AGENDA FOR THE REGULAR MEETING OF THE

CITY COUNCIL

SUCCESSOR AGENCY TO THE
IRWINDALE COMMUNITY REDEVELOPMENT AGENCY

HOUSING AUTHORITY

MAY 13, 2015

5:30 P.M. - CLOSED SESSION
6:30 P.M. - OPEN SESSION

IRWINDALE CITY HALL / COUNCIL CHAMBER

CLOSED SESSION – CITY HALL CONFERENCE ROOM
REGULAR MEETING – CITY HALL COUNCIL CHAMBER

Spontaneous Communications: The public is encouraged to address the City Council on any matter listed on the agenda or on any other matter within its jurisdiction. The City Council will hear public comments on items listed on the agenda during discussion of the matter and prior to a vote. The City Council will hear public comments on matters not listed on the agenda during the Spontaneous Communications period.

Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future City Council meeting.

Americans with Disabilities Act: In compliance with the ADA, if you need special assistance to participate in a City Council meeting or other services offered by this City, please contact City Hall at (626) 430-2200. Assisted listening devices are available at this meeting. Ask the Deputy City Clerk if you desire to use this device. Upon request, the agenda and documents in the agenda packet can be made available in appropriate alternative formats to persons with disabilities. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Note: Staff reports are available for inspection at the office of the Deputy City Clerk, City Hall, 5050 N. Irwindale Avenue, during regular business hours (8:00 a.m. to 6:00 p.m., Monday through Thursday).
As City of Irwindale Council Members, our fundamental duty is to serve the public good. We are committed to the principle of an efficient and professional local government. We will be exemplary in obeying the letter and spirit of Local, State and Federal laws and City policies affecting the operation of the government and in our private life. We will be independent and impartial in our judgment and actions.

We will work for the common good of the City of Irwindale community and not for any private or personal interest. We will endeavor to treat all people with respect and civility. We will commit to observe the highest standards of morality and integrity, and to faithfully discharge the duties of our office regardless of personal consideration. We shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of others.

We will inform ourselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand. We will base our decisions on the merit and substance of that business. We will be fair and equitable in all actions, claims or transactions. We shall not use our official position to influence government decisions in which we have a financial interest or where we have a personal relationship that could present a conflict of interest, or create a perception of a conflict of interest.

We shall not take advantage of services or opportunities for personal gain by virtue of our public office that are not available to the public in general. We shall refrain from accepting gifts, favors or promises of future benefit that might compromise our independence of judgment or action or give the appearance of being compromised.

We will behave in a manner that does not bring discredit or embarrassment to the City of Irwindale. We will be honest in thought and deed in both our personal and official lives.

Ultimate responsibility for complying with this Code of Ethics rests with the individual elected official. In addition to any other penalty as provided by law, violation of this Code of Ethics may be used as a basis for disciplinary action or censure of a Council Member.

These things we hereby pledge to do in the interest and purposes for which our government has been established.
1. **Conference with Real Property Negotiators**  
Pursuant to California Government Code Section 54956.8

   A) **Property:** 2200 Arrow Highway  
      **Negotiating Parties:** Successor Agency and Athens  
      **Under Negotiation:** Price and terms of Sale

   B) **Property:** 16203-33 Arrow Highway  
      **Negotiating Parties:** Housing Authority and Panattoni Development  
      **Under Negotiation:** Price and terms of sale

   C) **Property:** APN 8532-001-901  
      **Negotiating Parties:** City and Unknown Potential Purchaser  
      **Under Negotiation:** Price and terms of sale

   D) **Property:** 6550 N. Irwindale Avenue  
      **Negotiating Parties:** City and Unknown Potential Lessees  
      **Under Negotiation:** Price and terms of lease

2. **Public Employee Appointment**  
Pursuant to Government Code Section 54957

   **Title:** Temporary Interim City Manager

3. **Conference with Legal Counsel – Existing Litigation**  
Pursuant to California Government Code Section 54956.9

   A) **Case Name:** City of Baldwin Park v. City of Irwindale  
      **Case Number:** BS 152919

   B) **Case Name:** City of Irwindale v. Monat  
      **Case Number:** LASC BS148389

**ADJOURN**
OPEN SESSION – 6:30 P.M.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. INVOCATION

D. ROLL CALL: Councilmembers: Albert F. Ambriz, Julian A. Miranda, H. Manuel Ortiz, Mayor Pro Tem Manuel R. Garcia, Mayor Mark A. Breceda

E. REPORT FROM CLOSED SESSION

F. CHANGES TO THE AGENDA

G. COUNCIL MEMBER TRAVEL REPORTS

H. ANNOUNCEMENTS

I. INTRODUCTION OF NEW EMPLOYEES/PROMOTIONS

J. PROCLAMATIONS / PRESENTATIONS / COMMENDATIONS

1. Proclamation proclaiming May 7-13, 2015 National Public Works Week

SPONTANEOUS COMMUNICATIONS

This is the time set aside for members of the audience to speak on items not on this agenda. State law prohibits any Council discussion or action on such communications unless 1) the Council by majority vote finds that a catastrophe or emergency exists; or 2) the Council by at least four votes finds that the matter (and need for action thereon) arose within the last five days. Since the Council cannot (except as stated) participate it is requested that all such communications be made in writing so as to be included on the next agenda for full discussion and action. If a member of the audience feels he or she must proceed tonight, then each speaker will be limited to 2 minutes and each subject limited to 6 minutes, unless such time limits are extended.
1. CONSENT CALENDAR

The Consent Calendar contains matters of routine business and is to be approved with one motion unless a member of the City Council requests separate action on a specific item. At this time, members of the audience may ask to be heard regarding an item on the Consent Calendar.

A. Minutes

Recommendation: Approve the following minutes:

1. Regular meeting held April 22, 2015

B. Warrants/Demands/Payroll

Recommendation: Approve

C. Contract Agreement with California Department of Education Nutrition Services Division and El Monte Union High School District as Summer Lunch Program Food Vendor

Recommendation: Approve the contract agreement between the El Monte Union High School District as food vendor provider and approve the agreement by and between the City of Irwindale and California Department of Education Nutrition Service Division for Summer Food Service Program.

D. Acceptance of Public Works Construction Contract – the Replacement of Sewer Lift Station Piping in Charter Street Pump Station

Recommendation: Ratify changes in the work and accept the improvements and maintenance responsibility for the constructed improvements for the replacement of sewer lift station piping in Charter Street Pump Station and approve the final construction contract amount of $404,928.99; and authorize the release of the five percent (5%) retention amount for the project.

E. Approve the Emergency Purchase of two Police Vehicles Using Asset Forfeiture Funds, and Waive Formal Bidding Procedure

Recommendation: Adopt Resolution No. 2015-24-2753 entitled: “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE APPROVING $110,000 FOR THE PURCHASE AND OUTFITTING OF TWO POLICE VEHICLES USING ASSET FORFEITURE FUNDS, AND WAIVING BIDDING REQUIREMENTS,” reading by title only and waiving further reading thereof and waive formal bidding procedures per Irwindale Municipal
Code Section 3.44.080(f); and approving the issuance of purchase orders for the procurement of (2) vehicles, 2015 Dodge Charger 27A police package vehicle.

F. Approve the Creation of a New Position of a Temporary Part-Time Police Clerk to Assist in the Police Department Records Division, and Allowing an Emergency Provisional Appointment to Such Position


2. NEW BUSINESS

A. Introduction and Adoption of an Interim Urgency Ordinance to Place a Temporary Moratorium on the Establishment and Operation of Land Uses Related to the Commercial and Industrial Cultivation, Processing and Distribution Of Medical Marijuana


3. OLD BUSINESS

4. PUBLIC HEARINGS

5. CITY MANAGER’S REPORT

6. ADJOURN

SUCCESSOR AGENCY TO THE IRWINDALE COMMUNITY REDEVELOPMENT AGENCY

A. Report from Closed Session
SPONTANEOUS COMMUNICATIONS

This is the time set aside for members of the audience to speak on items not on this agenda. Spontaneous Communications for the Successor Agency are subject to the same State prohibitions and City guidelines as cited on the City Council agenda.

1. CONSENT CALENDAR

A. Minutes

Recommendation: Approve the following minutes:

1. Regular meeting held April 22, 2015

B. Warrants

Recommendation: Approve

2. NEW BUSINESS
3. PUBLIC HEARINGS
4. ADJOURN

HOUSING AUTHORITY

A. Report from Closed Session

SPONTANEOUS COMMUNICATIONS

This is the time set aside for members of the audience to speak on items not on this agenda. Spontaneous Communications for the Housing Authority are subject to the same State prohibitions and City guidelines as cited on the City Council agenda.

1. CONSENT CALENDAR

A. Minutes

Recommendation: Approve the following minutes:

1. Regular meeting held April 22, 2015
2. NEW BUSINESS
3. PUBLIC HEARINGS
4. ADJOURN

AFFIDAVIT OF POSTING

I, Laura M. Nieto, Deputy City Clerk, certify that I caused the agenda for the regular meeting of the City Council, Irwindale Successor Agency to the Irwindale Community Redevelopment Agency, and Housing Authority, to be held on May 13, 2015 to be posted at the City Hall, Library, and Post Office on May 7, 2015.

Laura M. Nieto, CMC
Laura M. Nieto, CMC
Deputy City Clerk
The Irwindale CITY COUNCIL met in regular session at the above time and place.

ROLL CALL: Present: Councilmembers Albert F. Ambriz, Julian A. Miranda, H. Manuel Ortiz; Mayor Pro Tem Manuel R. Garcia; Mayor Mark A. Breceda

Also present: Eva Carreon, Acting City Manager / Director of Finance; Fred Galante, City Attorney; Anthony Miranda, Police Chief; William Tam, Director of Public Works/City Engineer; Gus Romo, Director of Community Development; Elvie Balderrama, Human Resources Manager, and Laura Nieto, Deputy City Clerk

RECESS TO CLOSED SESSION At 5:30 p.m., the City Council recessed to Closed Session to discuss the following:

Conference with Legal Counsel – Existing Litigation Pursuant to California Government Code Section 54956.9

Case Name: City of Baldwin Park v. City of Irwindale
Case Number: BS 152919

ACTION: Update provided; no reportable action taken

Case Name: City of Irwindale v. County of Los Angeles
Case Number: 56-2015-00464100-CU-WM-VTA

ACTION: Update provided; no reportable action taken

Conference with Legal Counsel – Anticipated Litigation Initiation of Litigation Pursuant to Paragraph (4) of Subdivision (d) of Section 54956.9

Number of cases: One

ACTION: Council briefed; no reportable action taken

RECONVENE IN OPEN SESSION At 6:30 p.m., the City Council reconvened in Open Session.

CHANGES TO THE AGENDA None.

COUNCILMEMBER TRAVEL REPORTS None.
**ANNOUNCEMENTS**

**COUNCILMEMBER ORTIZ**

Councilmember Ortiz said that he recently toured the Gold Line Station to study the amount of people that board the trains and to gain a better understanding of once the Irwindale station is in operation. He noted that many people board the train during rush hour and that the Gold Line Authority is taking this into consideration and will probably increase the number of train cars or adjust the timing in order to accommodate the travelers’ needs. He also spoke on potential business growth near the station.

**INTRODUCTION OF NEW EMPLOYEE**

None.

**PROCLAMATIONS / PRESENTATIONS / COMMENDATIONS**

**RECOGNITION OF IRWINDALE CHAMBER OF COMMERCE BUSINESS OF THE MONTH – BRITEWORKS, INC.**

The presentation was made.

**PROCLAMATION PROCLAIMING APRIL AS AUTISM AWARENESS MONTH**

The proclamation was made.

**UPDATE ON CLEANTECH FACILITY**

Director Romo, along with Mr. Robert Brown of CleanTech, made the presentation. Among the items discussed were the determinations previously made by staff, the city’s municipal code, the concerns made by members of the public, the scope of operation, zoning issues, land use determinations, and the Department of Toxic Control Substances (“DTSC”) and its approval process. Mr. Brown advised that he is offering tours of the facility to interested persons.
SPONTANEOUS COMMUNICATIONS

JONATHAN KLEIN
Jonathan Klein expressed concern that the process that the DTSC underwent to approve the permit for this project did not ensure the safety of the community.

TODD ELLIOTT
Todd Elliott, an attorney representing “LIMPIA”, also expressed concern of the DTSC approval process and stated his opinion that community members were not given an opportunity to state their concerns. He also alleged that the city’s General Plan prohibits the proposed use.

FRED BARBOSA
Fred Barbosa stated that he was impressed with the presentation and said that perhaps the information being disseminated to the public has been misrepresented.

BEATRIZ SANDOVAL
Beatriz Sandoval said that she was concerned because no information or statistics on contamination was provided during the presentation. She also expressed frustration in the amount of time it takes to reach the freeways and questioned Director Romo’s loyalty to the city.

MANUEL HERNANDEZ
Manuel Hernandez, an organizer with the Save the Dam coalition, disagreed that the information he is sharing in the community is inaccurate and said that he will continue to advocate for the community’s needs and for its families.

EMPARCI FUENTES
Emparci Fuentes asked why Mr. Brown would not build his business closer to where he lives. She said that there was a recent fire near where she lives and that the odor of the smoke still got into her house even with all the windows shut. She questioned whether any airborne contaminants can escape the facility.

MAYOR BRECEDA
Mayor Breceda defended Director Romo and emphasized that his loyalty is to the city. He also reminded that Mr. Brown has offered interested individuals to tour his facility.

ERICA ENCASO
Erica Encaso wondered how the proposed facility would affect the environment, local wildlife, and the health of her children.

MAYOR BRECEDA
Mayor Breceda stated that the Council takes these comments very seriously and that the Council will consider any factual issues.

PAUL HERNANDEZ
Paul Hernandez, Vice President of the Valley County Water District, expressed his frustration since, in his opinion, these types of facilities are constructed in “communities of diversity.”

ROSIE RIOS
Rosie Rios said that these types of facilities are destroying the planet.
CITY ATTORNEY GALANTE

City Attorney Galante advised that a letter was received which insinuated that this type of project was not permitted in the city. He noted that the staff has analyzed the provisions that the former Development Services Director analyzed when the project was initially presented. He added that the DTSC's process is to analyze the project and that they have advertised opportunities for any interested person to comment on the process. This process has actually been quite lengthy and the DTSC has finally issued an environmental approval and that, as a result of the concerns raised, has issued a full environmental impact report.

He noted that many of the comments received concern the safety of the materials at the site, which is exclusively within the jurisdiction of the DTSC. He said that it was important to note that the process has not been quick and that the DTSC has conducted an independent analysis on the matter. The City of Irwindale's authority is limited to land use and whether the facility is permissible within the city, but that the containment of any materials is subject matter of the DTSC. Whether or not the DTSC has prepared a thorough report will be vetted out in court. However, he expressed disagreement with the allegations that the facility goes against city code.

MAYOR PRO TEM GARCIA

Mayor Pro Tem Garcia indicated that the Council has heard the public's concerns, but that the Council must follow protocol.

MAYOR BRECEDA

Mayor Breceda thanked those who spoke and indicated that the Council is trying to communicate with Los Angeles Supervisor Solis' Office to obtain her input.

RACHEL BARBOSA

Rachel Barbosa, representing Supervisor Solis' Office, indicated that they are willing to talk to anybody regarding this matter.

CONSENT CALENDAR

MOTION

A motion was made by Councilmember Ortiz, seconded by Mayor Breceda, to approve the Consent Calendar; reading resolutions and ordinances by title only and waiving further reading thereof, with the exception of Item No. 1F, which was removed for separate consideration. The motion was unanimously approved.

ITEM NO. 1A MINUTES

The following minutes were approved as presented:

1) Regular meeting held March 25, 2015
2) Regular meeting held April 8, 2015
ITEM NO. 1B
WARRANTS / DEMANDS / PAYROLL
The warrants / demands / payroll were approved.

ITEM NO. 1C
INVESTMENT QUARTERLY REPORT – MARCH 31, 2015 (Joint Item on Successor Agency and Housing Authority agendas)

ITEM NO. 1D
APPROVAL OF PARCEL MAP NO. 72936 – BACA AVENUE
1) Parcel Map No. 72936 was approved and the City Clerk, City Treasurer, and City Engineer were authorized to sign the map on behalf of the City; and 2) the City Engineer was directed to submit Parcel Map No. 72936 to the Los Angeles County Registrar Recorder’s Office for recordation and return a recorded copy of this parcel map to the City Clerk’s Office.

ITEM NO. 1E
APPROVAL OF THE 5-YEAR RE-CERTIFICATION OF CITY OF IRWINDALE SEWER SYSTEM MANAGEMENT PLAN (SSMP)
Resolution No. 2015-22-2751, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE, CALIFORNIA, APPROVING THE 5-YEAR RE-CERTIFICATION OF CITY OF IRWINDALE SEWER SYSTEM MANAGEMENT PLAN," was adopted, and the Public Works Director / City Engineer was authorized to execute the updated SSMP document as the City Representative.

ITEM NO. 1G
LEASE OF CITY’S GROUND WATER PUMPING RIGHTS FOR FY 2014-2015
California Domestic Water Company’s offer to lease the City’s 285.38 acre feet of ground water pumping rights for FY 2014/2015 was accepted and the Acting City Manager was authorized to sign a one-year lease for the temporary assignment of the City’s water pumping rights.

ITEM NO. 1H
GOLD LINE FOOTHILL EXTENSION PROJECT – IMPROVEMENTS AT THE INTERSECTION OF IRWINDALE AVENUE AND FOOTHILL BOULEVARD
THE INTERSECTION OF IRWINDALE AVE. AND FOOTHILL BLVD. 1) The deletion of the improvements at the intersection of Irwindale Avenue and Foothill Boulevard were accepted; and 2) the City Engineer was authorized to send a letter to the Gold Line Construction Authority for the deletion of the improvements.

END OF CONSENT CALENDAR

ITEM NO. 1F
ASBESTOS AND LEAD ASSESSMENT AND ABATEMENT MONITORING AND INSPECTION REPORTS

PUBLIC WORKS ANALYST RODRIGUEZ
Public Works Analyst Rodriguez discussed the staff report.

COUNCILMEMBER MIRANDA
Responding to a question by Councilmember Miranda, Analyst Rodriguez advised that it would be more cost effective to wait to abate the contaminants until repairs at those specific areas are needed. She advised that the contaminants are not dangerous unless disturbed.

COUNCILMEMBER ORTIZ
Councilmember Ortiz asked whether these contaminants have existed since the facilities were built, to which Analyst Rodriguez confirmed that they have, but noted that the buildings were built before 1987 when it was considered safe to use these items.

MAYOR PRO TEM GARCIA
Mayor Pro Tem Garcia suggested returning with a cost analysis in the future so that problem areas can be handled on a priority basis.

MOTION
A motion was made by Councilmember Miranda, seconded by Councilmember Ambriz, to 1) accept the findings outlined in the asbestos and lead assessment and abatement monitoring and inspection reports conducted and completed by Global Environmental Training & Consulting, Inc., 2) direct staff to include the findings in the City’s asbestos and lead-based paint awareness program; and 3) direct staff to develop an abatement schedule based on areas identified by the consultant as requiring removal. The motion was unanimously approved.

NEW BUSINESS

ITEM NO. 2A
METRO GOLD LINE FOOTHILL EXTENSION PROJECT – SELECTION OF THE GOLD LINE IRWINDALE STATION DEDICATION DATE AND TIME
AND TIME

DIRECTOR TAM

Director Tam discussed the staff report.

MOTION

A motion was made by Mayor Breceda, seconded by Councilmember Miranda, to request August 28 as the date for the Gold Line Irwindale Station dedication date, with August 21 as the alternate date. The motion was unanimously approved.

ITEM NO. 2B

MID-YEAR BUDGET REPORT

FINANCE ANALYST II DURAN

Finance Analyst II Duran presented a PowerPoint presentation, which provided information on revenue, expenditures and adjustments, General Fund reserves, and budget challenges.

DIRECTOR CARREON

Director Carreon further discussed the staff report.

COUNCILMEMBER MIRANDA

Councilmember Miranda asked about mining tax, sales tax, and utility tax income, to which Director Carreon advised that tonnage estimates are received from the mining companies and these are used to gauge what next year’s revenues will be. The mining companies have projected increases in tonnages, which results in higher tax revenues for the city.

Councilmember Miranda also asked about retirement liability, to which Director Carreon advised that an actuarial report is created every two years which provides a snapshot for the fiscal year as to what the city’s obligation would be if it all had to be paid back immediately. This is included as a note in the financial statements. The actual costs are paid as they are incurred.

Councilmember Miranda then asked about the development impact and cost allocation user fee study, to which Director Carreon indicated that this process begun back in 2007 and that, though it’s been several years, most of that work can be used at this time. Staff has requested the contractor to focus on the development impact fee study since it is the highest priority and, as such, both projects will likely not be done concurrently. Staff will report back in the future with additional details on the studies.

Councilmember Miranda expressed his optimism in the city’s financial outlook and thanked staff for the report.

MAYOR BRECEDA

Mayor Breceda concurred with Councilmember Miranda and said he was glad the Council has been working together towards a common goal.
COUNCILMEMBER Ortíz asked about the additional costs for the Irwindale Business Center sewer pump station, to which Director Tam advised that cost increases were due to the lack of an operational bypass system. A tank must be utilized to pump and transport, and it is very intensive due to the inflow coming into the station. Staff is requesting additional funding to be loaned to the district and an internal accounting procedure will be followed to ensure that the borrowed funds are re-paid with interest. Payments will be made on an annual basis over five years.

DIRECTOR CARREON Director Carreon added that funding for the assessment district comes from property tax bills.

COUNCILMEMBER Ortíz also asked about expenditures for the Irwindale Park improvements, to which Director Tam advised that a report was previously provided to the Council indicating that additional funding would be required, which the Council approved.

Councilmember Ortíz said that the future of Irwindale looks bright.

COUNCILMEMBER AMBRIZ Councilmember Ambriz thanked staff for the report and suggested maintaining conservative expenditures and that the Council continue working together.

MAYOR PRO TEM GARCIA Mayor Pro Tem Garcia asked about a cost analysis on the Wildan financial services, to which Director Carreon the company's work started in 2007. They have now provided a new proposal which staff originally believed would total about $95,000, but since they can use much of the information that was prepared previously, they can do the work for about half the amount.

RESOLUTION NO. 2015-21-2750 ADOPTED Resolution No. 2015-21-2750, entitled:

“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE APPROVING ADJUSTMENTS TO THE BUDGET FOR FISCAL YEAR 2014-15, AND APPROVING A PROMISSORY NOTE AUTHORIZING THE CITY TO LOAN A TOTAL OF $375,000 FROM THE GENERAL FUND TO THE IRWINDALE BUSINESS CENTER SEWER MAINTENANCE ASSESSMENT DISTRICT,” was passed, approved, and adopted, and the contract for Willdan Financial Services to complete the Development Impact, Cost Allocation, and User Fee Studies, was approved, subject to approval as to form by the City Attorney, on the motion of Councilmember Miranda, seconded by Councilmember Ortíz, and unanimously approved.
OLD BUSINESS    None.

PUBLIC HEARINGS None.

CITY MANAGER'S REPORT

ACTING CITY MANAGER CARREON Acting City Manager Carreon advised that the Police Department has recently conducted outreach near the Alice Rodriguez Circle community during its “Chat with the Chief” function. Many positive comments were received. Another similar function will be held in May.

MAYOR BRECEDA As requested by Mayor Breceda, Acting City Manager Carreon briefly noted City Manager Davidson’s health. Mayor Breceda thanked Acting City Manager Carreon for filling in and suggested that City Manager Davidson be given time to rehabilitate.

ADJOURNMENT There being no further business to conduct, the meeting was adjourned at 8:30 p.m.

Laura M. Nieto, CMC
Deputy City Clerk
# Accounts Payable

## Checks by Date - Summary By Check Number

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**Printed:** 5/6/2015 - 1:02 PM

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## CITY OF IRWINDALE
### PAYROLL WARRANT REGISTER
#### April 2015

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Date: May 13, 2015

To: Mayor and Council Members

From: Eva Carreon, Acting City Manager

Issue: Contract Agreement with California Department of Education Nutrition Services Division and El Monte Union High School District as Summer Lunch Program Food Vendor

City Manager’s Recommendation:

That Council approve the attached contract agreement between the El Monte Union High School District as food vendor provider and approve the agreement by and between the City of Irwindale and California Department of Education Nutrition Service Division for Summer Food Service Program.

Analysis:

Last year, the City participated for the fourteenth time in the federally funded Summer Food Service Program. This year we will again administer our own program through our Recreation Department. Our proposed contracted vendor will be El Monte Union High School District which provided us daily nutritious lunches approved by the Department of Education during the summer 2014.

Basically, the program involves partial federal reimbursement for sponsors (city) that provide nutritious meals to children 18 years of age and younger. During the school year, children are eligible to receive at least one nutritious meal daily while attending school. When school is out, children often miss out on this nutritious meal due to limited budgets or other circumstances. A well-balanced diet is important to a child’s growth and development. Children who do not receive the proper nutrition are likely to be ill and have difficulty concentrating or performing well when they are in school. Providing children with a nutritious meal when school is not in session helps them return to school ready to learn and succeed. The 2015 Summer Food Service Program will begin on Monday, June 22, 2015 and end on Friday, July 31, 2015, and will consist of a daily lunch.

Fiscal Impact:

The expense is anticipated to be $7,772 for the Summer Food Service Program and is included in the Fiscal Year 2015-2016 General Fund budget. It is anticipated the
Federal reimbursement grant amount will virtually cover all expenses, with negligible impact to the General Fund, if at all.

Fiscal Impact: (Initial of CFO)

Legal Impact: (Initial of Legal Council)

Contact Person/Prepared by: Dan Grijalva, Recreation Manager
Phone: (626) 430-2225

Eva Carreon, Acting City Manager

Attachments: Summer Food Service Program Standard Food Service Agreement
SUMMER FOOD SERVICE PROGRAM
STANDARD FOOD SERVICE AGREEMENT

This agreement is entered into on DAY: 24 MONTH: APRIL YEAR: 2015 by and between

SFSP SPONSOR CITY OF IRWINDALE, herein after referred to as the Agency, and

FOOD SERVICE VENDOR NAME: EL MONTE UNION HIGH SCHOOL DISTRICT, herein after referred to as the Vendor.

Whereas, it is not within the capability of the Agency to prepare specified meals under the Summer Food Service Program (SFSP); and

Whereas, the facilities and capabilities of the Vendor are adequate to prepare and deliver specified meals to the Agency's facility(ies); and

Whereas, the Vendor is willing to provide such services to the Agency on a cost reimbursement basis.

Therefore, both parties hereto agree as follows:

THE VENDOR AGREES TO:

1. Prepare unitized meals for ☑ delivery* ☐ pickup* ☐ inclusive or ☐ exclusive ** of milk or juice each day, in accordance with the number of meals requested and at the cost(s) per meal listed below at the following location: (Attach additional sheet of paper if necessary.)

   NAME OF LOCATION SOUTH EL MONTE HIGH SCHOOL
   ADDRESS/CITY/STATE/ZIP 1001 DURFEE SOUTH EL MONTE 91733
   ENTER THE TIME OF DAY THAT MEALS WILL BE AVAIL TO THE AGENCY TBA

   BREAKFAST $ EACH    LUNCH $3.35 EACH
   SUPPLEMENT/SNACK $ EACH    SUPPER $ EACH

2. Provide the Agency, for approval, a proposed cycle menu for the operational period, at least 30 day(s) prior to the beginning of the period to which the menu applies. Any changes to the menu made after Agency approval must be agreed upon by the Agency, approved by the California Department of Education (CDE) and documented on the menu records.

3. Ensure that each meal provided to the Agency under this agreement meets the minimum requirements as to the nutritional content as specified by the SFSP Meal Pattern, Schedule B (attached) which is excerpted from the regulations 7 CFR Part 225.16 or an approved National School Lunch Program (NSLP)/School Breakfast Program (SBP) option. NSLP/SBP vendors may use the same menu planning option they use during the school year in lieu of using the SFSP meal pattern. Snacks will meet the SFSP meal pattern.

4. Maintain full and accurate records which document: (1) the menus were provided to the Agency during the term of this agreement; (2) a listing of all components of each meal; and, (3) an itemization of the quantities of each component used to prepare said meal. The Vendor agrees to provide meal preparation documentation by using yield factors for each food item as listed in the United States Department of Agriculture (USDA) Food Buying Guide when calculating and recording the quantity of food prepared for each meal.

*Check either pickup or delivery or both if this agreement is for a combination of sites that require both types of delivery.
**Check whether the vendor is to "include" or exclude milk and juice with the meal.
SUMMER FOOD SERVICE PROGRAM
STANDARD FOOD SERVICE AGREEMENT

5. Maintain such cost records as invoices, receipts and/or other documentation that exhibit the purchase, or otherwise availability to the Vendor, of the meal components and quantities itemized in the meal preparation records.

6. Maintain, on a daily basis, an accurate count of the number of meals, by meal type, prepared for and delivered/picked up by the Agency. Meal count documentation must include the number of meals requested by the Agency.

7. Allow the Agency to increase or decrease the number of meal orders, as needed, when the request is made Within the following scheduled delivery time: * 4 HOURS

8. Present to the Agency an invoice accompanied by reports no later than the 5TH day of each month, which itemizes the previous month's delivery. The Vendor agrees to forfeit payment for meals which are not ready within one (1) hour of the agreed upon delivery time, are spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements contained in this agreement. In cases of nonperformance or noncompliance on the part of the Vendor, the Vendor shall pay the Agency for any excess costs the Agency incurs by obtaining meals from another source.

9. Provide the Agency with a copy of current health certifications for the food service facility in which it prepares meals for the SFSP. The Vendor shall ensure that all health and sanitation requirements of the California Uniform Retail Food Facilities Law, Chapter 4 of the California Health and Safety Code, are met at all times.

10. Operate in accordance with current SFSP regulations. Comply with all other USDA regulations regarding food service vendors including those specified for commercial food service if applicable.

11. Retain all required records for a period of three (3) years after the end of the fiscal year to which they pertain (or longer, if an audit is in progress). Upon request, make all accounts and records pertaining to the agreement available to a certified public accountant hired by the Agency, representatives of the CDE, USDA, and the Office of Inspector General for audits or administrative reviews at a reasonable time and place.

12. Not subcontract for the total meal, with or without milk, or for the assembly of the meal.

13. Be paid by the Agency for all meals delivered/picked up in accordance with the agreement. Neither the CDE nor the USDA will assume any liability for payment of differences between the number of meals prepared for delivery and/or pickup by the Vendor and the number of meals served by the Agency that are eligible for reimbursement.

14. Accept commodities from the Agency. The commodities will be used in the preparation of meals provided for the SFSP. The Vendor will reduce the price of the meals by the fair market value of the commodities used in the meals. Price reductions will be itemized on the invoice. All commodities until used are the property of the Agency.

* Negotiable time frame, but should be no longer than 24 hours
THE AGENCY AGREES TO:

1. Request by telephone no later than **4:30PM**, an accurate number of meals to be delivered or picked up by the Agency each day. Notify the Vendor of necessary increases or decreases in the number of meals ordered within **4** hours of the scheduled delivery or pickup time. Errors in meal orders made by the Agency shall be the responsibility of the Agency.

2. Ensure that an Agency representative is available at each delivery or pickup site at the specified time on each specified day to receive, inspect, and sign for the requested number of meals. This individual will verify the temperature, quality, and quantity of each meal delivered or picked up. The Agency assures the Vendor that this individual will be trained and knowledgeable in the record keeping and meal requirements of the SFSP, and with local health and safety codes.

3. Provide personnel to serve meals, clean the serving and eating areas, and assemble transport carts and auxiliary items for pickup by the Vendor (if applicable) no later than: **11:00AM**

4. Notify the Vendor, within **5** days of receipt of the next month's proposed cycle menu, of changes, additions, or deletions.

5. Provide the Vendor with a copy of 7 CFR Part 225.16; the SFSP Meal Pattern, Schedule B; the USDA Food Buying Guide; and all other technical assistance materials pertaining to the food service requirements of the SFSP. The Agency will, within 24 hours of receipt from the NSD, advise the Vendor of any changes in the food service requirements.

6. Pay the Vendor by the **15TH** day of each month the full amount as presented on the monthly itemized invoice. Notify the Vendor within 48 hours of receipt of any discrepancy in the invoice. Pay the Vendor for all meals delivered/picked up in accordance with the agreement. Neither the California Department of Education nor USDA assume any liability for payment of the difference between the number of meals prepared, picked up by the Agency, delivered by the Vendor, and the number of meals served by the Agency that are eligible for reimbursement.

7. Order only those commodities that can be incorporated into its meals. The Agency shall be responsible for transferring all unused commodities at the close of the SFSP. The Agency is responsible for the fair market value of any commodity losses that may occur.

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* Negotiable time frame, but should be no longer than 24 hours
** Time of day or day of week
SUMMER FOOD SERVICE PROGRAM
STANDARD FOOD SERVICE AGREEMENT

Page 4

TERMS OF THE AGREEMENT:

This agreement will take effect commencing on JUNE 22, 2015 and shall end on JULY 31, 2015, but no later than September 30. This agreement may be terminated by either party giving notice at least 30 days prior to the date of termination. The Agency shall have the option to cancel this contract if the federal government withdraws funds to support the SFSP. It is further understood that in the event the contract is cancelled, the Agency shall be responsible for meals that have already been assembled, delivered/picked up in accordance with this agreement.

SCHOOL FOOD AUTHORITY VENDING TO A SPONSOR:
Enter the SMI planning option(s) you will use and submit a menu to the sponsor for NSD's approval if it is not the standard SFSP Meal Pattern: FBMP.

If the Agency agrees to the menu planning option, the school will train the Agency by: JUNE 22, 2015

AGENCY:
Agrees to allow the school to use the SMI menu planning option noted above (submit menu for NSD's approval):
Yes ☒ No ☐

In witness thereof, the parties hereto have executed this agreement as of the dates indicated below:

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AGENDA REPORT

Date: May 13, 2015

To: Honorable Mayor and Members of the City Council

From: Eva Carreon, Acting City Manager

Issue: ACCEPTANCE OF PUBLIC WORKS CONSTRUCTION CONTRACT - THE REPLACEMENT OF SEWER LIFT STATION PIPING IN CHARTER STREET PUMP STATION

City Manager's Recommendation:

That the City Council ratify changes in the work and accept the improvements and maintenance responsibility for the constructed improvements for the replacement of sewer lift station piping in Charter Street Pump Station and approve the final construction contract amount of $404,928.99; and authorize the release of the 5% retention amount for the project.

Analysis:

1) On November 12, 2014, the replacement of sewer lift station piping in Charter Street Pump Station was awarded to Pyramid Building and Engineering, Inc. in the amount of $355,204.00, and a 20% project contingency was also approved to cover any unforeseeable conditions that may arise during construction. This project has been completed per the approved plans and specifications.

2) One (1) contract change order was issued on the project for the re-lining of the wet well at the station due to condition of the well. This additional work was recommended by the County Sewer Maintenance staff and the negotiated cost for this additional work was $49,724.99. The original construction contract amount authorized by the City Council was $426,244.80. The final cost of the construction contract was $404,928.99 or $21,315.81 less than the authorized contract amount.

3) Ratification of the changes in the work and acceptance of the work by the City Council is in compliance with the acceptance and prompt payment provisions of the Public Contract Code.
4) Sufficient funds are available in the current year CIP in the Irwindale Business Center Sewer Assessment District Sewer Maintenance Fund to cover the total value of the contract.

**Fiscal Impact:** (Initial of CFO) None - No general fund impact; this project is funded by the Irwindale Business Center Sewer Assessment District Sewer Maintenance Fund.

**Legal Impact:** (Initial of Legal Counsel)

**Contact Person/Prepared by:** William K. Tam, Public Works Director/City Engineer Phone: (626) 430-2212

Eva Carreon, Acting City Manager
Date: May 13, 2015

To: Honorable Mayor and City Council

From: Eva Carreon, Acting City Manager

Issue: Approve the Emergency Purchase of two Police Vehicles using Asset Forfeiture Funds, and Waive Formal Bidding Procedure

City Manager's Recommendation:


Waive formal bidding procedures per Irwindale Municipal Code Section 3.44.080(f); and approving the issuance of purchase orders for the procurement of two (2) vehicles, 2015 Dodge Charger 27A police package vehicle.

Analysis:

The Police Department is seeking approval for a budget transfer of Asset Forfeiture Funds for the urgent purchase and outfitting of two (2) 2015 police package Dodge Chargers.

In recent months 75% of our marked police vehicle fleet have gone out of service and are not readily available for field operations due to recurring mechanical issues and problems related to the aged police fleet. On occasion, police officers are driving unmarked police vehicles to regular calls for service which is a practice that is not sustainable or a "Best Practice" method of operation.

Irwindale Municipal Code section 3.44.080(f), defines when a purchase is beneficial to the interest of the city and is from a supplier who has been awarded a specific item or items in a contract resulting from a formal competitive bid process by another governmental agency within the State of California or by the federal government within the previous three hundred sixty-five days (one year); The following reason is what make this product fall within this municipal code section:

Mc Peek's Dodge of Anaheim was awarded a contract PO# 0001527966-1 from the Los Angeles Police Department Department in July 2014, based off a formal bid procedure for a 2015 police package Dodge Charger vehicle. This bidding procedure and cost break is available for the City of Irwindale to utilize.
This approval is for both the purchase of the vehicles and outfitting the vehicles with emergency lighting equipment, radios, computers, public safety supplies and vehicle graphics.

**Fiscal Impact:**

The purchase of both vehicles will be funded by Asset Forfeiture Funds. There is no fiscal impact to the General Fund.

**Future Recommendation:**

Providing public safety service to the community requires automobiles that are in service on a 24 hour a day, seven days a week basis. It is recommended that beginning in Fiscal Year 2016-17, the budget reflect necessary funds that allow for an annual vehicle purchase cycle that continues for subsequent years. This will allow old vehicles to be surplused when needed with the addition of new equipment. This method of vehicle acquisition prevents unexpected urgent requests and is a way to prevent instances where the entire fleet of cars is out for repair.

**Fiscal Impact:** [ Initial of CFO ]

**Legal Impact:** [ Initial of Legal Counsel ]

**Completed By:** Chief Anthony Miranda  
**Phone:** (626) 430-2236

[ Signature ]  
Eva Carreño, Acting City Manager
RESOLUTION NO. 2015-24-2753

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE
APPROVING $110,000 FOR THE PURCHASE AND OUTFITTING
OF TWO POLICE VEHICLES USING ASSET FORFEITURE FUNDS,
AND WAIVING BIDDING REQUIREMENTS

WHEREAS, properly functioning police vehicles are vital to providing basic community
crime prevention to the citizens of Irwindale and currently the police department is in need
of replacing two (2) police vehicles to ensure uninterrupted community safety services to
the citizens of Irwindale; and

WHEREAS, the police department fleet of vehicles is aging which is resulting in increased
costs for repairs and potential liability associated with vehicle performance, and Asset
Forfeiture Fund monies are available to be used for the urgent purchase and outfitting of
(2) 2015 police package Dodge Chargers; and

WHEREAS, Section 3.44.080(F) of the Irwindale Municipal Code provides for waiving of
the formal bidding process when a purchase is beneficial to the interest of the City and is
from a supplier who has been awarded a specific item in a contract resulting from a formal
competitive bid process by another governmental agency within the State of California; and

WHEREAS, Mc Peek’s Dodge of Anaheim was awarded a contract PO# 0001527966-1
from the Los Angeles Police Department in July 2014, based off a formal bid procedure
for a 2015 police package Dodge Charger vehicle.

NOW, THEREFORE, the City Council of the City of Irwindale, California, resolves,
determines, and orders as follows:

SECTION 1. Approval of a budget transfer within the Asset Forfeiture Fund of $110,000
from the Large Tools & Equipment to the Vehicles Account for the purchase and outfitting
of (2) two police vehicles

SECTION 2. That it would be in the best interest of the City to forego with bidding, utilizing
the government purchase order established by the Los Angeles Police Department, thus
waiving the formal bid process pursuant to Irwindale Municipal Code subsection
3.44.080(F).

SECTION 3. That the issuance of a purchase order for the purchase of (2) two police
vehicles is authorized.

SECTION 4. The Deputy City Clerk shall attest to the adoption of this resolution which
shall, in turn, have immediate effect.
PASSED, APPROVED AND ADOPTED this 13th day of May, 2015.

Mark A. Breceda, Mayor

ATTEST:

Laura M. Nieto, CMC
Deputy City Clerk

STATE OF CALIFORNIA } ss.
COUNTY OF LOS ANGELES } ss.
CITY OF IRWINDALE } ss.

I, Laura M. Nieto, Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Resolution No. 2015-24-2753 was duly adopted by the City Council of the City of Irwindale at a regular meeting thereof held on the 13th day of May, 2015, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSTAIN: Councilmembers:

ABSENT: Councilmembers:

Laura M. Nieto, CMC
Deputy City Clerk
AGENDA REPORT

Date: May 13, 2015

To: Honorable Mayor and City Council

From: Eva Carreon, Interim City Manager

Issue: Approve the Creation of a New Position of a Temporary Part-Time Police Clerk to Assist in the Police Department Records Division, and Allowing an Emergency Provisional Appointment to Such Position

City Manager’s Recommendation:


Analysis:

The Police Department operates on a 24 hour / 7 days per week schedule and is a full service police agency. Several recent unforeseen events have rendered the Police Records Division in a state of emergency. Currently, the records division is operated by one full-time employee.

Prior to this urgent request, the Police Records Division was staffed by one Communication and Records Coordinator, one full-time Records Clerk and one part-time Police Cadet. Over time, the cadets have vacated their positions which were then frozen as a result of the City’s financial situation. More recently, a very unfortunate, unexpected event has left our records division in a staffing crisis and in need of assistance.

The Police Department is seeking to create a new temporary part-time Police Clerk position for a limited term with authorization for an emergency appointment on a provisional basis. The provisional appointment will provide immediate temporary administrative services to support the division’s day to day activities while the City conducts an open recruitment for this temporary position. Upon the return of the full-time staff member currently on a leave of absence, the City will provide a thirty (30) day termination notice to the temporary part-time Police Clerk.

The temporary part-time Police Clerk position will be limited to 20 hours per week and is a temporary assignment until such time as staffing levels in the records division return to normal.
Fiscal Impact:

The temporary part-time Police Clerk is an at-will, unrepresented position. This position will be paid $14.00 per hour, with no benefits, and is limited to 20 hours per week. For the remainder of this fiscal year, the cost for this position is estimated at $1,990, and will be funded by the existing Police Department operations budget. Funding for any remaining time this position is needed in the next fiscal year will be provided for in the FY 2015-16 Budget.

Legal Impact: (Initial of Legal Counsel)

Completed By: Chief Anthony Miranda/Elvie Balderrama, Human Resources Manager
Phone: (626) 430-2236

Eva Carreon, Interim City Manager
RESOLUTION NO. 2015-23-2752

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE
CREATING THE POSITION OF A TEMPORARY PART-TIME POLICE CLERK
TO ASSIST IN THE POLICE DEPARTMENT RECORDS DIVISION,
AND ALLOWING AN EMERGENCY PROVISIONAL APPOINTMENT

WHEREAS, the Police Department operates on a 24 hour / 7 days per week schedule and is a full service police agency. Several recent unforeseen events have rendered staffing of the Police Records Division in a state of emergency; and

WHEREAS, the records division of the police department is currently operated by one full-time employee; and,

WHEREAS, the Police Department is seeking a new temporary part-time Police Clerk position. The new position will be limited to 20 hours per week and is a temporary assignment until such time staffing levels increase in the records division; and

WHEREAS, the Police Department is seeking an emergency appointment of an individual on a provisional basis for this new temporary part-time Police Clerk position. The provisional appointment will allow immediate placement, while the City conducts an open recruitment for this position;

NOW, THEREFORE, the City Council of the City of Irwindale, California, resolves, determines, and orders as follows:

SECTION 1. The City Council hereby approves the creation of a temporary part-time Police Clerk position, and the appointment of an individual on a provisional basis, allowing immediate placement while conducting an open recruitment, and authorizes the City Manager to approve the selection of the individual.

SECTION 2. The Deputy City Clerk shall attest to the adoption of this resolution which shall, in turn, have immediate effect.

PASSED, APPROVED AND ADOPTED this 13th day of May, 2015.

Mark A. Breceda, Mayor

ATTEST:

Laura M. Nieto, CMC
Deputy City Clerk
I, Laura M. Nieto, Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Resolution No. 2015-23-2752 was duly adopted by the City Council of the City of Irwindale at a regular meeting thereof held on the 13th day of May, 2015, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSTAIN: Councilmembers:

ABSENT: Councilmembers:

Laura M. Nieto, CMC
Deputy City Clerk
AGENDA REPORT

Date: May 13, 2015

To: Honorable Mayor and Members of the City Council

From: Eva Carreon, Acting City Manager

Issue: Introduction and adoption of an interim urgency ordinance to place a temporary moratorium on the establishment and operation of land uses related to the commercial and industrial cultivation, processing and distribution of medical marijuana.

CITY MANAGER’S RECOMMENDATION:

That the City Council adopt Interim Urgency Ordinance No. 691 entitled:

"AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRWINDALE, CALIFORNIA, IMPOSING A TEMPORARY MORATORIUM ON THE COMMERCIAL AND INDUSTRIAL CULTIVATION, PROCCESSING AND DISTRIBUTION OF MEDICAL MARIJUANA IN ALL NON-RESIDENTIAL ZONES PENDING COMPLETION OF STUDIES AND THE PREPARATION OF AN UPDATE TO THE CITY’S ZONING CODE”.

BACKGROUND

In 2008, the City defined and prohibited marijuana dispensaries. In March 2015, a cannabis (marijuana) commercial cultivation operator expressed an interest in establishing an indoor marijuana cultivation and wholesale distribution facility with an approved development agreement within an existing industrial building located within the Heavy Manufacturing (M-2) zone (See Attachment No. 1). The Development Agreement would allow the business operator to operate a cannabis cultivation business that provides wholesale product to legal dispensaries and collectives throughout the state. Business operations of the proposed facility would include storage of marijuana grow containers, wholesale distribution of medical marijuana to collectives, delivery services and marijuana dispensaries (See Attachment No. 2).

After analyzing the aforementioned request, staff determined the proposed business to be a Medical Marijuana Dispensary, which is prohibited by the Irwindale Municipal Code (IMC) pursuant to Sections 17.08.376 and 17.32.015 as codified in Ordinance 624 approved by the Irwindale City Council on May 28, 2008 (See Attachment No. 3).

Currently, the City of Irwindale has no explicit rules or regulations governing and/or prohibiting the cultivation and processing of marijuana, whether indoors or outdoors. Cultivation means the growing, planting, drying, or processing of the marijuana plant. Cultivation of marijuana has potential adverse effects as the cultivation requires excessive use of high wattage grow lights which creates an unreasonable risk of fire and which presents a clear and present danger to the occupants and the surrounding residential units.
Furthermore, the City of Irwindale’s definition of “medical marijuana dispensary” does not explicitly address the retail and/or wholesale distribution of marijuana by statutory cooperatives or collectives as described in the August 2008 Guidelines for the Security and Non Diversion of Marijuana Grown for Medical Use (See Attachment No. 4). Additionally, the IMC does not define “medical marijuana collective” and “medical marijuana cooperative.

ISSUES/ANALYSIS

Commercial marijuana cultivation and processing has become an increasingly common use since adoption of Proposition 215, also known as the “Compassionate Use Act”, in 1996. Although cultivation, processing and consumption of marijuana for qualified medical purposes is legal in California, recent court decisions have affirmed that cities retain full regulatory authority under their constitutional police powers to prohibit and regulate marijuana businesses and their land uses within their jurisdictional limits.

Commercial marijuana cultivation and processing can introduce a number of documented land-use conflict and public safety issues, including offensive odors, illegal sales and distribution, trespassing, theft, violent encounters between growers and persons attempting to steal plants, fire hazards, excessive energy consumption and problems associated with mold, fungus and pests. Cities have experienced many of the aforementioned negative impacts associated with commercial marijuana cultivation and processing facilities located within non-residential structures, and as a result have closed down such facilities. Local authorities have found commercial marijuana cultivation establishments, also referred to as “grow houses” growing marijuana for profit versus personal use as provided for in the Compassionate Use Act. In light of these facts, localities have questioned the legitimacy of proposals seeking approval to cultivate marijuana for personal use outside of an individual’s private residence.

The proposed Urgency Ordinance would prohibit the commercial cultivation and processing of marijuana in all non-residential land use designations or zones within City limits while still allowing “primary caregivers” and “qualified patients” the necessary latitude to cultivate medical marijuana to meet their personal needs. The proposed ordinance would further clarify the regulation of medical marijuana dispensaries as defined and prohibited under Ordinance No. 624 approved by the City Council in 2008.

CONCLUSION

In conclusion, the City of Irwindale currently has no explicit rules and regulations specifically governing marijuana cultivation although the Zoning Code prohibits the establishment and operation of marijuana dispensaries. The current determination is that the intent of the marijuana dispensary ordinance is to also prohibit cultivation activities, cooperatives, or collectives. However, the City’s definition of “medical marijuana dispensary” does not specifically address these uses. The lack of such controls may lead to the inability for the City to regulate these establishments in a manner that will protect the general public, homes and businesses adjacent and near such uses, and the patients or clients of such establishments. Commercial marijuana cultivation in the City poses a threat to the public health, safety, and welfare due to the negative land use and other impacts of commercial cultivation as described above.

Based on the recitals and findings identified in the proposed interim urgency ordinance, staff is of the opinion that this interim ordinance is urgently needed for the immediate preservation of the public health, safety, and welfare. A 4/5 vote of the City Council is required for adoption. If adopted, the interim ordinance will take effect immediately and will expire after 45 days following
the date of its adoption unless extended in accordance with the provisions set forth in Government Code Section 65858.

INTERIM PROHIBITION

During the effective period of this Ordinance, no use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any medical marijuana cultivation, processing and/or distribution business citywide and no person may otherwise establish such businesses within any new or existing non-residential building in the City (through lease or other method of assignment or agreement) for a period of 45 days, including for any extension of such time, as may be separately approved by the City Council.

ALTERNATIVE(S)

1. Prohibit cultivation within residential zones as well. However, as the Compassionate Use Act allows cultivation for personal use, staff does not support this alternative.

2. Provide alternative direction to staff.

FISCAL IMPACT:

No known fiscal impacts have been identified.

Fiscal Impact:  

Legal Impact:  

Contact Person:  Gustavo Romo  

Community Development Director  

626-430-2206  

gromo@ci.irwindale.ca.us

ATTACHMENTS:

1. Land Use Inquiry, March 2015
2. City’s response to Land Use Inquiry, April 2015
4. August 2008 Guidelines for the Security and Non Diversion of Marijuana Grown for Medical Use
ORDINANCE NO. 691

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRWINDALE, CALIFORNIA, IMPOSING A TEMPORARY MORATORIUM ON THE COMMERICAL AND INDUSTRIAL CULTIVATION, PROCESSING AND DISTRIBUTION OF MEDICAL MARIJUANA IN ALL NON-RESIDENTIAL ZONES PENDING COMPLETION OF STUDIES AND THE PREPARATION OF AN UPDATE TO THE CITY’S ZONING CODE”.

WHEREAS, the City of Irwindale has recently received requests to grow, cultivate and distribute marijuana within the City; and

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as Health & Safety Code Section 11362.5 et seq. and entitled “The Compassionate Use Act of 1996”); and

WHEREAS, the intent of Proposition 215 was to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical use under state law; and

WHEREAS, in 2003, the California Legislature adopted SB 420, the Medical Marijuana Program, codified as Health and Safety Code Section 11362.7 et seq., which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subject to criminal prosecution under the Penal Code; and

WHEREAS, neither the Compassionate Use Act nor the Medical Marijuana Program require or impose an affirmative duty or mandate upon local governments to allow, authorize, or sanction the establishment of facilities that cultivate or process medical marijuana within its jurisdiction; and

WHEREAS, in May 2013, the California Supreme Court issued its decision in City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc., holding that cities have the authority to ban medical marijuana land uses; and

WHEREAS, under the Federal Controlled Substances Act, codified in 21 U.S.C. Section 801 et seq, the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

WHEREAS, several California cities have reported negative impacts of marijuana cultivation, processing and distribution uses, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests; and

WHEREAS, marijuana plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors; and

WHEREAS, in the case of multiple qualified patients who are in control of the same legal parcel, or parcels, of property, or in the case of collective or cooperative cultivation, or in the case of a caregiver growing for numerous patients, a very large number of plants could be cultivated on the same legal parcel, or parcels, within the City; and
WHEREAS, the strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery; and

WHEREAS, the indoor cultivation of marijuana has potential adverse effects to the structural integrity of the building, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire which presents a clear and present danger to the building and its occupants; and

WHEREAS, the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (See Attachment No. 1) recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City of Irwindale due to the establishment and operation of marijuana cultivation, processing and distribution uses; and

WHEREAS, on May 28, 2008, the City of Irwindale adopted Ordinance No. 624 which amended Irwindale Municipal Code (IMC) Sections 17.08.376 and 17.32.015 to add a definition for “Medical Marijuana Dispensary” and to prohibit the establishment or operation of such use; and

WHEREAS, the IMC does not define “medical marijuana collective”, and “medical marijuana cooperative” as described in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use; and

WHEREAS, the IMC does not address the cultivation and processing of medical marijuana; and

WHEREAS, IMC silence regarding medical marijuana cultivation, processing and subsequent distribution may lead to the inability of the City to regulate cooperatives and collectives in a manner that will protect the general public and businesses adjacent and near such uses;

WHEREAS, based on the findings above, the potential establishment of marijuana cultivation, processing and distribution uses in the City without regulation poses a current and immediate threat to the public health, safety, and welfare in the City due to the negative land use and other impacts of such uses as described above; and

WHEREAS, approval of business licenses, subdivisions, use permits, variances, building permits, or any other applicable entitlement for marijuana processing, cultivation and/or distributing will result in the aforementioned threat to public health, safety, or welfare; and
WHEREAS, it is in the interest of the City, its residents, and its lawfully permitted businesses that City staff undertake a study to consider zoning, zoning ordinance amendments and/or other measures to regulate the establishment and operation of marijuana cultivation, processing and distributing uses in the City; and

WHEREAS, Government Code § 65858 expressly authorizes the City Council to adopt an urgency ordinance prohibiting any uses which may be in conflict with a contemplated general plan, specific plan, or zoning proposal which the legislative body of the City or the planning commission or the planning department is considering or studying or intends to study within a reasonable time, for the purpose of the immediate preservation of the public health, safety, or welfare;

NOW, THEREFORE, THE CITY COUNCIL OF CITY OF IRWINDALE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings

A. The City Council of the City of Irwindale finds that the above recitals are true and correct and are incorporated herein by reference as if set forth in full.

B. To allow time for the City to consider, study and enact regulations for medical marijuana cultivation, processing, and distribution uses, it is necessary to temporarily suspend the approval of any and all use permit, variance, building permit, or any other entitlement or permit authorizing the establishment of marijuana cultivation uses, marijuana processing uses, and marijuana dispensaries as defined herein, as such uses may be in conflict with the development standards and implementation regulations that the City will ultimately impose after the City has considered and studied this issue, which shall be accomplished within a reasonable time.

C. A moratorium will provide the City with time to study marijuana cultivation uses, marijuana processing uses, and marijuana dispensaries and the potential impacts such land uses may have on the public health, safety and welfare.

D. Without the imposition of a temporary moratorium on the establishment of marijuana cultivation, processing, and dispensary uses as described herein, the City anticipates that one (1) or more commercial cannabis cultivation centers may locate in the City before a non-urgency ordinance would become effective.

E. There is a current and immediate threat to the public health, safety and welfare of the City and its community, thereby necessitating the immediate enactment of this moratorium as an urgency ordinance in order to ensure that permits for such facilities are established only under adequate regulations. Imposition of a moratorium will allow the City sufficient time to conclude the preparation of a comprehensive ordinance for the regulation of such activities.

SECTION 2. Urgent Need

Based on the foregoing recitals and findings which are all deemed true and correct, this interim ordinance is urgently needed for the immediate preservation of the public health, safety, and welfare. This interim ordinance shall take effect immediately upon adoption and shall be of no
further force and effect 45 days following the date of its adoption unless extended in accordance with the provisions set forth in Government Code Section 65858.

SECTION 3. Definitions

For purposes of this ordinance, the following definitions shall apply:

A. “Marijuana” means any or all parts of the plant Cannabis sativa L., whether growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including marijuana infused in foodstuff.

B. “Marijuana Cultivation” means growing, planting, harvesting, or processing of marijuana.

C. “Marijuana Processing” means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

D. “Marijuana Dispensary” means any business, office, store, facility, location, retail “storefront” or wholesale component of any establishment, cooperative or collective that dispenses, distributes, exchanges, transmits, transports, sells or provides marijuana to any person for any reason, including members of any medical marijuana cooperative or collective consistent with the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California, or for the purposes set forth in California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

E. “Medical marijuana collective” or “cooperative or collective” means any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes that is organized in the manner set forth in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

SECTION 4. Prohibited Use

For the period of this ordinance or any extension thereof, marijuana cultivation, marijuana processing, and marijuana dispensaries, as defined herein, shall be considered prohibited uses in all non-residential zoning districts of the City. During the effective period of this ordinance, no use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of a marijuana cultivation use, marijuana processing use, or any medical marijuana dispensary as defined herein in any non-residential zoning district, and no person shall otherwise establish such businesses or operations in any non-residential zoning district.
SECTION 5. Consideration of Options

During the period of this ordinance, and any extension thereof, the City Manager or his designees shall: (1) review and consider options for the regulation of marijuana cultivation, processing and dispensary uses in the City, including but not limited to the development of appropriate rules and regulations governing the location and operation of such uses and (2) shall issue a written report describing the measures which the City has taken to address the conditions which led to the adoption of this ordinance with the City Council ten (10) days prior the expiration of this interim urgency ordinance, or any extension thereof, and such report shall be made available to the public.

SECTION 6. Authority

This interim urgency ordinance is enacted pursuant to the authority conferred upon the City Council of the City of Irwindale by Government Code Section 65858, and therefore shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council. This interim urgency ordinance shall continue in effect for forty-five (45) days from the date of its adoption and shall thereafter be of no further force and effect unless, after notice pursuant to Government Code Section 65090 and a public hearing, the City Council extends the interim urgency ordinance for an additional period of time pursuant to Government Code Section 65858. Government Code Section 65858 further provides that such an urgency measure may be extended following compliance with that section for up to an additional 22 months and 15 days beyond the original 45-day period.

SECTION 7. CEQA

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that it will not have a significant effect or physical change to the environment.

SECTION 8. Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 9. Notice

The City Clerk shall certify to the passage of this Interim Ordinance and shall cause the same to be posted at the designated locations in the City of Irwindale. Any further extension of this Ordinance shall be noticed and published in accordance with City and State law.
PASSED, APPROVED, and ADOPTED, this 13th day of May, 2015.

Mark A. Breceda, Mayor

ATTEST:

Laura Nieto, CMC
Deputy City Clerk

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } ss.
CITY OF IRWINDALE } ss.

I, Laura Nieto, CMC Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Ordinance No. 691 was duly introduced and adopted waiving further reading thereof at a regular meeting of the Irwindale City Council held on the 13th day of May, 2015 by the following vote of the Council:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

Laura Nieto, CMC
Deputy City Clerk
Dear Mr. Probst,

We have received your inquiry and it has been referred to our development team. Our staff is reviewing your proposal and expect to be able to respond to your email by the end of next week. Should you have any questions before then, please feel free to contact us.

Best regards,

Laura Snyder
Executive Assistant
City of Irwindale
(626) 430-2217

Regular business hours for Irwindale City Hall are Monday-Thursday from 8:00 am to 6:00 pm.

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Dear Mr. Davidson,

I would like to inquire as to the City's thoughts on our company's business plan. We are developing one or more commercial cannabis cultivation centers throughout California. We are currently in final negotiations (vote of the City Council in April) on a Development Agreement with a City in Riverside County. The Development Agreement would allow us to operate a Cannabis Cultivation business that provides wholesale product to legal dispensaries and collectives throughout the state. They would receive a Development Agreement Fee of 5% of gross receipts on a quarterly basis. During this process we met with both the local Chief of Police and the Assistant Sheriff of Riverside County to explain our plan and get their feedback.

I looked through your City Ordinances and found the following references to medical marijuana:

17.32.015 - Medical marijuana dispensary—Prohibited.

The establishment of a medical marijuana dispensary for the sale or distribution of medical marijuana or the sale or distribution of medical marijuana by an existing business is prohibited. No conditional use permit, variance, building permit, or other entitlement for use shall be accepted,
processed, approved or issued for the establishment or operation of, and no person shall otherwise establish a "medical marijuana dispensary", as defined in Section 17.08.376 of the Irwindale Municipal Code.

17.08.376 - Medical marijuana dispensary.

A "medical marijuana dispensary" is any establishment or location where marijuana is distributed, transmitted, given to, or otherwise provided to qualified patients or primary caregivers in accordance with California Health and Safety Code Sections 11362.5 through 11362.83, inclusive, commonly referred to as "The Compassionate Use Act of 1996" and "Senate Bill 420."

As I read the City's definition of a Dispensary and your ordinance prohibiting such I would not consider our business to fall under that category. We have no plans to operate any kind of retail dispensary establishment. This operation would be strictly a wholesale operation.

The following is a brief list of bullet points that describe our intentions: The name of the organization is Pacific Cultivators Association, Inc. ("PCA").

- PCA is a Mutual Benefit Company formed in California for the purposes of being a Collective as described under California Medical Marijuana Laws and California Attorney General Guidelines.
- PCA will work with City officials to draft a Development Agreement which will allow PCA to establish and operate a MMJ grow facility in the City of Irwindale.
- PCA will seek out and secure a lease on a commercial property for the facility.
  - The facility will be between 10,000 and 25,000 square feet.
  - PCA will obtain building permits for and electrical or plumbing tenant improvements.
  - PCA plans of utilizing its mobile grow containers in the form of shipping containers or box trailers. These are not permanent fixtures and will not be hard wired or plumbed.
  - Each mobile grow container will be powered by a drop-down power cable and plugged in using a 100 amp plug.
  - All 100 amp receptacles installed will be permitted.
- PCA will meet with the Irwindale Police department and LA County Sheriff to discuss best practices for security including landscaping, lighting and access and any special requirements or suggestions they may have.
- PCA will be contracting with Cultivation Technologies, Inc., to rent the equipment and supplies necessary to operate as well as specific business services such as accounting, sales and marketing consulting, and horticulture consulting.
- PCA will be hiring 10-15 full and part time employees to operate the facility.
- Expected production will be in excess of 200 pounds of product per month at an average sales price of $2000 for a total revenue of $400,000 per month. This is a wholesale operation so margins are much slimmer than a retail dispensary.
- PCA expect to remit a 5% quarterly fee on revenue to the City to compensate for any additional city resources required. This would be in addition to any standard business license fees and building permit fees. It also expects to spend over $16,000 per month in utilities which may generate a utility tax.
- We estimate about $240,000 in Development Agreement Fees in the first 4 quarters, $480,000 in the second 4 quarters and expanding from there based on market conditions.
• Expansion could increase rapidly depending on a number of factors including Federal policies, new state provisions and interstate shipments.
• Product will be sold only to collectives, delivery services and dispensaries that comply with California law and agree to associate with our organization. All Customers will go through an initial as well as a regularly scheduled verification process to make sure they are operating within the law.
• All employees of PCA will be required to be members of our collective and possess a doctor’s recommendation for cannabis use.
• Standard deliveries will be made by regular employees and any large deliveries will be made with the addition of licensed security services.
• Any cash or product ready for sale will be kept secure within the facility in a safe or safe room.
• The facility will not be open to the public and at no time will retail sales be generated anywhere in the city. Customers will not be allowed to tour the facility.
• There will be no signage on the building and all attempts will be made to maintain a low profile in the community.

We realize that many people find this kind of business unappealing. Nevertheless public acceptance and support are at an all time high and growing. Recently a bill was proposed in the US Senate which would move marijuana off the Schedule 1 drug list and place the regulation of it firmly with the states. Just today that same bill was proposed to the US House putting it on a fast track for approval. Most insiders also foresee the passing of recreational marijuana for California some time in 2016.

We are confident that this business would not conflict with your existing ordinances and will submit an attorney opinion letter that our proposed business follows State guidelines for medical marijuana.

We would be interested in scheduling a meeting with you or members of your staff to discuss any potential issues and to start the process of getting a Development Agreement in place.

I look forward to hearing back from you.

Best Regards,

Rick Probst

--

Rick Probst, Chairman
Pacific Cultivators Association, Inc.
www.PacificCultivators.com
rick@PacificCultivators.com
(888) 855-1801
April 16, 2015

Rick Probst, Chairman
Pacific Cultivators Association, Inc.
Via Email: rick@pacificcultivators.com

Dear Mr. Probst,

Thank you for your interest in the City of Irwindale. This letter is in response to your email correspondence dated March 25, 2015, in which you indicate that Pacific Cultivators Association, Inc (PCA) is seeking to establish a commercial cannabis cultivation center within the City of Irwindale with an approved development agreement. According to the aforementioned email correspondence, "...a Development Agreement would allow us [PCA] to operate a cannabis cultivation business that provides wholesale product to legal dispensaries and collectives throughout the state". PCA is seeking a 10,000 to 25,000 square foot commercial property to house marijuana grow containers, and to wholesale and distribute marijuana to collectives, delivery services and marijuana dispensaries.

After analyzing your request, it has been determined that the proposed operation is considered a Medical Marijuana Dispensary and is, therefore, prohibited by the Irwindale Municipal Code (IMC) per Sections 17.08.376 and 17.32.015. The City of Irwindale considers PCA to be a medical marijuana dispensary based on the business plan description to wholesale and distribute marijuana as detailed on the aforementioned email correspondence from PCA to the City of Irwindale.

On May 28, 2008, the Irwindale City Council approved Ordinance No. 624 (see attached) to add Sections 17.08.376 and 17.32.015 to the Irwindale Municipal Code (IMC), which provides a definition for "Medical Marijuana Dispensary" and prohibits the establishment or operation of medical marijuana dispensaries. Pursuant to IMC Section 17.08.376, a Medical Marijuana Dispensary is any establishment or location where marijuana is distributed, transmitted, given to, or otherwise provided to qualified patients or primary caregivers in accordance with California Health and Safety Code Sections 11362.5 through 11362.83, inclusive, commonly referred to as "The Compassionate Use Act of 1996" and "Senate Bill 420." Per IMC Section 17.32.015, the establishment of a medical marijuana dispensary for the sale or distribution of medical marijuana or the sale or distribution of medical marijuana by an existing business is prohibited. No conditional use permit, variance, building permit, or other entitlement for use shall be accepted, processed, approved or issued for the establishment or operation of, and no person shall otherwise establish a "medical marijuana dispensary" in the City of Irwindale as defined in IMC Section 17.08.376.
If you have any other questions or need further clarification, please feel free to contact our Senior Planner, Shawnika Johnson, AICP, at (626) 430-2209 or email at sjohnson@ci.irwindale.ca.us or myself at (626) 430-2206 or email at gromo@ci.irwindale.ca.us.

Respectfully,

Gus Romo
Community Development Director
City of Irwindale

Enclosures:

Email correspondence dated March 25, 2015 from PCA to the City of Irwindale
Ordinance No. 624
IMC Section 17.08.376
IMC Section 17.32.015

CC:
Eva Carreon, Acting City Manager
John Davidson, City Manager
Fred Galante, City Attorney
Shawnika Johnson, AICP, Senior Planner
ORDINANCE NO. 624

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRWINDALE
ADDING SECTIONS 17.08.376 AND 17.32.015 TO THE IRWINDALE
MUNICIPAL CODE TO ADD A DEFINITION FOR “MEDICAL MARIJUANA
DISPENSARY” AND PROHIBIT THE ESTABLISHMENT OR OPERATION OF
SUCH USE

WHEREAS, in 1996, the State of California passed the “Compassionate
Use of Marijuana Law” (Proposition 215, codified as Health and Safety Code
Section 11362.5 et. seq.) which allows for the use of marijuana for medical
purposes; and

WHEREAS, the intent of Proposition 215 was to enable persons who are
in need of marijuana for medical purposes to be able to obtain and use it without
fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, the State enacted SB 420 in 2004 to clarify the scope of the
Compassionate Use Action of 1996 and to allow cities and other governing
bodies to adopt and enforce rules and regulations consistent with SB 420; and

WHEREAS, neither Proposition 215 nor SB 420 authorizes medical
marijuana dispensaries; and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Section
841 makes it unlawful to manufacture, distribute, dispense, or possess
marijuana; and

WHEREAS, the United States Supreme Court in Gonzales v. Raich
confirmed that the Controlled Substances Act does not contain a “compassionate
use” exemption and therefore it is a violation of Federal Law to possess or
distribute marijuana even if for medical purposes; and

WHEREAS, the Irwindale Municipal Code should be amended to reflect
that a medical marijuana dispensary is a prohibited use in the City of Irwindale;
and

WHEREAS, the public was duly noticed of the public hearings; and

WHEREAS, pursuant to the authority and criteria contained in the
California Environmental Quality Act (“CEQA”) and the CEQA guidelines, it has
been determined that the proposed amendment is exempt under Section 15061
(b)(3) of the CEQA Guidelines in that CEQA applies only to projects which have
the potential for causing a significant effect on the environment. Where it can be
seen with certainty that there is no possibility that the activity in question may
have a significant effect on the environment, that activity is not subject to CEQA.
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRWINDALE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 17 of the Irwindale Municipal Code is hereby amended by adding a new Section 17.08.376 to read as follows:

17.08.376 Medical Marijuana Dispensary. A “medical marijuana dispensary” is a facility or location which provides, makes available or distributes medical marijuana to a primary caregiver, a qualified patient, or a person with an identification card issued in accordance with California Health and Safety Code Sections 11362.5, et. seq. This use is prohibited in the City of Irwindale.

SECTION 2. Title 17 of the Irwindale Municipal Code is hereby amended by adding a new Section 17.32.015 to read as follows:

17.32.015 Medical Marijuana Dispensary – Prohibited. The establishment of a medical marijuana dispensary for the sale or distribution of medical marijuana or the sale or distribution of medical marijuana by an existing business is prohibited. No special use permit, variance, building permit, or other entitlement for use shall be accepted, processed, approved or issued for the establishment or operation of, and no person shall otherwise establish a “medical marijuana dispensary”, as defined in Section 17.08.376 of the Irwindale Municipal Code.

SECTION 3. This ordinance shall become effective 30 days from adoption.

SECTION 4. The Deputy City Clerk shall certify to the adoption of this ordinance.

PASSED, APPROVED, and ADOPTED this 14th day of May 2008.

Larry G. Burrola, Mayor

ATTEST:

Linda J. Kimbro, CMC
Deputy City Clerk

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF IRWINDALE

I, Linda J. Kimbro, Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Ordinance No. 624 was duly introduced at a regular
meeting of the Irwindale City Council held on the 14th day of May 2008, and was duly approved and adopted on second reading at its regular meeting held on the 28th day of May 2008, by the following vote of the Council:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

Linda J. Kimbro, CMC
Deputy City Clerk

AFFIDAVIT OF POSTING

I, Linda J. Kimbro, Deputy City Clerk, certify that I caused a copy of Ordinance No. 624, adopted by the City Council of the City of Irwindale at its regular meeting held May 14, 2008, to be posted at the City Hall, Library, and Post Office on May 5, 2008.

Linda J. Kimbro, CMC
Deputy City Clerk

Dated: ________________
GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF MARIJUANA GROWN FOR MEDICAL USE
August 2008

In 1996, California voters approved an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana. In 2003, the Legislature enacted additional legislation relating to medical marijuana. One of those statutes requires the Attorney General to adopt “guidelines to ensure the security and nondiversion of marijuana grown for medical use.” (Health & Saf. Code, § 11362.81(d).) To fulfill this mandate, this Office is issuing the following guidelines to (1) ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets, (2) help law enforcement agencies perform their duties effectively and in accordance with California law, and (3) help patients and primary caregivers understand how they may cultivate, transport, possess, and use medical marijuana under California law.

I. SUMMARY OF APPLICABLE LAW


The possession, sale, cultivation, or transportation of marijuana is ordinarily a crime under California law. (See, e.g., § 11357 [possession of marijuana is a misdemeanor]; § 11358 [cultivation of marijuana is a felony]; Veh. Code, § 23222 [possession of less than 1 oz. of marijuana while driving is a misdemeanor]; § 11359 [possession with intent to sell any amount of marijuana is a felony]; § 11360 [transporting, selling, or giving away marijuana in California is a felony; under 28.5 grams is a misdemeanor]; § 11361 [selling or distributing marijuana to minors, or using a minor to transport, sell, or give away marijuana, is a felony].)


On November 5, 1996, California voters passed Proposition 215, which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician’s recommendation. (§ 11362.5.) Proposition 215 was enacted to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana,” and to “ensure that patients and their primary caregivers who obtain and use marijuana for
medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.” (§ 11362.5(b)(1)(A)-(B).)

The Act further states that “Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient’s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or verbal recommendation or approval of a physician.” (§ 11362.5(d).) Courts have found an implied defense to the transportation of medical marijuana when the “quantity transported and the method, timing and distance of the transportation are reasonably related to the patient’s current medical needs.” (People v. Trippet (1997) 56 Cal.App.4th 1532, 1551.)

C. Senate Bill 420 - The Medical Marijuana Program Act.

On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP), became law. (§§ 11362.7-11362.83.) The MMP, among other things, requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system. Medical marijuana identification cards are intended to help law enforcement officers identify and verify that cardholders are able to cultivate, possess, and transport certain amounts of marijuana without being subject to arrest under specific conditions. (§§ 11362.71(e), 11362.78.)

It is mandatory that all counties participate in the identification card program by (a) providing applications upon request to individuals seeking to join the identification card program; (b) processing completed applications; (c) maintaining certain records; (d) following state implementation protocols; and (e) issuing DPH identification cards to approved applicants and designated primary caregivers. (§ 11362.71(b).)

Participation by patients and primary caregivers in the identification card program is voluntary. However, because identification cards offer the holder protection from arrest, are issued only after verification of the cardholder’s status as a qualified patient or primary caregiver, and are immediately verifiable online or via telephone, they represent one of the best ways to ensure the security and non-diversion of marijuana grown for medical use.

In addition to establishing the identification card program, the MMP also defines certain terms, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. (§§ 11362.7, 11362.77, 11362.775.)

D. Taxability of Medical Marijuana Transactions.

In February 2007, the California State Board of Equalization (BOE) issued a Special Notice confirming its policy of taxing medical marijuana transactions, as well as its requirement that businesses engaging in such transactions hold a Seller’s Permit. (http://www.boe.ca.gov/news/pdf/medseller2007.pdf.) According to the Notice, having a Seller’s Permit does not allow individuals to make unlawful sales, but instead merely provides a way to remit any sales and use taxes due. BOE further clarified its policy in a
June 2007 Special Notice that addressed several frequently asked questions concerning taxation of medical marijuana transactions. (http://www.boe.ca.gov/news/pdf/173.pdf.)

E. Medical Board of California.

The Medical Board of California licenses, investigates, and disciplines California physicians. (Bus. & Prof. Code, § 2000, et seq.) Although state law prohibits punishing a physician simply for recommending marijuana for treatment of a serious medical condition (§ 11362.5(c)), the Medical Board can and does take disciplinary action against physicians who fail to comply with accepted medical standards when recommending marijuana. In a May 13, 2004 press release, the Medical Board clarified that these accepted standards are the same ones that a reasonable and prudent physician would follow when recommending or approving any medication. They include the following:

1. Taking a history and conducting a good faith examination of the patient;
2. Developing a treatment plan with objectives;
3. Providing informed consent, including discussion of side effects;
4. Periodically reviewing the treatment’s efficacy;
5. Consultations, as necessary; and
6. Keeping proper records supporting the decision to recommend the use of medical marijuana.

(www.mbc.ca.gov/board/media/releases_2004_05-13_marijuana.html.)

Complaints about physicians should be addressed to the Medical Board (1-800-633-2322 or www.mbc.ca.gov), which investigates and prosecutes alleged licensing violations in conjunction with the Attorney General’s Office.

F. The Federal Controlled Substances Act.

Adopted in 1970, the Controlled Substances Act (CSA) established a federal regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. (21 U.S.C. § 801, et seq.; Gonzales v. Oregon (2006) 546 U.S. 243, 271-273.) The CSA reflects the federal government’s view that marijuana is a drug with “no currently accepted medical use.” (21 U.S.C. § 812(b)(1).) Accordingly, the manufacture, distribution, or possession of marijuana is a federal criminal offense. (Id. at §§ 841(a)(1), 844(a).)

The incongruity between federal and state law has given rise to understandable confusion, but no legal conflict exists merely because state law and federal law treat marijuana differently. Indeed, California’s medical marijuana laws have been challenged unsuccessfully in court on the ground that they are preempted by the CSA. (County of San Diego v. San Diego NORML (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2930117.) Congress has provided that states are free to regulate in the area of controlled substances, including marijuana, provided that state law does not positively conflict with the CSA. (21 U.S.C. § 903.) Neither Proposition 215, nor the MMP, conflict with the CSA because, in adopting these laws, California did not “legalize” medical marijuana, but instead exercised the state’s reserved powers to not punish certain marijuana offenses under state law when a physician has recommended its use to treat a serious medical condition. (See City of Garden Grove v. Superior Court (Kha) (2007) 157 Cal.App.4th 355, 371-373, 381-382.)
In light of California’s decision to remove the use and cultivation of physician-recommended marijuana from the scope of the state’s drug laws, this Office recommends that state and local law enforcement officers not arrest individuals or seize marijuana under federal law when the officer determines from the facts available that the cultivation, possession, or transportation is permitted under California’s medical marijuana laws.

II. DEFINITIONS

A. Physician’s Recommendation: Physicians may not prescribe marijuana because the federal Food and Drug Administration regulates prescription drugs and, under the CSA, marijuana is a Schedule I drug, meaning that it has no recognized medical use. Physicians may, however, lawfully issue a verbal or written recommendation under California law indicating that marijuana would be a beneficial treatment for a serious medical condition. (§ 11362.5(d); Conant v. Walters (9th Cir. 2002) 309 F.3d 629, 632.)

B. Primary Caregiver: A primary caregiver is a person who is designated by a qualified patient and “has consistently assumed responsibility for the housing, health, or safety” of the patient. (§ 11362.5(e).) California courts have emphasized the consistency element of the patient-caregiver relationship. Although a “primary caregiver who consistently grows and supplies . . . medicinal marijuana for a section 11362.5 patient is serving a health need of the patient,” someone who merely maintains a source of marijuana does not automatically become the party “who has consistently assumed responsibility for the housing, health, or safety” of that purchaser. (People ex rel. Lungren v. Peron (1997) 59 Cal.App.4th 1383, 1390, 1400.) A person may serve as primary caregiver to “more than one” patient, provided that the patients and caregiver all reside in the same city or county. (§ 11362.7(d)(2).) Primary caregivers also may receive certain compensation for their services. (§ 11362.765(c) [“A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided . . . to enable [a patient] to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, . . . shall not, on the sole basis of that fact, be subject to prosecution” for possessing or transporting marijuana].)

C. Qualified Patient: A qualified patient is a person whose physician has recommended the use of marijuana to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief. (§ 11362.5(b)(1)(A).)

D. Recommending Physician: A recommending physician is a person who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has complied with accepted medical standards (as described by the Medical Board of California in its May 13, 2004 press release) that a reasonable and prudent physician would follow when recommending or approving medical marijuana for the treatment of his or her patient.
III. GUIDELINES REGARDING INDIVIDUAL QUALIFIED PATIENTS AND PRIMARY CAREGIVERS

A. State Law Compliance Guidelines.

1. **Physician Recommendation**: Patients must have a written or verbal recommendation for medical marijuana from a licensed physician. (§ 11362.5(d).)

2. **State of California Medical Marijuana Identification Card**: Under the MMP, qualified patients and their primary caregivers may voluntarily apply for a card issued by DPH identifying them as a person who is authorized to use, possess, or transport marijuana grown for medical purposes. To help law enforcement officers verify the cardholder’s identity, each card bears a unique identification number, and a verification database is available online (www.calmmp.ca.gov). In addition, the cards contain the name of the county health department that approved the application, a 24-hour verification telephone number, and an expiration date. (§§ 11362.71(a); 11362.735(a)(3)-(4); 11362.745.)

3. **Proof of Qualified Patient Status**: Although verbal recommendations are technically permitted under Proposition 215, patients should obtain and carry written proof of their physician recommendations to help them avoid arrest. A state identification card is the best form of proof, because it is easily verifiable and provides immunity from arrest if certain conditions are met (see section III.B.4, below). The next best forms of proof are a city- or county-issued patient identification card, or a written recommendation from a physician.

4. **Possession Guidelines**:

   a) **MMP**: Qualified patients and primary caregivers who possess a state-issued identification card may possess 8 oz. of dried marijuana, and may maintain no more than 6 mature or 12 immature plants per qualified patient. (§ 11362.77(a).) But, if “a qualified patient or primary caregiver has a doctor’s recommendation that this quantity does not meet the qualified patient’s medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient’s needs.” (§ 11362.77(b).) Only the dried mature processed flowers or buds of the female cannabis plant should be considered when determining allowable quantities of medical marijuana for purposes of the MMP. (§ 11362.77(d).)

   b) **Local Possession Guidelines**: Counties and cities may adopt regulations that allow qualified patients or primary caregivers to possess

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On May 22, 2008, California’s Second District Court of Appeal severed Health & Safety Code § 11362.77 from the MMP on the ground that the statute’s possession guidelines were an unconstitutional amendment of Proposition 215, which does not quantify the marijuana a patient may possess. (See People v. Kelly (2008) 163 Cal.App.4th 124, 77 Cal.Rptr.3d 390.) The Third District Court of Appeal recently reached a similar conclusion in People v. Phomphakdy (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2931369. The California Supreme Court has granted review in *Kelly* and the Attorney General intends to seek review in *Phomphakdy*.
medical marijuana in amounts that exceed the MMP's possession guidelines. (§ 11362.77(c).)

c) **Proposition 215**: Qualified patients claiming protection under Proposition 215 may possess an amount of marijuana that is “reasonably related to [their] current medical needs.” *(People v. Trippet (1997) 56 Cal.App.4th 1532, 1549.)*

### B. Enforcement Guidelines.

1. **Location of Use**: Medical marijuana may not be smoked (a) where smoking is prohibited by law, (b) at or within 1000 feet of a school, recreation center, or youth center (unless the medical use occurs within a residence), (c) on a school bus, or (d) in a moving motor vehicle or boat. (§ 11362.79.)

2. **Use of Medical Marijuana in the Workplace or at Correctional Facilities**: The medical use of marijuana need not be accommodated in the workplace, during work hours, or at any jail, correctional facility, or other penal institution. (§ 11362.785(a); *Ross v. RagingWire Telecomms., Inc.* (2008) 42 Cal.4th 920, 933 [under the Fair Employment and Housing Act, an employer may terminate an employee who tests positive for marijuana use].)

3. **Criminal Defendants, Probationers, and Parolees**: Criminal defendants and probationers may request court approval to use medical marijuana while they are released on bail or probation. The court’s decision and reasoning must be stated on the record and in the minutes of the court. Likewise, parolees who are eligible to use medical marijuana may request that they be allowed to continue such use during the period of parole. The written conditions of parole must reflect whether the request was granted or denied. (§ 11362.795.)

4. **State of California Medical Marijuana Identification Cardholders**: When a person invokes the protections of Proposition 215 or the MMP and he or she possesses a state medical marijuana identification card, officers should:

   a) Review the identification card and verify its validity either by calling the telephone number printed on the card, or by accessing DPH's card verification website (http://www.calmmp.ca.gov); and

   b) If the card is valid and not being used fraudulently, there are no other indicia of illegal activity (weapons, illicit drugs, or excessive amounts of cash), and the person is within the state or local possession guidelines, the individual should be released and the marijuana should not be seized. Under the MMP, “no person or designated primary caregiver in possession of a valid state medical marijuana identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana.” (§ 11362.71(e).) Further, a “state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer
has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.” (§ 11362.78.)

5. **Non-Cardholders:** When a person claims protection under Proposition 215 or the MMP and only has a locally-issued (i.e., non-state) patient identification card, or a written (or verbal) recommendation from a licensed physician, officers should use their sound professional judgment to assess the validity of the person’s medical-use claim:

   a) Officers need not abandon their search or investigation. The standard search and seizure rules apply to the enforcement of marijuana-related violations. Reasonable suspicion is required for detention, while probable cause is required for search, seizure, and arrest.

   b) Officers should review any written documentation for validity. It may contain the physician’s name, telephone number, address, and license number.

   c) If the officer reasonably believes that the medical-use claim is valid based upon the totality of the circumstances (including the quantity of marijuana, packaging for sale, the presence of weapons, illicit drugs, or large amounts of cash), and the person is within the state or local possession guidelines or has an amount consistent with their current medical needs, the person should be released and the marijuana should not be seized.

   d) Alternatively, if the officer has probable cause to doubt the validity of a person’s medical marijuana claim based upon the facts and circumstances, the person may be arrested and the marijuana may be seized. It will then be up to the person to establish his or her medical marijuana defense in court.

   e) Officers are not obligated to accept a person’s claim of having a verbal physician’s recommendation that cannot be readily verified with the physician at the time of detention.

6. **Exceeding Possession Guidelines:** If a person has what appears to be valid medical marijuana documentation, but exceeds the applicable possession guidelines identified above, all marijuana may be seized.

7. **Return of Seized Medical Marijuana:** If a person whose marijuana is seized by law enforcement successfully establishes a medical marijuana defense in court, or the case is not prosecuted, he or she may file a motion for return of the marijuana. If a court grants the motion and orders the return of marijuana seized incident to an arrest, the individual or entity subject to the order must return the property. State law enforcement officers who handle controlled substances in the course of their official duties are immune from liability under the CSA. (21 U.S.C. § 885(d.)) Once the marijuana is returned, federal authorities are free to exercise jurisdiction over it. (21 U.S.C. §§ 812(c)(10), 844(a); City of Garden Grove v. Superior Court (Kha) (2007) 157 Cal.App.4th 355, 369, 386, 391.)
IV. Guidelines Regarding Collectives and Cooperatives

Under California law, medical marijuana patients and primary caregivers may "associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes." (§ 11362.775.) The following guidelines are meant to apply to qualified patients and primary caregivers who come together to collectively or cooperatively cultivate physician-recommended marijuana.

A. Business Forms: Any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes should be organized and operated in a manner that ensures the security of the crop and safeguards against diversion for non-medical purposes. The following are guidelines to help cooperatives and collectives operate within the law, and to help law enforcement determine whether they are doing so.

1. Statutory Cooperatives: A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. (Corp. Code, § 12201, 12300.) No business may call itself a "cooperative" (or "co-op") unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code. (Id. at § 12311(b).) Cooperative corporations are "democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons." (Id. at § 12201.) The earnings and savings of the business must be used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services. (Ibid.) Cooperatives must follow strict rules on organization, articles, elections, and distribution of earnings, and must report individual transactions from individual members each year. (See id. at § 12200, et seq.) Agricultural cooperatives are likewise nonprofit corporate entities "since they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers." (Food & Agric. Code, § 54033.) Agricultural cooperatives share many characteristics with consumer cooperatives. (See, e.g., id. at § 54002, et seq.) Cooperatives should not purchase marijuana from, or sell to, non-members; instead, they should only provide a means for facilitating or coordinating transactions between members.

2. Collectives: California law does not define collectives, but the dictionary defines them as "a business, farm, etc., jointly owned and operated by the members of a group." (Random House Unabridged Dictionary; Random House, Inc. © 2006.) Applying this definition, a collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members — including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The collective should not purchase marijuana from, or sell to, non-members; instead, it should only provide a means for facilitating or coordinating transactions between members.
B. Guidelines for the Lawful Operation of a Cooperative or Collective:
Collectives and cooperatives should be organized with sufficient structure to ensure security, non-diversion of marijuana to illicit markets, and compliance with all state and local laws. The following are some suggested guidelines and practices for operating collective growing operations to help ensure lawful operation.

1. Non-Profit Operation: Nothing in Proposition 215 or the MMP authorizes collectives, cooperatives, or individuals to profit from the sale or distribution of marijuana. (See, e.g., § 11362.765(a) ["nothing in this section shall authorize . . . any individual or group to cultivate or distribute marijuana for profit"].

2. Business Licenses, Sales Tax, and Seller’s Permits: The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller’s Permit. Some cities and counties also require dispensing collectives and cooperatives to obtain business licenses.

3. Membership Application and Verification: When a patient or primary caregiver wishes to join a collective or cooperative, the group can help prevent the diversion of marijuana for non-medical use by having potential members complete a written membership application. The following application guidelines should be followed to help ensure that marijuana grown for medical use is not diverted to illicit markets:

   a) Verify the individual’s status as a qualified patient or primary caregiver. Unless he or she has a valid state medical marijuana identification card, this should involve personal contact with the recommending physician (or his or her agent), verification of the physician’s identity, as well as his or her state licensing status. Verification of primary caregiver status should include contact with the qualified patient, as well as validation of the patient’s recommendation. Copies should be made of the physician’s recommendation or identification card, if any;

   b) Have the individual agree not to distribute marijuana to non-members;

   c) Have the individual agree not to use the marijuana for other than medical purposes;

   d) Maintain membership records on-site or have them reasonably available;

   e) Track when members’ medical marijuana recommendation and/or identification cards expire; and

   f) Enforce conditions of membership by excluding members whose identification card or physician recommendation are invalid or have expired, or who are caught diverting marijuana for non-medical use.
4. **Collectives Should Acquire, Possess, and Distribute Only Lawfully Cultivated Marijuana:** Collectives and cooperatives should acquire marijuana only from their constituent members, because only marijuana grown by a qualified patient or his or her primary caregiver may lawfully be transported by, or distributed to, other members of a collective or cooperative. (§§ 11362.765, 11362.775.) The collective or cooperative may then allocate it to other members of the group. Nothing allows marijuana to be purchased from outside the collective or cooperative for distribution to its members. Instead, the cycle should be a closed-circuit of marijuana cultivation and consumption with no purchases or sales to or from non-members. To help prevent diversion of medical marijuana to non-medical markets, collectives and cooperatives should document each member’s contribution of labor, resources, or money to the enterprise. They also should track and record the source of their marijuana.

5. **Distribution and Sales to Non-Members are Prohibited:** State law allows primary caregivers to be reimbursed for certain services (including marijuana cultivation), but nothing allows individuals or groups to sell or distribute marijuana to non-members. Accordingly, a collective or cooperative may not distribute medical marijuana to any person who is not a member in good standing of the organization. A dispensing collective or cooperative may credit its members for marijuana they provide to the collective, which it may then allocate to other members. (§ 11362.765(c).) Members also may reimburse the collective or cooperative for marijuana that has been allocated to them. Any monetary reimbursement that members provide to the collective or cooperative should only be an amount necessary to cover overhead costs and operating expenses.

6. **Permissible Reimbursements and Allocations:** Marijuana grown at a collective or cooperative for medical purposes may be:
   a) Provided free to qualified patients and primary caregivers who are members of the collective or cooperative;
   b) Provided in exchange for services rendered to the entity;
   c) Allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses; or
   d) Any combination of the above.

7. **Possession and Cultivation Guidelines:** If a person is acting as primary caregiver to more than one patient under section 11362.7(d)(2), he or she may aggregate the possession and cultivation limits for each patient. For example, applying the MMP’s basic possession guidelines, if a caregiver is responsible for three patients, he or she may possess up to 24 oz. of marijuana (8 oz. per patient) and may grow 18 mature or 36 immature plants. Similarly, collectives and cooperatives may cultivate and transport marijuana in aggregate amounts tied to its membership numbers. Any patient or primary caregiver exceeding individual possession guidelines should have supporting records readily available when:
   a) Operating a location for cultivation;
   b) Transporting the group’s medical marijuana; and
   c) Operating a location for distribution to members of the collective or cooperative.
8. **Security**: Collectives and cooperatives should provide adequate security to ensure that patients are safe and that the surrounding homes or businesses are not negatively impacted by nuisance activity such as loitering or crime. Further, to maintain security, prevent fraud, and deter robberies, collectives and cooperatives should keep accurate records and follow accepted cash handling practices, including regular bank runs and cash drops, and maintain a general ledger of cash transactions.

C. **Enforcement Guidelines**: Depending upon the facts and circumstances, deviations from the guidelines outlined above, or other indicia that marijuana is not for medical use, may give rise to probable cause for arrest and seizure. The following are additional guidelines to help identify medical marijuana collectives and cooperatives that are operating outside of state law.

1. **Storefront Dispensaries**: Although medical marijuana “dispensaries” have been operating in California for years, dispensaries, as such, are not recognized under the law. As noted above, the only recognized group entities are cooperatives and collectives. (§ 11362.775.) It is the opinion of this Office that a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines set forth in sections IV(A) and (B), above, are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver – and then offering marijuana in exchange for cash “donations” – are likely unlawful. (*Peron, supra*, 59 Cal.App.4th at p. 1400 [cannabis club owner was not the primary caregiver to thousands of patients where he did not consistently assume responsibility for their housing, health, or safety].

2. **Indicia of Unlawful Operation**: When investigating collectives or cooperatives, law enforcement officers should be alert for signs of mass production or illegal sales, including (a) excessive amounts of marijuana, (b) excessive amounts of cash, (c) failure to follow local and state laws applicable to similar businesses, such as maintenance of any required licenses and payment of any required taxes, including sales taxes, (d) weapons, (e) illicit drugs, (f) purchases from, or sales or distribution to, non-members, or (g) distribution outside of California.
The Irwindale SUCCESSOR AGENCY TO THE IRWINDALE COMMUNITY REDEVELOPMENT AGENCY met in regular session at the above time and place.

ROLL CALL: Present: Councilmembers Albert F. Ambriz, Julian A. Miranda, H. Manuel Ortiz; Mayor Pro Tem Manuel R. Garcia; Mayor Mark A. Breceda

Also present: Eva Carreon, Acting City Manager / Director of Finance; Fred Galante, City Attorney; Anthony Miranda, Chief of Police; William Tam, Director of Public Works/City Engineer; Gus Romo, Director of Community Development; Elvie Balderrama, Human Resources Manager; and Laura Nieto, Deputy City Clerk

RECESS TO CLOSED SESSION At 5:30 p.m., the City Council recessed to Closed Session to discuss the following:

Conference with Real Property Negotiators Pursuant to California Government Code Section 54956.8

Property: 2200 Arrow Highway
Negotiating Parties: Athens
Under Negotiation: Price and terms

ACTION: Direction provided; no reportable action taken

RECONVENE IN OPEN SESSION At 8:31 p.m., the City Council reconvened in Open Session.

SPONTANEOUS COMMUNICATIONS There were no speakers.

CONSENT CALENDAR

MOTION A motion was made by Councilmember Ortiz, seconded by Councilmember Miranda, to approve the Consent Calendar; reading resolutions and ordinances by title only and waiving further reading thereof. The motion was unanimously approved.

ITEM NO. 1A1 MINUTES

The following minutes were approved as presented:

1) Regular meeting held March 25, 2015
2) Regular meeting held April 8, 2015

ITEM NO. 1B WARRANTS

The warrants were approved
SUCCESSOR AGENCY MINUTES
REGULAR MEETING

APRIL 22, 2015

 PAGE 2

ITEM NO. 1C
INVESTMENT QUARTERLY REPORT - MARCH 31, 2015 (Joint Item on City Council and Housing Authority Agendas)

The Investment Quarterly Report for March 31, 2015, was received and filed.

ITEM NO. 1D
ACCEPTANCE OF PUBLIC WORKS CONSTRUCTION CONTRACT FOR THE DEMOLITION OF AGENCY-OWNED FACILITIES LOCATED AT 6550 N. IRWINDALE AVENUE, FORMERLY DENNY'S RESTAURANT

The project and maintenance responsibility for the agency-owned site located at 6550 N. Irwindale Avenue, formerly Denny’s Restaurant, was accepted, and the release of the 5% retention amount for the project was authorized.

END OF CONSENT CALENDAR

ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 8:31 p.m.

________________________________________
Laura M. Nieto, CMC
Deputy City Clerk
## Accounts Payable

Checks by Date - Summary By Check Number

**City of Irwindale as Successor Agency to the Irwindale Community Redevelopment Agency**

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Report Total: 5,775.59
The Irwindale HOUSING AUTHORITY met in regular session at the above time and place.

ROLL CALL: Present: Authority Members Albert F. Ambriz, Julian A. Miranda, H. Manuel Ortiz; Vice Chair Manuel R. Garcia; Chair Mark A. Breceda

Also present: Eva Carreon, Acting Executive Director / Finance Director; Fred Galante, Authority Attorney; Anthony Miranda, Chief of Police; William Tam, Director of Public Works; Gus Romo, Director of Community Development; Elvie Balderrama, Human Resources Manager; and Laura Nieto, Assistant Authority Secretary

SPONTANEOUS COMMUNICATIONS There were no speakers.

CONSENT CALENDAR

MOTION A motion was made by Authority Member Miranda, seconded by Authority Member Ortiz, to approve the Consent Calendar; reading resolutions and ordinances by title only and waiving further reading thereof. The motion was unanimously approved.

ITEM NO. 1A MINUTES

The following minutes were approved as presented

1) Regular meeting held March 25, 2015
2) Regular meeting held April 8, 2015

ITEM NO. 1B INVESTMENT QUARTERLY REPORT – MARCH 31, 2015 (Joint Item on City Council and Successor Agency agendas)

The Investment Quarterly Report for March 31, 2015, was received and filed.

NEW BUSINESS

ITEM NO. 2A UPDATE ON HOUSING PROJECT

HOUSING COORDINATOR OLIVARES Housing Coordinator Olivares provided an update on the Mayans housing project and detailed the events that have transpired up to now and the future timeline of events. She noted that staff hopes that the construction of Phases I, II, and III will be complete in October of 2015, February 2016, and May 2016, respectively.
AUTHORITY MEMBER
ORTIZ

Responding to a question by Authority Member Ortiz, Housing Coordinator Olivares advised that applicants are being asked to fill out and return a supplemental application in order to update their initial applications with information pertaining to finance and household composition, for example. These supplemental applications are due on April 29.

Authority Member Ortiz asked whether the information provided could potentially change the applicants’ ranking, to which Housing Coordinator Olivares confirmed that it is possible, depending on each applicant’s circumstances. He also asked whether appeals could delay the project, to which Housing Coordinator Olivares indicated that the time it would take to process appeals has been factored into the timeline.

ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 8:52 p.m.

Laura M. Nieto, CMC
Assistant Authority Secretary