



## NOTICE OF WORK SESSION

In accordance with §38-431.01 of the Arizona Revised Statutes of the State of Arizona, notice is hereby given to the Members of City Council and to the general public that the Mayor and Council of the City of San Luis, Arizona, will hold a Work Session meeting at 6:30 p.m., Wednesday, December 2, 2020. The Work Session will take place at the City Council Chambers, located at 1090 E. Union Street, San Luis, Arizona, 85349.

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of San Luis does not discriminate on the basis of disability in the admission of or access to, or treatment of employment in its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities or services contact: ADA/Section 504 Coordinator, City of San Luis Human Resources Department, 1090 E. Union Street, San Luis, Arizona, 85349; (928) 341-8520.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recordings. Parents in order to exercise their rights may either file written consent with the City Clerk to such recordings or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.

THIS NOTICE IS GIVEN BY:

/s/ Sonia Cornelio, City Clerk

## AVISO DE SESION DE TRABAJO

De acuerdo con los Estatutos del Estado de Arizona A.R.S. §38-431.01, se le informa a los miembros del Cabildo y al público en general que el Alcalde y el Cabildo, tendrán una Sesión de Trabajo a las 6:30 p.m., el día Miércoles 2 de Diciembre del 2020. La junta se llevará a cabo en la Sala del Cabildo, ubicada en el 1090 E. Union Street, San Luis, Arizona, 85349.

De acuerdo con el Acta de Americanos con Discapacidades y la Sección 504 del Acta de Rehabilitación del 1973, la Ciudad de San Luis, Arizona no discrimina por causa de discapacidad la admisión y acceso a sus programas, actividades, servicios o en el trato en cuanto a empleo. Para más información referente a derechos y provisiones del Acta de Americanos con Discapacidades o Sección 504, o para solicitar adaptaciones que sean razonables para la participación en programas, actividades o servicios de la Ciudad, contactar al: Coordinador del Acta de Americanos con Discapacidades/Sección 504, Departamento de Recursos Humanos de la Ciudad de San Luis, Arizona, ubicado en el 1090 E. Union Street, San Luis, Arizona, 85349; (928) 341-8520.

Por medio de este aviso y de acuerdo con los Estatutos del Estado de Arizona A.R.S §1-602.A.9, sujeto a ciertas excepciones reglamentarias, los padres de familia tienen el derecho de dar el consentimiento ante el Estado o cualquiera de sus subdivisiones políticas para hacer una grabación de audio o video de su hijo menor de edad. Las juntas del Cabildo se graban en audio y/o video y como resultado, el hecho de que haya menores presentes puede ser sujeto a que sean grabados. Para que los padres de familia puedan ejercer sus derechos pueden dar el consentimiento por escrito con la Secretaria de la Ciudad a tal grabación, o tomar acción personal para asegurarse que su hijo menor no esté presente cuando la grabación se lleve a cabo. Si un menor de edad está presente en el momento de la grabación, la Ciudad asumirá que los padres de familia están cediendo los derechos sobre una posible grabación de acuerdo con los Estatutos del Estado de Arizona A.R.S. §1-602.A.9.

ESTE AVISO ES DADO POR:

/f/ Sonia Cornelio, Actuaría de la Ciudad



**AGENDA**  
**Work Session**  
**San Luis City Council**  
**San Luis Council Chambers**  
**1090 E. Union Street**  
**San Luis, AZ 85349**  
**December 2, 2020**  
**6:30 p.m.**

The December 2, 2020 Work Session meeting, for the safety of the public during the COVID-19 pandemic, will not have in-person attendance for members of the public. However, members of the public may listen to the meeting's live audio stream on the City of San Luis website <https://sanluisaz.gov/listenlive>. Recordings of the meetings will be available on the City's website <https://sanluisaz.gov/listenlive> after the meeting.

Open meetings conducted remotely through technological means are permissible under the March 13, 2020, Arizona Attorney General opinion titled, "Re: Concerns Relating to Arizona's Open Meeting Law and COVID-19" and following the Mayor's March 18, 2020, Continued Declaration of Emergency and Amended Order-Coronavirus Disease-19 and City Council's Order 2020-7 which closed all city buildings and facilities (except the Municipal Court) to public access.

Por la seguridad del público durante la pandemia COVID-19, no habrá asistencia en persona para los miembros del público en la sesión de trabajo del Cabildo del 2 de Diciembre del 2020. Sin embargo, los miembros del público pueden escuchar el audio en vivo de la reunión transmitido en el sitio web de la Ciudad de San Luis <https://sanluisaz.gov/listenlive>. Las grabaciones de las reuniones estarán disponibles en el sitio web de la ciudad <https://sanluisaz.gov/listenlive> después de la reunión.

Las reuniones abiertas realizadas de forma remota a través de medios tecnológicos están permitidas bajo la opinión del Fiscal General de Arizona del 13 de marzo de 2020 titulada "Re: Preocupaciones relacionadas con Open Meeting Law de Arizona y COVID-19" y después de la Declaración de Emergencia Continua del 18 de marzo de 2020 del alcalde y Orden modificada-Enfermedad de Coronavirus-19 y Orden del Ayuntamiento 2020-7 la cual cerró todos los edificios e instalaciones de la ciudad (excepto en la Corte Municipal) al acceso público, para proteger la salud y la seguridad pública y reducir la transmisión de la Enfermedad de Coronavirus 2019 (COVID-19).

**PLEASE TAKE NOTICE THAT MEMBERS OF THE CITY COUNCIL WILL ATTEND EITHER IN PERSON, TELEPHONE, OR VIDEO CONFERENCE COMMUNICATION; THE MAYOR OR ACTING MAYOR FOR THIS MEETING MAY CHANGE THE ORDER OF THE ITEMS.**

**1. CALL TO ORDER/ROLL CALL**

**2. ITEMS FOR DISCUSSION ONLY**

**2. A.** Presentation, followed by discussion and possible directions to staff on any and all matters regarding the Mesa Street Project. (**Jenny Torres, Economic Development Manager and Eulogio Vera, Director of Public Works**)

**2. B.** Presentation followed by discussion and possible directions to staff on any and all matters regarding the downtown drainage master plan by James Davey and Associates, LLC. (**Jenny Torres, Economic Development Manager and Eulogio Vera, Public Works Director**)

2. C. Discussion and possible directions to staff on any and all matters regarding a proposed resolution of the Mayor and City Council of the City of San Luis, authorizing the submission of an application to the United States Department of Interior, Bureau of Land Management for a recreational and public purpose lease for the downtown park project. **(Jenny Torres, Economic Development Manager; Jose A. Guzman, Director of Planning & Zoning; and Eulogio Vera, Director of Public Works)**
2. D. Discussion and possible directions to staff on any and all matters regarding a proposed resolution of the Mayor and City Council of the City of San Luis, authorizing the submission of an application to the United States Department of Interior, Bureau of Reclamation for transportation and utility systems and facilities lease for the downtown parking lot project. **(Jenny Torres, Economic Development Manager; Jose A. Guzman, Director of Planning & Zoning; and Eulogio Vera, Director of Public Works)**
2. E. Discussion and possible directions to staff on any and all matters regarding Order No. 2020-19. An order of the Mayor and City Council of the City of San Luis, Arizona authorizing and directing the entering into the “One Arizona Opioid Settlement Memorandum of Understanding” regarding a proposed settlement fund settling claims against certain pharmaceutical supply chain participants in the class action titled “In Re National Prescription Opiate Litigation.” **(Kay Marion Macuil, City Attorney)**
2. F. Discussion and possible directions to staff on any and all matters regarding Ordinances No. 403, 404, and 405 to regulate aspects of recreational marijuana, as permitted under Proposition 207 which the voters passed on November 3, 2020. **(Glenn J. Gimbut, Assistant City Attorney)**

3. **ADJOURNMENT**

**IN THE EVENT A MAJORITY OF THE COUNCIL IS NOT PRESENT, AN INFORMAL WORK SESSION MAY BE HELD.**



## AGENDA ITEM REVIEW FORM

### Work Session

2. A.

**Meeting Date:** 12/02/2020

**Department Head:** Jenny Torres, Economic Development Manager, Administration, Economic Development

**Submitted By:** Jenny Torres, Economic Development Manager, Administration, Economic Development

**Action Requested:** Discussion Item - No Action to be Taken

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### ITEM:

Presentation, followed by discussion and possible directions to staff on any and all matters regarding the Mesa Street Project. (**Jenny Torres, Economic Development Manager and Eulogio Vera, Director of Public Works**)

### SUMMARY:

James Davey and Associates is working on the design of the Mesa Street Project for council consideration in submitting the project for a Community Development Block Grant application in May 2021. Staff will be providing an update to City Council on the proposed improvements and provide an opportunity to provide direction on the need for specific improvements that will have an impact in this area.

### RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

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### Fiscal Impact

**IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:** No  
**CITY/STATE/FEDERAL FUNDS:** N/A  
**TOTAL:** N/A  
**BUDGETED AMOUNT:** N/A  
**AVAILABLE AMOUNT TO TRANSFER:** N/A  
**ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:** N/A  
**FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):**

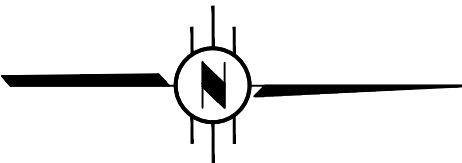
There is no fiscal impact associated with this item.

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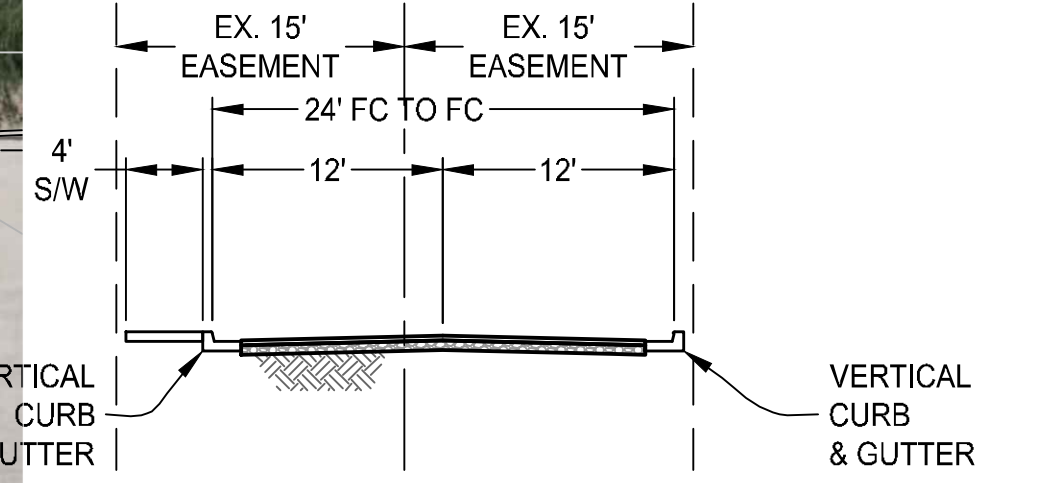
### Attachments

Mesa Street Map

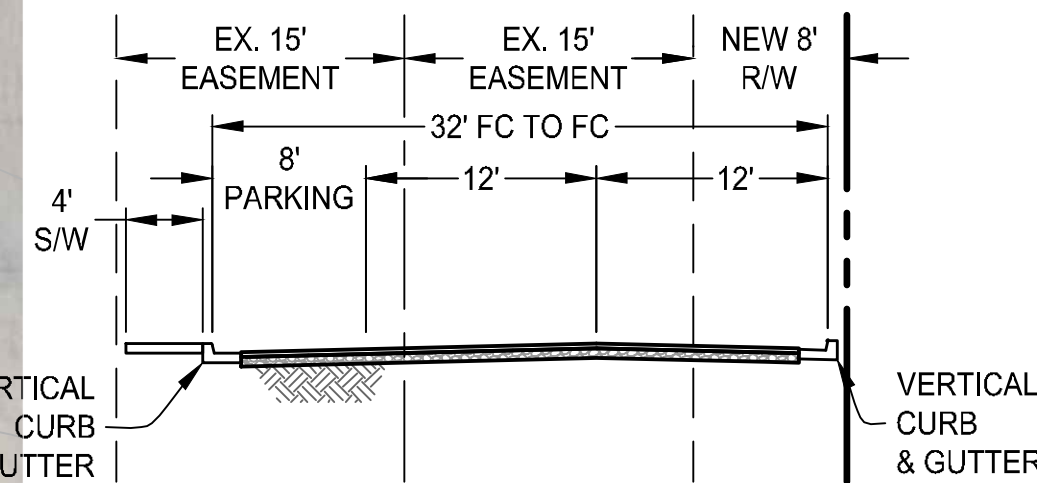
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0 50' 100'  
SCALE: 1" = 50'



TYPICAL CROSS SECTION - ALTERNATIVE 1  
SCALE: 1"=10'



TYPICAL CROSS SECTION - ALTERNATIVE 2  
SCALE: 1"=10'



CSL-27

**JAMES DAVEY AND ASSOCIATES**  
CONSULTING CIVIL ENGINEERS  
1025 W. 24th Street, Suite 2 - YUMA, AZ 85364 - (928) 782-7928

**CITY OF SAN LUIS**  
**MESA STREET ROADWAY IMPROVEMENTS**

ALTERNATIVE 1	
PREPARED FOR:	CITY OF SAN LUIS COMMUNITY DEVELOPMENT SAN LUIS, AZ 85349 (928) 341-8584
DESIGNED BY:	T.S.
DRAWN BY:	O.J.Z.
APPROVED BY:	J.V.D.
SHEET	P-1
NOVEMBER 16, 2020	



## AGENDA ITEM REVIEW FORM

### Work Session

2. B.

**Meeting Date:** 12/02/2020

**Department Head:** Jenny Torres, Economic Development Manager, Administration, Economic Development

**Submitted By:** Yigal Duarte, Economic Development Assistant, Administration, Economic Development

**Action Requested:** Discussion Item - No Action to be Taken

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### ITEM:

Presentation followed by discussion and possible directions to staff on any and all matters regarding the downtown drainage master plan by James Davey and Associates, LLC. **(Jenny Torres, Economic Development Manager and Eulogio Vera, Public Works Director)**

### SUMMARY:

The City of San Luis contracted with James Davey and Associates to develop a downtown drainage master plan. Mr. James Davey will be presenting the results of the study. The Economic Development Division is working on revitalizing downtown San Luis through a redevelopment plan. One of the major concerns and complaints we received from businesses is the drainage problems. The intent of the master plan is to minimize or eliminate the onsite retention of stormwater while providing adequate overall stormwater drainage. The area of focus will include the border to the South, Cesar Chavez Boulevard to the North, Mesa Street to the West, and 4th Avenue to the East. The proposal included surveying and mapping the downtown area, preparing a facility inventory, identifying and mapping a hydrological analysis, analyzing existing drainage conditions, and propose drainage options and improvements. Mr. Davey is working on the design of Mesa Street for a potential project to be submitted to the Arizona Department of Housing for a Community Development Block Grant. This study will assist in evaluating the drainage issues for this project.

### RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

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### Fiscal Impact

**IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:** NO

**CITY/STATE/FEDERAL FUNDS:** N/A

**TOTAL:** N/A

**BUDGETED AMOUNT:** N/A

**AVAILABLE AMOUNT TO TRANSFER:** N/A

**ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:** N/A

**FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):**

N/A

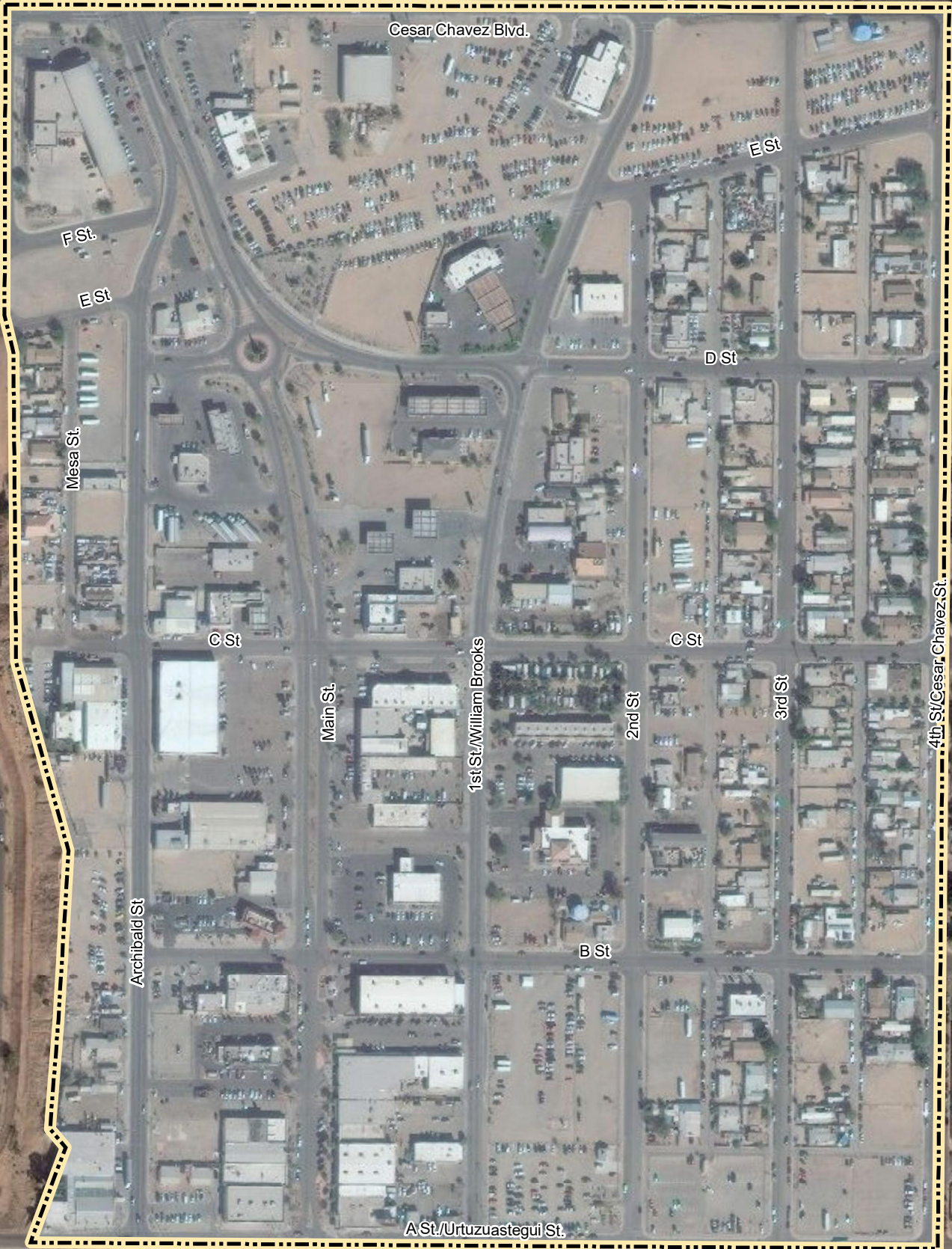
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**Attachments**

Downtown Drainage Study Area

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# Downtown San Luis Master Drainage Plan - Study Area -





## AGENDA ITEM REVIEW FORM

**Work Session****2. C.****Meeting Date:** 12/02/2020**Department Head:** Jenny Torres, Economic Development Manager, Administration, Economic Development**Submitted By:** Yigal Duarte, Economic Development Assistant, Administration, Economic Development**Action Requested:** Discussion Item - No Action to be Taken

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**ITEM:**

Discussion and possible directions to staff on any and all matters regarding a proposed resolution of the Mayor and City Council of the City of San Luis, authorizing the submission of an application to the United States Department of Interior, Bureau of Land Management for a recreational and public purpose lease for the downtown park project. **(Jenny Torres, Economic Development Manager; Jose A. Guzman, Director of Planning & Zoning; and Eulogio Vera, Director of Public Works)**

**SUMMARY:**

The city developed the City of San Luis Master Plan for Downtown Parks and Parking lots as part of a request by the Bureau of Land Management (BLM) and Bureau of Reclamation (BOR) to process an application for lease of the land for public use. The City of San Luis proposes to submit an application to BLM to developed park areas linked by walking paths and a pedestrian bridge to create one singular urban park in the downtown area. The engineer cost estimate for the park is approximately \$3,458,000.00. The development of a master plan and acquisition of the land is the first step in moving this project forward. Staff estimates that it will take a couple of years to phase out the project upon funding availability. BLM requires that the governing board of the organization adopt a resolution and files the document with the application.

Staff is requesting authorization to submit a proposed resolution and provide the City Manager authority to sign any pertinent documents.

**RECOMMENDATION / SUGGESTED MOTION:**

Discussion and possible directions to staff only, no action.

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**Fiscal Impact**

<b>IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:</b>	Yes
<b>CITY/STATE/FEDERAL FUNDS:</b>	Local
<b>TOTAL:</b>	N/A
<b>BUDGETED AMOUNT:</b>	N/A
<b>AVAILABLE AMOUNT TO TRANSFER:</b>	N/A
<b>ACCT NAME &amp; GL#/REMAINING BALANCE BEFORE PURCHASE:</b>	N/A

**FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):**

The Bureau of Land Management (BLM) has several processing fees. Once the application is submitted, BLM will determine the appropriate processing category fee and notify the city in writing.

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**Attachments**

Resolution-BLM  
BLM Application  
ROW Exhibit Map  
Master Plan for Downtown

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**NO. XXXX**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT FOR A RECREATIONAL AND PUBLIC PURPOSE LEASE FOR THE DOWNTOWN PARK PROJECT.**

**WHEREAS**, the Bureau of Land Management requires state or local governments to provide authorization to submit an application to the Bureau of Land Management; and

**WHEREAS**, the City of San Luis requires federal lands to develop a downtown park; and

**WHEREAS**, the City of San Luis wishes to submit a recreation and public purpose federal lands application; and

**WHEREAS**, said lands owned by the Bureau of Land Management are a part of:

Lots 1, 2, 3 and 4 of Block 31, and Lots 1, 2, 3, 4, 10 and 11 of Block 30, of the San Luis Townsite Addition No. 1 Subdivision and as shown in U. S. Bureau of Land Management Survey 4086-H, "Survey of San Luis Townsite Addition No. 1 Blocks 29, 30 and 31," as filed May 3, 1995, in Section 12, Township 11 South, Range 25 West, Gila and Salt River Meridian, Yuma County, Arizona.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of San Luis, Arizona, that they hereby authorize the submission of an application for federal land located Main Street to the north and east and East to Juan Sanchez Boulevard and authorize the City Manager to sign the resulting documents.

[Remainder of this page left internationally blank, Signature page follows.]

**PASSED AND ADOPTED** by the Mayor and City Council of the City of San Luis, Arizona,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Gerardo Sanchez, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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Sonia Cornelio, City Clerk

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Kay Macuil, City Attorney

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
**APPLICATION FOR LAND FOR  
RECREATION OR PUBLIC PURPOSES**

(Act of June 14, 1926, as amended; 43 U.S.C. 869; 869-4)

FORM APPROVED  
OMB NO. 1004-0012  
Expires: January 31, 2013

Date <b>12/09/2020</b>	Serial Number (BLM use only)
Home phone (include area code)	

1a. Applicant's name <b>Eulogio Vera, Public Works Director</b>	b. Address (include zip code) <b>P.O. BOX 3750, San Luis, AZ 85349</b>	Business phone (include area code) <b>(928) 341-8577</b>
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2. Give legal description of lands applied for (include metes and bounds description, if necessary)

SUBDIVISION	SECTION	TOWNSHIP	RANGE	MERIDIAN
<b>San Luis Townsite Addition No. 1</b>	<b>Section 12</b>	<b>South Township</b>	<b>25 W Range</b>	<b>Gila and Salt River</b>

County of <b>Yuma</b>	State of <b>Arizona</b>	Containing (acres) <b>Approximately 3 acres</b>
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3a. This application is for:     Lease     Purchase (If lease, indicate year )

b. Proposed use is     Public Recreation     Other Public Purposes

4. Describe the proposed use of the land. The description must specifically identify an established or definitely proposed project. Attach a detailed plan and schedule for development, a management plan which includes a description of how any revenues will be used, and any known environmental or cultural concerns specific to the land.

**The project consist of a Main Street Park located along the east side of Main Street from just north of C Street to E Street, and a West Park area located south of the Post Office building and between Mesa Street and Archibald Street. The parks will include covered ramadas, bench areas, recreational play field areas, walking paths, street crossing, trees and landscaping. In addition, the parks will include a splash park, concert pavilion, vendor kiosks, restroom facilities, a police substation and power and area lighting. The City will seek state and federal funding to construct the project. The City is prepare to phase out the project, depending on funding availability. There are no projected revenues, if any revenues should derived, will be place back into operations and maintenance of facilities. No environmental studies have been conducted at the proposed location.**

**The specific property for this location is BLM lots 1, 2, 3 and 4 of Block 31, and Lots 1, 2, 3, 4, 10 and 11 of Block 30, of the San Luis Townsite Addition No. 1 Subdivision and as shown in U. S. Bureau of Land Management Survey 4086-H, "Survey of San Luis Townsite Addition No. 1 Blocks 29, 30 and 31", as filed May 3, 1995, in Section 12, Township 11 South, Range 25 West, Gila and Salt Meridian, Yuma County, Arizona, except for the existing right-of-way for D Street across Block 30.**

5. If applicant is State or Political subdivision thereof, cite your statutory or other authority to hold land for these purposes.  
**Arizona Revised Statue Section 9-241.A**  
**The corporation may purchase, receive, hold, lease and convey property, real and personal, necessary or proper to carry out the purpose of the corporation, within or without its limits.**

6. Attach a copy of your authority for filing this application and to perform all acts incident thereto.

7. If land described in this application has not been classified for recreation and/or public purposes pursuant to the Recreation and Public Purposes Act, consider this application as a petition for such classification.

8. Are all activities, facilities, services, financial aid, or other benefits as a result of your proposed development provided without regard to race, color, religion, national origin, sex, or age?  Yes  No (If "no," describe the situation or activity and your plans for achieving compliance.)

9. Are all activities, facilities, and services constructed or provided as a result of your proposed development accessible to and usable by persons with disabilities?  Yes  No (If "no," describe the situation or activity and the reasons for nonaccessibility).

Applicant's Signature

Date

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representation as to any matter within its jurisdiction.

### GENERAL INSTRUCTIONS

1. Type or print plainly in ink.
2. Submit application and related plans to the BLM District or Resource Area Office in which the land is located.
3. Study controlling regulations in 43 CFR 2740 (*Sales*) and 43 CFR 2912 (*Leases*).
4. If applicant is non-governmental association or corporation, attach a copy of your charter, articles of incorporation or other creating authority. If this information has been previously filed with any BLM office, refer to previous filing by date, place, and case serial number.
5. If applicant is non-governmental association or corporation, attach a copy of your authority to operate in the State where the lands applied for are located. If previously filed with any BLM office, refer to previous filing by date, place, and case serial number.

### SPECIFIC INSTRUCTIONS

(Items not listed are self-explanatory)

Item

Item

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <ol style="list-style-type: none"> <li>2. If land is surveyed, give complete legal description. If land is unsurveyed, description should be by metes and bounds connected, if feasible, by course and distance with a corner of public land survey. If possible, approximate legal subdivisions of unsurveyed lands should be stated. Acreage applied for must not exceed that specified by regulations.</li> <li>3a. Generally, title to lands will not be granted upon initial approval of an application. In order to assure proper development or use plans, the general practice will be to issue a lease or lease with option to purchase after development is essentially completed. In any case, term of lease may not exceed 20 years for non-profit organizations or 25 years for governmental agencies, instrumentalities or political subdivisions.</li> <li>4. Leases and patents under this act are conditioned upon continuing public enjoyment of the purposes for which the land is classified. The plan of development, use, and maintenance must show, at a minimum:             <ol style="list-style-type: none"> <li>a. A need for proposed development by citing population trends, shortage of facilities in area, etc.</li> <li>b. That the land will benefit an existing or definitely proposed public project authorized by proper authority.</li> <li>c. Type and general location of all proposed improvements, including public access (<i>roads, trails, etc.</i>). This showing may take the form of inventory lists, maps, plats, drawings, or</li> </ol> </li> </ol> | <ol style="list-style-type: none"> <li>d. blueprints in any combination available and necessary to describe the finished project. Site designs should be provided for intensive use sites and general information about improvements existing or planned on lands within the overall project.</li> <li>d. An estimate of the construction costs, how the proposed project will be financed, including a list of financial sources, and an estimated timetable for actual construction of all improvements and facilities.</li> <li>e. A plan of management to include operating rules, proposed source and disposition of revenues arising from the proposed operation, personnel requirements, etc.</li> <li>f. A specific maintenance plan to include, for example, sewage and garbage disposal, road maintenance, upkeep and repair of grounds and physical facilities, etc.</li> <li>g. Applications for solid waste disposal sites must comply with guidelines established by the Environmental Protection Agency (40 CFR 258) and must include a detailed physical description of the site including a map, description of ground water situation, soil characteristics and management plan.</li> <li>6. This may consist of a copy of a delegation of authority, resolution or other evidence of authority from the governing board of the applicant's organization, copy of the by-laws of the organization, or the like.</li> </ol> |
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## NOTICES

The Privacy Act of 1974 and the regulation in 43 CFR 2.48 (d) provide that you be furnished the following information in connection with information required by this application for a Land Use Authorization.

**AUTHORITY:** 43 U.S.C. 869 et seq.; 43 CFR Part 2740

**PRINCIPAL PURPOSE:** The information is to be used to process your application.

**ROUTINE USES:** (1) The adjudication of the applicant's request for a Land Use Authorization. (2) Documentation for public information. (3) Transfer to appropriate Federal agencies when concurrence is required prior to granting a right in use of public lands or resources. (4) (5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

**EFFECT OF NOT PROVIDING INFORMATION:** Disclosure of the information is mandatory for processing of the application. If all the information is not provided, the application may be rejected.

The Paperwork Reduction Act of 1995 requires us to inform you that:

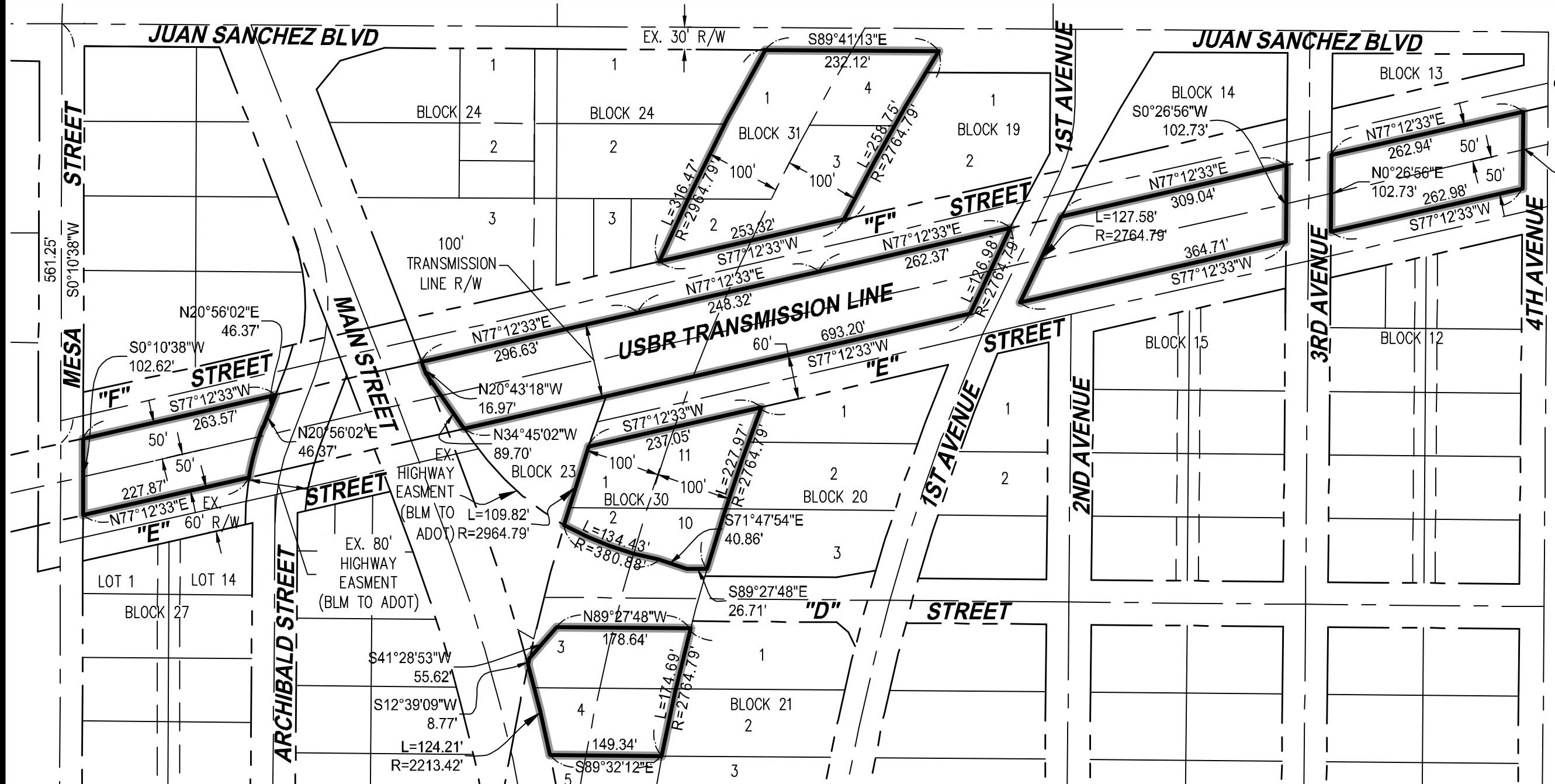
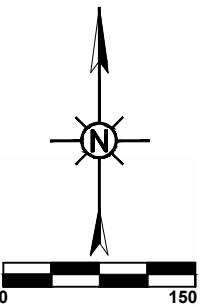
BLM collects this information to process your request for Federal lands under the provisions of June 14, 1926 (43 U.S.C. 869 as amended), Recreation and Public Purposes Act.

Information will be used to illustrate whether the applicant meets requirements of regulations found in 43 CFR Subpart 2740. Response to this request is mandatory, see regulations found in 43 CFR Subpart 2741.4.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

**BURDEN HOURS STATEMENT:** Public reporting burden for this form is estimated to average 40 hours per response, including the time for reviewing instructions, gathering, and maintaining data and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the U.S. Department of the Interior, Bureau of Land Management (1004-0012), Bureau Information Collection Clearance Officer (WO-630), 1849 C Street, N.W., Mail Stop 401 LS, Washington, D.C. 20240.

**RIGHT-OF-WAY MAP  
SAN LUIS TOWNSITE ADDITION NO. 1  
EXISTING 100-FOOT WIDE TRANSMISSION LINE RIGHT-OF-WAY AND IN LOTS IN BLOCK 30 AND 31**



PREPARED BY:  
**JAMES DAVEY AND ASSOCIATES**  
 CONSULTING CIVIL ENGINEERS  
 1025 W. 24TH STREET, SUITE 2,  
 YUMA, ARIZONA 85364 (928) 782-7926  
 WWW.JDACIVIL.COM

PREPARED FOR:  
**CITY OF SAN LUIS, ARIZONA**  
 1090 EAST UNION STREET  
 P.O. BOX 1170  
 SAN LUIS, ARIZONA 85349

**RIGHT-OF-WAY MAP  
SAN LUIS TOWNSITE ADDITION NO. 1  
EXISTING 100-FOOT WIDE TRANSMISSION LINE RIGHT-OF-WAY,  
LOTS 1, 11 AND PORTIONS OF LOTS 2 AND 10 IN BLOCK 30,  
AND LOTS 1, 2, 3, AND 4 IN BLOCK 31**

Date 02/26/2020  
 Job No. CSL-18  
 Drawn RC  
 Checked JVD

**LEGEND**

	NEW RIGHT-OF-WAY
	EXISTING RIGHT-OF-WAY
	CENTERLINE
(M)	MEASURED
(R)	RECORD

# City of San Luis Master Plan for Downtown Parks and Parking Lots



Prepared by:  
James Davey and Associates, Inc.  
and  
Thompson Design Architects

March 2018



Expires 9-30-2020



Expires 9/30/2018

# City of San Luis

## Master Plan for Downtown Parks and Parking Lots

Prepared by:  
James Davey and Associates, Inc. and Thompson Design Architects

April 2018

The Downtown area of the City of San Luis, Arizona, has several larger properties that are under the federal land ownership. These properties include a powerline right-of-way that runs east to west across the Downtown Area between E Street and F Street and is used for a 34.5KV powerline operated and maintained by the Yuma County Water Users' Association. This powerline right-of-way along with adjacent E and F Streets is now used unofficially as a parking lot. Federal lands in Downtown San Luis also include land running from Main Street to the north and east to Juan Sanchez Blvd. that was reserved by the United States for a future alignment of Highway 95. As there no longer is a plan to realign Highway 95, this land is now vacant except for parking uses. These federal lands are understood to be under the management of the U.S. Bureau of Reclamation and consists of over 11 acres, including some of the undeveloped E and F Street right-of ways.

To better use these federal properties in Downtown San Luis, the City hired James Davey and Associates and Thompson Design Architects to prepare a master plan for the use of the properties for park facilities and for parking lots. The master plan will be useful in obtaining federal approval for use of the lands, will provide a base line for budgeting for future capital improvements, and may also assist in applying for grants to assist in funding the projects. The park areas are to consist of a 'Main Street Park' located along the east side of Main Street from just north of C Street to E Street, and a 'West Park' area located south of the Post Office building and between Mesa Street and Archibald Street. The parking lot features are to be constructed primarily along the powerline right-of-way between Main Street and Fourth Avenue and along the old planned Highway 95 right-of-way north of F Street to Juan Sanchez Blvd. Parking and road improvements will also be provided for the West Park area. A pedestrian bridge is also proposed crossing Main Street to tie the facilities together, along with walking and bike paths throughout the area.

To be able to construct the proposed parks and parking lots, a land use contract will need to be obtained from the U.S. Bureau of Reclamation. Preliminary meetings were held with Reclamation to discuss this. In addition, permitting will be required by the Yuma County Water Users' Association to allow for use of the powerline right-of-way. Use of the powerline right-of-way will also require design coordination with the Water Users' to ensure no conflicts with their power line and if conflicts exist between the power line and the planned facilities, relocation of power poles may be necessary.

The total cost for constructing the park facilities and the parking lots is estimated at \$6,566,000. The parks and parking lots are described in the following sections. A detailed cost estimate is included at the end of this report.

## Parks

Four new developed park areas are proposed in this master plan concept. These park areas are linked by walking pathways and the pedestrian bridge to create one singular urban park in the downtown San Luis area. The parks consist of passive amenities such as:

- Covered Ramadas – Different sizes and shapes are proposed to fit different needs
- Bench Areas
- Recreational Play Field Areas
- Walking Paths – Serve to connect new proposed parking areas
- Street Crossings - Serve to link park areas across roadways
- Trees and Landscaping include shrubbery and grass areas

The parks also consist of active amenities such as:

- Splash Park – Consists of fountains and play pools
- Concert Pavillion – A raised covered stage area for performances and public gatherings
- Vendor Kiosks – Fixed kiosks may be rented to vendors during large Concert Pavillion events
- Restroom Facilities
- San Luis Police Department Substation to be used during large events
- Power and area lighting throughout the park areas

It is proposed that during large events the curve where D Street meets Main Street could be closed to vehicular traffic making the connecting parks a completely pedestrian venue crossing the roadway.

A raised pedestrian bridge connects the park areas across Main Street. The pedestrian bridge is proposed to also serve as an iconic welcoming element into the Downtown area.

## Parking Lots

Following the Park exhibits are five exhibits showing the planned parking lot facilities. Altogether, if all planned parking lots are constructed, some 475 parking spaces will be created.

The parking lots are broken down into a central parking area, between Main Street and 1<sup>st</sup> Avenue, east parking areas between 1<sup>st</sup> Avenue and 4<sup>th</sup> Avenue, and an area of parking on roadway improvements around the West Park.

Common design elements for all parking lots include typical 10' x 20' parking spaces, handicap parking spaces as required, 24' drive aisle, multiple points of access for all parking lots to help ensure good traffic circulation, perimeter fencing to help provide security, and landscaped traffic islands and storm water retention areas. Parking lots will be paved with asphalt pavement and perimeter curbs will be provided to control traffic flows. Street lights will be provided throughout the parking lots.

Central Parking Lot. For the central parking lot area, that area between Main Street and 1st Avenue and extending north to Juan Sanchez Blvd., two main were prepared. In the northeast corner of this area the Sunset Community Health Center is located and they have approached the City about using a portion of the available property for private parking. Therefore, one alternative makes full use of all available property with about 299 parking spaces provided, and one alternative leaves development of the area adjacent to Sunset Community Health Center for development by them.

The central parking lot area will also include a 12' walking path and a 10' bicycle path connecting the Main Street park to Juan Sanchez Blvd. and the parks and schools to the north of it, and an 8' wide walking path connecting 1<sup>st</sup> Avenue to Main Street and the pedestrian bridge to the West Park area.

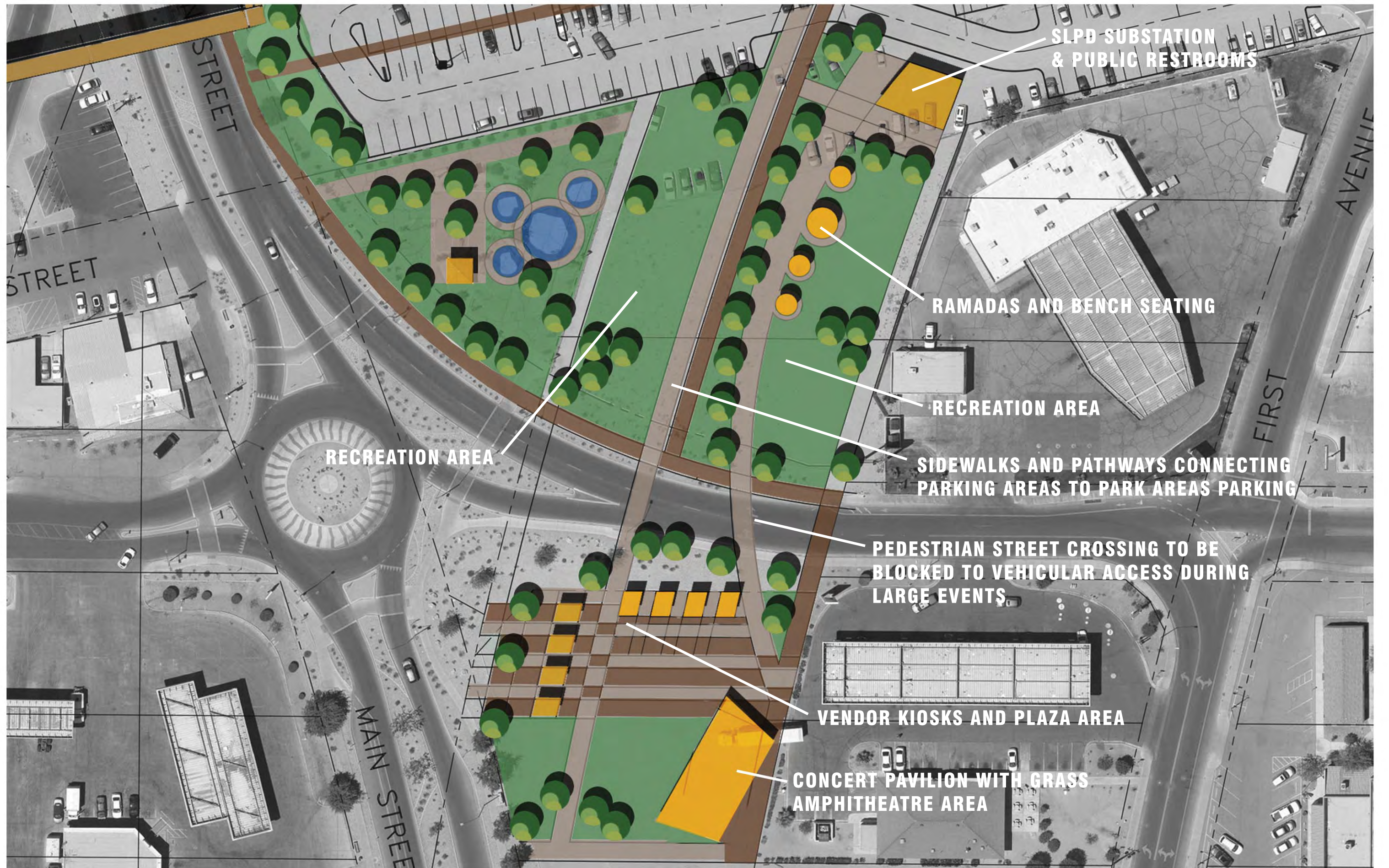
East Park Lots. The east parking lots consists of two similar parking lots, one between 1<sup>st</sup> Avenue and 3<sup>rd</sup> Avenue (Caesar Chavez Street) and one between there and 4<sup>th</sup> Avenue. The parking lots are planned for about 82 and 80 parking spaces, respectively. The parking lot property between Caesar Chavez Street and Fourth Avenue may also be partially used for a storm water retention basin and if so that will reduce the number of potential parking spaces.

The east parking lots are also planned to include bus lanes along E Street. The bus lanes will serve as staging areas and pickup and drop off areas for buses transporting workers to and from agricultural fields.

West Park Area Roadway and Parking Improvements. For the development of the park south of the Post Office, the adjacent streets will need to be further improved and some parking spaces provided. As only the north side of F Street is currently fully improved adjacent to the park area, roadway improvements are shown on the exhibits to include improving Mesa Street, E Street and F Street as 40' wide roadways with curb and gutter and sidewalks. In addition, some 16 parking spaces are planned along E Street for users of the park.



**SAN LUIS URBAN PARK - CONCEPT PLAN** - JAMES DAVEY & ASSOC. / THOMPSON DESIGN ARCHITECTS



SLPD SUBSTATION & PUBLIC RESTROOMS

RAMADAS AND BENCH SEATING

RECREATION AREA

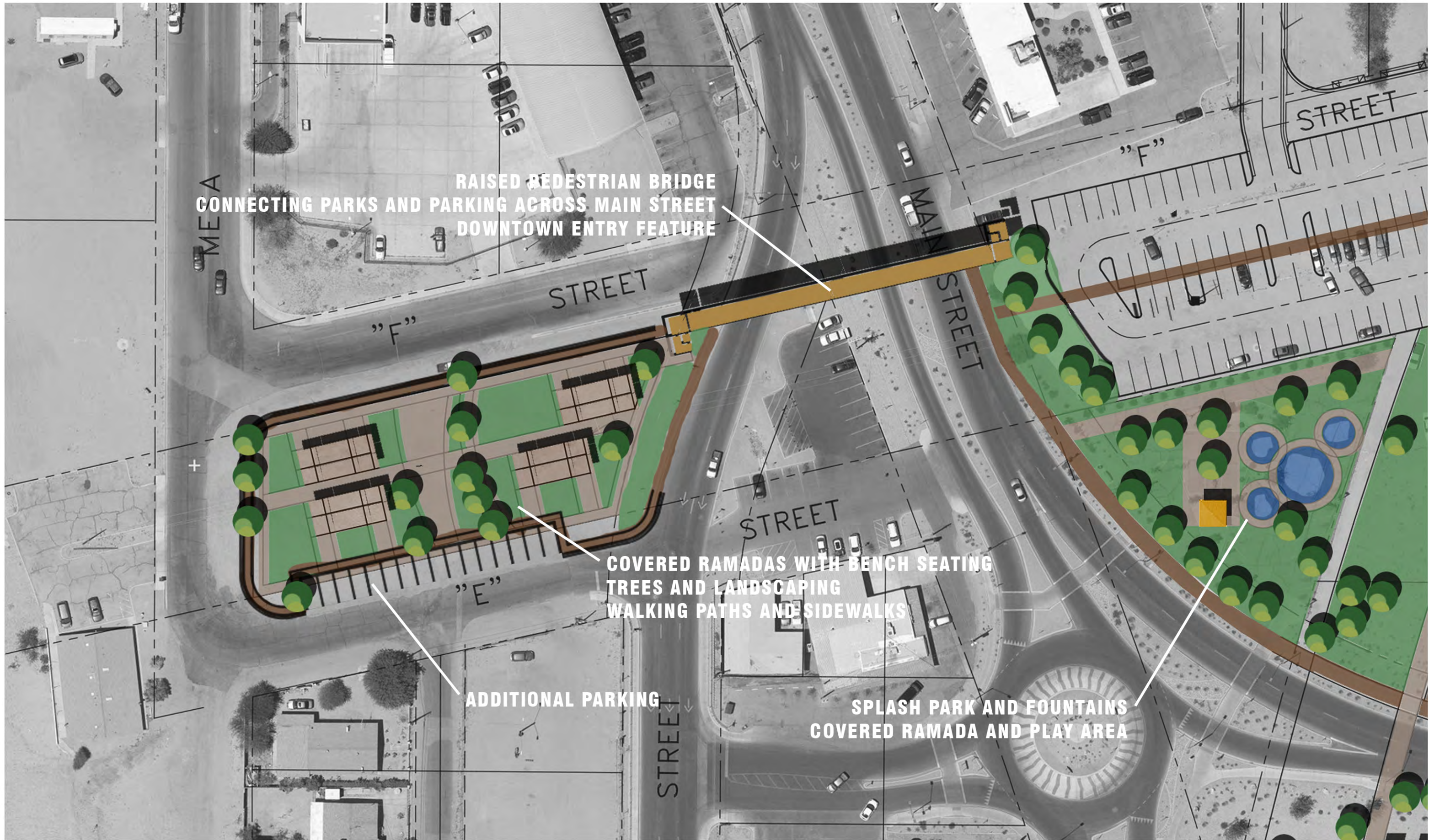
SIDEWALKS AND PATHWAYS CONNECTING PARKING AREAS TO PARK AREAS PARKING

RECREATION AREA

PEDESTRIAN STREET CROSSING TO BE BLOCKED TO VEHICULAR ACCESS DURING LARGE EVENTS

VENDOR KIOSKS AND PLAZA AREA

CONCERT PAVILION WITH GRASS AMPHITHEATRE AREA



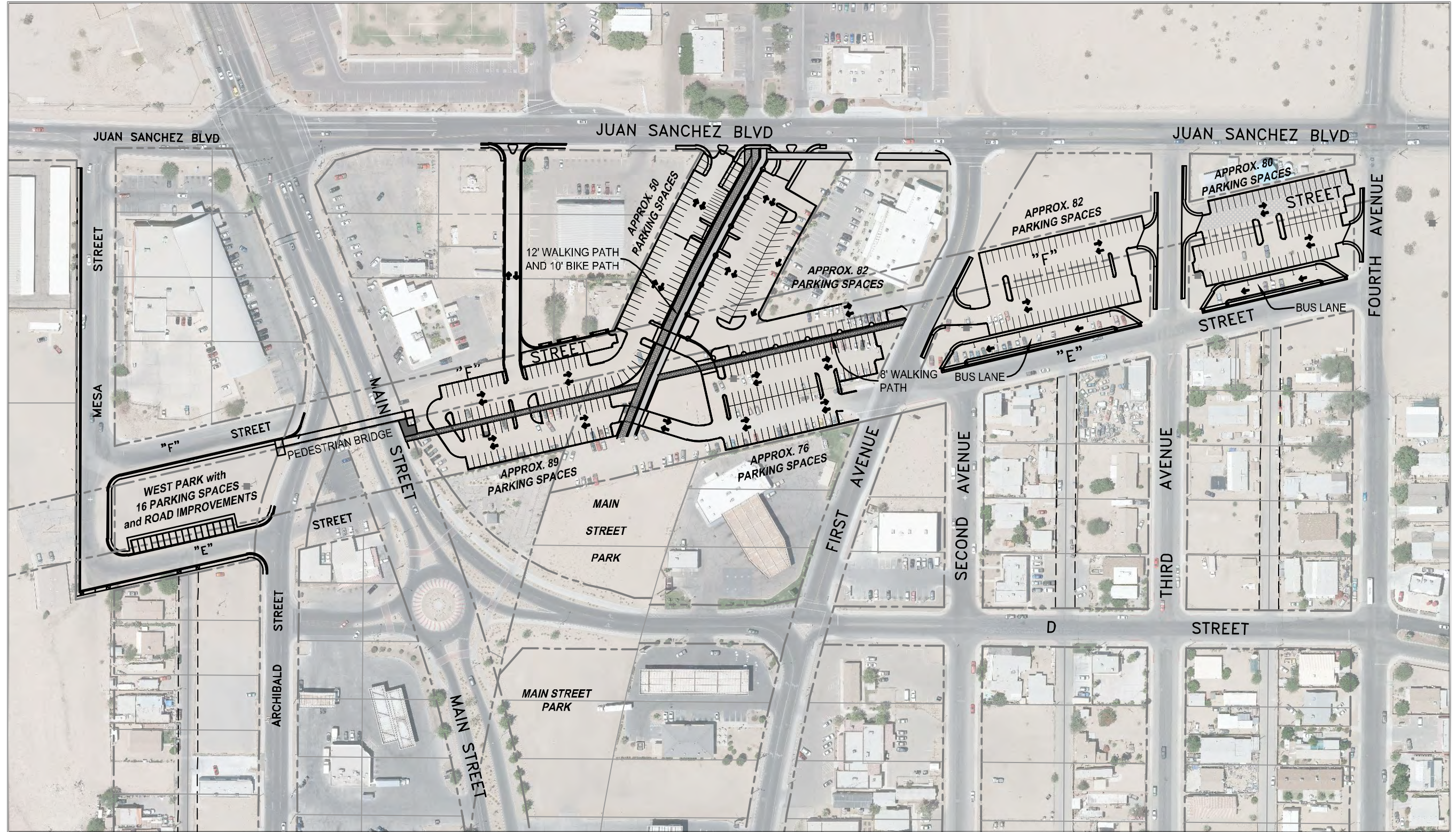
**RAISED PEDESTRIAN BRIDGE  
CONNECTING PARKS AND PARKING ACROSS MAIN STREET  
DOWNTOWN ENTRY FEATURE**

**COVERED RAMADAS WITH BENCH SEATING  
TREES AND LANDSCAPING  
WALKING PATHS AND SIDEWALKS**

**ADDITIONAL PARKING**

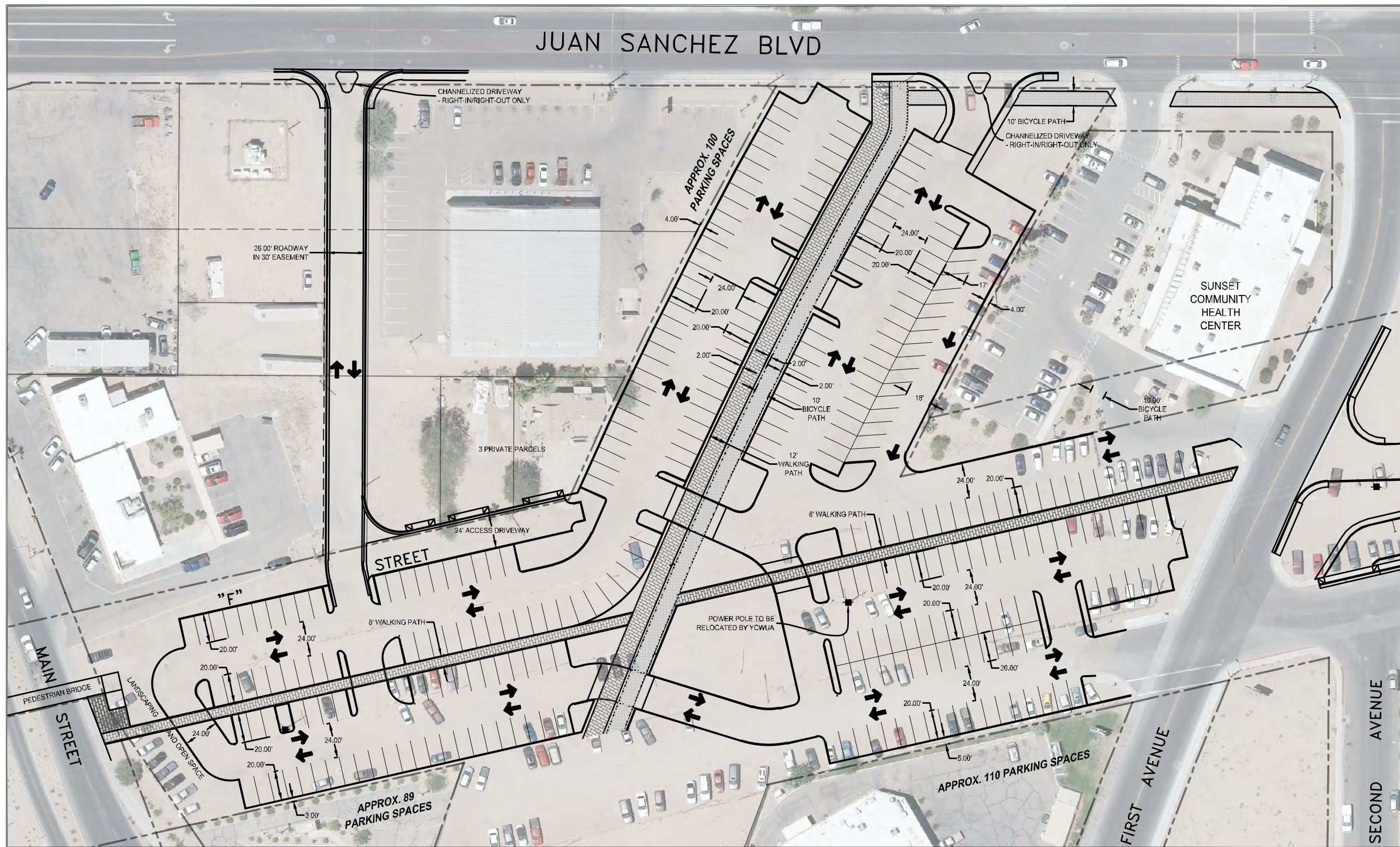
**SPLASH PARK AND FOUNTAINS  
COVERED RAMADA AND PLAY AREA**

**CITY OF SAN LUIS - DOWNTOWN PARKING MASTER PLAN  
OVERVIEW  
APPROXIMATELY 475 PLANNED PARKING SPACES**

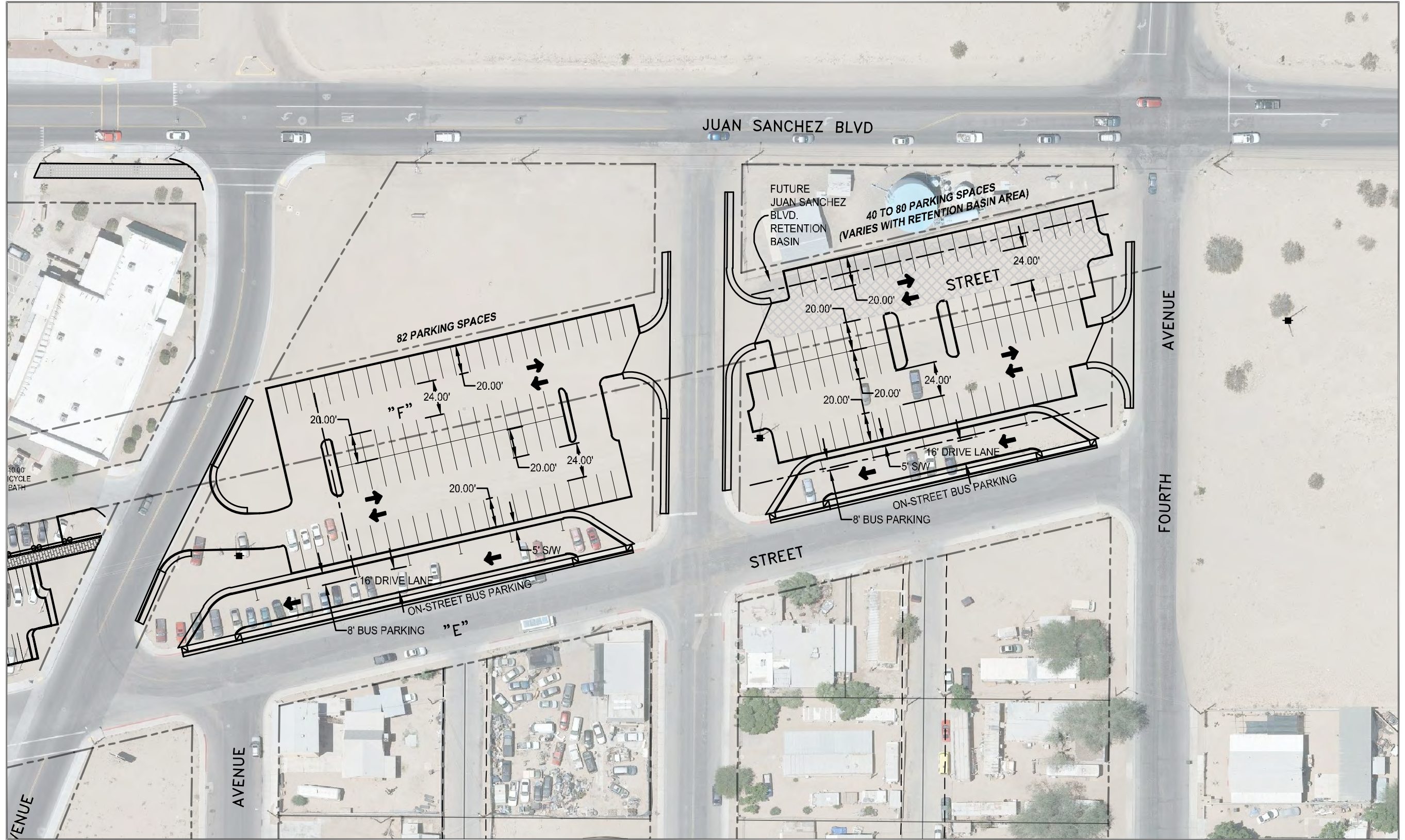




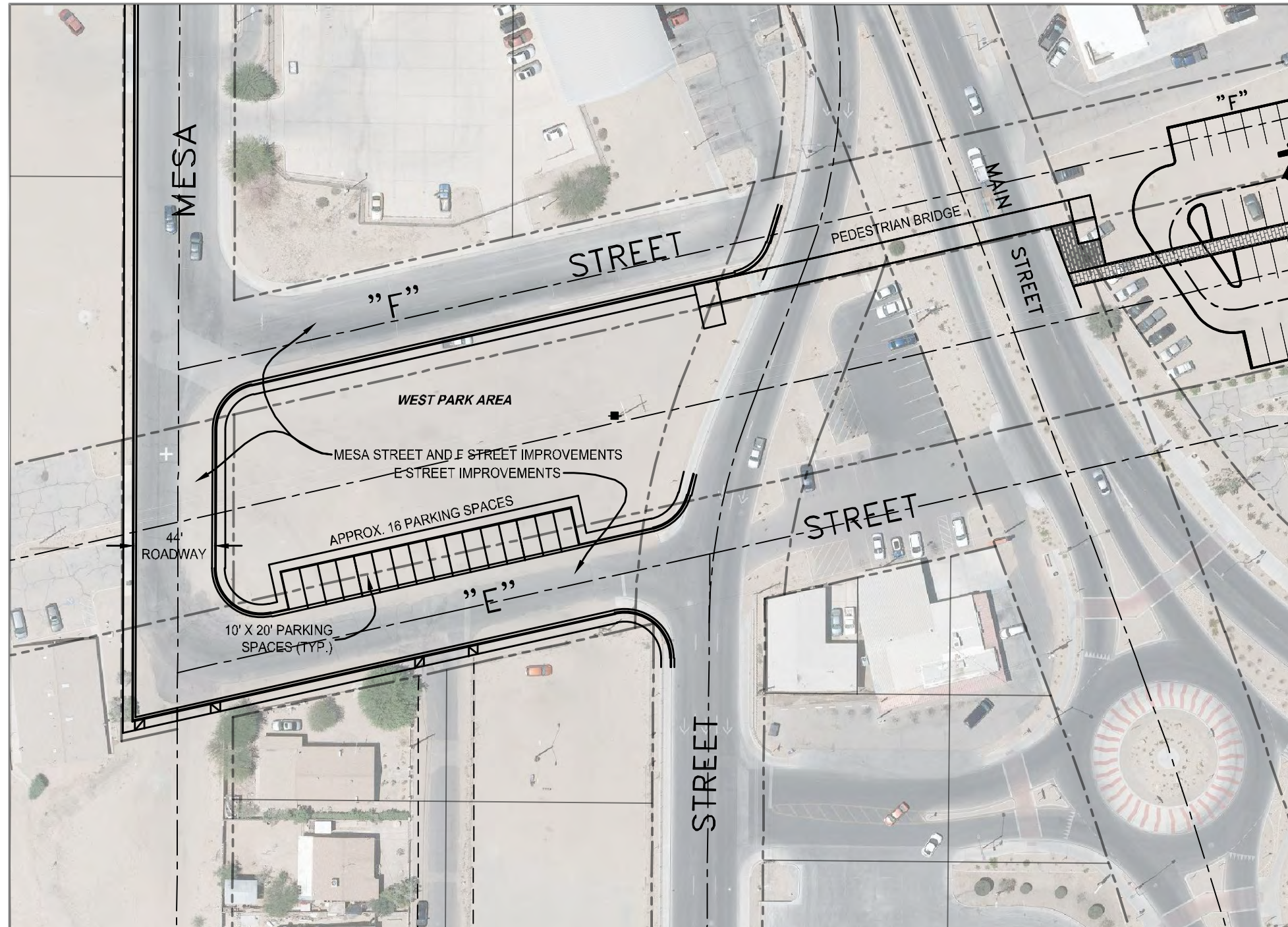
**CITY OF SAN LUIS - DOWNTOWN PARKING MASTER PLAN  
CENTRAL PARKING AREAS - ALTERNATIVE 2  
(FULL USE OF U.S.A. PROPERTY)**



# CITY OF SAN LUIS - DOWNTOWN PARKING MASTER PLAN EAST PARKING AREAS



**CITY OF SAN LUIS - DOWNTOWN PARKING MASTER PLAN  
WEST PARKING AND ROADWAY IMPROVEMENTS**



City of San Luis  
 Master Plan for Downtown Parks and Parking Lots  
 Conceptual Construction Cost Estimate

March 2018

Item No.	Description	Unit	Quantity	Unit Price	Subtotal
<b><u>PARKING LOTS</u></b>					
<b><u>Central Parking Lot</u></b>					
1	Site Grading	SY	38000	\$3	\$114,000
2	Asphalt Pavement (2-1/2" AC/6" ABC)	SY	15300	\$25.00	\$382,500
3	Vertical Curb & Gutter	LF	1100	\$14.00	\$15,400
	Single Curb	LF	4020	\$10.00	\$40,200
4	Sidewalks	SF	1500	\$4.00	\$6,000
5	12' Walking Path	LF	500	\$48.00	\$24,000
6	10' Bicycle Path	LF	730	\$40.00	\$29,200
7	8' Walking Path	LF	800	\$32.00	\$25,600
8	Signing and Striping	LS	1	\$12,000.00	\$12,000
9	Site Work and Landscaping	LS	1	\$60,000.00	\$60,000
10	Street Lights	EA	48	\$4,000	\$192,000
11	Fencing	LF	2500	\$60.00	\$150,000
<i>Subtotal</i>					<i>\$1,050,900</i>
<i>Contingency at 30%</i>					<i><u>\$315,000</u></i>
<i>Total Cost for Central Parking Lot</i>					<i>\$1,365,900</i>
<b><u>East Parking Lots</u></b>					
1	Site Grading	SY	11000	\$3	\$33,000
2	Asphalt Pavement (2-1/2" AC/6" ABC)	SY	6800	\$25.00	\$170,000
3	Vertical Curb & Gutter	LF	1370	\$14.00	\$19,180
	Single Curb	LF	1730	\$10.00	\$17,300
4	Sidewalks	SF	6850	\$4.00	\$27,400
8	Signing and Striping	LS	1	\$7,000.00	\$7,000
9	Site Work and Landscaping	LS	1	\$30,000.00	\$30,000
10	Street Lights	EA	21	\$4,000	\$84,000
11	Fencing	LF	1446	\$60.00	\$86,760
<i>Subtotal</i>					<i>\$474,640</i>
<i>Contingency at 30%</i>					<i><u>\$142,000</u></i>
<i>Total Cost for East Parking Lots</i>					<i>\$616,600</i>

<u>West Roadway Improvements and Parking</u>					
1	Site Grading	SY	4000	\$3.00	\$12,000
2	Asphalt Pavement (3" AC/8" ABC)	SY	2700	\$29.00	\$78,300
3	Vertical Curb and Gutter	LF	1050	\$14.00	\$14,700
4	Sidewalks	SF	5250	\$4.00	\$21,000
5	Cross Gutter	SF	1300	\$7.00	\$9,100
6	Signing and Striping	LS	1	\$2,000.00	\$2,000
7	Street Lights	EA	8	\$4,000	\$32,000
<i>Subtotal</i>					<i>\$169,100</i>
<i>Contingency at 30%</i>					<i>\$51,000</i>
<i>Total Cost for West Roadway Improvements and Parking</i>					<i>\$220,100</i>
<u>PARKS</u>					
<u>West Park (between Archibald and Mesa Streets)</u>					
1	Site Work and Landscaping	LS	1	\$100,000	\$100,000
2	Ramadas	EA	4	\$30,000	\$120,000
<u>East Park (between Main St. and 1st Ave., north and south of D Street)</u>					
1	Site Work and Landscaping	LS	1	\$250,000	\$350,000
2	Splash Park	LS	1	\$175,000	\$200,000
3	Restrooms/Police Substation	SF	1500	\$200	\$300,000
4	Ramadas	EA	5	\$30,000	\$150,000
5	Vendor Kiosks	EA	8	\$30,000	\$240,000
6	Concert Pavillion	SF	3500	\$150	\$525,000
<u>Pedestrian Bridge</u>					
1	Pedestrian Bridge	LS	1	\$675,000	\$675,000
<i>Subtotal</i>					<i>\$2,660,000</i>
<i>Contingency at 30%</i>					<i>\$798,000</i>
<i>Total Cost for Parks and Pedestrian Bridge</i>					<i>\$3,458,000</i>
<b>Subtotal - Construction Cost - Parking Lots and Roadway Improvements</b>					<b>\$5,660,600</b>
<b>Design Services at 8%</b>					<b>\$452,800</b>
<b>Construction Administration at 8%</b>					<b>\$452,800</b>
<b>Total Cost Estimate - Parking Lots and Roadway Improvements</b>					<b>\$6,566,200</b>



## AGENDA ITEM REVIEW FORM

**Work Session****2. D.****Meeting Date:** 12/02/2020**Department Head:** Jenny Torres, Economic Development Manager, Administration, Economic Development**Submitted By:** Yigal Duarte, Economic Development Assistant, Administration, Economic Development**Action Requested:** Discussion Item - No Action to be Taken

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**ITEM:**

Discussion and possible directions to staff on any and all matters regarding a proposed resolution of the Mayor and City Council of the City of San Luis, authorizing the submission of an application to the United States Department of Interior, Bureau of Reclamation for transportation and utility systems and facilities lease for the downtown parking lot project. **(Jenny Torres, Economic Development Manager; Jose A. Guzman, Director of Planning & Zoning; and Eulogio Vera, Director of Public Works)**

**SUMMARY:**

The city developed the City of San Luis Master Plan for Downtown Parks and Parking lots as part of a request by the Bureau of Land Management (BLM) and Bureau of Reclamation (BOR) to process an application for lease of the land for public use. The City of San Luis proposes to submit an application to BOR to develop parking lot areas linking to the proposed urban park downtown. The parking lot is broken down into a central parking area, east parking area, and west parking area. The engineer cost estimate for the park is approximately \$2,202,600.00. The development of a master plan and acquisition of the land is the first step in moving this project forward. Staff estimates that it will take a couple of years to phase out the project upon funding availability. BOR requires that the governing board of the organization adopt a resolution and files the document with the application.

Staff is requesting authorization to submit a proposed resolution and provide the City Manager authority to sign any pertinent documents.

**RECOMMENDATION / SUGGESTED MOTION:**

Discussion and possible directions to staff only, no action.

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**Fiscal Impact**

<b>IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:</b>	Yes
<b>CITY/STATE/FEDERAL FUNDS:</b>	Local
<b>TOTAL:</b>	\$100.00
<b>BUDGETED AMOUNT:</b>	\$100.00
<b>AVAILABLE AMOUNT TO TRANSFER:</b>	N/A
<b>ACCT NAME &amp; GL#/REMAINING BALANCE BEFORE PURCHASE:</b>	Contractual Services 100-135-80000

**FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):**

The Bureau of Reclamation (BOR) has several processing fees. Once the application is submitted, and we paid the initial \$100.00 application fee, BOR will provide us with an estimate of administrative costs.

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**Attachments**

Resolution BOR  
BOR Application  
ROW Exhibit Map  
Master Plan for Downtown

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## **PROPOSE RESOLUTION**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF RECLAMATION FOR A TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES LEASE FOR THE DOWNTOWN PARKING LOT PROJECT.**

**WHEREAS**, the Bureau of Reclamation requires state or local governments to provide authorization to submit an application to the Bureau of Reclamation; and

**WHEREAS**, the City of San Luis requires federal lands to develop a downtown parking lot; and

**WHEREAS**, the City of San Luis wishes to submit a transportation and utility systems and facilities on federal land application; and

**WHEREAS**, said lands owned by the Bureau of Reclamation are a part of:

USBR – 100' USBR Transmission Line Right-of-Way lying south of F Street and north of E Street and between 4<sup>th</sup> Avenue and Mesa Street in the San Luis Townsite Addition No. 1 Subdivision in Section 12, Township 11 South, Range 25 West, Gila and Salt River Meridian, Yuma County, Arizona,

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of San Luis, Arizona, that they hereby authorize the submission of an application for federal land located South of F Street and North of E Street between 4<sup>th</sup> Avenue and Mesa Street and authorize the City Manager to sign the resulting documents.

[Remainder of this page left intentionally blank, Signature page follows.]

**PASSED AND ADOPTED** by the Mayor and City Council of the City of San Luis, Arizona,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Gerardo Sanchez, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Sonia Cornelio, City Clerk

\_\_\_\_\_  
Kay Macuil, City Attorney

**APPLICATION FOR TRANSPORTATION AND  
UTILITY SYSTEMS AND FACILITIES  
ON FEDERAL LANDS**

FOR AGENCY USE ONLY

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

Application Number

Date Filed

1. Name and address of applicant (*include zip code*)

2. Name, title, and address of authorized agent if different from item 1 (*include zip code*)

3. Telephone (*with area code*)

Applicant

Authorized Agent

4. As applicant are you? (*check one*)

- a.  Individual
- b.  Corporation\*
- c.  Partnership/Association\*
- d.  State Government/State Agency
- e.  Local Government
- f.  Federal Agency

\* If checked, complete supplemental page

5. Specify what application is for: (*check one*)

- a.  New authorization
- b.  Renewing existing authorization number
- c.  Amend existing authorization number
- d.  Assign existing authorization number
- e.  Existing use for which no authorization has been received \*
- f.  Other\*

\* If checked, provide details under item 7

6. If an individual, or partnership, are you a citizen(s) of the United States?  Yes  No

7. Project description (describe in detail): (a) Type of system or facility, (*e.g., canal, pipeline, road*); (b) related structures and facilities; (c) physical specifications (*Length, width, grading, etc.*); (d) term of years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction (*Attach additional sheets, if additional space is needed.*)

8. Attach a map covering area and show location of project proposal

9. State or Local government approval:  Attached  Applied for  Not Required

10. Nonreturnable application fee:  Attached  Not required

11. Does project cross international boundary or affect international waterways?  Yes  No (*if "yes," indicate on map*)

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

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13a. Describe other reasonable alternative routes and modes considered.

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b. Why were these alternatives not selected?

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c. Give explanation as to why it is necessary to cross Federal Lands.

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14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (*Specify number, date, code, or name*)

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15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits.

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16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.

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17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability.

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18. Describe the probable effects that the proposed project will have on (a) populations of fish, plantlife, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

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19. State whether any hazardous material, as defined in this paragraph, will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

---

20. Name all the Department(s)/Agency(ies) where this application is being filed.

---

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

---

Signature of Applicant

Date

---

Title 18, U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

GENERAL INFORMATION  
ALASKA NATIONAL INTEREST LANDS

This application will be used when applying for a right-of-way, permit, license, lease, or certificate for the use of Federal lands which lie within conservation system units and National Recreation or Conservation Areas as defined in the Alaska National Interest lands Conservation Act. Conservation system units include the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, and National Forest Monuments.

Transportation and utility systems and facility uses for which the application may be used are:

1. Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.
2. Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.
3. Pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials.
4. Systems for the transmission and distribution of electric energy.
5. Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communications.
6. Improved right-of-way for snow machines, air cushion vehicles, and all-terrain vehicles.
7. Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

This application must be filed simultaneously with each Federal department or agency requiring authorization to establish and operate your proposal.

In Alaska, the following agencies will help the applicant file an application and identify the other agencies the applicant should contact and possibly file with:

Department of Agriculture  
Regional Forester, Forest Service (USFS)  
P.O. Box 21628  
Juneau, Alaska 99802-1628  
Telephone: (907) 586-7847 (or a local Forest Service Office)

Department of the Interior  
Bureau of Indian Affairs (BIA)  
Alaska Regional Office  
709 West 9th Street  
Juneau, Alaska 99802  
Telephone: (907) 586-7177

Department of the Interior  
Alaska State Office  
Bureau of Land Management  
222 West 7th Avenue #13  
Anchorage, Alaska 99513  
Public Room: 907-271-5960  
FAX: 907-271-3684  
(or a local BLM Office)

U.S. Fish & Wildlife Service (FWS)      National Park Service (NPS)  
Office of the Regional Director      Alaska Regional Office  
1011 East Tudor Road                      240 West 5th Avenue  
Anchorage, Alaska 99503                  Anchorage, Alaska 99501  
Telephone: (907) 786-3440                  Telephone: (907) 644-3510

Note - Filings with any Interior agency may be filed with any office noted above or with the Office of the Secretary of the Interior, Regional Environmental Officer, P.O. Box 120, 1675 C Street, Anchorage, Alaska 99513.

Department of Transportation  
Federal Aviation Administration  
Alaska Region AAL-4, 222 West 7th Ave., Box 14  
Anchorage, Alaska 99513-7587  
Telephone: (907) 271-5285

NOTE - The Department of Transportation has established the above central filing point for agencies within that Department. Affected agencies are: Federal Aviation Administration (FAA), Coast Guard (USCG), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

OTHER THAN ALASKA NATIONAL INTEREST LANDS

Use of this form is not limited to National Interest Conservation Lands of Alaska.

Individual department/agencies may authorize the use of this form by applicants for transportation and utility systems and facilities on other Federal lands outside those areas described above.

For proposals located outside of Alaska, applications will be filed at the local agency office or at a location specified by the responsible Federal agency.

SPECIFIC INSTRUCTIONS  
(Items not listed are self-explanatory)

- 7 Attach preliminary site and facility construction plans. The responsible agency will provide instructions whenever specific plans are required.
- 8 Generally, the map must show the section(s), township(s), and range(s) within which the project is to be located. Show the proposed location of the project on the map as accurately as possible. Some agencies require detailed survey maps. The responsible agency will provide additional instructions.
- 9, 10, and 12 The responsible agency will provide additional instructions.
- 13 Providing information on alternate routes and modes in as much detail as possible, discussing why certain routes or modes were rejected and why it is necessary to cross Federal lands will assist the agency(ies) in processing your application and reaching a final decision. Include only reasonable alternate routes and modes as related to current technology and economics.
- 14 The responsible agency will provide instructions.
- 15 Generally, a simple statement of the purpose of the proposal will be sufficient. However, major proposals located in critical or sensitive areas may require a full analysis with additional specific information. The responsible agency will provide additional instructions.
- 16 through 19 Providing this information with as much detail as possible will assist the Federal agency(ies) in processing the application and reaching a decision. When completing these items, you should use a sound judgment in furnishing relevant information. For example, if the project is not near a stream or other body of water, do not address this subject. The responsible agency will provide additional instructions.

Application must be signed by the applicant or applicant's authorized representative.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, the application may be rejected.

DATA COLLECTION STATEMENT

The Federal agencies collect this information from applicants requesting right-of-way, permit, license, lease, or certification for the use of Federal lands. The Federal agencies use this information to evaluate the applicant's proposal. The public is obligated to submit this form if they wish to obtain permission to use Federal lands.

**SUPPLEMENTAL**

NOTE: The responsible agency(ies) will provide instructions	CHECK APPROPRIATE BLOCK	
<b>I - PRIVATE CORPORATIONS</b>	ATTACHED	FILED*
a. Articles of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>
b. Corporation Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
c. A certification from the State showing the corporation is in good standing and is entitled to operate within the State	<input type="checkbox"/>	<input type="checkbox"/>
d. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.	<input type="checkbox"/>	<input type="checkbox"/>
f. If application is for an oil or gas pipeline, describe any related right-of-way or temporary use permit applications, and identify previous applications.	<input type="checkbox"/>	<input type="checkbox"/>
g. If application is for an oil and gas pipeline, identify all Federal lands by agency impacted by proposal.	<input type="checkbox"/>	<input type="checkbox"/>
<b>II - PUBLIC CORPORATIONS</b>		
a. Copy of law forming corporation	<input type="checkbox"/>	<input type="checkbox"/>
b. Proof of organization	<input type="checkbox"/>	<input type="checkbox"/>
c. Copy of Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
d. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. If application is for an oil or gas pipeline, provide information required by item "I - f" and "I - g" above.	<input type="checkbox"/>	<input type="checkbox"/>
<b>III - PARTNERSHIP OR OTHER UNINCORPORATED ENTITY</b>		
a. Articles of association, if any	<input type="checkbox"/>	<input type="checkbox"/>
b. If one partner is authorized to sign, resolution authorizing action is	<input type="checkbox"/>	<input type="checkbox"/>
c. Name and address of each participant, partner, association, or other	<input type="checkbox"/>	<input type="checkbox"/>
d. If application is for an oil or gas pipeline, provide information required by item "I - f" and "I - g" above.	<input type="checkbox"/>	<input type="checkbox"/>

\*If the required information is already filed with the agency processing this application and is current, check block entitled "Filed." Provide the file identification information (e.g., number, date, code, name). If not on file or current, attach the requested information.

## NOTICES

Note: This applies to the Department of Agriculture/Forest Service (FS)

This information is needed by the Forest Service to evaluate the requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations or the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

### **BURDEN AND NONDISCRIMINATION STATEMENTS**

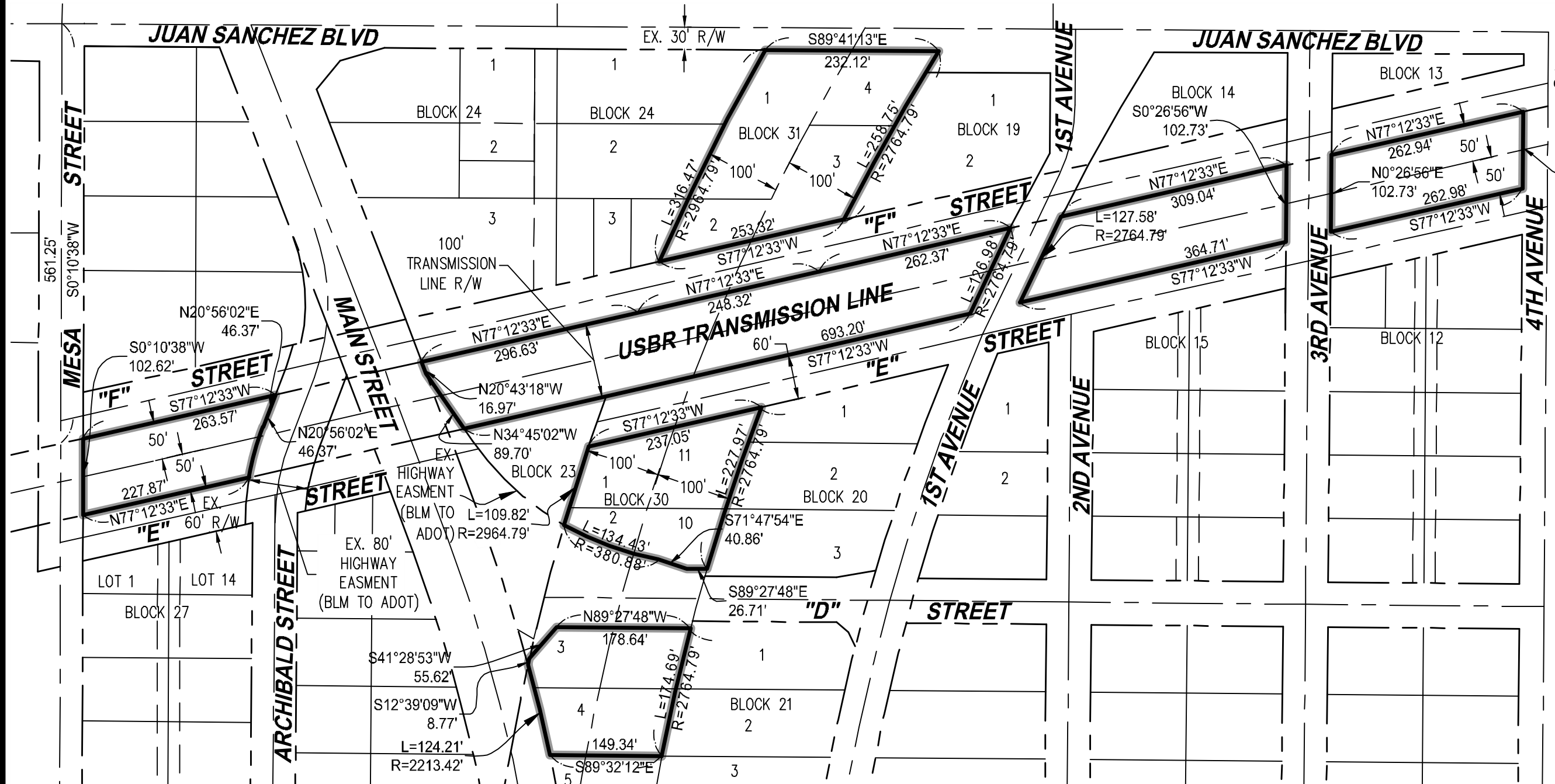
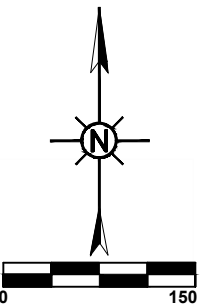
*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

*The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).*

*To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.*

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

**RIGHT-OF-WAY MAP  
SAN LUIS TOWNSITE ADDITION NO. 1  
EXISTING 100-FOOT WIDE TRANSMISSION LINE RIGHT-OF-WAY AND IN LOTS IN BLOCK 30 AND 31**



PREPARED BY:  
**JAMES DAVEY AND ASSOCIATES**  
 CONSULTING CIVIL ENGINEERS  
 1025 W. 24TH STREET, SUITE 2,  
 YUMA, ARIZONA 85364 (928) 782-7926  
 WWW.JDACIVIL.COM

PREPARED FOR:  
**CITY OF SAN LUIS, ARIZONA**  
 1090 EAST UNION STREET  
 P.O. BOX 1170  
 SAN LUIS, ARIZONA 85349

**RIGHT-OF-WAY MAP  
SAN LUIS TOWNSITE ADDITION NO. 1  
EXISTING 100-FOOT WIDE TRANSMISSION LINE RIGHT-OF-WAY,  
LOTS 1, 11 AND PORTIONS OF LOTS 2 AND 10 IN BLOCK 30,  
AND LOTS 1, 2, 3, AND 4 IN BLOCK 31**

Date 02/26/2020  
 Job No. CSL-18  
 Drawn RC  
 Checked JVD

**LEGEND**

	NEW RIGHT-OF-WAY
	EXISTING RIGHT-OF-WAY
	CENTERLINE
(M)	MEASURED
(R)	RECORD

# City of San Luis Master Plan for Downtown Parks and Parking Lots



Prepared by:  
James Davey and Associates, Inc.  
and  
Thompson Design Architects

March 2018



Expires 9-30-2020



Expires 9/30/2018

# City of San Luis

## Master Plan for Downtown Parks and Parking Lots

Prepared by:  
James Davey and Associates, Inc. and Thompson Design Architects

April 2018

The Downtown area of the City of San Luis, Arizona, has several larger properties that are under the federal land ownership. These properties include a powerline right-of-way that runs east to west across the Downtown Area between E Street and F Street and is used for a 34.5KV powerline operated and maintained by the Yuma County Water Users' Association. This powerline right-of-way along with adjacent E and F Streets is now used unofficially as a parking lot. Federal lands in Downtown San Luis also include land running from Main Street to the north and east to Juan Sanchez Blvd. that was reserved by the United States for a future alignment of Highway 95. As there no longer is a plan to realign Highway 95, this land is now vacant except for parking uses. These federal lands are understood to be under the management of the U.S. Bureau of Reclamation and consists of over 11 acres, including some of the undeveloped E and F Street right-of ways.

To better use these federal properties in Downtown San Luis, the City hired James Davey and Associates and Thompson Design Architects to prepare a master plan for the use of the properties for park facilities and for parking lots. The master plan will be useful in obtaining federal approval for use of the lands, will provide a base line for budgeting for future capital improvements, and may also assist in applying for grants to assist in funding the projects. The park areas are to consist of a 'Main Street Park' located along the east side of Main Street from just north of C Street to E Street, and a 'West Park' area located south of the Post Office building and between Mesa Street and Archibald Street. The parking lot features are to be constructed primarily along the powerline right-of-way between Main Street and Fourth Avenue and along the old planned Highway 95 right-of-way north of F Street to Juan Sanchez Blvd. Parking and road improvements will also be provided for the West Park area. A pedestrian bridge is also proposed crossing Main Street to tie the facilities together, along with walking and bike paths throughout the area.

To be able to construct the proposed parks and parking lots, a land use contract will need to be obtained from the U.S. Bureau of Reclamation. Preliminary meetings were held with Reclamation to discuss this. In addition, permitting will be required by the Yuma County Water Users' Association to allow for use of the powerline right-of-way. Use of the powerline right-of-way will also require design coordination with the Water Users' to ensure no conflicts with their power line and if conflicts exist between the power line and the planned facilities, relocation of power poles may be necessary.

The total cost for constructing the park facilities and the parking lots is estimated at \$6,566,000. The parks and parking lots are described in the following sections. A detailed cost estimate is included at the end of this report.

## Parks

Four new developed park areas are proposed in this master plan concept. These park areas are linked by walking pathways and the pedestrian bridge to create one singular urban park in the downtown San Luis area. The parks consist of passive amenities such as:

- Covered Ramadas – Different sizes and shapes are proposed to fit different needs
- Bench Areas
- Recreational Play Field Areas
- Walking Paths – Serve to connect new proposed parking areas
- Street Crossings - Serve to link park areas across roadways
- Trees and Landscaping include shrubbery and grass areas

The parks also consist of active amenities such as:

- Splash Park – Consists of fountains and play pools
- Concert Pavillion – A raised covered stage area for performances and public gatherings
- Vendor Kiosks – Fixed kiosks may be rented to vendors during large Concert Pavillion events
- Restroom Facilities
- San Luis Police Department Substation to be used during large events
- Power and area lighting throughout the park areas

It is proposed that during large events the curve where D Street meets Main Street could be closed to vehicular traffic making the connecting parks a completely pedestrian venue crossing the roadway.

A raised pedestrian bridge connects the park areas across Main Street. The pedestrian bridge is proposed to also serve as an iconic welcoming element into the Downtown area.

## Parking Lots

Following the Park exhibits are five exhibits showing the planned parking lot facilities. Altogether, if all planned parking lots are constructed, some 475 parking spaces will be created.

The parking lots are broken down into a central parking area, between Main Street and 1<sup>st</sup> Avenue, east parking areas between 1<sup>st</sup> Avenue and 4<sup>th</sup> Avenue, and an area of parking on roadway improvements around the West Park.

Common design elements for all parking lots include typical 10' x 20' parking spaces, handicap parking spaces as required, 24' drive aisle, multiple points of access for all parking lots to help ensure good traffic circulation, perimeter fencing to help provide security, and landscaped traffic islands and storm water retention areas. Parking lots will be paved with asphalt pavement and perimeter curbs will be provided to control traffic flows. Street lights will be provided throughout the parking lots.

Central Parking Lot. For the central parking lot area, that area between Main Street and 1st Avenue and extending north to Juan Sanchez Blvd., two main were prepared. In the northeast corner of this area the Sunset Community Health Center is located and they have approached the City about using a portion of the available property for private parking. Therefore, one alternative makes full use of all available property with about 299 parking spaces provided, and one alternative leaves development of the area adjacent to Sunset Community Health Center for development by them.

The central parking lot area will also include a 12' walking path and a 10' bicycle path connecting the Main Street park to Juan Sanchez Blvd. and the parks and schools to the north of it, and an 8' wide walking path connecting 1<sup>st</sup> Avenue to Main Street and the pedestrian bridge to the West Park area.

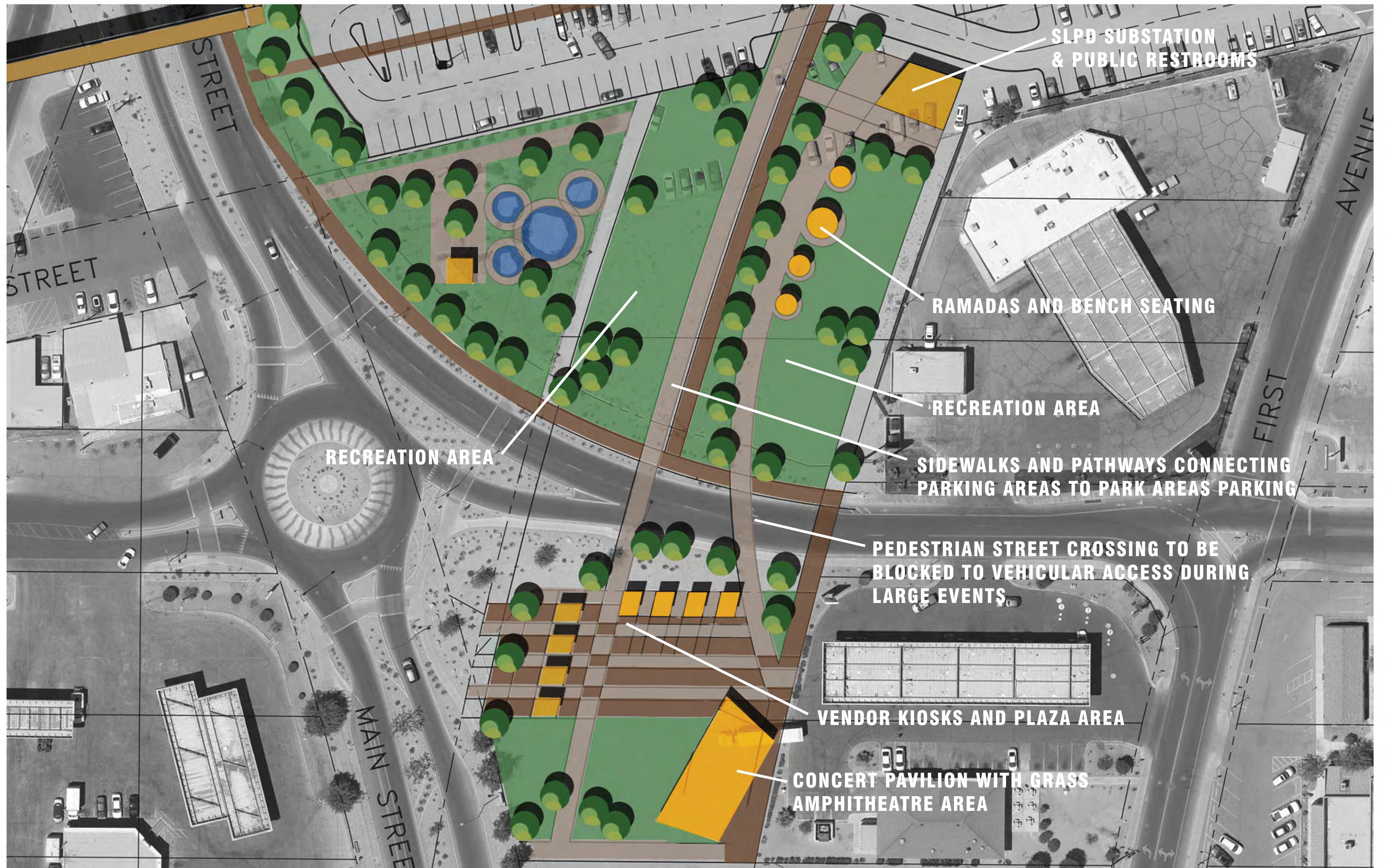
East Park Lots. The east parking lots consists of two similar parking lots, one between 1<sup>st</sup> Avenue and 3<sup>rd</sup> Avenue (Caesar Chavez Street) and one between there and 4<sup>th</sup> Avenue. The parking lots are planned for about 82 and 80 parking spaces, respectively. The parking lot property between Caesar Chavez Street and Fourth Avenue may also be partially used for a storm water retention basin and if so that will reduce the number of potential parking spaces.

The east parking lots are also planned to include bus lanes along E Street. The bus lanes will serve as staging areas and pickup and drop off areas for buses transporting workers to and from agricultural fields.

West Park Area Roadway and Parking Improvements. For the development of the park south of the Post Office, the adjacent streets will need to be further improved and some parking spaces provided. As only the north side of F Street is currently fully improved adjacent to the park area, roadway improvements are shown on the exhibits to include improving Mesa Street, E Street and F Street as 40' wide roadways with curb and gutter and sidewalks. In addition, some 16 parking spaces are planned along E Street for users of the park.



**SAN LUIS URBAN PARK - CONCEPT PLAN** - JAMES DAVEY & ASSOC. / THOMPSON DESIGN ARCHITECTS



SLPD SUBSTATION & PUBLIC RESTROOMS

RAMADAS AND BENCH SEATING

RECREATION AREA

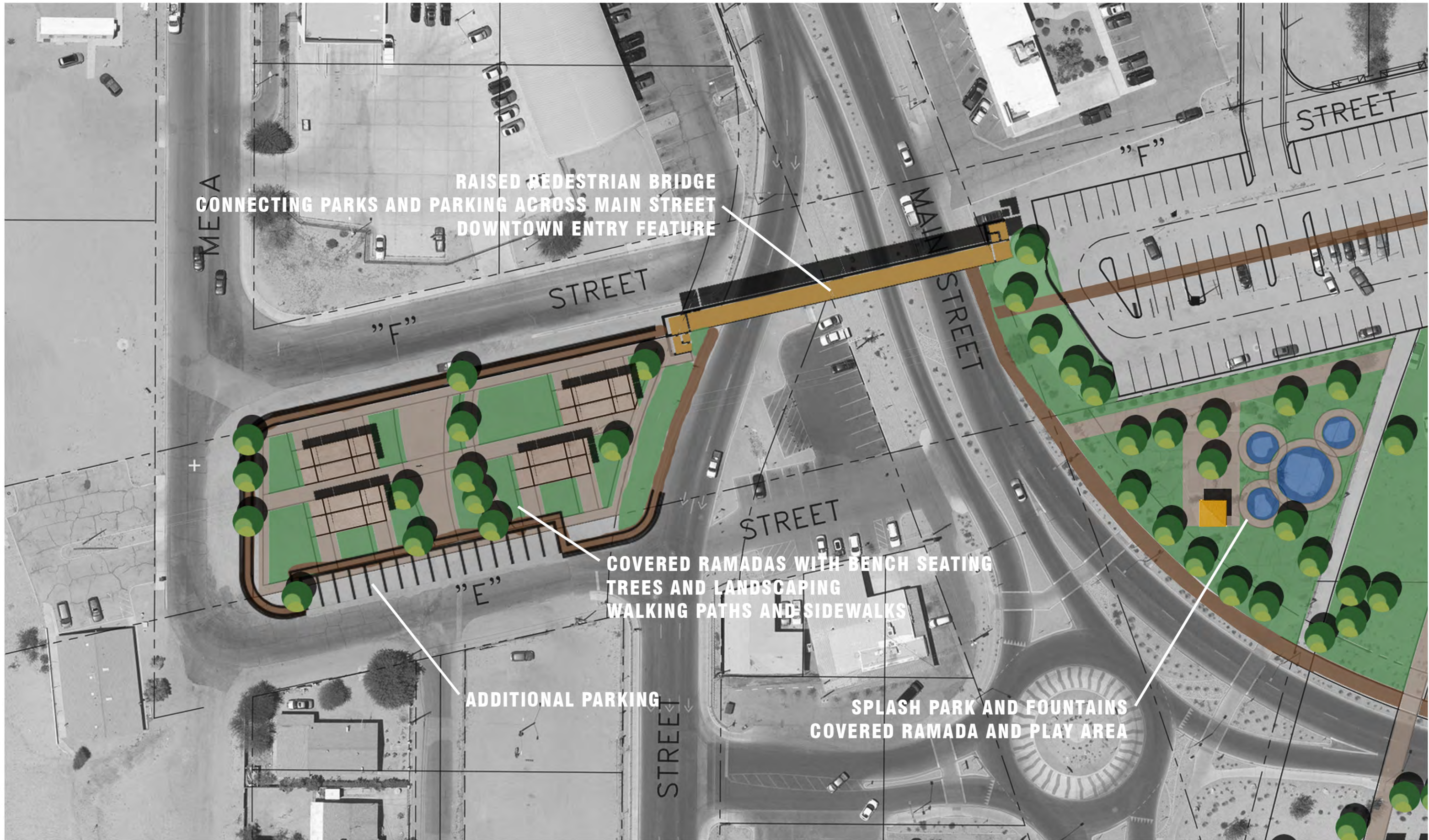
SIDEWALKS AND PATHWAYS CONNECTING PARKING AREAS TO PARK AREAS

RECREATION AREA

PEDESTRIAN STREET CROSSING TO BE BLOCKED TO VEHICULAR ACCESS DURING LARGE EVENTS

VENDOR KIOSKS AND PLAZA AREA

CONCERT PAVILION WITH GRASS AMPHITHEATRE AREA



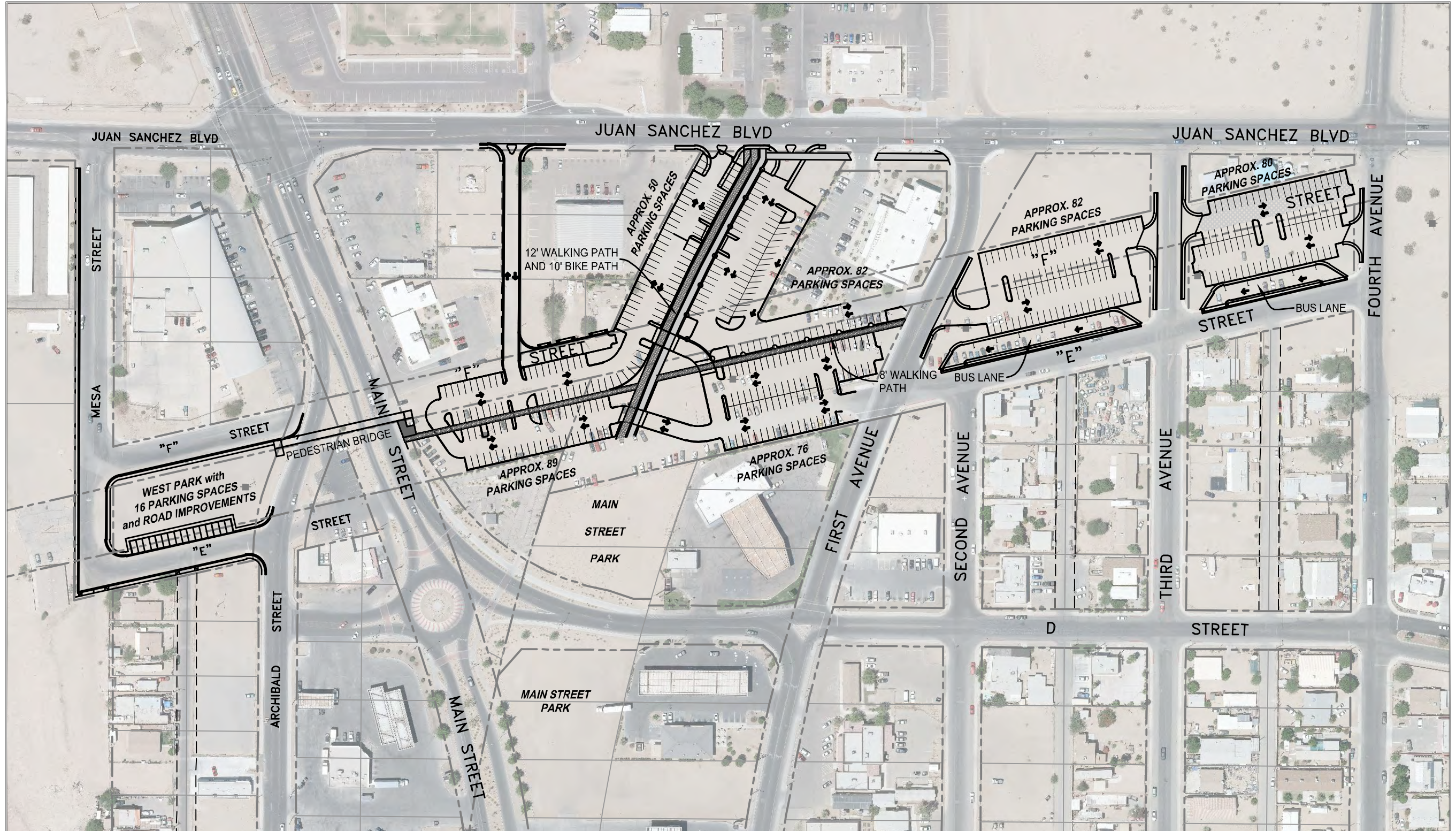
**RAISED PEDESTRIAN BRIDGE  
CONNECTING PARKS AND PARKING ACROSS MAIN STREET  
DOWNTOWN ENTRY FEATURE**

**COVERED RAMADAS WITH BENCH SEATING  
TREES AND LANDSCAPING  
WALKING PATHS AND SIDEWALKS**

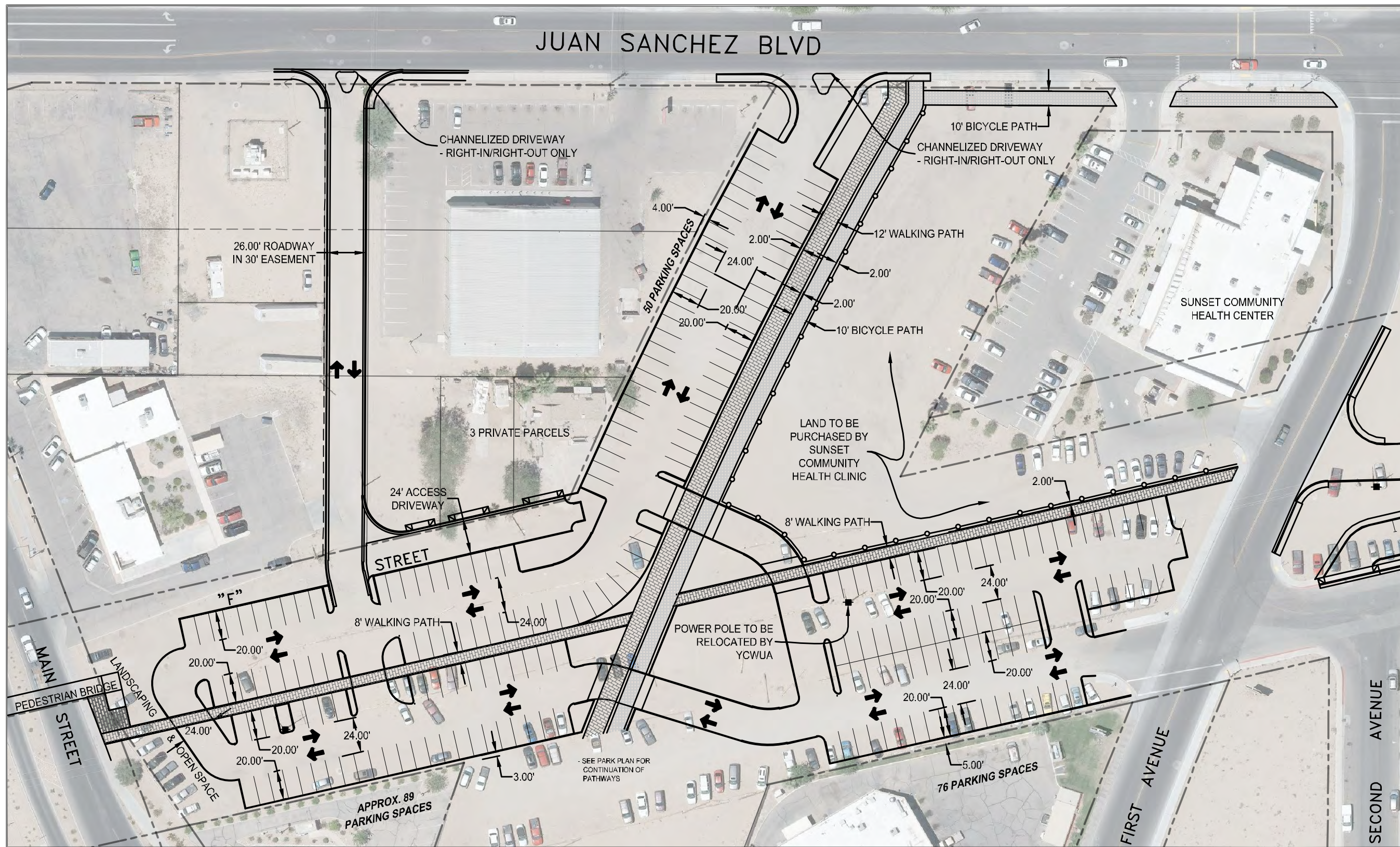
**ADDITIONAL PARKING**

**SPLASH PARK AND FOUNTAINS  
COVERED RAMADA AND PLAY AREA**

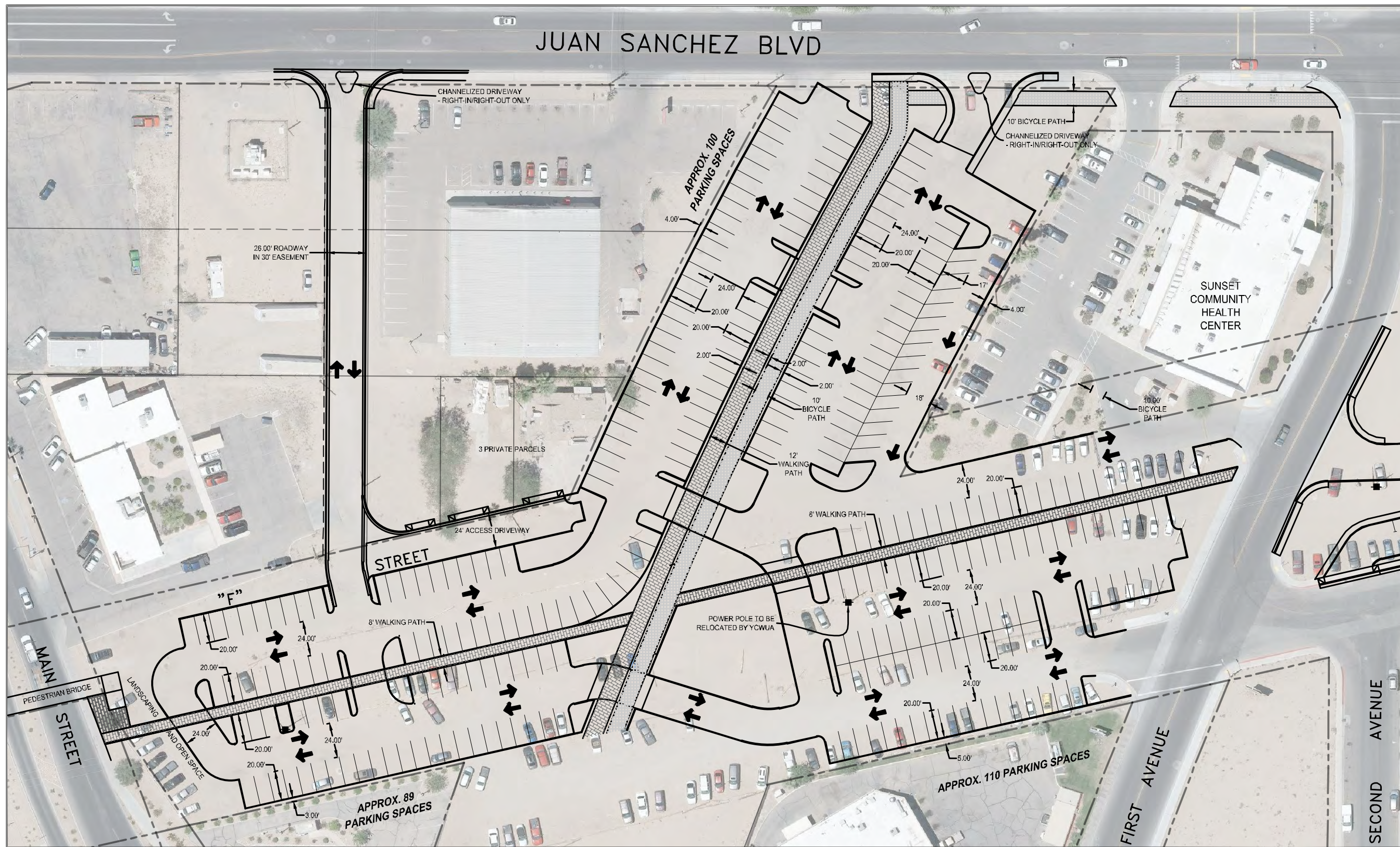
**CITY OF SAN LUIS - DOWNTOWN PARKING MASTER PLAN  
OVERVIEW  
APPROXIMATELY 475 PLANNED PARKING SPACES**



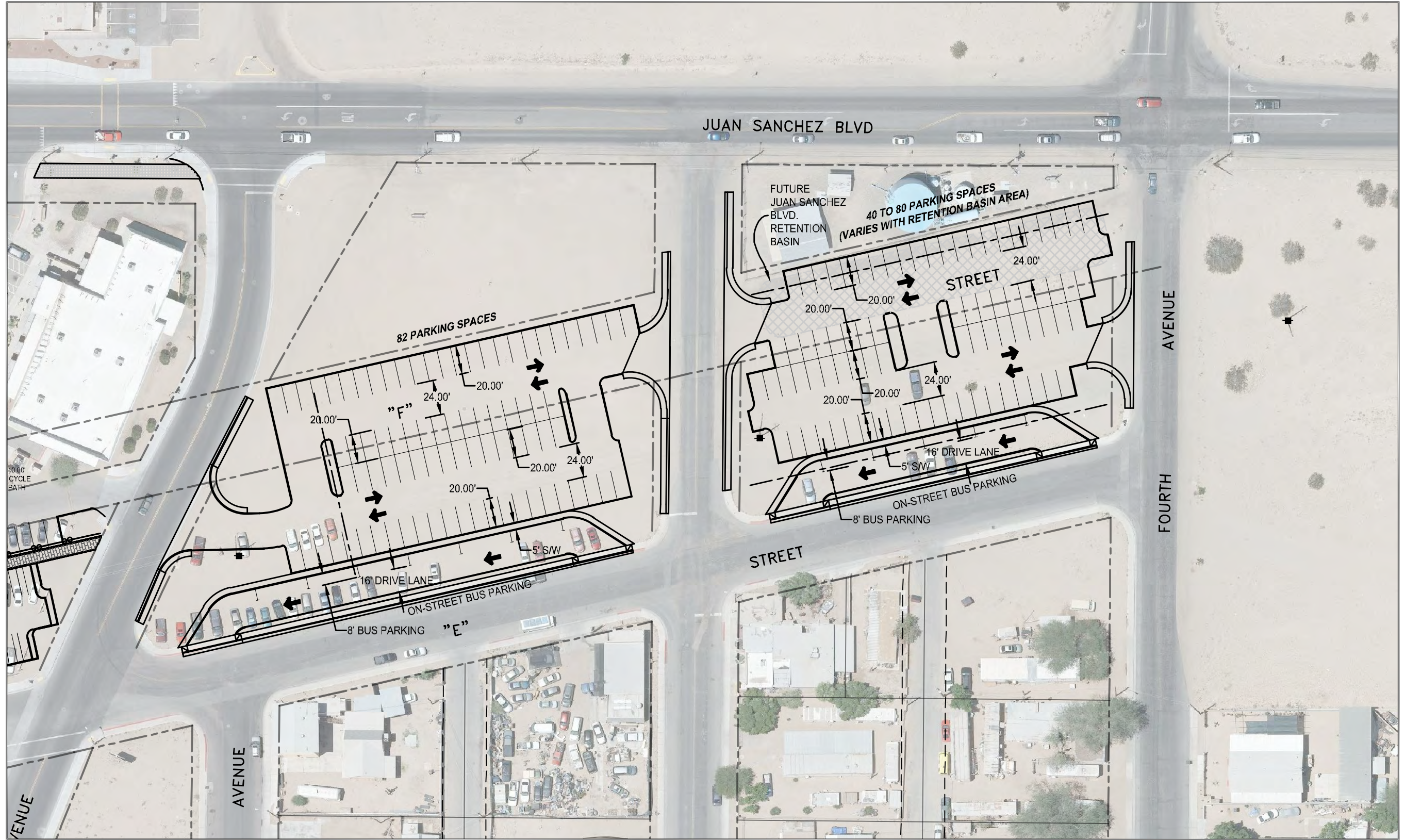
**CITY OF SAN LUIS - DOWNTOWN PARKING MASTER PLAN  
 CENTRAL PARKING AREAS - ALTERNATIVE 1  
 (EXCLUDING PROPERTY ADJACENT TO SUNSET COMMUNITY HEALTH CENTER)**



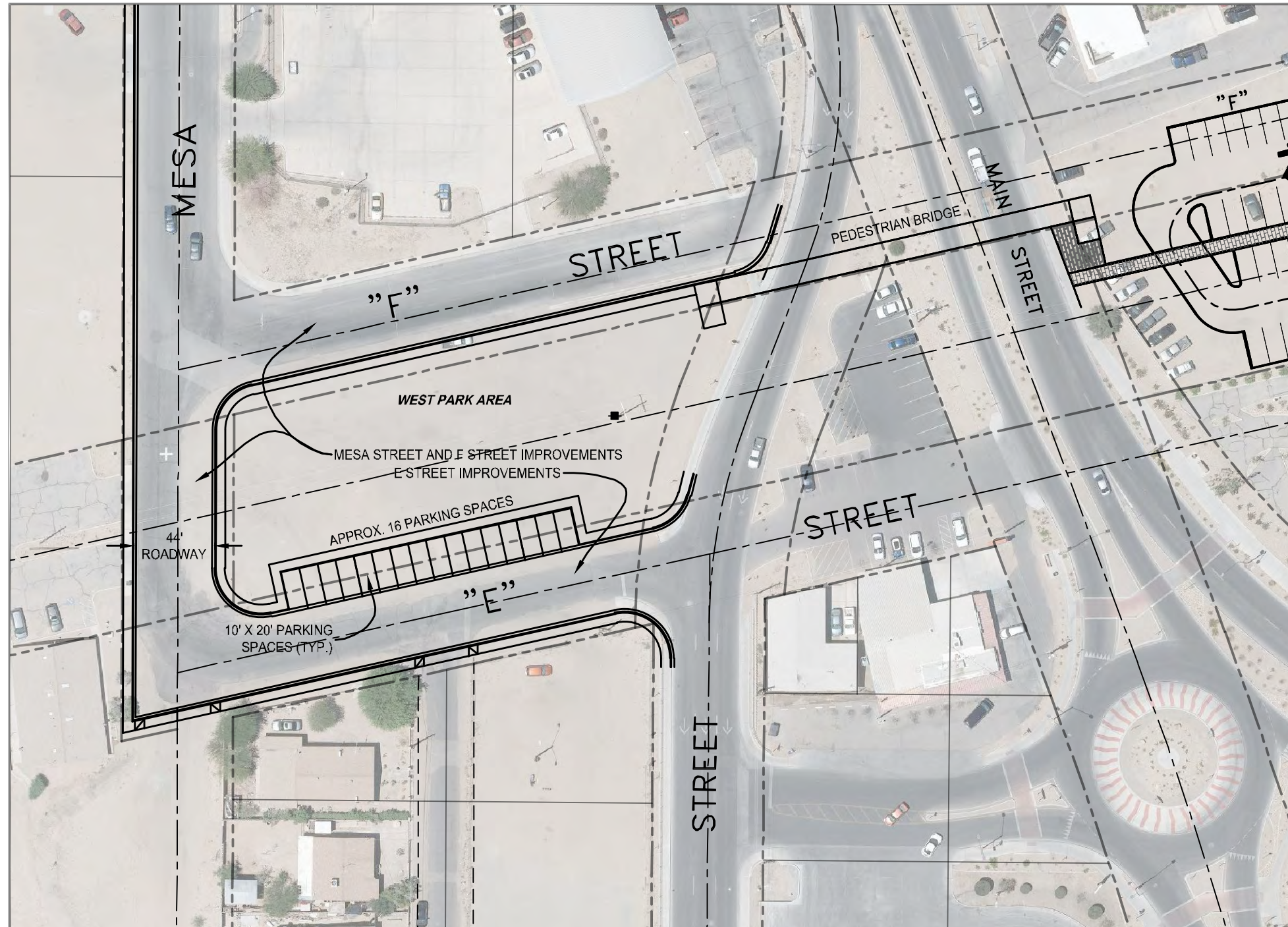
**CITY OF SAN LUIS - DOWNTOWN PARKING MASTER PLAN  
CENTRAL PARKING AREAS - ALTERNATIVE 2  
(FULL USE OF U.S.A. PROPERTY)**



# CITY OF SAN LUIS - DOWNTOWN PARKING MASTER PLAN EAST PARKING AREAS



# CITY OF SAN LUIS - DOWNTOWN PARKING MASTER PLAN WEST PARKING AND ROADWAY IMPROVEMENTS



City of San Luis  
 Master Plan for Downtown Parks and Parking Lots  
 Conceptual Construction Cost Estimate

March 2018

Item No.	Description	Unit	Quantity	Unit Price	Subtotal
<b><u>PARKING LOTS</u></b>					
<b><u>Central Parking Lot</u></b>					
1	Site Grading	SY	38000	\$3	\$114,000
2	Asphalt Pavement (2-1/2" AC/6" ABC)	SY	15300	\$25.00	\$382,500
3	Vertical Curb & Gutter	LF	1100	\$14.00	\$15,400
	Single Curb	LF	4020	\$10.00	\$40,200
4	Sidewalks	SF	1500	\$4.00	\$6,000
5	12' Walking Path	LF	500	\$48.00	\$24,000
6	10' Bicycle Path	LF	730	\$40.00	\$29,200
7	8' Walking Path	LF	800	\$32.00	\$25,600
8	Signing and Striping	LS	1	\$12,000.00	\$12,000
9	Site Work and Landscaping	LS	1	\$60,000.00	\$60,000
10	Street Lights	EA	48	\$4,000	\$192,000
11	Fencing	LF	2500	\$60.00	\$150,000
<i>Subtotal</i>					<i>\$1,050,900</i>
<i>Contingency at 30%</i>					<i><u>\$315,000</u></i>
<i>Total Cost for Central Parking Lot</i>					<i>\$1,365,900</i>
<b><u>East Parking Lots</u></b>					
1	Site Grading	SY	11000	\$3	\$33,000
2	Asphalt Pavement (2-1/2" AC/6" ABC)	SY	6800	\$25.00	\$170,000
3	Vertical Curb & Gutter	LF	1370	\$14.00	\$19,180
	Single Curb	LF	1730	\$10.00	\$17,300
4	Sidewalks	SF	6850	\$4.00	\$27,400
8	Signing and Striping	LS	1	\$7,000.00	\$7,000
9	Site Work and Landscaping	LS	1	\$30,000.00	\$30,000
10	Street Lights	EA	21	\$4,000	\$84,000
11	Fencing	LF	1446	\$60.00	\$86,760
<i>Subtotal</i>					<i>\$474,640</i>
<i>Contingency at 30%</i>					<i><u>\$142,000</u></i>
<i>Total Cost for East Parking Lots</i>					<i>\$616,600</i>

<u>West Roadway Improvements and Parking</u>					
1	Site Grading	SY	4000	\$3.00	\$12,000
2	Asphalt Pavement (3" AC/8" ABC)	SY	2700	\$29.00	\$78,300
3	Vertical Curb and Gutter	LF	1050	\$14.00	\$14,700
4	Sidewalks	SF	5250	\$4.00	\$21,000
5	Cross Gutter	SF	1300	\$7.00	\$9,100
6	Signing and Striping	LS	1	\$2,000.00	\$2,000
7	Street Lights	EA	8	\$4,000	\$32,000
<i>Subtotal</i>					<i>\$169,100</i>
<i>Contingency at 30%</i>					<i><u>\$51,000</u></i>
<i>Total Cost for West Roadway Improvements and Parking</i>					<i>\$220,100</i>
<u>PARKS</u>					
<u>West Park (between Archibald and Mesa Streets)</u>					
1	Site Work and Landscaping	LS	1	\$100,000	\$100,000
2	Ramadas	EA	4	\$30,000	\$120,000
<u>East Park (between Main St. and 1st Ave., north and south of D Street)</u>					
1	Site Work and Landscaping	LS	1	\$250,000	\$350,000
2	Splash Park	LS	1	\$175,000	\$200,000
3	Restrooms/Police Substation	SF	1500	\$200	\$300,000
4	Ramadas	EA	5	\$30,000	\$150,000
5	Vendor Kiosks	EA	8	\$30,000	\$240,000
6	Concert Pavillion	SF	3500	\$150	\$525,000
<u>Pedestrian Bridge</u>					
1	Pedestrian Bridge	LS	1	\$675,000	\$675,000
<i>Subtotal</i>					<i>\$2,660,000</i>
<i>Contingency at 30%</i>					<i><u>\$798,000</u></i>
<i>Total Cost for Parks and Pedestrian Bridge</i>					<i>\$3,458,000</i>
<b>Subtotal - Construction Cost - Parking Lots and Roadway Improvements</b>					<b>\$5,660,600</b>
<b>Design Services at 8%</b>					<b>\$452,800</b>
<b>Construction Administration at 8%</b>					<b>\$452,800</b>
<b>Total Cost Estimate - Parking Lots and Roadway Improvements</b>					<b><i>\$6,566,200</i></b>



## AGENDA ITEM REVIEW FORM

### Work Session

2. E.

**Meeting Date:** 12/02/2020

**Department Head:** Kay Macuil, City Attorney, Attorney's Office

**Submitted By:** Kay Macuil, City Attorney, Attorney's Office

**Action Requested:** Discussion Item - No Action to be Taken

---

### ITEM:

Discussion and possible directions to staff on any and all matters regarding Order No. 2020-19. An order of the Mayor and City Council of the City of San Luis, Arizona authorizing and directing the entering into the “One Arizona Opioid Settlement Memorandum of Understanding” regarding a proposed settlement fund settling claims against certain pharmaceutical supply chain participants in the class action titled “In Re National Prescription Opiate Litigation.” **(Kay Marion Macuil, City Attorney)**

### SUMMARY:

#### Timeline

- On November 13, 2019, San Luis City Council passed Order No. 2019-10 (attached), which approved joining the national class-action opioid litigation.
- Some of the opioid pharmaceutical supply chain defendants want to settle with all governments in the country, states, counties, cities, and towns; 34,459 jurisdictions. (Native American Tribes, Insurance, School Districts, and Special Taxing Districts are not part of this negotiation).
- The Court devised a method of allocating possible settlement funds based on data showing the extent to which the opioid crisis has hit areas. It is not based on population.
- Since April of 2020, the Arizona Attorney General and County Attorneys negotiated the Memorandum of Understanding (MOU) before City Council. Using the Court's framework, the MOU details a plan for allocating funds in Arizona if there is a settlement. (Note all 7 counties that were represented by outside counsel also represented at least one city.) All 15 Counties in Arizona signed on.
- Chief Civil Deputy County Attorney Bill Kerekes organized a video conference inviting the Mayors, City & Town Managers, and Attorney for November 12.
- On November 3, 2020, the Attorney General mailed out the MOU to all the cities and towns in Arizona for their consideration.
- On November 6, 2020, the Arizona League of Cities and Towns sent out an email that Zoom meetings would be organized to explain the MOU and field questions from three (3) outside counsel who represents Arizona cities and counties and were involved in the negotiations with the Attorney General.
- On November 12, 2020, there was a Zoom meeting for Yuma County, Yuma City, Somerton, San Luis, and Wellton, and Statewide on November 13, 2020. The San Luis Attorney attended both.

#### Explanation of the Plan

The City Attorney will provide a slide presentation to explain the plan for allocating funds. The Litigating attorney for Kingman provided the attached brief explanation. The One Arizona Opioid Settlement and its exhibits are attached.

#### Next Steps

If the decision is to join in the plan, the signed MOU is due to the Arizona Attorney General by December 15, 2020. This item will be on the Regular Agenda on December 9, 2020, for action as well as an executive session.

**RECOMMENDATION / SUGGESTED MOTION:**

Discussion and possible instructions to staff only, no action.

---

**Fiscal Impact**

<b>IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:</b>	Yes
<b>CITY/STATE/FEDERAL FUNDS:</b>	Other
<b>TOTAL:</b>	TBD
<b>BUDGETED AMOUNT:</b>	N/A
<b>AVAILABLE AMOUNT TO TRANSFER:</b>	N/A
<b>ACCT NAME &amp; GL#/REMAINING BALANCE BEFORE PURCHASE:</b>	N/A
<b>FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):</b>	
If there are settlements, there will be additional funds available to the city to address the opioid crisis.	

---

**Attachments**

- Order 2019-10 Authorizing Class Action
  - Order No. 2020-19
  - Slides
  - AG Cover Letter
  - MOU
  - Exhibit A Approved Uses
  - Exhibit B County Allocation
  - Exhibit C Local Gov Allocation
  - Exhibit D Sliding Scale for County Allocation
-

WHEN RECORDED MAIL TO:



CITY OF SAN LUIS  
ATTN: CITY CLERK  
P.O. BOX 1170  
SAN LUIS, ARIZONA 85349

The above area is to be reserved for recording information

\*\*\*\*\*

**CAPTION HEADING:**

**Order No. 2019-10**

Remain in the class case titled in RE: National Prescription Opiate Litigation

RECEIVED  
2019 DEC 10 A 8:23  
CITY OF SAN LUIS  
OFFICE OF THE CITY CLERK



# Order

No. 2019-10

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

**AN ORDER OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA TO REMAIN IN THE CLASS ACTION CASE TITLED IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION.**

**WHEREAS**, Drug manufacturers, distributors, and retailers of prescription opiate drugs have created a crisis of opioid addictions; and

**WHEREAS**, all federal court opiate litigation by towns, cities and counties around the country have been centralized into one case in Ohio Northern Federal District Court titled In re: National Prescription Opiate Litigation, Multi-District Litigation Case No. 2804 (ND Ohio); and

**WHEREAS**, for City of San Luis, Arizona to remain in the case the City Council of the City of San Luis it does nothing;

**WHEREAS**, for the City of San Luis, Arizona to opt-out of the case the city must file a notice with the plaintiff's' representatives to opt-out by November 22, 2019; and

**WHEREAS**, the City Council of the City of San Luis understands that the case charges criminal violations of the federal Racketeer Influenced and Corrupt Organization (RICO) Act and the federal Controlled Substances Act against Purdue, Cephalon, Endo, Mallinckrodt, Actavis, Janssen, McKesson, Cardinal, AmerisourceBergen, CVS, Rite-Aid, Walgreens, and Wal-Mart.

**WHEREAS**, the City Council of the City of San Luis understands that it will be bound to any settlement the parties reach but that it has the right to pursue its own case unless the Ohio federal court approves a settlement, that the City of San Luis has the right to vote on any settlement proposed, that voting numbers for the City of San Luis depend on the population of the City of San Luis, and that the plaintiffs will not accept a settlement unless supported by 75% of the plaintiff towns, cities and counties; and

**WHEREAS**, the City Council of the City of San Luis finds it in the public interest for the city to remain in the case to deter drug-related crises in the future;

**THEREFORE, IT IS ORDERED** by the Mayor and City Council of the City of San Luis, Arizona:

**Section 1.** The above-recited findings and understandings of the Mayor and City Council of the City of San Luis are incorporated by this reference and made part of this order.

**Section 2.** The San Luis City Attorney and all appropriate city staff are ordered to ensure that the City of San Luis remains in In re: National Prescription Opiate Litigation, Multi-District Litigation Case No. 2804 (ND Ohio).

**PASSED, ADOPTED and APPROVED** by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this 13<sup>th</sup> day of November 2019.

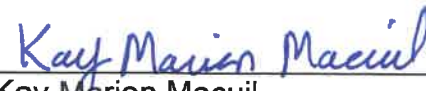


Gerardo Sanchez  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
Sonia Cornelio  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Kay Marion Macuil  
City Attorney



# Order

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

No. 2020-19

**AN ORDER OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO THE “ONE ARIZONA OPIOID SETTLEMENT MEMORANDUM OF UNDERSTANDING” REGARDING A PLAN TO ALLOCATE POTENTIAL GLOBAL SETTLEMENT FUNDS IN THE CLASS ACTION TITLED “IN RE NATIONAL PRESCRIPTION OPIATE LITIGATION.”**

**WHEREAS**, the class action case captioned, In Re National Prescription Opiate Litigation, Multi-District Litigation Case No. 2804 (United States District Court for the Northern District of Ohio, Eastern Division) (the “Class Action”), involves claims against thirteen (13) sets of companies in the pharmaceutical supply chain for misrepresentation about the addictive nature and the need to prescribe opioids (among other claims); which caused addiction, overdose death, and economic burdens on over 34,400 counties, cities and towns; and

**WHEREAS**, on September 10, 2019, the counsel for the counties, cities and towns devised a model allocation system for a *potential* global settlement based on the impact of the opioid crisis, not on population; and

**WHEREAS**, on September 11, 2019, the court certified a Negotiation Class which included the City of San Luis among the over 34,400 counties, cities and towns nationwide, appointed Negotiation Class Counsel, set November 22, 2019, as the deadline to opt-out and set September 11, 2024, as the end of the Negotiation Class; and

**WHEREAS**, on November 13, 2019, the City of San Luis adopted Order No. 2019-10 to authorize its participation in the Class Action; and

**WHEREAS**, on September 24, 2020, the United States Court of Appeals for the Sixth Circuit ruled in favor of the formation of Negotiation Class; and

**WHEREAS**, four (4) of the thirteen (13) pharmaceutical supply chain defendants have expressed an interest in a global settlement with all the counties, cities and towns in the Class Action plus their terms of settlement must include the 50 states and the District of Columbia; and

**WHEREAS**, since April of 2020, using the allocation model devised by the Negotiation

Class Counsel, the State of Arizona and all 15 of Arizona's Counties have been working on developing a plan to divide *potential* global settlement funds from a joint resolution of claims brought by the State of Arizona, its 15 Counties and all of Arizona's 91 cities and towns (including the Class Action and other separate lawsuits); and

**WHEREAS**, the plan would be called the "One Arizona Opioid Settlement Memorandum of Understanding" ("MOU"); and

**WHEREAS**, seven (7) Arizona counties negotiating the MOU had outside counsel representing them, and each of those seven (7) outside counsel also represented one or more Arizona cities; and

**WHEREAS**, the MOU requires the funds to be used to combat the impacts of the opioid crisis; and

**WHEREAS**, the MOU provides for a larger sum to be distributed among the counties, cities and towns if there is one-hundred percent (100%) participation of all the jurisdictions in Arizona; and

**WHEREAS**, the MOU does not bind those signing it to any particular Class Action outcome; and

**WHEREAS**, by the end of October 2020, all 15 Counties signed the MOU; and

**WHEREAS**, on November 10, 2020, the City of San Luis Received the MOU; and

**WHEREAS**, on November 12, 2020, Chief Civil Deputy Yuma County Attorney William J Kerekes coordinated a video conference for an orientation to the MOU for the cities of San Luis, Somerton and Yuma and the town of Wellton (attended by the San Luis City Attorney and the Vice Mayor); and

**WHEREAS**, on November 13, 2020, the Arizona League of Cities and Towns coordinated a state-wide video conference for all 91 cities and towns (attended by the San Luis City Attorney); and

**WHEREAS**, the San Luis Mayor and City Council have been fully advised of the nature of the MOU's plan to allocate *potential* global settlement funds.

**NOW, THEREFORE BE IT SO ORDERED** by the Mayor and City Council of the City of San Luis, Arizona:

**Section 1.** It is deemed in the City of San Luis and its residents' best interest that the city enter into the One Arizona Opioid Settlement Memorandum of Understanding ("MOU").

**Section 2.** A true copy of the MOU and its exhibits A, B, C and D are attached and are

incorporated into this Order No. 2020-19 ("Order") by this reference and made a part of this Order as if fully set forth here.

**Section 3.** The Mayor is authorized and directed to execute the MOU for and on behalf of the City of San Luis and the City Clerk to attest the same.

**Section 4.** City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Order, including, but not limited to, submitting the City of San Luis' executed MOU to the Arizona Attorney General's Office on or before the deadline of December 15, 2020.

**Section 5.** The San Luis City Clerk and the City Clerk's designee are authorized and directed to maintain a copy of the City of San Luis executed MOU in the City Clerk's official files.

**PASSED, ADOPTED and APPROVED** by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this \_\_\_\_ day of December 2020

\_\_\_\_\_  
Gerardo Sanchez, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Sonia Cornelio, City Clerk

\_\_\_\_\_  
Kay Marion Macuil, City Attorney

One Arizona Opioid Settlement  
Memorandum of Understanding  
(the “One Arizona Plan”)

***Presentation for the Members of  
the Arizona League of Cities and Towns***

November 13, 2020

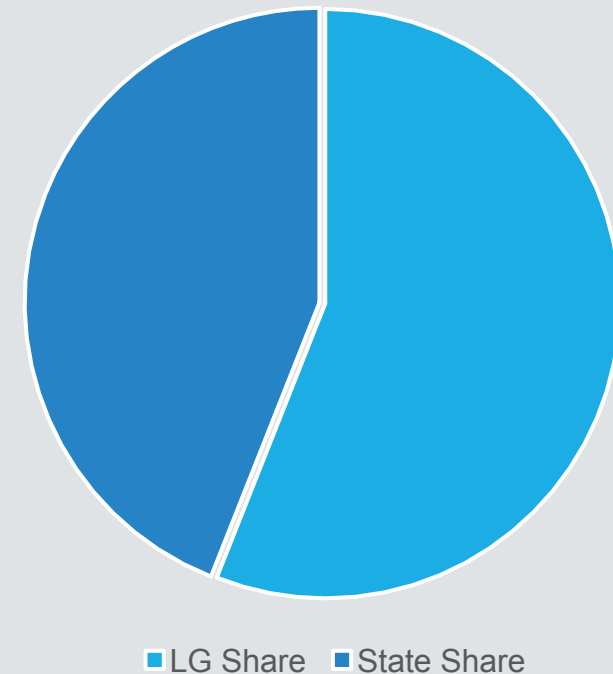
# Agenda

- Welcome and Introductions
- Overview of the One Arizona Plan
- Participation of Counties
- Participation of Cities and Towns
- Next Steps
- Contact Information

# Overview of the One Arizona Plan

- Opioid Settlement fund allocation:
  - Most favorable plan to local governments in the country
  - Treats litigating and non-litigating entities the same.
  - 56% to Participating Local Governments (“LG Share”)
    - ♣ Money flows directly to participating counties, cities, and towns
  - 44% to State of Arizona (“State Share”)
    - ♣ Up to 30% of the State Share will be used for opioid education and awareness, abatement on the Southern border and prison/jail opioid costs
- Not like the 1998 tobacco settlement: All opioid funds shall be used *only* for “Approved Purposes.” Plan Ex. A.

Settlement Distribution



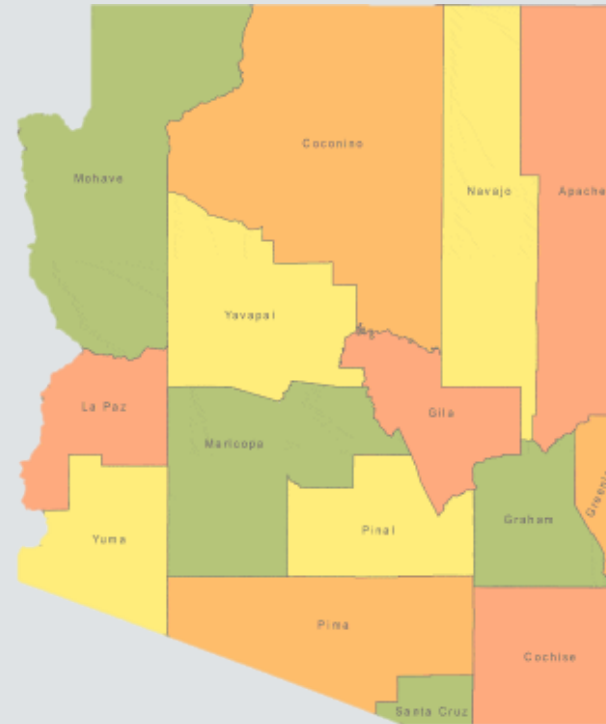
# Counties, Cities, and Towns

- The LG Share is allocated among the 15 counties (and the cities and towns within them).
- This allocation uses three equally weighted factors: (1) the amount of opioids shipped to the county; (2) the number of opioid deaths that occurred in that county; and (3) the number of people who suffer opioid use disorder in that county. Plan Ex. B.
- Allocation between the counties and the cities and towns within the county is based on past spending related to opioids. Plan Ex. C.
- The LG Share is to be paid directly to the Participating Local Governments through a Trustee.
- Plan incentivizes 100% participation of cities and towns within a county. Ex.

# Participation of Counties

- All 15 counties have signed on to the One Arizona Plan

} Apache*	} Mohave*
} Cochise*	} Navajo*
} Coconino	} Pima*
} Gila	} Pinal*
} Graham	} Santa Cruz
} Greenlee	} Yavapai
} La Paz*	} Yuma*
} Maricopa*	



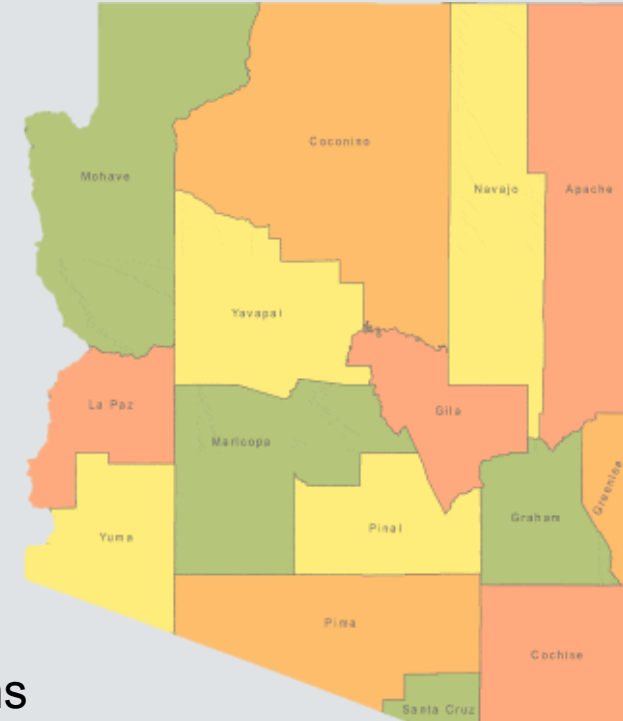
\* = Represented by outside counsel

# Participation of Cities and Towns

100% Participation of Cities and Towns Will Maximize Recovery for Arizona as a Whole

Apache 3 Cities/Towns  
Cochise 7 Cities/Towns  
Coconino 6 Cities/Towns  
Gila 6 Cities/  
Graham 3 Cities/Towns  
Greenlee 2 Towns  
La Paz 2 Towns  
Maricopa 25 Cities/Towns

Mohave 4 Cities/Towns  
Navajo 6 Cities/Towns  
Pima 5 Cities/Towns  
Pinal 8 Cities/Towns  
Santa Cruz 2  
Cities/Towns  
Yavapai 8 Cities/Towns  
Yuma 4 Cities/Towns



**Our Goal:** 100% Participation of the 91 Cities and Towns

## Next Steps

1. Decide whether to participate.
2. If you wish to participate, obtain a signature from your Mayor or City Attorney on the One Arizona Plan.
3. Send the signed copy to Joseph Sciarrotta ([Joseph.Sciarrotta@azag.gov](mailto:Joseph.Sciarrotta@azag.gov)), Matthew du Mee ([Matthew.duMee@azag.gov](mailto:Matthew.duMee@azag.gov)), and Jennifer Bonham ([Jennifer.Bonham@azag.gov](mailto:Jennifer.Bonham@azag.gov)).
4. Please let us know you've signed by sending an email to Arden Wilson ([AWilson@kellerrohrback.com](mailto:AWilson@kellerrohrback.com)).

We welcome your  
questions

Please feel free to contact any of  
us:

Ron Kilgard: [RKilgard@KellerRohrback.com](mailto:RKilgard@KellerRohrback.com)

Grant Woods: [Grant.Woods@GKnet.com](mailto:Grant.Woods@GKnet.com)

Joseph (JoJo)Tann:  
[JosephTann@JosephTann.com](mailto:JosephTann@JosephTann.com)



MARK BRNOVICH  
Attorney General

Office of the Attorney General  
State of Arizona

November 3, 2020

City of San Luis  
C/O Kay Macuil  
City Attorney  
PO Box 1170  
San Luis, AZ 85349

Re: One Arizona Opioid Settlement Memorandum of Understanding

Dear Ms. Macuil:

State and local governments across the country have been litigating against the opioid industry in response to their alleged unethical and illegal practices. Arizona now has an opportunity to settle with some of the manufacturers and distributors and secure financial resources to contend with the devastation that has been caused to our communities. **The total amount of money that Arizonans receive is dependent upon the number of local governments that participate, so I invite you to join our efforts.**

A major step to facilitating a resolution with the opioid parties was recently achieved. The State of Arizona and all 15 counties have now agreed to the **One Arizona Opioid Settlement Memorandum of Understanding** (the "*One Arizona Plan*" or "MOU"). This MOU provides a framework for distributing opioid settlement funds fairly and effectively throughout our state. Moreover, the *One Arizona Plan* treats both litigating and non-litigating political subdivisions equally.

Like all states engaged in this process, Arizona's MOU employs certain formulas and data collected by federal agencies such as (i) opioid use disorder rates, (ii) the number of opioid overdose deaths, and (iii) the amount and potency of opioids shipped to each community. U.S. Census Bureau data is also used to determine historical expenditures related to opioid abatement for designated areas. With this in mind, please be assured that my office has made every effort to maximize recovery for all cities and towns. In fact, under the MOU the State government's share of funds actually declines with the participation of more counties and cities. Nevertheless, this structure was agreed to because it will increase the overall benefit to Arizona's residents.

**Also important to consider is what the *One Arizona Plan* will not do.** Unlike some other states, Arizona's *MOU* does not create new foundations, form boards, or make political appointments to control the funding. In fact, our MOU does the exact opposite thus cutting red tape

November 3, 2020

Re: One Arizona Opioid Settlement Memorandum of Understanding

and streamlining the grant process to quickly get the funds to those in need. Local governments are best able to utilize resources targeted for their constituents, so no state authorization is required for expenditure. The only requirements are that funds be spent in accordance with the approved purposes detailed in the *One Arizona Plan's* Exhibit A, and that basic reciprocal reporting be completed.

**Standing together, we can maximize critically needed resources to assist Arizonans impacted by the opioid crisis, so our goal is 100% participation among cities and towns.** I urge you to consider the *One Arizona Plan* with your legal counsel, execute the MOU in the space provided and return it to my office. The deadline to submit your signature page is **December 15, 2020 at 5:00 pm.** Any questions that you have may be addressed to Acting Section Chief Matthew du Mée at [Matthew.duMee@azag.gov](mailto:Matthew.duMee@azag.gov), or Assistant Attorney General Jennifer Bonham at [Jennifer.Bonham@azag.gov](mailto:Jennifer.Bonham@azag.gov).

Respectfully yours,



Mark Brnovich  
Attorney General

Enclosures:

One Arizona Opioid Settlement Memorandum of Understanding

Exhibits: A-D

City/Town Signature Page

cc: Joseph Sciarrotta, Jr., AGO Civil Litigation Division Chief Counsel  
Matthew du Mée, AGO Acting Consumer Protection & Advocacy Section Chief Counsel  
Jennifer Bonham, AGO Assistant Attorney General  
Tom Belshe, Executive Director – League of Arizona Cities and Towns  
Christina Estes-Werther, General Counsel – League of Arizona Cities and Towns

# **ONE ARIZONA OPIOID SETTLEMENT MEMORANDUM OF UNDERSTANDING**

## **General Principles**

- The people of the State of Arizona and Arizona communities have been harmed by the opioid epidemic, which was caused by entities within the Pharmaceutical Supply Chain.
- The State of Arizona, *ex rel.* Mark Brnovich, Attorney General (the “State”), and certain Participating Local Governments are separately engaged in litigation seeking to hold the Pharmaceutical Supply Chain Participants accountable for the damage they caused.
- The State and the Participating Local Governments share a common desire to abate and alleviate the impacts of the Pharmaceutical Supply Chain Participants’ misconduct throughout the State of Arizona.
- The State and the Participating Local Governments enter into this One Arizona Opioid Settlement Memorandum of Understanding (“MOU”) to jointly approach Settlement negotiations with the Pharmaceutical Supply Chain Participants.
- This MOU has been drafted collaboratively to maintain the Parties’ existing or potential legal claims (to the extent legally cognizable) while allowing the Parties to cooperate in exploring all possible means of resolution.
- Nothing in this MOU binds the Parties to a specific outcome. Any resolution under this MOU will require a subsequent acceptance by the State and the Participating Local Governments of a final opioid Settlement plan.
- Nothing in this MOU should alter or change the right of the State or any Participating Local Government to pursue its own claim. The intent of this MOU is to join the Parties to seek a Settlement or Settlements with one or more Pharmaceutical Supply Chain Participants.

## **A. Definitions**

As used in this MOU:

1. “Approved Purpose(s)” shall mean those uses identified in the agreed Opioid Abatement Strategies attached as Exhibit A.
2. “Litigation” means existing or potential legal claims against Pharmaceutical Supply Chain Participants seeking to hold them accountable for the damage caused by their misfeasance, nonfeasance, and malfeasance relating to the unlawful manufacture, marketing, promotion, distribution, or dispensing of prescription opioids.

3. "Opioid Funds" shall mean monetary amounts obtained through a Settlement as defined in this MOU.
4. "Participating Local Government(s)" shall mean all counties, cities, and towns within the geographic boundaries of the State that have chosen to sign on to this MOU. The Participating Local Governments may be referred to separately in this MOU as "Participating Counties" and "Participating Cities and Towns" (or "Participating Cities or Towns," as appropriate).
5. "Parties" shall mean the State and the Participating Local Governments.
6. "Pharmaceutical Supply Chain" shall mean the process and channels through which licit opioids are manufactured, marketed, promoted, distributed, or dispensed.
7. "Pharmaceutical Supply Chain Participant" shall mean any entity that engages in or has engaged in the manufacture, marketing, promotion, distribution, or dispensing of licit opioids.
8. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the State and the Participating Local Governments.
9. "Trustee" shall mean an independent trustee who shall be responsible for the ministerial task of releasing the Opioid Funds that are in trust as authorized herein and accounting for all payments into or out of the trust.

#### **B. Intrastate Regions**

1. The State of Arizona will be divided into regions, each of which will be referred to as a "Region" and will consist of: (1) a single Participating County and all of its Participating Cities and Towns; or (2) all of the Participating Cities and Towns within a non-Participating County. If there is only one Participating City or Town within a non-Participating County, that single Participating City or Town will still constitute a Region. Two or more Regions may at their discretion form a group ("Multicounty Region"). Regions that do not choose to form a Multicounty Region will be their own Region. Participating Cities and Towns within a non-Participating County may not form a Region with Participating Cities and Towns in another county.
2. The LG Share funds described in Section C(1) will be distributed to each Region according to the percentages set forth in Exhibit B. The Regional allocation model uses three equally weighted factors: (1) the amount of opioids shipped to the Region; (2) the number of opioid deaths that occurred in that Region; and (3) the number of people who suffer opioid use disorder in that Region. In the event any county does not participate in this MOU, that county's percentage share shall be reallocated proportionally amongst the Participating Counties by applying this same methodology to only the Participating Counties.
3. In single-county Regions, that county's health department will serve as the lead agency responsible for distributing the LG Share funds. That health department, acting as the

lead agency, shall consult with the cities and towns in the county regarding distribution of the LG Share funds.

4. For each Multicounty Region, an advisory council shall be formed from the Participating Local Governments in the Multicounty Region to distribute the collective LG Share funds. Each advisory council shall include at least three Participating Local Government representatives, not all of whom may reside in the same county. Each advisory council shall consult with the Participating Local Governments in the Multicounty Region regarding distribution of the collective LG Share funds.
5. For each Region consisting of the Participating Cities and Towns within a non-Participating County, an advisory council shall be formed from the Participating Cities and Towns in the Region to distribute the LG Share funds. Each advisory council shall include at least three representatives from the Participating Cities and Towns in the Region, or a representative from each Participating City and Town if the Region consists of fewer than three Participating Cities and Towns. In no event may more than one individual represent the same city or town. To the extent any Participating Cities or Towns in the Region are not represented on the advisory council, the advisory council shall consult with the non-represented Participating Cities and Towns regarding distribution of the collective LG Share funds.

### **C. Allocation of Settlement Proceeds**

1. All Opioid Funds shall be divided with 44% to the State (“State Share”) and 56% to the Participating Local Governments (“LG Share”).<sup>1</sup>
2. All Opioid Funds, regardless of allocation, shall be utilized in a manner consistent with the Approved Purposes definition, as ultimately memorialized in a Settlement that becomes an order of the court. Compliance with this requirement shall be verified through reporting, as set out in Section F.
3. The LG Share will be distributed to each Region as set forth in Section B(2). Participating Counties and their constituent Participating Cities and Towns may distribute the funds allocated to the Region amongst themselves in any manner they choose. If the county and its cities and towns cannot agree on how to allocate the funds, Exhibit C reflects a default allocation that will apply. The default allocation formula uses historical federal data showing how the specific county and the cities and towns within it have made opioids-related expenditures in the past. If the county or any cities or towns within a Region do not sign on to this MOU and subsequent Settlement, and if the Participating Local Governments in the Region cannot agree on how to allocate the funds amongst themselves, they shall reallocate the funds proportionally amongst themselves by applying this same methodology to only the Participating Local Governments in the Region.

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<sup>1</sup> This MOU assumes that any opioid settlement for Native American Tribes and Third-Party Payors, including municipal insurance pools, will be dealt with separately.

4. If the LG Share for a given Participating Local Government is less than \$500, then that amount will instead be distributed to the county in which the Participating Local Government is located to allow practical application of the abatement remedy. If the county did not sign on to the Settlement as defined herein, the funds will be reallocated to the State Share.
5. The State Share shall be paid by check or wire transfer directly to the State through the Trustee, who shall hold the funds in trust in a Qualified Settlement Fund (QSF) for the benefit of the State to be promptly distributed as set forth in C(1) herein. The LG Share shall be paid by check or wire transfer directly to the Participating Local Governments through the Trustee, who shall hold the funds in trust in a QSF for the benefit of the Participating Local Governments to be promptly distributed as set forth in B(2), C(1), C(3), and C(4) herein.
6. The State Share shall be used only for (1) Approved Purposes within the State or (2) grants to organizations for Approved Purposes within the State.
7. The LG Share shall be used only for (1) Approved Purposes by Participating Local Governments within a Region or Multicounty Region or (2) grants to organizations for Approved Purposes within a Region or Multicounty Region.
8. The State will endeavor to prioritize up to 30% of the State Share for: opioid education and advertising related to awareness, addiction, or treatment; Department of Corrections and related prison and jail opioid uses, and opioid interdiction and abatement on Arizona's southern border, including grants to assist with the building, remodeling and/or operation of centers for treatment, drug testing, medication-assisted treatment services, probation, job training, and/or counseling services, among other programs.

#### **D. Participation of Cities and Towns**

1. By virtue of signing on to the MOU and Settlement, each Participating County will receive 60% of its available LG Share. The Participating County will receive up to an additional 40% of its available LG Share by securing the participation of its constituent cities and towns as signatories to this MOU and the Settlement. The sliding scale attached as Exhibit D will determine the share of funds available to the Participating County.
2. If a Participating County does not achieve 100% participation of its cities and towns within the period of time required in a Settlement document for subdivision participation, the remaining portions of the LG Share that were otherwise available to the Participating County will be reallocated to (i) the State Share and (ii) the LG Share for the Participating Counties which have achieved 100% participation of their cities and towns in accordance with the percentages described in Sections B(2), C(1), and C(3), and set forth in Exhibits B and C.

#### **E. Payment of Counsel and Litigation Expenses**

1. The Parties anticipate that any national Settlement will provide for the payment of all or a portion of the fees and litigation expenses of certain state and local governments.

2. If the court in *In Re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio) or if a national Settlement establishes a common benefit fund or similar device to compensate attorneys for services rendered and expenses incurred that have benefited plaintiffs generally in the litigation (the “Common Benefit Fund”), and requires certain governmental plaintiffs to pay a share of their recoveries from defendants into the Common Benefit Fund as a “tax,” then the Participating Local Governments shall first seek to have the settling defendants pay the “tax.” If the settling defendants do not agree to pay the “tax,” then the “tax” shall be paid from the LG Share prior to allocation and distribution of funds to the Participating Local Governments.<sup>2</sup>
3. Any governmental entity that seeks attorneys’ fees and expenses from the Litigation shall seek those fees and expenses first from the national Settlement. In addition, the Parties agree that the Participating Local Governments will create a supplemental attorney’s fees and costs fund (the “Backstop Fund”).
4. The Backstop Fund is to be used to compensate counsel for Participating Local Governments that filed opioid lawsuits by September 1, 2020 (“Litigating Participating Local Governments”). Payments out of the Backstop Fund shall be determined by a committee consisting of one representative from each of the Litigating Participating Local Governments (the “Opioid Fee and Expense Committee”).
5. The Backstop Fund shall be funded as follows: From any national Settlement, the funds to be deposited in the Backstop Fund shall be 14.25% of the LG Share of each payment (annual or otherwise) to the State of Arizona for that Settlement. No portion of the State Share shall be used for the Backstop Fund or in any other way to fund any Participating Local Government’s attorney’s fees and costs.
6. The maximum percentage of any contingency fee agreement permitted for compensation shall be 25% of the portion of the LG Share attributable to the Litigating Participating Local Government that is a party to the contingency fee agreement, plus expenses attributable to that Litigating Participating Local Government. Under no circumstances may counsel collect more for its work on behalf of a Litigating Participating Local Government than it would under its contingency agreement with that Litigating Participating Local Government.
7. Any funds remaining in the Backstop Fund in excess of the amounts needed to cover private counsels’ representation agreements shall revert to the Participating Local Governments according to the percentages set forth in Exhibits B and C, to be used for Approved Purposes as set forth herein and in Exhibit A.

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<sup>2</sup> This paragraph shall not apply to any Settlement with distributors McKesson, Amerisource Bergen, and Cardinal Health or manufacturer Johnson & Johnson.

## **F. Compliance Reporting and Accountability**

1. The Trustee shall provide an up-to-date accounting of payments into or out of the trust and/or its subaccounts upon written request of the State or a Participating Local Government.
2. The State, Regions, and Participating Local Governments may object to an allocation or expenditure of Opioid Funds solely on the basis that the allocation or expenditure at issue (1) is inconsistent with provision C(1) hereof with respect to the amount of the State Share or LG Share; (2) is inconsistent with an agreed-upon allocation, or the default allocations in Exhibits B and C, as contemplated by Section C(3); or (3) violates the limitations set forth in F(3) with respect to compensation of the Trustee. The objector shall have the right to bring that objection within two years of the date of its discovery to a superior court in Maricopa County, Arizona.
3. Out of the Opioid Funds, reasonable expenses up to 0.005% shall be paid to the Trustee.
4. The Parties shall maintain, for a period of at least five years, records of abatement expenditures and documents underlying those expenditures, so that it can be verified that funds are being or have been utilized in a manner consistent with the Approved Purposes definition.
5. At least annually, each Region or Multicounty Region shall provide to the State a report detailing for the preceding time period (1) the amount of the LG Share received by each Participating Local Government within the Region or Multicounty Region, (2) the allocation of any awards approved (listing the recipient, the amount awarded, the program to be funded, and disbursement terms), and (3) the amounts disbursed on approved allocations. In order to facilitate this reporting, each Participating Local Government within a Region or Multicounty Region shall provide information necessary to meet these reporting obligations to a delegate(s) selected by the Region or Multicounty Region to provide its annual report to the State.
6. At least annually, the State shall publish on its website a report detailing for the preceding time period (1) the amount of the State Share received, (2) the allocation of any awards approved (listing the recipient, the amount awarded, the program to be funded, and disbursement terms), and (3) the amounts disbursed on approved allocations. In addition, the State shall publish on its website the reports described in F(5) above.
7. If it appears to the State, a Region, or a Multicounty Region that the State or another Region or Multicounty Region is using or has used Settlement funds for non-Approved Purposes, the State, Region, or Multicounty Region may on written request seek and obtain the documentation underlying the report(s) described in F(5) or F(6), as applicable, including documentation described in F(4). The State, Region, or Multicounty Region receiving such request shall have 14 days to provide the requested information. The requesting party and the State, Region, or Multicounty Region receiving such request may extend the time period for compliance with the request only upon mutual agreement.

8. Following a request made pursuant to F(7) and when it appears that LG Share funds are being or have been spent on non-Approved Purposes, the State may seek and obtain in an action in a court of competent jurisdiction in Maricopa County, Arizona an injunction prohibiting the Region or Multicounty Region from spending LG Share funds on non-Approved Purposes and requiring the Region or Multicounty Region to return the monies that it spent on non-Approved Purposes after notice as is required by the rules of civil procedure. So long as the action is pending, distribution of LG Share funds to the Region or Multicounty Region temporarily will be suspended. Once the action is resolved, the suspended payments will resume, less any amounts that were ordered returned but have not been returned by the time the action is resolved.
9. Following a request made pursuant to F(7) and when it appears to at least eight Participating Counties that have signed on to this MOU and a subsequent Settlement that the State Share funds are being or have been spent on non-Approved Purposes, the Participating Counties may seek and obtain in an action in a superior court of Maricopa County, Arizona an injunction prohibiting the State from spending State Share funds on non-Approved Purposes and requiring the State to return the monies it spent on non-Approved Purposes after notice as is required by the rules of civil procedure. So long as the action is pending, distribution of State Share funds to the State temporarily will be suspended. Once the action is resolved, the suspended payments will resume, less any monies that were ordered returned but have not been returned by the time the action is resolved.
10. In an action brought pursuant to F(8) or F(9), attorney's fees and costs shall not be recoverable.

#### **F. Settlement Negotiations**

1. The State and the Participating Local Governments agree to inform each other in advance of any negotiations relating to an Arizona-only settlement with a Pharmaceutical Supply Chain Participant that includes both the State and the Participating Local Governments and shall provide each other the opportunity to participate in all such negotiations.
2. The State and the Participating Local Governments further agree to keep each other reasonably informed of all other global settlement negotiations with Pharmaceutical Supply Chain Participants. Neither this provision, nor any other, shall be construed to state or imply that either the State or the Participating Local Governments (collectively, the "Arizona Parties") are unauthorized to engage in settlement negotiations with Pharmaceutical Supply Chain Participants without prior consent or contemporaneous participation of the other, or that either party is entitled to participate as an active or direct participant in settlement negotiations with the other. Rather, while the State's and the Participating Local Government's efforts to achieve worthwhile settlements are to be collaborative, incremental stages need not be so.
3. The State or any Participating Local Government may withdraw from coordinated Settlement discussions detailed in this Section upon 10 business days' written notice to the other Arizona Parties and counsel for any affected Pharmaceutical Supply Chain

Participant. The withdrawal of any Arizona Party releases the remaining Arizona Parties from the restrictions and obligations in this Section.

4. The obligations in this Section shall not affect any Party's right to proceed with trial or, within 30 days of the date upon which a trial involving that Party's claims against a specific Pharmaceutical Supply Chain Participant is scheduled to begin, reach a case-specific resolution with that particular Pharmaceutical Supply Chain Participant.

**G. Amendments**

1. The Parties agree to make such amendments as necessary to implement the intent of this agreement.

ACCEPTED by the undersigned and executed this 16 day of October, 2020.

ARIZONA ATTORNEY GENERAL

  
Mark Brnovich

APACHE COUNTY

\_\_\_\_\_  
Michael B. Whiting

COCHISE COUNTY

\_\_\_\_\_  
Brian McIntyre

COCONINO COUNTY

\_\_\_\_\_  
William P. Ring

GILA COUNTY

\_\_\_\_\_  
Bradley B. Beauchamp

Participant. The withdrawal of any Arizona Party releases the remaining Arizona Parties from the restrictions and obligations in this Section.

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ACCEPTED by the undersigned and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ARIZONA ATTORNEY GENERAL

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Mark Brnovich

APACHE COUNTY

  
\_\_\_\_\_  
Michael B. Whiting

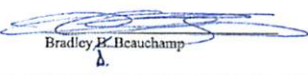
COCHISE COUNTY

 10/5/20  
\_\_\_\_\_  
Brian McIntyre

COCONINO COUNTY

  
\_\_\_\_\_  
Elizabeth C. Archuleta, Chair

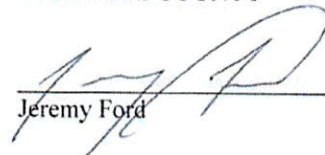
GILA COUNTY

  
\_\_\_\_\_  
Bradley B. Beauchamp

GRAHAM COUNTY

  
Kenny Angle

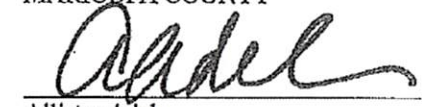
GREENLEE COUNTY

  
Jeremy Ford

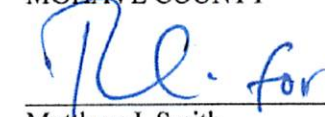
LA PAZ COUNTY

  
Tony Rogers

MARICOPA COUNTY

  
Allister Adel

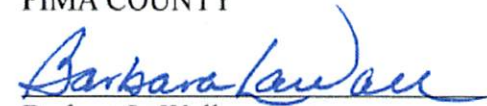
MOHAVE COUNTY

  
Matthew J. Smith

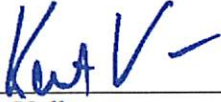
NAVAJO COUNTY

  
Brad Carlyon

PIMA COUNTY

  
Barbara LaWall

PINAL COUNTY



Kent Volkmer

SANTA CRUZ COUNTY



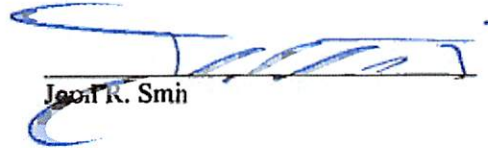
George Silva

YAVAPAI COUNTY



Sheila Polk

YUMA COUNTY



Jenni K. Smith

**YUMA COUNTY CITIES & TOWNS**

SAN LUIS CITY

By: \_\_\_\_\_  
Its: \_\_\_\_\_

SOMERTON CITY

By: \_\_\_\_\_  
Its: \_\_\_\_\_

WELLTON TOWN

By: \_\_\_\_\_  
Its: \_\_\_\_\_

YUMA CITY

By: \_\_\_\_\_  
Its: \_\_\_\_\_

# Exhibit A

# OPIOID ABATEMENT STRATEGIES

## PART ONE: TREATMENT

### **A. TREAT OPIOID USE DISORDER (OUD)**

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions, co-usage, and/or co-addiction through evidence-based, evidence-informed, or promising programs or strategies that may include, but are not limited to, the following:

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, including all forms of Medication-Assisted Treatment (MAT) approved by the U.S. Food and Drug Administration.
2. Support and reimburse services that include the full American Society of Addiction Medicine (ASAM) continuum of care for OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, including but not limited to:
  - a. Medication-Assisted Treatment (MAT);
  - b. Abstinence-based treatment;
  - c. Treatment, recovery, or other services provided by states, subdivisions, community health centers; non-for-profit providers; or for-profit providers;
  - d. Treatment by providers that focus on OUD treatment as well as treatment by providers that offer OUD treatment along with treatment for other SUD/MH conditions, co-usage, and/or co-addiction; or
  - e. Evidence-informed residential services programs, as noted below.
3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
4. Improve oversight of Opioid Treatment Programs (OTPs) to assure evidence-based, evidence-informed, or promising practices such as adequate methadone dosing.
5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction and for persons who have experienced an opioid overdose.
6. Support treatment of mental health trauma resulting from the traumatic experiences of the opioid user (e.g., violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (e.g., surviving family members after an overdose

or overdose fatality), and training of health care personnel to identify and address such trauma.

7. Support detoxification (detox) and withdrawal management services for persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, including medical detox, referral to treatment, or connections to other services or supports.
8. Support training on MAT for health care providers, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.
9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.
10. Provide fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
11. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (DATA 2000) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.
12. Support the dissemination of web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service-Opioids web-based training curriculum and motivational interviewing.
13. Support the development and dissemination of new curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service for Medication-Assisted Treatment.

**B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY**

Support people in treatment for and recovery from OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction through evidence-based, evidence-informed, or promising programs or strategies that may include, but are not limited to, the following:

1. Provide the full continuum of care of recovery services for OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, including supportive housing, residential treatment, medical detox services, peer support services and counseling, community navigators, case management, and connections to community-based services.
2. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.

3. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, including supportive housing, recovery housing, housing assistance programs, or training for housing providers.
4. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.
5. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.
6. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.
7. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
8. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to manage the opioid user in the family.
9. Provide training and development of procedures for government staff to appropriately interact and provide social and other services to current and recovering opioid users, including reducing stigma.
10. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.

**C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED (CONNECTIONS TO CARE)**

Provide connections to care for people who have – or are at risk of developing – OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction through evidence-based, evidence-informed, or promising programs or strategies that may include, but are not limited to, the following:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.
2. Support Screening, Brief Intervention and Referral to Treatment (SBIRT) programs to reduce the transition from use to disorders.
3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.

4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Support training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.
6. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, or persons who have experienced an opioid overdose, into community treatment or recovery services through a bridge clinic or similar approach.
7. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction or persons that have experienced an opioid overdose.
8. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
9. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction or to persons who have experienced an opioid overdose.
10. Provide funding for peer navigators, recovery coaches, care coordinators, or care managers that offer assistance to persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction or to persons who have experienced on opioid overdose.
11. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.
12. Develop and support best practices on addressing OUD in the workplace.
13. Support assistance programs for health care providers with OUD.
14. Engage non-profits and the faith community as a system to support outreach for treatment.
15. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.
16. Create or support intake and call centers to facilitate education and access to treatment, prevention, and recovery services for persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.

17. Develop or support a National Treatment Availability Clearinghouse – a multistate/nationally accessible database whereby health care providers can list locations for currently available in-patient and out-patient OUD treatment services that are accessible on a real-time basis by persons who seek treatment.

**D. ADDRESS THE NEEDS OF CRIMINAL-JUSTICE-INVOLVED PERSONS**

Address the needs of persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction who are involved – or are at risk of becoming involved – in the criminal justice system through evidence-based, evidence-informed, or promising programs or strategies that may include, but are not limited to, the following:

1. Support pre-arrest or post-arrest diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, including established strategies such as:
  - a. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);
  - b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;
  - c. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;
  - d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model;
  - e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative;
  - f. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise and to reduce perceived barriers associated with law enforcement 911 responses; or
  - g. County prosecution diversion programs, including diversion officer salary, only for counties with a population of 50,000 or less. Any diversion services in matters involving opioids must include drug testing, monitoring, or treatment.
2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction to evidence-informed treatment, including MAT, and related services.
3. Support treatment and recovery courts for persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, but only if these courts provide referrals to evidence-informed treatment, including MAT.

4. Provide evidence-informed treatment, including MAT, recovery support, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction who are incarcerated in jail or prison.
5. Provide evidence-informed treatment, including MAT, recovery support, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction who are leaving jail or prison have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.
6. Support critical time interventions (CTI), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.
7. Provide training on best practices for addressing the needs of criminal-justice-involved persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, case management, or other services offered in connection with any of the strategies described in this section.

**E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME**

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, and the needs of their families, including babies with neonatal abstinence syndrome, through evidence-based, evidence-informed, or promising programs or strategies that may include, but are not limited to, the following:

1. Support evidence-based, evidence-informed, or promising treatment, including MAT, recovery services and supports, and prevention services for pregnant women – or women who could become pregnant – who have OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.
2. Provide training for obstetricians or other healthcare personnel that work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.
3. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with Neonatal Abstinence Syndrome get referred to appropriate services and receive a plan of safe care.
4. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.

5. Offer enhanced family supports and home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, including but not limited to parent skills training.
6. Support for Children's Services – Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION
----------------------

**F. PREVENT OVER-PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS**

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based, evidence-informed, or promising programs or strategies that may include, but are not limited to, the following:

1. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
2. Academic counter-detailing to educate prescribers on appropriate opioid prescribing.
3. Continuing Medical Education (CME) on appropriate prescribing of opioids.
4. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Support enhancements or improvements to Prescription Drug Monitoring Programs (PDMPs), including but not limited to improvements that:
  - a. Increase the number of prescribers using PDMPs;
  - b. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs or by improving the interface that prescribers use to access PDMP data, or both; or
  - c. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD.
6. Development and implementation of a national PDMP – Fund development of a multistate/national PDMP that permits information sharing while providing appropriate safeguards on sharing of private health information, including but not limited to:
  - a. Integration of PDMP data with electronic health records, overdose episodes, and decision support tools for health care providers relating to OUD.

- b. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database.
7. Increase electronic prescribing to prevent diversion or forgery.
8. Educate Dispensers on appropriate opioid dispensing.

**G. PREVENT MISUSE OF OPIOIDS**

Support efforts to discourage or prevent misuse of opioids through evidence-based, evidence-informed, or promising programs or strategies that may include, but are not limited to, the following:

1. Corrective advertising or affirmative public education campaigns based on evidence.
2. Public education relating to drug disposal.
3. Drug take-back disposal or destruction programs.
4. Fund community anti-drug coalitions that engage in drug prevention efforts.
5. Support community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction – including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA).
6. Engage non-profits and faith-based communities as systems to support prevention.
7. Support evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
8. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
9. Support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.
10. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.
11. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses or other school staff, to

address mental health needs in young people that (when not properly addressed) increase the risk of opioid or other drug misuse.

#### **H. PREVENT OVERDOSE DEATHS AND OTHER HARMS**

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based, evidence-informed, or promising programs or strategies that may include, but are not limited to, the following:

1. Increase availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, opioid users, families and friends of opioid users, schools, community navigators and outreach workers, drug offenders upon release from jail/prison, or other members of the general public.
2. Provision by public health entities of free naloxone to anyone in the community, including but not limited to provision of intra-nasal naloxone in settings where other options are not available or allowed.
3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, and other members of the general public.
4. Enable school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expand, improve, or develop data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.
7. Public education relating to immunity and Good Samaritan laws.
8. Educate first responders regarding the existence and operation of immunity and Good Samaritan laws.
9. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.
10. Support mobile units that offer or provide referrals to treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.
11. Provide training in treatment and recovery strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction.
12. Support screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

**I. FIRST RESPONDERS**

In addition to items C8, D1 through D7, H1, H3, and H8, support the following:

1. Current and future law enforcement expenditures relating to the opioid epidemic.
2. Educate law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.

**J. LEADERSHIP, PLANNING AND COORDINATION**

Support efforts to provide leadership, planning, and coordination to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Community regional planning to identify goals for reducing harms related to the opioid epidemic, to identify areas and populations with the greatest needs for treatment intervention services, or to support other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
2. A government dashboard to track key opioid-related indicators and supports as identified through collaborative community processes.
3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
4. Provide resources to staff government oversight and management of opioid abatement programs.

**K. TRAINING**

In addition to the training referred to in various items above, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.
2. Invest in infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, co-usage, and/or co-addiction, or implement other

strategies to abate the opioid epidemic described in this opioid abatement strategy list (e.g., health care, primary care, pharmacies, PDMPs, etc.).

**L. RESEARCH**

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, and evaluation of programs and strategies described in this opioid abatement strategy list.
2. Research non-opioid treatment of chronic pain.
3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.
4. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
5. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (e.g. Hawaii HOPE and Dakota 24/7).
6. Research on expanded modalities such as prescription methadone that can expand access to MAT.

# Exhibit B

**Exhibit B**

**Allocation to Arizona Counties/Regions**

<b>County/Region</b>	<b>Percentage of LG Share</b>
APACHE	0.690%
COCHISE	1.855%
COCONINO	1.688%
GILA	1.142%
GRAHAM	0.719%
GREENLEE	0.090%
LA PAZ	0.301%
MARICOPA	57.930%
MOHAVE	4.898%
NAVAJO	1.535%
PIMA	18.647%
PINAL	3.836%
SANTA CRUZ	0.370%
YAVAPAI	4.291%
YUMA	2.008%

# Exhibit C

**Exhibit C**

<b>Government Name</b>	<b>County Name</b>	<b>State Name</b>	<b>Government Type</b>	<b>Census ID</b>	<b>Intra-county Allocation (%) Based on Past Spending</b>
<b>APACHE COUNTY</b>					
APACHE COUNTY	Apache County	ARIZONA	County	3100100100000	56.63%
EAGAR TOWN	Apache County	ARIZONA	City	3200100100000	20.66%
SPRINGERVILLE TOWN	Apache County	ARIZONA	City	3200100300000	10.73%
ST JOHNS CITY	Apache County	ARIZONA	City	3200100200000	11.98%
<b>COCHISE COUNTY</b>					
COCHISE COUNTY	Cochise County	ARIZONA	County	3100200200000	63.47%
BENSON CITY	Cochise County	ARIZONA	City	3200200100000	3.52%
BISBEE CITY	Cochise County	ARIZONA	City	3200200200000	3.47%
DOUGLAS CITY	Cochise County	ARIZONA	City	3200200300000	8.44%
HUACHUCA CITY TOWN	Cochise County	ARIZONA	City	3200250100000	0.91%
SIERRA VISTA CITY	Cochise County	ARIZONA	City	3200200400000	16.63%
TOMBSTONE CITY	Cochise County	ARIZONA	City	3200200500000	1.16%
WILLCOX CITY	Cochise County	ARIZONA	City	3200200600000	2.39%
<b>COCONINO COUNTY</b>					
COCONINO COUNTY	Coconino County	ARIZONA	County	3100300300000	71.16%
FLAGSTAFF CITY	Coconino County	ARIZONA	City	3200300100000	18.45%
FREDONIA TOWN	Coconino County	ARIZONA	City	3200300300000	0.31%
PAGE CITY	Coconino County	ARIZONA	City	3200390100000	3.41%
SEDONA CITY	Coconino County	ARIZONA	City	3201340200000	4.09%
TUSAYAN TOWN	Coconino County	ARIZONA	City	3200310100000	0.67%
WILLIAMS CITY	Coconino County	ARIZONA	City	3200300200000	1.92%
<b>GILA COUNTY</b>					
GILA COUNTY	Gila County	ARIZONA	County	3100400400000	68.13%
GLOBE CITY	Gila County	ARIZONA	City	3200400100000	10.23%
HAYDEN TOWN	Gila County	ARIZONA	City	3200450100000	2.31%
MIAMI TOWN	Gila County	ARIZONA	City	3200400200000	2.71%
PAYSON TOWN	Gila County	ARIZONA	City	3200490100000	16.17%
STAR VALLEY TOWN	Gila County	ARIZONA	City	3200410100000	0.35%
WINKELMAN TOWN	Gila County	ARIZONA	City	3200400300000	0.10%
<b>GRAHAM COUNTY</b>					
GRAHAM COUNTY	Graham County	ARIZONA	County	3100500500000	62.26%
PIMA TOWN	Graham County	ARIZONA	City	3200500100000	2.22%

SAFFORD CITY	Graham County	ARIZONA	City	3200500200000	26.83%
THATCHER TOWN	Graham County	ARIZONA	City	3200500300000	8.68%
<b>GREENLEE COUNTY</b>					
GREENLEE COUNTY	Greenlee County	ARIZONA	County	3100600600000	88.29%
CLIFTON TOWN	Greenlee County	ARIZONA	City	3200600100000	11.43%
DUNCAN TOWN	Greenlee County	ARIZONA	City	3200600200000	0.28%
<b>LA PAZ COUNTY</b>					
LA PAZ COUNTY	La Paz County	ARIZONA	County	3101501500000	88.71%
PARKER TOWN	La Paz County	ARIZONA	City	3201560100000	5.19%
QUARTZSITE TOWN	La Paz County	ARIZONA	City	3201540100000	6.11%
<b>MARICOPA COUNTY</b>					
MARICOPA COUNTY	Maricopa County	ARIZONA	County	3100700700000	51.53%
APACHE JUNCTION CITY	Maricopa County	ARIZONA	City	3201160100000	0.38%
AVONDALE CITY	Maricopa County	ARIZONA	City	3200700100000	0.98%
BUCKEYE TOWN	Maricopa County	ARIZONA	City	3200700200000	0.46%
CAREFREE TOWN	Maricopa County	ARIZONA	City	3200740100000	0.04%
CAVE CREEK TOWN	Maricopa County	ARIZONA	City	3200740200000	0.06%
CHANDLER CITY	Maricopa County	ARIZONA	City	3200700300000	2.86%
EL MIRAGE CITY	Maricopa County	ARIZONA	City	3200700400000	0.39%
FOUNTAIN HILLS TOWN	Maricopa County	ARIZONA	City	3200740400000	0.17%
GILA BEND TOWN	Maricopa County	ARIZONA	City	3200770100000	0.03%
GILBERT TOWN	Maricopa County	ARIZONA	City	3200700500000	1.71%
GLENDALE CITY	Maricopa County	ARIZONA	City	3200700600000	2.63%
GOODYEAR CITY	Maricopa County	ARIZONA	City	3200700700000	0.76%
GUADALUPE TOWN	Maricopa County	ARIZONA	City	3200790100000	0.00%
LITCHFIELD PARK CITY	Maricopa County	ARIZONA	City	3200740300000	0.04%
MESA CITY	Maricopa County	ARIZONA	City	3200700800000	6.06%
PARADISE VALLEY TOWN	Maricopa County	ARIZONA	City	3200750100000	0.34%
PEORIA CITY	Maricopa County	ARIZONA	City	3200700900000	1.51%
PHOENIX CITY	Maricopa County	ARIZONA	City	3200701000000	21.28%
QUEEN CREEK TOWN	Maricopa County	ARIZONA	City	3200740500000	0.11%
SCOTTSDALE CITY	Maricopa County	ARIZONA	City	3200701100000	3.99%
SURPRISE CITY	Maricopa County	ARIZONA	City	3200750200000	0.98%
TEMPE CITY	Maricopa County	ARIZONA	City	3200701200000	3.27%
TOLLESON CITY	Maricopa County	ARIZONA	City	3200701300000	0.27%
WICKENBURG TOWN	Maricopa County	ARIZONA	City	3200701400000	0.10%

YOUNGTOWN TOWN	Maricopa County	ARIZONA	City	3200750300000	0.05%
<b>MOHAVE COUNTY</b>					
MOHAVE COUNTY	Mohave County	ARIZONA	County	3100800800000	62.51%
BULLHEAD CITY CITY	Mohave County	ARIZONA	City	3200840100000	13.10%
COLORADO CITY TOWN	Mohave County	ARIZONA	City	3200840200000	0.61%
KINGMAN CITY	Mohave County	ARIZONA	City	3200800100000	9.91%
LAKE HAVASU CITY CITY	Mohave County	ARIZONA	City	3200860100000	13.87%
<b>NAVAJO COUNTY</b>					
NAVAJO COUNTY	Navajo County	ARIZONA	County	3100900900000	70.29%
HOLBROOK CITY	Navajo County	ARIZONA	City	3200900100000	3.75%
PINETOP-LAKESIDE TOWN	Navajo County	ARIZONA	City	3200940100000	4.75%
SHOW LOW CITY	Navajo County	ARIZONA	City	3200900200000	9.39%
SNOWFLAKE TOWN	Navajo County	ARIZONA	City	3200900300000	2.94%
TAYLOR TOWN	Navajo County	ARIZONA	City	3200980100000	2.68%
WINSLOW CITY	Navajo County	ARIZONA	City	3200900400000	6.19%
<b>PIMA COUNTY</b>					
PIMA COUNTY	Pima County	ARIZONA	County	3101001000000	72.19%
MARANA TOWN	Pima County	ARIZONA	City	3201090200000	2.06%
ORO VALLEY TOWN	Pima County	ARIZONA	City	3201090100000	1.72%
SAHUARITA TOWN	Pima County	ARIZONA	City	3201020100000	0.81%
SOUTH TUCSON CITY	Pima County	ARIZONA	City	3201000100000	0.31%
TUCSON CITY	Pima County	ARIZONA	City	3201000200000	22.91%
<b>PINAL COUNTY</b>					
PINAL COUNTY	Pinal County	ARIZONA	County	3101101100000	53.01%
CASA GRANDE CITY	Pinal County	ARIZONA	City	3201100100000	5.54%
COOLIDGE CITY	Pinal County	ARIZONA	City	3201100200000	1.68%
ELOY CITY	Pinal County	ARIZONA	City	3201100300000	34.98%
FLORENCE TOWN	Pinal County	ARIZONA	City	3201100400000	1.19%
KEARNY TOWN	Pinal County	ARIZONA	City	3201150100000	0.28%
MAMMOTH TOWN	Pinal County	ARIZONA	City	3201150200000	0.16%
MARICOPA CITY	Pinal County	ARIZONA	City	3201110100000	2.73%
SUPERIOR TOWN	Pinal County	ARIZONA	City	3201190100000	0.44%
<b>SANTA CRUZ COUNTY</b>					
SANTA CRUZ COUNTY	Santa Cruz County	ARIZONA	County	3101201200000	76.78%
NOGALES CITY	Santa Cruz County	ARIZONA	City	3201200100000	22.55%
PATAGONIA TOWN	Santa Cruz County	ARIZONA	City	3201200200000	0.67%

**YAVAPAI COUNTY**

YAVAPAI COUNTY	Yavapai County	ARIZONA	County	3101301300000	69.31%
CAMP VERDE TOWN	Yavapai County	ARIZONA	City	3201340100000	0.97%
CHINO VALLEY TOWN	Yavapai County	ARIZONA	City	3201380100000	0.68%
CLARKDALE TOWN	Yavapai County	ARIZONA	City	3201350100000	0.72%
COTTONWOOD CITY	Yavapai County	ARIZONA	City	3201350200000	4.89%
DEWEY-HUMBOLDT TOWN	Yavapai County	ARIZONA	City	3201310100000	1.54%
JEROME TOWN	Yavapai County	ARIZONA	City	3201300100000	0.03%
PRESCOTT CITY	Yavapai County	ARIZONA	City	3201300200000	13.79%
PRESCOTT VALLEY TOWN	Yavapai County	ARIZONA	City	3201360100000	8.09%

**YUMA COUNTY**

YUMA COUNTY	Yuma County	ARIZONA	County	3101401400000	66.03%
SAN LUIS CITY	Yuma County	ARIZONA	City	3201460100000	4.80%
SOMERTON CITY	Yuma County	ARIZONA	City	3201400200000	2.24%
WELLTON TOWN	Yuma County	ARIZONA	City	3201480100000	0.61%
YUMA CITY	Yuma County	ARIZONA	City	3201400300000	26.32%

# Exhibit D

<b>Exhibit D</b>	
<b>Percent Participation of Cities</b>	<b>Award</b>
0	0%
5	2%
10	4%
15	6%
20	8%
25	10%
30	12%
35	14%
40	16%
45	18%
50	20%
55	22%
60	24%
65	26%
70	28%
75	30%
80	32%
85	34%
90	36%
95	38%
100	40%



## AGENDA ITEM REVIEW FORM

### Work Session

2. F.

**Meeting Date:** 12/02/2020

**Department Head:** Kay Macuil, City Attorney, Attorney's Office

**Submitted By:** Kay Macuil, City Attorney, Attorney's Office

**Action Requested:** Discussion Item - No Action to be Taken

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### ITEM:

Discussion and possible directions to staff on any and all matters regarding Ordinances No. 403, 404, and 405 to regulate aspects of recreational marijuana, as permitted under Proposition 207 which the voters passed on November 3, 2020. **(Glenn J. Gimbut, Assistant City Attorney)**

### SUMMARY:

Staff seeks direction as we develop three (3) ordinances regarding recreational marijuana within the confines of voter-approved Proposition No. 207. This is an update from the Work Session held on November 4, 2020.

The Ordinances are not yet in final form, but staff is recommending the following Ordinances:

Ordinance No. 403, General Regulation,  
Ordinance No. 404, Mirror Ordinance 403, but is part of the Zoning Code, and  
Ordinance No. 405, Adopting the 2018 Fire Code, which has safety regulations for certain aspects of the production of marijuana products. Ordinance No. 405 also introduces a criminal misdemeanor penalty for violation of the fire safety codes.

### RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

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### Fiscal Impact

**IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:** No

**CITY/STATE/FEDERAL FUNDS:** N/A

**TOTAL:** N/A

**BUDGETED AMOUNT:** N/A

**AVAILABLE AMOUNT TO TRANSFER:** N/A

**ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:** N/A

**FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):**

There is no fiscal impact for this discussion item.

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### Attachments

Ordinance 403 General Regs  
Ordinance 404 Zoning  
Ordinance 405 2018 Fire Code  
Current Fire Code Adopting Ordinance  
Prop 207 Text  
League Model Ordinance  
Nov 4 Agenda Item  
Memorandum - Proposition 207

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**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING THE CITY CODE OF SAN LUIS, ARIZONA BY ADOPTING A NEW ARTICLE XIII, CHAPTER 133 RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; REGULATING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES; ESTABLISHING REGULATIONS FOR PERSONAL USE AT AN INDIVIDUAL'S PRIMARY RESIDENCE; AUTHORIZING RETAIL SALES FROM MARIJUANA AND MARIJUANA PRODUCTS; IMPOSING FEES; SETTING FORTH VIOLATIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND PROVIDING FOR SEVERABILITY .

WHEREAS, marijuana contains tetrahydrocannabinol ("THC"), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in the City of San Luis ("City") according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as "Smart and Safe Arizona Act" has been certified as Proposition 207 and placed on the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants;

WHEREAS, the City Council finds that Proposition 207 authorizes marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other City

departments to respond to violations of state and local laws, including building, electrical and fire codes;

WHEREAS, the City seeks to protect public health, safety, and welfare by enacting reasonable zoning regulations to limit the number of marijuana establishments and prohibit marijuana testing facilities in the City;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of San Luis, Arizona, as follows:

Section I. In General.

The Code of Ordinances of San Luis, Arizona, is hereby amended by adding in Title XIII, General Offenses, a new Chapter 133, Recreational Marijuana to read as follows:

**Chapter 133. Recreational Marijuana**

**Sec. 133.01 Purpose**

**Sec. 133.02 Definitions**

**Sec. 133.03 Marijuana Prohibited on Public Property**

**Sec. 133.04 Marijuana Establishment Prohibited; Dual Licensee Exception.**

**Sec. 133.05 Marijuana Testing Facility Prohibited**

**Sec. 133.06 Individual's Primary Residence for Personal Use**

**Sec. 133.07 Retail Sales from Marijuana and Marijuana Products**

**Sec. 133.08 Fees**

**Sec. 133.09 Violations**

**Sec. 133.10 Enforcement; Penalties**

**Sec. 133.01 Purpose.**

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the City enacts reasonable regulations and requires compliance with zoning laws for the retail sale, cultivation and manufacturing of marijuana or marijuana products in a marijuana establishment, the cultivation, processing and manufacturing of marijuana in a primary residence, and in the prohibition of marijuana testing facilities. Nothing in this article is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

**Sec. 133.02 Definitions.**

The below words and phrases, wherever used in this article, shall be construed as defined in this section unless, clearly from the context, a

different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. “*Chemical Extraction*” means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
- B. “*Chemical Synthesis*” means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
- C. “*Consume*,” “*Consuming*,” and “*Consumption*” mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.
- D. “*Consumer*” means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- E. “*Cultivate*” and “*Cultivation*” mean to propagate, breed, grow, prepare and package marijuana.
- F. “*Deliver*” and “*Delivery*” mean the transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.
- G. “*Department*” means the State of Arizona Department of Health Services or its successor agency.
- H. “*Dual Licensee*” means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- I. “*Enclosed Area*” means a building, greenhouse, or other structure that has:
  - 1. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
  - 2. Is secure against unauthorized entry;
  - 3. Has a foundation, slab or equivalent base to which the floor is securely attached; and
  - 4. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped

with a lock or other security device that prevents access by minors.

5. Meets all requirements and regulations of the most currently adopted fire code of the City.

J. “*Extraction*” means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.

K. “*Manufacture*” and “*Manufacturing*” mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

L. “*Marijuana*”

1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.

2. Includes cannabis as defined in A.R.S. § 13-3401.

3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

M. “*Marijuana Concentrate*?”

1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.

2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

N. “*Marijuana Establishment*” means an entity licensed by the Department to operate all of the following:

1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.

2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and

marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

- O. “*Marijuana Products*” means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.
- P. “*Marijuana Testing Facility*” means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.
- Q. “*Nonprofit Medical Marijuana Dispensary*” means a nonprofit entity as defined in A.R.S. § 36-2801(12).
- R. “*Open Space*” means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.
- S. “*Person*” means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- T. “*Process*” and “*Processing*” means to harvest, dry, cure, trim or separate parts of the marijuana plant.
- U. “*Public Place*” has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
- V. “*Smoke*” means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

**Sec. 133.03 Marijuana Prohibited on Public Property.**

- A. The use, sale, cultivation, manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by City.
- B. It is unlawful for an individual to smoke marijuana in a public place or open space in City.

**Sec. 133.04 Marijuana Establishment Prohibited; Dual Licensee Exception.**

- A. To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in City, except for a dual licensee who operates both a nonprofit medical marijuana dispensary and

marijuana establishment cooperatively in a shared location and has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

**Sec. 133.05 Marijuana Testing Facility Prohibited.**

- A. To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in City.

**Sec. 133.06 INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE**

- A. To the fullest extent allowable by law, marijuana possession, consumption, processing, manufacturing, transportation, and cultivation is permitted in a residential zoning district in [City/Town] and is subject to the following conditions and limitation:
  - 1. It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.
  - 2. It shall be unlawful for two or more individuals who are at least twenty-one (21) year of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.
  - 3. Except as provided by A.R.S. § 36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within the [City/Town] limits.
  - 4. Individuals shall not process or manufacture marijuana by means of any liquid or gas that has a flashpoint below one hundred twenty (120) degrees Fahrenheit. Any processing or manufacturing must be done in full compliance with the most currently adopted fire code of the City.
  - 5. Kitchen, bathrooms, and primary bedroom(s) shall be used for their intended use and shall not be used primarily for residential marijuana processing, manufacturing, or cultivation.
  - 6. A residence shall not emit dust, fumes, vapors, or odors into the environment and individuals shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of the most currently adopted building codes of City.

7. Cultivation shall be limited to a closet, room, greenhouse, or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.
8. Cultivation shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft, or other optical aids. Cultivation shall meet the requirements of the most currently adopted building codes of City.

**Sec. 133.07 Retail Sales from Marijuana and Marijuana Products.**

To the fullest extent allowable by law, the sale of marijuana and marijuana products is authorized within the City from a marijuana establishment or a nonprofit medical marijuana dispensary and is tangible personal property as defined in A.R.S. § 42-5001 and subject to the transaction privilege tax in the retail classification and use tax.

**Sec. 133.08 Fees.**

The fee for a permit for a marijuana establishment or a nonprofit medical marijuana dispensary shall be established by resolution of the City Council

**Sec. 133.09 Violations.**

- A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.
- B. It is a violation of this article for any person to provide false information on any permit application.
- C. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

**Sec. 133.10 Enforcement; Penalties.**

- A. Violations of this article are in addition to any other violation enumerated within the City ordinances or the City Code and in no way limits the penalties, actions or abatement procedures

which may be taken by the City for any violation of this chapter, which is also a violation of any other ordinance or Code provision of the City or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.

- B. Civil Penalty: Violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by pursuant to §10.99 of the City Code.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Recitals.

The recitals above are fully incorporated in this Ordinance by reference.

Section V. Zoning Considerations.

In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the City Council has considered the individual property rights and personal liberties of the residents of the City before adopting this ordinance.

Section VI. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section VII. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and City Council of the City of San Luis, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 202\_.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 202\_.

\_\_\_\_\_  
Gerardo Sanchez, Mayor

ATTEST:

\_\_\_\_\_  
Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Kay Marion Macuil, City Attorney

**ORDINANCE NO. 404**

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING THE CITY CODE OF SAN LUIS, ARIZONA BY AMENDING SECTION 152.013 DEFINITIONS AND SECTION 152.225 MEDICAL MARIJUANA TO PROVIDE FOR THE REGULATION OF MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES; REPEALING CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY .

WHEREAS, marijuana contains tetrahydrocannabinol (“THC”), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in municipalities according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as “Smart and Safe Arizona Act” has been certified as Proposition 207 and placed on the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants;

WHEREAS, the City Council finds that Proposition 207 authorizes marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other City departments to respond to violations of state and local laws, including building, electrical and fire codes;

WHEREAS, the City seeks to protect public health, safety, and welfare by enacting reasonable zoning regulations to limit the number of marijuana establishments and prohibit marijuana testing facilities in the City;

WHEREAS, the City of San Luis Zoning Ordinance presently provides for regulation of medical marijuana dispensaries and medical marijuana off-site cultivation locations;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of San Luis, Arizona, as follows:

Section I. The Code of Ordinances of San Luis, Arizona, is hereby amended by adding in adding to §152.013 Definitions the following definitions:

- A. “*Chemical Extraction*” means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
- B. “*Chemical Synthesis*” means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
- C. “*Consume,*” “*Consuming,*” and “*Consumption*” mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.
- D. “*Consumer*” means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- E. “*Cultivate*” and “*Cultivation*” mean to propagate, breed, grow, prepare and package marijuana.
- F. “*Deliver*” and “*Delivery*” mean the transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.
- G. “*Department*” means the State of Arizona Department of Health Services or its successor agency.
- H. “*Dual Licensee*” means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- I. “*Enclosed Area*” means a building, greenhouse, or other structure that has:
  - 1. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
  - 2. Is secure against unauthorized entry;
  - 3. Has a foundation, slab or equivalent base to which the floor is securely attached; and

4. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped with a lock or other security device that prevents access by minors.
  5. Meets the standards of adopted building regulations.
- J. “*Extraction*” means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
- K. “*Manufacture*” and “*Manufacturing*” mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- L. “*Marijuana*”
1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
  2. Includes cannabis as defined in A.R.S. § 13-3401.
  3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.
- M. “*Marijuana Concentrate*.”
1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
  2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.
- N. “*Marijuana Establishment*” means an entity licensed by the Department to operate all of the following:
1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
  2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture

marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

O. “*Marijuana Products*” means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

P. “*Marijuana Testing Facility*” means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

Q. “*Nonprofit Medical Marijuana Dispensary*” or “*Medical Marijuana Dispensary*” means a nonprofit entity as defined in A.R.S. § 36-2801(12).

R. “*Open Space*” means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

S. “*Person*” means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

T. “*Process*” and “*Processing*” means to harvest, dry, cure, trim or separate parts of the marijuana plant.

U. “*Public Place*” has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.

V. “*Smoke*” means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

Section II. §152.225 Medical Marijuana Uses is hereby amended by changing the title and adding subsections §152.225 (G) and §152.225 (H) to read as follows:

§152.225 Medical Marijuana and Marijuana Establishment Uses

(G) To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in City, except for a dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location and has not forfeited or terminated the nonprofit medical marijuana dispensary registration from

the Department. Any cultivation by a marijuana establishment shall be only in conjunction with a medical marijuana dispensary offsite cultivation location and in compliance with those requirements.

(H) To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in City.

Section III. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section IV. Recitals.

The recitals above are fully incorporated in this Ordinance by reference.

Section V. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section VI. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the City Council of the City of San Luis, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 202\_.

\_\_\_\_\_  
Gerardo Sanchez, Mayor

ATTEST:

\_\_\_\_\_  
Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Kay Macuil, City Attorney

**NO. 405**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING TITLE XV OF THE SAN LUIS CITY CODE, CHAPTER 150, ADOPTING BY REFERANCE *NFPA 1 FIRE CODE 2018*, AND CITY OF SAN LUIS AMENDMENTS; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY AND DECLARING AN EMERGENCY**

**WHEREAS**, on May 25, 2016, with Ordinance No. 353, the City Council adopted the 2012 Edition of the NFPA 1 (National Fire Protection Association), Uniform Fire Code with amendments; and

**WHEREAS**, the City of San Luis is desirous of adopting the 2018 Edition of the NFPA 1, Fire Code, to keep current with the code cycle and amendments to reflect modern technology, materials and techniques; and

**WHEREAS**, Arizona Proposition 207 regarding Recreational Marijuana passed in November of 2020 requiring the city to implement safety regulations regarding certain hazardous manufacturing methods of marijuana products which are addressed in the 2018 Edition of the NFPA 1, Fire Code; and

**WHEREAS**, due to the nature of the supply chain, it was not possible to get the requisite number of publications of the NFPA 1 (National Fire Protection Association), Uniform Fire Code delivered between the time of the passage of Proposition 207 in November and the month of December, this Ordinance must be brought before City Council in January at the earliest; and

**WHEREAS**, the 2018 fire code has been recommended for adoption by the Planning and Zoning Commission, based on their actions taken at their meeting on January 12, 2021.

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the City of San Luis, Arizona as follows:

**Section 1:** That the City of San Luis City Code, Title XV, Chapter 150, Sections 150.008(A),(B) and (C) be replaced in their entirety by Section 150.008 to read as follows:

**Section 150.008 ADOPTION OF NFPA 1, FIRE CODE, 2018.**

That certain document known as “NFPA 1, Fire Code 2018” including Annexes “A”, “B”, “D”, “E”, and “G” published by the National Fire Protection Association, together with that certain document entitled *City of San Luis Amendments to the NFPA 1, Fire Code 2018*, three (3) copies both of which are on file in the office of the City Clerk, which documents are hereby made a public record of the city, are hereby referred to, adopted and made a part of this Ordinance as if fully set out in this code.

**Section 2:** Any person found guilty of violating any provision of this code shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

**Section 3:** In the event of a conflict between the provisions of this ordinance and any other ordinance, resolution, order, regulation, or policy of the City of San Luis, the conflicting provisions are repealed, superseded, and replaced, and the provisions of this ordinance shall govern.

**Section 4:** Whereas it is necessary for the preservation of the peace, health and safety of the City of San Luis, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of the posting of this ordinance.

Passed, approved and adopted by the Mayor and Council of the City of San Luis, Arizona this \_\_\_\_\_ day of January, 2021.

\_\_\_\_\_  
Gerardo Sanchez, Mayor

ATTEST

APPROVED AS TO FORM:

\_\_\_\_\_  
Sonia Cornelio, City Clerk

\_\_\_\_\_  
Kay Marion Macuil, City Attorney

DRAFT



# Ordinance

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

NO. 353

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING TITLE XV OF THE SAN LUIS CITY CODE, CHAPTER 150, ADOPTING BY REFERENCE NFPA 1 FIRE CODE 2012 (NATIONAL FIRE PROTECTION ASSOCIATION 1 FIRE CODE 2012), INCLUDING ANNEXES A, B, D, E, AND G, AND THE AMENDMENTS AND PROVIDING A PENALTY FOR VIOLATIONS THEREOF**

**WHEREAS**, on April 04, 2010, the City Council adopted the 2003 Edition of the NFPA 1 (National Fire Protection Association), Uniform Fire Code, with amendments;

**WHEREAS**, the City of San Luis is desirous of adopting the 2012 Edition of the NFPA 1, Fire Code, to keep current with the code cycle and amendments to reflect modern technology, materials and techniques; and

**WHEREAS**, the new fire code has been recommended for adoption by the Building Appeals Board, based on their actions taken at their meeting on April 29, 2016.

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the City of San Luis, Arizona as follows:

**SECTION 1:** That the City of San Luis City Code, Title XV, Chapter 150, Section 150.008, be amended to read as follows:

**Section 150.008 ADOPTION OF NFPA 1, FIRE CODE, 2012.**

That certain document known as "NFPA 1, Fire Code 2012" including Annexes "A", "B", "D", "E", and "G" published by the National Fire Protection Association three (3) copies of which are on file in the office of the City Clerk, together with this Ordinance No. 353 which lists certain amendments, which documents were made a public record by Resolution No. 116 of the City of San Luis, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance the provisions thereof to become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**SECTION 2:** That the City of San Luis City Code, Title XV, Chapter 150, be amended to add Section 150.008(A), to read as follows:

This edition of NFPA 1, the Fire Code, adopted by the provision of this chapter is hereby amended, altered, and changed in the following respects:

NOTE: The section numbers that follow are the reference sections found in NFPA-1.

**1.1.2 Title. Is hereby amended as follows:**

These regulations shall be known as the 2012 Fire Code with City of San Luis Amendments, hereinafter referred to as "this code."

**1.3.1 Application. Is hereby amended by the addition of the following sentence:**

All construction and/or alterations of a structure, which require a building permit, shall comply with the current building code adopted by the City of San Luis.

**1.3.2 Reference Standards. Is hereby amended as follows:**

**1.3.2.1.1**

When reference is made to the Building Code, it shall mean the current building code adopted by the City of San Luis with amendments by the City of San Luis.

**1.3.3.1 Conflicts. Is hereby amended by the addition of the following sentence:**

The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

**1.3.3.2 Conflicts. Is hereby amended by the addition of the following sentence:**

Where, in a specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

**1.3.6.3 Buildings. Is hereby amended as follows:**

Repairs, renovations, alterations, reconstruction, change of occupancy, and additions to buildings shall conform to the adopted building code of the jurisdiction having authority, except for repairs, renovation, alteration and reconstruction of fire sprinkler and fire alarms. Those activities shall be regulated by the current fire and building codes adopted by this ordinance.

**1.7.11 Plans and Specifications. Is hereby amended by the addition of the following sentence:**

All plans, specifications, calculations, and design criteria shall be stamped by a registrant licensed to practice in the state of Arizona. Calculation sheets for fire sprinkler systems shall be made a permanent part of the submitted design drawings.

**1.10.1 Fire Code Board of Appeals. Is hereby amended by striking the entire paragraph and replacing it with the following:**

Whenever reference is made to the "Board of Appeals" in "NFPA 1 – The Fire Code 2012", it shall mean the City of San Luis "Fire Appeals Board" and will follow rules,

guidelines and terms of service as identified within the criteria for establishing the “Fire Appeals Board”.

**1.10.1.1.4 Membership. Is hereby amended by striking the entire sentence.**

**1.10.1.1.5 Membership. Is hereby amended by striking the entire paragraph.**

**1.10.1.1.5.3 Membership. Is hereby amended by striking the entire sentence.**

**1.10.3 Authority of the Board of Appeals. Is hereby amended by striking sections 1.10.3.3 and 1.10.6.2.**

## **Chapter 2 Reference Publications**

### **2.2 NFPA Publications**

The reference to the 2012 Edition of the *NFPA 5000, Building Construction and Safety Code* shall be changed to name the current building code adopted by the City of San Luis.

## **Chapter 3 Definitions. Is hereby amended by addition of the following:**

### **3.3.01 Chief**

Whenever the word Chief, Fire Chief or Chief of the Fire Department is used in NFPA 1, Fire Code, 2012 Edition shall be construed to mean the Fire Chief or the authorized representative of the City of San Luis Fire Department.

### **3.3.02 City**

Whenever the word City, Municipality, Jurisdiction or Authority having Jurisdiction (AHJ) is used in NFPA 1, Fire Code, 2012 Edition shall be construed to mean the City of San Luis, Arizona.

### **3.3.03 Corporate Counsel**

Whenever the word “Corporate Counsel” or “City Attorney” used in NFPA 1, Fire Code, 2012 Edition shall be construed to mean the Attorney of the City of San Luis, Arizona.

### **3.3.165.1 Combustible Liquid. Is hereby amended by addition of the following paragraph:**

Note: Storage and use of combustible liquids with a flash point under 141 degrees F in outdoor areas and areas without climatic controls will be treated as Class I-C flammable liquids throughout the code.

## **Chapter 4 General Requirements**

### **4.5.7 Changes of Occupancy. In order to determine when a change of occupancy will initiate a fire sprinkler retrofit, the following will be added to sub-section (1):**

(1) For the purpose of determining if a change of occupancy will be a more hazardous operation requiring the retrofit of a fire sprinkler system, the “Means of Egress Hazard Categories Table” (for life safety) in the edition of the International Existing Building Code currently adopted by the City of San Luis will be referenced. See section 10.3.4.

## **Chapter 10 General Fire Safety**

### **10.1.3 Building Code. Is hereby amended by the addition of the following sentence:**

The design and construction of new structures shall comply with the current building code adopted by the City of San Luis, and any alterations, additions, changes in use or changes in structures required by this code, which are within the scope of the current building code adopted by the City of San Luis, shall be made in accordance therewith.

### **10.3.4.01 Change of Use or Occupancy Classification. Is hereby amended by the addition of the following paragraph:**

No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the current building code adopted by the City of San Luis. Subject to the approval of the fire code official, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for the purposes in other groups without conforming to all the requirements of this code and the current building code adopted by the City of San Luis for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

### **10.12.1.1 Premises Identification. Is hereby amended by addition of the following sentence:**

NFPA 704, figure 9.1(c) shall be used to determine the size of address lettering and numbering.

## **Chapter 11 Building Services**

### **11.3.6.1 Requirements for Standardized Fire Service Keys. Is hereby amended by addition of the following exception:**

Exception: The owner shall be permitted to place the building's non-standardized fire service elevator keys in a key box installed in accordance with section 11.3.6.5.1.1-7.

**11.12.1 Photovoltaic Systems. Is hereby amended by addition of the following reference:**

New photovoltaic systems shall be installed in accordance with section 11.10, section 11.12, NFPA 70, and the current building code adopted by the City of San Luis.

**Chapter 12 Features of Fire Protection**

**12.5.1 Interior Finish. Is hereby amended by addition of the following reference:**

Interior finish in buildings and structures shall meet the requirements of *NFPA 101*, this code, and the current building code adopted by the City of San Luis.

**Chapter 13 Fire Protection Systems**

**13.1.4.1 Fire Department Connection. Is hereby amended by the addition of the following sentence:**

The Fire Department Connection shall be remotely located from the building in a location approved by the AHJ.

**13.3 Automatic Sprinklers**

**13.3.2.1 to 13.3.2.29 Where Required. Is hereby amended by the addition of the following to read as follows:**

- A. An automatic sprinkler system shall be installed throughout all levels of all buildings here after constructed, except for Group U and R-3 occupancies.
  - a. Exception 1: Buildings housing a group A-1, A-2, A-3, A-4, A-5, B, E, F-2, M, or S-2 occupancy having square footage less than five hundred (500) square feet.
    - i. Note: For the purposes of this article, fire resistive fire walls will not be considered a barrier creating a separate building.
  - b. Exception 2: Temporary use of modular or factory built structures shall not be required to provide an automatic fire sprinkler system, provided that the use of the structure and the "Certificate of Occupancy" is limited to one year from the time of set up to removal.
  - c. Exception 3: Free standing open canopy structure. When automatic fire sprinklers are not required by the current building code adopted by the City of San Luis, and when the structure meets each of the following criteria, fire sprinklers will not be required:
    - i. The structure shall not exceed 10,000 square feet.
    - ii. The entire covered area is open on all sides void of interior walls or partitions.
    - iii. Setbacks from property lines or other structures are in accordance with the current building code adopted by the City of San Luis.
    - iv. The building use is not classified as hazardous, or mercantile occupancy.

- v. Portable fire extinguishers are installed in accordance with NFPA 10.
- vi. Open flames and devices emitting flames or creating a glow capable of igniting combustible materials shall not be used in or adjacent to the structure.
- vii. Flammable or combustible liquids and LP-Gas shall not be stored in or adjacent to the structure, except for automobile fueling islands.
- viii. An approved water supply capable of supplying the required fire flow shall be provided.

Note: Any changes to the free standing open canopy structure or its use may result in the loss of this exception and may require a retrofit of an automatic fire sprinkler system.

- B. Retrofit of fire sprinklers to existing structures. An existing building that undergoes a “change of occupancy” as outlined in section 4.5.7, whereby the new occupancy is deemed a greater hazard than the previous occupancy, the building will be treated as a new building and may require the installation of fire sprinklers. The “Means of Egress Hazard Categories Table” (for life safety) in the edition of the International Existing Building Code currently adopted by the City of San Luis shall be referenced to determine occupancy hazard level.
- C. Any building except Group U and R-3 occupancies, which undergoes a total summation renovation in excess of 50% of value as assessed by the building code, shall meet the requirements of this section.
- D. Any building that increases in size by a total summation of 50% as a result of one or more expansions will require a retrofit of an automatic fire sprinkler system.

**13.3.2.20.1 One and Two-Family Dwellings. Is hereby amended by deletion.**

**Chapter 16 Safeguarding During Construction, Alteration, and Demolition Operations.**

**16.1.1 General Requirements. Is hereby amended by addition of the following reference:**

Structures undergoing construction, alteration, or demolition operations, including those in underground locations, shall comply with NFPA 241, *Standard for Safeguarding Construction, Alteration, and Demolition Operations*, this chapter, and the current building code adopted by the City of San Luis.

**Chapter 18 Fire Department Access and Water Supply.**

**18.2.3.1.1 Required Access. Is hereby amended by the addition of the following sentence:**

When required, the apparatus access road shall be located no closer than fifty (50) feet from any structure unless authorized by the Chief.

**18.5.1 Fire Hydrants. Is hereby amended by the addition of the following paragraph:**

The average spacing in residential areas shall be five hundred (500) feet or as otherwise approved by the Fire Chief and/or the Chief's designee. For educational, industrial, commercial, institutional, mercantile, multi-family dwellings and storage areas, the average fire hydrant spacing shall be three hundred feet (300') or as otherwise approved by the Fire Chief and/or the Chief's designee.

**Chapter 66 Flammable and Combustible Liquids**

**66.21.3 General Requirements. Is hereby amended by the addition of the following sentence:**

Any permanent tank installation over 500 gallons will require that the foundation and anchorage be engineered by a design professional registered in the State of Arizona.

**Chapter 69 Liquefied Petroleum Gases and Liquefied Natural Gasses**

**69.1 General Provisions. Is hereby amended by the addition of the following sentence:**

Any permanent tank installation over 500 gallons will require that the foundation and anchorage be engineered by a design professional registered in the State of Arizona.

**69.4.2 Operational Safety. Is hereby amended by the addition of the following paragraph:**

Dispensing, filling, and evacuating of LP gases shall be performed by a qualified person. In service training for qualified persons shall be conducted annually and current records of such training shall be maintained on site.

**SECTION 3:** That the City of San Luis City Code, Title XV, Chapter 150, be amended to add Section 150.008(B), to read as follows:

**Section 150.008(B). Areas Where Certain Materials are Prohibited:**

(A) *Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.* For volumes exceeding the maximum allowable quantities (as outlined in the Fire Code) the location in which storage of explosives and blasting agents is prohibited, are hereby established as follows:

- (1) In all areas within the corporate limits of the city, other than those defined and designated as "light industrial" or "heavy industrial" districts by the zoning ordinance of the city, such storage is prohibited.

(2) Upon presentation of plans conforming to design criteria as established in the Fire Code and its referenced standards, the Authority Having Jurisdiction, as defined by the Fire Code, may approve the location of such storage, in areas where such storage is not prohibited by subdivision (1) above.

(B) *Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited.* The limits, referred to in the Fire Code and its referenced standards, establishing districts in which the aboveground storage of flammable or combustible liquids is restricted are hereby established as follows:

(1) In all areas within the corporate limits of the city other than those defined and designated as "light industrial" or "heavy industrial" districts by the zoning ordinance of this city, the storage of flammable or combustible liquids in aboveground tanks is prohibited.

(2) Exception 1: Vaulted tanks up to 1,000 gallons which provide two-hour fire protection may be used in prohibited areas.

(3) Exception 2: Aboveground tanks up to 500 gallons in capacity may be used in commercial districts when tanks meet all setbacks, containment, and are screened from view. Screening shall meet standards set forth in the zoning ordinance.

**SECTION 4:** That the City of San Luis City Code, Title XV, Chapter 150, be amended to add Section 150.008(C), to read as follows:

**Section 150.008(C). Establishment and Duties of the Prevention Division of City of San Luis Fire Department:**

(A) The City of San Luis Fire Code shall be enforced by the Fire Prevention Division in the fire department of the City of San Luis, which is hereby established and which shall be operated under the supervision of the Chief of the San Luis Fire Department.

**SECTION 5:** That the City of San Luis City Code, Title XV, Chapter 150, be amended to add Section 150.008(D), to read as follows:

**Section 150.008(D). Appeals:**

Whenever the Chief of the City of San Luis Fire Department shall disapprove an application or refuses to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Chief of the Fire Department to the Fire Appeals Board, as established and referred to in the current adopted fire code for the City of San Luis, within 30 days from the date of the decision.

**SECTION 6:** Any person found guilty of violating any provision of this code shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

**SECTION 7:** San Luis City Code Section 150.008 and all ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed, effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**SECTION 8:** The repeal of the San Luis City Code Section 150.008, effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016, does not affect the rights and duties that matured or penalties that were incurred and proceedings that were begun before the effective date of the repeal.

**SECTION 9:** If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Passed and Adopted by the Mayor and Council of the City of San Luis, Arizona  
this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

APPROVED:

\_\_\_\_\_  
Gerardo Sanchez  
Mayor

ATTESTED:

\_\_\_\_\_  
Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Kay Marion Macuil, City Attorney

**OFFICIAL TITLE**  
AN INITIATIVE MEASURE

AMENDING SECTION 36-2817, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.2; AMENDING TITLE 42, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 10; AMENDING TITLE 43, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-108; RELATING TO THE RESPONSIBLE ADULT USE, REGULATION AND TAXATION OF MARIJUANA.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

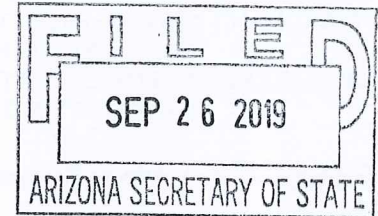
**Section 1.** Short title

This act may be cited as the "Smart and Safe Arizona Act".

**Section 2.** Findings and declaration of purpose

The People of the State of Arizona find and declare as follows:

1. In the interest of the efficient use of law enforcement resources, enhancing revenue for public purposes, and individual freedom, the responsible adult use of marijuana should be legal for persons twenty-one years of age or older, subject to state regulation, taxation, and local ordinance.
2. In the interest of the health and public safety of our citizenry, the legal adult use of marijuana should be regulated so that:
  - (a) Legitimate, taxpaying business people, and not criminal actors, conduct sales of marijuana.
  - (b) Marijuana sold in this state is tested, labeled and subject to additional regulations to ensure that consumers are informed and protected.
  - (c) Employers retain their rights to maintain drug-and-alcohol-free places of employment.
  - (d) The health and safety of employees in the marijuana industry are protected.
  - (e) Individuals must show proof of age before purchasing marijuana.
  - (f) Selling, transferring, or providing marijuana to minors and other individuals under the age of twenty-one remains illegal.
  - (g) Driving, flying or boating while impaired to the slightest degree by marijuana remains illegal.



**Section 3.** Section 36-2817, Arizona Revised Statutes, is amended to read:

**36-2817. Medical marijuana fund; private donations**

- A. The medical marijuana fund is established consisting of fees collected, civil penalties imposed and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.
- B. The director of the department may accept and spend private grants, gifts, donations, contributions and devises to assist in carrying out the provisions of this chapter.
- C. Monies in the medical marijuana fund do not revert to the state general fund at the end of a fiscal year.
- D. ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DIRECTOR OF THE DEPARTMENT SHALL TRANSFER THE FOLLOWING SUMS FROM THE MEDICAL MARIJUANA FUND FOR THE FOLLOWING PURPOSES:
  1. \$15,000,000 TO THE ARIZONA TEACHERS ACADEMY FUND ESTABLISHED BY SECTION 15-1655.
  2. \$10,000,000 TO THE DEPARTMENT TO FUND THE FORMATION AND OPERATION OF COUNCILS, COMMISSIONS AND PROGRAMS DEDICATED TO IMPROVING PUBLIC HEALTH, INCLUDING TEEN SUICIDE PREVENTION, THE MATERNAL MORTALITY REVIEW PROGRAM, IMPROVING YOUTH HEALTH, SUBSTANCE ABUSE PREVENTION, ADDRESSING ADVERSE CHILDHOOD EXPERIENCES, THE ARIZONA POISON CONTROL SYSTEM ESTABLISHED PURSUANT TO SECTION 36-1161, THE ARIZONA HEALTH IMPROVEMENT PLAN, THE CHILD FATALITY REVIEW TEAM ESTABLISHED PURSUANT TO SECTION 36-3501 AND THE CHRONIC PAIN SELF MANAGEMENT PROGRAM.
  3. \$10,000,000 TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY TO DISTRIBUTE GRANTS FOR THE FOLLOWING PURPOSES:
    - (a) REDUCING IMPAIRED DRIVING, INCLUDING CONDUCTING TRAINING PROGRAMS AND PURCHASING EQUIPMENT FOR DETECTING, TESTING AND ENFORCING LAWS AGAINST DRIVING, FLYING OR BOATING WHILE IMPAIRED.
    - (b) EQUIPMENT, TRAINING AND PERSONNEL COSTS FOR DEDICATED TRAFFIC ENFORCEMENT.
  4. \$2,000,000 TO THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE CHAPTER 28.2 OF THIS TITLE.

5. \$4,000,000 TO THE DEPARTMENT TO DISTRIBUTE GRANTS TO QUALIFIED NONPROFIT ENTITIES THAT WILL PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO SECTION 36-2862 AND WILL ASSIST WITH THE EXPUNGEMENT PETITION PROCESS. THE DEPARTMENT SHALL DISTRIBUTE GRANTS PURSUANT TO THIS PARAGRAPH ON OR BEFORE JUNE 30, 2021.

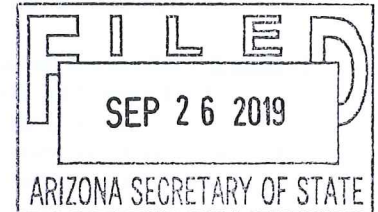
6. \$2,000,000 TO THE DEPARTMENT TO DEVELOP AND IMPLEMENT, IN CONJUNCTION WITH THE DEPARTMENT OF ECONOMIC SECURITY AND OTHER STATE AGENCIES, A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS. FOR THE PURPOSES OF THIS PARAGRAPH, "MARIJUANA ESTABLISHMENT" AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

7. \$1,000,000 TO THE DEPARTMENT TO FUND PROGRAMS AND GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS FOR EDUCATION AND COMMUNITY OUTREACH RELATED TO CHAPTER 28.2 OF THIS TITLE.

8. \$1,000,000 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

**Section 4.** Title 36, Arizona Revised Statutes, is amended by adding chapter 28.2, to read:

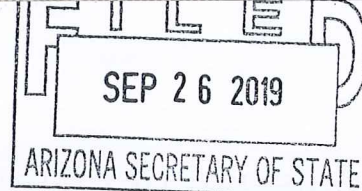
CHAPTER 28.2  
RESPONSIBLE ADULT USE OF MARIJUANA



**36-2850. Definitions**

IN THIS CHAPTER, UNLESS THE CONTEXT REQUIRES OTHERWISE:

1. "ADVERTISE," "ADVERTISEMENT" AND "ADVERTISING" MEAN ANY PUBLIC COMMUNICATION IN ANY MEDIUM THAT OFFERS OR SOLICITS A COMMERCIAL TRANSACTION INVOLVING THE SALE, PURCHASE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.
2. "CHILD-RESISTANT" MEANS DESIGNED OR CONSTRUCTED TO BE SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN, AND NOT DIFFICULT FOR NORMAL ADULTS TO USE PROPERLY.
3. "CONSUME," "CONSUMING" AND "CONSUMPTION" MEAN THE ACT OF INGESTING, INHALING OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.
4. "CONSUMER" MEANS AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS.
5. "CULTIVATE" AND "CULTIVATION" MEAN TO PROPAGATE, BREED, GROW, PREPARE AND PACKAGE MARIJUANA.
6. "DELIVER" AND "DELIVERY" MEAN THE TRANSPORTATION, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO A CONSUMER AT A LOCATION OTHER THAN THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.
7. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY.
8. "DESIGNATED CAREGIVER," "EXCLUDED FELONY OFFENSE," "INDEPENDENT THIRD-PARTY LABORATORY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT," AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.
9. "DUAL LICENSEE" MEANS AN ENTITY THAT HOLDS BOTH A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION AND A MARIJUANA ESTABLISHMENT LICENSE.
10. "EARLY APPLICANT" MEANS EITHER OF THE FOLLOWING:
  - (a) AN ENTITY SEEKING TO OPERATE A MARIJUANA ESTABLISHMENT IN A COUNTY WITH FEWER THAN TWO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
  - (b) A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED AND IN GOOD STANDING WITH THE DEPARTMENT.
11. "EMPLOYEE," "EMPLOYER," "HEALTH CARE FACILITY," AND "PLACES OF EMPLOYMENT" HAVE THE SAME MEANINGS PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.
12. "GOOD STANDING" MEANS THAT A NONPROFIT MEDICAL MARIJUANA DISPENSARY IS NOT THE SUBJECT OF A PENDING NOTICE OF INTENT TO REVOKE ISSUED BY THE DEPARTMENT.
13. "INDUSTRIAL HEMP" HAS THE SAME MEANING PRESCRIBED IN SECTION 3-311.
14. "LOCALITY" MEANS A CITY, TOWN OR COUNTY.
15. "MANUFACTURE" AND "MANUFACTURING" MEAN TO COMPOUND, BLEND, EXTRACT, INFUSE OR OTHERWISE MAKE OR PREPARE A MARIJUANA PRODUCT.
16. "MARIJUANA":
  - (a) MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, WHETHER GROWING OR NOT, AS WELL AS THE SEEDS FROM THE PLANT, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THE PLANT OR ITS SEEDS OR RESIN.



(b) INCLUDES CANNABIS AS DEFINED IN SECTION 13-3401.

(c) DOES NOT INCLUDE INDUSTRIAL HEMP, THE FIBER PRODUCED FROM THE STALKS OF THE PLANT OF THE GENUS CANNABIS, OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEEDS OF THE PLANT THAT ARE INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

17. "MARIJUANA CONCENTRATE":

(a) MEANS RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THAT RESIN OR TETRAHYDROCANNABINOL.

(b) DOES NOT INCLUDE INDUSTRIAL HEMP OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH CANNABIS TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

18. "MARIJUANA ESTABLISHMENT" MEANS AN ENTITY LICENSED BY THE DEPARTMENT TO OPERATE ALL OF THE FOLLOWING:

(a) A SINGLE RETAIL LOCATION AT WHICH THE LICENSEE MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, CULTIVATE MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS.

(b) A SINGLE OFF-SITE CULTIVATION LOCATION AT WHICH THE LICENSEE MAY CULTIVATE MARIJUANA, PROCESS MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

(c) A SINGLE OFF-SITE LOCATION AT WHICH THE LICENSEE MAY MANUFACTURE MARIJUANA PRODUCTS AND PACKAGE AND STORE MARIJUANA AND MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

19. "MARIJUANA FACILITY AGENT" MEANS A PRINCIPAL OFFICER, BOARD MEMBER OR EMPLOYEE OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS NOT BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.

20. "MARIJUANA PRODUCTS" MEANS MARIJUANA CONCENTRATE AND PRODUCTS THAT ARE COMPOSED OF MARIJUANA AND OTHER INGREDIENTS AND THAT ARE INTENDED FOR USE OR CONSUMPTION, INCLUDING EDIBLE PRODUCTS, OINTMENTS AND TINCTURES.

21. "MARIJUANA TESTING FACILITY" MEANS THE DEPARTMENT OR ANOTHER ENTITY THAT IS LICENSED BY THE DEPARTMENT TO ANALYZE THE POTENCY OF MARIJUANA AND TEST MARIJUANA FOR HARMFUL CONTAMINANTS.

22. "OPEN SPACE" MEANS A PUBLIC PARK, PUBLIC SIDEWALK, PUBLIC WALKWAY OR PUBLIC PEDESTRIAN THOROUGHFARE.

23. "PROCESS" AND "PROCESSING" MEAN TO HARVEST, DRY, CURE, TRIM OR SEPARATE PARTS OF THE MARIJUANA PLANT.

24. "PUBLIC PLACE" HAS THE SAME MEANING PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.

25. "SMOKE" MEANS TO INHALE, EXHALE, BURN, CARRY OR POSSESS ANY LIGHTED MARIJUANA OR LIGHTED MARIJUANA PRODUCTS, WHETHER NATURAL OR SYNTHETIC.

**36-2851. Employers; driving; minors; control of property; smoking in public places and open spaces**  
**THIS CHAPTER:**

1. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS TO MAINTAIN A DRUG-AND-ALCOHOL-FREE WORKPLACE OR AFFECT THE ABILITY OF EMPLOYERS TO HAVE WORKPLACE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES OR PROSPECTIVE EMPLOYEES.

2. DOES NOT REQUIRE AN EMPLOYER TO ALLOW OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR CULTIVATION OF MARIJUANA IN A PLACE OF EMPLOYMENT.

3. DOES NOT ALLOW DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA OR PREVENT THIS STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA.

4. DOES NOT ALLOW AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE TO PURCHASE, POSSESS, TRANSPORT OR CONSUME MARIJUANA OR MARIJUANA PRODUCTS.

5. DOES NOT ALLOW THE SALE, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE.

6. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS, SCHOOLS, DAY CARE CENTERS, ADULT DAY CARE FACILITIES, HEALTH CARE FACILITIES OR CORRECTIONS FACILITIES TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN THEIR PROPERTIES.

7. DOES NOT RESTRICT THE ABILITY OF AN INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, PRIVATE CORPORATION, PRIVATE ENTITY OR PRIVATE ORGANIZATION OF ANY CHARACTER THAT

OCCUPIES, OWNS OR CONTROLS PROPERTY TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER ON OR IN SUCH PROPERTY.

8. DOES NOT ALLOW ANY PERSON TO:

(a) SMOKE MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE.

(b) CONSUME MARIJUANA OR MARIJUANA PRODUCTS WHILE DRIVING, OPERATING OR RIDING IN THE PASSENGER SEAT OR COMPARTMENT OF AN OPERATING MOTOR VEHICLE, BOAT, VESSEL, AIRCRAFT OR ANOTHER VEHICLE USED FOR TRANSPORTATION.

9. DOES NOT PROHIBIT THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE FROM PROHIBITING OR REGULATING CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN PROPERTY THAT IS OCCUPIED, OWNED, CONTROLLED OR OPERATED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

10. DOES NOT AUTHORIZE A PERSON TO PROCESS OR MANUFACTURE MARIJUANA BY MEANS OF ANY LIQUID OR GAS, OTHER THAN ALCOHOL, THAT HAS A FLASHPOINT BELOW ONE HUNDRED DEGREES FAHRENHEIT, UNLESS PERFORMED BY A MARIJUANA ESTABLISHMENT.

11. DOES NOT REQUIRE A PERSON TO VIOLATE FEDERAL LAW OR TO IMPLEMENT OR FAIL TO IMPLEMENT A RESTRICTION ON THE POSSESSION, CONSUMPTION, DISPLAY, TRANSFER, PROCESSING, MANUFACTURING OR CULTIVATION OF MARIJUANA IF BY SO DOING THE PERSON WILL LOSE A MONETARY OR LICENSING-RELATED BENEFIT UNDER FEDERAL LAW.

12. DOES NOT SUPERSEDE OR ELIMINATE ANY EXISTING RIGHTS OR PRIVILEGES OF ANY PERSON EXCEPT AS SPECIFICALLY SET FORTH IN THIS CHAPTER.

13. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY UNDER CHAPTER 28.1 OF THIS TITLE EXCEPT AS EXPRESSLY SET FORTH IN THIS CHAPTER.

14. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A QUALIFYING PATIENT OR DESIGNATED CAREGIVER UNDER CHAPTER 28.1 OF THIS TITLE.

**36-2852. Allowable possession and personal use of marijuana, marijuana products and marijuana paraphernalia**

A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTIONS 36-2851 AND 36-2853 AND NOTWITHSTANDING ANY OTHER LAW, THE FOLLOWING ACTS BY AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE ARE LAWFUL, ARE NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND CANNOT SERVE AS THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS, FOR IMPOSING PENALTIES OF ANY KIND UNDER THE LAWS OF THIS STATE OR ANY LOCALITY OR FOR ABROGATING OR LIMITING ANY RIGHT OR PRIVILEGE CONFERRED OR PROTECTED BY THE LAWS OF THIS STATE OR ANY LOCALITY:

1. POSSESSING, CONSUMING, PURCHASING, PROCESSING, MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, OR TRANSPORTING ONE OUNCE OR LESS OF MARIJUANA, EXCEPT THAT NOT MORE THAN FIVE GRAMS OF MARIJUANA MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.

2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS FOR PERSONAL USE AT THE INDIVIDUAL'S PRIMARY RESIDENCE, AND POSSESSING, PROCESSING AND MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE MARIJUANA PLANTS WERE GROWN IF ALL OF THE FOLLOWING APPLY:

(a) NOT MORE THAN TWELVE PLANTS ARE PRODUCED AT A SINGLE RESIDENCE WHERE TWO OR MORE INDIVIDUALS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE RESIDE AT ONE TIME.

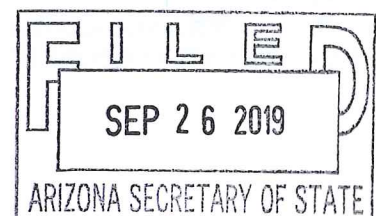
(b) CULTIVATION TAKES PLACE WITHIN A CLOSET, ROOM, GREENHOUSE OR OTHER ENCLOSED AREA ON THE GROUNDS OF THE RESIDENCE EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS.

(c) CULTIVATION TAKES PLACE IN AN AREA WHERE THE MARIJUANA PLANTS ARE NOT VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS.

3. TRANSFERRING ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS MAY BE IN THE FORM OF MARIJUANA CONCENTRATE, TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

4. TRANSFERRING UP TO SIX MARIJUANA PLANTS TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

5. ACQUIRING, POSSESSING, MANUFACTURING, USING, PURCHASING, SELLING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS.



6. ASSISTING ANOTHER INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IN ANY OF THE ACTS DESCRIBED IN THIS SUBSECTION.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WITH METABOLITES OR COMPONENTS OF MARIJUANA IN THE PERSON'S BODY IS GUILTY OF VIOLATING SECTION 28-1381, SUBSECTION A, PARAGRAPH 3 ONLY IF THE PERSON IS ALSO IMPAIRED TO THE SLIGHTEST DEGREE.

C. NOTWITHSTANDING ANY OTHER LAW, THE ODOR OF MARIJUANA OR BURNT MARIJUANA DOES NOT BY ITSELF CONSTITUTE REASONABLE ARTICULABLE SUSPICION OF A CRIME. THIS SUBSECTION DOES NOT APPLY WHEN A LAW ENFORCEMENT OFFICER IS INVESTIGATING WHETHER A PERSON HAS VIOLATED SECTION 28-1381.

**36-2853. Violations; classification; civil penalty; additional fine; enforcement**

A. NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON WHO POSSESSES AN AMOUNT OF MARIJUANA GREATER THAN THE AMOUNT ALLOWED PURSUANT TO SECTION 36-2852, BUT NOT MORE THAN TWO AND ONE-HALF OUNCES OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, IS GUILTY OF A PETTY OFFENSE.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO POSSESSES, CONSUMES, TRANSPORTS OR TRANSFERS WITHOUT REMUNERATION ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, OR PARAPHERNALIA RELATING TO THE CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS:

1. FOR A FIRST VIOLATION, SHALL PAY A CIVIL PENALTY OF NOT MORE THAN \$100 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856 AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO FOUR HOURS OF DRUG EDUCATION OR COUNSELING.

2. FOR A SECOND VIOLATION, IS GUILTY OF A PETTY OFFENSE, AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO EIGHT HOURS OF DRUG EDUCATION OR COUNSELING.

3. FOR A THIRD OR SUBSEQUENT VIOLATION, IS GUILTY OF A CLASS 1 MISDEMEANOR.

C. A PERSON WHO SMOKES MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE IS GUILTY OF A PETTY OFFENSE.

D. EXCEPT AS OTHERWISE PROVIDED IN CHAPTER 28.1 OF THIS TITLE AND NOTWITHSTANDING ANY OTHER LAW, ANY UNLICENSED PERSON WHO CULTIVATES MARIJUANA PLANTS PURSUANT TO SECTION 36-2852 WHERE THEY ARE VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS OR OUTSIDE OF AN ENCLOSED AREA THAT IS EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

E. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO MISREPRESENTS THE PERSON'S AGE TO ANY OTHER PERSON BY MEANS OF A WRITTEN INSTRUMENT OF IDENTIFICATION OR WHO USES A FRAUDULENT OR FALSE WRITTEN INSTRUMENT OF IDENTIFICATION WITH THE INTENT TO INDUCE A PERSON TO SELL OR OTHERWISE TRANSFER MARIJUANA OR A MARIJUANA PRODUCT TO THE PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 1 MISDEMEANOR.

F. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO SOLICITS ANOTHER PERSON TO PURCHASE MARIJUANA OR A MARIJUANA PRODUCT IN VIOLATION OF THIS CHAPTER IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

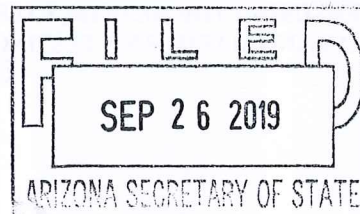
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

**36-2854. Rules; licensing; early applicants; fees; civil penalty; legal counsel**

A. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT AND ENFORCE THIS CHAPTER AND REGULATE MARIJUANA, MARIJUANA PRODUCTS, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES. THOSE RULES SHALL INCLUDE REQUIREMENTS FOR:

1. LICENSING MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES, INCLUDING CONDUCTING INVESTIGATIONS AND BACKGROUND CHECKS TO DETERMINE ELIGIBILITY FOR LICENSING FOR MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY APPLICANTS, EXCEPT THAT:

(a) AN APPLICATION FOR A MARIJUANA ESTABLISHMENT LICENSE OR MARIJUANA TESTING FACILITY LICENSE MAY NOT REQUIRE THE DISCLOSURE OF THE IDENTITY OF ANY PERSON WHO IS ENTITLED TO A SHARE OF LESS THAN TEN PERCENT OF THE PROFITS OF AN APPLICANT THAT IS A PUBLICLY TRADED CORPORATION.



(b) THE DEPARTMENT MAY NOT ISSUE MORE THAN ONE MARIJUANA ESTABLISHMENT LICENSE FOR EVERY TEN PHARMACIES THAT HAVE REGISTERED UNDER SECTION 32-1929, THAT HAVE OBTAINED A PHARMACY PERMIT FROM THE ARIZONA BOARD OF PHARMACY AND THAT OPERATE WITHIN THIS STATE.

(c) NOTWITHSTANDING SUBDIVISION (b) OF THIS PARAGRAPH, THE DEPARTMENT MAY ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO NOT MORE THAN TWO MARIJUANA ESTABLISHMENTS PER COUNTY THAT CONTAINS NO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES, OR ONE MARIJUANA ESTABLISHMENT LICENSE PER COUNTY THAT CONTAINS ONE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY. ANY LICENSE ISSUED PURSUANT TO THIS SUBDIVISION SHALL BE FOR A FIXED COUNTY AND MAY NOT BE RELOCATED OUTSIDE OF THAT COUNTY.

(d) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR MARIJUANA ESTABLISHMENT LICENSES FROM EARLY APPLICANTS BEGINNING JANUARY 19, 2021 THROUGH MARCH 9, 2021. NOT LATER THAN SIXTY DAYS AFTER RECEIVING AN APPLICATION PURSUANT TO THIS SUBDIVISION, THE DEPARTMENT SHALL ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO EACH QUALIFIED EARLY APPLICANT. IF THE DEPARTMENT HAS NOT ADOPTED FINAL RULES PURSUANT TO THIS SECTION AT THE TIME MARIJUANA ESTABLISHMENT LICENSES ARE ISSUED PURSUANT TO THIS SUBDIVISION, LICENSEES SHALL COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

(e) AFTER ISSUING MARIJUANA ESTABLISHMENT LICENSES TO QUALIFIED EARLY APPLICANTS, THE DEPARTMENT SHALL ISSUE MARIJUANA ESTABLISHMENT LICENSES AVAILABLE UNDER SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH BY RANDOM SELECTION AND ACCORDING TO RULES ADOPTED PURSUANT TO THIS SECTION. AT LEAST SIXTY DAYS PRIOR TO ANY RANDOM SELECTION, THE DEPARTMENT SHALL PROMINENTLY PUBLICIZE THE RANDOM SELECTION ON ITS WEBSITE AND THROUGH OTHER MEANS OF GENERAL DISTRIBUTION INTENDED TO REACH AS MANY INTERESTED PARTIES AS POSSIBLE AND SHALL PROVIDE NOTICE THROUGH AN EMAIL NOTIFICATION SYSTEM TO WHICH INTERESTED PARTIES CAN SUBSCRIBE.

(f) NOTWITHSTANDING SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH, AND NO LATER THAN SIX MONTHS AFTER THE DEPARTMENT ADOPTS FINAL RULES TO IMPLEMENT A SOCIAL EQUITY OWNERSHIP PROGRAM PURSUANT TO PARAGRAPH 9 OF THIS SUBSECTION, THE DEPARTMENT SHALL ISSUE TWENTY-SIX ADDITIONAL MARIJUANA ESTABLISHMENT LICENSES TO ENTITIES THAT ARE QUALIFIED PURSUANT TO THE SOCIAL EQUITY OWNERSHIP PROGRAM.

(g) LICENSES ISSUED BY THE DEPARTMENT TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES SHALL BE VALID FOR A PERIOD OF TWO YEARS.

2. LICENSING FEES AND RENEWAL FEES FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES IN AMOUNTS THAT ARE REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS FOR LICENSES AND RENEWALS AND THAT DO NOT EXCEED FIVE TIMES THE FEES PRESCRIBED BY THE DEPARTMENT TO REGISTER OR RENEW A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

3. THE SECURITY OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

4. MARIJUANA ESTABLISHMENTS TO SAFELY CULTIVATE, PROCESS AND MANUFACTURE MARIJUANA AND MARIJUANA PRODUCTS.

5. TRACKING, TESTING, LABELING AND PACKAGING MARIJUANA AND MARIJUANA PRODUCTS, INCLUDING REQUIREMENTS THAT MARIJUANA AND MARIJUANA PRODUCTS BE:

(a) SOLD TO CONSUMERS IN CLEARLY AND CONSPICUOUSLY LABELED CONTAINERS THAT CONTAIN ACCURATE WARNINGS REGARDING THE USE OF MARIJUANA OR MARIJUANA PRODUCTS.

(b) PLACED IN CHILD-RESISTANT PACKAGING ON EXIT FROM A MARIJUANA ESTABLISHMENT.

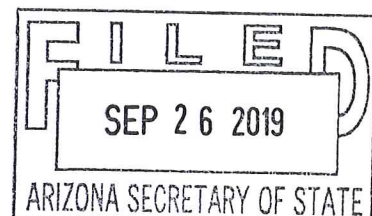
6. FORMS OF GOVERNMENT-ISSUED IDENTIFICATION THAT ARE ACCEPTABLE BY A MARIJUANA ESTABLISHMENT VERIFYING A CONSUMER'S AGE AND PROCEDURES RELATED TO VERIFYING A CONSUMER'S AGE CONSISTENT WITH SECTION 4-241. UNTIL THE DEPARTMENT ADOPTS FINAL RULES RELATED TO VERIFYING A CONSUMER'S AGE, MARIJUANA ESTABLISHMENTS SHALL COMPLY WITH THE PROOF OF LEGAL AGE REQUIREMENTS PRESCRIBED IN SECTION 4-241.

7. THE POTENCY OF EDIBLE MARIJUANA PRODUCTS THAT MAY BE SOLD TO CONSUMERS BY MARIJUANA ESTABLISHMENTS AT REASONABLE LEVELS UPON CONSIDERATION OF INDUSTRY STANDARDS, EXCEPT THAT THE RULES:

(a) SHALL LIMIT THE STRENGTH OF EDIBLE MARIJUANA PRODUCTS TO NO MORE THAN TEN MILLIGRAMS OF TETRAHYDROCANNABINOL PER SERVING OR ONE HUNDRED MILLIGRAMS OF TETRAHYDROCANNABINOL PER PACKAGE.

(b) SHALL REQUIRE THAT IF A MARIJUANA PRODUCT CONTAINS MORE THAN ONE SERVING, IT MUST BE DELINEATED OR SCORED INTO STANDARD SERVING SIZES AND HOMOGENIZED TO ENSURE UNIFORM DISBURSEMENT THROUGHOUT THE MARIJUANA PRODUCT.

8. ENSURING THE HEALTH, SAFETY AND TRAINING OF EMPLOYEES OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.



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ARIZONA SECRETARY OF STATE

9. THE CREATION AND IMPLEMENTATION OF A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS.

B. THE DEPARTMENT MAY:

1. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, DENY ANY APPLICATION SUBMITTED OR DENY, SUSPEND OR REVOKE, IN WHOLE OR IN PART, ANY REGISTRATION OR LICENSE ISSUED UNDER THIS CHAPTER IF THE REGISTERED OR LICENSED PARTY OR AN OFFICER, AGENT OR EMPLOYEE OF THE REGISTERED OR LICENSED PARTY DOES ANY OF THE FOLLOWING:

(a) VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

(b) HAS BEEN, IS OR MAY CONTINUE TO BE IN SUBSTANTIAL VIOLATION OF THE REQUIREMENTS FOR LICENSING OR REGISTRATION AND, AS A RESULT, THE HEALTH OR SAFETY OF THE GENERAL PUBLIC IS IN IMMEDIATE DANGER.

2. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, AND UNLESS ANOTHER PENALTY IS PROVIDED ELSEWHERE IN THIS CHAPTER, ASSESS A CIVIL PENALTY AGAINST A PERSON THAT VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER IN AN AMOUNT NOT TO EXCEED \$1,000 FOR EACH VIOLATION. EACH DAY A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION. THE MAXIMUM AMOUNT OF ANY ASSESSMENT IS \$25,000 FOR ANY THIRTY-DAY PERIOD. IN DETERMINING THE AMOUNT OF A CIVIL PENALTY ASSESSED AGAINST A PERSON, THE DEPARTMENT SHALL CONSIDER ALL OF THE FACTORS SET FORTH IN SECTION 36-2816, SUBSECTION H. ALL CIVIL PENALTIES COLLECTED BY THE DEPARTMENT PURSUANT TO THIS PARAGRAPH SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

3. AT ANY TIME DURING REGULAR HOURS OF OPERATION, VISIT AND INSPECT A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE TO DETERMINE IF IT COMPLIES WITH THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER. THE DEPARTMENT SHALL MAKE AT LEAST ONE UNANNOUNCED VISIT ANNUALLY TO EACH FACILITY LICENSED PURSUANT TO THIS CHAPTER.

4. ADOPT ANY OTHER RULES NOT EXPRESSLY STATED IN THIS SECTION THAT ARE NECESSARY TO ENSURE THE SAFE AND RESPONSIBLE CULTIVATION, SALE, PROCESSING, MANUFACTURE, TESTING AND TRANSPORT OF MARIJUANA AND MARIJUANA PRODUCTS.

C. UNTIL THE DEPARTMENT ADOPTS RULES PERMITTING AND REGULATING DELIVERY BY MARIJUANA ESTABLISHMENTS PURSUANT TO SUBSECTION D OF THIS SECTION, DELIVERY IS UNLAWFUL UNDER THIS CHAPTER.

D. ON OR AFTER JANUARY 1, 2023, THE DEPARTMENT MAY, AND NO LATER THAN JANUARY 1, 2025 THE DEPARTMENT SHALL, ADOPT RULES TO PERMIT AND REGULATE DELIVERY BY MARIJUANA ESTABLISHMENTS. THE RULES SHALL:

1. REQUIRE THAT DELIVERY AND THE MARIJUANA AND MARIJUANA PRODUCTS TO BE DELIVERED ORIGINATE FROM A DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT AND ONLY AFTER AN ORDER IS MADE WITH THE MARIJUANA ESTABLISHMENT BY A CONSUMER.

2. PROHIBIT DELIVERY TO ANY PROPERTY OWNED OR LEASED BY THE UNITED STATES, THIS STATE, A POLITICAL SUBDIVISION OF THIS STATE OR THE ARIZONA BOARD OF REGENTS.

3. LIMIT THE AMOUNT OF MARIJUANA AND MARIJUANA PRODUCTS BASED ON RETAIL PRICE THAT MAY BE IN A DELIVERY VEHICLE DURING A SINGLE TRIP FROM THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

4. PROHIBIT EXTRA OR UNALLOCATED MARIJUANA OR MARIJUANA PRODUCTS IN DELIVERY VEHICLES.

5. REQUIRE THAT DELIVERIES BE MADE ONLY BY MARIJUANA FACILITY AGENTS IN UNMARKED VEHICLES THAT ARE EQUIPPED WITH A GLOBAL POSITIONING SYSTEM OR SIMILAR LOCATION TRACKING SYSTEM AND VIDEO SURVEILLANCE AND RECORDING EQUIPMENT, AND THAT CONTAIN A LOCKED COMPARTMENT IN WHICH MARIJUANA AND MARIJUANA PRODUCTS MUST BE STORED.

6. REQUIRE DELIVERY LOGS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

7. REQUIRE INSPECTIONS TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

8. INCLUDE ANY OTHER PROVISIONS NECESSARY TO ENSURE SAFE AND RESTRICTED DELIVERY.

9. REQUIRE DUAL LICENSEES TO COMPLY WITH THE RULES ADOPTED PURSUANT TO THIS SUBSECTION.

E. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, THE DEPARTMENT MAY NOT PERMIT DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS UNDER THIS CHAPTER BY ANY INDIVIDUAL OR ENTITY. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN INDIVIDUAL OR ENTITY THAT DELIVERS MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER SHALL PAY

A CIVIL PENALTY OF \$20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

F. ALL RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL BE CONSISTENT WITH THE PURPOSE OF THIS CHAPTER.

G. THE DEPARTMENT MAY NOT ADOPT ANY RULE THAT:

1. PROHIBITS THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REQUIREMENTS THAT MAKE THE OPERATION OF A MARIJUANA ESTABLISHMENT UNDULY BURDENSOME.

2. PROHIBITS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE TO OPERATE A MARIJUANA ESTABLISHMENT AND A NONPROFIT MEDICAL MARIJUANA DISPENSARY AT SHARED LOCATIONS.

H. NOTWITHSTANDING SECTION 41-192, THE DEPARTMENT MAY EMPLOY LEGAL COUNSEL AND MAKE AN EXPENDITURE OR INCUR AN INDEBTEDNESS FOR LEGAL SERVICES FOR THE PURPOSES OF:

1. DEFENDING THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. DEFENDING CHAPTER 28.1 OF THIS TITLE OR RULES ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

I. THE DEPARTMENT SHALL DEPOSIT ALL LICENSE FEES, APPLICATION FEES AND RENEWAL FEES PAID TO THE DEPARTMENT PURSUANT TO THIS CHAPTER IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

J. ON REQUEST, THE DEPARTMENT SHALL SHARE WITH THE DEPARTMENT OF REVENUE INFORMATION REGARDING A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE, INCLUDING ITS NAME, PHYSICAL ADDRESS, CULTIVATION SITE AND TRANSACTION PRIVILEGE TAX LICENSE NUMBER.

K. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT MAY:

1. LICENSE AN INDEPENDENT THIRD-PARTY LABORATORY TO ALSO OPERATE AS A MARIJUANA TESTING FACILITY.

2. OPERATE A MARIJUANA TESTING FACILITY.

L. THE DEPARTMENT SHALL MAINTAIN AND PUBLISH A CURRENT LIST OF ALL MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY NAME AND LICENSE NUMBER.

M. NOTWITHSTANDING ANY OTHER LAW, THE ISSUANCE OF AN OCCUPATIONAL, PROFESSIONAL OR OTHER REGULATORY LICENSE OR CERTIFICATION TO A PERSON BY A JURISDICTION OR REGULATORY AUTHORITY OUTSIDE THIS STATE DOES NOT ENTITLE THAT PERSON TO BE ISSUED A MARIJUANA ESTABLISHMENT LICENSE, A MARIJUANA TESTING FACILITY LICENSE, OR ANY OTHER LICENSE, REGISTRATION OR CERTIFICATION UNDER THIS CHAPTER.

**36-2855. Marijuana facility agents; registration; card; rules**

A. A MARIJUANA FACILITY AGENT SHALL BE REGISTERED WITH THE DEPARTMENT BEFORE WORKING AT A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.

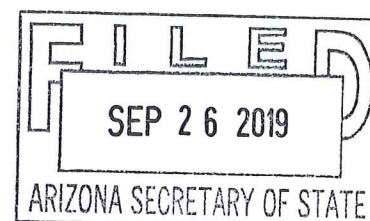
B. A PERSON WHO WISHES TO BE REGISTERED AS A MARIJUANA FACILITY AGENT OR RENEW THE PERSON'S REGISTRATION AS A MARIJUANA FACILITY AGENT SHALL:

1. SUBMIT A COMPLETED APPLICATION ON A FORM PRESCRIBED BY THE DEPARTMENT AND PAY A NONREFUNDABLE FEE THAT IS REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS SUBMITTED PURSUANT TO THIS SECTION.

2. SUBMIT EVIDENCE THAT THE APPLICANT HOLDS A CURRENT LEVEL I FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07, OR SUBMIT A FULL SET OF THE APPLICANT'S FINGERPRINTS FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION WITHOUT DISCLOSING THAT THE RECORDS CHECK IS RELATED TO THIS CHAPTER AND ACTS ALLOWED BY THIS CHAPTER. THE DEPARTMENT OF PUBLIC SAFETY SHALL DESTROY EACH SET OF FINGERPRINTS AFTER THE CRIMINAL RECORDS CHECK IS COMPLETED.

C. IF THE DEPARTMENT DETERMINES THAT AN APPLICANT MEETS THE CRITERIA FOR REGISTRATION UNDER THIS CHAPTER AND RULES PURSUANT TO THIS CHAPTER, THE DEPARTMENT SHALL ISSUE THE APPLICANT A MARIJUANA FACILITY AGENT CARD THAT IS VALID FOR TWO YEARS.

D. A REGISTERED MARIJUANA FACILITY AGENT MAY BE EMPLOYED BY OR ASSOCIATED WITH ANY MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY. A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN IT EMPLOYS OR BECOMES ASSOCIATED WITH A NEW MARIJUANA FACILITY AGENT. A MARIJUANA FACILITY AGENT SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN THE MARIJUANA FACILITY AGENT IS EMPLOYED BY OR BECOMES ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY AND WHEN THE MARIJUANA FACILITY AGENT IS NO LONGER EMPLOYED BY OR ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.



- E. A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OF A DUAL LICENSEE WHO HAS APPLIED TO BE REGISTERED AS A MARIJUANA FACILITY AGENT MAY SERVE AS A MARIJUANA FACILITY AGENT OF THAT DUAL LICENSEE UNTIL THE DEPARTMENT HAS APPROVED OR REJECTED THE AGENT'S APPLICATION.
- F. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS SECTION.

**36-2856. Smart and safe Arizona fund; disposition; exemption**

A. THE SMART AND SAFE ARIZONA FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTIONS 36-2854, 42-5452 AND 42-5503, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE SMART AND SAFE ARIZONA FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF REVENUE TO IMPOSE AND ENFORCE THE TAX AUTHORIZED AND LEVIED BY SECTION 42-5452.

3. THE ACTUAL REASONABLE COSTS INCURRED BY THE SUPREME COURT AND THE DEPARTMENT OF PUBLIC SAFETY TO PROCESS PETITIONS FOR EXPUNGEMENT AND EXPUNGEMENT ORDERS PURSUANT TO SECTION 36-2862 AND TO OTHERWISE IMPLEMENT SECTION 36-2862.

4. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

5. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED BY THIS CHAPTER TO IMPLEMENT OR ENFORCE THE PROVISIONS OF THIS CHAPTER.

C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS FROM THE SMART AND SAFE ARIZONA FUND PURSUANT TO SUBSECTION B OF THIS SECTION.

D. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE SMART AND SAFE ARIZONA FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. 33 PERCENT TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGE DISTRICTS, BUT NOT TO COMMUNITY COLLEGE TUITION FINANCING DISTRICTS ESTABLISHED PURSUANT TO SECTION 15-1409, FOR THE PURPOSES OF INVESTING IN AND PROVIDING WORKFORCE DEVELOPMENT PROGRAMS, JOB TRAINING, CAREER AND TECHNICAL EDUCATION, AND SCIENCE, TECHNOLOGY, ENGINEERING AND MATH PROGRAMS, AS FOLLOWS:

(a) 15 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH COMMUNITY COLLEGE DISTRICT.

(b) 0.5 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH PROVISIONAL COMMUNITY COLLEGE DISTRICT, IF ONE OR MORE PROVISIONAL COMMUNITY COLLEGE DISTRICTS EXIST.

(c) THE REMAINDER TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGES DISTRICTS IN PROPORTION TO EACH DISTRICT'S FULL-TIME EQUIVALENT STUDENT ENROLLMENT PERCENTAGE OF THE TOTAL STATEWIDE AUDITED FULL-TIME EQUIVALENT STUDENT ENROLLMENT IN THE PRECEDING FISCAL YEAR PRESCRIBED IN SECTION 15-1466.01.

2. 31.4 PERCENT TO MUNICIPAL POLICE DEPARTMENTS, MUNICIPAL FIRE DEPARTMENTS, FIRE DISTRICTS ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 5 AND COUNTY SHERIFFS' DEPARTMENTS IN PROPORTION TO THE NUMBER OF ENROLLED MEMBERS FOR EACH SUCH AGENCY IN THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4 AND THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION PLAN ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4.1, FOR PERSONNEL COSTS.

3. 25.4 PERCENT TO THE ARIZONA HIGHWAY USER REVENUE FUND ESTABLISHED BY SECTION 28-6533.

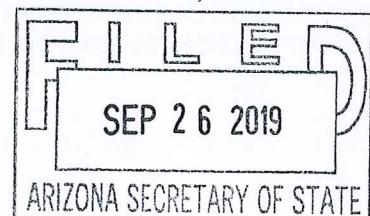
4. 10 PERCENT TO THE JUSTICE REINVESTMENT FUND ESTABLISHED BY SECTION 36-2863.

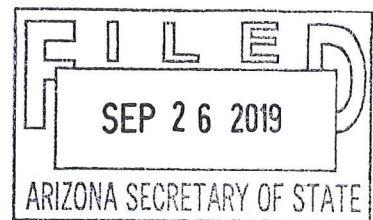
5. 0.2 PERCENT TO THE ATTORNEY GENERAL TO USE TO ENFORCE THIS CHAPTER, OR TO GRANT TO LOCALITIES TO ENFORCE THIS CHAPTER.

E. THE MONIES TRANSFERRED AND RECEIVED PURSUANT TO THIS SECTION:

1. ARE IN ADDITION TO ANY OTHER APPROPRIATION, TRANSFER OR OTHER ALLOCATION OF MONIES AND MAY NOT SUPPLANT, REPLACE OR CAUSE A REDUCTION IN OTHER FUNDING SOURCES.

2. ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTIONS 20 AND 21, CONSTITUTION OF ARIZONA.





**36-2857. Localities; marijuana establishments and marijuana testing facilities**

- A. A LOCALITY MAY:
1. ENACT REASONABLE ZONING REGULATIONS THAT LIMIT THE USE OF LAND FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES TO SPECIFIED AREAS.
  2. LIMIT THE NUMBER OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, OR BOTH.
  3. PROHIBIT MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, OR BOTH.
  4. REGULATE THE TIME, PLACE AND MANNER OF MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY OPERATIONS.
  5. ESTABLISH REASONABLE RESTRICTIONS ON PUBLIC SIGNAGE REGARDING MARIJUANA, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.
  6. PROHIBIT OR RESTRICT DELIVERY WITHIN ITS JURISDICTION.
- B. A COUNTY MAY EXERCISE ITS AUTHORITY PURSUANT TO SUBSECTION A OF THIS SECTION ONLY IN UNINCORPORATED AREAS OF THE COUNTY.
- C. A LOCALITY MAY NOT ENACT ANY ORDINANCE, REGULATION OR RULE THAT:
1. IS MORE RESTRICTIVE THAN A COMPARABLE ORDINANCE, REGULATION OR RULE THAT APPLIES TO NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
  2. MAKES THE OPERATION OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY UNDULY BURDENSOME IF THE LOCALITY HAS NOT PROHIBITED MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES.
  3. CONFLICTS WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.
  4. PROHIBITS THE TRANSPORTATION OF MARIJUANA BY A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY ON PUBLIC ROADS.
  5. RESTRICTS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE OR AN ENTITY ELIGIBLE TO BECOME A DUAL LICENSEE TO OPERATE A NONPROFIT MEDICAL MARIJUANA DISPENSARY AND A MARIJUANA ESTABLISHMENT COOPERATIVELY AT SHARED LOCATIONS.
  6. EXCEPT AS EXPRESSLY AUTHORIZED BY THIS SECTION OR SECTION 36-2851, PROHIBITS OR RESTRICTS ANY CONDUCT OR TRANSACTION ALLOWED BY THIS CHAPTER, OR IMPOSES ANY LIABILITY OR PENALTY IN ADDITION TO THAT PRESCRIBED BY THIS CHAPTER FOR ANY CONDUCT OR TRANSACTION CONSTITUTING A VIOLATION OF THIS CHAPTER.

**36-2858. Lawful operation of marijuana establishments and marijuana testing facilities**

- A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTION 36-2857 AND NOTWITHSTANDING ANY OTHER LAW, IT IS LAWFUL AND IS NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND MAY NOT CONSTITUTE THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS OR THE BASIS FOR IMPOSING PENALTIES UNDER THE LAWS OF THIS STATE OR ANY LOCALITY FOR:
1. A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT, TO:
    - (a) POSSESS MARIJUANA OR MARIJUANA PRODUCTS.
    - (b) PURCHASE, SELL OR TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT.
    - (c) SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, EXCEPT THAT A MARIJUANA ESTABLISHMENT MAY NOT SELL MORE THAN ONE OUNCE OF MARIJUANA TO A CONSUMER IN A SINGLE TRANSACTION, NOT MORE THAN FIVE GRAMS OF WHICH MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.
    - (d) CULTIVATE, PRODUCE, TEST OR PROCESS MARIJUANA OR MANUFACTURE MARIJUANA OR MARIJUANA PRODUCTS BY ANY MEANS INCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS.
  2. AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT TO SELL OR OTHERWISE TRANSFER MARIJUANA TO AN INDIVIDUAL UNDER TWENTY-ONE YEARS OF AGE, IF THE AGENT REASONABLY VERIFIED THAT THE INDIVIDUAL APPEARED TO BE TWENTY-ONE YEARS OF AGE OR OLDER BY MEANS OF A GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION IN COMPLIANCE WITH RULES ADOPTED PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 6.
  3. A MARIJUANA TESTING FACILITY, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA TESTING FACILITY, TO OBTAIN, POSSESS, PROCESS, REPACKAGE, TRANSFER, TRANSPORT OR TEST MARIJUANA AND MARIJUANA PRODUCTS.
  4. A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, TO SELL OR OTHERWISE TRANSFER MARIJUANA OR MARIJUANA PRODUCTS TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY, A MARIJUANA ESTABLISHMENT OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT.

5. ANY INDIVIDUAL, CORPORATION OR OTHER ENTITY TO SELL, LEASE OR OTHERWISE ALLOW PROPERTY OR GOODS THAT ARE OWNED, MANAGED OR CONTROLLED BY THE INDIVIDUAL, CORPORATION OR OTHER ENTITY TO BE USED FOR ANY ACTIVITY AUTHORIZED BY THIS CHAPTER, OR TO PROVIDE SERVICES TO A MARIJUANA ESTABLISHMENT, OR MARIJUANA TESTING FACILITY OR AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY IN CONNECTION WITH ANY ACTIVITY AUTHORIZED BY THIS CHAPTER.

B. THIS SECTION DOES NOT PRECLUDE THE DEPARTMENT FROM IMPOSING PENALTIES AGAINST A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY FOR FAILING TO COMPLY WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

C. A MARIJUANA ESTABLISHMENT MAY BE OWNED OR OPERATED BY A PUBLICLY TRADED COMPANY.

D. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE:

1. MAY HOLD A MARIJUANA ESTABLISHMENT LICENSE AND OPERATE A MARIJUANA ESTABLISHMENT PURSUANT TO THIS CHAPTER.

2. MAY OPERATE ON A FOR-PROFIT BASIS IF THE DUAL LICENSEE PROMPTLY NOTIFIES THE DEPARTMENT AND DEPARTMENT OF REVENUE AND TAKES ANY ACTIONS NECESSARY TO ENABLE ITS FOR-PROFIT OPERATION, INCLUDING CONVERTING ITS CORPORATE FORM AND AMENDING ITS ORGANIZATIONAL AND OPERATING DOCUMENTS.

3. MUST CONTINUE TO HOLD BOTH ITS MARIJUANA ESTABLISHMENT LICENSE AND NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION, REGARDLESS OF ANY CHANGE IN OWNERSHIP OF THE DUAL LICENSEE, UNLESS IT TERMINATES ITS STATUS AS A DUAL LICENSEE AND FORFEITS EITHER ITS MARIJUANA ESTABLISHMENT LICENSE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION BY NOTIFYING THE DEPARTMENT OF SUCH A TERMINATION AND FORFEITURE.

4. MAY NOT BE REQUIRED TO:

(a) EMPLOY OR CONTRACT WITH A MEDICAL DIRECTOR.

(b) OBTAIN NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OR MARIJUANA FACILITY AGENT REGISTRATIONS FOR OUTSIDE VENDORS THAT DO NOT HAVE REGULAR, UNSUPERVISED ACCESS TO THE INTERIOR OF THE DUAL LICENSEE.

(c) HAVE A SINGLE SECURE ENTRANCE AS REQUIRED BY SECTION 36-2806, SUBSECTION C, BUT MAY BE REQUIRED TO IMPLEMENT APPROPRIATE SECURITY MEASURES TO DETER AND PREVENT THE THEFT OF MARIJUANA AND TO REASONABLY REGULATE CUSTOMER ACCESS TO THE PREMISES.

(d) COMPLY WITH ANY OTHER PROVISION OF CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE THAT MAKES ITS OPERATION AS A DUAL LICENSEE UNDULY BURDENSOME.

E. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO SUBSECTION D, PARAGRAPH 2 OF THIS SECTION:

1. IS SUBJECT TO THE TAXES IMPOSED PURSUANT TO TITLE 43.

2. IS NOT REQUIRED TO SUBMIT ITS ANNUAL FINANCIAL STATEMENTS OR AN AUDIT REPORT TO THE DEPARTMENT FOR PURPOSES OF RENEWING ITS NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION.

F. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE MUST CONDUCT BOTH OF THE FOLLOWING OPERATIONS AT A SHARED LOCATION:

1. SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS PURSUANT TO THIS CHAPTER.

2. DISPENSE MARIJUANA TO REGISTERED QUALIFYING PATIENTS AND REGISTERED DESIGNATED CAREGIVERS PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

G. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE, A DUAL LICENSEE MAY ENGAGE IN ANY ACT, PRACTICE, CONDUCT OR TRANSACTION ALLOWED FOR A MARIJUANA ESTABLISHMENT BY THIS CHAPTER.

H. NOTWITHSTANDING ANY OTHER LAW:

1. AN INDIVIDUAL MAY BE AN APPLICANT, PRINCIPAL OFFICER OR BOARD MEMBER OF MORE THAN ONE MARIJUANA ESTABLISHMENT OR MORE THAN ONE DUAL LICENSEE REGARDLESS OF THE ESTABLISHMENT'S LOCATION.

2. TWO OR MORE MARIJUANA ESTABLISHMENTS OR DUAL LICENSEES MAY DESIGNATE A SINGLE OFF-SITE LOCATION AS PRESCRIBED IN SECTION 36-2850, PARAGRAPH 18, SUBDIVISION (c) TO BE JOINTLY USED BY THOSE DUAL LICENSEES OR MARIJUANA ESTABLISHMENTS.

I. MARIJUANA ESTABLISHMENTS, MARIJUANA TESTING FACILITIES AND DUAL LICENSEES THAT ARE SUBJECT TO APPLICABLE FEDERAL OR STATE ANTIDISCRIMINATION LAWS MAY NOT PAY THEIR EMPLOYEES DIFFERENTLY BASED SOLELY ON A PROTECTED CLASS STATUS SUCH AS SEX, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE OR DISABILITY. THIS SUBSECTION DOES NOT EXPAND OR MODIFY THE JURISDICTIONAL REACH, PROVISIONS OR REQUIREMENTS OF ANY APPLICABLE ANTI-DISCRIMINATION LAW.

**36-2859. Advertising restrictions; enforcement; civil penalty**

- A. A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY ENGAGE IN ADVERTISING.
- B. AN ADVERTISING PLATFORM MAY HOST ADVERTISING ONLY IF ALL OF THE FOLLOWING APPLY:
1. THE ADVERTISING IS AUTHORIZED BY A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.
  2. THE ADVERTISING ACCURATELY AND LEGIBLY IDENTIFIES THE MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY RESPONSIBLE FOR THE CONTENT OF THE ADVERTISING BY NAME AND LICENSE NUMBER OR REGISTRATION NUMBER.
- C. ANY ADVERTISING UNDER THIS CHAPTER INVOLVING DIRECT, INDIVIDUALIZED COMMUNICATION OR DIALOGUE SHALL USE A METHOD OF AGE AFFIRMATION TO VERIFY THAT THE RECIPIENT IS TWENTY-ONE YEARS OF AGE OR OLDER BEFORE ENGAGING IN THAT COMMUNICATION OR DIALOGUE. FOR THE PURPOSES OF THIS SUBSECTION, THAT METHOD OF AGE AFFIRMATION MAY INCLUDE USER CONFIRMATION, BIRTH DATE DISCLOSURE OR OTHER SIMILAR REGISTRATION METHODS.
- D. IT IS UNLAWFUL FOR AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR DUAL LICENSEE TO DO ANY OF THE FOLLOWING IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER OR RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS CHAPTER:
1. FACILITATE THE DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.
  2. SOLICIT OR ACCEPT ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS OR OPERATE A PLATFORM THAT SOLICITS OR ACCEPTS ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS.
  3. OPERATE A LISTING SERVICE RELATED TO THE SALE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.
- E. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B. A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2816.
- F. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT ADVERTISES MARIJUANA OR MARIJUANA PRODUCTS IN VIOLATION OF THIS SECTION OR OTHERWISE VIOLATES THIS SECTION SHALL PAY A CIVIL PENALTY OF \$20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

**36-2860. Packaging; restrictions on particular marijuana products**

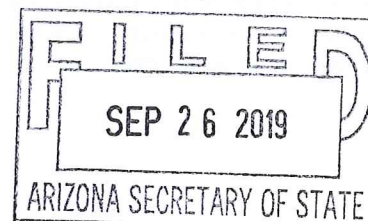
- A. A MARIJUANA ESTABLISHMENT MAY NOT:
1. PACKAGE OR LABEL MARIJUANA OR MARIJUANA PRODUCTS IN A FALSE OR MISLEADING MANNER.
  2. MANUFACTURE OR SELL MARIJUANA PRODUCTS THAT RESEMBLE THE FORM OF A HUMAN, ANIMAL, INSECT, FRUIT, TOY OR CARTOON.
  3. SELL OR ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS WITH NAMES THAT RESEMBLE OR IMITATE FOOD OR DRINK BRANDS MARKETED TO CHILDREN, OR OTHERWISE ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS TO CHILDREN.
- B. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B.

**36-2861. Contracts; professional services**

- A. IT IS THE PUBLIC POLICY OF THIS STATE THAT CONTRACTS RELATED TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES ARE ENFORCEABLE.
- B. A PERSON THAT IS LICENSED, CERTIFIED OR REGISTERED BY ANY DEPARTMENT, AGENCY OR REGULATORY BOARD OF THIS STATE IS NOT SUBJECT TO DISCIPLINARY ACTION BY THAT ENTITY FOR PROVIDING PROFESSIONAL ASSISTANCE TO A PROSPECTIVE OR REGISTERED MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR OTHER PERSON FOR ANY LAWFUL ACTIVITY UNDER THIS CHAPTER.

**36-2862. Expungement; petition; appeal; dismissal of complaints; rules**

- A. BEGINNING JULY 12, 2021, AN INDIVIDUAL WHO WAS ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED BY TRIAL OR PLEA OF, OR SENTENCED FOR, ANY OF THE FOLLOWING OFFENSES BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS SECTION MAY PETITION THE COURT TO HAVE THE RECORD OF THAT ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE EXPUNGED:



1. POSSESSING, CONSUMING OR TRANSPORTING TWO AND ONE-HALF OUNCES OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS WAS IN THE FORM OF MARIJUANA CONCENTRATE.
2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS AT THE INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE.
3. POSSESSING, USING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA.
  - B. IF THE COURT RECEIVES A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION:
    1. THE COURT SHALL NOTIFY THE PROSECUTING AGENCY OF THE FILING OF THE PETITION, AND ALLOW THE PROSECUTING AGENCY TO RESPOND TO THE PETITION WITHIN THIRTY DAYS.
    2. THE COURT MAY HOLD A HEARING:
      - (a) ON THE REQUEST OF EITHER THE PETITIONER OR THE PROSECUTING AGENCY.
      - (b) IF THE COURT CONCLUDES THERE ARE GENUINE DISPUTES OF FACT REGARDING WHETHER THE PETITION SHOULD BE GRANTED.
    3. THE COURT SHALL GRANT THE PETITION UNLESS THE PROSECUTING AGENCY ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE PETITIONER IS NOT ELIGIBLE FOR EXPUNGEMENT.
    4. THE COURT SHALL ISSUE A SIGNED ORDER OR MINUTE ENTRY GRANTING OR DENYING THE PETITION IN WHICH IT MAKES FINDINGS OF FACT AND CONCLUSIONS OF LAW.
      - C. IF THE COURT GRANTS A PETITION FOR EXPUNGEMENT:
        1. THE SIGNED ORDER OR MINUTE ENTRY REQUIRED PURSUANT TO SUBSECTION B, PARAGRAPH 4 OF THIS SECTION SHALL DO ALL OF THE FOLLOWING:
          - (a) IF THE PETITIONER WAS ADJUDICATED OR CONVICTED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, VACATE THE JUDGMENT OF ADJUDICATION OR CONVICTION.
          - (b) STATE THAT IT EXPUNGES ANY RECORD OF THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE.
          - (c) IF THE PETITIONER WAS CONVICTED OR ADJUDICATED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, STATE THAT THE PETITIONER'S CIVIL RIGHTS, INCLUDING THE RIGHT TO POSSESS FIREARMS, ARE RESTORED, UNLESS THE PETITIONER IS OTHERWISE NOT ELIGIBLE FOR THE RESTORATION OF CIVIL RIGHTS ON GROUNDS OTHER THAN A CONVICTION FOR AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION.
          - (d) REQUIRE THE CLERK OF THE COURT TO NOTIFY THE DEPARTMENT OF PUBLIC SAFETY, THE PROSECUTING AGENCY AND THE ARRESTING LAW ENFORCEMENT AGENCY, IF APPLICABLE, OF THE EXPUNGEMENT ORDER.
          - (e) REQUIRE THE CLERK OF THE COURT TO SEAL ALL RECORDS RELATING TO THE EXPUNGED ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE AND ALLOW THE RECORDS TO BE ACCESSED ONLY BY THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THE INDIVIDUAL'S ATTORNEY.
        2. THE DEPARTMENT OF PUBLIC SAFETY SHALL SEAL AND SEPARATE THE EXPUNGED RECORD FROM ITS RECORDS AND INFORM ALL APPROPRIATE STATE AND FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT. UNLESS THE PETITIONER IS INDIGENT, THE DEPARTMENT OF PUBLIC SAFETY MAY CHARGE THE SUCCESSFUL PETITIONER A REASONABLE FEE DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY TO RESEARCH AND CORRECT THE PETITIONER'S CRIMINAL HISTORY RECORD.
        3. THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY IDENTIFY IN EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE ARE EXPUNGED AND SHALL NOT MAKE ANY RECORDS OF THE EXPUNGED ARREST, CHARGE, CONVICTION, ADJUDICATION OR SENTENCE AVAILABLE AS A PUBLIC RECORD TO ANY PERSON EXCEPT TO THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THAT INDIVIDUAL'S ATTORNEY.
      - D. AN ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE THAT IS EXPUNGED PURSUANT TO THIS SECTION MAY NOT BE USED IN A SUBSEQUENT PROSECUTION BY A PROSECUTING AGENCY OR COURT FOR ANY PURPOSE.
      - E. AN INDIVIDUAL WHOSE RECORD OF ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE IS EXPUNGED PURSUANT TO THIS SECTION MAY STATE THAT THE INDIVIDUAL HAS NEVER BEEN ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED OF, OR SENTENCED FOR THE CRIME THAT IS THE SUBJECT OF THE EXPUNGEMENT.
      - F. IF THE COURT DENIES A PETITION FOR EXPUNGEMENT, THE PETITIONER MAY FILE A DIRECT APPEAL PURSUANT TO SECTION 13-4033, SUBSECTION A, PARAGRAPH 3.
      - G. ON MOTION, THE COURT SHALL DISMISS WITH PREJUDICE ANY PENDING COMPLAINT, INFORMATION OR INDICTMENT BASED ON ANY OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, TO INCLUDE CHARGES OR ALLEGATIONS BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS CHAPTER. THE INDIVIDUAL CHARGED MAY THEREAFTER PETITION THE COURT TO

EXPUNGE RECORDS OF THE ARREST AND CHARGE OR ALLEGATION AS PROVIDED IN THIS SECTION. A MOTION BROUGHT PURSUANT TO THIS SUBSECTION MAY BE FILED WITH THE COURT BEFORE JULY 12, 2021.

H. THE SUPREME COURT MAY ADOPT RULES NECESSARY TO IMPLEMENT THIS SECTION, AND MAY ALSO SPONSOR PUBLIC SERVICE ANNOUNCEMENTS OR OTHER NOTIFICATIONS INTENDED TO PROVIDE NOTICE TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO THIS SECTION.

I. A PROSECUTING AGENCY MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL WHO WAS PROSECUTED BY THAT PROSECUTING AGENCY, AND THE ATTORNEY GENERAL MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL.

**36-2863. Justice reinvestment fund; exemption; distribution; definition**

A. THE JUSTICE REINVESTMENT FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTION 36-2856 AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE JUSTICE REINVESTMENT FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.
2. THE REASONABLE ADMINISTRATIVE COSTS INCURRED BY THE DEPARTMENT TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

C. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE JUSTICE REINVESTMENT FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. THIRTY-FIVE PERCENT TO COUNTY PUBLIC HEALTH DEPARTMENTS, IN PROPORTION TO THE POPULATION OF EACH COUNTY ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS, FOR THE PURPOSE OF PROVIDING JUSTICE REINVESTMENT PROGRAMS OR DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS TO PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THAT COUNTY.
2. THIRTY-FIVE PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS THAT PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THIS STATE.
3. THIRTY PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF ADDRESSING IMPORTANT PUBLIC HEALTH ISSUES THAT AFFECT THIS STATE.

D. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTER 23, AND EACH GRANTEE SHALL PROVIDE THE GRANTING AGENCY WITH AN ANNUAL REPORT DETAILING THE USE OF GRANTED MONIES.

E. MONIES TRANSFERRED AND RECEIVED PURSUANT TO SUBSECTION C OF THIS SECTION ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTION 20, CONSTITUTION OF ARIZONA.

F. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS PURSUANT TO SUBSECTION B OF THIS SECTION.

G. FOR THE PURPOSES OF THIS SECTION, "JUSTICE REINVESTMENT PROGRAMS" MEANS INITIATIVES OR PROGRAMS THAT FOCUS ON ANY OF THE FOLLOWING:

1. PUBLIC AND BEHAVIORAL HEALTH, INCLUDING EVIDENCE-BASED AND EVIDENCE-INFORMED SUBSTANCE USE PREVENTION AND TREATMENT AND SUBSTANCE USE EARLY INTERVENTION SERVICES.
2. RESTORATIVE JUSTICE, JAIL DIVERSION, WORKFORCE DEVELOPMENT, INDUSTRY-SPECIFIC TECHNICAL ASSISTANCE OR MENTORING SERVICES FOR ECONOMICALLY DISADVANTAGED PERSONS IN COMMUNITIES DISPROPORTIONATELY IMPACTED BY HIGH RATES OF ARREST AND INCARCERATION.
3. ADDRESSING THE UNDERLYING CAUSES OF CRIME, REDUCING DRUG-RELATED ARRESTS AND REDUCING THE PRISON POPULATION IN THIS STATE.
4. CREATING OR DEVELOPING TECHNOLOGY AND PROGRAMS TO ASSIST WITH THE RESTORATION OF CIVIL RIGHTS AND THE EXPUNGEMENT OF CRIMINAL RECORDS.

**36-2864. Transaction privilege tax; use tax; additional taxes prohibited; exception**

A. FOR PURPOSES OF THE TRANSACTION PRIVILEGE TAX AND USE TAX LEVIED AND COLLECTED PURSUANT TO TITLE 42, CHAPTERS 5 AND 6, MARIJUANA AND MARIJUANA PRODUCTS ARE TANGIBLE PERSONAL PROPERTY DEFINED IN SECTION 42-5001 AND ARE SUBJECT TO THE TRANSACTION PRIVILEGE TAX IN THE RETAIL CLASSIFICATION AND USE TAX.

B. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION AND SECTION 42-5452, THIS STATE AND LOCALITIES MAY NOT LEVY OR COLLECT ADDITIONAL TAXES OF ANY KIND ON THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS AND MAY NOT LEVY OR COLLECT ANY FEES OR ASSESSMENTS OF ANY KIND ON THE

SALE OF MARIJUANA OR MARIJUANA PRODUCTS OR ON THE LICENSING, OPERATIONS OR ACTIVITIES OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, UNLESS THE FEE OR ASSESSMENT IS OF GENERAL APPLICABILITY TO INDIVIDUALS OR BUSINESSES THAT ARE NOT ENGAGED IN THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS.

C. THE PROHIBITION IMPOSED BY SUBSECTION B OF THIS SECTION DOES NOT APPLY TO UNIFORM INCREASES TO THE TRANSACTION PRIVILEGE TAX RATE FOR THE RETAIL CLASSIFICATION OR USE TAX RATE BY THIS STATE OR A LOCALITY OR TO UNIFORM INCREASES TO FEES OR ASSESSMENTS ALLOWED BY SUBSECTION B OF THIS SECTION.

**36-2865. Enforcement of this chapter; special action**

A. IF THE DEPARTMENT FAILS TO ADOPT RULES NECESSARY TO IMPLEMENT THIS CHAPTER ON OR BEFORE JUNE 1, 2021, OR FAILS TO BEGIN ACCEPTING APPLICATIONS AS PROVIDED IN SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), ANY CITIZEN MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

B. IF THE DEPARTMENT FAILS TO ISSUE A LICENSE OR SEND A NOTICE OF DENIAL WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE MARIJUANA ESTABLISHMENT APPLICATION PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), THE APPLICANT MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

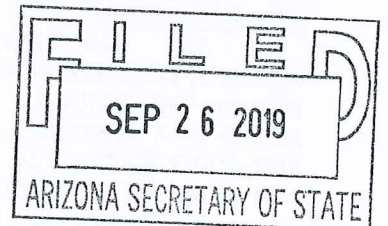
C. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE, IF THE DEPARTMENT FAILS TO ISSUE ANY MARIJUANA ESTABLISHMENT LICENSES PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION D ON OR BEFORE APRIL 5, 2021, EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY IN GOOD STANDING MAY BEGIN TO CULTIVATE, PRODUCE, PROCESS, MANUFACTURE, TRANSPORT AND TEST MARIJUANA AND MARIJUANA PRODUCTS AND MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS UNTIL THE DEPARTMENT ISSUES LICENSES TO OPERATE MARIJUANA ESTABLISHMENTS. IF THIS OCCURS, NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN GOOD STANDING SHALL:

1. BE TREATED AS MARIJUANA ESTABLISHMENTS FOR ALL PURPOSES UNDER THIS CHAPTER, AND THEIR NONPROFIT MEDICAL MARIJUANA ESTABLISHMENT AGENTS SHALL BE TREATED AS MARIJUANA FACILITY AGENTS FOR ALL PURPOSES UNDER THIS CHAPTER.

2. COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE, EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

**Section 5.** Title 42, Chapter 5, Arizona Revised Statutes, is amended by adding article 10 to read:

ARTICLE 10.  
MARIJUANA AND MARIJUANA PRODUCTS



**42-5451. Definitions**

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CONSUMER," "DUAL LICENSEE," "MARIJUANA," "MARIJUANA ESTABLISHMENT" AND "MARIJUANA PRODUCTS" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

2. "DESIGNATED CAREGIVER," "NONPROFIT MEDICAL MARIJUANA DISPENSARY" AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.

**42-5452. Levy and rate of tax; effect of federal excise tax**

A. THERE IS LEVIED AND THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON ALL MARIJUANA AND MARIJUANA PRODUCTS SOLD TO A CONSUMER BY A MARIJUANA ESTABLISHMENT AT A RATE OF SIXTEEN PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD. THIS SUBSECTION DOES NOT APPLY TO MARIJUANA DISPENSED TO A REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER PURSUANT TO TITLE 36, CHAPTER 28.1 BY A DUAL LICENSEE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.

B. IF THE UNITED STATES LEVIES AND COLLECTS AN EXCISE TAX ON MARIJUANA AND MARIJUANA PRODUCTS, THE AGGREGATE OF FEDERAL AND STATE EXCISE TAXES MAY NOT EXCEED A RATE OF THIRTY PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD, AND THE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE LOWERED ACCORDINGLY AND AUTOMATICALLY ON THE EFFECTIVE DATE OF THE FEDERAL EXCISE TAX.

C. A PRODUCT SUBJECT TO THE TAX IMPOSED BY THIS SECTION MAY NOT BE BUNDLED WITH A PRODUCT OR SERVICE THAT IS NOT SUBJECT TO THE TAX IMPOSED BY THIS SECTION.

D. THE TAX LEVIED AND COLLECTED PURSUANT TO THIS SECTION SHALL NOT BE INCLUDED IN COMPUTING THE TAX BASE, GROSS PROCEEDS OF SALES OR GROSS INCOME OF A MARIJUANA ESTABLISHMENT

FOR PURPOSES OF TITLE 42, CHAPTERS 5 AND 6, AND IS NOT SUBJECT TO ANY TRANSACTION PRIVILEGE, SALES, USE OR OTHER SIMILAR TAX LEVIED BY A COUNTY, CITY, TOWN OR SPECIAL TAXING DISTRICT.

E. NOTWITHSTANDING SECTION 42-3102, THE DEPARTMENT SHALL DEPOSIT ALL MONIES LEVIED AND COLLECTED PURSUANT TO THIS SECTION IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

**42-5453. Return statement and payment by marijuana establishment; penalty; interest; rules; confidential information**

A. THE TAX IMPOSED BY THIS ARTICLE IS DUE AND PAYABLE, TOGETHER WITH A RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT, FOR EACH MONTH ON OR BEFORE THE TWENTIETH DAY OF THE SUCCEEDING MONTH.

B. A MARIJUANA ESTABLISHMENT THAT FAILS TO PAY THE TAX IMPOSED BY THIS ARTICLE WITHIN TEN DAYS AFTER THE DATE THE PAYMENT IS DUE IS SUBJECT TO AND SHALL PAY A PENALTY DETERMINED UNDER SECTION 42-1125, PLUS INTEREST AT THE RATE DETERMINED PURSUANT TO SECTION 42-1123, FROM THE TIME THE TAX WAS DUE AND PAYABLE UNTIL PAID. THE DEPARTMENT MAY WAIVE ANY PENALTY OR INTEREST IF IT DETERMINES THAT THE MARIJUANA ESTABLISHMENT HAS MADE A GOOD FAITH ATTEMPT TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

C. THE MONTHLY RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT SHALL INCLUDE AN ACCOUNTING OF THE QUANTITY OF MARIJUANA THAT IS SOLD BY A MARIJUANA ESTABLISHMENT THAT IS SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE DURING THE TAX MONTH.

D. ALL PENALTIES AND INTEREST COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

E. THE DEPARTMENT MAY ADOPT RULES THAT ARE NECESSARY OR CONVENIENT TO ENFORCE THIS ARTICLE, EXCEPT THAT THOSE RULES THAT ARE NECESSARY OR CONVENIENT TO ENFORCE THIS ARTICLE, EXCEPT THAT THOSE RULES MAY NOT CONFLICT WITH TITLE 36, CHAPTER 28.2.

F. THE DEPARTMENT MAY SHARE CONFIDENTIAL INFORMATION AS DEFINED IN SECTION 42-2001 WITH THE DEPARTMENT OF HEALTH SERVICES FOR ITS USE IN DETERMINING WHETHER A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE IS IN COMPLIANCE WITH TAX OBLIGATIONS UNDER THIS TITLE OR TITLE 43.

**Section 6.** Title 43, Chapter 1, article 1, Arizona Revised Statutes, is amended by adding Section 43-108 to read:

**43-108. Subtraction from gross income; ordinary and necessary expenses; marijuana establishments and marijuana testing facilities; definitions**

A. NOTWITHSTANDING ANY OTHER LAW, IN COMPUTING ARIZONA ADJUSTED GROSS INCOME OR ARIZONA TAXABLE INCOME FOR A TAXPAYER, ALL ORDINARY AND NECESSARY EXPENSES PAID OR INCURRED DURING THE TAXABLE YEAR IN CARRYING ON A TRADE OR BUSINESS AS A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY, OR DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO TITLE 36, CHAPTER 28.2 SHALL BE SUBTRACTED FROM ARIZONA GROSS INCOME TO THE EXTENT NOT ALREADY EXCLUDED FROM ARIZONA GROSS INCOME.

B. FOR THE PURPOSES OF THIS SECTION, "DUAL LICENSEE," "MARIJUANA ESTABLISHMENT," AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

**Section 7. Voter Protection Act**

For the purposes of the Voter Protection Act, Ariz. Const. art. IV, pt. 1, § 1(6)(C), the People of the State of Arizona declare that the following acts of the Legislature would further the purpose of this act:

1. Enacting a per se law for the presumption of marijuana impairment based on the concentration of delta-9 tetrahydrocannabinol in a person's body when scientific research on the subject is conclusive and the National Highway Traffic Safety Administration recommends the adoption of such a law.

2. Reducing or eliminating any offense, offense level or penalty provided for in this act.

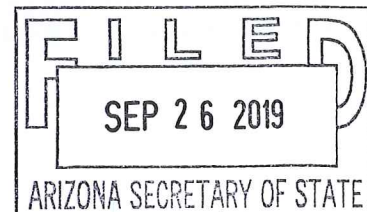
3. Increasing the amount of marijuana that a person may lawfully possess.

4. Amending the provisions of this act to align more closely with federal laws and regulations if marijuana is legalized or decriminalized by the federal government, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

5. Amending the provisions of this act to align more closely with federal laws and regulations governing the possession, processing, cultivation, transport, or transfer of industrial hemp, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

6. Increasing the number of marijuana establishment licenses by up to 10 percent in furtherance of the social equity ownership program established by this act.

7. Facilitating the expungement and sealing of records of arrests, charges, convictions, adjudications and sentences that were predicated on conduct made lawful by this act, including by automatic means, and otherwise preventing or mitigating prejudice to individuals whose arrests, charges, convictions, adjudications or sentences are expunged.



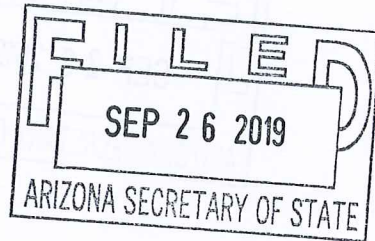
8. Amending the definition of "smoking" in this act to conform with the Smoke-Free Arizona Act if that act is amended to include the use of an electronic smoking device that creates an aerosol or vapor.

**Section 8.** Exemption from rulemaking

For the purposes of this act, and for sixty months after the effective date of this act, the department of revenue and the department of health services are exempt from (a) any executive order or other directive purporting to limit or restrict their ability to adopt new rules, and (b) the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, except that each department shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise exempted rules.

**Section 9.** Severability

If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act and, to the fullest extent possible, the provisions of this act, including each portion of any section of this act containing any invalidated provision that is not itself invalid, shall be construed so as to give effect to the intent thereof.



**League of Arizona Cities and Towns**  
**Model Ordinance Relating to Recreational Marijuana**  
**(September 29, 2020)**

Options are highlighted in **yellow**.

Notes are in **red**.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE COMMON COUNCIL OF THE [CITY/TOWN] OF \_\_\_\_\_, ARIZONA, AMENDING THE CODE OF \_\_\_\_\_, ARIZONA BY ADOPTING A NEW ARTICLE \_\_\_ RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; [PROHIBITING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES *OR* REGULATING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES]; ESTABLISHING REGULATIONS FOR PERSONAL USE AT AN INDIVIDUAL’S PRIMARY RESIDENCE; AUTHORIZING RETAIL SALES FROM MARIJUANA AND MARIJUANA PRODUCTS; IMPOSING FEES; SETTING FORTH VIOLATIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES.

WHEREAS, marijuana contains tetrahydrocannabinol (“THC”), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in [City/Town] according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as “Smart and Safe Arizona Act” has been certified as Proposition 207 and placed on the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants;

WHEREAS, the [City/Town] finds that Proposition 207 authorizes marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other [City/Town] departments to respond to violations of state and local laws, including building, electrical and fire codes;

***[OPTION: If Prohibiting establishments/facilities]***

WHEREAS, the [City/Town] seeks to protect public health, safety, and welfare by prohibiting marijuana establishments and/or marijuana testing facilities in the [City/Town];

***[OPTION: If Allowing/Regulating establishments/facilities]***

WHEREAS, the [City/Town] seeks to protect public health, safety, and welfare by enacting reasonable zoning regulations to limit the number of marijuana establishments and/or marijuana testing facilities in [City/Town];

NOW THEREFORE, BE IT ORDAINED by the Common Council of the [City/Town] of \_\_\_\_\_, Arizona, as follows:

Section I. In General.

The Code of \_\_\_\_\_, Arizona, is hereby amended by adding a new Article \_\_, Recreational Marijuana to read as follows:

**Article X-X**

**Sec. X-X-1 Purpose**

**Sec. X-X-2 Definitions**

**Sec. X-X-3 Marijuana Prohibited on Public Property**

***Option A: Prohibits Marijuana Establishments and Marijuana Testing Facilities***

**Sec. X-X-4(A) Marijuana Establishment Prohibited**

**Sec. X-X-5(A) Marijuana Testing Facility Prohibited**

***Option B: Prohibits Marijuana Establishments Except for Dual Licensees; Prohibits Marijuana Testing Facilities***

**Sec. X-X-4(B) Marijuana Establishment Prohibited; Dual Licensee Exception.**

**Sec. X-X-5(B) Marijuana Testing Facility Prohibited**

***Option C: Prohibits Marijuana Establishments (with or without exception for dual licensees); Permits Marijuana Testing Facilities***

**Sec. X-X-4(C) INSERT Sec. X-X-4(A) or Sec. X-X-4(B)**

**Sec. X-X-4(C) Marijuana Testing Facility Permitted**

***Option D: Permits Marijuana Establishments; Prohibits or Permits Marijuana Testing Facilities***

**Sec. X-X-4(D) Marijuana Establishments Permitted; Nonresidential**

**Sec. X-X-5(D) INSERT Sec. X-X-5(A) or X-X-5(C)**

**Sec. X-X-6 Individual's Primary Residence for Personal Use**

**Sec. X-X-7 Retail Sales from Marijuana and Marijuana Products**

**Sec. X-X-8 Fees**

**Sec. X-X-9 Violations**

**Sec. X-X-10 Enforcement; Penalties**

**Sec. X-X-1 Purpose.**

**[OPTION: If prohibiting marijuana.]**

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the [City/Town] prohibits the retail sale, cultivation, and manufacturing of marijuana or marijuana products in [City/Town]. Nothing in this article is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

**OR**

**[OPTION: If regulating marijuana.]**

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the [City/Town] enacts reasonable regulations and requires compliance with zoning laws for the retail sale, cultivation and manufacturing of marijuana or marijuana products in a marijuana establishment or marijuana testing facility and the cultivation, processing and manufacturing of marijuana in a primary residence. Nothing in this article is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

**Sec. X-X-2 Definitions.**

The below words and phrases, wherever used in this article, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. “*Chemical Extraction*” means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
- B. “*Chemical Synthesis*” means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
- C. “*Consume*,” “*Consuming*,” and “*Consumption*” mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.

- D. “*Consumer*” means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- E. “*Cultivate*” and “*Cultivation*” mean to propagate, breed, grow, prepare and package marijuana.
- F. “*Deliver*” and “*Delivery*” mean the transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.
- G. “*Department*” means the State of Arizona Department of Health Services or its successor agency.
- H. “*Dual Licensee*” means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- I. “*Enclosed Area*” means a building, greenhouse, or other structure that has:
  - 1. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
  - 2. Is secure against unauthorized entry;
  - 3. Has a foundation, slab or equivalent base to which the floor is securely attached; and
  - 4. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped with a lock or other security device that prevents access by minors.
- J. “*Extraction*” means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
- K. “*Manufacture*” and “*Manufacturing*” mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- L. “*Marijuana*”
  - 1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound,

- manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
2. Includes cannabis as defined in A.R.S. § 13-3401.
  3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.
- M. *“Marijuana Concentrate:”*
1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
  2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.
- N. *“Marijuana Establishment”* means an entity licensed by the Department to operate all of the following:
1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
  2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
  3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
- O. *“Marijuana Products”* means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.
- P. *“Marijuana Testing Facility”* means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.
- Q. *“Nonprofit Medical Marijuana Dispensary”* means a nonprofit entity as defined in A.R.S. § 36-2801(12).
- R. *“Open Space”* means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

- S. “Person” means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- T. “Process” and “Processing” means to harvest, dry, cure, trim or separate parts of the marijuana plant.
- U. “Public Place” has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
- V. “Smoke” means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

**Sec. X-X-3 Marijuana Prohibited on Public Property.**

- A. The use, sale, cultivation, manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by [City/Town].
- B. It is unlawful for an individual to smoke marijuana in a public place or open space in [City/Town].

***[OPTION A: Sec. X-X-4(A) and X-X-5(A) prohibits a marijuana establishment and marijuana testing facility – a municipality may prohibit either or both.]***

**Sec. X-X-4(A) Marijuana Establishment Prohibited.**

- A. To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in [City/Town].
- B. To the fullest extent allowable by law, the operation of a marijuana establishment by a dual licensee is prohibited in [City/Town].

**Sec. X-X-5(A) Marijuana Testing Facility Prohibited.**

- A. To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in [City/Town].

***[OPTION B: Sec. X-X-4(B) and X-X-5(B) prohibits a marijuana establishment with the exception of dual licensees who operate both medical dispensaries and marijuana establishments at a shared location; prohibits a marijuana testing facility].***

**Sec. X-X-4(B) Marijuana Establishment Prohibited; Dual Licensee Exception.**

- A. To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in [City/Town], except where authorized for a dual licensee who:
1. Operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
  2. Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

**Sec. X-X-5(B) Marijuana Testing Facility Prohibited.**

- B. To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in [City/Town].

***[OPTION C: Sec. X-X-4(C) and X-X-5(C) prohibits a marijuana establishment but allows a marijuana testing facility].***

**Sec. X-X-4(C)**

**[INSERT Sec. X-X-4(A) prohibition of all Marijuana Establishments or Sec. X-X-4(B) prohibition of Marijuana Establishment with dual licensee exception].**

**Sec. X-X-5(C) Marijuana Testing Facility Permitted.**

- A. It shall be unlawful for a person to operate a marijuana testing facility at any location within the [City/Town] without obtaining a \_\_\_\_\_ permit from the [City/Town] clerk in accordance with [City/Town] Zoning Code Section \_\_\_\_\_, including any application and review procedures pursuant to \_\_\_\_\_.
- B. A marijuana testing facility is permitted in [City/Town] subject to the following conditions:
1. There are no more than \_\_\_\_ number of marijuana testing facilities operating in [City/Town].
  2. Shall ensure that access to the area of the facility where marijuana or marijuana products are being tested or stored for testing is limited to a facility's owners or authorized agents.
  3. Shall ensure that transportation of marijuana or marijuana products is in compliance with applicable law.
  4. Shall comply with all testing processes, protocols, standards, and criteria adopted by the Department for testing marijuana and marijuana products.
  5. Shall maintain records, equipment and instrumentation as required by the Department.

6. Shall submit a written security plan to the [City/Town] that specifies the measures that will be taken to deter and prevent unauthorized entrance into limited access areas including the use of security equipment to detect unauthorized intrusion, exterior lighting to facilitate surveillance, and electronic monitoring such as video cameras that provide coverage of all entrances to and exits from limited access areas and all entrances to and exits from the building and has sufficient recording resolution.

**OR**

Shall comply with all security protocols required by the Department.

***[OPTION D: Sec. X-X-4(D) and X-X-5(D) permits a Marijuana Establishment and has an option for prohibiting or permitting a Marijuana Testing Facility].***

***[NOTE: The following provisions are provided as examples to include in your ordinance to regulate a Marijuana Establishment. However, if your city or town has existing medical marijuana regulations it may be simpler to reference back to those provisions since the Act prohibits a city or town from enacting an ordinance, regulation or rule that is unduly burdensome or more restrictive than a comparable ordinance, regulation, or rule that applies to nonprofit medical marijuana dispensaries.]***

#### **Sec. X-X-4(D) Marijuana Establishments Permitted; Nonresidential.**

Marijuana establishments shall be regulated as outlined in Section \_\_\_ of the [City/Town] Code (reference to nonprofit medical marijuana dispensary regulations instead of including the following provisions).

**OR**

- A. It shall be unlawful for a person to operate a marijuana establishment at any location within the [City/Town] without obtaining a \_\_\_\_\_ permit from the [City/Town] clerk in accordance with [City/Town] Zoning Code Section \_\_\_\_\_, including any application and review procedures pursuant to \_\_\_\_\_.
- B. If authorized by state law and a valid permit has been obtained from the [City/Town], a marijuana establishment is permitted in [City/Town] subject to the following conditions and limitations:

***[OPTION: Dual licensee only]***

1. To the fullest extent allowable by law, shall be authorized for a dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a

shared location and has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

**OR**

***[OPTION: Dual licensee (who is not limited to a shared location or maintaining dispensary registration) or any other licensed applicant; the Act allows the Department to issue social equity ownership program licenses that will be authorized to operate as marijuana establishments].***

1. To the fullest extent allowable by law, shall be authorized in [City/Town] for:
  - a. A dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment.
  - b. Any other entity licensed by the Department to provide marijuana or marijuana products to consumers.
2. Shall not be more than \_\_\_ marijuana establishments operating in [City/Town].
3. Shall be authorized in \_\_\_\_\_ zoning districts.
4. Shall not be located within \_\_\_\_\_ hundred feet of the same type of use or a nonprofit medical marijuana dispensary. This distance shall be measured from the lot line of the property in which the businesses are conducted or proposed to be conducted.
5. Shall not be located within \_\_\_\_\_ hundred feet of a residentially zoned property. This distance shall be measured from the lot line of the property in which the business is conducted or proposed to be conducted to the property boundary line of the residentially zoned property.
6. Shall not be located within \_\_\_\_\_ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, public cemetery or community center. This distance shall be measured from the lot line of the property in which the business is conducted or proposed to be conducted to the property line of the protected use.
7. Shall be located in a permanent building on an established foundation adhering to [City/Town] building codes and shall not include any temporary, portable or self-powered mobile facilities, or trailer, cargo container or motor vehicle.

8. Shall be a total maximum \_\_\_\_\_ square feet. Maximum square footage may be expanded subject to Use Permit application and hearing procedures set forth under [City/Town Code].
9. The secure storage area for the marijuana stored at the location shall not exceed \_\_\_\_\_square feet of the total \_\_\_\_\_ square foot maximum floor area of the facility. Maximum square footage may be expanded subject to Use Permit application and hearing procedures set forth under [City/Town Code].
10. Shall have operating hours not earlier than \_\_\_\_ a.m. and not later than \_\_\_\_ p.m.
11. Shall not provide drive-thru services or offsite deliveries of marijuana or marijuana products.
12. Shall not allow a person to consume marijuana or marijuana products on the premises or provide outdoor seating areas.
13. Shall provide for proper disposal of marijuana remnants or by-products. The remnants or by-products shall not to be placed within the facility's exterior refuse containers, [City/Town] trash can, bin or other [City/Town] facility, or in any park refuse container unless authorized by the [City/Town].
14. Shall not emit dust, fumes, vapors or odors into the environment from the facility and shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of [City/Town].
15. Shall not sell marijuana or marijuana products, except as permitted by state law to consumers.
16. Shall not display or keep marijuana or marijuana products that are visible from outside the premises.
17. Shall comply with applicable county health regulations for food preparation and handling.
18. Shall comply with applicable laws to safely and securely engage in extraction processes.
19. Shall submit a written security plan to the [City/Town] that describes the actions taken to deter and prevent unauthorized

entrance into limited access areas including use of security equipment, exterior lighting to facilitate surveillance, and electronic monitoring such as video cameras.

20. For a marijuana establishment that engages in cultivation or manufacturing, shall submit a written operations plan to the [City/Town] that describes the following:
- i. Procedures showing that the marijuana cultivation will be conducted in accordance with state and local laws and regulations regarding use and disposal of pesticides and fertilizers.
  - ii. The legal water source, irrigation plan, wastewater systems to be used, and projected water use.
  - iii. The plan for addressing odor and other public nuisances that may derive from the establishment.

**Sec. X-X-5(D)**

**[INSERT Sec. X-X-5(A) to prohibit a Marijuana Testing Facility or Sec. X-X-5(C) to permit a Marijuana Testing Facility]**

**Sec. X-X-6 INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE**

*[NOTE: Your city or town may want to reference or incorporate any existing regulations for medical marijuana use and cultivation in residential areas.]*

- A. To the fullest extent allowable by law, marijuana possession, consumption, processing, manufacturing, transportation, and cultivation is permitted in a residential zoning district in [City/Town] and is subject to the following conditions and limitation:
- 1. It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.
  - 2. It shall be unlawful for two or more individuals who are at least twenty-one (21) year of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.
  - 3. Except as provided by A.R.S. § 36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within the [City/Town] limits.
  - 4. Individuals shall not process or manufacture marijuana by means of any liquid or gas other than alcohol, that has a flashpoint below one hundred (100) degrees Fahrenheit.

5. Kitchen, bathrooms, and primary bedroom(s) shall be used for their intended use and shall not be used primarily for residential marijuana processing, manufacturing, or cultivation.
6. A residence shall not emit dust, fumes, vapors, or odors into the environment and individuals shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of [City/Town].
7. Cultivation shall be limited to a closet, room, greenhouse, or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.
8. Cultivation shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft, or other optical aids.

***[NOTE: Cities and towns are not allowed to impose any tax rate above or below their regular retail tax rate on sales or purchases of marijuana or marijuana products.]***

**Sec. X-X-7 Retail Sales from Marijuana and Marijuana Products.**

To the fullest extent allowable by law, the sale of marijuana and marijuana products is authorized within the [City/Town] from a marijuana establishment and is tangible personal property as defined in A.R.S. § 42-5001 and subject to the transaction privilege tax in the retail classification and use tax.

***[OPTIONAL: If marijuana establishments and/or marijuana testing facilities are permitted in your city or town].***

**Sec. X-X-8 Fees.**

- A. [FOR PERMITS] The fee for the permit shall be established by [RESOLUTION OF THE CITY/TOWN COUNCIL/FEE SCHEDULE].

OR

The permit fee for a marijuana establishment pursuant to Sec. X-X-\_\_ is (\$\_\_\_\_\_) annually.

The permit fee for a marijuana testing facility pursuant to Sec. X-X-\_\_ is (\$\_\_\_\_\_) annually.

**Sec. X-X-9 Violations.**

- A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.
- B. It is a violation of this article for any person to provide false information on any permit application.
- C. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

**Sec. X-X-10 Enforcement; Penalties.**

- A. The \_\_\_\_\_ permit may be revoked by the [City/Town] for violation of any provision of this article, for any violation of the requirements of the permit, or if the Department revokes the license for a marijuana establishment or marijuana testing facility. If a permit is revoked, the permittee shall have the right to appeal the decision of the [City/Town] to \_\_\_\_\_ as outlined in Section \_\_\_\_ of the [City/Town] Code.
- B. Violations of this article are in addition to any other violation enumerated within the [City/Town] ordinances or the [City/Town] Code and in no way limits the penalties, actions or abatement procedures which may be taken by the [City/Town] for any violation of this article, which is also a violation of any other ordinance or Code provision of the [City/Town] or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.
- C. Civil Penalty: Violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by the [City/Town] civil hearing process set forth in subsection \_\_\_\_\_ or [City/Town] Court under Section \_\_\_\_ of the [City/Town Code].

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Recitals.

The recitals above are fully incorporated in this Ordinance by reference.

Section IV. Effective Date.

***[OPTION: Conditional Effective Date]***

This Ordinance does not become effective unless the Smart and Safety Act (Proposition 207) becomes law when approved by a majority of the votes cast at the November 3, 2020 general election and on proclamation of the governor. Upon the governor's proclamation, the effective date of this Ordinance shall be \_\_\_\_ days following adoption by the [City/Town] Council.

**OR**

***[OPTION: Emergency Act]***

Emergency.

Because of the urgent need for the implementation of the [City/Town]'s regulations concerning recreational marijuana, the immediate operation of this Ordinance is necessary for the preservation of the health, safety, and general welfare. An emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and Council as required by law.

Section V. Zoning Considerations.

In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the [City/Town] Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance.

Section VI. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section VII. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Common Council of the [City/Town] of \_\_\_\_\_, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 202\_, by the following vote:

AYES: \_\_\_\_\_

NAYES: \_\_\_\_\_ ABSENT: \_\_\_\_\_

EXCUSED: \_\_\_\_\_ ABSTAINED: \_\_\_\_\_

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 202\_.

\_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, [City/Town] Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
[City/Town] Attorney

I, \_\_\_\_\_, [CITY/TOWN] CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. \_\_\_\_\_ ADOPTED BY THE COMMON COUNCIL OF THE [CITY/TOWN] OF \_\_\_\_\_ ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 202\_, WAS POSTED IN THREE PLACES ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 202\_.

\_\_\_\_\_  
\_\_\_\_\_, [City/Town] Clerk



## AGENDA ITEM REVIEW FORM

### Work Session

2. D.

**Meeting Date:** 11/04/2020

**Department Head:** Kay Macuil, City Attorney, Attorney's Office

**Submitted By:** Kay Macuil, City Attorney, Attorney's Office

**Action Requested:** Discussion Item - No Action to be Taken

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### ITEM:

Discussion and possible directions to staff regarding the Ballot Initiative, Proposition No. 207 titled "Smart and Safe Arizona Act" on regulating legal sales, cultivation, and manufacturing products from marijuana and options for city ordinances. (**Glenn J. Gimbut, Assistant City Attorney**)

### SUMMARY:

This agenda summary was written before the November 3rd election results when polling showed a nearly 50% chance of passing or failing. However, staff would like to advise the City Council of its options if the proposition has passed by the time of this meeting. The Proposition allows for non-medical marijuana establishments, cultivation testing of, and manufacture of marijuana products.

If one looks at the overall scheme:

- There will be one license for a marijuana establishment for every ten pharmacies. (San Luis only has three with a fourth coming. The City of Yuma has about 12)
- There is one license for a marijuana establishment per county where there is a licensed medical marijuana facility. (Yuma County has at least one (1). The City of Yuma has one (1))

So, it looks like there will be one(1) maybe two (2) recreational marijuana establishments for the entire county. It is doubtful a marijuana establishment will locate in San Luis.

### **Non-medical marijuana establishment Local Ordinance Option**

For non-medical marijuana establishments, a complete prohibition route is possible. Basically, this means San Luis keeps what it has on the books without change. Only a medical marijuana distributor under all the current rules might be able to get established if the State issues a license, which to date it has not.

### **Proposition 207 and Law Enforcement**

Proposition 207 restricts citations for marijuana.

### **Proposition 207 and Land Use Regulation**

While folks have the right to grow on their own, our current zoning restrictions will apply. This means growing marijuana indoors, out of sight, under lock and key. So, what we have now remains.

### **Proposition 207 and Workforce**

The city may continue to have a complete drug free workplace.

The presenter recommends that the city keep its current rules in place without change.

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The full text of Proposition 207 is attached. For reference, the operable part of the initiative for local governments is as follows:

Section 36-2857. Localities; marijuana establishments and marijuana testing facilities:

A. A locality may:

1. *Enact reasonable zoning regulations that limit the use of land for marijuana establishments and marijuana testing facilities to specified areas.*
2. *Limit the number of marijuana establishments or marijuana testing facilities or both.*
3. *Prohibit marijuana establishments or marijuana testing facilities or both.*
4. *Regulate the time, place, and manner of marijuana establishment and marijuana testing facility operations.*
5. *Establish reasonable restrictions on public signage regarding marijuana, marijuana establishments, and marijuana testing facilities.*
6. *Prohibit or restrict delivery within its jurisdiction.*

B. A county may exercise its authority pursuant to subsection “A” of this section only in unincorporated areas of the county.

C. A locality may not enact any ordinance, regulation, or rule that:

1. *Is more restrictive than a comparable ordinance, regulation, or rule that applies to nonprofit medical marijuana dispensaries.*
2. *Makes the operation of a marijuana establishment or marijuana testing facility unduly burdensome if the locality has not prohibited marijuana establishments or marijuana testing facilities.*
3. *Conflicts with this chapter or rules adopted pursuant to this chapter.*
4. *Prohibits the transportation of marijuana by a marijuana establishment or marijuana testing facility on public roads.*
5. *Restricts or interferes with the ability of a dual licensee or an entity eligible to become a dual licensee to operate a nonprofit medical marijuana dispensary and a marijuana establishment cooperatively at shared locations.*
6. *Except as expressly authorized by this section or section 36-2851, prohibits or restricts any conduct or transaction allowed by this chapter, or imposes any liability or penalty in addition to that prescribed by this chapter for any conduct or transaction constituting a violation of this chapter.*

**RECOMMENDATION / SUGGESTED MOTION:**

Discussion and possible directions to staff only, no action.

**IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:** No  
**CITY/STATE/FEDERAL FUNDS:** N/A  
**TOTAL:** N/A  
**BUDGETED AMOUNT:** N/A  
**AVAILABLE AMOUNT TO TRANSFER:** N/A  
**ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:** N/A  
**FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):**

There is no fiscal impact for this discussion item.

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### **Attachments**

Prop 207 Text  
Memorandum - Proposition 207  
League Model Ordinance

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**MEMORANDUM**

DATE: October 28, 2020

TO: Honorable Mayor and City Council  
Tadeo De La Hoya, City Manager  
Kay Marion Macuil, City Attorney  
Richard Jessup, Chief of Police  
Jose A. Guzman, Planning and Zoning Director

FROM: Glenn Gimbut, Assistant City Attorney

**RE: PROPOSITION 207 – LEGALIZATION OF MARIJUANA INITIATIVE**

=====  
On the November 3, 2020, ballot is Proposition 207, which seeks to legalize possession of small amounts of marijuana in Arizona. A copy of the initiative is attached to this memorandum. The highlights of the bill are:

1. Adults 21 and older would be able to possess 1 ounce of marijuana with no more than 5 grams of it being marijuana concentrates (extracts).
2. Limits home cultivation to 6 plants at an individual’s primary residence and 12 plants at a residence where two or more individuals who are at least 21 years old reside at one time.
3. The Arizona Department of Health Services (“ADHS”) would have to establish recreational marijuana regulations on or before April 5, 2021.
4. A 16% excise tax (the same as cigarettes and alcohol) would be placed on recreational marijuana products. Money from the excise tax would fund various state agencies and be dispersed between community college districts, police departments, fire departments and the Highway User fund.
5. Marijuana use would remain illegal in public places (restaurants, parks, sidewalks, etc.). Offenders are guilty of a petty offense.
6. No marijuana products could be sold that imitate brands marketed to children or look like humans, animals, insects, fruits, toys, or cartoons.
7. Marijuana edibles will be limited to a maximum of 10mg of THC per edible and limited to a maximum of 100mg of THC per package of edibles.
8. Employers have the right to maintain a drug- and alcohol-free workplace.

9. Driving, flying, or boating impaired to even the slightest degree by marijuana would remain illegal (i.e., zero-tolerance rule).

10. Marijuana testing facilities will test marijuana for harmful contaminants (i.e., pesticides, molds, etc.).

11. "Qualified early applicants" (qualifications are currently undetermined) can apply for a recreational dispensary license (approx. 145 licenses will be available) with the ADHS. Any remaining or additional licenses will be provided by random selection.

12. The ADHS may issue a marijuana establishment license (recreational marijuana dispensary license) to no more than two recreational dispensaries per county that contains no medical marijuana dispensaries, or one recreational dispensary license per county that contains one medical marijuana dispensary (the ADHS will accept applications from January 19, 2021 – March 9, 2021).

13. On or before April 5, 2021, medical marijuana dispensaries will be able to sell recreational marijuana to adults until the ADHS issues licenses for recreational dispensaries.

14. Medical marijuana dispensaries that obtain a recreational marijuana dispensary license(s) could operate both entities in the same and or shared location.

15. Possession Offenses:

(a) Possessing more than one ounce but less than 2.5 ounces would be a petty offense.

(b) Minors caught with less than one ounce would receive up to a \$100 fine and four hours of drug counseling for a first offense.

(c) Escalating penalties:

(i) A second offense would be up to a \$100 fine and eight hours of drug counseling.

(ii) A third offense would be a Class 1 misdemeanor.

16. Smoking in a public place would be a petty offense.

17. On or after January 1, 2023, the ADHS can adopt rules to permit recreational marijuana deliveries.

18. Beginning on July 12, 2021, people convicted previously of possessing less than an ounce of marijuana or six or fewer plants or paraphernalia can petition to have the record expunged.

## **Licensing Businesses**

With respect to the number of available licenses to sell recreational marijuana, the proposed §36-2854 puts an upper limit on the number of available licenses in the state to no more than one for every ten licensed pharmacies in Arizona, which puts the estimated number at about 145. In addition, there would be two licenses available for every county that does not have medical marijuana in the county and one license for counties with medical marijuana. Provisions are made for a program for 26 additional licenses for a “social equity ownership program.” Whether any of these licensed facilities would desire to establish a business in San Luis is unknown. The provisions in the law for medical marijuana remain unchanged. Proposition 207 adds new and additional provisions.

## **Provisions Key to San Luis**

For the City of San Luis, the key provisions are to be found at §36-2857. While other parts of the law will have impacts, this is the major section that impacts the city. (Other parts of the law, for example, impact the city’s ability to collect sales tax in the same manner as the sales tax would apply to any other retail sale and impact the police department’s ability to enforce current laws regarding sale, possession, and cultivation of marijuana)

The key Section 36-2857 provides:

### *Localities; marijuana establishments and marijuana testing facilities*

#### *A. A LOCALITY MAY:*

- 1. Enact reasonable zoning regulations that limit the use of land for marijuana establishments and marijuana testing facilities to specified areas.*
- 2. Limit the number of marijuana establishments or marijuana testing facilities, or both. 3. prohibit marijuana establishments or marijuana testing facilities, or both.*
- 3. Regulate the time, place and manner of marijuana establishment and marijuana testing facility operations.*
- 4. Establish reasonable restrictions on public signage regarding marijuana, marijuana establishments and marijuana testing facilities.*
- 5. Prohibit or restrict delivery within its jurisdiction.*

*B. A COUNTY MAY EXERCISE ITS AUTHORITY PURSUANT TO SUBSECTION A OF THIS SECTION ONLY IN UNINCORPORATED AREAS OF THE COUNTY.*

*C. A LOCALITY MAY NOT ENACT ANY ORDINANCE, REGULATION OR RULE THAT:*

- 1. Is more restrictive than a comparable ordinance, regulation or rule that applies to nonprofit medical marijuana dispensaries.*
- 2. Makes the operation of a marijuana establishment or marijuana testing facility unduly burdensome if the locality has not prohibited marijuana establishments or marijuana testing facilities.*
- 3. Conflicts with this chapter or rules adopted pursuant to this chapter.*
- 4. Prohibits the transportation of marijuana by a marijuana establishment or marijuana testing facility on public roads.*
- 6. Restricts or interferes with the ability of a dual licensee or an entity eligible to become a dual licensee to operate a nonprofit medical marijuana dispensary and a marijuana establishment cooperatively at shared locations.*
- 7. Except as expressly authorized by this section or section 36-2851, prohibits or restricts any conduct or transaction allowed by this chapter, or imposes any liability or penalty in addition to that prescribed by this chapter for any conduct or transaction constituting a violation of this chapter.*

Despite the above language, there is another section which, on the surface, appears to contradict what a local government can do. ARS §36-2857(A)(3) provides:

*“A locality may...prohibit marijuana establishments and marijuana testing facilities or both.”*

However, ARS §36-2857(C)(1) states:

*“A locality may not enact any ordinance, regulation or rule that is more restrictive than a comparable ordinance, regulation or rule that applies to nonprofit medical marijuana dispensaries.”*

We cannot outright ban medical marijuana dispensaries, so how can we totally ban marijuana establishments and marijuana testing facilities or both? Right now, it is unclear as to what the eventual outcome will be. The working group at the City

Attorneys Association is comfortable with the provisions in the Model Ordinance. An observation by one member, Andrew Miller of Paradise Valley, is that the safest course of action is to regulate in the zoning code and treat these establishments the same way as medical marijuana.

Basically, there are two types of uses in Proposition 207.

- (1) The first is a '**marijuana establishment**,' which sells and cultivates marijuana and produces marijuana products. A license for such an establishment would allow the license holder to do all three things.
- (2) The second is where the retail sales occur. The second is a '**marijuana testing facility**,' which is a place where marijuana is tested for potency and to determine if contaminants are present. Cultivation and production are uses that can be separated from the location where retail sales occur.

So, in the end, there are four distinct types of operations: 1) sales, 2) cultivation, 3) production; 4) testing.

As stated above, §36-2857 would, if one is not impacting existing medical marijuana provisions, appear to allow San Luis to ban the new establishments. San Luis would be allowed to permit them but limit the number in the city. San Luis would be allowed to pick which facilities it liked and ban the ones it did not. The new law allows the retail sales facilities to do home delivery – sort of like Domino's pizza delivery. Proposition 207 imposes a statewide ban on delivery until the state adopts regulatory rules. The law has sections that appear to allow San Luis to impose restrictions upon or outright ban home delivery. However, there are also sections which appear to contradict the ability to do a total ban forever. Once again, Proposition 207 is a bit unclear.

Proposition 207 specifically provides at §36-2851 that San Luis, as an employer, has the right to maintain a drug-free workplace. Hence, our current rules regarding marijuana in the workplace remain intact and unaffected.

Attached as an additional exhibit is a proposed model ordinance coming from the League of Arizona Cities and Towns. This ordinance gives the following general options:

- Option A. Prohibiting marijuana establishments and testing facilities.
- Option B. Prohibiting marijuana establishments and testing facilities except for dual license facilities (medical marijuana and recreational marijuana at the same place.)

- Option C. Prohibits marijuana establishments but allows testing facilities. (Sub-option permits dual operations only and allowing testing facilities.)
- Option D. Permits marijuana establishments but prohibits testing facilities.

If the City Council decides it wants to allow either marijuana establishments or testing facilities or both, it can still regulate them. The model ordinance gives examples of those regulations one might want to consider. If simply prohibiting these uses, then there is no need for further regulation.

An area to also consider is home delivery and whether to prohibit or restrict it. This is another area of contradictory provisions in Proposition 207. There is a statewide ban on delivery services until the state adopts regulations, so there is time to regulate. But this is an area one needs to be concerned about.

Remember, this law does not impact medical marijuana facilities or our existing regulations. So far, to date, while some have attempted to get a medical marijuana license from the state to operate in San Luis, no one has been able to get such a license, and, as a result, there is no dispensary here.

Under the medical marijuana law, folks who qualify for medical marijuana can grow up to 12 plants in their homes if no dispensary is located within a certain distance. As that distance is exceeded in San Luis, those who qualify for medical marijuana can grow their own. Current restrictions limit growing to the indoors. Under Proposition 207, any adult can grow up to 6 plants, and two adults at the same residence can grow up to a total of 12 plants. Again, this is limited to indoors or rural areas where one must use binoculars to see the plants.

Undoubtedly the Police Department and the Planning and Zoning Department will have recommendations to make to City Council. If there are any questions, please do not hesitate to ask.