



**AGENDA**  
**CITY OF IMPERIAL BEACH**  
**CITY COUNCIL**  
**PLANNING COMMISSION**  
**PUBLIC FINANCING AUTHORITY**  
**HOUSING AUTHORITY**

**IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY**

**September 18, 2019**

**Council Chambers**  
**825 Imperial Beach Boulevard**  
**Imperial Beach, CA 91932**

**CLOSED SESSION MEETING – 5:30 P.M.**  
**REGULAR MEETING – 6:00 P.M.**

**THE CITY COUNCIL ALSO SITS AS THE CITY OF IMPERIAL BEACH PLANNING COMMISSION, PUBLIC FINANCING AUTHORITY, HOUSING AUTHORITY AND IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY**

The City of Imperial Beach is endeavoring to be in total compliance with the Americans with Disabilities Act (ADA). If you require assistance or auxiliary aids in order to participate at City Council meetings, please contact the City Clerk’s Office at (619) 628-2347, as far in advance of the meeting as possible.

**CLOSED SESSION (1)**

**1. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION**

Government Code section 54956.9(d)(1) (1 case)  
Case No. 37-2018-00052524-CU-POC-CTL

**RECONVENE AND ANNOUNCE ACTION (IF APPROPRIATE)**

**ADJOURN CLOSED SESSION**

**REGULAR MEETING CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**REIMBURSEMENT DISCLOSURES/REPORTS ON ASSIGNMENTS AND COMMITTEES**

*All City Council assignments are available for review in the City Clerk’s Office.*

**COMMUNICATIONS FROM CITY STAFF**

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

**PRESENTATIONS (1)**

None.

**CONSENT CALENDAR (2.1-2.9)** - *All matters listed under Consent Calendar are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items, unless the item is removed from the Consent Calendar by action of the City Council. A Councilmember or member of the public may make a comment on any item on the Consent Calendar before the City Council votes on the Consent Calendar. Those items removed from the Consent Calendar will be discussed at the end of the Agenda.*

**2.1 MINUTES.**

Recommendation: That the City Council approves the Regular Meeting Minutes of June 19, 2019 and September 4, 2019 and the Special Meeting Minutes of September 4, 2019.

***Continued on Next Page***

Any writings or documents provided to a majority of the City Council/Planning Commission/Public Financing Authority/Housing Authority/I.B. Redevelopment Agency Successor Agency regarding any item on this agenda will be made available for public inspection in the office of the City Clerk located at 825 Imperial Beach Blvd., Imperial Beach, CA 91932 during normal business hours.

## **CONSENT CALENDAR (Continued)**

### **2.2 RATIFICATION OF WARRANT REGISTER. (0300-25)**

Recommendation: It is respectfully requested that the City Council ratifies the warrant register.

### **2.3 RESOLUTION NO. 2019-8086 CONTINUING THE PROCLAMATION OF A STATE OF LOCAL EMERGENCY RELATING TO IMPACTS FROM CROSS-BORDER POLLUTION IN THE TIJUANA RIVER. (0150-40 & 0210-26)**

Recommendation: That the City Council adopt Resolution No. 2019-8086 to maintain a state of local emergency related to the cross-border pollution impacts from the Tijuana River and authorize the City Manager, Mayor, and Council members to work with local, State, Federal, and Mexican authorities to advance binational projects to improve conditions in the Tijuana River.

### **2.4 SECOND READING AND ADOPTION OF ORDINANCE NO. 2019-1186, ADDING CHAPTER 12.50 TO THE CITY OF IMPERIAL BEACH MUNICIPAL CODE RELATED TO THE USE OF PUBLIC PROPERTY. (0720-95)**

Recommendation: That the City Council conducts the second reading and adopts Ordinance No. 2019-1186 adding Chapter 12.50 to the Imperial Beach Municipal Code ("IBMC") related to the Use of Public Property by title only and waive further reading of the ordinance.

### **2.5 RESOLUTION NO. 2019-8085 – AMENDING COUNCIL POLICY NO. 419: TICKET DISTRIBUTION POLICY. (0420-87 & 0420-95)**

Recommendation: Adopt Resolution No. 2019-8085.

### **2.6 RESOLUTION NO. 2019-8088 AWARDED A CONTRACT TO VINYARD DOORS, INC. FOR THE COMPLETION OF FIRE STATION DOOR REPAIRS AS PART OF THE FIRE STATION IMPROVEMENTS PROJECT (F20111-P). (0910-40)**

Recommendation: Adopt Resolution No. 2019-8088.

### **2.7 PROCLAMATION FOR TIJUANA RIVER ACTION MONTH FOR OCTOBER. (0230-70)**

Recommendation: Adopt Resolution No. 2019-8089.

### **2.8\* NOTIFICATION OF TRAVEL: ON SEPTEMBER 10 COUNCILMEMBER SPRIGGS ATTENDED THE NOSSAMAN LAW FIRM'S 2019 CALIFORNIA COASTAL LAW CONFERENCE IN HUNTINGTON BEACH, CA INCURRING THE FOLLOWING EXPENSE: MILEAGE \$104.64. (0410-60)**

### **2.9\* NOTIFICATION OF TRAVEL: MAYOR DEDINA AND COUNCILMEMBER SPRIGGS WILL BE TRAVELING TO IRVINE TO ATTEND UC IRVINE'S RESILIENT SOLUTION IN COASTAL CALIFORNIA WORKSHOP OCTOBER 7, 2019. MAYOR DEDINA WILL BE A PANELIST. THE COST FOR CAR RENTAL IS APPROXIMATELY \$150.00 (TO BE REIMBURSED BY UCI), THE COST FOR HOTEL AND MEALS WILL BE COVERED BY UCI. FOR COUNCILMEMBER SPRIGGS THE APPROXIMATE COST FOR MILEAGE IS \$90.47, MEALS PROVIDED. (0410-60)**

\*No Staff Report

## **ORDINANCES/INTRODUCTION & FIRST READING (3.1)**

### **3.1 ADOPTION OF RESOLUTION 2019-8087 APPROVING AND AUTHORIZING THE EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT CREATING THE SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY AND INTRODUCTION OF ORDINANCE 2019-1187 AUTHORIZING AND ENABLING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM; AND APPOINTMENT OF AN IMPERIAL BEACH REPRESENTATIVE. (0150-68 & 0820-70)**

Recommendation: Staff recommends approval of Resolution 2019-8087 and Introduction of Ordinance 2019-1187 authorizing the execution of a Joint Exercise of Powers Authority and enabling the implementation.

## **PUBLIC HEARINGS (4)**

None.

**REPORTS (5.1-5.2)**

**5.1 CONSIDERATION OF ELECTIONS CODE SECTION 9212 REPORT ON 2017 CITIZEN INITIATIVE REGARDING CANNABIS ACTIVITIES AND CONSIDERATION OF RESOLUTIONS BY THE CITY COUNCIL TO (1) ADOPT THE INITIATIVE AS-IS; OR (2) PUT THE INITIATIVE ON AN UPCOMING BALLOT, CALL NEXT REGULAR MUNICIPAL ELECTION AND REQUEST CONSOLIDATION WITH STATEWIDE ELECTION. (0430-20)**

Recommendation: It is recommended that the Council consider the following options:

1. If the Council wishes to adopt the initiative as an ordinance:

- Call a special meeting within 10 days to consider the ordinance.

OR

2. If the Council wishes to place the initiative on the November 2020 ballot:

- Adopt Resolutions calling the next regular municipal election on November 3, 2020; adding the proposed measure to the November 3, 2020 election; requesting the County to consolidate the regular municipal election with the statewide general election; directing the City Attorney to prepare an impartial analysis; setting priorities for filing written arguments; and providing for the filing of rebuttal arguments.

AND/OR

3. Provide any other direction to the City Manager with respect to conducting an evaluation related to the submission of a competing ballot measure or related issues.

**5.2 HOUSING NEEDS, ISSUES, AND OPPORTUNITIES. (0660-90)**

Recommendation: That the city Council receives the report and provides any necessary direction to staff.

**I.B. REDEVELOPMENT AGENCY SUCCESSOR AGENCY REPORTS (6)**

None.

**ITEMS PULLED FROM THE CONSENT CALENDAR (IF ANY)**

**ADJOURN REGULAR MEETING**

The Imperial Beach City Council welcomes you and encourages your continued interest and involvement in the City's decision-making process.

FOR YOUR CONVENIENCE, A COPY OF THE AGENDA AND COUNCIL MEETING PACKET MAY BE VIEWED IN THE OFFICE OF THE CITY CLERK AT CITY HALL OR ON OUR WEBSITE AT [www.ImperialBeachCA.gov](http://www.ImperialBeachCA.gov)

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/s/  
Jacqueline M. Kelly, MMC  
City Clerk

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**CITY OF IMPERIAL BEACH  
 CITY COUNCIL  
 PLANNING COMMISSION  
 PUBLIC FINANCING AUTHORITY  
 HOUSING AUTHORITY  
 IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY**

June 19, 2019

**Council Chambers  
 825 Imperial Beach Boulevard  
 Imperial Beach, CA 91932**

**REGULAR AND CLOSED SESSION MEETINGS – 6:00 P.M.**

**REGULAR MEETING CALL TO ORDER**

Mayor Dedina called the Regular Meeting to order at 6:00 p.m.

**ROLL CALL**

Councilmembers present: West, Spriggs  
 Councilmembers absent: Aguirre  
 Mayor Pro Tem present: Patton  
 Mayor present: Dedina  
 Staff present: City Manager Hall, Assistant City Manager Dush, Deputy City Manager Cortez, City Attorney Lyon, City Clerk Kelly, Marine Safety Chief Stabenow, Fire Chief French, Public Works Director Minicilli, Assistant Director of Community Development Foltz

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Cub Scout Troop 866.

**REIMBURSEMENT DISCLOSURES/REPORTS ON ASSIGNMENTS AND COMMITTEES**

Councilmember West reported on his participation in the 2<sup>nd</sup> 2019 Clean Cities Initiative, his attendance at the North America Airports Council International Conference in Scottsdale, AZ (as a San Diego County Regional Airport Authority Board Member), and he and Mayor Dedina's attendance at the Hispanic Chamber of Commerce event held at Mike Hess Brewing Company.

Councilmember Spriggs reported he and City Manager Hall attended the monthly League of California Cities (LCC) – San Diego Division business meeting. He gave an update on the cross-border pollution issue and on the work he has done as the Chair of the Coastal Cities Group. He also attended the LCC Housing, Community and Economic Development (HCED) Policy Committee meeting in Sacramento and noted a discussion they had on AB1482 which would implement a statewide rent increase cap of 7% over the Consumer Price Index inflation rate. He participated in a conference call with representatives from the California Coastal Commission (CCC) and the California County Coastal Association in preparation for a workshop between the California Coastal Cities and Counties and the CCC. He also reported on his attendance at the Metro Wastewater JPA meeting of the special subcommittee that is working on an update of their strategic plan.

Mayor Pro Tem Patton reported on his attendance at a wellness event held at Pier South and the IBAC 2<sup>nd</sup> Annual Cornhole Tournament.

Mayor Dedina reported on a water quality meeting held by the EPA and the City of Coronado with stakeholders from federal agencies, IBWC, San Diego, County of San Diego and Imperial Beach. He announced the EPA and the North American Development Bank released draft results of a feasibility study on what investments should be made on both sides of the border to stop the flows of sewage in the canyons and main river channels. He also reported on a meetings Mayor Faulkner had in Washington, D.C. to address the sewage issues. He reported on his attendance at the North American Mayor's Summit.

Councilmember West announced \$15M was allocated to the Tijuana River Valley through the efforts of Senator Hueso.

### **COMMUNICATIONS FROM CITY STAFF**

Assistant City Manager Dush announced ongoing public outreach efforts for the Local Coastal Program and General Plan.

Marine Safety Chief Stabenow announced procedures on beach closures and beach advisories is on the City's website.

City Manager Hall announced changes to the order of some items on the agenda.

**MOTION BY PATTON, SECOND BY WEST, TO TAKE ITEM NOS. 2.5 AND 5.1 IMMEDIATELY AFTER THE CONSENT CALENDAR AND THE PRESENTATIONS WILL OCCUR IN THE FOLLOWING ORDER: 1.3, 1.2 AND 1.1. MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, PATTON, DEDINA**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: AGUIRRE**

### **PUBLIC COMMENT**

David Lancaster questioned why the walkway at the end of the Spruce Street cul-de-sac was not improved. He complained about how his neighbor must clean and maintain the area.

Mary Hensley complained about an image Councilmember Aguirre posted on the Internet regarding President Trump. She stated that an insult of the Commander in Chief is an insult to every single member of the military. She suggested criticism be done privately and not on the Internet because kids see it.

Dante Pamintuan asked City Council to consider a Local Coastal Program that mirrors the City of Del Mar's by removing language regarding managed retreat and eminent domain.

Penelope Robles complained about the City putting bark down on the ground of the dog park. She offered to volunteer to be the voice of dog owners and suggested staff reach out to dog owners for their input.

Eric Syverson spoke about a document that was released by the California Coastal Commission for addressing sea level rise in the coastal zone. He announced, as of yesterday, Mexico was in violation of Minute 283.

Tim Keeton read comments he said the Mayor of Del Mar made regarding the California Coastal Commission, managed retreat and the Local Coastal Program. He said that no one knows how the Imperial Beach City Council will vote on an LCP containing managed retreat until they actually vote. He suggested that the City Council state their intentions.

Tynan Wyatt spoke in support of a progressive RTP.

Randy Ferrell asked for help for the residents of Siesta RV Park and he complained about the treatment of residents by the owners and managers of the park.

### **PRESENTATIONS (1.1-1.3)**

#### **1.3 WATER WATCHERS, WATER & POOL SAFETY TIPS BY FIRE CHIEF JOHN FRENCH. (0250-65)**

Fire Chief French reported on the importance of water & pool safety tips to prevent drowning.

#### **1.2 PRESENTATION ON THE BORDER IMPACT BOND BY STEVEN WRIGHT, CO-DIRECTOR OF 4 WALLS INTERNATIONAL. (0230-40)**

Steven Wright, Co-Director of 4 Walls International, gave a PowerPoint presentation showing some of their recent projects using sediment and repurposed solid waste such as tires, single use plastics and foam. He reported the state of California spends \$1.8M for dredging and landfill costs every year in just one sub-basin in the watershed. He also spoke about getting rid of the materials on both sides of the border through a cost-effective solution of repurposing the material to meet the demand for infrastructure in Mexico while creating jobs that increase the quality of life.

Eric Syverson expressed concern about thousands of tires located west of Hollister. He suggested the trash in this area be taken care of first before investing in Mexico.

**1.1 PRESENTATION ON THE SANDAG BIG VISION AND 5 BIG MOVES FOR THE 2021 REGIONAL PLAN BY HASAN IKHRATA, EXECUTIVE DIRECTOR. (0140-40)**

Executive Director Ikhata introduced the item.

Coleen Clementson, Director of Special Projects and Ray Major, Department Director of Data, Analytics, gave a PowerPoint presentation on the item.

Councilmember West applauded SANDAG's efforts and said we all need to come together to make this happen.

Councilmember Spriggs spoke about the need to grow trolley ridership and make it more feasible for riders. Regarding growth he hoped that there is a close connection of where the housing goes and the major transportation hubs. He spoke in support for finding ways to get people to use the trolley system, then take an express shuttle to Imperial Beach which would help with parking issues and congestion.

Mayor Pro Tem Patton expressed concern about the timing of street lights and encouraged SANDAG not to forget Imperial Beach because everything happens in the north county.

Mayor Dedina spoke about his difficult experience with transportation during his college years. He said the younger generation needs different options and supported speeding up the system. He also said that San Diego has the sixth worst air pollution in the country which impacts public health.

Theresa Reel shared positive comments about the MTS Community meeting held last week with Councilmember Aguirre and staff.

Eric Syverson submitted a speaker slip in opposition to the item.

**CONSENT CALENDAR (2.1-2.8)**

**MOTION BY SPRIGGS, SECOND BY WEST, TO APPROVE CONSENT CALENDAR ITEM NOS. 2.1 THROUGH 2.4 and 2.6 THROUGH 2.8. MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, PATTON, DEDINA**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: AGUIRRE**

**2.1 MINUTES.**

City Council approved the Special Meeting Minutes of April 17, 2019.

**2.2 RATIFICATION OF WARRANT REGISTER. (0300-25)**

City Council ratified the warrant register.

**2.3 ADOPTION OF RESOLUTION NO. HA-19-19 OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY (I) APPROVING AND AUTHORIZING THE EXECUTION OF DOCUMENTS REQUIRED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN CONNECTION WITH THE REFINANCING OF THE BEACHWIND COURT AFFORDABLE HOUSING PROJECT AND (II) APPROVING OTHER RELATED ACTIONS. (0412-50)**

The Board of Commissioners of the Imperial Beach Housing Authority received public input and adopted Resolution No. HA-19-19.

**2.4 RESOLUTION NO. 2019-8050 CONTINUING THE PROCLAMATION OF A STATE OF LOCAL EMERGENCY RELATING TO IMPACTS FROM CROSS-BORDER POLLUTION IN THE TIJUANA RIVER. (0150-40 & 0210-26)**

City Council adopted Resolution 2019-8050 to maintain a state of local emergency related to the cross-border pollution impacts from the Tijuana River and authorize the City Manager, Mayor, and Council members to work with local, State, Federal, and Mexican authorities to advance binational projects to improve conditions in the Tijuana River.

**2.6 ADOPTION OF RESOLUTION NO. 2019-8047 AUTHORIZING THE CITY MANAGER TO RENEW THE AGREEMENT WITH SAN DIEGO SPORTS MEDICINE AND FAMILY HEALTH CENTER TO ADMINISTER THE IMPERIAL BEACH FIREFIGHTER WELLNESS PROGRAM. (0520-60)**

City Council adopted Resolution No. 2019-8047.

**2.7 RESOLUTION NO. 2019-8048 AND SUCCESSOR AGENCY RESOLUTION NO. SA-19-66 TO APPROVE FIFTH AMENDMENT TO AGREEMENT WITH MCDUGAL, LOVE, BOEHMER, FOLEY, LYON & CANLAS. (0440-30)**

City Council considered the contract amendment and approved Resolution No. 2019-8048 and the Successor Agency board members approved Resolution No. SA-19-66.

**2.8 NOTIFICATION OF TRAVEL: MAYOR DEDINA WILL ATTEND THE MAYORS SUMMIT- CLIMATE ADAPTATION ON JUNE 27 AND THE U.S. CONFERENCE OF MAYORS JUNE 28 – JULY 1 IN HONOLULU, HAWAII. THE ESTIMATED COST FOR REGISTRATION, TRAVEL, ACCOMMODATIONS, AND FOOD IS \$4,010. (0410-60)**

**ITEMS PULLED FROM THE CONSENT CALENDAR**

**2.5 RESOLUTION NO. 2019-8046 CONSENTING TO IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY TO FACILITATE OUTDOOR DINING FOR THE IB FORUM AT 1079 SEACOAST DRIVE (APN 625-392-23-00) AND AUTHORIZING RELATED ACTIONS. (0600-20)**

Assistant Director of Community Development Foltz gave a PowerPoint presentation on the item.

Councilmember Spriggs said this project will activate the community and the street.

Stosh Thomas, Architect, responded to Councilmember Spriggs' questions regarding the improvements that will be made.

Mayor Pro Tem Patton spoke in support of the item.

Mayor Dedina wanted the item to return to City Council for final approval and suggested a condition of approval to ban outdoor smoking.

**MOTION BY WEST, SECOND BY SPRIGGS, TO ADOPT RESOLUTION NO. 2019-8046. MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, PATTON, DEDINA**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: AGUIRRE**

**REPORTS (5.1)**

**5.1 ADOPT RESOLUTION NO. 2019-8051 AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT TO BECOME A HOST AGENCY WITH THE SAN DIEGO REGIONAL WATER/WASTEWATER INTERNSHIP PROGRAM. (0560-30)**

Human Resources Technician Moreno reported on the item.

Councilmember Spriggs shared positive comments about this item and hoped that Mr. Minicilli has help with mentoring the students.

Public Works Director Minicilli responded staff that will be doing the day-to-day work with the interns.



**MOTION BY WEST, SECOND BY SPRIGGS, TO ADOPT RESOLUTION NO. 2019-8051.  
MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, PATTON, DEDINA  
NOES: COUNCILMEMBERS: NONE  
ABSENT: COUNCILMEMBERS: AGUIRRE**

**MOTION BY WEST, SECOND BY PATTON, TO TAKE ITEM NO. 4.1 AT THIS TIME.  
MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, PATTON, DEDINA  
NOES: COUNCILMEMBERS: NONE  
ABSENT: COUNCILMEMBERS: AGUIRRE**

**PUBLIC HEARINGS (4.1)**

**4.1 BODYWORKS COLLISION CENTER (APPLICANT); REGULAR COASTAL PERMIT (CP 180026), CONDITIONAL USE PERMIT (CUP 180027), DESIGN REVIEW CASE (DRC 180028), SITE PLAN REVIEW (SPR 180029) AND CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES 15301 (EXISTING FACILITIES) FOR THE CHANGE OF USE OF AN EXISTING BUILDING TO AUTOMOBILE REPAIR AND BODY SHOP AT 753 10<sup>TH</sup> STREET (APN 626-291-05-00 AND 626-291-06-00), LOCATED IN THE C/MU-1 (GENERAL COMMERCIAL AND MIXED USE ZONE). MF 1291. (0600-20)**

Mayor Dedina declared the public hearing open.

The following submitted as last-minute agenda correspondence: Nicole Diaz, Erika G. Lowery, Toni Hamilton, Kevin Nieto, Katie Bardo, Aly Bosch, Gene Goycochea, C.J. Marin, Michael Carey, David Padilla, Cindy McClusky, Donald A. Davidson, Sebastian Topp, Jose De Jesus Gonzalez-Contreras, Catherine Mulcahy, EC, Steve Berry, and Ashley Ortega.

Mayor Dedina left Council Chambers at 7:52 p.m. and returned at 7:54 p.m.

Assistant City Planner Openshaw gave a PowerPoint presentation on the item.

The following spoke or submitted speaker slips in support of the item:

Candy Unger, Mitch McKay, Angela Frank, John Fleming, Fernando Limen, Patti McCleskey, Cheryl Quinones, Bill Laney, Stephanie Gilreath, Lin Westgard, Rusty Alexander, Shirley Nakawatase, Ben Hazel, Nicole Diaz (asked that shrubs be kept at 6 feet), Rudy Ortega, David Letty, Jack Fisher (complained about the length of the process and how the applicant was treated and suggested the current process be reviewed and improved), Santiago Silva, Eric Gutierrez, and Rita Davidson.

Mayor Pro Tem Patton said he had previous conversations with the applicant, he supported making it easier for businesses to open, commented that he has not seen 12 ft trees at other nearby businesses, said the applicant is a big part of this community, and spoke in support of the item.

Councilmember Spriggs provided background on the project saying that when 10<sup>th</sup> Street was included in the Palm Ave. Masterplan, any new businesses on that street would be required to put in sidewalks and other improvements. He commented that the applicant is a true professional and has always wanted to locate a business in Imperial Beach.

Councilmember West commented on the improvements that have occurred with the two new businesses in that area and supported moving forward with the project.

Mayor Dedina thanked the applicant for coming forward with the issues she had with the process.

Without dissent from City Council, Mayor Dedina closed the public hearing.

**MOTION BY WEST, SECOND BY SPRIGGS, TO ADOPT RESOLUTION NO. 2019-8049.  
MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, PATTON, DEDINA**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: AGUIRRE**

Mayor Dedina called a recess at 8:26 p.m. and he called the Regular Meeting back to order at 8:33 p.m.

**ORDINANCES/INTRODUCTION & FIRST READING (3.1)**

**3.1 CONSIDERATION TO ADOPT ORDINANCE NO. 2019-1184 AMENDING CHAPTER 4.60 "CANNABIS FACILITIES" OF THE IMPERIAL BEACH MUNICIPAL CODE REGARDING LOCATION, NUMBER, AND APPLICATION REQUIREMENTS FOR CANNABIS OUTLETS IN THE CITY. (0390-95)**

City Attorney Lyon gave background on the citizen initiative that was circulated by the Association of Cannabis Professionals and later in litigation as detailed in the staff report. She further reported that the initiative proponents requested modifications to the City's existing ordinance instead of continuing the citizen initiative to a future ballot. The modifications requested were:

- to allow application for up to two total cannabis outlets as of the effective date of the proposed ordinance (rather than waiting a year as the ordinance originally read);
- to allow for the 600-foot separation requirements found in State law related to schools, youth centers, and day care centers (rather than the 900-foot requirement in the City's current ordinance); and
- to require labor peace agreements as defined in the draft ordinance if an outlet has 10 or more employees.

The following spoke or submitted speaker slips in support of the item:

Candy Unger  
Angela Frank  
Tracey Rivera

Marcus Boyd encouraged City Council to draft a letter to the District Attorney to not oppose AB 1792.

The following spoke or submitted speaker slips in opposition of the item:

Dante Pamintuan  
Pete Laszcz  
Mitch McKay  
Anna Becker  
Pete Smith

Cheryl Quinones asked City Council to partner with the South Bay Unified School District on drug prevention programs for kids.

Patti McClesky  
Fred Dreis

Leonard Miranda

Judi Strang spoke on behalf of Tom Hetherington. She read and submitted his letter.

Stephanie Gilleath  
Rosie Covarrubias  
Mary Hensley

Kathleen Lippitt submitted handouts.

Raad Farida read the letter from Harry Evan Penhasi who raised concerns about fairness for the round 1 applicants. The letter was submitted as last minute agenda information.

Councilmember Spriggs stated that one of his big concerns about the amendment is that the City loses the requirement for data gathering analysis, the ability to examine impacts on schools

and youth and license approval standards. He has been a proponent of trying to avoid having the community face the initiative on the ballot but later realized that the decision is up to the community. He said that there was a delay in considering this item because the sponsor of the initiative submitted a letter to City Council to allow outlets on Seacoast Drive and have front doors located on side streets along SR 75. This suggests to him that the sponsors of the initiative are not satisfied with the settlement and want more. He further stated that the only way to stop them is for the initiative to go on the ballot and for the City to knock it down by a good margin. He said he will vote against the new ordinance.

Mayor Pro Patton said he has been against marijuana shops as a teacher and father. He said people have access to marijuana and they can even have it delivered. If the initiative goes on the ballot, Imperial Beach voters, who are smart, will know outside money is involved and will be against it. He spoke in support for keeping with the City's current ordinance, allowing for one shop with the possibility of two.

Councilmember West spoke about his and Councilmember Bragg's efforts in gathering information and writing the original ordinance. He noted that the City has not only been dealing with cannabis every year since 2010, but it has also been incurring costs every year. Those costs combined with legal fees to deal with the initiative and costs for placing the initiative on the ballot and having a competing ballot measure could reach between \$150,000 to \$200,000. He stressed that this would be a major hit on the City's budget. He said that this could be a nexus for affordable housing and suggested that if City Council moved forward with the ordinance to include a mandatory requirement for five (5) reasonably priced affordable housing index homes. There are ways to craft the ordinance for the betterment of the community.

Mayor Dedina spoke in support of the current data driven process of having one facility, identifying if it works or not, and then considering the possibility of a second facility. He expressed concern about the last minute add-ons to the settlement. He also expressed concern about the precedent it sets with other industries by coming to Imperial Beach and making the City implement the change while superseding citizen involvement. Since the legalization of marijuana, the crime rate in Imperial Beach has gone down. He expressed concern about alcohol related domestic violence. He further stated that Imperial Beach has one of the highest rates of domestic violence in the County. He said that if there is drug abuse, focus on domestic violence and making sure that those who drink do so responsibly. He looked forward to working with the Sheriff's Dept. and community in forming a task force to deal with this violent crime issue.

**MOTION BY PATTON, SECOND BY SPRIGGS, TO DENY ORDINANCE NO. 2019-1184.  
MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: SPRIGGS, PATTON, DEDINA  
NOES: COUNCILMEMBERS: WEST  
ABSENT: COUNCILMEMBERS: AGUIRRE**

**I.B. REDEVELOPMENT AGENCY SUCCESSOR AGENCY REPORTS (6)**

None.

**ADJOURN REGULAR MEETING**

Mayor Dedina adjourned the Regular Meeting at 9:38 p.m.

**CLOSED SESSION MEETING CALL TO ORDER**

Mayor Dedina called the Closed Session meeting to order at 9:38 p.m.

**CLOSED SESSION (1-2)**

**1. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION**

Government Code section 54956.9(d)(1) (1 case)

Case No. 18CV0457JM

**2. CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to Government Code section 54957.6:

Agency Designated Representatives: City Manager, City Attorney, Assistant City Manager, Deputy City Manager

Employee Organization: Service Employees International Union (SEIU), Local 221

Mayor Dedina adjourned the meeting to Closed Session at 9:39 p.m. and he reconvened the meeting to Open Session at 10:04 p.m.

Reporting out of Closed Session, City Attorney Lyon stated Closed Session Item No. 1 was removed from the agenda. Item No. 2 was discussed, direction was given, and no reportable action was taken.

**ADJOURN CLOSED SESSION**

Mayor Dedina adjourned the Closed Session meeting at 10:05 p.m.

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Serge Dedina,  
Mayor

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Jacqueline M. Kelly, MMC  
City Clerk

MINUTES

CITY OF IMPERIAL BEACH  
CITY COUNCIL  
PLANNING COMMISSION  
PUBLIC FINANCING AUTHORITY  
HOUSING AUTHORITY  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY

September 4, 2019

Council Chambers

825 Imperial Beach Boulevard

Imperial Beach, CA 91932

REGULAR MEETING – 6:00 P.M.

**CALL REGULAR MEETING TO ORDER**

Mayor Pro Tem Patton called the Regular Meeting to order at 6:00 p.m.

**ROLL CALL**

Councilmembers present: West, Spriggs, Aguirre  
Councilmembers absent: None  
Mayor Pro Tem present: Patton  
Mayor absent: Dedina  
Staff present: City Manager Hall, Assistant City Manager Dush, Deputy City Manager Cortez, City Attorney Lyon, City Clerk Kelly, Public Safety Director French, Assistant Director of Community Development Foltz

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Tessa Hernandez from Bayside STEAM Academy.

**REIMBURSEMENT DISCLOSURES/REPORTS ON ASSIGNMENTS AND COMMITTEES**

Councilmember West reported on his attendance at the Kiwanis Fishing Derby, the Boys and Girls Club/IBAC Skate Competition, and the San Diego County Regional Airport Authority Executive Finance Committee meeting. He announced he and the Mayor led the opening of the Bike the Bay event.

Councilmember Spriggs reported on his participation in the South Bay Mayors and City Managers Committee meeting where he voiced concern about the Regional Housing Needs Assessment numbers for Imperial Beach and the need to change the formula. He also reported on his attendance at the Sandcastle Inn ribbon-cutting ceremony.

Councilwoman Aguirre reported she and the Mayor participated in a meeting convened by the U.S. Environmental Protection Agency to discuss the results of the study commissioned by the North American Development Bank and funding for the projects that will help reduce the cross-border pollution. She announced her upcoming travel to Washington, D.C. to advocate for funding for wastewater infrastructure to reduce cross-border sewage spills. She reported on a meeting she had with the incoming Secretary of Economy for Tijuana who discussed with her safety, tourism, the cross-border interdependent economy, the role Tijuana plays in wastewater and trash pollution, and what they can do to help solve the issue.

Mayor Pro Tem Patton announced thoughts are with those affected by Hurricane Dorian and the victims in the Southern California boat fire. He also spoke about attending the skate park workshop, the Kiwanis 39<sup>th</sup> Annual Fishing Derby and the IBAC 2<sup>nd</sup> Annual Skate Contest.

**COMMUNICATIONS FROM CITY STAFF**

Chief French announced the month of September is National Preparedness Month and the theme is "Prepared, Not Scared." He encouraged everyone to go to Ready.gov for more information on how to be prepared for a disaster.

## **PUBLIC COMMENT**

Eric Syverson, thanked the Sheriffs for addressing a situation in his neighborhood, thanked local organizations for supporting programs for residents, and thanked Captain Zedbeck for his assistance.

Brian Bilbray emphasized that if the rest of California did half as much for affordable housing as Imperial Beach has done, there would not be a housing crisis. (Additional speaking time donated by Patrick Bilbray)

Mark Williams complained about the homeless camping on the streets and right of ways in Imperial Beach, spoke in opposition to SANDAG's affordable housing numbers for Imperial Beach and he said he is tired of picking up cigarette butts throughout the City.

Marcus Boyd complained about the treatment he received by Sheriff's Deputies after they responded to an incident that occurred at his business. He spoke in support for the community policing model and for the City to look into having its own police department.

Theresa Reel spoke in opposition of consolidated bus routes and shared her observations on why the buses are slow.

Randy Ferrell, Siesta RV Park, questioned why the residents have not received any help.

City Manager Hall stated he has tried to organize a meeting between the RB Park owner, the State, the City and residents. He noted there is a new owner representative.

Matt Henry suggested that there be a way to comment on City Council meetings remotely, spoke about attending the IBAC Skate contest, expressed concern about jaywalking on Imperial Beach Blvd., was opposed to SANDAG's number of affordable housing units for Imperial Beach, and he thanked Public Works staff for quickly responding to his question.

Cynara Kidwell, on behalf of the Association of Cannabis Professionals, submitted information to assist with staff's impact report. She also stated she is the author of the cannabis petition.

Donna M. Alsom complained about traffic, accidents and speeding. She requested speed bumps and crosswalks. She also complained about a trailer that has a power pole.

Erika Lowery spoke about the need for SANDAG to reevaluate Regional Housing Needs Assessment (RHNA) numbers so that it is equitable throughout San Diego County. (Additional speaking time donated by Mitchell McKay).

City Manager Hall explained SANDAG's original formula for determining RHNA numbers for the San Diego County region, that there was a change in the formula that resulted in a large increase in affordable housing numbers in four cities: Imperial Beach, National City, Chula Vista, and San Diego, and Imperial Beach went from approximately 600 units to 1,300 units. He said there is a need to come up with a solution and at least return to the original formula which is more equitable. He announced attendance at SANDAG's Board meeting on Friday is encouraged.

## **PRESENTATIONS (1.1)**

### **1.1\* PROCLAMATION SUPPORTING MTS FREE RIDE DAY – OCTOBER 2, 2019. (0680-85)**

Councilwoman Aguirre reported on MTS Free Ride Day.

**MOTION BY WEST, SECOND BY SPRIGGS, TO PRESENT A PROCLAMATION SUPPORTING MTS FREE RIDE DAY ON OCTOBER 2, 2019. MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, AGUIRRE, PATTON**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: DEDINA**

Councilwoman Aguirre presented the Proclamation to Robb Schupp, Director of Marketing and Communications for MTS.

**CONSENT CALENDAR (2.1-2.3)**

Councilmember Spriggs commented that the City Council does not hear from the boards, particularly the Parks and Recreation Committee. He requested a review of each committee and Council's expectations on a future agenda.

Councilmember West requested the Chairs of each committee give a report to Council on a quarterly basis.

**MOTION BY SPRIGGS, SECOND BY WEST, TO APPROVE CONSENT CALENDAR ITEM NOS. 2.1 THROUGH 2.3. MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, AGUIRRE, PATTON**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: DEDINA**

**2.1 MINUTES.**

City Council approved the Regular Meeting Minutes of June 5, 2019.

**2.2 RATIFICATION OF WARRANT REGISTER. (0300-25)**

City Council ratified the warrant register.

**2.3 LOCAL APPOINTMENTS LIST. (0460-45)**

City Council approved the Local Appointments List in compliance with California Government Code §54972 and designates the Imperial Beach Branch Library (the public library with the largest service population within jurisdiction), to receive a copy of the list in compliance with California Government Code §54973.

**ORDINANCES/INTRODUCTION & FIRST READING (3.1)**

**3.1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 2019-1186, ADDING CHAPTER 12.50 TO THE CITY OF IMPERIAL BEACH MUNICIPAL CODE RELATED TO THE USE OF PUBLIC PROPERTY. (0720-95)**

City Manager Hall reported on the item.

Mitch McKay suggested inclusion of specific language for vehicles parked 72 hours or more, require current licensing and registration, and that vehicles be functional, operational and road worthy.

City Manager Hall stated the ordinance does not include language suggested by Mr. McKay. Staff can bring back specific language on a later date.

Councilmember Spriggs suggested moving forward with the ordinance as proposed and if desired by City Council, have staff return to City Council with an ordinance addressing Mr. McKay's concerns.

Councilmember West supported moving forward with the ordinance and suggested staff look at all the ordinances that deal with vehicles and return to City Council with recommendations. With regard to cigarette butts, he suggested working with I Love a Clean San Diego or Surfrider to have ashcans installed throughout the City

Councilwoman Aguirre spoke in support of the ordinance and expressed concern about public health and safety.

Mayor Pro Tem Patton agreed with comments made by Councilwoman Aguirre and Councilmember West. He suggested looking at other communities, to pick a fine line, not go to the extreme and make it reasonable.

City Clerk Kelly read the title of Ordinance No. 2019-1186: "AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF IMPERIAL BEACH, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF IMPERIAL BEACH MUNICIPAL CODE RELATED TO THE USE OF PUBLIC PROPERTY."

**MOTION BY AGUIRRE, SECOND BY WEST, TO INTRODUCE ORDINANCE NO. 2019-1186 BY TITLE ONLY, WAIVE FULL READING, AND SET FOR ADOPTION AT A SUBSEQUENT CITY COUNCIL MEETING. MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, AGUIRRE, PATTON**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: DEDINA**

**PUBLIC HEARINGS (4.1)**

**4.1 JACK IN THE BOX (APPLICANT); REGULAR COASTAL PERMIT (CP 190009); CONDITIONAL USE PERMIT (CUP 190010); DESIGN REVIEW CASE (DRC 190011); SITE PLAN REVIEW (SPR 190012) AND CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES SECTION 15332 CLASS 32 (IN-FILL DEVELOPMENT PROJECTS) FOR THE DEMOLITION OF AN EXISTING BUILDING AND CONSTRUCTION OF A NEW JACK IN THE BOX COMMERCIAL BUILDING WITH A DRIVE-THROUGH AT 890 PALM AVENUE (APN 626-211-08-00), LOCATED IN THE C/MU-1 (GENERAL COMMERCIAL AND MIXED USE) ZONE. MF 1322. (0600-20)**

Mayor Pro Tem Patton declared the continued public hearing open.

Assistant Director of Community Development Foltz gave a PowerPoint presentation on the development.

Sabrina White, Mark Madden, and David Lundy, representing the applicant, showed a PowerPoint presentation on the drive through stack size and impact to speed of service. It was noted that a car stack of 7 or greater is recommended with this business model to efficiently move cars through the system without having a negative impact to the surrounding area.

Dan Malcolm, representing the property owner, spoke about the many constraints with the development of the property and said this is an opportunity for a development that is better than what is there now.

Bob Miller spoke in support of the item.

In response to Councilmember Spriggs' question about cars stacking onto Palm Ave., Mr. Foltz stated that the area isn't typically full of cars and Public Works and Public Safety did not raise any concerns. If queuing did occur on Palm Ave. there is a curb cut to the west that the site could still use, and staff can revisit the matter if there is a concern.

Councilwoman Aguirre had a concern that traffic could get backed up on to Palm Ave. but appreciated the option of closing the entrance and moving it over.

Councilmember West preferred a curb cut more towards CVS to the west and proposed a livable wall taller than 3 feet to wrap around the entire drive through along 9<sup>th</sup> Street to help absorb CO2 gases.

David Lundy suggested a combination of the rock wall with the livable wall and alternating the materials every 6 feet. They will also look into raising the wall but there is a berm so it will be higher from the street.

Mayor Pro Tem Patton stated the curb cut and site access should be provided as planned and Councilmember West's suggestion of moving the curb cut will be Plan B if necessary, at a later date.

Councilmember West agreed to pass on moving the curb cut for now.

In response to Mayor Pro Tem Patton's concern about excessive point of purchase window signage, Mr. Foltz stated businesses are limited to 35% window signage and staff will regulate it better.

Councilmember West requested bike racks that can accommodate 8 bikes.

Without dissension of City Council, Mayor Pro Tem Patton closed the public hearing.



**MOTION BY WEST, SECOND BY AGUIRRE, TO APPROVE RESOLUTION NO. 2019-8069, INCLUDING A RAISED SCREENING WALL (THAT IS AS HIGH AS POSSIBLE WITHOUT IMPEDING SAFETY OR BREAKING THE VIEW OF CVS) THAT COMBINES THE ROCK WALL WITH THE LIVABLE WALL WHILE ALTERNATING THE MATERIALS EVERY 6 FEET AND ADDING BIKE RACKS TO ACCOMMODATE EIGHT BIKES. MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, AGUIRRE, PATTON**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: DEDINA**

**REPORTS (5.1)**

**5.1 CONSIDERATION OF RESOLUTION NO. 2019-8084 AUTHORIZING THE MAYOR TO REQUEST AN INFORMATION RELEASE TO COMMUNITY CHOICE AGGREGATORS FROM SAN DIEGO GAS AND ELECTRIC. (0820-70)**

City Manager Hall reported on the item.

John Becker asked the City to bring forward the true costs.

City Manager Hall clarified that the residents will have an opportunity to opt out and stay with SDG&E.

Councilmember Spriggs echoed the concern to look at long-term costs, including costs for managing the JPA. He said based on a report the cost savings would be 2-3% but noted that with the margin of error it could be close to breakeven. He said the reason to do this is to use energy from sustainable sources. When this item is brought forward to City Council, he requested information on what are the sustainable energy and reusable energy resources, are they realistic in terms of rising demand for the JPA or will unclean power be purchased to satisfy the demand.

**MOTION BY WEST, SECOND BY AGUIRRE, TO APPROVE RESOLUTION NO. 2019-8084. MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, AGUIRRE, PATTON**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: DEDINA**

**I.B. REDEVELOPMENT AGENCY SUCCESSOR AGENCY REPORTS (6.1)**

**6.1 ADOPTION OF RESOLUTION NO. SA-19-67 APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO PROFESSIONAL SERVICES AGREEMENTS WITH MONTAGUE DEROSE AND ASSOCIATES, AS MUNICIPAL ADVISOR; JONES HALL, AS BOND AND DISCLOSURE COUNSEL; AND FRASER & ASSOCIATES, AS FISCAL CONSULTANT, TO PROVIDE FINANCIAL SERVICES FOR THE POSSIBLE REFUNDING OF THE 2010 TAX ALLOCATION BONDS. (0418-50)**

Deputy City Manager Cortez gave a PowerPoint presentation on the item.

Councilmember West left Council Chambers at 7:53 p.m. and returned at 7:55 p.m.

Councilmember Spriggs stated this is an ambitious schedule and spoke in support with moving forward due to the low interest rates.

City Manager Hall explained the savings that will occur.

Councilwoman Aguirre thanked Deputy City Manager Cortez for her financial stewardship.

**MOTION BY WEST, SECOND BY SPRIGGS, TO APPROVE RESOLUTION NO. SA-19-67.  
MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, AGUIRRE, PATTON  
NOES: COUNCILMEMBERS: NONE  
ABSENT: COUNCILMEMBERS: DEDINA**

**ITEMS PULLED FROM THE CONSENT CALENDAR**

None.

**ADJOURN REGULAR MEETING**

Mayor Pro Tem Patton adjourned the Regular Meeting at 8:00 p.m.

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Robert Patton,  
Mayor Pro Tempore

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Jacqueline M. Kelly, MMC  
City Clerk

DRAFT

**SPECIAL MEETING AGENDA**

**ITEM NO. 2.1**

**CITY OF IMPERIAL BEACH  
CITY COUNCIL  
PLANNING COMMISSION  
PUBLIC FINANCING AUTHORITY  
HOUSING AUTHORITY  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY**

**SEPTEMBER 4, 2019**

**Council Chambers  
825 Imperial Beach Boulevard  
Imperial Beach, CA 91932**

**SPECIAL CLOSED SESSION MEETING – 5:45 P.M.  
SPECIAL MEETING – 6:00 P.M.**

**SPECIAL CLOSED SESSION MEETING CALL TO ORDER**

Mayor Pro Tem Patton called the Special Closed Session meeting to order at 5:45 p.m.

**ROLL CALL**

Councilmembers present: West, Spriggs (arrived at 5:50 p.m.), Aguirre  
Councilmembers absent: None  
Mayor Pro Tem present: Patton  
Mayor absent: Dedina  
Staff present: City Manager Hall, Assistant City Manager Dush, Deputy City Manager Cortez, City Attorney Lyon, City Clerk Kelly

**PUBLIC COMMENTS**

None.

**CLOSED SESSION (1)**

**1. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Govt Code Section 54956.9(d)(2)- 1 case  
Existing facts and circumstances pursuant to Govt Code Section 54956.9(e)(3)

Mayor Pro Tem Patton adjourned the meeting to Closed Session at 5:45 p.m. and he reconvened the meeting to Open Session at 6:00 p.m.

Reporting out of Closed Session, City Attorney Lyon stated City Council discussed Special Closed Session Item No. 1, direction was given, and no reportable action was taken.

**ADJOURN SPECIAL CLOSED SESSION MEETING**

Mayor Pro Tem Patton adjourned the Special Closed Session Meeting at 6:00 p.m.

**CALL SPECIAL MEETING TO ORDER**

Mayor Pro Tem Patton called the Special Meeting to order at 6:00 p.m.

**ROLL CALL**

Councilmembers present: West, Spriggs, Aguirre  
Councilmembers absent: None  
Mayor Pro Tem present: Patton  
Mayor absent: Dedina  
Staff present: City Manager Hall, Assistant City Manager Dush, Deputy City Manager Cortez, City Attorney Lyon, City Clerk Kelly, Fire Chief French, Assistant Director of Community Development Foltz

**PUBLIC COMMENTS**

Refer to Regular Meeting Minutes of September 4, 2019.

**CONSENT CALENDAR (1)**

**MOTION BY SPRIGGS, SECOND BY WEST, TO APPROVE CONSENT CALENDAR ITEM NO.**

**1. MOTION CARRIED BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS: WEST, SPRIGGS, AGUIRRE, PATTON**  
**NOES: COUNCILMEMBERS: NONE**  
**ABSENT: COUNCILMEMBERS: DEDINA**

**1. NOTIFICATION OF TRAVEL: COUNCILMEMBER SPRIGGS WILL BE PARTICIPATING IN THE AMERICAN PLANNING ASSOCIATION CALIFORNIA CONFERENCE IN SANTA BARBARA – SEPTEMBER 15-18, 2019. THE ESTIMATED COST FOR TRAVEL, LODGING AND MEALS IS \$782.00. (0410-60)**

**ADJOURN SPECIAL MEETING**

Mayor Pro Tem Patton adjourned the Regular Meeting at 8:00 p.m.

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Robert Patton,  
Mayor Pro Tempore

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Jacqueline M. Kelly, MMC  
City Clerk

DRAFT



STAFF REPORT  
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: ANDY HALL, CITY MANAGER *AH*  
MEETING DATE: SEPTEMBER 18, 2019  
ORIGINATING DEPT: ERIKA CORTEZ, DEPUTY CITY MANAGER *EC*  
SUBJECT: RATIFICATION OF WARRANT REGISTER

**EXECUTIVE SUMMARY:**

Approval of the warrant register in the amount of \$485,440.45.

**FISCAL ANALYSIS:** Warrants are issued from budgeted funds and there is no additional impact on reserves.

**RECOMMENDATION:**

It is respectfully requested that the City Council ratify the warrant register.

**OPTIONS:**

- Receive and file the report from the City Manager
- Provide direction to the City Manager to take a specific action
- Request additional information and an additional report

**BACKGROUND/ANALYSIS:**

As of April 7, 2004 all large warrants above \$100,000 will be separately highlighted and explained on the staff report.

Vendor:	Check:	Amount:	Description:
Frank and Son Paving	94659	\$102,151.04	Jul 2019 RTIP Street Improvements

The following registers are submitted for Council ratification:

**Accounts Payable**

DATE	CHECK #	AMOUNT (\$)
08/29/2019	94627-94651	142,586.53
09/05/2019	94652-94667	141,637.00
	Sub-Total	<b>284,223.53</b>

DATE	EFT #	AMOUNT (\$)
	Sub-Total	

**Payroll Checks/Direct Deposit**

DATE	CHECK #	AMOUNT (\$)
PPE 8/29/19	48417-48429	201,216.92
	Sub-total	<b>201,216.92</b>

**TOTAL                   \$ 485,440.45**

Note: check numbers not in sequence have been voided.

**ENVIRONMENTAL DETERMINATION:**

Not a project as defined by CEQA.

Attachments:

1. Accounts Payable Warrant from August 24, 2019 through September 06, 2019.



Imperial Beach, CA

Attachment 1

# Expense Approval Report By (None)

Payment Dates 08/24/2019 - 09/06/2019

Payment Date	Payment Number	Vendor Name	Description (Item)	Payable Number	Account Number	Purchase Order Number	Amount
08/29/2019	94627	1903 SOLUTIONS LLC.	Firewall Licenses: PW/ CH/L	CIB04190716FOR2	503-1923-419.2813	200043	2,736.85
08/29/2019	94628	ANTONIO REYES	REFUND LOAN OVERPAYMEN	CR 4166	101-0000-209.0103		13.10
08/29/2019	94629	APPLIED GEOGRAPHICS, INC	JUL 2019 - JUN 2020	20427	503-1923-419.2104		4,000.00
08/29/2019	94630	AT&T	MAY/JUN 2019 9391063367	13195615	503-1923-419.2704		34.68
08/29/2019	94630	AT&T	JUL/AUG 2019 9391033950	13446288	503-1923-419.2704		21.70
08/29/2019	94630	AT&T	JUL/AUG 2019 9391033954	13486837	503-1923-419.2704		19.79
08/29/2019	94630	AT&T	JUL/AUG 2019 9391033960	13486840	503-1923-419.2704		203.69
08/29/2019	94630	AT&T	JUL/AUG 2019 9391033952	13486841	503-1923-419.2704		21.29
08/29/2019	94630	AT&T	JUL/AUG 2019 9391033958	13486845	503-1923-419.2704		29.58
08/29/2019	94630	AT&T	JUL/AUG 2019 9391053500	13487035	503-1923-419.2704		17.30
08/29/2019	94630	AT&T	JUL/AUG 2019 3931053671	13487046	503-1923-419.2704		33.10
08/29/2019	94630	AT&T	JUL/AUG 2019 9391063366	13487322	503-1923-419.2704		17.10
08/29/2019	94630	AT&T	JUL/AUG 2019 9391063367	13487323	503-1923-419.2704		35.08
08/29/2019	94630	AT&T	JUL/AUG 2019 9391063369	13487324	503-1923-419.2704		31.94
08/29/2019	94630	AT&T	JUL/JUL 2019 9391033944	13504957	503-1923-419.2704		34.82
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019176333 09/10/	1015-210019176333 09/10/	101-6020-452.2702		70.37
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019178568 09/09/	1015-210019178568 09/09/	101-6020-452.2702		1.49
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019334948 08/16/	1015-210019334948 08/16/	101-6020-452.2702		2.13
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019335248 09/09/	1015-210019335248 09/09/	101-6020-452.2702		1,398.51
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019335347 09/09/	1015-210019335347 09/09/	101-1910-419.2702		433.04
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019335484 09/09/	1015-210019335484 09/09/	101-6020-452.2702		143.32
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019335682 09/09/	1015-210019335682 09/09/	101-6020-452.2702		18.64
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019335774 09/09/	1015-210019335774 09/09/	101-6020-452.2702		180.54
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019335835 09/09/	1015-210019335835 09/09/	101-6020-452.2702		8.92
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019401916 09/09/	1015-210019401916 09/09/	601-5060-436.2702		8.92
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019531626 08/19/	1015-210019531626 08/19/	101-6020-452.2702		2.36
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019535857 08/16/	1015-210019535857 08/16/	101-6020-452.2702		1.96
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019746893 09/10/	1015-210019746893 09/10/	101-6020-452.2702		8.92
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210019748332 08/19/	1015-210019748332 08/19/	101-6020-452.2702		4.33
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210020277854 09/09/	1015-210020277854 09/09/	101-1910-419.2702		0.81
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210020440898 09/05/	1015-210020440898 09/05/	101-6020-452.2702		105.28
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210020731235 09/06/	1015-210020731235 09/06/	101-6020-452.2702		45.03
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210021068268 09/06/	1015-210021068268 09/06/	101-6010-451.2702		74.51
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210021068367 09/10/	1015-210021068367 09/10/	101-6010-451.2702		2,005.41
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210021068541 09/10/	1015-210021068541 09/10/	101-6020-452.2702		54.22
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-210021082448 09/09/	1015-210021082448 09/09/	101-6020-452.2702		398.97
08/29/2019	94631	CALIFORNIA AMERICAN WAT	1015-220018914676 09/10/	1015-220018914676 09/10/	101-1910-419.2702		17.78
08/29/2019	94632	CLEAN HARBORS	JUL 2019 Hazardous Waste F	1002942046	101-5040-434.2104	200037	964.13

Expense Approval Report

Payment Dates: 08/24/2019 - 09/06/2019

Payment Date	Payment Number	Vendor Name	Description (Item)	Payable Number	Account Number	Purchase Order Number	Amount
08/29/2019	94633	COUNTY OF SAN DIEGO	NOE-880 DONAX AVE	MF 1332	101-0000-221.0102		50.00
08/29/2019	94634	COURT-ORDERED DEBT COLL	GARNISHMENT COURT-ORDE	INV0003849	101-0000-209.0107		168.65
08/29/2019	94635	EMPLOYMENT DEVELOPMEN	EMPLOYMENT TAX PENALTY/	L0202732896	101-1210-413.2102		1,479.71
08/29/2019	94636	ERIKA N. CORTEZ	Tuition Reimbursement	19/20 SUMMER	101-1130-412.2901	200083	3,096.27
08/29/2019	94637	ESRI INC	ARGGIS/PUBLISHER/DESKTO	93687147	503-1923-419.2813		3,500.00
08/29/2019	94638	GENERAL PARTS DIST, LLC	SPARK PLUGS/OIL FILTER	11098-414742	501-1921-419.2816	200013	29.71
08/29/2019	94638	GENERAL PARTS DIST, LLC	#600 FRONT BRAKES	11098-415309	501-1921-419.2816	200013	144.88
08/29/2019	94638	GENERAL PARTS DIST, LLC	#618 FRONT BRAKES	11098-415385	501-1921-419.2816	200013	104.16
08/29/2019	94638	GENERAL PARTS DIST, LLC	#A8 SPARK PLUGS	11098-415445	501-1921-419.2816	200013	14.62
08/29/2019	94639	GEOCON INC.	07/14/19 Comp. Testing	1907415	202-5016-531.2006	200076	125.00
08/29/2019	94640	JESUS GONZALEZ	Tuition Reimbursement	19/20 SUMMER	101-1130-412.2901	200081	66.71
08/29/2019	94641	KRISTINE J. WIESMANN	Tuition Reimbursement	19/20 SUMMER	101-1130-412.2901	200082	174.65
08/29/2019	94642	LLOYD PEST CONTROL	AUG 2019 PEST CONTROL SV	6476101	101-1910-419.2022	200003	55.00
08/29/2019	94642	LLOYD PEST CONTROL	AUG 2019 PW	6477364	101-1910-419.2022	200003	53.00
08/29/2019	94642	LLOYD PEST CONTROL	AUG 2019 DEPMSEY CTR	6477572	101-1910-419.2022	200003	60.00
08/29/2019	94642	LLOYD PEST CONTROL	AUG 2019 -CITY HALL	6499349	101-1910-419.2022	200003	36.00
08/29/2019	94642	LLOYD PEST CONTROL	AUG 2019 -FIRE DEPT	6499350	101-1910-419.2022	200003	40.00
08/29/2019	94642	LLOYD PEST CONTROL	AUG 2019 -SHERIFF DEPT	6499468	101-1910-419.2022	200003	36.00
08/29/2019	94642	LLOYD PEST CONTROL	AUG 2019 MVC	6499515	101-1910-419.2022	200003	53.00
08/29/2019	94643	NTH GENERATION, INC.	Veeam Backup Licenses	35067H	503-1923-419.2104	200049	1,800.00
08/29/2019	94644	ROBERTSON'S	Concrete Procurement	520396	101-5010-431.3002	200024	842.54
08/29/2019	94645	SD SPORTS MED & FAMILY H	PS FIT FOR DUTY EVALUATIO	IB08122019	101-3020-422.2006		5,878.20
08/29/2019	94645	SD SPORTS MED & FAMILY H	PS FIT FOR DUTY EVALUATIO	IB08142019	101-3020-422.2006		3,070.39
08/29/2019	94645	SD SPORTS MED & FAMILY H	PS FIT FOR DUTY EVALUATIO	IB08152019	101-3020-422.2006		5,878.20
08/29/2019	94646	SOFTWAREONE INC.	Office 365 E3 Licenses	US-PSI-826545	503-1923-419.2104	200016	25,896.00
08/29/2019	94647	SOUTHWEST SIGNAL	REPLACE TRAFFIC SIGNAL CA	75053	101-5010-431.2123		20,545.27
08/29/2019	94647	SOUTHWEST SIGNAL	JUL 2019 MARKOUT SVC/TR	75111	101-5000-532.2006	200075	1,071.49
08/29/2019	94648	STATE CONTROLLER	FY 18/19 ANNUAL ST REPOR	FAUD-00001725	201-5000-532.2006		2,901.74
08/29/2019	94649	STATE OF CALIFORNIA	GARNISHMENT COURT-ORDE	CD-9168-99991	101-0000-209.0107		168.65
08/29/2019	94650	U.S. BANK CORPORATE PAYM	AUG 2019 P-CARD CHARGES	08-22-2019	101-1210-413.2102		51,934.08
08/29/2019	94651	WAGEWORKS INC.	AUG 2019 ADIM/COMPLIAN	INV1596609	101-1210-413.2904		113.00
09/05/2019	94652	AECOM TECHNICAL SERVICE	JUL 2019 LCP GRANT	2000248757	101-1230-513.2006	190024-R1	13,168.34
09/05/2019	94653	AGRICULTURAL PEST CONTR	AUG 2019 RODENT CONTRO	502812	101-6020-452.2104	200054	95.00
09/05/2019	94654	CALIFORNIA COMMERCIAL A	Asphalt Procurement	2039530	101-5010-431.3002	200023	905.90
09/05/2019	94655	CINTAS CORPORATION NO.2	08/26/19 FIRST AID CABINET	5014636234	101-1210-413.3001	200001	56.69
09/05/2019	94656	COUNTY OF SAN DIEGO	JUL 2019 WEEKLY MAPS	2019000586	101-3070-427.2104		10.00
09/05/2019	94657	COX COMMUNICATIONS	08/22-09/21 038384601	09-12-2019 2135	503-1923-419.2104	200002	241.45
09/05/2019	94657	COX COMMUNICATIONS	08/25-09/24 039780701	09-15-2019 0215	503-1923-419.2104	200002	799.00
09/05/2019	94658	FIRST AMERICAN DATA TREE,	AUG 2019 PROPERTY DATA S	20045170819	101-1210-413.2104		8.37
09/05/2019	94658	FIRST AMERICAN DATA TREE,	AUG 2019 PROPERTY DATA S	20045170819	101-3070-427.2104		236.40
09/05/2019	94658	FIRST AMERICAN DATA TREE,	AUG 2019 PROPERTY DATA S	20045170819	101-3070-427.2104		5.23
09/05/2019	94659	FRANK AND SON PAVING, IN	JUL 2019 RTPY FY17/18 ST IM	06	202-5016-531.2006	190278-R1	102,151.04
09/05/2019	94660	GENERAL PARTS DIST, LLC	#602 GASKET	11098-415734	501-1921-419.2816	200013	15.09
09/05/2019	94660	GENERAL PARTS DIST, LLC	OIL/AIR FILTERS, SPARK PLUG	11098-415746	501-1921-419.2816	200013	150.60



Payment Date	Payment Number	Vendor Name	Description (Item)	Payable Number	Account Number	Purchase Order Number	Amount
09/05/2019	94660	GENERAL PARTS DIST, LLC	#618 DISTRIBUTOR CAP/ROT	11098-415777	501-1921-419.2816	200013	19.67
09/05/2019	94660	GENERAL PARTS DIST, LLC	#A6 PIGTAIL SOCKET	11098-415885	501-1921-419.2816	200013	13.37
09/05/2019	94661	ICMA DUES RENEWAL	FY 19/20 -HALL, GARY ANDR	304493 FY 19/20	101-1110-412.2812	200058	1,400.00
09/05/2019	94662	MICHELE MARZONI	AUG 2019 SR ART	16	101-6030-453.3002	200080	240.00
X>09/05/2019	94663	MONARCH GLOBAL STRATEG	AUG 2019 RETAINER	08-05-2019	502-1922-419.2006		20,000.00
09/05/2019	94664	O'REILLY AUTOMOTIVE STOR	#602 DOOR HANDLE	3980-203068	501-1921-419.3002	200030	30.04
09/05/2019	94664	O'REILLY AUTOMOTIVE STOR	QTSTABILIZER/TOGGLE SWTC	3980-204618	501-1921-419.3002	200030	46.29
09/05/2019	94664	O'REILLY AUTOMOTIVE STOR	#A6 RESISTOR/HYDRA ZORB	3980-205535	501-1921-419.3002	200030	30.20
09/05/2019	94664	O'REILLY AUTOMOTIVE STOR	#618 PCV VALVE	3980-205720	501-1921-419.3002	200030	2.08
09/05/2019	94665	PRAXAIR DISTRIBUTION INC	FLEET Welding Supplies	91196578	501-1921-419.3002	200052	337.99
09/05/2019	94666	SPARKLETT'S	AUG 2019 WATER SERVICE	12529930 082319	101-3020-422.3002	200051	246.76
09/05/2019	94667	VERIZON BUSINESS SERVICES	JUL 2019 SV202861	7121038	503-1923-419.2704		904.34
09/05/2019	94667	VERIZON BUSINESS SERVICES	JUL 2019 SV202862	71210477	503-1923-419.2704		156.05
09/05/2019	94667	VERIZON BUSINESS SERVICES	JUL 2019 SV202863	71210631	503-1923-419.2704		165.75
09/05/2019	94667	VERIZON BUSINESS SERVICES	JUL 2019 SV202864	71210640	503-1923-419.2704		201.35

Grand Total: **284,223.53**

# Report Summary

## Fund Summary

Fund	Payment Amount
101 - GENERAL FUND	117,197.27
201 - GAS TAX FUND	2,901.74
202 - PROP "A" (TRANSNET) FUND	102,276.04
501 - VEHICLE REPLACEMENT/MAINT	938.70
502 - RISK MANAGEMENT FUND	20,000.00
503 - TECHNOLOGY/COMMUNICATIONS	40,900.86
601 - SEWER ENTERPRISE FUND	8.92
<b>Grand Total:</b>	<b>284,223.53</b>

## Account Summary

Account Number	Account Name	Payment Amount
101-0000-209.0103	P/R COMPUTER LOAN P	13.10
101-0000-209.0107	P/R GARNISHMENT PAYA	337.30
101-0000-221.0102	DEVELOPER DEPOSITS	50.00
101-1110-412.2812	MEMBERSHIP DUES	1,400.00
101-1130-412.2901	TRAINING & EDUCATION	3,337.63
101-1210-413.2102	ADMINISTRATION CHAR	53,413.79
101-1210-413.2104	TECHNICAL SERVICES	8.37
101-1210-413.2904	OTHER SERVICES & CHA	113.00
101-1210-413.3001	OFFICE SUPPLIES	56.69
101-1230-513.2006	PROFESSIONAL SERVICE	13,168.34
101-1910-419.2022	PEST CONTROL SERVICE	333.00
101-1910-419.2702	UTILITIES-WATER	451.63
101-3020-422.2006	PROFESSIONAL SERVICE	14,826.79
101-3020-422.3002	OPERATING SUPPLIES	246.76
101-3070-427.2104	TECHNICAL SERVICES	251.63
101-5000-532.2006	PROFESSIONAL SERVICE	1,071.49
101-5010-431.2123	TRAFFIC CONTROL	20,545.27
101-5010-431.3002	OPERATING SUPPLIES	1,748.44
101-5040-434.2104	TECHNICAL SERVICES	964.13
101-6010-451.2702	UTILITIES-WATER	2,079.92
101-6020-452.2104	TECHNICAL SERVICES	95.00
101-6020-452.2702	UTILITIES-WATER	2,444.99
101-6030-453.3002	OPERATING SUPPLIES	240.00
201-5000-532.2006	PROFESSIONAL SERVICE	2,901.74
202-5016-531.2006	PROFESSIONAL SERVICE	102,276.04
501-1921-419.2816	VEHICLE OPERATE-PARTS	492.10
501-1921-419.3002	OPERATING SUPPLIES	446.60
502-1922-419.2006	PROFESSIONAL SERVICE	20,000.00
503-1923-419.2104	TECHNICAL SERVICES	32,736.45

**Account Summary**

Account Number	Account Name	Payment Amount
503-1923-419.2704	UTILITIES-TELEPHONE	1,927.56
503-1923-419.2813	FEES & LICENSES	6,236.85
601-5060-436.2702	UTILITIES-WATER	8.92
	<b>Grand Total:</b>	<b>284,223.53</b>

**Project Account Summary**

Project Account Key	Payment Amount	
**None**	164,320.03	
1332-DEP	50.00	
EDU152-REIM	3,096.27	
EDU304-REIM	66.71	
EDU441-REIM	174.65	
S18101-P	102,276.04	
S19101-P	1,071.49	
SP1616-P	13,168.34	
	<b>Grand Total:</b>	<b>284,223.53</b>

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STAFF REPORT  
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: ANDY HALL, CITY MANAGER *AJ*  
MEETING DATE: SEPTEMBER 18, 2019  
ORIGINATING DEPT.: PUBLIC WORKS *CH*  
SUBJECT: RESOLUTION 2019-8086 CONTINUING THE PROCLAMATION OF A STATE OF LOCAL EMERGENCY RELATING TO IMPACTS FROM CROSS-BORDER POLLUTION IN THE TIJUANA RIVER

**EXECUTIVE SUMMARY:**

Resolution No. 2019-8086 continues the City's proclamation for a state of local emergency related to the cross-border pollution impacts from the Tijuana River including the persistent impacts of treated and untreated wastewater. The Imperial Beach shoreline from the south end of Seacoast Drive to the border was closed for 101 days in 2018, 168 days in 2017, 162 days in 2016, and 211 days in 2015 due to contaminated flows in the Tijuana River. Cross border flows in the Tijuana River continue to persist and impact the Tijuana River valley, Estuary, and beach water quality.

It is necessary to have a local state of emergency in order for the City to respond to unpredictable conditions in the Tijuana River that impact the health, safety, and welfare of Imperial Beach residents, visitors, and environment. Proclamations that set in place a state of local emergency will expire in 30 days unless the City passes a continuing resolution to continue the local state of emergency.

**FISCAL ANALYSIS:**

None

**RECOMMENDATION:**

Adopt Resolution 2019-8086 to maintain a state of local emergency related to the cross-border pollution impacts from the Tijuana River and authorize the City Manager, Mayor, and Council members to work with local, State, Federal, and Mexican authorities to advance binational projects to improve conditions in the Tijuana River.

**OPTIONS:**

- Adopt Resolution and recommendation form staff;
- Reject Resolution; or
- Request additional information and an additional report

**BACKGROUND/ANALYSIS:**

The health and safety risks from cross border pollution levels in the Tijuana River and lack of action to implement known solutions by Federal and State agencies provides sufficient evidence to declare a state of local emergency within the City.

The City of Imperial Beach is severely impacted by the persistent flow of pollutants in the Tijuana River that impacts the health, safety, and welfare of citizens and wildlife. Pollution in the River is most acute following rain events or illegal discharge events when the watershed transforms into a severely impacted, polluted, and hazardous waterbody with bacterial concentrations so elevated it is often difficult to quantify effectively. The associated impact on the surrounding ecosystem is severe with poor water quality lasting several days to months after each discharge event. The recreational impact on the Imperial Beach shoreline is equally severe with beach closures impacting the beneficial ocean uses for residents and visitors in the City.

Although significant progress has been made during the last 20 year, there still remains significant work to control pollution in the Tijuana River. The Imperial Beach City Council and Mayor have an important role in the policy making process that influence the state, federal, and bi-national solutions to these issues. The City has a long history of binational collaboration to improve conditions in the Tijuana River from uncontrolled flows of sewage, trash, and sediment across the international border. Numerous agencies, government programs, and NGOs already collaborate on programs to address pollution in the Tijuana River. Some of the successful programs in the Tijuana River include:

- Tijuana River Recovery Team
- IBWC Treaty Minute 283
- IBWC Treaty Minute 320
- EPA Border 2020
- North American Development Bank – Border Environment Cooperation Commission
- IBWC Citizen’s Forum
- Tijuana River Action Month
- Surfrider No Border Sewage

The City Council has the authority to issue a local state of emergency that will expire in 30 days or continue in effect until the next regularly scheduled City Council meeting unless renewed by a continuing resolution.

**ENVIRONMENTAL DETERMINATION:**

Not a project as defined by CEQA.

Attachments:

1. Resolution No. 2019-8086

**RESOLUTION NO. 2019-8086**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, CONTINUING THE PROCLAMATION OF A STATE OF LOCAL EMERGENCY RELATING TO IMPACTS FROM CROSS-BORDER POLLUTION IN THE TIJUANA RIVER**

**WHEREAS**, Government Code Section 8630 and Imperial Beach Municipal Code (IBMC) Section 2.52.060 empower the City Manager, acting as the Director of Emergency Services, to request that the City Council proclaim the existence of a local emergency when the City is affected by a public calamity; and

**WHEREAS**, the City Manager, as Director of Emergency Services of the City of Imperial Beach, does hereby find that continued conditions of extreme peril to safety of persons, property, and environment have arisen within said City, caused by persistent impacts from cross-border pollution in the Tijuana River; and

**WHEREAS**, the persistent impact of cross-border flows of treated and untreated wastewater in the Tijuana River, excessive discharge of sediment into the Tijuana Estuary during storm events, and the continued impact of trash and waste tires in the Tijuana River Valley maintains a condition of extreme peril in the City; and

**WHEREAS**, on February 24, 2017, the International Boundary and Water Commission notified the City of a sewage spill into the Tijuana River in the amount of 143,000,000 gallons that occurred between February 6<sup>th</sup> and February 23<sup>rd</sup>; and

**WHEREAS**, in 2017 transboundary flows in the Tijuana River have resulted in 168 beach closures to date for Border Field State Park and 71 beach closures to date at Imperial Beach Pier; and

**WHEREAS**, in 2016 the International Boundary and Water Commission reported 28 transboundary flow events that resulted in over 35,000,000 gallons of unauthorized cross border discharges into the receiving waters of the Tijuana River; and

**WHEREAS**, pursuant to Section 8558(c) of the California Government Code, the pollution in the Tijuana River is beyond the control of the services, personnel, equipment and facilities of the City of Imperial Beach; and

**WHEREAS**, pollutants in the Tijuana River are causing contamination of the Tijuana River Valley, Tijuana Estuary, and the water and beaches of the City of Imperial Beach threatening the health, safety, and welfare of the citizens of Imperial Beach as well as visitors to our beaches; and

**WHEREAS**, the flow of the contaminants and untreated wastewater continues to escalate due to inadequate wastewater infrastructure in the city of Tijuana and lack of sufficient operation and maintenance of existing infrastructure; and

**WHEREAS**, this flow is the acknowledged responsibility of the federal governments of the United States and Mexico; and

**WHEREAS**, this condition constitutes an economic and public health threat which warrants and necessitates the proclamation and existence of a local emergency; and

**WHEREAS**, after decades of sewage spills polluting the Tijuana River and after decades of talk and no meaningful action by federal agencies, the City of Imperial Beach, Port of San Diego, and City of Chula Vista filed a lawsuit on March 2, 2018 against the International Boundary and Water Commission for violation of the Clean Water Act; and

**WHEREAS**, the State of California and the attorney general is encouraged to support the efforts of our Clean Water Act lawsuit and hold the International Boundary and Water Commission accountable for the ongoing pollution in the Tijuana River;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Imperial Beach as follows:

1. The above recitals are true and correct.
2. A local emergency exists throughout the City of Imperial Beach.
3. The City Manager, Mayor, and Council members are authorized to work with local, State, Federal, and Mexican authorities and to explore any and all options to improve conditions in the Tijuana River.
4. This proclamation of a local emergency shall expire within 30 days unless renewed by the City Council.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its meeting held on the 18<sup>th</sup> day of September 2019, by the following vote:

**AYES: COUNCILMEMBERS:**  
**NOES: COUNCILMEMBERS:**  
**ABSENT: COUNCILMEMBERS:**

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**SERGE DEDINA, MAYOR**

**ATTEST:**

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**JACQUELINE M. KELLY, MMC**  
**CITY CLERK**





STAFF REPORT  
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: ANDY HALL, CITY MANAGER *AH*  
MEETING DATE: SEPTEMBER 18, 2019  
ORIGINATING DEPT.: CITY MANAGER'S DEPARTMENT  
SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 2019-1186, ADDING CHAPTER 12.50 TO THE CITY OF IMPERIAL BEACH MUNICIPAL CODE RELATED TO THE USE OF PUBLIC PROPERTY

**EXECUTIVE SUMMARY:**

The proposed ordinance adds Chapter 12.50 to the Imperial Beach Municipal Code to regulate and prohibit camping, lodging or sleeping on public property in the City. It also would prohibit the obstruction of public property.

**FISCAL ANALYSIS:**

There is no fiscal impact associated with adoption of this ordinance.

**RECOMMENDATION:**

That the City Council conducts the second reading and adopts Ordinance No. 2019-1186 adding Chapter 12.50 to the Imperial Beach Municipal Code ("IBMC") related to the Use of Public Property by title only and waive further reading of the ordinance.

**OPTIONS:**

- Introduce ordinance;
- Provide direction to modify the ordinance prior to further consideration by the City Council; or
- Request additional information and an additional report.

**BACKGROUND/ANALYSIS:**

The City of Imperial Beach's Municipal Code ("IBMC") currently regulates camping and storing of personal property at the parks, beaches, pier and Pier Plaza. The IBMC should contain similar regulations for public streets, sidewalks, the right of way and other public spaces in the City. Staff is recommending adding Chapter 12.50 to the IBMC to address this issue and allow for the regulation of the use of public property.

Almost all cities in California regulate the use of public property to prevent obstructions and to protect the health, safety, environment and general welfare of the community. Regulations are necessary to ensure public property and the public right of way is maintained to ensure public property is readily accessible to the public. The use of public property for camping purposes or

storage of personal property often interferes with the rights of others to use the areas for which they were intended. Lack of regulations can lead to the accumulation of personal property that creates a visual blight, impedes the use and access to public space for others, and increases unsanitary conditions.

The proposed ordinance will help maintain public property in a clean, sanitary, safe and accessible condition. Doing so, adequately protects the health, safety, environment and general welfare of the community. All the while, it ensures that public areas are used for their intended purposes and remain accessible to all residents, businesses and visitors in the City. It will also help ensure safe passage for pedestrians and the disabled across public rights-of-way.

The first reading of Ordinance No. 2019-1186 was conducted at the September 4, 2019 City Council meeting.

**FISCAL ANALYSIS:**

There is no fiscal impact associated with this ordinance.

**ENVIRONMENTAL DETERMINATION:**

Not a project as defined by CEQA.

Attachment:

1. Ordinance No. 2019-1186

**ORDINANCE NO. 2019-1186**

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF IMPERIAL BEACH, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF IMPERIAL BEACH MUNICIPAL CODE RELATED TO THE USE OF PUBLIC PROPERTY**

**WHEREAS**, the City of Imperial Beach has conducted a review of certain provisions of the Imperial Beach Municipal Code and determined certain revisions are necessary in order to maintain the access use and enjoyment of public property for all persons; and

**WHEREAS**, regulations and prohibitions on certain activities such as storage of personal property and camping in public areas in the City will help ensure safe passage for pedestrians and the disabled across public rights-of-way; and

**WHEREAS**, this ordinance will enhance public safety for all visitors to all areas of the City of Imperial Beach so that City staff can better manage public property for the enjoyment of all members of the public; and

**WHEREAS**, this ordinance will help maintain public property in a clean, sanitary, safe and accessible condition to protect the health, safety, environment and general welfare of the community.

**NOW, THEREFORE**, the City Council of the City of Imperial Beach does ordain as follows:

**Section 1.** The above-listed findings are true and correct and incorporated herein as findings.

**Section 2.** Chapter 12.50 USE OF PUBLIC PROPERTY is hereby added to the Imperial Beach Municipal Code to read as follows:

**“Chapter 12.50 USE OF PUBLIC PROPERTY**

**12.50.005 Definition.**

“Camp” shall have the same meaning as in 12.56.010 of this code, but is not limited to solely camping in a park.

**12.50.010. Camping, lodging.**

It is unlawful for any person to camp, lodge, or sleep within any public facility; upon any public grounds; in or on any property operated or maintained by the city of Imperial Beach; or on any public median, sidewalk, street, or right-of-way, including but not limited to dirt or landscaped areas.

**12.50.020. Barricades, tents.**

A. It is unlawful for any person to place, erect, maintain, or use a barricade, canopy, or tent on any public median, sidewalk, street, or right-of-way, including but not limited to dirt or landscaped areas.

B. This section shall not apply to the lawful operation of sidewalk vendors being conducted pursuant to a valid sidewalk vending permit issued under Chapter 4.64 of this code and a business license issued under Chapter 4.04 of this code.

**12.50.030. Obstruction of public property.**

A. It is unlawful for any person to store personal property, including but not limited to camp facilities and camp paraphernalia, upon any part of a public median, sidewalk, street, or right-of-way (including but not limited to dirt or landscaped areas), except as otherwise provided by law or by resolution of the City Council.

B. This section shall not apply to the lawful operation of sidewalk vendors being conducted pursuant to a valid sidewalk vending permit issued under Chapter 4.64 of this code and a business license issued under Chapter 4.04 of this code.

**12.50.040. Special event.**

One or more of the regulations in this chapter may be suspended or modified as part of a special event with a properly issued special event permit under Chapter 12.33 of this code or other activity approved by the City Council or City Manager.

**12.50.050. Exceptions.**

This chapter shall not apply to city of Imperial Beach personnel and San Diego Sheriff personnel, while on duty or persons in the custody of law enforcement officers.”

**Section 3.** 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, 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 that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**Section 4.** This Ordinance shall take effect thirty (30) days after passage.

**Section 5.** The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within fifteen (15) days following adoption indicating votes cast.

**INTRODUCED AND FIRST READ** at a regular meeting of the City Council of the City of Imperial Beach, California, on the 4th day of September, 2019; and

**THEREAFTER ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California, on the 19th day of September, 2019, by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

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Serge Dedina, Mayor

ATTEST:

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Jacqueline Kelly, City Clerk

APPROVED AS TO FORM:

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Jennifer M. Lyon, City Attorney

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be an exact copy of Ordinance No. 2019-XXXX, "AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF IMPERIAL BEACH, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF IMPERIAL BEACH MUNICIPAL CODE RELATED TO THE USE OF PUBLIC PROPERTY"

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JACQUELINE KELLY, CITY CLERK

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DATE

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STAFF REPORT  
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: ANDY HALL, CITY MANAGER *AH*  
MEETING DATE: SEPTEMBER 18, 2019  
ORIGINATING DEPT.: CITY CLERK  
SUBJECT: RESOLUTION NO. 2019-8085 – AMENDING COUNCIL POLICY NO. 419: TICKET DISTRIBUTION POLICY.

**EXECUTIVE SUMMARY:**

The Ticket Distribution Policy (Exhibit A to Resolution No. 2019-8085) is being amended to conform with recent revisions to Regulation 18944.1 by the Fair Political Practices Commission (“FPPC”).

**FISCAL IMPACT:**

None.

**RECOMMENDATION:**

Adopt Resolution No. 2019-8085 amending Council Policy No. 419: Ticket Distribution Policy to conform with California Code of Regulations, Section 18944.1, as amended by the Fair Political Practices Commission.

**OPTIONS:**

- Approve resolution.
- Reject resolution and provide direction on how to proceed.
- Request additional information and an additional report.

**BACKGROUND:**

Public officials, employees and consultants designated in the City’s Conflict of Interest Code are required to report gifts aggregating Fifty Dollars (\$50.00) or more from a single source during a calendar year on their Form 700 Statement of Economic Interests. (Govt. Code § 87210.) In addition, public officials and designated employees and consultants are prohibited from accepting gifts aggregating Five Hundred Dollars (\$500.00) or more from a single source in any calendar year. (Govt. Code § 89503.)

The Fair Political Practices Commission (“FPPC”) recognizes exceptions to these gift regulations in several categories, including: tickets and passes to entertainment events, sporting events, and similar occasions that are distributed by the City, and gifts made to the City. With regard to tickets and passes, in 2009 the FPPC adopted Section 18944.1, Title 2, California Code of Regulations (“Regulation 18944.1”) to regulate the distribution and disclosure by public agencies of certain tickets and passes to public officials and employees. Regulation 18944.1 provides that a ticket and pass distributed pursuant to an adopted policy and properly disclosed by the agency is not a gift to the public official and does not trigger a disclosure requirement on the official’s Statement

of Economic Interests, Form 700. The City Council adopted a ticket distribution policy pursuant to Regulation 18944.1 to provide for distribution of such tickets and passes in April 1, 2009.

In May of 2019, the FPPC amended Section 18944.1 of the California Code of Regulations relating to tickets or passes to events distributed to public officials. This new regulation, which became effective June 20, 2019, added language requiring an agency's ticket distribution policy to include a provision prohibiting the disproportionate use of tickets or passes by the members of the agency's governing board or chief administrative officer, as well requiring a written inspection report that includes findings and recommendations where the public purpose cited for the use of tickets involves the oversight or inspection of facilities. Also included were minor amendments and additions.

The amended Ticket Distribution Policy incorporates the recent revisions to Regulation 18944.1 by the FPPC, as well as some other minor revisions.

**ENVIRONMENTAL DETERMINATION:**

Not a project as defined by CEQA.

Attachments:

1. Resolution No. 2019-8085 along with proposed change to Council Policy 419 (Exhibit A)
2. Amended FPPC Regulation 18944.1



RESOLUTION NO. 2019-8085

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AMENDING COUNCIL POLICY NO. 419: TICKET DISTRIBUTION POLICY**

**WHEREAS**, the Fair Political Practices Commission (“FPPC”) adopted Section 18944.1, Title 2, California Code of Regulations (“Regulation 18944.1”) to regulate the distribution and disclosure by public agencies of certain tickets and passes to public officials and employees; and

**WHEREAS**, Regulation 18944.1 provides that a ticket and pass distributed pursuant to an adopted policy and properly disclosed by the agency is not a gift to the public official and does not trigger a disclosure requirement on the official’s Statement of Economic Interests, Form 700 if such distribution has a public purpose; and

**WHEREAS**, on April 1, 2009 the City Council of the City of Imperial Beach (“City”) adopted a ticket distribution policy pursuant to Regulation 18944.1 to provide for distribution of such tickets and passes;

**WHEREAS**, the FPPC amended and adopted Regulation 18944.1, effective June 20, 2019, adding language requiring an agency’s ticket distribution policy to include a provision prohibiting the disproportionate use of tickets or passes by the members of the agency’s governing board or chief administrative officer, as well requiring a written inspection report that includes findings and recommendations where the public purpose cited for the use of tickets involves the oversight or inspection of facilities. Also included were minor amendments and additions; and

**WHEREAS**, the amended Ticket Distribution Policy incorporates the recent revisions to Regulation 18944.1 by the FPPC, as well as other minor revisions.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Imperial Beach, as follows:

1. That the above recitations are true and correct.
2. That the City Council hereby approves and adopts Resolution No. 2019-8085 revising Council Policy No. 419: Ticket Distribution Policy in accordance with FPPC Regulation 18944.1, and attached hereto as Exhibit A.
3. All previous ticket distribution policies adopted by the City under FPPC Regulation 18944.1 are hereby repealed in their entirety.

**PASSED, ADOPTED, AND APPROVED** by the City Council of the City of Imperial Beach at its regular meeting on the 18<sup>th</sup> day of September 2019, by the following roll call vote:

**AYES:**           **COUNCILMEMBERS:**  
**NOES:**           **COUNCILMEMBERS:**  
**ABSENT:**       **COUNCILMEMBERS:**

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**SERGE DEDINA, MAYOR**

**ATTEST:**

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**JACQUELINE M. KELLY, MMC**  
**CITY CLERK**

CITY OF IMPERIAL BEACH COUNCIL POLICY		
SUBJECT: TICKET DISTRIBUTION POLICY	POLICY NUMBER: 419	PAGE: 1 of 6
ADOPTED BY: Resolution No. 2009-6730 REVISED BY: Resolution No. 2009-6746 REVISED BY: <a href="#">Resolution No. 2019-8085</a>	DATED: September 18, 2019	

## 1.0 Application of Policy.

1.1 [This policy applies to all elected and appointed City Officials, as well as all designated City employees.](#)

1.2. This policy applies to tickets which provide admission to a facility or event for an entertainment, amusement, recreational or similar purpose, and are either:

- a) gratuitously provided to the City by an outside source;
- b) acquired by the City by purchase;
- c) acquired by the City as consideration pursuant to the terms of a contract for the use of a city venue; or
- d) acquired and distributed by the City in any other manner.

1.32 This policy does not apply to any other item of value provided to the City or any City Official, regardless of whether received gratuitously or for which consideration is provided.

1.43 This policy shall supersede any other inconsistent written policy applicable to tickets.

**2.0 Definitions:** Unless otherwise expressly provided herein, words and terms used in this policy shall have the same meaning as that ascribed to such words and terms in the California Political Reform Act of 1974 (Government Code section 81000, et seq., as the same may from time to time be amended) and the Fair Political Practices Commission ("FPPC") Regulations (Title 2, Division 6 of the California Code of Regulations, Sections 18110 et seq., as the same may from time to time be amended).

2.1 "City" or "City of Imperial Beach" shall mean and include the City of Imperial Beach, ~~the Imperial Beach Redevelopment Agency,~~ any other affiliated agency created or activated by the Imperial Beach City Council, and any departments, boards and commissions thereof.

2.2 "City Official" means every member, officer, employee or consultant of the City of Imperial Beach, as defined in Government Code Section 82048 and FPPC Regulation 18701. Such term shall include, without limitation, any City board or commission member or other appointed official or employee required to file an annual Statement of Economic Interests (FPPC form 700).

2.3 "City Venue" means and includes any facility owned, controlled or operated by the City of Imperial Beach.

CITY OF IMPERIAL BEACH COUNCIL POLICY		
SUBJECT: TICKET DISTRIBUTION POLICY	POLICY NUMBER: 419	PAGE: 2 of 6
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- 2.4 "Immediate family" means the City Official's spouse and/or dependent children.
- 2.5 "Ticket" shall mean and refer to a "ticket" or "pass" as those terms are defined in Section 18946 of Title 2, California Code of Regulations and referenced in Regulation 18944.1, both Regulations as being amended from time to time, but which currently defines "ticket" as anything that provides access, entry, or ~~and includes any form of~~ admission privilege to a specific future event or function and for which similar tickets are sold to the public to view, listen to, or otherwise take advantage of the attraction or activity for which the ticket is sold and includes any benefits that the ticket provides. "Pass" is currently defined as a ticket that provides repeated access, entry, or admission to a facility or series of events and for which similar passes are sold to the public. ~~facility, event, show or performance.~~

### 3.0 General Provisions.

- 3.1 Public Purposes: All tickets provided to the City shall be distributed in furtherance of public purposes as provided under Section 5.3.
- 3.2 No Right to Tickets: The use of complimentary tickets is a privilege extended by the City and not the right of any person to which the privilege may from time to time be extended.
- 3.3 Limitation on Transfer of Tickets: Tickets distributed to a City Official pursuant to this policy shall not be transferred to any other person, except to members of such City Official's immediate family solely for their personal use or no more than one guest solely for their attendance at the event.
- 3.4 Prohibition Against Sale or Receiving Reimbursement for Tickets: No person who receives a ticket pursuant to this policy shall sell or receive reimbursement for the value of such ticket.
- 3.5 Prohibition on Disproportionate Distribution to City Council and Certain Public Officials: Tickets distributed to members of the City Council, political appointees, department heads or the City Manager shall not be disproportionate to tickets distributed to other City Officials.
- 3.6 Prohibition on Earmarking: No ticket gratuitously provided to the City by an outside source and distributed to, or at the behest of, a City Official pursuant to this Policy shall be earmarked by the original source for provision to a particular City Official.

<b>CITY OF IMPERIAL BEACH COUNCIL POLICY</b>		
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<b>ADOPTED BY: Resolution No. 2009-6730</b> <b>REVISED BY: Resolution No. 2009-6746</b> <b>REVISED BY: <a href="#">Resolution No. 2019-8085</a></b>	<b>DATED: September 18, 2019</b>	

3.7 Application: The provisions of this policy apply only to benefits the City Official receives that are provided to all members of the public with the same class of ticket.

#### **4.0 Ticket Administrator.**

- 4.1 The City Manager or his/her designee(s) shall be the Ticket Administrator for purposes of implementing the provisions of this policy.
- 4.2 The Ticket Administrator shall have the authority, in his or her sole discretion, to establish procedures for the distribution of tickets in accordance with this policy. All requests for tickets which fall within the scope of this policy shall be made in accordance with the procedures established by the Ticket Administrator.
- 4.3 The Ticket Administrator shall determine the ~~face~~-fair value of tickets distributed by the City for purposes of Sections 5.1, 5.2 and 7.1, subparagraph (d), of this policy.
- 4.4 The Ticket Administrator, in his or her sole discretion, may revoke or suspend the ticket privileges of any person who violates any provision of this policy or the procedures established by the Ticket Administrator for the distribution of tickets in accordance with this policy.

**5.0 Conditions Under Which Tickets May be Distributed:** Subject to the provisions this policy, complimentary tickets may be distributed to City Officials under the following conditions:

- 5.1 The City Official reimburses the City for the ~~face~~-fair value of the ticket(s).
  - (a) Reimbursement shall be made at the time the ticket(s) is/are distributed to the City Official.
  - (b) The Ticket Administrator shall, in his or her sole discretion, determine which event tickets, if any shall be available under this section.
- 5.2 The City Official treats the ticket(s) as income consistent with applicable federal and state income tax laws.
- 5.3 The City distributes such ticket(s) to or at the behest of, an official in order to accomplish a public purpose. The following is a list of public purposes the City may accomplish through the distribution of tickets:
  - (a) Performance of a ceremonial role or function representing the City at the event, for which the City Official may receive enough tickets for the City Official and each member of his or her immediate

CITY OF IMPERIAL BEACH COUNCIL POLICY		
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family.

- (b) The job duties of the City Official require his or her attendance at the event, for which the City Official may receive enough tickets for the City Official and each member of his or her immediate family.
- (c) Economic or business development purposes on behalf of the City.
- (d) Intergovernmental relations purposes, including but not limited to attendance at an event wit or by elected or appointed public officials from other jurisdictions, their staff members and their guests.
- (e) Attracting or rewarding volunteer public service.
- (f) Supporting and/or showing appreciation for programs or services rendered by non-profit organizations benefiting Imperial Beach residents.
- (g) Encouraging or rewarding significant academic, athletic, or public service achievements by Imperial Beach students, residents or businesses.
- (h) Attracting and retaining highly qualified employees in City service, for which such employee may receive no more than six (6) tickets per event.
- (i) As special recognition or reward for meritorious service by a City employee, for which such employee may receive no more than six (6) tickets per event.
- (j) For use in connection with a City employee competition or drawing, for which there shall be made no more than six (6) tickets per person per event.

(k)

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(k) — Recognition of contributions made to the City by former City Council Members or City Executive Managers, for which such former City Council Member or Executive Manager may receive no more than (4) tickets per event.

## 6.0 Tickets Distributed at the Behest of a City Official.

- 6.1 Only the following City Officials shall have authority to behest tickets: City Council Members, the City Manger, the Assistant City Manager, the Deputy City Manager and Department Heads.
- 6.2 Tickets shall be distributed at the behest of the City Official only for one or more public purposes set forth in Section 5.3 above.
- 6.3 If tickets are distributed at the behest of a City Official, such City Official shall not use one of the tickets so distributed to attend the event.

## 7.0 Disclosure Requirements.

- 7.1 This policy is a public record and is subject to inspection and copying. This policy shall be posted on the City's website in a prominent manner. The City shall, within thirty (30) days of adoption or amendment, send to the FPPC by email a website link that displays this policy.
- 7.2 Tickets distributed by the City to any City Official either i) which the City Official treats as income pursuant to Section 5.2 above, or ii) for one or more public purposes described in Section 5.3 above, shall be posted on a form provided by the FPPC in a prominent fashion on the City's website within ~~thirty (30)~~forty-five (45) days after distribution. Such posting shall include the following information:
  - (a) The name of the recipient, ~~except that if the recipient is an organization, the City may post the name, address, description of the organization and number of tickets provided to the organization in lieu of posting the names of each recipient as provided for below;~~
  - (b) a description of the event;
  - (c) the date of the event;
  - (d) the ~~face~~fair value of the ticket as defined in FPPC Regulation 18946 as may be amended from time to time;
  - (e) the number of tickets provided to each person;
  - (f) if the ticket was distributed at the behest of a City Official, the name of the City Official who made the behest; ~~and~~
  - (g) if the ticket was transferred, the relationship of the transferee;

CITY OF IMPERIAL BEACH COUNCIL POLICY		
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(h) a description of the public purpose(s) under which the distribution was made, or alternatively, that the City Official is treating the ticket as income; and

(i) a written inspection report of findings and recommendations by the official receiving the ticket if received for the oversight or inspection of facilities.

7.23 For tickets distributed to a department or other unit of the City pursuant to this Policy, and not used by a member of the City Council, political appointee, department head or City Manager, the City may post the name of the department or other unit of the City and the number of tickets provided to the department or other unit in lieu of posting the name of the individual employee(s) as otherwise required.

7.4 Tickets distributed to an organization outside of the City shall be disclosed in accordance with 7.2 above, but, if the recipient is an organization, the City may post the name, address, description of the organization and number of tickets provided to the organization in lieu of posting the names of each recipient.

7.5 Tickets distributed by the City for which the City receives reimbursement from the City Official as provided under Section 5.1 above shall not be subject to the disclosure provisions of Section 7.1.

1 Adopt 2 Cal. Code Regs., Section 18944.1 to read:

2 **§ 18944.1. Gifts: Agency Provided Tickets or Passes.**

3 (a) Gift Exemption. A ticket or pass provided to an official by his or her agency and  
4 distributed and used in accordance with a policy adopted by the agency is not a gift under the  
5 Political Reform Act if all of the following criteria are met:

6 (1) The distribution of the ticket or pass by the agency is made in accordance with a  
7 policy adopted by the agency that incorporates all of the provisions of subdivision (b) and is  
8 maintained as a public record as required in subdivision (c).

9 (2) The distribution of the ticket or pass is reported pursuant to subdivision (d).

10 (3) The ticket or pass is not earmarked by an outside source for use by a specific agency  
11 official. (4) The agency determines, in its sole discretion, who uses the ticket or pass.

12 (b) Agency Ticket/Pass Distribution Policy. Any distribution of a ticket or pass under this  
13 regulation to, or at the behest of, an agency official must be made pursuant to a written agency  
14 ticket distribution policy, duly adopted by the legislative or governing body of the agency or, if  
15 none, the agency head that contains, at a minimum, all of the following:

16 (1) A provision setting forth the public purposes of the agency for which tickets or passes  
17 may be distributed.

18 (2) A provision requiring that the distribution of any ticket or pass to, or at the behest of,  
19 an agency official accomplishes a stated public purpose of the agency.

20 (3) A provision prohibiting the transfer of any ticket received by an agency official  
21 pursuant to the distribution policy except to members of the official's immediate family or no  
22 more than one guest solely for their attendance at the event.



1           (4) A provision prohibiting the disproportionate use of tickets or passes by a member of  
2 the governing body, political appointee, department head, or chief administrative officer of the  
3 agency.

4           (c) Public Record. The policy must be maintained as a public record and is subject to  
5 inspection and copying under Section 81008. The agency must post the policy on its website  
6 within 30 days of adoption or amendment and send to the Commission by e-mail the agency's  
7 website link that displays the policy so that the Commission may post the link.

8           (d) Reporting. Within 45 days of distribution of a ticket or pass, the distribution must be  
9 reported on a form provided by the Commission.

10          (1) Except as provided in subdivision (d)(2), the information must include the following:

11          (A) The name of the official receiving the ticket or pass;

12          (B) A description of the event;

13          (C) The date of the event;

14          (D) The fair value of the ticket or pass as that term is defined in Regulation 18946,  
15 subdivision (d)(1);

16          (E) The number of tickets or passes provided to each person;

17          (F) If the ticket or pass is behested, the name of the official who behested the ticket;

18          (G) If the ticket was transferred to a person meeting the requirements of paragraph (b)(3),  
19 the relationship of the transferee;

20          (H) A description of the public purpose under which the distribution was made; and

21          (I) A written inspection report of findings and recommendations by the official receiving  
22 the ticket or pass if received for the oversight or inspection of facilities.

1           (2) If the ticket or pass is distributed to a department or other unit of the agency, and not  
2 used by a member of the governing body, political appointee, department head, or chief  
3 administrative officer of the agency, the agency may report the name of the department or other  
4 unit of the agency receiving the ticket or pass and the number of tickets or passes provided to the  
5 department or unit in lieu of reporting the name of the individual employee as otherwise required  
6 in subdivision(d)(1).

7           (3) The forms must be maintained as public records and are subject to inspection and  
8 copying under Section 81008(a). The agency must post the form, or a summary of the  
9 information on the form, on its website and send to the Commission by e-mail the agency's  
10 website link that displays the form so that the Commission may post the website link.

11           (e) Public Purpose. For purposes of subdivision (b)(2), the agency determines whether the  
12 distribution of tickets or passes serves a legitimate public purpose of the agency, consistent with  
13 state law. However, a ticket or pass distributed to an official for his or her personal use, other  
14 than a member of the governing body, political appointee, department head, or chief  
15 administrative officer of the agency, to support general employee morale, retention, or to reward  
16 public service is deemed to serve a public purpose. For purposes of this paragraph, "personal  
17 use" is limited to the official, and his or her family, or no more than one guest.

18           (f) Application. This regulation applies solely to a ticket or pass, as those terms are  
19 defined in Regulation 18946, to an event or function provided by an agency to an official of the  
20 agency, or at the behest of an official of that agency. The provisions of this regulation apply only  
21 to the benefits the official receives from the ticket or pass that are provided to all members of the  
22 public with the same class of ticket or pass. This regulation does not apply to the following:

1           (1) An admission provided to a school, college, or university district official, coach,  
2 athletic director, or employee to attend an amateur event performed by students, which are  
3 neither gifts nor income.

4           (2) An admission identified in Regulation 18942(a)(13) relating to an official performing  
5 a ceremonial role.

6           (g) Ticket or Pass Received as Income. A ticket or pass is not subject to the provisions of  
7 this regulation, and not a gift for purposes of the Act, if it is taxable income to the official.

8           (h) Reimbursement. A ticket or pass is not subject to the provisions of this regulation, and  
9 not a gift for purposes of the Act, if the official reimburses the agency for the ticket within 30  
10 days of receipt.

11 Note: Authority cited: Section 83112, Government Code. Reference: Section 82028,

12 Government Code.

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STAFF REPORT  
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: ANDY HALL, CITY MANAGER  
MEETING DATE: SEPTEMBER 18, 2019 AH  
ORIGINATING DEPT.: PUBLIC WORKS CH  
SUBJECT: RESOLUTION NO. 2019-8088 AWARDING A CONTRACT TO VINYARD DOORS, INC. FOR THE COMPLETION OF FIRE STATION DOOR REPAIRS AS PART OF THE FIRE STATION IMPROVEMENTS PROJECT (F20111-P)

**EXECUTIVE SUMMARY:**

Resolution No. 2019-8088 (Attachment 1) awards a contract to Vinyard Doors, Inc. to complete repairs on the Fire Station Doors as part of the Fire Station Improvement project (F20111).

**FISCAL ANALYSIS:**

**Budget:**

Fire Station Improvements (F20111) 504-1924-519.2006 \$115,000

**TOTAL BUDGET** **\$115,000**

**Expenditure:**

Construction \$ 80,000

Contingency \$ 20,000

Project Management/City Expenses \$ 15,000

**TOTAL EXPENDITURES** **\$115,000**

**RECOMMENDATION:**

Adopt Resolution No. 2019-8088 to award a public works contract for an amount not to exceed \$80,000 Vinyard Doors, Inc. for completion of Fire Station Door improvements as part of the Fire Station Improvement Project (F20111).

**OPTIONS:**

- Approve resolution and recommendation from staff.
- Reject the resolution and provide direction to staff on how to proceed.
- Request additional information and an additional report.

**BACKGROUND/ANALYSIS:**

Imperial Beach Fire Station doors were last replaced in 2008. The existing doors have deteriorated to a condition that requires continuous maintenance. The proposed project will replace the front bay doors at the Fire Station with new doors and variable speed opening motor. This project will also assess the condition of the structural door frame and make any necessary repairs before installing the new doors. The rear bay doors to the Fire Station are still in satisfactory condition and do not need to be replaced at this time.

In accordance with the City's California Uniform Public Construction Cost Accounting Procedures (CUPCCA), Door Specialty contractors on the City's qualified CUPCCA list were contacted for bids. The City received three bids for this project. The qualified bids are as follows:

	<b><u>Bid Amount</u></b>
1. Vinyard Doors, Inc. (2-25'x15'3" sectional doors)	\$ 74,675.00
2. Byron Epp, Inc. (2-25'x14' telescoping doors)	\$ 147,149.00
3. Vortex Industries (4-14'x14' high speed doors)	\$ 228,149.32
4. Byron Epp, Inc (2-25'x14' Four-Fold Glazed Doors)	\$ 219,301.00

Upon review of the bids, the lowest responsible and qualified bid was submitted by Vinyard Doors, Inc. Staff recommends awarding the contract for a not-to-exceed amount of \$80,000. The budget also includes \$20,000 contingency for potential repairs to the mounting door frame and \$15,000 in Project Management costs.

**ENVIRONMENTAL DETERMINATION:**

This project is categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15302 (Replacement or Reconstruction).

Attachments:

1. Resolution No. 2019-8088
2. Vinyard Doors, Inc. Quotation

**RESOLUTION NO. 2019-8088**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AWARDING A CONTRACT TO VINYARD DOORS, INC. FOR THE COMPLETION OF FIRE STATION DOOR REPAIRS AS PART OF THE FIRE STATION IMPROVEMENTS PROJECT (F20111-P)**

**WHEREAS**, the Imperial Beach Fire Station doors were last replaced in 2008; and

**WHEREAS**, the existing doors have deteriorated to a condition that requires continuous maintenance; and

**WHEREAS**, the proposed project will replace the front bay doors along with a variable speed opening motor; and

**WHEREAS**, this project will also assess the condition of the structural door frame and make any necessary repairs; and

**WHEREAS**, in accordance with the City's California Uniform Public Construction Cost Accounting Procedures, Door Specialty contractors on the City's qualified bidders list were contacted for bids; and

**WHEREAS**, upon review of the bids, the lowest responsible and qualified bid was submitted by Vinyard Doors, Inc.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Imperial Beach as follows:

1. The above recitals are true and correct.
2. The City Manager is authorized execute a public works contract with Vinyard Doors, Inc. for a not to exceed amount of \$80,000 for repairs on the Fire Station Doors.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its meeting held on the 8<sup>th</sup> day of September 2019, by the following vote:

**AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:**

\_\_\_\_\_  
**SERGE DEDINA, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JACQUELINE M. KELLY, MMC  
CITY CLERK**



3605 Pacific Highway
San Diego, CA 92101
619-298-9951 Tel
619-298-9957 Fax
Contractors License No. 472758

Quote: 50745
Date: 6/14/2019
By: Rudd, Michael

QUOTATION

CUSTOMER
in this offer shall refer to:

Garth Larson
City of I B - Admin Serv.
825 Imperial Beach Blvd
Imperial Beach, CA 91932
Phone (619) 628-1374
Fax (619) 429-4861

JOBSITE
in this offer shall refer to:

Garth Larson 619-515-8006
Imperial Beach Fire Station
865 Imperial Beach Blvd
Imperial Beach, CA 91932
Phone (619) 423-8223
Fax

17322.0-We propose to remove and haul the (2) 25'x 15'-3" Overhead sectional doors. Furnish and install (2) 25'x 15'-3" Cookson Model 1024 high performance coiling service doors, Tan Finalcote color, motor operated with a 2 Micanan hp, 230V 3ph, variable speed motor with aux hand chain, inertia brake, springless shaft design, monitored photo safety eyes, light curain, 2-wire sensing edge with wireless edge kit, 5yr warranty by manufacturer, 24" opening speed of 12" per second closing speed, includes scissor lifts and forklifts, prevailing wage quoted.

Materials & Freight - \$57,353.00 Labor - \$17,322.00

NOTES:

Quote valid for 45 days from printed date.
If waiver of subrogation is required please add \$250.00 to below price.
Licenses, permits, badges, sill angle, padlocks, and finish-field paint, if desired, by others.
Installation to be during normal weekday working hours. All doors to be installed at the same time.
All electrical disconnect, wiring and hook ups including low voltage and mounting of control station by others.
Industry standard 60-month warranty on new doors is included.
Industry standard 12-month labor warranty is included.
Please sign this proposal, fill out the lien information form, sign the terms and conditions, and return them to place this order.

This Quote must be Signed and Returned to Place this Order.

TOTAL: \$74,675.00

NOTICE: Under the Mechanic's Lien Law (California Code of Civil Procedure, Section 1181 et seq.), any contractor, subcontractor, laborer, supplier or other person who helps to improve your property but is not paid for his work or supplies, has a right to enforce a claim against your property. This means that, after a court hearing, your property could be sold by a court officer and the proceeds of the sale used to satisfy the indebtedness. This can happen even if you have paid your own contractor in full, if the subcontractor, laborer or supplier remains unpaid.

The terms and conditions set forth above constitute the entire offer of Vinyard Doors, Inc. and any additional terms proposed by CUSTOMER are rejected unless expressly assented to in writing. ACCEPTANCE of the OFFER shall constitute a CONTRACT on the terms and conditions set forth herein. Acceptance of this offer shall be communicated to Vinyard Doors, Inc. by returning the offer DATED and SIGNED by an AUTHORIZED agent or representative of CUSTOMER.

If you are not a commercial business or mercantile organization, proprietorship, partnership or corporation, you may cancel this transaction at any time prior to midnight on the third business day after the date of execution hereon.

THIS OFFER SUBJECT
TO TERMS AND CONDITIONS
STATED ABOVE.

YOUR SIGNATURE HEREON
ACKNOWLEDGES YOUR
ACCEPTANCE

We ACCEPT your OFFER and AGREE to be bound by the terms and conditions set forth herein.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_
Authorized agent or representative

Print or type name and title

Contractors's License No. \_\_\_\_\_





STAFF REPORT  
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: ANDY HALL, CITY MANAGER *AB*  
MEETING DATE: SEPTEMBER 18, 2019  
ORIGINATING DEPT.: PUBLIC WORKS *CH*  
SUBJECT: PROCLAMATION FOR TIJUANA RIVER ACTION MONTH FOR OCTOBER

**EXECUTIVE SUMMARY:**

The cleanup and restoration of the Tijuana River Watershed requires a committed community effort from government agencies, NGO's, elected officials, and volunteers. Tijuana River Action Month establishes a month-long series of education and stewardship activities to benefit the Tijuana River watershed. Events are held every Saturday between September 14 and October 19, 2019.

**FISCAL ANALYSIS:** No impact to budget and part of regular program activities within the Environmental Division

**RECOMMENDATION:**

Adopt Resolution No. 2019-8089 authorizing the mayor to sign proclamation and forward to the Tijuana River Action Network.

**OPTIONS:**

- Receive and file the report from the City Manager
- Request additional information and an additional report

**BACKGROUND/ANALYSIS:**

2019 marks the 10<sup>th</sup> Annual Tijuana River Action Month (TRAM) which involves a series of bi-national stewardship, public education, and cleanup activities during the months of September and October to benefit the Tijuana River Watershed. This time period is critical since there is a very small window of opportunity between the end of bird nesting season and the start of the rainy season to enter the river valley and remove as much trash as possible. Tijuana River Action Month is the compilation of efforts by multiple agencies and community groups over the month of September and October to raise public awareness and involvement to cleanup and restore the Tijuana River Valley.

Tijuana River Action Month is coordinated each year through the Tijuana River Action Network, which consists of representatives from local NGOs and agencies in the watershed to help plan, coordinate, and implement activities that will engage the public through conservation and

restoration of the Tijuana River. The efforts by the Tijuana River Action Network are important because it brings together the existing work in the watershed from multiple agencies and NGOs under a common framework that can most effectively provide advocacy for the cleanup and restoration of the watershed. The Mayor of Imperial Beach has provided a supporting proclamation each year for Tijuana River Action Month since the start of the event in 2010.

The City is actively involved on cleanup and restoration efforts in the Tijuana River Valley and this proclamation is one additional way for the City to raise awareness on the issues in the Tijuana River.

The timing and location of scheduled events are subject to change to accommodate weather conditions. Follow events at [www.tjriveraction.net](http://www.tjriveraction.net). The following is a list of activities and cleanups that are planned for the months of September and October:

- |                            |  |
|----------------------------|--|
| September 21 <sup>st</sup> | <ul style="list-style-type: none"><li>• Coastal Cleanup Day<br/>Border Field State Park and Tijuana River Valley Community Garden (9AM-12PM)</li></ul> |
| September 27 <sup>th</sup> | <ul style="list-style-type: none"><li>• National Public Lands Day<br/>Tijuana Estuary Visitor Center (9AM-12PM)</li></ul>                              |
| October 5 <sup>th</sup>    | <ul style="list-style-type: none"><li>• Habitat Restoration<br/>Monument Mesa at Border Field State Park (9AM-12PM)</li></ul>                          |
| October 19 <sup>th</sup>   | <ul style="list-style-type: none"><li>• Speaker Series<br/>Tijuana Estuary Training Center (10-11AM)</li></ul>   |

**ENVIRONMENTAL DETERMINATION:**

Not a project as defined by CEQA.

Attachments:

1. Resolution No. 2019-8089
2. Proclamation for Tijuana River Action Month

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AUTHORIZING THE MAYOR TO SIGN A PROCLAMATION FOR TIJUANA RIVER ACTION MONTH FOR OCTOBER**

**WHEREAS**, 2019 marks the 10<sup>th</sup> Annual Tijuana River Action Month that involves a series of bi-national stewardship, public education, and cleanup activities during the months of September and October to benefit the Tijuana River Watershed; and

**WHEREAS**, the City is dedicated to improving the water quality and environmental habitat of the bi-national Tijuana River watershed; and

**WHEREAS**, the month of October recognizes key efforts and investments by public and private agencies, nonprofits, and community groups to protect and restore the Tijuana River; and

**WHEREAS**, the Mayor of Imperial Beach has provided a supporting proclamation each year for Tijuana River Action Month since the start of the event in 2010.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Imperial Beach as follows:

1. The above recitals are true and correct.
2. The Mayor is authorized to sign a proclamation to dedicate the Month of October as Tijuana River Action Month.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its meeting held on the 18<sup>th</sup> day of September 2019, by the following vote:

**AYES: COUNCILMEMBERS:**  
**NOES: COUNCILMEMBERS:**  
**ABSENT: COUNCILMEMBERS:**

\_\_\_\_\_  
**SERGE DEDINA, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JACQUELINE M. KELLY, MMC**  
**CITY CLERK**



# PROCLAMATION

## October is Tijuana River Action Month

**WHEREAS,** *the City is dedicated to improving the water quality and environmental habitat of the bi-national Tijuana River watershed; and*

**WHEREAS,** *the Tijuana River watershed provides important ecological and recreational resources to South San Diego County; and*

**WHEREAS,** *the health and well-being of the South Bay community is directly connected to the health of The Tijuana River watershed; and*

**WHEREAS,** *the month of October recognizes key efforts and investments by public and private agencies, nonprofits, and community groups to protect and restore the Tijuana River.*

**NOW, THEREFORE, BE IT RESOLVED,** *that I, Serge Dedina, Mayor of the City of Imperial Beach, California, together with the City Council, do hereby recognize the month of October as Tijuana River Action Month.*

*Dated: September 18<sup>th</sup>, 2019*

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*Serge Dedina, Mayor*

*Attest:*

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*Jacqueline M. Hald, MMC, City Clerk*



**STAFF REPORT  
CITY OF IMPERIAL BEACH**

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** ANDY HALL, CITY MANAGER *AH*

**MEETING DATE:** SEPTEMBER 18, 2019

**ORIGINATING DEPT.:** CITY MANAGER

**SUBJECT:** ADOPTION OF RESOLUTION 2019-8087 APPROVING AND AUTHORIZING THE EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT CREATING THE SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY AND INTRODUCTION OF ORDINANCE 2019-1187 AUTHORIZING AND ENABLING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM; AND APPOINTMENT OF AN IMPERIAL BEACH REPRESENTATIVE

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**EXECUTIVE SUMMARY:**

The cities of Chula Vista, Encinitas, La Mesa, and San Diego have been organizing a Joint Exercise of Powers Authority (JPA) to purchase power for those communities that is price competitive and with a larger percentage of the power generated from renewable resources. The City of Imperial Beach has been invited to join the JPA, and it is possible that additional community will be invited to join in the future. Resolution 2019-8087 will allow the City to join the JPA and Ordinance 2019-1187 provides the enabling authority to implement a Community Choice Aggregation Program. This action will also allow the City of Imperial Beach to further the established goals of the adopted Climate including the intention to offer residents and businesses 100% clean renewable energy by 2035.

**FISCAL ANALYSIS:**

In order to join the JPA, the City of Imperial Beach will need to conduct an investigation, pursuit or implementation of community choice aggregation study with San Diego Gas & Electric. It is anticipated that this study will cost approximately \$2,592. A portion of this funding was approved by the City Council on September 4, 2019, and approval of this staff report will ratify the increased amount.

**RECOMMENDATION:**

Staff recommends approval of Resolution 2019-8087 and Introduction of Ordinance 2019-1187 authorizing the execution of a Joint Exercise of Powers Authority and enabling the implementation of a Community Choice Aggregation Program.

**OPTIONS:**

- Approval of Resolution 2019-8087 and Ordinance 2019-1187 as proposed.

- Continue one or both of the agenda items with direction to staff to provide additional information.
- Deny one or both of the agenda items.

### **BACKGROUND/ANALYSIS:**

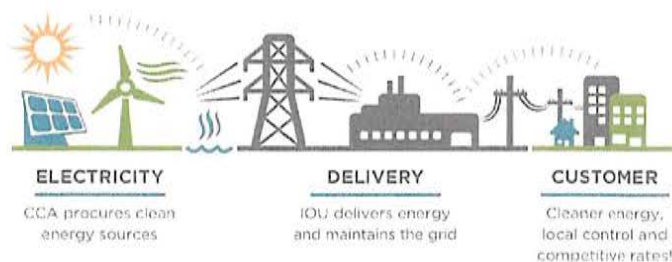
The City of Imperial Beach would like to expressly thank the City of Chula Vista and the City of San Diego for much of the content of this staff report. Several communities in San Diego County have completed a Community Choice Aggregation feasibility study and cost benefit analysis to determine if municipalities in the region could purchase power that is generated, at a higher percentage, from renewable resources at a competitive price. EES Consulting, Inc. (EES) has completed feasibility studies for Chula Vista, La Mesa, Santee, Encinitas, Carlsbad, Oceanside, and Del Mar and is completing a study for the County of San Diego. These studies demonstrate the benefits of working together in a JPA to realize the best power purchasing alternatives. The City of Imperial Beach could expend the funds necessary to complete a similar study, but it is fairly inherent given the size of the community that there will be considerable economies of scale in joining the JPA and purchasing power as part of a larger organization.

The City of Chula Vista has agreed to provide Imperial Beach with the findings of their feasibility study for comparative analysis and background information. The results of the study indicate that a Community Choice Aggregation (CCA) is financially feasible and could provide benefits to all participating residents and businesses. The study confirms that electric retail rates are estimated to be 2% lower than SDG&E rates. Furthermore, a sensitivity analysis indicates that the ranges of prices for different market conditions will in most cases not negatively impact CCA rates compared to SDG&E rates.

Because the decision of what power to purchase is made by the members of the JPA and each of the communities shares a goal to purchase power generated from renewable resources, membership in the JPA will allow the City of Imperial Beach to strive for 100% of the power being generated from renewable resources within the timeframe identified in the City's Climate Action Plan. Other benefits from local decision making include the ability to offer economic development incentives, targeted energy efficiency and demand response programs, and investing in local renewable energy projects. Some key factors for Imperial Beach joining with other partners in a JPA include economies of scale and ease of implementation. If the City chooses to operate their own CCA, the City would need to have their own staff and overhead, whereas these costs can be shared in the JPA model. Some potential risks from forming a CCA include: loss of customers, regulatory changes, and unexpected change in energy market prices.

A CCA, also referred to as CCE (Community Choice Energy) is a program that allows local governments to procure power on behalf of their residents and businesses from an alternative supplier while still receiving transmission and distribution service from their existing utility provider, in this case SDG&E. CCAs are an attractive option for communities that

want more local control over their electricity sources, more renewable power than is offered by the utility, and competitive electricity prices. By aggregating demand, communities gain leverage to negotiate better rates with competitive suppliers and choose greener power sources.



Participation in a CCA is always voluntary. California CCAs have opt-out provisions, meaning when a community begins a program, customers are given advanced notice and have the choice to opt-out of the CCA program and continue to receive electricity from their current supplier. Customers that do not opt-out are automatically enrolled in the program. There are currently 18 CCA programs operating in California that collectively serve more than 4 million accounts.

In San Diego County, Solana Beach is the only jurisdiction with a CCA program, the Solana Energy Alliance (SEA), which was launched in 2018 and serves more than 7,000 households. The City of San Diego is leading an effort to create a regional CCA that will be operated through a JPA structure that will initially include the City of San Diego, Chula Vista, La Mesa, Encinitas and the City of Imperial Beach.

If local jurisdictions would like to pursue a CCA in their community, there are three main ways they are currently governed. The table below provides a brief description of the three options with a summary of their benefits and risks.

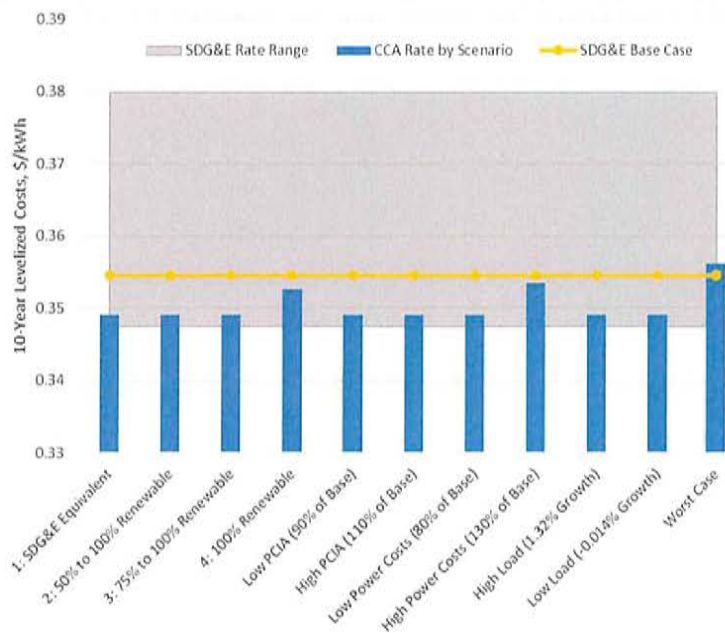
### CCA Governance Options

CCA Governance	Description	Benefit	Risk
<b>Enterprise</b> (City Forms Individual CCA)	The City creates a standalone CCA for its residents that would only serve that jurisdictions residents.	Maximum local control, less complicated governance.	Lack of ability to share non-power supply costs with others, possible financial risk to General Fund from CCA obligations, City responsible for all staffing, lack of economies of scale for procurement.
<b>Partner CCA, Regional CCA and Other JPA Options</b> (City Forms or Joins JPA)	The City working with other jurisdictions who jointly create and operate a CCA that serves all member of the participating jurisdictions.	More financially viable than operating individually, due to the ability to spread overhead costs, greater economy of scale for procurement and provides a clear separation between the CCA and the City's General Fund.	More complicated governance depending on JPA membership and size because the organization needs agreement by all member jurisdictions.
<b>Enterprise JPA</b> (City forms an Enterprise CCA then joins a JPA)	City forms its own CCA program and later joins a JPA formed with other jurisdictions.	Increase economies of scale, increased local control of rates and community outreach.  This allows the single jurisdiction to exert some local control over the CCA operations while working collectively to take advantage of economies of scale mainly for non-power supply costs but can also partner to procure power if power purchases are aligned.	Possible financial risk to General Fund, loss of some local control in so much as the City is not aligned with other JPA members goals.

The Study found that if implemented the CCA would provide multiple potential benefits including:

- The CCA is estimated to have 2% lower electricity bills for CCA customers under most scenarios.
- A CCA would be an increase in the proportion of energy generated and supplied by renewable resources, on average, with 15% more renewable energy over the study period than the modeled SDG&E rate.
- The CCA has the potential for future increased energy investment and savings with further reduction in emissions due to expanded energy efficiency programs through CPUC or excess revenue funding.
- The Study shows that a path to 100% renewable energy by 2035 is feasible and could provide a significant amount of increased renewable energy resources in earlier years.

The study evaluated a range of sensitivities of key CCA operations where risk is perceived including: SDG&E rates and surcharges, regulatory risks, power supply costs, availability of renewable and GHG-free resources, financial risks, and loads and customer participation rates. This sensitivity shows that under most unfavorable market conditions CCA rates will maintain similar or lower than utility rates than SDG&E.



To launch a CCA by 2021 the City would have to participate in the JPA and vote to join in September of 2019. If any other governance options are desired the earliest CCA start date would be 2022 due to CPUC filing requirements.

The table below indicates the 19 current CCA programs operating in California that collectively serve more than 4 million accounts.

### Existing CCA Programs in California

CCA	Customer Accounts	Governance	CCA	Customer Accounts	Governance
Solana Energy Alliance	7,300	Enterprise	Sonoma Clean Power	225,000	JPA



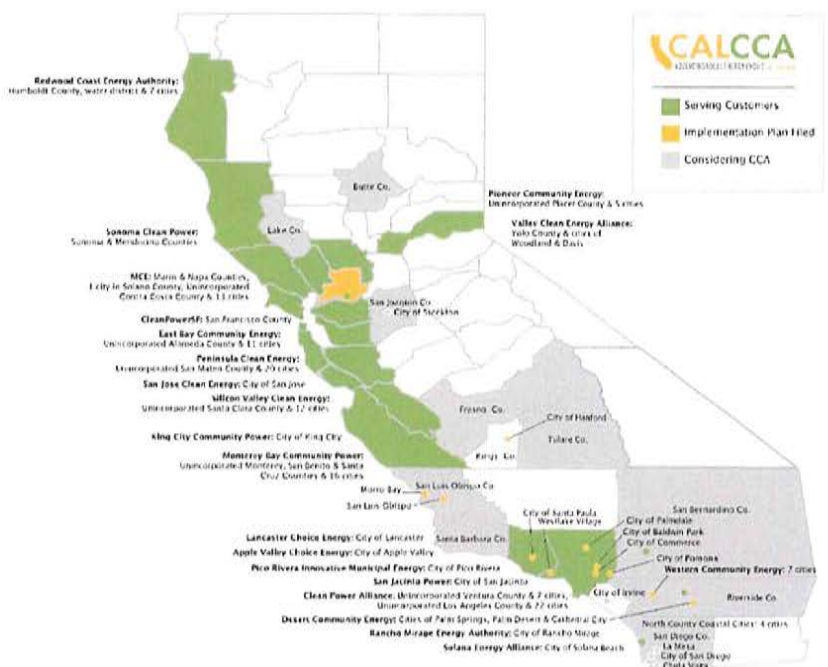
Rancho Mirage Energy Authority *	14,500	Enterprise JPA	Silicon Valley Clean Energy	270,000	JPA
San Jacinto Power*	14,500	Enterprise JPA	Monterey Bay Community Power	277,000	JPA
Pico Rivera Innovative Municipal Energy*	17,600	Enterprise JPA	San Jose Clean Energy	332,500	Enterprise
Apple Valley Choice Energy*	25,000	Enterprise JPA	Peninsula Clean Energy	293,000	JPA
Lancaster Choice Energy*	50,000	Enterprise JPA	CleanPowerSF	376,000	Enterprise
Valley Clean Energy	54,200	JPA	MCE	470,000	JPA
Redwood Coast Energy Authority	62,000	JPA	East Bay Community Energy	533,000	JPA
Pioneer Community Energy	79,500	JPA	Clean Power Alliance	972,000	JPA
King City Community Power	NA	Enterprise			

The map to the right, provided by CalCCA, indicates another 12 jurisdictions have filled their implementation plan with the CPUC and more jurisdictions are considering launching a CCA program.

Some elements of CCA operations, like billing, transmission, distribution and metering will continue to be conducted by SDG&E, including the customer service.

**Appointment of Representative**

Each member jurisdiction will need to appoint a representative to the JPA. With the Advice and Consent of the City Council, Mayor Dedina will appoint Councilman West to serve as the representative for Imperial Beach until January when annual appointments are made, at which time his



appointment may be extended or another member of the City Council may be appointed to serve on the JPA.

**ENVIRONMENTAL DETERMINATION:**

Staff has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the proposed actions are not a project as defined by CEQA.

Attachments: 1. Ordinance 2019-1187  
2. Resolution 2019-8087  
3. Draft CCA Agreement

**ORDINANCE NUMBER 2019-1187**

Attachment 1

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AUTHORIZING AND ENABLING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM**

**WHEREAS**, Assembly Bill 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2; the “Act”), added statutes to the Public Utilities Code authorizing local governmental bodies to individually or jointly provide retail electric commodity service to an aggregation of customers within their jurisdictions, a service referred to as Community Choice Aggregation (CCA); and

**WHEREAS**, the City of Imperial Beach (City) adopted a Climate Action Plan on July 17, 2019, which contains a goal for 100% percent of electricity used in the City to be generated from renewable fuel sources by 2030; and

**WHEREAS**, the City has been actively investigating the feasibility of commencing CCA service for electric customers within the City, with the objective of making greater renewable electric portfolio content available to customers, providing greater local involvement over the provision of electric commodity services, and promoting competitive commodity rates; and

**WHEREAS**, a CCA Feasibility Study has been completed that determined that a CCA program could result in local benefits including the use of renewable energy at levels above the State Renewables Portfolio Standard, the provision of competitive rates to consumers, and economic opportunity for the City; and

**WHEREAS**, pursuant to Sections 331.1(b) and 366.2 of the Act, two or more entities authorized to be a community choice aggregator may participate jointly in a CCA program through a Joint Powers Authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts the Ordinance required by Public Utilities Section 366.2; and

**WHEREAS**, the City wishes to implement a CCA program at this time through a Joint Powers Authority together with other Founding Member local governments which will be called the San Diego Regional Community Choice Energy Authority (SDRCCEA); and

**WHEREAS**, under Public Utilities Code section 366.2, customers have the right to opt out of the CCA program and continue to receive bundled electric commodity service from the incumbent utility; and

**WHEREAS**, Public Utilities Code section 366.2(c)(12) provides that an entity which elects to implement a CCA program within its jurisdiction must do so by Ordinance; and

**WHEREAS**, This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, as it is not a “project”

and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a).) Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. § 15061(b)(3).) The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assure the maintenance, restoration, enhancement or protection of the environment. (14 Cal. Code Regs. § 15308.) The Director of Community Development shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

**NOW, THEREFORE**, the City Council of the City of Imperial Beach does Ordain as follows:

**Section 1.** That the recitals set forth above are true and correct and are incorporated as though fully set forth herein.

**Section 2.** Based upon the findings and declarations set forth in this Ordinance, and to provide businesses and residents within the jurisdictional boundaries of the City with a choice of electric commodity providers and with the benefits described in the recitals above, the City Council hereby elects pursuant to Public Utilities Code section 366.2(c)(12) to implement a CCA program within the jurisdiction of the City of Imperial Beach by participating in the CCA program of the SDRCCCEA, under the terms and conditions provided in its Joint Powers Agreement, on file with the Office of the City Clerk.

**Section 3.** If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Imperial Beach hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

**Section 4.** This Ordinance shall take effect and be in force on the thirtieth day from and after its final passage. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

APPROVED AS TO FORM: City Attorney

By \_\_\_\_\_  
Jennifer Lyon  
Imperial Beach City Attorney

I hereby certify that the foregoing Ordinance was passed by the Council of the City of Imperial Beach, at this meeting of September 18<sup>th</sup>, 2019.

By: \_\_\_\_\_  
Jacque Kelly,  
Imperial Beach City Clerk

Approved: \_\_\_\_\_  
Serge Dedina,  
Imperial Beach Mayor

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

**RESOLUTION 2019-8087**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH APPROVING AND AUTHORIZING THE EXECUTION OF THE JOINT EXERCISE OF POWERS AGREEMENT CREATING THE SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY**

**WHEREAS**, Section 6500 et seq. of the Government Code authorizes the joint exercise by two or more public agencies of any power common to them as a Joint Powers Authority ("JPA"); and

**WHEREAS**, Public Utilities Code Section 366.2(c)(12) specifically authorizes two or more cities and counties to conduct a Community Choice Aggregation (CCA) program through the creation of a Joint Powers Authority; and

**WHEREAS**, the creation of a JPA would allow members to share resources and jointly provide and achieve the environmental and economic benefits of a CCA program on a regional basis; and

**WHEREAS**, the City of Imperial Beach desires to enter into a Joint Exercise of Powers Agreement to establish the San Diego Regional Community Choice Energy Authority along with the cities of Chula Vista, Encinitas, La Mesa, San Diego, and any additional members approved by the JPA Board in the future.

**NOW, THEREFORE**, the City Council of the City of Imperial Beach hereby resolves as follows:

1. The Joint Exercise of Powers Agreement Creating the San Diego Regional Community Choice Energy Authority (SDRCCEA) is hereby approved, and the Mayor is authorized to execute the Agreement in substantially the form attached hereto as Exhibit A, together with minor technical or clerical corrections, if any.
2. Staff is authorized and directed to take such further actions as may be necessary and appropriate to implement the intent and purposes of this Resolution.
3. This Resolution and the creation of the SDRCCCEA is exempt from the requirements of the California Environmental Quality Act (CEQA), as it involves organizational and administrative activities of government that will not result in direct or indirect physical changes on the environment, and therefore is not considered a "project." (14 Cal. Code Regs. § 15378(b)(5).)

**PASSED AND ADOPTED** on this 18<sup>th</sup> day of September, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Serge Dedina,  
Mayor, City of Imperial Beach

**ATTEST:**

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Jacque Kelly,  
City Clerk, City of Imperial Beach

**San Diego Regional Community Choice Energy Authority**

**- DRAFT Joint Powers Agreement -**

Effective \_\_\_\_\_

DRAFT



SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY –  
DRAFT JOINT POWERS AGREEMENT

**SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY  
DRAFT JOINT POWERS AGREEMENT**

This Joint Powers Agreement (the “Agreement”), effective as of \_\_\_\_\_, is made by the Founding Members of San Diego Regional Community Choice Energy Authority (Authority) including cities of San Diego, Chula Vista, La Mesa, Encinitas, and Imperial Beach, and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the public agencies set forth in **Exhibit B**.

**RECITALS**

1. The Parties are public agencies sharing various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.
2. SB 350, adopted in 2015, mandates a reduction in greenhouse gas emissions to 40 percent below 1990 levels by 2030 and to 80 percent below 1990 levels by 2050. In 2018, the State Legislature adopted SB 100, which directs the Renewable Portfolio Standard to be increased to 60% renewable by 2030 and establishes a policy for eligible renewable energy resources and zero-carbon resources to supply 100 percent of electricity retail sales to California end-use customers by 2045.
3. The purposes for the Founding Members (as such term is defined in Exhibit A) entering into this Agreement include procuring/developing electrical energy for customers in participating jurisdictions, addressing climate change by reducing energy-related greenhouse gas emissions, promoting electrical rate price stability, and fostering local economic benefits such as job creation, local energy programs and local power development. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to State, regional, and local solar and wind energy production and energy storage.
4. The Parties to this Agreement desire to establish a separate public agency, known as the San Diego Regional Community Choice Energy Authority ("Authority"), under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") in order to collectively study, promote, develop, conduct, operate, and manage energy programs.
5. The Founding Members have each adopted an ordinance electing to implement through the Authority a Community Choice Aggregation program pursuant to California Public Utilities Code Section 366.2 ("CCA Program"). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program on behalf of participating jurisdictions.
6. By establishing the Authority, the Parties seek to:

SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY –  
DRAFT JOINT POWERS AGREEMENT

- (a) Provide electricity service to residents and businesses located within the municipal boundaries of the public agencies that signed on to this agreement in a responsible, reliable, innovative, and efficient manner;
- (b) Provide electric generation rates to all ratepayers that are lower or at least competitive with those offered by the Investor Owned Utility (IOU), San Diego Gas & Electric (SDG&E), for similar products;
- (c) Offer differentiated energy products for standard commodity electric service that provide a cleaner power portfolio than that offered by the IOU for similar service and a 100 percent renewable content option in which communities and customers may "opt-up" and voluntarily participate, with the ultimate objective of achieving—and sustaining—100 percent renewable energy availability and usage, at competitive rates, within the Authority service territory by no later than 2035, and then beyond;
- (d) Develop an aggregate electric supply portfolio with overall lower greenhouse gas (GHG) emissions than the IOU, and one that supports near-term achievement of the Parties' greenhouse gas reduction goals and renewable electricity goals;
- (e) Prioritize the use and development of local, cost-effective renewable and distributed energy resources in ways that encourage and support local power development and storage, avoids the use of unbundled renewable energy credits, and excludes coal and avoids nuclear contracts;
- (f) Promote an energy portfolio that incorporates energy efficiency and demand response programs and pursues ambitious energy consumption reduction goals;
- (g) Provide a range of energy product and program options, available to all Parties and customers, that best serve their needs, their local communities, and support regional sustainability efforts.
- (h) Demonstrate quantifiable economic benefits to the region including prevailing wage jobs, local workforce development, economic development programs, new energy programs, and increased local energy investments;
- (i) To the extent authorized by law, support a stable, skilled, and trained workforce through a variety of mechanisms, including neutrality agreements, that are designed to ensure quality workmanship at fair and competitive rates and which benefit local residents by delivering cost-effective clean energy programs and projects;
- (j) Promote supplier and workforce diversity, including returning veterans and those from regional disadvantaged and under-represented communities of concern, to reflect the diversity of the region;

SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY –  
DRAFT JOINT POWERS AGREEMENT

- (k) Promote personal and community ownership of renewable generation and energy storage resources, spurring equitable economic development and increased resilience throughout the region.
- (l) Ensure that low-income households are provided with affordable electric rates and have access to special utility rates including California Alternative Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) programs;
- (m) Pursue purposeful and focused investment in communities of concern, prioritization of local renewable power, workforce development, and policies and programs centered on economic, environmental, and social equity.
- (n) Use discretionary program revenues to support the Authority’s long-term financial viability, enhance customer rate stability, and provide all Parties and their customers with access to innovative energy programs, projects and services throughout the region; and
- (o) Create an administering Authority that is financially sustainable, responsive to regional priorities, well-managed, and a leader in fair and equitable treatment of employees through adopting appropriate best practice employment policies, including but not limited to efficient consideration of petitions to unionize, participating in collective bargaining, if applicable, and providing appropriate wages and benefits.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

**1. DEFINITIONS AND EXHIBITS**

1.1 **Definitions.** Capitalized terms used in this Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.

1.2 **Documents Included.** This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement:

- Exhibit A: Definitions
- Exhibit B: List of Founding Members
- Exhibit C: Annual Energy Use by Jurisdiction
- Exhibit D: Voting Shares of Founding Members
- Exhibit E: Signatures

**2. FORMATION OF THE SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY**

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- 2.1 **Effective Date and Term.** This Agreement shall become effective and the Authority shall exist as a separate public agency on the date this Agreement is executed by the City of San Diego and at least one other public agency after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(12). The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until the Agreement is terminated in accordance with Section 8.4 (Mutual Termination) of this Agreement, subject to the rights of the Parties to withdraw from the Authority, pursuant to Section 8.1.
- 2.2 **Formation of the Authority.** Under the Act, the Parties hereby create a separate joint exercise of power agency which is named San Diego Regional Community Choice Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. The jurisdiction of the Authority shall be all territory within the geographic boundaries of the Parties; however, the Authority may, as authorized under applicable law, undertake any action outside such geographic boundaries as is necessary and incidental to the accomplishment of its purpose.
- 2.3 **Purpose.** The purpose and objectives of this Agreement are to establish the Authority, to provide for its governance and administration, and to define the rights and obligations of the Parties. This Agreement authorizes the Authority to provide opportunities by which the Parties can work cooperatively to create economies of scale, provide for stronger regulatory and legislative influence at the State level, and implement sustainable energy initiatives that reduce energy demand, increase energy efficiency, and advance the use of clean, efficient, and renewable resources in the region for the benefit of all the Parties and their constituents, including, but not limited to, establishing and operating a Community Choice Aggregation program.
- 2.4 **Addition of Parties.** After the initial formation of the Authority by the Founding Members, any incorporated municipality, county, or other public agency authorized to be a community choice aggregator under Public Utilities Code Section 331.1 located within the service territory of the IOU may apply to and become a member of the Authority if all the following conditions are met:
- 2.4.1 The adoption by a two-thirds vote of the Board satisfying the requirements described in Section 4.11 (Board Voting) of this Agreement, of a resolution authorizing membership into the Authority;
- 2.4.2 The adoption by the public agency of a CCA ordinance as required by Public Utilities Code Section 366.2(c)(12) and approval and execution of this Agreement and other necessary program agreements by the public agency;

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2.4.3 Payment of a membership fee, if any, as may be required by the Board to cover Authority costs incurred in connection with adding the new party; and

2.4.4 Satisfaction of any other reasonable conditions established by the Board.

Pursuant to this Section 2.4 (Addition of Parties), all Parties shall be required to commence electric service as soon as is practicable within statutory and regulatory requirements, as determined by the Board and Authority management, as a condition to becoming a Party to this Agreement.

2.5 **Continuing Participation.** The Parties acknowledge that membership in the Authority may change by the addition, withdrawal and/or termination of Parties. The Parties agree to participate with such other Parties as may later be added by the Board, as described in Section 2.4 (Addition of Parties) of this Agreement. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

**3. POWERS**

3.1 **General Powers.** The Authority shall have the powers common to the Parties which are necessary or appropriate to the accomplishment of the purposes of this Agreement, subject to the restrictions set forth in Section 3.4 (Limitation on Powers) of this Agreement.

3.2 **Specific Powers.** Specific powers of the Authority shall include, but not be limited to, each of the following powers, which may be exercised at the discretion of the Board:

3.2.1 make and enter into contracts;

3.2.2 employ agents and employees, including but not limited to a Chief Executive Officer;

3.2.3 acquire, own, contract, manage, maintain, and operate any buildings, public works, improvements or other assets including but not limited to public electric generation resources;

3.2.4 acquire property for electric generation/interconnection purposes by eminent domain, or otherwise, except as limited under Section 6508 of the Act and Sections 3.6 and 4.12.3 of this Agreement, and to hold or dispose of any property; provided, however, the Authority shall not exercise the power of eminent domain within the jurisdiction of a Party over its objection;

3.2.5 lease any property;

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- 3.2.6 sue and be sued in its own name;
  - 3.2.7 incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers authorized by law pursuant to Government Code Section 53850 et seq. and authority under the Act;
  - 3.2.8 issue revenue bonds and other forms of indebtedness;
  - 3.2.9 apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state or local public agency;
  - 3.2.10 form independent corporations or entities, if necessary, to carry out energy supply and energy conservation programs at the lowest possible cost or to take advantage of legislative or regulatory changes;
  - 3.2.11 submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;
  - 3.2.12 adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority;
  - 3.2.13 make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services;
  - 3.2.14 enter into neutrality agreements where the Authority has a proprietary or significant financial interest, negotiate project labor agreements, community benefits agreements and collective bargaining agreements with the local building trades council and other interested parties; and
  - 3.2.15 receive revenues from sale of electricity and other energy-related programs.
- 3.3 **Additional Powers to be Exercised.** In addition to those powers common to each of the Parties, the Authority shall have those powers that may be conferred upon it by law and by subsequently enacted legislation.
- 3.4 **Limitation on Powers.** As required by Section 6509 of the Act, the powers of the Authority are subject to the restrictions upon the manner of exercising power possessed by the City of Encinitas and any other restrictions on exercising the powers of the Authority that may be adopted by the Board.
- 3.5 **Obligations of the Authority.** The debts, liabilities, and obligations of the Authority shall not be the debts, liabilities, and obligations of any of the Parties unless a Party agrees in writing to assume any of the debts, liabilities, and

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obligations of the Authority with the approval of its Governing Body, in its sole discretion. In addition, pursuant to the Act, no Director shall be personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance of bonds.

3.6 **Compliance with Local Zoning and Building Laws.** Notwithstanding any other provisions of this Agreement or state law, any facilities, buildings or structures located, constructed or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities are constructed.

3.7 **Compliance with the Political Reform Act and Government Code Section 1090.** The Authority and its officers and employees shall comply with the Political Reform Act (Government Code Section 81000 et seq.) and Government Code Section 1090 et seq. The Board shall adopt a Conflict of Interest Code pursuant to Government Code Section 87300. The Board may adopt additional conflict of interest regulations in the Operating Policies and Procedures.

4. **GOVERNANCE**

4.1 **Board of Directors.**

4.1.1 The Governing Body of the Authority shall be a Board of Directors ("Board") consisting of two Directors for each Party appointed in accordance with Section 4.2 (Appointment and Removal of Directors) of this Agreement until there are five or more Parties of the Authority. When the fifth Party joins the Authority, the number of Directors per Party shall be reduced to one Director per Party; each Party shall determine which Director shall be that Party's representative on the Board within 45 days of the date the fifth Party joins the Authority.

4.1.2 Each Director(s) must be a member of the Governing Body of the appointing Party. Each Director shall serve at the pleasure of the Governing Body of the Party whom appointed such Director and may be removed as Director by such Governing Body at any time. If at any time a vacancy occurs on the Board, then a replacement shall be appointed to fill the position of the previous Director within 45 days after the date that position becomes vacant.

4.1.3 Once the Authority reaches five members and becomes governed by a single appointed Director for each Party, then the Governing Body of each Party shall appoint an alternate to serve in the absence of the primary Director. The alternate is not required to be a member of the Governing Body of the appointing Party. The alternate shall have all the rights and responsibilities of the primary Director when serving in his/her absence.

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- 4.1.4 Any change to the size and composition of the Board other than what is described in this section shall require amendment of this Joint Powers Agreement in accordance with Section 4.12.
- 4.2 **Appointment and Removal of Directors.** The Directors shall be appointed and may be removed as follows:
- 4.2.1 The Governing Body of each Party shall appoint and designate in writing two regular Directors if there are four or fewer Parties to this Agreement, or one regular Director if there are five or more Parties to this Agreement, who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The Governing Body of each Party shall appoint and designate in writing one alternate Director if there are five or more Parties in the Authority who may vote on matters when the regular Director is absent from a Board meeting. The alternate Director may vote on matters in committee, chair committees, and fully participate in discussion and debate during meetings. All Directors and alternates shall be subject to the Board's adopted Conflict of Interest Code.
- 4.2.2 The Authority's policies and procedures, to be developed and approved by the Board, pursuant to Section 3.2.12, shall specify the reasons for and process associated with the removal of an individual Director for cause. Notwithstanding the foregoing, no Party shall be deprived of its right to seat a Director on the Board and any such Party for which its Director and/or alternate Director have been removed may appoint a replacement.
- 4.3 **Director Compensation.** The Board may adopt by resolution a policy relating to the compensation of its Directors.
- 4.4 **Terms of Office.** Each Party shall determine the term of office for their regular and alternate Director.
- 4.5 **Purpose of Board.** The general purpose of the Board is to:
- 4.5.1 Provide structure for administrative and fiscal oversight;
- 4.5.2 Retain a Chief Executive Officer to oversee day-to-day operations of the Authority;
- 4.5.3 Retain legal counsel;
- 4.5.4 Identify and pursue funding sources;
- 4.5.5 Set policy;
- 4.5.6 Maximize the utilization of available resources; and



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- 4.5.7 Oversee all Committee activities.
- 4.6 **Specific Responsibilities of the Board.** The specific responsibilities of the Board shall be as follows:
- 4.6.1 Identify Party and ratepayer needs and requirements;
  - 4.6.2 Formulate and adopt an annual budget prior to the commencement of the fiscal year;
  - 4.6.3 Develop and implement a financing and/or funding plan for ongoing Authority operations and capital improvements, if applicable;
  - 4.6.4 Retain necessary and sufficient staff and adopt personnel and compensation policies, rules and regulations;
  - 4.6.5 Develop a workforce policy that promotes a local, sustainable, and inclusive workforce;
  - 4.6.6 Adopt policies for procuring electric supply and operational needs such as professional services, equipment and/or supplies;
  - 4.6.7 Develop and implement a Strategic Plan to guide the development, procurement, and integration of renewable energy resources consistent with the intent and priorities identified in this Agreement;
  - 4.6.8 Adopt rules for the disposal of surplus property;
  - 4.6.9 Establish standing and ad hoc committees as necessary to ensure that the interests of the Authority and concerns of each Party are represented to ensure effective operational, technical, and financial functioning of the Authority and monitor the distribution and usage of Authority programs and benefits throughout the Authority's service territory;
  - 4.6.10 The setting of retail rates for power sold by the Authority and the setting of charges for any other category of retail service provided by the Authority;
  - 4.6.11 To wind up and resolve all obligations of the Authority in the event the Authority is terminated pursuant to Section 8.2;
  - 4.6.12 Address any concerns of consumers and customers;
  - 4.6.13 Conduct and oversee Authority operational audits at intervals not to exceed three years including review of customer access to Authority programs and benefits, where applicable;
  - 4.6.14 Arrange for an annual independent fiscal audit;

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- 4.6.15 Adopt such bylaws, rules and regulations as are necessary or desirable for the purposes hereof; provided that nothing in the bylaws, rules and regulations shall be inconsistent with this Agreement;
  - 4.6.16 Exercise the Specific Powers identified in Sections 3.2 and 4.6 except as those which the Board may elect to delegate to the Chief Executive Officer; and
  - 4.6.17 Discharge other duties as appropriate and/or required by law.
- 4.7 **Startup Responsibilities.** The Authority shall have the duty to do the following within one year of the Effective Date of the Agreement:
- 4.7.1 Oversee the preparation of, adopt, and update an implementation plan, pursuant to Public Utilities Code Section 366.2(c)(3), for electrical load aggregation;
  - 4.7.2 Prepare a statement of intent, pursuant to Public Utilities Code Section 366.2(c)(4), for electrical load aggregation;
  - 4.7.3 Encourage other qualified public agencies to participate in the Authority;
  - 4.7.4 Obtain financing and/or funding as is necessary to support start up and ongoing working capital;
  - 4.7.5 Evaluate the need for, acquire, and maintain insurance;
  - 4.7.6 Consider and take action on the assumption of City of San Diego consulting and services agreements related to the Authority's start up and implementation activities, subject to the City of San Diego continuing to advance payment, or if another source is secured by the JPA, until such time as an agreement is executed for payment of Initial Costs as specified under Section 7.3.2.
- 4.8 **Meetings and Special Meetings of the Board.** The Board shall hold at least four regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour, and place of each regular meeting shall be fixed annually by resolution of the Board. The location of regular meetings may rotate for the convenience of the Parties, subject to Board approval and availability of appropriate meeting space. Regular meetings may be adjourned to another meeting time. Special meetings of the Board may be called in accordance with the provisions of Government Code Section 54956. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. Board meeting agendas generally shall be set, in consultation with the Board Chair, by the Chief Executive Officer appointed by the Board pursuant to Section 5.5. The Board itself may add items to the agenda upon majority vote pursuant to Section 4.11.1.

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- 4.9 **Brown Act Applicable.** All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (Government Code Section 54950, et seq.).
- 4.10 **Quorum.** A simple majority of the Directors shall constitute a quorum. No actions may be taken by the Board without a quorum of the Directors present. If a Party fails to be represented by a Director(s) or alternate Director in more than one meeting in a 12-month period, the Board may take action by publicly noticing the Party that they are at risk of lack of representation within the Authority.
- 4.11 **Board Voting.**
- 4.11.1 **Equal Vote.** Once a quorum has been established, in general, except when Special Voting is expressly required pursuant to Section 4.12 hereof, Board action shall require votes of a majority of the total number of the Directors of the Board. All votes taken pursuant to this Section 4.11.1 shall be referred to as an “Equal Vote.” The consequence of a tie vote shall generally be “no action” taken. Notwithstanding the foregoing, an “Equal Vote” may be subject to a “Voting Shares Vote” as provided in Section 4.11.2, below.
- 4.11.2 **Voting Shares Vote.** At the same meeting at which an Equal Vote action was taken, three or more Directors shall have the right to request and have conducted a “Voting Shares Vote” to reconsider that action. Approval of a proposed action by a Voting Shares Vote to reconsider an Equal Vote action shall require the affirmative vote of Directors representing a two-thirds supermajority (66.7%) of the “Voting Shares” cast. The formula and process for allocating Voting Shares is set forth in Section 4.11.3, below. If a Voting Shares Vote for reconsideration fails, the legal effect is to affirm the Equal Vote with respect to which the Voting Shares Vote was taken. If the Voting Shares Vote succeeds, the legal effect is to nullify the Equal Vote with respect to which the Voting Shares Vote was taken. If the underlying Equal Vote was a tie, the Voting Shares Vote replaces that tie vote. No action may be taken solely by a Voting Shares Vote without first having taken an Equal Vote.
- 4.11.3 **Voting Shares Vote Formula and Process.** For the process of a Voting Shares Vote, each Director shall have a Voting Share as determined by the following formula: (Annual Energy Use/Total Annual Energy) multiplied by 100, where:
- (a) “Annual Energy Use” means, (i) with respect to the first year following the Effective Date, the annual electricity usage, expressed in kilowatt hours (“kWh”), within the Party’s respective jurisdiction and (ii) with respect to the period after the first anniversary of the Effective Date, the annual electricity usage,

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expressed in kWh, of accounts within a Party's respective jurisdiction that are served by the Authority; and

- (b) "Total Annual Energy" means the sum of all Parties' Annual Energy Use. The initial values for Annual Energy Use will be designated in **Exhibit C** and shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year. These adjustments shall be approved by the Board.

The combined voting share of all Directors representing a Party shall be based upon the annual electricity usage within the Party's jurisdiction. If a Party has two Directors, then the voting shares allocated to that Party shall be equally divided between its two Directors.

The initial voting shares will be set forth in **Exhibit D**. Exhibit D shall be revised no less than annually as necessary to account for changes in the number of Parties and changes in the Parties' Annual Energy Use. Exhibit D and adjustments shall be approved by the Board.

Notwithstanding the formula for Voting Shares set forth above, for the purposes of the Voting Shares Vote, no one Party to this Agreement shall have a Director (or Directors, as the case may be) with a Voting Share that exceeds 49%, regardless of the Party's actual annual electric usage. If a Party would have a voting share that exceeds 49%, the excess above 49% shall be distributed among the other Parties in accordance with their relative annual electricity usage, as shown in Exhibit D.

**4.12 Special Voting.**

4.12.1 Except as provided below, matters that require Special Voting as described in this section shall require 72 hours prior notice to any Brown Act meeting or special meeting.

4.12.2 Two-thirds vote (or such greater vote as required by state law) of the appointed Directors shall be required to take any action on the following:

- (a) Issue bonds or other forms of debt;
- (b) Adding or removing Parties;
- (c) Amend or terminate this Agreement or adopt or amend the bylaws of the Authority. At least 30 days advance notice shall be provided for such actions. The Authority shall also provide prompt written

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notice to all Parties of the action taken and enclose the adopted or modified documents; and

4.12.3 Three-Fourths Vote shall be required to initiate any action for Eminent Domain

4.12.4 Matters requiring Special Voting under the terms of this Section shall not be subject to Voting Shares Voting pursuant to Section 4.11.2, above.

**5. INTERNAL ORGANIZATION**

5.1 **Elected and Appointed Officers.** For each fiscal year, the Board shall elect a Chair and Vice Chair from among the Directors and shall appoint a Secretary and a Treasurer as provided in Government Code section 6505.5. No Director may hold more than one such office at any time and elected officers shall represent different Parties of the Authority. Appointed officers shall not be elected officers of the Board.

5.2 **Chair and Vice Chair.** For each fiscal year, the Board shall elect a Chair and Vice Chair from among the Directors. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The Chair shall be the presiding officer of all Board meetings, and the Vice Chair shall serve in the absence of the Chair. The Chair shall perform duties as may be imposed by the Board. In the absence of the Chair, the Vice-Chair shall perform all of the Chair's duties. The office of the Chair or Vice Chair shall be declared vacant and a new selection shall be made if: (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board, or (b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement. Upon a vacancy, the position shall be filled at the next regular meeting of the Board held after such vacancy occurs or as soon as practicable thereafter. Succeeding officers shall perform the duties normal to said offices.

5.3 **Secretary.** The Board shall appoint a qualified person who is not on the Board to serve as Secretary. The Secretary shall be responsible for keeping the minutes of all meetings of the Board and all other office records of the Authority. If the appointed Secretary is an employee of any Party, such Party shall be entitled to reimbursement for any documented out of pocket costs it incurs in connection with such employee's service as Secretary of the Authority, and full cost recovery for any documented hours of service provided by such employee during such Party's normal working hours.

5.4 **Treasurer/Chief Financial Officer and Auditor.** The Board of Directors shall appoint a Treasurer who shall function as the combined offices of Treasurer and Auditor and shall strictly comply with the statutes related to the duties and responsibilities specified in Section 6505.5 of the Act. The Treasurer for the

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Authority shall be the depository and have custody of all money of the Authority from whatever source and shall draw all warrants and pay demands against the Authority as approved by the Board. The Treasurer shall cause an independent audit(s) of the finances of the Authority to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any qualified person or entity as the law allows at the time. The duties and obligations of the Treasurer are further specified in Section 7. The Treasurer shall serve at the pleasure of the Board. If the appointed Treasurer is an employee of any Party, such Party shall be entitled to reimbursement for any documented out of pocket costs it incurs in connection with such employee's service as Treasurer of the Authority, and full cost recovery for any documented hours of service provided by such employee during such Party's normal working hours.

- 5.5 **Chief Executive Officer.** The Board shall appoint a Chief Executive Officer for the Authority, who shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The Board shall appoint a qualified person, hired through a transparent, competitive process, to act as the Chief Executive Officer; he or she may not be an elected member of the Board or otherwise representing any Party to the Authority. The Chief Executive Officer may exercise all powers of the Authority, except those powers specifically reserved to the Board including but not limited to those set forth in Section 4.6 (Specific Responsibilities of the Board) of this Agreement or the Authority's bylaws, or those powers which by law must be exercised by the Board. The Chief Executive Officer may enter into and execute power purchase agreements and other contracts, in accordance with criteria and policies established by the Board.
- 5.6 **General Counsel.** The Board shall appoint a qualified person to act as the Authority's General Counsel, who shall not be a member of the Board, or an elected official or employee of a Party.
- 5.7 **Bonding of Persons Having Access to Property.** Pursuant to the Act, the Board shall designate the public officer or officers or person or persons who have charge of, handle, or have access to any property of the Authority exceeding a value as established by the Board, and shall require such public officer or officers or person or persons to file an official bond in an amount to be fixed by the Board.
- 5.8 **Other Employees/Agents.** The Board shall have the power by resolution to hire employees or appoint or retain such other agents, including officers, loan-out employees, or independent contractors, as may be necessary or desirable to carry-out the purpose of this Agreement, pursuant to terms and conditions adopted by the Board.
- 5.9 **Privileges and Immunities from Liability.** All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief,

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disability, workers' compensation and other benefits which apply to the activities of officers, agents or employees of a public agency when performing their respective functions shall apply to the officers, agents or employees of the Authority to the same degree and extent while engaged in the performance of any of the functions and other duties of such officers, agents or employees under this Agreement. None of the officers, agents or employees directly employed by the Board shall be deemed, by reason of their employment by the Authority to be employed by the Parties or by reason of their employment by the Authority, to be subject to any of the requirements of the Parties.

5.10 **Commissions, Boards and Committees.** The Board may establish any advisory commissions, boards, and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, related energy programs, and the provisions of this Agreement. To the extent possible, the commissions, boards, and committees should have equal representation from each Party. The Board may establish criteria to qualify for appointment on said commissions, boards, and committees. The Board may establish rules, regulations, policies, or procedures to govern any such commissions, boards, or committees and shall determine whether members shall be compensated or entitled to reimbursement for expenses.

5.10.1 **Executive Committee.** The Board may establish an executive committee consisting of a subset of its Directors. The Board may delegate to the Executive Committee such authority as the Board might determine appropriate to serve as a liaison between the Board and the Chief Executive Officer and to make recommendations to the Board regarding the operations of the Authority. Notwithstanding the foregoing, the Board may not delegate authority regarding essential Board functions, including but not limited to, approving the fiscal year budget or hiring or firing the Chief Executive Officer, and other functions as provided in the Authority bylaws or policies. Further, the Board may not delegate to the Executive Committee, or any other committee, the Board's authority under Section 3.2.12 to adopt and amend Authority policies and procedures.

5.10.2 **Finance and Risk Management Committee.** The Board shall establish a finance and risk management committee consisting of a subset of its Directors. The primary purpose of the Finance and Risk Management Committee is to review and recommend to the Board:

- (a) A funding plan;
- (b) A fiscal year budget; and
- (c) Financial policies and procedures to ensure equitable contributions by Parties; and

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The Finance and Risk Management Committee may have such other responsibilities as may be approved by the Board, including but not limited to advising the Chief Executive Officer on fiscal and risk management policies and procedures, rules and regulations governing investment of surplus funds, audits to achieve best practices in corporate governance and selection and designation of financial institutions for deposit of Authority funds, and credit/depository matters.

- 5.10.3 Community Advisory Committee. The Board shall establish a Community Advisory Committee comprised of non-Board members. The primary purpose of the Community Advisory Committee shall be to advise the Board of Directors and provide for a venue for ongoing citizen support and engagement in the strategic direction, goals, and programs of the Authority. The Community Advisory Committee is advisory only, and shall not have decision-making authority, nor receive any delegation of authority from the Board of Directors. Each Party may nominate a committee member(s) and the Board shall determine the final selection of committee members, who should represent a diverse cross-section of interests, skills sets and geographic regions.
- 5.10.4 Technical Advisory Committee. The Board may establish a Technical Advisory Committee comprised of non-Board members. The primary purpose of the Technical Advisory Committee shall be to advise the Board of Directors and provide the Authority with technical support and engagement in the energy-related operations of the Authority, supplementing the expertise of the Authority staff, independent contractors, and consultants. Each Party may nominate a committee member(s) and the Board shall determine the final selection of committee members, who should have significant expertise in electric markets, programs, procurement, regulatory and legislative engagement, and/or energy law.
- 5.10.5 Meetings of the Advisory Committees. All meetings of the committees shall be held in accordance with the Brown Act. For the purposes of convening meetings and conducting business, unless otherwise provided in the bylaws, a majority of the members of the committee shall constitute a quorum for the transaction of business, except that less than a quorum or the secretary of each committee may adjourn meetings from time-to-time. As soon as practicable, but no later than the time of posting, the Secretary of the committee shall provide notice and the agenda to each Party, Director(s), and Alternate Director(s).
- 5.10.6 Officers of Advisory Committees. Unless otherwise determined by the Board, each Committee shall choose its officers, comprised of a Chair, a Vice Chair, and a Secretary.



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6. IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

6.1 **Preliminary Implementation of the CCA Program.**

6.1.1 **Enabling Ordinance.** In addition to the execution of this Agreement, each Party shall adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

6.1.2 **Implementation Plan.** The Authority shall cause to be prepared and secure Board approval of an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations, and consistent with the terms of this Agreement, as soon after the Effective Date as reasonably practicable.

6.2 **Authority Documents.** The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution or minute action, including but not necessarily limited to operational procedures and policies, the annual budget, and specific plans such as a local renewable energy development and integration plan and other policies defined as the Authority Documents by this Agreement. All such Authority Documents shall be consistent with and designed to advance the goals and objectives of the Authority as expressed in this Agreement. The Parties agree to abide by and comply with the terms and conditions of all such Authority Documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Section 8 (Withdrawal and Termination) of this Agreement.

6.3 **Integrated Resource Plan and Regulatory Compliance.** The Authority shall cause to be prepared an Integrated Resource Plan in accordance with California Public Utilities Commission regulations, and consistent with the terms of this Agreement, that will ensure the long-term development and administration of a variety of energy programs that promote local renewable resources, conservation, demand response, and energy efficiency, while maintaining compliance with other regulatory requirements including the State Renewable Portfolio Standard (RPS) and customer rate competitiveness. The Authority shall prioritize the development of cost competitive clean energy projects in San Diego and adjacent counties.

6.4 **Renewable Portfolio Standards.** The Authority shall provide its customers energy primarily from Category 1 eligible renewable resources, as defined under the California RPS and consistent with the goals of the CCA Program. The Authority shall avoid the procurement of energy from Category 2 or 3 eligible renewable resources (unbundled Renewable Energy Credits or RECs) to the extent feasible. The Authority's ultimate objective shall be to achieve—and sustain—a renewable energy portfolio with 100 percent renewable energy

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availability and usage, at competitive rates, within the Authority service territory by no later than 2035, and then beyond.

**7. FINANCIAL PROVISIONS**

7.1 **Fiscal Year.** The Authority's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.

7.2 **Depository.**

7.2.1 All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.

7.2.2 All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection and duplication by the Parties at all reasonable times. Annual financial statements shall be prepared in accordance with Generally Accepted Accounting Principles of the United States of America within 6 months of the close of the fiscal year. The Board shall contract with a certified public accountant to make an annual audit of the financial statements of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.

7.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its policies and procedures.

7.3 **Budget and Recovery Costs.**

7.3.1 **Budget.** The initial budget shall be approved by the Board. The Board may revise the budget from time to time as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be prepared and approved by the Board in accordance with its fiscal management policies that should include a deadline for approval.

7.3.2 **Funding of Initial Costs.**

(a) The City of San Diego shall fund the Initial Costs of establishing the Authority and implementing its CCA Program. In the event that the CCA Program becomes operational, the City of San Diego will be reimbursed for its Initial Costs on the terms set forth in this Section. The City shall first submit to the Founding Members a description of the types of costs, cost estimates, and interest for which it expects reimbursement. Reimbursable costs shall include,

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but not limited to, repayment of hard costs associated with CCA vendor contracts and Authority formation, reimbursement for the portion of staff costs associated with managing Authority and program formation and other out-of-pocket expenses directly attributable to the implementation of CCA through the Authority. The City will meet and confer with Founding Members in the development of its proposal for reimbursement to the Authority. The amount and the terms for City reimbursement shall be subject to the approval of the Authority Board. The Authority Board may establish a reasonable time period over which such Initial Costs are recovered once Authority revenues commence. In the event that the CCA Program does not become operational, to the extent Authority funds are available the City of San Diego may be reimbursed in accordance with section 8.6 of this Agreement.

- (b) The Authority shall also reimburse Founding Members for their Initial Costs in supporting the implementation of the Authority pursuant to the execution of an agreement specifying the services provided and their related costs. The Authority may establish reasonable costs and a reasonable time period over which such costs are recovered once Authority revenues commence. The Authority shall not provide for staff time costs or on-going cost reimbursement to Parties once the Authority becomes fully operational unless a specific Agreement between the Authority and the Party for specified services not otherwise provided by Authority staff has been approved by the Board.

7.3.3 Program Costs. The Parties desire that, to the extent reasonably practicable, all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric services under the CCA Program, including the establishment and maintenance of various reserve and performance funds, shall be recovered through appropriate charges to CCA customers receiving such electric services.

7.3.4 No Requirement for Contributions or Payments. Parties are not required under this Agreement to make any financial contributions or payments to the Authority, and the Authority shall have no right to require such a contribution or payment unless expressly set forth herein (for example, as provided in Section 2.4.3, with respect to Additional Members and provided in Section 8.1, with respect to Withdrawal), or except as otherwise required by law.

Notwithstanding the foregoing, a Party may volunteer to provide, or negotiate terms with the Authority to provide the following:

- (a) contributions from its treasury for the purposes set forth in this Agreement;

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- (b) payments of public funds to defray the cost of the purposes of the Agreement and Authority;
- (c) advances of public funds for such purposes, such advances to be repaid as provided by written agreement; or
- (d) its personnel, equipment or property in lieu of other contributions or advances.

Any agreement with the Authority to provide any of the above-referenced contributions or payments shall require a Special Vote of the Board pursuant to Section 4.12.2.

No Party shall be required, by or for the benefit of the Authority, to adopt any local tax, assessment, fee or charge under any circumstances.

7.4 **Accounts and Reports.** The Treasurer shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any trust agreement entered into with respect to the proceeds of any bonds issued by the Authority. The books and records of the Authority in the hands of the Treasurer shall be open to inspection and duplication at all reasonable times by duly appointed representatives of the Parties. The Treasurer, within 180 days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the Parties. The Treasurer shall cooperate with all regular audits required by Section 4.6.11 and 4.6.12.

7.5 **Funds.** The Treasurer shall receive, have custody of and/or disburse Authority funds in accordance with the laws applicable to public agencies and generally accepted accounting practices, and shall make the disbursements required by this Agreement in order to carry out any of the purposes of this Agreement.

**8. WITHDRAWAL AND TERMINATION**

**8.1 Withdrawal**

8.1.1 **Withdrawal by Parties.** Any Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than 180 days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's Governing Body.

8.1.2 **Amendment.** Notwithstanding Section 8.1.1 (Withdrawal by Parties) of this Agreement, a Party may withdraw its membership in the Authority upon approval and execution of an amendment to this Agreement provided that the requirements of this Section 8.1.2 are strictly followed. A Party shall be deemed to have withdrawn its

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membership in the Authority effective 180 days after the Board approves an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board.

8.1.3 **Continuing Liability; Further Assurances.** A Party that withdraws its membership in the Authority may be subject to certain continuing liabilities, as described in Section 8.5 (Continuing Liability; Refund) of this Agreement, including, but not limited to, power purchase agreements and other Authority contracts and operational obligations. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. The Board shall also consider, pursuant to Section 3.2.12, adoption of a policy that allows a withdrawing Party to negotiate assignment to the Party of costs of electric power or other resources procured on behalf of its customers by the Authority upon its withdrawal. The Authority's policies shall prescribe the rights if any of a withdrawn Party to continue to participate in those Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party. In the implementation of this Section 8.1.3, the Parties intend, to the maximum extent possible, without compromising the viability of ongoing Authority operations, that any claims, demands, damages, or liabilities covered hereunder, be funded from the rates paid by CCA Program customers located within the service territory of the withdrawing Party, and not from the general fund of the withdrawing Party itself.

8.2 **Termination of CCA Program.** Nothing contained in Section 6 or elsewhere in this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

8.3 **Involuntary Termination.** This Agreement may be terminated with respect to a Party for material non-compliance with provisions of this Agreement or Authority documents upon a two-thirds vote of the Board in which the minimum Equal Vote or Voting Shares Vote, as applicable in Section 4.11 (Board Voting) of this Agreement, shall be no less than two-thirds vote excluding the vote and voting shares of the Party subject to possible termination. Prior to any vote to terminate this Agreement with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at

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which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or the Authority Documents that the Party has allegedly violated. The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its membership in the Authority terminated may be subject to certain continuing liabilities, as described in Section 8.5 (Continuing Liability; Refund) of this Agreement.

- 8.4 **Mutual Termination.** This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 8.1 (Withdrawal) of this Agreement.
- 8.5 **Continuing Liability; Refund.** Upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liabilities arising from the Party's membership in the Authority through the effective date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any claims, demands, damages, or liabilities commencing or arising after the date of the Party's withdrawal or involuntary termination. In addition, such Party also shall be responsible for (a) any damages, losses, or costs incurred by the Authority which result directly from the Party's withdrawal or termination, including but not limited to costs arising from the resale of capacity, electricity, or any attribute thereof no longer needed to serve such Party's load; and (b) any costs or obligations associated with the Party's customer participation in any program in accordance with the program's terms, provided such costs or obligations were incurred prior to the withdrawal of the Party. The withdrawing Party agrees to pay any such deposit determined by the Authority to cover the Party's liability for the operational and contract costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any liabilities or obligations shall be returned to the Party. In the implementation of this Section 8.5, the Parties intend, to the maximum extent possible, without compromising the viability of ongoing Authority operations, that any claims, demands, damages, or liabilities covered hereunder, be funded from the rates paid by CCA Program customers located within the service territory of the withdrawing Party, and not from the general fund of the withdrawing Party itself.
- 8.6 **Disposition of Authority Assets.** Upon termination of this Agreement and dissolution of the Authority by all Parties, and after payment of all obligations of the Authority, the Board
- 8.6.1 May sell or liquidate Authority property; and

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8.6.2 Shall distribute assets to Parties in proportion to the contributions made by the existing Parties.

Any assets provided by a Party to the Authority shall remain the asset of that Party and shall not be subject to distribution under this section.

**9. MISCELLANEOUS PROVISIONS**

- 9.1 **Dispute Resolution.** The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Before exercising any remedy provided by law, a Party or the Parties and the Authority shall engage in nonbinding mediation in the manner agreed upon by the Party or Parties and the Authority. The Parties agree that each Party may specifically enforce this section. In the event that nonbinding mediation is not initiated or does not result in the settlement of a dispute within 60 days after the demand for mediation is made, any Party and the Authority may pursue any remedies provided by law.
- 9.2 **Liability of Directors, Officers, and Employees.** The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the manner provided by Government Code Section 995 et seq. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.
- 9.3 **Indemnification of Parties.** The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority, the Parties and the public. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective governing board members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts and omissions of the Authority.
- 9.4 **Notices.** Any notice required or permitted to be made hereunder shall be in writing and shall be delivered in the manner prescribed herein at the principal place of business of each Party. The Parties may give notice by (1) personal delivery; (2) e-mail; (3) U.S. Mail, first class postage prepaid, or a faster delivery method; or (3) by any other method deemed appropriate by the Board.

Upon providing written notice to all Parties, any Party may change the designated address or e-mail for receiving notice.

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All written notices or correspondence sent in the described manner will be deemed given to a party on whichever date occurs earliest: (1) the date of personal delivery; (2) the third business day following deposit in the U.S. mail, when sent by “first class” mail; or (3) the date of transmission, when sent by e-mail or facsimile.

- 9.5 **Successors.** This Agreement shall be binding upon and shall inure to the benefit of the successors of each Party.
- 9.6 **Assignment.** Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this section shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This section does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of the proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.
- 9.7 **Severability.** If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement were adjudged invalid or void by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby and shall remain in full force and effect to the maximum extent permitted by law.
- 9.8 **Governing Law.** This Agreement is made and to be performed in the State of California, and as such California substantive and procedural law shall apply.
- 9.9 **Headings.** The section headings herein are for convenience only and are not to be construed as modifying or governing the language of this Agreement.
- 9.10 **Counterparts.** This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.



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CITY OF \_\_\_\_\_

By: \_\_\_\_\_  
(Insert Name), Mayor

ATTEST:

By: \_\_\_\_\_  
(Insert Name), City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
(Insert Name), City Attorney

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**Exhibit A: Definitions**

"AB 117" means Assembly Bill 117 (Stat. 2002, Ch. 838, codified at Public Utilities Code Section 366.2), which created Community Choice Aggregation.

"Act" means the Joint Exercise of Powers Act of the State of California (Chapter 5, Division 7, Title 1 of the Government Code commencing with Section 6500).

"Agreement" means this Joint Powers Agreement.

"Authority" means San Diego Regional Community Choice Energy Authority.

"Authority Document(s)" means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions and activities of the Authority, including but not limited to the Operating Policies and Procedures, the annual budget, and plans and policies.

"Board" means the Board of Directors of the Authority.

"Community Choice Aggregation" or "CCA" means an electric service option available to cities, counties, and other public agencies pursuant to Public Utilities Code Section 366.2.

"CCA Program" means the Authority's program relating to CCA that is principally described in Section 2.3 (Purpose) of this Agreement.

"Days" shall mean calendar days unless otherwise specified by this Agreement.

"Director" means a member of the Board representing a Party, including up to two alternate Directors appointed in accordance with Sections 4.1 (Board of Directors) and 4.2 (Appointment and Removal of Directors) of this Agreement.

"Effective Date" means the date on which the Agreement shall become effective and the Authority shall exist as a separate public agency, as further described in Section 2.1 (Effective Date and Term) of this Agreement.

"Founding Member" means any jurisdiction that joins with the City of San Diego to form the San Diego Regional CCE Authority in 2019, as identified in Exhibit B. Founding members shall not incur any expenses related to their membership in the Authority or its operational implementation.

"Governing Body" means: for the County of San Diego, its Board of Supervisors; for any city other than San Diego, its City Council; for San Diego, the Mayor and the City Council; and, for any other public agency, the equivalent policy making body that exercises ultimate decision-making authority over such agency.

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"Initial Costs" means implementation costs advanced by the City of San Diego and other Founding Members in support of the formation of the Authority, which are (a) directly related to the establishment of the Authority and its CCA program, and (b) incurred by the Authority or its Members relating to the initial operation of the Authority, such as the hiring of the executive and operations staff, any required accounting, administrative, technical and legal services in support of the Authority's initial formation activities or in support of the negotiation, preparation and approval of power purchase agreements. Initial Costs do not include costs associated with the investigation of the CCA model, attendance at routine planning meetings, or a Party's pre-formation reports related to their decision to pursue CCA or join the Authority. The Authority Board shall determine the repayment timing and termination date for the Initial Costs.

"Investor Owned Utilities" means a privately-owned electric utility whose stock is publicly traded. It is rate regulated and authorized to achieve an allowed rate of return.

"Parties" means, collectively, the signatories to this Agreement that have satisfied the conditions as defined above in "Founding Members" or in Section 2.4 (Addition of Parties) of this Agreement, such that they are considered members of the Authority.

"Party" means, singularly, a signatory to this Agreement that has satisfied the conditions as defined above in "Founding Members" or in Section 2.4 (Addition of Parties) of this Agreement, such that it is considered a member of the Authority.

"Public Agency" as defined in the Act includes, but is not limited to, the federal government or any federal department or agency, this state, another state or any state department or agency, a county, a county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission of this state or another state, a federally recognized Indian tribe, or any joint powers authority formed pursuant to the Act.

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**Exhibit B: List of Founding Members**

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**Exhibit C: Annual Energy Use by Jurisdiction**

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**Exhibit D: Voting Shares of Founding Members**

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**Exhibit E: Signatures**

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STAFF REPORT  
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ANDY HALL, CITY MANAGER *AH*

MEETING DATE: SEPTEMBER 18, 2019

ORIGINATING DEPT.: CITY CLERK, JACQUE KELLY *JK*  
CITY ATTORNEY, JENNIFER LYON *JL*  
ASSISTANT CITY MANAGER, STEVE DUSH *SD*

SUBJECT: CONSIDERATION OF ELECTIONS CODE SECTION 9212  
REPORT ON 2017 CITIZEN INITIATIVE REGARDING  
CANNABIS ACTIVITIES AND CONSIDERATION OF  
RESOLUTIONS BY THE CITY COUNCIL TO (1) ADOPT THE  
INITIATIVE AS-IS; OR (2) PUT THE INITIATIVE ON AN  
UPCOMING BALLOT, CALL NEXT REGULAR MUNICIPAL  
ELECTION AND REQUEST CONSOLIDATION WITH  
STATEWIDE ELECTION

**EXECUTIVE SUMMARY:**

In July of 2017, a notice of intent to circulate a citizen initiative was submitted to the City to allow commercial marijuana activities in the City and thereafter signatures were gathered. In February of 2018, the City rejected the submission of the citizen initiative petitions on the grounds they did not comply with the requirements of state law. The initiative proponent then filed suit against the City to require the City to accept the initiative for processing. The San Diego Superior Court upheld the City's rejection of the initiative. The initiative proponent then appealed that decision. In February of 2019, the Court of Appeal reversed the Superior Court's ruling finding that the City should accept the citizen initiative for processing.

Pursuant to the 2019 Court ruling, the City submitted the petitions to the County Registrar of Voters ("ROV") to verify signatures. The ROV reviewed the signatures on the petitions and sent the City a letter on August 13, 2019 indicating that the necessary amount of signatures had been verified. On August 21, 2019, the City Clerk certified the results of the citizen petition signature verification to the Council, and the Council approved a resolution requesting a report on the initiative pursuant to state law. At tonight's meeting, the Council can consider the report and take action on the initiative to either (1) adopt as-is or (2) place it on the November 2020 ballot.

**FISCAL ANALYSIS:**

1. Adopting the citizen initiative as an ordinance would mean that City staff would have to implement the new cannabis regulations. There would be staff time and resources required to implement and monitor the new regulations. Staff cannot provide a concrete estimate on such costs.
2. If the Council submits the citizen initiative to the November 2020 election, the ROV estimates the cost to be in the \$15,000-\$30,000 range, although he expects the amount to increase as the election gets closer due to the amount of additional registered voters.

**RECOMMENDATION/OPTIONS:**

It is recommended that the Council consider the following options:

1. If the Council wishes to adopt the initiative as an ordinance:
  - Call a special meeting within 10 days to consider the ordinance.

OR

2. If the Council wishes to place the initiative on the November 2020 ballot:
  - Adopt Resolutions calling the next regular municipal election on November 3, 2020; adding the proposed measure to the November 3, 2020 election; requesting the County to consolidate the regular municipal election with the statewide general election; directing the City Attorney to prepare an impartial analysis; setting priorities for filing written arguments; and providing for the filing of rebuttal arguments.

AND/OR

3. Provide any other direction to the City Manager with respect to conducting an evaluation related to the submission of a competing ballot measure or related issues.

**BACKGROUND:**

A. Local Law:

The City of Imperial Beach has spent many years discussing marijuana dispensaries. In 2011, the City Council approved an ordinance to prohibit large-scale medical marijuana dispensaries within the City. In November of 2012, a citizen's initiative to allow medical marijuana dispensaries in the City of Imperial Beach was rejected by the voters. After approval of Proposition 64 by the voters of the State of California, the City Council approved an urgency moratorium on commercial marijuana activities on February 1, 2017 and extended it to allow the City time to consider whether or not dispensaries are an appropriate land-use within its jurisdiction. The City Council formed an ad hoc committee in March of 2017 to review the issue along with City Staff. The ad hoc committee held public outreach meetings and gathered public input.

In July of 2018, the City Council approved ordinances to allow for limited commercial cannabis activities with regulations. The City is currently reviewing applications for the City's first cannabis outlet under that ordinance.

B. State Law:

With the passage of Proposition 64 in November of 2016, California no longer prohibits the personal use or possession of marijuana. Proposition 64 provides for the use and regulation of recreational marijuana. Per the official summary by the Attorney General, the new law:

- Legalizes marijuana under state law, for use by adults 21 or older;
- Designates state agencies to license and regulate marijuana industry;
- Imposes state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves;
- Exempts medical marijuana from some taxation;

- Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products;
- Prohibits marketing and advertising marijuana directly to minors;
- Allows local regulation and taxation of marijuana (*including allowing local jurisdictions the ability to prohibit commercial marijuana establishments within local jurisdictions*);
- Prohibits smoking marijuana in places where smoking tobacco is prohibited; and
- Authorizes resentencing and destruction of records for prior marijuana convictions.

Also, in April 2017, former Governor Brown introduced a budget trailer bill (“SB 94”) with proposed legislation to reconcile the Medical Cannabis Regulation and Safety Act (“MCRSA”) and Prop 64 without making any substantive changes to Prop 64 that would require a vote of the people. SB 94 was approved by the Legislature and was signed by the Governor on June 27, 2017. SB 94 repealed MCRSA, included certain provisions of MCRSA in the licensing provisions of Prop 64, and created a single regulatory scheme known as the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”).

Under Prop 64, applicants for commercial marijuana activities are required to comply with local laws, but the State has to determine whether the applicant is compliant. Similarly, MAUCRSA requires that the State work together with local agencies to compile a database of local laws and allows applicants to voluntarily submit proof of local authorization. MAUCRSA further requires that local jurisdictions notify the State whether an applicant is either compliant or noncompliant with local ordinances. Failure to respond to the State’s inquiry within a 60 business-day period results in a rebuttable presumption that applicants are in compliance with local ordinances.

#### C. Federal Law:

At the federal level, marijuana remains classified as a Schedule I substance under the Controlled Substances Act, making the distribution, manufacturing, dispensing and possessing of marijuana a federal offense. During his Senate confirmation hearings in January of 2019, Attorney General William Barr indicated that he would not be pursuing prosecution of marijuana businesses legally operating under state laws which is a departure from former AG Sessions’ approach to it.

### **CURRENT DISCUSSION:**

#### ***1. Citizen Initiative Background.***

On July 28, 2017, the City Clerk received a notice of intent to circulate a marijuana citizen initiative in Imperial Beach (See Attachment 1). The initiative was supported by a group called the Association of Cannabis Professionals.

In February of 2018, the City rejected the submission of the citizen initiative petitions on the grounds that they did not comply with the requirements of state law. The initiative proponent then filed suit against the City to require the City to accept the initiative for processing. The San Diego Superior Court upheld the City’s rejection of the initiative. The initiative proponent then appealed that decision. In February of 2019, the Court of Appeal reversed the Superior Court’s ruling finding that the City should accept the citizen initiative for processing.

Pursuant to the 2019 Court ruling, the City submitted the petitions to the County Registrar of Voters (“ROV”) to verify signatures. The ROV reviewed the signatures on the petitions and sent the City a letter on August 13, 2019 indicating that the necessary amount of signatures had been verified. The City Clerk certified the initiative to the Council on August 21, 2019 and the Council

adopted a resolution to order a report under the Elections Code.

## **2. Report:**

### **INITIATIVE**

The initiative proposes to create multiple commercial uses in IB related to cannabis. For a summary of the initiative, please see Attachment 2. Specifically, it would authorize retailers, consumption lounges to located in the C/MU-1 and C/MU-2 zones, and manufacturing sites in the C/MU-1 zone, and all without size or number restrictions.

#### **A. Cannabis Commercial Uses:**

- (i) Cannabis Storefronts: Retailers can engage in the retail sale and delivery of cannabis to consumers.
- (ii) Cannabis Lounges: Lounges can engage in the sale of single use servings of cannabis and edible cannabis products. Cannabis consumption can occur on-site at a dedicated consumption area.
- (iii) Manufacturing Sites: Manufacturing sites are places where edible cannabis products are produced and/or testing of cannabis occurs. Only edible cannabis products may be produced onsite. No extraction of cannabis concentrates or public access/sales are allowed onsite.

#### **B. Location/Separation:**

- (i) Cannabis Storefronts: The cannabis retailers would be permitted in both the General Commercial & Mixed Use (C-MU-1) and the Seacoast Commercial & Mixed Use (C-MU-2) zones. There is no specified limit to the number of them, however, state law does have a provision related to over-concentration that the state may invoke to deny a license. The cannabis retailers must maintain a 900-foot separation from a playground, other cannabis retailer, or school and maintain the applicable state separations of 600 feet from day care centers and youth centers. Attachment 7 identifies these potential areas.
- (ii) Cannabis Lounges: Cannabis consumption lounges would be permitted in both the General Commercial & Mixed Use (C-MU-1) and the Seacoast Commercial & Mixed Use (C-MU-2) zones. Cannabis lounges must maintain a 900-foot separation from a day care center, other consumption lounge, or school and maintain the applicable state separation of 600 feet from youth centers. See Attachment 8 for potential location maps.
- (iii) Manufacturing Sites: Manufacturing sites would be permitted only in the General Commercial & Mixed Use (C-MU-1) zone. Manufacturing sites must maintain a 900-foot separation from other manufacturing sites, and maintain the applicable state separations of 600 feet from a school, day care center, or youth center. See Attachment 9 for potential location maps.

#### **Please Note:**

- *Pursuant to state law, none of these commercial marijuana activities listed above can be located within 600 feet of a school, day care center, or youth center, and marijuana*

*cannot be advertised within 1,000 feet of a school, day care center, youth center, or playground.*

- *The potential location maps (Attachments 7-10) are draft maps based on current conditions, but such maps are subject to change based on the date of actual implementation and the future interpretation and implementation of the initiative.*

#### **C. Number:**

The initiative has no specified limit to the minimum or maximum number of the three potential uses listed above. The initiative proponent spoke in public comment during the September 4, 2019 City Council meeting stating that she anticipated there would be approximately three retail locations, three lounges, and two manufacturing sites based on her experience for a total of eight commercial cannabis uses. For comparison, the City's current ordinance allows one commercial cannabis use and the potential for a second retail site at the sole discretion of the City Council.

There is not a way to fully predict how many sites will ultimately be processed, permitted, and opened if the initiative is passed because there are too many variables. However, it is clear that there are no specified limits to the number of the cannabis uses in the initiative. Based upon only the separation requirements, there is a potential for nine retail locations, twelve lounges, and nine manufacturing uses. State law has a provision related to over-concentration of retail sites that the state may invoke to deny a license for a retail site. The potential locations for each use are identified on Attachments 7, 8, 9, & 10.

#### **D. Permit Approval Process:**

As noted in the initiative and because it addresses zoning issues, the Coastal Commission would need to approve the initiative if approved by the voters before it could take effect.

All three use types (retailers, lounges and manufacturing sites) must have a state license for the particular type of cannabis use and must obtain a conditional use permit ("CUP") from the City. The applicants for CUP's must provide proof that the building owner/management authorize the cannabis activity on the premises. The CUP for the cannabis use shall expire no later than five years from the date of issuance. The City shall charge a reasonable application fee for the CUP. If other development permits are required for the proposed use/construction at a particular site for the cannabis use, then those types of permits and approval process would be required prior to opening.

A CUP is a discretionary permit issued by the City Council which acts as the Planning Commission if all of the following facts exist pursuant to Imperial Beach Municipal Code section 19.82.040:

- (i). That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community;
- (ii). That such use will not, under the circumstances of the particular use, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
- (iii). That the proposed use will comply with the regulations and conditions specified in this title for such use and for other permitted uses in the same zone; and
- (iv). That the granting of such conditional use will be in harmony with the purpose and intent of this code, the adopted general plan and the adopted local coastal program.

Finally, a CUP may be revoked or suspended due to non-compliance with applicable state or local regulations.

#### **E. Regulations:**

The initiative would impose operational regulations on cannabis retailers, cannabis consumption lounges, and manufacturing sites, including the requirements that these businesses install security cameras and alarms, employ an on-site security guard, and that the owners be subject to a background check. Cannabis retailers and cannabis consumption lounges must maintain minimum interior and exterior lighting standards, abide by certain sign requirements, and provide the name and emergency contact phone number of an operator or manager on the exterior of the business. Cannabis retailers may operate every day between 7:00 a.m. and 9:00 p.m., while cannabis consumption lounges may operate every day between 12:00 p.m. and 12:00 a.m. Consultations by medical professionals are not permitted at retailers or cannabis consumption lounges. Retailers may also provide delivery services.

The initiative provides that persons under 21 are prohibited from entering a cannabis consumption lounge, which prohibition is already included in Prop 64 for any commercial marijuana licensed establishment. Cannabis consumption lounges shall only sell single service use quantities of cannabis products and shall not sell cannabis products to persons who display obvious signs of impairment. Manufacturing sites shall only produce edible cannabis products, and no public access or sales shall be allowed. The manufacturing sites shall not have any external signage.

Pursuant to the initiative, the City shall set and charge a reasonable annual fee for the regulation of each type of commercial cannabis use.

### **OTHER REPORT ISSUES**

#### **A. Legal Issues:**

In addition to the unsettled nature of federal law with respect to operation of commercial cannabis businesses, the initiative contains a few provisions that might conflict with state and local law. The initiative provides that the City would not be permitted to publish the address of any manufacturing site. This requirement would not be possible to follow as the manufacturing site would require a conditional use permit ("CUP"). A CUP is issued only after a public hearing on the item with public notice of the hearing issued to the neighbors. The address would be a matter of public record and denying access to the address would likely create an issue under the Public Records Act.

#### **B. Fiscal Impact:**

There is no additional cannabis tax proposed in this initiative, so the regular state taxes would apply. Staff would have to do an analysis and determine at least a cost-recovery regulatory fee to be charged to each business.

#### **C. Internal Consistency with General Plan:**

While the City has adopted a cannabis ordinance that may permit one and potentially two retail operations, the initiative would place no restrictions on the number other than those limited by the required separations. The impact of this potential land use is unknown as there is the potential for nine retailers, which is approximately 1/3,000 residents and the impacts associated with that intensity/concentration is unknown. Also unknown are the land use impacts associated with cannabis lounges. There is little data to analyze this land use as research indicates that there are currently nine cannabis lounges in the United States. Seven of the lounges are in San Francisco, one in Denver, and one in Oakland. Information provided by the self-identified author

of the petition at the September 4, 2019 IB City Council meeting anticipates three lounges. Based upon the petition parameters, there is the potential for twelve lounges at a rate of approximately 1/ 2,250 population. Finally, the land use impacts associated with manufacturing, based upon the petition language stating: "To discourage theft and vandalism, the City will not publicly publish the exact addresses of manufacturing sites," introduces a land use that is unlike those currently identified or contemplated in the existing General Plan.

**D. Impact on Housing:**

There is no residential buffer in the initiative so the cannabis outlets, lounges and manufacturing sites could locate immediately adjacent to housing.

**E. Impact on Infrastructure:**

The City would attempt to set a regulatory fee at a cost-recovery level for regulation of the cannabis uses, however, if that fee is challenged or is not set high enough to achieve full cost-recovery, the City would likely be using general fund money to regulate the business and any effects of the businesses.

**F. Impact on City's Ability to Attract and Retain Business & Employment:**

The City has attempted to shape the type of development in the City through zoning and other regulations approved by the City. Additionally, in the City's cannabis ordinance, it allows one dispensary located along State Route 75/Palm Avenue. The initiative proposes to allow cannabis retailers and lounges on Seacoast Drive. Allowing these uses in these areas could deter the very businesses that the City is trying to attract from locating or staying in the City in this area.

**G. Impact on Vacant Parcels of Land.**

The impacts associated with the proposed uses in the petition upon vacant parcels of land are unknown.

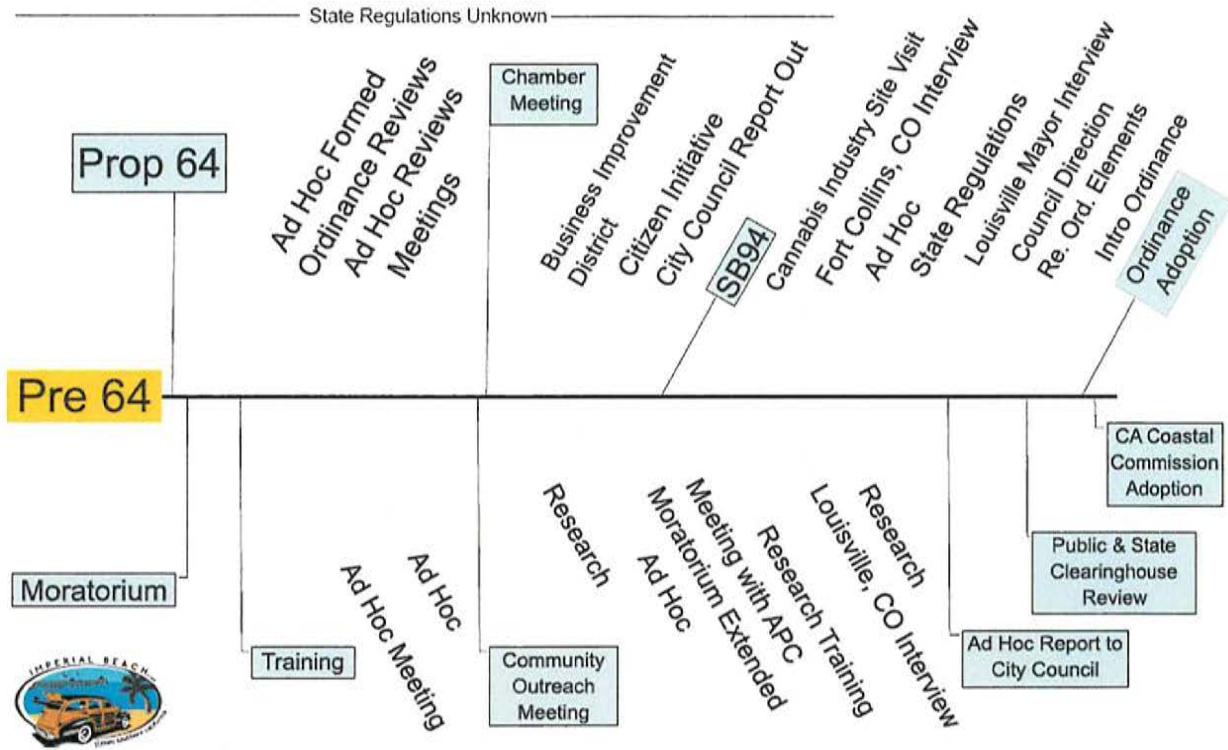
**H. Impact on Agricultural Lands, Open Space, Traffic Congestion, Existing Business Districts, and Developed Areas Designated for Revitalization.**

The location of the proposed uses in the petition are all located within existing mixed-use zone districts that allow residential and commercial land uses. There is varied research on the impacts associated with the uses proposed in the petition as the impacts are dependent upon numerous variables that are typically unknown until the exact parcel is identified and a land-use analysis is conducted.

**I. Background of City Public Outreach:**

The City Council formed an ad hoc Council sub-committee in March of 2017 to explore the subject matter. The sub-committee conducted extensive research and conducted public outreach meetings. The illustration below graphically depicts the ad-hoc work-effort/process:

### AD HOC PROCESS



Led by the ad hoc, the City Council held a public workshop on December 11, 2017 to discuss this issue with the residents and conducted a survey. The survey questions and the results of those identifying as Imperial Beach Residents are outlined below:



## Survey Questions

Do you feel that commercial cannabis businesses should be allowed to operate in Imperial Beach? Yes -40 or No - 31 (56% Yes)

If commercial cannabis businesses were to locate in Imperial Beach do you think that the regulations should be created locally, by the community? Yes - 64 or No -6 (91% Yes)

If commercial cannabis businesses were to locate in Imperial Beach, do you think that there should be a limit on the number, location, and/or type of commercial cannabis businesses? Yes - 61 or No - 9 (87% Yes)

If commercial cannabis businesses were to locate in Imperial Beach, do you think commercial cannabis business should be separated from residential zoning? Yes - 57 or No - 13 (81% Yes)

If commercial cannabis businesses were to locate in Imperial Beach, do you think they should be taxed at a higher rate than other uses? Yes -39 or No -25 (61% Yes)

Based on the public's strong desire to have the City Council draft local regulations to keep local control of this important issue, the ad hoc sub-committee recommended that the City Council as a whole, based upon various considerations, direct staff to prepare regulations, which ultimately resulted in the existing ordinance.

### **3. Options:**

Pursuant to state law (Elections Code section 9215), the Council has two options for addressing the initiative at this Council meeting:

- (1) approve the initiative as-is; or
- (2) put the initiative on the ballot.

#### (1) Approve the Initiative

Attachment 1 is the initiative. The Council could approve the initiative as an ordinance. If the Council approves this option, the Council would need to approve the initiative exactly as the proponent drafted it. The Council could not change the initiative before approving it, and even after approving the initiative, it could only be changed after a vote of the citizens of Imperial Beach.

If the Council chooses this option, a special meeting will be scheduled within 10 days as required by state law, and staff will present the initiative in ordinance form for the Council's approval. The City Council should also provide direction to staff related how the City Council wants to address the City's existing regulations since they are not addressed in the initiative.

(2) Place the Measure on the Ballot

The second option available to the City Council is to place the citizen initiative measure on the November 2020 ballot to be voted on by the City's electorate. If more than 50% of the City's voters approve the measure, it will become part of the City's Municipal Code. Election results will likely be certified in December 2020, after which the initiative would need to be approved by the Coastal Commission prior to taking effect. Also, because the measure does not address the City's current cannabis outlet regulations, the City would need to determine how to address those. If voters reject the measure, the City's current ordinance with cannabis regulations would remain in effect.

It should be noted that while the proponent requested a special election, the law has changed. Effective January 1, 2018, citizen initiatives can no longer force local jurisdictions to hold special elections. See Elections Code section 1405. Additionally, special elections on citizen initiatives must be held within a window of not less than 88 days and not more than 103 days after the calling for the special election. Elections Code section 1405(b). The statutory window in combination with the County ROV's moratorium on elections between May 7, 2019 and March of 2020, makes the discretionary exercise of calling a special election not a viable option for the City Council to consider at this time.

To place the measure on the November 3, 2020 ballot, the Council would need to pass several resolutions. First, the Council would need to call the November 2020 general election as the City's next regular election, submit this measure on that ballot, and request consolidation of the City's regular municipal elections with the statewide election. It should also direct the City Clerk to transfer a copy of the initiative to the City Attorney, who would write an impartial analysis of the measure which would appear in the official ballot pamphlet. The Council should also take steps to indicate how and when arguments in favor of and against the initiative should be submitted. The attached resolutions allow the Mayor to sign an argument related to the initiative and set priorities for the listing of arguments. The Council also would need to set parameters for rebuttal arguments which also appear in the official ballot pamphlet, including deadlines for their submission. The attached Resolutions (Nos. 2019-8080; 2019-8081; and 2019-8082) set forth this process.

**ENVIRONMENTAL DETERMINATION:**

Citizen initiatives are not "projects" under the California Environmental Quality Act. 14 CCR § 15378(b)(3).

**Attachments:**

1. Citizen Initiative
2. Ballot Title and Summary prepared by the City Attorney
3. County's Signature Verification Notice
4. Resolution No. 2019-8080 calling the next regular municipal election, requesting consolidation, and adding the proposed measure to the ballot for the November 3, 2020 Election
5. Resolution No. 2019-8081 setting priorities for filing written arguments.
6. Resolution No. 2019-8082 providing for the filing of rebuttal arguments.
7. Draft map of potential retail locations
8. Draft map of potential lounge locations
9. Draft map of potential manufacturing site
10. Draft map of all three uses

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CANNABIS ACTIVITY ZONING ORDINANCE  
OF IMPERIAL BEACH

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WHEREAS, in 1996 the voters of the State of California, including voters in the City of Imperial Beach, passed Proposition 215, the Compassionate Use Act, that allows the use of cannabis for medical purposes when recommended by a physician and excludes from criminal prosecution the patient and the primary caregiver, as defined; and

WHEREAS, in 2003, the State of California enacted Senate Bill 420, the Medical Marijuana Program Act (MMPA), which established requirements for the issuance of voluntary identification cards; provided a defense to criminal charges related to the cultivation, possession, sale, or storage of medical cannabis; prohibited the distribution of cannabis for profit; exempted from prosecution qualified patients and designated primary caregivers who associate to collectively or cooperatively cultivate cannabis for medical purposes; required the Attorney General to issue guidelines for the security and non-diversion of medical cannabis; and allowed cities to adopt and enforce laws consistent with the MMPA; and

WHEREAS, in 2015, the State of California enacted Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, comprising the Medical Cannabis Regulation and Safety Act and establishing a comprehensive regulatory framework for the production, transportation, and sale of medical cannabis; and

WHEREAS, in 2016 the voters of the State of California, including voters in the City of Imperial Beach, passed Proposition 64, the Adult Use of Marijuana Act, allowing for the adult the use of cannabis and further clarifying state regulatory requirements; and

WHEREAS, under federal law, the possession, transfer, or sale of cannabis remains a criminal act; and

WHEREAS, all powers not delegated by the United States Constitution to the United States nor prohibited by it to the states are reserved to the states or the people, pursuant to the Tenth Amendment of the United States Constitution; and

WHEREAS, in the State of California, zoning is a local matter exercised by the cities pursuant to the police powers set forth in Article XI, Section 7 of the California Constitution; and

WHEREAS, the voters of Imperial Beach now desires that the City exercise its police powers to provide for the zoning of Retailers, cultivation, manufacturing, and distribution in such a manner as to limit the impact on the City generally and residential neighborhoods in particular; NOW, THEREFORE,

BE IT ORDAINED, by a vote of the people of the City of Imperial Beach as follows:

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Section 1. Definitions

“*Cannabis Concentrate*” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency, as defined by Section 26001 of the California Business and Professions Code

“*Cannabis Consumption Lounge*” means a *Retailer* that allows for onsite consumption. *Cannabis Consumption Lounges* shall be treated as a separate use type for the purpose of obtaining a Conditional Use Permit, and shall be subject to distinct zoning and operating regulations and restrictions from other *Retailers*, as specified in this measure.

“*Cultivation*” as defined by Section 26001 of the California Business and Professions Code.

“*Cultivation Site*” as defined by Section 26001 of the California Business and Professions Code.

“*Cultivator*” is the organization or entity holding the Conditional Use Permit for *cultivation* activity at a location authorized by the City.

“*Cannabis Products*” as defined by Section 11018.1 of the California Health and Safety Code.

“*Day Care Center*” as defined by Section 1596.76 of the California Health and Safety Code, properly licensed and zoned in the City, servicing children ages 18 and under, and actively operating.

“*Delivery*” as defined by Section 26001 of the California Business and Professions Code.

“*Distributor*” is the organization or entity engaging in wholesale distribution of cannabis in compliance with the regulations for a State Cannabis License Type 11 (Distributor), defined in California Business and Professions Code section 26050, subdivision (a).

“*Dedicated Consumption Area*” means the established area on the physical premise of a *Cannabis Consumption Lounge* where consumption of cannabis and cannabis products, including edible cannabis products, may occur.

“*Distribution Site*” is defined to mean a physical *premise* where cannabis and *cannabis products* are distributed by a *distributor*.

“*Edible Cannabis Product*” means cannabis product that is intended to be used, in whole or in part, for human consumption, as defined by Section 26001 of the California Business and Professions Code.

“*Manufacturer*” means an entity operating as a “Manufacturer” as defined by Section 26001 of

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the California Business and Professions Code or an entity operating as a “Testing Laboratory” as defined by Section 26001 of the California Business and Professions Code.

“*Manufacturing License Type*” is defined to mean a California state commercial cannabis license classification for manufacturing or testing in California Business and Professions Code section 26050, subdivision (a).

“*Manufacturing Site*” is defined to mean a physical *premise* where *Edible Cannabis Products* are produced by a *Manufacturer* or a physical *premise* where testing of cannabis takes place.

“*Playground*” means any outdoor *premises* or grounds, owned or operated by the City, that contains any play or athletic equipment primarily used, or primarily intended to be used by, any person less than eighteen (18) years old.

“*Premise*” is defined to mean the legal parcel(s) of land and the improvements on it, including building(s), store(s), shop(s), apartment(s), or other designated structure.

“*Primary Caregiver*” as defined in Section 11362.7 of the Health and Safety Code.

“*Qualified Patient*” as defined in Section 11362.7 of the Health and Safety Code.

“*Retailer*” is the organization or entity engaging in retail sale and delivery of cannabis or cannabis products to customers, in compliance with the regulations for a State Retail License Type 10 (Retail), as specified in the California Business and Professions Code section 26050, subdivision (a).

“*Responsible Person*” is defined as the person who is responsible for the operation, management, direction, or policy of a marijuana *retailer, cultivator, manufacturer, or distributor*.

A “*Skilled and Trained Workforce*” is defined as a workforce that meets all of the following conditions:

- (1) All of the workers are either *skilled journeypersons* or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations;
- (2) At least 60% of the *skilled journeypersons* by each contractor employed to perform work on the project are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.
- (3) For an *apprenticeable occupation* in which no apprenticeship program had been

approved by the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations before January 1, 1995, up to one half of the graduation percentage requirements of (2) above may be satisfied by *skilled journeypersons* who commenced working in the *apprenticeable occupation* before the approval of an apprenticeship program for that occupation in the county in which the project is located by the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations.

An *apprenticeable occupation* means an occupation for which the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations has approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.

*Skilled journeyperson* means a worker who either:

(1) Graduated from an apprenticeship program for the applicable occupation that was approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor; or

(2) Has at least as many hours of on-the-job experience in an applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations.

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## Section 2. Retailers

*Retailers* shall be permitted, with a Conditional Use Permit, in General Commercial & Mixed Use (C-MU-1) and Seacoast Commercial & Mixed Use (C/MU-2) zones only, subject to the following restrictions and regulations.

- a) *Retailers* shall maintain a 900 foot separation from a *playground*, other *retailer*, or school, as measured by a straight line from the closest property lines of the *premises* to the closest property line of the sensitive use. The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. For purposes of this section, school means any public or private institution of learning providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any school in which education is primarily conducted in private homes.
- b) Consultations by medical professionals shall not be permitted at a *retailer*.
- c) A *Retailer* may engage in offsite *delivery* from the location of the *retailer* to a customer. The offsite *delivery* must be made by an authorized employee in an authorized vehicle owned, or leased, by the *retailer*. Offsite *deliveries* may only be made during the hours of operation. The *retailer* must adhere to any state rules and regulations regarding *delivery*.
- d) Lighting shall be provided to illuminate the interior of the *retailer*, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
- e) Security shall be provided at the *retailer* which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the *premises* during business hours.
- f) *Signs* shall be posted on the outside of the *retailer* and shall only contain the name of the business, limited to two colors.
- g) The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the *retailer* in character size at least two inches in height.
- h) The *retailer* shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.

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- i) Applicants for Conditional Use Permit for a *retailer* must provide written proof that the building owner and management condone a *retailer* on the *premise*.
- j) A Conditional Use Permit for a *retailer* shall expire no later than five (5) years from the date of issuance.
- k) The City shall charge a reasonable application fee for a Conditional Use Permit for a *retailer* and a reasonable annual fee for regulating the *retailer*. Such fees shall be established by the City Development Services Department.
- l) A Conditional Use Permit for a *retailer* may be revoked or suspended due to legitimate loitering, smell, or noise complaints, upon City confirmation of the smell, noise, or loitering; non-compliance with the Conditional Use Permit following City confirmation of the non-compliance; or non-compliance with other applicable state or local regulation following City or state confirmation of the non-compliance. The licensee shall have a reasonable opportunity and time to cure the complaint or possible non-compliance as defined in this section before being subject to suspension, penalty, or revocation of the Conditional Use Permit.
- m) The *responsible person* of a *retailer* shall be subject to a background check. Any person who has been convicted of a felony may not operate, manage, control, or own a *retailer*.
- n) The applicant must fulfill any additional standard criteria and standard requirements typically associated with obtaining a Conditional Use Permit in the City. The City shall review all qualifying applications at a reasonable pace and level of review equivalent to other land use projects requiring a conditional use permit.
- o) Rules, regulations and local permitting requirements imposed on a *retailer* by the City shall conform to the State licensing requirements for a *retailer*, as set forth by the California Business and Professions Code, Division 10 and state rules and regulations implementing those laws.



Section 3. Cannabis Consumption Lounges

*Cannabis Consumption Lounges* shall be permitted, with a Conditional Use Permit, in the General Commercial & Mixed Use (C-MU-1) and Seacoast Commercial & Mixed Use (C/MU-2) zones only, subject to the following restrictions and regulations.

- a) *Cannabis Consumption Lounges* shall maintain a 900 foot separation from a *day care center*, other *Cannabis Consumption Lounge*, or school, as measured by a straight line from the closest property lines of the *premises* to the closest property line of the sensitive use. The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. For purposes of this section, school means any public or private institution of learning providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any school in which education is primarily conducted in private homes.
- b) *Cannabis Consumption Lounges* shall maintain a *Dedicated Consumption Area* on its premise. No cannabis consumption may occur outside of the *Dedicated Consumption Area*. From a public right of way, there shall be no visual evidence of *Dedicated Consumption Area*.
- c) Individuals under the age of 21 are prohibited from entering a *Cannabis Consumption Lounge*. Only individuals ages 21, or older, shall be permitted on the premise of a *Cannabis Consumption Lounge*.
- d) *Cannabis Consumption Lounges* shall only be permitted to sell single serving use quantities of cannabis and *cannabis products*, including *edible cannabis products*. No more than a single use quantity per customer shall be sold per transaction.
- e) Consultations by medical professionals shall not be permitted at a *Cannabis Consumption Lounge*.
- f) *Cannabis Consumption Lounges* shall be prohibited from selling, furnishing, or giving away, cannabis, or *cannabis products*, to persons who display obvious visual signs of cannabis impairment.
- g) Individuals who are found to have distributed cannabis or *cannabis products* purchased from a *Cannabis Consumption Lounge* to persons outside of the premise

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of a *Cannabis Consumption Lounge* shall be prohibited further entry to the *Cannabis Consumption Lounge* where the cannabis, or *cannabis products*, were purchased.

- h) Lighting shall be provided to illuminate the interior of the *Cannabis Consumption Lounge*, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
- i) Security shall be provided at the *Cannabis Consumption Lounge* which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the *premises* during business hours.
- j) *Signs* shall be posted on the outside of the *Cannabis Consumption Lounge* and shall only contain the name of the business, limited to two colors.
- k) The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the *Cannabis Consumption Lounge* in character size at least two inches in height.
- l) The *Cannabis Consumption Lounge* shall be permitted to operate only between the hours of 12:00 p.m. (noon) and 12:00 a.m. (midnight), seven days a week unless otherwise specified in state law.
- m) Applicants for Conditional Use Permit for a *Cannabis Consumption Lounge* must provide written proof that the building owner and management condone a *Cannabis Consumption Lounge* on the *premise*.
- n) A Conditional Use Permit for a *Cannabis Consumption Lounge* shall expire no later than five (5) years from the date of issuance.
- o) The City shall charge a reasonable application fee for a Conditional Use Permit for a *Cannabis Consumption Lounge* and a reasonable annual fee for regulating the *Cannabis Consumption Lounge*. Such fees shall be established by the City Development Services Department.
- p) A Conditional Use Permit for a *Cannabis Consumption Lounge* may be revoked or suspended due to legitimate loitering, smell, or noise complaints, upon City confirmation of the smell, noise, or loitering; non-compliance with the Conditional Use Permit following City confirmation of the non-compliance; or non-compliance with other applicable state or local regulation following City or state confirmation of the non-compliance. The licensee shall have a reasonable opportunity and time to cure the complaint or possible non-compliance as defined in this section before being subject to suspension, penalty, or

revocation of the Conditional Use Permit.

- q) The *responsible person* of a *Cannabis Consumption Lounge* shall be subject to a background check. Any person who has been convicted of a felony may not operate, manage, control, or own a *Cannabis Consumption Lounge*.
- r) The applicant must fulfill any additional standard criteria and standard requirements typically associated with obtaining a Conditional Use Permit in the City. The City shall review all qualifying applications at a reasonable pace and level of review equivalent to other land use projects requiring a conditional use permit.
- s) Rules, regulations and local permitting requirements imposed on a *Cannabis Consumption Lounge* by the City shall conform to the State licensing requirements for a *retailer* as set forth by the California Business and Professions Code, Division 10 and state rules and regulations implementing those laws.

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#### Section 4. Manufacturing

*Manufacturing Sites* shall be permitted, with a Conditional Use Permit, in General Commercial & Mixed Use (C-MU-1) zones only, subject to the following restrictions and regulations.

- a) *Manufacturing Sites* shall maintain a 900 foot separation from other *Manufacturing Sites*, as measured by a straight line from the closest property lines of the *premises* to the closest property line of the sensitive use. The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access.
- b) Extraction of *cannabis concentrates* is prohibited onsite.
- c) A Conditional Use Permit applicant for manufacturing must specify for which *Manufacturing License Type* the applicant will apply.
- d) Only *Edible Cannabis Products* may be produced onsite.
- e) All manufacturing must conform to rules and requirements set forth by the California Department of Public Health, including those for testing, labeling and quality assurance,.
- f) Security shall be provided at the *manufacturing site* which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the *premise*.
- g) No external signage shall be allowed, other than the address of the *premise*.
- h) No public access or sales shall be allowed on the *premise*. Only directors, officers, managers, employees, agents, and contractors of the *manufacturer* shall be present on the premises. Transporters and representatives of *retailers, distributors, manufacturers*, testing laboratories, and other cannabis businesses permitted under State law, shall be allowed on the *premise* with prior notice to and permission by the *manufacturer* to conduct business as required and appropriate. Any manufacturing site that produces *edible cannabis product* must have at least one owner, director, officer, manager, or employee that has passed a state-approved food safety certification exam.

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CITY MANAGER &  
CITY CLERK OFFICES

- i) Any manufacturing site that produces *edible cannabis products* that require baking or refrigeration must be also be a California-licensed commercial kitchen or in a cottage kitchen with a class B permit.
- j) To discourage theft and vandalism, the City will not publicly publish the exact addresses of *manufacturing sites*. Other aggregate information regarding conditional use permits for *manufacturing* including, but not limited to, number of permits issued, districts where said permits were issued, and the organizations to whom such permits were issued shall be available upon request.
- k) A Conditional Use Permit issued to a *manufacturer* for a *manufacturing site* shall expire no later than five (5) years from the date of issuance.
- l) The City shall charge a reasonable application fee for a Conditional Use Permit for a *manufacturing site* and a reasonable annual fee for regulating the *manufacturing site*. Such fees shall be established by the City Development Services department.
- m) A Conditional Use Permit issued to a *manufacturer* for a *manufacturing site* may be revoked or suspended due to legitimate loitering, smell, or noise complaints, upon City confirmation of the smell, noise, or loitering; non-compliance with the Conditional Use Permit following City confirmation of the non-compliance; or non-compliance with other applicable state or local regulation following City or state confirmation of the non-compliance. The licensee shall have a reasonable opportunity and time to cure the complaint or possible non-compliance as defined in this section before being subject to suspension, penalty, or revocation of the Conditional Use Permit.
- n) The *responsible person* of a *manufacturer* shall be subject to a background check. Any person who has been convicted of a felony may not operate, manage, control, or own a *manufacturer*.
- o) The applicant must fulfill any additional standard criteria and standard requirements typically associated with obtaining a Conditional Use Permit in the City. The City shall review all qualifying applications at a reasonable pace and level of review equivalent to other land use projects requiring a conditional use permit.
- p) Rules, regulations and local permitting requirements imposed on a *Manufacturer* and its associated *Manufacturing Site* by the City shall conform to the State licensing requirements for *Manufacturers* or *Testing Laboratories*, as applicable, as set forth by the California Business and Professions Code, Division 10.

Section 5. Personal Use *Cultivation*

A *qualified patient* may cultivate up to 100 square feet indoors for personal use. A *primary caregiver* may cultivate up to 100 square feet indoors for the personal medical use of a single *qualified patient*, and may cultivate for no more than five (5) maximum individual *qualified patients*. Personal use cultivation may also be further restricted, or disallowed, by a building's owner, management or governing housing association.

Personal use *cultivation*, for medical and adult use, must conform to state law and local codes, including, but not limited to, nuisance codes, building codes, electrical codes and waste disposal codes. No additional city permission, clearance or registration shall be necessary or imposed by the City for personal use cultivation.

Section 6. Skilled and Trained Workforce

For all property or building construction or engineering activities required to obtain permits from the city of Imperial Beach necessary to operate a *retail site, cultivation site, manufacturing site or distribution site, a skilled and trained workforce* shall be required for all contractors engaged in the property or building construction activities.

Section 7. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 8. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 9. If any section, sub-section, sentence, clause, phrase, part, or other portion of this measure, or application thereof, is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the remaining portions or provisions of this measure. It is hereby declared by the people voting for this measure that this measure, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts or portions, or the application thereof, are declared invalid or unconstitutional.

Section 10. This measure is inconsistent with and intended as an alternative to any other initiative or measure placed on the same ballot that addresses the same subject matter as this measure. In the event that this measure and another initiative or measure addressing the same subject

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CITY OF IMPERIAL BEACH  
CITY CLERK

matter as this measure, or any part thereof, is approved by a majority of voters as the same election, and this measure receives a greater number of affirmative votes than any other such initiative or measure, then this measure shall prevail and control in its entirety and said other initiative or measure shall be rendered void and without any legal effect.

Section 11. The undersigned voters of the City do hereby request that this ordinance be put to a vote of the people in a special election.

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CITY MANAGER &  
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AN INITIATIVE TO ALLOW MARIJUANA RETAILERS, CANNABIS CONSUMPTION LOUNGES, AND MANUFACTURING SITES IN MIXED-USE, COMMERCIAL ZONES AND TO ALLOW PERSONAL CULTIVATION OF MARIJUANA IN THE CITY OF IMPERIAL BEACH

Currently, medical marijuana distribution facilities are prohibited in the City of Imperial Beach, and commercial marijuana activities are subject to a moratorium. This initiative would authorize marijuana retailers, cannabis consumption lounges, and manufacturing sites, without size restrictions, in mixed use, commercial zones. The marijuana retailers and cannabis consumption lounges would be permitted in both the General Commercial & Mixed Use (C-MU-1) and the Seacoast Commercial & Mixed Use (C-MU-2) zones. Manufacturing sites would be permitted only in the General Commercial & Mixed Use (C-MU-1) zone. Marijuana retailers would not be permitted to locate within 900 feet of another retailer, playground or school. Cannabis consumption lounges would not be permitted to locate within 900 feet of another cannabis consumption lounge, day care center, or school. Marijuana manufacturing sites would not be permitted to locate within 900 feet of another manufacturing site.

The initiative would impose operational regulations on marijuana retailers, cannabis consumption lounges, and manufacturing sites, including the requirements that these businesses install security cameras and alarms and employ a security guard, that the owners be subject to a background check, and that the businesses obtain a conditional use permit from the City, which is subject to revocation for violations of state or local laws. Marijuana retailers and cannabis consumption lounges must maintain minimum interior and exterior lighting standards, abide by certain sign requirements, and provide the name and emergency contact phone number of an operator or manager on the exterior of the business. Marijuana retailers may operate every day between 7:00 a.m. and 9:00 p.m., while cannabis consumption lounges may operate every day between 12:00 p.m. and 12:00 a.m. Consultations by medical professionals are not permitted at retailers or cannabis consumption lounges. Retailers may provide delivery services.

The initiative provides that persons under 21 are prohibited from entering a cannabis consumption lounge. Cannabis consumption lounges shall only sell single service use quantities of cannabis products and shall not sell cannabis products to persons who display obvious signs of impairment. Manufacturing sites shall only produce edible cannabis products, and no public access or sales shall be allowed. The manufacturing sites shall not have any external signage, and the City would not be permitted to publish the address of any manufacturing site.

The initiative would also allow indoor cultivation of medical marijuana of up to 100 square feet for a qualified patient, and a primary caregiver may use up to 100 square feet per qualified patient for indoor cultivation for a maximum of five qualified patients. Personal use indoor cultivation would conform to state laws, not to be further restricted by the City.

Finally, the initiative provides that all construction and engineering activities for permits necessary to operate commercial marijuana activities be conducted by a skilled and trained workforce of skilled journeypersons or apprentices.





# County of San Diego

REGISTRAR OF VOTERS

County Operations Center Campus  
5600 Overland Avenue, Suite 100, San Diego, California 92123-1278

Telephone: (858) 565-5800 Toll-free: 1 (800) 696-0136 TTY / TDD: (800) 735-2929  
Facsimile: (858) 694-2955 Web Address: [www.sdvote.com](http://www.sdvote.com)

MICHAEL VU  
Registrar of Voters

CYNTHIA L. PAES  
Assistant Registrar of Voters

August 13, 2019

Jacqueline M. Kelly, City Clerk  
City of Imperial Beach  
825 Imperial Beach Blvd  
Imperial Beach, CA 91932

I.B. CITY CLERK'S OFFICE  
AUG 14, 2019 AM 10:33

**Re: Cannabis Initiative**

“An Initiative to Allow Marijuana Retailers, Cannabis Consumption Lounges, and Manufacturing Sites in Mixed-Use, Commercial Zones and to Allow Personal Cultivation of Marijuana in the City of Imperial Beach” petition was filed with the Registrar of Voters on July 10, 2019. As directed by your office, the Registrar of Voters conducted a verification of signatures up to the required amount of valid signatures (1,240). **A total of 1,240 signatures have been verified to be valid.** Results of the verification process are as follows:

**CERTIFICATION OF RESULTS:**

- Number of sections submitted ..... 221
- Number of signatures submitted ..... 2,288
- Number of signatures verified ..... 2,031
- Number of signatures found to be valid ..... 1,240
- Number of signatures found not to be valid ..... 791  
(Includes 81 duplicated signatures)
- Number of signatures required for qualification ..... 1,240

If you have questions, please contact me at (858) 505-7201 or Javier De Anda at (858) 505-7357.

Signature on file



MICHAEL VU  
Registrar of Voters

**RESOLUTION NO. 2019-8080****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, ORDERING THE SUBMISSION TO THE VOTERS OF A PROPOSED ORDINANCE RELATING TO CANNABIS ACTIVITIES AND REQUESTING CONSOLIDATION WITH THE STATEWIDE GENERAL ELECTION**

**WHEREAS**, under the provisions of the laws relating to General Law Cities in the State of California, the next general municipal election can be held on November 3, 2020;

**WHEREAS**, pursuant to authority provided by statute, an initiative petition relating to cannabis activities has been filed with the legislative body of the City of Imperial Beach, California ("City") and has been signed by not less than ten percent (10%) of the number of registered voters of the City; and

**WHEREAS**, the Registrar of Voters of the County of San Diego ("Registrar") has examined the records of registration and ascertained that the petition has been signed by the requisite number of voters; and

**WHEREAS**, the City Clerk, as elections official, has certified the petition as sufficient, and presented the results thereof to the City Council on August 21, 2019, in accordance with Elections Code sections 9211 and 9114; and

**WHEREAS**, the City Council has not elected to adopt the ordinance; and

**WHEREAS**, the City Council desires to call its next regular municipal election and submit the proposed ordinance, without alteration, to the voters at the City's next regular municipal election occurring not less than eighty-eight (88) days after the date of the order of election, in compliance with Elections Code section 9215.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**

**SECTION 1.** That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Imperial Beach, California, on Tuesday, November 3, 2020, a General Municipal Election for the purpose of submitting to the voters the following proposed ordinance:

<p>Shall the measure amending marijuana regulations in the City of Imperial Beach to allow cannabis retailers, cannabis consumption lounges, and cannabis manufacturing sites, without size or number restrictions, in mixed use, commercial zones pursuant to conditional use permits and setting regulations for their operations; to allow personal use indoor cultivation of cannabis; and to require a skilled and trained workforce be used for construction and engineering activities for such commercial cannabis operations be adopted?</p>	<p>Yes</p> <p>No</p>
---	----------------------

**SECTION 2.** That the ordinance to be placed before the voters is attached as Exhibit "A" hereto. That the City does not request the Registrar to print the entire text of the ordinance in the voter information materials. That the ballots to be used at the election shall be in form and content as required by law.

**SECTION 3.** That the vote requirement for the measure to pass is a majority (50% +1) of the votes cast.

**SECTION 4.** That the City Clerk is authorized, instructed, and directed to coordinate with the Registrar to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

**SECTION 5.** That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Election Code section 10242, except as provided in section 14401 of the Elections Code of the State of California.

**SECTION 6.** That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**SECTION 7.** That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.

**SECTION 8.** That the City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

**SECTION 9.** That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**SECTION 10.** That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters of the County of San Diego.

**SECTION 11.** That the City requests that the County of San Diego agree to consolidate the General Municipal Election with the Statewide General Election and take such steps as are proper and lawful to accomplish the consolidated election.

**SECTION 12.** That the consolidated election will be held and conducted in the manner prescribed in Elections Code section 10418.

**SECTION 13.** That the Board of Supervisors of the County of San Diego is hereby requested to permit the San Diego County Registrar of Voters to perform and render all services and proceedings, and to procure and furnish any and all official ballots, notices, printed matter and all supplies and equipment and paraphernalia incidental to and connected with the conduct of the subject election, in order to properly and lawfully conduct such election. That the City requests that the Registrar of Voters of the County of San Diego canvass the returns and hold the election as if it were only one election with one form of ballot. That the City requests that the Board of Supervisors issue instructions to the Registrar of Voters to take any and all steps for the holding of the consolidated election and canvassing the returns.

**SECTION 14.** That the County of San Diego shall be reimbursed in full for the services performed by the San Diego County Registrar of Voters by the City of Imperial Beach upon presentation of a proper invoice, including reimbursement for any additional costs to consolidate the election, and the City agrees to indemnify and save free and harmless the County, its officers, agents and employees from expense or liability, including reasonable attorneys' fees, as a result of an election contest arising after conduct of this election.

**SECTION 15.** That the City Clerk is directed to transmit a copy of the proposed ordinance to the City Attorney. The City Attorney is directed to prepare an impartial analysis of the proposed ordinance pursuant to Elections Code section 9280. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Imperial Beach at its regular meeting held this 18<sup>th</sup> day of September, 2019 by the following vote:

**AYES:            COUNCILMEMBERS:**  
**NOES:            COUNCILMEMBERS:**  
**ABSENT:        COUNCILMEMBERS:**

\_\_\_\_\_  
**SERGE DEDINA, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JACQUELINE M. KELLY, MMC**  
**CITY CLERK**

**RESOLUTION NO. 2019-8081****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A PROPOSED ORDINANCE RELATING TO THE REGULATION OF CANNABIS ACTIVITIES**

**WHEREAS**, a General Municipal Election is to be held in the City of Imperial Beach, California, on November 3, 2020, at which there will be submitted to the voters the following question:

<p>Shall the measure amending marijuana regulations in the City of Imperial Beach to allow cannabis retailers, cannabis consumption lounges, and cannabis manufacturing sites, without size or number restrictions, in mixed use, commercial zones pursuant to conditional use permits and setting regulations for their operations; to allow personal use indoor cultivation of cannabis; and to require a skilled and trained workforce be used for construction and engineering activities for such commercial cannabis operations be adopted?</p>	<p>Yes</p> <p>No</p>
---	----------------------

**WHEREAS**, Elections Code section 9282 authorizes the filing of written arguments for and against measures placed on the ballot by petition, with priority determined according to state law.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**

**SECTION 1.** Ballot arguments shall be accepted for and against this measure in the manner required by law. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk, in accordance with Elections Code section 9286(b), after which no arguments for or against the measure may be submitted to the City Clerk. The arguments shall be accompanied by the Form of Statement to Be Filed by Author(s) of Argument as supplied by the City Clerk.

**SECTION 2.** The City Council authorizes the Mayor to file a written argument on its behalf regarding the measure, accompanied by up to four additional printed names and signatures of the persons joining the Mayor in submitting it, pursuant to Elections Code sections 9282 and 9287.

**SECTION 3.** The City Attorney's impartial analysis pursuant to Elections Code section 9280 shall be filed by the date set by the City Clerk for the filing of primary arguments.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Imperial Beach at its regular meeting held this 18<sup>th</sup> day of September, 2019 by the following vote:

**AYES: COUNCILMEMBERS:**  
**NOES: COUNCILMEMBERS:**  
**ABSENT: COUNCILMEMBERS:**

\_\_\_\_\_  
**SERGE DEDINA, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JACQUELINE M. KELLY, MMC**  
**CITY CLERK**

**RESOLUTION NO. 2019-8082****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES IN THE NOVEMBER 3, 2020 ELECTION**

**WHEREAS**, a General Municipal Election is to be held in the City of Imperial Beach, California, on November 3, 2020, at which there will be submitted to the voters the following question:

<p>Shall the measure amending marijuana regulations in the City of Imperial Beach to allow cannabis retailers, cannabis consumption lounges, and cannabis manufacturing sites, without size or number restrictions, in mixed use, commercial zones pursuant to conditional use permits and setting regulations for their operations; to allow personal use indoor cultivation of cannabis; and to require a skilled and trained workforce be used for construction and engineering activities for such commercial cannabis operations be adopted?</p>	<p>Yes</p> <p>No</p>
---	----------------------

and;

**WHEREAS**, Section 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, not later than the day on which the legislative body calls an election, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**

**SECTION 1.** That, pursuant to section 9285 of the Elections Code of the State of California, when the City Clerk has selected the arguments for and against a measure that will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of any argument against, and copies of the argument against to the authors of any argument in favor. The author or a majority of the authors of an argument may prepare and submit rebuttal arguments not exceeding 250 words or may authorize, in writing, any other person or persons to prepare, submit, or sign the rebuttal argument.

**SECTION 2.** That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

**SECTION 3.** That the provisions of Section 1 shall apply only to the election to be held on November 3, 2020, and shall then be repealed.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Imperial Beach at its regular meeting held this 18<sup>th</sup> day of September, 2019 by the following vote:

**AYES:            COUNCILMEMBERS:**  
**NOES:           COUNCILMEMBERS:**  
**ABSENT:        COUNCILMEMBERS:**













\_\_\_\_\_  
**SERGE DEDINA, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JACQUELINE M. KELLY, MMC**  
**CITY CLERK**



**Legend**

-  City Boundary
-  CMU/1 Zone
-  CMU/2 Zone
-  Day Care
-  Playgrounds
-  Schools
-  Youth Centers
-  Parcels
-  600ft Buffer around Daycare
-  600ft Buffer around Youth Centers
-  900ft Buffer around Playgrounds
-  900ft Buffer around Schools













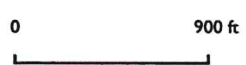
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**City of Imperial Beach**  
**Marijuana Initiative**  
**Retailers**

**Legend**

-  City Boundary
-  CMU/1 Zone
-  CMU/2 Zone
-  Day Care
-  Schools
-  Youth Centers
-  Parcels
-  600ft Buffer around Youth Centers
-  900ft Buffer around Daycare
-  900ft Buffer around Schools













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**City of Imperial Beach**  
**Marijuana Initiative**  
**Lounges**

**Legend**

-  City Boundary
-  CMU/1 Zone
-  CMU/2 Zone
-  Day Care
-  Schools
-  Youth Centers
-  Parcels
-  600ft Buffer around Daycare
-  600ft Buffer around Schools
-  600ft Buffer around Youth Centers







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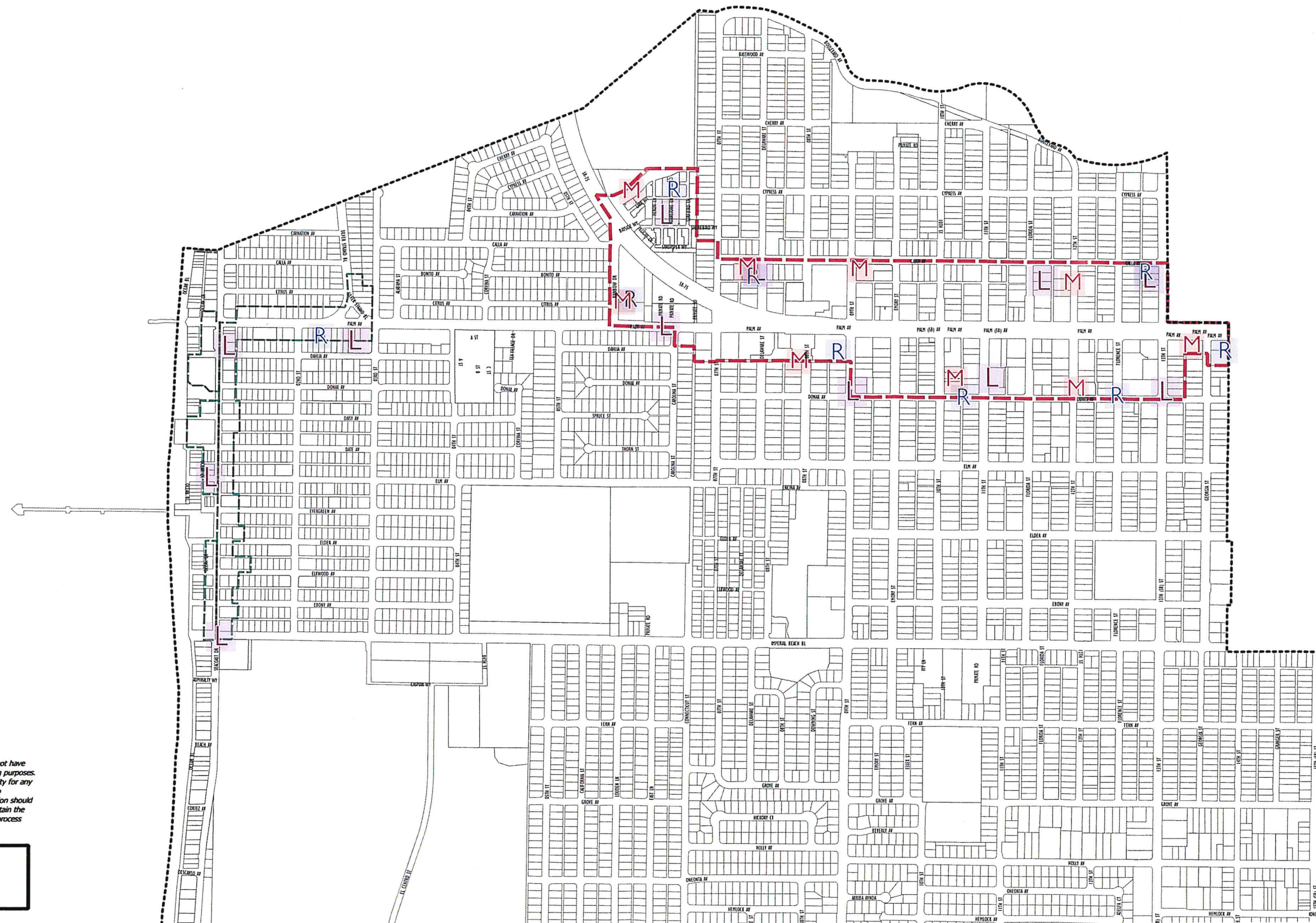
**City of Imperial Beach**  
**Marijuana Initiative**  
**Manufacturers**

### Legend

-  City Boundary
-  CMU/1 Zone
-  CMU/2 Zone
-  Parcels

### Sample Locations 900ft Separation by Type

-  Lounge
-  Manufacturer
-  Retailer



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STAFF REPORT  
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: ANDY HALL, CITY MANAGER *AH*  
MEETING DATE: SEPTEMBER 18, 2019  
ORIGINATING DEPT.: COMMUNITY DEVELOPMENT *SD*  
SUBJECT: HOUSING NEEDS, ISSUES, AND OPPORTUNITIES

---

**EXECUTIVE SUMMARY:**

An overview of the housing Needs, Issues and Opportunities (NIO) within Imperial Beach.

**FISCAL ANALYSIS:**

There are not any anticipated fiscal impacts associated with this NIO discussion.

**RECOMMENDATION:**

That the City Council receives this report and provide any necessary direction to staff.

**OPTION:**

- Receive the report and file.

**BACKGROUND:**

The City of Imperial Beach, San Diego County, and the State of California are all working to address the complex issue of housing. The purpose of this discussion item is to outline some of the various complexities of housing segmented into needs, issues and opportunities to provide a framework for a deliberate and focused discussion to help guide Imperial Beach's housing outlook and policies.

## **NEEDS**

**More Housing** – the SANDAG Executive Board RHNA recommendation identified 1,375 Housing Units for Imperial Beach. While this number, based upon historical growth, is not attainable, there is little doubt that more affordable and workforce housing is needed for Imperial Beach residents and their family based upon median income and housing prices. Related to this Need of More Housing, is what type and where. Many of these questions will be discussed as the City updates its required Housing Element.

**Funding** – Due to the gap between incomes and housing prices, the need to bridge that gap through some sort of funding mechanism is necessary.

## **ISSUES**

**Land Prices** – the finite resource of land, especially in Imperial Beach, even though the most affordable beach community in San Diego County, is a major factor in the pricing of housing units for sale or for rent.

**Entitlement Process** – The development process in California, due in part to CEQA and for coastal communities the Coastal Commission, requires a more comprehensive and detailed land development review process, which adds time and reports from various engineering and design professionals, which add to the cost.

**Labor** – The construction industry faces a shortage of skilled labor, which in turn increases prices and can also delay construction times, which in turn add to developer carrying costs, which in turn increase unit prices resulting in higher rents and for-sale prices.

**Infrastructure Capacity** – This is a broad issue that can include traditional physical infrastructure such as roads, and water and sewer, yet additional infrastructure considerations are necessary services such as schools and fire and police and parks and recreation, etc.

**NIMBY/Community Character** – Additional housing, especially in a “built-out” community that becomes more dense and/or develops in a form/design type that is different can lead to various issues about location, compatibility, and community character that can result in appeals and delays.

## **OPPORTUNITIES**

**Legislative** - Redevelopment Reinstatement

**Housing Element** - This process will allow for the community to affirm its position and policies relative to housing and its associated impacts.

## **ENVIRONMENTAL DETERMINATION:**

Not a project as defined by CEQA.

## **ATTACHMENTS**

None