can be accomplished by acquiring open space using the City's Habitat In-Lieu Fee Fund.

*No speakers.*

In response to Council inquiry, Mr. Manis said that the price per acre for the Rattlesnake Canyon property was less than a comparable property was recently appraised. He mentioned that approximately \$1.1 million will remain in the Habitat In-Lieu Fee Fund after the purchase of property in Rattlesnake Canyon and Van Dam Peak. Attorney Alan Fenstermacher stated that the land purchased with these funds cannot be sold.

**Motioned by Mayor Vaus, seconded by Deputy Mayor Mullin, to 1) adopt Resolution No. 18-062 entitled “A Resolution of the City Council of the City of Poway, California, Authorizing the Purchase of Real Property located South of Toothrock Road in accordance with any Applicable provisions of the Poway Municipal Code and State Law and Authorizing the City Manager to Approve Documents and Take Other Actions in Connection Therewith”; and 2) Appropriate \$250,000 from the Habitat Mitigation In-Lieu Fee Fund (F2520-89010) to the Sensitive Lands Acquisition project (PRK0010-30) for the purchase of the property and authorize the City Manager to execute the necessary documents to complete the acquisition.” Motion carried unanimously.**

**4.2 Options for Landscape Maintenance District 83-1 and Landscape Maintenance District 86-1 Service Levels, a Volunteer Advisory Group, and Funding Appropriations**

Assistant Director of Public Works Eric Heidemann presented the report along with a PowerPoint presentation. Mr. Heidemann stated that the assessment revenue collected in Landscape Maintenance Districts (LMDs) 83-1 and 86-1 are not sufficient to pay annual operations and that the reserve funds have been depleted for both districts. The service levels have had to be reduced. Mr. Heidemann outlined three options to consider as interim measures while a long-term plan can be developed: Option 1 is continue to reduce service levels; Option 2 is to provide temporary funding from General Fund reserves for the remainder of the fiscal year; or Option 3 would fund a phased removal of trees in high-risk areas. Staff is recommending Option 2 along with the formation of a volunteer advisory group appointed by the City Manager to work with City staff and residents, including public outreach while utilizing existing materials and resources. The group would wrap up their work by March 2019 and then a report would be brought back to Council.

*Speaker in support: Pete Babich*

*Neutral speakers: Bob Leiter and Dee Fleischman*

Council discussion included support for a volunteer advisory group and restoring watering frequency and removal of dead/diseased trees with one-time funding only until the end of the fiscal year. Council emphasized these are short-term measures until a plan can be put into place and that the appropriation was coming from the City's reserve funds and would be a one-time use and was not a long-term option.

**Motioned by Mayor Vaus, seconded by Councilmember Grosch, to 1) Appropriate \$165,530 from the Unappropriated General Fund to restore watering to three days per week (from once a week for LMD 83-1 and twice a week for LMD 86-1) only for the remainder of the fiscal year; 2) Appropriate \$100,000 from the Unappropriated General Fund for emergency removal of dead/diseased/fallen trees in LMD 83-1 and LMD 86-1 only for the remainder of the fiscal year; and 3) Direct staff to form and work**



with a Volunteer Advisory Group and report back to Council in March 2019.” Motion carried unanimously.

**5. WORKSHOP**

None.

**6. MAYOR AND CITY COUNCIL-INITIATED ITEMS**

The Mayor and Council made announcements and reported on various events taking place in the City. No action was taken.

**COUNCILMEMBER COMMITTEE REPORTS** – Pursuant to AB1234 - (G.C. 53232(d))

Mayor Vaus reported that progress is being made on the selection of SANDAG's new Executive Director.

**6.1 Consideration of Metate Parcel**

Councilmember Frank proposed that staff evaluate the feasibility of purchasing the property located at the corner of Montauk Street and Metate Lane which was the subject of an earlier failed initiative petition for re-zone to allow up to 50 homes. The property has been under the protection of Poway's Proposition FF as it is zoned Rural Residential A. Councilmember Frank suggested that a passive park use for the site be considered.

*Speakers in opposition: Dee Fleischman, Chris Olps, Torrey Powers, Marianna Bacilla*

Council concurred to have staff look into the feasibility of purchasing the site.

**6.2 Appointment to San Diego County Water Authority Board**

*Speaker in opposition: Chris Olps*

Council concurred with the recommendation of Mayor Vaus to appoint Councilmember Leonard to serve as the representative on the San Diego County Water Authority Board to fill the remainder of Mark Weston's term.

**7. CITY MANAGER ITEMS**

None.

**8. CITY ATTORNEY ITEMS**

Closed Session:

**8.1 Conference with Real Property Negotiator (Gov. Code § 54956.8)**

Property:	APN 314-370-04
Agency Negotiator:	City Manager Tina White
Negotiating Parties:	Joanne Rodriguez; Mitigation Land Specialists
Under Negotiation:	Price and Terms of Payment

At the request of City Attorney Alan Fenstermacher, Mayor Vaus adjourned the meeting into Closed Session at 9:30 p.m. with all Councilmembers present.

## City of Poway – Minutes – August 21, 2018

City Council came out of Closed Session at 9:44 p.m. and City Attorney Fenstermacher announced that there was no reportable action taken.

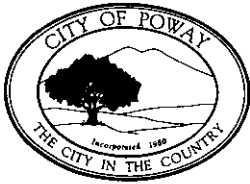
### **ADJOURNMENT**

The meeting was adjourned at 9:44 p.m.

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Nancy Neufeld, CMC  
City Clerk  
City of Poway, California

DRAFT



# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Brenda Sylvia, Director of Community Services *BS*

**CONTACT:** Karen Tansey, Management Assistant *KT*  
(858) 668-4584 or ktansey@poway.org

**SUBJECT:** Award of Occupancy License to R & B Pinto Properties, LLC, for the Lake Poway Concession Services; RFP #18-022

## Summary:

The License Agreement for the concession sales area at Lake Poway between the City of Poway and R & B Pinto Properties, LLC, is set to expire on November 3, 2018. A Request for Proposal was issued on June 4, 2018. Two proposals were received by the July 10, 2018, deadline. Based on qualifications, relevant experience, business plan, and financial arrangement proposed, staff found R & B Pinto Properties, LLC, to be the successful proposer.

## Recommended Action:

It is recommended that the City Council authorize the City Manager to execute an Occupancy License Agreement with R & B Pinto Properties, LLC, for the operation and maintenance of the Lake Poway Concession.

## Discussion:

Lake Poway serves the City of Poway as both a water supply for residents, as well as an exceptional outdoor recreational amenity. Recreation opportunities include fishing and boating, pleasure boating, hiking, biking, horseback riding, picnicking, and archery. The City enters into an agreement for the purpose of operating a concession during fishing and boating operating hours. The Concession is expected to sell packaged and prepared foods, non-alcoholic and alcoholic beverages, fishing permits, boat rentals, archery cards, merchandise related to fishing such as bait and tackle, and merchandise related to other recreational activities offered within the park.

On November 3, 2012, the City entered into an Occupancy License Agreement with R & B Pinto Properties, LLC, for concession services for a term of three years with the option to extend for one (1) additional three-year term. The Agreement has exhausted its six-year term and is due to expire on November 3, 2018.

A Request for Proposals (RFP) was issued on June 4, 2018. It was advertised on E-bidboard and mailed to nine businesses and individuals. A legal advertisement appeared in the *Poway News Chieftain* on June 14 and June 21, 2018. A nonmandatory, pre-proposal meeting and tour of the Lake Poway Concession took place on June 21, 2018. Two proposals were received by the July 10, 2018, deadline.

The proposals were evaluated based on the following criteria:

- Experience and qualifications
- Proposed business plan
- Proposed financial arrangement

The first proposal was submitted by Mirela Sabanovic-Lewis, owner of Wild Horse Baby & Maternity Photography, LLC. Ms. Sabanovic-Lewis' Lake Poway Concession & Coffee House Business Plan proposed to operate the concession and expand the services to include enhanced coffee offerings. In exchange for selling fishing permits, boat rentals, and archery cards on behalf of the City, she proposed that the City would pay 12% of those sales and waive commercial rental fees. In addition, all concessions and coffee sales would be retained by operator.

The second proposal was submitted by the current concession operator, Rick Pinto of R & B Pinto Properties, LLC. Mr. Pinto proposed to maintain the current terms of his agreement with the City, which includes the operator selling fishing permits, boat rentals, and archery cards on behalf of the City with 100% revenue to be retained by the City. In return, the City would waive commercial rental fees. All other concession sales are to be retained by the operator.

Both proposals were evaluated using the criteria as outlined above and it was determined that the business and financial arrangement offered by Mr. Pinto is the most favorable to the City. Therefore, staff is making a recommendation to award the Occupancy License to R & B Pinto Properties, LLC, for the Lake Poway Concession operation. The term of the Agreement is for two years with the option to be extended for two (2) additional two-year terms. R & B Pinto Properties, LLC, met the terms and conditions of their previous Agreement and has performed well in the past. The full details of the Occupancy License can be found in Attachment A.

**Environmental Review:**

This item is not subject to CEQA review.

**Fiscal Impact:**

None.

**Public Notification:**

A copy of this report has been provided to R & B Pinto Properties, LLC

**Attachments:**

A. Occupancy License for Concession Services at Lake Poway


Reviewed/Approved By:

Wendy Kaserman  
Assistant City Manager

Reviewed By:

Alan Fenstermacher  
City Attorney

Approved By:

  
Tina M. White  
City Manager

CITY OF POWAY  
OCCUPANCY LICENSE FOR CONCESSION SALES AREA AT LAKE POWAY

This License Agreement ("Agreement"). is made and entered into this 4th day of November, 2018, by and between the CITY OF POWAY, a municipal corporation (the "City") and R & B Pinto Properties, LLC, ("Licensee"), for the purpose of awarding an occupancy license for operation and maintenance of the Lake Poway Concession at the City's Lake Poway Recreation Area.

*Article I of this Agreement is a License for the Concession Sales Area ("Concession License"). Article II of this Agreement sets forth general terms applying to the Concession License.*

**ARTICLE I. CONCESSION LICENSE**

This Concession License is awarded subject to the following terms, conditions and limitations:

1. Location. The area to be governed by this Concession License is that portion of the Lake Poway Recreation Area known as the Lake Poway Concession, the premises located at 14656 Lake Poway Road ("Concession Premises").
2. Use of Concession Premises. At all times during established operating hours and during designated holidays and special events, the Licensee shall be responsible for providing the following services at the Concession Premises:
  - a) Sale of food and beverages, including beer and wine, but no other alcoholic beverages. Licensee agrees to obtain and maintain, at Licensee's sole cost, a valid permit from the Department of Alcoholic Beverage Control and to conform to all applicable laws and regulations related to the sale of alcohol. All food preparation shall comply with all applicable health code requirements.
  - b) Sale of City of Poway fishing permits, boating permits, and archery cards on the City's behalf. The City shall retain all revenue from the sale of fishing and boating permits, and archery cards. The City has sole authority to establish permit fees for the use of Lake Poway for fishing, boating, or archery, and shall have the right to change fees with or without notice.
  - c) Sale of merchandise related to fishing, such as bait and tackle, and sale of merchandise related to outdoor recreation and leisure activities, such as hiking and picnicking.
  - d) Prices charged for merchandise shall be comparable to those charged at other public recreation areas in San Diego County.

- e) Licensee agrees that all merchandise and services offered by Licensee are subject to approval of the City and that no merchandise will be offered for sale which, in the City's sole opinion, is not in keeping with a youth- and family-oriented recreation area.
  - f) Licensee agrees to comply with all City cash handling policies and procedures.
  - g) Licensee agrees to comply with City requests when said requests are intended to create an environment which best reflects a safe, family-friendly, and positive atmosphere.
  - h) At all times, the Licensee shall operate the Concession Premises for the purposes set forth herein. The Concession Premises shall not be used by Licensee for any other purpose. Any subsequent modification by Licensee to the kind or type of merchandise sold must first be approved in writing by City.
  - i) Remittance to the California State Board of Equalization (the "SBE") of all sales and use taxes applicable to the food, beverages, merchandise, and services sold from the Concession Premises, in a timely manner, along with all reports prepared in conjunction therewith, prepared in accordance with SBE guidelines.
  - j) Licensee acknowledges that the City has the right to enter into contracts with other vendors for the sale of concession items for community-wide special events held at Lake Poway when Licensee is unavailable, or unable to meet City's terms and requirements.
  - k) Licensee acknowledges that the City retains the right to allow school groups, sports leagues, and nonprofit organizations to sell food, beverages, and merchandise at the lower ball field concession stand while they are approved to utilize the lower ball field.
3. Term of License. The Concession Occupancy License is awarded for a period of two (2) years ("Concession License Term"), starting November 3, 2018. This Concession License may be renewed by mutual consent for an additional two (2) two-year terms upon its expiration, unless Licensee has breached any material term of this Agreement or the City has determined, in its sole discretion, that Licensee has failed to demonstrate the ability to meet the terms and conditions of this Agreement to the City's satisfaction. City reserves the right to alter the terms of the Concession License upon extension including, but not limited to, modification of the calculation of the License Fee to be paid by Licensee based, in whole or in part, on a percentage of the Licensee's gross revenues, a minimum License Fee, or both.

4. Minimum Operating Hours. Licensee must maintain a fully staffed and fully-operational concession sales area that is accessible to the public during all regular business hours (as described in Section 3, Contractor Responsibilities for concession Services) and for various special events and holidays designated by the City. Licensee has the right to open and operate the concession sales area during non-regular business hours; however, fishing and boating permits shall not be sold during these times unless advance approval is granted by the City. The hours of operation may be changed by the City Manager or designee. Licensee shall be notified in writing seven (7) calendar days in advance of any schedule changes by the City.
5. Employee Requirements.
  - a) For the purposes of this Concession License, "Employee" means anyone receiving compensation from Licensee for services rendered on the Concession Premises. Licensee agrees that Licensee shall abide by all federal, state and local labor laws.
  - b) Licensee agrees that all employees of Licensee will receive a City-furnished orientation on Lake Poway operations and local points of interest, the skills of fishing, and facilities available, sufficient to permit Licensee's employees to reply adequately to questions from the visiting public. All other questions from the visiting public shall be directed to City employees.
  - c) Whenever the concession is open, Licensee agrees that an employee over 18 years of age will be present. All minors working must have a current work permit. An onsite staff person that is at least 18 years of age must supervise any employees used. A list of employees must be on file with the City.
6. Compensation. Licensee shall not receive any compensation from City
7. Financial Records. Licensee shall keep full and accurate books of account records, cash receipts, and other pertinent data related to business and transactions. The City shall have the right to inspect and examine such records, at no cost, within five (5) business days of providing notice to Licensee.

The Licensee is responsible for credit card transaction fees associated with Licensee sales (i.e., concession operator merchandise, food, beverages, bait, and tackle.) Using the City's Point of Sale system, payments and reimbursements shall be calculated, reconciled, and invoiced by the City according to the cash handling policy for Lake Poway.

As soon as practicable, but no later than February 15 of each year, Licensee shall provide a profit and loss statement detailing the total revenue and expenditures and a current balance sheet.

8. Review. The Director of Community Services or designee, and Licensee shall meet periodically to discuss matters of mutual concern in the administration of the Agreement. The Agreement shall be reviewed annually to enable both parties to consider operations, processes, and procedures for the purpose of making proper adjustments, if desired. Any substantive modifications of this Agreement shall be made in accordance with Article II Section 14.
9. Utilities and Maintenance of the Concession Premises.
- a) The City agrees to provide and pay for electricity, water and trash/ recycling service to the Concession Premises. Licensee agrees to pay all charges for propane, telephone, internet, and cable service used on the Concession Premises. Any burglar alarm system desired by Licensee shall be installed and maintained by Licensee at Licensee's sole expense, including any alarm permits required by the City of Poway and the San Diego County Sheriff's Department. Costs of installation and use of all other utilities necessary for operation shall be paid for at the Licensee's sole expense, following written approval by City.
  - b) Licensee shall pay before delinquency, all taxes and assessments assessed or levied upon Licensee or the Concession Premises and its improvements by reason of this Concession License (including any possessory interest tax) or on any furniture, fixtures, equipment, and personal property thereon, or by reason of the business or other activities of Licensee upon or in connection with the Concession Premises, including without limitation, any sales, use, income or franchise tax, and shall pay any fees imposed by law for licenses or permits for any business or activities of Licensee upon the Concession Premises of under this Concession License.
  - c) Licensee shall clean and maintain the Concession Premises, and shall keep them in clean, orderly, and sanitary condition at all times throughout the Concession License Term. Licensee shall clean all glass and surface areas, and shall sweep and mop the floor of Concession Premises at least once per week.
  - d) Licensee agrees to maintain at all times an "A" rating for cleanliness and sanitary condition, if applicable, and as determined by the appropriate health enforcement authority in San Diego County.
10. Public Access. Licensee understands that the Concession Premises are public property, and as such, Licensee may not deny access to the Concession Premises to any member of the public except that Licensee may deny access to ensure the health and safety of the Concession Premises, such as barring disruptive individuals, or to ensure compliance with City policies or regulations. There shall be no discrimination against any person, or groups of persons, on account of gender, marital status, sexual orientation, age, race, color, religion,



creed, national origin or ancestry in the use of the Concession Premises or performance of duties pursuant to this Concession License, and Licensee shall not establish or permit any practice of discrimination in connection with this Concession License or with regard to the use of the Concession Premises.

11. Maintenance and Repairs. Licensee shall be responsible for minor repairs at the Concession Premises and shall maintain the facility and all personal equipment kept inside or outside the building in a clean, safe, sanitary, and attractive condition, and in good repair in a manner deemed acceptable by City. This includes, but is not limited to, floors, walls, counters, interior and exterior doors and windows, plumbing fixtures, drains, the range hood, and all interior building appliances and similar equipment. Licensee shall be responsible for replacing lighting fixtures, bulbs, and ballasts, as necessary. Licensee shall maintain the grease trap/interceptor in good working order for business operations. Grease trap/interceptor shall be cleaned in accordance with the City of Poway's FOG (Fat, Oil, Grease) Program requirements. Licensee shall pressure wash, adhering to the Best Management Practices contained in the City's Jurisdictional Urban Runoff Management Plan (JURMP), the Concession Premises balcony and walkway, a minimum of once every two months, or as deemed necessary by City. Licensee shall keep the trash area and any other areas affected by Licensee operations clean and free from grease and debris. Licensee shall be responsible for ensuring that the interior of the premises is kept free of insects and rodents and shall keep outdoor areas free of equipment and supplies. City may, at times, require the Licensee to make repairs such as interior painting, and other types of repairs to the Concession premises during the time of the License. These repairs will be made within thirty (30) days of any written request for the reason of aesthetics or five (5) days for health and safety reasons. If the repairs are not made within the stated timeframe, the City may make the repairs and charge the costs to the Licensee. Licensee shall comply with all federal, state, county, and municipal statutes and ordinances, and with all regulations, orders, and directives of appropriate governmental agencies concerning the use, sanitation, and safety of the Concession Premises.

The City shall, throughout the term of this Concession License, at its own expense, be responsible for major equipment maintenance for facility structural repairs, including, but not limited to, roof repairs, heating and air conditioning repairs, acoustical tiles, major plumbing with the exception of issues caused by concession operations, sewer lines leaving the building from the grease trap/interceptor, and the interior and exterior electrical facilities with the exception of interior lighting fixtures, bulbs, and ballasts. The City will be responsible for ensuring the exterior of the building is kept free of insects and rodents.

12. Alterations to Premises. If during the term of this Concession License, any additions, alterations, or improvements in or to the Concession Premises are requested by Licensee or are required by governmental laws or regulations that relate to concession operations, they shall be made and paid for by Licensee.

Licensee shall submit a written request describing the proposed alterations, construction dates, and funding source. The concept must be approved by the Director of Community Services. The Licensee must adhere to all City requirements for permits and the cost for said permits shall be the sole responsibility of the Licensee.

Licensee waives any and all rights provided by law entitling Licensee to make repairs at the expense of the City.

Additions, alterations, or improvements that require structural modification of the property shall be the sole responsibility of the City. Licensee shall notify the City in writing within five (5) days of the receipt of any third-party requests for structural modification of the Concession Premises for which the City is responsible.

Licensee shall surrender the Concession Premises upon termination of this Concession License in a condition as good as received, with normal wear and tear excepted. The City may require the Licensee to reverse alterations that were made to the Concession Premises at the Licensee's request, at Licensee's expense.

13. Personal Property. Licensee will, at Licensee's own cost and expense, equip and maintain at the Concession Premises all furniture, fixtures, equipment, and other personal property required by Licensee for the operation of the Concession Premises in accordance with the objectives of this Concession License.

City shall provide all necessary equipment and supplies to be used by Licensee for the sale of City permits and licenses, including: the ActiveNet point-of-sale system, credit card machine, printer, scanner, and basic office supplies associated with the sale of fishing and boating permits (receipt tape and printer). The equipment shall remain the property of the City.

Licensee shall have the right, within thirty (30) days of the termination or expiration of this Concession License, to remove any and all of said furniture, fixtures, equipment, and other personal property of Licensee from the Concession Premises. All such property not removed within that time shall become and remain the property of the City. The removal of such property shall be affected solely at the expense of Licensee, and in a manner satisfactory to the City, and without injury or damage to the Concession Premises or any of the improvements constructed by City. Licensee shall promptly repair any injury or damage caused by the removal of personal property from the Concession Premises.

14. Damage to the Premises. Licensee shall, at Licensee's own expense, repair any damage to the Concession Premises caused by Licensee or Licensee's employees and/or vendors and contracted service providers. If the Concession

Premises or any part thereof, or any appurtenance thereto is so damaged that the same cannot be used for Licensee's purposes, and the damage has been caused by Licensee or Licensee's employees and/or vendors and contracted service providers, Licensee shall provide written notice to the City within ten (10) calendar days following the occurrence of the damage. Licensee shall provide a proposal to the City for repair of the damage with thirty (30) calendar days of the occurrence of the damage and shall commence the repairs within ninety (90) calendar days of receiving written approval of the repair plan from the City. In the event of minor damage to any part of the Concession Premises, and if such damage does not render the Concession Premises unusable for Licensee's purposes, Licensee shall promptly repair such damage at Licensee's sole cost and expense. Should Licensee or City repairs to the Concession Premises result in closure, City shall, when practical, provide space to Licensee to continue in the performance of services described herein at a level deemed appropriate by City.

If the Concession Premises, or any area of the Lake Poway Recreation Area, is so damaged that the same cannot be used for Licensee's purposes or results in closure to the public, and the damage has not been caused by Licensee or Licensee's employees and/or vendors and contracted service providers, then Licensee shall have the right to terminate this Concession License within ninety (90) calendar days following such damage while repairs are being made at City's sole cost and expense. If Licensee elects not to terminate this Concession License while the City is repairing the Premises, Licensee agrees that Licensee shall not be entitled to compensation for any time periods when the concession business is closed pending repairs.

15. Sign. Licensee agrees that the content, style, appearance, and location of all signs, placards, and advertising in or about the Concession Premises, including window advertising, are subject to City's prior written approval. All signs must comply with the City's Municipal Code, Chapter 17.40 Comprehensive Sign Regulations.
16. Direction of Communication. Neither Licensee nor any employee shall engage in any verbal or written criticism of the City's staff, park management, business decisions, etc., to any third party. Licensee agrees to direct all concerns or complaints directly to the Director of Community Services and to encourage Licensee's patrons, friends, and guests to do the same.
17. Termination and Revocation of Concession License.
  - a) This Concession License may be terminated by either party by providing written notice to the other party at least sixty (60) calendar days in advance of the desired termination date. Notwithstanding the foregoing, this Concession License may be terminated by City prior to the expiration of the Concession License Term pursuant to the paragraph below.

- b) This Concession License may be revoked by the City thirty (30) calendar days after a written notice to Licensee that City has determined that Licensee has done any of the following, and if Licensee has not cured the noticed breach within five (5) business days after the notice:
- 1) Failed to confine use of the Concession Premises to concession sales, pursuant to the terms of Article I, Section 2 of this Concession License;
  - 2) Failed to maintain the required operating hours, pursuant to Article I, Section 4 of this Concession License on four (4) or more occasions during any twelve-month period;
  - 3) Failed to submit timely and accurate financial reporting, pursuant to Article I, Section 7 of this Concession License;
  - 4) Failed to adequately clean and maintain the Concession Premises, or failed to comply with County "A-rated" health requirements for food service, if applicable, pursuant to Article I, Section 9 of this Concession License;
  - 5) Failed to maintain adequate insurance, pursuant to Article II, Section 1 of this Concession License;
  - 6) Failed to abide by employment-related laws, pursuant to Article II, Section 3 of this Concession License;
  - 7) Failed to work cooperatively with City staff;
  - 8) Taking actions to the detriment of the Licensee or the City.
  - 9) Failed to present any written or verbal criticism of the City's staff, park management, business decisions, etc., directly to the Recreation Supervisor or the Community Services Manager, as required in Article I, Section 17 of this Concession License;
  - 10) Licensee becoming insolvent, making an assignment for the benefit of creditors, becoming the subject of a bankruptcy proceeding, reorganization, receivership, liquidation or dissolution proceeding, or any judicial sale of Licensee's interest under this Concession License. Should Licensee form a corporation for the purpose of conducting business, Licensee must notify City in writing within thirty (30) days of filing an application for incorporation, and shall not permit transfer of the Lease or possession of the Premises by merger, consolidation or dissolution, nor permit sale of a controlling interest in the voting stock in said corporation, without the written consent of the City; or

11) Failed to perform any other provision of this Concession License. Except for default arising from Licensee's failure to maintain the required hours of operation, as described in subparagraph (2), above, which default shall be deemed material and will not be allowed to be cured, if the default cannot be cured within five (5) business days, the Licensee shall not be in default of this Concession License if Licensee commences to cure the default within the five-day period, and diligently and in good faith continues to cure the default.

- c) Notice of any default given to Licensee pursuant to this Section shall specify the nature of the alleged default and the applicable Concession License provisions, and shall demand that Licensee perform the provisions of this Concession License within the applicable time period, or quit the Concession Premises. No such notice of default shall be deemed a termination of this Concession License unless City elects to provide Licensee with a notice of termination as set forth in Section 18.
- d) Upon termination or revocation of this Concession License, Licensee agrees to vacate the Concession Premises within five (5) working days, and to surrender this Concession License.

18. City's Remedies for Default. City shall have the remedies set forth in this Section in the event of Licensee's default. These remedies are not exclusive, and do not preclude City from pursuing any other remedies allowed by law.

- a) Licensee's Right to Possession not Terminated. During the period that Licensee is in default, City shall have the right to terminate the Concession License, enter the Premises to operate the concession, and/or to grant a new license to a third party ("re-license"). Licensee shall be liable to City for all costs incurred in re-licensing the Concession Premises, including reasonable amounts to repair the Concession Premises, if necessary, to make the Concession Premises suitable to be re-licensed. No act by City pursuant to this paragraph shall terminate this Concession License unless City notifies Licensee in writing that the City is electing to terminate the Concession License.
- b) Termination of Licensee's Right of Possession. City has the right to terminate Licensee's possession of the Premises at any time upon Licensee's default, if such default constitutes a material breach of this Concession License, as set forth in Article I, Section 17. No act by City, other than giving written notice of termination to Licensee, shall terminate this Concession License. City has the right to recover from Licensee such amounts and costs necessary to compensate City for all detriment proximately caused by Licensee's default.
- c) City's Right to Cure Licensee's Default. City, at any time after Licensee commits a default, can cure the default at Licensee's cost. If City, at any time,

by reason of Licensee's default, pays any sum or does any act that requires the payment of any sum, the amount paid by the City shall be due immediately from Licensee, and if paid at a later date shall bear interest at the rate of eighteen percent (18%) per annum, or if the highest lawful rate is less than eighteen percent (18%) per annum, at that rate from the date the sum is due until City is reimbursed by Licensee.

19. As-Is Condition of Property. Licensee acknowledges that Licensee is fully knowledgeable of the condition of the Concession Premises. City makes no representations whatsoever to Licensee concerning the condition of the Concession Premises, and specifically does not represent to Licensee that the Concession Premises is fit for the use that Licensee intends. Licensee has inspected the Concession Premises and accepts the Concession Premises in AS-IS condition. Licensee shall not allow contamination, shall not commit waste, and, subject to Licensee's right to remove personal improvements and fixtures, shall not do anything on the Concession Premises that will cause damage to the Concession Premises.
20. Entry by City. City may, at any time, in response to emergency or to collect deposits on Mondays, and in all other cases upon 72 hours prior written notice to Licensee, and at times deemed reasonable by Licensee, enter the Concession Premises for the purpose of inspecting the property, making such repairs as the City may deem necessary, preparing for City's future use of the Concession Premises, constructing public improvements on the property, and other public utilities and improvements, or for such other purposes or at such times as may be deemed necessary by City. City shall make verbal notification to Licensee prior to such entry when possible. To the extent that City does construct public improvements on the Concession Premises, Licensee shall relinquish all rights and interest therein and all tenancy to that portion of the property affected without additional compensation.
21. Liens. Licensee shall keep the Concession Premises, including all buildings and improvements now or hereafter located on the property, free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Concession Premises. If a lien or other encumbrance attaches to the Concession Premises and/or improvements on the property, Licensee shall promptly pay and discharge, or cause the property to be released from, or cause to be insured or bonded over any such lien or claim of lien.

## **ARTICLE II. GENERAL CONCESSION LICENSE TERMS**

1. Insurance Requirements. Licensee shall obtain and maintain during the life of this Concession License all of the following insurance coverages:
  - a) Comprehensive General Liability, including premises-operations,

products/completed, broad form property damage, and blanket contractual liability with the following coverages:

General Liability:

\$1,000,000 per occurrence

\$2,000,000 aggregate per occurrence

\$500,000 property damage per occurrence Liquor Liability Insurance Rider

- b) Automobile Liability, including owned, hired, and non-owned vehicles with the following insurance coverages:

\$250,000 Bodily Injury (per person)

\$500,000 Bodily Injury (per occurrence)

\$500,000 Property Damage

- c) Property Insurance Coverage. Licensee shall, at its own cost and expense, maintain in full force and effect property insurance, including fire and extended coverage insurance, covering Licensee's personal property, including removable trade fixtures, located in the Concession Premises, in an amount of at least one hundred percent (100%) of their cash value.

- d) Workers' Compensation insurance in statutory amount. All of the endorsements, which are required above, shall be obtained for the policy of Workers' Compensation insurance.

- e) Endorsements shall be obtained so that each policy contains the following three provisions:

1) Additional Insured Status (Not required for Workers' Compensation): "City of Poway and its elected and appointed boards, officers, agents, and employees are additional insured with respect to this subject property and License with City."

2) Notice: "Said policy shall not terminate, nor shall it be canceled, until thirty (30) days after written notice is given to City."

3) Primary Coverage: "The policy provides primary coverage to City and its elected and appointed boards, officers, agents, and employees It is not secondary or in any way subordinate to any other insurance or coverage maintained by City."

- f) Licensee shall provide City certificates of insurance with proper endorsements showing the insurance coverage described in the paragraphs above, in a form and content approved by City.

- g) City retains the right to adjust the types or amounts of insurance coverage

needed. Written notice will be given 90 days in advance of any changes in insurance requirements.

h) Failure to comply with insurance requirements under this Agreement shall be a material breach of this Agreement.

2. Indemnification. Licensee shall hold harmless, defend, and indemnify the City, and its elected and appointed officers, officials, employees, agents, volunteers, guests, invitees and licensees (other than Licensee) (the "City Indemnitees") free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or in equity, to property or persons, including wrongful death, to the extent arising out of or incident to any acts, omissions, or misconduct of the Licensee or its officers, employees, agents, volunteers, guests, invitees and licensees in connection with the performance of this Agreement, including without limitation, the payment of attorneys' fees and other related costs and expenses. Licensee's responsibility to hold harmless, defend and indemnify the City Indemnitees does not include claims, demands, causes of action, costs, expenses, liability, loss, damage or injury to the extent arising out of the negligence or willful misconduct of any of the City Indemnitees. This Section shall apply to all liability regardless of whether any insurance policies are applicable. Any insurance policy limits do not act as a limitation upon the amount of indemnification to be provided to the City Indemnitees.
3. Employment Laws. Licensee agrees to comply with all local, state, and federal laws affecting the employment of personnel, the payment of wages, and the payment of taxes in operating the businesses of the Concession Premises.
4. Anti-Assignment Clause. As the City has relied on the particular proposal of Licensee in entering into this Agreement, Licensee shall not assign, delegate, transfer, or sublicense any duty or right under this Agreement, or any portion of the Licensee's use of the Concession Premises. Any such purported assignment, delegation, transfer, or sublicense shall be void, unless the City has previously approved such action in writing.
5. Licensee not a Lessee. Not legal title or leasehold interest in the Concession Premises or appurtenances thereto shall be deemed or construed to have been created or vested in the Licensee by anything contained in this Agreement.
6. Compliance with Laws. Licensee shall comply with all federal, state, and local laws applicable to the Concession Premises and its use.



7. Provisions Cumulative. The foregoing provisions are cumulative and in addition to and not in limitation of any rights or remedies available to the City.
8. Merger Clause. This Agreement and its attachments, whether physically attached to the Agreement or merely referenced in this section (the "Incorporated Documents") are the entire understanding of the parties, and there are no other terms or conditions, written or oral, controlling this matter. In the event of any conflict between the provisions of this Agreement and the Incorporated Documents, the provisions of this Agreement shall prevail. In the event of any conflict between or among any of the Incorporated Documents, the conflict shall be interpreted based on the priority as listed; to wit:
9. Anti-Waiver Clause. None of the provisions contained herein shall be waived because of previous failure to insist upon strict performance, nor shall any provision be waived because any other, Provision has been waived, in whole or in part.
10. Severability. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provisions of this Agreement.
11. Notices to Parties. Any statements, communications, or notices to be provided pursuant to this Agreement shall be sent to the attention of the persons indicated below, until such time as notice of any changes of person to be notified or change of address if forwarded to all parties:

City:

City of Poway  
P.O. Box 789  
Poway, CA 92074  
Attn: Director of Community Services

Licensee:

R & B Pinto Properties  
14257 Arbolitos Drive  
Poway, CA 92064  
Attn: Rick Pinto

12. Choice of Law. This Agreement shall be governed by the laws of the State of California. Venue for any action arising from this Agreement, including but not limited to matters concerning validity, construction, performance or enforcement shall be exclusively in the state or federal courts located in San Diego County, California.

Licensee hereby waives any right to remove any such action from San Diego County as is otherwise permitted by California Code of Civil Procedure section 394.

13. Business License. The Licensee shall be required to obtain a City of Poway Business License prior to execution of this Agreement.

14. Amendment. The provisions of this License may be amended or modified only by mutual consent and written agreement of the Parties.

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

CITY OF POWAY, A Municipal Corporation:

R & B Pinto Properties, LLC:

\_\_\_\_\_  
Tina White, City Manager

\_\_\_\_\_  
Rick Pinto, Owner

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Nancy Neufeld, City Clerk

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Alan Fenstermacher, City Attorney



# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Robert Manis, Director of Development Services *RM*  
**CONTACT:** Jeff Beers, Special Projects Engineer  
(858) 668-4624 or [jbeers@poway.org](mailto:jbeers@poway.org) *JB*  
**SUBJECT:** Acceptance of the 2017-2018 Street Overlay Project; Bid No. 18-014  
SRM Contracting & Paving

## Summary:

On March 20, 2018, the City Council awarded the contract for the 2017-2018 Street Overlay Project; Bid No. 18-014, to SRM Contracting & Paving, in the amount of \$734,764.00. This action will accept the project as complete.

## Recommended Action:

It is recommended that the City Council:

- (1) Accept the 2017-2018 Street Overlay Project as complete;
- (2) Authorize the City Clerk to file and record the Notice of Completion;
- (3) Authorize the release of the retention in the amount of \$35,160.05, if unencumbered, 45 days after City Council acceptance; and
- (4) Release the the Nationwide Mutual Insurance Company Bond for Material and Labor in the amount of \$734,764.00 after the release of retention; and
- (5) Retain the Nationwide Mutual Insurance Company Bond for Faithful Performance for a period of one year.

## Discussion:

The 2017-2018 Street Overlay Project consisted of asphalt cold milling and inlay at the southern end of Summerfield Lane, Oakbrook Court, Birchbrook Court, Cedar Tree Way, Pinebrook Court, Carriage Hills Court, and Surrey Hills Court. Work also included asphalt cold milling and patching and pedestrian ramp removal and replacement on Espola Road.

There was one Change Order for this project in the amount of (\$31,562.70), which adjusted final quantities for several bid items. The final contract amount is \$703,201.30.

## Environmental Review:

The matter of acceptance of public improvements that have been completed, which were the subject of a prior environmental determination, is not subject to the California Environmental Quality Act.

**Fiscal Impact:**

There is \$95,657.21 available in the Roadways – Congestion Relief account (0411-4320B) for the release of the \$35,160.05 retention for the 2017-2018 Street Overlay Project; Bid No. 18-014.

**Public Notification:**

SRM Contracting & Paving, 7192 Mission Gorge Road, San Diego, CA 92120

**Attachments:**

None

Reviewed/Approved By:

Reviewed By:

Approved By:



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Wendy Kaserman  
Assistant City Manager

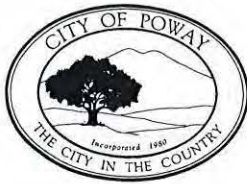
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Alan Fenstermacher  
City Attorney

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Tina M. White  
City Manager





# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Robert Manis, Director of Development Services *RM*

**CONTACT:** Brian Banzuelo, Associate Civil Engineer *BB*  
(858) 668-4623 or bbanzuelo@poway.org

**SUBJECT:** Award of Contract to Ace Electric, Inc. for the Community Park Electrical Upgrades Project; Bid No. 19-002

## Summary:

This project includes the replacement of an existing electrical switchboard at Community Park which serves a portion of the Senior Center and a portion of the site lighting at Community Park. This project will also relocate an existing electrical service pedestal.

## Recommended Action:

It is recommended that the City Council award the contract for the Community Park Electrical Upgrades Project to Ace Electric, Inc., the lowest responsible and responsive bidder, in the amount of \$69,530.00.

## Discussion:

The contract time for this project is 20 working days with an Engineer's estimate of \$90,000.00. Bids were opened on August 22, 2018. The following eight bids were received:

Company	Bid Amount
Phazer Electric	\$51,700.00
Ace Electric, Inc.	\$69,530.00
Baker Electric	\$75,180.00
Native Electrical Construction	\$81,000.00
Saturn Electric, Inc.	\$84,750.00
Industrial Power and Automation	\$84,900.00
Zoran Construction Group	\$91,186.00
PAR Electrical Contractors, Inc.	\$139,663.00

The lowest bidder, Phazer Electric, did not submit a Bid Bond as required by Section 20170 and 20171 of the California Public Contract Code and Section 5-3 of the Bid Specifications. Therefore the bid was deemed unresponsive.

**Environmental Review:**

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) as a Class 1 Categorical Exemption, pursuant to Section 15301 of the CEQA Guidelines, in that the project involves the rehabilitation of existing electrical equipment.

**Fiscal Impact:**

Funding in the amount of \$152,312.00 is available in the Community Park Electrical Upgrades project account (80006172-P6170) for the award of this contract.

**Public Notification:**

Ace Electric, Inc., P.O. Box 601071, San Diego, CA 92160

**Attachments:**

None

Reviewed/Approved By:

Reviewed By:

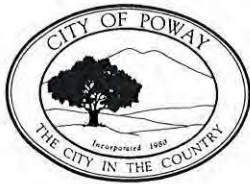
Approved By:

\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

  
\_\_\_\_\_  
Tina M. White  
City Manager





# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Robert Manis, Director of Development Services *RM*

**CONTACT:** Melody Rocco, Senior Civil Engineer  
(858) 668-4653 or [mrocco@poway.org](mailto:mrocco@poway.org) *UR*

**SUBJECT:** Approval of Consultant Agreement between the City of Poway and Pure Technologies U.S. Inc. for Design Services for the Steel Water Main Assessment Project (CIP #1774)

## Summary:

This Consultant Agreement will provide design services for assessment of a 36" steel water main that supplies treated water to the City of Poway's water distribution system from the clearwell reservoir.

## Recommended Action:

It is recommended that the City Council authorize the City Manager to execute the Agreement with Pure Technologies U.S. Inc. for Design Services for the Steel Water Main Assessment Project per the outlined terms of the Consultant Agreement (Attachment A).

## Discussion:

Approval of this Agreement will provide assessment services for a 36" steel water main installed in 1975. This water main is a critical piece of the City's water infrastructure as it supplies treated water to the distribution system from the clearwell reservoir.

The City recently completed a construction project which installed temporary highline connections to allow for interim water supply to the City in the event the 36" pipeline is taken out of service for maintenance or emergency repair.

To perform the assessment, City staff will rent the necessary equipment and practice installing the highline. This will give staff a chance to practice the installation procedures, as well as provide the Consultant the dewatered condition necessary to assess the pipeline.

On August 29, 2017, the Development Services Department put out a Request for Proposal (RFP 18-004) for design services for the steel water main assessment and in response received no proposals. After contacting other agencies who had recently performed similar assessments, staff contacted two firms who specialize in performing assessments on pipelines. One of the firms declined the City's request to provide a proposal, stating that their assessment technology is better suited for Asbestos Cement Pipe (ACP).

Staff subsequently met with the other firm, Pure Technologies U.S. Inc., to review the scope and ensure assessing steel water lines is within their capabilities.

After careful review of the proposal, staff determined that Pure Technologies U.S. Inc. was highly qualified to perform the design work required. Pure Technologies U.S. Inc. has extensive steel water pipeline assessment experience and has performed similar work with other government agencies throughout Southern California.

**Environmental Review:**

The action is not subject to review under the California Environmental Quality Act (CEQA).

**Fiscal Impact:**

Funding in the amount of \$120,000 is available in the Steel Water Main Assessment Project account (80005106-P5100) for the award of this agreement. The consultant's fee will be based on the scope of work as outlined in the Consultant Agreement for the not-to-exceed fee of \$110,000.

**Public Notification:**

Myron Shenkiryk, Pure Technologies U.S. Inc., 600 West Broadway, Suite 500, San Diego, CA 92101

**Attachments:**

A. Consultant Agreement


Reviewed/Approved By:

Reviewed By:

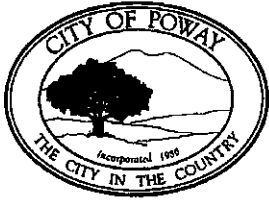
Approved By:

\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

  
\_\_\_\_\_  
Tina M. White  
City Manager





**City of Poway  
STANDARD AGREEMENT FOR SERVICES**

This Agreement, entered into this 19<sup>th</sup> day of September, 2018, by and between the CITY OF POWAY (hereinafter referred to as "City") and PURE TECHNOLOGIES U.S. INC., (hereinafter referred to as "Consultant").

**RECITALS**

WHEREAS, City desires to obtain the services of a private consultant to perform condition assessment services for the Steel Water Main Assessment (Project); and

WHEREAS, Consultant is an engineering consultant and has represented that Consultant possesses the necessary qualifications to provide such services; and

WHEREAS, City has authorized the preparation of an agreement to retain the services of Consultant as hereinafter set forth.

NOW, THEREFORE, IT IS MUTUALLY AGREED THAT CITY DOES HEREBY RETAIN CONSULTANT ON THE FOLLOWING TERMS AND CONDITIONS:

**1. Scope of Services.**

Consultant shall provide services as described in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**2. Compensation and Reimbursement.**

City shall compensate and reimburse Consultant as provided in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**3. Term of Agreement.**

The term of this Agreement shall be as described on Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**4. Termination.**

This Agreement may be terminated with or without cause by City. Termination without cause shall be effective only upon 60-day written notice to Consultant. During said 60-day period Consultant shall perform all consulting services in accordance with this Agreement. This Agreement may be terminated by City for cause in the event of a material breach of this Agreement, misrepresentation by Consultant in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by City. Termination for cause shall be effected by delivery of written notice of termination to Consultant. Such termination shall be effective upon delivery of said notice.

**5. Confidential Relationship.**

City may from time to time communicate to Consultant certain information to enable Consultant to effectively perform the services. Consultant shall treat all such information as confidential, whether or not so identified, and shall not disclose any part thereof without the prior written consent of the City. Consultant shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services. The foregoing obligation of this Paragraph 5, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of Consultant, hereafter disclosed in publicly available sources of information; (iii) is now in the possession of Consultant without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to Consultant by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

Consultant shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this contract without the prior written consent of the City. In its performance hereunder, Consultant shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

**6. Office Space and Clerical Support.**

Consultant shall provide its own office space and clerical support at its sole cost and expense.

**7. Covenant Against Contingent Fees.**

Consultant declares that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach of violation of this warranty, City shall have the right to annul this Agreement without liability, or, at its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**8. Ownership of Documents.**

All memoranda, reports, plans, specifications, maps and other documents prepared or obtained under the terms of this Agreement shall be the property of City and shall be delivered to City by Consultant upon demand.

**9. Conflict of Interest and Political Reform Act Obligations.**

During the term of this Agreement Consultant shall not act as consultant or perform services of any kind for any person or entity whose interests conflict in any way with those of the City of Poway. Consultant shall at all times comply with the terms of the Political Reform Act and the local conflict of interest ordinance. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code Section 87103. Consultant represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the City.

“Consultant” means an individual who, pursuant to a contract with a state or local agency:

(A) Makes a governmental decision whether to:

1. Approve a rate, rule or regulation;
2. Adopt or enforce a law;
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
4. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract that requires City approval;

5. Grant City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
  6. Grant City approval to a plan, design, report, study, or similar item;
  7. Adopt, or grant City approval of, policies, standards, or guidelines for the City, or for any subdivision thereof; or
- (B) Serves in a staff capacity with the City and in that capacity participates in making a governmental decision as defined in the Political Reform Act and/or implementing regulations promulgated by the Fair Political Practices Commission, or performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.

**DISCLOSURE DETERMINATION:**

- ☒ 1. Consultant/Contractor will not be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B above.  
No disclosure required.
- ☐ 2. Consultant/Contractor will be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B above. As a result, Consultant/Contractor shall be required to file a Statement of Economic Interest with the City Clerk of the City of Poway in a timely manner as required by law.

---

Robert J. Manis, Director of Development Services

**10. No Assignments.**

Neither any part nor all of this Agreement may be assigned or subcontracted, except as otherwise specifically provided herein, or to which City, in its sole discretion, consents to in advance thereof in writing. Any assignment or subcontracting in violation of this provision shall be void.

**11. Maintenance of Records.**

Consultant shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred

and shall make such materials available at its office at all reasonable times during the contract period and for three (3) years from the date of final payment under this Agreement, for inspection by City and copies thereof shall be furnished, if requested.

**12. Independent Contractor.**

At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of the City of Poway. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes such services.

**13. Licenses, Permits, Etc.**

Consultant represents and declares to City that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for Consultant to practice its profession.

**14. Consultant's Insurance.**

Consultant shall provide insurance as set forth in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**15. Indemnification.**

(a) For Claims (as defined herein) other than those alleged to arise from Consultant's negligent performance of professional services, City and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "Indemnitees") shall have no liability to Consultant or any other person for, and Consultant shall indemnify, protect and hold harmless Indemnitees from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses, including reasonable attorneys' fees and disbursements (collectively "Claims"), which Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of Consultant's negligent performance under this Agreement, or by the negligent or willful acts or omissions of Consultant, its agents, officers, directors, sub-consultants or employees.

(b) For Claims alleged to arise from Consultant's negligent performance of professional services, Indemnitees shall have no liability to Consultant or any other person for, and Consultant shall indemnify and hold harmless Indemnitees from and against, any and all Claims that Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise to the extent occurring as a result of Consultant's negligent performance of any professional services under this Agreement, or by the negligent or willful acts or omissions of Consultant, its agents, officers, directors, sub-consultants or employees, committed in performing any of professional services under this Agreement. For Claims alleged to arise from Consultant's professional services, Consultant's defense obligation to Indemnitees shall include only the reimbursement of reasonable defense costs and attorneys' fees to the extent caused by Consultant's negligence.

(c) The foregoing obligations of Consultant shall not apply to the extent that the Claims arise from the sole negligence or willful misconduct of City or its elected and appointed boards, officials, officers, agents, employees and volunteers.

(d) In any and all Claims against City by any employees of the Consultant, anyone directly or indirectly employed by it or anyone for whose acts it may be liable, the indemnification obligation under this Section 15 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant under worker's compensation acts, disability benefit acts or other employee benefit acts.

(e) Consultant shall, upon receipt of written notice of any Claim, promptly take all action necessary to make a claim under any applicable insurance policy or policies Consultant is carrying and maintaining; however, if Consultant fails to take such action as is necessary to make a claim under any such insurance policy, Consultant shall reimburse City for any and all costs, charges, expenses, damages and liabilities incurred by City in making any claim on behalf of Consultant under any insurance policy or policies required pursuant to this Agreement.

(f) The obligations described in Section 15(a) through (e) above shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person indemnified pursuant to this Section 15.

(g) The rights and obligations of the parties described in this Section 15 shall survive the termination of this Agreement.

**16. Assumption of Risk.**

Except for injuries to persons caused by the willful misconduct of any Indemnitee and not covered by insurance maintained, or required by this Agreement to be maintained, by Consultant: (a) Consultant hereby assumes the risk of any and all injury and damage to the personnel (including death) and property of Consultant that occurs in the course of, or in connection with, the performance of Consultant's obligations under this Agreement, including but not limited to Consultant's Scope of Services; and (b) it is hereby agreed that the Indemnitees are not to be liable for injury or damage which may be sustained by the person, goods or property of Consultant or its employees in connection with Consultant's performance its obligations under this Agreement, including but not limited to Consultant's Scope of Services.

**17. Consultant Not an Agent.**

Except as City may specify in writing, Consultant shall have no authority, expressed or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, expressed or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

**18. Personnel.**

Consultant shall assign qualified and certified personnel to perform requested services. The City shall have the right to review and disapprove personnel for assignment to Poway projects.

City shall have the unrestricted right to order the removal of any person(s) assigned by Consultant by giving oral or written notice to Consultant to such effect.

Consultant's personnel shall at all times comply with City's drug and alcohol policies then in effect.

**19. Notices.**

Notices shall be given as described on Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**20. Governing Law, Forum Selection and Attorneys' Fees.**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. Each party to this Agreement consents to personal jurisdiction in San Diego County, California, and hereby authorizes and accepts service of process sufficient for personal jurisdiction by first class mail,

registered or certified, postage prepaid, to its address for giving notice as set forth in Exhibit "A" hereto. Any action to enforce or interpret the terms or conditions of this Agreement shall be brought in the Superior Court in San Diego County, Central Division, unless the parties mutually agree to submit their dispute to arbitration. Consultant hereby waives any right to remove any such action from San Diego County as is otherwise permitted by California Code of Civil Procedure section 394. The prevailing party in any such action or proceeding shall be entitled to recover all of its reasonable litigation expenses, including its expert fees, attorneys' fees, courts costs, arbitration costs, and any other fees. Notwithstanding the foregoing, in the event that the subject of such an action is compensation claimed by Consultant in the event of termination, Consultant's damages shall be limited to compensation for the 60-day period for which Consultant would have been entitled to receive compensation if terminated without cause, and neither party shall be entitled to recover their litigation expenses.

**21. Gender.**

Whether referred to in the masculine, feminine, or as "it," "Consultant" shall mean the individual or corporate consultant and any and all employees of consultant providing services hereunder.

**22. Counterparts.**

This Agreement (and any amendments) may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Documents delivered by telephonic facsimile transmission shall be valid and binding.

**23. Entire Agreement.**

This Agreement shall constitute the entire understanding between Consultant and City relating to the terms and conditions of the services to be performed by Consultant. No agreements, representations or promises made by either party, whether oral or in writing, shall be of any force or effect unless it is in writing and executed by the party to be bound thereby.

**24. Pension Reform Act of 2013.**

At all times during the term of the Agreement with the City, no officer, director, shareholder, member, partner, employee, or contractor, providing services to the City, will be a "retired annuitant," under the City's retirement system, ineligible for temporary employment under section 7522.56 of the California Government Code, which was added as a part of the Pension Reform Act of 2013. For the purposes of this statement a "retired annuitant" is a person retired from the California Public Employees' Retirement System ("CalPERS"). Any retired



annuitant proposed to provide work on behalf of the City must be eligible for appointment under the Pension Reform Act of 2013, and any other applicable laws, without any adverse financial impact to the City.

**25. Severability.**

If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality, or unenforceability or, if that is not possible, such provision shall, to the extent of such invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this Agreement shall remain in effect.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date first above written.

**CITY OF POWAY**

**PURE TECHNOLOGIES U.S. INC.**

By: \_\_\_\_\_  
Tina White, City Manager

By: \_\_\_\_\_  
John J. Galleher Jr., Vice President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Alan Fenstermacher, City Attorney

## ***"SPECIAL PROVISIONS"***

### **EXHIBIT "A"**

#### **A. Scope of Services.**

Consultant agrees to perform consulting services as required by City, which shall consist of the condition assessment services further described in the Scope of Services submitted with the proposals dated October 13, 2017, which is included in this document as Attachment 1, and incorporated by reference, as if its contents were fully set forth herein. Consultant shall provide the necessary qualified personnel to perform the services.

#### **B. Compensation and Reimbursement.**

City shall pay Consultant a fee in accordance with the Fee Proposals submitted with the proposals dated October 13, 2017, which are included in this document as Attachment 2. Total fee is not to exceed \$110,000. Consultant's fee shall include and Consultant shall be responsible for the payment of all federal, state, and local taxes of any kind which are attributable to the compensation received.

In addition to said consulting fee, Consultant shall be reimbursed for all reasonable expenses, including lodging, telephone, and travel (air, auto, rail) necessarily incurred in performance of the services. Consultant shall bill City for such expenses as incurred, referencing this Agreement. All expenses shall be itemized and supported by receipts for amounts in excess of Twenty-Five Dollars (\$25.00). Statements for reimbursement of expenses shall be paid within ten (10) days of approval by City. All air travel shall be billed at coach or special fare rates. Reimbursement for lodging is limited to travel from outside of San Diego County. Consultant shall receive prior authorization for air travel and lodging expenses. All other expenses shall be reimbursed in accordance with City's cash disbursement policies in effect at the time incurred.

#### **C. Term of Agreement.**

This Agreement shall be effective from the period commencing September 19, 2018, and ending September 18, 2019, unless sooner terminated by City as provided in the section of this Agreement entitled "Termination." This Agreement may be extended for up to two additional one-year periods upon approval in writing of the City Manager and Consultant. Upon expiration or termination of this Agreement, Consultant shall return to City any and all

equipment, documents or materials and all copies made thereof which Consultant received from City or produced for City for the purposes of this Agreement.

**D. Consultant's Insurance.**

**1. Coverages:**

Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverages:

(a) Comprehensive General Liability, including premises-operations, products/completed, broad form property damage, and blanket contractual liability with the following coverages: General Liability \$1,000,000 Bodily Injury and Property Damage combined each occurrence and \$2,000,000 aggregate.

(b) Automobile Liability, including owned, hired, and non-owned vehicles: \$1,000,000 combined single limit.

(c) Consultant shall obtain and maintain, during the life of the Agreement, a policy of Professional Errors and Omissions Liability Insurance with policy limits of not less than \$1,000,000 combined single limits, per claim and annual aggregate.

(d) Workers' Compensation insurance in statutory amount. All of the endorsements which are required above shall be obtained for the policy of Workers' Compensation insurance.

**2. Endorsements:**

Endorsements shall be obtained so that each policy contains the following three provisions:

(a) Additional Insured. (Not required for Professional Errors and Omissions Liability Insurance or Workers' Compensation.)

"City of Poway and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to this subject project and contract with City."

(b) Notice.

"Said policy shall not terminate, nor shall it be canceled, until thirty (30) days after written notice is given to City."

(c) Primary Coverage.

"The policy provides primary coverage to City and its elected and appointed boards, officers, agents, and employees. It is not secondary or in any way subordinate to any other insurance or coverage maintained by City."

3. Insurance Certificates:

Consultant shall provide City certificates of insurance showing the insurance coverages described in the paragraphs above, in a form and content approved by City, prior to beginning work under this Agreement.

**E. Notices.**

All notices, billings and payments hereunder shall be in writing and sent to the following addresses:

To City:	City of Poway Development Services 13325 Civic Center Drive Poway, CA 92064
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To Consultant:	Pure Technologies U.S. Inc. 600 West Broadway, Suite 500 San Diego, CA 92101
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**September 18, 2018, Item #1.7**





Unless the main is subjected to extremely high positive pressures or negative pressures, the pipe sections will tend to yield and leak rather than rupture, which provides the ability to mitigate the damage in a main prior to a catastrophic failure. While corrosion is the most common failure mechanism for steel mains, other conditions do exist which can cause damage and distress to occur. Dents or gouges caused during production or installation of the pipe sections can create areas of localized damage and stress in a main before it is put into service. Steel pipe sections are also susceptible to damage caused by excessive external loading. Overloading and buckling can become the governing design factors in a steel pipeline if the applied loads are high enough or the internal pressure is particularly low or negative. Even though steel pipe is flexible, these conditions have the ability to cause deflections that can lead to pipe failures.

The goal of an electromagnetic scan on a steel main is to identify detectable areas of wall loss (i.e. wall thinning), as seen in Figure 1, above. The main components of the electromagnetic equipment consist of a transmitter coil to generate the field, multiple receiver coils located circumferentially along the pipe to pick up the induced response and a data logger to record the data. Electromagnetic inspection for steel mains requires multiple detectors spaced circumferentially and positioned near the interior surface of the pipe wall. The greater the number of detectors the better the inspection resolution. The ability to detect steel main damage is dependent on several factors including the proximity of the circumferential detector to the damage, the size of the damage and depth of wall loss. The robot is moved longitudinally through the main and the resulting data is recorded on the data acquisition system.

By evaluating this data, localized cylinder anomalies such as wall thinning, areas with pits, and property changes in the steel can be identified within the pipe section. The minimum detection resolution of the EM technology on the Robotic unit for a 36-inch steel main with a steel wall thickness of 0.5" or less and inner mortar lining of 0.5" or less is an area of corrosion measuring 3-inches by 3-inches by 30% wall loss. Having the ability to perform a calibration on a section of this steel pipe will help refine this detection capability.

## Planning

The planning process is an integral part of our work. It allows us to identify features of the site or the main that could prevent a successful inspection. Prior to the development of any pipeline assessment project, existing information as it relates to the subject main will be collected and reviewed. This will include conducting a site visit along the alignment to document any potential changes in loading conditions on the main. As part of the review, this information must be compared with what is necessary to successfully execute the inspection and ultimately the condition assessment of the asset. Data collected during this phase of the project will be used to develop planning documents and confirm the proposed assessment techniques described herein.

During this step, Pure Technologies will develop a Planning Document for inspection of the main. The Planning Document will clearly detail how the condition assessment for the main will be carried out and will, at a minimum, include:



- Background information on the pipe: as-built records, failure history, operating information and areas of greatest concern.
- Proposed assessment methodologies: Technologies and methods to be used to assess the main.
- Access requirements: What access points will be needed for assessment?
- Detailed scope of field work.
- Schedule.
- Action items for all parties involved.

Any changes to the scope that arise in the planning process which impact the pricing in this proposal will be discussed with the City and mutually agreed before proceeding.

## Inspection

The scope of work to be performed by Pure Technologies may vary depending on the inspection results and the level of analysis the City requires of the initial data captured during the field inspection portion of the project. A list of all potential services includes:

- Inspection Planning and Coordination
- Inspection Site Preparations
- Transient Pressure Monitoring and Analysis
- Inspection Field Work
- Inspection Data Analysis
- Test Pits & Field Validations
- Structural Analysis
- Risk Analysis

## Reporting

A Draft Report (PDF format) will be generated within 10 weeks of completing the field work and will be delivered to the City and contain the following information:

- Summary of project, technology and inspection details.
- Location of electromagnetic anomalies meeting minimum detection resolution threshold.
- Location of all noteworthy visual anomalies.
- If required, structural performance curves to graph wall loss against operating pressure and likelihood of failure.

A Final Report summarizing the findings and recommendations based on the proposed inspection will be submitted in electronic format (PDF format).





## FEE PROPOSAL

Item	Description	Unit	Unit Price	Quantity	Total Price
1	<b>Project Planning and Mobilization*</b>	LS	\$50,000	1	\$50,000
2	<b>Electromagnetic Inspection and Data Analysis</b> (PureRobotics® Platform – per mile)	EA	\$50,000	1	\$50,000
3	<b>Project Reporting</b>	LS	\$10,000	1	\$10,000
<b>Not-to-Exceed Project Cost without Additional Services</b>					<b>\$ 110,000</b>
4	<b>Test Pits and Field Validations</b>	EA	\$5,000	TBD	\$ TBD
5	<b>Transient Pressure Monitoring and Analysis</b>	EA	\$8,000	1	\$8,000
6	<b>Structural Modeling, Pipe Performance Curves</b> Using Nonlinear Finite Element Analysis, and Risk Evaluation	EA	\$9,975	TBD	\$ TBD
7	<b>Final Engineering Report</b> Incorporating additional analyses, Structural evaluation, repair, replacement, re-inspection recommendations.	EA	\$ TBD (\$15-30k)	TBD	\$ TBD

\*All travel, shipping and related expenses are included in the mobilization and field data collection/ inspection costs.  
Payment of services rendered by Pure Technologies will be invoiced accordingly:

## Payment Schedule

Service	Fee	Invoicing Period
Project Planning & Mobilization	\$ 50,000	Upon Completion of Project Planning Document
Inspection and Analysis	\$ 50,000	Upon Completion of Inspection
Test Pits and Field Validations	Incurred Cost	Upon Completion of Field Validations
Draft Report	\$ 5,000	Upon Completion of the Draft Report



Final Report	\$ 5,000	Upon Completion of the Final Report
Engineering Report	\$ TBD	Upon Completion of the Engineering Report

### Additional Notes & Assumptions

- Standby charges: For standby time of the on-site inspection team once the field team mobilizes to the site. This item will be invoiced upon the completion of the field work. Additional cost \$15,750.00/day.
- The cost of support services such as excavation, tapping services, removal of flanges, and valve operation are not included in this proposal and are to be conducted by others.
- Pure Technologies schedules our resources based on your availability. If your schedule changes, Pure Technologies requires up to 10 weeks notice from new requested date. If Pure Technologies has already mobilized, a standby charge will apply.

PURE TECHNOLOGIES FULLY BURDENED LABOR RATES		
Contract Labor Category	Hourly Rate	Overtime Rate
Operations Support	\$77	\$77
GIS and CAD Technician	\$145	\$153
Data Analyst	\$136	\$136
Mechanical Design Engineer	\$101	\$101
Wachs Water Services Field Staff	\$102	\$102
Project Technician	\$136	\$136
Project Engineer	\$136	\$136
Senior Project Engineer	\$187	\$204
Technical Product Lead	\$170	\$187
Project Manager	\$170	\$187
Senior Project Manager	\$238	\$255
Program Manager	\$238	\$255
Senior Program Manager	\$306	\$306





# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council and  
Honorable Chair and Commissioners of the Housing Authority

**FROM:** Robert Manis, Development Services Director *RM*

**CONTACT:** Marie Sanders, Senior Management Analyst  
(858) 668-4637 | msanders@poway.org

**SUBJECT:** Approval of Consultant Agreements with RSG, Inc. and Keyser Marston Associates, Inc. for Real Estate and Fiscal Analysis Services; RFP No. 19-002

## Summary:

The City of Poway (City) and Poway Housing Authority (Authority) have the need from time-to-time for real estate and fiscal analysis services on a variety of matters. After a competitive process to obtain a consultant for these services, staff is seeking approval to enter into agreements with two firms for work on an as-needed basis.

## Recommended Action:

It is recommended that the City Council: 1) Approve a Standard Agreement for Consultant Services with RSG, Inc.; 2) Approve a Standard Agreement for Consultant Services with Keyser Marston Associates, Inc.; and 3) Authorize the City Manager to execute both agreements.

It is recommended that the Poway Housing Authority: 1) Approve a Standard Agreement for Consultant Services with RSG, Inc.; 2) Approve a Standard Agreement for Consultant Services with Keyser Marston Associates, Inc.; and 3) Authorize the Executive Director to execute both agreements.

## Discussion:

The City and Authority utilize the expertise of consulting firms to provide assistance with complex affordable housing and real estate transactions. Consulting services include assistance with real estate economics and strategies, public-private transactions, disposition strategies, project feasibility and evaluation, fiscal analysis, public finance, project management, and developer solicitation, selection, and negotiations.

The current consultant contract with Keyser Marston Associates, Inc. terminated on 8/19/18 with no additional extensions available. On July 12 staff released a Request for Proposals through ebidboard and direct-mailing to six known firms. Four firms submitted proposals. Staff identified two firms who are believed to be best suited to meet Poway's current and future real estate and affordable housing needs. The selected firms are RSG, Inc. and Keyser Marston Associates, Inc. It is staff's recommendation that the City and Authority enter into an as-needed agreement with each firm for a period of three years and contain a provision to extend each agreement with

two extensions of one year each. Each agreement shall be effective from September 19, 2018 through September 18, 2021. Staff will determine which firm to use on a case-by-case basis taking into consideration the scope of work, availability, and area of expertise.

**Environmental Review:**

This item is not subject to CEQA review.

**Fiscal Impact:**

Funds for these as-needed services are available in the fiscal year 2019 Development Services operating budget account (309030-17999, Housing Authority Professional Services). For Capital Improvement Program (CIP) and multi-year program budgets, an appropriation for services will be included in the budget of each project.

**Public Notification:**

A copy of this report was provided to RSG, Inc. and Keyser Marston Associates, Inc.

**Attachments:**

- A. Standard Agreement for Consultant Services with RSG, Inc.
- B. Standard Agreement for Consultant Services with Keyser Marston Associates, Inc.


Reviewed/Approved By:

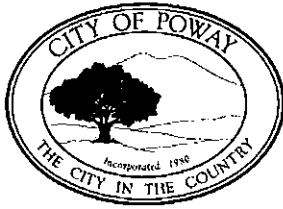
Reviewed By:

Approved By:

\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

  
\_\_\_\_\_  
Tina M. White  
City Manager



**City of Poway  
STANDARD AGREEMENT FOR SERVICES**

This Agreement, entered into this 19<sup>th</sup> day of September, 2018, by and between the **CITY OF POWAY** and **POWAY HOUSING AUTHORITY** (hereinafter collectively referred to as "City") and **RSG, INC.**, (hereinafter referred to as "Consultant").

**RECITALS**

WHEREAS, City desires to obtain the services of a private consultant to perform as-needed real estate and financial consulting services (Project); and

WHEREAS, Consultant is a real estate and economic development consultant and has represented that Consultant possesses the necessary qualifications to provide such services; and

WHEREAS, City has authorized the preparation of an agreement to retain the services of Consultant as hereinafter set forth.

NOW, THEREFORE, IT IS MUTUALLY AGREED THAT CITY DOES HEREBY RETAIN CONSULTANT ON THE FOLLOWING TERMS AND CONDITIONS:

**1. Scope of Services.**

Consultant shall provide services as described in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**2. Compensation and Reimbursement.**

City shall compensate and reimburse Consultant as provided in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**3. Term of Agreement.**

The term of this Agreement shall be as described on Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**4. Termination.**

This Agreement may be terminated with or without cause by City. Termination without cause shall be effective only upon 60-day written notice to Consultant. During said 60-day period Consultant shall perform all consulting services in accordance with this Agreement. This Agreement may be terminated by City for cause in the event of a material breach of this Agreement, misrepresentation by Consultant in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by City. Termination for cause shall be effected by delivery of written notice of termination to Consultant. Such termination shall be effective upon delivery of said notice.

**5. Confidential Relationship.**

City may from time to time communicate to Consultant certain information to enable Consultant to effectively perform the services. Consultant shall treat all such information as confidential, whether or not so identified, and shall not disclose any part thereof without the prior written consent of the City. Consultant shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services. The foregoing obligation of this Paragraph 5, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of Consultant, hereafter disclosed in publicly available sources of information; (iii) is now in the possession of Consultant without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to Consultant by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

Consultant shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this contract without the prior written consent of the City. In its performance hereunder, Consultant shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

**6. Office Space and Clerical Support.**

Consultant shall provide its own office space and clerical support at its sole cost and expense.

**7. Covenant Against Contingent Fees.**

Consultant declares that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach of violation of this warranty, City shall have the right to annul this Agreement without liability, or, at its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**8. Ownership of Documents.**

All memoranda, reports, plans, specifications, maps and other documents prepared or obtained under the terms of this Agreement shall be the property of City and shall be delivered to City by Consultant upon demand.

**9. Conflict of Interest and Political Reform Act Obligations.**

During the term of this Agreement Consultant shall not act as consultant or perform services of any kind for any person or entity whose interests conflict in any way with those of the City of Poway. Consultant shall at all times comply with the terms of the Political Reform Act and the local conflict of interest ordinance. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code Section 87103. Consultant represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the City.

"Consultant" means an individual who, pursuant to a contract with a state or local agency:

(A) Makes a governmental decision whether to:

1. Approve a rate, rule or regulation;
2. Adopt or enforce a law;
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
4. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract that requires City approval;



5. Grant City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
  6. Grant City approval to a plan, design, report, study, or similar item;
  7. Adopt, or grant City approval of, policies, standards, or guidelines for the City, or for any subdivision thereof; or
- (B) Serves in a staff capacity with the City and in that capacity participates in making a governmental decision as defined in the Political Reform Act and/or implementing regulations promulgated by the Fair Political Practices Commission, or performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.

**DISCLOSURE DETERMINATION:**

- ☒ 1. Consultant/Contractor will not be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B above.  
No disclosure required.
- ☐ 2. Consultant/Contractor will be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B above. As a result, Consultant/Contractor shall be required to file a Statement of Economic Interest with the City Clerk of the City of Poway in a timely manner as required by law.

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Robert J. Manis, Director of Development Services

**10. No Assignments.**

Neither any part nor all of this Agreement may be assigned or subcontracted, except as otherwise specifically provided herein, or to which City, in its sole discretion, consents to in advance thereof in writing. Any assignment or subcontracting in violation of this provision shall be void.

**11. Maintenance of Records.**

Consultant shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred

and shall make such materials available at its office at all reasonable times during the contract period and for three (3) years from the date of final payment under this Agreement, for inspection by City and copies thereof shall be furnished, if requested.

**12. Independent Contractor.**

At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of the City of Poway. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes such services.

**13. Licenses, Permits, Etc.**

Consultant represents and declares to City that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for Consultant to practice its profession.

**14. Consultant's Insurance.**

Consultant shall provide insurance as set forth in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**15. Indemnification.**

(a) For Claims (as defined herein) other than those alleged to arise from Consultant's negligent performance of professional services, City and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "Indemnitees") shall have no liability to Consultant or any other person for, and Consultant shall indemnify, protect and hold harmless Indemnitees from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses, including reasonable attorneys' fees and disbursements (collectively "Claims"), which Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of Consultant's negligent performance under this Agreement, or by the negligent or willful acts or omissions of Consultant, its agents, officers, directors, sub-consultants or employees.

(b) For Claims alleged to arise from Consultant's negligent performance of professional services, Indemnitees shall have no liability to Consultant or any other person for, and Consultant shall indemnify and hold harmless Indemnitees from and against, any and all Claims that Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise to the extent occurring as a result of Consultant's negligent performance of any professional services under this Agreement, or by the negligent or willful acts or omissions of Consultant, its agents, officers, directors, sub-consultants or employees, committed in performing any of professional services under this Agreement. For Claims alleged to arise from Consultant's professional services, Consultant's defense obligation to Indemnitees shall include only the reimbursement of reasonable defense costs and attorneys' fees to the extent caused by Consultant's negligence.

(c) The foregoing obligations of Consultant shall not apply to the extent that the Claims arise from the sole negligence or willful misconduct of City or its elected and appointed boards, officials, officers, agents, employees and volunteers.

(d) In any and all Claims against City by any employees of the Consultant, anyone directly or indirectly employed by it or anyone for whose acts it may be liable, the indemnification obligation under this Section 15 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant under worker's compensation acts, disability benefit acts or other employee benefit acts.

(e) Consultant shall, upon receipt of written notice of any Claim, promptly take all action necessary to make a claim under any applicable insurance policy or policies Consultant is carrying and maintaining; however, if Consultant fails to take such action as is necessary to make a claim under any such insurance policy, Consultant shall reimburse City for any and all costs, charges, expenses, damages and liabilities incurred by City in making any claim on behalf of Consultant under any insurance policy or policies required pursuant to this Agreement.

(f) The obligations described in Section 15(a) through (e) above shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person indemnified pursuant to this Section 15.

(g) The rights and obligations of the parties described in this Section 15 shall survive the termination of this Agreement.

**16. Assumption of Risk.**

Except for injuries to persons caused by the willful misconduct of any Indemnitee and not covered by insurance maintained, or required by this Agreement to be maintained, by Consultant: (a) Consultant hereby assumes the risk of any and all injury and damage to the personnel (including death) and property of Consultant that occurs in the course of, or in connection with, the performance of Consultant's obligations under this Agreement, including but not limited to Consultant's Scope of Services; and (b) it is hereby agreed that the Indemnitees are not to be liable for injury or damage which may be sustained by the person, goods or property of Consultant or its employees in connection with Consultant's performance its obligations under this Agreement, including but not limited to Consultant's Scope of Services.

**17. Consultant Not an Agent.**

Except as City may specify in writing, Consultant shall have no authority, expressed or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, expressed or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

**18. Personnel.**

Consultant shall assign qualified and certified personnel to perform requested services. The City shall have the right to review and disapprove personnel for assignment to Poway projects.

City shall have the unrestricted right to order the removal of any person(s) assigned by Consultant by giving oral or written notice to Consultant to such effect.

Consultant's personnel shall at all times comply with City's drug and alcohol policies then in effect.

**19. Notices.**

Notices shall be given as described on Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**20. Governing Law, Forum Selection and Attorneys' Fees.**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. Each party to this Agreement consents to personal jurisdiction in San Diego County, California, and hereby authorizes and accepts service of process sufficient for personal jurisdiction by first class mail,

registered or certified, postage prepaid, to its address for giving notice as set forth in Exhibit "A" hereto. Any action to enforce or interpret the terms or conditions of this Agreement shall be brought in the Superior Court in San Diego County, Central Division, unless the parties mutually agree to submit their dispute to arbitration. Consultant hereby waives any right to remove any such action from San Diego County as is otherwise permitted by California Code of Civil Procedure section 394. The prevailing party in any such action or proceeding shall be entitled to recover all of its reasonable litigation expenses, including its expert fees, attorneys' fees, courts costs, arbitration costs, and any other fees. Notwithstanding the foregoing, in the event that the subject of such an action is compensation claimed by Consultant in the event of termination, Consultant's damages shall be limited to compensation for the 60-day period for which Consultant would have been entitled to receive compensation if terminated without cause, and neither party shall be entitled to recover their litigation expenses.

**21. Gender.**

Whether referred to in the masculine, feminine, or as "it," "Consultant" shall mean the individual or corporate consultant and any and all employees of consultant providing services hereunder.

**22. Counterparts.**

This Agreement (and any amendments) may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Documents delivered by telephonic facsimile transmission shall be valid and binding.

**23. Entire Agreement.**

This Agreement shall constitute the entire understanding between Consultant and City relating to the terms and conditions of the services to be performed by Consultant. No agreements, representations or promises made by either party, whether oral or in writing, shall be of any force or effect unless it is in writing and executed by the party to be bound thereby.

**24. Pension Reform Act of 2013.**

At all times during the term of the Agreement with the City, no officer, director, shareholder, member, partner, employee, or contractor, providing services to the City, will be a "retired annuitant," under the City's retirement system, ineligible for temporary employment under section 7522.56 of the California Government Code, which was added as a part of the Pension Reform Act of 2013. For the purposes of this statement a "retired annuitant" is a person retired from the California Public Employees' Retirement System ("CalPERS"). Any retired

annuitant proposed to provide work on behalf of the City must be eligible for appointment under the Pension Reform Act of 2013, and any other applicable laws, without any adverse financial impact to the City.

**25. Severability.**

If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality, or unenforceability or, if that is not possible, such provision shall, to the extent of such invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this Agreement shall remain in effect.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date first above written.

**CITY OF POWAY**

**RSG, INC.**

By: \_\_\_\_\_  
Tina White, City Manager

By: \_\_\_\_\_  
Tara Matthews, Principal

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Alan Fenstermacher, City Attorney

## ***"SPECIAL PROVISIONS"***

### **EXHIBIT "A"**

#### **A. Scope of Services.**

Consultant agrees to perform consulting services as required by City, which shall consist of the real estate and financial consulting services further described in the Scope of Services submitted with the proposals dated July 30, 2018, which is included in this document as Attachment 1, and incorporated by reference, as if its contents were fully set forth herein. Consultant shall provide the necessary qualified personnel to perform the services.

#### **B. Compensation and Reimbursement.**

City shall pay Consultant a fee in accordance with the Fee Schedule submitted with the proposals dated July 30, 2018, which are included in this document as Attachment 2. Individual proposals will be submitted on a per project basis as requested. Consultant may revise its fee schedule annually subject to approval by City. Consultant's fee shall include and Consultant shall be responsible for the payment of all federal, state, and local taxes of any kind which are attributable to the compensation received.

Compensation for each task shall be agreed upon prior to the start of work. Changes in task assignments and additional compensation will be developed and approved by City and Consultant prior to performance of any additional work.

In addition to said consulting fee, Consultant shall be reimbursed for all reasonable expenses, including lodging, telephone, and travel (air, auto, rail) necessarily incurred in performance of the services. Consultant shall bill City for such expenses as incurred, referencing this Agreement. All expenses shall be itemized and supported by receipts for amounts in excess of Twenty-Five Dollars (\$25.00). Statements for reimbursement of expenses shall be paid within ten (10) days of approval by City. All air travel shall be billed at coach or special fare rates. Reimbursement for lodging is limited to travel from outside of San Diego County. Consultant shall receive prior authorization for air travel and lodging expenses. All other expenses shall be reimbursed in accordance with City's cash disbursement policies in effect at the time incurred.

#### **C. Term of Agreement.**

This Agreement shall be effective from the period commencing September 19, 2018, and ending September 18, 2021, unless sooner terminated by



City as provided in the section of this Agreement entitled "Termination." This Agreement may be extended for up to two additional one-year periods upon approval in writing of the City Manager and Consultant. Upon expiration or termination of this Agreement, Consultant shall return to City any and all equipment, documents or materials and all copies made thereof which Consultant received from City or produced for City for the purposes of this Agreement.

**D. Consultant's Insurance.**

**1. Coverages:**

Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverages:

(a) Comprehensive General Liability, including premises-operations, products/completed, broad form property damage, and blanket contractual liability with the following coverages: General Liability \$1,000,000 Bodily Injury and Property Damage combined each occurrence and \$2,000,000 aggregate.

(b) Automobile Liability, including owned, hired, and non-owned vehicles: \$1,000,000 combined single limit.

(c) Consultant shall obtain and maintain, during the life of the Agreement, a policy of Professional Errors and Omissions Liability Insurance with policy limits of not less than \$1,000,000 combined single limits, per claim and annual aggregate.

(d) Workers' Compensation insurance in statutory amount. All of the endorsements which are required above shall be obtained for the policy of Workers' Compensation insurance.

**2. Endorsements:**

Endorsements shall be obtained so that each policy contains the following three provisions:

(a) Additional Insured. (Not required for Professional Errors and Omissions Liability Insurance or Workers' Compensation.)

"City of Poway and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to this subject project and contract with City."

(b) Notice.

"Said policy shall not terminate, nor shall it be canceled, until thirty (30) days after written notice is given to City."

(c) Primary Coverage.

"The policy provides primary coverage to City and its elected and appointed boards, officers, agents, and employees. It is not secondary or in any way subordinate to any other insurance or coverage maintained by City."

3. Insurance Certificates:

Consultant shall provide City certificates of insurance showing the insurance coverages described in the paragraphs above, in a form and content approved by City, prior to beginning work under this Agreement.

**E. Notices.**

All notices, billings and payments hereunder shall be in writing and sent to the following addresses:

To City:	City of Poway Development Services 13325 Civic Center Drive Poway, CA 92064
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To Consultant:	RSG, Inc. 17872 Gillete Ave Suite 350 Irvine, CA 92614
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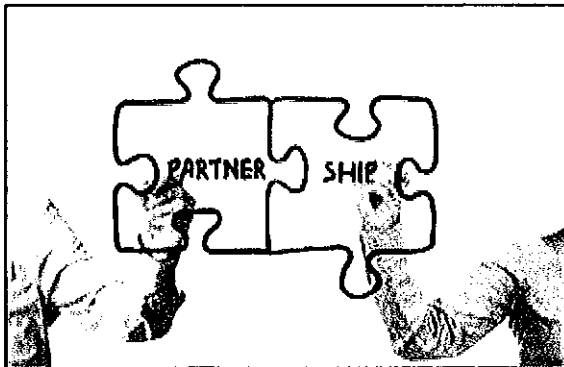
# Attachment 1

## SCOPE OF SERVICES

RSG understand that the requested services under the RFP include the following, as provided in the Scope of Work:

- Financial Feasibility Analysis and Affordable Housing Finance Strategies
- Preparation of a Section 33433 Report as required by the Health and Safety
- Annual compliance monitoring for both ownership units and rental projects
- Assessing fiscal and economic costs and benefits for proposed developments and their impact on public revenue projections used for budgetary planning
- Providing assistance with market demand analyses, identifying appropriate, supportable development and projecting the absorption potential and achievable rents and prices for new development
- Real Estate Analysis and Strategies
- Fiscal Consulting
- Project Implementation

## EXPECTATION OF CITY STAFF INVOLVEMENT



RSG is available to begin working immediately and understands that City staff manages multiple projects and tasks at a given time. We are extremely flexible and can tailor our services to meet the needs of the City. In this capacity for other clients, we have been an extension of staff wherein RSG acts as the primary project manager responsible for deliverables, from staff report and resolution preparation to Council presentations and workshops. We have also acted as support to City staff where we provide on-call as-needed services to help guide staff. We propose for this Scope of Services that we would be primarily responsible for all activities and

would rely on the City for any city data needs, review of documents, or respond to any issues that may arise. **We want to be your partner and our goal is to lighten the load for City staff.** We will organize project kick-off meetings that will include an agenda, regular status reports and updates, and coordinate with all project team members.

## PROPOSED METHOD TO ACCOMPLISH THE WORK

The following provides a detailed discussion that illustrates RSG's understanding of the requirements, goals and constraints of the services to be provided, including the process and steps needed to provide such services.

### **1. Financial Feasibility Analysis and Affordable Housing Finance Strategies**

RSG staff would conduct a thorough review of developer project proformas to determine the reasonableness of estimated development costs, revenue assumptions and proposed financing structure, including, but not limited to, the potential for receiving Low Income Housing Tax Credits ("LIHTC"). More specifically, RSG staff will:

- Review development costs, constraints, extraordinary issues, and financing sources (both equity and debt). RSG will scrutinize the developer's assumptions to ensure that the anticipated costs, revenues, and operating and replacement reserves are realistic and not over/understated. Developer fees, deferred fees and long-term cash flow will also be reviewed to ensure that the prospective developer can remain solvent as operator throughout

the duration of the affordability period. Additional detail on tasks involved with this review are presented below.

- Costs (Uses) - Direct and indirect development costs will be examined to identify budget excesses or deficiencies based on third-party data sources and comparable project experience. RSG will evaluate proposed construction costs for the improvements based on data obtained for Marshall & Swift Valuation Services, and our recent comparable project experience, as well as the related "indirect" construction costs identified by each developer proposal. RSG would perform a residual land value analysis for comparison to market values for such land. Expenses will be reviewed for completeness to ensure they fairly reflect continuing needs.
  - Rents - Proposed rents will be researched and confirmed to ensure that they comply with all program regulations. This will include a summary of the minimum and maximum rents that can be charged to tenants. The analysis will identify the financial implications associated with the application of the lesser of the California Health and Safety Code ("H&SC") or California Tax Credit Allocation Committee ("TCAC") rents for the project based on the proposed use of any Low and Moderate-Income Housing Asset Funds to assist the project pursuant to the requirements under Senate Bill 341.
  - Funding/Financing (Sources) - The financial capacity will be evaluated by examining the viability of the proposed capital stack to finance construction and permanent financing based on current market lending limitations and opportunities. Current requirements and availability of funds related to County Notices of Funding Availability ("NOFAs") (including County project-based vouchers and HOME funds), Affordable Housing Program ("AHP") and other potential financing sources will be reviewed to determine if all potential funding sources have been maximized to reduce the requested subsidy from the City. As applicable, RSG will examine each development proposal to ensure that they meet HOME, project-based voucher, and/or any other regulatory requirements. In cases where the restrictions conflict, RSG recommends that the most stringent requirement be followed. RSG can also prepare a subsidy layering analysis to ensure that federal funds are not over subsidizing the affordability of units.
  - Conduct a return on investment ("ROI") analysis based on a combination of RSG experience, research of comparable transactions in San Diego county, and discrete consultations with lenders and investor representatives in our professional network.
  - Utilizing the analyses from the above tasks, deliver a peer review pro forma analysis, consisting of a detailed construction and project phasing assessment, a phasing and post-stabilization 55-year operating forecast, and various measures of ROI based on the proposed developer's preferred disposition of the project once developed. This analysis will indicate if any potential gap financing is needed.
  - RSG would be available for meetings and/or conference calls with City staff and developers. All meetings will be attended by either an RSG Principal or Associate. RSG can also assist with negotiating financial deal points to be included in any agreement between the selected developer and review or evaluate any alternate or subsequent developer pro forma revisions.
- 2. Preparation of a Section 33433 Report as required by California Health and Safety Code**

Section 33433 of the H&SC requires that if a Housing Successor of a former redevelopment agency wishes to sell or lease property to which it holds title and the property was acquired in whole or in part with property tax increment funds, the local legislative body (city council) must first approve the proposed sale or lease agreement after a public hearing. The proposed

sale or lease agreement and a summary report that describes and contains specific financing elements of the proposed transaction must be available for public inspection prior to the public hearing. RSG employs a licensed real estate broker and two real estate salespersons on staff who provide a high level of expertise in estimating highest and best use valuation to provide a very legally defensible report.

RSG would prepare a 33433 report that contains all the following required information:

- The cost of the agreement to the Housing Successor that is to be funded from property tax increment, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the agency, plus the expected interest on any loans or bonds to finance the agreement;
- The estimated value of the interest to be conveyed or leased, determined at the highest and best use permitted;
- The estimated value of the interest to be conveyed in accordance with the uses, covenants, and development costs required under the proposed agreement with the Housing Successor (i.e., the reuse value of the site);
- An explanation of how the sale or lease of the property will assist in the elimination of blight; and
- The purchase price or sum of the lease payments that the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased (determined at the highest and best use), the Housing Successor shall provide as part of the summary an explanation of the reasons for the difference.

### **3. Annual Compliance Monitoring**

RSG would ensure compliance pursuant to related Federal and State regulations. The compliance monitoring services would be specific to requirements in each agreement as it pertains to the Successor Housing Agency to the City's Redevelopment Agency and the City.

#### Compliance Monitoring

- Create income, rent limit and utility allowance charts for current year and distribute to the City and all property owners listed on the portfolio.
- Collect various monitoring documents and certifications from the owner/manager of each multi-family property in the portfolio. This documentation includes collecting current tenant data for each restricted unit from the property manager or owner of each project for all tenants occupying restricted units. Information to be tracked shall include but is not limited to: unit address, rental unit number, if unit is fixed or floating, tenant name, lease date, rent increases, move-in and move-out date, tenant household composition (names, ages, occupations of all household members), household income/assets, maximum rent, rent paid, applicable deductions, utility allowance (basic and energy efficient), and whether the unit receives Section 8 voucher assistance and the amount of the housing assistance payment.
- Accurately review income source documentation for new and recertifying tenants of restricted units.
- Determine eligibility for prospective homebuyers purchasing deed restricted affordable properties. Prepare and coordinate execution of covenant documents for the purchase of those affordable properties. Review property owner recertification compliance. Determine a project schedule following document review activities.
- Accurately apply various affordable housing program regulations and requirements to determine whether a project complies. RSG identifies how each program differs in the

income documentation required and frequency with which such documentation must be collected from tenants. In addition, multi-family housing revenue bond projects must be reviewed for compliance with restrictions established by the Internal Revenue Service (IRS).

- Conduct on-site visits as mandated by all applicable regulations and to follow-up on non-compliant properties. During site visits, RSG will comply with all applicable regulations for conducting audits, including, but not limited to, reviewing the management plan (if applicable), affirmative marketing plan (if applicable), tenant selection plan (if applicable), wait list, copies of initial tenant leases and mandatory lease addendum, income source documentation, rent and utility schedules, and other compliance documentation and tenant files.
- Provide customer service to property owners and managers by establishing and maintaining a good working relationship with them, and provide training as needed.
- Provide the City with a monthly status and compliance report and back-up documentation (i.e. Certificate of Continuing Program Compliance, Occupancy Summary Report, and Project Status Report). Monthly reports will also include year-to-date information on monitored projects.
- Provide additional related services and technical assistance as requested by the City, including, but not limited to, responding to requests for compliance information and documents on specific properties under review by the Department and/or assistance remediating findings of noncompliance.

#### Financial Audit Monitoring / Residual Receipts

- As an optional service, RSG may perform reviews of the Owners annual financial statements for the City. This is to ensure that the required deposits to the project's operating and capital replacement reserve accounts are in accordance with the controlling documents. The calculation of interest is correctly applied for the City loan(s), and the calculation of the residual receipts accurately reflect the terms under the former Redevelopment Agency's financing documents.
- The review audits would focus primarily on the Financial Statements' "Statements of Operations" and related information provided in attached schedules. As part of the financial statement review, RSG would promulgate a cash flow analysis to determine residual receipt revenue for each project. The cash flow analysis would itemize the rent revenues and other income for the project's operations, and the annual operating expenses paid from the total income received, as well as any other costs including deposits to operating and replacement reserve accounts. Lastly, RSG would ensure that payments are made as required in a timely manner.
- As part of the compliance monitoring services previously detailed, RSG will review controlling documents for each project and will note if residual receipts are included on each project's summary sheet. This will serve as the baseline for the City to determine if they wish to exercise this optional service. A separate contract or a contract amendment can be executed at that time to include the additional fee for these services.

#### **4. Fiscal and Economic Impacts and Related Cash Flow Projections**

RSG could provide the following analysis for proposed development projects, customized based on the details of each proposed development. Some of the details provided below are based on common preferences and could be customized for the City's preference at the time a deliverable is requested.

- **Forecast recurring City General Fund revenue impacts.** RSG could prepare a 10-year forecast of post-stabilization General Fund revenues directly attributed to a project. Direct revenues would be selected based on the proposed development and the City of Poway's tax rates. Revenues could be calculated for the City and/or the Successor Agency (i.e., available RPTTF for enforceable obligations). Projected revenues would be conservatively estimated and discounted to current dollars using a comparable municipal finance risk factor. Separately, in the case of proposed residential development, RSG could include an estimate of consumer spending in Poway due to additional residents being added to the City.
- **Forecast recurring City General Fund expenditures.** Based on best practices for this type of an estimate, RSG could project the resulting additional demand on City services and their associated costs. For infill projects, additional costs are not expected to be particularly burdensome, but RSG would consider service thresholds that may be affected by incremental development. Generally, RSG will aim to approximate costs for key departments based on the proportional increase in residents and visitors and their impacts on the City's budget.
- **Estimate other direct, indirect, and induced economic impacts.** As desired by the City, RSG would use the most current IMPLAN dataset to forecast the total numbers of direct, indirect, and induced jobs, labor compensation, and/or local economic output in the City as a consequence of proposed development.
- **Apply projected revenues and expenditures to cash flow forecasts.** Either separately or in coordination with the financing portion of this Scope of Work, RSG could incorporate information gained on new projected revenues and expenditures from proposed developments to enhance cash flow projections used for budgetary planning.

**5. *Market Demand Analysis, Identifying Supportable Development, Absorption Potential, and Achievable Rents and Prices***

RSG would analyze, and could prepare a report to summarize, the market demand for different development types. That market demand analysis would help to identify supportable development, absorption potential, and achievable rents and prices. The market analysis could focus on certain land uses and would incorporate at least the following factors.

- **Demographic Study.** RSG would evaluate local and regional residents, current conditions and trends. We know that San Diego County, along with the rest of the country, is currently enjoying historically low unemployment rates. Yet technological and social forces are changing how new growth affects demands on different land uses. Furthermore, local markets always have their unique character, conditions, and stakeholders that affect development. Locally, what is happening in Poway that could influence potential development on available sites?
- **Employment Trends.** Employment and other economic trends drive investment into real estate. RSG would focus on compiling and synthesizing microeconomic activities and how these factors would influence desire for land uses. The market demand analysis would provide a framework for future demand of these uses.
- **Real Estate Market Conditions.** In addition to demographic and workforce factors, local real estate market conditions and trends such as rents, prices, vacancies, and available supply will reflect the strength and direction of various land uses. RSG would incorporate these factors into the overall market analysis. Furthermore, any such analysis would take into consideration qualitative factors such as zoning, surrounding land uses, legal requirements related to housing, and different development checklist items (such as accessibility and visibility for retail use).
- **Summarize Findings.** RSG would develop a summary of our findings for the various product types, as agreed upon by RSG and the City, and identify the quantity and positioning for new product to the extent supported by the analysis. At the conclusion of the market demand

analysis, RSG would review findings with City staff and could present them in the format preferred by the City.

#### **6. Real Estate Analysis and Strategies**

RSG is well respected by cities across the state to conduct market assessments and project feasibility analyses, site selection and evaluation, and pre-entitlement services. Our background working with over 100 communities lends credibility to developers as well as cities. RSG is a recognized expert in analyzing the economics of projects such as residential single-family rehabilitation and mixed income apartments, as well as commercial uses including retail stand-alone buildings, outlet centers, lifestyle centers, office towers, industrial condos, gas stations, ground leases, digital billboards, data centers and fulfillment complexes. We specialize in public-financing structures – helping communities know when it's reasonable to provide financial assistance and when a project's profitability meets current market yields. RSG is adept at preparing long range property management plans, disposition strategies, development programming studies and opinions of value and reuse strategies.

- **Asset Management.** As a California Commercial broker (CalBRE #01930929), RSG provides a variety of sales, leasing and marketing services for public and private sector clients. RSG can lead negotiations on deal terms, manage the acquisition and escrow process, structure lease extensions, and correspond with residential or commercial tenants. We also provide relocation advisory services, serving as a relocation agent to several communities on such public projects. We are very busy helping our clients in the sale of hundreds of properties being disposed as part of the redevelopment dissolution process in California.
- **Preparation of Broker Opinion of Value.** RSG will perform pricing and financial evaluations to identify the range of the indicated property value based on the most recent 3 to 5 years operating experience of the property, current comparable market conditions, and available financing alternatives. The financial evaluations would include preparation a pro forma analysis and 10-year operating cash flow projection to identify the reasonable achievable market capitalization rate and financial returns associated with the ongoing operation of the project subject to the affordable rent restrictions. The broker opinion of value will include both rent and sales comparable market data to identify the reasonableness of the pricing of the property in the surrounding market. RSG can also assist with the marketing and sale or purchase of real estate. RSG employs a licensed real estate broker and two real estate salespersons on staff.
- **Ground Lease Analysis.** RSG would review ground leases in detail to understand and analyze the terms. We would circulate this review brief to the client for confirmation, as the summary would be included a final report. RSG will perform a multi-dimensional economic analysis of the ground lease to demonstrate the value of the current subject property and compare to the lessor's estimate. Our analysis would consider recent sales of similar real property and the terms and conditions of the ground lease.
- **Land Use Regulations and Development Rights.** RSG is available and prepared to address property specific questions about zoning and land use restrictions, acceptable and encouraged uses for each property, and any other questions that may arise. RSG can assist the City and developers sort through code and legal requirements for compliance and review of development applications. For example, we have assisted both cities and developers implement affordable housing inclusionary policies, density bonuses, and reporting requirements.

#### **7. Fiscal Consulting**

RSG staff would be available to assist the City with fiscal consulting services and tax increment projections. Annual bond disclosure reports would be prepared according to bond documents and individual disclosure requirements. In this capacity we would complete the following if required or requested:



- Collect and analyze current parcel-by-parcel assessment roll data from the San Diego County Assessor's office.
- Analyze assessed values and resale reassessments by land use category to discern specific changes property values and project potential changes in assessed values.
- Study delinquency data for the County and Project Areas to discern trends in receipts.
- Collect and analyze data from City Planning and Building Departments regarding major construction.
- Review Successor Agency compliance with the Dissolution Act and incorporate any material issues into our projections of estimated RPTTF funds available.
- Evaluate pass through and other obligations to project repayment of debts that may be senior to any financing.
- Prepare pass through subordination documentation and tables (if required).
- Prepare a bond coverage table.
- Prepare a 5-year historical assessed value and tax increment receipt table based on records from the County Auditor-Controller's office.
- Prepare a top ten taxpayers analysis using the secured and unsecured assessment rolls.
- Collect current data on assessment appeals for the past five years, including obtaining any updates on any top ten taxpayer assessment appeals.
- Prepare pledged revenue projections and financial (cash flow) forecasts.

#### **8. Project Implementation**

RSG can assist the City with the entire real estate process – from strategic planning to development team project management. We have experience marketing vacant land for development, soliciting development proposals, comparing alternative proposals, negotiating with developers, preparing and overseeing the preparation of controlling documents, evaluating impacts, and otherwise supporting city staff in the process of selling property for development.

We can assist the City with any or all of these stages in the development process. Because of RSG's involvement in all stages of development of public property, we can ensure that property disposition and development is consistent with previously developed strategies and that agreements are appropriately implemented. For affordable housing projects, once the project is complete, we have experience income qualifying residents and performing annual project compliance monitoring to ensure that the terms of the controlling documents are being satisfied. For commercial development, we have experience verifying developer expenditures and generated revenues to ensure the developer holds up their end of the bargain.

## Attachment 2



### FEE STRUCTURE

Principal / Director	\$ 235
Senior Associate	180
Associate	160
Senior Analyst	135
Analyst	125
Research Assistant	110
Technician	80
Clerical	60
Reimbursable Expenses	Cost plus 10%

**RSG does not charge clients for travel or mileage** (except direct costs related to field work/surveys), parking, standard telephone/fax expenses, general postage or incidental copies. However, we do charge for messenger services, overnight shipping/express mail costs and teleconferencing services. We also charge for copies of reports, documents, notices, and support material in excess of five (5) copies. These costs are charged back at the actual expense plus a 10% surcharge.

RSG issues monthly invoices payable upon receipt, unless otherwise agreed upon in advance. Invoices identify tasks completed to date, hours expended and the hourly rate.

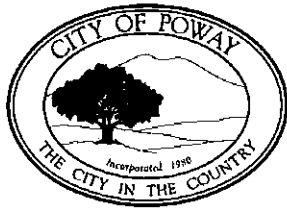
**Brokerage commissions** can be an alternative means for compensation when the City and RSG mutually agree upon the terms. If the City is buying, the listing broker may afford the opportunity to pay the city's broker costs directly – thereby saving the City significant dollars.

Normally, RSG structures these contracts with an attractive commission rate and an advisory component that normally is billed monthly and credited against the commission. Because commissions can vary depending on the size, use and other factors, RSG would suggest if the City were interested in a commission structure.

### POTENTIAL CONFLICTS OF INTEREST

RSG is one of several consultants that the County of San Diego's Health and Human Services Department retains. Therefore, it is possible that a conflict of interest may arise if both the County of San Diego and the City of Poway wish to retain RSG for the same project and both funding sources are requested by a proposed developer. It is important to note that this will likely be the case for other consultants submitting proposals to the City for this RFP.

If a conflict of interest were to occur, an RSG Principal would notify both the County of San Diego and the City of the conflict in writing and would not perform underwriting services for the County on the development proposal. **RSG would give priority to the City of Poway in the event a conflict occurs.**



**City of Poway  
STANDARD AGREEMENT FOR SERVICES**

This Agreement, entered into this 19<sup>th</sup> day of September, 2018, by and between the **CITY OF POWAY** and **POWAY HOUSING AUTHORITY** (hereinafter collectively referred to as "City") and **KEYSER MARSTON ASSOCIATES, INC.**, (hereinafter referred to as "Consultant").

**RECITALS**

WHEREAS, City desires to obtain the services of a private consultant to perform as-needed real estate and financial consulting services (Project); and

WHEREAS, Consultant is a real estate and economic development consultant and has represented that Consultant possesses the necessary qualifications to provide such services; and

WHEREAS, City has authorized the preparation of an agreement to retain the services of Consultant as hereinafter set forth.

NOW, THEREFORE, IT IS MUTUALLY AGREED THAT CITY DOES HEREBY RETAIN CONSULTANT ON THE FOLLOWING TERMS AND CONDITIONS:

**1. Scope of Services.**

Consultant shall provide services as described in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**2. Compensation and Reimbursement.**

City shall compensate and reimburse Consultant as provided in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**3. Term of Agreement.**

The term of this Agreement shall be as described on Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**4. Termination.**

This Agreement may be terminated with or without cause by City. Termination without cause shall be effective only upon 60-day written notice to Consultant. During said 60-day period Consultant shall perform all consulting services in accordance with this Agreement. This Agreement may be terminated by City for cause in the event of a material breach of this Agreement, misrepresentation by Consultant in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by City. Termination for cause shall be effected by delivery of written notice of termination to Consultant. Such termination shall be effective upon delivery of said notice.

**5. Confidential Relationship.**

City may from time to time communicate to Consultant certain information to enable Consultant to effectively perform the services. Consultant shall treat all such information as confidential, whether or not so identified, and shall not disclose any part thereof without the prior written consent of the City. Consultant shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services. The foregoing obligation of this Paragraph 5, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of Consultant, hereafter disclosed in publicly available sources of information; (iii) is now in the possession of Consultant without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to Consultant by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

Consultant shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this contract without the prior written consent of the City. In its performance hereunder, Consultant shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

**6. Office Space and Clerical Support.**

Consultant shall provide its own office space and clerical support at its sole cost and expense.

**7. Covenant Against Contingent Fees.**

Consultant declares that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach of violation of this warranty, City shall have the right to annul this Agreement without liability, or, at its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**8. Ownership of Documents.**

All memoranda, reports, plans, specifications, maps and other documents prepared or obtained under the terms of this Agreement shall be the property of City and shall be delivered to City by Consultant upon demand.

**9. Conflict of Interest and Political Reform Act Obligations.**

During the term of this Agreement Consultant shall not act as consultant or perform services of any kind for any person or entity whose interests conflict in any way with those of the City of Poway. Consultant shall at all times comply with the terms of the Political Reform Act and the local conflict of interest ordinance. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code Section 87103. Consultant represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the City.

"Consultant" means an individual who, pursuant to a contract with a state or local agency:

(A) Makes a governmental decision whether to:

1. Approve a rate, rule or regulation;
2. Adopt or enforce a law;
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
4. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract that requires City approval;

5. Grant City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
  6. Grant City approval to a plan, design, report, study, or similar item;
  7. Adopt, or grant City approval of, policies, standards, or guidelines for the City, or for any subdivision thereof; or
- (B) Serves in a staff capacity with the City and in that capacity participates in making a governmental decision as defined in the Political Reform Act and/or implementing regulations promulgated by the Fair Political Practices Commission, or performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.

**DISCLOSURE DETERMINATION:**

- ☒ 1. Consultant/Contractor will not be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B above.  
No disclosure required.
- ☐ 2. Consultant/Contractor will be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B above. As a result, Consultant/Contractor shall be required to file a Statement of Economic Interest with the City Clerk of the City of Poway in a timely manner as required by law.

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Robert J. Manis, Director of Development Services

**10. No Assignments.**

Neither any part nor all of this Agreement may be assigned or subcontracted, except as otherwise specifically provided herein, or to which City, in its sole discretion, consents to in advance thereof in writing. Any assignment or subcontracting in violation of this provision shall be void.

**11. Maintenance of Records.**

Consultant shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred

and shall make such materials available at its office at all reasonable times during the contract period and for three (3) years from the date of final payment under this Agreement, for inspection by City and copies thereof shall be furnished, if requested.

**12. Independent Contractor.**

At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of the City of Poway. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes such services.

**13. Licenses, Permits, Etc.**

Consultant represents and declares to City that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for Consultant to practice its profession.

**14. Consultant's Insurance.**

Consultant shall provide insurance as set forth in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**15. Indemnification.**

(a) For Claims (as defined herein) other than those alleged to arise from Consultant's negligent performance of professional services, City and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "Indemnitees") shall have no liability to Consultant or any other person for, and Consultant shall indemnify, protect and hold harmless Indemnitees from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses, including reasonable attorneys' fees and disbursements (collectively "Claims"), which Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of Consultant's negligent performance under this Agreement, or by the negligent or willful acts or omissions of Consultant, its agents, officers, directors, sub-consultants or employees.

(b) For Claims alleged to arise from Consultant's negligent performance of professional services, Indemnitees shall have no liability to Consultant or any other person for, and Consultant shall indemnify and hold harmless Indemnitees from and against, any and all Claims that Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise to the extent occurring as a result of Consultant's negligent performance of any professional services under this Agreement, or by the negligent or willful acts or omissions of Consultant, its agents, officers, directors, sub-consultants or employees, committed in performing any of professional services under this Agreement. For Claims alleged to arise from Consultant's professional services, Consultant's defense obligation to Indemnitees shall include only the reimbursement of reasonable defense costs and attorneys' fees to the extent caused by Consultant's negligence.

(c) The foregoing obligations of Consultant shall not apply to the extent that the Claims arise from the sole negligence or willful misconduct of City or its elected and appointed boards, officials, officers, agents, employees and volunteers.

(d) In any and all Claims against City by any employees of the Consultant, anyone directly or indirectly employed by it or anyone for whose acts it may be liable, the indemnification obligation under this Section 15 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant under worker's compensation acts, disability benefit acts or other employee benefit acts.

(e) Consultant shall, upon receipt of written notice of any Claim, promptly take all action necessary to make a claim under any applicable insurance policy or policies Consultant is carrying and maintaining; however, if Consultant fails to take such action as is necessary to make a claim under any such insurance policy, Consultant shall reimburse City for any and all costs, charges, expenses, damages and liabilities incurred by City in making any claim on behalf of Consultant under any insurance policy or policies required pursuant to this Agreement.

(f) The obligations described in Section 15(a) through (e) above shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person indemnified pursuant to this Section 15.

(g) The rights and obligations of the parties described in this Section 15 shall survive the termination of this Agreement.



**16. Assumption of Risk.**

Except for injuries to persons caused by the willful misconduct of any Indemnitee and not covered by insurance maintained, or required by this Agreement to be maintained, by Consultant: (a) Consultant hereby assumes the risk of any and all injury and damage to the personnel (including death) and property of Consultant that occurs in the course of, or in connection with, the performance of Consultant's obligations under this Agreement, including but not limited to Consultant's Scope of Services; and (b) it is hereby agreed that the Indemnitees are not to be liable for injury or damage which may be sustained by the person, goods or property of Consultant or its employees in connection with Consultant's performance its obligations under this Agreement, including but not limited to Consultant's Scope of Services.

**17. Consultant Not an Agent.**

Except as City may specify in writing, Consultant shall have no authority, expressed or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, expressed or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

**18. Personnel.**

Consultant shall assign qualified and certified personnel to perform requested services. The City shall have the right to review and disapprove personnel for assignment to Poway projects.

City shall have the unrestricted right to order the removal of any person(s) assigned by Consultant by giving oral or written notice to Consultant to such effect.

Consultant's personnel shall at all times comply with City's drug and alcohol policies then in effect.

**19. Notices.**

Notices shall be given as described on Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

**20. Governing Law, Forum Selection and Attorneys' Fees.**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. Each party to this Agreement consents to personal jurisdiction in San Diego County, California, and hereby authorizes and accepts service of process sufficient for personal jurisdiction by first class mail,

registered or certified, postage prepaid, to its address for giving notice as set forth in Exhibit "A" hereto. Any action to enforce or interpret the terms or conditions of this Agreement shall be brought in the Superior Court in San Diego County, Central Division, unless the parties mutually agree to submit their dispute to arbitration. Consultant hereby waives any right to remove any such action from San Diego County as is otherwise permitted by California Code of Civil Procedure section 394. The prevailing party in any such action or proceeding shall be entitled to recover all of its reasonable litigation expenses, including its expert fees, attorneys' fees, courts costs, arbitration costs, and any other fees. Notwithstanding the foregoing, in the event that the subject of such an action is compensation claimed by Consultant in the event of termination, Consultant's damages shall be limited to compensation for the 60-day period for which Consultant would have been entitled to receive compensation if terminated without cause, and neither party shall be entitled to recover their litigation expenses.

**21. Gender.**

Whether referred to in the masculine, feminine, or as "it," "Consultant" shall mean the individual or corporate consultant and any and all employees of consultant providing services hereunder.

**22. Counterparts.**

This Agreement (and any amendments) may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Documents delivered by telephonic facsimile transmission shall be valid and binding.

**23. Entire Agreement.**

This Agreement shall constitute the entire understanding between Consultant and City relating to the terms and conditions of the services to be performed by Consultant. No agreements, representations or promises made by either party, whether oral or in writing, shall be of any force or effect unless it is in writing and executed by the party to be bound thereby.

**24. Pension Reform Act of 2013.**

At all times during the term of the Agreement with the City, no officer, director, shareholder, member, partner, employee, or contractor, providing services to the City, will be a "retired annuitant," under the City's retirement system, ineligible for temporary employment under section 7522.56 of the California Government Code, which was added as a part of the Pension Reform Act of 2013. For the purposes of this statement a "retired annuitant" is a person retired from the California Public Employees' Retirement System ("CalPERS"). Any retired

annuitant proposed to provide work on behalf of the City must be eligible for appointment under the Pension Reform Act of 2013, and any other applicable laws, without any adverse financial impact to the City.

**25. Severability.**

If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality, or unenforceability or, if that is not possible, such provision shall, to the extent of such invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this Agreement shall remain in effect.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date first above written.

**CITY OF POWAY**

**KEYSER MARSTON ASSOCIATES, INC.**

By: \_\_\_\_\_  
Tina White, City Manager

By: \_\_\_\_\_  
Paul C. Marra, Vice President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Alan Fenstermacher, City Attorney

## ***"SPECIAL PROVISIONS"***

### **EXHIBIT "A"**

#### **A. Scope of Services.**

Consultant agrees to perform consulting services as required by City, which shall consist of the real estate and financial consulting services further described in the Scope of Services submitted with the proposals dated July 30, 2018, which is included in this document as Attachment 1, and incorporated by reference, as if its contents were fully set forth herein. Consultant shall provide the necessary qualified personnel to perform the services.

#### **B. Compensation and Reimbursement.**

City shall pay Consultant a fee in accordance with the Fee Schedule submitted with the proposals dated July 30, 2018, which are included in this document as Attachment 2. Individual proposals will be submitted on a per project basis as requested. Consultant may revise its fee schedule annually subject to approval by City. Consultant's fee shall include and Consultant shall be responsible for the payment of all federal, state, and local taxes of any kind which are attributable to the compensation received.

Compensation for each task shall be agreed upon prior to the start of work. Changes in task assignments and additional compensation will be developed and approved by City and Consultant prior to performance of any additional work.

In addition to said consulting fee, Consultant shall be reimbursed for all reasonable expenses, including lodging, telephone, and travel (air, auto, rail) necessarily incurred in performance of the services. Consultant shall bill City for such expenses as incurred, referencing this Agreement. All expenses shall be itemized and supported by receipts for amounts in excess of Twenty-Five Dollars (\$25.00). Statements for reimbursement of expenses shall be paid within ten (10) days of approval by City. All air travel shall be billed at coach or special fare rates. Reimbursement for lodging is limited to travel from outside of San Diego County. Consultant shall receive prior authorization for air travel and lodging expenses. All other expenses shall be reimbursed in accordance with City's cash disbursement policies in effect at the time incurred.

#### **C. Term of Agreement.**

This Agreement shall be effective from the period commencing September 19, 2018, and ending September 18, 2021, unless sooner terminated by

City as provided in the section of this Agreement entitled "Termination." This Agreement may be extended for up to two additional one-year periods upon approval in writing of the City Manager and Consultant. Upon expiration or termination of this Agreement, Consultant shall return to City any and all equipment, documents or materials and all copies made thereof which Consultant received from City or produced for City for the purposes of this Agreement.

**D. Consultant's Insurance.**

**1. Coverages:**

Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverages:

(a) Comprehensive General Liability, including premises-operations, products/completed, broad form property damage, and blanket contractual liability with the following coverages: General Liability \$1,000,000 Bodily Injury and Property Damage combined each occurrence and \$2,000,000 aggregate.

(b) Automobile Liability, including owned, hired, and non-owned vehicles: \$1,000,000 combined single limit.

(c) Consultant shall obtain and maintain, during the life of the Agreement, a policy of Professional Errors and Omissions Liability Insurance with policy limits of not less than \$1,000,000 combined single limits, per claim and annual aggregate.

(d) Workers' Compensation insurance in statutory amount. All of the endorsements which are required above shall be obtained for the policy of Workers' Compensation insurance.

**2. Endorsements:**

Endorsements shall be obtained so that each policy contains the following three provisions:

(a) Additional Insured. (Not required for Professional Errors and Omissions Liability Insurance or Workers' Compensation.)

"City of Poway and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to this subject project and contract with City."

(b) Notice.

"Said policy shall not terminate, nor shall it be canceled, until thirty (30) days after written notice is given to City."

(c) Primary Coverage.

"The policy provides primary coverage to City and its elected and appointed boards, officers, agents, and employees. It is not secondary or in any way subordinate to any other insurance or coverage maintained by City."

3. Insurance Certificates:

Consultant shall provide City certificates of insurance showing the insurance coverages described in the paragraphs above, in a form and content approved by City, prior to beginning work under this Agreement.

E. Notices.

All notices, billings and payments hereunder shall be in writing and sent to the following addresses:

To City:

City of Poway  
Development Services  
13325 Civic Center Drive  
Poway, CA 92064

To Consultant:

Keyser Marston Associates, Inc.  
Paul C. Marra, Vice President  
1660 Hotel Circle N, Suite 716  
San Diego, CA 92108



## V. SCOPE OF SERVICES

The City of Poway (City) is seeking real estate and fiscal analysis consulting services to assist in its community revitalization and affordable housing development initiatives. The purpose of the RFP is to provide the City with consultants that can provide market, financial, and fiscal valuation of various development proposals, economic development efforts, and real estate transactions.

KMA has a long-standing, in-depth familiarity with the City's economic development and affordable housing efforts. In pursuance of the City's goals, KMA anticipates providing the following scope of real estate, economic development, and affordable housing consulting services on an as-needed basis.

- *Market Feasibility Analysis* – KMA will evaluate the market and financial feasibility of alternative development programs/concepts proposed by developers. The objective is to determine development feasibility, fiscal impacts, and/or other benefits in terms of the City's revitalization objectives.
- *Economic and Market Analysis* – KMA will evaluate the development potential – including hotel, retail, office, multi-family, and other land uses – for specific sites or districts. These may include a range of land use types, construction types, densities, and parking configuration. The objective of this evaluation is to determine the highest and best use of specific sites in light of the City's revitalization objectives. KMA roles may include market demand analyses, identification of appropriate development programs, and projection of absorption potential.
- *Financial Pro Forma Analysis* – KMA will assist the City in reviewing the financial feasibility of proposed developments. KMA tasks may include comparison of competing proposals, estimate of land value, and/or estimate of financing gap. KMA will prepare financial pro forma models of developer proposals, itemizing development costs, net operating income, and target return. KMA will conduct a comparative review with industry standards and identify any key differences.
- *Requests for Proposals (RFPs)* – KMA will assist the City with developer solicitation and evaluation, including preparation of developer Requests for Qualification (RFQs) and Requests for Proposals (RFPs).
- *Transaction Structuring and Negotiations* – KMA will assist the City in evaluating development proposals and negotiating business terms for land sales, ground leases, and/or public financial assistance.
- *Evaluation of Developer Capacity* – KMA will review the financial capacity and development expertise of developers under review by the City. For this purpose, KMA will prepare a financial capacity template and



request for supporting documentation. Based on the information submitted, we will compile a summary matrix of the financial capacity information for each.

- *Fiscal and Economic Impact* – KMA will prepare assessments of fiscal and economic benefits for proposed developments, including residential, commercial, and visitor-serving uses. The KMA fiscal impact analyses will include General Fund revenue and expenditure projections as a result of new development. Analyses of economic benefits will include estimates of direct and indirect impacts of proposed developments through factors such as employment, payroll, and output.
- *Identification of Financing Sources* – In the post-redevelopment era, KMA is increasingly assisting our clients in identifying and evaluating potential financing sources for important economic development and affordable housing initiatives. KMA is currently assisting the Port of San Diego with development of a financing strategy for a major convention hotel on the Chula Vista Bayfront. KMA analyzes the potential for funding sources such as New Markets Tax Credits (NMTCs), Investment and Economic Development Bank (I-Bank), and State/Federal loans/grants. Having led the establishment of the first two EIFDs in the State (West Sacramento and Otay Mesa in San Diego), KMA is currently assisting in analyzing the feasibility of and/or establishing EIFDs and other tax increment financing districts, including Community Revitalization and Investment Authorities (CRIAs), throughout several California cities.
- *Economic Development Subsidy Reports* – KMA will prepare Government Code Section 53083 Economic Development Subsidy Reports for proposed transactions between the City and private developers that include a financial subsidy.
- *Affordable Housing Compliance Monitoring* – KMA has nearly 20 years experience in compliance monitoring rental and for-sale projects that are funded with a variety of sources, including HOME Investment Partnership Program (HOME), Property Tax Increment Housing Set-Aside (Set-Aside), and Community Development Block Grants (CDBG). Many of these projects are further leveraged with Low Income Housing Tax Credits (Tax Credits), tax-exempt multi-family housing bonds, and/or Affordable Housing Program loan funds offered by the Federal Home Loan Bank (AHP). Projects financed with multiple funding sources are subject to a variety of income and affordability restrictions, and the City must ensure that the appropriate standards are imposed on the projects. KMA has experience in structuring affordable housing projects that are funded with multiple assistance sources and monitoring the completed projects to ensure continuing compliance with the covenants. KMA has assisted numerous clients in evaluating affordable housing projects' operating results and ensuring compliance with residual receipts loan repayment terms.



- *Fiscal Consultant Reports* – Fiscal Consultant services encompass the research and preparation associated with annual bond disclosure reports, analysis of financial feasibility revenue and cash flow projections, ongoing revenue and cash flow forecasts, and fiscal impact public revenue projections for budgetary planning purposes.
- *General Tasks* – KMA will participate in various meetings with public officials, stakeholders, and/or community representatives to present findings and recommendations related to our feasibility analyses, fiscal and economic impact evaluations, and/or business terms for proposed transactions.

The RFP states that respondents should detail what they expect and require of the City in order to effectively perform the above services on behalf of the City. KMA has developed a long-standing working relationship with the City that is characterized by clear expectations, communication protocols, and on-time completion of deliverables. In undertaking our real estate and fiscal analysis consultant services, we typically require very limited roles on the part of our public agency clients. Specifically, these would likely include the following:

- Appropriate project background and other relevant data upon initiation of each assignment
- Timely response to requests for clarification or follow-up information
- Review and comment on KMA draft work products at selected intervals



#### IV. HOURLY BILLING RATES

**KEYSER MARSTON ASSOCIATES, INC.  
 PUBLIC SECTOR HOURLY RATES**

	<u>2018/2019</u>
CHAIRMAN, PRESIDENT, MANAGING PRINCIPALS*	\$280.00
SENIOR PRINCIPALS*	\$270.00
PRINCIPALS*	\$250.00
MANAGERS*	\$225.00
SENIOR ASSOCIATES	\$187.50
ASSOCIATES	\$167.50
SENIOR ANALYSTS	\$150.00
ANALYSTS	\$130.00
TECHNICAL STAFF	\$95.00
ADMINISTRATIVE STAFF	\$80.00

Directly related job expenses not included in the above rates are: auto mileage, parking, air fares, hotels and motels, meals, car rentals, taxis, telephone calls, delivery, electronic data processing, graphics and printing. Directly related job expenses will be billed at 110% of cost.

Monthly billings for staff time and expenses incurred during the period will be payable within thirty (30) days of invoice date.

\* Rates for individuals in these categories will be increased by 50% for time spent in court testimony





# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO. _____	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council  
Honorable Chairman and Members of the Housing Authority

**FROM:** Tina White, City Manager/Executive Director

**CONTACT:** Craig Ruiz, Economic Development Administrator *CR*  
858-668-4509 or cruiz@poway.org

**SUBJECT:** Approval of an Extension to the Exclusive Negotiation Agreement with Meridian Development, LLC and Sudberry Properties, Inc. for City and Housing Authority Parcels bearing Assessor Parcel Numbers 317-101-06; 317-472-12; 317-472-18; 317-472-23; 317-472-24; 317-472-25; 317-472-01; and 317-472-06.

## Summary:

In April 2017, the City released a Request for Qualifications/Proposals ("RFQ/P") to identify a developer to acquire and develop City, Housing Authority, and/or Successor Agency owned properties within the Town Center area. The RFQ/P process identified the development team of Meridian Development, LLC and Sudberry Properties, Inc. ("Developers") as having the most qualified proposal.

In December 2017, the City and Housing Authority approved an Exclusive Negotiation Agreement ("ENA") with the Developers. The ENA has allowed for the start of negotiations for a Disposition and Development Agreement ("DDA"). The purpose of the DDA is to negotiate the terms of the sale of the Town Center properties and to ensure a unified development that is consistent with the goals and objectives of the Poway Road Specific Plan. The term of the ENA was for 180 days, with the option for the City Manager to extend the term by 90 additional days. This proposed extension of the ENA will allow additional time for the DDA negotiations to be completed.

## Recommended Action:

Staff recommends that the City Council adopt a resolution approving an extension to the Exclusive Negotiation Agreement with Meridian Development, LLC and Sudberry Properties Inc. for City-owned property bearing Assessor's Parcel Number 317-101-06; 317-472-12; 317-472-18; 317-472-23; 317-472-24; 317-472-25.

Staff also recommends that the Board of the Poway Housing Authority adopt a resolution approving an extension to the Exclusive Negotiation Agreement with Meridian Development, LLC and Sudberry Properties, Inc. for Housing Authority property bearing Assessor's Parcel Numbers 317-472-01; and 317-472-06.

**Discussion:**

In April 2017, the City initiated a RFQ/P to select a developer to potentially develop City, Housing Authority and Successor Agency owned properties ("Properties"). After reviewing the proposals, interviewing the four firms that submitted proposals and evaluating term sheets from the top two firms, staff recommended the development team of Meridian Development, LLC and Sudberry Properties, Inc. to continue in the process. In December 2017, the City of Poway and the Poway Housing Authority (collectively, the "Owners") entered into an ENA with the Developers (collectively, the "Parties"). The ENA was for an initial term of 180 days, with an option to extend for 90 days.

The Properties subject to the ENA originally included one property owned by the City of Poway and two properties owned by the Poway Housing Authority. The City owned property is located at 13100 Poway Road and is approximately 1.54 acres ("City Parcel"). The two Housing Authority parcels are located at 13021 and 13031 Poway Road and are approximately 2.91 acres ("Housing Authority Parcels"). The ENA has a provision to include additional properties that were anticipated to be acquired by the City from the City's Successor Agency to the Redevelopment Agency ("Successor Agency"). In March 2018, the City acquired five parcels located adjacent to the City Parcel and the Housing Authority Parcels, and specifically bearing Assessor's Parcel Numbers 317-472-12, 317-472-18, 317-472-23, 317-472-24 and 317-472-25 comprising approximately 3.39 acres (the "Successor Agency Parcels"). The extension to the ENA, if approved, will include the former Successor Agency Parcels.

The RFQ/P also anticipated that the selected developer would attempt to acquire privately owned property to include in the overall development of the Town Center area. The Developers have been negotiating to acquire additional private properties for the past eight months. The Parties agreed to not begin significant negotiations on the DDA until such time as the Developers could determine which additional private properties would be acquired and included in the Town Center development. Now that the Developers have completed negotiations with willing private sellers, additional time is being requested so that the Parties can complete negotiations on the DDA. The DDA negotiations will determine the terms and timeline for conveying/selling the Properties, the type and scope of development, identification of funding sources, terms for development of 44 affordable housing units, and other significant deal points.

Staff is recommending that the City Council and the Housing Authority approve the extension to the ENA. Through the DDA process, the Parties can develop a plan for the Properties that is consistent with the goals and objectives of the Poway Road Specific Plan.

**Environmental Review:**

The execution the Extension to the ENA is exempt from the California Environmental Quality Act ("CEQA"), pursuant to section 15061(b)(3) of the CEQA Guidelines, in that the execution of an Exclusive Negotiation Agreement between governmental agencies and a private entity will not result in an impact on the environment. Future actions regarding the Properties will be subject to further environmental assessment.



**Fiscal Impact:**

The negotiation of the DDA will involve the work of City staff, legal counsel and consultant services for real estate development and financial analysis. The ENA required the Developer to make a \$10,000 deposit to off-set consultant and legal services. To date, \$3,026 of the deposit has been expended. The ENA requires that if the deposit is not sufficient for legal and consulting services, the Developers would increase the deposit by \$5,000. Staff anticipates that the original Developer deposit and the additional \$5,000 deposit, along with current Fiscal Year 2018-19 budget for staff services will be sufficient for the DDA negotiation.

**Public Notification:**

Public Notice was not required for this action.

**Attachments:**

- A. A Resolution of the City of Poway Approving an Extension to the Exclusive Negotiation Agreement with Meridian Development, LLC and Sudberry Properties, Inc., for City Parcels Bearing Assessor's Parcel Numbers 317-101-06; 317-472-12; 317-472-18; 317-472-23; 317-472-24; 317-472-25;
- B. A Resolution of the Poway Housing Authority, Approving an Extension to the Exclusive Negotiation Agreement with Meridian Development, LLC and Sudberry Properties, Inc., for Housing Authority Parcels Bearing Assessor's Parcel Numbers 317-472-01; And 317-472-06
- C. First Amendment to the Exclusive Negotiation Agreement
- D. Vicinity Map

Reviewed/Approved By:

\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

Reviewed By:

\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

Approved By:

  
\_\_\_\_\_  
Tina M. White  
City Manager

RESOLUTION NO. 18-

A RESOLUTION OF THE CITY OF POWAY, APPROVING  
AN EXTENSION TO THE EXCLUSIVE NEGOTIATION  
AGREEMENT WITH MERIDIAN DEVELOPMENT, LLC AND  
SUDBERRY PROPERTIES, INC. FOR CITY-OWNED  
PARCEL BEARING ASSESSOR'S PARCEL NUMBERS  
317-101-06; 317-472-12; 317-472-18; 317-472-23;  
317-472-24 and 317-472-25

WHEREAS, the City of Poway (the "City") is the fee title owner of six (6) parcels comprising approximately 4.93 acres of real property generally located at 13100, 13029½, 13035, 13053 and 13123 Poway Road and bearing Assessor's Parcel Numbers 317-101-06; 317-472-12; 317-472-18; 317-472-23; 317-472-24; 317-472-25 (the "City Parcels"), in the City of Poway, County of San Diego, State of California;

WHEREAS, the Poway Housing Authority (the "Authority") is the fee title owner of two (2) parcels comprising approximately 2.91 acres of real property generally located at 13021 and 13031 Poway Road and bearing Assessor's Parcel Numbers 317-472-01 and 317-472-06 (the "Housing Authority Parcels"), in the City of Poway, County of San Diego, State of California;

WHEREAS, the Housing Authority Parcels and the City Parcels are collectively referred to as the "Properties", and are identified on the Vicinity Map, which is included as Attachment A to this Resolution;

WHEREAS, in April 2017, the City released a Request for Qualifications/Proposals (RFQ/P) to identify a developer to acquire and develop City, Authority, and/or Successor Agency to the Poway Redevelopment Agency ("Successor Agency") owned properties within the Town Center area;

WHEREAS, after reviewing the proposals and interviewing the four firms that submitted proposals, and evaluating term sheets from the top two firms, staff determined that the development team comprised of Meridian Development, LLC and Sudberry Properties, Inc. (collectively, the "Developers") was the most qualified respondent based upon their collective residential and commercial development experience in the San Diego regional market;

WHEREAS, on December 19, 2017, the City and the Authority approved an Exclusive Negotiation Agreement (the "ENA") between the City and the Authority (collectively, the "Owners") and the Developers (collectively, the "Parties");

WHEREAS, the ENA allows for the negotiation of a Disposition and Development Agreement ("DDA") between the Owners and the Developers which enables the City to ensure a unified development on the Property that is consistent with the goals and objectives of the recently adopted Poway Road Specific Plan;



WHEREAS, the Parties contemplated that this ENA could include any other properties acquired by the City, including properties owned by the Successor Agency, located adjacent to the City and Housing Authority Parcels, and specifically parcels bearing Assessor's Parcel Numbers 317-472-12, 317-472-18, 317-472-23, 317-472-24 and 317-472-25 comprising approximately 3.39 acres (the "Successor Agency Parcels");

WHEREAS, the City acquired the Successor Agency Parcels during the term of this ENA and, the Successor Agency Parcels are included in the definitions of "City Parcels" and "Properties," herein;

WHEREAS, the Owners are interested in selling the Properties to the Developers for the purpose of developing a for-sale and/or for rent residential housing project with secondary retail and office uses (the "Project");

WHEREAS, the Project's intended development is part of the City's efforts to revitalize dormant properties along Poway Road and maintain a vibrant and expanding group of businesses in the City to promote economic development and employment opportunities for its residents;

WHEREAS, the elimination in redevelopment law and the allocation of property tax revenues between municipalities and the State of California require the public and private sectors to consider new and innovative structures to promote redevelopment in order to realize significant public benefits in the form of increased revenues and employment opportunities, and to continue in efforts to prevent or eliminate blight in the community;

WHEREAS, the Developers have attempted to acquire additional privately-owned properties to include within the Project;

WHEREAS, the Parties have agreed to delay the negotiations of the DDA until such time as the Developers have completed negotiations with the private property owners;

WHEREAS, the Developers have completed negotiations with private property owners;

WHEREAS, the Parties seek to extend the ENA by a period of 125 days to allow for the completion of the DDA negotiations;

WHEREAS, the Parties also seek to give the City Manager authority to extend the initial 125-day period by up to 90 days

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

Section 1: The foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2: The City Council of the City of Poway has received and heard all oral and written objections to the City's proposed ENA, and to other matters pertaining to this negotiation, and (finding such objections to be without merit) all such oral and written objections are hereby rejected.

Section 3: The City Council of the City of Poway hereby approves the extension to the Exclusive Negotiation Agreement with Meridian Development, LLC and Sudberry Properties, Inc. for the conveyance of the City Parcels to the Developer, substantially in the form as presented at this meeting, with such changes as may be approved by the City Manager and the City Attorney.

Section 4: The City Council of the City of Poway hereby authorizes and directs the City Manager or designee to (i) take all actions and to execute any and all documents, instruments, and agreements necessary or desirable on behalf of the City of Poway, as approved by the City Manager and City Attorney, including, without limitation, extensions of the Exclusive Negotiation Agreement, and to effectuate all other actions approved by this Resolution, including, without limitation, approving changes, implementations, or revisions to documents, instruments, and agreements, and (ii) administer the City's obligations, responsibilities, and duties to be performed pursuant to this Resolution and all documents, instruments, and agreements required by and for the Exclusive Negotiation Agreement for the Properties.

Section 5: If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council of the City of Poway declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 6: This Resolution shall take effect upon the date of its adoption.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Poway,  
California at a regular meeting this \_\_\_\_ day of \_\_\_\_\_ 2018.

**Steve Vaus, Mayor**

**ATTEST:**

Nancy Neufeld, CMC, City Clerk  
City of Poway

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF SAN DIEGO )

I, Nancy Neufeld, City Clerk of the City of Poway, do hereby certify under penalty of perjury that the foregoing Resolution No. 18- \_\_ was duly adopted by the City Council at a meeting of said City Council held on the \_\_ day of \_\_\_\_ 2018 and that it was so adopted by the following vote:

**AYES:**

NOES:

**ABSENT:**

DISQUALIFIED:

Nancy Neufeld, CMC, City Clerk  
City of Poway

**ATTACHMENTS:**  
A. Vicinity Map

ATTACHMENT A  
Vicinity Map



RESOLUTION NO. H-18-

A RESOLUTION OF THE POWAY HOUSING AUTHORITY,  
APPROVING AN EXTENSION TO THE EXCLUSIVE  
NEGOTIATION AGREEMENT WITH MERIDIAN  
DEVELOPMENT, LLC AND SUDBERRY PROPERTIES,  
INC. FOR HOUSING AUTHORITY PARCELS BEARING  
ASSESSOR'S PARCEL NUMBERS 317-472-01  
AND 317-472-06

WHEREAS, the Poway Housing Authority (the "Authority") is the fee title owner of two (2) parcels comprising approximately 2.91 acres of real property generally located at 13021 and 13031 Poway Road and bearing Assessor's Parcel Numbers 317-472-01 and 317-472-06 (the "Housing Authority Parcels"), in the City of Poway, County of San Diego, State of California;

WHEREAS, the City of Poway (the "City") is the fee title owner of six (6) parcel comprising approximately 4.93 acres of real property generally located at 13100, 13029½, 13035, 13053 and 13123 Poway Road and bearing Assessor's Parcel Numbers 317-101-06; 317-472-12; 317-472-18; 317-472-23; 317-472-24; 317-472-25 Poway Road and bearing Assessor's Parcel Number 317-101-06 (the "City Parcels"), in the City of Poway, County of San Diego, State of California;

WHEREAS, the Housing Authority Parcels and the City Parcel are collectively referred to as the Properties, and are identified on the Vicinity Map, which is included as Attachment A to this Resolution.

WHEREAS, in April 2017, the City released a Request for Qualifications/Proposals (RFQ/P) to identify a developer to acquire and develop City, Housing Authority (HA), and/or Successor Agency to the Poway Redevelopment Agency ("Successor Agency") owned properties within the Town Center area;

WHEREAS, after reviewing the proposals and interviewing the four firms that submitted proposals, and evaluating term sheets from the top two firms, staff determined that the development team of comprised of Meridian Development, LLC and Sudberry Properties, Inc. (collectively, the "Developers") was the most qualified respondent based upon their collective residential and commercial development experience in the San Diego regional market;

WHEREAS, on December 19, 2017, the City and the Authority approved an Exclusive Negotiation Agreement (the "ENA") between the City and the Authority (collectively, the "Owners") and the Developers (collectively, the "Parties");

WHEREAS, the ENA will allow for the negotiation of a Disposition and Development Agreement ("DDA") between the Owners and the Developers which will enable the City to ensure a unified development on the Property that is consistent with the goals and objectives of the recently adopted Poway Road Specific Plan;

WHEREAS, the Parties contemplated that this ENA could include any other properties acquired by the City, including properties owned by the Successor Agency, located adjacent to the City and Housing Authority Parcels, and specifically parcels bearing Assessor's Parcel Numbers 317-472-12, 317-472-18, 317-472-23, 317-472-24 and 317-472-25 comprising approximately 3.39 acres (the "Successor Agency Parcels");

WHEREAS, the City acquired the Successor Agency Parcels during the term of this ENA and the Successor Agency Parcels are included in the definitions of "City Parcel" and "Properties," herein;

WHEREAS, the Owners are interested in selling the Properties to the Developers for the purpose of developing a for-sale and/or for rent residential housing project with secondary retail and office uses (the "Project");

WHEREAS, the Project's intended development is part of the City's efforts to revitalize dormant properties along Poway Road and maintain a vibrant and expanding group of businesses in the City to promote economic development and employment opportunities for its residents;

WHEREAS, the elimination in redevelopment law and the allocation of property tax revenues between municipalities and the State of California require the public and private sectors to consider new and innovative structures to promote redevelopment in order to realize significant public benefits in the form of increased revenues and employment opportunities, and to continue in efforts to prevent or eliminate blight in the community;

WHEREAS, the Developers have attempted to acquire additional privately-owned properties to include within the Project;

WHEREAS, the Parties have agreed to delay the negotiations of the DDA until such time as the Developers have completed negotiations with the private property owners;

WHEREAS, the Developers have completed negotiations with private property owners;

WHEREAS, the Parties seek to extend the ENA by a period of 125 days to allow for the completion of the DDA negotiations;

WHEREAS, the Parties also seek to give the City Manager authority to extend the initial 125-day period by up to 90 days.

NOW, THEREFORE, BE IT RESOLVED by the Poway Housing Authority as follows:

Section 1: The foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2: The Board of the Poway Housing Authority has received and heard all oral and written objections to the proposed ENA, and to other matters pertaining to this negotiation, and (finding such objections to be without merit) all such oral and written objections are hereby rejected.

Section 3: The Board of Poway Housing Authority hereby approves the execution of an Exclusive Negotiation Agreement with Meridian Development, LLC and Sudberry Properties, Inc. for the conveyance of the City Parcels to the Developer, substantially in the form as presented at this meeting, with such changes as may be approved by the City Manager and the City Attorney.

Section 4: The Board Poway Housing Authority hereby authorizes and directs the Executive Director of the Housing Authority or designee to (i) take all actions and to execute any and all documents, instruments, and agreements necessary or desirable on behalf of the Housing Authority, as approved by the Executive Director and Housing Authority legal counsel, including, without limitation, extensions of the Exclusive Negotiation Agreement and including the Successor Agency Parcels as a part of the ENA, and to effectuate all other actions approved by this Resolution, including, without limitation, approving changes, implementations, or revisions to documents, instruments, and agreements as determined necessary by the Executive Director or designee and approved by Housing Authority legal counsel, and (ii) administer the Housing Authority's obligations, responsibilities, and duties to be performed pursuant to this Resolution and all documents, instruments, and agreements required by and for the Exclusive Negotiation Agreement for the Properties.

Section 5: If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Poway Housing Authority Board declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 6: This Resolution shall take effect upon the date of its adoption.

PASSED, ADOPTED AND APPROVED by the Poway Housing Authority at a regular meeting this \_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
Steve Vaus, Chairman  
Poway Housing Authority

ATTEST:

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk  
Poway Housing Authority Secretary

STATE OF CALIFORNIA    )  
  ) SS  
COUNTY OF SAN DIEGO )

I, Nancy Neufeld, City Clerk of the Poway Housing Authority Secretary, do hereby certify under penalty of perjury that the foregoing Resolution No. H-18- \_\_\_\_ was duly adopted by the Commissioners' at a meeting of said Housing Authority held on the \_\_\_\_ day of \_\_\_\_ 2018 and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk  
Poway Housing Authority

ATTACHMENTS:  
A. Vicinity Map



## ATTACHMENT A

### Vicinity Map



**FIRST AMENDMENT TO THE EXCLUSIVE NEGOTIATION  
AGREEMENT BY AND BETWEEN THE CITY OF POWAY  
AND THE CITY OF POWAY HOUSING AUTHORITY, AND  
WITH MERIDIAN COMMUNITIES, LLC, AND SUDBERRY  
PROPERTIES, INC.**

This First Amendment to the Exclusive Negotiation Agreement with Meridian Development, LLC and Sudberry Properties, Inc. (the "First Amendment") is made and entered into effective this 18th day of September 2018 (the "Effective Date"), by and between the City of Poway, a municipal corporation (the "City") and the City of Poway Housing Authority, a public body corporate and politic (the "Housing Authority") (collectively the "Owners") on the one hand, and Meridian Communities, LLC a California Limited Liability Corporation, and Sudberry Properties, Inc., a California Corporation (collectively, the "Developers") on the other. Owners and Developers are occasionally referred to herein individually as the "Party" and collectively as the "Parties".

**RECITALS**

WHEREAS, City and Consultant have entered into an Exclusive Negotiation Agreement (the "Agreement") dated December 20, 2017, and

WHEREAS, Section B.1 states the Term of Agreement shall be for a period of 180 days, and may be extended by 90 days by written consent of the Developer and the City Manager; and

WHEREAS, the Parties exercised the 90-day extension, and now wish to extend the term of the Agreement until January 23, 2019; and

WHEREAS, the Second Recital to the Agreement states "the Parties contemplate that this Agreement may include any other properties acquired by the City, including properties owned by the Successor Agency to the Poway Redevelopment Agency (the "Successor Agency"), located adjacent to the City Parcel and the Housing Authority Parcels [as those terms are defined in the ENA], and specifically parcels bearing Assessor Parcel Numbers 317-472-12, 317-472-18, 317-472-23, 317-472-24 and 317-472-25 comprising approximately 3.39 acres (the "Successor Agency Parcels"). It is anticipated that the City will acquire the Successor Agency Parcels during the term of this Agreement. If acquired by the City, the Successor Agency Parcels will be included in the definitions of "City Parcel" and "Property," herein," and the Successor Agency Parcels have since been acquired; and

WHEREAS, this Amendment is intended to extend the term of the Agreement for 125 days, allow for one extension of 90 days and to add the Successor Agency Parcels to the Agreement.

**NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:**

Section 1. Section B.1 - Term of Agreement is hereby replaced in its entirety to read as follows:

**B.1 Term of Agreement**

The Owners agree to negotiate exclusively with the Developer regarding the future use and disposition of the Property and any future modifications to, and use and disposition of, the Property during the term of this Agreement. The term of the Agreement commenced on December 20, 2017 (the "Effective Date") and shall terminate on January 23, 2019 ("Negotiation Period"), unless the Parties agree otherwise, in writing. The City Manager shall have the authority to approve one 90-day extension to April 23, 2019. The Parties agree to negotiate in good faith and conduct due diligence activities during the Negotiation Period.

Section 2. The second Recital is hereby replaced in its entirety to read as follows:

WHEREAS, this Agreement also includes property formerly owned by the Successor Agency to the Poway Redevelopment Agency (the "Successor Agency") located adjacent to the City Parcel and the Housing Authority Parcels which specifically consist of parcels bearing Assessor Parcel Numbers 317-472-12, 317-472-18, 317-472-23, 317-472-24 and 317-472-25, comprising approximately 3.39 acres ("Successor Agency Parcels"). The Successor Agency Parcels are now owned by the City and are included in the definitions of "City Parcel" and "Property," as used herein.

Section 3. Exhibit A – Project Site Description is amended to include the legal description for the Successor Agency Parcels as follows:

**APN 317-472-12**

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 13, THENCE ALONG THE WESTERLY LINE OF SAID SECTION 13, SOUTH 00° 49' 00" WEST, 614.99 FEET; THENCE SOUTH 89° 08' 30" EAST, 733.99 FEET; THENCE NORTH 01° 07' 00" EAST, 615.00 TO THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER; THENCE ALONG SAID NORTHERLY LINE SOUTH 89° 08' 30" EAST, 100 FEET; THENCE AT RIGHT ANGLES SOUTH 00° 51' 30" WEST, 225.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE RETRACING NORTH 00° 51' 30" EAST, 255.00 FEET TO THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER; THENCE ALONG SAID NORTHERLY LINE SOUTH 89° 08' 30" EAST, 180.00 FEET; THENCE AT RIGHT ANGLES SOUTH 00° 51' 30" WEST, 50.00 FEET, THENCE SOUTHWESTERLY IN A STRAIGHT LINE TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THE NORTHERLY 50.00 FEET.

**APN 317-472-18**

**PARCEL 1**

LOT 2 AND THAT PORTION OF LOT 1 OF K N Q DEVELOPMENT IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA ACCORDING TO MAP THEREOF NO 8019 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 12, 1974, BEING A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE U S GOVERNMENT SURVEY APPROVED NOVEMBER 19, 1880, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT OF MAP NO 8019; THENCE ALONG THE SOUTHERLY LINE OF SAID MAP 8019 SOUTH 89°08' 30" EAST 281.73 FEET; THENCE NORTH 1° 07' 00" EAST 270.00 FEET TO THE NORTH LINE OF SAID LOT 1; THENCE NORTH 89° 08' 30" WEST 149.67 FEET TO A TANGENT 30.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 00' 00" A DISTANCE OF 47.12 FEET; THENCE NORTH 89° 08' 30" WEST 103.50 FEET TO THE WEST LINE OF SAID MAP 8019; THENCE SOUTH 0° 49' 00" WEST 300.00 FEET TO THE POINT OF BEGINNING.

**PARCEL 2**

AN EASEMENT AND RIGHT OF WAY FOR ROAD AND PUBLIC UTILITY PURPOSES OVER, UNDER, ALONG AND ACROSS A STRIP OF LAND 60.00 FEET IN WIDTH, LYING WITHIN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY APPROVED NOVEMBER 19, 1880, THE CENTER LINE OF SAID STRIP OF LAND BEING THE EASTERLY LINE OF THE SOUTHERLY 265.00 FEET OF THE NORTHERLY 315.00 FEET OF THE WEST HALF OF THE EASTERLY 266.99 FEET OF THE WESTERLY 466.99 FEET OF THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 2 WEST, SAN BERNADINO BASE AND MERIDIAN IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED NOVEMBER 19, 1880, DESCRIBED AS FOLLOWS.

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE ALONG THE WESTERLY LINE OF SAID SOUTHEAST QUARTER, SOUTH 00° 49' 00" WEST, 614.99 FEET TO THE MOST WESTERLY NORTHWEST CORNER OF LAND DESCRIBED IN DEED TO RUDOLPH WALTER MATZ, ET AL, RECORDED SEPTEMBER 13, 1956, IN BOOK 6255, PAGE 520 OF OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY OF SAID MATZ'S LAND AS FOLLOWS SOUTH 89° 08' 30" EAST, 733.99 FEET, AND NORTH 01° 07' 00" EAST, 615.00 FEET TO THE NORTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE ALONG THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER, NORTH 89° 08' 30" WEST TO THE POINT OF BEGINNING.

**APN 317-472-23**

PARCEL 2 OF PARCEL MAP NO. 9105, IN THE CITY OF POWAY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 3, 1979 AS FILE NO. 79-366067, OFFICIAL RECORDS.

**APN: 317-472-24**

PARCEL A:

THE SOUTHERLY 100.00 FEET OF THE NORTHERLY 315.00 FEET OF THE EASTERLY 133.495 FEET OF THE WESTERLY 466.99 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF.

PARCEL B:

AN EASEMENT FOR ROAD AND PUBLIC UTILITY PURPOSES, TO BE USED IN COMMON WITH OTHERS OVER, UNDER, ALONG, AND ACROSS A STRIP OF LAND 60.00 FEET IN WIDTH LYING WITHIN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, THE CENTER LINE OF SAID 60.00 FOOT STRIP BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF PARCEL 1 ABOVE; THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID PARCEL 1 AND THE NORTHERLY EXTENSION OF SAID WESTERLY LINE 265.00 FEET TO THE SOUTH LINE OF THE NORTH 50.00 FEET OF THE SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13.

EXCEPTING THEREFROM THAT PORTION INCLUDED WITHIN PARCEL A HEREINABOVE DESCRIBED.

PARCEL C:

AN EASEMENT FOR PUBLIC UTILITY PURPOSES OVER, UNDER, AND ACROSS THE SOUTHERLY 5.00 FEET OF THE NORTHERLY 315.00 FEET OF THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE ALONG THE WESTERLY LINE OF SAID SOUTHWEST QUARTER, SOUTH 00° 49' 00" WEST, 614.99 FEET TO THE MOST WESTERLY NORTHWEST CORNER OF LAND DESCRIBED IN DEED TO RUDOLPH WALTER MATZ, ET AL, RECORDED SEPTEMBER 13, 1956 IN BOOK 6255, PAGE 520 OF OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY OF SAID MATZ'S LAND AS FOLLOWS: SOUTH 89° 08' 30" EAST, 733.99 FEET, AND NORTH 01° 07' 00" EAST, 615.00 FEET TO THE NORTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE

ALONG THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER, NORTH 89° 08' 30" WEST TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE WESTERLY 466.99 FEET.

ALSO EXCEPTING THEREFROM THE EASTERLY 134.26 FEET.

PARCEL D:

THAT PORTION OF PARCEL 2, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS SHOWN AT PAGE 8847 OF PARCEL MAPS, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JUNE 21, 1979, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL 2; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 2 NORTH 89° 08' 30" WEST, 100.29 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 00° 51' 30" EAST, 0.40 FEET; THENCE PARALLEL WITH THE SOUTHERLY LINE OF SAID PARCEL 2, SOUTH 89° 08' 30" EAST, 19.80 FEET; THENCE SOUTH 88° 59' 58" EAST, 80.49 FEET TO THE EASTERLY LINE OF SAID PARCEL 2; THENCE ALONG SAID EASTERLY LINE SOUTH 00° 49' 00" WEST, 0.20 FEET TO THE POINT OF BEGINNING.

**APN: 317-472-25**

PARCEL A:

PARCEL 2, IN THE CITY OF POWAY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS SHOWN AT PAGE 8847 OF PARCEL MAPS, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JUNE 21, 1979.

EXCEPTING THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL 2; THENCE WESTERLY ALONG THE SOUTHERLY LINE THEREOF A DISTANCE OF 100.29 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 0° 51' 30" EAST A DISTANCE OF 0.40 FEET; THENCE SOUTH 89° 08' 30" EAST PARALLEL WITH SAID SOUTH LINE A DISTANCE OF 19.80 FEET; THENCE SOUTH 88° 59' 58" EAST 80.49 FEET TO THE INTERSECTION WITH THE EASTERLY LINE OF SAID PARCEL 2; THENCE SOUTHERLY ALONG SAID EASTERLY LINE A DISTANCE OF 0.20 FEET TO THE POINT OF BEGINNING.

PARCEL B:

AN EASEMENT FOR ROAD AND PUBLIC UTILITY PURPOSES OVER, UNDER, ALONG, AND ACROSS THE WESTERLY 30.00 FEET OF PARCEL 1, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS SHOWN AT PAGE 8847 OF PARCEL MAPS, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JUNE 21, 1979.



PARCEL C:

AN EASEMENT FOR ROAD AND PUBLIC UTILITY PURPOSES OVER, UNDER, ALONG, AND ACROSS A STRIP OF LAND 30.00 FEET IN WIDTH LYING WITHIN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, THE EASTERLY LINE OF SAID STRIP BEING THE MOST WESTERLY LINE OF PARCELS 1 AND 2 AS SHOWN AT PAGE 8847 OF PARCEL MAPS, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JUNE 21, 1979.

Section 4. Except as otherwise amended by this First Amendment, all other terms and conditions of the Agreement, shall remain in full force and effect.

***[Signatures on Following Page]***

**INWITNESS WHEREOF**, the parties hereto have caused this First Amendment to be executed the day and year first above written.

\_\_\_\_\_, 2018

CITY OF THE POWAY, a general law city and municipal corporation.

By: \_\_\_\_\_  
TINA M. WHITE  
City Manager

CITY OF POWAY HOUSING  
AUTHORITY, a public body corporate and politic

\_\_\_\_\_, 2018

By: \_\_\_\_\_  
TINA M. WHITE  
Executive Director

Meridian Communities, LLC a California  
Limited Liability Corporation

\_\_\_\_\_, 2018

By: \_\_\_\_\_  
Guy Asaro  
President and CEO

Sudberry Properties, Inc., a California  
Corporation

\_\_\_\_\_, 2018

By: \_\_\_\_\_  
Colton Sudberry  
President

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for Developer

\_\_\_\_\_  
Alan Fenstermacher  
City Attorney, City of Poway

ATTEST:

\_\_\_\_\_  
NANCY NEUFELD, CMC  
City Clerk



Attachment D  
Vicinity Map







# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
Resolution No.	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Robert Manis, Director of Development Services

**CONTACT:** Oda Audish, Associate Planner *ORA*  
858-668-4661 or [oudish@poway.org](mailto:oudish@poway.org)

**SUBJECT:** Environmental Assessment, Tentative Tract Map 17-003 and Development Review 18-003; Request for Approval to Subdivide a Vacant Parcel located at the Western Terminus of Danes Road and to Develop Seven Single-Family Residences

## Summary:

The Aria Estates subdivision project is a proposal to subdivide an approximately seven-acre vacant parcel located at the westerly terminus of Danes Road into seven residential lots and one open space lot. The residential lots will range in size from approximately 6,000 to 30,500 square feet along the easterly limit of the site and the 5.2-acre-open space lot will occupy the westerly two-thirds of the property. The project also includes the development of seven single-family homes ranging from approximately 2,860 to 3,725 square feet in size, grading and the construction of associated infrastructure in accordance with the City's General Plan. The project complies with all City standards.

## Recommended Action:

It is recommended that the City Council 1) adopt the Mitigated Negative Declaration (MND) pursuant to the Resolution included as Attachment A; and 2) approve Tentative Tract Map (TTM) 17-003 and Development Review (DR) 18-003 subject to the conditions of approval in the Resolution included as Attachment B.

## Discussion:

The project applicant and part owner is Mostafa Panah. The project site is an approximately seven-acre vacant parcel on the east side of Pomerado Road between Poway Road and Robison Boulevard. Access to the site is provided from Danes Road which terminates at the project site. The property is covered by two zones (split-zoned): Rural Residential A (RR-A) and Residential Single Family – 7 (RS-7). The RR-A zone covers most of the parcel, approximately 6.4 acres, and includes the steep slope facing Pomerado Road and a prominent knoll along the western portion of the site. The RS-7 zone, approximately one acre, covers a triangular shaped and relatively level portion of the site along the easterly property line. Both the knoll and more level areas of the property were impacted by some excavations when nearby home tracts were developed in the early 1960s and in connection with the widening of Pomerado Road. A Zoning and location map is included as Attachment C.

The project site is bordered by single-family residential development to the north and east. The senior multi-family residential complex, known as Brookview, is located to the west across Pomerado Road. Commercial development is located to the south.

#### TTM17-003

The applicant is proposing to subdivide the property into seven residential lots (Lots 1 – 7) and one open space lot (Lot B). The street within the subdivision that will extend from the western terminus of Danes Road is designated as Lot A on the TTM plans. The proposed subdivision map is included as Attachment D.

As mentioned the project site is split-zoned. Based on the average slope of the property, the density (number of housing units) and minimum lot size for the RR-A zone is one home per 8 acres. The RS-7 zone has a minimum lot size of 4,500 square feet and a maximum density of eight units per acre. Considering the complexity involved with the development of a split-zoned property, the applicant requested a Pre-Development Conference in 2016 to get preliminary input on a proposal to subdivide the property into eight residential lots. City Council input was sought on the potential maximum lot yield for this property and which setback regulations should be applied on a lot which straddles two zones.

The RR-A portion of the property is subject to Proposition FF, adopted by the Poway voters in 1988. Because the RR-A zoned portion does not meet the minimum lot size, the maximum number of units for the property is determined by the net area for the RS-7 portion of the property. The property yields seven lots because the street reduces the net acreage of the RS-7-zoned portion of the property. Any more units than the seven proposed would require a rezone of the RR-A portion of the property through a City-wide vote, pursuant to proposition FF.

Based on these regulations and the advisory, non-binding comments made by the City Council, the applicant has revised his proposal to a subdivision with seven residential lots and one open space lot.

The applicant's current proposal calls for creating seven residential lots ranging in size from 6,000 to 30,500 square feet along the easterly portion of the property which is primarily zoned RS-7. Lots 2 and 3 would be located entirely within the RS-7 zone while the remaining five lots would fall within both the RS-7 and RR-A zones. Consistent with comments made during the Pre-development Conference, all residential lots will contain at least 4,500 square feet of RS-7 zoned area which is the minimum lot size for the RS-7 zone. Lot sizes are listed below:

Lot Number	Lot Size (Sq. Ft.)	Portion of Lot within the RS-7 Zone (Min. 4,500 Sq. Ft.)
1	6,775	4,537
2	6,600	6,600
3	6,600	6,600
4	7,793	7,053
5	6,067	5,090
6	8,150	5,609
7	31,394	4,535
Lot A (Street)	21,235	
Lot B (Open Space)	226,896 (5.2 acres)	

The approximately 5.2-acre open space lot, which will cover the westerly portion of the property, will be privately owned and maintained by the Home Owner Association (HOA) for the subdivision. The applicant's main purpose of the open space lot is to leave the area in its natural state except for areas to be improved with landscaping along Pomerado Road and the street within the subdivision and stormwater treatment facilities. The applicant also envisions that the residents can use existing trails within the open space lot and other low-intensity recreational activities. For example, the HOA may want to build a common pool and pool house. A condition of approval in the draft Resolution requires that an open space easement be recorded over the open space lot, limiting the use of the open space easement to landscaping, stormwater treatment facilities, and low intensity recreational uses. It will require a Conditional Use Permit to be obtained for any development such as a common pool and pool house. The easement will not allow any further residential development.

Other components of the project are as follows:

- Grading for seven building pads, a private road, and storm water treatment facilities along the eastern portion of the lot to accommodate the future proposed home development.
- Construction of private road improvements with sidewalks and street lights;
- Installation of a public water line and fire hydrants;
- Establishment of privately maintained storm water treatment facilities;
- Recontouring the existing steep slope next to the sidewalk along Pomerado Road to create a useable planter area along the street. Installation of landscaping to improve the pedestrians experience and overall aesthetics of the site as seen from Pomerado Road. The landscaping will be located within the above-described open space lot and will be maintained by the Home Owner Association for the subdivision.
- Development of seven single-family homes (discussed below under DR 18-003).

The project will be served by the public water and sewer system. The proposed development of the homes is described below.

#### DR 18-003

The applicant proposes to construct a single-family home on each of the proposed seven residential lots. The proposed illustrated site plan, floor plan and elevations are included as Attachment E. The homes would range in size from approximately 2,860 to 3,725 square feet. Section 17.08.190 of the Poway Municipal Code provides standards for tract subdivision construction to provide a custom look for the individual homes and subdivision. The proposed project is consistent with these standards because the development includes a mix of setbacks, floor plans and exterior appearance.

The setback standards for the RS-7 zone have been applied to this development consistent with comments received at the 2016 Pre-Development Conference. The RS-7 setback standards are:

Front Setback	18 feet
Rear Setback	20 feet
Side (interior) Setback	5 feet
Side (street) Setback	10 feet

In addition, tract subdivision standards allow up to half of the lots to observe a 40 percent reduced front yard setback. Accordingly, the homes on Lots 2, 4, and 6 are encroaching up to 4.5 feet into the 18-foot required front yard setback. This provides for a varied street view appearance and allows homes on Lots 4 and 6 to be located as far away as possible from existing development to the east. The rear yard setback provided for the homes is at least 35 feet where 20 feet is the minimum required.

Three floor plans are provided. All proposed homes have two-story elements. While the tract subdivision construction standards call for at least one one-story floor plan, staff believes that the intent of this standard is met because the second story element of the proposed 3,725 square feet home on Lot 7 is limited to approximately 500 square feet and is set 20-feet back from the façade closest to the street.

There are three different versions of a Spanish architectural style. The exterior will be stucco with concrete or barrel tile roofs, wood trim and stone accent. The proposed color schemes of the homes are muted tan and gray tones with darker muted accent colors.

#### Neighborhood Meeting

Two Neighborhood Meetings have been held for the proposed project. The first meeting was held in January 2018 to discuss the proposed TTM. It should be noted that at the first meeting, the applicant had not submitted the DR application to construct the homes. The project at that time was only the subdivision of the property without the development of the homes. Approximately 35 individuals attended the meeting. An overview of the project was provided followed by an opportunity for questions to be asked.

Concerns were raised at the meeting about an increase in dust, noise and traffic generated during construction activities and an increase in long-term traffic from the seven new homes. Staff explained that disruptions to the neighborhood from construction activity would be temporary and that the project will adhere to the City's allowable hours for construction and will implement required dust control measures. Regarding the longer term, additional traffic from seven homes, staff explained that Danes Road (from which the project would take access) was designed to accommodate an extension for development on the project site and the additional daily trips that would be generated from this project will not be significant.

The neighbors, who will share property lines with Lots 4, 5, 6, and 7, expressed concerns about maintaining privacy after the lots have been developed because the building pads would be higher in elevation than their homes. They expressed concerns that future residents would have direct view into their homes from the backyards and houses within the proposed subdivision. The applicant at that time did not have any specific house plans but indicated that he would be willing to look for ways to address some of these concerns.

In follow-up the applicant evaluated the matter, met with staff, and submitted a Development Review (DR) application proposing a tract home development for all the seven lots as described above.

Subsequently, a second Neighborhood Meeting was held in June 2018 which was attended by approximately 18 individuals. The applicant explained that the houses will be placed as far west,

away from the shared property line as zoning setbacks would allow. The DR plans also showed a solid fence and dense vegetation to be installed along the shared property line. The applicant indicated a willingness to work with the neighbors in the selection of trees along the shared property line to reduce the potential for creating a nuisance with leaves falling into existing nearby pools. To illustrate the sight angles from lots with the greatest privacy concern, the DR included cross sections from the proposed homes and backyards of Lots 4, 5 and 6 into the neighboring properties (Attachment F). The neighbors appeared to appreciate the applicant's effort to reduce overview into their properties and otherwise address their concerns.

### **Environmental Review:**

As required under the California Environmental Quality Act (CEQA), an Environmental Initial Study (EIS) was completed for the project, which determined that the project may have a significant effect on the environment in the area of Biological and Cultural Resources. Mitigation measures, however, have been incorporated into the project to reduce all the potential impacts to a level less than significant. A Mitigated Negative Declaration (MND) has been prepared, and after analyzing all of the project's potential impacts, the MND concludes that after mitigation, all of the project's impacts – including impacts on biological and cultural resources – will be reduced to a less than significant level. Staff recommends that the City Council adopt the MND and approve the project because there is no substantial evidence in the record that would support a fair argument that the project will result in any significant impacts on the environment. Biological and cultural resources are discussed in more detail below.

### **Biological Resources**

The subject site is vacant, characterized by a prominent knoll along the westerly 2/3 of the property that is covered in Diegan Coastal Sage Scrub and rises 80-100 feet in elevation above the surrounding development. The relatively level easterly 1/3 of the property is also partly covered in Diegan Coastal Sage Scrub. The site supports natural habitat communities but is not located within the Mitigation Area of the Poway Subarea Habitat Conservation Plan (HCP). A Biological Report was prepared for the project where compliance with the HCP is demonstrated and project impacts/mitigation are specified. Overall, the project will impact 0.9 acres of natural habitat consisting of Diegan Coastal Sage Scrub. The total habitat impact is associated with development of the seven residences, which includes the building pads and driveways, manufactured slopes, as well as the project road and other project infrastructure. The habitat impact mitigation requirement is 0.9 acres (1:1 ratio). Since the project site is located outside the HCP-designated Mitigation Area, the mitigation requirement will be achieved by recordation of an off-site Biological Conservation Easement (BCE) over 0.9 acres of similar habitat located within the Mitigation Area of the Poway HCP or through payment into the City's Habitat In-Lieu Fee account. The current rate is \$17,000 per acre. The City will use these funds to purchase habitat land within the Mitigation Area for preservation. Other standard biological mitigation measures are proposed. All of the above-referenced mitigation measures have been incorporated into the MND and will be enforced through the Mitigation Monitoring Program (MMP).

### **Cultural Resources**

According to the Prehistoric and Historic Resources Element of the Poway General Plan, the project site is in an area with a moderate probability that archeological resources are present. A



Cultural Resources Study was conducted for the project. The study and site survey did not result in the identification of any historic or prehistoric resources on site. However, based on the moderate frequency of prehistoric and archaeological sites surrounding the project area and the potential to encounter buried or masked archaeological resources during grading, archaeological monitoring is recommended. All of the above-referenced mitigation measures have been incorporated into the MND and will be enforced through the MMP.

The EIS, MND, and MMP are included as Exhibit A of Attachment A. Notice of the availability of the EIS and proposed MND for public review and comment was provided pursuant to the requirements of CEQA. As of the writing of this report, no comments on the EIS and proposed MND have been received. Any comments that are received will be provided to City Council prior to the public hearing on this matter.

**Fiscal Impact:**

None.

**Public Notification:**

A public notice was published in the *Poway News Chieftain*, mailed to property owners and occupants located within 500 feet of the project site, and to those who provided their mailing address at the Neighborhood Meeting.

**Attachments:**

- A. Resolution adopting MND
- B. Resolution approving TTM
- C. Zoning and Location Map
- D. Proposed TTM
- E. Proposed DR (Illustrated site plan, sample floor plan and sample elevations)
- F. Proposed cross sections

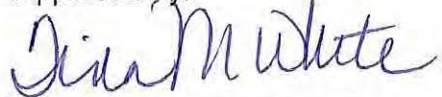
Reviewed/Approved By:

\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

Reviewed By:

\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

Approved By:

  
\_\_\_\_\_  
Tina M. White  
City Manager

RESOLUTION NO. P-18-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
POWAY, CALIFORNIA ADOPTING A MITIGATED NEGATIVE  
DECLARATION FOR TENTATIVE TRACT MAP 17-003 AND  
DEVELOPMENT REVIEW 18-003 ASSESSOR  
PARCEL NUMBER 317-534-20

WHEREAS, a request for a Tentative Tract Map (TTM 17-003) and Development Review (DR) 18-003 to subdivide an approximate seven-acre vacant parcel located at the westerly terminus of Danes Road, in the Rural Residential A (RR-A) and Single-Family Residential - 7 (RS-7) zones, into seven residential lots and an open space lot and construct seven single-family homes, one on each of the new residential lots, along with associated grading and improvements were submitted by Mostafa Panah, Applicant, and Mostafa K & Roxana Panah and Navak LLC, Owner; and

WHEREAS, on September 18, 2018, the City Council held a duly advertised public hearing to receive testimony from the public, both for and against, relative to this matter.

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

Section 1: In accordance with the requirements of the California Environmental Quality Act (CEQA) an Environmental Initial Study (EIS) and a proposed Mitigated Negative Declaration (MND), attached as Exhibit A, have been prepared for the project. The City Council has considered the EIS, MND and associated Mitigation Monitoring Program, and public comments received on the EIS and MND. The subject EIS and MND documentation are fully incorporated herein by this reference. The City Council finds, on the basis of the whole record before it, that there is no substantial evidence supporting a fair argument that the project will have a significant impact on the environment, that the mitigation measures contained in the EIS included as Attachment 1 of the attached Exhibit A hereof (and imposed by the MND and the associated Mitigation Monitoring Program (MMP)) will mitigate all potentially significant impacts to a less than significant level, and that the EIS and MND reflect the independent judgment and analysis of the City. The City Council hereby adopts the MND and the associated MMP attached to this Resolution as Attachment 2 of Exhibit A.

Section 2: The site supports natural habitat communities but is not located within the Mitigation Area of the Poway Subarea Habitat Conservation Plan (HCP). A Biological Report (updated, October 2017) was prepared for the project by Cummings and Associates. In the report, the project's compliance with the HCP is demonstrated and project impacts/mitigation are specified. Overall, the project will impact 0.9 acres of natural habitat consisting of Diegan Coastal Sage Scrub. The habitat impact mitigation requirement is 0.9 acres. The total habitat impact is associated with development of the seven residences, which includes the building pads and driveways, manufactured slopes, as well as the project road and other project infrastructure. Since the project site is located outside the HCP-designated Mitigation Area, the mitigation requirement will be achieved by recordation of an off-site Biological Conservation Easement (BCE) over 0.9 acres of similar habitat located within the Mitigation Area of the Poway HCP or through payment into the City's Habitat In-Lieu Fee account. The current rate is \$17,000 per acre. The City will use these funds to purchase habitat land within the Mitigation Area for preservation. Further, as set forth in the EIS and MND, all impacts on biological resources will be less than significant after



implementation of the mitigation measures required by the EIS, MND and MMP attached hereto as Exhibit A

The proposed project complies with the HCP and the HCP Implementing Agreement. In accordance with the HCP, the required findings for approval of the proposed mitigation for the removal of natural habitat for the project are as follows:

- A. The mitigation as outlined in Section 2 above is consistent with and furthers the implementing objectives of the HCP, since mitigation will consist of the applicant recording an off-site BCE within the Mitigation Area or paying into the City's habitat impact in-lieu account for off-site habitat preservation within the Mitigation Area.
- B. The off-site habitat mitigation within the Mitigation Area will enhance the long-term viability and function of the reserve system.
- C. The mitigation will be to the long-term benefit of the covered species and their habitats in that an off-site BCE within the Mitigation Area will be recorded, or a habitat impact in-lieu fee will be paid to the City which will be used towards purchasing habitat land within the Mitigation Area for preservation. Said land will promote a meaningful addition to the assembly of a viable regional system of interconnected natural habitat resources, habitat linkages, buffers, and wildlife corridors.
- D. The mitigation will foster the incremental implementation of the HCP in an effective and efficient manner in that the mitigation will result in conserving habitat land within an identified Mitigation Area within the City.
- E. The mitigation will not result in a negative fiscal impact with regard to the successful implementation of the HCP.

Section 3: According to the Prehistoric and Historic Resources Element of the Poway General Plan, the project site is located in an area with a moderate probability that archeological resources are present (Poway 2002). A Cultural Resources Study was conducted for the project by Brian Smith and Associates (dated May 2016). The study and site survey did not result in the identification of any historic or prehistoric resources on site. However, based on the moderate frequency of prehistoric archaeological site surrounding the project area and the potential to encounter buried or masked archaeological resources during grading, archaeological monitoring is recommended. As set forth in the EIS and MND, all impacts on cultural and historic resources will be less than significant after implementation of the mitigation measures required by the EIS, MND and MMP attached hereto as Exhibit A.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Poway, California, at a regular meeting this 18th day of September 2018.

\_\_\_\_\_  
Steve Vaus, Mayor

ATTEST:

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk

STATE OF CALIFORNIA     )  
  ) ss  
COUNTY OF SAN DIEGO    )

I, Nancy Neufeld, City Clerk, of the City of Poway, California, do hereby certify under penalty of perjury that the foregoing Resolution No. 18-P-        was duly adopted by the City Council at a meeting of said City Council held on the 18th day of September 2018, and that it was so adopted by the following vote:

AYES:

NOES:

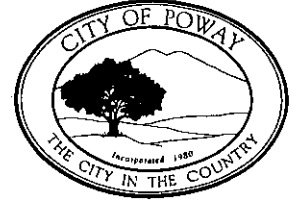
ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk  
City of Poway

STEVE VAUS, Mayor  
JOHN MULLIN, Deputy Mayor  
JIM CUNNINGHAM, Councilmember  
DAVE GROSCHE, Councilmember  
BARRY LEONARD, Councilmember

# CITY OF POWAY



## EXHIBIT A

### CITY OF POWAY MITIGATED NEGATIVE DECLARATION

1. Name and Address of Applicant: Mostafa Panah,  
P.O. Box 5000 – PMB 502, Rancho Santa Fe, CA 92067
2. Project Name and Brief Description of Project: The project is a proposed subdivision of an approximately seven-acre parcel which would result in seven residential lots, one open space lot and the construction of seven single-family homes, one on each of the new residential lots. The project site is a vacant parcel located at the eastern terminus of Danes Road in the Rural Residential-A (RR-A) and Residential Single-Family - 7 (RS-7) zones. The project site borders Pomerado Road to the west. The homes will be located along the easterly portion of the project site on lots ranging in size from 6,000 to 30,500 square feet. The westerly approximate 2/3 of the site consisting primarily of a knoll and natural vegetation would be placed in a private open space lot owned by the subdivision Home Owner Association.
3. In accordance with Resolution 83-084 of the City of Poway, implementing the California Environmental Quality Act of 1970, the City of Poway City Council has found that the above project will not have a significant effect upon the environment and has approved a Mitigated Negative Declaration. An Environmental Impact Report will not be required.
4. This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the Initial Study and Checklist and the approved Mitigation Monitoring Program containing the mitigation measures approved for this project.
5. The decision of the City Council of the City of Poway is final.

Contact Person: Oda Audish Phone: (858) 668- 4661

Attachments:

Environmental Initial Study  
Mitigation Monitoring Program

## ATTACHMENT 1

### CITY OF POWAY ENVIRONMENTAL INITIAL STUDY AND CHECKLIST

#### A. INTRODUCTION

This Environmental Initial Study and Checklist, along with information contained in the public record, comprise the environmental documentation for the proposed project as described below pursuant to the requirements of the California Environmental Quality Act (CEQA). Based upon the information contained herein and in the public record, the City of Poway has prepared Mitigated/Negative Declaration for the proposed project.

#### B. PROJECT INFORMATION

1. Project Title: Tentative Tract Map (TTM) 17-003 and Development Review (DR) 18-003:  
Aria Estates
2. Lead Agency Name and Address: City of Poway, Development Services  
13325 Civic Center Drive, Poway, CA 92064
3. Contact Person and Phone Number: Oda Audish (858) 668-4661
4. Project Location: Westerly Terminus of Danes Road, City of Poway APN 317-534-20
5. Project Sponsor's Name and Address: Mostafa Panah, P.O. Box 5000 – PMB 502  
Rancho Santa Fe, CA 92067
6. General Plan Designation: Rural Residential-A and Residential Single-Family - 7
7. Zoning Rural Residential-A and Residential Single-Family - 7
8. Description of Project: (Describe the whole action involved, including, but not limited to, later phases of the project, and any secondary, support, or offsite features necessary for its implementation. Attach additional sheets if necessary).

The property owner is proposing an eight-lot subdivision consisting of seven residential lots and one open space lot and the construction of seven single-family homes, one on each of the new residential lots. The project site is a vacant approximately seven-acre parcel located at the terminus of Danes Road. The westerly approximate 2/3 of the property consists primarily of a large knoll that is covered in Diegan Coastal Sage Scrub and rises 80-100 feet in elevation above the surrounding development. The easterly 1/3 of the property is relatively level terrain, partly due to excavation in the early 1960s when nearby home tracts were developed. A portion of the more level area is covered by Diegan Coastal Sage Scrub but most of the area has been disturbed due to the aforementioned excavation.

The proposed residential lots would be created within the easterly, more level portion of the property. The lots would range in size from approximately 6,000 to 30,500 square feet and the proposed homes would range in size from approximately 2,860 to 3,725 square feet. The proposed 5.2-acre open space lot would consist of the knoll and would serve as a passive recreational area for the subdivision.

The proposed subdivision would be accessed through the existing residential neighborhood to the east via a public street (Danes Road) that terminates at the easterly boundary of the project site. A private road connecting to Danes Road would be constructed to serve each of the new lots.

9. Surrounding Land Uses and Setting: The project site is located in an urban setting surrounded by existing development and borders Pomerado Road, a major arterial, to the west. The property is bordered by single-family residential to the north and east. A senior multi-family residential complex is located to the west across the street on Pomerado Road. Commercial development is located to the south.
10. Other public agencies whose approval is required (e.g.: permits, financing approval, or participation agreement): None
11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1 Yes If so, has consultation begun? Yes

NOTE: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

**Environmental Factors Potentially Affected:** The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input type="checkbox"/> Aesthetics <input checked="" type="checkbox"/> Biological Resource <input type="checkbox"/> Greenhouse Gas Emissions <input type="checkbox"/> Land Use and Planning <input type="checkbox"/> Population and Housing <input type="checkbox"/> Transportation/Traffic <input type="checkbox"/> Mandatory Findings of Significance	<input type="checkbox"/> Agricultural /Forestry Resources <input checked="" type="checkbox"/> Cultural Resources <input type="checkbox"/> Hazards/Hazardous Materials <input type="checkbox"/> Mineral Resources <input type="checkbox"/> Public Services <input type="checkbox"/> Tribal Cultural Resources	<input type="checkbox"/> Air Quality <input type="checkbox"/> Geology /Soils <input type="checkbox"/> Hydrology / Water Quality <input type="checkbox"/> Noise <input type="checkbox"/> Recreation <input type="checkbox"/> Utilities and Service Systems
--	---	--

**Determination (To be completed by the Lead Agency):**

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment and a NEGATIVE DECLARATION will be prepared.	<input type="checkbox"/>
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case as revisions in the project have been made by or agreed to by the project proponent and/or mitigation has been agreed to. A MITIGATED NEGATIVE DECLARATION will be prepared.	<input checked="" type="checkbox"/>
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	<input type="checkbox"/>
I find that the proposed MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	<input type="checkbox"/>
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	<input type="checkbox"/>

Oda Audish  
City of Poway

August 23, 2018  
Date

**C. EIS and Checklist**

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
<b>I. AESTHETICS. Would the project:</b>				
a. Have a substantial adverse effect on a scenic vista?			X	
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c. Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
<b>II. AGRICULTURAL AND FORESTRY RESOURCES.</b>				
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
a. Convert prime farmland, unique farmland, or farmland of statewide importance (farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X
d. Result in the loss of forest land or conversion of forest land to non-forest land?				X
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use or conversion of forest land to non-forest use?				X
<b>III. AIR QUALITY.</b> Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?				X
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable				X



ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				
d. Expose sensitive receptors to substantial pollutant concentrations?			X	
e. Create objectionable odors affecting a substantial number of people?				X
<b>IV. BIOLOGICAL RESOURCES.</b> Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X		
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X		
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?		X		
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?				X
<b>V. CULTURAL RESOURCES.</b> Would the Project:				
a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?		X		
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d. Disturb any human remains, including those interred outside of dedicated cemeteries?		X		
<b>VI. GEOLOGY AND SOILS.</b> Would the project:				
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b. Result in substantial soil erosion or the loss of topsoil?			X	

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risk to life or property?				X
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X
<b>VII. GREENHOUSE GAS EMISSIONS.</b> Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X	
<b>VII. HAZARDS AND HAZARDOUS MATERIALS.</b> Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b. Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?				X

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working within the project area				X
f. For a project in the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?				X
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
<b>IX. HYDROLOGY AND WATER QUALITY. Would the project:</b>				
a. Violate any water quality standards or waste discharge requirements?			X	
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level, which would not support existing land uses or planned uses for which permits have been granted.				X

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or offsite?			X	
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?			X	
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of pollute runoff?			X	
f. Otherwise substantially degrade water quality?			X	
g. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i. Exposing people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j. Inundation by seiche, tsunami, or mudflow?				X
<b>X. LAND USE AND PLANNING.</b> Would the project:				
a. Physically divide an established community?				X
b. Conflict with applicable land use plan, policy, or regulation of an				X

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				
c. Conflict with any applicable habitat conservation plan or natural community conservation plan.				X
<b>XI. MINERAL RESOURCES.</b> Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?				X
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
<b>XII. NOISE.</b> Would the project result in:				
a. Exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b. Exposure of persons to, or generation of, excessive ground borne vibration or ground borne noise levels?			X	
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two				X

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
<b>XIII. POPULATION AND HOUSING.</b> Would the project:				
a. Induce substantial growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
<b>XIV. PUBLIC SERVICES.</b>				
a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services.				X
i. Fire protection?				X
ii. Police protection?				X
iii. Schools?				X

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
iv. Parks?				X
v. Other public facilities?				X
<b>XV. RECREATION.</b>				
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
a. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
<b>XVI. TRANSPORTATION / TRAFFIC</b> Would the project:				
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel, and relevant components of the circulation system, including, but not limited to, intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				X
b. Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				X
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d. Substantially increase hazards due to a design feature (e.g.: sharp curves				X



ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
or dangerous intersections) or incompatible uses (e.g.: farm equipment)?				
e. Result in inadequate emergency access?				X
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?				X
<b>XVII. TRIBAL CULTURAL RESOURCES</b> Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or				X
b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.				X

ISSUE	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
<b>XVIII. UTILITIES AND SERVICE SYSTEMS.</b> Would the project:				
a. Exceed wastewater treatment requirements of the applicable <u>Regional Water Quality Control Board</u> ?				X
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e. Result in the determination by the wastewater treatment provider, which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g. Comply with federal, state and local statutes and regulations related to solid waste?				X

XIX. MANDATORY FINDINGS OF SIGNIFICANCE				
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples or the major periods of California history or prehistory?		X		
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulative considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X
c. Does the project have environmental effects which will cause substantial adverse effects on human beings either directly or indirectly?			X	

**D. DISCUSSION OF ENVIRONMENTAL EVALUATION**

Please refer to the Environmental Initial Study Checklist Form above when reading the following evaluation.

**I. AESTHETICS**

- a) **Less Than Significant Impact.** The project site is undeveloped and contains a substantial knoll that is visible from the surrounding lower lying areas. The majority of the knoll is covered in Diegan Coastal Scrub. The base of the natural knoll formation, however, has previously been disturbed/modified in connection with the widening of Pomerado Road, a major arterial, to the west and in connection with the development of the surrounding residential subdivisions to the north and east. The previously disturbed areas have minimal aesthetic value. The home development would be concentrated along the existing disturbed areas along the east side of the knoll and would include landscaping similar to existing landscaping within the adjacent residential neighborhood. The proposed approximately 5.2-acre open space lot along the west side of the property would cover over 2/3 of the site and would encompass the majority of the knoll. The applicant proposes to retain the existing topography and vegetation within the open space lot except for

recontouring the existing slopes along Pomerado Road to allow for landscaping to be added and thereby improve the street scape appearance. Impacts are considered to be less than significant.

- b) **No Impact.** There are no State scenic highways in the area. No impact would occur.
- c) **Less Than Significant Impact.** See response I.a.
- d) **No Impact.** The project will result in new lighting associated with single-family uses that will be similar in nature to the lighting in the surrounding area. No impact would occur.

## II. AGRICULTURE AND FOREST RESOURCES

- a) **No Impact.** The project site is currently vacant with approximately half of the site in a natural state and the other half disturbed as a result of the construction of the adjacent Pomerado Road or the surrounding residential tract home development. The site is not identified as important farmland. Thus, the project would not result in the conversion of Prime Farmland, Unique Farmland or Farm-land of Statewide Importance to non-agricultural uses. No impact would occur.
- b) **No Impact.** The project site is not being used for agricultural production and does not contain Williamson Act contract land. No impact would occur.
- c) **No Impact.** The project site does not contain, and is not zoned for, forest land, timberland or timberland zoned Timberland Production. No impact would occur.
- d) **No Impact.** As stated in response II.c, the project site is not located in an area containing forest land. Accordingly, the project would not convert any forest land to non-forest use, and no impact would occur.
- e) **No Impact.** The project would not directly impact agriculture or forest lands, nor introduce new elements into the landscape that would contribute to future conversion of agricultural use to non-agricultural use or forest land to non-forest use. No impact would occur.

## III. AIR QUALITY

- a) **No Impact.** The City of Poway is part of the San Diego Air Basin and air quality in the area is administered by the San Diego County Air Pollution Control District (APCD). An air quality management plan (AQMP) describes air pollution control strategies to be taken by a City, County or region classified as a non-attainment area to meet the Clean Air Act (CAA) requirements. The main purpose of an AQMP is to bring the area into compliance with the requirements of federal and state air quality standards, and to coordinate regional and local governmental agencies to achieve air quality improvement goals. A San Diego Regional Air Quality Strategies Plan – 1994 (jointly developed by the Air Pollution Control District and the San Diego Association of Governments-SANDAG) exists for the San Diego area and provides strategies for pollution control to improve air quality in the region. Land use plans and build out projections of the General Plans of jurisdictions within the San Diego area were considered in establishing the strategies of the Regional Air Quality Strategies Plan. The Poway General Plan includes strategies that are directed toward reducing air emissions through land use patterns, transportation planning, regional

- agency cooperation, energy conservation, and construction. The project is consistent with the Poway General Plan strategies, in that the General Plan envisioned this type of development on the project site, therefore it is also consistent with the San Diego Regional Air Quality Strategies Plan. There will be no impacts.
- b) **No Impact.** See response II.a above.
  - c) **No Impact.** See response II.a above.
  - d) **Less Than Significant.** Grading of the project will likely result in the creation of dust and can affect the surrounding residential area. Standard City requirements include implementation of dust control measures and the operations are subject to San Diego Air Pollution Control District standards. Impacts will be less than significant.
  - e) **No Impact.** The project will not result in the creation of objectionable odor. No impact would occur.

#### IV. BIOLOGICAL RESOURCES

- a) **Potentially Significant Unless Mitigation Incorporated.** The subject site is vacant, characterized by moderate to steep topography, and with a majority of the site in an undeveloped, natural condition. The site supports 4.8-acres of Diegan Coastal Sage Scrub (DCSS) but it is not eligible for on-site mitigation because it is not located within the Mitigation Area of the Poway Subarea Habitat Conservation Plan (HCP). A Biological Report (updated, October 5, 2017) was prepared for the project by Cummings and Associates. In the report, the project's compliance with the HCP is demonstrated and project impacts/mitigation are specified. Overall, the project will impact 0.9 acres of DCSS. The habitat impact is associated with development of the seven residences, which includes the building pads and driveways, manufactured slopes, landscaping, and the project road. Given the disturbed nature of the in-fill parcel and that no sensitive species were found within the habitat area, the habitat impact mitigation requirement is 1:1 ratio or 0.9 acres. The applicant has the option to mitigate the habitat impact by recording an off-site Biological Conservation Easement within the HCP-designated Mitigation Area or paying into the City's habitat impact in-lieu fee fund as described further below. The project will include establishing an open space lot along the western portion of the site which would include 3.9-acres of DCSS habitat remaining on site. The site also supports three coast live oaks which would be preserved since the project has been designed to avoid grading impacts to these trees. Project impacts will be less than significant with incorporation of the following Mitigation Measures:
  - 1. Prior to approval of Final Map, Grading Permit or Administrative Clearing Permit, whichever occurs first, the applicant shall mitigate impacts to natural habitat as specified in the project Biological Report on file with the City. The mitigation requirement will be achieved by recordation of an off-site Biological Conservation Easement over 0.9 acres of similar habitat located within the Mitigation Area of the Poway Subarea HCP or through payment into the City's Habitat In-Lieu Fee account. The current rate is \$17,000 per acre. If an off-site easement is the selected mitigation method, a legal description and plat of the BCE area shall be prepared and stamped by the project engineer and submitted to the Planning and Engineering Divisions for review. Easement review fees are required and are the responsibility of the applicant.

The BCE shall be approved by the City Attorney and shall be notarized and recorded with the County of San Diego. In compliance with the HCP, the City shall subsequently re-zone the mitigation land to Open Space-Resource Management to ensure its permanent preservation. The BCE limits shall be shown on the grading plan and on the Final Map. The applicant shall be responsible for installing City-issued signs to be posted on the site identifying the limits of the BCE upon establishment of the BCE.

2. In accordance with Condition H of the Poway HCP Incidental Take Permit, a take of active California gnatcatcher nests, which includes harassment of the bird due to grading noise and vibrations from February 15 through July 1, is not permitted. Therefore, grading and removal of habitat during this time frame will only be permitted subject to the following conditions having been met to the satisfaction of the Director of Development Services.

The applicant is hereby advised that, during grading, if active nests are found within 500 feet of the grading, the grading activity shall be stopped until such time as mitigation measures, to the satisfaction of the City and the United States Fish and Wildlife Service (USFWS,) are implemented. There is no guarantee that grading will be allowed to resume during nesting season.

Before issuance of a Clearing/Grading Permit, if grading or clearing is to occur between February 15 and July 1, the applicant shall provide to the Planning Division a letter from a qualified biologist retained by the applicant, with a scope of work for a CSS habitat and Gnatcatcher Survey, and a report for the area to be cleared and/or graded and CSS habitat areas within 500 feet of such area. The biologist shall contact the USFWS to determine the appropriate survey methodology. The purpose of the survey is to determine if any active gnatcatcher nests are located in the area to be cleared or graded, or in CSS habitat within 500 feet of such area. To be considered qualified, the biologist must provide the City with a copy of a valid Gnatcatcher Recovery Permit from the USFWS.

The scope of work shall explain the survey methodology for the biological survey and the proposed gnatcatcher nest monitoring activities during the clearing/grading operation. Should the report show, to the satisfaction of the Director of Development Services, that gnatcatcher nests are not present within the area to be graded/cleared, or within CSS habitat located within 500 feet of said area, approval may be granted to commence clearing/grading within the gnatcatcher nesting season from February 15 through July 1.

If gnatcatchers are nesting within the area to be graded/cleared, or within CSS habitat located within 500 feet of said area, no grading will be allowed during this time until such time as mitigation measures, to the satisfaction of the City and the USFWS are implemented.

The biologist must attend the City's pre-construction meeting for the project and must be present onsite during all clearing/grading activities to monitor that the clearing/grading activities stay within the designated limits. During this period, the biologist shall also monitor and survey the habitat within the area to be cleared/graded and any habitat within 500 feet of said area for any evidence that a gnatcatcher nest(s) exists or is being built. Weekly monitoring summaries shall be submitted to the

Planning Division. Should evidence of a gnatcatcher nest(s) be discovered, the grading operation shall cease in that area and be directed away from the gnatcatcher nest(s) to a location greater than 500 feet away from the nest(s).

If grading is required to stop due to the presence of active nests, the applicant shall be required to provide erosion control, to the satisfaction of the City Engineer. This paragraph must be included as a note on the cover sheet of the clearing/grading plan.

At a minimum, all protected biological areas, as shown on the grading plan, shall be staked by a licensed surveyor and delineated with lathe and ribbon. The applicant shall have said staking inspected by the Engineering Inspector prior to any grading, clearing or grubbing. A written certification from the engineer of work, or a licensed surveyor, shall be provided to the Engineering Inspector stating that all protected areas are staked in accordance with the approved project plans.

The biologist shall provide the City with written confirmation that the limits of clearing/grading are in accordance with the project's Biological Resource Assessment.

Upon completion of the clearing/grading activities, the applicant's biologist shall submit to the Director of Development Services a biological monitoring report summarizing the observations of the biologist, including whether any gnatcatchers or evidence of active gnatcatcher nests were present during clearing and grading activities within the area and any habitat within 500 feet of said area

- b) **Potentially Significant Unless Mitigation Incorporated.** See response IV.a.
- c) **No Impact.** The project site does not support any wetlands, nor would the project propose any activity that could result in substantially adverse effects on wetlands. No impact will occur.
- d) **Potentially Significant Unless Mitigation Incorporated.** See response IV.a.
- e) **No Impact.** The project has been designed in compliance with all standards and mitigation requirements specified in the Poway HCP. No impacts will occur.
- f) **No Impact.** See response IV.e.

#### V. CULTURAL RESOURCES

- a) **No Impact.** According to the Prehistoric and Historic Resources Element of the Poway General Plan, the project site is located in an area with a moderate probability that historic sites are present (Poway 2002). The site is not on the City's list of historic sites and structures. No impact would occur.
- c) **Potentially Significant Unless Mitigation Incorporated.** According to the Prehistoric and Historic Resources Element of the Poway General Plan, the project site is located in an area with a moderate probability that archeological resources are present (Poway 2002). A Cultural Resources Study was conducted for the project by Brian Smith and Associates (dated May 2016). The study and site survey did not result in the identification of any historic or prehistoric resources on site. Based on the moderate frequency of prehistoric archaeological site surrounding the project area and the potential to encounter

buried or masked archaeological resources during grading, archaeological monitoring is recommended. Impacts will be less than significant with incorporation of the following Mitigation Measures:

1. Prior to issuance of a grading permit, the applicant shall provide written verification that a qualified archaeologist has been retained to implement the monitoring program. This verification shall be presented in a letter from the project archaeologist to the lead agency.
2. The certified archaeologist shall attend the pre-grading meeting with the contractors to explain and coordinate the requirements of the monitoring program.
3. The consulting archaeologist shall direct the field monitor during the initial brushing of the parcel and any grading of the upper levels of soils disturbance of all areas identified for development.
4. During the original cutting of previously undisturbed deposits, the archaeological monitor shall be on-site, as determined by the consulting archaeologist, to perform inspections of the excavations. The frequency of inspections may vary from full time to part time depending upon the rate of excavation, the materials excavated, exposure of formational soils and bedrock, and the presence and abundance of artifacts and features.
5. Isolates and clearly non-significant deposits will be minimally documented in the field, so the monitored grading can proceed.
6. In the event that unidentified historic resources are discovered, the archaeologist shall have the authority to divert or temporarily halt ground-disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. The archaeologist shall contact the lead agency at the time of discovery. The archaeologist, in consultation with the lead agency, shall determine the significance of the discovered resources. The lead agency must concur with the evaluation before construction activities will be allowed to resume in the affected area. For significant cultural resources that are discovered, and which will be destroyed by grading, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the consulting archaeologist and approved by the lead agency before being carried out using professional archaeological methods. If any human bones are discovered, all grading at that location must stop and the county coroner and lead agency shall be contacted. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the NAHC, shall be contacted in order to determine proper treatment and disposition of the remains.
7. Before construction activities are allowed to resume in the location of any discovered significant cultural deposits, the artifacts shall be recovered, and features recorded using professional archaeological methods. The archaeological monitor(s) shall determine the amount of material to be recovered for an adequate artifact sample for analysis.



8. All cultural material collected during the grading monitoring program shall be processed and curated according to the current professional repository standards. The collections and associated records shall be transferred, including title, to an appropriate curation facility, to be accompanied by payment of the fees necessary for permanent curation.
  9. A report documenting the field and analysis results and interpreting the artifact and research data within the research context shall be completed and submitted to the satisfaction of the lead agency prior to the issuance of any building permits. The report will include DPR Primary and Archaeological Site Forms.
- c) **No Impact.** The project does not propose any significant ground excavation activities that could affect potentially present and unknown paleontological resources or unique geologic features. Grading primarily consists of imported material for home pad development. No impact would occur.
- d) **Potentially Significant Unless Mitigation Incorporated.** See response V.b above.

## VI. GEOLOGY/SOILS

- a) i. **Less Than Significant Impact.** No active known faults traverse the project site or are near the site. The nearest known fault is an unnamed fault located approximately three miles west of the project site. Murphy Canyon Fault is the nearest main southern California fault, located approximately ten miles southwest of the project site. Three major fault systems within the project vicinity include the Elsinore, San Jacinto and Rose Canyon faults. The active Elsinore fault trends northwest and is about 22 miles northeast of Poway. The San Jacinto fault is also an active northwest-trending fault about 45 miles northeast of Poway. The Rose Canyon fault is located about 16 to 20 miles west of Poway in the Pacific Ocean and is considered potentially active. There is potential for some local damage in the event of a major earthquake along one of these fault systems which could result in significant impacts to project facilities. While the potential for onsite rupture cannot be completely discounted (e.g. unmapped faults could conceivably underlie the site), the likelihood for such an occurrence is considered low due to the absence of known faulting within or adjacent to the site. As a result, impacts related to fault rupture are assessed as less than significant.
- a) ii. **Less Than Significant Impact.** The project site is located in seismically active southern California and is likely to be subjected to moderate to strong seismic ground shaking. Seismic shaking at the site could be generated by events on any number of known active and potentially active faults in the region, including several unnamed faults, larger faults such as Murphy Canyon Fault, and major fault systems such as Elsinore, San Jacinto and Rose Canyon. An earthquake along any of these known active fault zones could result in severe ground shaking and consequently cause injury and/or property damage in the project vicinity. This could potentially result in significant impacts to project facilities. The buildings will be designed and constructed to incorporate measures to accommodate projected seismic loading in compliance with current construction codes. These codes are produced through joint efforts by industry groups to provide standard specifications for engineering and construction activities. They are widely accepted by regulatory authorities and are regularly included in related standards such as municipal building and grading codes, and they include measures to accommodate seismic loading parameters. The buildings will be designed and constructed to accommodate projected seismic loading,

pursuant to these existing guidelines. Accordingly, potential impacts associated with strong seismic ground shaking would be less than significant.

- a) iii. **No Impact.** No impacts resulting from seismically related ground failure would occur.
- a) iv **No Impact.** The project site is not underlain by formations identified as susceptible to seismically induced landslides. No impact is identified.
- b) **Less Than Significant Impact.** Grading activities will comply with City requirements, including implementation of standard erosion control measures, and will not result in substantial soil erosion or the loss of topsoil. Impacts are less than significant.
- c) **No Impact.** The project site is not located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project. Any fill materials will be compacted in compliance with City standards and inspected for adequacy before the issuance of any building permits. No impact would occur.
- d) **No Impact.** Expansive soils change in volume (shrink or swell) due to changes in moisture content of the soil. The buildings will be constructed in accordance with geotechnical recommendations that incorporate California Building Code (CBC) standards, as required by the City of Poway. Thus, potential expansion would be unlikely. No impact would occur.
- e) **No Impact.** The project site will be served by the public sewer system. No septic tanks or other alternative waste water disposal systems are proposed. No impact would occur.

## VII. GREENHOUSE GAS EMISSIONS

- a) **Less Than Significant Impact.** Greenhouse gases (GHGs), allow solar radiation (sunlight) into the Earth's atmosphere, but prevent radiative heat from escaping, thus warming the Earth's atmosphere. GHGs are emitted by both natural processes and human activities; and the accumulation of GHGs in the atmosphere regulates the Earth's temperature. Emissions of GHGs in excess of natural ambient concentrations are thought to be responsible for the enhancement of the greenhouse effect and contributing to what is termed "global warming."

The California Air Pollution Control Officers Association (CAPCOA) prepared a white paper (the CAPCOA white paper) that provided guidance on when a project would generate greenhouse gas emissions that may have a significant impact on the environment. In that document, CAPCOA proposed a quantitative threshold of 900 metric tons of CO<sub>2</sub> equivalent emissions as a threshold below which no significant impacts on the environment would be anticipated. According to the CAPCOA white paper, 900 metric tons represents the emission that would be generated by 50 single-family residences annually. Since the project is a residential development for 7 new residences, impacts would be less than significant.

- b) **Less Than Significant Impact.** See response VII.a above.

## VIII. HAZARDS & HAZARDOUS MATERIALS

- a) **No Impact.** The project involves an eight-lot subdivision and construction of seven homes on seven residential lots. The eighth lot would be reserved for open space lot. No transport, storage or use of hazardous materials beyond that which typically occurs with a single-family home will occur. No impact would occur.
- b) **No Impact.** See response VIII.a above. No impact would occur.
- c) **No Impact.** See response VIII.a above. No impact would occur.
- d) **No Impact.** The site is not on the established lists of hazardous wastes site. No impact would occur.
- e) **No Impact.** The closest airports to the project site are Marine Corps Air Station Miramar, located approximately 6.5 miles southwest of the project site, and Gillespie Field, located approximately 8 miles southeast of the project site. The project site is not located within the Airport Influence Area of either of these airports. Thus, operation of the project would not result in a safety hazard for people residing in the project area and no impact would occur.
- f) **No Impact.** See Item VIII.e above. The project site is not within the vicinity of a private airstrip. Therefore, the project would not result in a safety hazard for people residing in the project area and no impact would occur.
- g) **No Impact.** The project would not impair or physically interfere with an adopted emergency response or evacuation plan. Operation of the project would not interfere with people's ability to utilize roadways for evacuation purposes. Accordingly, no impact would occur.
- h) **No Impact.** The project site is not located within Poway's designated Very High Fire Hazard Severity Zones (VHFHSZ) area (CAL FIRE VHFHSZ map 2009). The project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires. No impact would occur.

## IX. HYDROLOGY/WATER QUALITY

- a) **Less Than Significant Impact.** The project will comply with all storm water quality regulations, which will be ensured as part of the project improvements plan review. The project will not violate any water quality standards or waste discharge requirements and impacts will be less than significant.
- b) **No Impact.** The project does not propose any construction activities that would directly affect groundwater, contribute to the depletion of groundwater supplies or interfere with groundwater recharge. No impact would occur.
- c) **Less Than Significant Impact.** The project has been designed such that the amount of storm water runoff beyond which currently occurs will be negligible. Runoff from the site will be treated to minimize pollutants in compliance with City standards. Treatment will

occur within on-site desiltation basins and other site design features that will be implemented with the project. Impacts will be less than significant

- d) **Less Than Significant Impact.** See response IX.c above.
- e) **Less Than Significant Impact.** See response IX.a and response IX.c above.
- f) **Less Than Significant Impact.** See response IX.a above.
- g) **No Impact.** The project site is not in or near a designated flood prone area.
- h) **No Impact.** See response IX.g above.
- i) **No Impact.** The project site is not located within or adjacent to any mapped dam inundation areas. No impact would occur.
- j) **No Impact.** The project site is not near any water body. No impact would occur.

X. LAND USE/PLANNING

- a) **No Impact.** This issue generally relates to major roadways or other facilities that cut one part of a neighborhood off from another making it more difficult for individuals to access services and public amenities. The project does not have the potential to physically divide an established community. No impact would occur.
- b) **No Impact.** The project site is zoned and designated by the City of Poway General Plan for residential uses. No impact would occur.
- c) **No Impact.** See response IV.f above. No impact would occur.

XI. MINERAL RESOURCES

- a) **No Impact.** According to the Poway General Plan, the only known valuable mineral resource, as recognized by the California Department of Conservation, Division of Mines and Geology, is construction quality sand and gravel located in the South Poway area of the City which is more than three miles south of the site. No impacts would occur.
- b) **No Impact.** See response to Item XI.a.

XII. NOISE

- a) **No Impact.** The project is a residential subdivision located adjacent to an area that is surrounded by existing residential and commercial uses. Noise associated with adjacent uses will not impact the project since noise associated with the adjoining uses will be minimal. Noise from the project will be that typical to residential uses and will not impact adjacent uses.
- b) **Less Than Significant Impact.** The site is known to have some rock formation which may have to be broken up to accommodate improvements. There are several ways to break rock, some of which could cause noise or ground borne vibration. Any rock

blasting-activity would need to comply with the City's noise standards and would require a City Permit to ensure that City Codes are complied with. Impacts are Less than Significant.

- c) **No Impact.** See response XII.a above.
- d) **Less Than Significant Impact.** The project construction activities will result in temporary or periodic increases in noise typically related to construction and may include some rock blasting. Per City standards, the noise generating construction activities are limited to certain times of the day and days of the week. The City's requirement for a blasting permit will ensure compliance with the City's noise ordinance in the event of rock blasting. Impact are less than significant.
- e) **No Impact.** The closest airports to the project site are Marine Corps Air Station Miramar, located approximately 5.5 miles southwest of the project site, and Gillespie Field, located approximately 8 miles southeast of the project site. The project does not currently contain, nor does it propose, habitable structures that would result in people being exposed to noise from these airports. In addition, the project site is not located within the Airport Influence Area of either of these airports. No impact would occur.
- f) **No Impact.** The project site is not within the vicinity of a private airstrip. Therefore, the project would not expose people residing in the project to excessive noise levels and no impact would occur.

### XIII. POPULATION/HOUSING

- a) **No Impact.** The project will result in 7 new homes. The project is consistent with the density limitation of the underlying zoning and General Plan designation for the site. No impact would occur.
- b) **No Impact.** See response XIII.a above
- c) **No Impact.** See response XIII.a above.

### XIV. PUBLIC SERVICES

- a) i Fire Protection. **No Impact.** The project site is served by the City of Poway Fire Department. The closest fire station to the project site is Station 1, which is located on Civic Center Road, approximately 1 mile east of the project site. Implementation of the project may result in an incremental increase in the demand for fire protection and emergency services. The site is already included within the Fire Department service area. Any specific service provided should there be an (unexpected) emergency call to this project is accounted for. No new or upgraded fire protection facilities would be required as a result of establishment of this project and no physical impacts resulting from construction of new facilities are identified. No impacts would occur.
- a) ii Police Protection. **No Impact.** The City of Poway contracts with the San Diego County Sheriff's Department for their services in law enforcement. The project site is currently served by the Poway Station, which is located at 13100 Bowron Road, approximately 1 mile east of the project site. The site is included within the Sheriff's service area. Any

specific service provided should there be an (unexpected) emergency call to this building is accounted for. No new or upgraded police protection facilities would be required as a result of establishment of this project and no physical impacts resulting from construction of new facilities are identified. No impacts would occur.

- a) iii Schools. **No Impact.** The project will result in 7 new homes as result of the subdivision. Children from the homes will be accommodated into existing schools which are in close proximity to the project site. The project is consistent with the density limitation of the underlying zoning and General Plan designation for the site. The proposed project would also require the payment of school fees. No impact would occur.
- a) iv Parks. **No Impact.** Project implementation would not require new or physically altered park facilities as the number of new homes is consistent with the density limits of the General Plan. Project residents can be accommodated in existing parks that area in close proximity to the site (i.e. Community Park, Starridge Neighborhood Park, Aubrey Park, Old Poway Park, Lake Poway Recreation area). The proposed project would also require the payment of park fees. No impact would occur.
- a) v Other Public Facilities. **No Impact.** Project implementation would not require new or physical alteration to other public facilities. No impact would occur.

#### XV. RECREATION

- a) **No Impact.** See XIV.a.iv Existing recreation facilities can accommodate the increased demand expected from the seven new homes. In addition, the proposed project includes the creation of an open space lot which contains an existing trail to the top of the knoll on site. This lot would be managed by the Home Owner Association and could be used as a passive park by the residents of the subdivision in its current state. No impact would occur.
- b) **No Impact.** See Item XV.a. No impact would occur.

#### XVI. TRANSPORTATION/TRAFFIC

- a) **No Impact.** The project will result in seven new homes as result of the proposed eight-lot subdivision (seven residential lots and one open space lot). The estimated average daily trips (ADT) associated with the net seven new homes is 70. The project is located at the terminus of Danes Road which has been designed to accommodate its extension for residential development. No impacts would occur.
- b) **No Impact.** The SANDAG Congestion Management Program (CMP) is intended to determine if a large project (greater than 2,400 ADT or more than 200 AM or PM peak hour trips) would adversely impact the CMP transportation system. A CMP analysis is not required for this project because the project is calculated to generate 70 ADT and fewer AM or PM peak hour trips. No impact would occur.
- c) **No Impact.** The project site is not located within an Airport Influence Area. Therefore, the project would not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that would result in substantial safety risks. No impact would occur.

- d) **No Impact.** The road that will serve the project has been designed to comply with City standards. No impact would occur.
- e) **No Impact.** The project would not involve any traffic improvements, land use changes or changes to the existing facilities that would result in inadequate emergency access. No impact would occur.
- f) **No Impact.** See response to item XVI.a above. No impact would occur.

XVII. TRIBAL CULTURAL RESOURCES

- a) **No Impact.** The project site is not listed, or eligible for, listing in the California Register of Historical Places, or the local register. Requirements for consultation have been followed, with no tribe indicating interest in the project. No impact would occur.
- b) **No Impact.** A Cultural Resources Study was prepared for the project by Brian Smith and Associates (dated May 2016). See Section V for a discussion on cultural resources on the project site. The Study does indicate the site is significant pursuant to the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. Requirements for consultation have been followed, with no tribe indicating interest in the project. No impact would occur.

XVIII. UTILITIES/SERVICE SYSTEMS

- a) **No Impact.** The project site is within an area identified to be served by the public sewer system. Because the project would not involve the construction of facilities that would generate significant amounts of sewage, it would not require the construction or expansion of any wastewater facilities or exceed applicable wastewater treatment requirements. Adequate wastewater treatment facilities and services are in place to serve future uses at the project site. No impact would occur.
- b) **No Impact.** See response XVIII.a.
- c) **Less Than Significant Impact.** See response IX.c.
- d) **No Impact.** The project site is within an area identified to be served by the public water system and will generate an additional seven homes. Because the project would not generate significant amounts of water demand, it would not require the construction or expansion of any facilities. Adequate water facilities and services are in place to serve future uses at the project site. No impact would occur.
- e) **No Impact.** See response XVIII.a.
- f) **No Impact.** The project would be served by an existing waste disposal facility with sufficient capacity. No impact would occur.
- g) **No Impact.** The project residents will appropriately separate their waste so that recyclables and controlled wastes are separated from landfill trash in accordance with the City's waste reduction and recycling program. The project would comply with all federal, state and local regulations related to solid waste, including the California Integrated Waste Management Act. No impact would occur.

XIX. MANDATORY FINDING OF SIGNIFICANCE:

- a) **Potentially Significant Unless Mitigation.** See responses IV.a and V.b above.
- b) **No Impact.** The project, considered cumulatively with past and future projects, will not result in significant impacts. The project, as well as past projects and future projects have or will comply with the land use and density limitations of the City's General Plan. Infrastructure and services per the General Plan, are in place or are planned and will be provided to accommodate future growth.
- c) **Less Than Significant Impact.** See responses I, III, VI, VII, IX and XII above.



## ATTACHMENT 2

### MITIGATION MONITORING PROGRAM FOR TENTATIVE TRACT MAP 17-003 AND DEVELOPMENT REVIEW 18-003

Section 21081.6 of the Public Resources Code requires that public agencies "adopt a reporting or monitoring program for the changes which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designated to ensure compliance during project implementation." This mitigation monitoring program has been prepared in accordance with Section 21081.6 of the Public Resources Code.

Non-compliance with any of these conditions, as identified by City staff or a designated monitor, shall result in issuance of a cease and desist order for all construction activities. The order shall remain in effect until compliance is assured. Non-compliance situations, which may occur subsequent to project construction, will be addressed on a case-by-case basis and may be subject to penalties according to the City of Poway Municipal Code. When phasing of development has been established, it may be necessary for this Monitoring Program to be amended, with City approval.

Topic	Mitigation Measure	Timing	Responsibility
Biological Resources	1. Prior to approval of Final Map, Grading Permit or Administrative Clearing Permit, whichever occurs first, the applicant shall mitigate impacts to natural habitat as specified in the project Biological Report on file with the City. The mitigation requirement will be achieved by recordation of an off-site Biological Conservation Easement over 0.9 acres of similar habitat located within the Mitigation Area of the Poway Subarea HCP or through payment into the City's Habitat In-Lieu Fee account. The current rate is \$17,000 per acre. If an off-site easement is the selected mitigation method, a legal description and plat of the BCE area shall be prepared and stamped by the project engineer and submitted to the Planning and Engineering Divisions for review. Easement review fees are required and are the responsibility of the applicant. The BCE shall be approved by the City Attorney and shall be notarized and recorded with the County of San Diego. In compliance with the HCP, the City	As noted	Applicant

	<p>shall subsequently re-zone the mitigation land to Open Space-Resource Management to ensure its permanent preservation. The BCE limits shall be shown on the grading plan and on the Final Map. The applicant shall be responsible for installing City-issued signs to be posted on the site identifying the limits of the BCE upon establishment of the BCE.</p> <p>2. In accordance with Condition H of the Poway HCP Incidental Take Permit, a take of active California gnatcatcher nests, which includes harassment of the bird due to grading noise and vibrations from February 15 through July 1, is not permitted. Therefore, grading and removal of habitat during this time frame will only be permitted subject to the following conditions having been met to the satisfaction of the Director of Development Services.</p> <p>The applicant is hereby advised that, during grading, if active nests are found within 500 feet of the grading, the grading activity shall be stopped until such time as mitigation measures, to the satisfaction of the City and the United States Fish and Wildlife Service (USFWS,) are implemented. There is no guarantee that grading will be allowed to resume during nesting season.</p> <p>Before issuance of a Clearing/Grading Permit, if grading or clearing is to occur between February 15 and July 1, the applicant shall provide to the Planning Division a letter from a qualified biologist retained by the applicant, with a scope of work for a CSS habitat and Gnatcatcher Survey, and a report for the area to</p>	<p>As noted</p> <p>On going</p> <p>As noted</p>	<p>Applicant</p> <p>Applicant</p>
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	<p>be cleared and/or graded and CSS habitat areas within 500 feet of such area. The biologist shall contact the USFWS to determine the appropriate survey methodology. The purpose of the survey is to determine if any active gnatcatcher nests are located in the area to be cleared or graded, or in CSS habitat within 500 feet of such area. To be considered qualified, the biologist must provide the City with a copy of a valid Gnatcatcher Recovery Permit from the USFWS.</p> <p>The scope of work shall explain the survey methodology for the biological survey and the proposed gnatcatcher nest monitoring activities during the clearing/grading operation. Should the report show, to the satisfaction of the Director of Development Services, that gnatcatcher nests are not present within the area to be graded/cleared, or within CSS habitat located within 500 feet of said area, approval may be granted to commence clearing/grading within the gnatcatcher nesting season from February 15 through July 1.</p> <p>If gnatcatchers are nesting within the area to be graded/cleared, or within CSS habitat located within 500 feet of said area, no grading will be allowed during this time until such time as mitigation measures, to the satisfaction of the City and the USFWS are implemented.</p> <p>The biologist must attend the City's pre-construction meeting for the project and must be present onsite during all clearing/grading activities to monitor that the clearing/grading activities stay within the designated limits.</p>	<p>As noted</p> <p>As noted</p> <p>As noted</p>	<p>Applicant</p> <p>Applicant</p> <p>Applicant</p>
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	<p>During this period, the biologist shall also monitor and survey the habitat within the area to be cleared/graded and any habitat within 500 feet of said area for any evidence that a gnatcatcher nest(s) exists or is being built. Weekly monitoring summaries shall be submitted to the Planning Division. Should evidence of a gnatcatcher nest(s) be discovered, the grading operation shall cease in that area and be directed away from the gnatcatcher nest(s) to a location greater than 500 feet away from the nest(s).</p> <p>If grading is required to stop due to the presence of active nests, the applicant shall be required to provide erosion control, to the satisfaction of the City Engineer. This paragraph must be included as a note on the cover sheet of the clearing/grading plan.</p> <p>At a minimum, all protected biological areas, as shown on the grading plan, shall be staked by a licensed surveyor and delineated with lathe and ribbon. The applicant shall have said staking inspected by the Engineering Inspector prior to any grading, clearing or grubbing. A written certification from the engineer of work, or a licensed surveyor, shall be provided to the Engineering Inspector stating that all protected areas are staked in accordance with the approved project plans.</p> <p>The biologist shall provide the City with written confirmation that the limits of clearing/grading are in accordance with the project's Biological Resource Assessment.</p> <p>Upon completion of the clearing/grading activities, the applicant's biologist shall submit to</p>	<p>As noted</p> <p>As noted</p> <p>As noted</p> <p>As noted</p>	<p>Applicant</p> <p>Applicant</p> <p>Applicant</p> <p>Applicant</p>
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	the Director of Development Services a biological monitoring report summarizing the observations of the biologist, including whether any gnatcatchers or evidence of active gnatcatcher nests were present during clearing and grading activities within the area and any habitat within 500 feet of said area		
Cultural Resources	1. Prior to issuance of a grading permit, the applicant shall provide written verification that a qualified archaeologist has been retained to implement the monitoring program. This verification shall be presented in a letter from the project archaeologist to the lead agency.	As noted	Applicant
	2. The certified archaeologist shall attend the pre-grading meeting with the contractors to explain and coordinate the requirements of the monitoring program.	As noted	Applicant
	3. The consulting archaeologist shall direct the field monitor during the initial brushing of the parcel and any grading of the upper levels of soils disturbance of all areas identified for development.	During grading	Applicant
	4. During the original cutting of previously undisturbed deposits, the archaeological monitor shall be on-site, as determined by the consulting archaeologist, to perform inspections of the excavations. The frequency of inspections may vary from full time to part time depending upon the rate of excavation, the materials excavated, exposure of formational soils and bedrock, and the presence and abundance of artifacts and features.	During grading	Applicant
	5. Isolated and clearly non-significant deposits will be minimally documented in the field,	During grading	Applicant

	so the monitored grading can proceed.		
	<p>6. In the event that unidentified historic resources are discovered, the archaeologist shall have the authority to divert or temporarily halt ground-disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. The archaeologist shall contact the lead agency at the time of discovery. The archaeologist, in consultation with the lead agency, shall determine the significance of the discovered resources. The lead agency must concur with the evaluation before construction activities will be allowed to resume in the affected area. For significant cultural resources that are discovered, and which will be destroyed by grading, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the consulting archaeologist and approved by the lead agency before being carried out using professional archaeological methods. If any human bones are discovered, all grading at that location must stop and the county coroner and lead agency shall be contacted. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the NAHC, shall be contacted in order to determine proper treatment and disposition of the remains.</p>	During grading	Applicant
	<p>7. Before construction activities are allowed to resume in the location of any discovered significant cultural deposits, the artifacts shall be recovered, and features recorded using professional archaeological methods. The archaeological</p>	During grading	Applicant

	<p>monitor(s) shall determine the amount of material to be recovered for an adequate artifact sample for analysis.</p> <p>8. All cultural material collected during the grading monitoring program shall be processed and curated according to the current professional repository standards. The collections and associated records shall be transferred, including title, to an appropriate curation facility, to be accompanied by payment of the fees necessary for permanent curation.</p> <p>9. A report documenting the field and analysis results and interpreting the artifact and research data within the research context shall be completed and submitted to the satisfaction of the lead agency prior to the issuance of any building permits. The report will include DPR Primary and Archaeological Site Forms.</p>	<p>As Noted</p> <p>As noted</p>	<p>Applicant</p> <p>Applicant</p>
Tribal Cultural Resources	<p>In the event that previously unidentified, potential tribal cultural resources are discovered, the archeologist shall have the authority to divert or temporarily halt ground-disturbance operation in discovery to allow for the evaluation of the potential resources. The archeologist shall contact the City at the time of discovery. The City and/or the archeologist shall contact the Native American tribal representatives on file with the City who have requested notification of projects pursuant to AB 52 to discuss recovery options to be implemented as determined appropriate by the City. If the tribal representative does not respond to the City within 2 weeks of</p>	As noted	Applicant

	notification, the City will consult with the archeologist for recommendations before allowing grading to continue.		
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RESOLUTION NO. P-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF POWAY, CALIFORNIA, APPROVING TENTATIVE TRACT MAP 17-003  
AND DEVELOPMENT REVIEW 18-003  
ASSESSOR PARCEL NUMBER 317-534-20

WHEREAS, a request for a Tentative Tract Map (TTM 17-003) and Development Review (DR) 18-003 to subdivide an approximate seven-acre vacant parcel located at the westerly terminus of Danes Road, in the Rural Residential A (RR-A) and Single-Family Residential - 7 (RS-7) zones, into seven residential lots and an open space lot and construct seven single-family homes, one on each of the new residential lots, along with associated grading and improvements were submitted by Mostafa Panah, Applicant, and Mostafa K & Roxana Panah and Navak LLC, Owner; and

WHEREAS, on September 18, 2018, the City Council held a duly advertised public hearing to solicit comments from the public, both for and against, relative to this application.

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

Section 1: The findings, in accordance with the State Subdivision Map Act (Government Code Section 66410 et. seq.) for TTM 17-003, are made as follows:

- A. The TTM is consistent with the General Plan, in that it proposes to create seven residential lots at a density consistent with the General Plan and Poway Municipal Code (PMC).
- B. The design and improvements required of the TTM are consistent with the General Plan, in that the approved lot sizes and configurations adhere to the development standards of the General Plan and PMC.
- C. The site is physically suitable for the type of development and the density proposed, in that the site is large enough to provide seven lots and is compatible and in character with development in the vicinity.
- D. The design of the TTM is not likely to cause substantial environmental damage and avoidable injury to humans and wildlife or their habitat, in that the proposed project will be developed in accordance with City and other governmental agency requirements and mitigation measures will be incorporated pursuant to the Mitigated Negative Declaration prepared for the project.
- E. The approval of the TTM is not likely to cause serious public health problems in that City water and sewer service will be provided to the project.
- F. The design of the TTM will not conflict with any easement acquired by the public at large, now on record, for access through or use of the property within the subdivision in that the ultimate development of the site with residences can be accommodated without obstructing or otherwise impacting existing easements.

Section 2: The findings, in accordance with Chapter 17.52 of the PMC, for DR 18-003 are made as follows:

- A. The project respects the interdependence of land values and aesthetics to the benefit of the City, in that this proposed development will construct seven single family homes along an extension of an existing road within an existing single-family residential neighborhood and will improve the aesthetics of the property as seen from Pomerado Road by adding landscaping along the street.
- B. The project encourages the orderly and harmonious appearance of structures and property within the City, in that this project will comply with current City design standards and consistent with development standards of the surrounding neighborhood.
- C. The project maintains the public health, safety and general welfare, and property throughout the City in that the project will meet current grading, building and stormwater quality requirements.
- D. The project is cognizant of public concerns for the aesthetics of developments in that the exterior design of the building and site design features comply with current City design standards. The proposed homes incorporate different architectural features and building setbacks that create visual interest.
- E. The project will not have an adverse health, safety or aesthetic impact upon adjoining properties or the City in general, in that the project will comply with current City design standards and all grading, building and stormwater quality requirements. The property will incorporate fencing and landscaping along the perimeter of the subdivision to provide privacy for adjacent homes.
- F. The project complies with all the provisions of the zoning ordinance and the general plan.

Section 3: The findings, in accordance with Government Code Section 66020 for the public improvements, are made as follows:

- A. The design and improvements of the proposed development are consistent with all elements of the Poway General Plan, as well as City ordinances, because all necessary services and facilities will be available to serve the project. The construction of public improvements is needed as a result of the proposed development to protect the public health, safety and welfare as identified below:
  - Water and sewer lines;
  - Onsite fire hydrants;
  - Onsite drainage improvements;
- B. In accordance with the Poway General Plan, the project requires the payment of development impact fees, which are assessed on a pro-rata basis to finance public infrastructure improvements which promote a safe and healthy environment for the residents of the City.

Section 4: The parties are hereby informed that the time within which judicial review of this decision must be sought is governed by Section 1094.6 of the California Code of Civil Procedure.

Section 5: The City Council hereby approves TTM 17-003 and DR 18-003, to allow the subdivision of an approximate seven-acre site into seven residential lots and an open space lot, and the construction of a single-family residence on each of seven residential lots, as shown on the approved TTM on file with the City, subject to the following conditions:

- A. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit, including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.
- B. Approval of this request shall not waive compliance with any section of the Zoning Ordinance or other applicable City ordinances in effect at the time of Building Permit issuance.
- C. The developer is required to comply with the Poway Noise Ordinance (Chapter 8.08 PMC) requirements that govern construction activity and noise levels.
- D. Prior to Final Map approval, unless other timing is indicated, the following conditions shall be complied with.

(Engineering)

- 1. Within thirty (30) days after tentative map approval, the applicant shall submit in writing to the City's Planning Division that all conditions of approval have been read and understood.
- 2. This approval is based on the existing site conditions represented on the approved tentative map. If actual conditions vary from representations, the approved tentative map must be changed to reflect the actual conditions. Any substantial changes to the tentative map must be approved by the Director of Development Services and may require approval of the City Council.
- 3. The final map, together with the supporting data and documentation, shall be submitted to Engineering Division for review and approval. The appropriate map checking fee shall be paid by the applicant.
- 4. The final map shall conform to City standards and procedures, the City Subdivision Ordinance, the latest edition of the Subdivision Map Act, and the Land Surveyors' Act, and all other applicable laws, regulations and ordinances.

5. The applicant shall include provisions in their design contract with their design consultants that, following acceptance by the City, all construction drawings or technical reports accepted by the City (exclusive of architectural building plans) shall become the property of the City. Once accepted, these plans may be freely used, copied or distributed by the City to the public or other agencies as the City may deem appropriate. An acknowledgement of this requirement from the design consultant shall be included on all construction drawings at the time of plan submittal.
6. A new general public utility easement for water and sewer is to be dedicated to the City of Poway on the Final Map. Twenty-foot-wide minimum easements are required for each the water and sewer mains. If the easements overlap, a minimum of thirty feet shall be granted.
7. Applicant shall enter into a Private Road Maintenance Agreement for the extension of Danes Road within the subdivision. The form and content shall be in a form satisfactory to the City Attorney.
8. If there is an instrument for Covenants, Conditions, and Restrictions (CC&R), which addresses construction and maintenance of the private road, slopes, drainage, or accesses in the subdivision, said CC&R shall be reviewed and approved by the City prior to recordation.
9. A mylar copy of the Final Tract map shall be provided to the City within three months of its recordation or prior to building permit issuance, whichever comes first. A cash deposit to the City, in an amount equivalent to \$100.00 per sheet of the Tract Map, for the mylar reproduction of the recorded Tract Map shall be posted.
10. Within 30 days after City Council approval of the Final Tract Map, the subdivider shall pay the City the sewer connection fee.
11. The applicant shall pay the drainage impact development fee in effect at the time of subdivision.
12. The project requirements for fire protection specify the installation of fire hydrants and expansion of the public water system necessary to support the installation of the hydrants. A Water System Analysis is required for final design of the proposed public water system expansion. Applicant shall pay for the cost of preparing the analysis prior to submittal of improvement plans.
13. A Public Improvement plan shall be submitted per Municipal Code requirements to the Department of Development Services, Engineering Division. Improvement design should be 100 percent complete at time of submittal and should include the following Public Improvements:
  - a. Public sewer improvements connecting all seven units to the public sewer main in Danes Road.
  - b. Public water improvements including fire hydrants and related

appurtenances connecting all seven units to the public water main located in Danes Road.

14. The public improvement plan shall be approved. The applicant shall enter into a Standard Agreement for public improvements for the work to be done as part of the Public Improvement plan. The applicant will be responsible for posting securities for monumentation and public improvements.

(Planning)

15. The Open Space Lot B shall be depicted on the Final Map. To the satisfaction of the Director of Development Services, the Final Map shall dedicate an open space easement over all of Lot B to the City of Poway that addresses the following:
  - a. Limits the use and development of the open space lot to landscaping, stormwater treatment facilities, and private, low intensity, recreational uses.
  - b. Allows the installation of perimeter fencing.
  - c. Requires that a Conditional Use Permit be obtained for any development such as a common pool and pool house for the subdivision.
  - d. Identifies the maintenance responsibility to the owner of the Open Space Lot, including, but not limited to, the landscaping along Pomerado Road.
  - e. Provides notification that habitat impact is prohibited unless prior City authorization has been obtained and mitigation provided according to the Poway Subarea Habitat Conservation Plan (HPC).
16. Applicant shall enter into a Private Landscape Maintenance Agreement for the landscaping along the section of Pomerado Road which fronts the subdivision. The form and content shall be in a form satisfactory to the City Attorney.
17. Prior to Final Map Approval, Grading Permit, or Administrative Clearing Permit issuance, whichever occurs first, the applicant shall mitigate for the impact to 0.9-acre Diegan coastal sage scrub habitat impact in accordance with the approved MND and the associated Mitigation Monitoring Program (MMP). The habitat impact mitigation requirement is 0.9 acres and is achieved by recordation of an off-site Biological Conservation Easement (BCE) over 0.9 acres of similar habitat located within the Mitigation Area of the Poway HCP or through payment into the City's Habitat In-Lieu Fee account. The current rate is \$17,000 per acre. The City will use these funds to purchase habitat land within the Mitigation Area for preservation.

- E. Prior to Grading Permit issuance, unless other timing is indicated, the following conditions shall be complied with:

(Engineering)

1. Submit a precise grading plan for the development prepared on a City of Poway standard sheet at a scale of 1" = 20', unless otherwise approved by the City project engineer. Submittal shall be made to the Department of Development Services Engineering Division for review and approval. The grading design shall be 100 percent complete at the time of submittal, ready for approval and issuance of

permit. Incomplete submittals will not be accepted. All technical studies as required by Chapter 16 of the PMC shall be submitted.

2. **Water Quality Control – Drainage and Flood Damage Prevention**  
A drainage study addressing the impacts of the 100-year storm event prepared by a registered Civil Engineer is to be submitted and approved. The study shall evaluate existing and proposed hydrologic and hydraulic conditions to the satisfaction of the City project engineer.
3. **Water Quality Control – Design and Construction**  
The project shall comply with the City and Regional Water Quality Control Board stormwater requirements. The project is considered a Priority Development Project and will be subject to all City and State requirements. A Storm Water Quality Management Plan (SWQMP) prepared by a registered Civil Engineer is to be submitted and approved.
  - a. Provide two copies of an Operation & Maintenance (O&M) plan in accordance with Chapter 16.104 of the PMC, and a signed PDF version.
  - b. Property owner shall execute an approved Storm Water Management Facilities Maintenance Agreement accepting responsibility for all structural BMP maintenance, repair and replacement as outlined in the Operations and Maintenance plan. The operation and maintenance requirements shall be binding on the land throughout the life of the project as outlined in Chapter 16.104 of the PMC.
  - c. Upon approval of the SWQMP, provide a PDF version.
4. **Water Quality Control – Construction Storm Water Management Compliance**  
Proof of coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 2009-0009-DWQ, as amended by order 2010-0014) shall be provided to the City along with a copy of the Storm Water Pollution Prevention Plan (SWPPP).
5. Grading securities shall be posted with the City prior to grading plan approval per Chapter 16.46 of the PMC. A minimum cash security of \$2,000 is required in all instances.
6. Following approval of the grading plans, posting of securities and fees, and receipt of five copies of the approved plans, the applicant shall attend a pre-construction meeting at the Department of Development Services. The scheduling request shall be submitted on a City standard form available from the City's project engineer. The applicant's action plan that identifies measures to be implemented during construction to address erosion, sediment and pollution control will be discussed. Compliance for sediment control shall be provided as directed by the project inspector.
7. Prior to start of any work within a City-held easement or right-of-way, a Right-of-Way Permit shall be obtained from the Engineering Division of the Development Services Department. All appropriate fees shall be paid prior to permit issuance.

8. Construction staking is to be inspected by the Engineering Inspector prior to any clearing, grubbing or grading. As a minimum, all protected areas as shown on the approved grading plans are to be staked under the direction of a licensed land surveyor or licensed civil engineer and delineated with lathe and ribbon. As applicable, provide two copies of a written certification, signed and sealed in accordance with the Business and Professions Code, by the engineer of record stating that all protected areas have been staked in accordance with the approved plans.
9. Prior to rock blasting, if blasting is necessary, a Pre-Blast Survey of the surrounding properties shall be conducted per the PMC and to the satisfaction of the City Engineer. A Blasting Permit shall be obtained from the Engineering Division. Seismic recordings shall be taken for all blasting. Blasting shall occur only at locations and levels approved by the City Engineer.

(Planning)

10. The grading plans shall show a six-foot high privacy fence along the perimeter of all residential lots to the satisfaction of the Director of Development Services.
11. Fencing and retaining walls shall comply with height limits per PMC Section 17.08.240. Any proposed walls shall be reflected on the site plan and shall be of decorative block or stucco finish to the satisfaction of the Director of Development Services.
12. In accordance with Condition H of the Poway HCP Incidental Take Permit, a take of active California gnatcatcher nests, which includes harassment of the bird due to grading noise and vibrations from February 15 through July 1, is not permitted. Therefore, grading and removal of habitat during this time frame will only be permitted subject to the following conditions having been met to the satisfaction of the Director of Development Services.

The applicant is hereby advised that, during grading, if active nests are found within 500 feet of the grading, the grading activity shall be stopped until such time as mitigation measures, to the satisfaction of the City and the United States Fish and Wildlife Service (USFWS,) are implemented. There is no guarantee that grading will be allowed to resume during nesting season.

Before issuance of a Clearing/Grading Permit, if grading or clearing is to occur between February 15 and July 1, the applicant shall provide to the Planning Division a letter from a qualified biologist retained by the applicant, with a scope of work for a Coastal Sage Scrub (CSS) habitat and Gnatcatcher Survey, and a report for the area to be cleared and/or graded and CSS habitat areas within 500 feet of such area. The biologist shall contact the USFWS to determine the appropriate survey methodology. The purpose of the survey is to determine if any active gnatcatcher nests are in the area to be cleared or graded, or in CSS habitat within 500 feet of such area. To be considered qualified, the biologist must provide the City with a copy of a valid Gnatcatcher Recovery Permit from the USFWS.

The scope of work shall explain the survey methodology for the biological survey and the proposed gnatcatcher nest monitoring activities during the clearing/grading operation. Should the report show, to the satisfaction of the Director of Development Services, that gnatcatcher nests are not present within the area to be graded/cleared, or within CSS habitat located within 500 feet of said area, approval may be granted to commence clearing/grading within the gnatcatcher nesting season from February 15 through July 1.

If gnatcatchers are nesting within the area to be graded/cleared, or within CSS habitat located within 500 feet of said area, no grading will be allowed during this time until such time as mitigation measures, to the satisfaction of the City and the USFWS are implemented.

The biologist must attend the City's pre-construction meeting for the project and must be present onsite during all clearing/grading activities to monitor the clearing/grading activities stay within the designated limits. During this period, the biologist shall also monitor and survey the habitat within the area to be cleared/graded and any habitat within 500 feet of said area for any evidence that a gnatcatcher nest(s) exists or is being built. Weekly monitoring summaries shall be submitted to the Planning Division. Should evidence of a gnatcatcher nest(s) be discovered, the grading operation shall cease in that area and be directed away from the gnatcatcher nest(s) to a location greater than 500 feet away from the nest(s).

If grading is required to stop due to the presence of active nests, the applicant shall be required to provide erosion control, to the satisfaction of the City Engineer. This paragraph must be included as a note on the cover sheet of the clearing/grading plan.

At a minimum, all protected biological areas, as shown on the grading plan, shall be staked by a licensed surveyor and delineated with lathe and ribbon. The applicant shall have said staking inspected by the Engineering Inspector prior to any grading, clearing or grubbing. A written certification from the engineer of work, or a licensed surveyor, shall be provided to the Engineering Inspector stating that all protected areas are staked in accordance with the approved project plans.

The biologist shall provide the City with written confirmation that the limits of clearing/grading are in accordance with the project's Biological Resource Assessment.

Upon completion of the clearing/grading activities, the applicant's biologist shall submit to the Director of Development Services a biological monitoring report summarizing the observations of the biologist, including whether any gnatcatchers or evidence of active gnatcatcher nests were present during clearing and grading activities within the area and any habitat within 500 feet of said area.

13. Prior to issuance of a grading permit, the applicant shall provide written verification that a qualified archaeologist has been retained to implement the monitoring



program. This verification shall be presented in a letter from the project archaeologist to the lead agency.

The certified archaeologist shall attend the pre-grading meeting with the contractors to explain and coordinate the requirements of the monitoring program.

14. The consulting archaeologist shall direct the field monitor during the initial brushing of the parcel and any grading of the upper levels of soils disturbance of all areas identified for development.
15. During the original cutting of previously undisturbed deposits, the archaeological monitor shall be on-site, as determined by the consulting archaeologist, to perform inspections of the excavations. The frequency of inspections may vary from full time to part time depending upon the rate of excavation, the materials excavated, exposure of formational soils and bedrock, and the presence and abundance of artifacts and features.

Isolated and clearly non-significant deposits will be minimally documented in the field, so the monitored grading can proceed.

In the event that unidentified historic resources are discovered, the archaeologist shall have the authority to divert or temporarily halt ground-disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. The archaeologist shall contact the lead agency at the time of discovery. The archaeologist, in consultation with the lead agency, shall determine the significance of the discovered resources. The lead agency must concur with the evaluation before construction activities will be allowed to resume in the affected area. For significant cultural resources that are discovered, and which will be destroyed by grading, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the consulting archaeologist and approved by the lead agency before being carried out using professional archaeological methods. If any human bones are discovered, all grading at that location must stop and the county coroner and lead agency shall be contacted. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the NAHC, shall be contacted in order to determine proper treatment and disposition of the remains.

Before construction activities are allowed to resume in the location of any discovered significant cultural deposits, the artifacts shall be recovered, and features recorded using professional archaeological methods. The archaeological monitor(s) shall determine the amount of material to be recovered for an adequate artifact sample for analysis.

16. All cultural material collected during the grading monitoring program shall be processed and curated according to the current professional repository standards. The collections and associated records shall be transferred, including title, to an appropriate curation facility, to be accompanied by payment of the fees necessary for permanent curation.

17. A report documenting the field and analysis results and interpreting the artifact and research data within the research context shall be completed and submitted to the satisfaction of the lead agency prior to the issuance of any building permits. The report will include DPR Primary and Archaeological Site Forms.
18. Landscape and irrigation plans shall be submitted and approved for all proposed landscaping, including, but not limited to:
  - a. The new landscape area along Pomerado Road
  - b. All manufactured (cut or fill) slopes greater than a 5:1 slope
  - c. Stormwater treatment facilities
  - d. Trees and shrubs along the east property line of Lots 4, 5, and 6, to provide privacy screening to the satisfaction of the Director of Development Services
  - e. The front yard of each individual home to include a minimum of one tree.

The plans shall comply with the City of Poway *Landscape and Irrigation Design Manual*, Chapter 17.41 PMC, and/or any other applicable standards/policies in effect at the time of landscape and irrigation plan check submittal. The landscape plan shall provide.

The landscape and irrigation plan submittal is a separate submittal from other project plan check submittals and is made directly to the Planning Division. Landscape and irrigation plan review fees are required and are the responsibility of the applicant.

- F. Prior to Building Permit issuance for residence construction, the applicant is required to comply with the following:
1. The Final Map shall be recorded prior to the issuance of a building permit for more than one home.
  2. The building plans shall be consistent with the approved plans on file in the Development Services Department and the conditions contained herein.

(Engineering)

3. The site shall be developed in accordance with the approved grading plans on file in the Development Services Department and the conditions contained herein. Grading of lots shall be in accordance with the Uniform Building Code, the City Grading Ordinance, the approved grading plan, the approved soils report, and grading practices acceptable to the City.
4. Erosion control shall be installed and maintained by the developer from October 1 to April 30. The developer shall maintain all erosion control devices throughout their intended life.
5. Applicant shall obtain a Grading Permit and complete rough grading of the site. The grading shall meet the approval of the Engineering Inspector and the project's

geotechnical engineer. Following completion of rough grading, please submit the following:

- a. Three copies of certification of line and grade for the lot, prepared by the engineer of work.
- b. Three copies of a soil compaction report for the lot, prepared by the project's geotechnical engineer.

The certification and report are subject to review and approval by the City.

6. Prior to start of any work within a City-held easement or right-of-way, a Right-of-Way Permit shall be obtained from the Engineering Division of the Development Services Department. All appropriate fees shall be paid prior to permit issuance.
7. The applicant shall pay all applicable development impact fees in effect at time of permit issuance.

(Planning)

8. All architectural details shown on the approved DR plans shall also be shown on the building plan check submittal. Any major modifications to the building or site design details on the approved DR plans will require a DR revision and City Council approval.
  9. The building plans shall show perimeter fencing along the rear and side property lines to the satisfaction of the Director of Development Services.
  10. Applicable school fees in effect at the time of Building Permit issuance shall be paid to the Poway Unified School District (PUSD).
  11. The developer is advised that, pursuant to PMC 17.26.100 through 17.26.300, single-family residential development shall provide that 15 percent of the units created shall be affordable to low-income households. The developer may, in lieu of providing required inclusionary housing onsite or offsite, pay an Affordable Housing In-Lieu Fee to the City in accordance with the provisions of the referenced Section prior to issuance of a Building Permit.
- G. Prior to Issuance of a Certificate of Occupancy the applicant is required to comply with the following:
1. The site shall be developed in accordance with the approved plans on file in the Development Services Department and the conditions contained herein.
  2. A final inspection from the appropriate City departments will be required.

(Engineering)

3. All existing and proposed utilities or extension of utilities required to serve the project shall be installed underground. No extension of overhead utilities shall be permitted.

4. The drainage facilities, driveway, slope planting measures, and all utility services shall be installed, and completed by the property owner, and inspected by the Engineering Inspector for approval. All new utility services shall be placed underground.
5. An adequate drainage system around the new building pads capable of handling and disposing all surface water shall be provided to the satisfaction of the Engineering Inspector.
6. The applicant shall repair, to the satisfaction of the City Engineer, any and all damages to the streets caused by construction activity from this project.
7. All applicable easement dedications and maintenance agreements are to be recorded prior to occupancy.
8. Record drawings, signed by the engineer of work, shall be submitted to Development Services prior to a request of occupancy, per Section 16.52.130B of the Grading Ordinance. Record drawings shall be submitted in a manner to allow the City adequate time for review and approval prior to issuance of occupancy and release of grading securities (i.e. at least three weeks prior to a request for occupancy is recommended). All other final reports and agreements, as outlined in Section 16.52.130 of the Grading Ordinance are to be approved.

(Planning)

9. Landscaping shall be installed per the approved landscape plans for the subdivision. This includes but is not limited to the submittal of an irrigation audit report, pursuant to Section 17.41.110 of the PMC, prior to final inspections/issuance of a Certificate of Occupancy.
- H. The following is required before construction to the satisfaction of Director of Safety Services:
1. The approved water supply for fire protection (fire hydrants), either temporary or permanent, shall be made available as soon as combustible material arrives on site. Use of a temporary water supply shall be approved by the City via a plan submittal and review.
  2. The approved fire apparatus access for fire protection, either temporary or permanent shall be made available as soon as combustible material arrives on site. This applies to the full width of street from the connection at Danes Road to include cul-de-sac. This does not apply to required driveways. Use of a temporary fire apparatus access shall be approved by the City via a plan submittal and review.
  3. Fire apparatus access roads shall have an unobstructed, improved width of not less than 20 feet, except single-family residential driveways serving no more than two improved parcels containing dwelling units shall have a minimum of 16 feet of unobstructed improved width. In most cases, the City of Poway construction

standards for streets (Chapter 12.20 PMC) will be more restrictive. The more restrictive standard shall apply. Vertical overhead clearance shall be a minimum of 13 feet 6 inches. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus not less than 75,000 pounds unless authorized by the FAHJ and shall be provided with an approved paved surface as to provide all-weather driving capabilities. The turning radius of a fire apparatus access road shall be a minimum of 28 feet as measured to the inside edge of the improvement width or as approved by the fire code official.

4. The gradient for a fire apparatus access roadway shall not exceed 20 percent. Grades exceeding 15 percent (incline or decline) shall be constructed of Portland cement concrete (PCC), with a deep broom finish perpendicular to the direction of travel, or equivalent, to enhance traction.
5. The angle of departure and the angle of approach of a fire access roadway shall not exceed seven degrees (12 percent) or as approved by the fire code official.
6. All dead-end fire access roads in excess of 150 feet in length shall be provided with approved provisions that allow emergency apparatus to turn around. A cul-de-sac shall be provided in residential areas where the access roadway serves more than two structures. The minimum, unobstructed paved radius width for a cul-de-sac shall be 38 feet in residential areas.
7. Approved numbers or addresses measuring four to six inches in height shall be placed on the building in such a position as to be plainly visible and legible from the street fronting the property. Numbers shall contrast with their background.
8. A residential fire sprinkler system with a one-inch water meter will be required for each residential structure. If a one-inch lateral off the street main is currently not present, one will have to be installed. If a pressure pump is required for fire sprinkler operation, auxiliary power is required. A separate plan submittal is required for each lot prepared by a licensed sprinkler contractor or fire protection engineer. Approval by the Poway Fire Department, Division of Fire Prevention is required for the residential sprinkler system prior to installation. There is a separate fee for each the plan check and the inspection services of each lot.
9. Smoke detectors shall be installed in all bedrooms and adjoining hallways. The smoke detectors shall be hard-wired, with a battery backup, and shall be wired in such a manner that if one detector activates, all detectors activate.
10. Carbon monoxide detectors shall be installed in hallways adjoining bedrooms. The carbon monoxide detectors shall be hard-wired, with a battery backup, and shall be wired in such a manner that if one detector activates, all detectors activate.
11. Each chimney used in conjunction with any fireplace shall be equipped with an approved spark arrester.

Section 6: The approval of TTM 17-003 and DR 18-003 shall expire on September 18, 2020, at 5:00 p.m. The Final Map conforming to this conditionally approved TTM shall be filed with the City so that the City may approve the Final Map before this approval expires, unless at least 90 days prior to the expiration of the TTM, a request for a time extension is submitted to the Development Services Department and a time extension is subsequently granted by the City Council.

Section 7: Pursuant to Government Code Section 66020, the 90-day approval period in which the applicant may protest the imposition of any fees, dedications, reservations, or exactions imposed pursuant to this approval shall begin on September 18, 2018.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Poway, California, at a regular meeting this 18th day of September 2018.

---

Steve Vaus, Mayor

ATTEST:

---

Nancy Neufeld, CMC, City Clerk

STATE OF CALIFORNIA                )  
  ) SS.  
COUNTY OF SAN DIEGO            )

I, Nancy Neufeld, City Clerk of the City of Poway, California, do hereby certify, under penalty of perjury, that the foregoing Resolution No. P-18-                was duly adopted by the City Council at a meeting of said City Council held on the 18th day of September 2018 and that it was so adopted by the following vote:

AYES:

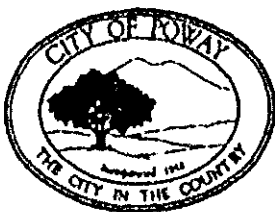
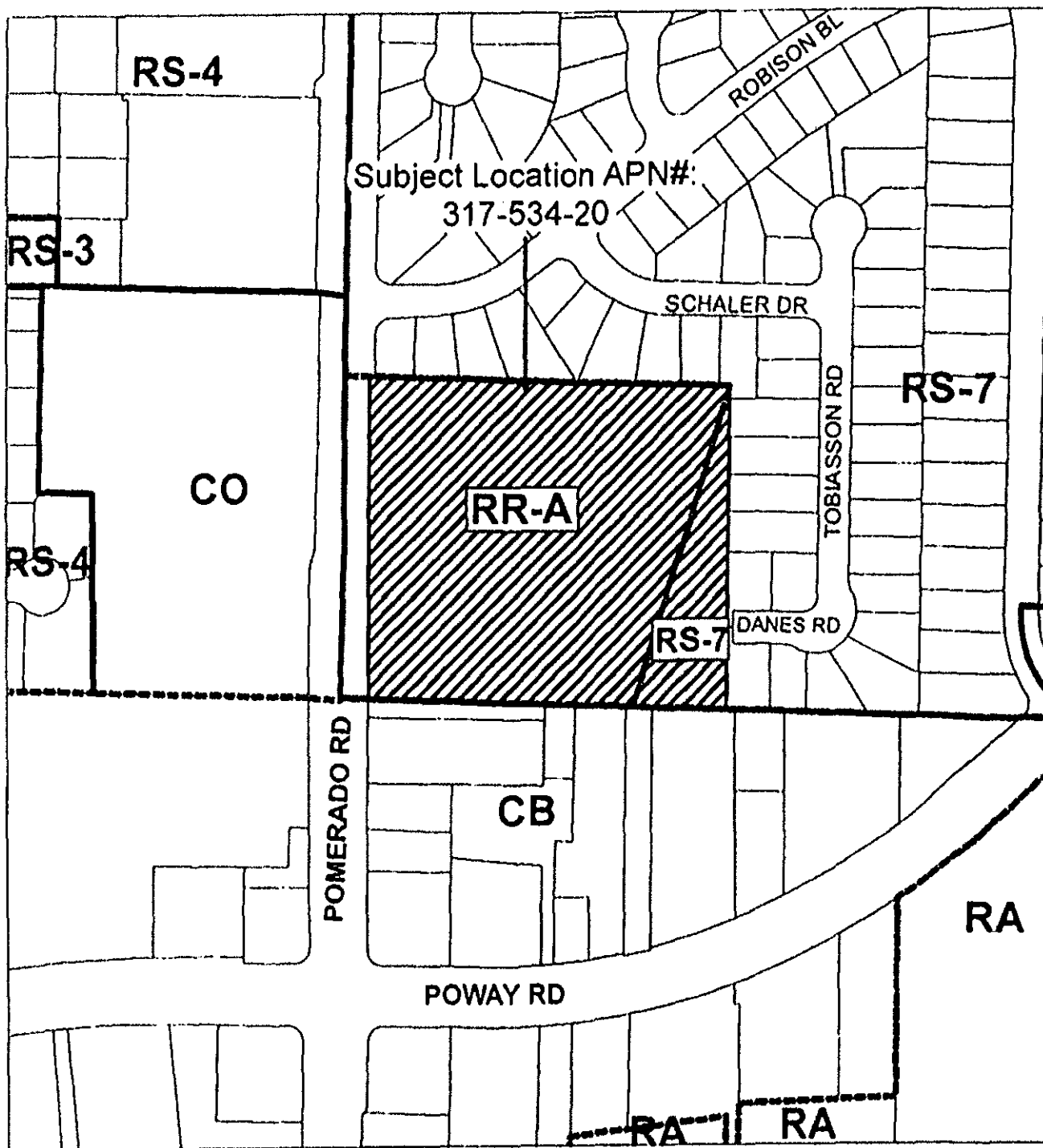
NOES:

ABSENT:

DISQUALIFIED:

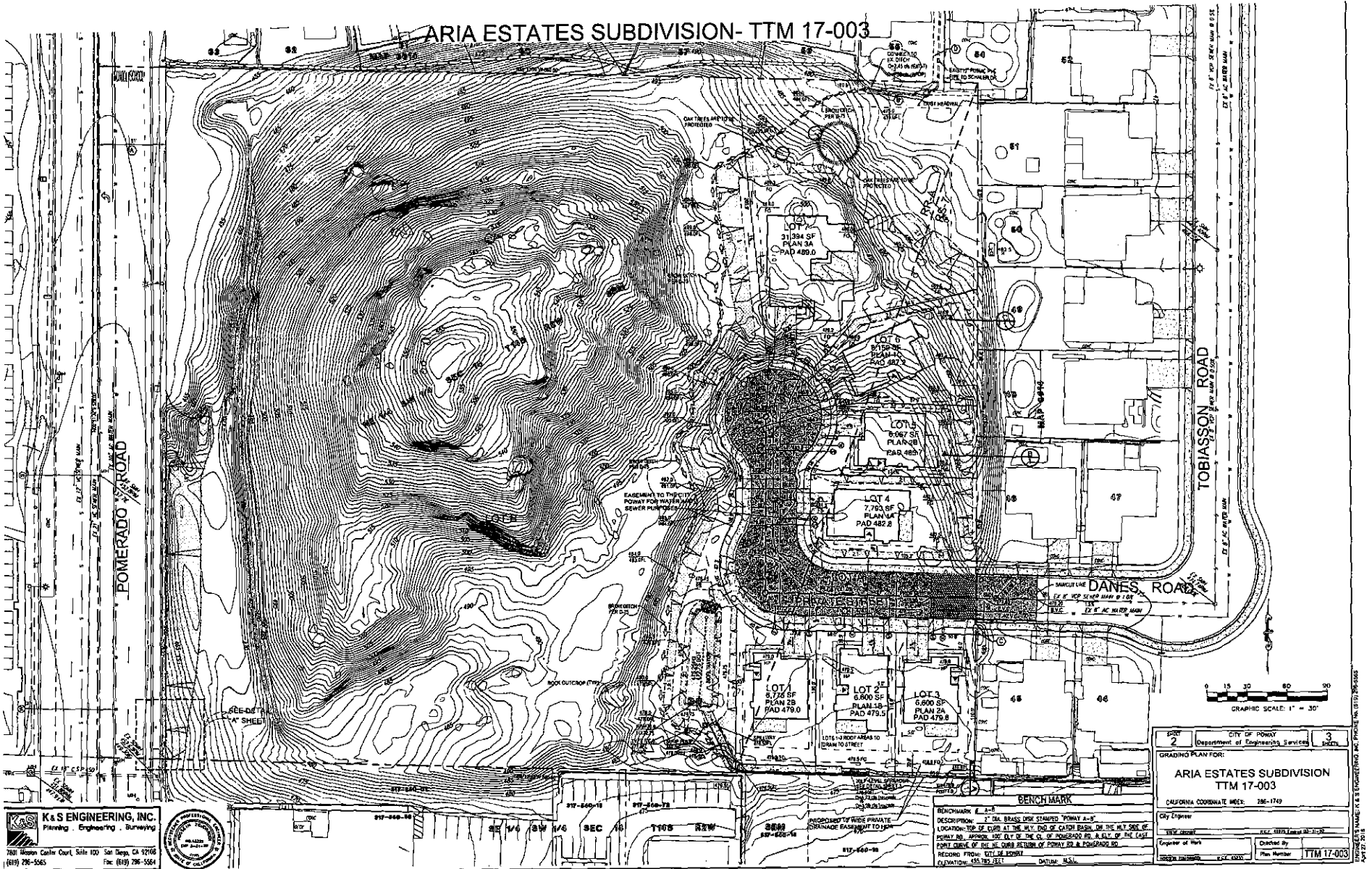
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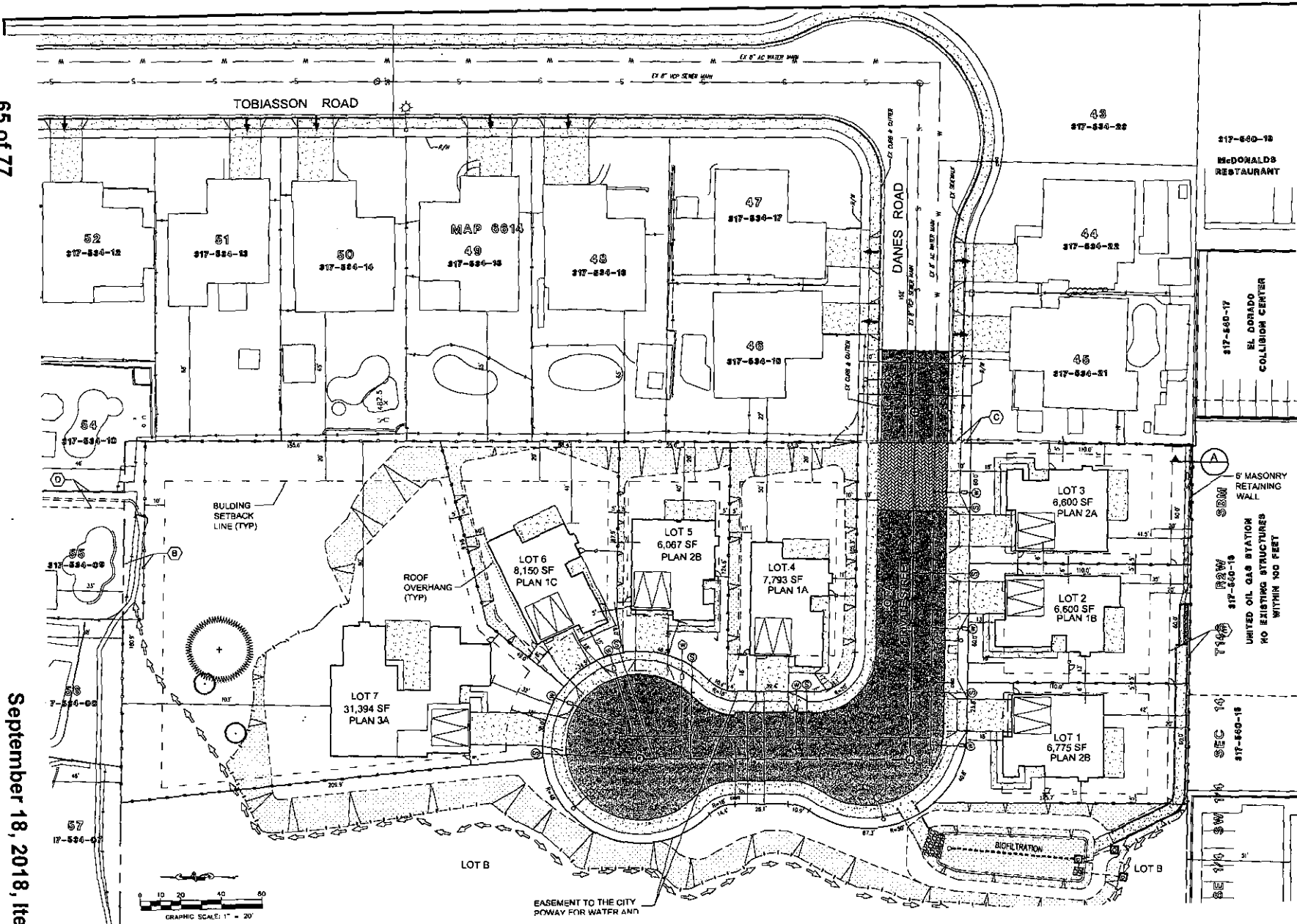
Nancy Neufeld, CMC, City Clerk  
City of Poway



**CITY OF POWAY**  
**Zoning/Location Map**  
**Item: TTM17-003 and DR18-003**







ARIA ESTATES SUBDIVISION  
POWAY, CALIFORNIA  
TTM 17-003 / DR 18-003

PLAN CHECK SUB: 03-12-18

REVISIONS: 04-27-18

TITLE NAME:

SITE PLAN

PROJECT: 18-001

SHEET:

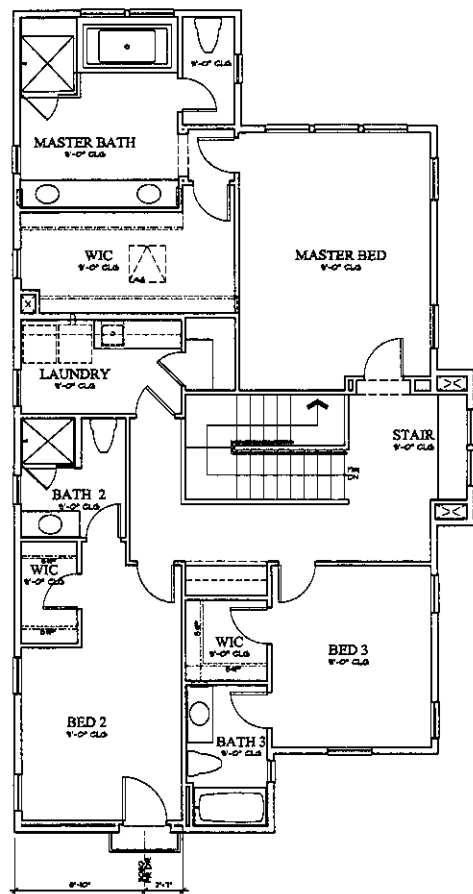
SP-02



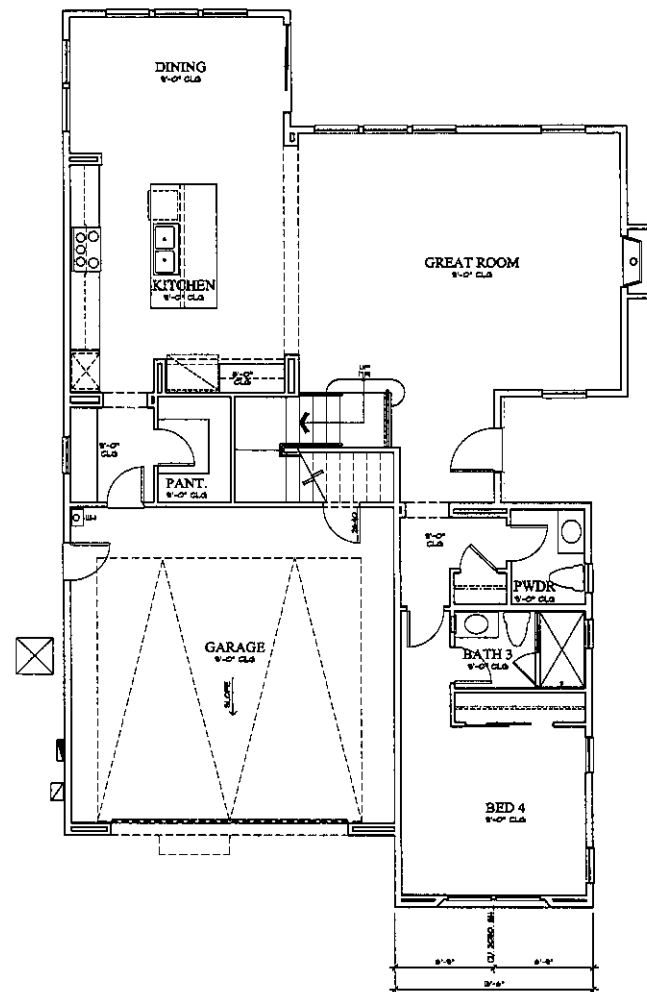
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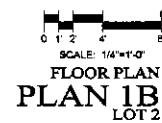




### SECOND FLOOR PLAN



### FIRST FLOOR PLAN



CONCRETE FLAT TILE ROOFING  
WOOD SHAKE RAFTER TAILS  
WOOD OUTLOOKERS  
WOOD WINDOW SHUTTERS  
GABLE END VENTS  
VINYL WINDOWS AND DOORS  
BRIDGE OVER POACH WINDOW AND DOOR TRIMS  
ENHANCED WINDOW AT FRONT ELEVATION  
WOODEN JULIET BALCONY  
STONE WALL FINISH AT ENTRY DOOR



0 1' 2' 4'

SCALE: 1/4"=1'-0"

EXTERIOR ELEVATIONS  
PLAN 1B  
LOT 2

**MYRON  
SCHEURER  
ARCHITECT**  
20250 Acacia Street, Suite 210  
Newport Beach, CA 92660  
Telephone: (949) 433-8666

**ARIA ESTATES**  
POWAY, CALIFORNIA

**CURRENT ISSUE DATE**  
**MAR. 12, 2018**

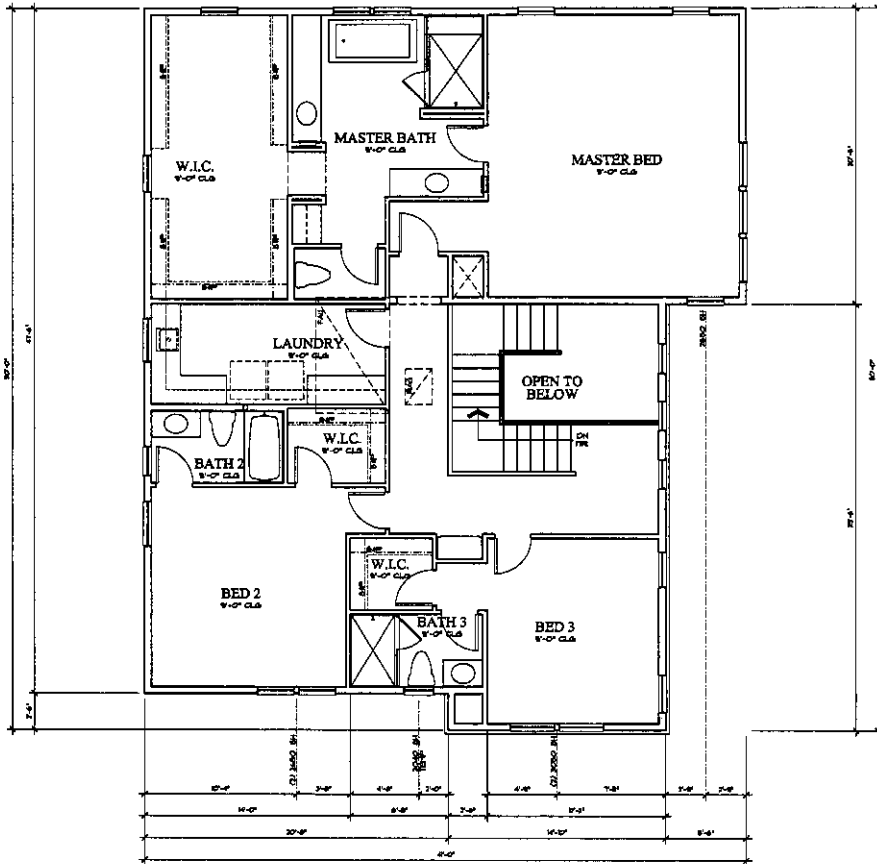
KL 4154/2012

18002

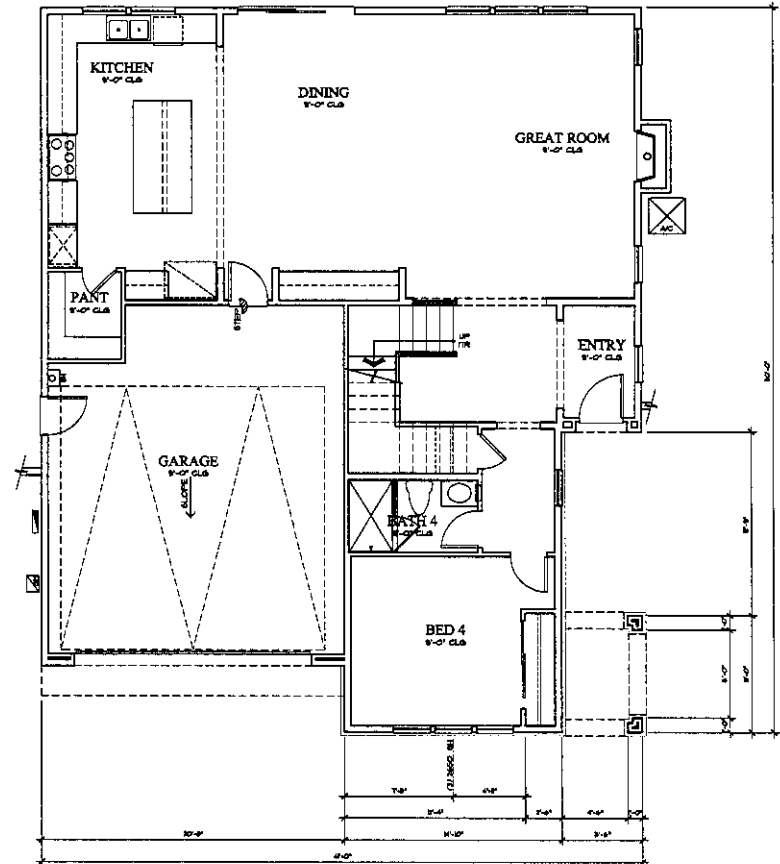
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EXTERIOR ELEVATIONS  
PLAN 1B  
LOT 2



SECOND FLOOR PLAN



FIRST FLOOR PLAN

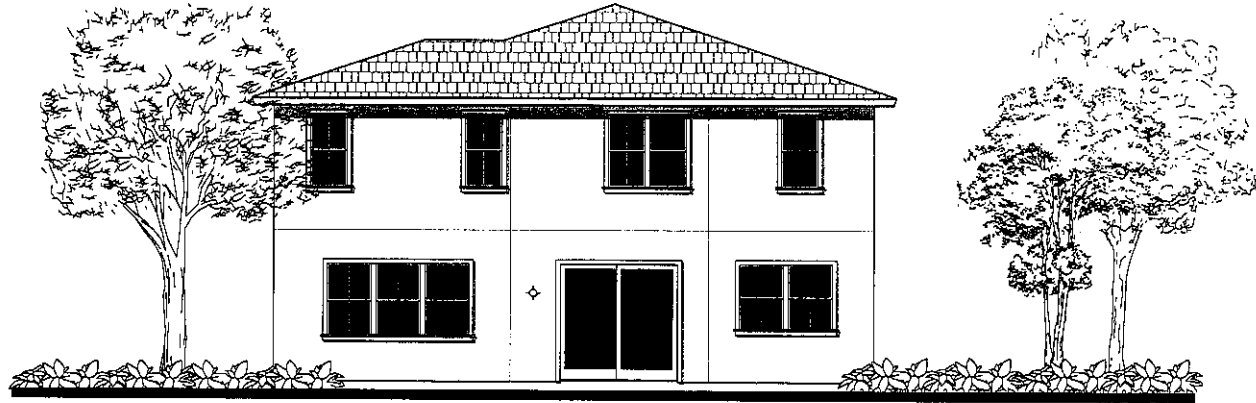


# COLOR SCHEME 2 MATERIALS & FINISHES

CONCRETE PLAT TILE ROOFING  
WOOD SHAVE RAFTER TAILS  
WOOD WINDOW SHUTTERS  
VINYL WINDOWS AND DOORS  
BRICK OVER POART WINDOW AND DOOR TRIMS  
STUCCO OVER POART WALL TRIMS  
STONE WALL FINISH  
STUCCO OVER POART CORBELS

MARK  
SCHEURER  
ARCHITECT  
30200 Acadia Street, Suite 200  
Newport Beach, CA 92660  
Telephone : (949) 485-8488

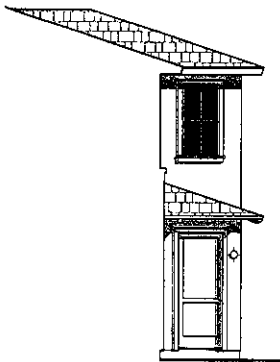
ARIA ESTATES  
FOWAY, CALIFORNIA



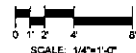
REAR ELEVATION



FRONT ELEVATION



FRONT ELEVATION  
AT ENTRY DOOR



EXTERIOR ELEVATIONS  
PLAN 2B  
LOT 1 AND 5

CURRENT DATE LAST

MAR. 12, 2018

REVISIONS

NO. DESCRIPTION

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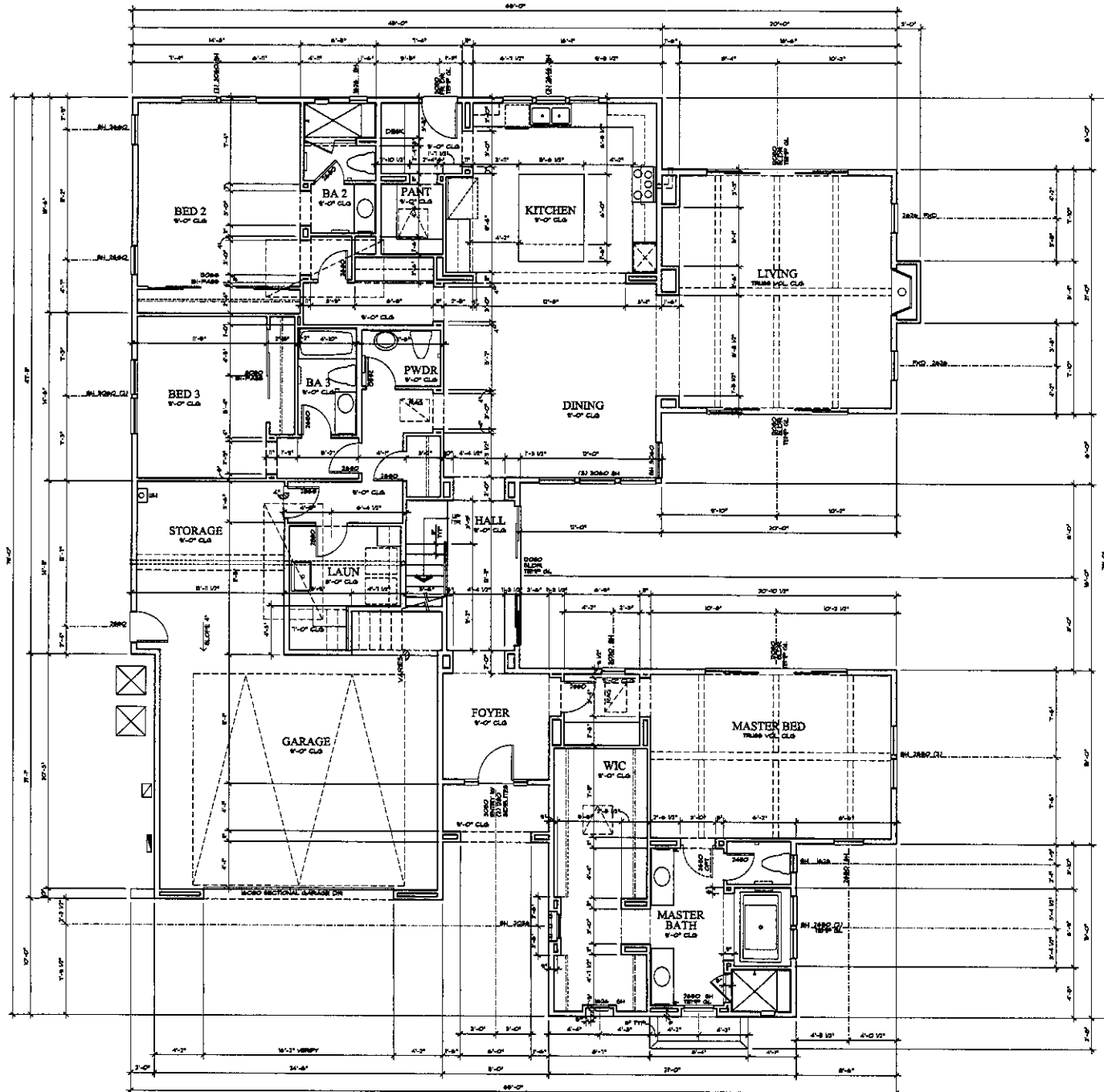
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EXTERIOR ELEVATIONS

**PLAN 2B**

LOT 1 AND 5



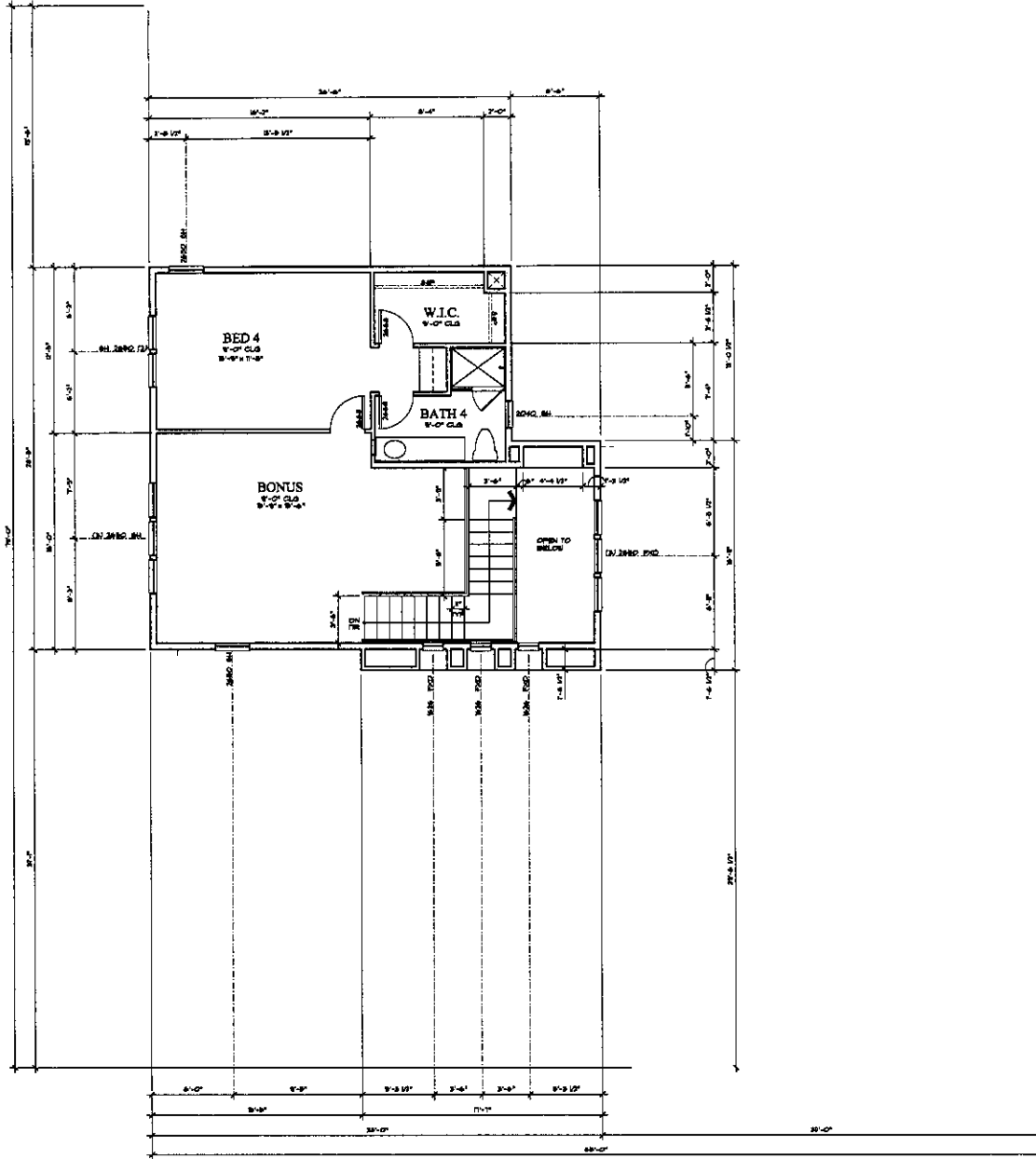
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FIRST FLOOR PLAN  
PLAN 3A  
LOT 7

MARK  
SCHREUR  
ARCHITECT, P.C.  
2020 Avenida Street, Suite 200  
Newport Beach, CA 92660  
Telephone: (949) 483-1668

ARIA ESTATES  
POWAY, CALIFORNIA

CURRENT DATE
MAR. 12, 2018
PROJECT NO.
PROJECT NAME
18002
SHEET NO.

A3-01

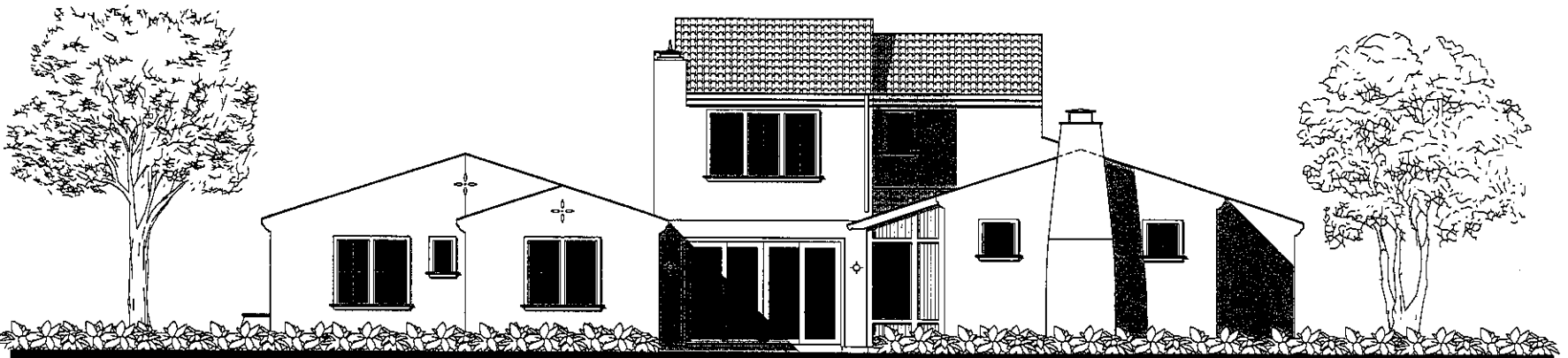


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SECOND FLOOR PLAN  
PLAN 3A  
LOT 7

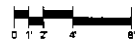




LEFT ELEVATION



RIGHT ELEVATION



SCALE: 1/4"=1'-0"  
EXTERIOR ELEVATIONS  
PLAN 3A  
LOT 7

MARK  
SCHEURER  
ARCHITECT, INC.  
22260 Avenida Shasta, Suite 200  
Newport Beach, CA 92660  
Telephone: (949) 483-8688

ARIA ESTATES  
POWAY, CALIFORNIA

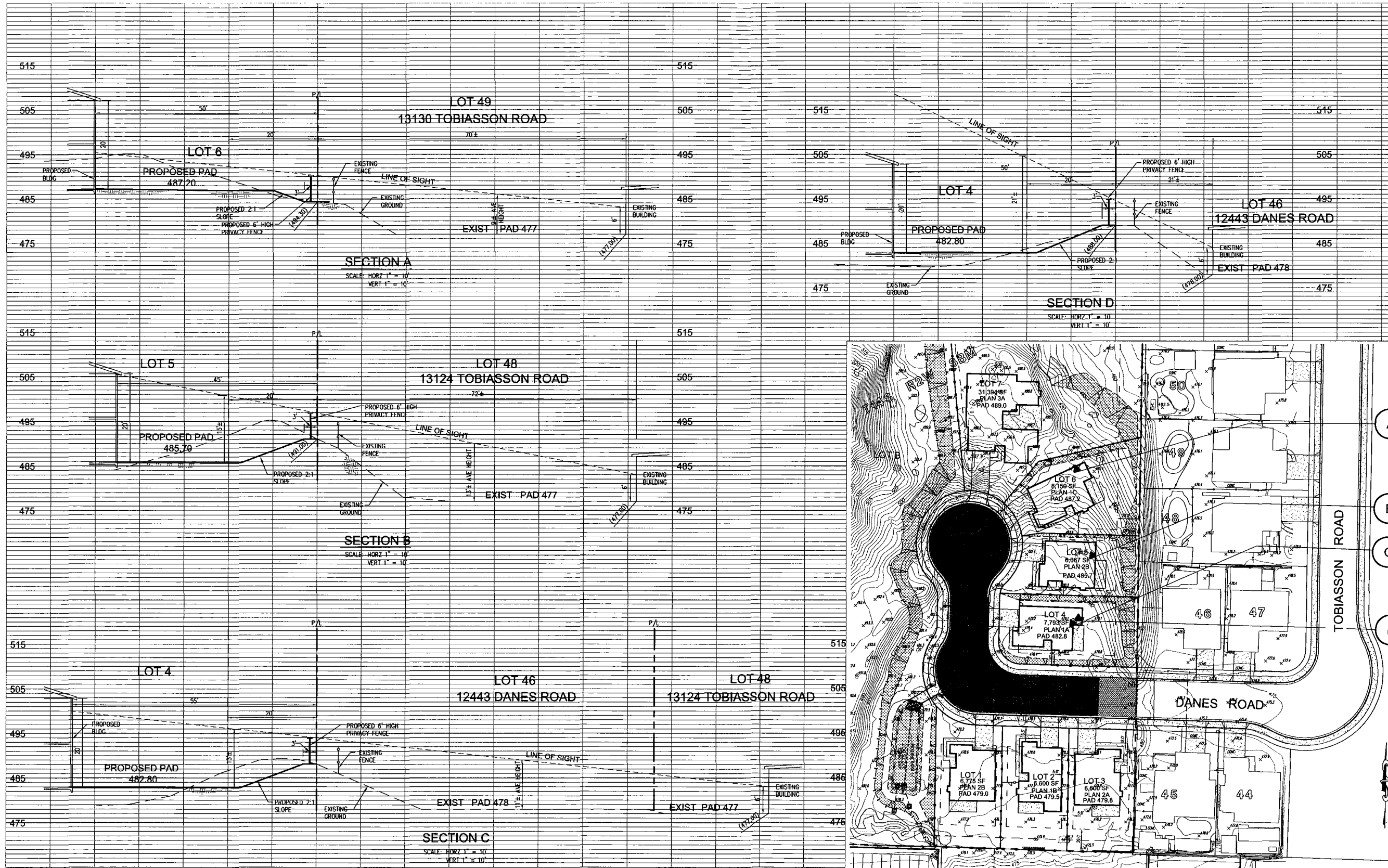
DATE OF EXISTING PLAN  
MAR. 12, 2018

REVISIONS


PROJECT NO.  
18002

SHEET NO.

A3-05







# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED	<input type="checkbox"/>
(SEE MINUTES)	
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED	_____
RESOLUTION NO.	_____

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Robert Manis, Director of Development Services *RM*

**CONTACT:** Scott Nespor, Assistant Planner  
(858) 668-4656 / [snespor@poway.org](mailto:snespor@poway.org)

**SUBJECT:** Conditional Use Permit 18-013; a proposal to amend an existing  
Conditional Use Permit to allow outdoor storage at 12675 Stowe Drive

## Summary:

Conditional Use Permit (CUP) 18-013 is a proposal to amend CUP 15-009 to establish outdoor storage as an accessory activity for an existing auto body repair business that is in the Light Industrial (LI) area of the Poway Business Park. The business is operating under CUP 15-009 that was approved in 2015. At that time the applicant did not request outdoor storage. In order to establish outdoor storage, an amendment to the existing CUP needs to be considered and approved by City Council.

## Recommended Action:

It is recommended that the City Council approve CUP 18-013, subject to the conditions of approval in the Resolution included as Attachment A.

## Discussion:

The operator of Caliber Collision is the applicant for this proposed CUP, and the owner of the site is JLNI, LLC. The site is located at 12675 Stowe Drive and is in the LI area of the South Poway Specific Plan (SPSP) which is the regulatory document for the Poway Business Park. The site location and zoning map is included as Attachment B.

Auto body repair requires a CUP at this location and CUP 15-009 was originally approved for this business by the City Council in 2015. At that time the applicant did not request outdoor storage as part of their application and a Condition of Approval prohibiting outdoor storage was included in the approved Resolution. Resolution P-15-28 is included as Attachment C.

In response to the needs of several businesses, in 2014 the SPSP was evaluated and amended by the City Council, under Specific Plan Amendment (SPA) 13-006, to allow limited outdoor storage associated with industrial uses with staff approval, subject to certain criteria. The SPSP also includes a provision that allows an individual to request City Council approval of a CUP for outdoor storage that does not meet the specified criteria. In this case the applicant is proposing outdoor storage that complies with the criteria that would enable staff approval. All of the storage would occur behind the building, as shown on the site plan included as Attachment D, and would not be visible from the street. However, because CUP 15-009 was approved by City Council with a requirement that prohibits outdoor storage, staff is unable to allow outdoor storage without City

Council approval. Section 3 of the Resolution included as Attachment A eliminates the outdoor storage restriction from the original CUP and authorizes it be done in accordance with the site plan included as Attachment D.

The proposed outdoor storage area would not occur within the required 26 parking spaces for the business, which was established with CUP 15-009. Additionally, it would not obstruct emergency vehicle access or other vehicle circulation and would not be conducted in a manner which creates a storm water quality issue. Conditions of approval are included in the proposed Resolution (Attachment A) to address these matters.

**Environmental Review:**

The proposed project is covered by the Negative Declaration approved for CUP 15-009 dated November 17, 2015, and the Negative Declaration approved for SPA 13-006/outdoor storage regulations dated March 5, 2014, therefore, additional environmental review for this project is not required. The November 2015 Negative Declaration thoroughly analyzed the auto body repair use at this location. The March 2014 Negative Declaration analyzed the potential impacts associated with outdoor storage in the LI area of the Poway Business Park. The outdoor storage proposed with CUP 18-013 is consistent with the requirements of the SPSP that were analyzed with the Negative Declaration.

**Fiscal Impact:**

None.

**Public Notification:**

A public notice was published in the *Poway News Chieftain*, mailed to property owners and occupants located within 500 feet of the project site, and other individuals that have previously expressed interest in this project.

**Attachments:**

- A. Resolution
- B. Zoning and Location Map
- C. Resolution P-15-28
- D. Site Plan

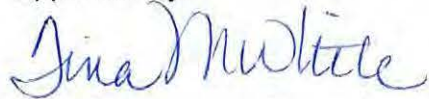
Reviewed/Approved By:

Reviewed By:

Approved By:

Wendy Kaserman  
Assistant City Manager

Alan Fenstermacher  
City Attorney

  
Tina M. White  
City Manager



RESOLUTION NO. P-18-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
POWAY, CALIFORNIA APPROVING  
CONDITIONAL USE PERMIT 18-013  
ASSESSOR'S PARCEL NUMBER 317-223-01 AND 317-223-02

WHEREAS, an application has been submitted requesting approval of Conditional Use Permit (CUP) 18-013, which is a modification to a previously approved CUP 15-009, to establish an outdoor storage area for an existing automobile body repair facility located at 12675 Stowe Drive, in the Light Industrial (LI) area of the Poway Business Park; and

WHEREAS, on September 18, 2018, the City Council held a duly advertised public hearing to solicit comments from the public, both for and against, relative to this application.

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

Section 1: The City Council finds that the proposed project is covered by the Negative Declaration approved for CUP 15-009 dated November 17, 2015, and the Negative Declaration approved for SPA 13-006/outdoor storage regulations dated March 5, 2014, therefore, additional environmental review for this project is not required.

Section 2: The findings, in accordance with Section 17.48.070 of the Poway Municipal Code (PMC) for CUP 18-013, are as follows:

- A. The location, size, design, and operating characteristics of the proposed use are in accord with the title and purpose of Chapter 17.48 PMC (Conditional Use Permits Regulations), the General Plan, and the development policies and standards of the City in that outdoor storage is allowed in the LI zone and the storage has been situated on the site to minimize its visibility.
- B. The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, people, buildings, structures, or natural resources in that the outdoor storage has been situated to minimize its visibility.
- C. The proposed use is in harmony with the scale, bulk, coverage, and density of, and is consistent with the surrounding development, in that the outdoor storage has been situated so that it does not obstruct required on-site parking or emergency vehicle access.
- D. There are adequate public facilities, services and utilities available at the subject site to serve the proposed use.
- E. There will not be a harmful effect upon desirable neighborhood characteristics in that the outdoor storage has been situated to minimize its visibility.
- F. The generation of traffic will not adversely impact the capacity and physical character of the surrounding streets and/or the Circulation Element of the General Plan in that this use will not generate more traffic than that associated with a typical industrial use.

- G. The site is suitable for the type and intensity of use and development, in that the project site will be developed with industrial building and establishment of the outdoor storage will not generate more traffic than that is associated with typical industrial uses.
- H. There will not be significant harmful effects upon environmental quality and natural resources in that the site is currently fully developed and contains no natural habitat.
- I. There are no relevant negative impacts of the proposed use that cannot be mitigated.
- J. That the impacts, as described in subsections A through I of this Section, and the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan.
- K. That the proposed conditional use will comply with each of the applicable provisions of this title.

Section 3: The City Council hereby revokes Condition of Approval K from City Council Resolution P-15-28 for CUP 15-009, which reads as follows:

Outdoor storage of wrecked automobiles awaiting repairs is not permitted.

All other Conditions of Approval in Resolution P-15-28 remain applicable. The City Council hereby approves CUP 18-013 to establish outdoor storage on the site located at 12675 Stowe Drive, as shown on approved plans on file at the City and as described in the submitted application, subject to the following conditions:

- A. Approval of this CUP shall apply only to the subject project and shall not waive compliance with all other Sections of the Zoning Ordinance and all other applicable City Ordinances in effect at the time of Building Permit issuance.
- B. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.
- C. Within 30 days of the date of this approval, the applicant shall submit in writing that all conditions of approval have been read and understood, and a deed covenant with these conditions of approval shall be recorded on the property.

- D. The use conditionally granted by this approval shall not be conducted in such a manner as to interfere with the reasonable use and enjoyment of surrounding uses.
- E. The terms and conditions of this CUP shall be binding upon the permittee and all persons, firms and corporations having an interest in the property subject to these permits, and the heirs, executors, administrators, successors, and assigns of each of them, including municipal corporations, public agencies and districts.
- F. The CUP shall be subject to annual review, as determined by the Director of Development Services, for compliance with the conditions of approval and to address concerns that may have occurred during the past year.
- G. The area of outdoor storage shall be limited to the area depicted on the approved site plan on file with the City and shall not obstruct emergency vehicle access. The applicant shall provide a revised parking lot striping plan showing correct dimensions of parking spaces prior to any outdoor storage in the designated area.
- H. Adequate measures shall be taken to ensure outdoor storage does not cause storm water quality issues to the satisfaction of the Engineering Division.

Section 4: The approval of CUP 18-013 shall expire on September 18, 2020, at 5:00 p.m. unless, prior to that time, establishment of the use on the property in reliance on this CUP approval has commenced prior to its expiration.

Section 5: The parties are hereby informed that the time within which judicial review of this decision must be sought is governed by Section 1094.6 of the California Code of Civil Procedure.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Poway, California, at a regular meeting this 18th day of September 2018.

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Steve Vaus, Mayor

ATTEST:

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Nancy Neufeld, CMC, City Clerk

STATE OF CALIFORNIA       )  
  ) SS  
COUNTY OF SAN DIEGO     )

I, Nancy Neufeld, City Clerk of the City of Poway, California, do hereby certify under penalty of perjury that the foregoing Resolution No. P-18-                was duly adopted by the City Council at a meeting of said City Council held on the 18th day of September 2018, and that it was so adopted by the following vote:

AYES:

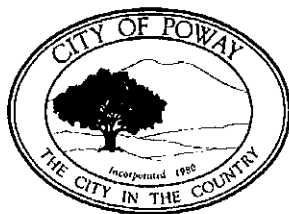
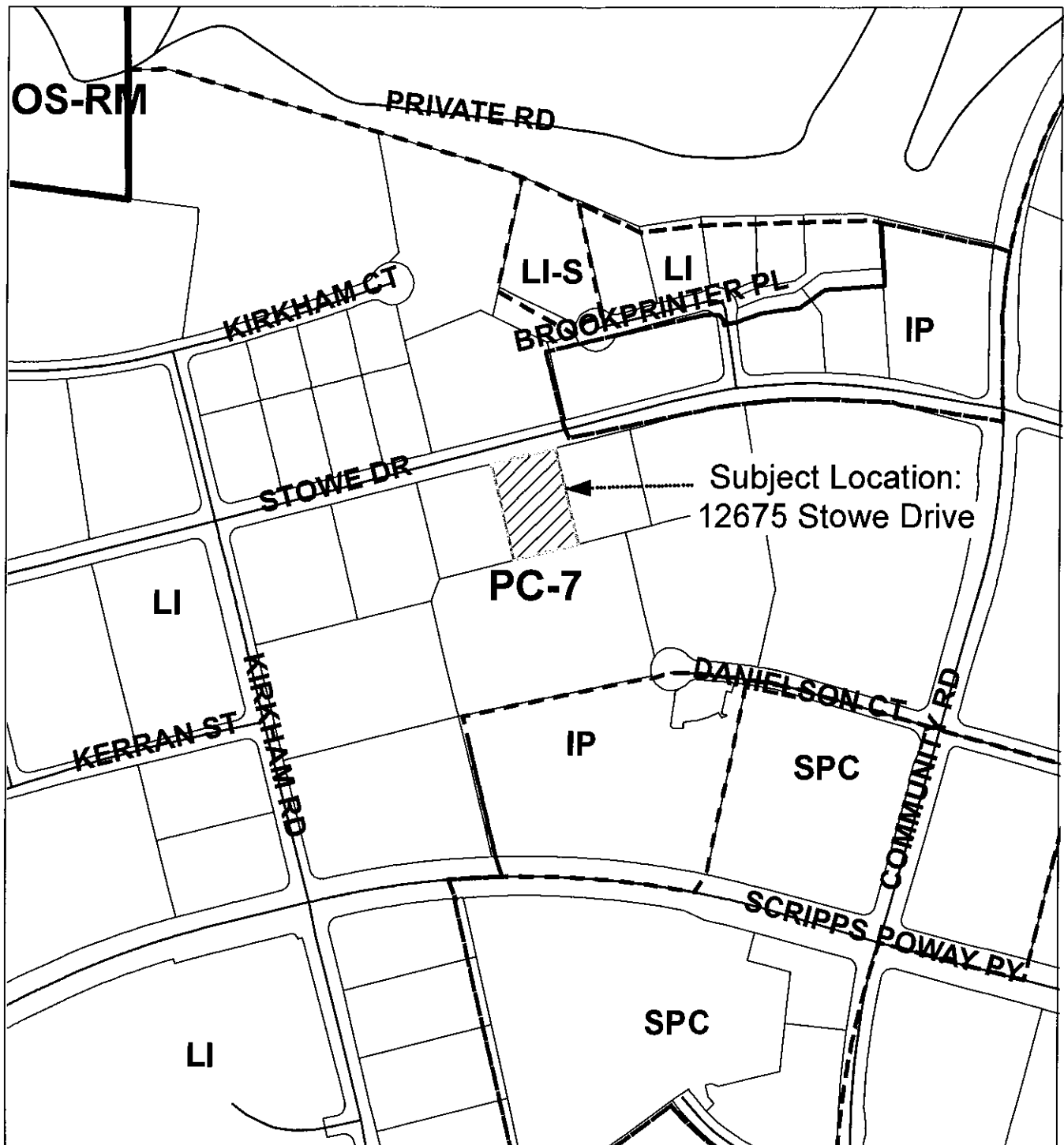
NOES:

ABSENT:

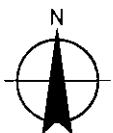
DISQUALIFIED:

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Nancy Neufeld, City Clerk  
City of Poway



**CITY OF POWAY**  
**Zoning / Location Map**  
**Item: CUP18-013**



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Feet

**RESOLUTION NO. P-15-28**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF POWAY, CALIFORNIA  
APPROVING CONDITIONAL USE PERMIT 15-009  
ASSESSOR'S PARCEL NUMBERS 317-223-27-01/02**

WHEREAS, Michael Bates, on behalf of Caliber Collision Center, has submitted a request for approval of a Conditional Use Permit (CUP) to establish a commercial automobile body repair business within the existing building at 12675 Stowe Drive, in the Light Industrial (LI) land use designation area of the South Poway Specific Plan (SPSP); and

WHEREAS, on November 17, 2015, the City Council held a duly advertised public hearing to solicit comments from the public, both pro and con, relative to this application.

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

Section 1: The findings, in accordance with Section 17.48.070 of the Poway Municipal Code (PMC), for CUP 15-009 to establish an automobile body repair business in the LI area of the SPSP, are as follows:

- A. The location, size, design, and operating characteristics of the proposed use are in accord with the title and purpose of Chapter 17.48 PMC (Conditional Use Permit Regulations), the SPSP, the City General Plan, and the development policies and standards of the City in that the subject use is allowed with a CUP. The facility has been designed and will be conducted such that it will be compatible with the surrounding development.
- B. The location, size, design, and operating characteristics of the proposed use will be compatible with, and will not adversely affect or be materially detrimental to, adjacent uses, buildings, structures, or natural resources in that the site is zoned for the use, the facility has been designed and will be operated in compliance with City development standards, and the site has adequate parking to accommodate the use.
- C. The proposed use is in harmony with the scale, bulk, coverage and density of, and is consistent with, adjacent uses in that adequate parking will be provided on-site, and all storage of wrecked automobiles and work will be conducted within the building.
- D. There are adequate public facilities, services and utilities available at the subject site to serve the proposed use.

- E. There will not be a harmful effect upon the desirable surrounding property characteristics in that adequate parking will be provided on-site, and all storage of wrecked vehicles and work will be conducted within the building.
- F. The generation of traffic will not adversely impact the capacity and physical character of the surrounding streets in that the proposed use provides adequate vehicle circulation on-site.
- G. There will not be significant harmful effects upon environmental quality and natural resources in that the site is already developed and contains no natural habitat resources.

**Section 2:** The City Council hereby approves CUP 15-009 to establish an automobile body repair business within the existing building located at 12675 Stowe Drive, in the LI area of the SPSP, subject to the following conditions:

- A. Approval of this CUP shall apply only to the subject project and shall not waive compliance with all other Sections of the Zoning Ordinance and all other applicable City Ordinances in effect at the time of Building Permit issuance.
- B. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.
- C. Within 30 days of the date of this approval, the applicant shall submit in writing that all conditions of approval have been read and understood, and a deed covenant with these conditions of approval shall be recorded on the property.
- D. The use conditionally granted by this approval shall not be conducted in such a manner as to interfere with the reasonable use and enjoyment of surrounding uses.
- E. The terms and conditions of CUP 15-009 shall be binding upon the permittee and all persons, firms and corporations having an interest in the property subject to

these permits, and the heirs, executors, administrators, successors, and assigns of each of them, including municipal corporations, public agencies and districts.


- F. Conditional Use Permit 15-009 shall be subject to annual review, as determined by the Director of Development Services, for compliance with the conditions of approval and to address concerns that may have occurred during the past year.
- G. Building Permits are required for all new tenant improvements associated with the facility. All requirements deemed necessary by the Building Division and Fire Department, based on the change of use/occupancy in this building, will be determined in the building plan review process.
- H. All tenant improvements associated with the use shall be in accordance with the *California Fire Code* and Sections 406.6.1 through 406.6.6 of the *California Building Code*.
- I. Signs are subject to a separate Planning Division permitting process, and may additionally require subsequent Building Permits. The applicant shall submit a separate Sign Permit application for any signs.
- J. Outdoor repair work is not permitted.
- K. Outdoor storage of wrecked automobiles awaiting repairs is not permitted.
- L. Should the auto body repair work be expanded to include engine repair, the applicant shall comply with all applicable Building and Fire Code requirements.
- M. The site shall be kept in an orderly and well maintained condition at all times.
- N. The applicant shall comply with the following to the satisfaction of the Director of Safety Services:
  - 1. The applicant is required to meet all applicable Poway Municipal Code and California State Fire and Building Codes for this project. The applicant is encouraged to contact the Division of Fire Prevention at (858) 668-4470 to set up a meeting prior to submitting building plans in order to review project requirements.
  - 2. Roof covering shall be fire retardant as per Section 15.04.050 of the Poway Municipal Code, and City of Poway Ordinance No. 64 and its amended Ordinance No. 526.
  - 3. The building shall display their numeric address in a manner visible from the access street. Minimum size of the building numbers shall be six inches on the front facade of the building. Building address shall also be displayed on the roof in a manner satisfactory to the Director of Safety Services, and meeting Sheriff's Dept. -ASTREA criteria.



4. The building's fire sprinkler and automatic fire alarm systems shall meet Poway Municipal Code requirements. Relocation of six or more sprinkler heads shall require a separate plan submittal and approval by the Fire Department. A water analysis will not be required.
5. The applicant is encouraged to evaluate the underground components of the fire sprinkler system. The City of Poway requires that any time an underground water supply system for an existing fire protection system fails, including maintenance, testing, and seismic failures, the fire protection system shall be retrofitted with backflow protection devices.
6. Mechanical ventilation complying with the California Building Code, California Fire Code and Chapters 5 and 6 of the California Mechanical Code will be required. In addition to other ventilation requirements, a Fire Department-approved mechanical ventilation system shall be installed when the indoor storage of vehicles or recreational vehicles occurs.
7. Separate deferred plans for the design and installation of paint spray booths and paint mixing rooms shall be submitted, reviewed and approved by the Fire Department prior to installation.
8. Rack storage in excess of 8-feet in height requires a building department permit for installation.
9. This facility will not be permitted to exceed the maximum allowable quantities per control area as defined in table 307.1 of the California Building Code without a change to the proposed occupancy use.


**Section 3:** The approval of CUP 15-009 shall expire on November 17, 2017, at 5:00 p.m. unless, prior to that time, a Building Permit has been issued and/or establishment of the use on the property in reliance on this CUP approval has commenced prior to its expiration.

**Section 4:** The parties are hereby informed that the time within which judicial review of this decision must be sought is governed by Section 1094.6 of the California Code of Civil Procedure.



  
Steve Vaus, Mayor

Sheila R. Cobian  
Sheila R. Cobian, CMC, City Clerk

AYES:	LEONARD, CUNNINGHAM, MULLIN, GROSCH, VAUS
NOES:	NONE
ABSENT:	NONE
DISQUALIFIED:	NONE

  
Sheila R. Cobian, CMC, City Clerk  
City of Poway



	3/23/2014	DATE
	CUP RESIDUOUS	9/2/15
	CUP RESIDUOUS	9/2/15
Prepared By:	PROJECT NAME:	SHEET TITLE:
CALIBER - POWAY 100 BOX 9130 LONG BEACH, CA 90810 CONTACT: MICHAEL BATES (562) 426-3433 F (904) 989-0334 INFO@CALIBER-POWAY.COM	CALIBER COLLISION CENTERS 100 BOX 9130 POWAY, CA 92064	COVER SHEET, SITE PLAN AND PROJECT INFO
STAMP:	4/9/18	DATE:
SCALE: AS NOTED	4/9/15	SCALE:
DRAWING: HO CHONG	JOB:	SHEET NO:
C1		





# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Robert Manis, Director of Development Services *RM*

**CONTACT:** Robert Manis, Director of Development Services  
(858) 668-4601 or bmanis@poway.org

**SUBJECT:** Adoption of an Ordinance amending Title 17 of the Poway Municipal Code (PMC) establishing Accessory Dwelling Unit regulations; Zoning Ordinance Amendment (ZOA) 18-002

## Summary:

In 2017, the State Legislature adopted SB 1069 and AB 2299 in an effort to eliminate barriers to accessory dwelling unit construction. The Poway Municipal Code (PMC) contains regulations for accessory dwelling units (currently called second dwellings) in PMC Section 17.08.180. The proposed Ordinance will amend Title 17 of the PMC consistent with California State Law.

## Recommended Action:

It is recommended that the City Council take public input; close the public hearing, introduce the attached Ordinance (Attachment A) for first reading by title only, waive further reading, and schedule adoption of the attached Ordinance for October 2, 2018.

## Discussion:

The State Legislature is concerned about the unaffordability of housing in California. In 2017, the State Legislature adopted SB 1069 (Attachment B) and AB 2299 (Attachment C) to eliminate barriers to accessory dwelling unit construction that the Legislature has determined is a common-sense, cost-effective approach to accommodate future growth and to encourage infill development in developed neighborhoods. An ADU is an attached or detached residential dwelling unit on the same lot as a single-family dwelling which provides complete independent living facilities and may or may not include cooking or kitchen facilities. The California Government Code provides that 1) ADUs are a valuable form of housing; 2) ADUs may provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others at below market prices within existing neighborhoods; 3) ADUs may add income and an increased sense of security to homeowners; 4) ADUs will provide additional rental housing stock; 5) ADUs offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and 6) ADUs are an essential component of California's housing supply.

The City's current second dwelling unit ordinance is not consistent with ADU regulations contained in the California Government Code and therefore needs to be amended. Until the Poway Municipal Code is amended, State regulations contained in the Government Code prevail and the City has no ability to regulate beyond that. State Law permits local agencies to adopt objective standards related to ADUs including unit size, parking, fees, and other requirements

that are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ADUs. The attached Ordinance contains such objective standards.

On April 17, 2018, the City Council held a public workshop on the topic of ADU regulations. Staff provided a comparison of several key State ADU provisions and how they are currently addressed in the PMC. Direction was given to staff on several regulation topics where local discretion is allowed. The proposed ordinance reflects staff's understanding of the City Council's direction for updating the regulations for ADUs. The following is a summary of several of the proposed standards.

#### Development Review

State law allows for design review by the local jurisdiction for a proposed ADU. The current PMC and the proposed Ordinance require a Minor Development Review Application (MDRA) when **any** new habitable space created is 750 square feet or more in area. An MDRA is approved administratively and no public hearing is required. An ADU that results in new habitable space of 750 square feet or more would therefore require an MDRA. An ADU that is created within an existing single-family dwelling would not create any new habitable space and therefore would not require an MDRA.

#### Guest House

Guest Houses, as defined in the PMC, are not regulated by State law because a guest house is not a complete, independent living facility. The PMC currently contains provisions for both ADUs and Guest Houses. A guest house is similar to an ADU except that a guest house is not permitted to have full kitchen facilities, does not require a parking space, and is not intended to be rented out separately. Over the years, the City of Poway has not seen many ADUs constructed but there have been several guest houses built. Unfortunately, many of these guest houses were illegally converted to full dwelling units. The proposed ordinance will permit ADUs and continue to permit other habitable accessory structures, such as separate sleeping quarters, casitas, and pool houses, however guest houses will be prohibited. Habitable accessory structures are heated and/or air conditioned and may contain a bathroom and/or a bar sink but may not contain cooking or kitchen facilities. A habitable accessory building that has what appears to be a kitchen will be deemed an ADU and processed accordingly. It is hopeful that with the new regulations for ADUs, it will be less likely that habitable accessory structures will be illegally converted to dwelling units.

#### Setbacks

Both State law and the PMC require an ADU to comply with the setbacks established by the zone in which it is located. However, State law allows a garage to be converted to an ADU regardless of where on the property it is located. Also, State law provides that for an ADU built above a garage, a setback of no more than five feet from side and rear property lines shall be required. Typically, habitable space has a greater setback than a garage, so if a garage is converted to an ADU, it will likely be closer to the lot line(s). The proposed ordinance complies with the State law provisions.

#### Height

State law allows the local jurisdiction to regulate the height of an ADU. The proposed ordinance requires compliance with the height regulations of the zone in which it is located, except that a detached ADU is limited to one story and may not exceed the height of the primary dwelling. This height restriction would also apply to a detached garage.

#### Floor Area

State law states that the maximum size of an ADU shall be 50% of the primary dwelling (not including the garage) or 1,200 square feet, whichever is less. The size limit currently in the PMC is 25% of the primary dwelling or 1,500 square feet, whichever is less. The proposed ordinance establishes the size limit at 50% of the primary dwelling or 1,500 square feet, whichever is less.

#### Parking

State law requires that parking for an ADU not exceed one parking space per unit and the PMC requires one parking space for an ADU. The PMC currently requires that the parking space for the ADU be covered and outside of the setbacks. State law states that the parking space does not have to be covered, can be tandem, and can be located anywhere on the property. The proposed ordinance complies with State law and allows the parking space for the ADU to be in the driveway, tandem and/or within the setback areas.

#### Garage Conversion

The PMC requires a two-car garage for a single-family dwelling. If a garage is converted to another use, a new two-car enclosed garage must be provided. State law states that if a garage is converted to an ADU, two parking spaces can be required to be replaced but they do not have to be within a garage and can be located anywhere on the property, including in the driveway in front of the converted garage. The proposed ordinance reflects State law. Conversion of a garage to any other use would still require the replacement of a two-car garage that meets all setback requirements.

#### Development Impact Fees

State law allows local jurisdictions to collect impact fees on ADUs as long as they comply with the Mitigation Fee Act and are proportionate to the burden produced by the ADU on the facilities for which the fees are collected. An ADU can be up to 1,500 square feet. Since the size of an ADU is also limited to 50% of the size of the primary dwelling, it is recommended that the Development Impact fees for an ADU also be limited to 50% of the cost for a single-family dwelling. This is reflected in the proposed ordinance.

#### Affordable Housing

ADUs are a form of affordable housing and it is hopeful that ADUs constructed in a community will be counted towards meeting State housing requirements. To that end, the proposed ordinance includes an option for a property owner to provide a 30-year deed restriction to rent an ADU at a lower income level in exchange for waiving fees, reducing parking or providing other forms of assistance. Should the State accept ADUs as counting toward State housing requirements in the future, deed-restrictions would identify qualifying units.

#### Utility Connections

State law prohibits a jurisdiction from requiring a separate water and sewer connection for an ADU within an existing single-family dwelling but allows a jurisdiction to require this for newly constructed ADUs. The proposed ordinance leaves the separate connection as an option. It is not required for an ADU that is attached, detached or within an existing single-family dwelling.

#### Owner Occupancy

State law allows a jurisdiction to require that the property owner live in either the primary dwelling or the ADU the entire time that it is rented out. The current PMC also requires this. The proposed ordinance retains this requirement.



The proposed ordinance provides regulations for ADUs that are consistent with State law and reflect the direction provided by the City Council at the April 17, 2018 workshop. While staff has received an increased number of inquiries about building ADUs, none have received approval yet. There are a few applications under review. San Diego Association of Governments (SANDAG) and other local jurisdictions have estimated that between 5 and 10 percent of existing single-family lots might have ADUs constructed. While they can be rented out, most ADUs are being used statewide for elderly parents, adult children or extended family members. With the proposed new regulations and the reduction in Development Impact Fees for ADUs, it is hopeful that fewer habitable structures will be converted illegally to dwelling units.

**Environmental Review:**

This Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 15282(h) of the CEQA Guidelines in that adoption of this ordinance is intended to implement provisions of Section 65852.1 and 65852.2 of the Government Code regarding accessory dwelling units.

**Fiscal Impact:**

None.

**Public Notification:**

Notice of this hearing was published in the *Poway News Chieftain* on September 6, 2018.


**Attachments:**

- A. Ordinance amending Title 17 of the Poway Municipal Code.
- B. SB 1069
- C. AB 2299


Reviewed/Approved By:

\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

Reviewed By:

  
\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

Approved By:

  
\_\_\_\_\_  
Tina M. White  
City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF POWAY, CALIFORNIA,  
AMENDING TITLE 17 OF THE POWAY MUNICIPAL CODE  
ESTABLISHING REGULATIONS FOR ACCESSORY DWELLING UNITS  
(ZONING ORDINANCE AMENDMENT 18-002)

WHEREAS, the City Council seeks to implement Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 through the implementation of regulations concerning accessory dwelling units in residential zones;

WHEREAS, accessory dwelling units (ADUs) are commonly referred to as "second units," and are additional living quarters on single-family lots that are independent of the primary dwelling unit. ADUs may be either attached or detached to the primary dwelling unit, and typically provide complete independent living facilities, including facilities for living, sleeping, eating, cooking and sanitation;

WHEREAS, the State Legislature is concerned about the unaffordability of housing in California;

WHEREAS, the State Legislature adopted SB 1069 and AB 2299 in order to eliminate barriers to accessory dwelling unit construction that the Legislature has determined is a common-sense, cost-effective approach to accommodate future growth and to encourage infill development in developed neighborhoods;

WHEREAS, the California Government Code provides that ADUs are a valuable form of housing; that ADUs may provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others at below market prices within existing neighborhoods; that ADUs may add income and an increased sense of security to homeowners; that ADUs will provide additional rental housing stock; that ADUs offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and that ADUs are an essential component of California's housing supply;

WHEREAS, Section 65852.2(a)(4) of the California Government Code provides that any local ordinance that is inconsistent with Section 65852.2 shall be null and void and state law shall apply unless or until the local agency adopts an ordinance consistent with this new law;

WHEREAS, Section 65852.150(b) of the California Government Code provides that the Legislature's intent with the adoption of SB 1069 was that local agencies adopt an ordinance relating to matters including unit size, parking, fee, and other requirements that are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance; and



WHEREAS, on September 18, 2018, the City Council held a duly advertised public hearing to solicit comments from the public, both for and against, Zoning Ordinance Amendment 18-002.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF POWAY DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council hereby approves ZOA 18-002, and amends certain sections of the City's Municipal Code as specified below. Removals are indicated with strikethroughs and additions are indicated with underline.

SECTION 2: This Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 15282(h) of the CEQA Guidelines because this is an ordinance intended to implement provisions of Section 65852.1 and 65852.2 of the Government Code.

SECTION 3: Section 17.04.030 of the PMC shall be amended as follows:  
17.04.030 Accessory dwelling unit living quarters.  
"Accessory living quarters dwelling unit" (ADU) means a guest house shall have the meaning defined in Section 65852.2 of the California Government Code, which may be an attached or detached residential dwelling unit, which provides complete independent living facilities for one or more persons. An ADU may or may not include cooking or kitchen facilities separate from the main dwelling and must provide for living, sleeping and sanitation on the same parcel as the primary single-family dwelling unit.

SECTION 4: Section 17.04.310 of the PMC shall be removed as follows:  
~~17.04.310 Dwelling, guest.~~  
~~"Guest dwelling" means a building or portion thereof designed exclusively for residential occupancy.~~

SECTION 5: Section 17.04.378 of the PMC shall be removed as follows:  
~~17.04.378 Guest house.~~  
~~"Guest house" means attached or detached living quarters located on the same building site as a dwelling, designed for housing servants, guests, or members of the family, having no cooking facilities or kitchen and not rented or otherwise used as a separate dwelling.~~

SECTION 6: Section 17.04.575 of the PMC shall be added as follows:  
17.04.575 Other Habitable Accessory Building.  
"Other Habitable Accessory Building" means an attached or detached building located on the same site as a primary dwelling, designed for use by the resident(s) of the primary dwelling, having heating and/or air conditioning but having no cooking or kitchen facilities, and may not be rented or otherwise used as a separate dwelling.

SECTION 7: Section 17.04.648 of the PMC shall be removed as follows:  
~~17.04.648 Second dwelling unit.~~

~~"Second dwelling unit" means an attached or detached residential dwelling unit, which provides complete independent living facilities for one or more persons. It shall include a kitchen and permanent provisions for living, sleeping, eating, and sanitation on the same parcel as the single-family dwelling unit is situated.~~

SECTION 8: Section 17.08.100 of the PMC shall be amended as follows:

17.08.100 Permitted and conditional uses – Residential uses.

Residential uses in residential zones shall be as follows:

Residential Uses	RR-A through C, RS-1	RS- 2	RS- 3	RS- 4	RS- 7	RC	RA
A. Single-family dwellings	P	P	P	P	P	X	X
B. Guest houses (see PMC 17.08.185)	P	P	P	P	P	X	X
C. <u>B. Second Accessory</u> dwelling unit on the same lot as an existing single-family dwelling (see PMC 17.08.180)	P	P	P	P	P	X	X
<del>D. C.</del> <u>D.</u> Manufactured homes certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) installed, on a foundation system pursuant to Section 18551 of the Health and Safety Code, on individual lots in accordance with PMC 17.08.210	P	P	P	P	P	P	P
<del>E. D.</del> <u>E.</u> Mobile home parks (maximum density shall not exceed eight dwelling units per net acre or that permitted by the applicable zone, whichever is less) subject to standards described in Chapter 17.16 PMC	C	C	C	C	C	C	C
<del>F. E.</del> <u>F.</u> Group residential, including but not limited to dormitories, independent living, board and care (See Chapter 17.39 PMC) (maximum living units for group residential shall not exceed 20 per acre)	X	X	X	X	X	C	C
<del>G. F.</del> <u>G.</u> Residential care facilities licensed by the State for seven to 15 residents	X	C	X	X	X	C	C
<del>H. G.</del> <u>H.</u> Multiple Dwellings:							
1. Rental	X	X	X	X	X	P	P

Residential Uses	RR-A through C, RS-1	RS- 2	RS- 3	RS- 4	RS- 7	RC	RA
2. Individual unit ownership	X	X	X	X	X	P	X
3. Condominium conversions	X	X	X	X	X	C	X
I. <u>H.</u> Family day care home, as defined in Section 1596.78 of the California Health and Safety Code, in single-family detached dwellings:							
1. Small family day care home	P	P	P	P	P	P	P
2. Large family day care home	P	P	P	P	P	P	P
J. <u>I.</u> Marijuana: dispensaries, collectives and cooperatives, cultivation, delivery, manufacturing and storage as defined in PMC 17.04.514	X	X	X	X	X	X	X
K. <u>J.</u> Homeless shelters	X	X	X	X	X	X	P

SECTION 9: Section 17.08.180(A) of the PMC shall be repealed and new language shall be read as followings:

17.08.180 Accessory buildings and structures.

An accessory building or structure, attached to or detached from the main residence, shall be located on a lot that contains a primary dwelling and shall comply with the setback, height and lot coverage requirements as contained in PMC 17.08.160 except as provided in this section. A Minor Development Review Application shall be required for an accessory building or structure that results in new habitable space that is 750 square feet or larger.

A. Accessory Dwelling Unit. The purpose of this subsection is to provide regulations for the establishment of accessory dwelling units in residential zones and to define an approval process for such accessory dwelling units. The intent of this subsection is to provide opportunities for more affordable housing options in areas where adequate public facilities and services are available.

1. No ADU shall be constructed or maintained without the approval of a building permit in accordance with PMC Title 15 and full compliance with the performance standards identified within this section.
2. No more than one ADU shall be permitted per single-family lot.
3. An ADU may be rented separate from the primary dwelling but may not be sold or otherwise conveyed separate from the primary dwelling.

4. Lots which contain an ADU shall not be further subdivided if the subdivision will result in a detached ADU or primary dwelling being located on a lot containing less than the minimum net area required by the zoning of the property.
5. The ADU may be either detached or attached to the primary dwelling. A detached ADU shall be located at least 10 feet from the primary dwelling or other detached accessory building.
6. The ADU shall comply with the setback, height and lot coverage requirements as contained in PMC 17.08.160, except that a detached ADU shall be limited to one-story and shall not exceed the height of the primary dwelling.
7. The ADU shall be similar to the primary dwelling in architectural style and materials.
8. The floor area of the ADU shall not exceed 50 percent of the floor area contained in the primary dwelling (not including garage area) or 1,500 square feet, whichever is less. An ADU, however, shall not be required to contain less than 500 square feet unless this is necessary to meet lot coverage or setback requirements.
9. An existing garage may be converted to an ADU regardless of its location on the lot. A setback of no more than five feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage.
10. One off-street parking space shall be provided for the ADU, which may be provided as tandem parking on a driveway and shall be permitted in setback areas unless the Director of Development Services or the Director's designee makes specific findings that parking in setback areas or tandem parking is not feasible based upon specific site topography or fire and life safety conditions. No off-street parking shall be required in any of the following instances:
  - a. The ADU is located within one-half mile of a public transit stop.
  - b. The ADU is located within an architecturally and historically significant historic district.
  - c. The ADU is part of the existing primary residence or an existing accessory structure
  - d. The ADU is located in an area of the City where on-street parking permits are required but not offered to the occupant of the ADU.
  - e. The ADU is located within one block of a car-share vehicles pick-up location, as established by the City.
11. If an existing garage is converted to an ADU, the parking spaces (up to two) shall be replaced on-site, but are not required to be within a garage.

12. Either the main residence or the ADU must be occupied by the owner of the property at all times that either unit is held out for rent.
13. The main dwelling or ADU shall only be used for rental of terms longer than thirty (30) days.
14. Development impact fees required for an ADU shall not exceed 50 percent of the total development impact fees applicable to a new single-family dwelling.
15. An ADU shall not be considered a new residential unit for purposes of calculating water and sewer connection fees or capacity charges. However, the property owner may request a new or separate utility connection directly between the ADU and the utility. The connection shall be subject to a connection fee or capacity charge as established by the City Council for other residential service connections provided, however, that this fee or charge shall not exceed the reasonable cost of providing this service.
16. ADUs shall not be required to provide fire sprinklers if they are not required for the primary residence.
17. The city may offer incentives to encourage development of accessory dwelling units. If an owner of an ADU elects to file a 30-year deed restriction to rent the unit to a lower income household, the city may consider waiving fees (including waiving the inclusionary housing in-lieu fee), reducing parking or other development standards, or approving other forms of assistance. Receipt of such incentives shall require the owner to:
  - a. Rent the accessory dwelling unit to a lower income household, as defined annually by the State Department of Housing and Community Development at a rate that shall not exceed an amount which is equal to 30 percent of the gross monthly income of a low-income household, at 80 percent of the San Diego County median income, adjusted for household size.
  - b. File an agreement with the city's Development Services Department documenting the household's eligibility to occupy the accessory unit.
  - c. Record a deed restriction specifying the property restrictions on the accessory dwelling unit for the 30-year term.
  - d. Assign the deed restriction using a form of assignment and assumption approved by the Director of Development Services in the event that the property is transferred or sold.

This subsection shall not be considered in the application of any local ordinance, policy or program to limit residential growth.

SECTION 10: Section 17.08.180(B) of the PMC shall be amended as follows:

B. ~~Other Habitable Accessory Buildings, Including Guest Houses.~~ Habitable accessory buildings, ~~including guest houses, but excluding second~~ accessory dwelling

units, may be located on the same lot as an existing single-family dwelling and shall comply with the following standards:

1. The habitable accessory building may be either attached to or detached from the primary dwelling. A detached habitable accessory building shall be at least 10 feet from the main residence or other detached accessory building.

2. A habitable accessory building may contain a bathroom and/or a bar sink but may not contain cooking or kitchen facilities. A habitable accessory building must have heating and/or air conditioning.

32. The habitable accessory building shall comply with the setback, height and lot coverage requirements of PMC 17.08.160.

43. The habitable accessory building shall be similar to the ~~main residence~~ primary dwelling in architectural style and materials.

~~4. Proof shall be provided to the Director of Development Services that the habitable accessory building shall not overburden the available sewer and/or water capacity of the area.~~

5. The floor area of the habitable accessory building shall not exceed 25 percent of the floor area contained in the primary dwelling ~~main residence~~ (not including garage area) or 1,500 square feet, whichever is less. However, a habitable accessory building shall not be required to contain less than 500 square feet unless this is necessary to meet lot coverage or setback requirements.

6. The habitable accessory building shall never be rented or leased as a separate unit ~~and no kitchen facilities shall ever be installed~~. A deed restriction stating these limitations shall be recorded with the County Recorder.

~~7. No more than one habitable accessory building allowed pursuant to this subsection shall be permitted on a lot. The combined total area of all habitable accessory structures on a lot, including an ADU, shall not exceed 50 percent of the floor area of the primary dwelling (not including the garage area) or 1,500 square feet, whichever is less.~~

SECTION 11: Section 17.08.185 of the PMC shall be removed as follows:

~~17.08.185 Guest houses. Repealed by Ord. 679.~~

SECTION 12: Section 17.16.020 of the PMC shall be amended as follows:

17.16.020 Permitted and conditional uses – MHP.

The uses shall be permitted where the symbol “P” appears and subject to a conditional use permit where the symbol “C” appears, and subject to a minor conditional use permit where the symbol “M” appears in the column beneath each zone designation. Where the symbol “X” appears the use is prohibited. A use that is not listed is prohibited. Land uses identified for the zone may be further limited by the presence of a specific plan or other applicable provision of the PMC.

**MHP**

A. Residential Uses.

- |  |   |
|--|---|
| 1. Single-family dwelling used for caretakers when located on the same site  | P |
| 2. Mobile home condominiums with the filing of a tentative map   | C |
| 3. Conversions of existing mobile home parks may be permitted if no low and moderate income people, seniors age 62 and older, are displaced from the park and the mobile home park is developed consistent with current standards as noted in this title | C |
| 4. <del>Guest dwellings or accessory living quarters</del> <u>Accessory dwelling unit</u>  | X |
| 5. Group residential   | X |
| 6. Multiple dwellings  | X |

B. Agricultural and Animal Uses.

- |   |   |
|---|---|
| 1. All types of horticulture  | P |
| 2. 4-H or FFA animal raising and/or keeping in accordance with PMC 17.26.030(I) | P |
| 3. Keeping of small animals in accordance with PMC 17.32.020                    | P |
| 4. Keeping of large animals in accordance with Chapters 17.32 and 17.33 PMC     | X |
| 5. Keeping of up to three dogs and up to three cats over the age of four months | P |
| 6. The keeping of wild, exotic or non-domestic animals                          | X |
| 7. Keeping of beehives  | X |
| 8. Raising of earthworms  | X |

C. Home Occupations.

1. Home occupations subject to the provisions of Chapter 17.28 PMC	P
D. Accessory Uses.	
1. Accessory structures and uses located on the same site as a permitted use	P
2. "Seatainers"	M
E. Temporary Uses.	
1. Temporary uses as prescribed in Chapter 17.26 PMC	P
F. Marijuana: dispensaries, collectives and cooperatives, cultivation, delivery, manufacturing and storage as defined in PMC 17.04.514	X

SECTION 13: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or its application to any person or circumstance, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact of any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 14: This Ordinance shall be codified.

EFFECTIVE DATE: This Ordinance shall take effect and be in force thirty (30) days after its adoption.

CERTIFICATION/PUBLICATION: The City Clerk shall certify the adoption of this Ordinance and cause it, or a summary of it, to be published with the names of the City Council members voting for and against the same in the *Poway News Chieftain*, a newspaper of general circulation in the City of Poway within fifteen (15) days after its adoption and shall post a certified copy of this Ordinance in the Office of the City Clerk in accordance with Government Code §36933.



Introduced and first read at a Regular Meeting of the City Council of the City of Poway held the 18th day of September 2018, and thereafter PASSED AND ADOPTED at a regular meeting of said City Council held the 2nd day of October 2018.

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Steve Vaus, Mayor

ATTEST:

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Nancy Neufeld, CMC, City Clerk

STATE OF CALIFORNIA    )  
  ) ss  
COUNTY OF SAN DIEGO )

I, Nancy Neufeld, CMC, City Clerk of the City of Poway, California, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_, was duly adopted by the City Council at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_ 2018, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

Nancy Neufeld, CMC, City Clerk  
City of Poway



# California

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### SB-1069 Land use: zoning. (2015-2016)

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#### Senate Bill No. 1069

#### CHAPTER 720

An act to amend Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2 of the Government Code, relating to land use.

[ Approved by Governor September 27, 2016. Filed with Secretary of State September 27, 2016. ]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1069, Wieckowski. Land use: zoning.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. That law makes findings and declarations with respect to the value of 2nd units to California's housing supply.

This bill would replace the term "second unit" with "accessory dwelling unit" throughout the law. The bill would additionally find and declare that, among other things, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock, and these units are an essential component of housing supply in California.

The Planning and Zoning Law authorizes the ordinance for the creation of 2nd units in single-family and multifamily residential zones to include specified provisions regarding areas where accessory dwelling units may be located, standards, including the imposition of parking standards, and lot density. Existing law, when a local agency has not adopted an ordinance governing 2nd units as so described, requires the local agency to approve or disapprove the application ministerially, as provided.

This bill would instead require the ordinance for the creation of accessory dwelling units to include the provisions described above. The bill would prohibit the imposition of parking standards under specified circumstances. The bill would revise requirements for the approval or disapproval of an accessory dwelling unit application when a local agency has not adopted an ordinance. The bill would also require the ministerial approval of an application for a building permit to create one accessory dwelling unit within the existing space of a single-family residence or accessory structure, as specified. The bill would prohibit a local agency from requiring an applicant for this permit to install a new or separate utility connection directly between the unit and the utility or imposing a related connection fee or capacity charge. The bill would authorize a local agency to impose this requirement for other accessory dwelling units.

This bill would incorporate additional changes in Section 65852.2 of the Government Code proposed by AB 2299 that would become operative only if AB 2299 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** Section 65582.1 of the Government Code is amended to read:

**65582.1.** The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the construction of affordable housing. Those reforms and incentives can be found in the following provisions:

- (a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).
- (b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).
- (c) Restrictions on disapproval of housing developments (Section 65589.5).
- (d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).
- (e) Least cost zoning law (Section 65913.1).
- (f) Density bonus law (Section 65915).
- (g) Accessory dwelling units (Sections 65852.150 and 65852.2).
- (h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).
- (i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).
- (j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).
- (k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).
- (l) Limiting moratoriums on multifamily housing (Section 65858).
- (m) Prohibiting discrimination against affordable housing (Section 65008).
- (n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).
- (o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

### **SEC. 2.** Section 65583.1 of the Government Code is amended to read:

**65583.1.** (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for accessory dwelling units based on the number of accessory dwelling units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning

period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located either on foreclosed property or in a multifamily rental or ownership housing complex of three or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

(i) The unit is made available for rent at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:

(I) Low-income households, if the unit will be made affordable to low-income households.

(II) Very low income households, if the unit will be made affordable to very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.

(vi) For units located in multifamily ownership housing complexes with three or more units, or on or after January 1, 2015, on foreclosed properties, at least an equal number of new-construction multifamily rental units affordable to lower income households have been constructed in the city or county within the same planning period as the number of ownership units to be converted.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable agreement during the period from the beginning of the projection period until the end of the second year of the planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

(5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) In the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(d) A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.

**SEC. 3.** Section 65589.4 of the Government Code is amended to read:

**65589.4.** (a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:

(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The attached housing development meets all of the following criteria:

(A) The attached housing development is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the attached housing development under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative declaration or mitigated negative declaration for the attached housing development may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

(B) The attached housing development is consistent with both the jurisdiction's zoning ordinance and general plan as it existed on the date the application was deemed complete, except that an attached housing development shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the attached housing development site has not been rezoned to conform with the most recent adopted general plan.

(C) The attached housing development is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction within five years of the date the application for the attached housing development was deemed complete:

(i) A general plan.

(ii) A revision or update to the general plan that includes at least the land use and circulation elements.

(iii) An applicable community plan.

(iv) An applicable specific plan.

(D) The attached housing development consists of not more than 100 residential units with a minimum density of not less than 12 units per acre or a minimum density of not less than eight units per acre if the attached housing development consists of four or fewer units.

(E) The attached housing development is located in an urbanized area as defined in Section 21071 of the Public Resources Code or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the attached housing development consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(F) The attached housing development is located on an infill site as defined in Section 21061.0.5 of the Public Resources Code.

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.

(c) Nothing in this section shall prohibit a local agency from applying design and site review standards in existence on the date the application was deemed complete.

(d) The provisions of this section are independent of any obligation of a jurisdiction pursuant to subdivision (c) of Section 65583 to identify multifamily sites developable by right.

(e) This section does not apply to the issuance of coastal development permits pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66473)).

(g) This section is applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is of vital statewide importance, and thus a matter of statewide concern.

(h) For purposes of this section, "attached housing development" means a newly constructed or substantially rehabilitated structure containing two or more dwelling units and consisting only of residential units, but does not include an accessory dwelling unit, as defined by paragraph (4) of subdivision (j) of Section 65852.2, or the conversion of an existing structure to condominiums.

**SEC. 4.** Section 65852.150 of the Government Code is amended to read:

**65852.150.** (a) The Legislature finds and declares all of the following:

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome

so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

**SEC. 5.** Section 65852.2 of the Government Code is amended to read:

**65852.2.** (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days of submittal of a complete building permit application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of accessory dwelling units.

(b) (1) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall ministerially approve the creation of an accessory dwelling unit if the accessory dwelling unit complies with all of the following:

(A) The unit is not intended for sale separate from the primary residence and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The accessory dwelling unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(F) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements that apply to detached dwellings, as appropriate.

(I) Approval by the local health officer where a private sewage disposal system is being used, if required.

(2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed accessory dwelling units on lots zoned for residential use that contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed,



except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(4) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of accessory dwelling units if these provisions are consistent with the limitations of this subdivision.

(5) An accessory dwelling unit that conforms to this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not otherwise permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions. This subdivision shall not apply to a unit that is described in subdivision (e).

(e) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(f) Notwithstanding subdivisions (a) to (e), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(g) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (f), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (f), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(h) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of accessory dwelling units.

(i) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(j) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

**SEC. 5.5.** Section 65852.2 of the Government Code is amended to read:

**65852.2. (a) (1)** A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings

that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

**SEC. 6.** Section 66412.2 of the Government Code is amended to read:

**66412.2.** This division shall not apply to the construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or accessory dwelling units pursuant to Section 65852.2, but this division shall be applicable to the sale or transfer, but not leasing, of those units.

**SEC. 7.** Section 5.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 2299. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Assembly Bill 2299, in which case Section 5 of this bill shall not become operative.

**SEC. 8.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



## California LEGISLATIVE INFORMATION

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### Assembly Bill No. 2299

#### CHAPTER 735

An act to amend Section 65852.2 of the Government Code, relating to land use.

[ Approved by Governor September 27, 2016. Filed with Secretary of State  
September 27, 2016. ]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2299, Bloom. Land use: housing: 2nd units.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. Existing law authorizes the ordinance to designate areas within the jurisdiction of the local agency where 2nd units may be permitted, to impose specified standards on 2nd units, and to provide that 2nd units do not exceed allowable density and are a residential use, as specified.

This bill would replace the term "second unit" with "accessory dwelling unit." The bill would, instead, require the ordinance to include the elements described above and would also require the ordinance to require accessory dwelling units to comply with specified conditions. This bill would require ministerial, nondiscretionary approval of an accessory dwelling unit under an existing ordinance. The bill would also specify that a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

Existing law requires that parking requirements for 2nd units not exceed one parking space per unit or per bedroom. Under existing law, additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the 2nd unit and are consistent with existing neighborhood standards applicable to residential dwellings.

This bill would delete the above-described authorization for additional parking requirements.

By increasing the duties of local officials with respect to land use regulations, this bill would impose a state-mandated local program.

This bill would incorporate additional changes in Section 65852.2 of the Government Code proposed by SB 1069 that would become operative only if SB 1069 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 65852.2 of the Government Code is amended to read:

**65852.2. (a) (1)** A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) Notwithstanding subparagraph (B), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(D) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(E) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs

that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of accessory dwelling units.

(4) Any existing ordinance governing the creation of accessory dwelling units by a local agency or any such ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed accessory dwelling units on lots zoned for residential use that contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of accessory dwelling units if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for a accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards.

(d) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(e) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of accessory dwelling units, provided those requirements comply with subdivision (a).

(f) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(g) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.



(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(C) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(h) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

**SEC. 1.5.** Section 65852.2 of the Government Code is amended to read:

**65852.2.** (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including,

but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

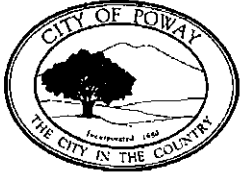
(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

**SEC. 2.** Section 1.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 1069. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Senate Bill 1069, in which case Section 1 of this bill shall not become operative.

**SEC. 3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or

assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018  
**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Alan Fenstermacher, City Attorney  
**CONTACT:** Alan Fenstermacher, City Attorney  
afenstermacher@poway.org  
**SUBJECT:** Adoption of an Ordinance Amending Title 17 of the Poway Municipal Code Regarding Regulation of Boardinghouses; Zoning Ordinance Amendment (ZOA) 18-003.

## Summary

The City Attorney's office has proposed amendments to the Poway Municipal Code's (PMC) definitions of boardinghouse, family and related terms for the purposes of (i) effectively prosecuting code compliance cases against boardinghouses unlawfully operating in single family residential zones and (ii) ensuring that the PMC complies with all applicable state and federal law.

## Recommended Action:

Conduct first reading of an Ordinance amending Chapters 17.04 and 17.08 of the PMC to modify the existing definitions of "boardinghouse," "roominghouse," "family" and "single-family dwelling," add a definition of a "single housekeeping unit," and clarify that boardinghouses and roominghouses are not permitted in single family residential zones.

## Discussion:

The City cannot define the term "family" based on whether or not the members of the family are related, and the City's ability to impose a maximum number of occupants of a single-family dwelling is limited. As the PMC is currently written, enforcement can be difficult when a boardinghouse or roominghouse is found to be operating in a single-family residential zone. The City Attorney's office recommends amending the PMC to define family as a "single housekeeping unit," and to define boardinghouses or roominghouses based upon the existence of separate rentals managed by a property manager or owner, as opposed to a group of adults collectively living together as roommates.

In other words, the aim of the proposed amendments is to regulate conduct (*i.e.*, the renting of multiple rooms in single family home) and not regulate who is permitted to reside in a particular dwelling unit.

Legal Framework:

The California Supreme Court has ruled that local governments may not limit the number of unrelated persons that want to live together based solely on the number of occupants or by defining "family" based on relation. (*City of Santa Barbara v Adamson* (1980) 27 Cal.3d 123, 127 [definition of family as a group "not to exceed five persons living as a single housing keeping unit" or "more than two people related by blood, marriage or legal adoption" was ruled unconstitutional].) Further, the City cannot limit the occupancy of a dwelling unit in a way that conflicts with the Uniform Housing Code. (*Briseno v City of Santa Ana* (1992) 6 Cal.App.4th 1378, 1383.)

However, the California Attorney General has opined that the regulation of boardinghouses in single family residential zones is a proper exercise of the City's broad authority to adopt zoning ordinances to protect the public health and general welfare of its residents:

[A] City may prohibit, limit or regulate the operation of a boarding house or rooming house business in a single family home located in a low density residential (R-1) zone, where boarding house or rooming house is defined as a residence or dwelling, other than a hotel, wherein three or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is in residence, in order to preserve the residential character of the neighborhood.

. . . prohibit[ing] the operation of boarding house businesses in a low density residential zone in order to preserve the residential character of the neighborhood is a legitimate government purpose that may reasonably be achieved by prohibiting commercial enterprises such as operating a boarding house business.

(86 Ops.Cal.Atty.Gen. 30 (2003))

The proposed amendments to the PMC are consistent with the Attorney General's guidance, as well as other relevant case law and statutes, including those upon which the Attorney General relied.

Existing Definitions in the PMC:

"Boardinghouse" or "roominghouse" means a building containing a dwelling unit where lodging is provided with or without meals for compensation for five or more persons. (§ 17.04.155)

"Single-family dwelling" means a detached building designed exclusively for residential occupancy. (§ 17.04.320)

"Family" means an individual or two or more persons related by blood, marriage or adoption, or a group including unrelated individuals bearing the generic character of and living together as a relatively permanent bona fide housekeeping unit sharing such needs as cooking facilities. Family also means the persons living together in a licensed "residential facility" as that term is defined in California Health and Safety Code Section 1502(a)(1), which services six or fewer persons, including the licensee, the members of the licensee's family, and persons employed as facility staff. (§ 17.04.335)

Recommended PMC definitions:

"Boardinghouse" or "roominghouse" means a building where lodging is provided for compensation, with or without meals, where the residents do not live as a single housekeeping unit. The terms "boardinghouse" and "roominghouse" shall specifically include, but are not limited to, a single-family dwelling where at least three rooms are rented under separate agreements, whether written or oral. A licensed "residential facility," as that term is defined in California Health and Safety Code Section 1502(a)(1), which services six or fewer persons, including the licensee, the members of the licensee's family, and persons employed as facility staff, is not considered a boardinghouse or roominghouse.

"Single-family dwelling" means a detached building designed exclusively for residential occupancy by a single housekeeping unit.

"Family" means one or more persons living together as a single housekeeping unit within a dwelling unit. Family also means the persons living together in a licensed "residential facility" as that term is defined in California Health and Safety Code Section 1502(a)(1), which services six or fewer persons, including the licensee, the members of the licensee's family, and persons employed as facility staff.

"Single housekeeping unit" means the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities, such as meals, chores, household maintenance and expenses; and where, if the dwelling unit is rented, all adult (eighteen years or older) residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the dwelling unit rather than the landlord or property manager.

Additionally, the Ordinance clarifies the PMC's existing description of group residential uses, as that term is used with respect to permitted uses in the City's residential zones, to specifically include boardinghouses and roominghouses. The amendment to Section

17.08.100(F) specifies that boardinghouses and roominghouses are not permitted in the City's single-family residential zones (RR-A through RR-C and RS-1 through RS-7).

**Environmental Review:**

This item is not subject to CEQA review because it will not result in a direct or reasonably foreseeable indirect physical change in the environment.

**Fiscal Impact:**

No direct impact.

**Public Notification:**

Notice of the public hearing was published in the San Diego Union Tribune on September 6, 2018.

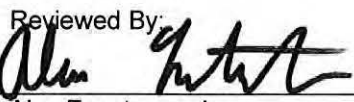
**Attachments:**

- A. Ordinance Amending Chapters 17.04 and 17.08 of the Poway Municipal Code

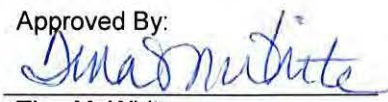
Reviewed/Approved By:

\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

Reviewed By:

  
\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

Approved By:

  
\_\_\_\_\_  
Tina M. White  
City Manager



ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POWAY,  
CALIFORNIA, AMENDING SECTIONS 17.04.155, 17.04.320, 17.04.335, AND  
17.08.100, AND ADDING SECTION 17.04.672, OF CHAPTERS 17.04 AND 17.08  
OF THE POWAY MUNICIPAL CODE  
(ZONING ORDINANCE AMENDMENT NO. 18-003)

WHEREAS, the City Council desires to effectively regulate boardinghouses and roominghouses in low density residential zones in the City, which will protect the public health and general welfare of the City's residents; and

WHEREAS, the City Council finds that prohibiting the operation of boardinghouse and roominghouse businesses in single family residential zones preserves the residential character of the neighborhood, which is a legitimate government purpose that may reasonably be achieved by prohibiting such commercial enterprises; and

WHEREAS, the City Council wishes to ensure that the Poway Municipal Code complies with applicable state and federal law; and

WHEREAS, the City Council finds that this Ordinance will ensure that boardinghouses and roominghouses can be effectively regulated in the City of Poway while also complying with all applicable state and federal law; and

WHEREAS, at the regular meeting of the City Council of the City of Poway held on the 18th day of September 2018, the City Council held a public hearing and introduced this Ordinance for a first reading; and

WHEREAS, at the regular meeting of the City Council of the City of Poway held on the 2nd day of October 2018, the City Council of the City of Poway conducted a second reading and adopted the Ordinance.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF POWAY DOES ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. Chapter 17.04 of the Poway Municipal Code is hereby amended to replace Section 17.04.155 in its entirety as follows:

"Boardinghouse" or "roominghouse" means a building where lodging is provided for compensation, with or without meals, where the residents do not live as a single housekeeping unit. The terms "boardinghouse" and "roominghouse" shall specifically include, but are not limited to, a single-family dwelling where at least three rooms are rented under separate agreements, whether written or oral. A licensed "residential facility," as that term is defined in California Health and Safety Code Section 1502(a)(1), which services six or fewer persons, including the licensee, the members of the licensee's family, and persons employed as facility staff, is not considered a boardinghouse or roominghouse.

**SECTION 3.** Chapter 17.04 of the Poway Municipal Code is hereby amended to replace Section 17.04.320 in its entirety as follows:

"Single-family dwelling" means a detached building designed exclusively for residential occupancy by a single housekeeping unit.

**SECTION 4.** Chapter 17.04 of the Poway Municipal Code is hereby amended to replace Section 17.04.335 in its entirety as follows:

"Family" means one or more persons living together as a single housekeeping unit within a dwelling unit. Family also means the persons living together in a licensed "residential facility" as that term is defined in California Health and Safety Code Section 1502(a)(1), which services six or fewer persons, including the licensee, the members of the licensee's family, and persons employed as facility staff.

**SECTION 5.** Chapter 17.04 of the Poway Municipal Code is hereby amended to add Section 17.04.672 to read as follows:

"Single housekeeping unit" means the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities, such as meals, chores, household maintenance and expenses; and where, if the dwelling unit is rented, all adult (eighteen years or older) residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the dwelling unit rather than the landlord or property manager.

**SECTION 6.** Section 17.08.100(F) of Chapter 17.08 of the Poway Municipal Code is hereby amended to read as follows:

F. Group residential, including but not limited to, boardinghouses, roominghouses, dormitories, independent living, board and care (See Chapter 17.39 PMC) (maximum living units for group residential shall not exceed 20 per acre)

**SECTION 7.** This Ordinance shall be codified.

**SECTION 8.** To the extent the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof.

**SECTION 9.** In interpreting this Ordinance or resolving any ambiguity, this Ordinance shall be interpreted in a manner that effectively accomplishes its stated purposes.

**SECTION 10.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Poway hereby declares the Council would have adopted this Ordinance, and each section, subsection, subdivision, sentence,

clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

EFFECTIVE DATE: This Ordinance shall take effect and be in force thirty (30) days after its adoption.

CERTIFICATION/PUBLICATION: The City Clerk shall certify the adoption of this Ordinance and cause it or a summary of it, to be published with the names of the City Council members voting for and against the same in the *Poway News Chieftain*, a newspaper of general circulation in the City of Poway within fifteen (15) days after its adoption and shall post a certified copy of this Ordinance in the Office of the City Clerk in accordance with Government Code § 36933.

INTRODUCED at a regular meeting of the City Council of the City of Poway held on the 18th day of September 2018, and thereafter, PASSED APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Poway held on the 2nd day of October 2018.

\_\_\_\_\_  
Steve Vaus, Mayor

ATTEST:

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk

STATE OF CALIFORNIA     )  
  ) SS  
COUNTY OF SAN DIEGO    )

I, Nancy Neufeld, City Clerk of the City of Poway, California, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly adopted by the City Council at a regular meeting of said City Council held on the 2nd day of October 2018, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk  
City of Poway




# City of Poway


## COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO.	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Michael Obermiller, Director of Public Works 

**CONTACT:** Rudy Guzman, Assistant Director of Public Works for Utilities   
rguzman@poway.org

**SUBJECT:** Approval of the Amended and Restated Regional Wastewater Disposal Agreement with the City of San Diego

### Summary:

The NPDES permit for the Point Loma Wastewater Treatment Plant submitted in 2015 included a goal of offloading 83 million gallons a day (mgd) of wastewater and turning it into potable drinking water by 2035. This project is titled Pure Water San Diego. The City of San Diego is in the process of starting construction on Phase I at an estimated \$1.4 billion. Sixty-one percent of the program costs will be funded by the City of San Diego's Water Fund, with the remaining thirty-nine percent funded through the Metropolitan Sewerage System. As a partner in the Metropolitan Wastewater Joint Powers Authority (Metro), the City of Poway shares in the cost of the overall program. In order to equitably distribute both the costs and the benefits of the program, an amendment to the Regional Wastewater Disposal Agreement is under consideration by all Participating Agencies. The proposed amendment covers items that were not envisioned in the 1998 Regional Wastewater Disposal Agreement. Key terms of the amendment include the overall cost distribution of the Pure Water Program and the allocation of revenues and liability exposure to the Metro fund. The City of Poway's estimated share of the Pure Water Program Phase I is \$9.6 million.

### Recommended Action:

It is recommended the City Council approve the Resolution (Attachment B) adopting the Amended and Restated Regional Wastewater Disposal Agreement between the City of Poway and the City of San Diego in a form substantially similar to the version of the Agreement attached thereto and authorizing the City Manager to approve non-substantial changes and execute the agreement.

### Background:

The City of Poway has been a partner in the Metropolitan Sewerage System (Metro System) since incorporation in 1980. The Point Loma Wastewater Treatment Plant (Point Loma), constructed in 1963, is the backbone of the Metro System and where Poway's up to five million gallons a day of wastewater are treated. Poway is one of twelve Participating Agencies (PAs) that convey wastewater to the Metro System for treatment.

The federal Clean Water Act, passed in 1972, required that all wastewater treatment plants be permitted with a National Pollutant Discharge Elimination System (NPDES) permit. The Clean Water Act required wastewater treatment plants to treat wastewater to at least a secondary level, which would have required Point Loma to undergo costly upgrades due to

site conditions. In 1994, the Ocean Pollution Reduction Act (OPRA) was passed by the Federal government modifying the Clean Water Act to allow a modified permit (waiver of secondary treatment) if the discharger could demonstrate the safe discharge of wastewater to the receiving water. This allowed San Diego the opportunity to apply for a modified permit for Point Loma. In return for support from the environmental community, San Diego agreed to construct 45 million gallons per day (mgd) of reclaimed water capacity. This resulted in the construction of the North City Water Reclamation Plant, the South Bay Water Reclamation Plant and the South Bay Ocean Outfall. San Diego was granted a modified permit for Point Loma in 1994 with environmental stakeholder support because of the development of reclaimed water capacity.

During this time there was a significant discontent between the City of San Diego and the PAs of the Metro system. The PAs felt that San Diego was operating the Metro System and making large financial decisions without their input or consideration. The disputes led to the creation of the 1998 Regional Wastewater Disposal Agreement and the formation of the Metropolitan Wastewater Commission.

The Metropolitan Wastewater Commission (Metro Commission) was formed in 1998 pursuant to the terms of the Regional Wastewater Disposal Agreement between the PAs and the City of San Diego. Each PA had representation on the Metro Commission. The Metro Commission is an advisory body to the San Diego City Council. The Regional Wastewater Disposal Agreement stipulated that the City of San Diego is the owner of the Metropolitan Wastewater System and that all decisions with respect to the planning, design, construction, operation and maintenance shall rest with the City of San Diego in consultation with the Metro Commission.

The purposes of the 1998 Agreement were: (1) to replace the prior-existing sewage disposal agreements between the City of San Diego and the PAs; (2) to provide certain contract rights to capacity in the Metro System to the PAs; (3) to establish a mechanism to fund the planning, design, construction, operation and maintenance of the Metro System by the City of San Diego and the PAs as necessary to provide hydraulic capacity, and to comply with applicable law and with generally accepted engineering practices; and (4) to establish a system of charges which allocates the costs of the planning, design and construction of wastewater conveyance, treatment and disposal facilities as are necessary on a fair and equitable basis.

Point Loma currently operates under a NPDES permit from the Environmental Protection Agency (EPA). Each permit is good for a five-year period following issuance. The Point Loma plant is currently discharging approximately 150 mgd of treated wastewater effluent, and that effluent meets most of the criteria required of a secondary plant. Even though Point Loma is operating within the current law and has demonstrated through 20 years of extensive ocean monitoring that there is no significant negative effect to the environment, there has been consistent political pressure to convert Point Loma from an advanced primary wastewater treatment plant to a secondary wastewater treatment plant. The regulatory agencies have communicated with San Diego in the past that it should not continue to assume that it will be granted waivers. Additionally, environmental stakeholders have sued San Diego in the past and have threatened to do so again if waiver applications are submitted without some type of progressive improvement to environmental protection. All of this uncertainty creates a significant amount of risk and instability for not only San Diego but all twelve PAs in the Metro System. This past political pressure has led to a number of projects that San Diego has agreed to implement in return for permit support from the environmental community.

**Pure Water and Secondary Equivalency:**

In an attempt to avoid spending billions of dollars on a conversion to secondary, a strategy was developed using the improvements proposed in the 2012 San Diego Recycled Water Study. This strategy is called Pure Water San Diego. The strategy allows the achievement of equivalent treatment to secondary within the Metro System. Flows would be offloaded from Point Loma to other facilities within the system reducing the discharges at Point Loma to levels below that required by secondary wastewater treatment. In addition, there is proven technology available to convert these offloaded flows into potable drinking water. Two problems could be improved with one solution. Offloaded flows from Point Loma could be used as a new water source for San Diego.

The Pure Water program still requires a significant financial investment from wastewater rate payers. In order to commit to this investment, the PAs needed something in return for their support and financial commitment. It was thought that Federal legislation could be passed defining secondary equivalency for Point Loma and allowing Point Loma to remain at the advanced primary treatment level. In 2014 representatives from the PAs, the City of San Diego and environmental stakeholders agreed on proposed language to enable secondary equivalency legislation and titled it the Ocean Pollution Reduction Act (OPRA) II. An agreement was prepared between the City of San Diego and the environmental stakeholders that assured environmental stakeholder support for NPDES permits at Point Loma as well as OPRA II.

The City of San Diego included the concept of secondary equivalency and a program of facility construction within the 2015 NPDES permit for Point Loma. The concept included offloading 83 mgd of wastewater from Point Loma and turning it into drinking water by 2035. The key to this strategy was securing secondary equivalency legislation and ratepayer protection from having to construct secondary treatment at Point Loma. Instead of investing in secondary treatment facilities at Point Loma which offered minimal benefit, the investment would be in the Pure Water program that would have an equivalent benefit to the environment but the added benefit of creating a local drinking water supply. The Metro Commission supported the City of San Diego's NPDES permit that was submitted in 2015.

Staff from the City of San Diego and the PAs have been meeting since 2014 to discuss how to implement the Pure Water program. The first phase of Pure Water is to be constructed at the North City Water Reclamation plant and will develop 30 mgd of potable drinking water from secondary treated wastewater. Construction of Phase 1 is scheduled to begin in 2019.

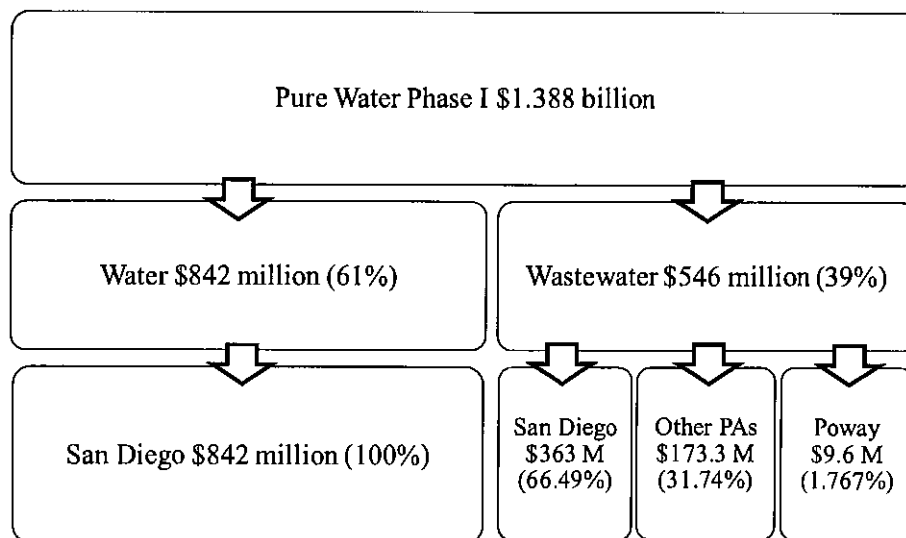
**Amendment of the Original Agreement:**

The 1998 Regional Wastewater Disposal Agreement between the City of San Diego and the PAs governs the planning, capacity rights and cost allocation of wastewater facilities in the Metropolitan Wastewater System. The 1998 Agreement did not contemplate the complexities of the Pure Water program and needs to be amended to adequately address the proposed facilities, allocation of costs and long-term financial protection of wastewater rate payers. The primary discussion point was allocation of costs. The challenge with Pure Water cost allocation is to fairly apportion costs between the water customer and the wastewater customer.



The basis for financial discussions began with the cost of converting Point Loma to secondary treatment. This was the assumed worst-case scenario for the sewer rate payer. Because this was the worst-case scenario, a financial cap is included in the Amended and Restated Agreement that limits future sewer rate payer financial exposure.

The current cost estimate to convert Point Loma to secondary treatment is \$1.8 billion. The cost estimate for Pure Water Phase I is currently \$1.388 billion and is split \$842 million in water costs (61%), and \$546 million in wastewater costs (39%), as shown in the diagram below. Poway's portion of the wastewater costs for Phase I is 1.767% of the total Metro System, which was determined based on 2050 SANDAG projections for population and a gallons-per-capita-daily generation rate. Currently, Poway's portion of the system's capacity is rated at 2.312% however, Poway's portion of the wastewater cost for Phase I will remain at the 1.767% or \$9.6 million for new capital costs since this is Poway's expected future need of the system. The financial cap in the Amended and Restated Agreement limits Poway's long-term Pure Water financial exposure to \$31.8 million (1.767% of \$1.8 billion for both Phase I and II). If Point Loma must be upgraded due to change in law or the revocation of a modified permit by a regulatory agency, then the \$1.8 billion cap will not apply, which may cause costs to exceed \$1.8 billion. It is important to note, that upgrading Point Loma to secondary at a cost of \$1.8 billion, would be 100% wastewater funded, whereas the Pure Water program is 39% wastewater funded, which is a significant savings to wastewater rate payers.



The City of San Diego is currently in the process of trying to secure low interest loans through State and Federal programs to keep year-over-year variances in expenditures minimal. For a number of years, the City of Poway has anticipated that the Point Loma Treatment Plant would need significant capital projects to bring it into compliance, either through upgrades to secondary treatment, or through a program like Pure Water. The City of Poway has included secondary upgrades to Point Loma/Pure Water as a component of its Rate Model over the past several years. Phase I costs are being funded through a combination of rates and unassigned sewer fund balance.

Included in the Amended and Restated Agreement is a future revenue sharing component for wastewater customers. Initially the cost to produce Pure Water will be more expensive than the cost of imported water, much the same way that desalinated water is currently more expensive

than imported water. Eventually, the cost of imported water is projected to increase faster than the cost to produce Pure Water. When the cost of imported water exceeds the cost of Pure Water, there will be revenue. The revenue will be credited back to the wastewater and water customer based on their capital investment in the Pure Water program. Once the capital debt is paid off, the credit will be based on proportional share of operation and maintenance costs for Pure Water.

At this point in time, secondary equivalency legislation (OPRA II) has not yet been submitted for consideration to the Federal government. Staff from the City of San Diego has been working with the region's legislative delegation on sponsoring the legislation. The lack of secondary equivalency legislation approval reinforces the need and importance of having a financial cap for wastewater rate payers.

**Next Steps:**

If the Amended and Restated Agreement is approved, it will then be forwarded to the City of San Diego for their consideration. The PAs have asked the City of San Diego to approve the Agreement either prior to or at the same time it considers authorization to proceed with the construction for Pure Water Phase I.

The City of San Diego would like to get authority from their City Council for the Mayor of San Diego to award the entire \$1.388 billion Pure Water Phase I program at one time. The Mayor would then award individual phases and construction packages for the project of which there are many.

**Conclusion:**

The NPDES permit for the Point Loma Wastewater Treatment Plant submitted in 2015 included a goal of offloading 83 mgd of wastewater and turning it into potable drinking water by 2035. This project is titled Pure Water San Diego. The Point Loma offloading, as planned, will bring the discharge from the plant down (through the outfall) to a level that would be equivalent to that of converting the plant to secondary treatment. Wording for Federal legislation to protect Point Loma from having to convert to the secondary treatment level has been agreed to by local stakeholders, including environmental groups, but has not yet been approved at the Federal level.

**Environmental Review:**

This item is not subject to California Environmental Quality Act review.

**Fiscal Impact:**

The proposed amended agreement will result in a different method of calculating charges paid by Poway. Payments will be based on actual costs expended, and State and Federal long-term financing programs for the Pure Water program. The budget in the Fiscal Year 2018-19 Sewer Pumping and Disposal division (account 403070-28010) is sufficient to cover the increased costs, with subsequent years to be adjusted based on estimated sewer flows, construction expenditures and program financing.



**Public Notification:**

A copy of this report was sent to John Helminski, Assistant Director for Public Utilities for the City of San Diego, and Greg Humora, Chair of the Metropolitan Wastewater Joint Powers Authority, Technical Advisory Committee.

**Attachments:**

- A. Amended and Restated Regional Wastewater Disposal Agreement
- B. Resolution adopting the Amended and Restated Regional Wastewater Disposal Agreement between the City of Poway and the City of San Diego

Reviewed/Approved By:

Reviewed By:

Approved By:



\_\_\_\_\_  
Wendy Kaserman  
Assistant City Manager

\_\_\_\_\_  
Alan Fenstermacher  
City Attorney

\_\_\_\_\_  
Tina M. White  
City Manager

AMENDED AND RESTATED  
REGIONAL WASTEWATER DISPOSAL AGREEMENT  
BETWEEN  
THE CITY OF SAN DIEGO  
AND  
THE PARTICIPATING AGENCIES  
IN  
THE METROPOLITAN SEWERAGE SYSTEM

AMENDED AND RESTATED  
REGIONAL WASTEWATER DISPOSAL AGREEMENT

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Exhibits

- A. Metro Facilities
- B. Contract Capacities
- C. Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies
- D. Notice Listing
- E. Reclaimed Water Distribution System
- F. Pure Water Cost Allocation and Revenues
- G. Pure Water Capital Billing Table

## **AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT**

THIS AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the CITY OF SAN DIEGO, a municipal corporation (“the City”); and the CITY OF CHULA VISTA, a municipal corporation; the CITY OF CORONADO, a municipal corporation; the CITY OF DEL MAR, a municipal corporation; the CITY OF EL CAJON, a municipal corporation; the CITY OF IMPERIAL BEACH, a municipal corporation; the CITY OF LA MESA, a municipal corporation; the LEMON GROVE SANITATION DISTRICT, a political subdivision of the State of California; the CITY OF NATIONAL CITY, a municipal corporation; the CITY OF POWAY, a municipal corporation; the OTAY WATER DISTRICT, a political subdivision of the State of California; the PADRE DAM MUNICIPAL WATER DISTRICT, a political subdivision of the State of California; and the SAN DIEGO COUNTY SANITATION DISTRICT, a political subdivision of the State of California (the “Participating Agencies”).

### **RECITALS**

WHEREAS, the City and the Participating Agencies (or their predecessors in interest) entered into that certain Regional Wastewater Disposal Agreement dated May 18, 1998 (the “1998 Agreement”), which provided, among other things, for certain contract rights to capacity in the Metropolitan Sewerage System, a system of wastewater conveyance, treatment, and disposal facilities (“Metro System”) and the establishment of a mechanism to fund the planning, design, construction, operation, and maintenance of the Metro System by the City and the Participating Agencies; and

WHEREAS, the purposes of the 1998 Agreement were: (1) to replace the prior-existing sewage disposal agreements between the City and the Participating Agencies; (2) to provide certain contract rights to capacity in the Metro System to the Participating Agencies; (3) to establish a mechanism to fund the planning, design, construction, operation and maintenance of the Metro System by the City and the Participating Agencies as necessary to provide hydraulic capacity, and to comply with applicable law and with generally accepted engineering practices; and (4) to establish a system of charges which allocates the costs of the planning, design and construction of such new wastewater conveyance, treatment and disposal facilities as are necessary solely to provide for new capacity on a fair and equitable basis; and

WHEREAS, on April 29, 2014 the San Diego City Council gave its approval and support for the Pure Water San Diego program by adoption of Resolution No. R-308906. The Resolution approved and supported the City’s efforts to develop an implementation strategy to offload wastewater flow from the Point Loma Wastewater Treatment Plant through implementation of potable reuse, resulting in effluent discharged to the Pacific Ocean being equivalent to what would be achieved by upgrading the Point Loma Wastewater Treatment Plant to a secondary treatment plant (secondary equivalency); and

WHEREAS, the City is implementing a phased, multi-year program designed to regionally produce at least 83 million gallons per day of safe, reliable potable water using new, expanded, or modified facilities, some of which will include Metro System facilities, in order to achieve secondary equivalency at the Point Loma Wastewater Treatment Plant; and

WHEREAS, the Pure Water Program will not only benefit the City by producing repurified water, but also the Participating Agencies and their wastewater customers, especially if secondary equivalency is recognized through federal legislation amending the Clean Water Act. Specifically, implementation of the Pure Water Program will reduce wastewater discharges to the Point Loma Wastewater Treatment Plant, part of the Metro System where a large portion of the Participating Agencies' wastewater is currently treated and disposed by discharging it into the Pacific Ocean. By diverting wastewater from the Point Loma Wastewater Treatment Plant and reducing the effluent discharged into the Pacific Ocean, the City and the Participating Agencies will potentially avoid billions of dollars in unnecessary capital, financing, energy, and operating costs to upgrade the Point Loma plant to secondary treatment at full capacity. Avoiding such costs would result in significant savings for regional wastewater customers; and

WHEREAS, the Padre Dam Municipal Water District and the San Diego County Sanitation District have proposed a program to produce up to 12 million gallons per day of safe, reliable potable water for East San Diego County using wastewater that would otherwise be disposed of in the Metro System ("East County AWP Program"). By offloading wastewater and wastewater contents from the Point Loma Wastewater Treatment Plant, the East County AWP Program would, if implemented, help the City's and region's efforts to achieve long-term compliance with the Clean Water Act by producing a regional annual average of at least 83 million gallons per day of water suitable for potable reuse by December 31, 2035, as described in the Cooperative Agreement in Support of Pure Water San Diego entered into by the City and certain environmental stakeholders on December 9, 2014; and

WHEREAS, Section XIV, subsection B, of the 1998 Agreement provided that the Parties may amend the Agreement by a written agreement between the City and all Participating Agencies stating the parties' intent to amend the Agreement; and

WHEREAS, in order to comprehensively and equitably address the costs and revenues associated with the Pure Water Program and the related construction, expansion, and/or modification of Metro System facilities, the City and Participating Agencies wish to amend and restate the Regional Wastewater Disposal Agreement as provided herein.

THEREFORE, in consideration of the mutual promises set forth herein, the City and the Participating Agencies agree as follows:

## **I. DEFINITIONS**

- A. **Annual Average Daily Flow** is the number, in millions of gallons of wastewater per day ("MGD"), calculated by dividing total Flow on a fiscal year basis by 365 days.
- B. **Brine** is a waste byproduct of the demineralization process at an upstream Water Repurification System facility or a Reclaimed Water facility.
- C. **Capital Expense Rate** is the cost per acre foot that will apply if the Metro System's Capital Improvement Costs for the Pure Water Program and/or upgrading of the Point Loma WTP to secondary treatment exceed \$1.8 billion, as further described in Exhibit F.

- D. **Capital Improvement Costs** are costs associated with the planning, design, financing, construction, or reconstruction of facilities.
- E. **Chemical Oxygen Demand or “COD”** means the measure of the chemically decomposable material in wastewater, as determined by the procedures specified in the most current edition of “Standard Methods for the Examination for Water and Wastewater,” or any successor publication which establishes the industry standard.
- F. **City Water Utility PW Costs** are those Pure Water Program costs allocated to the City’s water utility and therefore excluded as Metro System costs under Exhibit F.
- G. **Contract Capacity** is the contractual right possessed by each Participating Agency to discharge wastewater into the Metro System pursuant to this Agreement up to the limit set forth in Exhibit B attached hereto. Contract Capacity is stated in terms of Annual Average Daily Flow.
- H. **Flow** is the amount of wastewater discharged by the City and each Participating Agency.
- I. **Functional-Design Methodology** shall mean the process of allocating Operation and Maintenance Costs and Capital Improvement Costs to Flow and Strength parameters recognizing the benefits of both the design criteria and the primary function of a unit process.
- J. **Metro Commission** is the advisory body created under Section VIII.
- K. **Metro System Costs** are those costs set forth in Section 5.2.1.
- L. **Metro System Revenues** are those revenues set forth in Section 5.2.2.
- M. **Metropolitan Sewerage System or Metro System** shall mean and consist of those facilities and contract rights to facilities which are shown and/or described in Exhibit A attached hereto and incorporated by this reference, including any amendments thereto authorized by this Agreement.
- N. **Municipal System** shall mean the City’s wastewater collection system, which consists of pipelines and pump stations, that collects wastewater within the City of San Diego and conveys it to the Metropolitan Sewerage System for treatment and disposal.
- O. **New Capacity** is the capacity to discharge wastewater outside the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.
- P. **New Contract Capacity** is the capacity to discharge wastewater into the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

- Q. **North City Water Reclamation Plant** or **North City WRP** is the 30 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 4949 Eastgate Mall in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.
- R. **Operation and Maintenance Costs** are the costs of those items and activities required by sound engineering and management practices to keep the conveyance, disposal, treatment, and reuse facilities functioning in accordance with all applicable laws, rules, and regulations.
- S. **Point Loma Wastewater Treatment Plant** or **Point Loma WTP** is the 240 million gallons per day (as of the date of this Agreement) advanced primary treatment plant which includes four major processes: screening, grit removal, sedimentation, and digestion.
- T. **Projected 2050 Strength and Flow Amounts** are the three (3) values described below:
1. **Projected COD 2050 Flows** is the estimated amount of Chemical Oxygen Demand (COD), stated in pounds per day, that the City and each Participating Agency are projected to have in the 2050 fiscal year. Projected COD 2050 Flows for each Party are stated in Column 7 of Exhibit G.
  2. **Projected Metro Flow 2050** is the estimated amount of Annual Average Daily Flow, stated in millions of gallons per day (MGD), that the City and each Participating Agency are projected to have in the 2050 fiscal year. Projected Metro Flow 2050 for each Party is stated in Column 4 of Exhibit G.
  3. **Projected SS 2050 Flows** is the estimated amount of Suspended Solids (SS) stated in pounds per day, that the City and each Participating Agency are projected to have in the 2050 fiscal year. Projected SS 2050 Flows for each Party are stated in Column 10 of Exhibit G.
- U. **Pure Water Capital Melded Percentage** or **Melded Percentage** is the proportionate share, stated in Column 12 of Exhibit G, by which Pure Water Program Capital Improvement Costs, Repurified Water Revenue, and the Capital Expense Rate will be allocated among the City and the Participating Agencies. The Pure Water Capital Melded Percentage is based on each Party's proportionate share of Projected Metro Flow 2050, Projected SS 2050 Flows, and Projected COD 2050 Flows, which proportions are weighted as described in Footnote 3 of Exhibit G.
- V. **Pure Water Program** is the City's phased, multi-year program designed to produce at least 83 million gallons per day of Repurified Water using new, expanded, or modified facilities, some of which will include Metro System facilities.

- W. **Reclaimed Water (or Recycled Water)** shall have the definition set forth in Title 22, Division 4 of the California Code of Regulations and shall mean water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or a controlled use that otherwise could not occur.
- X. **Reclaimed Water (or Recycled Water) Distribution System** shall mean and consist of those eight (8) reclaimed water projects listed in Attachment B of the Stipulated Final Order for Injunctive Relief approved by the U.S. District Court on June 6, 1997 in *U.S.A. v. City of San Diego*, Case No. 88-1101-B, and attached hereto as Exhibit E.
- Y. **Repurified Water** shall mean water which, as a result of advanced treatment of Reclaimed Water, is suitable for use as a source of domestic (or potable) water supply.
- Z. **Repurified Water Revenue** is the cost savings that will be realized when the City water utility's annual costs per-acre foot for Repurified Water are less than the purchase costs per-acre foot for comparable water from the San Diego County Water Authority, as further described in Exhibit F.
- AA. **Return Flow** shall mean the effluent created by the dewatering of digested biosolids, which includes centrate.
- BB. **Reuse** shall mean to use again, such as water which has been reclaimed or repurified, or sludge that has been converted to biosolids for beneficial use.
- CC. **South Bay Land/Ocean Outfall** is the facility that is jointly owned by the International Boundary & Water Commission (U.S. Section IBWC) and the City of San Diego. The Outfall is planned to convey and discharge treated effluent from the IBWC's International Wastewater Treatment Plant and treated effluent from the City's South Bay Water Reclamation Plant and the South Bay Secondary Treatment Plant. As of the date of this Agreement, the Outfall has a current Average Daily Flow Capacity of 174 million gallons per day. As of the date of this Agreement, the City owns 39.94% of the capacity of the Outfall and the balance of the capacity is owned by the IBWC.
- DD. **South Bay Water Reclamation Plant** is the 15 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 2411 Dairy Mart Road in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.
- EE. **Strength** means the measurement of Suspended Solids (SS) and Chemical Oxygen Demand (COD) within the wastewater Flow and any other measurement required by law after the date of this Agreement.
- FF. **Suspended Solids** or **SS** means the insoluble solid matter in wastewater that is separable by laboratory filtration, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination of Water and



Wastewater,” or any successor publication which establishes the industry standard.

- GG. **Tertiary Component** is that portion of the wastewater treatment process that currently filters the secondary treated wastewater effluent through fine sand and/or anthracite coal to remove fine Suspended Solids and disinfects it to meet the requirements of the California Administrative Code, Title 22, or its successor for filtered and disinfected wastewater.
- HH. **Water Repurification System** shall mean any facilities, including treatment and conveyance facilities, the purpose of which is the production or conveyance of Repurified Water. Water Repurification System includes, but is not limited to: the Tertiary Component of the North City Water Reclamation Plant to the extent being used to produce Repurified Water, the North City Pure Water Facility to be located across the street from the North City Water Reclamation Plant (“North City Pure Water Facility”); the Repurified Water conveyance system, which will transport Repurified Water from the North City Pure Water Facility and/or other facilities to the Miramar Reservoir or other alternative location(s) as determined by the City; and any other Repurified Water treatment or conveyance facilities which are part of the Pure Water Program.

## II. OWNERSHIP AND OPERATION OF THE METRO SYSTEM

### 2.1 Rights of the Parties.

The City is the owner of the Metro System, and of any additions to the Metro System or other facilities constructed pursuant to this Agreement. All decisions with respect to the planning, design, construction, operation and maintenance of the Metro System shall rest with the City, in consultation with the Metro Commission. The Participating Agencies shall have a contractual right to use the Metro System and to participate in its operation as set forth in this Agreement. Subject to the terms of this Agreement, and in conformance with all applicable laws, the City may transfer ownership of all or part of the Metro System at any time. In the event of a transfer, the City’s successor shall be bound by the terms of this Agreement. Subject to the terms of this Agreement, any Participating Agency may transfer or assign its rights and obligations under this Agreement. Any transfer shall first be approved by the City. No transfer may occur if the City reasonably determines, after consultation with the Participating Agencies involved, that the proposed transfer will imbalance, or will otherwise adversely impact the City’s ability to operate the Metro System.

### 2.2 Metro System Services.

- 2.2.1 The City shall provide wastewater conveyance, treatment and disposal services to the Participating Agencies through the Metro System, under the terms set forth in this Agreement.
- 2.2.2 The City shall operate the Metro System in an efficient and economical manner, maintaining it in good repair and working order, all in accordance with recognized sound engineering and management practices.

- 2.2.3 The City shall convey, treat, and dispose of or reuse all wastewater received under this Agreement in such a manner as to comply with all applicable laws, rules and regulations.

2.3 Flow Commitment.

- 2.3.1 Absent agreement of the parties, all Flow from the Participating Agencies and the City, up to the capacity limits set forth in Exhibit B or any amendments thereto, shall remain in the Metro System.
- 2.3.2 This Agreement shall not preclude any Participating Agency from diverting Flow from the Metro System as a result of the construction of reclamation facilities or New Capacity outside of the Metro System.
- 2.3.3 Any Participating Agency may negotiate an agreement with the City to withdraw all Flow from the Metro System, which shall provide that the Agency pay its proportionate share of Capital Improvement Costs.

If a Participating Agency enters into an agreement with the City by December 31, 2019, to withdraw all Flow from the Metro System by January 1, 2035, such Participating Agency shall not pay Pure Water Program Capital Improvement Costs attributable to the Metro System except for Phase I (as defined below in Section 2.8).

2.4 Funding Obligations.

Nothing in this Section or in this Agreement shall obligate the City to make any payment for the acquisition, construction, maintenance or operation of the Metro System from moneys derived from taxes or from any income and revenue of the City other than moneys in or sewer revenues which go into the Sewer Revenue Fund for the Metro System and from construction funds derived from the sale of such sewer revenue bonds for the Metro System as are duly authorized. Nothing in this Agreement shall be construed to obligate the City to pay from its annual income and revenues any sum which would create an indebtedness, obligation or liability within the meaning of the provisions of Section 18 of Article XVI of the Constitution of the State of California. Nothing in this Section, however, or in this Agreement shall prevent the City, in its discretion, from using tax revenues or any other available revenues or funds of the City for any purpose for which the City is empowered to expend moneys under this Agreement. Nothing herein shall relieve the City from its obligations to fund and carry out this Agreement. Nothing in this Section or in this Agreement shall obligate any Participating Agency to make any payment which would create an indebtedness, obligation or liability within the meaning of the provisions of Section 18 of Article XVI of the Constitution of the State of California, or which is not authorized by law.

2.5 Financial Statements.

- 2.5.1 The City shall keep appropriate records and accounts of all costs and expenses relating to conveyance, treatment, disposal, and reuse of wastewater, and production of Repurified Water, and the acquisition,

planning, design, construction, administration, monitoring, operation and maintenance of the Metro System and Water Repurification System, and any grants, loans, or other revenues received therefor. The City shall keep such records and accounts for at least four (4) years, or for any longer period required by law or outside funding sources.

2.5.2 Said records and accounts shall be subject to reasonable inspection by any authorized representative of any Participating Agency at its expense. Further, said accounts and records shall be audited annually by an independent certified public accounting firm appointed by the City pursuant to generally accepted accounting principles. A copy of said report shall be available to any Participating Agency. As part of said audit, the actual amount of City Water Utility's PW Costs, Pure Water Program costs attributable to the Metro System, Repurified Water Revenue, and the Capital Expense Rate shall be determined and audited by the City's external auditors and Participating Agency representatives, and a cumulative and annual summary of such amounts shall be included as a footnote or attachment to the audit of the Metro System. Cost summaries shall include separate lines for Capital Improvement Costs and Operation and Maintenance Costs.

2.5.3 The City shall make a good faith effort to complete the annual audit, and any related adjustments under this Agreement, by the end of the following fiscal year.

2.6 Limitations on Types and Condition of Wastewater.

2.6.1 Each Participating Agency will comply with all applicable laws, rules and regulations including its regulatory obligations associated with the discharge of wastewater into its respective system and from such system into the Metro System.

2.6.2 Each Participating Agency will minimize to the maximum extent practicable, the infiltration and inflow of surface, ground or stormwaters into its respective wastewater systems.

2.6.3 Each Participating Agency will insure that all industrial users of its wastewater system are regulated by an effective industrial pretreatment program that conforms to all to all applicable laws, rules and regulations and that is acceptable to the City. Provided, however, that the City shall not require the Participating Agencies to take any actions beyond that which is required under applicable laws, rules and regulations that can be taken but are not being taken by the City.

2.6.4 The City and the Participating Agencies agree that nothing in this Agreement, including the termination of the existing sewage disposal agreements, shall affect the validity of the Interjurisdictional Pretreatment

Agreements, or the separate transportation agreements that are currently in effect between or among the City and the Participating Agencies.

- 2.6.5 Each Participating Agency will not discharge a substantial amount of sewage originating outside its respective boundaries into the Metro System without the approval of the City.
- 2.6.6 Each Participating Agency shall be responsible for the violation of any applicable laws, rules or regulations associated with its respective discharge of wastewater into the Metro System. Nothing in this Agreement shall affect the ability of any Participating Agency to hold third parties responsible for such violations.
- 2.6.7 In the event a regulatory agency imposes any penalty or takes other enforcement action relating to the conveyance, treatment, or disposal of wastewater in or from the Metro System, the City shall determine if the City or a Participating Agency or Agencies caused or contributed to the violation by exceeding its Contract Capacity or by the contents of its wastewater. The City shall allocate the penalty or other relief, including the costs of defense, to the party or parties responsible. Each responsible party, whether a Participating Agency or the City, shall be obligated to pay its share of such penalty or other relief, and any costs of defense. In the event that the City cannot make such an allocation, the cost of such penalty or other relief shall be shared by the Participating Agencies and the City proportionately based on Flow and Strength.

## 2.7 Right of First Refusal.

- 2.7.1 The City shall not sell or agree to sell the Metro System without first offering it to the Participating Agencies. For the purposes of this section, "Participating Agencies" shall mean a Participating Agency, a group of Participating Agencies, or a third party representing one or more Participating Agencies. The term "sell" shall include any transfer or conveyance of the Metro System or of any individual treatment or reclamation facility or outfall within the Metro System.
- 2.7.2 The City and the Participating Agencies recognize that transfer of ownership of the Metro System is currently restricted by Sections 6.04 and 6.20 of the Installment Purchase Agreement between the City and the Public Facilities Financing Authority of the City, which inter alia restricts the transfer of ownership to the Metropolitan Wastewater Sewage District or other governmental agency whose primary purpose is to provide wastewater treatment. The City shall not seek to impose on bond holders a waiver of Section 6.04 or 6.20. Absent such a restriction, before the City sells or agrees to sell the Metro System, or any portion of it, the City shall offer to sell the Metro System to the Participating Agencies (the "Offer") on the terms and at a price equal to that proposed for the sale of the Metro

System to a third party. The Participating Agencies shall have thirty days from receipt of the Offer (the "Intent to Respond Period") in which to notify the City of their intent to respond to the Offer. The Participating Agencies shall have five months from the expiration of the Intent to Respond Period in which to accept or reject the Offer. The Offer shall contain the name of the proposed purchaser, the proposed sale price, the terms of payment, the required deposit, the time and place for the close of escrow, and any other material terms and conditions on which the sale is to be consummated.

2.7.3 If the Participating Agencies give timely notice of their intent to respond and timely notice of their acceptance of the Offer, then the City shall be obligated to sell and the Participating Agencies shall be obligated to purchase the Metro System or any individual treatment or reclamation facility or outfall within the Metro System, as applicable, at the price and on the terms and conditions of the Offer. If the Participating Agencies do not give timely notice of their intent to respond or their acceptance of the Offer, or do not submit an offer on the same terms and conditions as the Offer, the City may, following the end of the Offer period, sell the Metro System, or any portion of it, at a price and on terms and conditions no less favorable to the City than those in the Offer. The City shall not sell the Metro System to any third party on terms or at a price less favorable to the City from the terms and price contained in the Offer absent compliance with the terms of this Section.

2.7.4 Nothing herein shall prevent the City from entering into a financing agreement which may impose limits on the City's power to sell the Metro System to the Participating Agencies pursuant to Section 2.7.1. if the City reasonably believes that such a financing agreement is in the City's best interest. Neither the entry into such a financing agreement by the City nor the performance thereof by the City shall constitute a breach or default by the City hereunder.

## 2.8 Pure Water San Diego Program.

2.8.1 Each new, expanded, or modified Metro System facility which is used in relation to the production of Repurified Water (in addition to the modification and expansion of the North City Water Reclamation Facility) shall be governed by this Agreement and Exhibit F, attached hereto and incorporated herein.

2.8.2 The allocation of Pure Water Program costs pursuant to this Agreement shall be retroactive through the fiscal year ending June 30, 2014, when Pure Water Program costs were first incurred by the Metro System. When conducting the year-end adjustments for the fiscal year in which this Agreement takes effect, the City shall credit or assess such prior costs to the parties pursuant to this Agreement.

2.9 Future Negotiations and Cooperation.

2.9.1 This Agreement and Exhibit F specifically contemplate Phase I of the Pure Water Program, which consists of new, expanded, or modified Metro System facilities and Water Repurification System facilities designed to produce only up to 30 million gallons per day of Repurified Water ("Phase I"). Within one year of the Effective Date of this Agreement, the parties intend to meet and negotiate in good faith regarding one or more amendments to this Agreement or its Exhibits to address:

2.9.1.1 The allocation of specific Pure Water Program costs between City's water utility and the Metro System for such later phases;

2.9.1.2 Alternative billing methodologies for Metro System costs;

2.9.1.3 The exclusion of costs related to the industrial discharges inspection and monitoring program within San Diego under Section 5.2.1.2.3 of the Agreement;

2.9.1.4 The inclusion of costs for regional, non-Metro System potable reuse projects in calculating the Capital Expense Rate; and

2.9.1.5 The conveyance and treatment of wastewater generated at United States military bases under this Agreement.

If such negotiations do not result in an amendment to this Agreement or its Exhibits concerning these subjects, this Agreement shall remain in full force and effect as set forth herein. Further, if the City proceeds with a later phase of the Pure Water Program as authorized under Section 2.1 of this Agreement, and the Parties have not yet amended this Agreement or Exhibit F to specifically address such costs by the time they are incurred, all costs listed in Section I of Exhibit F shall nonetheless be excluded as Metro System costs under this Agreement.

2.9.2 The City and the Participating Agencies shall cooperate, coordinate, and negotiate in good faith with the Padre Dam Municipal Water District, San Diego County Sanitation District, and City of El Cajon on issues that relate to the East County AWP Program, including, but not limited to, the potential transfer of the Mission Gorge Pump Station; disposal of residuals; and a source control program.

**III. PAYMENT AND MONITORING PROVISIONS**

3.1 Payment for Metro System Facilities.

Through the system of charges set forth in Article V of this Agreement, each Participating Agency shall pay its share of the costs of planning, design and construction of all of

the Metro System facilities which are identified in Exhibit A hereto, which is incorporated herein by reference.

3.2 Payment for Additional Metro System Facilities.

Through the system of charges set forth in Article V of this Agreement, each Participating Agency shall pay its share of the costs of acquisition, or planning, design and construction of such facilities in addition to those set forth on Exhibit A as are necessary for the Metro System to maintain compliance with applicable laws, rules and regulations, including the Ocean Pollution Reduction Act of 1994 and its successor(s), present and future waivers of applicable treatment standards at any Metro System treatment facility, and all facilities as are necessary to convey, treat, dispose, and reuse wastewater in the Metro System to provide the Contract Capacity set forth in Exhibit B, to maintain hydraulic capacity and as otherwise required by sound engineering principles. As a ministerial matter, the City shall amend Exhibit A from time to time to reflect such additional facilities and shall give notice of any amendments to the Participating Agencies. The City shall keep an updated version of Exhibit A on file with the City Public Utilities Department. Exhibit A may be amended to reflect other changes to the Metro System only as expressly provided in this Agreement.

3.3 Payment for Operation and Maintenance.

Through the system of charges set forth in Article V of this Agreement, each Participating Agency shall pay its share of the Operation and Maintenance Costs of all Metro System facilities. The Participating Agencies shall not pay for the Operation and Maintenance Costs of Water Repurification System, which are City Water Utility PW Costs.

3.4 Charges Based on Flow and Strength; Exception.

- 3.4.1 Except as otherwise described in this Section 3.4, a Participating Agency's share of the charges in this Article III shall be assessed pursuant to Article V of this Agreement based on its proportionate Flow in the Metro System and the Strength of its wastewater.
- 3.4.2 Notwithstanding section 3.4.1, or any other provision of this Agreement, a Participating Agency's share of Pure Water Program Capital Improvement Costs, Repurified Water Revenue, and Capital Expense Rate attributable to the Metro System under Exhibit F shall be assessed or credited based on the parties' proportionate share of the Pure Water Capital Melded Percentage stated in Column 12 of Exhibit G. The City shall annually allocate the estimated and actual Pure Water Program Capital Improvement Costs and revenues which are attributable to the Metro System under Exhibit F in proportion to each party's Pure Water Capital Melded Percentage when estimating quarterly payments and conducting year-end adjustments under Article V.
- 3.4.3 Each party recognizes that operation within respective Projected 2050 Strength and Flow Amounts is essential to the accurate allocation of costs

and revenues under the Pure Water Program. In recognition of same, the parties agree as follows:

3.4.3.1 Beginning in the next fiscal year after the effective date of this Agreement, if a party's Annual Average Daily Flow, annual average pounds per day of COD, or annual average pounds per day of SS exceeds any one of its Party's Projected 2050 Strength and Flow Amounts by more than ten percent (10%) for any two (2) consecutive fiscal years, the City shall prepare an amendment to Exhibit G that adjusts projections of each party's Projected 2050 Strength and Flow Amounts based on information about such party's exceedance and other relevant information using sound engineering principles. Upon approval by the City and two-thirds of the members of the Metro Commission, the City shall, as a ministerial matter, amend Exhibit G (including the Melded Percentages in Column 12 of Exhibit G) to reflect the new Projected 2050 Strength and Flow Amounts for each party. The City shall keep an updated version of Exhibit G on file with the City Public Utilities Department. If the City and two-thirds of the Metro Commission cannot agree on an amendment to Exhibit G, the matter shall be submitted to dispute resolution pursuant to Article IX.

3.4.3.2 Notwithstanding the amounts set forth in Columns 4, 7, and 10 of Exhibit G, the following parties will be deemed to have the following Projected 2050 Strength and Flow Amounts until July 1, 2025:

3.4.3.2.1 Padre Dam: 3.2 MGD Flow; 24,730 lb/day COD; 11,900 lb/day SS

3.4.3.2.2 San Diego County Sanitation District: 13.617 MGD Flow; 70,210 lb/day COD; 27,830 lb/day SS

3.4.3.3 If Exhibit G is amended to update one or more parties' Projected 2050 Strength and Flow Amounts, the change in Projected 2050 Strength and Flow Amounts and Pure Water Capital Melded Percentages shall be retroactive in effect, and the City shall use the updated amounts in estimating quarterly payments and conducting year-end adjustments for Pure Water Program costs and revenues. Therefore, any party that underpaid based on prior Pure Water Capital Melded Percentages (which were based on prior Projected 2050 Strength and Flow Amounts) shall pay the retroactive amount due in its quarterly payments the following fiscal year; any party that overpaid based on previous Pure Water Capital Melded Percentages shall receive a credit in its quarterly payments the following fiscal year. Notwithstanding the preceding sentence, if



the retroactive amount due exceeds 20% of a party's average annual Metro System payments for the previous four (4) years, such party may elect to pay the retroactive amount due in its quarterly payments over the subsequent four (4) fiscal years, with interest based on the most recent quarterly earnings rate of the Local Agency Investment Fund's Pooled Money Investment Account; any party that overpaid based on previous Pure Water Capital Merged Percentages shall receive a credit in its quarterly payments the following four (4) fiscal years.

3.4.3.4 If a Participating Agency (other than those specified in Section 3.4.3.2) intends to divert a portion of its Flow from the Metro System pursuant to Section 2.3.2 on or before July 1, 2025, the Participating Agency may provide written notice to the City by December 31, 2019, requesting an adjustment in its Projected 2050 Strength and Flow Amounts and Merged Percentage in Exhibit G. If such notice is timely provided, the City shall prepare an amendment to Exhibit G based on information about such party's diversion and other relevant information using sound engineering principles. Such amendment shall then be subject to the approval procedures set forth in Section 3.4.3.1, and the retroactivity provisions set forth in Section 3.4.3.3; provided, however, that such an amendment to Exhibit G shall also be subject to an agreement with the City for the Participating Agency to pay its proportionate share of Pure Water Program planning, design, and construction costs incurred to date by the Metro System (based on such Participating Agency's prior Merged Percentage), and any costs for Pure Water Program planning or design changes which are reasonably necessary due to the intended diversion.

### 3.5 Monitoring Flow and Strength.

- 3.5.1 The City shall monitor wastewater that is discharged into the Metro System for Flow and Strength. The City shall own and operate as part of the Metro System monitoring devices which will measure the amount of daily wastewater discharged into the Metro System. These devices shall be installed at locations appropriate to accurately monitor Flow and Strength. The City may also monitor wastewater Flow and Strength at other locations as it deems appropriate.
- 3.5.2 In measuring Strength, the frequency and nature of the monitoring shall not be more stringent for the Participating Agencies than it is for the City.
- 3.5.3 The City shall, at least once every five (5) years, update and provide its plans for the monitoring system and for the procedures it will use to determine Strength to the Participating Agencies. The Participating

Agencies shall have the opportunity to review and comment prior to implementation.

- 3.5.4 The City shall report Flow and Strength data to the Participating Agencies at least quarterly.

#### **IV. CAPACITY RIGHTS**

##### **4.1 Contract Capacity.**

In consideration of the obligations in this Agreement, each Participating Agency shall have a contractual right to discharge wastewater to the Metro System up to the Contract Capacity set forth in Exhibit B. Each party's Projected Metro Flow 2050 stated in Exhibit G, is used solely for the purpose of allocating the Metro System's Pure Water Program Capital Improvement Costs, Repurified Water Revenue, and the Capital Expense Rate under this Agreement, and does not replace or limit Contract Capacity.

##### **4.2 Transfers of Contract Capacity.**

The Participating Agencies and the City may buy, sell or exchange all or part of their Contract Capacity among themselves on such terms as they may agree upon. The City shall be notified prior to any transfer. Any transfer shall be first approved by the City. No Contract Capacity may be transferred if the City determines, after consultation with the Participating Agencies involved in the transaction, that said transfer will unbalance, or will otherwise adversely impact the City's ability to operate the Metro System. Provided, however, that the Participating Agency seeking the transfer may offer to cure such imbalance at its own expense. Following the City's consent, as a ministerial matter, the Contract Capacity set forth in Exhibit B shall be adjusted to reflect the approved transfer. If necessary, Projected Metro Flow 2050 set forth in Exhibit G shall also be adjusted to reflect the approved transfer using the process set forth in Section 3.4.3.1, provided, however, that an amendment to Exhibit G due to an approved transfer shall not be retroactive in effect pursuant to Section 3.4.3.3.

##### **4.3 Allocation of Additional Capacity.**

The parties recognize that the City's applicable permits for the Metro System may be modified to create capacity in the Metro System beyond that set forth in Exhibit B as a result of the construction of additional facilities or as a result of regulatory action. This additional capacity shall be allocated as follows:

- 4.3.1 Except as provided in section 4.3.2 below, in the event that the Metro System is rerated so that additional permitted capacity is created, said capacity shall be allocated proportionately based upon the Metro System charges that have been paid since July 1, 1995 to the date of rerating.
- 4.3.2 In the event that the additional permitted capacity is created as the result of the construction of non-Metro System facilities, or as the result of the construction of facilities pursuant to Article VII, such additional capacity

shall be allocated proportionately based on the payments made to plan, design and construct such facilities.

4.4 Deductions in Contract Capacity.

The parties further recognize that the Contract Capacity in Exhibit B and Projected Metro Flow 2050 in Exhibit G may be modified to comply with, or in response to, applicable permit conditions, or related regulatory action, or sound engineering principles. In the event that the capacity of the Metro System is rerated to a level below the total capacity set forth in Exhibit B, the Contract Capacity in Exhibit B and Projected Metro Flow 2050 in Exhibit G shall be reallocated proportionately pending the acquisition or construction of new facilities. The City shall acquire or construct such facilities as necessary to provide the Contract Capacity rights set forth in Exhibit B, as planning and capacity needs require. The costs of such facilities shall be assessed pursuant to Section 3.2.

4.5 Amendments to Exhibits B and G.

As a ministerial matter, the City shall prepare amendments to Exhibits B and G to reflect any adjustment in Contract Capacity pursuant to this Article within ninety (90) days after the adjustment is made. The City shall give notice of the amendments to each Participating Agency, and shall provide copies of the amendments with the notice. The City shall keep an updated version of Exhibits B and G on file with the City Public Utilities Department.

4.6 The South Bay Land/Ocean Outfall.

Nothing in this Article shall limit the City's right to transfer capacity service rights in that portion of the South Bay Land/Ocean Outfall which is not part of the Metro System.

**V. SYSTEM OF CHARGES**

5.1 Charges Authorized.

The City agrees to implement and the Participating Agencies agree to abide by a new system of charges. This new system allows the City to equitably recover from all Participating Agencies their proportional share of the net Metro System Costs through the imposition of the following charges:

5.1.1 SSC (Sewer System Charge);

5.1.2 NCCC (New Contract Capacity Charge).

5.2 SSC (Sewer System Charge).

The City shall determine the SSC based on the projected Metro System Costs (as defined below) for the forthcoming fiscal year, less all Metro System Revenues (as defined below).

## 5.2.1 Metro System Costs

5.2.1.1 The following shall at a minimum be considered Metro System Costs for purposes of calculating the annual SSC:

5.2.1.1.1 Except as provided in section 5.2.1.2 (Excluded Costs), the annual costs associated with administration, operation, maintenance, replacement, annual debt service costs and other periodic financing costs and charges, capital improvement, insurance premiums, claims payments and claims administration costs of the Metro System, including projected overhead. Overhead shall be calculated using accepted accounting practices to reflect the overhead costs of the Metro System.

5.2.1.1.2 Fines or penalties imposed on the City as a result of the operation of the Metro System, unless the fine/penalty is allocated to the City or a Participating Agency as provided in Section 2.6.7.

5.2.1.2 Excluded Costs. The following items shall not be considered Metro System Costs for purposes of calculating the annual SSC:

5.2.1.2.1 Costs related to the City of San Diego's Municipal System as determined by reasonable calculations;

5.2.1.2.2 Costs related to the treatment of sewage from any agency which is not a party to this Agreement;

5.2.1.2.3 Costs related to the inspection and monitoring program for the industrial dischargers located in San Diego, including associated administrative and laboratory services;

5.2.1.2.4 Right-of-way charges for the use of public streets of the City or any Participating Agency. The City and the Participating Agencies agree not to impose a right-of-way charge for the use of its public rights-of-way for Metro System purposes;

5.2.1.2.5 Capital Improvement Costs of any non-Metro System facility;

5.2.1.2.6 Capital Improvement Costs for which an NCCC is paid; and

5.2.1.2.7 City Water Utility PW Costs.

## 5.2.2 Metro System Revenues.

5.2.2.1 The following revenues shall be at a minimum considered Metro System Revenues for purposes of determining the annual SSC:

- 5.2.2.1.1 Any grant or loan receipts or any other receipts that are attributable to the Metro System, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System; provided, however, that this shall not include any grant, loan, or other receipts attributable to the Metro System components of the Pure Water Program, which are specifically addressed in Section 5.2.2.1.8.
- 5.2.2.1.2 All compensation or receipts from the sale or other conveyance or transfer of any Metro System by-products, including, but not limited to gas, electrical energy, sludge products, and Reclaimed Water (excepting therefrom any receipts allocated pursuant to section 5.2.2.1.3).
- 5.2.2.1.3 The distribution of revenue from the sale of Reclaimed Water from the North City Water Reclamation Plant, including incentives for the sale of Reclaimed Water, shall first be used to pay for the cost of the Reclaimed Water Distribution System, then the cost of the Operation and Maintenance of the Tertiary Component of the North City Water Reclamation Plant that can be allocated to the production of Reclaimed Water, and then to the Metro System.
- 5.2.2.1.4 Any portion of an NCCC that constitutes reimbursement of costs pursuant to Section 7.1.4.
- 5.2.2.1.5 Any penalties paid under Section 7.3.
- 5.2.2.1.6 Proceeds from the Capital Expense Rate, as calculated under Exhibit F and allocated among the City and Participating Agencies in the proportions set forth in Column 12 of Exhibit G.
- 5.2.2.1.7 Those portions of Repurified Water Revenue attributable to the Metro System, as calculated under Exhibit F and allocated among the Participating Agencies in the proportions set forth in Column 12 of Exhibit G.

5.2.2.1.8 Any grant or loan receipts or any other receipts that are attributable to the Metro System components of the Pure Water Program, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System components of the Pure Water Program. Any proceeds under this section shall be allocated among the City and the Participating Agencies in the proportions set forth in Column 12 of Exhibit G.

#### 5.2.2.2 Excluded Revenue

5.2.2.2.1 Capital Improvement Costs for which an NCCC is paid;

5.2.2.2.2 Proceeds from the issuance of debt for Metro System projects.

5.2.2.2.3 Proceeds from the sale of Reclaimed Water used to pay for the Reclaimed Water Distribution System pursuant to section 5.2.2.1.3 above.

#### 5.2.3 Calculation of SSC Rates.

5.2.3.1 Prior to the initial implementation of the new system of charges, the City shall prepare a sample fiscal year estimate setting forth the methodology and sampling data used as a base for Strength based billing (SBB) which includes Flow and Strength (Chemical Oxygen Demand (COD) and Suspended Solids (SS)). The analysis shall be submitted to each Participating Agency.

5.2.3.2 The City shall determine the unit SSC rates by allocating net costs (Metro System Costs less Metro System Revenues) between parameters of Flow, COD and SS. This allocation is based on the approved Functional-Design Methodology analyses for individual Capital Improvement Projects (CIPs) and estimated Operation and Maintenance (O&M) Costs allocated to the three parameters. The City may revise the calculations to include any other measurement required by law after the effective date of this Agreement.

5.2.3.3 The net cost allocated to each of the three parameters (Flow, COD and SS) shall be divided by the total Metro System quantity for that parameter to determine the unit rates for Flow, COD and SS. These unit rates shall apply uniformly to all Participating Agencies.

#### 5.2.4 Estimate and Billing Schedule and Year End Adjustment

- 5.2.4.1 The City shall estimate the SSC rates on an annual basis prior to January 15. The City shall quantify the SSC rates by estimating the quantity of Flow, COD and SS for each party, based on that party's actual flow and the cumulative data of sampling for COD and SS over the preceding years. If cumulative data is no longer indicative of discharge from a Participating Agency due to the implementation of methods to reduce Strength, previous higher readings may be eliminated.
- 5.2.4.2 Costs of treating Return Flow for solids handling will be allocated to the Participating Agencies in proportion to their Flow and Strength. Return Flow will not be counted against the Participating Agencies' Contract Capacity as shown in Exhibit B.
- 5.2.4.3 The City shall bill the Participating Agencies quarterly, invoicing on August 1, November 1, February 1 and May 1. Each bill shall be paid within thirty (30) days of mailing. Quarterly payments will consist of the total estimated cost for each Participating Agency, based on their estimated Flow, COD and SS, divided by four.
- 5.2.4.4 At the end of each fiscal year, the City shall determine the actual Metro System Costs and the actual Flow as well as the cumulative Strength data for the City and each of the Participating Agencies. The City shall make any necessary adjustments to the unit rates for Flow, COD and SS based on actual costs for the year. The City shall then recalculate the SSC for the year using actual costs for the year, actual Flow, and cumulative Strength factors (COD, SS and Return Flow) for the City and for each Participating Agency. The City shall credit any future charges or bill for any additional amounts due, the quarter after the prior year costs have been audited.

5.3 NCCC (New Contract Capacity Charge).

If New Contract Capacity is required or requested by a Participating Agency, pursuant to Article VII, the Metro System shall provide the needed or requested capacity, provided that the Participating Agency agrees to pay an NCCC in the amount required to provide the New Contract Capacity. New Contract Capacity shall be provided pursuant to Article VII.

5.4 Debt Financing.

The City retains the sole right to determine the timing and amount of debt financing required to provide Metro System Facilities.

5.5 Allocation of Operating Reserves and Debt Service Coverage.

The parties shall continue to comply with the 2010 Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies, attached hereto and incorporated herein as Exhibit C.

**VI. PLANNING**

6.1 Projected Flow and Capacity Report.

Commencing on July 1, 1999, each Participating Agency shall provide the City and the Metro Commission with a ten-year projection of its Flow and capacity requirements from the Metro System. The Agencies shall disclose any plans to acquire New Capacity outside the Metro System. This "Projected Flow and Capacity Report" shall be updated annually.

6.2 Other Planning Information.

Each Participating Agency shall provide the City with such additional information as requested by the City as necessary for Metro System planning purposes.

6.3 Ten-Year Capital Improvement Plan.

The City shall prepare a Ten-Year Capital Improvement Plan for the Metro System that describes the facilities necessary to convey, treat, and dispose of, or reuse all Flow in the Metro System in compliance with all applicable rules, laws and regulations. The plan shall be updated annually.

6.4 Notice to Metro Commission.

In the event that the City is not able to include a facility in the Ten-Year Capital Improvement Plan, the City shall notify the Metro Commission as soon as possible before the detailed design or construction of such facility provided that the facility will significantly impact the Metro System.

**VII. FACILITIES SOLELY FOR NEW CONTRACT CAPACITY**

The Participating Agencies and City are obligated to pay for the acquisition or planning, design, and construction of new facilities in the Metro System that are needed solely to provide New Contract Capacity only under the terms provided below.

7.1 Determination of Need for New Contract Capacity.



- 7.1.1 As part of its planning efforts, and considering the planning information provided to the City by the Participating Agencies, the City shall determine when additional facilities beyond those acquired or constructed pursuant to Article III above will be necessary solely to accommodate a need for New Contract Capacity in the Metro System, whether by the City or by the Participating Agencies. The City shall determine: (1) the amount of New Contract Capacity needed; (2) the Participating Agency or Agencies, or the City, as the case may be, in need of the New Contract Capacity; (3) the type and location of any capital improvements necessary to provide the New Contract Capacity; (4) the projected costs of any necessary capital improvements; and, (5) the allocation of the cost of any such facilities to the Participating Agency and/or the City for which any New Contract Capacity is being developed. The City shall notify the Participating Agencies of its determination within sixty days of making such determination.
- 7.1.2 The City or Participating Agency or Agencies in need of New Contract Capacity as determined by the City pursuant to section 7.1.1 above, may choose, in their sole discretion, to obtain New Capacity outside of the Metro System in lieu of New Contract Capacity. Under such circumstances, the Participating Agency or Agencies shall commit to the City in writing their intent to obtain such New Capacity. Upon such commitment, the City shall not be required to provide New Contract Capacity to such Agency or Agencies as otherwise required under this Agreement.
- 7.1.3 The Participating Agencies shall have six months from the date of notice of the determination within which to comment on or challenge all or part of the City's determination regarding New Contract Capacity, or to agree thereto or to commit, in writing, to obtain New Capacity outside of the Metro System. Any Participating Agency objecting to the City's determination shall have the burden to commence and diligently pursue the formal dispute resolution procedures of this Agreement within said six month period. The City's determination shall become final at the close of the six month comment and objection period. The City's determination shall remain valid notwithstanding commencement of dispute resolution unless and until otherwise agreed to pursuant to the dispute resolution process in Article IX, or pursuant to a final court order.
- 7.1.4 The City and the Participating Agency or Agencies which need New Contract Capacity shall thereafter enter into an agreement specifying the terms and conditions pursuant to which the New Contract Capacity will be provided, including the amount of capacity and the New Contract Capacity. Each party obtaining New Contract Capacity shall reimburse the Metro System for the costs of acquisition, planning, design, and construction of facilities necessary to provide the New Contract Capacity that have been paid by other parties under Section 7.2.3.

- 7.1.5 The parties recognize that the City may acquire and plan, design and construct facilities that are authorized pursuant to both Article III and Article VII of this Agreement. Under such circumstances, the City shall allocate the costs and capacity of such facilities pursuant to Article III and Section 7.1.1 as applicable.

7.2 Charges for Facilities Providing New Contract Capacity

- 7.2.1 The expense of acquisition, planning, design, and construction of New Contract Capacity shall be borne by the City or the Participating Agency or Agencies in need of such New Contract Capacity.
- 7.2.2 Notwithstanding any provision in this Agreement, the City and the Participating Agencies shall pay for the Operation and Maintenance Costs of all facilities pursuant to the payment provisions of Article III, including those facilities acquired and constructed to provide New Contract Capacity in the Metro System.
- 7.2.3 Charges for the acquisition, planning, design and construction of facilities solely to provide New Contract Capacity shall be paid for by the Participating Agencies and the City pursuant to the payment provisions in Article III of this Agreement until an agreement is reached under Section 7.1.4. or pending the resolution of any dispute relating to the City's determination with respect to New Contract Capacity.
- 7.2.4 As a ministerial matter, the City shall prepare amendments to Exhibits A and B to reflect the acquisition or construction of facilities to provide New Contract Capacity pursuant to this Article. The City shall give notice of the Amendments to the Participating Agencies, and shall provide copies of the Amendments with the notice.

7.3 Liquidated Damages.

- 7.3.1 The parties recognize that appropriate capacity and long term planning for same are essential to the proper provision of sewerage service. In recognition of same, the parties agree that discharge beyond Contract Capacity will result in damages that are difficult to determine. Therefore, the damages are being liquidated in an amount estimated to the actual damage that will be incurred by the City, and is not a penalty. In the event that a Participating Agency exceeds its Contract Capacity after the City has given notice that New Capacity is required, said Participating Agency shall be assessed and pay a liquidated damages until such time as the Participating Agency obtains the required New Capacity. The liquidated damages shall be one dollar (\$1) for each gallon of Flow which exceeds the Participating Agency's Contract Capacity for each quarter in which any exceedance occurs. The amount of liquidated damages shall be adjusted each fiscal year to reflect the annual

percentage change in the Engineering News Record – Los Angeles construction cost index.

- 7.3.2 In the event that a Participating Agency fails to pay the charges imposed under this Article after the City has given notice that payment is required, said Participating Agency shall be assessed and shall pay liquidated damages which shall be determined by multiplying the most recent quarterly earnings rate of the Local Agency Investment Fund's Pooled Money Investment Account times the total outstanding charges. The Participating Agency shall pay such liquidated damages each quarter until the outstanding charges are paid in full.

## **VIII. THE METRO COMMISSION**

### **8.1 Membership.**

The Metro Commission shall consist of one representative from each Participating Agency. Each Participating Agency shall have the right to appoint a representative of its choice to the Metro Commission. If a Participating Agency is a dependent district whose governing body is that of another independent public agency that Participating Agency shall be represented on the Metro Commission by a representative appointed by the governing body which shall have no more than one representative no matter how many Participating Agencies it governs. Each member has one vote in any matter considered by the Metro Commission. The Metro Commission shall establish its own meeting schedule and rules of conduct. The City may participate in the Metro Commission on an ex officio, non-voting basis.

### **8.2 Advisory Responsibilities of Metro Commission.**

- 8.2.1 The Metro Commission shall act as an advisory body, advising the City on matters affecting the Metro System. The City shall present the position of the majority of the Metro Commission to the City's governing body in written staff reports. The Metro Commission may prepare and submit materials in advance and may appear at any hearings on Metro System matters and present its majority position to the governing body of the City.

- 8.2.2 The Metro Commission may advise the City of its position on any issue relevant to the Metro System.

## **IX. DISPUTE RESOLUTION**

This Section governs all disputes arising out of this Agreement.

### **9.1 Mandatory Non-Binding Mediation.**

If a dispute arises among the parties relating to or arising from a party's obligations under this Agreement that cannot be resolved through informal discussions and meetings, the parties involved in the dispute shall first endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of JAMS, AAA, or

any other neutral organization agreed upon by the parties before having recourse in a court of law. Mediation shall be commenced by sending a Notice of Demand for Mediation to the other party or parties to the dispute. A copy of the notice shall be sent to the City, all other Participating Agencies, and the Metro Commission.

9.2 Selection of Mediator.

A single mediator that is acceptable to the parties involved in the dispute shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Agreement, if possible, and chosen from lists furnished by JAMS, AAA, or any other agreed upon mediator.

9.3 Mediation Expenses.

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All mediation costs, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be Metro System costs.

9.4 Conduct of Mediation.

Mediation hearings will be conducted in an informal manner. Discovery shall not be allowed. The discussions, statements, writings and admissions and any offers to compromise during the proceedings will be confidential to the proceedings (pursuant to California Evidence Code Sections 1115 – 1128 and 1152) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. The parties involved in the dispute shall have representatives attend the mediation who are authorized to settle the dispute, though a recommendation of settlement may be subject to the approval of each agency's boards or legislative bodies. Either party may have attorneys, witnesses or experts present.

9.5 Mediation Results.

Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

9.6 Performance Required During Dispute.

Nothing in this Article shall relieve the City and the Participating Agencies from performing their obligations under this Agreement. The City and the Participating Agencies shall be required to comply with this Agreement, including the performance of all disputed activity and disputed payments, pending the resolution of any dispute under this Agreement.

9.7 Offers to Compromise

Any offers to compromise before or after mediation proceedings will not be used to prove a party's liability for loss or damage unless otherwise agreed by the parties in writing (pursuant to Evidence Code Section 1152.)

## **X. INSURANCE AND INDEMNITY**

### **10.1 City Shall Maintain All Required Insurance.**

10.1.1 Throughout the term of this Agreement the City shall procure and maintain in effect liability insurance covering Metro System assets and operations in the same manner, and to the same extent, as the City insures similar assets and operations of the City. Such insurance may be provided through separate policies for the Metro System, or by consolidating the Metro System with other City assets and operations for insurance purposes. If the Metro System is insured separately, policy limits, deductibles, and self-insured retentions shall be equivalent to what the City procures for other similar City assets and operations. The City shall maintain all insurance required by law, including workers' compensation insurance, and may self-insure for certain losses when allowed by law. The proportionate cost of insurance for the Metro System shall be included in the computation of the SSC.

10.1.2 If the Metro System is insured separately, any policy or policies of liability insurance carried by the City for the Metro System shall name the Participating Agencies as additional insureds with evidence of same supplied to each upon request.

10.1.3 Upon request by the Metro Commission or a Participating Agency, the City shall promptly provide written coverage and policy information, including, but not limited to, the scope of coverage, policy limits, deductibles, and self-insured retentions, including information on any claims made against the policies and remaining limits and deductibles.

### **10.2 Substantially Equivalent Coverage.**

In the event of a transfer of the Metro System to a nonpublic entity pursuant to Article II, coverage substantially equivalent to all the above provisions shall be maintained by any successor in interest.

## **XI. INTERRUPTION OF SERVICE**

Should the Metro System services to the Participating Agencies be interrupted as a result of a major disaster, by operation of federal or state law, or other causes beyond the City's control, the Participating Agencies shall continue all payments required under this Agreement during the period of the interruption.

## **XII. NOTICES REQUIRED UNDER AGREEMENT**

The City and each Participating Agency shall give notice when required by this Agreement. All notices must be in writing and either served personally, or mailed by certified mail. The notices shall be sent to the officer listed for each party, at the address listed for each party in Exhibit D in accordance with this Article. If a party wishes to change the officer and/or address to which notices are given, the party shall notify all other parties in accordance with this Article. Upon such notice, as a ministerial matter, the City shall amend Exhibit D to reflect the changes. The amendment shall be made within thirty (30) days after the change occurs. The City shall keep an updated version of Exhibit D on file with the City Public Utilities Department. The City shall provide a copy of the amended Exhibit D to all parties.

### **XIII. EFFECTIVE DATE AND EXPIRATION**

#### **13.1 Effective Date.**

This Agreement shall be effective thirty (30) days after execution by the City and all of the Participating Agencies, and shall be dated as of the signature date of the last executing party.

#### **13.2 Expiration.**

Subject to the rights and obligations set forth in Section 13.4, this Agreement shall expire on December 31, 2065. This Agreement is subject to extension by agreement of the parties. The parties shall commence discussions on an agreement to provide wastewater treatment services beyond the year 2065 on or before December 31, 2055, or at such time, if any, that the Point Loma WTP is required to be upgraded to secondary treatment.

#### **13.3 Contract Capacity Rights Survive Expiration.**

The Participating Agencies' right to obtain wastewater treatment services from the facilities referred to in, or constructed pursuant to this Agreement shall survive the expiration of the Agreement. Provided however, upon expiration of this Agreement, the Participating Agencies shall be required to pay their proportional share based on Flow and Strength of all Metro System Costs (Capital Improvement Costs and Operation and Maintenance) to maintain their right to such treatment services. Provided further, that in the event that the Participating Agencies exercise their rights to treatment upon expiration of this Agreement, the City shall have the absolute right, without consultation, to manage, operate and expand the Metro System in its discretion.

#### **13.4 Capital Expense Rate Beyond Expiration.**

The Capital Expense Rate, as further described in Exhibit F, shall continue until the cost difference between (a) the actual sum of Pure Water Program Capital Improvement Costs and associated debt attributable to the Metro System under Exhibit F and/or the costs to upgrade the Point Loma WTP and (b) \$1.8 billion (as adjusted for inflation), has been fully paid, or the Agreement expires, whichever is sooner. Notwithstanding, it is the express intent and desire of the City and the Participating Agencies that if the Agreement expires before the cost difference has been paid through the Capital Expense Rate, that the Capital Expense Rate

continue in any extension of this Agreement negotiated by the parties pursuant to Section 13.2 until the cost difference has been fully paid.

13.5 Abandonment.

After December 31, 2065, the City may abandon the Metro System upon delivery of notice to the Participating Agencies ten (10) years in advance of said abandonment. Upon notice by the City to abandon the Metro System, the parties shall meet and confer over the nature and conditions of such abandonment. In the event the parties cannot reach agreement, the matter shall be submitted to mediation under Article IX. In the event of abandonment, the City shall retain ownership of all Metro System assets free of any claim of the Participating Agencies.

**XIV. GENERAL**

14.1 Exhibits.

1. This Agreement references Exhibits A through G. Each exhibit is attached to this Agreement, and is incorporated herein by reference. The exhibits are as follows:

Exhibit A	Metro Facilities;
Exhibit B	Contract Capacities;
Exhibit C	Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies;
Exhibit D	Notice Listing;
Exhibit E	Reclaimed Water Distribution System;
Exhibit F	Pure Water Cost Allocation and Revenues; and
Exhibit G	Pure Water Capital Billing Table

14.2 Amendment of Agreement.

Except as provided in this Agreement, and recognizing that certain amendments are ministerial and preapproved, this Agreement may be amended or supplemented only by a written agreement between the City and the Participating Agencies stating the parties' intent to amend or supplement the Agreement.

14.3 Construction of Agreement.

14.3.1 Drafting of Agreement

It is acknowledged that the City and the Participating Agencies, with the assistance of competent counsel, have participated in the drafting of this

Agreement and that any ambiguity should not be construed for or against the City or any Participating Agency on account of such drafting.

#### 14.3.2 Entire Agreement

The City and each Participating Agency represent, warrant and agree that no promise or agreement not expressed herein has been made to them, that this Agreement contains the entire agreement between the parties, that this Agreement supersedes any and all prior agreements or understandings between the parties unless otherwise provided herein, and that the terms of this Agreement are contractual and not a mere recital; that in executing this Agreement, no party is relying on any statement or representation made by the other party, or the other party's representatives concerning the subject matter, basis or effect of this Agreement other than as set forth herein; and that each party is relying solely on its own judgement and knowledge.

#### 14.3.3 Agreement Binding on All; No Third Party Beneficiaries

This Agreement shall be binding upon and shall inure to the benefit of each of the parties, and each of their respective successors, assigns, trustees or receivers. All the covenants contained in this Agreement are for the express benefit of each and all such parties. This Agreement is not intended to benefit any third parties, and any such third party beneficiaries are expressly disclaimed.

#### 14.3.4 Severability

14.3.4.1 Should any provision of this Agreement be held invalid or illegal, such invalidity or illegality shall not invalidate the whole of this Agreement, but, rather, the Agreement shall be construed as if it did not contain the invalid or illegal part, and the rights and obligations of the parties shall be construed and enforced accordingly except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely frustrate either the City's or a Participating Agency's essential objectives set forth in this Agreement.

14.3.4.2 Should a court determine that one or more components of the allocation of costs set forth in this Agreement places the City or a Participating Agency in violation of Article XIII D, Section 6 of the California Constitution with respect to their ratepayers, such components shall no longer be of force or effect. In such an event, the City and the Participating Agencies shall promptly meet to renegotiate the violative component of the cost allocation to comply with Article XIII D, Section 6 of the California Constitution, and use the dispute resolution process in Article IX of this Agreement if an agreement cannot be reached through direct negotiation.



14.3.4.3 Should a state or federal agency provide a final, written determination that the method of allocating Pure Water Program Capital Improvement Costs under this Agreement violates the requirements of state or federal grants or loans which are, or will be, used to fund the wastewater components of the Pure Water Program, such allocation method will no longer be of any force or effect. In such an event, the parties agree that the allocation of Pure Water Program Capital Improvement Costs attributable to the Metro System will be based on Strength and Flow as set forth in Section 3.4.1, and the allocation of Repurified Water Revenue and the Capital Expense Rate will be based on the parties' actual payments to fund the Pure Water Program Capital Improvement Costs attributable to the Metro System. The City and the Participating Agencies shall also promptly meet to negotiate an alternative cost allocation method that would comply with such grant or loan funding requirements.

#### 14.3.5 Choice of Law

This Agreement shall be construed and enforced pursuant to the laws of the State of California.

#### 14.3.6 Recognition of San Diego Sanitation District as Successor to Certain Parties.

The parties hereby acknowledge and agree that the San Diego County Sanitation District is a Participating Agency under this Agreement as the successor in interest to the Alpine Sanitation District, East Otay Mesa Sewer Maintenance District, Lakeside Sanitation District, Spring Valley Sanitation District, and Winter Gardens Sewer Maintenance District.

### 14.4 Declarations Re: Agreement.

#### 14.4.1 Understanding of Intent and Effect of Agreement

The parties expressly declare and represent that they have read the Agreement and that they have consulted with their respective counsel regarding the meaning of the terms and conditions contained herein. The parties further expressly declare and represent that they fully understand the content and effect of this Agreement and they approve and accept the terms and conditions contained herein, and that this Agreement is executed freely and voluntarily.

#### 14.4.2 Warranty Regarding Obligation and Authority to Enter Into This Agreement

Each party represents and warrants that its respective obligations herein are legal and binding obligations of such party, that each party is fully authorized to enter into this Agreement, and that the person signing this

Agreement hereinafter for each party has been duly authorized to sign this Agreement on behalf of said party.

#### 14.5 Restrictions on Veto of Transfers and Acquisitions of Capacity

Each party understands and agrees that this Agreement governs its respective rights and responsibilities with respect to the subject matter hereto and specifically recognizes that with respect to the transfer and acquisition of Contract Capacity (Section 4.2) or the creation of New Contract Capacity for any Participating Agency (Article VII), no Participating Agency has a right to veto or prevent the transfer of capacity by and among other Participating Agencies or with the City, or to veto or prevent the creation or acquisition of capacity for another Participating Agency or Agencies, recognizing that by signing this Agreement each Participating Agency has expressly preapproved such actions. The sole right of a Participating Agency to object to any of the foregoing shall be through expression of its opinion to the Metro Commission and, where applicable, through exercise of its rights under the dispute resolution provisions of this Agreement.

#### 14.6 Right to Make Other Agreements

Nothing in this Agreement limits or restricts the right of the City or the Participating Agencies to make separate agreements among themselves without the need to amend this Agreement, provided that such agreements are consistent with this Agreement. Nothing in this Agreement or Exhibit F limits or restricts the right of the City or the Participating Agencies to enter into separate agreements for the purchase or sale of Repurified Water produced by the Water Repurification System or sharing in City Water Utility PW Costs. Such agreements shall not affect the cost allocation and Metro System revenues delineated in Exhibit F.

#### 14.7 Limitation of Claims

Notwithstanding any longer statute of limitations in State law, for purposes of any claims asserted by the City or a Participating Agency for refunds of overpayments or collection of undercharges arising under this Agreement, the parties agree that such refunds or collections shall not accrue for more than four years prior to the date that notice of such claim is received by the City or a Participating Agency. This also applies to any related adjustments to each Participating Agency's share of net Metro System costs or revenues resulting from the resolution of such claims. The City and the Participating Agencies hereby waive any applicable statute of limitations available under State law that exceed four years. In no case shall the limitations period stated in this section begin to accrue until the date that the annual audit and year-end adjustment from which the claim arises are complete.

#### 14.8 Counterparts

This Agreement may be executed in counterparts. This Agreement shall become operative as soon as one counterpart hereof has been executed by each party. The counterparts so executed shall constitute one Agreement notwithstanding that the signatures of all parties do not appear on the same page.

SIGNATURES ON FOLLOWING PAGES

This page intentionally blank.

IN WITNESS WHEREOF, the Parties have executed this Amendment and Restated Regional Wastewater Disposal Agreement as of the date first set forth above.

**CITY OF CHULA VISTA**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF CORONADO**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF DEL MAR**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF EL CAJON**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF IMPERIAL BEACH**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF LA MESA**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LEMON GROVE SANITATION  
DISTRICT**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF NATIONAL CITY**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**OTAY WATER DISTRICT**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PADRE DAM MUNICIPAL WATER DISTRICT**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF POWAY**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF SAN DIEGO**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SAN DIEGO COUNTY SANITATION DISTRICT**

Approved as to Form:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **EXHIBIT A**

### **METRO FACILITIES AS OF 6/27/18**

#### Existing Facilities

Pt. Loma Wastewater Treatment Plant  
Pt. Loma Ocean Outfall  
Pump Station #1  
Pump Station #2  
South Metro Interceptor  
North Metro Interceptor  
Metro Force Mains 1 & 2  
Digested Sludge Pipeline  
North City Water Reclamation Plant  
Metro Biosolids Center (NCWR Plant Related Facilities)  
North City Tunnel Connector  
North City Raw Sludge Pipeline  
Centrate Pipeline  
Rose Canyon Parallel Trunk Sewer  
Second Rose Canyon Trunk Sewer  
East Mission Bay Trunk Sewer  
Morena Blvd. Interceptor  
South Bay Water Reclamation Plant  
Dairy Mart Road & Bridge Rehab  
Grove Avenue Pump Station  
Grove Avenue Pump Station Sewer Pipeline  
South Bay Raw Sludge Pipeline  
South Bay Land/Ocean Outfall<sup>1</sup>  
Environmental Monitoring & Technical Services Laboratory  
Centrate Treatment Facility at Metropolitan Biosolids Center  
Metro Operations Center (IvIOC) Complex (based on annual facilities allocation)

#### Additional Metro Facilities

Note: The below listed facilities could be required as part of the Metro System for hydraulic capacity, good engineering practices and/or compliance with applicable law, rules or regulations, including OPRA, and the continuation of the City's waiver of applicable treatment standards at the Point Loma Wastewater Treatment Plant ("Waiver").

South Bay Sludge Processing Facility

<sup>1</sup> The South Bay Land/Ocean Outfall is jointly owned by the International Boundary and Water Commission, U.S. Section (60.06%) and the City of San Diego (39.94%). The capacity of the City's portion of the outfall as of the date of this Agreement is 74 MGD average dry weather flow, of which the Metro System has a capacity right to 69.2 MGD and the City as an exclusive right to 4.8 MGD.

South Bay Secondary Treatment Plant, Phase I (21 MGD)  
South Bay Secondary Sewers, Phase I

Note: These facilities could be required as part of the Metro System for hydraulic capacity, good engineering practices, compliance with OPRA, and to maintain the City's Waiver. In the event that hydraulic capacity demands, or the obligations of OPRA (or its successor) or the terms of the City's Waiver change, these facilities may not be required or may be modified or supplemented, as appropriate, pursuant to the terms of this Agreement.

South Bay Secondary Treatment Plant, Phase II (28 MGD)  
South Bay Secondary Sewers, Phase II

Note: These facilities could be added to the Metro System as part of Phase I of the Pure Water Program.

Expansion of North City Water Reclamation Plant  
Morena Pump Station

**EXHIBIT B**  
**CONTRACT CAPACITIES**

Annual Average Daily Flow in Millions of Gallons Per Day

Metro Agency	Original Contract Capacity	Additional Contract Capacity	New Contract Capacity	Transferred Contract Capacity	Total Contract Capacity	Percent of Total
Chula Vista	19.843	1.021	0.000	0.000	20.864	8.182%
Coronado	3.078	0.172	0.000	0.000	3.250	1.275%
Del Mar	0.821	0.055	0.000	0.000	0.876	0.344%
East Otay Mesa*	0.000	0.000	0.000	1.000	1.000	0.392%
El Cajon	10.260	0.655	0.000	0.000	10.915	4.280%
Imperial Beach	3.591	0.164	0.000	0.000	3.755	1.473%
La Mesa	6.464	0.359	0.000	0.170	6.993	2.742%
Lakeside-Alpine*	4.586	0.255	0.000	0.000	4.841	1.898%
Lemon Grove	2.873	0.154	0.000	0.000	3.027	1.187%
National City	7.141	0.346	0.000	0.000	7.487	2.936%
Otay	1.231	0.056	0.000	0.000	1.287	0.505%
Padre Dam	6.382	0.343	0.000	(0.500)	6.225	2.441%
Poway	5.130	0.264	0.000	0.500	5.894	2.312%
Spring Valley/ Otay Ranch*	10.978	0.545	0.000	(1.170)	10.353	4.060%
Wintergardens*	1.241	0.068	0.000	0.000	1.309	0.513%
Subtotal	83.619	4.459	0.000	0.000	88.078	34.540%



Metro Agency	Original Contract Capacity	Additional Contract Capacity <sup>1</sup>	New Contract Capacity <sup>2</sup>	Transferred Contract Capacity <sup>3</sup>	Total Contract Capacity	Percent of Total
San Diego	156.381	10.541	0.000	0.000	166.922	65.460%
Total	240.000	15.000	0.000	0.000	255.000	100.00%

\* Indicates a sub-area of the San Diego County Sanitation District.

1. Additional Contract Capacity is capacity allocated pursuant to Section 4.3.1 of the Agreement.
2. New Contract Capacity is capacity obtained pursuant to Section 6 of the Agreement.
3. Transferred Contract Capacity is capacity obtained pursuant to Section 4.2 of the Agreement.

**EXHIBIT C**

**ADMINISTRATIVE PROTOCOL ON ALLOCATION OF OPERATING RESERVES  
AND DEBT SERVICE COVERAGE TO PARTICIPATING AGENCIES**



April 19, 2010

Rod Greek  
Public Utilities Deputy Director  
City of San Diego, Metropolitan Wastewater  
9192 Topaz Way  
San Diego, CA 92123

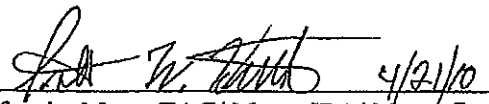
Re: Administrative Protocol on Allocation of Operating Reserves and Debt Service  
Coverage to Participating Agencies

Dear Mr. Greek:

This letter is intended to memorialize the attached Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies ("Protocol") negotiated between the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission, on behalf of the Participating Agencies under the Regional Wastewater Disposal Agreement. Your signature will indicate acceptance of the Protocol on behalf of the City.

By countersigning this letter, the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission acknowledge and agree to the terms and conditions contained in the attached Protocol.

Sincerely,

  
for the Metro TAC/ Metro JPA/ Metro Commission

Enclosure

The Protocol is accepted by the City of San Diego pursuant to the terms and conditions set forth in the attachment hereto:

Date: 4/19/10

  
Rod Greek, Public Utilities Deputy Director

The Protocol is accepted by Metro TAC/ Metro JPA/ Metro Commission on behalf of the Participating Agencies pursuant to the terms and conditions set forth in the attachment hereto:

Date: 5/10/10



The Joint Powers Authority Proactively Addressing Regional Wastewater Issues

Chula Vista • Coronado • Del Mar • Imperial Beach • La Mesa • Lemon Grove Sanitation District  
National City • Otay Water District • Poway • Padre Dam Municipal Water District  
County of San Diego, representing East Otay, Lakeside/Alpine, Spring Valley & Winter Gardens Sanitation Districts

## **Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies**

### **BACKGROUND:**

In early 2008 the MetroTAC formed a working group in response to the City of San Diego's request for \$20 million in funding in FYE 2009 from the Participating Agencies ("PAs") for operating reserves and debt service coverage. The working group continued to meet with City of San Diego staff regarding the establishment of a mutually agreed upon protocol through early February 2010. A summary of the City of San Diego's 2008 proposal and the negotiated 2010 protocol is included as Attachment A.

At its regular meeting of February 17, 2010, the MetroTAC approved the following recommendations to move to the Finance Committee of the Metro Wastewater JPA and thereafter to the Metro Commission/ Metro Wastewater JPA for discussion and action:

- Proceed with PAs funding a 1.2 debt service ratio coverage
- Proceed with PAs funding a 45 day operating reserves
- The PAs will fund no other reserves
- FY07 and FY08 refund monies will be used to fund the operating reserves
- Interest accrual on operating reserves and undesignated accounts will start with FY10 (beginning on July 1, 2009)

The Finance Committee of the Metro Wastewater JPA, at its February 24, 2010 meeting, took action to recommend approval of the above, by the Metro Commission/ Metro Wastewater JPA. At its March 4, 2010 meeting, the Metro Commission/ Metro Wastewater JPA, comprised of representatives of the PAs, approved the components of the negotiated policy, with the understanding that any such policy would serve as an administrative protocol regarding the allocation of debt service coverage to the PAs and funding of operating reserves by the PAs.

### **PROTOCOL REGARDING PA FUNDING OF OPERATING RESERVES:**

#### **Background:**

Operating reserves are established to provide funding for unforeseen events that might occur during the course of the fiscal year such as unforeseen major maintenance or capital projects. The PAs performed a survey of other regional wholesale agencies and determined that agencies such as the San Diego County Water Authority maintain a 45 day operating reserves. Although the City of San Diego's current policy is to increase operating reserves for its retail customers from 45 to 70 days, the City realizes that if a major maintenance incident should occur it can immediately request payment from the PAs per the Regional Wastewater Disposal Agreement. The City of San Diego's retail customer's rates cannot be immediately increased due to Proposition 218 requirements for noticing and public hearings.

#### **Protocol:**

Attachment B is a summary of the funding strategy showing each PAs 2007 and 2008 refunds based on recent City Metro Wastewater Exhibit E audits. The refunds will be used to fund the PAs 45 day operating reserves contribution. In the majority of cases most PAs will see a refund even after they have

fully funded their portion of the operating reserves. PAs that do not have adequate refunds will be billed for their portion of the reserve in the next quarterly 2010 billing. The operating reserves for each fiscal year will be established based on 45 days of operating revenues as determined by the following formula:

$$\frac{\text{Fiscal Year Estimated Operating Expenses (not including CIP and debt service)}}{365 \text{ days}} \times 45 \text{ days}$$

The number of days included in the calculation cannot be changed without prior consent of the PAs.

The operating reserves will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year. As part of each year's Exhibit E audit the actual required operating reserves and interest earned on it will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the operating reserves balance and interest earned for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

#### **PROTOCOL REGARDING ALLOCATION OF DEBT SERVICE COVERAGE TO PAs**

##### **Background:**

A 1.2 debt service coverage ratio is a requirement for all of the outstanding Metro parity debt. A cash flow prepared by the City of San Diego shows (Attachment C) that if the PAs are billed at the current level (\$65 million annually to cover the PAs portion of operations, pay-go capital, and debt service expense) for the next three to five years that this requirement can be achieved without additional contributions by the PAs. This provides the PAs a stable projected annual Metro contribution for the next three to five years.

##### **Protocol:**

The PAs will maintain through annual contributions and use of PA undesignated fund balance a positive cash flow not to exceed 1.2 times the PA share of the required annual debt service on Metro Debt. The debt service coverage ratio of 1.2 cannot be changed without prior consent of the PAs.

The undesignated fund balance will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year.

As part of each year's Exhibit E audit the actual required reserve coverage and interest earned on the undesignated fund balance will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the debt service coverage requirement and portion of interest earned on the undesignated fund balance for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

If the cash flow in any year does not provide the required 1.2 debt service coverage the PAs will be billed the additional required revenue including interest.

Attachment A  
Original San Diego Proposal

## **Draft**

### **FY 2009, and prospective years, Participating Agency funding process for the allocation of the MWWD Debt Service Coverage requirement:**

#### **Year 1**

##### **On October 1, 2008**

1. Obtain the FY 2009 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount],  $\$94,306,351 * .56 = \$52,811,557$ ).
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service percentages of 77.91% for the Metropolitan System and 22.09% for the Municipal System.
4. Obtain final FY 2009 projected flow-based billing percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using final FY 2009 projected flow-based billing percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

##### **On October 4, 2008**

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino).

##### **On November 1, 2008**

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2008. (no interest will be applied to these accounts due to the mid year payment approach)

##### **On December 1, 2008**

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2010 CIP expense allocation by the FY 2009 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2010 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

**On January 1, 2009**

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2010 projected debt service coverage amounts for budgeting purposes.

**On July 1, 2009**

1. Apply the FY 2009 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2010 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

**Year 2 (Prospective Years)**

**On October 1, 2009**

1. Obtain the Fiscal Year 2010 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount],  $\$xxx,xxx,xxx * .56 = \$xxx,xxx,xxx$ )
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service coverage percentages of xx.xx% for the Municipal System and xx.xx% for the Metropolitan System.
4. Obtain the final FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using the preliminary FY 2010 projected flow-based percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

**On October 4, 2009**

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino) for invoicing purposes.

**On November 1, 2009**

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2009. (no interest will be applied to these accounts due to the mid year payment approach)



**On December 1, 2009**

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2011 CIP expense allocation by the FY 2010 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2011 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2011 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

**On January 1, 2010**

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2011 projected debt service coverage amounts for budgeting purposes.

**On July 1, 2010**

1. Apply the FY 2010 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2011 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

H:\Participating Agencies\FY 2009 Debt Coverage Process Flow 07162008 ver 2 draft.doc

## Attachment B

# Operating Reserve Funding Strategy

FY07-FY08 Operating Reserve Rate Stabilization  
Based on 2008 Flows  
FINAL

EXHIBIT E AUDIT ADJUSTMENTS						
Agency	FY 2007	FY 2008	TOTAL	2008 FLOWS & LOADS	OPERATING RESERVE	NET
CHULA VISTA	(\$1,837,010)	(\$2,100,751)	(\$3,937,761)	28.083%	\$1,202,374	(\$2,735,387)
CORONADO	(\$189,910)	(\$366,858)	(\$556,768)	3.356%	\$143,693	(\$413,075)
DEL MAR	(\$87,785)	(\$103,913)	(\$191,698)	1.029%	\$44,061	(\$147,637)
EL CAJON	(\$290,369)	\$66,888	(\$223,481)	15.270%	\$653,789	\$430,308
IMPERIAL BEACH	(\$132,300)	(\$130,153)	(\$262,453)	3.652%	\$156,373	(\$106,080)
LA MESA	(\$99,793)	(\$40,190)	(\$139,983)	8.842%	\$378,561	\$238,578
LAKESIDE/ALPINE	(\$293,313)	(\$243,206)	(\$536,519)	5.357%	\$229,368	(\$307,151)
LEMON GROVE	(\$147,034)	(\$195,043)	(\$342,077)	3.611%	\$154,615	(\$187,462)
NATIONAL CITY	(\$637,379)	(\$947,043)	(\$1,584,422)	7.572%	\$324,211	(\$1,260,211)
OTAY	\$123,792	(\$138,545)	(\$14,753)	0.459%	\$19,668	\$4,915
PADRE DAM	(\$789,976)	(\$1,752,218)	(\$2,542,194)	5.198%	\$222,537	(\$2,319,657)
POWAY	(\$683,251)	\$130,168	(\$553,083)	5.770%	\$247,021	(\$306,062)
SPRING VALLEY	(\$611,093)	(\$667,539)	(\$1,278,632)	10.316%	\$441,691	(\$836,941)
WINTERGARDENS	(\$71,984)	(\$56,162)	(\$128,146)	1.482%	\$63,470	(\$64,676)
<b>TOTAL</b>	<b>(\$5,747,405)</b>	<b>(\$6,544,565)</b>	<b>(\$12,291,970)</b>	<b>100%</b>	<b>\$4,281,432</b>	<b>\$ (8,010,538.00)</b>

## Attachment C

# Debt Service Coverage Funding Strategy

## Attachment C

Schedule of Participating Agency Contributions to Operations Reserve and Debt Service Coverage Cash flow FY 2007-2011

Prepared on: February 23, 2010

## HOW TO READ CASH FLOW SPREADSHEET:

Blue font = data inputted directly into spreadsheet

Green font = data imported from another spreadsheet in workbook

Black font = Calculation: see legend to determine calculation

Line #	Cash Flow Component	Legend	Foot-note #										
1	Current Projected Revenue Stream	Input		\$54,007,596	\$63,231,038	\$57,249,960	\$64,487,402	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	
2	Annual Refund After Exhibit E Audit	Input						(1,500,000)	(3,000,000)	(2,500,000)	(2,100,000)	(1,800,000)	
3	Transfer (to)/from Operating Reserve	Line 21-Prior Year					(4,281,432)	(42,814)	(43,242)	(43,675)	(44,112)	(44,553)	
4	Undesignated Fund Balance Interest	Line 17 X Interest Rate	(1)				79,990	258,156	225,608	113,282	62,579	58,899	
5	Operating Reserve Interest	Calculated Off-Line	(2)				164,514	166,159	167,822	169,499	171,194	172,909	
6	Gross PA System Revenue	Sum(Line1:Line5)		\$54,007,596	\$63,231,038	\$57,249,960	\$52,241,049	\$63,881,500	\$62,350,187	\$62,739,106	\$63,089,661	\$63,387,252	
7	Less:												
8	PA Estimated Total Operating Expenses	Prior year X 1.01	(3)	\$32,304,298	\$37,150,042	\$34,727,170	\$34,727,170	\$35,074,442	\$35,425,186	\$35,779,438	\$36,137,232	\$36,498,605	
9													
10	Net PA System Revenue	Line 6 - Line 8		\$21,703,298	\$26,080,996	\$22,522,790	\$17,513,879	\$28,807,059	\$26,925,001	\$26,959,668	\$26,952,429	\$26,888,647	
11													
12	PA Annual Debt Service Payment	Calculated Off-Line		\$20,373,393	\$19,850,051	\$20,441,069	\$24,099,984	\$24,043,880	\$22,479,035	\$22,478,266	\$22,478,075	\$22,478,740	
13	CIP Pay Go – 20% of Projected CIP	Input	(4)	(4,417,502)	(512,512)	-	1,318,048	5,612,216	7,369,218	5,800,940	4,570,129	4,655,009	
14	Total CIP and Debt Service	Line 12 + 13		\$15,955,891	\$19,337,539	\$20,441,069	\$25,368,037	\$29,654,090	\$29,848,257	\$28,279,206	\$27,048,204	\$27,133,739	
15													
16	Net Income after CIP and Debt Service	Line 10 - 14		\$5,747,407	\$6,743,457	\$2,081,721	(\$7,854,157)	(\$847,032)	(\$2,923,257)	(\$1,319,537)	(\$95,775)	(\$245,092)	
17	PA Undesignated Fund Balance	Line 16 + Prior Year		\$5,747,407	\$12,490,864	\$14,572,585	\$6,718,428	\$5,871,396	\$2,948,139	\$1,628,602	\$1,532,827	\$1,287,735	
18													
19	Calculated Debt Service Ratio	Line 10/Line 12	(5)				0.73	1.20	1.20	1.20	1.20	1.20	
20													
21	Operating Reserve (45 days)	(Line 8/365 days) X 45 days					\$4,281,432	\$4,324,246	\$4,367,489	\$4,411,164	\$4,455,275	\$4,499,828	

## Footnotes:

- (1) average of current year ending balance + prior year ending balance times 3.2%  
 (2) average monthly balance times LAIF rate (first year calculated at half year interest)  
 (3) FY09 based on average of FY07 & FY08 then 1% inflation  
 (4) 20% of projected Metro CIP  
 (5) Minimum coverage requirement 1.2 time annual Metro debt service

## FY10 Operating Reserve Calc:

PA Operating Expenses:	\$34,727,170
divided by:	365
Equals:	\$95,143
Times:	45
45 day Operating Reserve:	\$4,281,432

## FY10 Operating Reserve Interest Calc:

PA Operating Expenses:	\$4,281,432
Times ave monthly LAIF Interest Rate:	0.038425 (range from 3.18% to 4.53% per month)
FY10 Estimated Interest Earned:	\$164,514

**EXHIBIT D**  
**NOTICE LISTING**

City Manager  
City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA 91919  
Phone: 691-5031  
Fax: 585-5612

City Manager  
City of La Mesa  
8130 Allison Avenue  
La Mesa, CA 91942  
Phone: 667-1101  
Fax: 462-7528

Chief Operating Officer  
City of San Diego  
202 "C" Street  
San Diego, CA 92101  
Phone: 236-5949  
Fax: 236-6067

City Manager  
City of Coronado  
1825 Strand Way  
Coronado, CA 92113  
Phone: 522-7335  
Fax: 522-7846

City Manager  
City of Lemon Grove  
3232 Main Street  
Lemon Grove, CA 91945  
Phone: 464-6934  
Fax: 460-3716

Chief Administrative Officer  
County of San Diego  
1600 Pacific Highway, Rm. 209  
San Diego, CA 92101  
Phone: 531-5250  
Fax: 557-4060

City Manager  
City of Del Mar  
1050 Camino Del Mar  
Del Mar, CA 92014  
Phone: 755-9313 ext. 25  
Fax: 755-2794

City Manager  
City of National City  
1243 National City Blvd.  
National City, CA 91950  
Phone: 336-4240  
Fax: 336-4327

General Manager  
Otay Water District  
2554 Sweetwater Springs Blvd.  
Spring Valley, CA 91977  
Phone: 670-2210  
Fax: 670-2258

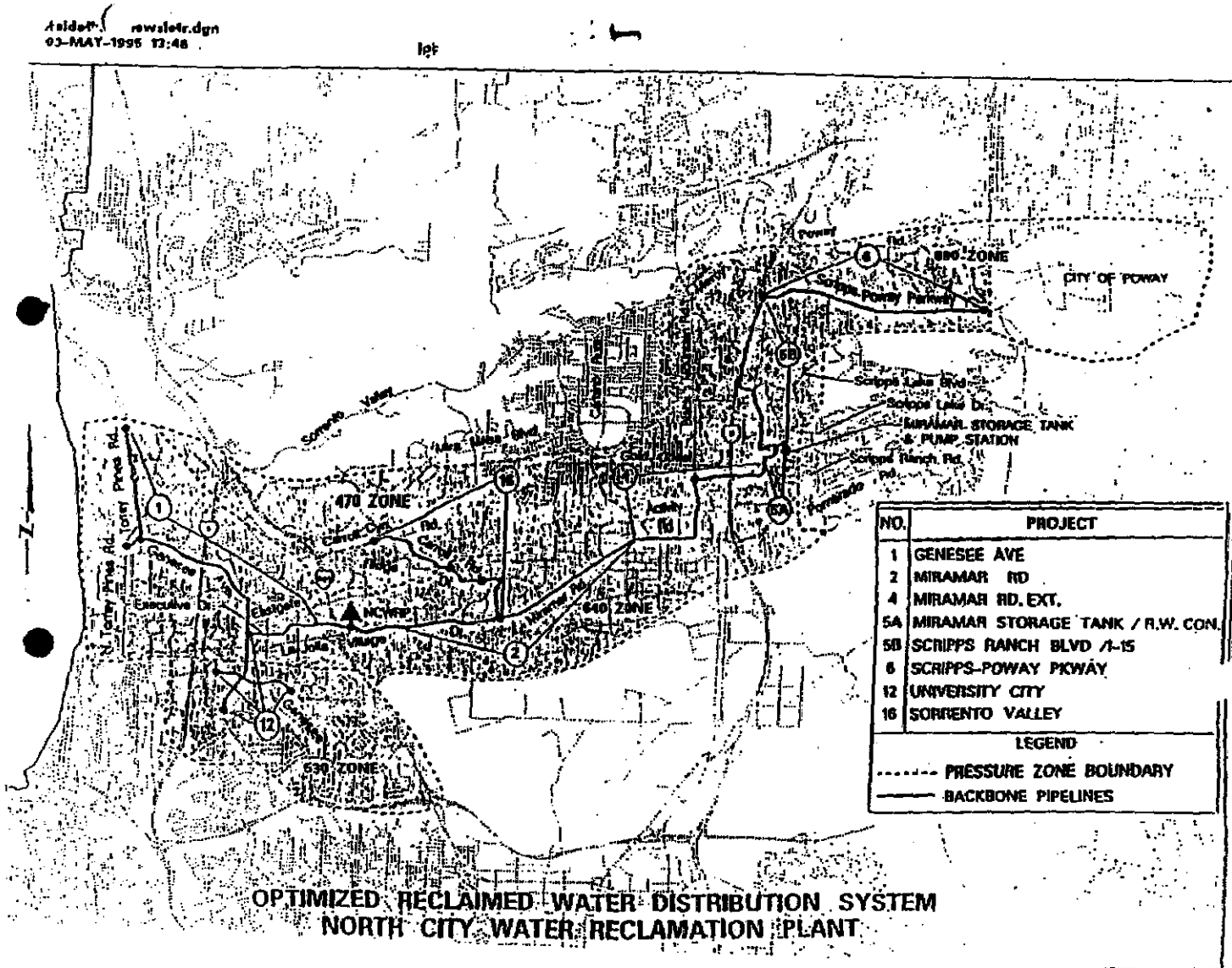
City Manager  
City of El Cajon  
200 Civic Center Way  
El Cajon, CA 92020  
Phone: 441-1716  
Fax: 441-1770

City Manager  
City of Poway  
13325 Civic Center Drive  
Poway, CA 92064  
Phone: 679-4200  
Fax: 679-4226

General Manager  
Padre Dam Municipal Water  
District  
9300 Fanita Pkwy  
Santee, CA 92071  
Phone: 258-4610  
Fax: 258-4794

City Manager  
City of Imperial Beach  
825 Imperial Beach Blvd.  
Imperial Beach, CA 91932  
Phone: 423-8300 ext. 7  
Fax: 429-9770

**EXHIBIT E**  
**RECLAIMED WATER DISTRIBUTION SYSTEM**



**EXHIBIT F**

**PURE WATER COST ALLOCATION AND REVENUES**



## **EXHIBIT F**

### **PURE WATER PROGRAM COST ALLOCATION AND REVENUES**

As part of the Pure Water Program, the City intends to modify the North City Water Reclamation Plant (a Metro System facility) and expand its capacity to 52 mgd. In addition, the City intends to construct the North City Pure Water Facility on a nearby site to produce Repurified Water. This Exhibit F sets forth the costs and revenues associated with the Pure Water Program which are, or are not, attributable to the Metro System.

#### **I. Costs Excluded from Metro System Costs**

All of the following Pure Water Program costs, including Capital Improvement Costs, Operation and Maintenance Costs, and other related costs (including administration, insurance, claims, and overhead) are excluded as Metro System Costs for purposes of calculating the annual Sewer System Charge, and shall be the responsibility of City's water utility ("City Water Utility PW Costs"), unless otherwise expressly agreed to pursuant to an amendment to this Exhibit F:

##### **1.1 General Exclusions.**

1.1.1 Costs of the Water Repurification System and any Metro System facilities to the extent constructed, modified, expanded, or used for the purpose of treating water beyond secondary treatment (ocean discharge standard under current law). This shall include costs for preliminary treatment, primary treatment, and secondary treatment to the extent such costs are higher than they would otherwise be due to the production of Repurified Water.

1.1.2 Costs for fail-safe disposal, if necessary, for design capacity for Repurified Water, including, but not limited to, any costs associated with the reservation of capacity at the Point Loma Wastewater Treatment Plant.

1.1.3 Costs for the demolition or replacement of existing Metro System facilities with similar facilities for the purpose of making space available for Water Repurification System facilities. Such costs may take into account the current asset value or market value of the existing Metro System facility.

##### **1.2 Cost Exclusions Specific to North City Water Reclamation Plant Improvements.**

1.2.1 Costs for increased aeration tank volume to the extent the new volume exceeds the amount necessary to provide 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.

1.2.2 Costs for the methanol feed system.

1.2.3 Costs for brine disposal, including, but not limited to, pump stations, pipelines, retreatment, ocean outfall, and monitoring.

1.2.4 Costs for the use of existing tertiary water filters for Repurified Water purposes. Such costs may take into account the depreciated value of such filters, or use such other appropriate valuation method as agreed by the City and authorized representatives of the Metro Commission. (Costs under this section shall be reimbursed or credited by City's water utility to the Metro System.)

II. **North City Water Reclamation Plant Improvement Costs Included as Metro System Costs**

Notwithstanding the above exclusions, the City and the Participating Agencies have specifically agreed that the following Capital Improvement Costs and Operation and Maintenance Costs related to North City Water Reclamation Plant improvements shall be included as Metro System Costs for purposes of calculating the annual Sewer System Charge (and therefore not qualify as City Water Utility PW Costs):

- 2.1 Costs for chemically enhanced primary treatment for up to 52 mgd capacity.
- 2.2 Costs for primary effluent equalization for up to 52 mgd capacity.
- 2.3 Costs for increased volume of aeration tanks that will provide up to, but not exceeding, 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.
- 2.4 Costs to add secondary clarifier tanks sufficient for up to 52 mgd capacity.
- 2.5 Costs for wastewater conveyance facilities to provide wastewater for replacement of centrate flows that cannot be treated at the North City Water Reclamation Plant due to the production of Repurified Water.
- 2.6 Costs for treatment and conveyance of all return flows (micro-filtration and tertiary backwash) based on Flow, COD, and SS.

III. **Cost Allocation Example**

Attachment 1 is an example of the City's Pure Water Phase I Cost Estimate (based on 60% design), and indicates which costs are City Water Utility PW Costs and which costs are attributable to the Metro System. The Parties agree that Attachment 1 is an illustrative document to assist the Parties in the future and is not a comprehensive list of all such costs. If there is any conflict between this Exhibit F and Attachment 1, or if a specific cost is not addressed in Attachment 1, this Exhibit F shall control.

IV. **Revenue Sharing for Repurified Water**

4.1 **Background.** Initially, the parties anticipate that the cost per acre foot associated with the production of Repurified Water will be more expensive than the cost per acre foot of untreated imported water. However, it is anticipated that Repurified Water produced under the Pure Water Program will be less expensive than untreated imported water sometime in the future. Once Repurified Water produced under the Pure Water Program becomes less expensive

than the cost of untreated imported water, the parties agree that there will be revenue from the Pure Water Program.

4.2 **Calculation.** Revenue sharing shall occur in each fiscal year during which the annual cost per acre foot associated with the production of Repurified Water is less than the cost of untreated water per acre foot from the San Diego County Water Authority (“CWA”). The annual cost difference shall be known as “**Repurified Water Revenue**.” Repurified Water Revenue shall be determined as follows:

Annual cost per acre foot of CWA untreated water purchased by the City for delivery at Miramar Reservoir (which shall be determined based on the total of certain fixed and variable costs for water actually billed to the City by CWA for water delivered at Miramar Reservoir in a fiscal year, divided by the number of acre-feet of CWA water delivered at Miramar Reservoir that year)

less

Annual cost per acre foot of City Water Utility PW Costs (which shall be determined based on total annual City Water Utility PW Costs divided by the number of acre-feet of Repurified Water actually produced in that year)

multiplied by

The number of acre feet of Repurified Water produced by Pure Water Program facilities during the applicable fiscal year.

Attachment 2 is an example of a bill from CWA showing which fixed and variable costs for untreated water will be used for determining Repurified Water Revenue and the amount of water delivered in a billing period. The Parties agree that Attachment 2 shall be referred to by the Parties in the future in determining how costs for water delivered at Miramar Reservoir are calculated. If no untreated water is delivered at Miramar Reservoir in a given year, then the closest point of delivery of untreated water to the City shall be used.

Attachment 3 is a sample calculation of Repurified Water Revenue.

The City shall estimate whether there will be Repurified Water Revenue in the upcoming fiscal year prior to January 15 of each year, and the estimated amount of Repurified Water Revenue shall be effective on July 1 of the upcoming fiscal year.

4.3 **Revenue Sharing.** Repurified Water Revenue shall initially be shared based on the relative actual Capital Improvement Costs for the Pure Water Program contributed by City’s Water Utility and the Metro System. Such Capital Improvement Cost contributions are currently estimated as (61% City Water Utility and 39% Metro System) until the debt attributable to the Metro System is fully paid.

Following full payment of debt attributable to the Metro System, Repurified Water Revenue shall be shared based on the relative actual Operation and Maintenance Costs for Pure Water Program facilities contributed by City's Water Utility and the Metro System, calculated annually. Such Operation and Maintenance Costs are currently estimated as (76% City Water Utility and 24% Metro System) on an annual basis.

**4.4 Year-End Adjustment.** At the end of each fiscal year during which there is Repurified Water Revenue, the City shall determine the actual cost per acre foot of CWA untreated water purchased by the City, the actual cost per acre foot of City Water Utility PW costs, and the actual amount of Repurified Water produced at Pure Water Program facilities.

Based on the actual cost and production information, the City will recalculate the Repurified Water Revenue for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

**4.5 Change in Potable Reuse Method.** The parties acknowledge that the Pure Water Program will initially use the surface water augmentation method of potable reuse. The use of CWA untreated water costs in calculating Repurified Water Revenue is intended to provide an appropriate point of comparison to costs for producing Repurified Water that will be introduced into surface water. The parties agree that if the City implements direct potable reuse (in which Repurified Water is introduced directly into a water supply pipeline or facility), the parties shall meet and negotiate in good faith regarding an amendment to this Exhibit F to appropriately update the formula for Repurified Water Revenue.

## **V. Capital Expense Rate**

**5.1 Background.** The Point Loma Wastewater Treatment Plant operates under a National Pollutant Discharge Elimination System ("NPDES") permit modified under section 301(h) & (j)(5) of the Clean Water Act. If such modified permit were ever revoked or not renewed, the parties agree that, under current law, the City would have an obligation to upgrade the Point Loma WTP to secondary treatment. The parties further agree that \$1.8 billion is a fair and comprehensive estimation of the costs that could be incurred by the Metro System to meet the legal requirements related to the Metro System under current law.

Therefore, the parties agree that \$1.8 billion represents the maximum amount of Capital Improvement Costs that the Metro System should be obligated to contribute to the Pure Water Program, the purpose of which is not solely the disposal of wastewater, but also the production of Repurified Water. The parties agree that this \$1.8 billion maximum contribution should apply whether or not the Point Loma WTP is actually upgraded to secondary treatment to meet legal requirements in the future because, as of the date of the Agreement, the parties have the option of upgrading the Point Loma WTP to full secondary treatment for the cost of approximately \$1.8 billion.

In light of the above, the parties have agreed that if Metro System costs related to the Pure Water Program exceed the \$1.8 billion, City's Water Utility will pay a charge for each acre foot of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water.

5.2 **Capital Expense Rate.** Under the circumstances described below, City's Water Utility shall pay a charge ("**Capital Expense Rate**") for each acre-foot of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water. City's Water Utility shall pay the Capital Expense Rate if the following costs alone, or in combination, exceed \$1.8 billion (which amount shall be adjusted for inflation):

(a) the sum of all Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F; and/or

(b) the sum of all Capital Improvement Costs and associated debt for the full or partial upgrading of the Point Loma Wastewater Treatment Plant to secondary treatment.

Notwithstanding the above, the Capital Expense Rate shall not apply if the Point Loma WTP is actually upgraded to secondary treatment (or beyond) due to: (a) a change in federal or state statutory law making it necessary to upgrade the Point Loma WTP to comply with such new discharge standard; or (b) a final decision by a state or federal court or a federal administrative agency of competent jurisdiction that an NPDES permit modified under section 301(h) & (j)(5) of the Clean Water Act is thereby revoked or denied renewal due to a finding that the discharge from the Point Loma WTP violates anti-degradation rules or regulations promulgated under section 403 of the Clean Water Act.

5.3 **Calculation of Capital Expense Rate.** The amount per acre-foot of the Capital Expense Rate shall be determined as follows:

The sum of all Capital Improvement Costs and associated debt attributable to (i) the Metro System components of the Pure Water Program under this Exhibit F and (ii) upgrading of the Point Loma WTP to secondary treatment (if any)

less

\$1.8 billion, as adjusted for inflation each July 1 (starting on July 1, 2019) to reflect the annual percentage change in the Engineering News Record – Los Angeles construction cost index

multiplied by

1.42 (which estimates the total interest on a 30-year State Revolving Fund loan with an interest rate of 2.5%)

and divided by

The total number of acre feet per year of secondary treated effluent that is expected to be produced by Metro System facilities for the production of Repurified Water over a period of thirty (30) years.

The City shall estimate whether the Capital Expense Rate shall apply to the upcoming fiscal year (and its amount) prior to January 15 of each year, and the estimated amount of the Capital Expense Rate shall be effective on July 1 of the upcoming fiscal year.

For purposes of this Article V of Exhibit F, Capital Improvement Costs and associated debt shall include such costs incurred by the Metro System prior to the effective date of the Agreement.

#### **5.4 Year-End Adjustment**

At the end of each fiscal year during which the Capital Expense Rate applies, the City shall determine the actual Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F and any upgrading of the Point Loma WTP to secondary treatment, the then-applicable interest amount for outstanding loans for the Metro System components of the Pure Water Program and Point Loma WTP upgrades, and the actual amount of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water.

Based on the actual cost, interest, and effluent information, the City will recalculate the Capital Expense Rate for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

#### **5.5 Duration; Expiration**

The duration and expiration of the Capital Expense Rate is set forth in Section 13.4 of the Agreement.

# ATTACHMENT 1 – PURE WATER PHASE I COST ESTIMATE

	Total	Percent
<b>Wastewater:</b>		
Morena Pump Station WW Force Main and Brine Conveyance	\$ 324,712,285.00	
North City Renewable Energy	\$ 33,794,784.00	
North City MBC Improvements	\$ 7,310,835.00	
North City WRP Expansion and PWF Influent Conveyance	\$ 176,882,842.00	
SDG&E	\$ 3,288,932.00	
<b>Total Wastewater</b>	<b>\$ 545,989,678.00</b>	<b>39%</b>
<b>Water:</b>		
Morena Pump Station WW Force Main and Brine Conveyance	\$ 46,504,958.00	
North City Renewable Energy	\$ 94,020,128.00	
Miramar WTP Pump and Plant Improvements	\$ 4,555,811.00	
North City Pure Water Facility	\$ 521,652,285.00	
North City WRP Expansion and PWF Influent Conveyance	\$ 45,236,959.00	
North City Pure Water Pipeline	\$ 109,411,952.00	
North City Pure Water Pump Station	\$ 20,469,509.00	
<b>Total Water</b>	<b>\$ 841,851,602.00</b>	<b>61%</b>
<b>Total Project</b>	<b>\$ 1,387,841,280.00</b>	
<b>Shared Projects Cost Allocations:</b>		
<b>Morena Pump Station WW Force Main and Brine Conveyance</b>		
Wastewater	\$ 324,712,285.00	87%
Water	\$ 46,504,958.00	13%
	<b>\$ 371,217,243.00</b>	
<b>North City Renewable Energy</b>		
Wastewater	\$ 33,794,784.00	26%
Water	\$ 94,020,128.00	74%
	<b>\$ 127,814,912.00</b>	
<b>North City WRP Expansion and PWF Influent Conveyance</b>		
Wastewater	\$ 176,882,842.00	80%
Water	\$ 45,236,959.00	20%
	<b>\$ 222,119,801.00</b>	
<b>Planning and Environmental Cost Allocation Based on Capital Cost Split:</b>		
Wastewater		39%
Water		61%

Note: The above estimates are based on 60% design of Phase I of the Pure Water Program.

## ATTACHMENT 2 – SAMPLE CWA BILL



ATTACHMENT 3 – SAMPLE CALCULATION OF REPURIFIED WATER  
REVENUE

60409.00001\30398144.14

EXHIBIT G

PURE WATER CAPITAL BILLING TABLE

1 Agency	2 Estimated Average Daily Flow (MGD)	3 Net Offload For Padre Dam Project (MGD)	4 Projected Metro Flow 2050 (MGD)		6 COD Applied to 2050 Flows (mg/l)	7 COD Applied to 2050 Flows (lb/day)	8 Percent COD Contributed	9 SS Applied to 2050 Flows (mg/l)	10 SS Applied to 2050 Flows (lb/day)	11 Percent SS Contributed	12 Pure Water Capital Merged Percentage <sup>3</sup>
			Flow	%							
Chula Vista	20.864	0	20.864	12.489%	701.947	122221.932	12.825%	250.011	43531.581	12.562%	12.591%
Coronado	1.9	0	1.9	1.137%	587.457	9314.884	0.977%	241.493	3829.176	1.105%	1.090%
Del Mar	0.031	0	0.031	0.019%	542.195	140.270	0.015%	305.112	78.935	0.023%	0.019%
East Otay Mesa (County) <sup>1</sup>	1.788	0	1.788	1.070%	621.049	9267.041	0.972%	240.016	3581.421	1.034%	1.036%
El Cajon	7.8	0	7.8	4.669%	642.887	41848.202	4.391%	254.340	16556.068	4.778%	4.631%
Imperial Beach	2.473	0	2.473	1.480%	540.757	11160.249	1.171%	205.193	4234.820	1.222%	1.334%
La Mesa	5.03	0	5.03	3.011%	523.099	21958.348	2.304%	197.537	8292.107	2.393%	2.669%
Lakeside/Alpine (County) <sup>1</sup>	4.619	4.30	0.319	0.191%	640.852	1706.066	0.179%	251.056	668.358	0.193%	0.189%
Lemon Grove	2.4	0	2.4	1.437%	593.836	11893.920	1.248%	203.567	4077.236	1.177%	1.319%
National City	4.65	0	4.65	2.783%	685.192	26589.642	2.790%	219.881	8532.740	2.462%	2.697%
Otay Water District	0.38	0	0.38	0.227%	1442.632	4574.952	0.480%	818.053	2594.253	0.749%	0.432%
Padre Dam	2.486	2.314	0.172	0.103%	926.812	1330.356	0.140%	445.910	640.063	0.185%	0.134%
Poway	3.101	0	3.101	1.856%	563.551	14584.185	1.530%	243.460	6300.522	1.818%	1.767%
Spring Valley (County) <sup>1,2</sup>	6.231	0	6.231	3.730%	597.292	31059.332	3.259%	235.079	12224.151	3.528%	3.560%
Wintergarden (County) <sup>1</sup>	0.979	0.91	0.069	0.041%	613.656	353.363	0.037%	254.082	146.309	0.042%	0.041%
San Diego	109.855	0	109.855	65.757%	703.556	645009.168	67.681%	252.229	231239.253	66.731%	66.492%
Total	174.587	7.524	167.063	100%	10926.768	953011.910	100%	4617.019	346526.992	100%	100%

<sup>1</sup> Subareas of the San Diego County Sanitation District

<sup>2</sup> Includes Otay Ranch (0.87 mgd) and Spring Valley (5.361 mgd). Flow from Otay Ranch that would flow to Metro through Chula Vista pipelines.

<sup>3</sup> These fractions used to calculate the merged percentage: (Based on 5 year average and not subject to change except by agreement of the parties.)

FLOW	SS	COD
0.482	0.275	0.243

RESOLUTION NO. 18-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
POWAY, CALIFORNIA, APPROVING THE AMENDED AND  
RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT  
BETWEEN THE CITY OF POWAY AND THE CITY OF SAN DIEGO

WHEREAS, the City of San Diego owns, operates and maintains the Metropolitan Sewerage System for the purpose of treating and disposing of sewage for San Diego and certain other municipalities and districts including Participating Agencies within the San Diego region under the terms and conditions of the Regional Wastewater Disposal Agreement;

WHEREAS, Poway owns, operates, and maintains the City of Poway Municipal Sewerage System for the purpose of collecting and transporting sewage within Poway to the San Diego Municipal Sewerage System for transportation to the Metropolitan Sewerage System;

WHEREAS, due to the location of Poway's sewerage system it is necessary that Poway use the Metropolitan Sewerage System;

WHEREAS, the NPDES permit for the Point Loma Wastewater Treatment Plant submitted in 2015 included a goal of offloading 83 million gallons a day of wastewater and turning it into potable drinking water by 2035. This project is titled Pure Water San Diego;

WHEREAS, the 1998 Regional Wastewater Disposal Agreement between the City of San Diego and the participating agencies governs the planning, capacity rights and cost allocation of wastewater facilities in the Metropolitan Wastewater System;

WHEREAS, the 1998 Agreement did not contemplate the complexities of the Pure Water program and needs to be amended to adequately address the proposed facilities, allocation of costs and long-term financial protection of wastewater rate payers;

WHEREAS, staff from the City of San Diego and the participating agencies have been working since 2014 on deal points for the Pure Water program and those deal points have been incorporated into an Amended and Restated Wastewater Disposal Agreement; and

WHEREAS, the Amended and Restated Wastewater Disposal Agreement fairly and equitably allocates the capital costs of Pure Water San Diego, incorporates the sharing of future revenues, and limits the long-term exposure of wastewater ratepayers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Poway that the City Manager or, in the absence of the City Manager, the Assistant City Manager is hereby authorized to execute the Amended and Restated Regional Wastewater Disposal Agreement between the City of Poway and the City of San Diego in a form substantially similar to the version of the Agreement attached thereto and approve non-substantial changes and execute the agreement.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Poway, California  
at a regular meeting this 18th day of September 2018.

\_\_\_\_\_  
Steve Vaus, Mayor

ATTEST:

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk

STATE OF CALIFORNIA     )  
                                      ) SS  
COUNTY OF SAN DIEGO    )

I, Nancy Neufeld, City Clerk, of the City of Poway, California, do hereby certify under penalty of perjury that the foregoing Resolution No. 18- was duly adopted by the City Council at a meeting of said City Council held on the 18th day of September 2018, and that it was so adopted by the following vote:

AYES:

NOES:

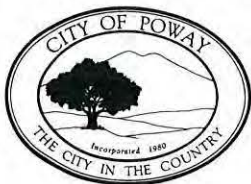
ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
Nancy Neufeld, CMC, City Clerk  
City of Poway

**ATTACHMENTS:**

- A. Amended and Restated Regional Wastewater Disposal Agreement Between the City of Poway and the City of San Diego



# City of Poway COUNCIL AGENDA REPORT

APPROVED	<input type="checkbox"/>
APPROVED AS AMENDED (SEE MINUTES)	<input type="checkbox"/>
DENIED	<input type="checkbox"/>
REMOVED	<input type="checkbox"/>
CONTINUED _____	
RESOLUTION NO. _____	

**DATE:** September 18, 2018

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Tina White, City Manager

**CONTACT:** Wendy Kaserman, Assistant City Manager *WK*  
(858) 668-4502 or [wkaserman@poway.org](mailto:wkaserman@poway.org)

Donna Goldsmith, Director of Finance *DG*  
(858) 668-4411 or [dgoldsmith@poway.org](mailto:dgoldsmith@poway.org)

Jodene Dunphy, Director Human Resources/Risk Management *JD*  
(858) 668-4413 or [jdunphy@poway.org](mailto:jdunphy@poway.org)

**SUBJECT:** Public Employees' Retirement System (PERS) Actuarial Analysis

## Summary:

Employee salaries and benefits comprise approximately 36% of the City's operating budget in Fiscal Year (FY) 2018-19. A major component of the employer-paid benefit costs are pension costs paid to the California Public Employees' Retirement System (CalPERS). These costs are a percentage of pay, not a flat amount, and total approximately \$4.6 million for FY 2018-19. In addition to the City's payment, employees will contribute an estimated additional \$1.3 million through their contributions. Poway, like other cities, counties, and districts throughout California, continues to see substantial increases in employer-paid contributions to CalPERS. While the City can control growth in employee salaries, the City has very little control over CalPERS increases to the employer-paid contributions. As will be described later in this report and during the City Council presentation on this item, the City withdrawing from CalPERS to implement an alternative retirement plan, such as a 401K, is cost prohibitive.

The operating budget's ability to absorb projected future increases to the employer-paid contributions is very concerning to city management. Particularly because, as noted in the last two budget reports, overall expenses (not just pension costs) are growing at a faster pace than revenues. To better understand the cost drivers behind the increasing CalPERS employer rates and present the City Council with options to mitigate some of the impacts of rising pension costs, the City Council appropriated \$14,250 in March for a consultant to perform an independent actuarial evaluation. The City selected Bartel Associates to perform the analysis as they specialize in providing public sector clients with actuarial consulting services such as CalPERS valuations. Bartel has completed its actuarial evaluation for the City of Poway and has provided options for consideration.

## Recommended Action:

It is recommended the City Council receive the report and provide direction to staff to:

- 1) Pursue establishing an Internal Revenue Code Section 115 trust; and
- 2) Return with a recommendation with the FY 2017-18 year-end close report to use a portion of any year-end surplus to make an initial deposit into a Section 115 trust, as well as make an additional contribution to CalPERS to pay down a portion of the City's unfunded liability using the shortest amortization period.

### **Background:**

The City of Poway, since incorporation, has contracted with the California Public Employees' Retirement System (CalPERS) to provide defined-benefit retirement pension plans for the City's Fire-Safety group and Miscellaneous (Non-Safety, Management/Confidential) group of employees. In 2001, when pension plans were extremely well funded statewide, and CalPERS was achieving high rates of return on its investments, Assembly Bill 616 was signed into law allowing CalPERS member agencies to provide employees with enhanced retirement formulas. In San Diego County alone, every City that contracts with CalPERS approved one of the new enhanced retirement formulas for their employees. To remain competitive with the other cities at that time, Poway approved a 3% at 50 formula for Fire-Safety employees, and a supplemental retirement benefit for Miscellaneous employees, with significant eligibility requirements focused on longevity through the Public Agency Retirement Services (PARS) program. Currently, the PARS benefit is a closed plan that only applies to 70 remaining Poway employees hired between certain dates. Even though it is a closed plan (meaning no new enrollees), the Plan must continue to pay benefits to retirees receiving the benefit and it must have enough assets to also pay benefits to the 70 existing members when they retire. Employees hired after January 9, 2012 are not eligible for the PARS benefit because of pension reform. In FY 2018-19, there are 213 full-time positions budgeted, so less than one-third of the City's full-time employees are eligible for the PARS benefit. While PARS and CalPERS are defined-benefit plans, there are very distinct differences between the PARS plan and the CalPERS plans. As a closed plan, PARS will not see the steep increases in contributions that are projected for CalPERS. Additionally, the City controls how PARS funds are invested. The PARS plan is well funded due to several City Council actions. When the City Council adopted the 45% General Fund Reserve policy in 2015, there were surplus reserve funds available and the City Council chose to use \$2.8 million toward paying down the PARS unfunded liability. An additional \$500,000 from the Fiscal Year 2016-17 year-end surplus was used to further pay down the PARS unfunded liability. Due to the projected fiscal impact of changing rates with CalPERS and the fact that the City makes employer contributions for all full-time (and a limited number of benefitted part-time) employees to CalPERS, the focus of the Bartel analysis was the CalPERS plans.

### **History**

The impact of the Great Recession on CalPERS funds was significant. CalPERS lost more than 27% or \$67 billion in value. As a result, employer rates for all CalPERS agencies began increasing significantly. Employer rates had to make up for the losses since there was still an obligation to pay retiree benefits as well as the costs of the unfunded liability of future benefits to be paid to CalPERS participants. Cities began the process of negotiating lower CalPERS retirement formulas with employee bargaining groups to work toward ensuring future sustainability of retirement benefits. Poway employees and the City Council recognized the importance of financial sustainability and agreed to a second tier of benefits that included a lower retirement formula for employees hired after January 9, 2012. Less than one year later, the State of California passed the Public Employees' Pension Reform Act, known as PEPR, which mandated lower retirement formulas for all CalPERS member agencies for employees entering CalPERS on or after January 1, 2013. This established a third tier of retirement benefits with an even lower CalPERS retirement formula for City of Poway employees. An additional provision of PEPR caps pensionable salary for employees that fall within this third tier. The maximum pensionable salary is based on social security caps and the maximum for 2018 for Tier 3 employees is \$145,666.

The current City of Poway retirement tiers for the Fire-Safety employee group and the Miscellaneous employee group (Non-Safety/Teamsters, Management/Confidential employees) are outlined in the table below.

**City of Poway  
CalPERS Retirement Formulas**

<b>Group Plan</b>	<b>Tier 1 "Classic" Employees hired prior to 1/9/12</b>	<b>Tier 2 "Classic" Employees hired after 1/9/12 *</b>	<b>Tier 3 "PEPRA" New CalPERS Employees hired on or after 1/1/13</b>
Miscellaneous	2% at 55 (FAE1)**	2% at 60 (FAE3)***	2% at 62 (FAE3)
Fire-Safety	3% at 50 (FAE3)	3% at 55 (FAE3)	2.7% at 57 (FAE3)

\* Tier 2 employees must be employees who are not new to working for a CalPERS agency or an agency with a reciprocity agreement with CalPERS and who have not had a break in service for more than 6 months prior to being hired by Poway.

\*\* FAE1 means the single highest year of earnings (typically final) is used to calculate the employee's salary used in the benefit formula.

\*\*\* FAE3 means the highest three years (typically final three) of average earnings is used to calculate the salary used in the benefit formula.

While this table can be complicated to follow, key takeaways are higher retirement eligibility ages for Tier 2 and Tier 3, and a lower percentage of salary for Fire-Safety Tier 3 employees. Additionally, using the final three years average of earnings for benefit calculation is presumed to be a lower benefit than using an employee's highest single year of earnings. However, it should be noted that for Tier 3 employees, the highest three years may not be applicable if their average earnings exceed the cap on pensionable salary under PEPRA.

Below is an illustration of how the retirement benefit would be calculated for a "Classic" Miscellaneous employee.

Formula: 2%@55

- ☐ Hire age 30, retire at 55 = 25 years of service
- ☐ 2.0% x 25 years = 50% of highest single-year pay for life.

Included below is snapshot of the organization as of June 30, 2018 showing how many employees the City has in the three tiers for the Miscellaneous and the Fire-Safety group.

<b>Group Plan</b>	<b>Tier 1 "Classic"</b>	<b>Tier 2 "Classic"</b>	<b>Tier 3 "PEPRA"</b>
Miscellaneous	81	14	82
Fire-Safety Group	32	2	19

Funding of CalPERS pensions relies on three sources: employee contributions (fixed by statute based on formula), employer contributions, and investment returns. During labor negotiations in 2017, employees of the Poway Firefighters Association and Teamsters union agreed to contribute an additional 1% towards PERS costs beyond the required employee contribution. Currently, all employees of the City of Poway considered "classic" CalPERS employees in Tier 1 and Tier 2, including employees in the Management/Confidential group, are contributing an additional 1% of



their salaries beyond the required employee rate depending on their CalPERS group plan and tier. In other words, employees are contributing 1% toward the employer cost, in addition to the 7% (Miscellaneous) or 9% (Safety) employee contribution. Employees in Tier 3 who are considered PEPRAs are contributing what is required statutorily by PEPRAs.

### **Discussion:**

Each year CalPERS provides an actuarial valuation of the Fire-Safety Group plans and the Miscellaneous Group plans to determine contribution rates for the following year. The valuations include Tier 3 (PEPRA) for the following fiscal year. The employee contribution rate for Tier 1 and Tier 2 employees is statutorily dictated unless a higher rate is negotiated between the City and employee bargaining units, as is the case in Poway. There are also provisions in statute allowing higher employee contribution rates to be imposed upon employees, but this is only after a lengthy impasse process and there are caps on the amounts that can be imposed.

There are two components to the CalPERS rates: Normal Cost and Unfunded Liability. Employees contribute to the Normal Cost which is the value of benefits in the current year. The City also contributes to the Normal Cost, as well as paying the full Unfunded Liability. Unfunded liability is the difference between what the City and employees have already contributed, and the benefits owed to retirees. Unfunded liability is the component that creates rate volatility for employers and, by statute, unfunded liability is solely attributed to the employer rate.

The total combined Employer Contribution Rate for FY 2018-19 for the Miscellaneous Group is 24.3%. The total combined Employer Contribution Rate for FY 2018-19 for the Fire-Safety Group is 34.2%. There are many variables that contribute to how these numbers will grow in the future, but the presentation will illustrate that the Miscellaneous group rates are projected to peak around 35% by FY 2024-25 and peak around 54% for the Fire-Safety group in FY 2028-29. Rates are not projected to return to current levels until the late 2030s and early 2040s when the workforce will be solely comprised of PEPRAs.

The rising costs in Unfunded Liability present the biggest challenge for Poway going forward. While state statute includes provisions for imposing additional Normal Cost contributions on employees following a negotiations process, it does not include provisions for imposing any portion of the Unfunded Liability costs on employees.

The CalPERS rates have been significantly impacted in recent years by the Great Recession, followed by CalPERS Board decisions to:

- 1) Lower the discount rate (assumed rate of return on investments),
- 2) Change demographic assumptions such as mortality rates, and
- 3) Implement other changes such as a rate volatility smoothing approach (an attempt to smooth the impact of higher rates on member agencies by gradually implementing changes. However, the longer it takes to get the rates to where they need to be, the more the costs of unfunded liability continue to grow).

The above decisions, combined with investment losses during the Great Recession, have caused the normal cost and unfunded liabilities to increase, which in turn drives the City's required annual contributions higher.



The City's annual contribution for all funds toward the CalPERS unfunded liability is approximately \$2.7 million for FY 18-19, which is included in the \$4.6 million budgeted for PERS expenditures this fiscal year. Based on the CalPERS Actuarial Valuation as of June 30, 2016 (the most recent valuation), the City's Miscellaneous Plans have a combined Unfunded Accrued Liability of more than \$31 million and the City's Safety Plans have a combined Unfunded Accrued Liability of nearly \$15 million.

Until recently, the City's only option for reducing the Unfunded Liability was to commit additional funds to CalPERS, beyond the required annual contribution. However, a recent ruling received from the IRS established that public agencies or municipalities could create a separate trust to "pre-fund" CalPERS unfunded liability and/or to be used as a rate stabilization fund to mitigate the impacts of future increases in rates. Another option considered by some cities has been to leave the CalPERS system. To do so would require the City to pay, in full and up front, CalPERS for the City's entire existing pension liability. It should be noted that even trying to negotiate with employee bargaining groups for alternative pension plans for new hires, such as a defined contribution (vs. a defined benefit) plan or a 401K type plan would be considered leaving the CalPERS system and could not be done without buying out of CalPERS as described above.

#### Options for Mitigating the Impacts of Future Rate Increases

As described throughout this report, the City has little control of the projected increases in employer contribution rates for CalPERS, so a core component of the Bartel analysis was to present options for mitigating the impact of future increases on the operating budget. There are two primary options described below; the third option of leaving CalPERS is included but as previously stated and illustrated below, it is cost prohibitive. Should Council wish to pursue either Option 1 or Option 2 or a combination of both, the City Council could direct staff to identify potential funding with the FY 2017-18 year-end close report that is scheduled to be presented to the City Council in October.

#### Option 1: Commit Additional Funds to CalPERS

The City Council could appropriate and commit to CalPERS an amount over and above the annual required contribution. Several factors must be considered with this option. First, before an additional contribution is made, the City must identify what is the intended goal regarding future CalPERS payments.

The City's Unfunded Liability is comprised of various components that have amortization periods ranging from seven to thirty years. If the City's objective is to reduce the required annual contribution as much as possible, the City would select a short amortization base/period to which to apply the additional contribution. This would result in the largest reduction in annual CalPERS contributions for a short period of time (estimated seven years), with CalPERS payments returning to original required contributions after the effect of the additional payment has been realized.

Should the City's objective be to save more interest *over time*, the City would select a longer amortization base/period to apply the additional contribution. Although the City would save more on accrued interest, there would be less savings on the annual contribution and in turn less savings to the annual operating budget.

Although there is not a lot of flexibility regarding how these additional contributions/funds are invested, the investment rate of return achieved by the CalPERS system over the long-term may be higher than may be realized through the Section 115 trust described below. Conversely, these additional funds would also be subject to the same market volatility risk as all CalPERS

investments. Many CalPERS member agencies are also wary of providing additional funds to CalPERS.

Option 2: Establish a Section 115 Trust

An Internal Revenue Code Section 115 trust is a vehicle for segregating City funds from general assets for funding essential governmental functions. For example, a 115 trust can be used to set aside monies to meet future pension contributions or liabilities. Funds placed in a 115 trust are irrevocably committed for the essential government function(s) specified in the applicable trust agreement (e.g., pension obligations). Monies held in such trusts can be invested in accordance with the rules governing such special purpose accounts. For example, 115 trust funds dedicated to satisfying pension obligations can be invested in the same manner as funds in a typical pension fund rather than being limited to those investments allowed for the City's General Fund. Thus, agencies can potentially earn a higher rate of return on monies set aside for future pension obligations.

A 115 trust could be used as a rate stabilization fund. If funds are contributed to the 115 trust and interest is allowed to accumulate, the City could draw on those funds as rates increase and insulate the operating budget from the full impact of the increases. Alternatively, funds in a 115 trust could be applied to pay down specific portions of an agency's CalPERS liabilities. It is also an option to use 115 trust funds to pay down the agency's unfunded liability. While the funds are irrevocably committed, should there be a point in the future where the City cannot afford to make some or all of the annual required payment to CalPERS, funds from the 115 trust could be used toward making the required payment.

Establishing a 115 trust would provide the City with an alternative to sending funds directly to CalPERS and would provide greater City control over assets and portfolio management. Additionally, establishment of a trust would allow the City to set aside funds today towards future CalPERS costs. There is no fiscal impact associated with establishing a 115 trust beyond the setup fees. The City would have the flexibility to add funds to the trust as funds are available.

Option 3: Leave the CalPERS System

As mentioned above, should the City want to sever its relationship with CalPERS and leave the pension system, the total cost to do so is estimated to be nearly \$170 million for all plans, assuming a 3% rate of return or, more than \$200 million, assuming a 1.75% rate of return. Additionally, it is anticipated that an alternative form of retirement benefits, as well as funding, would need to be identified for new employees. However, before any consideration could be given to this option, as a vested benefit, this option would be subject to labor negotiations, in addition to substantial legal review.

**Environmental Review:**

This item is not subject to CEQA review.

**Fiscal Impact:**

None.

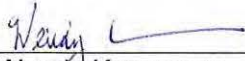
**Public Notification:**

None.

**Attachments:**

None.

Reviewed/Approved By:



Wendy Kaserman  
Assistant City Manager

Reviewed By:

Alan Fenstermacher  
City Attorney

Approved By:



Tina M. White  
City Manager