

ORDINANCE NO. 2017-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ESCONDIDO AND NEW URBAN WEST INC. FOR THE VILLAGES – ESCONDIDO COUNTRY CLUB PROJECT

APPLICANT: New Urban West Inc.  
CASE NOS.: SUB 16-0009, PHG 16-0018, and ENV 16-0010

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

SECTION 1. The City Council makes the following findings:

a) California Government Code Section 65864 et. seq. authorizes any local agency to enter into an agreement for the development of real property within the jurisdiction of that local agency.

b) Article 58 of the Escondido Zoning Code sets forth certain procedures for the processing and approval of Development Agreements in the City of Escondido.

c) New Urban West, Inc. ("Applicant") submitted a verified land use development application on property located in the northwest portion of the City, along both sides of West Country Club Lane west of Nutmeg Street. The Project site is approximately 109.3 acres in size and currently has an address of 1800 West Country Club Lane, Escondido CA 92025, legally described as "Exhibit D to City Council Resolution No. 2017-151," which is incorporated herein by this reference as though fully set forth herein. Said verified application was submitted to, and processed by, the Planning Division of the Community Development Department as Planning Case Nos. SUB 16-

0009, PHG 16-0018, and ENV 16-0010 and seeks approval of a Development Agreement relating to the Project site.

d) The Planning Division of the Community Development Department completed its review and scheduled a public hearing regarding the application before the Planning Commission for October 24, 2017. Following the public hearing on October 24, 2017, the Planning Commission adopted Resolution No. 6015, which recommended that the City Council, among other things, approve the terms of the Project's Development Agreement.

SECTION 2. An original copy of the proposed Development Agreement and all other related Project materials are on file in the Office of the City Clerk, with a copy of each document submitted to the City Council for its consideration. The City Clerk, whose office is located at 201 North Broadway, Escondido CA 92025, is hereby designated as the custodian of the documents and other materials which constitute the record of proceedings upon which the City Council's decision is based, which documents and materials shall be available for public inspection and copying in accordance with the provisions of the California Public Records Act.

SECTION 3. The City Council did on November 15, 2017, hold a duly noticed public hearing as prescribed by law. Evidence was submitted to and considered by the City Council, including, without limitation:

a) Written information including all application materials and other written and graphical information posted on the project website.

b) Oral testimony from City staff, interested parties, and the public.

c) The City Council staff report, dated November 15, 2017, which along with its attachments, is incorporated herein by this reference as though fully set forth herein, including the Planning Commission's recommendation on the request.

d) Additional information submitted during the public hearing.

SECTION 4. Pursuant to the California Environmental Quality Act, a Final Environmental Impact Report (SCH No. 2017011060) relative to the Project was prepared and the City Council has certified it, along with adopting the CEQA Findings of Fact, a Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program per City Council Resolution No. 2017-151.

SECTION 5. That upon consideration of the Findings/Factors to be Considered, attached as Exhibit "A" and incorporated herein by this reference as though fully set forth, the November 15, 2017 City Council staff report, the Planning Commission recommendation, based on the totality of the record and evidence described and referenced in this Resolution, the City Council desires to adopt the proposed Development Agreement.

SECTION 6. The City Council finds that the Development Agreement is consistent with the Escondido General Plan and the Growth Management Ordinance (Article 68) of the Zoning Code, and further finds that the Development Agreement provides additional Project-related benefits that could not otherwise be obtained. City proposes to enter this Agreement for the reasons enumerated in the Development Agreement, and (i) to eliminate uncertainty in the comprehensive development planning of large-scale projects within the City, such as the Project; (ii) to secure orderly development and progressive fiscal benefits for public services, park and recreation

improvements and facilities planning in the City; (iii) to expeditiously remove and abate the former clubhouse; (iv) to help meet the goals and objectives of the City of Escondido General Plan; and (v) to replace, for Applicant's and City's benefit, an underutilized infill site that previously operated as a golf course, with a high-quality master-planned community capable of meeting many community needs of current and future Escondido residents, at a location well suited for this type of development.

SECTION 7. That the Development Agreement is hereby approved, as set forth substantially to the same form on file with the Office of the City Clerk, and attached as Exhibit "B," and incorporated herein by this reference as though fully set forth herein.

SECTION 8. All references within this Ordinance to "Applicant," "Developer," or "Subdivider" shall be equally applicable to the current property owner and to any successors-in-interest or assigns, whether such successors or assigns own, control, or otherwise have development authority for all, a portion, or portions of that property included within the Project site.

SECTION 9. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 10. Concurrently with this Ordinance, the City Council is taking a number of actions in furtherance of the Project, as generally described by the November 15, 2017 City Council staff report. No single component of the series of actions made in connection with the Project shall be effective unless and until it is

approved by an Ordinance or Resolution and is procedurally effective within its corporate limits as a statute in the manner provided by state law. Therefore, this Ordinance shall become effective after final passage and publication as required by law, and operative only if City Council Resolution Nos. 2017-151, 2017-152, and 2017-153 are approved and on the day immediately subsequent to the date that Ordinance 2017-13 becomes effective.

SECTION 11. The City Council authorizes all subsequent action to be taken by City Officials consistent with this Ordinance. By approving the Development Agreement, including its exhibits, the City Council authorizes the Director of Community Development and other applicable City officials to take all actions reasonably necessary or prudent to perform the City's obligations under the Development Agreement in accordance with the terms of the Development Agreement.

SECTION 12. That the City Clerk is hereby directed to certify to the passage of this Ordinance and to cause the same or a summary to be prepared in accordance with Government Code Section 36933, to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

SECTION 13. The Ordinance shall become effective 30 days from the date of the passage. This Ordinance shall become operative only on (and no rights or duties are affected until) the later of a) 30 days from the date of its passage, or b) the date that Ordinance 2017-13 becomes effective. Copies of said Ordinance is on file with the Office of the City Clerk and are incorporated herein by this reference as though fully set forth herein.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 6<sup>th</sup> day of December, 2017 by the following vote to wit:

AYES : Councilmembers: DIAZ, GALLO, MORASCO

NOES : Councilmembers: MASSON, ABED

ABSENT : Councilmembers: NONE

APPROVED:



SAM ABED, Mayor of the  
City of Escondido, California

ATTEST:



DIANE HALVERSON, City Clerk of the  
City of Escondido, California

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STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO : ss.  
CITY OF ESCONDIDO )

I, DIANE HALVERSON, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2017-14 passed at a regular meeting of the City Council of the City of Escondido held on the 6<sup>th</sup> day of December, 2017, after having been read at the regular meeting of said City Council held on the 15<sup>th</sup> day of November, 2017.



DIANE HALVERSON, City Clerk of the  
City of Escondido, California

ORDINANCE NO. 2017-14

## EXHIBIT A TO ORDINANCE 2017-14

### FINDINGS/FACTORS TO BE CONSIDERED

#### Development Agreement Determinations:

1. The proposed Development Agreement is proposed in conjunction with a General Plan Amendment and Rezone that would allow 380 residential homes at 3.5 dwelling units per acre; approximately 48.9 acres of permanent open space with active greenbelts; 3.5 acre of parks; and recreational, social, and community amenities in a Village Center.
2. The proposed Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan since the proposed change to the General Plan land use designations from Urban 1 to Specific Plan (SP) does not change the number of homes permitted on the subject property. The Project is consistent with the maximum density of 5.5 dwelling units per acre permissible in the General Plan since the proposed development includes 3.47 dwelling units per acre. The Project development proposal promotes amenities beyond those expected under a conventional development, and achieves greater flexibility in design and context-sensitive use of land. The proposed Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the property is located since the General Plan land use designation for the site is Specific Planning (SP), which allows the number of dwelling units approved for the development in conformance with Subdivision Ordinance Section 32.202.03.
3. The proposed Development Agreement provides sufficient benefit to the community to justify entering into the agreement. The Project is required to demolish and remove the clubhouse within six (6) months of Project approval.
4. The proposed Development Agreement would be beneficial to the public interest and general welfare of the City as it would help facilitate a Project that provides 48.9 acres of permanent open space with active greenbelts; 3.5 acre of parks; and recreational, social, and community amenities in a Village Center. These provisions for community benefits could not otherwise be required of the developer. Therefore, the proposed Development Agreement would be in the best interests of the City; and the ECC community would enjoy many benefits of the Project. The Development Agreement requires the Project to comply with the Conditions of Approval, the certified Final EIR and Mitigation Monitoring Reporting Program (MMRP), all applicable local and State regulations, including but not limited to, Air Pollution Control District regulations, Public Works Department regulations, Health Department regulations, Zoning Code and approved Specific Plan standards, Fire Department standards, and Building and Safety Division regulations, and to ensure that the Project would not be otherwise detrimental to the public interest, health, safety, convenience, or general welfare of the City.
5. The Development Agreement is consistent with the provisions of State law (Government Code, Sections 65864 – 65869.5) to develop in accordance with project approvals and existing laws. These Government Code Sections outline requirements related to the contents of agreements, the applicability of an agreement and on the public hearing and approval process. The proposed Development Agreement is consistent with Government Code Section 65864, which states that the lack of certainty in the approval of development projects can result in a waste of resources and escalated housing costs while discouraging comprehensive planning, because the proposed Development Agreement provides certainty to the applicant regarding fees required and construction obligations for associated public improvements for a period of five (5) years. In addition, the agreement complies with Article 58 of the Escondido Zoning Code, which outlines

the procedures and requirements for the review, approval and amendment of development agreements.

6. The proposed Development Agreement would not adversely affect the orderly development of property or the preservation of property values since the project would be developed in conformance with the Specific Plan on the property, which would have a positive effect on the orderly development of the subject property and/or the preservation of neighboring property values. In addition, the agreement does not allow a use that would not be permitted by the Zoning Code. The agreement specifies the duration of the agreement, the terms of the agreement, the permitted uses of the property, and the density or intensity of use.

**Proceedings:**

1. The Record of Proceedings upon which the City Council bases its decision includes, but is not limited to: (1) the Final EIR and the appendices and technical reports cited in and/or relied upon in preparing the Final EIR; (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the Final EIR and the Project itself; (3) the evidence, facts, findings and other determinations set forth in herein; (4) the General Plan and the Escondido Municipal Code; (5) all designs, plans, studies, data and correspondence submitted to the City in connection with the Final EIR and the Project itself; (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the Final EIR and/or elsewhere during the course of the review of the Project itself; (7) all other matters of common knowledge to the to the City, including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City and its surrounding areas.



## **EXHIBIT B TO ORDINANCE 2017-14**

### **DEVELOPMENT AGREEMENT**

Due to the number of pages of Exhibit B, a link has been provided to review the document electronically.

<https://www.escondido.org/Data/Sites/1/media/PDFs/Planning/ECC/exhibits/DevelopmentAgreement.pdf>

A hardcopy of the Exhibit is available for review in the Office of the City Clerk during normal business hours. To obtain a copy, please the City Clerk at (760) 839-4617. For City Council members, a copy is available in the City Council reading file.