



Council Meeting Agenda

April 18, 2012

CITY COUNCIL CHAMBERS

3:30 p.m. Closed Session; 4:30 p.m. Regular Session
201 N. Broadway, Escondido, CA 92025

MAYOR	Sam Abed
DEPUTY MAYOR	Marie Waldron
COUNCIL MEMBERS	Olga Diaz Ed Gallo Michael Morasco
CITY MANAGER	Clay Phillips
CITY CLERK	Diane Halverson
CITY ATTORNEY	Jeffrey Epp
DIRECTOR OF COMMUNITY DEVELOPMENT	Barbara Redlitz
DIRECTOR OF ENGINEERING SERVICES	Ed Domingue

ELECTRONIC MEDIA:

Electronic media which members of the public wish to be used during any public comment period should be submitted to the City Clerk's Office at least 24 hours prior to the Council meeting at which it is to be shown.

The electronic media will be subject to a virus scan and must be compatible with the City's existing system. The media must be labeled with the name of the speaker, the comment period during which the media is to be played and contact information for the person presenting the media.

The time necessary to present any electronic media is considered part of the maximum time limit provided to speakers. City staff will queue the electronic information when the public member is called upon to speak. Materials shown to the Council during the meeting are part of the public record and may be retained by the Clerk.

The City of Escondido is not responsible for the content of any material presented, and the presentation and content of electronic media shall be subject to the same responsibilities regarding decorum and presentation as are applicable to live presentations.



Council Meeting Agenda

April 18, 2012
3:30 p.m. Meeting

Escondido City Council

CALL TO ORDER

ROLL CALL: Diaz, Gallo, Morasco, Waldron, Abed

ORAL COMMUNICATIONS

The public may address the Council on any item that is not on the agenda and that is within the subject matter jurisdiction of the legislative body. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.)

CLOSED SESSION: (COUNCIL/CDC/RRB)

- I. **CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION** (Government Code §54956.9(a)
SANCHEZ-CAMACHO, ET AL. V. JOHN PAUL RUSSO; CITY OF ESCONDIDO
CASE NO. 37-2011-00053506-CU-PA-NC

ADJOURNMENT



Council Meeting Agenda

**April 18, 2012
4:30 p.m. Meeting**

Escondido City Council

CALL TO ORDER

MOMENT OF REFLECTION:

City Council agendas allow an opportunity for a moment of silence and reflection at the beginning of the evening meeting. The City does not participate in the selection of speakers for this portion of the agenda, and does not endorse or sanction any remarks made by individuals during this time. If you wish to be recognized during this portion of the agenda, please notify the City Clerk in advance.

FLAG SALUTE

ROLL CALL: Diaz, Gallo, Morasco, Waldron, Abed

PRESENTATIONS: Escondido Charitable Foundation
Environmental Excellence Awards

PROCLAMATIONS: Drowning Prevention Month – May 2012

ORAL COMMUNICATIONS

The public may address the Council on any item that is not on the agenda and that is within the subject matter jurisdiction of the legislative body. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.) *NOTE: Depending on the number of requests, comments may be reduced to less than 3 minutes per speaker and limited to a total of 15 minutes. Any remaining speakers will be heard during Oral Communications at the end of the meeting.*

CONSENT CALENDAR

Items on the Consent Calendar are not discussed individually and are approved in a single motion. However, Council members always have the option to have an item considered separately, either on their own request or at the request of staff or a member of the public.

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/CDC/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/CDC)**
3. **APPROVAL OF MINUTES:** Special Meetings of March 7, 2012
 Special Meeting of March 14, 2012
 Regular Meeting of March 14, 2012
 Regular Meeting of March 21, 2012
4. **GRANT DEED AND PURCHASE & SALE AGREEMENT: 2196 MONTEMAR AVENUE –**
Request Council authorize the Real Property Manager and City Clerk to execute a Grant Deed and Purchase & Sale Agreement effectuating the sale of residential property 2196 Montemar Avenue.

Staff Recommendation: Approval **(Engineering Services: Ed Domingue)**

RESOLUTION NO. 2012-58

5. **FISCAL YEAR 2012-13 COUNTY OF SAN DIEGO CAL-ID GRANT AND BUDGET ADJUSTMENT –** Request Council approve a Fiscal Year 2012-13 Cal-ID Grant from the County of San Diego, authorize the Chief of Police and Police Department staff to submit grant documents on behalf of the City; and approve budget adjustments needed to set up and spend grant funds which will not exceed \$86, 677 for July 1, 2012 through June 30, 2013.

Staff Recommendation: Approval **(Police Department: Jim Maher)**

6. **ASSET FORFEITURE FUND BUDGET ADJUSTMENT –** Request Council authorize staff to establish a budget in the amount of \$56,825 with Asset Forfeiture Funds to pay for overtime and training costs.

Staff Recommendation: Approval **(Police Department: Jim Maher)**

7. **FISCAL YEAR 2011 CALIFORNIA GANG REDUCTION, INTERVENTION, PREVENTION PROGRAM GRANT AND BUDGET ADJUSTMENT –** Request Council authorize the Escondido Police Department to accept FY 2011 CalGRIP Program Grant funds in the amount of \$250,000 from the California Emergency Management Agency, authorize the Chief of Police to submit grant documents on behalf of the City; and approve budget adjustments needed for part-time salaries and overtime expenses.

Staff Recommendation: Approval **(Police Department: Jim Maher)**

CONSENT CALENDAR CONTINUED

8. **FISCAL YEAR 2012 UNITED STATES DEPARTMENT OF JUSTICE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT AND BUDGET ADJUSTMENT** – Request Council approve a FY 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$45,844 from the U.S. Department of Justice, authorize the Chief of Police and Police Department staff to submit grant documents on behalf of the City; and approve budget adjustments needed to set up and spend grant funds to support front-line law enforcement.

Staff Recommendation: Approval **(Police Department: Jim Maher)**

9. **ENERGY EFFICIENCY - CONSERVATION BLOCK UPDATE, MUSCO LIGHTING SOLE SOURCE PUBLIC SERVICE AGREEMENT** – Update regarding expenditure of the Energy Efficiency - Conservation Block Grant (EE CBG) funds; and request Council authorize the Mayor and City Clerk to execute a Public Services Agreement with MUSCO Lighting to install energy efficient ball field lighting at Kit Carson Girls Softball fields as a part of the EE CBG.

Staff Recommendation: Approval **(Community Services: Jerry Van Leeuwen)**

RESOLUTION NO. 2012- 64

10. **REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM (RTCIP) FEE ADJUSTMENT** – Request Council authorize the RTCIP Traffic Impact Fee be increased from \$2,123 to \$2,165 beginning July 1, 2012.

Staff Recommendation: Approval **(Engineering Services: Ed Domingue)**

RESOLUTION NO. 2012-42

RESOLUTIONS AND ORDINANCES (COUNCIL/CDC/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/CDC/RRB at a previous City Council/Community Development Commission/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

11. **AMENDMENT TO CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) CONTRACT TO PROVIDE SECTION 20475 (DIFFERENT LEVELS OF BENEFITS), SECTION 21362 (2% AT AGE 50) AND SECTION 20037 (THREE-YEAR FINAL COMPENSATION) FOR LOCAL FIRE SAFETY EMPLOYEES - (APPROVED WITH A VOTE OF 5/0 ON MARCH 21, 2012)**

ORDINANCE NO. 2012-06 (Adoption and Second Reading)

RESOLUTIONS AND ORDINANCES (COUNCIL/CDC/RRB) CONTINUED

12. **ZONING CODE AMENDMENT (AZ 11-0001)** - (APPROVED WITH A VOTE OF 5/0 ON MARCH 28, 2012)

ORDINANCE NO. 2012-07 (Adoption and Second Reading)

PUBLIC HEARINGS

13. **PROPOSED CHARTER CITY** – General background information regarding charter cities, a brief summary of issues raised at the September 28, 2011 public workshop and recent legal developments which affect both the content and the adoption requirements for a charter ballot measure.

Staff Recommendation: Provide direction to staff (**City Attorney's Office: Jennifer McCain**)

14. **SIGN CODE AMENDMENT, CASE NO. AZ 2012-0001** – Request Council amend the Zoning Code Article 66 to address temporary portable signs and to establish a two year "sunset" clause.

Staff Recommendation: Approval (**Community Development/ Planning: Barbara Redlitz**)

ORDINANCE NO. 2012- 08

15. **SPECIFIC ALIGNMENT PLAN AND FINAL ENVIRONMENTAL IMPACT REPORT FOR THE CITRACADO PARKWAY EXTENSION PROJECT (ER 2006-10, ENG 12-0011)** – Request Council approve the Specific Alignment Plan; certify and approve the Final Environmental Report, CEQA Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program for the Citracado Parkway Extension Project.

Staff Recommendation: Approval (**Community Development/ Planning: Barbara Redlitz**)

RESOLUTION NO. 2012- 40

CURRENT BUSINESS

16. **SENIOR RENTAL SUBSIDY PROGRAMS** – Request Council review the plan regarding the continuation of the Senior Rental Subsidy Programs and direct staff regarding the future of these programs.

Staff Recommendation: Provide direction to staff (**Community Services/ Housing: Jerry Van Leeuwen**)

CURRENT BUSINESS CONTINUED

17. **STATUS REPORT, BUDGET ADJUSTMENT AND BID AWARD – DALEY RANCH** – Request Council accept the status report; approve a budget adjustment totaling \$725,550 for the road rehabilitation project and other Daley Ranch improvements; and authorize the Mayor and the City Clerk to execute an agreement with Asphalt and Concrete Enterprises, Inc. in the amount of \$165,868 for the Daley Ranch Access Road Rehabilitation Project.
(Continued from March 28, 2012 Council Meeting)

Staff Recommendation: Approval **(Engineering Services: Ed Domingue)**

RESOLUTION NO. 2012-33

FUTURE AGENDA

18. **FUTURE AGENDA ITEMS** - The purpose of this item is to identify issues presently known to staff or which members of the Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

Staff Recommendation: None **(City Clerk's Office: Diane Halverson)**

ORAL COMMUNICATIONS

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COUNCIL MEMBERS' COMMITTEE REPORTS/COMMENTS/BRIEFING

ADJOURNMENT

UPCOMING MEETING SCHEDULE				
Date	Day	Time	Meeting Type	Location
April 25	Wednesday	3:30 & 4:30pm	Council Meeting	Council Chambers
May 2	Wednesday	4:30pm	Town Hall Meeting	Council Chambers
May 9	Wednesday	3:30 & 4:30pm	Council Meeting	Council Chambers
May 16	-	-	No Meeting	-

TO ADDRESS THE COUNCIL

The public may address the City Council on any agenda item. Please complete a Speaker's form and give it to the City Clerk. Comments are generally limited to 3 minutes.

If you wish to speak concerning an item *not* on the agenda, you may do so under "Oral Communications." Please complete a Speaker's form as noted above.

Handouts for the City Council should be given to the City Clerk. To address the Council, use the podium in the center of the Chambers, STATE YOUR NAME FOR THE RECORD and speak directly into the microphone.

AGENDA, STAFF REPORTS AND BACK-UP MATERIALS ARE AVAILABLE:

- Online at <http://www.ci.escondido.ca.us/government/agendas/PublishedMeetings.htm>
- In the City Clerk's Office at City Hall
- In the Library (239 S. Kalmia) during regular business hours and
- Placed in the Council Chambers (See: City Clerk/Minutes Clerk) immediately before and during the Council meeting.

AVAILABILITY OF SUPPLEMENTAL MATERIALS AFTER AGENDA POSTING: Any supplemental writings or documents provided to the City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's Office located at 201 N. Broadway during normal business hours, or in the Council Chambers while the meeting is in session.

LIVE BROADCAST

Council meetings are broadcast live on Cox Cable Channel 19 and U-verse Channel 99 – Escondido Gov TV. They can also be viewed the following Sunday and Monday evenings at 6:00 p.m. on those same channels. The Council meetings are also available live via the Internet by accessing the City's website at www.escondido.org, and selecting: City Council/broadcasts of City Council Meetings/live video streaming.

Please turn off all cellular phones and pagers while the meeting is in session.

**The City Council is scheduled to meet the first four Wednesdays
of the month at 3:30 in Closed Session and 4:30 in Open Session.**

(Verify schedule with City Clerk's Office)

**Members of the Council also sit as the Community Development Commission
and the Mobilehome Rent Review Board.**

**CITY HALL HOURS OF OPERATION
Monday-Thursday 7:30 a.m. to 5:30 p.m.**



If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4641. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

Listening devices are available for the hearing impaired – please see the City Clerk.

CITY OF ESCONDIDO
MARCH 7, 2012
3:30 p.m. Meeting Minutes

(To be held in the Mitchell Room)

**Special Meeting of the
Escondido City Council, Building Advisory and Appeals Board,
Library Board of Trustees, Personnel Board of Review and Transportation and
Community Safety Commission**

CALL TO ORDER

ATTENDANCE

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Councilmember Michael Morasco, Deputy Mayor Marie Waldron, and Mayor Sam Abed. Quorum present.

ORAL COMMUNICATIONS

JOINT CITY COUNCIL AND BOARD/COMMISSION INTERVIEWS

3:30 – 4:00 Library Board of Trustees

Oral Communications

Brief description of the Library Board of Trustees (**Jo Ann Greenberg**)

Discussion among Council, current Board/Commission members and applicants regarding expectations and responsibilities and duties associated with membership on the Library Board of Trustees, and the role of the Library Board of Trustees in City Government.

Adjournment

4:00 – 4:15 p.m. Personnel Board of Review

Oral Communications

Brief description of the Personnel Board of Review (**Sheryl Bennett**)

Discussion among Council, current Board/Commission members and applicants regarding expectations and responsibilities and duties associated with membership on the Personnel Board of Review, and the role of the Personnel Board of Review in City Government.

Adjournment

4:15 – 4:45 p.m. Transportation and Community Safety Commission

Oral Communications

Brief description of the Transportation & Community Safety Commission (**Ali Shahzad**)

Discussion among Council, current Board/Commission members and applicants regarding expectations and responsibilities and duties associated with membership on the Transportation & Community Safety Commission and the role of the Transportation & Community Safety Commission in City Government.

Adjournment

4:45 – 5:00 p.m. Building Advisory and Appeals Board

Oral Communications

Brief description of the Building Advisory & Appeals Board (**Joe Russo**)

Discussion among Council, current Board/Commission members and applicants regarding expectations and responsibilities and duties associated with membership on the Building Advisory & Appeals Board, and the role of the Building Advisory & Appeals Board in City Government.

Adjournment

ADJOURNMENT

Mayor Abed adjourned the meeting at 5:00 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
March 7, 2012
5:00 p.m. Meeting Minutes
Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 5:00 p.m. on Wednesday, March 7, 2012 in the Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Councilmember Michael Morasco, Deputy Mayor Marie Waldron, and Mayor Sam Abed. Quorum present.

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/CDC/RRB)

MOTION: Moved by Councilmember Waldron and seconded by Councilmember Gallo to recess to Closed Session. Motion carried unanimously.

- I. CONFERENCE WITH LABOR NEGOTIATOR (Government Code §54957.6)**
 - a. Agency negotiators: Sheryl Bennett, Clay Phillips
Employee organization: Police Officers' Association

- II. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)**
 - a. Property: 2196 Montemar Avenue
Agency Negotiator: Debra Lundy
Negotiating parties: City and Sander Family Trust; Carol Walter
Under negotiation: Price and terms of payment

- III. Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9(b): 1 case**

ADJOURNMENT

Mayor Abed adjourned the meeting at 5:25 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
MARCH 7, 2012
6:00 p.m. Meeting Minutes

Escondido City Council
Escondido Joint Powers Financing Authority

CALL TO ORDER

The Regular Meeting of the Escondido City Council and Escondido Joint Powers Financing Authority was called to order on Wednesday, March 7, 2012 in the Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION

FLAG SALUTE

Mayor Abed led the flag salute.

ATTENDANCE

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Councilmember Michael Morasco, Deputy Mayor Marie Waldron, and Mayor Sam Abed. Quorum present.

Also present were: Clay Phillips, City Manager; Jeffrey Epp, City Attorney; Barbara Redlitz, Community Development Director; Ed Domingue, Engineering Services Director; Diane Halverson, City Clerk; and Robert Zornado, Assistant City Clerk.

ORAL COMMUNICATIONS

Delores McQuiston, Escondido, thanked Council for their consideration of putting a Bookmobile at the East Valley Community Center.

Robroy Fawcett, Escondido, distributed information and indicated he did not support voting districts.

CONSENT CALENDAR

Councilmember Gallo removed item 4 and Councilmember Morasco removed item 7 from the Consent Calendar for discussion.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Waldron that the following Consent Calendar items be approved with the exception of items 4 and 7. Motion carried unanimously.

- 1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/CDC/RRB)**
- 2. APPROVAL OF WARRANT REGISTER (Council/CDC)**
- 3. APPROVAL OF MINUTES: Regular Meeting of January 25, 2012**

4. **BUSINESS LICENSE TAX AUDIT SERVICES** – Request Council authorize the proposal from MuniServices, LLC to conduct a business license tax audit and compliance program. The program identifies business entities that are operating within the City without valid business licenses, and assists in the licensing and collection of business license revenue. (File No. 0480-35)

Staff Recommendation: Direct staff to prepare consulting agreement for consideration at a future meeting. **(Community Development/ Planning: Barbara Redlitz)**

Councilmember Gallo asked for clarification of the discovery process.

Jerry Peeler, MuniServices, explained that the process was done electronically.

Robroy Fawcett, Escondido, stated that housing rental units with more than three units required a business license.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Waldron to authorize the proposal from MuniServices, LLC to conduct a business license tax audit and compliance program. The program identifies business entities that are operating within the City without valid business licenses, and assists in the licensing and collection of business license revenue. Motion carried unanimously.

5. **DESTRUCTION OF POLICE RECORDS** – Request Council approve the destruction of the listed Police Department Internal Affairs Files. (File No. 0160-35)

Staff Recommendation: Approval **(City Clerk's Office: Robert Zornado)**

RESOLUTION NO. 2012-31

6. **CONFIRMATION OF PROXY DESIGNATION FROM THE VISTA IRRIGATION DISTRICT TO THE SAN DIEGO COUNTY WATER AUTHORITY FOR THE CITY OF ESCONDIDO** – Request Council confirm the designation of the Vista Irrigation District to vote in the absence of Marilyn Dailey, representative of San Diego County Water Authority for the City of Escondido. (File No. 0145-80)

Staff Recommendation: Approval **(City Attorney's Office: Jeffrey Epp)**

RESOLUTION NO. 2012-38

7. **AUTHORIZATION TO APPROVE AND EXECUTE SECOND AMENDMENTS FOR FOUR CHEMICAL BID AWARDS** – Request Council approve Second Amendments for the Chemical Bid Awards with Kemira Water Solutions, Olin Corporation, BHS, and Polydyne to increase our chemical purchases through the end of the current fiscal year. \$460,000 should be added to Kemira PO# 32925, \$502,000 should be added to Olin PO# 32923, \$52,000 should be added to BHS PO# 32926, and \$52,000 should be added to Polydyne PO# 32886. (File No. 0470-35)

Staff Recommendation: Approval **(Utilities Department: Christopher McKinney)**

RESOLUTION NO. 2012-46

Councilmember Morasco asked for clarification of the request.

Chris McKinney, Utilities Director, indicated the City saved money by using local water, but needed more treatment than purchased water.

MOTION: Moved by Councilmember Morasco and seconded by Councilmember Diaz to approve Second Amendments for the Chemical Bid Awards with Kemira Water Solutions, Olin Corporation, BHS, and Polydyne to increase our chemical purchases through the end of the current fiscal year. \$460,000 should be added to Kemira PO# 32925, \$502, 000 should be added to Olin PO# 32923, \$52,000 should be added to BHS PO# 32926, and \$52,000 should be added to Polydyne PO# 32886 and adopt Resolution No. 2012-46. Motion carried unanimously.

- 8. WASTEWATER REVENUE BONDS PRELIMINARY OFFERING STATEMENT** – Request Council approve the preliminary offering statement for issuing revenue bonds in an amount not to exceed \$35 million for the Wastewater Fund. (File No. 0440-55)

Staff Recommendation: Approval (**Utilities Department: Christopher McKinney**)

RESOLUTION NO. 2012-37
RESOLUTION NO. EJPFA 2012-02

CURRENT BUSINESS

- 9. MID-YEAR FINANCIAL REPORT** – Request Council receive financial report for the first six months of Fiscal Year 2011-12. (File No. 0430-30)

Staff Recommendation: Receive and File (**Finance Department: Gilbert Rojas**)

Gil Rojas, Finance Director, gave the staff report and presented a series of slides.

COUNCIL ACTION: NO ACTION, INFORMATION ONLY

FUTURE AGENDA

- 10. FUTURE AGENDA ITEMS** - The purpose of this item is to identify issues presently known to staff or which members of the Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed

Staff Recommendation: None (**City Clerk's Office: Diane Halverson**)

ORAL COMMUNICATIONS

None

COUNCIL MEMBERS' COMMITTEE REPORTS/COMMENTS/BRIEFING

Councilmember Gallo stated the NCTD had a Planning Seminar where the Sprinter and Coaster were planning to have Wi-Fi available and gave ridership numbers.

Councilmember Morasco indicated the CCAE had been holding public meetings to educate the public on ways to augment the Arts Center funding.

Mayor Abed thanked everyone who attended the State of the City meeting.

Councilmember Waldron indicated that Classical Academy High School cleaned the City's streets as a community service project.

Councilmember Diaz stated she was the new Chair of the San Dieguito River Park JPA

ADJOURNMENT

Mayor Abed adjourned the meeting at 7:20 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
March 14, 2012
Special Meeting Minutes

2:30 p.m.
Escondido City Council

CALL TO ORDER

The Special Meeting of the Escondido City Council was called to order at 2:35 p.m. on Wednesday, March 14, 2012 in the Council Chambers at City Hall with Mayor Abed presiding.

FLAG SALUTE

Mayor Abed led the flag salute.

ATTENDANCE

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Councilmember Michael Morasco, Deputy Mayor Marie Waldron, and Mayor Sam Abed. Quorum present.

Also present were: Clay Phillips, City Manager; Jeffrey Epp, City Attorney; Barbara Redlitz, Community Development Director; Ed Domingue, Engineering Services Director; Diane Halverson, City Clerk; and Bob Zornado, Assistant City Clerk.

ORAL COMMUNICATIONS

None

CURRENT BUSINESS

- 1. EL NORTE APARTMENTS** – Request Council confirm previous Council actions in support of the El Norte Apartments development including the commitment of up to \$1,000,000 in HOME funds, \$200,000 in NSP funds and the refinancing of \$477,111 in Affordable Housing Funds. (File No. 0875-55)

Staff Recommendation: Approval (**Housing Division: Jerry Van Leeuwen**)

Karen Youel, Housing Department, gave the staff report.

Sue Reynolds, Community Housing Works, presented the project.

Dennis Royer, Escondido Carpet Club Business Owner, indicated his business was the flooring contractor for this project and Community Housing Works hiring local businesses.

John Ahlsweet, Sun Country Builders, Vista, stated his company was building the project and expressed appreciation for using local contractors.

Anthony Zoffito, Sylvester Roofing, Escondido, indicated his local company was working on the project.

Jim Hatter, American Pride General Engineering, Escondido, expressed his appreciation for hiring local business for this project.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Diaz to confirm previous Council actions in support of the El Norte Apartments development including the commitment of up to \$1,000,000 in HOME funds, \$200,000 in NSP funds and the refinancing of \$477,111 in Affordable Housing Funds. Motion carried unanimously.

ADJOURNMENT

Mayor Abed adjourned the meeting at 3:08 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

**CITY OF ESCONDIDO
March 14, 2012
Special Meeting Minutes**

**3:00 p.m.
Escondido City Council**

CALL TO ORDER

The Special Meeting of the Escondido City Council was called to order at 3:12 p.m. on Wednesday, March 14, 2012 in the Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Councilmember Michael Morasco, Deputy Mayor Marie Waldron, and Mayor Sam Abed. Quorum present.

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/CDC/RRB)

MOTION: Moved by Councilmember Morasco and seconded by Councilmember Waldron to recess to Closed Session. Motion carried unanimously.

- I. CONFERENCE WITH LABOR NEGOTIATOR (Government Code §54957.6)**
 - a. Agency negotiators: Sheryl Bennett, Clay Phillips
Employee organization: Police Officers' Association

ADJOURNMENT

Mayor Abed adjourned the meeting at 4:15 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO

MARCH 14, 2012

**3:30 p.m.
Mitchell Room**

**Special Meeting of the
Escondido City Council, Community and Older Adult Services Commission,
Historic Preservation Commission, Public Art Commission and Planning Commission
Minutes**

CALL TO ORDER

ATTENDANCE

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Councilmember Michael Morasco, Deputy Mayor Marie Waldron, and Mayor Sam Abed. Quorum present.

ORAL COMMUNICATIONS

JOINT CITY COUNCIL AND BOARD/COMMISSION INTERVIEWS

3:30 – 4:00 p.m. Community and Older Adult Services Commission

Oral Communications

Brief description of the Community & Older Adult Services Commission (**Amy Shipley**)

Discussion among Council, current Board/Commission members and applicants regarding expectations and responsibilities and duties associated with membership on the Community & Older Adult Services Commission, and the role of the Community & Older Adult Services Commission in City Government.

Adjournment

4:00 – 4:30 p.m. Historic Preservation Commission

Oral Communications

Brief description of the Historic Preservation Commission (**Rozanne Cherry**)

Discussion among Council, current Board/Commission members and applicants regarding expectations and responsibilities and duties associated with membership on the Historic Preservation Commission, and the role of the Historic Preservation Commission in City Government.

Adjournment

4:30 – 5:15 p.m. Public Art Commission

Oral Communications

Brief description of the Public Art Commission (**Kristina Owens**)

Discussion among Council, current Board/Commission members and applicants regarding expectations and responsibilities and duties associated with membership on the Public Art Commission and the role of the Public Art Commission in City Government.

Adjournment

5:15 – 6:15 p.m. Planning Commission

Oral Communications

Brief description of the Planning Commission (**Bill Martin**)

Discussion among Council, current Board/Commission members and applicants regarding expectations and responsibilities and duties associated with membership on the Planning Commission, and the role of the Planning Commission in City Government.

Adjournment

ADJOURNMENT

Mayor Abed adjourned the meeting at 6:20 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
March 21, 2012
3:30 p.m. Meeting Minutes

Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 3:30 p.m. on Wednesday, March 21, 2012 in the Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE

The following members were present: Councilmember Ed Gallo, Councilmember Michael Morasco, Deputy Mayor Marie Waldron, and Mayor Sam Abed. Quorum present.

Councilmember Diaz arrived at 3:35 p.m. and left the meeting at 4:10 p.m.

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/CDC/RRB)

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Morasco to recess to Closed Session. Motion carried unanimously.

I. CONFERENCE WITH LABOR NEGOTIATOR (Government Code §54957.6)

- a. Agency negotiator: Sheryl Bennett, Clay Phillips
Employee organization: Police Officers' Association
- b. Agency negotiator: Sheryl Bennett, Clay Phillips
Employee organization: Escondido City Employee Association: Administrative/Clerical
Engineering (ACE) Bargaining Unit
- c. Agency negotiator: Sheryl Bennett, Clay Phillips
Employee organization: Escondido City Employee Association: Supervisory (SUP)
Bargaining Unit
- d. Agency negotiator: Sheryl Bennett, Clay Phillips
Employee organization: Non-Sworn Police Bargaining Unit

II. CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION (Government Code §54956.9(a))

Brian Knodel v City of Escondido; Case No. WACB No. ADJ6644368/Claim No. 08232132 and Unassigned Claim Nos. 09255642 and 09255638

III. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION/SIGNIFICANT EXPOSURE (Government Code §54956.9(b)): One Case

ADJOURNMENT

Mayor Abed adjourned the meeting at 4:20 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
March 21, 2012
4:30 p.m. Meeting Minutes

Escondido City Council
Mobilehome Rent Review Board

CALL TO ORDER

The Regular Meeting of the Escondido City Council and Mobilehome Rent Review Board was called to order at 4:30 p.m. on Wednesday, March 21, 2012 in the Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION

FLAG SALUTE

Mayor Abed led the flag salute.

PRESENTATION

Mayor Abed presented Special Achievement Award Certificates to the Webelos and Boy Scout Pack 659.

ATTENDANCE

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Councilmember Michael Morasco, Deputy Mayor Marie Waldron, and Mayor Sam Abed. Quorum present.

Also present were: Clay Phillips, City Manager; Jeffrey Epp, City Attorney; Barbara Redlitz, Community Development Director; Ed Domingue, Engineering Services Director; Diane Halverson, City Clerk; and Liane Uhl, Minutes Clerk.

ORAL COMMUNICATIONS

Joe McCoy, Escondido City Employee, asked Council to reconsider giving pay raises to the Department Heads.

Kenneth Brown, Escondido City Employee, indicated the Department Heads should not receive pay raises while regular employees were taking pay cuts.

Alex Cruz, Escondido City Employee, did not agree to pay raises to Department Heads while employees were taking pay cuts.

Alex Matautia, Escondido City Employee, expressed concern that upper management received pay raises while his pay had been cut.

Josh Petty, Escondido City Employee, stated he received a pay cut and asked why management had received pay raises.

Richard Studinka, Escondido City Employee, stated management should not receive pay raises while unclassified employees received pay cuts and also pay for their PERS contributions.

Paul Varhol, Escondido City Employee, indicated his pay had been cut and management should not have received pay raises.

Carlos Chavez, Escondido City Employee, stated he did not agree with the management pay raises while his pay had been cut.

Julius Turner, Escondido City Employee, stated that every employee should have a pay raise not just the upper management.

Chester Mordacini, Teamsters 911, indicated top management should not have received pay raises while other employees did not; all employees should receive pay raises.

Robroy Fawcett, Escondido, gave information on the Voting Rights Act.

Mel Takahara, Escondido, asked Council to provide bookmobile service to East Valley residents.

Chuck Tratechaud, Escondido, asked Council to keep the name Joslyn Senior center.

Wayne Louth, Escondido, indicated the American Legion Post 149 was having a flag disposal ceremony on Sunday, March 25th at 1:00 pm and invited the public.

CONSENT CALENDAR

Councilmember Waldron removed items 6 and 9 and Councilmember Morasco removed items 10, 11 and 14 from the Consent Calendar for discussion.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Waldron that the following Consent Calendar items be approved with the exception of items 6, 9, 10, 11 and 14. Motion carried unanimously.

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/CDC/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/CDC)**
3. **APPROVAL OF MINUTES: Regular Meeting of February 1, 2012
Special Meeting of February 8, 2012
Regular Meeting of February 15, 2012**
4. **CITY OF ESCONDIDO LANDSCAPE MAINTENANCE DISTRICT PRELIMINARY ENGINEER'S REPORT FOR ZONES 1-37 FISCAL YEAR 2012/2013** – Request Council initiate the proceedings for the annual levy of assessments for the Landscape Maintenance Assessment District (LMD) for Zones 1-37 for the 2012/2013 fiscal year, approve the Preliminary Engineer's Report and set a public hearing date. (File No. 0685-10)

Staff Recommendation: Approval (**Engineering Department: Frank Schmitz**)

- a. **RESOLUTION NO. 2012-23**
- b. **RESOLUTION NO. 2012-24**

5. TREASURER'S INVESTMENT REPORT FOR THE QUARTER ENDED DECEMBER 31, 2011
(File No. 0490-55)

Staff Recommendation: Receive and File (**Treasurer's Office: Kenneth C. Hugins**)

6. REVISIONS TO FAÇADE AND PROPERTY IMPROVEMENT PROGRAM POLICIES –
Request Council authorize the following modifications to the Façade and Property Improvement Program (FPIP) policies: 1) Increases maximum grant awards to twice their current amounts; 2) Allows all frontages on identified public ways to be factored into the linear street frontage for purposes of calculating the maximum grant award; 3) Reduces the "statute of limitations" on previous property grantees from ten to seven years; and 4) Provides an additional \$5,000 for businesses in the following pedestrian-oriented areas: Downtown Specific area, Mercado Business District, SANDAG Smart Growth areas and along the Escondido Creek Trail. (File No. 0865-15)

Staff Recommendation: Approval (**City Manager's Office: Michelle Gellar**)

RESOLUTION NO. 2012-28

Councilmember Waldron indicated she supported the project and asked if payments were being made to pay back the fund.

Michelle Geller, City Manager's Office, indicated it was a reimbursable grant, not a loan.

MOTION: Moved by Councilmember Waldron and seconded by Councilmember Diaz to authorize the following modifications to the Façade and Property Improvement Program (FPIP) policies: 1) Increases maximum grant awards to twice their current amounts; 2) allow all frontages on identified public ways to be factored into the linear street frontage for purposes of calculating the maximum grant award; 3) reduce the "statute of limitations" on previous property grantees from ten to seven years; and 4) Provides an additional \$5,000 for businesses in the following pedestrian-oriented areas: Downtown Specific area, Mercado Business District, SANDAG Smart Growth areas and along the Escondido Creek Trail and adopt Resolution No. 2012-28. Motion carried unanimously.

7. AWARD PURCHASE OF FUEL – Request Council approve the purchase of fuel for the City of Escondido's fleet through a cooperative purchase agreement with the City of San Diego, pursuant to Escondido's Municipal Code section 10-90. The fuel will be purchased from The SOCO Group Inc. (File No. 0470-35)

Staff Recommendation: Approval (**Maintenance and Operations Department: Richard O'Donnell**)

8. EQUIPMENT CONSIDERED FOR SALE – Request Council approve equipment as surplus property and authorize the Director of Finance to dispose of the surplus property at an auction. (File No. 0470-65_)

Staff Recommendation: Approval (**Finance Department: Gil Rojas**)

RESOLUTION NO. 2012-21

- 9. STREAMLINING OF TRAFFIC CONTROL PLAN PROCESS FOR DOWNTOWN SPECIAL EVENTS AND BUDGET ADJUSTMENT**– Request Council authorize staff to develop a selection of preapproved traffic control plan templates to simplify the process for downtown Street closures associated with special events, modify the Fund Balance Policy and authorize a budget adjustment in the amount of \$20,000 from the General Fund Economic Development Commitment Fund to the City Manager’s Professional Service Account to fund the project. (File No. 0430-80)

Staff Recommendation: Approval **(City Manager’s Office: Michelle Geller)**

RESOLUTION NO. 2012-45

Councilmember Waldron suggested there should be a fee for the services.

Michelle Geller, City Manager’s Office, indicated there would be a Request for Proposal for a traffic civil engineer to prepare the traffic template.

MOTION: Moved by Councilmember Waldron and seconded by Councilmember Gallo to authorize staff to develop a selection of preapproved traffic control plan templates to simplify the process for downtown Street closures associated with special events, modify the Fund Balance Policy and authorize a budget adjustment in the amount of \$20,000 from the General Fund Economic Development Commitment Fund to the City Manager’s Professional Service Account to fund the project and adopt Resolution No. 2012-45. Motion carried unanimously.

- 10. AUTHORIZE THE PURCHASE OF A WASTEWATER COLLECTION VACTOR TRUCK –** Request Council approve the purchase of one (1) new Wastewater Collection Vactor truck from Haaker Equipment Company as a sole source. (File No. 0470-35)

Staff Recommendation: Approval **(Community Services/Fleet: Richard O’Donnell)**

RESOLUTION NO. 2012-39

Councilmember Morasco asked what causes the trucks to deteriorate.

Bob Blackburn, Fleet Supervisor answered that the environmental use of the trucks creates excessive corrosion and they need to be replaced periodically.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Gallo to approve the purchase of one (1) new Wastewater Collection Vactor truck from Haaker Equipment Company as a sole source and adopt Resolution No. 2012-39. Motion carried unanimously.

- 11. QUITCLAIM DEED V.I.S. LTD. - LESLIE LANE PUBLIC UTILITY EASEMENT PROJECT –** Request Council authorize the Real Property Manager and City Clerk to execute a Quitclaim Deed with a public utility easement reservation. (File No. 0690-10)

Staff Recommendation: Approval **(Engineering Services: Ed Domingue)**

RESOLUTION NO. 2012-32

Councilmember Morasco asked for clarification of the request.

Ed Domingue, Engineering Services Director, explained that the City had a court order to proceed with eminent domain proceedings.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Morasco to authorize the Real Property Manager and City Clerk to execute a Quitclaim Deed with a public utility easement reservation and adopt Resolution No. 2012-32. Motion carried unanimously.

- 12. 700 WEST GRAND LEASE AGREEMENT WITH TACTICAL 3RD DIMENSION SYSTEMS –** Request Council authorize the Real Property Manager and City Clerk to execute a Lease Agreement with Tactical 3rd Dimension Systems at 700 W. Grand. (File No. 0600-10 [A-3044])

Staff Recommendation: Approval (**Engineering Services: Ed Domingue**)

RESOLUTION NO. 2012-44

- 13. 700 WEST GRAND LEASE AGREEMENT WITH IREADY SYSTEMS –** Request Council authorize the Real Property Manager and City Clerk to execute a Lease Agreement with IReady Systems for property located at 700 W. Grand. (File No. 0600-10 [A-3043])

Staff Recommendation: Approval (**Engineering Services: Ed Domingue**)

RESOLUTION NO. 2012-43

- 14. JOSLYN SENIOR CENTER – PROPOSED NAME CHANGE AND DESIGNATION AS A NON-SMOKING FACILITY –** Request Council authorize changing the name of the Joslyn Senior Center to the Park Avenue Community Center and approve designation as a non-smoking facility. (File No. 0910-10)

Staff Recommendation: Approval (**Community Services Department: Jerry Van Leeuwen**)

RESOLUTION NO. 2012-47R

Councilmember Morasco asked for clarification of the request.

Jerry Van Leeuwen, Community Services Director, explained that the Joslyn Foundation had ceased to exist and senior centers had begun dropping the name Joslyn and many were renaming the centers.

Ann McDonald, Escondido, stated she was opposed to changing the name of the senior center.

Chuck Tratechoud, Escondido, indicated he was opposed to changing the name of the senior center and that it was designated for seniors only.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Gallo to authorize changing the name of the Joslyn Senior Center to the Park Avenue Community Center, designating a smoking area and naming a room for the Joslyns. Motion carried unanimously.

PUBLIC HEARINGS

- 15. PONDEROSA MOBILEHOME PARK SHORT-FORM RENT INCREASE APPLICATION–** Request Council consider the short-form rent increase application submitted by Ponderosa Mobilehome Park, granting an increase of 75% of the change in the Consumer Price Index (an average of \$20.32), or 3.601% for the period of June 20, 2009, to June 30, 2011. (**Continued from January 11, 2012**) (File No. 0697-20-9818)

Staff Recommendation: Approval (**Community Services Department: Jerry Van Leeuwen**)

RESOLUTION NO. RRB 2012-01R

Karen Youel, Housing Department, gave the staff report and presented a series of slides.

Mayor Abed opened the public hearing and asked if anyone would like to speak on this issue in any way.

Laura Slobojan, Park Owner Representative, indicated the park owner had complied with the requests from the residents and asked Council to grant the short-form application.

Don Greene, Resident Representative, indicated the repairs have fallen short of expectations and requested that Council grant a 1% rent increase.

Toni Showerman, Resident Representative, indicated there were many repairs still needed to the park and urged Council to deny the rent increase application.

Natalie Costaglio, Park Representative, indicated she was available for questions and stated the park complied with all the needed repairs.

Jose Llamas, Escondido, indicated he did not want a rent increase.

Jerry Lenhard, Escondido, stated he did not agree with a rent increase for the Ponderosa Mobilehome Park.

M.A. Mareck, Escondido, asked Council to have code enforcement check the work that had been done before making a decision.

Mayor Abed asked if anyone else wanted to speak on this issue in any way. No one asked to be heard. Therefore, he closed the public hearing.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Morasco to approve a 1% rent increase after inspections have taken place. Ayes: Diaz and Morasco. Noes: Abed, Gallo and Waldron. Absent: None. Motion failed.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Diaz to grant a 1.8% rent increase after all repair inspections have been completed and adopt Resolution No. RRB 2012-01R. Motion carried unanimously.

- 16. FIRST AMENDMENT TO THE HALL LAND CO. DEVELOPMENT AGREEMENT FOR TRACT 932 (2005-47-DA)** – Request Council authorize a First Amendment for 120 day extension for the Development Agreement to August 4, 2012. (File No. 0800-10 Tract 932)

Staff Recommendation: Approval (**City Attorney's Office: Gary McCarthy**)

ORDINANCE NO. 2012-09

Charles Grimm, Assistant City Manager, gave the staff report and presented a series of slides.

Mayor Abed opened the public hearing and asked if anyone would like to speak on this issue in any way. No one asked to be heard. Therefore, he closed the public hearing.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Waldron to authorize a First Amendment for 120 day extension for the Development Agreement to August 4, 2012 and adopt Ordinance No. 2012-09. Motion carried unanimously.

CURRENT BUSINESS

17. **REPORT ON THE DRAFT FEASIBILITY STUDY OF RELOCATING THE WATER DISTRIBUTION YARD TO A SITE NEAR THE MAYFLOWER DOG PARK AT THE CURRENT CHARROS SITE** – A presentation summarizing the draft feasibility study for relocation of the water distribution yard to a site near the Mayflower Dog Park at the current Charros Site. (File No. 0910-10)

Staff Recommendation: Receive and file (**Utilities Department: Christopher McKinney**)

Christopher McKinney, Utilities Director, gave the staff report and presented a series of slides.

Rick Espitia, Northeast Gateway Coalition, presented a series of slides, asked to preserve the natural beauty of the area and requested Council find another site for the water treatment yard.

Rick Mercurio, Escondido, stated the project didn't fit in with the surrounding neighborhood.

Rick Paul, Escondido, asked for restroom facilities at Cougar Pass and indicated he did not agree with placing the project at this site.

Roy Garrett, Escondido, stated the City may have a lawsuit if the plant is placed at this site.

Sally Costello, Escondido Humane Society, indicated she did not want the project in this area.

Delores McQuiston, Escondido, asked Council to consider alternative sites to put the water plant.

Leslie Elmer, Escondido, stated that due to problems with heavy rainfall, she did not want the water plant at that site.

Ann McDonald, Escondido, indicated the Charros should stay at the site and asked that another site be researched.

Chris Nava, Escondido, stated she opposed building the water plant at this site.

Elizabeth Gabrych, Escondido, indicated the location was a cultural site should remain as it is.

Donna Hein, Escondido, stated she opposed the plant project at that site.

Steve Berrol, Escondido, indicated the residents of Eureka Springs did not want the water plant at that site.

Benjamin Cueva, Escondido, asked Council to research other sites for the water plant and let the Charros remain on the site.

Merrilyn Carpenter, Escondido, stated she did not want the power plant at that location.

Matthew Harold, San Marcos, indicated he did not support a water plant at the site.

Dottie Christensen, Escondido, stated the homeowners in Eureka Springs were opposed to the project.

Wayne Louth, Escondido, asked Council to preserve the area and not build a water plant there.

Lori Askew, Valley Center, stated the Charros site should be preserved and requested that Council locate the water plant at another place.

Salvador Faun, Escondido, asked Council to listen to the voice of the community.

Art Motadel, Escondido, indicated he did not want the water plant at that site.

Sergio Contreras, Escondido, stated the Charros should be allowed to keep their tradition alive.

Andy Carey, Escondido, indicated the Eureka Springs residents opposed the project.

Dave Modic, Escondido, stated he did not support the water plant project at that site.

Karen Mandel, Escondido, voiced concern with traffic and the safety of children playing in the area.

Luz Olivares, Escondido, indicated she did not want a water plant in the area.

Abel Villicana, San Marcos, asked Council to let the Charros stay at their arena.

Marcos Bautista, Escondido, urged Council to let the Charros stay at their location.

Carmen Miranda, Escondido, indicated she supported the Charros' request and asked the Council to not build the project.

Aron Gutierrez, Vista, urged Council to let the Charros stay and not build the water plant at that site.

Louis Villalobos, Bonsall, asked Council to let the Charros keep their arena.

Carol Rea, Escondido, asked if there would be gas pumps located at the site.

David Martin, Escondido, indicated he did not support the project.

Lisa Prazeau, Escondido, stated she did not want the project located at this site.

Mark Skok, Escondido, stated the water yard should remain where it is and not be moved to a different part of the city.

Deanne Sanderson, Escondido, indicated she did not support the project at this site and asked Council to leave it where it is.

COUNCIL ACTION: Directed staff to explore the Meyers Street and alternate sites for locating the water plant.

- 18. AMENDMENT TO CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) CONTRACT TO PROVIDE SECTION 20472 (DIFFERENT LEVELS OF BENEFITS), SECTION 21362 (2% AT AGE 50) AND SECTION 20037 (THREE-YEAR FINAL COMPENSATION) FOR LOCAL FIRE SAFETY EMPLOYEES** - Request Council approve amending the CalPERS contract to provide a second-tier level of benefits for employees hired after adoption of the 2% at 50 retirement benefit calculation and a three-year final compensation calculation for local Fire Safety employees. (File No. 0720-40)

Staff Recommendation: Approval (**Human Resources Department: Sheryl Bennett**)

- a. **RESOLUTION NO. 2012-30R**
- b. **ORDINANCE NO. 2012-06**

Sheryl Bennett, Human Resources Director, gave the staff report and presented a series of slides.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Morasco to approve amending the CalPERS contract to provide a second-tier level of benefits for employees hired after adoption of the 2% at 50 retirement benefit calculation and a three-year final compensation calculation for local Fire Safety employees, adopt Resolution No. 2012-30R and introduce Ordinance No. 2012-06. Motion carried unanimously.

- 19. ANNUAL APPOINTMENTS TO BOARDS AND COMMISSIONS** - Request Council ratify the Mayor's appointments to serve on the Boards and Commissions. (File No. 0120-10)

Staff Recommendation: Approval (**City Clerk's Office: Diane Halverson**)

MOTION: Moved by Mayor Abed and seconded by Councilmember Waldron to ratify Mayor Abed's appointment of Thomas Cherry, Sean O'Neill, Frank Shadpour and Michael West to the Building Advisory and Appeals Board; Joseph Bologna, Barbara Dudeck and Marna Farwell to the Community & Older Adult Services Commission; Carol Breitenfeld, Juliana Cherry and Carol Rea to the Historic Preservation Commission; Elmer Cameron, Kathy Eisler and Virginia Loh-Hagan to the Library Board of Trustees; Paul Brown, Orvil Hale, Lynn Graykowski and Gregory Johns to the Personnel Board of Review; Darol Caster, Gregory Johns, James Spann, Merle Watson and Guy Winton, III to the Planning Commission; Selina Hudgins, Natalie Mates, Phyllis Savin, Louise Thurber and Marty Tiedman to the Public Art Commission; and Omar Dayani and Sherri Sarro to the Transportation & Safety Commission. Motion carried unanimously.

WORKSHOP

- 20. WORKSHOP ON CODE ENFORCEMENT ACTIVITIES** – Request Council receive annual report on current Code Enforcement Activities and options to resume proactive code enforcement. (File No. 0110-20)

Staff Recommendation: Approval (**Community Development / Planning: Barbara Redlitz**)

COUNCIL ACTION: This item was continued to a future agenda.

FUTURE AGENDA

- 21. FUTURE AGENDA ITEMS** - The purpose of this item is to identify issues presently known to staff or which members of the Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

Staff Recommendation: None (**City Clerk's Office: Diane Halverson**)

Councilmember Diaz asked for a presentation designating the City as a Purple Heart City and a presentation for Roberts Rules of Order.

ORAL COMMUNICATIONS

None

COUNCIL MEMBERS' COMMITTEE REPORTS/COMMENTS/BRIEFING

Councilmember Morasco indicated County Board of Supervisors was holding a meeting on Wednesday, March 28, 2012 at 8:00 a.m. to discuss the eye gnat problem.

Councilmember Gallo stated that there had been chimney fires in the City and urged residents to use chimney sweeps to clean their chimneys and that the NCTD was doing well.

Mayor Abed announced that Woman's Week in Escondido was being held March 26-31, 2012.

ADJOURNMENT

Mayor Abed adjourned the meeting at 10:32 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 4

Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Director of Engineering Services
Debra Lundy, Real Property Manager

SUBJECT: Grant Deed and Purchase & Sale Agreement: 2196 Montemar Avenue

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2012-58 authorizing the Real Property Manager and City Clerk to execute a Grant Deed and Purchase & Sale Agreement effectuating the sale of residential property 2196 Montemar Avenue.

FISCAL ANALYSIS:

Based on the Preliminary Closing Statement, of the \$233,000 Sales Price, a net of approximately \$218,200.50 will be returned to the City's CDBG funds. The property was purchased in 1977 with CDBG funds for \$130,000.00; thus the City will realize a net profit in the amount of \$88,200.50.

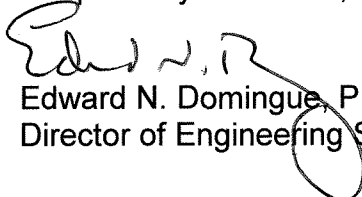
PREVIOUS ACTION:

Council authorized the disposition of the subject property on August 18, 2010 and accepted the Sander Family Trust offer on March 17, 2012.

BACKGROUND:

The City purchased residential property at 2196 Montemar Avenue in 1977 for \$130,000.00 using CDBG funds. It was leased to St. Clare's Homes until October 2010, at which time Council directed Staff to sell the property. The Sander Family Trust offer of \$233,000 has been accepted by the City and escrow has been opened. Contingencies have been removed and Staff now seeks the authorization to execute the Grant Deed and Purchase & Sale Agreement needed to effectuate the sale. The Grant Deed and Purchase & Sale Agreement will be held in escrow until all funds have been received from the Buyer upon Close of Escrow, which is scheduled for April 25, 2012.

Respectfully submitted,


Edward N. Domingue, P.E.
Director of Engineering Services


Debra Lundy
Real Property Manager

RESOLUTION NO. 2012-58

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE REAL PROPERTY MANAGER AND CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, A GRANT DEED AND PURCHASE AND SALE AGREEMENT FOR THE SALE OF 2196 MONTEMAR AVENUE TO THE SANDER FAMILY TRUST

(APN: 225-530-06)

WHEREAS, certain City-owned real property, 2196 Montemar Avenue, in Escondido (the "Property"), became vacant in October of 2010; and

WHEREAS, the City offered the Property for sale at \$225,000 and received an offer from the Sander Family Trust ("Buyer") for \$233,000; and

WHEREAS, the City wishes to sell the Property for a sales price of \$233,000 and to enter into a Purchase and Sale Agreement ("Agreement") with the Buyer; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve the sale of the Property to the Buyer;

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

1. That the above recitations are true.
2. The Real Property Manager and City Clerk are authorized to execute, on behalf of the City, the Grant Deed and Agreement, attached to this resolution as Exhibits "1" and "2" and incorporated by this reference.

RECORDING REQUESTED BY
Chicago Title Company
Order No.: 73712003875-RCM

EXHIBIT 1

Resolution No. 2012-58
EXHIBIT 1
Page 1 of 2

When Recorded Mail To:
Henry R. Sander
Sander Family Trust dated May 31, 2000
2196 Montemar Avenue
Escondido, CA 92027

No recording fee required; this document exempt from fee pursuant to Section 27383 of the California Government Code.

**CITY OF ESCONDIDO
GRANT DEED**

ESC. DOCUMENT NO. M-23-12

This deed exempt from tax - Section 11922 of the California Revenue and Taxation Code

THE CITY OF ESCONDIDO, a municipal corporation, for a valuable consideration, DOES HEREBY GRANT to

HENRY R. SANDER AND DOMINIQUE M. SERVOS, AS TRUSTEES OF THE SANDER FAMILY TRUST DATED MAY 31, 2000

all that real property described as follows:

LOT 6 OF ESCONDIDO TRACT 104-A, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 5596, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 9, 1965.

IN WITNESS WHEREOF, the City of Escondido has caused this deed to be executed by its Real Property Manager and its City Clerk, pursuant to City Council Resolution No. 2012-58, adopted April 18, 2012, authorizing such execution, this ____ day of April, 2012.

THE CITY OF ESCONDIDO

By: _____
Debra Lundy, Real Property Manager

By: _____
Diane Halverson, City Clerk

TITLE OR TYPE OF DOCUMENT: Grant Deed

GRANTEE: Sander Family Trust

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On _____ (date) before me, _____,

personally appeared

_____, name(s) of signer(s) who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s), is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature of Notary

PROJECT: Montemar Residence
A.P.N.: 225-530-06
ADDRESS: 2196 Montemar Avenue
Escondido, CA 92027
OWNER: City of Escondido

PURCHASE & SALE AGREEMENT & ESCROW INSTRUCTIONS

THIS SALE AND PURCHASE AGREEMENT ("Agreement") is entered into this 30th day of March 2012 by and between the CITY OF ESCONDIDO, a municipal corporation (hereinafter called "SELLER"), and the Sander Family Trust (hereinafter called "BUYER"), for the acquisition, by BUYER, of certain real property as hereinafter set forth.

RECITALS

A. SELLER owns that certain real property located at 2196 Montemar Avenue, Escondido, California 92027, in the City of Escondido ("City"), County of San Diego, consisting of an approximate 1,617 square foot building on 0.15 acres of land (the "Property"). The Property is legally described in Exhibit "A," attached hereto and incorporated by this reference.

B. SELLER desires to sell the Property to BUYER, and BUYER desires to purchase the Property from SELLER, on the terms and conditions set forth below.

NOW THEREFORE, it is mutually agreed by and between the parties as follows:

1. **AGREEMENT TO SELL AND PURCHASE.**

SELLER agrees to sell the Property to BUYER and BUYER agrees to purchase the Property from SELLER, upon the terms and for the consideration set forth in this Agreement.

2. PURCHASE PRICE.

SELLER agrees to sell and BUYER agrees to buy the Property for the purchase price of TWO HUNDRED THIRTY THREE THOUSAND DOLLARS (\$233,000.00) ("Purchase Price").

3. CONDITION PRECEDENT.

Both parties agree and understand that the purchase and sale of the Property is As-Is/Where-is, with no representations by SELLER. BUYER has inspected the property and determined that it is suitable for BUYER's needs.

4. PAYMENT OF PURCHASE PRICE/ESCROW.

The Purchase Price shall be payable by BUYER to SELLER as follows:

A \$5,000.00 deposit shall be deposited with the Escrow Holder by personal check or wire transfer within five (5) business days of acceptance of offer to open the escrow. The balance of the purchase price, \$228,000.00, shall be deposited with the Escrow Holder within sufficient time to close escrow. SELLER shall open a Thirty (30) day escrow with an escrow company of SELLER's choice.

The escrow period may be amended by mutual consent of the parties, without penalty.

All associated escrow closing costs shall be paid ½ by the BUYER and ½ by SELLER.

5. CONVEYANCE OF TITLE. SELLER agrees to convey by Grant Deed to BUYER marketable fee title to the Property, free and clear of all recorded and unrecorded liens, encumbrances, assessments, easements, leases, covenants, conditions, restrictions, and taxes, EXCEPT:

Public and quasi-public utility, alley and street easements and rights-of-way of record.

6. COST OF SUIT. In the event of any litigation, arbitration, any quasi-judicial, or administrative proceeding between the parties herein to: (i) enforce any provision of this Agreement; (ii) enforce any remedy available under default within this Agreement; or (iii) seek a declaration of the rights of either party on each party's respective interests in the Property, the prevailing party shall be entitled to recover from the other such attorney's fees and costs as may be reasonably incurred.

7. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties, and neither party relies upon any warranty or representation not contained in this Agreement.

8. **AUTHORITY.** Those persons executing this Agreement warrant and represent that they have obtained all necessary approvals to enter into this Agreement and are authorized to execute this Agreement and bind their respective entities to the terms herein.

(Signatures on next page)

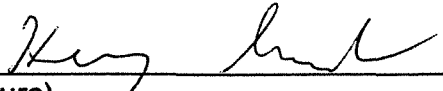
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year set forth below.

Dated: 3/30/2012

BUYER: Sander Family Trust

MAILING ADDRESS OF BUYER:

2741 Royal Crest Dr
Escondido, Ca 92025


(signature)

Henry Sander Trustee *Sander Family Trust*
(print name)

Dated: _____

CITY OF ESCONDIDO
a municipal corporation

MAILING ADDRESS OF SELLER:

City of Escondido
201 North Broadway
Escondido, CA 92025

BY:

Debra Lundy, Real Property Manager

Diane Halverson, City Clerk

Authorizing Resolution No.

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 5

Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council

FROM: Jim Maher, Chief of Police

SUBJECT: FY 2012-13 County of San Diego Cal-ID Grant

RECOMMENDATION:

It is requested that Council approve a FY 2012-13 Cal-ID Grant from the County of San Diego, authorize the Chief of Police and Police Department staff to submit grant documents on behalf of the City, and approve budget adjustments needed to set up and spend grant funds.

FISCAL ANALYSIS:

None

PREVIOUS ACTION:

None

BACKGROUND:

Vehicle registration revenue is collected by the state and then distributed to counties as Cal-ID funding. Per California Vehicle Code 9250.19(c), "money allocated to a county pursuant to subdivision (b) shall be expended exclusively to fund programs that enhance the capacity of local law enforcement to provide automated mobile and fixed location fingerprint identification."

The San Diego County Cal-ID Remote Access Network (RAN) Board authorized the use of Cal-ID revenue to fund one full-time Forensic Technician for the City of Escondido Police Department Crime Laboratory. Per grant requirements, the Forensic Technician will be solely devoted to latent print work that includes fingerprint analysis and other forensic print evidence. Funding will be provided to reimburse the salary and benefit expenses for a Forensic Technician for FY 2012-13 and renewing automatically each fiscal year for four years until June 30, 2017. Funding will be based on actual salary expenses and is not to exceed \$86,677 for July 1, 2012 through June 30, 2013.

Respectfully submitted,

Jim Maher
Chief of Police



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 6
Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council

FROM: Jim Maher, Chief of Police

SUBJECT: Asset Forfeiture Fund Budget Adjustment

RECOMMENDATION:

It is requested that Council authorize staff to establish a budget in the amount of \$56,825 with Asset Forfeiture Funds to pay for overtime and training costs.

FISCAL ANALYSIS:

The Asset Forfeiture Fund will be reduced by \$56,825 leaving an available fund balance of \$43,494.

PREVIOUS ACTION:

City Council approved an Asset Forfeiture budget adjustment on December 14, 2011 to fund training and equipment for police officers.

BACKGROUND:

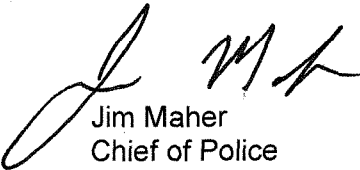
The U.S. Department of Justice (DOJ) transfers a percentage of seized assets to the City of Escondido which have been confiscated during local DOJ seizure or forfeiture efforts. These assets or funds are deposited into the City's Asset Forfeiture Account and must be used to purchase equipment or services to support law enforcement purposes. They may not be used to supplant items in the City's Operating Budget.

The Police Department requests your approval to set up a \$56,825 budget for overtime and training costs:

Item	Estimated Cost
Training (Polygrapher, Property and Evidence, Internal Affairs, etc.)	\$6,825
Police Officer Overtime and Overhead (Special Detail and Enforcement)	\$50,000

If approved by your action today, purchases will enhance law enforcement efforts.

Respectfully submitted,



Jim Maher
Chief of Police



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 7
Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council
FROM: Jim Maher, Chief of Police
SUBJECT: FY 2011 California Gang Reduction, Intervention and Prevention Program Grant

RECOMMENDATION:

It is requested that Council authorize the Escondido Police Department to accept FY 2011 CalGRIP Program Grant funds in the amount of \$250,000 from the California Emergency Management Agency, authorize the Chief of Police to submit grant documents on behalf of the City and approve budget adjustments needed for part-time salaries and overtime expenses.

FISCAL ANALYSIS:

This action will have no impact on the General Fund Budget. Grant funds allocated to the City will be used to pay part-time salaries and overtime expenses.

The grant requires a match of \$250,000. This amount will be shared by the Escondido Police Department (\$93,698) and Escondido Education COMPACT (\$156,302). The Department's portion of the match will include overtime related to gang suppression operations and in-kind salaries for program supervision.

PREVIOUS ACTION:

On April 14, 2010, Council approved a FY 2009 California Gang Reduction, Intervention and Prevention Program Grant to support gang intervention, suppression and prevention programs.

BACKGROUND:

The Escondido Police Department and Escondido Education COMPACT have received a FY 2011 CalGRIP Program Grant in the amount of \$250,000 from the California Emergency Management Agency. Grant funds will be used over a two-year period to support gang intervention, suppression and prevention programs.

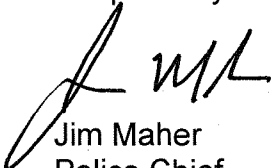
The Department proposes to use its \$93,698 allocation to pay salary and benefits for a part-time gang intervention officer (\$59,806), a part-time gang data specialist (\$25,717) and police officer overtime (\$8,175) related to gang suppression operations.

Escondido Education COMPACT will use its \$156,302 allocation for an intervention coordinator, program director, case managers and program supplies.

The proposed CalGRIP Program Grant will allow the Escondido Police Department and Escondido Education COMPACT to continue proactively identifying at-risk youth and providing proper gang intervention.

Your action today to accept grant funds and authorize staff to submit grant documents will support the multi-disciplinary approach to gang prevention, intervention, and suppression in the City of Escondido.

Respectfully submitted,



Jim Maher
Police Chief



CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 8
Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council
FROM: Jim Maher, Chief of Police
SUBJECT: FY 2012 U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant

RECOMMENDATION:

It is requested that Council approve a FY 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$45,844 from the U.S. Department of Justice, authorize the Chief of Police and Police Department staff to submit grant documents on behalf of the City, and approve budget adjustments needed to set up and spend grant funds to support front-line law enforcement.

FISCAL ANALYSIS:

This action will have no impact on the General Fund Budget. Grant funds will be used to pay salary expenses for temporary part-time employees.

PREVIOUS ACTION:

City Council approved a 2011 Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$56,047 on August 10, 2011.

BACKGROUND:

The Escondido Police Department has been allocated a FY 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) from the U.S. Department of Justice in the amount of \$45,844. JAG funds allow local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions.

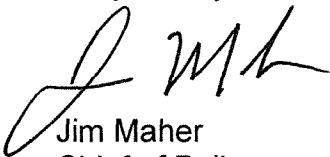
Grant funds may be used for technical assistance, training, personnel, equipment, supplies, contractual support and criminal justice information systems, in one or more of the following purpose areas:

- Law Enforcement Programs
- Prosecution and Court Programs
- Prevention and Education Programs
- Corrections and Community Corrections Programs
- Drug Treatment Programs
- Planning, Evaluation and Technology Improvement Programs

Grant funds may not supplant items currently budgeted.

The Escondido Police Department proposes to use FY 2012 JAG funds in the amount of \$45,844 to fund salary and benefits for temporary part-time positions that, due to budget constraints, are not in the General Fund Budget for FY 2012-13. Positions proposed to be funded by the allocation include Narcotics Task Force Enforcement Officers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Maher", is written over the typed name.

Jim Maher
Chief of Police

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9
Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council
FROM: Jerry Van Leeuwen, Director of Community Services
SUBJECT: Energy Efficiency - Conservation Block Update, MUSCO Lighting Sole Source Public Service Agreement

RECOMMENDATION:

It is requested that Council accept staff's update regarding expenditure of the Energy Efficiency - Conservation Block Grant (EE CBG) funds and adopt Resolution No. 2012-64 authorizing the Mayor and City Clerk to execute a Public Service Agreement (PSA) with MUSCO Lighting to install energy efficient ball field lighting at Kit Carson Girls Softball fields as a part of the EE CBG.

FISCAL ANALYSIS:

The second phase of this retrofit lighting project will cost \$171,000; \$136,128.18 will be paid with the balance of the EE CBG funds, and \$34,871.82 will be paid with Recycling funds, which was approved by City Council on the March 28, 2012.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

N/A

PREVIOUS ACTION:

On November 18, 2009, City Council approved the acceptance of grant funds through the EE CBG program. The City was approved for \$1,273,300 in total funding and the ball field relamping project was one of the approved projects. The re-lamping of Kit Carson Park Adult Softball Complex and Girls Softball Complex has been completed.

BACKGROUND:

The Green Energy audit training program that was proposed did not come to fruition. During the time that elapsed between the program proposal and the grant funding, numerous agencies in the County began similar programs and the local need for the program was severely diminished. Staff analyzed how the remaining grant monies could best be spent in the allotted time line to maximize the energy

savings. It was determined that retrofitting additional ball fields with the energy efficient lights was the best use of the monies.

As a part of the research for the grant application, staff was asked to evaluate available technological improvements applicable to the EE CBG program. Recreation staff identified the MUSCO "Green" Ball Field Lighting system as an opportunity to save the City approximately 50% of the energy costs over the existing ball field lights at the Kit Carson Park Adult Softball Complex, the Escondido Girls Softball Complex, and Del Dios Middle School baseball field, which are the most heavily used field lighting systems in the City's inventory. Staff worked with MUSCO lighting to identify the costs to retrofit the lights and the potential energy savings. This information was submitted to the work group and the projects were selected to be a part of the grant program. However, staff was unable to proceed with the re-lamping of Del Dios Middle School due unanticipated permitting requirements that were triggered because six existing wooden light poles needed to be replaced by metal standards capable of supporting the retrofit lighting fixtures. The required permitting process included obtaining a soils report, architectural and engineering plans, Division of the State Architect approval, and measures to satisfy American with Disabilities compliance. The requirements to move forward with the Del Dios site exceeded available funds and would not have met the timelines of the grant period.

After completing the research on lighting systems, it has been determined, pursuant to Section 10-103B of the City's Municipal Code, that MUSCO Lighting meets the qualifications to be a sole source purchase. The lighting system is one of the most advanced systems available, with the best energy savings available and it is compatible with the City's ball field lighting control system, which is provided by MUSCO.

Attached is a PSA for MUSCO Lighting to install the new energy efficient retrofit lights at the Girls Softball fields in Kit Carson Park. Staff recommends that the Council approve the PSA and adopt Resolution No. 2012-64.

Staff has submitted the amendment for the EE CBG and will be awaiting approval. No contracts will be initiated until such time approval is received; and no monies will be spent on the ball field project if the grant amendment is not approved.

Respectfully submitted,


Jerry Van Leeuwen
Director of Community Services

RESOLUTION NO. 2012-64

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR AND CITY
CLERK, TO EXECUTE, ON BEHALF OF THE
CITY, A PUBLIC SERVICE AGREEMENT
WITH MUSCO LIGHTING TO RETROFIT THE
BALL FIELD LIGHTS AT KIT CARSON PARK
GIRLS SOFTBALL

WHEREAS, the City of Escondido has been granted funds through the Energy Efficiency Conservation Block Grant ("CBG") program; and

WHEREAS, the ball field lighting retrofit is an approved project for the expenditure of the Energy Efficiency CGB funds; and

WHEREAS, the installation of new ball field lighting will advance energy efficiency and conservation initiatives of the City; and

WHEREAS, MUSCO LIGHTING ("MUSCO") has been identified as the sole source bidder for retrofitting the lighting system; and

WHEREAS, pursuant to the Municipal Code Section 10-103 B, the MUSCO bid is deemed to be compatible with the existing ball field lighting and the control system for all the City's ball field lighting; and

WHEREAS, the City Council desires at this time, and deems it to be in the best public interest, to approve a Public Service Agreement ("Agreement") with MUSCO to retrofit the ball field lights at Kit Carson Park Girls Softball; and

WHEREAS, the Community Services Director recommends an approval of the Agreement effective April 23, 2012, in an amount not to exceed \$171,000;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California:

1. That the above recitations are true.
2. That the City Council accept the recommendation of the Community Services Director.
3. That the Mayor and City Clerk are authorized to execute, on behalf of the City, an Agreement for installation of the energy efficient ball field lighting. A copy of the Agreement is attached as Exhibit "A" and is incorporated by this reference.



CITY OF ESCONDIDO
PUBLIC SERVICES AGREEMENT

This Agreement is made this Twenty Third day of April, 2012.

Between: CITY OF ESCONDIDO
a Municipal Corporation
201 N. Broadway
Escondido, California 92025
Attn: Amy Shipley
760-839-6269
("CITY")

And: MUSCO CORPORATION
100 1st Ave West
Box 808
Oskaloosa, IA, 52577-0808
Attn: (Jim Hansen)
[1-800-825-6020]
("CONTRACTOR")

WHEREAS, the CITY and CONTRACTOR desire to enter into this Agreement for the performance of services;

NOW, THEREFORE, it is mutually agreed as follows:

1. Description of Services. CONTRACTOR will furnish all of the services described in "Attachment A," which is attached and incorporated by this reference. CONTRACTOR agrees to diligently perform such services to their completion, with professional quality and technical accuracy.
2. Compensation. The CITY will pay and CONTRACTOR will accept in full payment for the above work, the sum of \$171,000. Any breach of this Agreement will relieve CITY from the obligation to pay CONTRACTOR, if CONTRACTOR has not corrected the breach after CITY provides notice and a reasonable time to correct it.
3. Term and Time of Performance. CONTRACTOR must start working within one (1) week from City's notice to begin. CONTRACTOR must diligently perform and complete the work by June 22, 2012. Extension of terms or time of performance may be made only upon the City's written consent.
4. Scope of Compensation. CONTRACTOR will be responsible for performance of the tasks specified in the Description of Services in "Attachment A." No compensation will be provided for any other tasks without specific prior written consent from the CITY.

5. Performance. CONTRACTOR must faithfully perform in a proficient manner, to the satisfaction of the CITY, all the work or services described in the Description of Services, above.

6. City Property. All original documents, drawings, electronic media, and other material prepared by CONTRACTOR under this Agreement immediately becomes the exclusive property of the CITY, and may not be used by CONTRACTOR for any other purpose without prior written consent of the CITY.

7. Insurance Requirements.

a. The CONTRACTOR shall secure and maintain at its own cost, for all operations, the following insurance coverage, unless reduced by the City Attorney:

- (1) General liability insurance. Occurrence basis with minimum limits of \$1,000,000 each occurrence, \$2,000,000 General Aggregate, and \$1,000,000 Products/Completed Operations Aggregate; and
- (2) Automobile liability insurance of \$1,000,000 combined single-limit per accident for bodily injury and property damage, unless waived as provided in 7(b) below; and
- (3) Workers' compensation and employer's liability insurance as required by the California Labor Code, as amended, or certificate of sole proprietorship; and
- (4) Errors and Omissions professional liability insurance with minimum coverage of \$1,000,000.

b. It is the parties' understanding that the use of a motor vehicle is not a primary subject of this Agreement. CONTRACTOR acknowledges that operating a motor vehicle is outside the scope of this Agreement and occurs only at the convenience of CONTRACTOR. A waiver of automobile liability insurance is only effective if both sets of initials appear below, otherwise such insurance is required.

Acknowledged by CONTRACTOR _____

Waiver appropriate by CITY _____

c. Each insurance policy required above must be acceptable to the City Attorney.

- (1) Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage must be provided by an A.M. Best's A- rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.
- (2) All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.
- (3) Both the General Liability and the Automobile Liability policies must name the CITY specifically as an additional insured under the policy on a separate endorsement page. The endorsement must be ISO Form CG2010 11/85 edition or its equivalent for General Liability endorsements and CA 20-01 for Automobile Liability endorsements.
- (4) The General Liability policy must include coverage for bodily injury and property damage arising from CONTRACTOR's work, including its on-going operations and products-completed operations hazard.

(5) The General Liability policy must be primary and noncontributory and any insurance maintained by CITY is excess.

d. In executing this Agreement, CONTRACTOR agrees to have completed insurance documents on file with the CITY within fourteen (14) days after the date of execution. Failure to comply with insurance requirements under this Agreement will be a material breach of this Agreement, resulting in immediate termination at CITY's option.

8. Indemnification. CONTRACTOR (which in this paragraph 8 includes its agents, employees and subcontractors, if any) agrees to indemnify, defend, and hold harmless the CITY from all claims, lawsuits, damages, judgments, loss, liability, or expenses, including attorneys' fees, for any of the following:

- a. Any claim of liability arising out of the negligence or any acts or omissions of CONTRACTOR in the performance of this Agreement;
- b. Any personal injuries, property damage or death that CONTRACTOR may sustain while using CITY-controlled property or equipment, while participating in any activity sponsored by the CITY, or from any dangerous condition of property; or

Stormwater Indemnification. CONTRACTOR shall further indemnify, defend, and hold harmless CITY and its officers, employees, and agents from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, administrative proceeds, damages, fines, penalties, judgments, orders, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements, arising out of any violation, or claim of violation of the San Diego Municipal Storm Water Permit (Order No. R9-2007-0001), as amended or renewed, of the California Regional Water Quality Control Board Region 9, San Diego, which CITY might suffer, incur, or become subject by reason of or occurring as a result of or allegedly caused by the construction of the Project or the Improvements.

9. Anti-Assignment Clause. Since the CITY has relied on the particular skills of CONTRACTOR in entering this Agreement, CONTRACTOR may not assign, delegate, or sublet any duty or right under this Agreement, or any portion of the Description of Services. Any such purported assignment, delegation, or subletting will void this entire Agreement, unless the CITY has previously approved such action in writing.

10. Costs and Attorney's Fees. In the event that legal action is required to enforce the terms and conditions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs.

11. Independent Contractor. CONTRACTOR is an independent contractor and no agency or employment relationship is created by the execution of this Agreement.

12. Merger Clause. This Agreement and its Attachments, if any, are the entire understanding of the parties, and there are no other terms or conditions, written or oral, controlling this matter. In the event of any conflict between the provisions of this Agreement and any of its Attachments, the provisions of this Agreement must prevail.

13. Anti-Waiver Clause. None of the provisions in this Agreement will be waived by CITY because of previous failure to insist upon strict performance, nor will any provision be waived because any other provision has been waived by CITY, in whole or in part.

14. Severability. The invalidity in whole or in part of any provision of this Agreement will not void or affect the validity of any other provisions of this Agreement.

15. Choice of Law. This Agreement is governed by the laws of the State of California. Venue for all actions arising from this Agreement must be exclusively in the state or federal courts located in San Diego County, California.
16. Multiple Copies of Agreement/Counterparts. Multiple copies and/or counterparts of this Agreement may be executed, including duplication by photocopy or by computerized scanning device. Each duplicate will be deemed an original with the same effect as if all the signatures were on the same instrument. However, the parties agree that the Agreement on file in the office of the Escondido City Clerk is the copy of the Agreement that shall take precedence should any differences exist among copies or counterparts of the document.
17. Provisions Cumulative. The foregoing provisions are cumulative and in addition to and not in limitation of any other rights or remedies available to the CITY.
18. Notices to Parties. Any statements, communications or notices to be provided pursuant to this Agreement must be sent to the attention of the persons indicated below. Each party agrees to promptly send notice of any changes of this information to the other party.
19. Business License. The CONTRACTOR is required to obtain a City of Escondido Business License prior to execution of this Agreement.
20. Compliance with Applicable Laws, Permits and Licenses. CONTRACTOR shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, and rules in effect during the term of this Agreement. This shall include, but not limited to, all California Labor Code laws regarding payment of prevailing wages and all OSHA regulations. CONTRACTOR shall obtain any and all licenses, permits, and authorizations necessary to perform the services set forth in this Agreement. Neither CITY, nor any elected nor appointed boards, officers, officials, employees, or agents of CITY, shall be liable, at law or in equity, as a result of any failure of CONTRACTOR to comply with this section.
21. Prevailing Wages. If applicable, pursuant to Section 1770 et seq. of the Labor Code, CONTRACTOR agrees that a prevailing rate and scale of wages, in accordance with applicable State and Federal Law, will be paid in the carrying out of this Agreement. CONTRACTOR shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, and rules pertaining to the payment of prevailing wages. The prevailing rate and scale to be paid shall be the same as the 'General Prevailing Wage Rates' approved by the Department of Industrial Relations as of the date of the execution of this Agreement. Said rates and scales are herein referred to and adopted in this Agreement as though fully and completely set forth herein, and said scale as adopted by the Department is made a part of this Agreement by reference. Copies of the prevailing rate of per diem wages are available on the Intranet at (<http://www.dir.ca.gov/DLSR>). Neither CITY, nor any elected nor appointed boards, officers, officials, employees, or agents of CITY, shall be liable, at law or in equity, as a result of any failure of CONTRACTOR to comply with this section.
22. Immigration Reform and Control Act of 1986. CONTRACTOR shall keep itself informed of and comply with the Immigration Reform and Control Act of 1986. CONTRACTOR affirms that as a licensed Contractor and employer in the State of California, all new employees must produce proof of eligibility to work in the United States within the first three days of employment and that only employees legally eligible to work in the United States will be employed on this public project. CONTRACTOR agrees to comply with such provisions before commencing and continuously throughout the performance of this Agreement.

23. Department of Energy ("DOE") Special Terms and Conditions. CONTRACTOR agrees to abide by DOE's Special Terms and Conditions for the Energy Efficiency and Conservation Block Grant Program ("Special Terms"), attached and incorporated herein as "Attachment B." CONTRACTOR agrees and understands that CONTRACTOR'S failure to abide by any of the Special Terms shall be considered a material breach of this Agreement, which may result in the termination of this Agreement at CITY's sole discretion. In the event of a conflict between the terms of this Agreement and the Special Terms, the Special Terms shall prevail.

(Signatures on next page)

IN WITNESS WHEREOF, the parties below are authorized to act on behalf of their organizations, and have executed this Agreement as of the date set forth below.

CITY OF ESCONDIDO

Date: _____

Signature

Jerry VanLeeuwen
Department or Division Head

MUSCO CORPORATION

100 1st Ave west, P.O. Box 808
Oskaloosa, IA , 52577-0808

Date: _____

(Contractor signature)

Title
(The above signature must be notarized)

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

THE CITY OF ESCONDIDO DOES NOT DISCRIMINATE AGAINST QUALIFIED PERSONS WITH DISABILITIES.

IN WITNESS WHEREOF, the parties below are authorized to act on behalf of their organizations, and have executed this Agreement as of the date set forth below.

CITY OF ESCONDIDO

Date: _____

Clay Phillips
City Manager

Date: _____

Department or Division Head

MUSCO CORPORATION

100 1st Ave west, P.O. Box 808
Oskaloosa, IA , 52577-0808
(Contractor name and address)

Date: _____

(Contractor signature)

Title

(The above signature must be notarized)

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

THE CITY OF ESCONDIDO DOES NOT DISCRIMINATE AGAINST QUALIFIED PERSONS WITH DISABILITIES.

IN WITNESS WHEREOF, the parties below are authorized to act on behalf of their organizations, and have executed this Agreement as of the date set forth below.

CITY OF ESCONDIDO

Date: _____

Sam Abed
Mayor

Date: _____

Diane Halverson
City Clerk

MUSCO CORPORATION

100 1st Ave west, P.O. Box 808
Oskaloosa, IA , 52577-0808

(Contractor name and address)

Date: _____

(Contractor signature)

Title

(The above signature must be notarized)

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

THE CITY OF ESCONDIDO DOES NOT DISCRIMINATE AGAINST QUALIFIED PERSONS WITH DISABILITIES.

**SPECIAL TERMS AND CONDITIONS FOR THE ENERGY EFFICIENCY AND CONSERVATION
BLOCK GRANT PROGRAM – FORMULA GRANTS**

DOE grantees must consider both (1) procurement structure and (2) flowdown requirements when using subcontractors/subrecipients to support DOE grant activity.

(1) Procurement Structure

Department of Energy procurement requirements are found in 10 CFR Part 600. These regulations require DOE grantees to consider the following in development of solicitations for obtaining products or services in support of the DOE grant activity. See 10 CFR 600 for more details.

- Procurement standards
 - Follow DOE requirements *in addition to* grantee, local and State requirements
 - Maintain written standards of conduct, avoiding conflicts of interest
 - Maintain documentation related to procurement actions
 - Ensure awards are made to responsible contractors
 - Type of contract to be used
- Use of competition
- Methods of procurement
- Consideration of small and minority firms
- Contract cost and price analyses
- Awarding agency (DOE) review
- Bonding requirements
- Contract provisions to include remedy and termination language, mandatory Federal regulations and executive orders, and the other flowdown requirements below.

(2) Flowdown Requirements for Subrecipients

DOE holds grantees ultimately responsible for all activities occurring under the grant despite subcontract or subrecipient involvement in certain activities.

When subcontracting is necessary, certain requirements of the Federal Government must flow down or cascade to the subcontractor level.

The Department of Energy requirements are defined in 10 CFR 600. In addition, since the Energy Efficiency and Conservation Block Grants are funded by the American Recovery and Reinvestment Act (Recovery Act), there are additional Recovery Act requirements and restrictions which must be followed.

The following pages set forth flowdown provisions for use in issuing subcontracts. The requirements are mandatory as written unless noted that the provision should be tailored to the specific situation.

**Energy Efficiency and Conservation Block Grant
 Subcontract Flowdown Requirements**

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**SPECIAL TERMS AND CONDITIONS FOR THE ENERGY EFFICIENCY AND
CONSERVATION BLOCK GRANT PROGRAM – FORMULA GRANTS**

1. RESOLUTION OF CONFLICTING CONDITIONS

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this award must be referred to the prime grantee administrator for guidance.

2. AWARD AGREEMENT TERMS AND CONDITIONS

This award/agreement consists of the requirements incorporated by reference below:

- a. Applicable program regulations: Title V, Subtitle E of the Energy Independence Security Act (EISA) of 2007, Public Law 110-140.
- b. DOE Assistance Regulations, 10 CFR Part 600 located at <http://ecfr.gpoaccess.gov/>
- c. Application/proposal as approved by the grantee.
- d. National Policy Assurances to Be Incorporated as Award Terms in effect on date of award at http://management.energy.gov/business_doe/1374.htm
- e. Applicable audit and cost principles found in 2 CFR 215, OMB Circular A-102, A-21, A-87, A-122, A-133, and/or 48 CFR Part 31.

3. REBUDGETING AND RECOVERY OF INDIRECT COSTS (AS APPLICABLE)

THE APPLICABLE TERM IS MARKED BELOW.

- REBUDGETING AND RECOVERY OF INDIRECT COSTS - REIMBURSABLE INDIRECT COSTS AND FRINGE BENEFITS
- a. If actual allowable indirect costs and fringe benefits are less than those budgeted and funded under the award, you may use the difference to pay additional allowable direct costs during the project period. If at the completion of the award the Government's share of total allowable costs (i.e., direct, indirect, fringe benefits), is less than the total costs reimbursed, you must refund the difference.
 - b. Recipients are expected to manage their indirect costs and fringe benefits. DOE will not amend an award solely to provide additional funds for changes in indirect costs and fringe benefits. DOE recognizes that the inability to obtain full reimbursement for indirect costs and fringe benefits means the recipient must absorb the underrecovery. Such underrecovery may be allocated as part of the organization's required cost sharing.
- REBUDGETING AND RECOVERY OF INDIRECT COSTS – REIMBURSABLE INDIRECT COSTS
- a. If actual allowable indirect costs are less than those budgeted and funded under the award, you may use the difference to pay additional allowable direct costs during the project period. If at the completion of the award the Government's share of total allowable costs (i.e., direct and indirect), is less than the total costs reimbursed, you must refund the difference.
 - b. Recipients are expected to manage their indirect costs. DOE will not amend an award solely to provide additional funds for changes in indirect cost rates. DOE recognizes that the inability to obtain full reimbursement for indirect costs means the recipient must absorb

the underrecovery. Such underrecovery may be allocated as part of the organization's required cost sharing.

- c. The budget for this award includes indirect costs, but does not include fringe benefits. Therefore, fringe benefit costs shall not be charged to nor shall reimbursement be requested for this project nor shall the fringe benefit costs for this project be allocated to any other federally sponsored project. In addition, fringe benefit costs shall not be counted as cost share unless approved by the Contracting Officer.

[] **REBUDGETING AND RECOVERY OF INDIRECT COSTS - INDIRECT COSTS AND FRINGE BENEFITS ARE NOT REIMBURSABLE**

The budget for this award does not include indirect costs or fringe benefits. Therefore, these expenses shall not be charged to nor reimbursement requested for this project nor shall the fringe and indirect costs from this project be allocated to any other federally sponsored project. In addition, indirect costs or fringe benefits shall not be counted as cost share unless approved by the Contracting Officer.

4. CEILING ON ADMINISTRATIVE COSTS

- a. Recipients may not use more than 10 percent of amounts provided under this program, or \$75,000, whichever is greater (EISA Sec 545(b)(3)(A), for administrative expenses, excluding the costs of meeting the reporting requirements under Title V, Subtitle E of EISA. These costs should be captured and summarized for each activating under the Projected Costs Within Budget: Administration.
- b. Recipients are expected to manage their administrative costs. DOE will not amend an award solely to provide additional funds for changes in administrative costs. The Recipient shall not be reimbursed on this project for any final administrative costs that are in excess of the designated 10 percent administrative cost ceiling. In addition, the Recipient shall neither count costs in excess of the administrative cost ceiling as cost share, nor allocate such costs to other federally sponsored projects, unless approved by the Contracting Officer.

5. LIMITATIONS ON USE OF FUNDS

- a. Recipients may not use more than 20 percent or \$250,000, whichever is greater (EISA Sec 545(b)(3)(B), for the establishment of revolving loan funds.
- b. Recipients may not use more than 20 percent or \$250,000, whichever is greater (EISA Sec 545(b)(3)(C), for subgrants to nongovernmental organizations for the purpose of assisting in the implementation of the energy efficiency and conservation strategy of the eligible unit of local government.

6. USE OF PROGRAM INCOME - ADDITION

If you earn program income during the project period as a result of this award, you may add the program income to the funds committed to the award and use it to further eligible project objectives.

7. STATEMENT OF FEDERAL STEWARDSHIP

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

8. SITE VISITS

DOE's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. You must provide, and must require your subawardees to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

9. REPORTING REQUIREMENTS

- a. Requirements. The reporting requirements for this award are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2, attached to this award. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.
- b. Additional Recovery Act requirements listed elsewhere in this document.

10. PUBLICATIONS

- a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.
- b. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgment: "This material is based upon work supported by the Department of Energy under Award Number [*Enter the award number*]."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

11. FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS

You must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

12. INTELLECTUAL PROPERTY PROVISIONS AND CONTACT INFORMATION

Nonprofit organizations are subject to the intellectual property requirements at 10 CFR 600.136(a), (c) and (d). All other organizations are subject to the intellectual property requirements at 10 CFR 600.136(a) and (c).

600.136 Intangible property.

(a) Recipients may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. DOE reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) DOE has the right to:

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(c) In addition, in response to a Freedom of Information act (FOIA) request for research data relating to published research findings produced under an award that were used by the Federal Government in developing an agency action that has the force and effect of law, the DOE shall request, and the recipient shall provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the DOE obtains the research data solely in response to a FOIA request, the agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect the costs incurred by the agency, the recipient, and applicable subrecipients. This fee is in addition to any fees the agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

A list of all intellectual property provisions may be found at http://www.gc.doe.gov/financial_assistance_awards.htm.

13. LOBBYING RESTRICTIONS

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

14. NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

15. INSOLVENCY, BANKRUPTCY OR RECEIVERSHIP

- a. You shall immediately notify the grantee of the occurrence of any of the following events: (i) you or your parent's filing of a voluntary case seeking liquidation or reorganization under the Bankruptcy Act; (ii) your consent to the institution of an involuntary case under the Bankruptcy Act against you or your parent; (iii) the filing of any similar proceeding for or against you or your parent, or its consent to, the dissolution, winding-up or readjustment of your debts, appointment of a receiver, conservator, trustee, or other officer with similar powers over you, under any other applicable state or federal law; or (iv) your insolvency due to your inability to pay your debts generally as they become due.
- b. Such notification shall be in writing and shall: (i) specifically set out the details of the occurrence of an event referenced in paragraph a; (ii) provide the facts surrounding that event; and (iii) provide the impact such event will have on the project being funded by this award.
- c. Upon the occurrence of any of the four events described in the first paragraph, the grantee reserves

the right to conduct a review of your award to determine your compliance with the required elements of the award (including such items as cost share, progress towards technical project objectives, and submission of required reports). If the grantee review determines that there are significant deficiencies or concerns with your performance under the award, the grantee reserves the right to impose additional requirements, as needed, including (i) change your payment method; or (ii) institute payment controls.

- d. Failure of the recipient to comply with this provision may be considered a material noncompliance of this award.

16. WASTE STREAM

The subrecipient assures that it will create or obtain a waste management plan addressing waste generated by a proposed project prior to the project generating waste. This waste management plan will describe the subrecipient's plan to dispose of any sanitary or hazardous waste (e.g., construction and demolition debris, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos) generated as a result of the proposed project. The subrecipient shall ensure that the project is in compliance with all Federal, state and local regulations for waste disposal. The subrecipient shall make the waste management plan and related documentation available to the recipient to the grantee/recipient or DOE upon request (for example, during a post-award audit).

17. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS

You are restricted from taking any action using Federal funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing either a NEPA clearance or a final NEPA decision regarding this project. Prohibited actions include: [*Activities that cannot be performed before the NEPA clearance or decision is completed*]. This restriction does not preclude you from: [*activities that can be performed before the NEPA clearance or decision is completed*].

If you move forward with activities that are not authorized for federal funding by the DOE Contracting Officer in advance of the final NEPA decision, you are doing so at risk of not receiving federal funding and such costs may not be recognized as allowable cost share.

If this award includes construction activities, you must submit an environmental evaluation report/evaluation notification form addressing NEPA issues prior to DOE initiating the NEPA process.

18. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS

Notwithstanding any other provisions of this Agreement, the Government shall not be responsible for or have any obligation to the recipient for (i) Decontamination and/or Decommissioning (D&D) of any of the recipient's facilities, or (ii) any costs which may be incurred by the recipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

19. SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (MAY 2009)

Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

The Recipient shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in Act itself and as discussed below.

Recipients should begin planning activities for their first tier subrecipients, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Contractors must keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. The Recipient will be provided these details as they become available. The Recipient must comply with all requirements of the Act. If the recipient believes there is any inconsistency between ARRA requirements and current award terms and conditions, the issues will be referred to the Contracting Officer for reconciliation.

Definitions

For purposes of this clause, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to covered funds – the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

Recipient means any entity that receives Recovery Act funds directly from the Federal government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds.

Special Provisions

A. Flow Down Requirement

Recipients must include these special terms and conditions in any subaward.

B. Segregation of Costs

Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

C. Access to Records

With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –

- (1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions relation to, the subcontract, subcontract, grant, or subgrant; and
- (2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

D. Publication

An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

Notice of Restriction on Disclosure and Use of Data

The data contained in pages ---- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

E. Protecting State and Local Government and Contractor Whistleblowers

The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:

Prohibition on Reprisals: An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a

State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct, a court or grant jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross management of an agency contract or grant relating to covered funds;
- a gross waste of covered funds
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Nonenforceability of Certain Provisions Waiving Rights and remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices.).

F. Request for Reimbursement (revised)

NOTE: reimbursement is to be immediately requested of the grantee by the subrecipient to ensure prompt reimbursement and availability of funds before the grant period of performance expires.

G. False Claims Act

Recipient and sub-recipients shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

H. Information in supporting of Recovery Act Reporting

Recipient may be required to submit backup documentation for expenditures of funds under the

Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the Contracting Officer or designee.

I. Availability of Funds (revised)

Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015. **NOTE:** EECBG funding must be expended during the grantee's period of performance during 2009 to 2012 or thereabouts as specified in their grant award.

J. Additional Funding Distribution and Assurance of Appropriate Use of Funds

Applicable if award is to a State Government or an Agency

Certification by Governor -- Not later than April 3, 2009, for funds provided to any State or agency thereof by the American Reinvestment and Recovery Act of 2009, Pub. L. 111-5, the Governor of the State shall certify that: 1) the state will request and use funds provided by the Act; and 2) the funds will be used to create jobs and promote economic growth.

Acceptance by State Legislature -- If funds provided to any State in any division of the Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

Distribution -- After adoption of a State legislature's concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State's discretion.

K. Certifications

With respect to funds made available to State or local governments for infrastructure investments under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, the Governor, mayor, or other chief executive, as appropriate, certified by acceptance of this award that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Recipient shall provide an additional certification that includes a description of the investment, the estimated total cost, and the amount of covered funds to be used for posting on the Internet. A State or local agency may not receive infrastructure investment funding from funds made available by the Act unless this certification is made and posted.

20. REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT (MAY 2009)

- a. This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.
- b. The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.
- c. Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

- d. The recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.

21. REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS -- SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (MAY 2009)

THIS AWARD TERM IS APPLICABLE TO ANY RECOVERY ACT FUNDS FOR CONSTRUCTION, ALTERATION, MAINTENANCE, OR REPAIR OF A PUBLIC BUILDING OR PUBLIC WORK AND THE TOTAL PROJECT VALUE IS ESTIMATED LESS THAN \$7,443,000. THIS AWARD TERM ALSO APPLIES TO ALL SUBGRANTS AND CONTRACTS.

a. Definitions. As used in this award term and condition--

- (1) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been—
 - (i) Processed into a specific form and shape; or
 - (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.
- (2) Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.
- (3) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

b. Domestic preference.

- (1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111--5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.
- (2) This requirement does not apply to the material listed by the Federal Government as follows:

None

[Award official to list applicable excepted materials or indicate "none"]
- (3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that--
 - (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
 - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

c. Request for determination of inapplicability of Section 1605 of the Recovery Act .

(1)

(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government valuation of the request, including—

- (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
- (B) Unit of measure;
- (C) Quantity;
- (D) Cost;
- (E) Time of delivery or availability;
- (F) Location of the project;
- (G) Name and address of the proposed supplier; and
- (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

d. Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of Measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			

Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			
Item 2:			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			

List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.

Include other applicable supporting information.

*Include all delivery costs to the construction site.

22. REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)--SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (MAY 2009)

THIS AWARD TERM IS APPLICABLE TO ANY RECOVERY ACT FUNDS FOR CONSTRUCTION, ALTERATION, MAINTENANCE, OR REPAIR OF A PUBLIC BUILDING OR PUBLIC WORK WITH A TOTAL PROJECT VALUE OVER \$7,443,000 THAT INVOLVES IRON, STEEL, AND/OR MANUFACTURED GOODS MATERIALS COVERED UNDER INTERNATIONAL AGREEMENTS. THIS AWARD TERM ALSO APPLIES TO ALL SUBGRANTS AND CONTRACTS.

a. Definitions. As used in this award term and condition--

Designated country –

- (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);
- (2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or
- (3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

Designated country iron, steel, and/or manufactured goods –

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

Domestic iron, steel, and/or manufactured good –

- (1) Is wholly the growth, product, or manufacture of the United States; or
- (2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

Foreign iron, steel, and/or manufactured good means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

Manufactured good means a good brought to the construction site for incorporation into the building or work that has been--

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

b. Iron, steel, and manufactured goods.

- (1) The award term and condition described in this section implements--
 - (i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and
 - (ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.
- (2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.
- (3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:

None

[Award official to list applicable excepted materials or indicate "none"]

- (4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that--
 - (i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;
 - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
 - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.
- c. Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.
 - (1) (i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including--
 - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.
 - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.
 - (iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.
 - (iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
- (2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).
- (3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

- d. Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of Measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			

List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.

Include other applicable supporting information.

*Include all delivery costs to the construction site.

23. WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT (MAY 2009)

THIS AWARD TERM IS APPLICABLE TO RECOVERY ACT PROGRAMS OR ACTIVITIES THAT MAY INVOLVE CONSTRUCTION, ALTERATION, MAINTENANCE, OR REPAIR. THIS AWARD TERM ALSO APPLIES TO ALL SUBGRANTS AND CONTRACTS.

- a. Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

- b. For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

24. RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING SUBRECIPIENTS (MAY 2009)

- a. To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A--102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A--102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>
- b. For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A--133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF--SAC) required by OMB Circular A--133. OMB Circular A--133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF--SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF--SAC.
- c. Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.
- d. Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

25. DAVIS BACON ACT AND CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (NOV 2009)

THIS AWARD TERM IS APPLICABLE TO ARRA AWARDS WHEN WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT TERM IS APPLICABLE. THIS AWARD TERM IS ALSO APPLICABLE TO SUBGRANTS AND CONTRACTS.

Definitions: For purposes of this clause, Clause 30, Davis Bacon Act and Contract Work Hours and Safety Standards Act, the following definitions are applicable:

(1) "Award" means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Recipients (other than a unit of State or local government whose own employees perform the construction) Subrecipients, Contractors, and subcontractors.

(2) "Contractor" means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients' or Subrecipients' contractors, subcontractors, and lower-tier subcontractors. "Contractor" does not mean a unit of State or local government where construction is performed by its own employees."

(3) "Contract" means a contract executed by a Recipient, Subrecipient, prime contractor, or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. "Contract" does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.

(4) "Contracting Officer" means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

(5) "Recipient" means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement, or technology investment agreement directly from the Federal Government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.

(6) "Subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower-tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.

(7) "Subrecipient" means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

(a) Davis Bacon Act

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and, without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional

classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage

requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 3729 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Department of Energy or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees—

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll

at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

(6) Contracts and Subcontracts. The Recipient, Subrecipient, the Recipient's, and Subrecipient's contractors and subcontractor shall insert in any Contracts the clauses contained herein in (a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.

(7) Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Recipient, Subrecipient, the Contractor (or any of its subcontractors), and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be

necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Contracts and Subcontracts. The Recipient, Subrecipient, and Recipient's and Subrecipient's contractor or subcontractor shall insert in any Contracts, the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section. The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

26. HISTORIC PRESERVATION (Revised 3/17/10)

Prior to the expenditure of Project funds to alter any historic structure or site, the Recipient or subrecipient shall ensure that it is compliant with Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. If applicable, the Recipient or subrecipient must contact the State Historic Preservation Officer (SHPO), and the Tribal Historic Preservation Officer (THPO) to coordinate the Section 106 review outlined in 36 CFR Part 800. In the event that a State, State SHPO and DOE enter into a Programmatic Agreement, the terms of that Programmatic Agreement shall apply to all recipient and subrecipient activities within that State. SHPO contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>. Section 110(k) of the NHPA applies to DOE funded activities.

The Recipient or subrecipient certifies that it will retain sufficient documentation to demonstrate that the Recipient or subrecipient has received required approval(s) from the SHPO or THPO for the Project. Recipients or subrecipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106. The Recipient or subrecipient shall deem compliance with Section 106 of the NHPA complete only after it has received this documentation. The Recipient or sub-recipient shall upon receipt forward a digital copy of all documentation to DOE relating to NHPA compliance. Recipient will be required to report annually on September 1 the disposition of all historic preservation consultations by category.

27. ADVANCE UNDERSTANDING CONCERNING PUBLICLY FINANCED ENERGY IMPROVEMENT PROGRAMS

The parties recognize that the Recipient may use funds under this award for Property-Assessed Clean Energy (PACE) loans, Sustainable Energy Municipal Financing, Clean Energy Assessment Districts, Energy Loan Tax Assessment Programs (ELTAPS), or any other form or derivation of Special Taxing District whereby taxing entities collect payments through increased tax assessments for energy efficiency and renewable energy building improvements made by their constituents. The Department of Energy intends to publish "Best Practices" or other guidelines pertaining to the use of funds made available to the Recipient under this award pertaining to the programs identified herein. By accepting this award, the Recipient agrees to incorporate, to the maximum extent practicable, those Best Practices and other guidelines into any such program(s) within a reasonable time after notification by DOE that the Best Practices or guidelines have been made available. The Recipient also agrees, by its acceptance of this award, to require its sub-recipients to incorporate to the maximum extent practicable the best practices and other guideline into any such program used by the sub-recipient.



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 10
Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council
FROM: Edward N. Domingue, Director of Engineering Services
Robert Zaino, Deputy Director of Engineering Services
SUBJECT: Regional Transportation Congestion Improvement Program (RTCIP) Fee Adjustment

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2012-42 authorizing the RTCIP Traffic Impact Fee be increased from \$2,123 to \$2,165 beginning July 1, 2012.

FISCAL ANALYSIS:

Participation in SANDAG's RTCIP Program is a prerequisite to the City's continued collection of Transnet funding. The City's share of Transnet funding for FY 2012/2013 is estimated to be \$2,987,000.

PREVIOUS ACTION:

On June 15, 2011, Resolution 2011-68 was approved by City Council increasing the RTCIP Fee from \$2,081 to \$2,123.

BACKGROUND:

The RTCIP, an element of the TransNet Extension Ordinance, approved by voters in November 2004, requires the City to collect an exaction from the private sector for each new housing unit constructed. The RTCIP has been implemented in the San Diego Region since July 1, 2008, and since then, the City of Escondido has collected \$127,238. Funding collected thus far has been budgeted for the Citracado Parkway Extension Project. The TransNet Extension Ordinance requires SANDAG to annually adjust the minimum RTCIP fee amount on July 1 of each year, based on an analysis of construction cost indices, but never less than 2 percent.

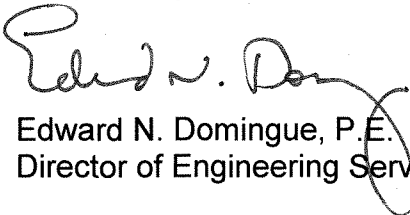
The purpose of this annual adjustment is to ensure the RTCIP retains its purchasing power to improve the Regional Arterial System. The Regional Arterial System for the City of Escondido is shown on the attached map. On February 24, 2012, the SANDAG Board of Directors approved a 2 percent adjustment to the RTCIP, raising the minimum fee from \$2,123 to \$2,165 beginning July 1, 2012.


The purpose of the RTCIP is to help ensure future development contributes its proportional share of the funding needed to pay for the regional arterial system and related regional transportation facility improvements, as defined in the most recent Regional Transportation Plan adopted by SANDAG. The RTCIP funding programs fall under the responsibility of the 19 local jurisdictions, which have established these programs under the state's Mitigation Fee Act. The jurisdictions must maintain their RTCIP funding programs and comply with specific administrative requirements such as annual audits in order to remain eligible for their TransNet local street and roads funding. Section 9 of the TransNet Extension Ordinance requires the RTCIP exaction to be increased annually in an amount not to exceed the percentage increase set forth in the Engineering Construction Cost Index published by the Engineering News Record (ENR) or a similar cost of construction index. However, the Ordinance also states that in no event shall the increase be less than 2 percent per year.

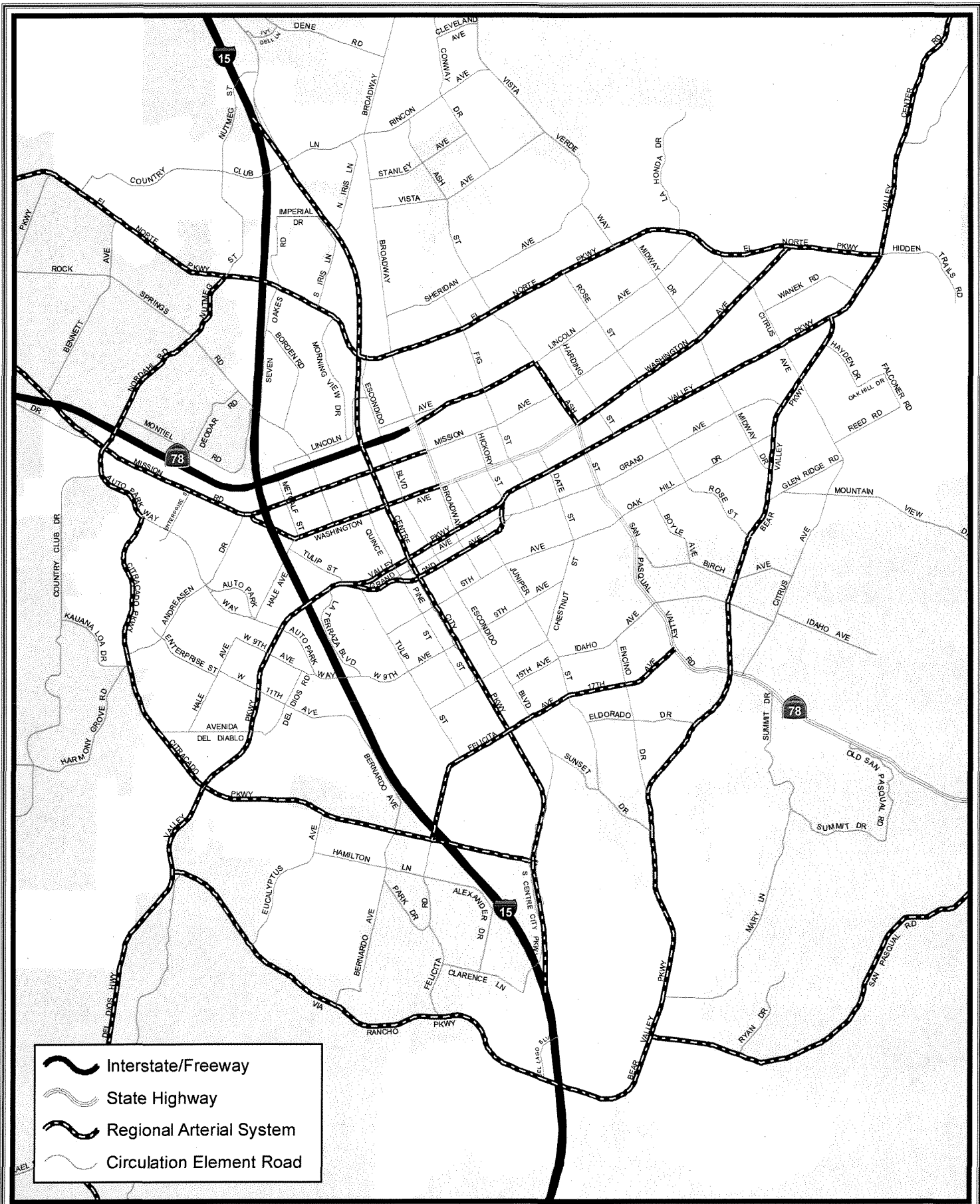
The Ordinance allows for flexibility in choosing an appropriate index. SANDAG staff evaluated changes recorded in the Engineering Construction Cost Index published by the ENR and the Caltrans Construction Cost Index (CCI). Each index collects a different set of cost factors to determine construction cost trends. The ENR CCI represents an average from 20 cities across the nation and is based on price changes in four areas: lumber, cement, structural steel, and labor. Over the past year, the ENR CCI between February 2011 and January 2012 (latest available) has increased 1.93 percent. The Caltrans CCI is based on actual transportation project bid prices from throughout the state for earthwork, aggregate, concrete, asphalt, and steel. The Caltrans CCI has increased 9 percent over the past year. Based on SANDAG's evaluation, the ENR CCI has more closely tracked the trends experienced in its project bid prices over the past year than the Caltrans CCI.





Although over the past year the ENR CCI has recorded a 1.93 percent increase in price levels, the minimum adjustment allowed by the RTCIP Section of the TransNet Extension Ordinance is 2 percent.

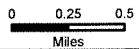
Respectfully submitted,


Edward N. Domingue, P.E.
Director of Engineering Services


Robert J. Zaino, P.E.
Deputy Director of Engineering Services



-  Interstate/Freeway
-  State Highway
-  Regional Arterial System
-  Circulation Element Road



City of Escondido REGIONAL ARTERIAL SYSTEM



RESOLUTION NO. 2012-42

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING AN ADJUSTMENT OF THE
REGIONAL TRANSPORTATION CONGESTION
IMPROVEMENT PROGRAM (RTCIP) FEE FOR
FISCAL YEAR 2012/2013

WHEREAS, in accordance with the Transnet Extension Ordinance, the City of Escondido City Council adopted Resolution 2008-10 to establish a traffic impact fee schedule and approve the City of Escondido's participation in the RTCIP program; and

WHEREAS, City Council adopted the original RTCIP fee of \$2,000 per new residential unit effective July 1, 2008; and

WHEREAS, the Transnet Extension Ordinance states the fee amount per residential unit shall be adjusted annually on July 1 of each year beginning July 1, 2009, based on the Engineering Construction Cost Index as published by the Engineering News Record or similar cost of construction index; and

WHEREAS, any increase shall not be less than 2 percent per year; and

WHEREAS, the FY 2011/2012 RTCIP fee was increased 2 percent and set at \$2,123 per residential dwelling unit per Resolution 2011-68; and

WHEREAS, in accordance with the Transnet Extension Ordinance, the RTCIP fee for FY 2012/2013 must increase a minimum of 2 percent for a new RTCIP fee of \$2,165 per residential dwelling unit.

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

1. That the above recitations are true.
2. That the City Council adopts a \$2,165 Regional Transportation Congestion Improvement Program Fee per each new residential dwelling unit effective July 1, 2012.
3. The \$2,165 Regional Transportation Congestion Improvement Program Fee per each new residential dwelling unit is to continue being placed into a separate interest bearing RTCIP account.

ORDINANCE NO. 2012-06

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING AN AMENDMENT TO THE
CONTRACT BETWEEN THE CITY OF
ESCONDIDO AND THE BOARD OF
ADMINISTRATION OF THE CALIFORNIA
PUBLIC EMPLOYEES' RETIREMENT
SYSTEM

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

SECTION 1. That an amendment to the contract between the City Council of the
City of Escondido and the Board of Administration, California Public Employees'
Retirement System is hereby authorized, a copy of said amendment being attached
hereto as a marked Exhibit "A," and by such reference made a part hereof as though
herein set out in full.

SECTION 2. The Mayor of the City of Escondido is hereby authorized,
empowered, and directed to execute said amendment for and on behalf of said Agency.

SECTION 3. This Ordinance shall take effect 30 days after the date of its
adoption and prior to the expiration of 15 days from the passage thereof shall be
published at least one time in a newspaper of general circulation, published and
circulated in the City of Escondido and thenceforth and thereafter, the same shall be in
full force and effect.

A COMPLETE COPY OF THIS ORDINANCE
IS ON FILE IN THE OFFICE OF THE
CITY CLERK FOR YOUR REVIEW.

ORDINANCE NO. 2012-07

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
TO ADD ARTICLE 36, CARGO CONTAINERS
TO THE ESCONDIDO ZONING CODE

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

SECTION 1. The use of cargo containers for accessory buildings, sheds, storage, and other purposes has increased within the City causing in some instances blight.

SECTION 2. Cargo containers present unique challenges to public safety, health and welfare based on the lack of specific standards for usage as accessory buildings.

SECTION 3. Cargo containers, due to their size and industrial appearance, are not appropriate for use as permanent accessory buildings or storage sheds in certain areas of the City.

SECTION 4. The City desires, in order to protect the health, safety and welfare, to regulate and provide for the use of such cargo containers.

SECTION 5. That cargo containers are portable personal property, commonly sold on the open market and two years from the date of approval provides the owner a reasonable opportunity to recoup the investment if adoption of this ordinance creates a nonconforming use.

A COMPLETE COPY OF THIS ORDINANCE
IS ON FILE IN THE OFFICE OF THE
CITY CLERK FOR YOUR REVIEW.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 13

Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council

FROM: Jeffrey R. Epp, City Attorney
Jennifer K. McCain, Assistant City Attorney

SUBJECT: Public Hearing on Proposed City Charter

This staff report provides general background information regarding charter cities, a brief summary of issues raised at the September 28, 2011 public workshop and recent legal developments which affect both the content and the adoption requirements for a charter ballot measure.

RECOMMENDATION:

Council is requested to hold a public hearing on the proposed city charter for the City of Escondido (attached) and listen to public comments and suggestions and provide direction on any changes to the proposed city charter.

FISCAL ANALYSIS:

If the proposed charter is placed on the November 2012 ballot, the City Clerk has provided revised cost estimates in an estimated range of \$35,000 to \$40,000 for six pages. Staff also estimates a cost of \$13,200 for an informational community mailer.

PREVIOUS ACTION:

Deputy Mayor Marie Waldron and Councilmember Ed Gallo originally requested a City Council agenda item to consider the subject of becoming a charter city on March 9, 2011. The City Council discussed becoming a charter city and on April 13, 2011, Deputy Mayor Marie Waldron presented a draft charter to the Council for public discussion. A public workshop to discuss the proposed charter and receive input from the public was held on September 28, 2011. A draft charter was placed on the City's website on September 29, 2011. A revised draft charter (attached) was posted on the City's website on January 12, 2012.

BACKGROUND:

In California, there are two kinds of cities: charter cities and general law cities. See Cal. Gov't Code §§ 34100-34102. General law cities derive their corporate powers from general laws enacted by the legislature. See generally *Irwin v. City of Manhattan Beach* (1966) 65 Cal. 2d 13. Charter cities, on the other hand, derive their corporate powers directly from the constitution, subject to limitations of

their respective charters and enactments of the legislature on matters of statewide concern. See *Johnson v. Bradley* (1992) 4 Cal. 4th 389, 394. The City of Escondido is a general law city and was incorporated in 1888. According to the League of California Cities, of the 482 cities in the state, 120 are charter cities. In North County, Carlsbad (adopted 2008), Oceanside (adopted 2010), Del Mar (adopted 1960), Vista (adopted 2007) and San Marcos (adopted 1994) are charter cities.

Charters can be drafted to be very broad or narrowly tailored to address a few specific local needs. For instance, the City of San Diego's charter is 121 pages and addresses many issues, including, corporate powers, nominations and elections, legislative power, the mayor, executive and administrative service, board of education, finance, civil service, retirement of employees, transfer of police and fire department employees into the retirement system, fireman's relief and pension fund, labor on public work, city police court, and the strong mayor form of governance.

By contrast, Vista and other North San Diego County cities have all tended toward using shorter, simplified charter documents which address specific issues including public works contracts, prevailing wage, public financing, and retirement benefits. Charters for Carlsbad, Oceanside, Del Mar, Vista and San Marcos have previously been provided to you for review and comparison.

The authority provided in the state constitution to organize as a charter city is extended only to an existing city. An advantage of the charter form of government stems from the potential breadth of local authority which may be exercised. Since the powers of a charter city are not restricted to only those outlined in the general state municipal law, a city can adopt a charter and customize its organization and elective offices to provide for unique local conditions and needs.

A charter is a written document, approved by the electorate, which operates as a "constitution" for the adopting city. The provisions of Cal Const art. XI, § 3(a) authorize the adoption of a city charter and provide that such a charter has the force and effect of state law. Charter cities have the power to make and enforce all ordinances and regulations with respect to municipal affairs, including those relating to the creation and regulation of a police force and sub-government within the city, the conduct of city elections, and the dealings with municipal officers and employees. Cal Const art. XI, § 5(b). Charters act as instruments of limitation on the broad power of charter cities over matters of municipal affairs. *City of Glendale v. Trondsen* (1957) 48 Cal. 2d 93, 98. A charter can only be adopted and/or changed by a majority vote of the city residents.

The provisions of Cal Const art. XI, § 5(a), the "home rule" provision, affirmatively grant charter cities supremacy over "municipal affairs." However, the California Constitution does not define the term "municipal affair." The "home rule" provision of the California Constitution authorizes a charter city to exercise plenary authority over municipal affairs, free from any constraint imposed by the general law and subject only to constitutional limitations. See Cal Const art. XI § 5(a); *Ex Parte Braun* (1903) 141 Cal. 204, 209; *Bishop v. City of San Jose* (1969) 1 Cal. 3d 56, 61; *Comm. of Seven Thousand v. Super. Ct. (City of Irvine)* (1988) 45 Cal. 3d 491. The primary advantage of a charter is that it allows greater authority for a city's governance than that provided by state law. A city charter is subject only

to conflicting provisions in the state or federal constitutions and preemptive state law on matters of statewide concern.

Whether a given activity is a municipal affair over which a city has sovereignty or a statewide concern, over which the legislature has authority, is a legal determination for the courts to resolve. Thus, the determination of whether a given activity is a municipal affair or statewide concern is done on a case-by-case basis. The court's determination will depend on the particular facts and circumstances of each case. See *In Re Hubbard* (1964) 62 Cal. 2d 119, 128. The concept of "municipal affairs" is a fluid one that changes over time as local issues become statewide concerns. See *Issac v. City of Los Angeles* (1998) 66 Cal. App. 4th 586.

Municipal Affairs

There are some areas that the courts have consistently classified as municipal affairs. These include:

- Municipal Election Matters. See *Mackey v. Thiel* (1968) 262 Cal. App. 2d 362.
- Procedures for Initiative, Referendum and Recall. See *Lawing v. Faull* (1964) 227 Cal. App. 2d 23, 29.
- Procedures for Adopting Ordinances. See *Brougher v. Board of Public Works* (1928) 205 Cal. 426.
- Compensation of City Officers and Employees. Cal Const art. XI, § 5(b); See *Sonoma County Organization of Public Employees v. County of Sonoma* (1979) 23 Cal. 3d 296; but see *San Leandro Police Officers Association v. City of San Leandro* (1976) 55 Cal. App. 3d 553 (labor relations is not a municipal affair; charter cities are subject to the Meyers-Milias Brown Act. Cal. Gov't Code § 3500).
- Processes Associated with City Contracts. See *First Street Plaza Partners v. City of Los Angeles* (1998) 65 Cal. App. 4th 650; but see *Domar Electric, Inc. v. City of Los Angeles* (1995) 41 Cal. App. 4th 810 (state law establishing employment policy may preempt local regulation of bidding criteria).
- Financing Public Improvements. See *City of Santa Monica v. Grubb* (1996) 245 Cal. App. 2d 718.
- Making Charitable Gifts of Public Funds for Public Purposes. See Cal Const art. XVI, § 6; *Tevis v. City and County of San Francisco* (1954) 43 Cal. 2d 190.
- Term Limits for Council Members. See *Cawdrey v. City of Redondo Beach* (1996) 15 Cal. App. 4th 1212; but see Cal. Gov't Code § 36502(b) (regulating term limits).
- Land Use and Zoning Decisions (with a few exceptions). See *Brougher v. Bd. of Pub. Works* (1928) 205 Cal. 426.

Matters of Statewide Concern

Alternatively, the following have consistently been classified by the courts as matters of statewide concern:

- School Systems. *Whisman v. San Francisco Unified Sch. Dist.* (1978) 86 Cal. App. 3d 782, 789.
- Traffic and Vehicle Regulation. Cal. Veh. Code § 21.
- Licensing of Members of a Trade or Profession. *City and County of San Francisco v. Boss* (1948) 83 Cal. App. 2d 445.
- Tort Claims Against a Governmental Entity. *Helbach v. City of Long Beach* (1942) 50 Cal. App. 2d 242, 247.
- Open and Public Meetings. Ralph M. Brown Act. Cal. Gov't Code §§ 54951, 54953(a).
- Exercise of the Power of Eminent Domain. *Wilson v. Beville* (1957) 47 Cal. 2d 852, 856.

September 28, 2011 Charter Proposal Workshop

Much of the discussion at the workshop revolved around Section 303 of the proposed charter concerning Project Labor Agreements (PLA's). There was some confusion on the definition of a PLA and what, if any impact, Section 303 would have on the City's ability to enter into a PLA. In addition, questions arose regarding how becoming a charter city would affect the City's statutory obligation to pay prevailing wages on public works projects. Further, some members of the public questioned why the City should become a charter city after such a long history of being a general law city. Public and Councilmember comments included suggestions for the draft charter. These suggestions included: adding a requirement that Mayor and City Council salaries and benefits be subject to state law; Council district only elections; balanced budget and free enterprise provisions.

Project Labor Agreements (PLA's)/SB 922

The language in Section 303 of the first draft of the charter entitled "Fair and Open Competition" mirrored the language in the Oceanside charter and was very similar to Chula Vista's charter provision.¹ These provisions prohibit the City from requiring contractors on public works contracts to enter into PLA's. In North County, Carlsbad, Del Mar, San Marcos and Vista do not have this provision in their charters.

Just after the charter workshop, the Governor signed SB 922 on October 2, 2011. SB 922 prevents blanket bans on local agencies' use of PLA's and greatly impacts the City's ability to adopt Section 303 of the draft charter. SB 922 authorizes a public entity to use, enter into, or require contractors to enter into a PLA for a construction project, if the agreement contains specific

¹ Proposition G banning PLA's in Chula Vista passed in June, 2010.

provisions. This law also authorizes the City to choose by majority vote of its Councilmembers to use, enter into or require contractors to enter into a PLA for a specific project awarded by the City. Most importantly, however, this law now prohibits a charter provision, initiative, or ordinance from preventing the governing board of a local public entity, other than a charter city, from exercising this authority on a project-specific basis. This law also provides that if a charter provision, initiative, or ordinance of a charter city prohibits the governing board from considering whether to allocate funds to a city-funded project covered by a PLA, then state funding or financial assistance may not be used to support that project.

Based on the adoption of SB 922, the legal landscape has changed since the September 28, 2011 public workshop. In light of the risk of jeopardizing state funding for adopting a provision regarding PLA's, it was decided that this provision be removed from the first draft of the charter and replaced with a revised Section 303 which states as follows:²

Section 303. Fair and Open Competition

The City will promote fair and open competition for all City construction projects so that all contractors and workers, whether union or non-union, are treated equally in the bidding and awarding of City construction contracts.

State Prevailing Wage Requirements: Municipal Affair or Statewide Concern?

Cities more recently have been chartered based primarily upon potential financial benefits. Avoiding prevailing wage requirements has been a dominant theme, especially among North San Diego County cities. Section 302 of the draft charter would allow the City to exempt itself from paying state prevailing wages on City funded projects. It is important to note that federally or state funded projects remain subject to the state prevailing wage requirements. During the charter workshop, staff identified significant savings that could be achieved if the City was exempt from paying state prevailing wages. Staff's presentation indicated that total construction projects were currently projected at \$163 million for the next five years and the estimated savings to the City if exempt from prevailing wage could be as much as \$16 million total.³

By way of background, California law has included State prevailing wage requirements since 1931, when the Legislature adopted the Public Wage Rate Act. The current requirements are set forth in Labor Code § 1720 *et seq.* State law requires that all workers employed on a public works project of more than \$1,000 must be paid the general prevailing rate of per diem wages for the work performed. Labor Code § 1771. This requirement does not apply to work done by a public agency's own forces.

² The public was notified of this change by a news release dated January 12, 2012, and the revised draft charter was placed on the City's website.

³ Even as a charter city, Escondido will be required to pay prevailing wage for federally or state funded projects. For example, if the City were to receive a grant from the federal Economic Development Agency as a result of the City's CEDS document, the City would have to pay prevailing wages for any public projects funded by these grant monies.

Id. The prevailing wage rates for various job classifications in each locality are set by the State Department of Industrial Relations generally based on wage rates paid in the locality and the nearest market area to a majority or the largest number of workers in a given classification. Labor Code § 1773.9.

The prevailing wage law is designed to ensure that private contractors who enter into collective bargaining agreements can compete for public works contracts. However, the law is not applicable to private agreements. Historically, charter cities have not been bound by state law prevailing wage requirements so long as the project is a municipal affair, and not one funded by state or federal grants. *Vial v. City of San Diego* (1981) 122 Cal. App. 3d 346, 348. The League of California Cities notes a growing trend on the part of the courts and the Legislature to expand the applicability of prevailing wages to charter cities under an analysis arguing that the payment of prevailing wages is a matter of statewide concern. In 2004, the California Supreme Court described the issue of whether a charter city may exempt itself from compliance with the prevailing wage law as an “open” and “important” question. See *City of Long Beach v. Dept. of Indust. Relations* (2004) 34 Cal. 4th 942.

Escondido holds a considerable advantage in being able to review the experience of other cities adopting the more limited charters. In the area of prevailing wages, the California Supreme Court’s resolution of *State Building and Construction Trades Council of California, AFL CIO v. City of Vista* (2009) 173 Cal. App. 4th 567 rev. granted will be determinative on whether a charter city can exempt itself from prevailing wage laws.

In the lower courts, the City of Vista successfully defended its ordinance exempting municipal contracts from prevailing wage laws based on the City’s charter status. See *State Building and Construction Trades Council of California, AFL CIO v. City of Vista* (2009) 173 Cal. App. 4th 567 rev. granted.

Vista became a charter city on June 13, 2007. At the time of the ballot measure, Vista was anticipating the construction of several capital improvement projects, including a new civic center; two fire stations; a new sports park; and a stage house for the Moonlight Theatre. See *State Building and Construction Trades Council of California, AFL CIO v. City of Vista* (2009) 173 Cal. App. 4th 567 rev. granted. Advocating for a vote in favor of the ballot measure, the Vista City Council informed the public that if Vista became a charter city it “could choose when and if it pays ‘prevailing wages’” on public works contracts. *Id.* at 573. The voters approved the measure and Vista became a charter city and exempted City funded public works contracts from prevailing wages.

In the Vista case, the trial court and the Court of Appeal agreed that the prevailing wage law does not qualify as a matter of statewide concern because the legislature has been willing to exclude private agreements and a fairly substantial number of publicly-supported contracts from the law’s requirements. The Courts also found that the extraterritorial impact of a municipality’s contracting practices was not significant or substantial enough to warrant subordination of a municipality’s power over its spending, especially when the legislature did not decide to regulate private contracting which

has an equal or far larger volume of construction. As such, the lower courts held the City's ordinance exempting municipal projects from the prevailing wage law was valid.

On August 20, 2009, the California Supreme Court granted review of the lower court's decision and the matter has been fully briefed since February 2010, with no activity whatsoever until just recently, when both sides presented oral argument to the California Supreme Court on April 4, 2012. With the matter currently under submission and awaiting decision, there remains a possibility that the California Supreme Court may rule that prevailing wage laws are a matter of statewide concern. Such a ruling would trump the ability of a charter city to use "home rule" to exempt itself from the prevailing wage laws. The Court's decision should be made within the next ninety days, prior to the deadline to submit a ballot measure to the County Recorder's Office for the November election.

Notwithstanding the California Supreme Court's decision in the Vista case, the state legislature can always react by adopting specific legislation declaring prevailing wage laws to be matters of statewide concern or by specifically limiting the authority of a charter city (as in the case of SB 922). Indeed, the ability of the legislature to influence which laws become matters of statewide concern will always be a limitation on the authority and control of a charter city.

Section 302 of the draft charter exempting the City from paying prevailing wages on local public works projects provides the City with more local authority and cost savings. However, the validity of this section will depend largely on the California Supreme Court's decision in the Vista case.

Adoption of a Charter/AB 1344

On its own motion, the City Council may propose a charter and submit it to the voters for adoption. See Cal. Gov't Code § 34458. An election to decide on the adoption of a charter may be called by the City Council. See Cal Const art. XI, § 3. A majority of voters must vote in favor of the proposed charter for it to be ratified. The charter will not go into effect until it has been filed and accepted by the Secretary of State. See Cal. Gov't Code § 34459.

Since the last public meeting regarding the charter, the law regarding the charter adoption process has changed. On October 9, 2011, the Governor signed AB 1344 into law. This law, effective January 1, 2012, significantly changes the public hearing process for a charter proposal and the timelines for submission of ballot language for a charter election. AB 1344 changes the timeframes to submit ballot language to the voters from 88 days before the election to 95 days before an established statewide general, statewide primary, or regularly scheduled municipal election. In addition, state law now mandates that the ballot language contain an enumeration of new city powers as a result of the adoption of the charter, including, but not limited to, whether the city council will, pursuant to an adopted charter, have the power to raise its own compensation and the compensation of other city officials without voter approval.

Honorable Mayor and Members of the City Council
April 18, 2012
Page 8

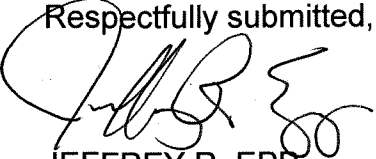
This legislation also alters the public process required before a charter proposal can be placed on the ballot. The law requires that prior to approving the submission to the voters of a proposal to adopt a charter, the governing body shall hold at least two public hearings on the matter of the proposed charter and the content of the proposed charter. Notice of the public hearings shall be given by publication in a newspaper designated by the governing body and circulated throughout the city and by posting the notice in three public places within the jurisdiction at least 21 calendar days prior to the date of each public hearing. The second hearing shall be held at least 30 days after the first public hearing. At least one of the public hearings shall be held outside of normal business hours to facilitate public participation. The governing body shall not conduct a vote on whether to approve the submission to the voters of the proposal to adopt a charter until 21 days after the second public hearing.

To date, study has taken place and public input has been received through three public City Council meetings held on March 9, 2011, April 13, 2011, and September 28, 2011 (a public workshop devoted solely to the proposed charter). The draft charter was also placed on the City's website on September 29, 2011 and a revised draft was placed on the City's website on January 12, 2012. This public hearing has been properly noticed and the second public hearing is scheduled for May 23, 2012 at 6:00 p.m.

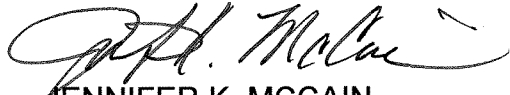
Conclusion

Council is requested to hold a public hearing on the proposed city charter for the City of Escondido (attached) and listen to public comments and suggestions and provide direction on any changes to the proposed city charter.

Respectfully submitted,



JEFFREY R. EPP
City Attorney



JENNIFER K. MCCAIN
Assistant City Attorney

Attachment (Proposed Draft Charter)

CHARTER OF THE CITY OF ESCONDIDO

PREAMBLE

WE THE PEOPLE of the City of Escondido declare our intent to restore to our community the historic principles of self governance inherent in the doctrine of home-rule. Sincerely committed to the belief that local government has the closest affinity to the people governed and firm in the conviction that the economic and fiscal independence of our local government will better serve and promote the health, safety and welfare of all of the citizens of Escondido, we do hereby exercise the express right granted by the Constitution of the State of California to enact and adopt this Charter for the City of Escondido.

CHARTER

Article 1 Municipal Affairs

Section 100. Municipal Affairs

Each of the responsibilities of governance set forth and described in this Charter, and as established by the Constitutional, statutory and judicially defined law of the State of California, is hereby declared to be a municipal affair or concern, the performance of which is unique to the benefit of the citizens of the City of Escondido.

Section 101. Powers

The City shall have all powers that a City can have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power.

Section 102. Incorporation and Succession

The City shall continue to be a municipal corporation known as the City of Escondido. The boundaries of the City of Escondido shall continue as now established until changed in the manner authorized by law. The City shall remain vested with and shall continue to own, have, possess, control and enjoy all property rights and rights of action of every nature and description owned, had, possessed, controlled or enjoyed by it at the time this Charter takes effect, and is hereby declared to be the successor of same. It shall be subject to all debts, obligations and liabilities, which exist against the City at the time this Charter

takes effect. All lawful ordinances, resolutions, rules and regulations, or portions thereof, in force at the time this Charter takes effect and not in conflict with or inconsistent herewith, are hereby continued in force until the same have been duly repealed, amended, changed or superseded by proper authority.

Article 2 Form of Government

Section 200. Form of Government

This municipal government established by this Charter shall be known as the "Council-Manager" form of government. The City Council will establish the policy of the City and the City Manager will carry out that policy.

Article 3 Fiscal Matters

Section 300. Economic and Community Development

The City shall encourage, support, and promote economic development and community development in the City.

Section 301. Public Works Contracts

The City is exempt from the provisions of all California statutes regulating public contracting and purchasing except as provided by ordinance or by agreement approved by the City Council. The City shall establish all standards, procedures, rules or regulations to regulate all aspects of the bidding, award and performance of any public works contract, including but not limited to, the compensation rates to be paid for the performance of such work.

Section 302. Prevailing Wage

No City contract shall require payment of the prevailing wage schedule unless: the prevailing wage is legally required, and constitutionally permitted to be imposed, by federal or state grants pursuant to federal or state law; or the project is considered by the City Council not to be a municipal affair of the City; or payment of the prevailing wage schedule is authorized by resolution of the City Council. Payment of the prevailing wage schedule, if authorized hereunder, shall use the pertinent rates published by the State of California.

Section 303. Fair and Open Competition

The City will promote fair and open competition for all City construction projects so that all contractors and workers, whether union or non-union, are treated equally in the bidding and awarding of City construction contracts.

Section 304. Definition of Public Works

For purposes of this Article, the term "public works" means: (1) A building, road, street, sewer, storm drain, water system, irrigation system, reclamation project, redevelopment project, or other facility owned or to be owned or to be contracted

for by the City of Escondido or the Escondido Community Development Commission, that is paid for in whole or in part with tax revenue paid by residents of the City of Escondido; or (2) Any other construction service or nonconstruction service.

Section 305. Voluntary Employee Political Contributions

Unless otherwise required by law, neither the City, nor its agents, shall deduct from the wages, earnings or compensation of any City employee any political contributions unless the employee has first presented, and the City has received, a signed written authorization of such deductions, which authorization must be renewed annually and may be revoked by the employee at any time by giving written notice of such revocation to the City.

**Article 4
Revenue Retention**

Section 400. Reductions Prohibited

Revenues raised and collected by the City shall not be subject to subtraction, retention, attachment, withdrawal or any other form of involuntary reduction by any other level of government.

Section 401. Mandates Limited

No person whether elected or appointed, acting on behalf of the City, shall be required to perform any function which is mandated by any other level of government, unless and until funds sufficient for the performance of such function are provided by said mandating authority.

**Article 5
General Laws**

Section 500. General Law Powers

In addition to the power and authority granted by the terms of this Charter and the Constitution of the State of California, the City shall have the power and authority to adopt, make, exercise and enforce all legislation, laws, and regulations and to take all actions and to exercise any and all rights, powers, and privileges heretofore or hereafter established, granted or prescribed by any law of the State of California or by any other lawful authority. In the event of any conflict between the provisions of this Charter and the provisions of the general laws of the State of California, the provisions of this Charter shall control.

Section 501. Council Member Compensation

Notwithstanding the previous paragraph, the salary of the Mayor and the Council Members will continue to be set pursuant to California Government Code sections 36516 and 36516.1 where the formula considers city population and state law.

**Article 6
Interpretation**

Section 600. Construction and Interpretation

The language contained in this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its power to govern with respect to any matter which is a municipal affair.

Section 601. Severability

If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

**Article 7
Amendment**

Section 700. Amendment to Charter, revised or repealed

This Charter, and any of its provisions, may be amended by a majority vote of the electors voting on the question. Amendment or repeal may be proposed by initiative or by the governing body.

DRAFT

AUTHENTICATION AND CERTIFICATION

Authenticated and certified to be a true copy by Mayor Sam Abed and City Clerk Diane Halverson.

Date of Municipal Election: _____

ATTEST:

Sam Abed, Mayor

Diane Halverson, City Clerk

DRAFT

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 14

Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council
FROM: Barbara J. Redlitz, Director of Community Development
SUBJECT: Sign Code Amendment, Case No. AZ 2012-0001

RECOMMENDATION:

Should Council wish to permit feather flags/temporary portable signs, staff recommends approval of Ordinance NO. 2012-08 amending the Escondido Zoning Code Article 66 – Sign Ordinance regarding temporary portable signs and establishing a two year “sunset” clause.

PROJECT DESCRIPTION:

Amendment to the Escondido Zoning Code Article 66 – Sign Ordinance to revise Citywide standards pertaining to temporary signs, including feather flags, A-frame/sandwich signs and similar temporary portable signs. Changes would include adding a definition for feather signs, establishing criteria for acceptable sign material, dimensions, locations, etc., simplifying the application process for special event signs, and other minor cleanup changes.

FISCAL ANALYSIS:

The new code provisions could result in an increase in sign permit applications and the associated permit fee (\$25.00) that would require staff time to review over the counter.

COUNCIL ACTION PLAN:

The adopted Image and Appearance component of the Council Action Plan 2011-2012 includes an item to consider amending the Sign Ordinance to allow “feather flag” type temporary signs.

BACKGROUND:

Prior to the Council adopting the 2011-2012 Action Plan in September 2011, several business owners had approached the Council indicating that feather flags were a cost-effective way to attract customers during this difficult economic time. Council members directed staff to also consider the potential proliferation of temporary signs creating safety issues and an unsightly appearance throughout town. This amendment only addresses temporary portable signs and

a few minor cleanup items. A comprehensive update of the Zoning Code, including review of the Sign Ordinance, will be part of the implementation of the new General Plan in 2013. Currently, other north county cities either prohibit feather flags or their code is silent about them.

DRAFT PROVISIONS:

The draft code amendment was approached from the standpoint of being more business friendly during this temporary economic downturn. The intent of the code change is to allow temporary portable signs as a supplement to a business's permanent signage. Since the feather flags are portable, generally inexpensive and fabricated from material that fades and deteriorates over time, staff feels the six-month time limit provides adequate advertising opportunity and business exposure while addressing maintenance and appearance issues. The draft includes a "sunset" clause that would make the provisions for feather flags effective for a limited two-year period. Near the end of this two-year trial period, Council would review the positive and negative effects of the temporary portable sign provisions and determine whether to extend or revise the ordinance, or to allow it to expire. While the amendment would allow additional business promotion, restricting the temporary signs to one each per business establishment would reduce the potential for a cluttered look. Traffic and pedestrian safety issues would be addressed by prohibiting the temporary portable signs in the right-of-way (ROW) and traffic/pedestrian sight visibility areas at intersections and driveways.

These sign allowances would be in addition to the Special Event Signs that are currently permitted for up to 60 days per calendar year per business. The amendment would not change the existing sign standards for the Downtown Specific Plan Area, which allows special event signs and sidewalk signs (in a specified area). The Planning Division has an existing temporary sign application and \$25 fee that would be used to request these types of signs.

The chart below summarizes one option as presented in the draft changes attached as Exhibit "B." Council can revise any of the parameters and can also consider adding other standards such as requiring a minimum separation distance between feather signs.

	FEATHER FLAGS - DRAFT	SANDWICH SIGNS - DRAFT
Types	Free-standing feather flags (including but not limited to flutter, bow, teardrop, rectangular, blade, shark and U-shaped flags)	Self-supporting A-frame, pedestal or footed portable signs.
Number	One per business establishment	Same
Size	Up to 12-feet high and 36" wide	Up to 42" high, 30" wide, with a

		base width of 24" and maximum sign area of 7.5 SF
Zones	All commercial zones. Industrial zones for motor vehicle dealers, lumberyards, restaurants and other permitted uses of similar retail nature.	Same
Location	Anywhere on the parcel of the business establishment or anywhere within the commonly managed shopping center with landlord approval. Prohibited within the ROW and on roofs. Allowed adjacent to Centre City Parkway (CCP) only for centers/business sites with direct access to CCP.	In close proximity to a customer entry door. Prohibited within the ROW.
Duration	Up to 6 consecutive months per year	Up to 12 months
Materials	Professional grade signs of durable materials capable of withstanding inclement weather and resisting fading in sunlight.	Same and no paper, cardboard, poster board, foam core board or the like permitted. Prohibits glass and other breakable materials.
Separation	None required	Same
Other	An application for temporary portable signs would not be accepted if the business did not have existing permanent signs.	Same

The draft code would also allow, with landlord approval, temporary portable signs for businesses in general commercial centers, Planned Development-Commercial centers and commercial centers in specific planning areas outside of the Downtown Specific Plan Area. No modification to the centers' approved sign standards or comprehensive sign programs would be required.

PLANNING COMMISSION ACTION:

The Planning Commission reviewed the draft code changes on March 13, 2012 (Chairman Caster and Commissioners Weber, Winton and Yerkes were present). The majority supported the "sunset clause." Chairman Caster thought that if feather flags were allowed, then

permitting them for a 12-month period after the permanent business signs were installed would be acceptable. He and Commissioner Weber had concerns about the difficulty in monitoring and enforcing the provisions, and anticipated abuses. Weber also felt that the feather flags would become less useful when every business had one. Commissioner Winton thought that the draft provisions may be too restrictive. He had a concern that businesses in buildings located at the property line, like many on S. Escondido Boulevard, would not be able to have a feather flag or sandwich sign in front of the business since it would be in the ROW. He suggested that flags in a landscape area within the ROW would be OK. Caster and Yerkes thought that sign twirling should be addressed, while Weber felt that it shouldn't. No formal motion or vote was made.

Considering these comments, staff revised the original draft to add the limitation that permanent signs should be installed before a permit for a feather flag or sandwich sign would be issued, and changed the proposed duration for sandwich sign permits from 6-months to one year.

DISCUSSION:

Enforcement – By utilizing the existing Temporary Sign application process, applicants would be issued a permit sticker(s) to place on the approved feather flag and/or sandwich sign. This would enable city personnel to quickly determine if the sign had an approved Planning permit and the expiration date of said approval. A building permit would not be required. Since the signs are portable, an owner could easily relocate the sign should it be found to be in the ROW or creating a dangerous situation.

Sign Twirling – To be more business friendly and absent Council direction, staff did not address sign twirling in this amendment. However, there is the ability under the existing sign code to address safety concerns, signs in the ROW and animated/moving signs. Code Enforcement could work with the sign twirlers to inform them of any dangerous situation and identify a safer location.

Business Establishment – This would be a business premise with a current business license. A business with subtenants, such as indoor swap meets and hair salons, would only be eligible for one feather flag and one sandwich sign. The individual subtenants would not have separate signs.

Respectfully submitted,


Barbara J. Redlitz, AICP
Director of Community Development


Rozanne Cherry
Principal Planner

EXHIBIT "A"

**FACTORS TO BE CONSIDERED
AZ 2012-0001**

1. The public health, safety and welfare will not be adversely affected since this item is only a code amendment to revise the sign code to allow temporary portable signs, no physical improvements are involved, it would not modify any permitted uses or development standards, and it includes provisions that restrict the numbers of and locations for temporary portable signs so as not to conflict with disabled access and vehicle sight distance at driveways and intersections.
2. The proposed Zoning Code amendment would not be detrimental to surrounding properties, since it would not change any permitted uses or development standards, and it would be evaluated at the end of two years.
3. The proposed code amendment would be consistent with the General Plan, since no land uses or policies would be modified or impacted, and the General Plan Community Design Policy C1.2 authorizes the development of standards and guidelines for signage within the city.

EXHIBIT "B"

**PROPOSED CODE CHANGES
AZ 12-0001**

Section 33-1391. Definitions.

The following are definitions of terms contained in this article:

- (1) Abandoned sign means a sign, or portion thereof, advertising or identifying a business, use or activity which has not been in operation for one hundred eighty (180) calendar days or more.
- (2) Advertise means any notice to the public for the purpose of increasing sales or business, announcing the availability of a service or product, or making claims as to the value or quality of any service or product.
- (3) Animated sign. See flashing or moving signs.
- (4) Area of sign and area of super-graphic sign mean the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character, together with any other material or color forming an integral part of the display or used to differentiate such sign from the background on which it is placed. The area of a sign or a super-graphic sign having no such perimeter shall be computed in a reasonable manner by enclosing the entire integral parts of the sign copy area within trapezoids, triangles and/or circles in sizes sufficient to cover the entire area and computing the size of such area. In the case of a double-faced sign where the two (2) faces are of equal size, are parallel to each other, and are not separated more than thirty-six (36) inches, the total area shall be computed as the area of a single display face. In the case of a sign with more than two (2) sign faces where each face contains identical copy, the total area of the sign shall be computed by dividing the total number of sign faces by two (2) (resulting fractional numbers shall be rounded up to the next whole number), and multiplying this number by the sign area of a single face. The supports or uprights of a freestanding sign, the support structure of a monument sign, and other significant architectural features around the copy shall not be included in the sign area. In the case of any cylindrical sign, the total area shall be computed on the total area of the surface of the sign. For multi-shingle/panel signs, the sign area may be calculated by totaling only the area of the individual panels, along with any other copy area.
- (5) Awning means a shelter projecting from and supported by an exterior wall of a building and constructed of non-rigid materials on a supporting framework.
- (6) Banner, flag, pennant, balloon or other attention-getting devices means any cloth, bunting, plastic, paper or similar flexible material used for advertising purposes or to attract attention, which is attached

to or pinned on any structure, staff, pole, line, framing or vehicle, but not including flags as described in section 33-1393(a)(12) or temporary portable signs as described in section 33-1396(j).

(7) Billboard means a sign structure advertising an establishment, merchandise, service or entertainment which is not sold, produced, manufactured or furnished at the property on which the sign is located (e.g., off-premise signs or outdoor advertising).

(8) Building face and/or frontage means the area of the front building elevation in which the business is located and which faces a street or parking lot excluding driveways. If more than one (1) business is located in a single building, then such area shall be limited to that front portion which is occupied by each individual business.

(9) Building floor area means the total gross leasable space occupied by the business or tenant.

(10) Bulletin sign means any sign erected by the City of Escondido, other public body, theater owner, or other use authorized by this chapter, which is erected upon the same property as the institution for the purpose of announcing events which are held on the premises.

(11) Cabinet sign means an advertising display which is constructed like a box to enclose the source of illumination (internally illuminated) so that the light shines through the translucent portions of the signs copy panel(s).

(12) Canopy/Marquee means a permanent roof-like structure extending from part or all of a building face and constructed of durable rigid material.

(13) Canopy/Marquee sign means a wall sign attached to the face of a canopy or marquee, but not projecting above the top of the canopy or marquee.

(14) Center means a commercial or industrial development which includes two (2) or more tenant spaces in which businesses, structures and parking/circulation are designed as an architecturally integrated and interrelated development. Such design is independent of the number of structures, lots or parcels making up the center.

(15) Changeable copy sign means a sign whose informational content can be changed or altered regardless of the method of attachment or change, or materials of construction.

(16) Commercial, industrial, or professional center means a development which is located on more than one (1) legal lot, but which constitutes a comprehensively designed complex through common or shared use arrangements.

(17) Comprehensive sign program means a sign program for commercial and industrial centers consisting of two (2) or more tenant spaces, which establishes design criteria for all signs in the center and integrates them with building and landscaping design, and achieves architectural compatibility.

(18) Construction or contractor sign means a temporary sign which states the names of the individuals and/or firms connected with the construction of a project. Such signs shall be located at the project site and may include, but are not limited to, the name of the project, the address of the business, and the telephone numbers.

(19) Copy means any words, letters, numbers, figures, designs or other symbolic representations incorporated into the graphic content of a sign.

(20) Design review board means a seven (7) member board of citizens and design professionals, appointed by the city council pursuant to Article 64 of the Escondido zoning code, which reviews plans for new development, modifications to existing facilities, and signs proposed in Escondido to determine consistency with the established design criteria.

(21) Directional/Informational sign means an on-premises sign which contains words such as "entrance," "in," "out," "rest rooms," "no parking" or other similar words, or a sign containing arrows or characters indicating traffic directions used either in conjunction with such words or separately. The sign area shall not be greater than two (2) square feet and the sign not higher than three (3) feet. No directional/informational sign shall contain any advertising or trade name information, although minor business identification, not exceeding twenty (20) percent of the sign area, is allowed for directional purposes. Real estate kiosk and directional signs as defined in sections 33-1396(c) and (d) shall not be included in this category.

(22) *Director* means the director of community development, or a designated representative, whose responsibility it is to administer and enforce the provisions of this article.

(22-1) *Districts* mean designated areas of the community approved by city council resolution or ordinance, including overlay, area and neighborhood plans, historic sections, and specific planning areas.

(23) *Double-faced sign* means a freestanding, hanging or projecting sign where two (2) copy faces of equal size are mounted back-to-back. The two (2) faces shall be parallel to each other and not separated by more than thirty-six (36) inches. One (1) face only will be charged against the permitted sign area.

(23-1) *Feather sign* means a type of freestanding temporary portable sign of flexible material that is plain or includes copy and/or graphics and is supported by a horizontal or vertical pole, including but not limited to feather, flutter, bow, and tear drop flag signs.

(24) *Flashing sign* means any sign which contains or is illuminated by lights which are intermittently on and off, which change intensity or color, or which create the illusion of motion in any manner, including animated signs which manifest a physical movement or rotation in one (1) or more planes or the optical illusion

of action or motion. Time and temperature signs where all advertising is excluded are not included in this category.

(25) *Freestanding sign* means a sign which is permanently supported on the ground by one (1) or more uprights, braces, poles, or other similar structural components that is not attached to any building. This category includes both monument and pole-type signs.

(26) *Freeway-oriented sign*. For the purposes of this regulation, a freeway oriented sign means any structure, housing, device, figure, statuary, painting, display, message placard or other contrivance, including a wall sign or freestanding sign, which provides information in the nature of advertising and which has been designed and located adjacent to the right-of-way on Interstate 15 freeway or portions of Highway 78, with the intention that it be viewed and/or read primarily by motorists traveling on Interstate 15 or portions of Highway 78.

(27) *Future tenant identification sign* means a temporary sign which identifies a future use of a site or a future tenant for a building.

(28) *Glazing area sign* means temporary or permanent signs painted on, attached, glued or otherwise affixed to glass windows, doors, or other glass structures, and oriented to the exterior of the building and public view.

(29) *Grand opening sign* means a temporary ~~promotional~~ special event sign used by newly established businesses to inform the public of their location and service available to the community. A grand opening sign may only be installed within sixty (60) days after the business initially opens, and shall not be displayed for more than thirty (30) consecutive calendar days. "Grand opening" does not mean an annual or occasional promotion of retail sales by a business.

(30) *Halo-lit letters* means individual, dimensional letters or symbols with solid opaque faces which are indirectly illuminated by a light source contained within each letter or symbol, where the light is directed upon the wall or background surface behind the letters creating silhouettes of the letters or symbols against the reflected light.

(31) *Height of sign* means the greatest vertical distance measured from the top of the sign, including decorative embellishments, to the finish grade at the point the sign supports intersect the ground.

(32) *Historic signs* means a sign or advertising structure that possesses historic, cultural, architectural, or community interest or value associated with the development, heritage or history of the city.

(33) *Historic site sign* means signage as necessary to identify a historic landmark or a local register property as designated by the City of Escondido.

(34) *Illegal signs* means any advertising display erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use, as well as, signs which have expired permits due to the lack of having had the required inspections per the Uniform Building Code and National Electric Code.

(35) *Illumination.*

(A) External illumination means the illumination of a sign by an external light source that is not a component part of the sign.

(B) Internal illumination means the brightening of a sign by a light source that is a component part of the sign and enclosed within the advertising structure.

(36) *Incidental sign* means a small sign, emblem or decal informing the public of facilities or services available on the premises (e.g., a credit card sign or sign indicating business hours, health rating or licensing).

(37) *Inflatable displays* means any three (3) dimensional ambient air-filled object depicting a container, figure, product or product trade dress.

(38) *Inoperative activity* means a business or activity that has ceased operation at any given location for a continuous period of at least one hundred eighty (180) calendar days.

(39) *Interior sign* means a sign inside any business that is not intended to be seen from outside the building in which the business is located.

(40) *Legal* means authorized or permitted in accordance with procedures defined by ordinance or law.

(41) *Logo* means a trademark or symbol used to identify a business.

(42) *Menu sign* means a sign, located adjacent to a drive-through lane of a food service facility, which lists the products available and the prices, and is designed to be read by the occupants of a vehicle.

(42-1) *Message center, electronic*, means a sign which has a changeable message which may be changed by electronic processes or by remote control and which exposes its message for not less than eight (8) seconds with the interval between messages not less than one (1) second.

(43) *Monument sign* means a low-profile freestanding sign.

(44) *Moving sign* means a sign whose entirety or components rotate or move in any manner to attract attention.

(45) *Multi-shingle (multi-panel) sign* means a freestanding sign composed, in whole or in part, of individual tenant panels without an attached background, typically hung from each other from a cross member supported by posts, and generally separated by a gap not greater than six (6) inches.

(46) *Nonconforming sign* means a sign that does not presently comply with the provisions of this article. A sign that was lawfully erected prior to the enactment of the ordinance codified herein, but now fails to meet any of the standards contained herein shall be considered a legal nonconforming sign.

(47) *Pole sign* means a permanently mounted, freestanding sign which is supported above the ground by one (1) or more uprights, braces, poles, or other similar structural components.

(48) *Portable sign* means a sign which is not permanently attached to a structure or to the ground and is designed to be moved easily, ~~including persons retained to hold or wear sign copy.~~

(49) *Projecting sign* means any sign other than a wall or canopy sign which is attached to and hangs or projects from a structure or any portion of a building.

(50) *Public right-of-way* means a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be or is presently occupied by a road, sidewalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, bikeway, pedestrian walkway or other public use.

(50-1) *Real estate kiosk sign*—See (60) “Subdivision sign kiosk.”

(51) *Real estate sign* means a temporary sign advertising the sale, rent, lease or open house of the property upon which it is located and the identification of the firm handling such sale, lease, rent or open house.

(51-1) *Regional market group* means a defined group of related commercial uses where a marketing or advertising association has been established for the benefit of the regional market group members who are located in a single approved Escondido planned development of more than forty (40) acres with limited visibility from Interstate 15 freeway, and whose market area extends beyond the city limits throughout a larger regional area.

(52) *Regional market sign* means a freeway-oriented sign for a regional market group or affiliated business organization consisting of members of the regional market group, which may include an electronic message center.

(53) *Roof* means the external covering of a building or structure above or covering any exterior or interior vertical wall or other portion of the site.

(54) *Roofline* means the top edge of the roof or top of the parapet, whichever forms the top line of the building silhouette.

(55) *Roof sign* means a sign erected, constructed or placed upon or over a roof of a building, except a mansard roof or canopy which is below the roof of the primary structure which is wholly or partly supported by such buildings.

(56) *Sandwich sign* means a type of portable sign of A-frame construction.

(57) *Sign* means any mark or painted character on any card, cloth, paper, metal, wood, plastic, or any other material visible from outside a structure, mounted to the ground or any tree, wall, bush, rock, fence or structure, either privately or publicly owned. Sign shall also mean any graphic announcement, declaration, demonstration, display, illustration, statuary or insignia used to promote the interest of any person, product, activity or service when the same is placed outdoors in view of the general public.

(58) *Special event sign* means a temporary sign which advertises special events and activities such as, but not limited to, grand openings, charitable events, promotional sales, and Christmas tree sales. Such signs are limited to the provisions listed in this article, Section 33-1396(a).

(59) *Statuary* means statues or sculptures or similar figures that depict products, features, items or logos of a business, excluding those items that are considered design features or complements of the overall site such as wagons, benches, equipment sold or rented on the premises, hand water pumps, troughs, and other like items.

(60) *Subdivision sign kiosk—Real estate kiosk sign* means a city designated sign in the public right-of-way or on private property containing directional panels for residential developments. (61) *Super-graphic sign* means a wall sign displaying a large graphic image with or without text. The graphic image extends beyond the perimeter of the sign text.

(62) *Temporary sign* means any sign that is displayed for a limited period of time as defined in this article.

(63) *Time and temperature sign* means an electronically or electrically controlled changeable copy sign which conveys only information such as the time, date, temperature or atmospheric conditions, where different alternating copy changes are shown on the same copy area. Each message remains displayed for a specific minimum period of time with a total blackout between message changes. The copy shall not travel or appear to travel in any direction. Time and temperature signs shall be included in the permitted wall or freestanding sign area and shall not include any advertising within the changeable copy area.

(64) *Use* means the purpose for which a property, lot, building, sign or other structure is arranged, intended, designed, occupied or maintained as established by the authorized legislative body.

(65) *Vehicle sight distance* means the area through which a driver has a clear view of oncoming vehicle and pedestrian traffic when waiting to proceed at a street corner or driveway. The sight distance at driveways should be at least ten (10) feet on each side of the driveway. At non-signalized corners, the clear

view area is typically established by measuring twenty-five (25) feet along the street fronts from each curb return point and drawing a line across the two (2) back points to form a triangular area. Generally, no sign in excess of three (3) feet above the curb grade, ~~nor~~ or support pole larger than twelve (12) inches in diameter may be installed in this clear view area unless approved by the engineering division.

(66) *Vehicle sign* means a sign which is attached to or affixed in any fashion, painted on, or resting in or on any type of vehicle which is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or an activity or business located on such property as determined by the ~~director of planning and building~~.

(67) *Wall sign* means a sign painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign parallel to the plane of such wall. A parapet, mansard, or canopy/marquee sign shall be considered a wall sign provided it is architecturally integrated with the building and does not project above the roof line.

(68) *Window sign*. See "glazing area sign."

Section 33-1393. Exempt and prohibited signs.

(a) Exempt signs. The following signs shall be exempt from the application and sign permit requirements, but must be in conformance with all other requirements of this chapter. A building permit and/or encroachment permit may be required. No sign shall obstruct the vehicle sight distance area at intersections and driveways pursuant to section 33-1391(65).

(1) Glazing area signs.

(A) Internal signs affixed to glazing areas and oriented to the exterior and public view, not exceeding twenty (20) percent of the area of glazing on which it is located. Temporary signs may be of expendable materials such as cloth, paper, paint, etc. Permanent signs shall be of nonfading materials permanently applied in a professional manner. Permanent glazing area signs may include incidental signs, and information such as hours of operation or a proprietor's name,

(B) Any window sign used as permanent identification of the business name or logo shall be considered a wall sign and the sign area shall be included in the total wall sign area allowed for the building or tenant space. A sign permit is required for such business sign;

(2) Real estate signs for single and multiple residential rental and sales. One (1) on-site sign per street frontage, up to two (2), not exceeding four (4) square feet in area, provided it is unlit and is removed

within fifteen (15) calendar days after the close of escrow or the rental or lease has been accomplished. Up to two (2) riders identifying the agent and/or special feature of the property may be added to the signs. Sign height not to exceed five (5) feet including riders. One (1) on-site and up to three (3) off-site open house signs, not exceeding four (4) square feet in area and five (5) feet in height, are also permitted for the purpose of selling a single house or condominium. Up to three (3) balloons, each not exceeding twenty-four (24) inches in any dimension, may be attached to on-site real estate/open house signs. Other attention-getting devices are not permitted;

(3) Contractor or construction signs.

(A) Residential projects consisting of five (5) units or more and commercial and industrial projects shall be allowed, one (1) wall or freestanding sign on the construction site for all contractors (may include financial institutions, real estate agents, subcontractors, etc.). The sign area may not exceed fifty (50) square feet unless legally required by government contracts to be larger. No freestanding sign shall exceed fifteen (15) feet in overall height. Such sign shall be removed by the contractor(s) upon the granting of occupancy by the city,

(B) Residential projects involving four (4) or less units shall be allowed two (2) wall or freestanding signs. Each sign shall not exceed four (4) square feet in area. Freestanding signs shall not exceed five (5) feet in height. Such signs shall be removed by the contractor(s) upon the granting of occupancy by the city;

(4) Real estate signs for commercial and industrial premises. One (1) sign per street frontage is allowed, up to two (2) signs which advertise the sale, lease or rent of the premises. These signs shall not exceed twenty-four (24) square feet in area for lots/centers three (3) acres or less in size, ~~not or~~ or forty-eight (48) square feet for lots/centers over three (3) acres in size. These signs may be freestanding signs, wall signs or banners. No such freestanding sign shall exceed eight (8) feet in overall height. Freestanding signs may be double-sided if the panels are of equal size and are mounted back-to-back (parallel) or in a "V" shape if the interior angle does not exceed ninety (90) degrees. The area of only one (1) side of a double-sided sign shall be calculated to determine the area of the sign. Such real estate signs shall be removed within five (5) calendar days after the property to which they refer has been rented, leased or sold;

(5) Interior signs. Devices or displays which are entirely inside a building or in a display space of a lawful show window and are not affixed to the window pane;

(6) Historic site signs, on-premises memorial tablets or plaques. These include those installed by the City of Escondido, a city-recognized historical society, or civic organization, or other displays which do not advertise goods or services;

(7) Directional/informational signs as defined in section 33-1391. Such signs shall not exceed two (2) square feet in area. Freestanding signs shall not be higher than three (3) feet. No directional/informational sign shall contain any advertising or trade name information, although minor business identification, not

exceeding twenty (20) percent of the sign area, is allowed for directional purposes. Real estate directional and kiosk signs shall not be included in this category;

(8) Future tenant identification signs may be placed on vacant or developing property or on a vacant tenant space to advertise the future use of an approved project or the future tenant of the suite. One (1) such sign is permitted which shall not exceed twenty (20) square feet in area for a future tenant, ~~not~~ or thirty-two (32) square feet for a vacant or developing property. Freestanding signs shall not be higher than eight (8) feet. Any future tenant identification sign shall be removed upon granting of occupancy by the city;

(9) Residence identification signs used to identify individual names and/or addresses of individual residences. Such signs shall not exceed two (2) square feet in area. A maximum of two (2) signs or name plates are allowed per dwelling unit;

(10) Official and legal notices issued by the court, public body, person or officer in performance of his public duty or in giving any legal notice;

(11) Signs providing notice of public hearing, direction, warning, or informational signs or structures required or authorized by law or by federal, state, county or city authority;

(12) Official flags. Up to three (3) official flags of the United States, the State of California, or other states of the nation, counties, municipalities, and official flags of foreign nations. Proposals for more than three (3) flags require a sign permit and design review. If flags are to be displayed on vertical flagpoles, these poles shall be permanently installed with appropriate building permits. Flags of nationally or internationally recognized organizations and corporate or business flags are only permitted if displayed in conjunction with a United States flag. The Flag Code of the United States shall be observed at all times;

(13) Seasonal decorations displayed during a holiday or announcing a community event which do not advertise a specific product or service and are removed within ten (10) working days after the holiday or community event, except as otherwise permitted for temporary window signs;

(14) Signs of public utility companies indicating danger, serving as an aid to public safety, showing the location of underground facilities or public telephones;

(15) Safety signs on construction sites;

(16) No trespassing, no parking, and similar warning signs not exceeding four (4) square feet in area;

(17) Signs on public transportation vehicles including, but not limited to, buses and taxicabs;

(18) Signs on licensed vehicles; provided, that such vehicles are not used or intended for use as portable signs or as otherwise prohibited in section 33-1393(b);

(19) Incidental signs for automobile repair stores, gasoline service stations, automobile dealers with service repairs, motels and hotels showing notices of services provided as required by law, trade affiliations, credit cards accepted, and the like, attached to the structure or building; provided, that all the following conditions exist:

- (A) The signs number not more than four (4) unless required by state law,
- (B) No such sign projects beyond any property line,
- (C) No such sign shall exceed an area per face of four (4) square feet per face. Signs may be double-faced;

(20) Copy attached to fuel pumps or dispensers such as fuel identification, station logo, and other signs as required by law;

(21) Bill of fare signs for restaurants. Such signs shall not exceed four (4) square feet in area and may be displayed in the window or on the exterior wall in an appropriate manner;

(22) Agricultural signs, either wall or freestanding types, and nonilluminated to only identify the premise as being associated with a trade organization, or as producing products under registered trade names, or to identify the business name and agricultural products grown on the premises. Such signs shall not exceed four (4) square feet for lots two (2) acres or less and sixteen (16) square feet for lots greater than two (2) acres. One (1) sign per street frontage is allowed with a maximum of two (2) signs per lot. Wall signs shall be located below the roofline. Freestanding signs shall not be higher than six (6) feet, and if higher than three (3) feet shall not be located within twenty-five (25) feet of any property line abutting a street;

(23) Model unit signs. One (1) feature sign, one (1) model sign and two (2) flags or pennants for each model home may be placed on the model home lots, at the sales office, or in the parking lot area of the subdivision. Such signs and flags shall not exceed four (4) square feet in area and may be double-sided;

(24) Public signs. Signs placed on public property by federal, state or local agencies designed to provide identification or benefit to the public. This exemption does not apply to freestanding, wall, or bulletin signs proposed for public facilities of the City of Escondido;

(25) Scoreboards placed on athletic fields;

(26) Barber poles outside a barbershop;

(27) Commemorative plaques;

(28) Garage and yard-sale signs as permitted by the Escondido Municipal Code section 16-119.

(b) Prohibited signs. Any sign not specifically authorized by this article shall be prohibited unless required by law or otherwise exempted by a local agency pursuant to the Government Code, sections 53090 et seq., of the State of California. The following signs are expressly prohibited:

(1) Roof signs, except a roof-type sign, where permitted by the planning commission as a freeway-oriented sign pursuant to section 33-1395(a)(3);

(2) Flashing signs, including time and temperature signs (unless all advertising is excluded);

(3) Inflatable advertising devices of a temporary or permanent nature, including hot air balloons, unless approved as a special event sign pursuant to section 33-1396(a);

(4) Animated and moving signs;

(5) Searchlights and beacons except as permitted per section 33-1396(a);

(6) Revolving or rotating signs;

(7) Vehicle signs (when parked or stored on property or street for the purpose of identifying a business or advertising a product or service);

(8) Signs without an approved sign permit, unless exempt from the provisions of this chapter;

(9) Portable signs and banners except where permitted by this chapter;

(10) Signs within the public right-of-way, except where required by a government agency or otherwise permitted by section 33-1396(c);

(11) Signs blocking doors or fire escapes;

(12) Outside light bulb strings, except for temporary uses such as holiday sales, Christmas tree lots, carnivals and other similar events as defined in section 33-1391(58);

(13) Readerboard/changeable copy signs, either electric or nonelectric, except time and temperature signs as defined in section 33-1391(63), and other signs permitted pursuant to sections 33-1395.2(b)(3) and (4), 33-1395.10, and 33-1396(e);

(14) Pennants, streamers, whirligigs, balloons, and other attention-getting devices except as permitted by section 33-1396(a) of this chapter;

(15) Signs which purport to be, imitate or resemble official traffic warning devices or signs that by color, location or lighting may confuse or disorient vehicular or pedestrian traffic. This does not include traffic

or directional signs installed on private property to control on-site traffic, which do not confuse or disorient vehicular or pedestrian traffic on a public road or right-of-way;

(16) Off-site real estate and yard sale directional signs other than those permitted by sections 33-1393(a)(2), 33-1396(c) and (d) and Municipal Code section 16-119.

(17) Billboards and signs that advertise a product, person, business or service not available on the property where the sign is located (off-site signs), and signs placed adjacent to a sign-controlled freeway (see Article 52 of the Escondido zoning code).

Sec. 33-1394. Construction and maintenance of signs.

(a) Construction standards. Every sign and all parts, portions and materials comprising the sign, together with the frame, background, supports or anchorage, shall be manufactured, assembled and erected in compliance with all applicable state, federal and city regulations and the Uniform Building Code.

(b) Maintenance of signs. Every sign and all parts, portions and materials comprising the sign, together with the frame, background, support or anchorage, including those signs otherwise exempt from this chapter, shall be maintained and kept in proper repair. The display surface of all signs shall be kept clean, neatly painted and free from rust or corrosion. Any crack, broken surface, malfunctioning light, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within thirty (30) calendar days following notification by the city. Any cracked, faded, torn, ripped, broken or otherwise damaged temporary portable or feather sign shall be immediately removed from public view until repaired or replaced Any sign not properly maintained shall constitute a public nuisance and may be abated per section 33-1398.

Sec. 33-1396. General use signs.

Sign permits may be issued for signs included under this section in any zone in the city unless otherwise designated. Applications for permits for general use signs shall be made as provided in section 33-1392 or as otherwise indicated by this section. These signs are in addition to those signs expressly permitted in particular zones and are subject to the following provisions:

(a) Special event signs. Commercial grand opening and similar signs may be approved by the director for a limited period of time in the CG (general commercial) and CN (neighborhood commercial zones) and for specific uses in the M-1 (light industrial) and M-2 (general industrial) zones, as a means of publicizing grand openings and special events such as new management and promotional sales. In addition, special event signs are also allowed for private schools, day care centers and churches regardless of the zoning. The regulation and limitation of the signs shall be as follows:

(1) ~~At least two (2) weeks in~~ advance of a special event, the business owner shall notify the ~~planning division, by registered letter~~ submit a Temporary Sign application, which includes the dates of the special event and the types of signs to be used. The sizes and locations of the signs shall also be indicated.

(2) Special event signs shall be limited to a maximum of sixty (60) days per calendar year per business, not exceeding thirty (30) consecutive days at any time.

(3) Special event signs may be approved in the M-1 and M-2 zones for motor vehicle dealers, lumberyards, restaurants, and other permitted uses of similar retail nature, as determined by the director.

(4) Special event signs may include balloons, flags, searchlights, beacons, pennants and streamers, banners, portable signs, or other similar devices. Balloons may not exceed twenty-four (24) inches in any dimension.

(5) One (1) special event banner is allowed for each street frontage, except for individual in-line shops in commercial centers where one (1) banner is allowed for each building face fronting on a parking lot or a street.

(6) Each special event banner shall not exceed seventy-two (72) square feet in area.

(7) Large balloons and other inflatable displays may be allowed for a maximum of fourteen (14) days per calendar year. If these balloons and displays are to be ground-mounted, they may not exceed thirty (30) feet in height and, if located in the parking lot, not more than ten (10) percent of the required number of parking spaces may be utilized for the installation of the device, including the required tethering area around it. Roof-mounted inflatable displays shall not extend above the height limit of the zone. A sign permit and nominal fee is required. All requests shall be reviewed by the planning, building and fire departments for compliance with all fire and building codes.

(8) No special event signage (of any type) may be displayed on or attached to any public property including telephone or utility poles, traffic control signs or devices, street lights or other structures located on public property.

(9) No special event signage of any type shall interfere with or restrict vehicular or pedestrian access or visibility.

(10) Automobile sales businesses that sell new vehicle inventory, which are located outside the Escondido Auto Park and in zones other than PD (planned development), shall utilize the Escondido Auto Park standards listed below:

(A) Large, roof-top balloons are permitted for four (4), ten (10) day periods per calendar year.

(B) Helium filled balloons, not exceeding twenty-four (24) inches in any dimension, are permitted on Saturdays, Sundays and for special events. They shall be removed at the close of business each day.

(C) Each dealership shall be permitted to display banners for a maximum of thirty (30) consecutive days for special events, not exceeding one hundred (100) square feet in size per banner.

(D) Window banners, antenna mast flags, wind-driven propellers, streamers, windshield sunshades, stuffed animals and inflatable characters are prohibited.

(E) Temporary twenty-five (25) foot by fifty (50) foot shade tents are permitted in display areas (not customer parking areas) for thirty (30) day periods, or the length of a promotion/event, whichever is less. All requests shall be reviewed by the building division and fire department for compliance with all building and fire codes.

(b) On-site subdivision signs.

(1) One (1) temporary on-site subdivision sign is permitted on each street frontage of the property to be subdivided not to exceed two (2) such signs for any subdivision. Each sign shall not exceed fifty (50) square feet in area and shall not exceed a height of twelve (12) feet.

(2) One (1) feature sign, one (1) model sign and two (2) flags or pennants for each model home may be placed on the model home lots, at the sales office, or in the parking lot of the subdivision. Such signs and flags shall not exceed four (4) square feet in area and may be double-sided.

(3) Signs shall observe a minimum five (5) foot setback from all property lines and shall not interfere with vehicle sight distance requirements.

(4) Such sign shall be for the identification of a subdivision, price information, and the developer's name, address and telephone number. Signs may be either single-faced or double-faced provided the faces are not more than twelve (12) inches apart and are mounted along parallel planes.

(5) Such signs shall be removed within thirty (30) calendar days from the date of the close of escrow for the final sale of the land or last residence for the first time. The director may grant a written extension of the period for which signs, flags, or pennants may be maintained after the final sale up to a maximum of six (6) months.

(6) Signs shall be maintained in good repair at all times pursuant to section 33-4.

(c) Real estate kiosk signs. Sign panels on a city-approved kiosk structure may be authorized for the purpose of providing directional information to residential developments with units for sale, lease, or exchange (including assisted living developments) located within Escondido's general plan area.

(1) Number. The maximum number of single-faced sign panels allowed shall be ten (10) per development.

(2) Area and dimensions. Sign panels shall be five (5) square feet in total area and shall measure five (5) feet horizontal length by one (1) foot vertical height.

(3) Height. Maximum sign height for a single sign structure (kiosk) shall be eleven (11) feet.

(4) Kiosk structures. All sign panels shall be located on a city-approved kiosk structure.

(5) Permitted locations. Signs shall be located on designated city kiosk structures within the public right-of-way. If, in the opinion of the director, available city kiosk structures will not permit adequate directional information, kiosk structures may be approved by the director on private property with the written permission of the property owner. A kiosk location plan shall be prepared showing the site of each kiosk and shall be submitted to and approved by the planning division prior to the acceptance of a sign permit application.

(6) Sign copy. Each kiosk panel shall contain only the name of the subdivision or residential development, or developer, or development logo, and a logo(s) regarding an award, special certification, or "green" development, and a directional arrow. Community directional panels (city hall, library, parks, districts, historic sites, etc.), at the discretion of the city, may also be allowed on kiosk structures.

(7) Spacing. No real estate kiosk sign shall be placed within three hundred (300) feet of another except when they are across the street from one another. A maximum of seven (7) temporary real estate directional sign panels for different developments may be grouped on a single kiosk structure face. Only one (1) panel per development may be placed on a single kiosk structure face.

(8) Colors. Directional signs shall conform to colors and design standards approved by the director.

(9) Right of entry. All kiosks which are placed on private property must have prior written consent of the property owners to allow the city, in the event of noncompliance, to enter said property and remove the sign. A copy of said consent shall be filed with the planning division prior to the acceptance of a sign permit application.

(10) Changes. Any sign approved for a particular development project within the city shall not be changed to another project without prior approval of the director of community development.

(11) Time period. Permits for sign panels shall be issued for a limited period of time, not to exceed twenty-four (24) months. Following the twenty-four (24) month period, the permittee may apply for one (1) year extensions or all sign panels shall be removed.

(12) Cash deposit. A cash deposit or bond in the amount necessary to remove such sign and an administration fee as may be established by resolution of the city council may be required to be deposited with the city to ensure compliance with the stipulations of this chapter and removal of signs in a timely fashion. Upon confirmation that the sign has been removed, the deposit will be refunded or the bond released. In the event the city removes a sign, due to noncompliance with the permit or these regulations, the full amount of the bond or cash deposit shall be due the city in order to defray enforcement costs.

(13) Unauthorized alterations. There shall be no additions, tag signs, attention-getting devices, or other appurtenances added to the sign as approved.

(14) Lighting. Artificial illumination of real estate kiosk signs by any means is prohibited.

(d) Temporary real estate directional signs. In addition to the approved kiosk sign panels, major subdivisions located within the general plan area of Escondido may also request temporary real estate directional signs.

(1) Number. Up to ten (10) single-faced or double-faced signs per development;

(2) Area. Temporary directional signs shall not exceed four (4) square feet per face nor dimensions of two (2) feet by two (2) feet;

(3) Height. Maximum sign height shall be five (5) feet;

(4) Location. Temporary directional signs shall not be placed within any public right-of-way or be attached to utility poles, nor shall they interfere with vehicle sight distance requirements. Written approval of the property owner(s) is required to be submitted with the application;

(5) Spacing. Each temporary directional sign shall be placed a distance of not less than one hundred (100) feet from any other temporary directional sign or real estate kiosk sign of the same development, except when they are across the street from one another;

(6) Right of entry. All temporary directional signs must have prior written consent of the property owners to allow the city, in the event of noncompliance, to enter said property and remove the sign. A copy of said consent shall be filed with the planning division in conjunction with the sign permit application;

(7) Time periods. Permits for temporary directional signs shall be issued for a limited period of time, not to exceed one (1) year, or until each unit is sold for the first time, whichever occurs first. Following the one (1) year period, the permittee shall apply for a six (6) month extension or all signs shall be removed. The total

permitted time period shall not exceed thirty-six (36) months and each application for an extension shall include a right-of-entry consent form from any new property owners involved;

(8) Cash deposit and fee. A cash deposit or bond in the amount necessary to remove such signs and an administrative fee as may be established by resolution of the city council may be required to be deposited with the city to ensure compliance with the stipulations of this chapter and removal of signs in a timely manner. Upon confirmation that the signs have been removed, the deposit will be refunded or the bond released. In the event the city removes a sign, due to noncompliance with the permit or these regulations, the full amount of the bond or cash deposit shall be due the city in order to defray enforcement costs;

(9) Unauthorized alterations. There shall be no additions, tag signs, attention-getting devices or other appurtenances added to the sign as approved;

(10) Lighting. Artificial illumination of temporary real estate directional signs by any means is prohibited.

(e) Bulletin signs.

(1) Any allowable wall or freestanding sign may be a changeable copy sign announcing cultural activities, events or programs to be held on the premises, for the following uses only:

- (A) Amphitheaters;
- (B) Theaters;
- (C) Churches;
- (D) Convention/conference centers;
- (E) Private schools (including day care centers);
- (F) Museums;
- (G) Youth centers;
- (H) City of Escondido or other public body;
- (I) Establishments which offer live entertainment.

(2) All requests for the construction of electronic changeable copy signs shall be considered by the DRB Planning Commission. Requests for manually-changed bulletin signs shall be reviewed by planning staff.

(f) Signs for nonresidential uses in residential zones. Nonresidential facilities and uses located in residential zones subject to a conditional use permit, are allowed one (1) wall sign, a maximum of twenty (20) square feet in area and one (1) freestanding sign, a maximum of twenty-four (24) square feet in area. A freestanding sign three (3) feet high may be located anywhere on the site. A taller sign up to a maximum of six (6) feet high shall maintain the required setback of the zone. For properties with more than five (5) acres and frontage on more than one (1) street, one (1) freestanding sign per street frontage may be allowed. Only one (1) sign per property/use may be a changeable copy sign pursuant to Section 33-1396(e).

(g) Public facilities signs of the City of Escondido. Freestanding signs, wall signs, and bulletin signs for public facilities of the City of Escondido shall be reviewed by the ~~DRB~~ Director for appropriate design and scale for the site pursuant to the design guidelines, but in no event shall any sign exceed the sizes and heights permitted in commercial zones.

(h) Off-site directional signs for approved historical points of interest. In the case of approved historical points of interest, off-site directional signs of a content, size, height above ground, and location acceptable to the city may be approved by the director and the city engineer. To be considered approved, a place or point of interest must be recorded in the national register of historical places, the local register of historic places, or at the California Department of Parks and Recreation as a point of historical interest.

(i) Pole-mounted banners. Pole-mounted banners for the purpose of providing business identification shall be permitted on poles within HP (hospital professional), CG (general commercial), CP (office professional) and PD-C (Planned development—commercial) zones. All proposals for pole-mounted banners shall be reviewed by the planning division for conformance with the following standards:

(1) Banners shall be constructed of vinyl, cloth or similar durable material. Each banner may be double-faced and shall be permitted a maximum area of sixteen (16) square feet. A maximum of two (2) banners shall be permitted on each pole. Each banner shall be hung on the pole so that the lowest portion of the banner is at least eight (8) feet above the ground.

(2) Banners shall be kept in good condition and may be exhibited year-round. For commercial centers or properties less than three (3) acres in size, the aggregate total of all banners shall not exceed seventy-two (72) square feet.

(3) All banners shall feature color backgrounds and/or graphic images. Text shall be limited to no more than one-half (1/2) of the banner area. All text shall be limited to identifying the business or enterprise on the property only and shall not be used to display products, services or promotions.

(j) Temporary portable signs.

(1) Sunset Clause. This Sub-section 33-1396(j) shall automatically expire two years from the effective date of Ordinance 2012-08, unless extended by the City Council.

(2) Permit Required. With the submittal of a temporary sign permit application, temporary portable signs may be permitted in:

(A) All commercial zones;

(B) All industrial zones for motor vehicle dealers, lumberyard, restaurants, and other permitted uses of similar retail nature, as determined by the director; and

(C) PD-C (Planned Development-Commercial) zones, and commercial centers in specific planning areas outside of the Downtown Specific Plan Area.

(3) Comprehensive Sign Programs/Sign Standards. With the submittal of a temporary sign permit application and the written approval of the landlord, a modification of an approved comprehensive sign program or approved sign standards in a planned development and specific plan area are not required.

(4) Location.

(A) Feather signs may be located anywhere on the parcel of the respective business or within the commonly managed center with the landlord or property manager's permission, and may be located adjacent to Centre City Parkway only for centers and business sites that have direct access to Centre City Parkway.

(B) Sandwich signs shall be located in close proximity to a customer entry door.

(C) Temporary portable signs are prohibited on roofs and shall be located so as not to interfere with vehicle sight distance as defined in this article, visibility at driveways, or disabled access, and shall not be located in, or overhang, the public right-of-way, as determined by the City Engineer.

(5) Quantity. One temporary feather sign and/or one temporary sandwich sign may be permitted for each business establishment with a current business license.

(6) Duration.

(A) Feather sign permits may be approved for a period of six consecutive months per year.

(B) Sandwich sign permits may be approved for a period of one year.

(7) Size.

(A) Feather signs shall not exceed 12-feet in height above adjacent grade and 36-inches in width.

(B) Sandwich signs shall be no more than 3'-6" high, 2'-6" wide, and the base width shall not exceed 2'-0". Each face shall not contain more than 7.5 square feet of sign area.

(8) Sign Materials and Construction. All temporary portable signs shall be professional grade signs conforming to the following criteria:

(A) Materials. Temporary portable signs shall be constructed of durable materials, sufficient to withstand inclement weather, as well as color fading due to sunlight. Metal, wood, plastic and UV-coated nylon are typical materials used. Glass and other breakable materials are prohibited. No paper, cardboard, poster board, foam core board or the like will be permitted.

(B) Self-supporting. Temporary portable signs shall be self-supporting and weighted to withstand wind or being overturned by contact. Weights, if required, should be incorporated in the sign construction, not applied.

(C) Sandwich Signs.

(i) Changeable signs shall use slate or plastic with chalk or grease pencil.

(ii) There shall be no projections other than raised carved letters, which shall not project greater than ½" from sign face.

(iii) Signs shall contain no sharp edges or corners.

(iv) Signs shall not have copy or parts that move in a controlled or uncontrolled manner.

(v) Temporary posters, letters, flyers, balloons, pennants, or other attention-getting devices shall not be attached.



CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
Attn: Linda Kesian
P.O. Box 121750
San Diego, CA 92112-1750

From: City of Escondido
Planning Division
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: Zoning Code Amendment, Case No. AZ12-0001

Project Location - Specific: Citywide

Project Location - City: Escondido, **Project Location - County:** San Diego

Description of Project: Amendments to the Escondido Zoning Code Article 66 – Sign Ordinance to revise Citywide standards pertaining to temporary signs, including special event signs, banners, feather flags, A-frame signs and similar temporary portable signs.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project:

Name: City of Escondido, Planning Division, Rozanne Cherry Telephone: (760) 839-4536
Address: 201 N. Broadway, Escondido, CA 92025

Private entity School district Local public agency State agency Other special district

Exempt Status:

Categorical Exemption. CEQA Section 15061(b)3 "General Rule".

Reasons why project is exempt:

- 1. The proposed sign code amendment is consistent with the General Plan.
- 2. Changes to the allowable types of temporary signs will not have a significant effect on the environment.
- 3. The proposed code amendment does not involve physical modifications and will not cause the removal of any sensitive habitat or affect any cultural or historic resources.

Lead Agency Contact Person:

Area Code/Telephone/Extension (760) 839-4536

Signature: Rozanne Cherry
Rozanne Cherry, Principal Planner

2-23-12
Date

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant

~~Revealing Escondido Creek Plan, but had not yet adopted any modifications to the Parks and Trails Master Plan for this area to include the features studied in the creek plan. Ms. Fehrensen noted that while a trail was not proposed for underneath the bridge, it had been designed to accommodate a future trail along the creek.~~

ACTION:

~~Moved by Commissioner Winton, seconded by Commissioner Yerkes, to approve staff's recommendation. Motion carried unanimously. (4-0)~~

3. SIGN CODE AMENDMENT – AZ 12-0001:

REQUEST: Amendments to the Zoning Code Article 66 – Sign Ordinance to revise Citywide standards pertaining to temporary signs, including special event signs, banners, feather flags, A-frame signs and similar temporary portable signs.

PROPERTY SIZE AND LOCATION: Citywide

Rozanne Cherry, Principal Planner, referenced the staff report and noted staff requested comments and recommendations on the draft changes. The Commission's comments would be forwarded to the City Council for consideration along with the draft code text. The City Council hearing was tentatively scheduled for April 18, 2012. This code amendment only addressed temporary portable signs and a few minor cleanup items. A comprehensive update of the Zoning Code was anticipated as part of the implementation of the new General Plan in 2012.

Chairman Caster questioned how the 6-month provision for signage would be monitored. Mrs. Cherry noted that the City would issue stickers that would be placed on the signs showing the expiration date.

Chairman Caster felt the hand held twirling signs were more of a distraction than the feather signs, noting his view that this should be addressed as well. Commissioner Yerkes concurred.

Commissioner Winton asked if the City regulated signage on vehicles. Mrs. Cherry replied in the negative.

Commissioner Yerkes asked whether the City regulated mobile signage where vehicles were parking and using the vehicle for signage. Mrs. Cherry replied in the negative as long as the vehicle was parked legally.

Commissioner Weber asked if a permit fee would be required for every sign. Mrs. Cherry replied in the affirmative.

Commissioner Winton felt the subject proposal was too restrictive and would not apply to many businesses.

Chairman Caster felt feather signs should be allowed 12-months out of the year with a caveat that they must have applied for permanent signage.

Commissioner Weber felt the proposed ordinance would be difficult to regulate. He also stated that he could support staff's recommendation since it had a sunset clause.

Commissioner Yerkes asked what the major abuses or complaints were that brought about the subject ordinance. Mrs. Cherry noted that competitors were complaining about signage blocking driveways or their business signage.

Commissioner Weber did not feel anything should be done about hand held signs.

The majority of commissioners indicated concern with the proposed ordinance, but were in favor of it since it had a two-year sunset clause. Commissioner Winton felt the proposal was too restrictive.

CURRENT BUSINESS:

1. Discussion on Scheduling Special Meetings in May for the General Plan Update.

Mr. Martin provided the meeting schedule and asked the Commissioners if they had any known conflicts.

The Commission noted no conflicts with the proposed schedule.

ORAL COMMUNICATIONS: None.

PLANNING COMMISSIONERS: No discussion.

ADJOURNMENT:

Chairman Caster adjourned the meeting at 9:08 p.m. The next meeting was scheduled for April 10, 2012, at 7:00 p.m. in the City Council Chambers, 201 North Broadway, Escondido, California.

Bill Martin, Secretary to the Escondido
Planning Commissioner

Ty Paulson, Minutes Clerk

PLANNING COMMISSION

Agenda Item No.: 6.3

Date: **March 13, 2012**

CASE NUMBER: AZ 12-0001
APPLICANT: City of Escondido
LOCATION: Citywide in Commercial and Industrial Zones
TYPE OF PROJECT: Zoning Code Amendment

PROJECT DESCRIPTION: Amendments to the Escondido Zoning Code Article 66 – Sign Ordinance to revise citywide standards pertaining to temporary signs, including feather flags, A-frame signs and similar temporary portable signs. The allowance for the temporary portable signs would be in effect for two years, after which it would expire unless extended by the City Council. The amendment would allow one feather sign and/or one sandwich sign per business establishment in all commercial and industrial zones for 6 consecutive months per year with a sign permit. Criteria would be established for acceptable sign material, dimensions, locations, etc. A definition for “feather sign” would be added and other minor cleanup changes in the sign code would be included.

STAFF RECOMMENDATION: Provide recommendations and options to staff to forward to the City Council.

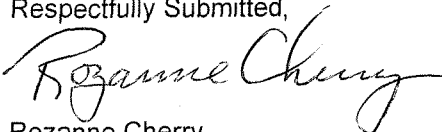
GENERAL PLAN DESIGNATION/TIER: Commercial, Industrial and Specific Plan Designations

ZONING: Commercial, Industrial, Planned Development–Commercial zones and commercial areas within Specific Plans.

BACKGROUND/SUMMARY OF ISSUES: In September 2011, the City Council approved the 2011-2012 Council Action Plan. The Image and Appearance component included an item to consider amending the sign ordinance to allow “feather flag” type temporary signs. Several business owners had approached the Council indicating that feather flags were a cost-effective way to attract customers during this difficult economic time. Council members directed staff to also consider potential proliferation of temporary signs creating safety issues and an unsightly appearance throughout town. The proposed Temporary Portable Signs Section 33-1396 (j) would sunset in two years. The provisions would expire two years from the effective date of the ordinance unless the Council approved an extension. No changes are proposed to the existing special event sign standards.

Staff requests comments and recommendations on the draft changes attached. The Commission’s comments will be forwarded to the City Council for consideration along with the draft code text. The City Council hearing is tentatively scheduled for April 18, 2012. This code amendment only addresses temporary portable signs and a few minor cleanup items. A comprehensive update of the Zoning Code is anticipated as part of the implementation of the new General Plan in 2012.

Respectfully Submitted,



Rozanne Cherry
Principal Planner

ANALYSIS

A. ENVIRONMENTAL STATUS

1. A Notice of Exemption was issued on February 23, 2012, in accordance with CEQA Section 15061(b)3, "General Rule" that says that CEQA only applies to projects which have the potential for causing a significant effect on the environment.
2. In staff's opinion, the proposed code amendment, which does not involve physical modifications, has no significant environmental issues.
3. As a code amendment with no physical modifications, the project will have no impact on fish and wildlife resources.

B. CONFORMANCE WITH CITY POLICY/ANALYSIS

General Plan

The proposed code amendment is consistent with the General Plan Community Design Policy C1.2, which authorizes the development of standards and guidelines for signage, architecture, landscaping and other visual impacts of development within the city.

C. DISCUSSION

Sunset Clause - The draft code amendment allowing temporary portable signs would be effective for a limited 2-year period. The provisions would "sunset" (expire) 2 years from the effective date of the ordinance. Near the end of the 2-year period, Council would review the positive and negative effects encountered during that period and determine whether to extend or revise the ordinance, or to allow it to expire.

Temporary Portable Signs - The proposed changes would add subsection j to Zoning Code section 33-1396, General Use Signs. It would allow limited numbers of temporary portable signs in commercial and industrial developments throughout Escondido. It would not change the existing sign standards of the Downtown Specific Plan Area. Temporary portable signs would require a permit and could include one "feather flag" type sign and/or one sandwich type sign per business establishment for a maximum of 6 consecutive months per year. Feather flags could be located anywhere on the parcel or within the development where the establishment is located. Sandwich signs, which are scaled for pedestrian areas, would have to be located within close proximity to a customer door. Temporary portable signs would be prohibited within the right-of-way and could not interfere with disabled access or vehicle sight distance at intersections and driveways. These signs would be permitted in addition to other signs allowed by the code, including special-event signs for businesses, section 33-1396 (a), and pole-mounted banners for commercial centers, section 33-1396 (i). Temporary signs are typically less expensive and more easily placed on site than permanent wall or freestanding signs. The less stringent standards for temporary signs could encourage a business owner to not pursue or to delay the installation of permanent signs.

OPTION – Should there be a concern about delaying the installation of permanent signage, the current code could be retained since feather flags and sandwich signs are allowed under the existing Special Event Sign provisions; or the display time could be reduced.

Feather Flags

Zoning - The proposed amendment would allow only retail-type businesses in the industrial zones to apply for a feather flag, as currently restricted for special event signs (banners, balloons, flags, etc. for promotional sales, announcing new management, grand openings, etc.) The assumption is that there are wholesale, manufacturing, research/development and office uses in the various industrial zones that are not reliant on attracting customers from the general public driving on the street. This may result in the need for the Director of Community Development to make more determinations as to whether or not a certain business is retail in nature, but it would be consistent with the existing parameters for special event signs.

OPTION - Allow one feather flag for all businesses in the industrial zones. This would eliminate the need for a determination of the type of business, but would possibly result in more flags along the streets.

Location – Under the proposed code, feather flags could be located in commercial and industrial zones anywhere on the private property of a parcel with a single tenant or of a commercial center with multi-tenants. This would include frontages along Centre City Parkway (CCP) and Highway 78. Temporary portable signs would not be allowed on roofs. The new code would not apply to any properties within the Downtown Specific Plan Area. CCP is a limited access Major Road with a landscaped center median, originally part of State Highway 395. In 1977, Caltrans passed jurisdiction and maintenance of CCP to the City of Escondido. In 1990, the City had a landscape architect prepare a Landscape Master Plan and Design Guidelines for the road. The guidelines encourage development and signage along CCP to orient to the access drives on cross streets. Over the past several years, Council has approved requests for new access drives between CCP and adjacent commercial properties, and has also allowed permanent signage at the new driveways. Unless revised, the draft code would allow a limited number of feather flags (one per business establishment) to be located adjacent to CCP only for centers and business sites that have direct access on CCP. Feather flags would also be allowed adjacent to Hwy 78. Only one feather flag per business establishment would be permitted no matter how many street frontages the parcel or center had. This would introduce another type of temporary sign, in addition to special event signs, that could be located adjacent to CCP and Hwy 78, and result in longer periods of time that temporary signs were displayed.

OPTION – Prohibit feather flags along frontages adjacent to CCP and Hwy 78. While this would be more consistent with the intent of the CCP Master Plan to enhance the visual character of the corridor and "...develop a natural setting within an urban context..." it would result in all feather flags for a commercial center being concentrated on one frontage. Currently, a separation requirement between feather flags is not proposed.

Duration of Display – The draft code proposes the same display duration of 6 consecutive months per year for both feather flags and sandwich signs. This would be in addition to any special event signs, which are allowed for a maximum of 60 days per calendar year not exceeding 30 consecutive days at any time. Some feather flag manufacturers recommend replacing flags 2-3 times a year since sun and wind can degrade the material. Six consecutive months is proposed as a sufficient enough time to establish a business and/or remind customers of the business location while recognizing the typical lifespan of the feather flag material before it becomes tattered, ripped, faded and unsightly. Section 33-1394 (b) would be revised to require that temporary portable signs be maintained and removed from public view when faded, broken, torn or otherwise damaged.

OPTION – Consider a shorter timeframe of 3 months for a permit approval, at which time the business owner could apply for a permit for a new feather flag for another 3 months. This would make it less likely that a feather flag would become tattered, faded and unsightly.

Sandwich Signs

Location - The proposed code would allow one pedestrian oriented sandwich sign near the customer entrance of a business establishment. The design criteria for these signs are proposed to be the same as what is currently allowed in the Downtown Specific Plan. While the downtown sidewalk signs are allowed on the public sidewalk in certain areas, the citywide sandwich signs would be restricted to private property and not allowed within the public right-of-way. These small, low signs are more appropriately used along the walkways in front of in-line shops in commercial centers for identification of the business entry. They would be too small to be seen or read from a vehicle while driving along busy commercial roads.

OPTION – Allow sandwich signs anywhere on the private property (not in the right-of-way), same as the proposal for feather flags. This could potentially result in doubling the number of temporary portable signs placed along the property line adjacent to streets, since each business establishment could have one feather flag and one sandwich sign. Currently there is no requirement proposed for a separation distance between feather flags or sandwich signs.

Duration of Display - The sandwich signs would also be limited to 6 consecutive months under the proposed code revisions. But these signs would be located away from the street in multi-tenant commercial centers and not visible from the road. The sandwich signs would be to identify businesses for customers walking within the center. Similar to the sidewalk signs in the downtown core being oriented to the pedestrians on the sidewalk. The downtown sidewalk signs require an encroachment permit that has to be renewed annually.

OPTION – As pedestrian oriented signs, permit sandwich signs for one year, which could be renewed upon confirmation of the sandwich sign being in good condition.

Special Event Signs (Banners)

This amendment would only change the method of application for Special Event Signs from the business owner having to send a registered letter to the Planning Division 2-weeks in advance of a special event to simply submitting a Temporary Sign Permit application. The temporary sign permit application process has been in use for some time and typically can be approved over the counter. Special Event Signs include banners, balloons, pennants, portable signs, etc. for the purpose of publicizing "grand openings", "new management", promotional sales and similar events. They are limited to a maximum of 60 days per calendar year per business, not exceeding 30 consecutive days at any time. No change to this timeframe is proposed. These signs would be allowed in addition to a request for Temporary Portable Signs. Should these permits be approved serially for a business, it would result in temporary signage being displayed for 8 months per year. Temporary signs are typically less expensive and more easily placed on site than permanent wall or freestanding signs. The less stringent standards for temporary signs could encourage a business owner to not pursue or to delay the installation of permanent signs.

OPTION – If it was felt that Special Event Signs were a significant value to new businesses and in promoting business events, the allowable time frame for these signs could be increased to something like 60 days per 6-month period, not to exceed 120 days per year. However, this would result in the potential for temporary signs to be displayed for 10 months per year.

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. STANDARDS FOR TEMPORARY PORTABLE SIGNS

	FEATHER FLAGS	SANDWICH SIGNS
Types	Free-standing feather flags (including but not limited to flutter, bow, teardrop, rectangular, blade, shark and U- shaped flags)	Self-supporting A-frame, pedestal or footed portable signs.
Number	One per business establishment	Same
Size	Up to 12-feet high and 36" wide	Up to 42" high, 30" wide, with a base width of 24" and maximum sign area of 7.5 SF
Location	Anywhere on the parcel of the business establishment or anywhere within the commonly managed shopping center with landlord approval. Prohibited within the ROW and on roofs. Allowed adjacent to CCP only for centers/business sites with direct access to CCP.	In close proximity of a customer entrance. Prohibited within the ROW.
Duration	6 consecutive months per year	Same
Materials	Professional grade signs of durable materials capable of withstanding inclement weather and resisting fading in sunlight.	Same and no paper, cardboard, poster board, foam core board or the like permitted. Prohibits glass and other breakable materials.
Separation	None required	Same

B. ALLOWABLE ZONES

- All commercial zones.
- All industrial zones for motor vehicle dealers, lumberyards, restaurants, and other permitted uses of similar retail nature, as determined by the director.
- Planned Development-Commercial zones (with approval of the landlord, no modification of the approved sign standards for the PD development would be required)
- Commercial centers in specific planning areas outside of the Downtown Specific Plan Area. (With approval of the landlord, no modification of the approved sign standards for the specific plan commercial development would be required).
- Other multi-tenant centers with approved comprehensive sign programs would not need to revise the sign program with approval of the landlord.
- Does not affect the current standards for signs in the Downtown Specific Planning Area.

**FACTORS TO BE CONSIDERED
AZ 2012-0001
EXHIBIT "A"**

1. The public health, safety and welfare will not be adversely affected since this item is only a code amendment to revise the sign code to allow temporary portable signs, no physical improvements are involved, it would not modify any permitted uses or development standards, and it includes provisions that restrict the numbers of and locations for temporary portable signs so as not to conflict with disabled access and vehicle sight distance at driveways and intersections.
2. The proposed Zoning Code amendment would not be detrimental to surrounding properties, since it would not change any permitted uses or development standards, and it would be evaluated at the end of two years.
3. The proposed code amendment would be consistent with the General Plan, since no land uses or policies would be modified or impacted, and the General Plan Community Design Policy C1.2 authorizes the development of standards and guidelines for signage within the city.

EXHIBIT "B"

Proposed Code Changes

AZ 12-0001

Section 33-1391. Definitions.

The following are definitions of terms contained in this article:

- (1) Abandoned sign means a sign, or portion thereof, advertising or identifying a business, use or activity which has not been in operation for one hundred eighty (180) calendar days or more.
- (2) Advertise means any notice to the public for the purpose of increasing sales or business, announcing the availability of a service or product, or making claims as to the value or quality of any service or product.
- (3) Animated sign. See flashing or moving signs.
- (4) Area of sign and area of super-graphic sign mean the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character, together with any other material or color forming an integral part of the display or used to differentiate such sign from the background on which it is placed. The area of a sign or a super-graphic sign having no such perimeter shall be computed in a reasonable manner by enclosing the entire integral parts of the sign copy area within trapezoids, triangles and/or circles in sizes sufficient to cover the entire area and computing the size of such area. In the case of a double-faced sign where the two (2) faces are of equal size, are parallel to each other, and are not separated more than thirty-six (36) inches, the total area shall be computed as the area of a single display face. In the case of a sign with more than two (2) sign faces where each face contains identical copy, the total area of the sign shall be computed by dividing the total number of sign faces by two (2) (resulting fractional numbers shall be rounded up to the next whole number), and multiplying this number by the sign area of a single face. The supports or uprights of a freestanding sign, the support structure of a monument sign, and other significant architectural features around the copy shall not be included in the sign area. In the case of any cylindrical sign, the total area shall be computed on the total area of the surface of the sign. For multi-shingle/panel signs, the sign area may be calculated by totaling only the area of the individual panels, along with any other copy area.
- (5) Awning means a shelter projecting from and supported by an exterior wall of a building and constructed of non-rigid materials on a supporting framework.
- (6) Banner, flag, pennant, balloon or other attention-getting devices means any cloth, bunting, plastic, paper or similar flexible material used for advertising purposes or to attract attention, which is attached to or pinned on any structure, staff, pole, line, framing or vehicle, but

not including flags as described in section 33-1393(a)(12) or temporary portable signs as described in section 33-1396(j).

(7) Billboard means a sign structure advertising an establishment, merchandise, service or entertainment which is not sold, produced, manufactured or furnished at the property on which the sign is located (e.g., off-premise signs or outdoor advertising).

(8) Building face and/or frontage means the area of the front building elevation in which the business is located and which faces a street or parking lot excluding driveways. If more than one (1) business is located in a single building, then such area shall be limited to that front portion which is occupied by each individual business.

(9) Building floor area means the total gross leasable space occupied by the business or tenant.

(10) Bulletin sign means any sign erected by the City of Escondido, other public body, theater owner, or other use authorized by this chapter, which is erected upon the same property as the institution for the purpose of announcing events which are held on the premises.

(11) Cabinet sign means an advertising display which is constructed like a box to enclose the source of illumination (internally illuminated) so that the light shines through the translucent portions of the signs copy panel(s).

(12) Canopy/Marquee means a permanent roof-like structure extending from part or all of a building face and constructed of durable rigid material.

(13) Canopy/Marquee sign means a wall sign attached to the face of a canopy or marquee, but not projecting above the top of the canopy or marquee.

(14) Center means a commercial or industrial development which includes two (2) or more tenant spaces in which businesses, structures and parking/circulation are designed as an architecturally integrated and interrelated development. Such design is independent of the number of structures, lots or parcels making up the center.

(15) Changeable copy sign means a sign whose informational content can be changed or altered regardless of the method of attachment or change, or materials of construction.

(16) Commercial, industrial, or professional center means a development which is located on more than one (1) legal lot, but which constitutes a comprehensively designed complex through common or shared use arrangements.

(17) Comprehensive sign program means a sign program for commercial and industrial centers consisting of two (2) or more tenant spaces, which establishes design criteria for all signs in the center and integrates them with building and landscaping design, and achieves architectural compatibility.

(18) Construction or contractor sign means a temporary sign which states the names of the individuals and/or firms connected with the construction of a project. Such signs shall be located at the project site and may include, but are not limited to, the name of the project, the address of the business, and the telephone numbers.

(19) Copy means any words, letters, numbers, figures, designs or other symbolic representations incorporated into the graphic content of a sign.

(20) Design review board means a seven (7) member board of citizens and design professionals, appointed by the city council pursuant to Article 64 of the Escondido zoning code, which reviews plans for new development, modifications to existing facilities, and signs proposed in Escondido to determine consistency with the established design criteria.

(21) Directional/Informational sign means an on-premises sign which contains words such as "entrance," "in," "out," "rest rooms," "no parking" or other similar words, or a sign containing arrows or characters indicating traffic directions used either in conjunction with such words or separately. The sign area shall not be greater than two (2) square feet and the sign not higher than three (3) feet. No directional/informational sign shall contain any advertising or trade name information, although minor business identification, not exceeding twenty (20) percent of the sign area, is allowed for directional purposes. Real estate kiosk and directional signs as defined in sections 33-1396(c) and (d) shall not be included in this category.

(22) *Director* means the director of community development, or a designated representative, whose responsibility it is to administer and enforce the provisions of this article.

(22-1) *Districts* mean designated areas of the community approved by city council resolution or ordinance, including overlay, area and neighborhood plans, historic sections, and specific planning areas.

(23) *Double-faced sign* means a freestanding, hanging or projecting sign where two (2) copy faces of equal size are mounted back-to-back. The two (2) faces shall be parallel to each other and not separated by more than thirty-six (36) inches. One (1) face only will be charged against the permitted sign area.

(23-1) *Feather sign* means a type of freestanding temporary portable sign of flexible material that is plain or includes copy and/or graphics and is supported by a horizontal or vertical pole, including but not limited to feather, flutter, bow, and tear drop signs.

(24) *Flashing sign* means any sign which contains or is illuminated by lights which are intermittently on and off, which change intensity or color, or which create the illusion of motion in any manner, including animated signs which manifest a physical movement or rotation in one (1) or more planes or the optical illusion of action or motion. Time and temperature signs where all advertising is excluded are not included in this category.

(25) *Freestanding sign* means a sign which is permanently supported on the ground by one (1) or more uprights, braces, poles, or other similar structural components that is not attached to any building. This category includes both monument and pole-type signs.

(26) *Freeway-oriented sign*. For the purposes of this regulation, a freeway oriented sign means any structure, housing, device, figure, statuary, painting, display, message placard or other contrivance, including a wall sign or freestanding sign, which provides information in the nature of advertising and which has been designed and located adjacent to the right-of-way on Interstate 15 freeway or portions of Highway 78, with the intention that it be viewed and/or read primarily by motorists traveling on Interstate 15 or portions of Highway 78.

(27) *Future tenant identification sign* means a temporary sign which identifies a future use of a site or a future tenant for a building.

(28) *Glazing area sign* means temporary or permanent signs painted on, attached, glued or otherwise affixed to glass windows, doors, or other glass structures, and oriented to the exterior of the building and public view.

(29) *Grand opening sign* means a temporary ~~promotional~~ special event sign used by newly established businesses to inform the public of their location and service available to the community. A grand opening sign may only be installed within sixty (60) days after the business initially opens, and shall not be displayed for more than thirty (30) consecutive calendar days. "Grand opening" does not mean an annual or occasional promotion of retail sales by a business.

(30) *Halo-lit letters* means individual, dimensional letters or symbols with solid opaque faces which are indirectly illuminated by a light source contained within each letter or symbol, where the light is directed upon the wall or background surface behind the letters creating silhouettes of the letters or symbols against the reflected light.

(31) *Height of sign* means the greatest vertical distance measured from the top of the sign, including decorative embellishments, to the finish grade at the point the sign supports intersect the ground.

(32) *Historic signs* means a sign or advertising structure that possesses historic, cultural, architectural, or community interest or value associated with the development, heritage or history of the city.

(33) *Historic site sign* means signage as necessary to identify a historic landmark or a local register property as designated by the City of Escondido.

(34) *Illegal signs* means any advertising display erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use, as well as, signs which have expired permits due to the lack of having had the required inspections per the Uniform Building Code and National Electric Code.

(35) *Illumination*.

(A) External illumination means the illumination of a sign by an external light source that is not a component part of the sign.

(B) Internal illumination means the brightening of a sign by a light source that is a component part of the sign and enclosed within the advertising structure.

(36) *Incidental sign* means a small sign, emblem or decal informing the public of facilities or services available on the premises (e.g., a credit card sign or sign indicating business hours, health rating or licensing).

(37) *Inflatable displays* means any three (3) dimensional ambient air-filled object depicting a container, figure, product or product trade dress.

(38) *Inoperative activity* means a business or activity that has ceased operation at any given location for a continuous period of at least one hundred eighty (180) calendar days.

(39) *Interior sign* means a sign inside any business that is not intended to be seen from outside the building in which the business is located.

(40) *Legal* means authorized or permitted in accordance with procedures defined by ordinance or law.

(41) *Logo* means a trademark or symbol used to identify a business.

(42) *Menu sign* means a sign, located adjacent to a drive-through lane of a food service facility, which lists the products available and the prices, and is designed to be read by the occupants of a vehicle.

(42-1) *Message center, electronic*, means a sign which has a changeable message which may be changed by electronic processes or by remote control and which exposes its message for not less than eight (8) seconds with the interval between messages not less than one (1) second.

(43) *Monument sign* means a low-profile freestanding sign.

(44) *Moving sign* means a sign whose entirety or components rotate or move in any manner to attract attention.

(45) *Multi-shingle (multi-panel) sign* means a freestanding sign composed, in whole or in part, of individual tenant panels without an attached background, typically hung from each other from a cross member supported by posts, and generally separated by a gap not greater than six (6) inches.

(46) *Nonconforming sign* means a sign that does not presently comply with the provisions of this article. A sign that was lawfully erected prior to the enactment of the ordinance codified herein, but now fails to meet any of the standards contained herein shall be considered a legal nonconforming sign.

(47) *Pole sign* means a permanently mounted, freestanding sign which is supported above the ground by one (1) or more uprights, braces, poles, or other similar structural components.

(48) *Portable sign* means a sign which is not permanently attached to a structure or to the ground and is designed to be moved easily, ~~including persons retained to hold or wear sign copy.~~

(49) *Projecting sign* means any sign other than a wall or canopy sign which is attached to and hangs or projects from a structure or any portion of a building.

(50) *Public right-of-way* means a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be or is presently occupied by a road, sidewalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, bikeway, pedestrian walkway or other public use.

(50-1) *Real estate kiosk sign*—See (60) “Subdivision sign kiosk.”

(51) *Real estate sign* means a temporary sign advertising the sale, rent, lease or open house of the property upon which it is located and the identification of the firm handling such sale, lease, rent or open house.

(51-1) *Regional market group* means a defined group of related commercial uses where a marketing or advertising association has been established for the benefit of the regional market group members who are located in a single approved Escondido planned development of more than forty (40) acres with limited visibility from Interstate 15 freeway, and whose market area extends beyond the city limits throughout a larger regional area.

(52) *Regional market sign* means a freeway-oriented sign for a regional market group or affiliated business organization consisting of members of the regional market group, which may include an electronic message center.

(53) *Roof* means the external covering of a building or structure above or covering any exterior or interior vertical wall or other portion of the site.

(54) *Roofline* means the top edge of the roof or top of the parapet, whichever forms the top line of the building silhouette.

(55) *Roof sign* means a sign erected, constructed or placed upon or over a roof of a building, except a mansard roof or canopy which is below the roof of the primary structure which is wholly or partly supported by such buildings.

(56) *Sandwich sign* means a type of portable sign of A-frame construction.

(57) *Sign* means any mark or painted character on any card, cloth, paper, metal, wood, plastic, or any other material visible from outside a structure, mounted to the ground or any tree,

wall, bush, rock, fence or structure, either privately or publicly owned. Sign shall also mean any graphic announcement, declaration, demonstration, display, illustration, statuary or insignia used to promote the interest of any person, product, activity or service when the same is placed outdoors in view of the general public.

(58) *Special event sign* means a temporary sign which advertises special events and activities such as, but not limited to, grand openings, charitable events, promotional sales, and Christmas tree sales. Such signs are limited to the provisions listed in this article, Section 33-1396(a).

(59) *Statuary* means statues or sculptures or similar figures that depict products, features, items or logos of a business, excluding those items that are considered design features or complements of the overall site such as wagons, benches, equipment sold or rented on the premises, hand water pumps, troughs, and other like items.

(60) *Subdivision sign kiosk—Real estate kiosk sign* means a city designated sign in the public right-of-way or on private property containing directional panels for residential developments. (61) *Super-graphic sign* means a wall sign displaying a large graphic image with or without text. The graphic image extends beyond the perimeter of the sign text.

(62) *Temporary sign* means any sign that is displayed for a limited period of time as defined in this article.

(63) *Time and temperature sign* means an electronically or electrically controlled changeable copy sign which conveys only information such as the time, date, temperature or atmospheric conditions, where different alternating copy changes are shown on the same copy area. Each message remains displayed for a specific minimum period of time with a total blackout between message changes. The copy shall not travel or appear to travel in any direction. Time and temperature signs shall be included in the permitted wall or freestanding sign area and shall not include any advertising within the changeable copy area.

(64) *Use* means the purpose for which a property, lot, building, sign or other structure is arranged, intended, designed, occupied or maintained as established by the authorized legislative body.

(65) *Vehicle sight distance* means the area through which a driver has a clear view of oncoming vehicle and pedestrian traffic when waiting to proceed at a street corner or driveway. The sight distance at driveways should be at least ten (10) feet on each side of the driveway. At non-signalized corners, the clear view area is typically established by measuring twenty-five (25) feet along the street fronts from each curb return point and drawing a line across the two (2) back points to form a triangular area. Generally, no sign in excess of three (3) feet above the curb grade, nor support pole larger than twelve (12) inches in diameter may be installed in this clear view area unless approved by the engineering division.

(66) *Vehicle sign* means a sign which is attached to or affixed in any fashion, painted on, or resting in or on any type of vehicle which is parked on or adjacent to any property, the

principal purpose of which is to attract attention to a product sold or an activity or business located on such property as determined by the director of ~~planning and building~~.

(67) *Wall sign* means a sign painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign parallel to the plane of such wall. A parapet, mansard, or canopy/marquee sign shall be considered a wall sign provided it is architecturally integrated with the building and does not project above the roof line.

(68) *Window sign*. See “glazing area sign.”

Section 33-1393. Exempt and prohibited signs.

(a) Exempt signs. The following signs shall be exempt from the application and sign permit requirements, but must be in conformance with all other requirements of this chapter. A building permit and/or encroachment permit may be required. No sign shall obstruct the vehicle sight distance area at intersections and driveways pursuant to section 33-1391(65).

(1) Glazing area signs.

(A) Internal signs affixed to glazing areas and oriented to the exterior and public view, not exceeding twenty (20) percent of the area of glazing on which it is located. Temporary signs may be of expendable materials such as cloth, paper, paint, etc. Permanent signs shall be of nonfading materials permanently applied in a professional manner. Permanent glazing area signs may include incidental signs, and information such as hours of operation or a proprietor’s name,

(B) Any window sign used as permanent identification of the business name or logo shall be considered a wall sign and the sign area shall be included in the total wall sign area allowed for the building or tenant space. A sign permit is required for such business sign;

(2) Real estate signs for single and multiple residential rental and sales. One (1) on-site sign per street frontage, up to two (2), not exceeding four (4) square feet in area, provided it is unlit and is removed within fifteen (15) calendar days after the close of escrow or the rental or lease has been accomplished. Up to two (2) riders identifying the agent and/or special feature of the property may be added to the signs. Sign height not to exceed five (5) feet including riders. One (1) on-site and up to three (3) off-site open house signs, not exceeding four (4) square feet in area and five (5) feet in height, are also permitted for the purpose of selling a single house or condominium. Up to three (3) balloons, each not exceeding twenty-four (24) inches in any dimension, may be attached to on-site real estate/open house signs. Other attention-getting devices are not permitted;

(3) Contractor or construction signs.

(A) Residential projects consisting of five (5) units or more and commercial and industrial projects shall be allowed, one (1) wall or freestanding sign on the construction site for all contractors (may include financial institutions, real estate agents, subcontractors, etc.). The sign area may not exceed fifty (50) square feet unless legally required by government contracts to be larger. No freestanding sign shall exceed fifteen (15) feet in overall height. Such sign shall be removed by the contractor(s) upon the granting of occupancy by the city,

(B) Residential projects involving four (4) or less units shall be allowed two (2) wall or freestanding signs. Each sign shall not exceed four (4) square feet in area. Freestanding signs shall not exceed five (5) feet in height. Such signs shall be removed by the contractor(s) upon the granting of occupancy by the city;

(4) Real estate signs for commercial and industrial premises. One (1) sign per street frontage is allowed, up to two (2) signs which advertise the sale, lease or rent of the premises. These signs shall not exceed twenty-four (24) square feet in area for lots/centers three (3) acres or less in size, ~~nor~~or forty-eight (48) square feet for lots/centers over three (3) acres in size. These signs may be freestanding signs, wall signs or banners. No such freestanding sign shall exceed eight (8) feet in overall height. Freestanding signs may be double-sided if the panels are of equal size and are mounted back-to-back (parallel) or in a "V" shape if the interior angle does not exceed ninety (90) degrees. The area of only one (1) side of a double-sided sign shall be calculated to determine the area of the sign. Such real estate signs shall be removed within five (5) calendar days after the property to which they refer has been rented, leased or sold;

(5) Interior signs. Devices or displays which are entirely inside a building or in a display space of a lawful show window and are not affixed to the window pane;

(6) Historic site signs, on-premises memorial tablets or plaques. These include those installed by the City of Escondido, a city-recognized historical society, or civic organization, or other displays which do not advertise goods or services;

(7) Directional/informational signs as defined in section 33-1391. Such signs shall not exceed two (2) square feet in area. Freestanding signs shall not be higher than three (3) feet. No directional/informational sign shall contain any advertising or trade name information, although minor business identification, not exceeding twenty (20) percent of the sign area, is allowed for directional purposes. Real estate directional and kiosk signs shall not be included in this category;

(8) Future tenant identification signs may be placed on vacant or developing property or on a vacant tenant space to advertise the future use of an approved project or the future tenant of the suite. One (1) such sign is permitted which shall not exceed twenty (20) square feet in area for a future tenant, ~~nor~~or thirty-two (32) square feet for a vacant or developing property. Freestanding signs shall not be higher than eight (8) feet. Any future tenant identification sign shall be removed upon granting of occupancy by the city;

(9) Residence identification signs used to identify individual names and/or addresses of individual residences. Such signs shall not exceed two (2) square feet in area. A maximum of two (2) signs or name plates are allowed per dwelling unit;

(10) Official and legal notices issued by the court, public body, person or officer in performance of his public duty or in giving any legal notice;

(11) Signs providing notice of public hearing, direction, warning, or informational signs or structures required or authorized by law or by federal, state, county or city authority;

(12) Official flags. Up to three (3) official flags of the United States, the State of California, or other states of the nation, counties, municipalities, and official flags of foreign nations. Proposals for more than three (3) flags require a sign permit and design review. If flags are to be displayed on vertical flagpoles, these poles shall be permanently installed with appropriate building permits. Flags of nationally or internationally recognized organizations and corporate or business flags are only permitted if displayed in conjunction with a United States flag. The Flag Code of the United States shall be observed at all times;

(13) Seasonal decorations displayed during a holiday or announcing a community event which do not advertise a specific product or service and are removed within ten (10) working days after the holiday or community event, except as otherwise permitted for temporary window signs;

(14) Signs of public utility companies indicating danger, serving as an aid to public safety, showing the location of underground facilities or public telephones;

(15) Safety signs on construction sites;

(16) No trespassing, no parking, and similar warning signs not exceeding four (4) square feet in area;

(17) Signs on public transportation vehicles including, but not limited to, buses and taxicabs;

(18) Signs on licensed vehicles; provided, that such vehicles are not used or intended for use as portable signs or as otherwise prohibited in section 33-1393(b);

(19) Incidental signs for automobile repair stores, gasoline service stations, automobile dealers with service repairs, motels and hotels showing notices of services provided as required by law, trade affiliations, credit cards accepted, and the like, attached to the structure or building; provided, that all the following conditions exist:

(A) The signs number not more than four (4) unless required by state law,

(B) No such sign projects beyond any property line,

(C) No such sign shall exceed an area per face of four (4) square feet per face. Signs may be double-faced;

(20) Copy attached to fuel pumps or dispensers such as fuel identification, station logo, and other signs as required by law;

(21) Bill of fare signs for restaurants. Such signs shall not exceed four (4) square feet in area and may be displayed in the window or on the exterior wall in an appropriate manner;

(22) Agricultural signs, either wall or freestanding types, and nonilluminated to only identify the premise as being associated with a trade organization, or as producing products under registered trade names, or to identify the business name and agricultural products grown on the premises. Such signs shall not exceed four (4) square feet for lots two (2) acres or less and sixteen (16) square feet for lots greater than two (2) acres. One (1) sign per street frontage is allowed with a maximum of two (2) signs per lot. Wall signs shall be located below the roofline. Freestanding signs shall not be higher than six (6) feet, and if higher than three (3) feet shall not be located within twenty-five (25) feet of any property line abutting a street;

(23) Model unit signs. One (1) feature sign, one (1) model sign and two (2) flags or pennants for each model home may be placed on the model home lots, at the sales office, or in the parking lot area of the subdivision. Such signs and flags shall not exceed four (4) square feet in area and may be double-sided;

(24) Public signs. Signs placed on public property by federal, state or local agencies designed to provide identification or benefit to the public. This exemption does not apply to freestanding, wall, or bulletin signs proposed for public facilities of the City of Escondido;

(25) Scoreboards placed on athletic fields;

(26) Barber poles outside a barbershop;

(27) Commemorative plaques;

(28) Garage and yard-sale signs as permitted by the Escondido Municipal Code section 16-119.

(b) Prohibited signs. Any sign not specifically authorized by this article shall be prohibited unless required by law or otherwise exempted by a local agency pursuant to the Government Code, sections 53090 et seq., of the State of California. The following signs are expressly prohibited:

(1) Roof signs, except a roof-type sign, where permitted by the planning commission as a freeway-oriented sign pursuant to section 33-1395(a)(3);

(2) Flashing signs, including time and temperature signs (unless all advertising is excluded);

- (3) Inflatable advertising devices of a temporary or permanent nature, including hot air balloons, unless approved as a special event sign pursuant to section 33-1396(a);
- (4) Animated and moving signs;
- (5) Searchlights and beacons except as permitted per section 33-1396(a);
- (6) Revolving or rotating signs;
- (7) Vehicle signs (when parked or stored on property or street for the purpose of identifying a business or advertising a product or service);
- (8) Signs without an approved sign permit, unless exempt from the provisions of this chapter;
- (9) Portable signs and banners except where permitted by this chapter;
- (10) Signs within the public right-of-way, except where required by a government agency or otherwise permitted by section 33-1396(c);
- (11) Signs blocking doors or fire escapes;
- (12) Outside light bulb strings, except for temporary uses such as holiday sales, Christmas tree lots, carnivals and other similar events as defined in section 33-1391(58);
- (13) Readerboard/changeable copy signs, either electric or nonelectric, except time and temperature signs as defined in section 33-1391(63), and other signs permitted pursuant to sections 33-1395.2(b)(3) and (4), 33-1395.10, and 33-1396(e);
- (14) Pennants, streamers, whirligigs, balloons, and other attention-getting devices except as permitted by section 33-1396(a) of this chapter;
- (15) Signs which purport to be, imitate or resemble official traffic warning devices or signs that by color, location or lighting may confuse or disorient vehicular or pedestrian traffic. This does not include traffic or directional signs installed on private property to control on-site traffic, which do not confuse or disorient vehicular or pedestrian traffic on a public road or right-of-way;
- (16) Off-site real estate and yard sale directional signs other than those permitted by sections 33-1393(a)(2), 33-1396(c) and (d) and Municipal Code section 16-119.
- (17) Billboards and signs that advertise a product, person, business or service not available on the property where the sign is located (off-site signs), and signs placed adjacent to a sign-controlled freeway (see Article 52 of the Escondido zoning code).

Sec. 33-1394. Construction and maintenance of signs.

(a) Construction standards. Every sign and all parts, portions and materials comprising the sign, together with the frame, background, supports or anchorage, shall be manufactured, assembled and erected in compliance with all applicable state, federal and city regulations and the Uniform Building Code.

(b) Maintenance of signs. Every sign and all parts, portions and materials comprising the sign, together with the frame, background, support or anchorage, including those signs otherwise exempt from this chapter, shall be maintained and kept in proper repair. The display surface of all signs shall be kept clean, neatly painted and free from rust or corrosion. Any crack, broken surface, malfunctioning light, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within thirty (30) calendar days following notification by the city. Any cracked, faded, torn, ripped, broken or otherwise damaged temporary portable or feather sign shall be immediately removed from public view until repaired or replaced Any sign not properly maintained shall constitute a public nuisance and may be abated per section 33-1398.

Sec. 33-1396. General use signs.

Sign permits may be issued for signs included under this section in any zone in the city unless otherwise designated. Applications for permits for general use signs shall be made as provided in section 33-1392 or as otherwise indicated by this section. These signs are in addition to those signs expressly permitted in particular zones and are subject to the following provisions:

(a) Special event signs. Commercial grand opening and similar signs may be approved by the director for a limited period of time in the CG (general commercial) and CN (neighborhood commercial zones) and for specific uses in the M-1 (light industrial) and M-2 (general industrial) zones, as a means of publicizing grand openings and special events such as new management and promotional sales. In addition, special event signs are also allowed for private schools, day care centers and churches regardless of the zoning. The regulation and limitation of the signs shall be as follows:

(1) ~~At least two (2) weeks i~~n advance of a special event, the business owner shall ~~notify the planning division, by registered letter~~ submit a Temporary Sign application, which includes of the dates of the special event and the types of signs to be used. The sizes and locations of the signs shall also be indicated.

(2) Special event signs shall be limited to a maximum of sixty (60) days per calendar year per business, not exceeding thirty (30) consecutive days at any time.

(3) Special event signs may be approved in the M-1 and M-2 zones for motor vehicle dealers, lumberyards, restaurants, and other permitted uses of similar retail nature, as determined by the director.

(4) Special event signs may include balloons, flags, searchlights, beacons, pennants and streamers, banners, portable signs, or other similar devices. Balloons may not exceed twenty-four (24) inches in any dimension.

(5) One (1) special event banner is allowed for each street frontage, except for individual in-line shops in commercial centers where one (1) banner is allowed for each building face fronting on a parking lot or a street.

(6) Each special event banner shall not exceed seventy-two (72) square feet in area.

(7) Large balloons and other inflatable displays may be allowed for a maximum of fourteen (14) days per calendar year. If these balloons and displays are to be ground-mounted, they may not exceed thirty (30) feet in height and, if located in the parking lot, not more than ten (10) percent of the required number of parking spaces may be utilized for the installation of the device, including the required tethering area around it. Roof-mounted inflatable displays shall

not extend above the height limit of the zone. A sign permit and nominal fee is required. All requests shall be reviewed by the planning, building and fire departments for compliance with all fire and building codes.

(8) No special event signage (of any type) may be displayed on or attached to any public property including telephone or utility poles, traffic control signs or devices, street lights or other structures located on public property.

(9) No special event signage of any type shall interfere with or restrict vehicular or pedestrian access or visibility.

(10) Automobile sales businesses that sell new vehicle inventory, which are located outside the Escondido Auto Park and in zones other than PD (planned development), shall utilize the Escondido Auto Park standards listed below:

(A) Large, roof-top balloons are permitted for four (4), ten (10) day periods per calendar year.

(B) Helium filled balloons, not exceeding twenty-four (24) inches in any dimension, are permitted on Saturdays, Sundays and for special events. They shall be removed at the close of business each day.

(C) Each dealership shall be permitted to display banners for a maximum of thirty (30) consecutive days for special events, not exceeding one hundred (100) square feet in size per banner.

(D) Window banners, antenna mast flags, wind-driven propellers, streamers, windshield sunshades, stuffed animals and inflatable characters are prohibited.

(E) Temporary twenty-five (25) foot by fifty (50) foot shade tents are permitted in display areas (not customer parking areas) for thirty (30) day periods, or the length of a promotion/event, whichever is less. All requests shall be reviewed by the building division and fire department for compliance with all building and fire codes.

(b) On-site subdivision signs.

(1) One (1) temporary on-site subdivision sign is permitted on each street frontage of the property to be subdivided not to exceed two (2) such signs for any subdivision. Each sign shall not exceed fifty (50) square feet in area and shall not exceed a height of twelve (12) feet.

(2) One (1) feature sign, one (1) model sign and two (2) flags or pennants for each model home may be placed on the model home lots, at the sales office, or in the parking lot of the subdivision. Such signs and flags shall not exceed four (4) square feet in area and may be double-sided.

(3) Signs shall observe a minimum five (5) foot setback from all property lines and shall not interfere with vehicle sight distance requirements.

(4) Such sign shall be for the identification of a subdivision, price information, and the developer's name, address and telephone number. Signs may be either single-faced or double-faced provided the faces are not more than twelve (12) inches apart and are mounted along parallel planes.

(5) Such signs shall be removed within thirty (30) calendar days from the date of the close of escrow for the final sale of the land or last residence for the first time. The director may grant a written extension of the period for which signs, flags, or pennants may be maintained after the final sale up to a maximum of six (6) months.

(6) Signs shall be maintained in good repair at all times pursuant to section 33-4.

(c) Real estate kiosk signs. Sign panels on a city-approved kiosk structure may be authorized for the purpose of providing directional information to residential developments with units for sale, lease, or exchange (including assisted living developments) located within Escondido's general plan area.

(1) Number. The maximum number of single-faced sign panels allowed shall be ten (10) per development.

(2) Area and dimensions. Sign panels shall be five (5) square feet in total area and shall measure five (5) feet horizontal length by one (1) foot vertical height.

(3) Height. Maximum sign height for a single sign structure (kiosk) shall be eleven (11) feet.

(4) Kiosk structures. All sign panels shall be located on a city-approved kiosk structure.

(5) Permitted locations. Signs shall be located on designated city kiosk structures within the public right-of-way. If, in the opinion of the director, available city kiosk structures will not permit adequate directional information, kiosk structures may be approved by the director on private property with the written permission of the property owner. A kiosk location plan shall be prepared showing the site of each kiosk and shall be submitted to and approved by the planning division prior to the acceptance of a sign permit application.

(6) Sign copy. Each kiosk panel shall contain only the name of the subdivision or residential development, or developer, or development logo, and a logo(s) regarding an award, special certification, or "green" development, and a directional arrow. Community directional panels (city hall, library, parks, districts, historic sites, etc.), at the discretion of the city, may also be allowed on kiosk structures.

(7) Spacing. No real estate kiosk sign shall be placed within three hundred (300) feet of another except when they are across the street from one another. A maximum of seven (7) temporary real estate directional sign panels for different developments may be grouped on a single kiosk structure face. Only one (1) panel per development may be placed on a single kiosk structure face.

(8) Colors. Directional signs shall conform to colors and design standards approved by the director.

(9) Right of entry. All kiosks which are placed on private property must have prior written consent of the property owners to allow the city, in the event of noncompliance, to enter said property and remove the sign. A copy of said consent shall be filed with the planning division prior to the acceptance of a sign permit application.

(10) Changes. Any sign approved for a particular development project within the city shall not be changed to another project without prior approval of the director of community development.

(11) Time period. Permits for sign panels shall be issued for a limited period of time, not to exceed twenty-four (24) months. Following the twenty-four (24) month period, the permittee may apply for one (1) year extensions or all sign panels shall be removed.

(12) Cash deposit. A cash deposit or bond in the amount necessary to remove such sign and an administration fee as may be established by resolution of the city council may be required to be deposited with the city to ensure compliance with the stipulations of this chapter and removal of signs in a timely fashion. Upon confirmation that the sign has been removed, the deposit will be refunded or the bond released. In the event the city removes a sign, due to noncompliance with the permit or these regulations, the full amount of the bond or cash deposit shall be due the city in order to defray enforcement costs.

(13) Unauthorized alterations. There shall be no additions, tag signs, attention-getting devices, or other appurtenances added to the sign as approved.

(14) Lighting. Artificial illumination of real estate kiosk signs by any means is prohibited.

(d) Temporary real estate directional signs. In addition to the approved kiosk sign panels, major subdivisions located within the general plan area of Escondido may also request temporary real estate directional signs.

(1) Number. Up to ten (10) single-faced or double-faced signs per development;

(2) Area. Temporary directional signs shall not exceed four (4) square feet per face nor dimensions of two (2) feet by two (2) feet;

(3) Height. Maximum sign height shall be five (5) feet;

(4) Location. Temporary directional signs shall not be placed within any public right-of-way or be attached to utility poles, nor shall they interfere with vehicle sight distance requirements. Written approval of the property owner(s) is required to be submitted with the application;

(5) Spacing. Each temporary directional sign shall be placed a distance of not less than one hundred (100) feet from any other temporary directional sign or real estate kiosk sign of the same development, except when they are across the street from one another;

(6) Right of entry. All temporary directional signs must have prior written consent of the property owners to allow the city, in the event of noncompliance, to enter said property and remove the sign. A copy of said consent shall be filed with the planning division in conjunction with the sign permit application;

(7) Time periods. Permits for temporary directional signs shall be issued for a limited period of time, not to exceed one (1) year, or until each unit is sold for the first time, whichever occurs first. Following the one (1) year period, the permittee shall apply for a six (6) month extension or all signs shall be removed. The total permitted time period shall not exceed thirty-six (36) months and each application for an extension shall include a right-of-entry consent form from any new property owners involved;

(8) Cash deposit and fee. A cash deposit or bond in the amount necessary to remove such signs and an administrative fee as may be established by resolution of the city council may be required to be deposited with the city to ensure compliance with the stipulations of this chapter and removal of signs in a timely manner. Upon confirmation that the signs have been removed, the deposit will be refunded or the bond released. In the event the city removes a sign, due to noncompliance with the permit or these regulations, the full amount of the bond or cash deposit shall be due the city in order to defray enforcement costs;

(9) Unauthorized alterations. There shall be no additions, tag signs, attention-getting devices or other appurtenances added to the sign as approved;

(10) Lighting. Artificial illumination of temporary real estate directional signs by any means is prohibited.

(e) Bulletin signs.

(1) Any allowable wall or freestanding sign may be a changeable copy sign announcing cultural activities, events or programs to be held on the premises, for the following uses only:

(A) Amphitheaters;

(B) Theaters;

(C) Churches;

- (D) Convention/conference centers;
- (E) Private schools (including day care centers);
- (F) Museums;
- (G) Youth centers;
- (H) City of Escondido or other public body;
- (I) Establishments which offer live entertainment.

(2) All requests for the construction of electronic changeable copy signs shall be considered by the DRB Planning Commission. Requests for manually-changed bulletin signs shall be reviewed by planning staff.

(f) Signs for nonresidential uses in residential zones. Nonresidential facilities and uses located in residential zones subject to a conditional use permit, are allowed one (1) wall sign, a maximum of twenty (20) square feet in area and one (1) freestanding sign, a maximum of twenty-four (24) square feet in area. A freestanding sign three (3) feet high may be located anywhere on the site. A taller sign up to a maximum of six (6) feet high shall maintain the required setback of the zone. For properties with more than five (5) acres and frontage on more than one (1) street, one (1) freestanding sign per street frontage may be allowed. Only one (1) sign per property/use may be a changeable copy sign pursuant to Section 33-1396(e).

(g) Public facilities signs of the City of Escondido. Freestanding signs, wall signs, and bulletin signs for public facilities of the City of Escondido shall be reviewed by the DRB Director for appropriate design and scale for the site pursuant to the design guidelines, but in no event shall any sign exceed the sizes and heights permitted in commercial zones.

(h) Off-site directional signs for approved historical points of interest. In the case of approved historical points of interest, off-site directional signs of a content, size, height above ground, and location acceptable to the city may be approved by the director and the city engineer. To be considered approved, a place or point of interest must be recorded in the national register of historical places, the local register of historic places, or at the California Department of Parks and Recreation as a point of historical interest.

(i) Pole-mounted banners. Pole-mounted banners for the purpose of providing business identification shall be permitted on poles within HP (hospital professional), CG (general commercial), CP (office professional) and PD-C (Planned development—commercial) zones. All proposals for pole-mounted banners shall be reviewed by the planning division for conformance with the following standards:

(1) Banners shall be constructed of vinyl, cloth or similar durable material. Each banner may be double-faced and shall be permitted a maximum area of sixteen (16) square feet.

A maximum of two (2) banners shall be permitted on each pole. Each banner shall be hung on the pole so that the lowest portion of the banner is at least eight (8) feet above the ground.

(2) Banners shall be kept in good condition and may be exhibited year-round. For commercial centers or properties less than three (3) acres in size, the aggregate total of all banners shall not exceed seventy-two (72) square feet.

(3) All banners shall feature color backgrounds and/or graphic images. Text shall be limited to no more than one-half (1/2) of the banner area. All text shall be limited to identifying the business or enterprise on the property only and shall not be used to display products, services or promotions.

(j) Temporary portable signs.

(1) Sunset Clause. This Sub-section 33-1396(j) shall automatically expire two years from the effective date of Ordinance 2012-08, unless extended by the City Council.

(2) Permit Required. With the submittal of a temporary sign permit application, temporary portable signs may be permitted in:

(A) All commercial zones;

(B) All industrial zones for motor vehicle dealers, lumberyard, restaurants, and other permitted uses of similar retail nature, as determined by the director; and

(C) PD-C (Planned Development-Commercial) zones, and commercial centers in specific planning areas outside of the Downtown Specific Plan Area.

(3) Comprehensive Sign Programs/Sign Standards. With the submittal of a temporary sign permit application and the written approval of the landlord, a modification of an approved comprehensive sign program or approved sign standards in a planned development and specific plan area are not required.

(4) Location.

(A) Feather signs may be located anywhere on the parcel of the respective business or within the commonly managed shopping center with the landlord or property manager's permission, and may be located adjacent to Centre City Parkway only for centers and business sites that have direct access to Centre City Parkway.

(B) Sandwich signs shall be located in close proximity to a customer entrance.

(C) Temporary portable signs are prohibited on roofs and shall be located so as not to interfere with vehicle sight distance as defined in this article, visibility at driveways, or disabled access, and shall not be located in, or overhang, the public right-of-way, as determined by the City Engineer.

(5) Quantity. One temporary feather sign and/or one temporary sandwich sign may be permitted for each business establishment with a current business license.

(6) Duration. Approval of a temporary portable sign permit shall be for six consecutive months per year.

(7) Size.

(A) Feather signs shall not exceed 12-feet in height above adjacent grade or 36-inches in width.

(B) Sandwich signs shall be no more than 3'-6" high, 2'-6" wide, and the base width shall not exceed 2'-0". Each face shall not contain more than 7.5 square feet of sign area.

(8) Sign Materials and Construction. All temporary portable signs shall be professional grade signs conforming to the following criteria:

(A) Materials. Temporary portable signs shall be constructed of durable materials, sufficient to withstand inclement weather, as well as color fading due to sunlight. Metal, wood, plastic and UV-coated nylon are typical materials used. Glass and other breakable materials are prohibited. No paper, cardboard, poster board, foam core board or the like will be permitted.

(B) Self-supporting. Temporary portable signs shall be self-supporting and weighted to withstand wind or being overturned by contact. Weights, if required, should be incorporated in the sign construction, not applied.

(C) Sandwich Signs.

(i) Changeable signs shall use slate or plastic with chalk or grease pencil.

(ii) There shall be no projections other than raised carved letters, which shall not project greater than ½" from sign face.

(iii) Signs shall contain no sharp edges or corners.

(iv) Signs shall not have copy or parts that move in a controlled or uncontrolled manner.

(v) Temporary posters, letters, flyers, balloons, pennants, or other attention-getting devices shall not be attached.



CITY OF ESCONDIDO
 PLANNING DIVISION
 201 NORTH BROADWAY
 ESCONDIDO, CA 92025-2798
 (760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
 Attn: Linda Kesian
 P.O. Box 121750
 San Diego, CA 92112-1750

From: City of Escondido
 Planning Division
 201 North Broadway
 Escondido, CA 92025

Project Title/Case No.: Zoning Code Amendment, Case No. AZ12-0001

Project Location - Specific: Citywide

Project Location - City: Escondido, **Project Location - County:** San Diego

Description of Project: Amendments to the Escondido Zoning Code Article 66 – Sign Ordinance to revise Citywide standards pertaining to temporary signs, including special event signs, banners, feather flags, A-frame signs and similar temporary portable signs.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project:

Name: City of Escondido, Planning Division, Rozanne Cherry Telephone: (760) 839-4536
 Address: 201 N. Broadway, Escondido, CA 92025

Private entity School district Local public agency State agency Other special district

Exempt Status:

Categorical Exemption. CEQA Section 15061(b)3 "General Rule".

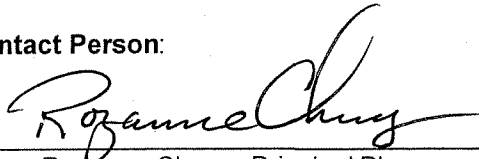
Reasons why project is exempt:

1. The proposed sign code amendment is consistent with the General Plan.
2. Changes to the allowable types of temporary signs will not have a significant effect on the environment.
3. The proposed code amendment does not involve physical modifications and will not cause the removal of any sensitive habitat or affect any cultural or historic resources.

Lead Agency Contact Person:

Area Code/Telephone/Extension (760) 839-4536

Signature: _____


 Rozanne Cherry, Principal Planner

2-23-12

 Date

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant

Rozanne Cherry

From: Barbara Redlitz
Sent: Wednesday, March 07, 2012 12:31 PM
To: kevinmniems@aol.com
Cc: Rozanne Cherry
Subject: RE: Feather flags

Thanks, Kevin. We will include your comments in the staff report.

-----Original Message-----

From: kevinmniems@aol.com [mailto:kevinmniems@aol.com]
Sent: Wednesday, March 07, 2012 12:27 PM
To: Barbara Redlitz
Cc: Rozanne Cherry
Subject: Re: Feather flags

Thank you , Barbara.
I will let you forward this then:)

First, I want to thank everyone for their work and efforts on this endeavor it is much appreciated.

Second, since being able to use my feather flags over the past couple of months we have once again been seeing increases. It has a huge impact that benefits us in a positive fashion. I have figures to provide if you would like. Please also note that when feather flags are in good like new shape it can actually add to the aesthetics visually.

We limit ourselves to 1 per store and are always out of the right ways etc... Very similar to what looks might be proposed.

In terms of potentially not having flags on Centre city maybe it is possible to have more of a set back or designate must be near existing monument signs as to keep the flow of "beauty" but still allow us as owners to get the most potential out of our businesses and allow for our livelihood. If not allowed on CCP we could post on Felecita correct? At least that way we have some visibility to the Felecita flow of traffic.

Any questions, I will make myself available to anyone to help make this work.

Once again thank you very much for your time and consideration, on a subject that is very important to us as business owners. This will both free up red tape and also have a great potential for a positive financial impact for the City:)

Kevin
760-807-0432

On Mar 6, 2012, at 1:52 PM, Barbara Redlitz <Bredlitz@ci.escondido.ca.us> wrote:

> The Planning Commission makes recommendations to the City Council, so it's really your call. You can also submit any comments in writing (or by email) and we'll forward them to the decision makers.

>

> Barb

>

> -----Original Message-----

ORDINANCE NO. 2012-08

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING AN AMENDMENT TO THE
ESCONDIDO ZONING CODE ARTICLE 66
REGARDING FEATHER FLAGS AND OTHER
TEMPORARY PORTABLE SIGNS

Case No. AZ 12-0001

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

SECTION 1. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. That the City council has reviewed and considered the Notice of Exemption prepared on February 23, 2012, for this project in conformance with CEQA Section 15061 (b) (3), "General Rule" and has determined that all environmental issues have been addressed and no significant environmental impacts will result from approving this code amendment.

SECTION 3. That upon consideration of the staff report; Planning Commission recommendation; Factors to be Considered, attached as Exhibit "A" to this Ordinance and incorporated by this reference; and all public testimony presented at the hearings held on this project, this City council finds the Zoning Code Amendments to be consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 4. That Sections 33-1391, 33-1393, 33-1394 and 33-1396 of the Escondido Zoning Code are amended to read as outlined in Exhibit "B," which is attached to this Ordinance and incorporated by this reference.

SECTION 5. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 6. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the City of Escondido.

EXHIBIT "A"

**FACTORS TO BE CONSIDERED
AZ 2012-0001**

1. The public health, safety and welfare will not be adversely affected since this item is only a code amendment to revise the sign code to allow temporary portable signs, no physical improvements are involved, it would not modify any permitted uses or development standards, and it includes provisions that restrict the numbers of and locations for temporary portable signs so as not to conflict with disabled access and vehicle sight distance at driveways and intersections.
2. The proposed Zoning Code amendment would not be detrimental to surrounding properties, since it would not change any permitted uses or development standards, and it would be evaluated at the end of two years.
3. The proposed code amendment would be consistent with the General Plan, since no land uses or policies would be modified or impacted, and the General Plan Community Design Policy C1.2 authorizes the development of standards and guidelines for signage within the city.

EXHIBIT "B"

**REVISED TEXT
AZ 12-0001**

Section 33-1391. Definitions.

The following are definitions of terms contained in this article:

- (1) Abandoned sign means a sign, or portion thereof, advertising or identifying a business, use or activity which has not been in operation for one hundred eighty (180) calendar days or more.
- (2) Advertise means any notice to the public for the purpose of increasing sales or business, announcing the availability of a service or product, or making claims as to the value or quality of any service or product.
- (3) Animated sign. See flashing or moving signs.
- (4) Area of sign and area of super-graphic sign mean the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character, together with any other material or color forming an integral part of the display or used to differentiate such sign from the background on which it is placed. The area of a sign or a super-graphic sign having no such perimeter shall be computed in a reasonable manner by enclosing the entire integral parts of the sign copy area within trapezoids, triangles and/or circles in sizes sufficient to cover the entire area and computing the size of such area. In the case of a double-faced sign where the two (2) faces are of equal size, are parallel to each other, and are not separated more than thirty-six (36) inches, the total area shall be computed as the area of a single display face. In the case of a sign with more than two (2) sign faces where each face contains identical copy, the total area of the sign shall be computed by dividing the total number of sign faces by two (2) (resulting fractional numbers shall be rounded up to the next whole number), and multiplying this number by the sign area of a single face. The supports or uprights of a freestanding sign, the support structure of a monument sign, and other significant architectural features around the copy shall not be included in the sign area. In the case of any cylindrical sign, the total area shall be computed on the total area of the surface of the sign. For multi-shingle/panel signs, the sign area may be calculated by totaling only the area of the individual panels, along with any other copy area.
- (5) Awning means a shelter projecting from and supported by an exterior wall of a building and constructed of non-rigid materials on a supporting framework.

(6) Banner, flag, pennant, balloon or other attention-getting devices means any cloth, bunting, plastic, paper or similar flexible material used for advertising purposes or to attract attention, which is attached to or pinned on any structure, staff, pole, line, framing or vehicle, but not including flags as described in section 33-1393(a)(12) or temporary portable signs as described in section 33-1396(j).

(7) Billboard means a sign structure advertising an establishment, merchandise, service or entertainment which is not sold, produced, manufactured or furnished at the property on which the sign is located (e.g., off-premise signs or outdoor advertising).

(8) Building face and/or frontage means the area of the front building elevation in which the business is located and which faces a street or parking lot excluding driveways. If more than one (1) business is located in a single building, then such area shall be limited to that front portion which is occupied by each individual business.

(9) Building floor area means the total gross leasable space occupied by the business or tenant.

(10) Bulletin sign means any sign erected by the City of Escondido, other public body, theater owner, or other use authorized by this chapter, which is erected upon the same property as the institution for the purpose of announcing events which are held on the premises.

(11) Cabinet sign means an advertising display which is constructed like a box to enclose the source of illumination (internally illuminated) so that the light shines through the translucent portions of the signs copy panel(s).

(12) Canopy/Marquee means a permanent roof-like structure extending from part or all of a building face and constructed of durable rigid material.

(13) Canopy/Marquee sign means a wall sign attached to the face of a canopy or marquee, but not projecting above the top of the canopy or marquee.

(14) Center means a commercial or industrial development which includes two (2) or more tenant spaces in which businesses, structures and parking/circulation are designed as an architecturally integrated and interrelated development. Such design is independent of the number of structures, lots or parcels making up the center.

(15) Changeable copy sign means a sign whose informational content can be changed or altered regardless of the method of attachment or change, or materials of construction.

(16) Commercial, industrial, or professional center means a development which is located on more than one (1) legal lot, but which constitutes a comprehensively designed complex through common or shared use arrangements.

(17) Comprehensive sign program means a sign program for commercial and industrial centers consisting of two (2) or more tenant spaces, which establishes design criteria for all signs in the center and integrates them with building and landscaping design, and achieves architectural compatibility.

(18) Construction or contractor sign means a temporary sign which states the names of the individuals and/or firms connected with the construction of a project. Such signs shall be located at the project site and may include, but are not limited to, the name of the project, the address of the business, and the telephone numbers.

(19) Copy means any words, letters, numbers, figures, designs or other symbolic representations incorporated into the graphic content of a sign.

(20) Design review board means a seven (7) member board of citizens and design professionals, appointed by the city council pursuant to Article 64 of the Escondido zoning code, which reviews plans for new development, modifications to existing facilities, and signs proposed in Escondido to determine consistency with the established design criteria.

(21) Directional/Informational sign means an on-premises sign which contains words such as "entrance," "in," "out," "rest rooms," "no parking" or other similar words, or a sign containing arrows or characters indicating traffic directions used either in conjunction with such words or separately. The sign area shall not be greater than two (2) square feet and the sign not higher than three (3) feet. No directional/informational sign shall contain any advertising or trade name information, although minor business identification, not exceeding twenty (20) percent of the sign area, is allowed for directional purposes. Real estate kiosk and directional signs as defined in sections 33-1396(c) and (d) shall not be included in this category.

(22) *Director* means the director of community development, or a designated representative, whose responsibility it is to administer and enforce the provisions of this article.

(22-1) *Districts* mean designated areas of the community approved by city council resolution or ordinance, including overlay, area and neighborhood plans, historic sections, and specific planning areas.

(23) *Double-faced sign* means a freestanding, hanging or projecting sign where two (2) copy faces of equal size are mounted back-to-back. The two (2) faces shall be parallel to each other and not separated by more than thirty-six (36) inches. One (1) face only will be charged against the permitted sign area.

(23-1) *Feather sign* means a type of freestanding temporary portable sign of flexible material that is plain or includes copy and/or graphics and is supported by a horizontal or vertical pole, including but not limited to feather, flutter, bow, and tear drop flag signs,

(24) *Flashing sign* means any sign which contains or is illuminated by lights which are intermittently on and off, which change intensity or color, or which create the illusion of motion in any manner, including animated signs which manifest a physical movement or rotation in one (1) or more planes or the optical illusion of action or motion. Time and temperature signs where all advertising is excluded are not included in this category.

(25) *Freestanding sign* means a sign which is permanently supported on the ground by one (1) or more uprights, braces, poles, or other similar structural components that is not attached to any building. This category includes both monument and pole-type signs.

(26) *Freeway-oriented sign*. For the purposes of this regulation, a freeway oriented sign means any structure, housing, device, figure, statuary, painting, display, message placard or other contrivance, including a wall sign or freestanding sign, which provides information in the nature of advertising and which has been designed and located adjacent to the right-of-way on Interstate 15 freeway or portions of Highway 78, with the intention that it be viewed and/or read primarily by motorists traveling on Interstate 15 or portions of Highway 78.

(27) *Future tenant identification sign* means a temporary sign which identifies a future use of a site or a future tenant for a building.

(28) *Glazing area sign* means temporary or permanent signs painted on, attached, glued or otherwise affixed to glass windows, doors, or other glass structures, and oriented to the exterior of the building and public view.

(29) *Grand opening sign* means a temporary special event sign used by newly established businesses to inform the public of their location and service available to the community. A grand opening sign may only be installed within sixty (60) days after the business initially opens, and shall not be displayed for more than thirty (30) consecutive calendar days. "Grand opening" does not mean an annual or occasional promotion of retail sales by a business.

(30) *Halo-lit letters* means individual, dimensional letters or symbols with solid opaque faces which are indirectly illuminated by a light source contained within each letter or symbol, where the light is directed upon the wall or background surface behind the letters creating silhouettes of the letters or symbols against the reflected light.

(31) *Height of sign* means the greatest vertical distance measured from the top of the sign, including decorative embellishments, to the finish grade at the point the sign supports intersect the ground.

(32) *Historic sign* means a sign or advertising structure that possesses historic, cultural, architectural, or community interest or value associated with the development, heritage or history of the city.

(33) *Historic site sign* means signage as necessary to identify a historic landmark or a local register property as designated by the City of Escondido.

(34) *Illegal signs* means any advertising display erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use, as well as, signs which have expired permits due to the lack of having had the required inspections per the Uniform Building Code and National Electric Code.

(35) *Illumination.*

(A) External illumination means the illumination of a sign by an external light source that is not a component part of the sign.

(B) Internal illumination means the brightening of a sign by a light source that is a component part of the sign and enclosed within the advertising structure.

(36) *Incidental sign* means a small sign, emblem or decal informing the public of facilities or services available on the premises (e.g., a credit card sign or sign indicating business hours, health rating or licensing).

(37) *Inflatable displays* means any three (3) dimensional ambient air-filled object depicting a container, figure, product or product trade dress.

(38) *Inoperative activity* means a business or activity that has ceased operation at any given location for a continuous period of at least one hundred eighty (180) calendar days.

(39) *Interior sign* means a sign inside any business that is not intended to be seen from outside the building in which the business is located.

(40) *Legal* means authorized or permitted in accordance with procedures defined by ordinance or law.

(41) *Logo* means a trademark or symbol used to identify a business.

(42) *Menu sign* means a sign, located adjacent to a drive-through lane of a food service facility, which lists the products available and the prices, and is designed to be read by the occupants of a vehicle.

(42-1) *Message center, electronic*, means a sign which has a changeable message which may be changed by electronic processes or by remote control and which exposes its message for not less than eight (8) seconds with the interval between messages not less than one (1) second.

(43) *Monument sign* means a low-profile freestanding sign.

(44) *Moving sign* means a sign whose entirety or components rotate or move in any manner to attract attention.

(45) *Multi-shingle (multi-panel) sign* means a freestanding sign composed, in whole or in part, of individual tenant panels without an attached background, typically hung from each other from a cross member supported by posts, and generally separated by a gap not greater than six (6) inches.

(46) *Nonconforming sign* means a sign that does not presently comply with the provisions of this article. A sign that was lawfully erected prior to the enactment of the ordinance codified herein, but now fails to meet any of the standards contained herein shall be considered a legal nonconforming sign.

(47) *Pole sign* means a permanently mounted, freestanding sign which is supported above the ground by one (1) or more uprights, braces, poles, or other similar structural components.

(48) *Portable sign* means a sign which is not permanently attached to a structure or to the ground and is designed to be moved easily.

(49) *Projecting sign* means any sign other than a wall or canopy sign which is attached to and hangs or projects from a structure or any portion of a building.

(50) *Public right-of-way* means a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be or is presently occupied by a road, sidewalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, bikeway, pedestrian walkway or other public use.

(50-1) *Real estate kiosk sign*—See (60) “Subdivision sign kiosk.”

(51) *Real estate sign* means a temporary sign advertising the sale, rent, lease or open house of the property upon which it is located and the identification of the firm handling such sale, lease, rent or open house.

(51-1) *Regional market group* means a defined group of related commercial uses where a marketing or advertising association has been established for the benefit of the regional market group members who are located in a single approved Escondido planned development of more than forty (40) acres with limited visibility from Interstate 15 freeway, and whose market area extends beyond the city limits throughout a larger regional area.

(52) *Regional market sign* means a freeway-oriented sign for a regional market group or affiliated business organization consisting of members of the regional market group, which may include an electronic message center.

(53) *Roof* means the external covering of a building or structure above or covering any exterior or interior vertical wall or other portion of the site.

(54) *Roofline* means the top edge of the roof or top of the parapet, whichever forms the top line of the building silhouette.

(55) *Roof sign* means a sign erected, constructed or placed upon or over a roof of a building, except a mansard roof or canopy which is below the roof of the primary structure which is wholly or partly supported by such buildings.

(56) *Sandwich sign* means a type of portable sign of A-frame construction.

(57) *Sign* means any mark or painted character on any card, cloth, paper, metal, wood, plastic, or any other material visible from outside a structure, mounted to the ground or any tree, wall, bush, rock, fence or structure, either privately or publicly owned. Sign shall also mean any graphic announcement, declaration, demonstration, display, illustration, statuary or insignia used to promote the interest of any person, product, activity or service when the same is placed outdoors in view of the general public.

(58) *Special event sign* means a temporary sign which advertises special events and activities such as, but not limited to, grand openings, charitable events, promotional sales, and Christmas tree sales. Such signs are limited to the provisions listed in this article, Section 33-1396(a).

(59) *Statuary* means statues or sculptures or similar figures that depict products, features, items or logos of a business, excluding those items that are considered design features or complements of the overall site such as wagons, benches, equipment sold or rented on the premises, hand water pumps, troughs, and other like items.

(60) *Subdivision sign kiosk—Real estate kiosk sign* means a city designated sign in the public right-of-way or on private property containing directional panels for residential developments. (61) *Super-graphic sign* means a wall sign displaying a large graphic image with or without text. The graphic image extends beyond the perimeter of the sign text.

(62) *Temporary sign* means any sign that is displayed for a limited period of time as defined in this article.

(63) *Time and temperature sign* means an electronically or electrically controlled changeable copy sign which conveys only information such as the time, date, temperature or atmospheric conditions, where different alternating copy changes are shown on the same copy area. Each message remains displayed for a specific minimum period of time with a total blackout between message changes. The copy shall not travel or appear to travel in any direction. Time and temperature signs shall be included in the permitted wall or freestanding sign area and shall not include any advertising within the changeable copy area.

(64) *Use* means the purpose for which a property, lot, building, sign or other structure is arranged, intended, designed, occupied or maintained as established by the authorized legislative body.

(65) *Vehicle sight distance* means the area through which a driver has a clear view of oncoming vehicle and pedestrian traffic when waiting to proceed at a street corner or driveway. The sight distance at driveways should be at least ten (10) feet on each side of the driveway. At non-signalized corners, the clear view area is typically established by measuring twenty-five (25) feet along the street fronts from each curb return point and drawing a line across the two (2) back points to form a triangular area. Generally, no sign in excess of three (3) feet above the curb grade, or support pole larger than twelve (12) inches in diameter may be installed in this clear view area unless approved by the engineering division.

(66) *Vehicle sign* means a sign which is attached to or affixed in any fashion, painted on, or resting in or on any type of vehicle which is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or an activity or business located on such property as determined by the director.

(67) *Wall sign* means a sign painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign parallel to the plane of such wall. A parapet, mansard, or canopy/marquee sign shall be considered a wall sign provided it is architecturally integrated with the building and does not project above the roof line.

(68) *Window sign*. See "glazing area sign."

Section 33-1393. Exempt and prohibited signs.

(a) Exempt signs. The following signs shall be exempt from the application and sign permit requirements, but must be in conformance with all other requirements of this chapter. A building permit and/or encroachment permit may be required. No sign shall obstruct the vehicle sight distance area at intersections and driveways pursuant to section 33-1391(65).

(1) *Glazing area signs.*

(A) Internal signs affixed to glazing areas and oriented to the exterior and public view, not exceeding twenty (20) percent of the area of glazing on which it is located. Temporary signs may be of expendable materials such as cloth, paper, paint, etc. Permanent signs shall be of nonfading materials permanently applied in a professional manner. Permanent glazing area signs may include incidental signs, and information such as hours of operation or a proprietor's name,

(B) Any window sign used as permanent identification of the business name or logo shall be considered a wall sign and the sign area shall be included in the total wall sign area allowed for the building or tenant space. A sign permit is required for such business sign;

(2) Real estate signs for single and multiple residential rental and sales. One (1) on-site sign per street frontage, up to two (2), not exceeding four (4) square feet in area, provided it is unlit and is removed within fifteen (15) calendar days after the close of escrow or the rental or lease has been accomplished. Up to two (2) riders identifying the agent and/or special feature of the property may be added to the signs. Sign height not to exceed five (5) feet including riders. One (1) on-site and up to three (3) off-site open house signs, not exceeding four (4) square feet in area and five (5) feet in height, are also permitted for the purpose of selling a single house or condominium. Up to three (3) balloons, each not exceeding twenty-four (24) inches in any dimension, may be attached to on-site real estate/open house signs. Other attention-getting devices are not permitted;

(3) Contractor or construction signs.

(A) Residential projects consisting of five (5) units or more and commercial and industrial projects shall be allowed, one (1) wall or freestanding sign on the construction site for all contractors (may include financial institutions, real estate agents, subcontractors, etc.). The sign area may not exceed fifty (50) square feet unless legally required by government contracts to be larger. No freestanding sign shall exceed fifteen (15) feet in overall height. Such sign shall be removed by the contractor(s) upon the granting of occupancy by the city,

(B) Residential projects involving four (4) or less units shall be allowed two (2) wall or freestanding signs. Each sign shall not exceed four (4) square feet in area. Freestanding signs shall not exceed five (5) feet in height. Such signs shall be removed by the contractor(s) upon the granting of occupancy by the city;

(4) Real estate signs for commercial and industrial premises. One (1) sign per street frontage is allowed, up to two (2) signs which advertise the sale, lease or rent of the premises. These signs shall not exceed twenty-four (24) square feet in area for lots/centers three (3) acres or less in size, or forty-eight (48) square feet for lots/centers over three (3) acres in size. These signs may be freestanding signs, wall signs or banners. No such freestanding sign shall exceed eight (8) feet in overall height. Freestanding signs may be double-sided if the panels are of equal size and are mounted back-to-back (parallel) or in a "V" shape if the interior angle does not exceed ninety (90) degrees. The area of only one (1) side of a double-sided sign shall be calculated to determine the area of the sign. Such real estate signs shall be removed within five (5) calendar days after the property to which they refer has been rented, leased or sold;

(5) Interior signs. Devices or displays which are entirely inside a building or in a display space of a lawful show window and are not affixed to the window pane;

(6) Historic site signs, on-premises memorial tablets or plaques. These include those installed by the City of Escondido, a city-recognized historical society, or civic organization, or other displays which do not advertise goods or services;

(7) Directional/informational signs as defined in section 33-1391. Such signs shall not exceed two (2) square feet in area. Freestanding signs shall not be higher than three (3) feet. No directional/informational sign shall contain any advertising or trade name information, although minor business identification, not exceeding twenty (20) percent of the sign area, is allowed for directional purposes. Real estate directional and kiosk signs shall not be included in this category;

(8) Future tenant identification signs may be placed on vacant or developing property or on a vacant tenant space to advertise the future use of an approved project or the future tenant of the suite. One (1) such sign is permitted which shall not exceed twenty (20) square feet in area for a future tenant, or thirty-two (32) square feet for a vacant or developing property. Freestanding signs shall not be higher than eight (8) feet. Any future tenant identification sign shall be removed upon granting of occupancy by the city;

(9) Residence identification signs used to identify individual names and/or addresses of individual residences. Such signs shall not exceed two (2) square feet in area. A maximum of two (2) signs or name plates are allowed per dwelling unit;

(10) Official and legal notices issued by the court, public body, person or officer in performance of his public duty or in giving any legal notice;

(11) Signs providing notice of public hearing, direction, warning, or informational signs or structures required or authorized by law or by federal, state, county or city authority;

(12) Official flags. Up to three (3) official flags of the United States, the State of California, or other states of the nation, counties, municipalities, and official flags of foreign nations. Proposals for more than three (3) flags require a sign permit and design review. If flags are to be displayed on vertical flagpoles, these poles shall be permanently installed with appropriate building permits. Flags of nationally or internationally recognized organizations and corporate or business flags are only permitted if displayed in conjunction with a United States flag. The Flag Code of the United States shall be observed at all times;

(13) Seasonal decorations displayed during a holiday or announcing a community event which do not advertise a specific product or service and are removed within ten (10) working days after the holiday or community event, except as otherwise permitted for temporary window signs;

(14) Signs of public utility companies indicating danger, serving as an aid to public safety, showing the location of underground facilities or public telephones;

- (15) Safety signs on construction sites;
- (16) No trespassing, no parking, and similar warning signs not exceeding four (4) square feet in area;
- (17) Signs on public transportation vehicles including, but not limited to, buses and taxicabs;
- (18) Signs on licensed vehicles; provided, that such vehicles are not used or intended for use as portable signs or as otherwise prohibited in section 33-1393(b);
- (19) Incidental signs for automobile repair stores, gasoline service stations, automobile dealers with service repairs, motels and hotels showing notices of services provided as required by law, trade affiliations, credit cards accepted, and the like, attached to the structure or building; provided, that all the following conditions exist:
 - (A) The signs number not more than four (4) unless required by state law,
 - (B) No such sign projects beyond any property line,
 - (C) No such sign shall exceed an area per face of four (4) square feet per face. Signs may be double-faced;
- (20) Copy attached to fuel pumps or dispensers such as fuel identification, station logo, and other signs as required by law;
- (21) Bill of fare signs for restaurants. Such signs shall not exceed four (4) square feet in area and may be displayed in the window or on the exterior wall in an appropriate manner;
- (22) Agricultural signs, either wall or freestanding types, and nonilluminated to only identify the premise as being associated with a trade organization, or as producing products under registered trade names, or to identify the business name and agricultural products grown on the premises. Such signs shall not exceed four (4) square feet for lots two (2) acres or less and sixteen (16) square feet for lots greater than two (2) acres. One (1) sign per street frontage is allowed with a maximum of two (2) signs per lot. Wall signs shall be located below the roofline. Freestanding signs shall not be higher than six (6) feet, and if higher than three (3) feet shall not be located within twenty-five (25) feet of any property line abutting a street;
- (23) Model unit signs. One (1) feature sign, one (1) model sign and two (2) flags or pennants for each model home may be placed on the model home lots, at the sales office, or in the parking lot area of the subdivision. Such signs and flags shall not exceed four (4) square feet in area and may be double-sided;

(24) Public signs. Signs placed on public property by federal, state or local agencies designed to provide identification or benefit to the public. This exemption does not apply to freestanding, wall, or bulletin signs proposed for public facilities of the City of Escondido;

(25) Scoreboards placed on athletic fields;

(26) Barber poles outside a barbershop;

(27) Commemorative plaques;

(28) Garage and yard-sale signs as permitted by the Escondido Municipal Code section 16-119.

(b) Prohibited signs. Any sign not specifically authorized by this article shall be prohibited unless required by law or otherwise exempted by a local agency pursuant to the Government Code, sections 53090 et seq., of the State of California. The following signs are expressly prohibited:

(1) Roof signs, except a roof-type sign, where permitted by the planning commission as a freeway-oriented sign pursuant to section 33-1395(a)(3);

(2) Flashing signs, including time and temperature signs (unless all advertising is excluded);

(3) Inflatable advertising devices of a temporary or permanent nature, including hot air balloons, unless approved as a special event sign pursuant to section 33-1396(a);

(4) Animated and moving signs;

(5) Searchlights and beacons except as permitted per section 33-1396(a);

(6) Revolving or rotating signs;

(7) Vehicle signs (when parked or stored on property or street for the purpose of identifying a business or advertising a product or service);

(8) Signs without an approved sign permit, unless exempt from the provisions of this chapter;

(9) Portable signs and banners except where permitted by this chapter;

(10) Signs within the public right-of-way, except where required by a government agency or otherwise permitted by section 33-1396(c);

- (11) Signs blocking doors or fire escapes;
- (12) Outside light bulb strings, except for temporary uses such as holiday sales, Christmas tree lots, carnivals and other similar events as defined in section 33-1391(58);
- (13) Readerboard/changeable copy signs, either electric or nonelectric, except time and temperature signs as defined in section 33-1391(63), and other signs permitted pursuant to sections 33-1395.2(b)(3) and (4), 33-1395.10, and 33-1396(e);
- (14) Pennants, streamers, whirligigs, balloons, and other attention-getting devices except as permitted by section 33-1396 of this chapter;
- (15) Signs which purport to be, imitate or resemble official traffic warning devices or signs that by color, location or lighting may confuse or disorient vehicular or pedestrian traffic. This does not include traffic or directional signs installed on private property to control on-site traffic, which do not confuse or disorient vehicular or pedestrian traffic on a public road or right-of-way;
- (16) Off-site real estate and yard sale directional signs other than those permitted by sections 33-1393(a)(2), 33-1396(c) and (d) and Municipal Code section 16-119.
- (17) Billboards and signs that advertise a product, person, business or service not available on the property where the sign is located (off-site signs), and signs placed adjacent to a sign-controlled freeway (see Article 52 of the Escondido zoning code).

Sec. 33-1394. Construction and maintenance of signs.

(a) Construction standards. Every sign and all parts, portions and materials comprising the sign, together with the frame, background, supports or anchorage, shall be manufactured, assembled and erected in compliance with all applicable state, federal and city regulations and the Uniform Building Code.

(b) Maintenance of signs. Every sign and all parts, portions and materials comprising the sign, together with the frame, background, support or anchorage, including those signs otherwise exempt from this chapter, shall be maintained and kept in proper repair. The display surface of all signs shall be kept clean, neatly painted and free from rust or corrosion. Any crack, broken surface, malfunctioning light, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within thirty (30) calendar days following notification by the city. Any cracked, faded, torn, ripped, broken or otherwise damaged temporary portable or feather sign shall be immediately removed from public view until repaired

or replaced. Any sign not properly maintained shall constitute a public nuisance and may be abated per section 33-1398.

Sec. 33-1396. General use signs.

Sign permits may be issued for signs included under this section in any zone in the city unless otherwise designated. Applications for permits for general use signs shall be made as provided in section 33-1392 or as otherwise indicated by this section. These signs are in addition to those signs expressly permitted in particular zones and are subject to the following provisions:

(a) Special event signs. Commercial grand opening and similar signs may be approved by the director for a limited period of time in the CG (general commercial) and CN (neighborhood commercial zones) and for specific uses in the M-1 (light industrial) and M-2 (general industrial) zones, as a means of publicizing grand openings and special events such as new management and promotional sales. In addition, special event signs are also allowed for private schools, day care centers and churches regardless of the zoning. The regulation and limitation of the signs shall be as follows:

(1) In advance of a special event, the business owner shall submit a Temporary Sign application, which includes the dates of the special event and the types of signs to be used. The sizes and locations of the signs shall also be indicated.

(2) Special event signs shall be limited to a maximum of sixty (60) days per calendar year per business, not exceeding thirty (30) consecutive days at any time.

(3) Special event signs may be approved in the M-1 and M-2 zones for motor vehicle dealers, lumberyards, restaurants, and other permitted uses of similar retail nature, as determined by the director.

(4) Special event signs may include balloons, flags, searchlights, beacons, pennants and streamers, banners, portable signs, or other similar devices. Balloons may not exceed twenty-four (24) inches in any dimension.

(5) One (1) special event banner is allowed for each street frontage, except for individual in-line shops in commercial centers where one (1) banner is allowed for each building face fronting on a parking lot or a street.

(6) Each special event banner shall not exceed seventy-two (72) square feet in area.

(7) Large balloons and other inflatable displays may be allowed for a maximum of fourteen (14) days per calendar year. If these balloons and displays are to be ground-mounted, they may not exceed thirty (30) feet in height and, if located in the parking lot, not more than ten (10) percent of the required number of parking spaces may be utilized for the installation of the device, including the required tethering area around it. Roof-mounted inflatable displays shall not extend above the height limit of the zone. A sign permit and nominal fee is required. All requests shall be reviewed by the planning, building and fire departments for compliance with all fire and building codes.

(8) No special event signage (of any type) may be displayed on or attached to any public property including telephone or utility poles, traffic control signs or devices, street lights or other structures located on public property.

(9) No special event signage of any type shall interfere with or restrict vehicular or pedestrian access or visibility.

(10) Automobile sales businesses that sell new vehicle inventory, which are located outside the Escondido Auto Park and in zones other than PD (planned development), shall utilize the Escondido Auto Park standards listed below:

(A) Large, roof-top balloons are permitted for four (4), ten (10) day periods per calendar year.

(B) Helium filled balloons, not exceeding twenty-four (24) inches in any dimension, are permitted on Saturdays, Sundays and for special events. They shall be removed at the close of business each day.

(C) Each dealership shall be permitted to display banners for a maximum of thirty (30) consecutive days for special events, not exceeding one hundred (100) square feet in size per banner.

(D) Window banners, antenna mast flags, wind-driven propellers, streamers, windshield sunshades, stuffed animals and inflatable characters are prohibited.

(E) Temporary twenty-five (25) foot by fifty (50) foot shade tents are permitted in display areas (not customer parking areas) for thirty (30) day periods, or the length of a promotion/event, whichever is less. All requests shall be reviewed by the building division and fire department for compliance with all building and fire codes.

(b) On-site subdivision signs.

(1) One (1) temporary on-site subdivision sign is permitted on each street frontage of the property to be subdivided not to exceed two (2) such signs for any subdivision. Each sign shall not exceed fifty (50) square feet in area and shall not exceed a height of twelve (12) feet.

(2) One (1) feature sign, one (1) model sign and two (2) flags or pennants for each model home may be placed on the model home lots, at the sales office, or in the parking lot of the subdivision. Such signs and flags shall not exceed four (4) square feet in area and may be double-sided.

(3) Signs shall observe a minimum five (5) foot setback from all property lines and shall not interfere with vehicle sight distance requirements.

(4) Such sign shall be for the identification of a subdivision, price information, and the developer's name, address and telephone number. Signs may be either single-faced or double-faced provided the faces are not more than twelve (12) inches apart and are mounted along parallel planes.

(5) Such signs shall be removed within thirty (30) calendar days from the date of the close of escrow for the final sale of the land or last residence for the first time. The director may grant a written extension of the period for which signs, flags, or pennants may be maintained after the final sale up to a maximum of six (6) months.

(6) Signs shall be maintained in good repair at all times pursuant to section 33-4.

(c) Real estate kiosk signs. Sign panels on a city-approved kiosk structure may be authorized for the purpose of providing directional information to residential developments with units for sale, lease, or exchange (including assisted living developments) located within Escondido's general plan area.

(1) Number. The maximum number of single-faced sign panels allowed shall be ten (10) per development.

(2) Area and dimensions. Sign panels shall be five (5) square feet in total area and shall measure five (5) feet horizontal length by one (1) foot vertical height.

(3) Height. Maximum sign height for a single sign structure (kiosk) shall be eleven (11) feet.

(4) Kiosk structures. All sign panels shall be located on a city-approved kiosk structure.

(5) Permitted locations. Signs shall be located on designated city kiosk structures within the public right-of-way. If, in the opinion of the director, available city kiosk structures will not permit adequate directional information, kiosk structures may be approved by the director on private property with the written permission of the property owner. A kiosk location plan shall be prepared showing the site of each kiosk and shall be submitted to and approved by the planning division prior to the acceptance of a sign permit application.

(6) Sign copy. Each kiosk panel shall contain only the name of the subdivision or residential development, or developer, or development logo, and a logo(s) regarding an award, special certification, or "green" development, and a directional arrow. Community directional panels (city hall, library, parks, districts, historic sites, etc.), at the discretion of the city, may also be allowed on kiosk structures.

(7) Spacing. No real estate kiosk sign shall be placed within three hundred (300) feet of another except when they are across the street from one another. A maximum of seven (7) temporary real estate directional sign panels for different developments may be grouped on a single kiosk structure face. Only one (1) panel per development may be placed on a single kiosk structure face.

(8) Colors. Directional signs shall conform to colors and design standards approved by the director.

(9) Right of entry. All kiosks which are placed on private property must have prior written consent of the property owners to allow the city, in the event of noncompliance, to enter said property and remove the sign. A copy of said consent shall be filed with the planning division prior to the acceptance of a sign permit application.

(10) Changes. Any sign approved for a particular development project within the city shall not be changed to another project without prior approval of the director of community development.

(11) Time period. Permits for sign panels shall be issued for a limited period of time, not to exceed twenty-four (24) months. Following the twenty-four (24) month period, the permittee may apply for one (1) year extensions or all sign panels shall be removed.

(12) Cash deposit. A cash deposit or bond in the amount necessary to remove such sign and an administration fee as may be established by resolution of the city council may be required to be deposited with the city to ensure compliance with the stipulations of this chapter and removal of signs in a timely fashion. Upon confirmation that the sign has been removed, the deposit will be refunded or the bond released. In the event the city removes a sign, due to noncompliance with the permit or these regulations, the full amount of the bond or cash deposit shall be due the city in order to defray enforcement costs.

(13) Unauthorized alterations. There shall be no additions, tag signs, attention-getting devices, or other appurtenances added to the sign as approved.

(14) Lighting. Artificial illumination of real estate kiosk signs by any means is prohibited.

(d) Temporary real estate directional signs. In addition to the approved kiosk sign panels, major subdivisions located within the general plan area of Escondido may also request temporary real estate directional signs.

- (1) Number. Up to ten (10) single-faced or double-faced signs per development;
- (2) Area. Temporary directional signs shall not exceed four (4) square feet per face nor dimensions of two (2) feet by two (2) feet;
- (3) Height. Maximum sign height shall be five (5) feet;
- (4) Location. Temporary directional signs shall not be placed within any public right-of-way or be attached to utility poles, nor shall they interfere with vehicle sight distance requirements. Written approval of the property owner(s) is required to be submitted with the application;
- (5) Spacing. Each temporary directional sign shall be placed a distance of not less than one hundred (100) feet from any other temporary directional sign or real estate kiosk sign of the same development, except when they are across the street from one another;
- (6) Right of entry. All temporary directional signs must have prior written consent of the property owners to allow the city, in the event of noncompliance, to enter said property and remove the sign. A copy of said consent shall be filed with the planning division in conjunction with the sign permit application;
- (7) Time periods. Permits for temporary directional signs shall be issued for a limited period of time, not to exceed one (1) year, or until each unit is sold for the first time, whichever occurs first. Following the one (1) year period, the permittee shall apply for a six (6) month extension or all signs shall be removed. The total permitted time period shall not exceed thirty-six (36) months and each application for an extension shall include a right-of-entry consent form from any new property owners involved;
- (8) Cash deposit and fee. A cash deposit or bond in the amount necessary to remove such signs and an administrative fee as may be established by resolution of the city council may be required to be deposited with the city to ensure compliance with the stipulations of this chapter and removal of signs in a timely manner. Upon confirmation that the signs have been removed, the deposit will be refunded or the bond released. In the event the city removes a sign, due to noncompliance with the permit or these regulations, the full amount of the bond or cash deposit shall be due the city in order to defray enforcement costs;
- (9) Unauthorized alterations. There shall be no additions, tag signs, attention-getting devices or other appurtenances added to the sign as approved;

(10) Lighting. Artificial illumination of temporary real estate directional signs by any means is prohibited.

(e) Bulletin signs.

(1) Any allowable wall or freestanding sign may be a changeable copy sign announcing cultural activities, events or programs to be held on the premises, for the following uses only:

(A) Amphitheaters;

(B) Theaters;

(C) Churches;

(D) Convention/conference centers;

(E) Private schools (including day care centers);

(F) Museums;

(G) Youth centers;

(H) City of Escondido or other public body;

(I) Establishments which offer live entertainment.

(2) All requests for the construction of electronic changeable copy signs shall be considered by the Planning Commission. Requests for manually-changed bulletin signs shall be reviewed by planning staff.

(f) Signs for nonresidential uses in residential zones. Nonresidential facilities and uses located in residential zones subject to a conditional use permit, are allowed one (1) wall sign, a maximum of twenty (20) square feet in area and one (1) freestanding sign, a maximum of twenty-four (24) square feet in area. A freestanding sign three (3) feet high may be located anywhere on the site. A taller sign up to a maximum of six (6) feet high shall maintain the required setback of the zone. For properties with more than five (5) acres and frontage on more than one (1) street, one (1) freestanding sign per street frontage may be allowed. Only one (1) sign per property/use may be a changeable copy sign pursuant to Section 33-1396(e).

(g) Public facilities signs of the City of Escondido. Freestanding signs, wall signs, and bulletin signs for public facilities of the City of Escondido shall be reviewed by the Director for appropriate design and scale for the site pursuant to the design guidelines, but in no event shall any sign exceed the sizes and heights permitted in commercial zones.

(h) Off-site directional signs for approved historical points of interest. In the case of approved historical points of interest, off-site directional signs of a content, size, height above ground, and location acceptable to the city may be approved by the director and the city engineer. To be considered approved, a place or point of interest must be recorded in the national register of historical places, the local register of historic places, or at the California Department of Parks and Recreation as a point of historical interest.

(i) Pole-mounted banners. Pole-mounted banners for the purpose of providing business identification shall be permitted on poles within HP (hospital professional), CG (general commercial), CP (office professional) and PD-C (Planned development—commercial) zones. All proposals for pole-mounted banners shall be reviewed by the planning division for conformance with the following standards:

(1) Banners shall be constructed of vinyl, cloth or similar durable material. Each banner may be double-faced and shall be permitted a maximum area of sixteen (16) square feet. A maximum of two (2) banners shall be permitted on each pole. Each banner shall be hung on the pole so that the lowest portion of the banner is at least eight (8) feet above the ground.

(2) Banners shall be kept in good condition and may be exhibited year-round. For commercial centers or properties less than three (3) acres in size, the aggregate total of all banners shall not exceed seventy-two (72) square feet.

(3) All banners shall feature color backgrounds and/or graphic images. Text shall be limited to no more than one-half (1/2) of the banner area. All text shall be limited to identifying the business or enterprise on the property only and shall not be used to display products, services or promotions.

(j) Temporary portable signs.

(1) Sunset Clause. This Sub-section 33-1396(j) shall automatically expire two years from the effective date of Ordinance 2012-08, unless extended by the City Council.

(2) Permit Required. With the submittal of a temporary sign permit application, temporary portable signs may be permitted in:

(A) All commercial zones;

(B) All industrial zones for motor vehicle dealers, lumberyard, restaurants, and other permitted uses of similar retail nature, as determined by the director; and

(C) PD-C (Planned Development-Commercial) zones, and commercial centers in specific planning areas outside of the Downtown Specific Plan Area.

(3) Comprehensive Sign Programs/Sign Standards. With the submittal of a temporary sign permit application and the written approval of the landlord, a modification of an approved comprehensive sign program or approved sign standards in a planned development and specific plan area are not required.

(4) Location.

(A) Feather signs may be located anywhere on the parcel of the respective business or within the commonly managed center with the landlord or property manager's permission, and may be located adjacent to Centre City Parkway only for centers and business sites that have direct access to Centre City Parkway.

(B) Sandwich signs shall be located in close proximity to a customer entry door.

(C) Temporary portable signs are prohibited on roofs and shall be located so as not to interfere with vehicle sight distance as defined in this article, visibility at driveways, or disabled access, and shall not be located in, or overhang, the public right-of-way, as determined by the City Engineer.

(5) Quantity. One temporary feather sign and/or one temporary sandwich sign may be permitted for each business establishment with a current business license.

(6) Duration.

(A) Feather sign permits may be approved for a period of six consecutive months per year.

(B) Sandwich sign permits may be approved for a period of one year.

(7) Size.

(A) Feather signs shall not exceed 12-feet in height above adjacent grade and 36-inches in width.

(B) Sandwich signs shall be no more than 3'-6" high, 2'-6" wide, and the base width shall not exceed 2'-0". Each face shall not contain more than 7.5 square feet of sign area.

(8) Sign Materials and Construction. All temporary portable signs shall be professional grade signs conforming to the following criteria:

(A) Materials. Temporary portable signs shall be constructed of durable materials, sufficient to withstand inclement weather, as well as color fading due to sunlight. Metal, wood, plastic and UV-coated nylon are typical materials used. Glass and other breakable materials are prohibited. No paper, cardboard, poster board, foam core board or the like will be permitted.

(B) Self-supporting. Temporary portable signs shall be self-supporting and weighted to withstand wind or being overturned by contact. Weights, if required, should be incorporated in the sign construction, not applied.

(C) Sandwich Signs.

(i) Changeable signs shall use slate or plastic with chalk or grease pencil.

(ii) There shall be no projections other than raised carved letters, which shall not project greater than 1/2" from sign face.

(iii) Signs shall contain no sharp edges or corners.

(iv) Signs shall not have copy or parts that move in a controlled or uncontrolled manner.

(v) Temporary posters, letters, flyers, balloons, pennants, or other attention-getting devices shall not be attached.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 15

Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council

FROM: Barbara J. Redlitz, Director of Community Development

SUBJECT: Specific Alignment Plan and Final Environmental Impact Report for the Citracado Parkway Extension Project (ER 2006-10, ENG 12-0011)

STAFF RECOMMENDATION:

It is requested that Council adopt Resolution No. 2012-40 approving the Specific Alignment Plan and certifying and approving the Final Environmental Impact Report, CEQA Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program for the Citracado Parkway Extension Project.

PLANNING COMMISSION RECOMMENDATION:

On March 13, 2012, the Planning Commission voted 4-0 (Commissioners Campbell, Lehman and McQuead absent) to recommend approval of the Specific Alignment Plan and Final Environmental Impact Report for the Citracado Parkway Extension Project.

PROJECT DESCRIPTION:

A Specific Alignment Plan, Final Environmental Impact Report, CEQA Findings, Statement of Overriding Considerations for significant and unavoidable traffic and noise impacts, and a Mitigation Monitoring and Reporting Program for the Citracado Parkway Extension Project that improves and extends Citracado Parkway from West Valley Parkway to Andreasen Drive and includes a new bridge over Escondido Creek. The proposed Specific Alignment Plan has been developed to Major Road standards with right-of-way ranging from 102' to 110' wide and includes four vehicle travel lanes, bike lanes, sidewalks and medians. The Final EIR will provide environmental documentation for future actions to implement the project including a proposed annexation of three unincorporated parcels, sphere of influence amendment, prezone, and grading exemptions.

LOCATION:

The proposed Citracado Parkway Extension Project is located partially within the jurisdictional limits of the City of Escondido and partially within an unincorporated portion of San Diego County. The project would widen the existing street section of Citracado Parkway between West Valley Parkway

and Avenida Del Diablo, and construct a Major Road arterial extension of Citracado Parkway from Avenida Del Diablo to Andreasen Drive.

FISCAL ANALYSIS:

Although final design has not been completed, it is estimated the project will cost approximately \$21 million to \$25 million dollars, with \$13 million of that amount being paid by Palomar Pomerado Health. Other funding sources will include HUD, Transnet and Traffic Impact Fees.

GENERAL PLAN ANALYSIS:

Circulation Element – The Circulation Element of the Escondido General Plan classifies Citracado Parkway as a Major Road (102'/110' right-of-way). The extension of Citracado Parkway is identified on the Circulation Element as a future improvement. The proposed project would complete a critical link in the Circulation Element that enhances access to regional medical facilities and accommodates increased traffic generated from anticipated residential and industrial/commercial growth in the area.

Circulation Policy D2.3 states the City shall establish Level of Service (LOS) C as the community goal, but further notes this may not be feasible in all areas at all times. However, LOS C is to be pursued in the ultimate implementation of the Circulation Element.

The proposed project would have a significant adverse impact on the operations of the intersection at Del Dios Highway and Via Rancho Parkway in both year 2014 and 2030 scenarios. The proposed project would reduce the AM LOS value from LOS D to LOS F, and would also cause an incremental contribution to PM traffic volumes at the intersection that would result in a significant increase in motorist delay (greater than 2 seconds) compared to the no project condition. For the 2014 forecast scenario, the proposed project would have a significant adverse impact on the operations of the Via Rancho Parkway street segment south of Del Dios Highway. The Traffic Technical Report indicates that the segment operation would decline from LOS D to LOS E with implementation of the project.

The proposed project would have a significant adverse impact on the operations of the Valley Parkway/Del Dios Highway segment between Citracado Parkway and Via Rancho Parkway in the near-term 2014 scenario. The Traffic Technical Report indicates that the average daily LOS for this segment would be LOS F with or without proposed project implementation. The impact is considered significant due to the incremental contribution of the proposed project to traffic volumes along the segment that would exceed 200 or more ADT.

Various mitigation measures to reduce operational traffic impacts were considered in the Final EIR, such as additional turn lanes at intersections and roadway segment widening. However, these potential mitigation measures were not carried forward because the City determined them infeasible due to factors such as cost, right-of-way constraints, and future transportation improvements to improve the overall circulation system. Because of these social and economic considerations, the mitigation measures to reduce operational impacts are considered infeasible and not included in the Final EIR, or as part of the proposed project. As set forth in the Statement of Overriding Considerations, these operational traffic impacts are acceptable in light of the proposed project's benefits.

Noise Element – The Noise Element of the General Plan establishes a number of policies to provide an acceptable noise environment including exterior and interior noise-level guidelines, site compatibility review, site design considerations, and use of noise barriers where applicable. Noise Policy E1.2 states the City's goal for outdoor noise levels in residential areas is 60 dBA CNEL or less. However, it is recognized that this goal is not always achievable within the realm of economic and aesthetic feasibility. With implementation of the proposed project, near-term noise levels would range from 54 to 71 dBA CNEL.

The proposed project would result in potentially significant impacts at receptors located along the existing and proposed alignment. Sound walls proposed along the existing segment of Citracado Parkway are located at the same location as existing walls/fences along the alignment or at the edge of the future right-of-way. In addition, three walls are proposed on private property (2358, 2368 Avenida Del Diablo and 2207 Harmony Grove Road). While the proposed project would result in a substantial permanent increase in noise levels, with inclusion of the modeled walls in the proposed project at the specified heights, the proposed project would not expose local noise-sensitive receptors to noise levels in excess of 65 dBA CNEL and would not exceed interior noise level standards.

Mitigation has been incorporated to reduce sound levels at nearby residences but will not fully avoid the proposed project's significant noise impacts. While the construction of sound walls will help to reduce noise impacts to sensitive receptors, a number of these receptors will still be impacted and impacts will remain significant and unavoidable as noise levels would continue to exceed 60 dBA CNEL. Furthermore, it cannot be guaranteed that the sound walls proposed on private property will be built, because property owner permission will be required to construct the sound walls. If permission is denied, impacts at these receptors would also be significant and unavoidable. As set forth in the Statement of Overriding Considerations, these noise impacts are acceptable in light of the proposed project's benefits.

Land Use Element – The proposed project area is located partially within the western limits of Escondido and partially within an unincorporated area of San Diego County. All properties within the project area are located within the Escondido General Plan boundary and have been assigned city land use designations.

Surrounding properties on the existing segment of Citracado Parkway within the project area are developed with mobile home parks and single-family residences in the Urban 1 (residential) land use designation. Escondido General Plan land use designations for the future annexation parcels to the north, where the new road would be constructed, include Estate II (residential), SPA 8 (industrial) and Public Land/Parks. This semi-rural area currently has two single-family residences on the three parcels. The future annexation and jurisdictional change from the San Diego County General Plan to the Escondido General Plan would slightly increase the allowable density for Parcels B and C, and change Parcel A from residential to industrial. While land use opportunities would change as a result of the future annexation, the land use designations for these properties have been established in the Escondido General Plan for a number of years and no change is proposed. The forthcoming annexation proposal will include a request to prezone the three parcels with city zoning designations that are consistent with the Escondido General Plan. Because the annexation process is governed by LAFCO and is speculative at this point, a "No Annexation" alternative has been included in the

Final EIR that would allow road construction to proceed if the annexation proposal is rejected. In that case, there would be no change to the land use designations for the County parcels.

ENVIRONMENTAL REVIEW:

A Draft Environmental Impact Report (City Log No. ER 2006-10) was issued for a 45-day public review on September 1, 2011. Responses to comments received on the Draft EIR have been incorporated into the Final EIR. Mitigation measures required under CEQA were developed to reduce the potential for adverse impacts with respect to biological resources, cultural resources, noise, and traffic and circulation. Additional noise and traffic impacts remain significant and unmitigated despite the implementation of feasible mitigation measures.

Sections of the Draft EIR have been clarified or expanded in the Final EIR, but no new significant impacts have been identified, no impacts increased in severity, no new mitigation measures have been identified, and no new alternatives have been identified. As such, the Draft EIR document was not fundamentally or basically inadequate in nature and the conclusions do not require reevaluation or recirculation. Staff feels the Final EIR adequately addresses all project-related issues.

BACKGROUND:

The proposed Citracado Parkway Extension Project is the third phase of a four-phase project to extend Citracado Parkway from I-15 to SR-78. Phases 1 and 2 from SR-78/Nordahl to the southern boundary of the Escondido Research and Technology Center (ERTC) have already been completed. This project would extend and improve the roadway from the ERTC south to West Valley Parkway.

The proposed project would widen the existing segment of Citracado Parkway between West Valley Parkway and Avenida Del Diablo. The improvements would include an additional travel lane in each direction through median-width reduction (35 to 14 feet), resulting in a four-lane roadway. The proposed project would also require new roadway construction north of Avenida Del Diablo to Andreasen Drive and a new bridge crossing Escondido Creek. The new roadway and bridge will require landform alterations including cut and fill slopes with heights that may necessitate grading exemptions once final design is completed. Minor street realignments and/or grade adjustments are also proposed for the intersection of Kauana Loa Drive with Harmony Grove Road. A new four-leg intersection would be constructed to accommodate the pending extension of Lariat Drive from the west and a new employee access road from the east for the City's wastewater treatment facility (HARRF).

In an effort to keep the proposed roadway extension within the jurisdictional limits of Escondido, the City intends to process an annexation application for three parcels crossed by or in proximity to the proposed roadway extension. Parcels A, B, and C correspond to APN #'s 235-040-15, 235-040-05, and 235-040-50, respectively. Annexing the parcels would avoid the potential need for a joint jurisdictional operation and maintenance agreement between the County and the City. All three parcels are outside the City's Sphere of Influence (SOI) boundaries and would therefore require an SOI boundary adjustment in conjunction with the annexation.

PLANNING COMMISSION RECOMMENDATION AND SUMMARY:

On March 13, 2012, the Planning Commission voted 4-0 (Commissioners Campbell, Lehman and McQuead absent) to recommend approval of the Specific Alignment Plan and Final Environmental Impact Report for the Citracado Parkway Extension Project.

The Commission requested a clarification as to whether additional right-of-way was needed on the existing portion of Citracado Parkway. Staff noted the two new travel lanes in this area would be constructed by reducing the width of the center median and that no additional right-of-way was needed next to the mobile home parks. Commissioner Winton questioned whether the three parcels proposed for a future annexation could be zoned for industrial uses now as envisioned in the General Plan Update. Staff responded that two of the parcels currently had residential General Plan designations and would have to be assigned residential zoning if they were annexed prior to adoption of the proposed General Plan change for this area.

Chairman Caster asked staff to respond to comments from a representative of the Escondido Creek Conservancy who suggested the project did not take into consideration the Revealing Escondido Creek Plan prepared by Cal Poly students. Staff noted the project preserved an opportunity for trail connectivity along Escondido Creek by incorporating a location for a trail underneath the bridge. The other open space design elements identified in the plan for this area were still conceptual in nature, and while not yet adopted by the Council as part of a Master Plan, the opportunity for future implementation still existed.

Following some additional discussion on noise walls, flood water flows, and traffic volumes on Hale Avenue, the Planning Commission voted unanimously to recommend approval of the proposed Specific Alignment Plan and Final EIR.

PUBLIC COMMENT:

Nine citizens provided testimony at the Planning Commission hearing. Approximately five of the speakers were residents of the three mobile home parks that adjoin Citracado Parkway on both sides of the street between Avenida Del Diablo and West Valley Parkway. Most of these residents expressed concern regarding noise and whether traffic volumes would affect their ability to enter and exit their parks. Staff and the consultants noted that new sound walls would be installed for the Mountain Shadows and Casa de Amigos mobile home parks, and that a new traffic signal would be installed at their entry driveways where they intersect Citracado. The use of noise walls for The Views Mobile Home Park would not be effective due to the differences in elevation between the street and the park. Engineering staff noted once Citracado was constructed and operational they would evaluate a request from residents of The Views to restrict the right-turn-on-red for the southbound Citracado to westbound West Valley Parkway turning movement. The Views residents felt this would enhance their ability to exit their park onto West Valley Parkway.

Residents living along Avenida Del Diablo and Kauana Loa Drive voiced concern regarding off-site noise impacts caused by traffic with implementation of the proposed project. The proposed project does not generate traffic. However, implementation will result in traffic re-distribution. While the City recognizes that traffic-related noise will increase at certain locations with implementation of the

proposed project, off-site impacts at the locations mentioned by the residents were considered to be less than significant due to the distance from Citracado Parkway.

A representative from the Elfin Forest Harmony Grove Town Council expressed concern about the City's response to their comment submitted relating to the loss of multi-use recreational trails within the project area, specifically referencing the Powerline Trail #7 in the County's Community Trails Master Plan. The Response to Comment in question (refer to Chapter 10 of the FEIR; Response G-37) accurately states that there are no existing County-designated trails located within the proposed project area. However, it should be clarified that there are two proposed trails in the vicinity of the project. As described in the County's Community Trails Master Plan document and shown on the North Country Metro Community Trails Map, there is a proposed trail following Escondido Creek that would traverse the project area. This proposed trail is identified within the Plan as Trail #14: Escondido Creek Trail. This trail is also included in the City of Escondido Master Plan for Parks, Trails and Open Space. While the trail itself is not part of the proposed project, the proposed Escondido Creek Bridge has been designed to accommodate this future trail. As such, implementation of the proposed project would not prevent the future development of this proposed trail. The Powerline Trail, identified as Trail #7 in the Plan, is also proposed within the County Community Trails Master Plan. According to the Trails Map, this proposed trail ends at the corporate city limits and does not extend into the project area. It is recognized that this proposed trail could connect to the ERTC via Kauana Loa Drive and the new sidewalks that would be implemented as part of the proposed Project; however, implementation of the proposed project would not prevent access to, or future use of, this proposed trail.

The Elfin Forest Harmony Grove Town Council representative also noted that the Final EIR references the Traffic Impact Analysis for Palomar Medical Center (PMC). Specifically on page 3.10-9 it refers to Harmony Grove Road as a future four-lane roadway. Harmony Grove Road was downgraded to a two-lane roadway in the County's General Plan. The Traffic Section of the Citracado Parkway EIR discusses the PMC traffic study but relies on the traffic study prepared for the proposed project. This traffic study considers Harmony Grove Road as a two-lane roadway in all future scenarios (2014 and 2030). Therefore, the impact analysis for this roadway is considered accurate and adequate.

A Notice of Preparation (NOP) was issued at the start of the EIR process on April 11, 2007. The NOP was distributed to approximately 90 organizations, interested parties, federal, state and local agencies. A total of twelve comment letters were received during the NOP 30-day review period. A public scoping meeting was held on April 26, 2007, to give the public an opportunity to provide comments related to the proposed project and present issues the public would like to see addressed in the EIR.

The Draft EIR was distributed for public review from September 1, 2011, to October 17, 2011. Fifteen comment letters were received during the 45-day public review period. Comments received during the public review period were varied and included the sensitivity of cultural and biological resources in the area, concern about the proposed annexation and sphere of influence amendment with respect to differences between the Elfin Forest Harmony Grove Community Plan and the Escondido General Plan, and the need to coordinate improvements and traffic mitigation with the County of San Diego. The comment letters and responses have been incorporated into Chapter 10 of the Final EIR.

DISCUSSION:

Adoption of the Specific Alignment Plan and certification of the Final EIR would support the right-of-way acquisition process and allow some of the pre-construction mitigation work to proceed once rights of entry, easements or right-of-way are acquired. Staff will also finalize a contract proposal for final design of the street improvements identified in the Specific Alignment Plan and process the annexation and prezone application through LAFCO. Certification of the Final EIR also will allow staff to start work toward securing state and federal agency permits for the project.

Respectfully Submitted,

Handwritten signature of Barbara J. Redlitz in cursive, with a circled 'RH' or similar initials at the end.

Barbara J. Redlitz
Director of Community Development

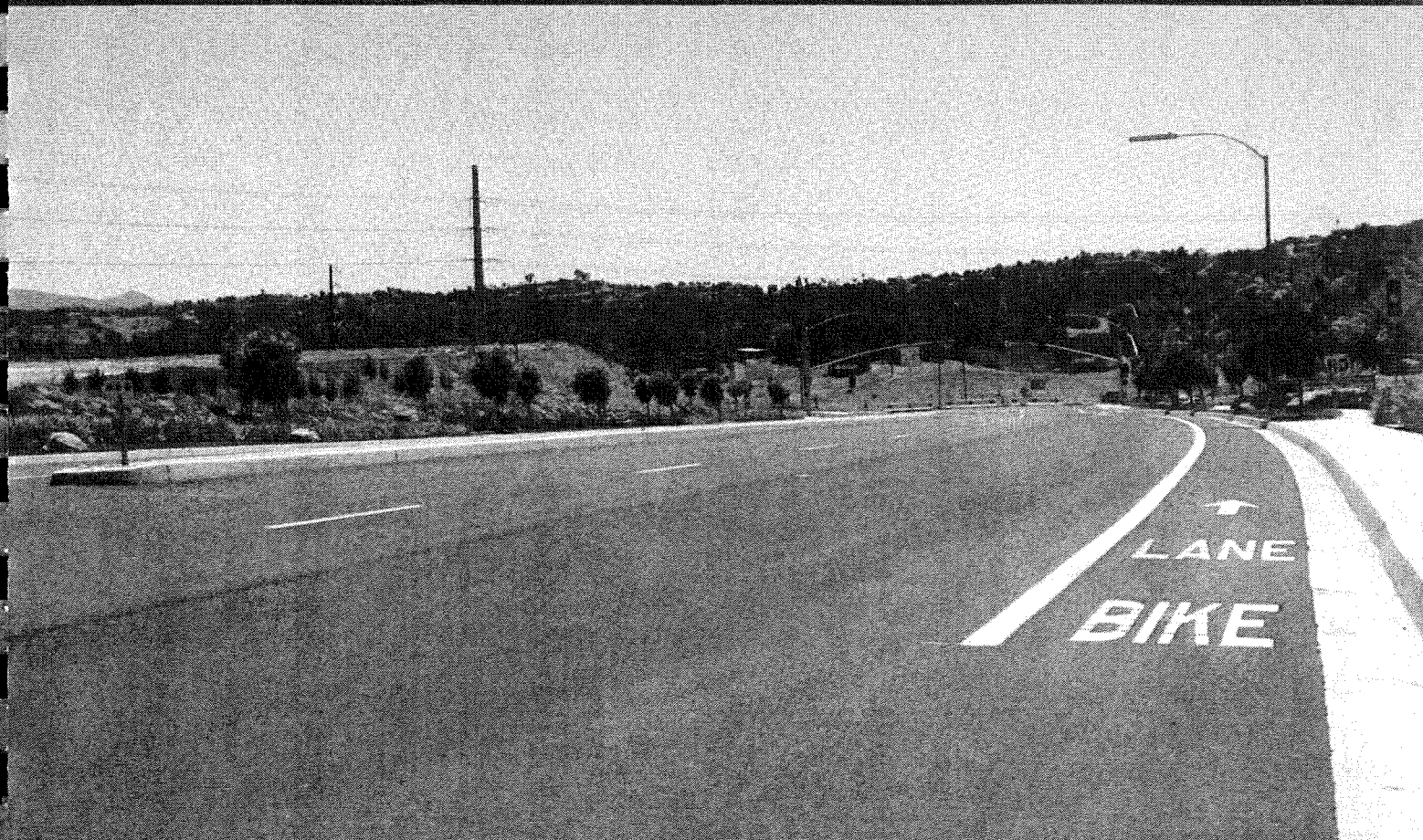
Handwritten signature of Bill Martin in cursive.

Bill Martin
Principal Planner

*Final
Environmental Impact Report*

CITRACADO PARKWAY EXTENSION PROJECT

*City File # ER-2006-10
SCH# 2007041061*



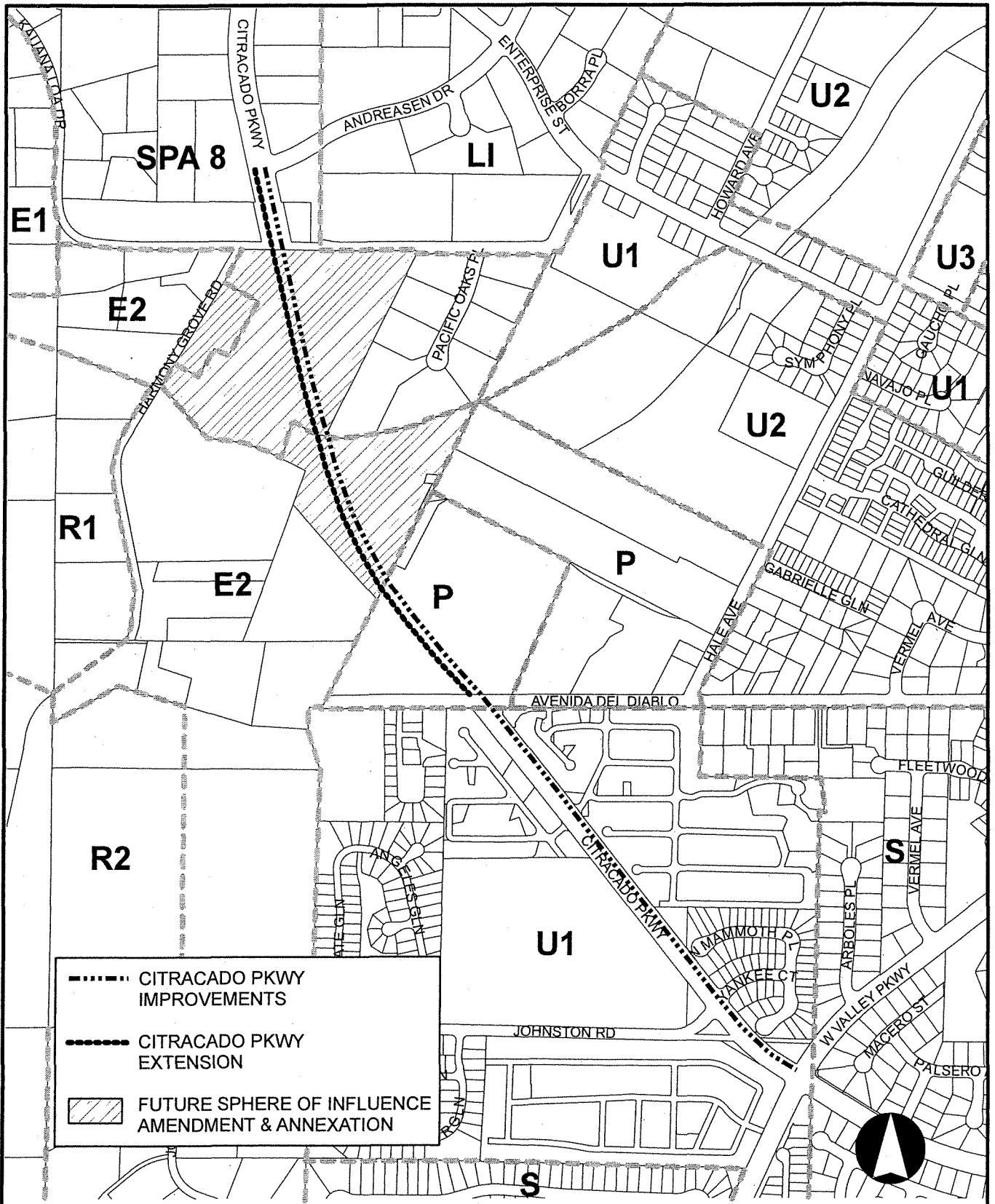
**Hand Distributed
to Council on
4/4/12**

February 2012

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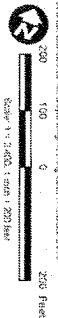
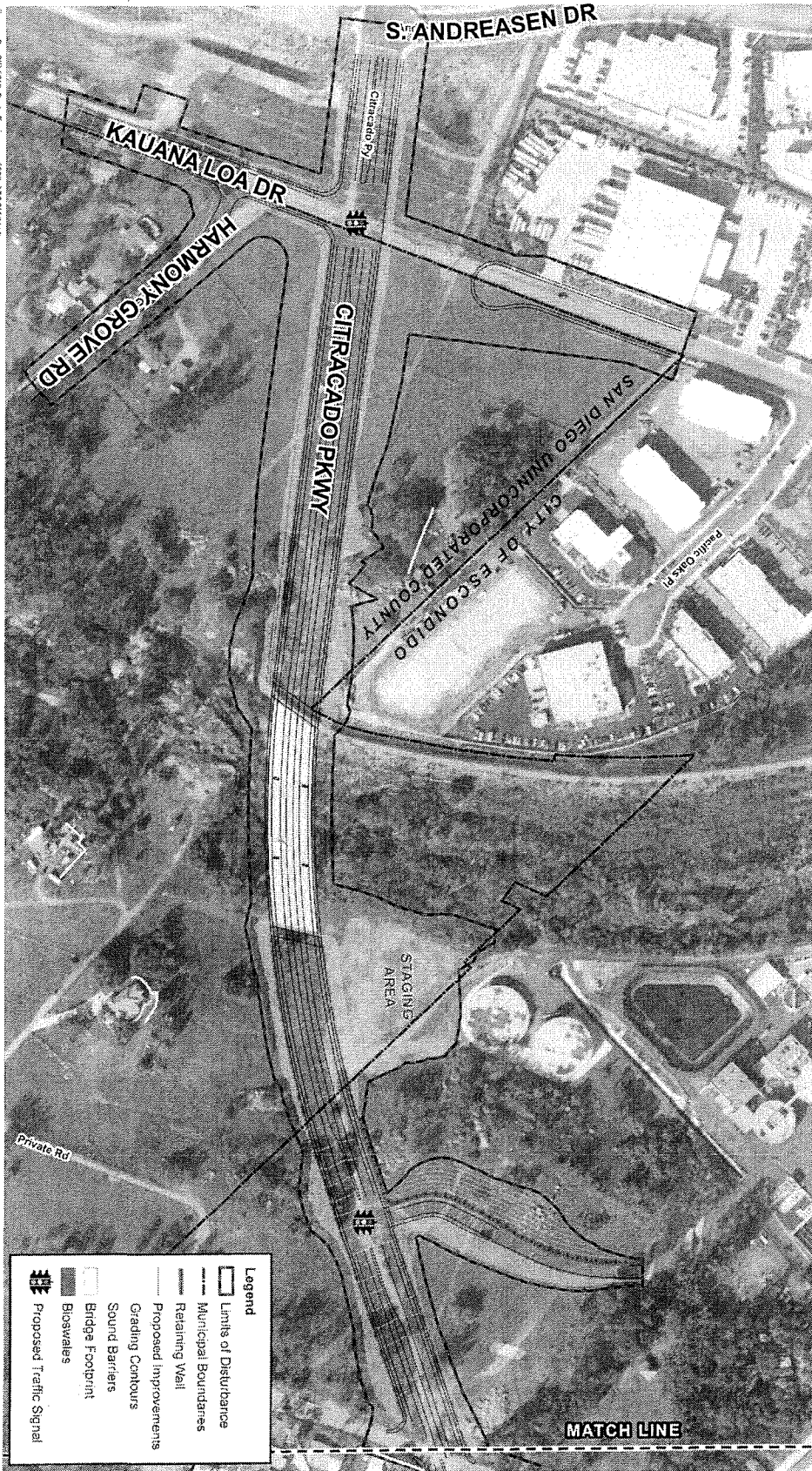




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**PROPOSED PROJECT
ER 2006-10**





Citracado Parkway Extension Project Draft EIR
 State Symbols: State Route Designation: SR 52, SR 56, SR 58, SR 67, SR 94, SR 163, SR 163A, SR 163B, SR 163C, SR 163D, SR 163E, SR 163F, SR 163G, SR 163H, SR 163I, SR 163J, SR 163K, SR 163L, SR 163M, SR 163N, SR 163O, SR 163P, SR 163Q, SR 163R, SR 163S, SR 163T, SR 163U, SR 163V, SR 163W, SR 163X, SR 163Y, SR 163Z, SR 164, SR 165, SR 166, SR 167, SR 168, SR 169, SR 170, SR 171, SR 172, SR 173, SR 174, SR 175, SR 176, SR 177, SR 178, SR 179, SR 180, SR 181, SR 182, SR 183, SR 184, SR 185, SR 186, SR 187, SR 188, SR 189, SR 190, SR 191, SR 192, SR 193, SR 194, SR 195, SR 196, SR 197, SR 198, SR 199, SR 200, SR 201, SR 202, SR 203, SR 204, SR 205, SR 206, SR 207, SR 208, SR 209, SR 210, SR 211, SR 212, SR 213, SR 214, SR 215, SR 216, SR 217, SR 218, SR 219, SR 220, SR 221, SR 222, SR 223, SR 224, SR 225, SR 226, SR 227, SR 228, SR 229, SR 230, SR 231, SR 232, SR 233, SR 234, SR 235, SR 236, SR 237, SR 238, SR 239, SR 240, SR 241, SR 242, SR 243, SR 244, SR 245, SR 246, SR 247, SR 248, SR 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999, SR 1000.

Figure 2-2
 Project Features: Roadway Extension

**PROPOSED PROJECT
 ER 2006-10**



SITE PLAN



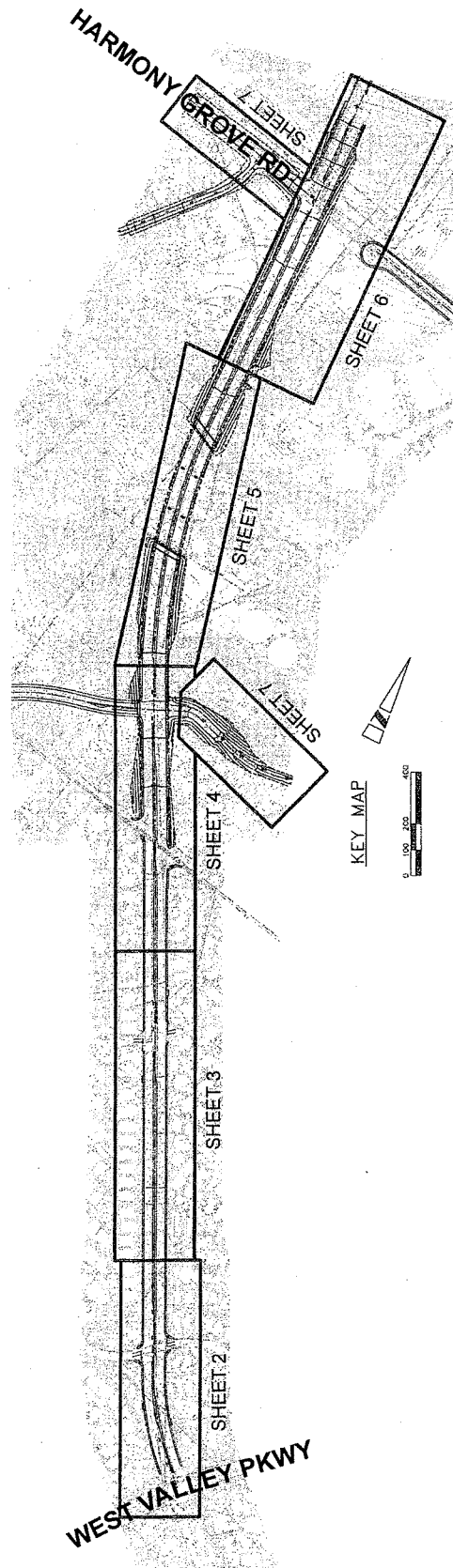
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 Project: Citracado Parkway Extension Project Draft EIR

Project Features: Roadway Extension
 Figure 2-3

**PROPOSED PROJECT
 ER 2006-10**



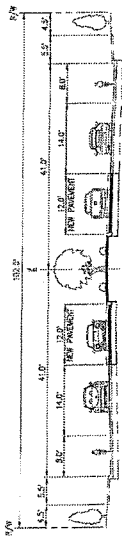
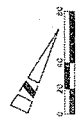
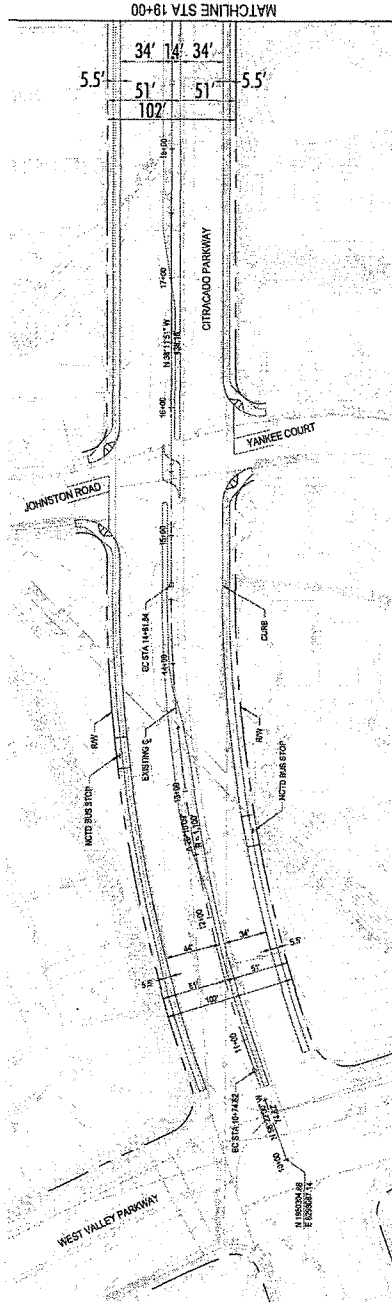
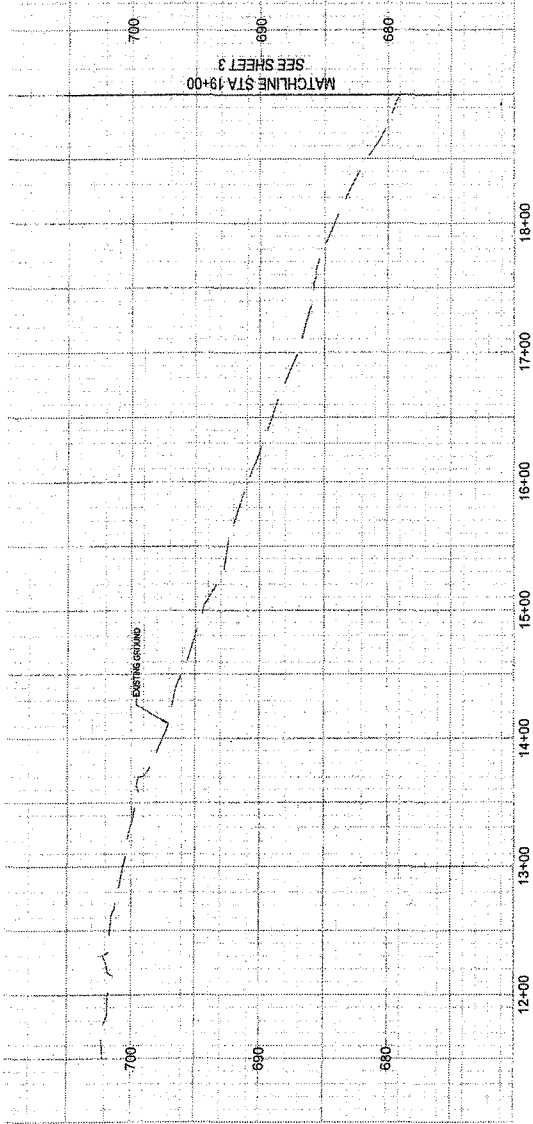
SITE PLAN



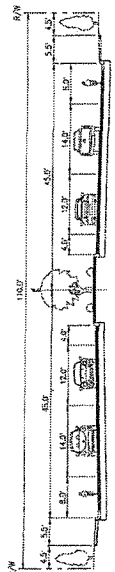
**PROPOSED PROJECT
ER 2006-10**



SITE PLAN



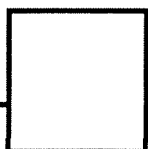
CITRACADO PARKWAY
WEST VALLEY PARKWAY to AVENIDA DEL DIABLO
SCALE 1"=10'

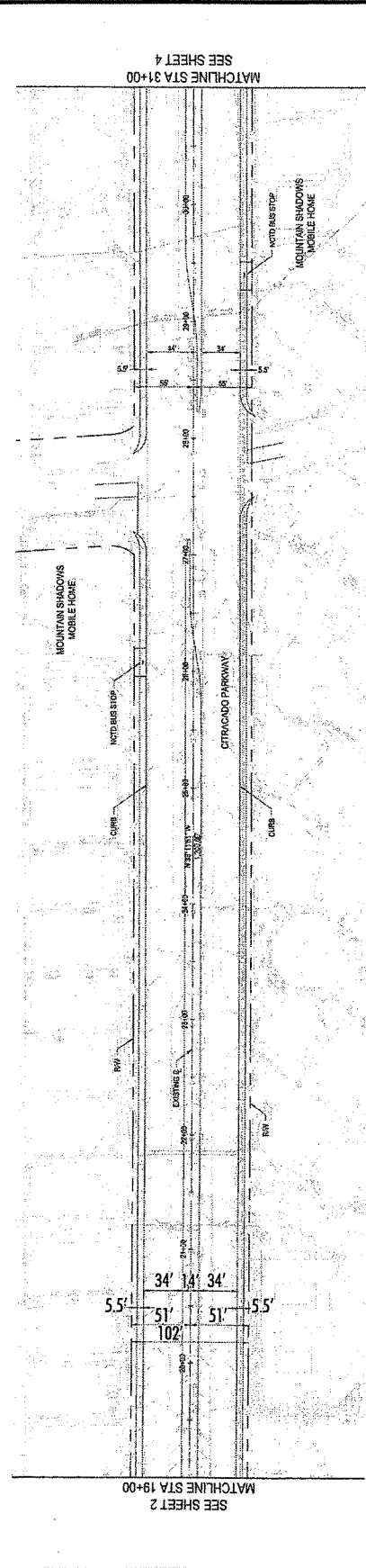
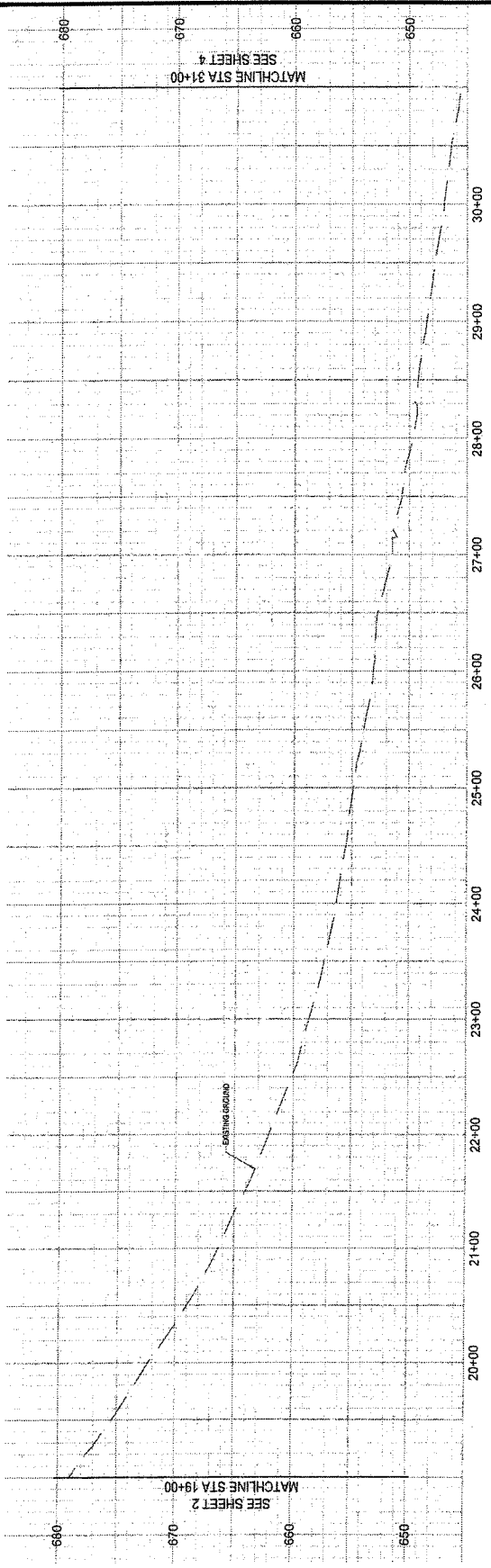


CITRACADO PARKWAY
AVENIDA DEL DIABLO to ANDREASEN DRIVE
SCALE 1"=10'

DESIGN CRITERIA
DESIGN SPEED = 50 mph
MINIMUM STOPPING SIGHT DISTANCE (SSD) = 430'

**PROPOSED PROJECT
ER 2006-10**



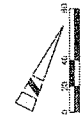
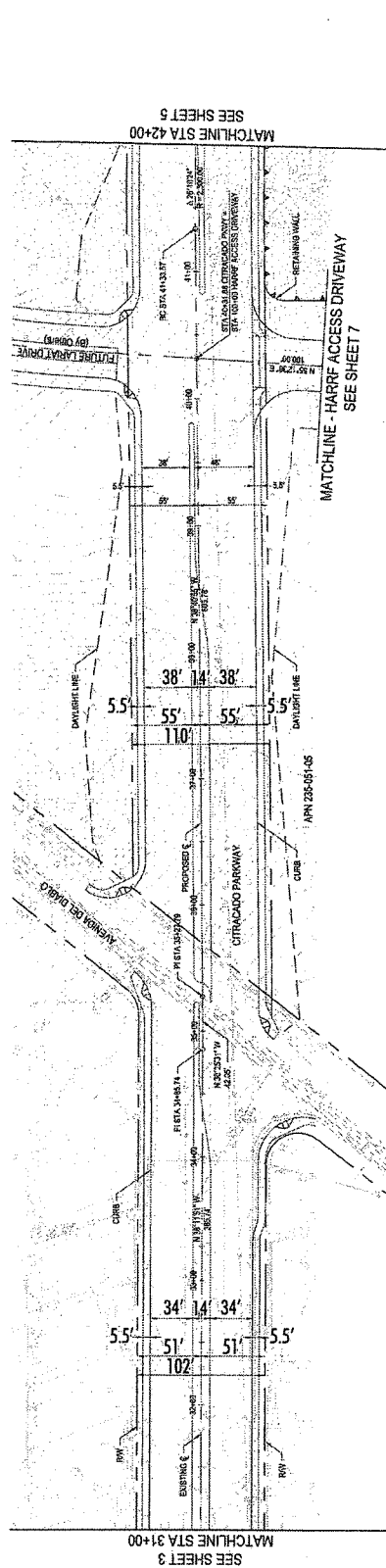
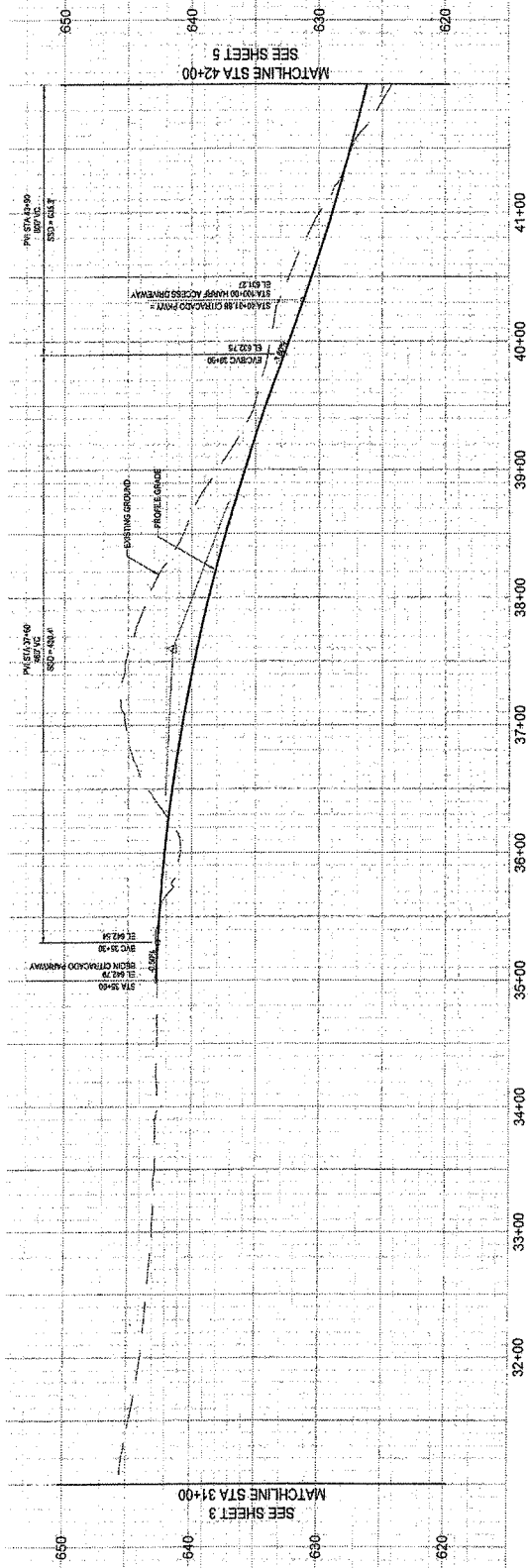


SHEET 3

**PROPOSED PROJECT
ER 2006-10**



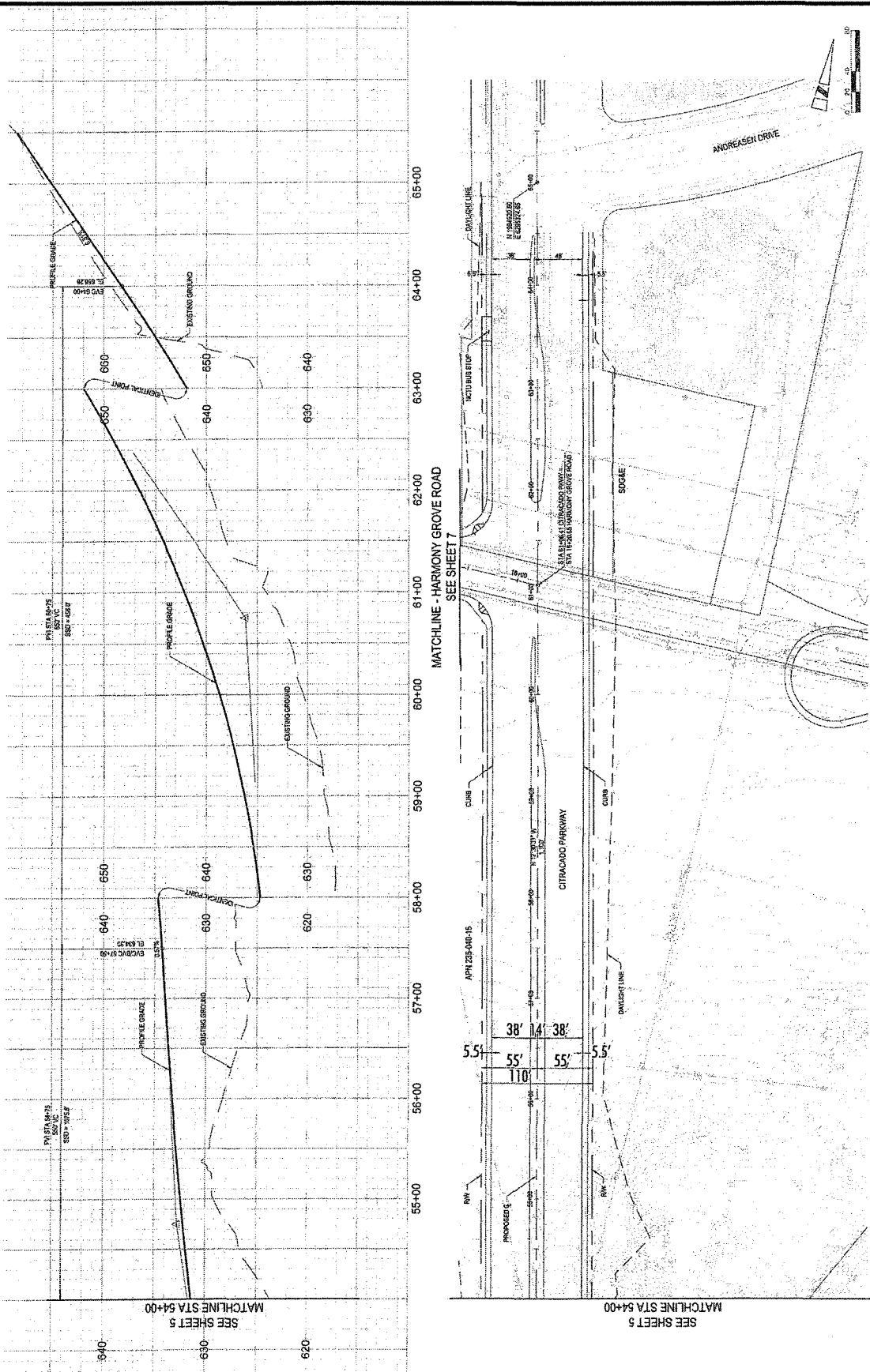
IMPROVEMENT PLAN



SHEET 4

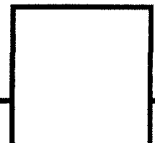
**PROPOSED PROJECT
ER 2006-10**

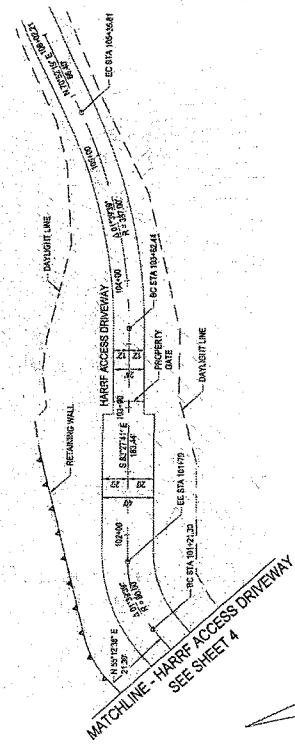
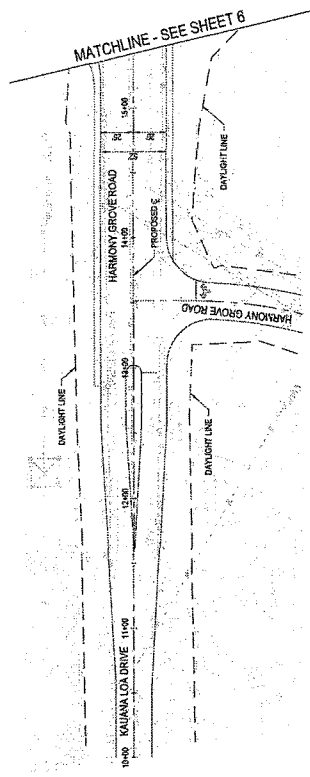
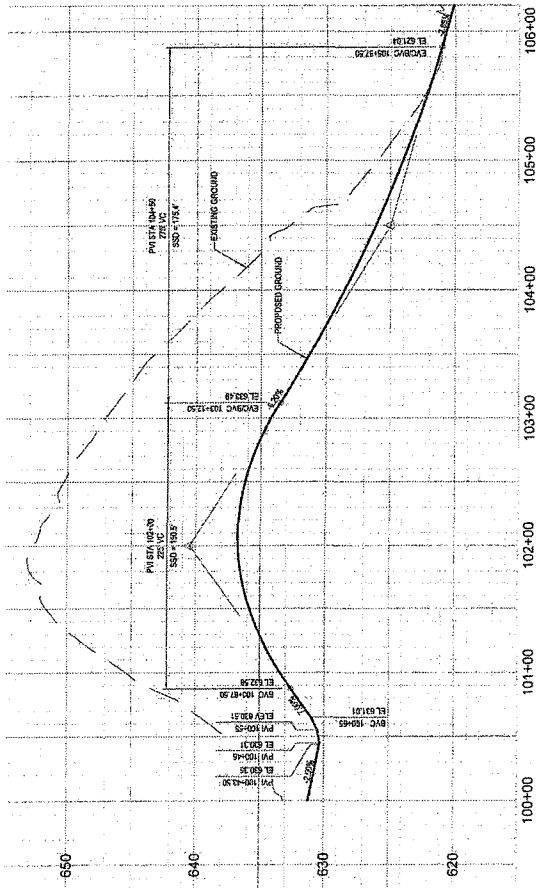




SHEET 6

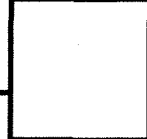
**PROPOSED PROJECT
ER 2006-10**





SHEET 7

**PROPOSED PROJECT
ER 2006-10**



IMPROVEMENT PLAN

Planning Commission Minutes 3/13/12

Chairman Caster asked Mr. Dolyniuk if they intended on expanding their skilled nursing component. Mr. Dolyniuk replied in the negative.

Dennis Pasch, Escondido, noted that during the original approval the residents were guaranteed that the facility would have no on-street parking impacts. He stated that he could not park in front of his residence due to the amount of employee parking occurring. He indicated that he had complained numerous times to the City to no avail. He asked that a parking report be completed showing that the parking was adequate for the facility.

Chairman Caster asked staff to respond to Mr. Pasch's comments regarding parking. Mrs. Cherry noted that the previous approvals had no restrictions with regard to on-street parking. She also stated that a parking study was conducted in 1990 which showed that the 130 spaces on campus were adequate. She also stated that the parking was reviewed each time a modification was requested.

Chairman Caster asked if the parking conditions were consistent with the City's parking guidelines. Mrs. Cherry noted that the first approval in 1973 included a variance to reduce the amount of parking.

Commissioner Winton asked if Condition No. 4 was superfluous. Mr. Tunnell noted that this was a standard condition, noting that engineering would not be requiring this condition because the Fire Department had indicated it was not needed.

Commissioner Winton asked staff to respond to Mr. Dolyniuk's comments regarding sidewalks. Mr. Tunnell noted that Engineering was looking for reasonable ADA access and connectivity from the units to the intersection crossing at Tulip and Redwood. He noted that the condition allowed some flexibility for property owners who did not want their driveways altered.

ACTION:

Moved by Commissioner Winton, seconded by Commissioner Yerkes, to approve staff's recommendation. The motion included revising Condition No. 4 to clarify that it only applied to fire protection facilities required at this time. Motion carried unanimously. (4-0)

2. SPECIFIC ALIGNMENT PLAN AND FINAL ENVIRONMENTAL IMPACT REPORT – ER 2006-10; ENG 12-0011:

REQUEST: A request to approve a Specific Alignment Plan, Final Environmental Impact Report, CEQA Findings, Statement of Overriding Considerations for significant and unavoidable traffic and noise impacts, and a Mitigation Monitoring and Reporting Program for the Citracado Parkway Extension Project that

improves and extends Citracado Parkway from West Valley Parkway to Andreasen Drive and includes a new bridge over Escondido Creek. The proposed Specific Alignment Plan has been developed to Major Road standards with right-of-way ranging from 102' to 110' wide and includes four vehicle travel lanes, bike lanes, sidewalks and medians. The Final EIR will provide environmental documentation for future actions to implement the project including a proposed annexation of three unincorporated parcels, Sphere of Influence amendment, prezone, and grading exemptions.

PROJECT LOCATION: The proposed Citracado Parkway Extension Project is located partially within the jurisdictional limits of the City of Escondido and partially within an unincorporated portion of San Diego County. The project would widen the existing street section of Citracado Parkway between West Valley Parkway and Avenida Del Diablo, and construct a Major Road arterial extension of Citracado Parkway from Avenida Del Diablo to Andreasen Drive. The new roadway would be built to accommodate the pending extension of Lariat Drive from the west.

Bill Martin, Principal Planner, referenced the staff report and noted staff recommended adoption of the Specific Alignment Plan and certification of the Final EIR which would support the right-of-way acquisition process and allow some of the pre-construction mitigation work to proceed once rights of entry, easements or right-of-way were acquired. Staff would also finalize a contract proposal for final design of the street improvements identified in the Specific Alignment Plan and process the annexation and prezone application through LAFCO. Certification of the Final EIR also would allow staff to start work toward securing state and federal agency permits for the project. Mr. Martin then introduced Robert Zaino, Deputy Director of Engineering Service; Kirk Bradbury, Consultant (AECOM); Michelle Fehrensen, Consultant AECOM; and John Bridges, Consultant AECOM.

Commissioner Winton and staff discussed the zoning designation for the three unincorporated parcels in relation to the subject proposal and the General Plan update.

Chairman Caster asked if the internal noise levels would be compatible with the City's noise ordinance. Ms. Fehrensen replied in the affirmative.

Chairman Caster asked if the intersection of Del Dios and Via Rancho Parkway was slated to be improved with the Harmony Grove project. Mr. Bridges replied in the affirmative.

Commissioner Yerkes asked if any right-of-way would be acquired along the existing portion of Citracado Parkway. Mr. Bradbury replied in the negative.

Kevin Barnard, Board member of Escondido Creek Conservancy, expressed concern with the EIR not taking into consideration the Revealing Escondido Creek Plan prepared by Cal Poly and presented to the City Council. He felt the project lent itself to providing a bridge undercrossing for a creek trail. He suggested looking at federal funding for urban creek rehabilitation.

David Mishalof, Escondido, expressed concern with vehicle speed increasing on Citracado with the proposed project. He also felt the sound wall should be extended further east along Avenida Del Diablo.

Mid Hoppenrath, Harmony Grove, representing Elfin Forest/Harmony Grove Town Council, stated that they disagreed with page 386 in chapter 10 of the final EIR. She stated that the LAFCO decision to allow annexation was discretionary, noting their view was that the LAFCO commissioners would consider their existing county approved community plan. She also stated that the last page of the EIR acknowledged that the proposed project conflicted with the land use policies identified in the Elfin Forest/Harmony Grove community plan. She stated that they disagreed with the City's position that no mitigation was required. She stated that the County's circulation plan showed two lanes which was in conflict with the staff report showing additional lanes. Ms. Hoppenrath noted that the extension of Citracado Parkway would block a critical connection to the Powerline Trail which was classified as a First Priority Trail in the County Trail Plan, noting there was no mitigation being proposed for the loss of this connection. In conclusion, she asked that the City identify suitable mitigation measures for the conflict created by the proposed annexation to Harmony Grove and the loss of the multi-trail system by the proposed annexation.

Robert Heil, Escondido, asked that a sufficient sound wall be installed for mitigating the noise created by the additional traffic and that a traffic signal and crosswalk be installed. He suggested extending the sound wall to the corner of Avenida Del Diablo and continuing up the edge of the mobile home park.

Don Creasman, Escondido, concurred with extending the sound wall to the intersection on the southeast side of Avenida Del Diablo so as to mitigate sound.

James Melser, Escondido, asked for a clarification regarding where the sound wall would be located. Mr. Martin explained where the sound walls were proposed.

Mr. Melser asked if a sound study was conducted in the unmitigated areas. Ms. Fehrensen noted that the Mr. Melser's property was outside the study area. Mr. Melser asked if his property would be used for storage during the construction. Mr. Martin replied in the negative, noting they had already designated a staging area.

Commissioner Winton asked if the reason Mr. Melser's property was not studied was due to it being outside the noise impact area. Ms. Fehrensen replied in the affirmative, noting that sound studies were conducted on the property in front of Mr. Melser's residence which were below the sound thresholds.

Donald Uribe, Escondido, President of Escondido Views, noted that their primary concern had to do with exiting and entering the mobile home park. He suggested that the City install "No Turn on Red" signage for motorists turning right from Citracado onto West Valley Parkway. He also suggested installing additional sound walls so as to mitigate any noise for Escondido Views.

Cindy Herd, member of Escondido Views Board of Directors, expressed her view that the circulation plan would benefit greatly if it had information regarding where the Citracado traffic was traveling to once it went out onto West Valley Parkway.

Mr. Bradbury noted that the traffic study took into consideration the existing conditions and future conditions with regard to circulation patterns.

Tracy Tippits, Escondido, asked when construction would begin on the subject project. Mr. Bradbury noted that the tentative date for construction was at the beginning of 2014 and ending at the end of 2015.

Chairman Caster stated that his understanding was that traffic flow on Hale Avenue would be reduced once the HARRF facilities were combined. Mr. Martin replied that there should be a reduction in employee trips when that occurs.

Chairman Caster asked why no sound walls were being proposed for the west side of Citracado near West Valley Parkway. Mr. Martin noted the difference in elevation from the mobile home park down to the street would make this prohibitive.

Commissioner Winton referenced Page 5 of 7 of the report and asked what the indicated water surface level was and what the affect of filling that part of the flow area was. Mr. Bradbury noted that they modeled the creek using various water flows in order to establish the profile for Citracado Parkway so as to ensure that the bridge would not be overtopped by the creek.

Commissioner Winton asked if any flood control aspects were addressed in the EIR. Mr. Bradbury noted that the study had a model which showed no impacts to the creek with or without the bridge. Mr. Bridges noted that this issue was discussed in Section 3.7 of the EIR.

Chairman Caster felt the issue brought up earlier regarding the creek plan should be considered. Mr. Martin noted that City Council had expressed support for the

Revealing Escondido Creek Plan, but had not yet adopted any modifications to the Parks and Trails Master Plan for this area to include the features studied in the creek plan. Ms. Fehrensen noted that while a trail was not proposed for underneath the bridge, it had been designed to accommodate a future trail along the creek.

ACTION:

Moved by Commissioner Winton, seconded by Commissioner Yerkes, to approve staff's recommendation. Motion carried unanimously. (4-0)

3. SIGN CODE AMENDMENT – AZ 12-0001:

REQUEST: Amendments to the Zoning Code Article 66 – Sign Ordinance to revise Citywide standards pertaining to temporary signs, including special event signs, banners, feather flags, A-frame signs and similar temporary portable signs.

PROPERTY SIZE AND LOCATION: Citywide

Rozanne Cherry, Principal Planner, referenced the staff report and noted staff requested comments and recommendations on the draft changes. The Commission's comments would be forwarded to the City Council for consideration along with the draft code text. The City Council hearing was tentatively scheduled for April 18, 2012. This code amendment only addressed temporary portable signs and a few minor cleanup items. A comprehensive update of the Zoning Code was anticipated as part of the implementation of the new General Plan in 2012.

Chairman Caster questioned how the 6-month provision for signage would be monitored. Mrs. Cherry noted that the City would issue stickers that would be placed on the signs showing the expiration date.

Chairman Caster felt the hand held twirling signs were more of a distraction than the feather signs, noting his view that this should be addressed as well. Commissioner Yerkes concurred.

Commissioner Winton asked if the City regulated signage on vehicles. Mrs. Cherry replied in the negative.

Commissioner Yerkes asked whether the City regulated mobile signage where vehicles were parking and using the vehicle for signage. Mrs. Cherry replied in the negative as long as the vehicle was parked legally.

Commissioner Weber asked if a permit fee would be required for every sign. Mrs. Cherry replied in the affirmative.

Ruben Garza
1751 W. Citracado Pkwy #179
Escondido, CA 92029
760-212-8995

04/05/2012

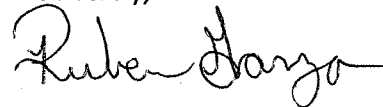
City of Escondido
City Council Board
Bill Martin, Planning Division
201 N. Broadway
Escondido, CA 92025

Ref: Case No. ER 2006-100 or ENG 12-0011

Dear Bill Martin:

I currently live at 1751 W. Citracado Pkwy in Mountain Shadows MHP, and am very concerned about the proposed extension of Citracado Pkwy. My concern is that I'm afraid I may have a hard time exiting the complex onto Citracado Pkwy with all the congestion. The only remedy I see for this is a red light to allow us to come onto Citracado Pkwy. Many people I'm afraid may start using this street to get to school, or the freeway. This would not be fair to the homeowners of Mountain Shadows or our neighbor mobile home park. We are talking about hundreds of residents. I am also concerned about the noise issue also as my home is right next to Citracado Pkwy. Please address these issues as this could make living here a nightmare.

Sincerely;



Ruben Garza

Copy: City Council



Bill Martin

From: Don Creasman <dcreasman@wrengineers.com>
Sent: Thursday, March 15, 2012 3:11 PM
To: Bill Martin
Cc: Mary Plemons
Subject: Sound wall at Mountain Shadows

Hello Mr Martin

My name is Don Creasman and I spoke to you at the planning commission meeting the evening of March 13 2012. I am currently the President of Mountain Shadows Mobilehome Park and am speaking on behalf of the residents here. I have lived here for 27 years and have been actively involved with its operation since the city originally acquired it for transfer in the early 90's.

We at Mountain Shadows were very pleased to hear that the city is committed to providing a sound wall along the Citracado accessway and our primary intent of that evening was satisfied in that regard. Our only remaining concerns now are that certain details of that implementation complement the work already performed here at Mountain Shadows

Mountain Shadows embarked on a project to elevate complex concerns posed at the corner of Avenido Del Diablo and Citracado Pkwy. Specifically the Southeast corner of that intersection. Presently your map shows the sound wall extending and replicating the path of an old wooden fence previously in that location. The association chose to realign the fenceline in that area into a parklike setting for a variety of reasons, including Effective Sound attenuation, Structural concerns, Aesthetic value and Liability issues (which includes fire hazard and vagrancy) a side benefits has been better visibility for motorists purveying that corner. Mountain Shadows would like to see these concerns maintained in the layout and design of the sound wall. Mountain Shadows does not object to adding more vegetation in this area in order to satisfy compliance to any "sound report" based upon the city's discretion including type size and maintenance of.

Another area of concern relates to the remaining fenceline along the east side of Citracado Pkwy. Mountain Shadows hosts a main sewer line for the city of Escondido with some manholes located just within the park boundaries and adjacent to the fenceline along Citracado. Presently access to these manholes has been by openings in the perimeter fence. Because of security and liability reasons Mountain Shadows would prefer **NOT** to have any secondary openings in the new sound wall that would allow personal pedestrian access directly from Citracado. Mountain Shadows has always provided open access to these sewer connections from within the park.

I am available to meet with you at your convenience and provide documentation as needed to help you in your decision.

Thank You

Don Creasman

858-536-5166 (ask for Don)

Bill Martin

From: Linda Debra <debralinjed@yahoo.com>
Sent: Tuesday, February 28, 2012 1:46 PM
To: Bill Martin
Subject: Fw: No cross roads. Escondido views mobile home park on w. valley parkway

----- Forwarded Message -----

From: Linda Debra <debralinjed@yahoo.com>
To: Linda <debralinjed@yahoo.com>
Sent: Tuesday, February 28, 2012 1:35 PM
Subject: Fw: No cross roads. Only roads into residential areas. see map link

Dear Mr Martin,

My name is Linda Magdziak. I live in the Escondido Views Mobile home park.

I have written to a Rob Zaino, also about this issue. Please see the letters of e mail written to him below and way down below.

Our entrance to the park is smack dab at the intersection of West Valley Parkway and Citracado Parkway. There is already a safety issue. There has been accidents with vehicles entering and exiting the park right in front of the park.

When the new school, and the hospital and the Citracado Parkway projects are all coompleted, there will be increased problems with traffic just outside our park.

We will have a big huge problem turning left out of the park.

If we turn right out of the park we will be having to deal with those getting the left turn arrow and those getting to turn right on red coming into our path. We will then compete with that traffic and have to try to turn right and immediately get over to enter the center lanes to use it as a U turn lane, but oncoming traffic will be trying to enter that same spot in the same location to get into the left hand turn lane so that they can make a left from West Valley Parkway to get onto Citracado.

There WILL be accidents. Children will be present, emergency vehicles, etc.

This letter of informing the city will be used by my self and any who live here to get compensation,for injury, due to this unsafe issue, if anyone or property is hurt. Please be informed that we have 150 family's that live here. My intent is to have this unsafe issue solved and resolved BEFORE anything happens and this issue needs to be

considered at the same time the Citracado Project is worked on. Some engineering on this matter needs to be accomplished.

Please inform me by e mail or letter about what is intended, to make sure we can enter and exit this mobile home park safely. I know the city hearing is coming up on March 13th. 2012. Please make sure this is addressed.

Please write me soon about this. Thank you. Mrs Linda Magdziak

----- Forwarded Message -----

From: Linda Debra <debralinjed@yahoo.com>
To: Robert Zaino <Rzaino@ci.escondido.ca.us>
Cc: Ed Domingue <Edomingue@ci.escondido.ca.us>; Homi Namdari <Hnamdari@ci.escondido.ca.us>; Ronda Tague <Rtague@ci.escondido.ca.us>
Sent: Thursday, February 23, 2012 5:18 PM
Subject: No cross roads. Only roads into residential areas. see map link

Please open this map link and see that there are no cross streets to turn around at if we one day must only turn right out of our mobile home park, which has the entrance on west valley parkway. Our mobile home entrance is smack dab at the intersection and will pose all kinds of headaches getting out of our park when the new school and hospital are open. We already have accidents from residents in the park leaving or coming into the park from on street traffic. We are going to have big problems going left out of the park and as you can see there is no way to come back to Escondido, if a median is planned for in front of our mobile home park, on west valley parkway. Here is the map link, and look at it once again, with the idea, that there will be a median. http://maps.google.com/maps?hl=en&rls=com.microsoft:en-us:IE-Address&rlz=117ACEW_enUS370US370&gs_sm=3&gs_upl=287316135101671916161010101012561120410.3.31610&bav=on.2,or.r_gc.r_pw.r_qf.,cf.osb&biw=1366&bih=560&wrapid=tlif133004587622110&q=2400+W.+Valley+Parkway+Escondido+Cal+%2375+map&um=1&ie=UTF-8&hq=&hnear=0x80dbf45999498c1b:0x6eb5a076878d141d,2400+W+Valley+Pkwy,+Escondido,+CA+92029&gl=us&ei=vuNGT5beDuiAiAKtyoXbDQ&sa=X&oi=geocode_result&ct=image&resnum=1&ved=0CB8Q8gEwAA

From: Robert Zaino <Rzaino@ci.escondido.ca.us>
To: Linda Debra <debralinjed@yahoo.com>
Cc: Ed Domingue <Edomingue@ci.escondido.ca.us>; Homi Namdari <Hnamdari@ci.escondido.ca.us>; Ronda Tague <Rtague@ci.escondido.ca.us>
Sent: Thursday, February 23, 2012 3:43 PM
Subject: RE: Different project Escondido Views Mobile Home Park(W. Valley Pakway)

Linda,

I am not aware of any project that will be installing a raised median in West Valley Parkway at the location you are asking about.

That being said, unless there is something that prevents you from turning left out of your driveway entrance now there will be nothing preventing that turning movement in the future.

On the other hand if you choose to first turn right and then turn around, there seems to be several cross streets where that can be done.

Lastly it appears the California Vehicle Code may allow drivers (in most cases) the ability to perform a U turn from the two way left turn lane.

See attached link

http://www.dmv.ca.gov/pubs/vctop/d11/vc21460_5.htm

Robb

From: Linda Debra [mailto:debralinjed@yahoo.com]

Sent: Thursday, February 23, 2012 8:51 AM

To: Robert Zaino

Subject: Different project Escondido Views Mobile Home Park(W. Valley Pakway)

Rob. I was not requesting an answer about the Citracado Project.

The median strip that I was inquiring about is the one that I heard about in front of our Escondido Views Mobile Home Park which is on West Valley Parkway and so then it would be a West Valley Parkway Project?

You asked me to write you, so that you can look that up. So you and I already talked on the phone and we already discussed the fact that it would not be part of the Citracado Parkway Project because our entrance is on West Valley Parkway.

Because of the fact that our entrance is so close to the intersection it would be unsafe to proceed out of the park to our left when the school is finished, also we are not even going to be able to get out of the park with all the new traffic, and so the city planned to put a raised median strip out in front of our mobile home park which has the entrance on W. Valley Pkwy. Then we must turn right and with no way to get back to the city.

So you were going to find out for me about this project which is different from the project on Citracado. Basically, I just want to know when construction the the median strip on West Valley Parkway will start and where we will be able to U - Turn back to the city?

From: Robert Zaino <Rzaino@ci.escondido.ca.us>

To: Linda Debra <debralinjed@yahoo.com>

Sent: Thursday, February 23, 2012 7:58 AM

Subject: RE: Median Strip in front of Escondido Views Mobile Home Park

A raised median will not be installed as part of the Citracado project.
So the conditions as they now exist will also be present after the project is constructed.

Could you please give me a call

760-839-4001

Thanks

Robb

From: Linda Debra [mailto:debralinjed@yahoo.com]

Sent: Saturday, February 18, 2012 1:23 PM

To: Robert Zaino

Subject: Median Strip in front of Escondido Views Mobile Home Park

Dear Robb,

You said that I could write you back and ask what you found out about the plans to put a median strip in front of our Escondido Views Mobile Home Park. You were also going to look into the need for a back entrance relocation for our Mobile Home Park. Remember, it does not appear that there will be anywhere for us to turnaround for us to come back into the city. Please inform me what you found out.

Yours Truly, Thank you,

Linda Magdziak
2400 W. Valley Pkwy.#75
Escondido, CA 92029

Bill Martin

From: Kenneth A Ray <kar@kenard.net>
Sent: Monday, March 05, 2012 7:15 PM
To: Bill Martin
Cc: Rick Dentt; Arden Sniffen
Subject: Request for Clarification, Citracado Parkway Extension FEIR

Hi Bill,

Thank you for sending over the hard copies of the FEIR and public notice. Reviewing the Cities responses to the Freeland, Mckinley & Mckinley DEIR comment letter dated October 17, 2011, we see a significant change in how future Industrial / commercial developments along the proposed route will be accessed. I say this because in all of our past dealings with the City on this issue, we have been consistently informed that direct access to our future parcels from Citracado Parkway would be disallowed. It now appears that direct access off of Citracado will be the preferred and possibly the only access. This is a very large departure from the Map application we submitted to the City. That map was the culmination of many planning meetings with the City. Subsequently, we have had numerous meetings at the City to discuss the map and our proposed project. We have received formal comments for our map from the City Engineering & Planning departments. None of those City comments indicated that the City was changing their stated position of disallowing direct access to our future project from Citracado Parkway. It was in fact at the Cities insistence that our map shows access to our project via two Cul-de-sacs on the West & East sides of Citracado Parkway. The FEIR now indicates there will be no access via side streets? The critical question we are now faced with is will there be cuts in the median in front of our drive approaches?

We are very concerned that without the means of a safe left hand turn into our future drive approaches, a serious obsolescence will be created. If the access will be similar to that of the parcels with frontage along Citracado Parkway in the ERTC, than we have no problem. However, if the proposed median lacks sufficient cuts in front of our future driveway approaches than access to our parcels is restricted to right hand turns only and our project is effectively cut in half. Considering that heavy commercial 18 wheeler tractor / trailer will ingress & egress our future parcels this would represent a serious obsolescence. One that would also pose a life safety traffic hazard to the public at large. Let me explain, the typical 18 wheeler commercial carrier is 65' long and takes a considerable turning radius to initiate & complete a u turn. Where would these trucks perform a safe u turn maneuver? Say a North bound carrier (Eastside of the roadway) is trying to access a business on the West side of our property. Without cuts in the median the first opportunity to u turn will be at the left turn lane at Citracado and Harmony Grove Road. Since Harmony Grove Road is two lane road most truckers (the smart ones) won't attempt a u turn there and will continue down Harmony Grove looking for a better spot to make the maneuver. This will put large commercial carriers into residential areas where they really shouldn't be. The other way would be to go through that intersection up into the ERTC. They can't make the right at Enterprise and circle around to Harmony Grove Road as it is planned to be dead ended with no access back to the Citracado corridor. Most likely they will turn into one of the larger parking lots, such as Stone Brewery or the Hospital and get turned around that way. That isn't a very good plan and considering the frequency of Emergency vehicle traffic along this section of the roadway should be avoided all together. Conversely, if the carrier is heading Southbound along our frontage and needs to access the East side of our project they are even more limited. Without cuts in the Median they will have to cross the new bridge and either turn right at Lariat Drive or left at Del Diablo. This puts them into residential areas where there is very little room for them to navigate on roads that aren't designed for this type of traffic. Of course these roads will have to be posted & restricted to that type of traffic and the drivers will have to go further and further to find an area that is suitable to get turned around in.

The City has recently placed a very high emphasis on the creation of employment opportunity lands. Our property was set aside for Commercial / industrial use by the City almost 10 years ago. It is one of the few remaining parcels that can be discretionarily converted without the need of a mandatory public vote. The Citracado Parkway Extension was

preplanned over 30 years ago and has never been more urgently needed than it is right now. It is imperative that we fully understand how the City planners propose to access both sides of our project. If it is needed that we attend another meeting with staff, prior to the public hearing for the FEIR, to discuss this more fully please advise ASAP.

Kenneth A Ray, President

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RESOLUTION NO. 2012-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING THE SPECIFIC ALIGNMENT PLAN AND CERTIFYING AND APPROVING THE FINAL ENVIRONMENTAL IMPACT REPORT, CEQA FINDINGS, STATEMENT OF OVERRIDING CONSIDERATIONS, AND MITIGATION MONITORING AND REPORTING PROGRAM FOR THE CITRACADO PARKWAY EXTENSION PROJECT

Case No. ER 2006-10, ENG 12-0011

WHEREAS, a Specific Alignment Plan and Environmental Impact Report ("EIR") has been prepared for the Citracado Parkway Extension Project that will widen the existing segment of Citracado Parkway between West Valley Parkway and Avenida Del Diablo and construct a new section of roadway to Major Road standards from Avenida Del Diablo to Andreasen Drive that includes a new bridge crossing over Escondido Creek; and

WHEREAS, the City Council of the City of Escondido as the lead agency under the California Environmental Quality Act ("CEQA") is responsible for certification of the EIR; and

WHEREAS, the City Council of the City of Escondido did on April 18, 2012, hold a noticed public hearing to consider the Specific Alignment Plan and the Certification of the Environmental Impact Report and associated Mitigation Monitoring and Reporting Program and CEQA Findings; and

WHEREAS, the City Council has reviewed and considered the Final EIR and associated Mitigation Monitoring and Reporting Program prepared for the project, and

has determined that it adequately addresses all environmental issues associated with the project; and

WHEREAS, the City Council desires at this time, and deems it to be in the best public interest, to approve the Specific Alignment Plan and certify the Final Environmental Impact Report for the Citracado Parkway Extension Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California:

1. That the above recitations are true.
2. That the EIR Findings and Statement of Overriding Considerations, attached as Exhibit 'A" and incorporated by this reference, was considered and is hereby adopted by the City Council.
3. That the Mitigation Monitoring and Reporting Program, attached as Exhibit "B" and incorporated by this reference, addresses mitigation for potential project related impacts and that the report will sufficiently mitigate and assign on-going responsibility for carrying out mitigation responsibilities which are appropriate to address and mitigate project-related impacts.
4. That upon consideration of the staff report (a copy of which is on file in the Planning Division), the Planning Commission comments provided at a public hearing on March 13, 2012, public testimony presented at the City Council hearing, the findings and applicable law, the City Council finds that the project is consistent with the General Plan and hereby approves the Specific Alignment Plan and certifies the Environmental Impact Report prepared for the Citracado Parkway Extension Project.

FINDINGS OF FACT CITRACADO PARKWAY EXTENSION PROJECT

1.0 INTRODUCTION

1.1 Requirements for Findings of Fact

The City of Escondido (City) has prepared an Environmental Impact Report (EIR) for the proposed Citracado Parkway Extension Project in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 *et seq.*) and the State CEQA Guidelines (California Administrative Code Section 15000 *et seq.*, as amended).

An EIR must be certified pursuant to Section 15090 of the CEQA Guidelines before project approval. Prior to approving a project for which an EIR has been certified, and for which the EIR identified one or more significant environmental impacts, the approving agency must make one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale of each finding. The possible findings, which must be supported by substantial evidence in the record, are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

After consideration of an EIR, and in conjunction with Section 15091 findings identified above, the lead agency may decide whether or how to approve or carry out the project. The lead agency may approve a project with unavoidable adverse environmental effects only when specific economic, legal, social, technological or other benefits of the project outweigh the significant effects on the environment. Section 15093 requires the lead agency to document and substantiate any such determination in a "statement of overriding considerations" as a part of the record.

1.2 Location and Custodian of Record of Proceedings

The official custodian of the documents and other materials that constitute the record of proceedings is:

City of Escondido Planning Division
201 North Broadway
Escondido, CA 92025.

Copies of all these documents, which constitute the record of proceedings upon which the City's decision is based, are, and at all relevant times have been, available upon request at the offices of the City, the custodian for such documents.

2.0 PROJECT DESCRIPTION

2.1 Proposed Project

The City proposes to improve and extend Citracado Parkway from West Valley Parkway to Andreasen Drive. The proposed Project would require a new structure crossing over Escondido Creek. The new structure may require landform alterations, cut slopes, and fill slopes. Minor street realignments and/or grade adjustments are also proposed for the intersection of Kuana Loa Drive with Harmony Grove Road. In addition, the proposed roadway extension would be built to accommodate the pending extension of Lariat Drive from the west, and access to the Hale Avenue Resource Recovery Facility (HARRF) via a new driveway connection. A temporary construction staging area has been identified east of the proposed roadway extension and south of Escondido Creek. Potential improvements for transit, such as Americans with Disabilities Act (ADA)-compliant boarding pads and future bus stops would be developed in coordination with North County Transit District (NCTD).

In an effort to keep the proposed roadway extension within the jurisdictional limits of Escondido, the City is also proposing the annexation of three parcels crossed by or in proximity to the proposed roadway extension. Parcels A, B, and C correspond to APN #s 23504015, 23504005, 23504050, respectively. This would avoid the potential need for a joint jurisdictional operation and maintenance agreement between the County and the City. All three parcels are outside the City's Sphere of Influence (SOI) boundaries and would therefore require an SOI boundary adjustment in conjunction with the annexation.

2.2 Discretionary Actions

The roadway construction would require multiple permits and/or approvals from local governments and from federal, state, and local resource agencies. The following permits and approvals would be required:

Permits (all required before the start of construction)

- California Fish and Game Code Section 1601 Streambed Alteration Agreement
- Federal Clean Water Act (CWA) Section 401 water quality certifications
- CWA Section 404 dredge and fill permit
- City building and grading permits
- County of San Diego construction permit
- County of San Diego encroachment permit

- National Pollutant Discharge Eliminations System (NPDES) permit for construction (contractor)

Approvals (in chronological order)

- Escondido City Council EIR certification
- Emergency and municipal service providers' approval for service boundary adjustments
- Escondido City Council approval of Annexation and Rezoning
- LAFCO approval of SOI amendment to include the unincorporated parcels within the proposed Project area
- LAFCO approval of a reorganization of the unincorporated parcels to the City involving: annexation to the City, detachment from CSA No. 135 (San Diego Regional Communications System), detachment from CSA No. 107 (Elfin Forest/Harmony Grove Volunteer Fire Department) and detachment from the San Marcos FPD

2.3 Rationale for not Recirculating the Draft EIR

Section 15088.5 of the CEQA Guidelines states that a lead agency is required to recirculate an EIR when significant new information is added to the EIR, after public notice is given of the availability of the draft EIR for public review, but before certification. In order for recirculation to be required for an EIR, the new information would be "significant," meaning that the EIR has been changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project's proponents have declined to implement.

New information has been added and revised in the Final EIR. Based on comments received, sections of the Draft EIR have been clarified or expanded in the Final EIR, but no new significant impacts have been identified, no impacts increased in severity, no new mitigation measure has been identified, and no new alternatives have been identified. As such, the document was not fundamentally or basically inadequate in nature and the conclusions do not require reevaluation. Therefore, the new information added to the EIR does not meet the CEQA definition of "significant new information" and the City finds that no recirculation of the EIR is necessary.

3.0 CEQA REVIEW AND PUBLIC PARTICIPATION

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed Project consists of the following documents, at a minimum:

Notice of Preparation. In compliance with Public Resources Code section 21092, the City published a Notice of Preparation (NOP), which was sent to responsible agencies and interested individuals for a 30-day review period from April 11, 2007 to May 11, 2007. The NOP was also sent to the Governor's Office of Planning and Research State Clearinghouse (SCH) and posted on April 16, 2007. The NOP was distributed to approximately 90 organizations, interested parties, and federal, state and local agencies. The NOP and the responses to the NOP from agencies and individuals are included in Appendix B to the Final EIR. A total of 12 comments letters were received.

Public Scoping Meeting. A Public Scoping Meeting was held on April 26, 2007 to give the public the opportunity to provide comments as related to the Citracado Parkway Extension Project and the issues the public would like addressed in the EIR.

Draft EIR. The Draft EIR was distributed for public review from September 1, 2011, to October 17, 2011 for a 45-day public review period. Fifteen comments letters were received during the comment period and are included, along with responses, in Chapter 10 of the Final EIR.

Notice of Completion. A Notice of Completion (NOC) was sent with the Draft EIR to the SCH and was posted on September 1, 2011. The NOC was posted on the City's website and notice was also provided in the North County Times newspaper.

Final EIR. The Final EIR was distributed on February 29, 2012. The Final EIR was prepared by the City in accordance with CEQA statutes and guidelines. As required by Section 15084(e) of the CEQA Guidelines, the City has reviewed drafts of all portions of the EIR and subjected them to its own review and analysis.

EIR Certification. The City Council will hold a public hearing on the Citracado Parkway Extension Project EIR for certification on April 18, 2012.

4.0 ENVIRONMENTAL EFFECTS THAT ARE LESS THAN SIGNIFICANT WITHOUT MITIGATION MEASURES

Effects of the proposed Project found to be less than significant in the EIR, and which require no mitigation, are identified in the discussion below. As described in Chapter 4 of the EIR, Hazards and Hazardous Materials, Mineral Resources, Paleontological Resources, Population and Housing, and Recreation were determined, based on preliminary review, not to have a significant effect on the environment. As described in Chapter 3 of the EIR, Land Use, Agricultural Resources, Air Quality, Geology and Soils, Hydrology/Water Quality, Municipal Services/Utilities, and Visual Resources were determined with detailed analysis, to have a less than significant effect on the environment. The City has reviewed the record and agrees with the conclusions that the following impacts would not be significant even without incorporation of any mitigation measures, and therefore no additional findings are needed.

4.1 Hazards and Hazardous Materials

No facilities involved with routine transport, use, or disposal of hazardous materials are located within the Project area or vicinity. Although facilities with reported unauthorized releases of hazardous materials are listed within 0.25 mile of the area, none of these facilities are located within the area or adjacent properties. Therefore, the proposed Project would have no public health and safety impacts associated with exposure to hazardous materials.

4.2 Mineral Resources

No known locally important mineral resource recovery site is located in the Project area or vicinity. The Project area does not contain a recognized significant aggregate resource. The proposed Project would not change the existing availability of mineral resources that would be of value to the region. There would be no impact to known locally important mineral resources.

4.3 Paleontological Resources

The geologic units underlying the Project area have been identified as having no potential to low potential for paleontological resources. Therefore, no significant impacts to paleontological resources are anticipated with the proposed Project.

4.4 Population and Housing

The proposed Project may increase the traffic traveling through the area due to the improved/new circulation system, but it is anticipated that the population in the surrounding area would not

incrementally increase as a result of this proposed Project. The proposed Project would not displace existing housing. Therefore, no impact on population and housing would result.

4.5 Recreation

The proposed Project does not propose recreational facilities and would not increase the use of existing parks or recreational facilities. The Project area is not used for recreational activities. A Class 2 striped bicycle lane is proposed to accommodate bicyclists on the roadway shoulder. There would be no impact on recreational facilities.

4.6 Land Use

The proposed Project would not involve altering the existing use of the Citracado Parkway from West Valley Parkway to Avenida Del Diablo and the improvements would be limited to a width that is consistent with its current designation in the City's General Plan Circulation Element.

The proposed Project involves the annexation of three parcels from the County of San Diego to the City. The City is proposing to assign a rezoning designation consistent with the City General Plan for each of the three parcels. These zoning designations include Specific Plan (S-P) for Parcel A and Residential Estates (R-E) for Parcels B and C. While the zoning designations for Parcels B and C remain generally consistent with those zoning designations currently assigned by the County of San Diego, the rezoning designation applied to Parcel A would change from the agricultural zoning designation applied to the parcel by the County to an industrial designation applied by the City, consistent with the City's General Plan SPA #8. This land use zoning change is likely to ultimately result in more intensified use of the site, through an industrial zoning designation, by facilitating future development of the site for industrial uses. Land use changes such as this are more appropriately analyzed at a General Plan level and this more intensified land use is a part of the City's currently approved General Plan. Additionally, the City proposed land use designation E2 for Parcels B and C, which allows for a slightly higher density than the SR-2 and RL-20 current County designations allow. However, the increase in density would be minor and is therefore not anticipated to be a significant change in land use. All proposed zoning and land use designations for the three annexation parcels, as well as the proposed roadway improvement and extension, are consistent with the City's General Plan, therefore land use impacts are considered less than significant.

4.7 Agricultural Resources

No active agricultural operations exist within the proposed Project area. The proposed Project would not directly impact agricultural operations or convert Prime Farmland, Unique Farmland,

or Farmland of Statewide Importance to nonagricultural uses. The proposed Project would not impact lands under a Williamson Act contract. Additionally, no active agricultural operations have been identified directly adjacent to the proposed Project area. Therefore, the proposed Project is not anticipated to result in the indirect conversion of agricultural lands to a nonagricultural use, or result in a land use conflict with existing agricultural operations.

4.8 Air Quality

4.8.1 Consistency with Air Quality Plan

The proposed Project is included in the San Diego Association of Government (SANDAG) Regional Transportation Plan (RTP) and Regional Transportation Improvement Program (RTIP), the 2030 San Diego Regional Transportation Plan: Pathways for the Future (2030 RTP), and the Final 2010 Regional Transportation Improvement Program (2010 RTIP). The proposed Project is also consistent with the Escondido General Plan. Therefore, operational (i.e., mobile sources) emissions associated with the proposed Project would have been accounted for when developing emission projections for the State Implementation Plan (SIP) and Regional Air Quality Standards. As such, the proposed Project would not conflict with or obstruct implementation of the applicable air quality plan.

4.8.2 Construction Emissions

During construction of the proposed Project, criteria air pollutants would be generated from activities such as grubbing and clearing, soil excavation and utility trenching, grading and roadbed preparation, roadway construction, and paving. However, construction-related emissions would be below the City's threshold for all pollutants. Therefore, the impact associated with the proposed Project's construction emissions would not result in a cumulatively considerable net increase of any criteria pollutant and impacts would be less than significant.

4.8.3 Area and Mobile Source Emissions

Transportation projects, such as the proposed Project, are analyzed for regional air quality impacts by determining conformity with the SIP. SANDAG has prepared an air quality conformity analysis to the SIP during the development of the 2030 RTP and 2010 RTIP. The design concept and scope of the proposed transportation Project are consistent with the Project's description in the 2030 RTP, the 2010 RTIP, and the assumptions in the SANDAG's regional emissions analysis, and therefore conform to the SIP. Thus, the proposed Project would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.

4.8.4 Sensitive Receptors/CO Hot Spots

Localized CO concentrations, a direct function of motor vehicle activity at signalized intersections, may reach unhealthy levels with respect to local sensitive land uses such as residential areas, schools, and hospitals in proximity to the signalized project intersections and could be a potential impact as a result of project implementation. Using the Sacramento Metropolitan Air Quality management District (SMAQMD) quantitative CO screening method, it was found that the proposed Project would not exceed or conflict with any of the second-tier screening criteria, and would therefore not expose sensitive receptors to substantial CO concentrations. There would be a less than significant air quality impact with respect to localized CO concentrations.

4.8.5 Toxic Air Contaminants

Short-term construction-related activities would result in emissions of diesel PM exhaust emissions, which has been identified as a toxic air contaminant (TAC) by the California Air Resources Board (ARB) in 1998. However, due to the short exposure period and the ongoing implementation of U.S. Environmental Protection Agency and ARB requirements for cleaner fuels, diesel engine retrofits, and new, low-emission diesel engine types, diesel PM generated by Project construction is not expected to create conditions where the probability is greater than 1 in 1 million of contracting cancer for the Maximally Exposed Individual or to generate ground-level concentrations of noncarcinogenic TACs that exceed a Hazard Index greater than 1 for the Maximally Exposed Individual. Long-term operational activities following the completion of the proposed Project would generate TAC emissions from mobile sources and could expose sensitive receptors to TAC emissions. However, it is anticipated that the decrease in vehicle idling at local intersections and the improved accessibility to the regional transportation system would result in a net decrease in these mobile source air toxic (MSAT) emissions associated with implementation of the proposed Project. Therefore, the proposed Project would not expose sensitive receptors to substantial pollutant concentrations.

4.8.6 Odors

Construction generated odors could occur as part of the proposed Project, however, odors would be intermittent and temporary (during the time of project construction) and would not result in the exposure of a substantial number of receptors to objectionable odorous emissions. Odors generated from mobile sources during operation would be similar to any roadway operation, and

would be transient. The potential for odor impacts would be less than significant, as the proposed Project would not create objectionable odors affecting a substantial number of people.

4.8.7 Greenhouse Gases

Although construction of the proposed Project would add to the current quantity of GHG emissions contributing to climate change, GHG emissions associated with construction of the proposed Project would be short term and finite in quantity; not reoccurring on an annual basis over the lifetime of project operation. Since the proposed Project's contribution to climate change would not be substantial or a less-than-cumulatively considerable contribution to climate change, impacts to air quality related to GHG would be less than significant.

4.9 **Geology and Soils**

4.9.1 Seismicity

There are no active or potentially active faults known to traverse the Project site or in the vicinity. However, in the event of a major earthquake on faults within the Southern California region, the Project area could be subjected to moderate to severe ground shaking. As the site is not considered to possess a significantly greater seismic risk than the surrounding area, impacts from seismic ground shaking would be less than significant. There is potential for liquefaction of near-surface deposits above the bedrock in Escondido Creek, however, due to the anticipated shallow depth of the alluvial soils located above the bedrock that will be susceptible to liquefaction, seismically induced settlement is anticipated to be less than a few inches. The proposed bridge and roadway would be designed per the California Seismic Standards and the impact would be less than significant. Runoff from the site would be expected to increase due to additional impervious surfaces associated with development. However, the effects of this increase on scouring would be less than significant with the incorporation of standard best management practices (BMPs).

4.9.2 Geology and Soils

Excavating, grading, and placing fill material as part of the construction of the proposed Project would cause soil erosion from exposed soil at an accelerated rate during storm events, and could result in significant adverse impacts. Final grading and building plans for the proposed Project would include recommendations for geotechnical design considerations to minimize potential for erosion and loss of topsoil, and would reduce any potential impact to a level less than significant. A potential impact related to unstable geologic conditions could exist; however, standard

geotechnical investigations and reporting procedures would ensure a final project design that results in a less than significant impact.

4.10 Hydrology/Water Quality

4.10.1 Surface Water

A site-specific Storm Water Pollution Prevention Plan is required under the Construction General Permit for the proposed Project and would determine and outline the full range of methods necessary to ensure water quality is not adversely affected during construction. Proper use of erosion and sediment control measures/BMPs (which are standard requirements as part of the grading permit) would reduce potential water quality impacts during construction to less than significant. The amount of runoff from the Project site would increase due to additional impervious surfaces associated with the proposed Project. However, the proposed Project would be required to comply with NPDES and related City standards and requirements, including storm drain and BMP sizing design standards. With these required design measures incorporated, runoff from the proposed Project would not be considered significant, water quality standards would not be violated, and the proposed Project would not materially degrade the existing drainage facilities.

4.10.1 Groundwater

If groundwater is encountered during construction of the proposed Project, dewatering would be required to avoid flooding in excavated areas. Due to the short-term duration of such activity and the fact that any extracted groundwater ultimately would be returned to local drainage basins (if suitable), no associated substantial adverse impacts related to groundwater supplies, recharge, or movements would result from dewatering.

4.10.1 Floodplains

The proposed Project would pass through a 100-year floodplain area where it crosses Escondido Creek. The proposed Project would include a bridge structure designed to convey both 50- and 100-year flood flows, per City and County standards and as outlined in the hydraulic and scour studies. The bridge would comply with the hydraulic design standards in compliance with state and local regulations to convey 50-year and 100-year floodwater without impeding or redirecting flood flows that would potentially harm life and property.

4.11 Municipal Services/Utilities

4.11.1 Fire and Police Protection

The proposed Project would not result in the need for new or altered police or fire services or infrastructure, and the proposed would provide the City Fire Department a needed transportation connection in the area. The annexed parcels would be served by the City of Escondido Fire Department and the City of Escondido Police Department and both departments have confirmed service availability to the parcels. Impacts to fire and police services are less than significant.

Schools, Parks, and Libraries

No housing is proposed as a part of the Project, and would therefore not result in the need for new or altered schools, parks, libraries or municipal services. The proposed Project would not result in a significant increase in demand on these services.

4.11.2 Utilities

Locations of all utility alignments would be noted on finals design plans and the City would coordinate any utility improvements with SDG&E to ensure that no disruption of gas or electrical service to customers occurs. Therefore, with coordination with SDG&E and proper relocation of utility lines, impacts related to gas and electric utilities would be less than significant. The current water pipeline running through the Project area would be replaced with a new water pipeline within the new extension roadway. Location of alignments would be noted in final design plans and the project engineers would coordinate with Rincon Del Diablo Municipal Water District and adhere to its standardized processes with construction of the road and bridge. Impacts to utilities would be less than significant.

No off-site drainage facilities improvements for storm water are proposed as a part of the proposed Project. No new or expanded water or wastewater facilities are proposed as part of the Project and the increase in the new pipeline diameter does not represent an increased or new supply of water. Therefore, impacts to storm water, water supply and wastewater treatment would be less than significant.

Construction of the proposed Project would require proper disposal of demolition/construction materials. Solid waste pick-up would be available for the proposed Project by EDI during the construction phase. Operation of the road would generate minimal, if any, solid waste. Therefore, impacts related to solid waste would be less than significant.

4.12 Visual Resources

4.12.1 Temporary Visual Effects

Temporary changes to the existing visual quality would occur during construction activities associated with the proposed Project. Effects due to the presence of construction equipment, grading operations, and nighttime lighting would occur. However, as construction activities are dynamic, phased through the Project area, and temporary, impacts due to these activities are considered to be less than significant.

4.12.2 Permanent Visual Effects

The primary viewed within the Project area and the larger viewshed would include motorists and surrounding residents. The changes to visual quality/character for the overall Project would be moderate, primarily due to the loss of existing vegetation and increased capacity of the existing segment of Citracado Parkway between West Valley Parkway and Avenida Del Diablo. The proposed Project would result in moderate change to the existing visual character or quality of the site and its surroundings but would be considered to have a less than significant impact due to project design features, including a comprehensive landscape plan.

5.0 POTENTIALLY SIGNIFICANT ENVIRONMENTAL EFFECTS THAT CAN BE REDUCED TO INSIGNIFICANCE THROUGH FEASIBLE MITIGATION MEASURES

The Final EIR determined that the proposed Project has potentially significant environmental effects to Biological Resources and Cultural Resources as discussed below. The Final EIR identified feasible mitigation measures to avoid or reduce the environmental effects in these issue areas to a level less than significant. Based on the information and analysis set forth in the Final EIR, the proposed Project would not have any significant environmental effects in these issue areas as long as all identified feasible mitigation measures are incorporated into the proposed Project. These mitigation measures shall be incorporated into the Mitigation Monitoring and Reporting Program required for the proposed Project to verify implementation of the measures.

5.1 Biological Resources

5.1.1 Impacts

Based on the information and analysis set forth in the Final EIR and the record of proceedings, the proposed Project would result in potentially significant impacts related to vegetation communities, jurisdictional waters, trees, sensitive plants and sensitive wildlife, migratory birds and wildlife movement. Construction activities related to the proposed Project have the potential to impact these resources within the Project area.

The following mitigation measures, as included in the Final EIR are feasible and will reduce potentially significant impacts on biological resources to less than significant levels, thereby avoiding any significant effects:

MM-BIO-1: Direct Impacts to Sensitive Vegetation Communities

MM-BIO-1.1: To avoid incidental loss of sensitive habitat types during construction activities, environmentally sensitive area fencing shall be installed along the limits of disturbance prior to the start of construction. In addition, grading limits shall be flagged or fenced and grading shall not occur beyond this flagging/fencing. Construction crews shall be made fully aware of this boundary.

MM-BIO-1.2: Temporary impacts to sensitive upland and wetland habitats shall be mitigated through replacement on-site at a ratio of 1:1 for a total of 6.28 acres of habitat restoration (Table 3.4-2 [of the Final EIR]). In addition to the 6.28-acre area, any bareground post-construction (e.g., areas of ornamental, disturbed, and eucalyptus

woodland habitat impacted during construction) shall be planted post-construction for erosion control purposes.

MM-BIO-1.3: A restoration maintenance and monitoring plan for the 6.28 acres of habitat restoration, as described in MM-BIO-1.2, shall be prepared by a qualified restoration ecologist and shall incorporate an appropriate native species planting palette to blend in with the existing and surrounding habitats. Preference for habitat community restoration shall be determined based on the existing and surrounding habitats by a qualified restoration ecologist. Areas of nonnative grassland and eucalyptus woodland shall be restored in the form of native grassland and/or open oak woodland habitats. No nonnative species shall be incorporated into the restoration plan. This plan shall include details of site preparation, implementation and planting specifications, and maintenance and monitoring procedures. The plan shall also outline yearly success criteria and remedial measures should the mitigation effort fall short of the success criteria.

MM-BIO-1.4: Permanent impacts to sensitive upland habitats shall be mitigated off-site through drawdown of mitigation credits from the Daley Ranch Mitigation Bank. Mitigation shall be completed, as shown in Table 3.4-3 [of the Final EIR], at ratios in accordance with the NCMSCP and Escondido Subarea Plan as the guiding regulatory documents for the proposed Project. Coast live oak woodland shall be mitigated at 2:1 inside PAMA and 1:1 outside PAMA for a total of 1.70 acres of mitigation. Coastal sage scrub shall be mitigated at 1.5:1 inside PAMA and 1:1 outside PAMA for a total of 0.63 acre of mitigation. Nonnative grassland shall be mitigated at a ratio of 1:1 inside PAMA and 0.5:1 outside PAMA for a total of 4.20 acres of mitigation. Total mitigation credit to be drawn down from the Daley Ranch Mitigation Bank shall be 6.53 acres.

MM-BIO-1.5: MM-BIO-1.5: Permanent impacts to riparian and wetland habitats shall be mitigated at a ratio of up to 3:1 for a total of up to 2.13 acres of mitigation required. All permanent shaded areas shall be mitigated at a ratio of up to 3:1 with the first 0.64 acre occurring through restoration on-site, the second 0.64 acre occurring off-site, and the remaining 0.64 acre occurring via debit of preservation credits at Daley Ranch. All other permanent impacts (0.07 acre) shall be mitigated at up to 3:1 ratio with 0.14 acre off-site and 0.07 acre via debit preservation credits at Daley Ranch). Off-site mitigation in the amount of 0.78 acre shall occur directly adjacent to the Project site at the southeast portion of the HARRF Expansion Parcel.

MM-BIO-1.6: A mitigation maintenance and monitoring plan for both on-site and off-site riparian and wetland mitigation, as described in MM-BIO-1.5, shall be prepared by a qualified restoration ecologist and shall incorporate an appropriate native species planting

palette to blend in with the existing and surrounding habitats. This plan shall include details of site preparation, implementation and planting specifications, and maintenance and monitoring procedures. The plan shall also outline yearly success criteria and remedial measures should the mitigation effort fall short of the success criteria.

MM-BIO-2: Indirect Impacts to Sensitive Vegetation Communities

MM-BIO-2.1: Storage of soil or fill material from the Project site shall be within the Project area or developed areas. The contractor shall delineate stockpile areas on the grading plans for review by the City.

MM-BIO-2.2: Construction access shall use existing developed areas or be within the right-of-way of proposed road improvements. If unauthorized new or temporary access routes are determined to be necessary, these areas shall be surveyed for biological resources prior to their use. Contractors shall clearly mark all access routes (i.e., flagged and/or staked) prior to the onset of construction. Implementation of erosion and sedimentation control measures as identified in MM-BIO-5 would also reduce any potential indirect impacts to sensitive vegetation communities to less than significant.

MM-BIO-2.3: The contractor shall periodically monitor the work area to ensure that construction-related activities do not generate excessive amounts of fugitive dust. Water shall be applied to the construction right-of-way, dirt roads, trenches, spoil piles, and other areas where ground disturbance has taken place to minimize dust emissions and topsoil erosion.

MM-BIO-3: Direct Impacts to Jurisdictional Waters

MM-BIO-3.1: MM-BIO-1 requires mitigation for all permanent wetland habitat impacts at a ratio of up to 3:1. In addition, in accordance with resource agency policies, the mitigation shall not result in a net loss of wetland habitat or wetland functions and values. Therefore, a minimum of 1:1 of the final mitigation replacement ratio shall be accomplished by wetland/riparian restoration at the southeast portion of the HARRF Expansion Parcel (0.78 acre). The proposed mitigation is subject to the resource agencies' review and discretion; thus, the mitigation obligations for the impacts to jurisdictional wetland habitats may change from those presented here.

MM-BIO-3.2: Impacts to riparian habitats and wetlands, as well as jurisdictional waters, shall require the following permits by regulatory federal and state agencies and acts: (1) USACE, CWA, Section 404 permit for placement of dredged or fill material within

waters of the U.S.; (2) RWQCB, CWA, Section 401 state water quality certification/waiver for an action that may result in degradation of waters of the state; and (3) CDFG, CFGC, Section 1602 agreement for alteration of a streambed. The mitigation could occur in the form of wetland/riparian creation or restoration (which both result in a gain of wetland/riparian area), or creation or restoration combined with enhancement.

MM-BIO-4: Direct Impacts to a Deed Restricted Mitigation Area

The deed restriction shall be removed from the area underneath the bridge. In kind, a deed restriction shall be placed on all mitigation acreage proposed at the southeast portion of the HARRF Expansion Parcel. In addition, an area of equal acreage to the area being removed from the deed restriction to the west of the bridge shall be placed under deed restriction in the vicinity of the now proposed mitigation location on the HARRF Expansion Parcel.

MM-BIO-5: Indirect Impacts to Jurisdictional Waters

MM-BIO-5.1: As identified in MM-BIO-1, environmentally sensitive area fencing shall be installed at the Project site to ensure no unintentional impacts to sensitive habitats. In the area of the HARRF access driveway, the limits of potentially jurisdictional southern willow riparian forest shall be flagged for avoidance, and silt fencing shall be installed in this location to avoid any indirect impacts to this potentially jurisdictional habitat.

MM-BIO-5.2: A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared to comply with RWQCB requirements. The SWPPP shall identify the design features and BMPs that will be used to effectively manage drainage-related issues (e.g., erosion and sedimentation) during construction. Erosion control measures shall be regularly checked by the contractor, the Project biologist, and/or the City. Specific BMP plans shall be reviewed by the City and the Project biologist and modified, if necessary, prior to implementation. Fencing and erosion control measures of all Project areas shall be inspected a minimum of once per week.

MM-BIO-5.3: Activities, including staging areas, equipment access, and disposal or temporary placement of excess fill, shall be prohibited within off-site drainages. Implementation of measures as identified in MM-BIO-2 would also reduce any potential indirect impacts to jurisdictional waters to less than significant.

MM-BIO-6: Direct Impacts to Mature and Protected Trees

MM-BIO-6.1: Prior to the start of construction, all *mature* and/or *protected* trees shall be identified by a qualified biological monitor within the temporary and permanent impact areas. Impacts to trees in the temporary work area shall be avoided to the extent feasible. Trees in the temporary impact area that can be avoided shall be temporarily fenced off at the drip line of the tree to prevent impacts during construction.

MM-BIO-6.2: If *mature* and/or *protected* trees cannot be preserved on-site, then impacts shall be mitigated as required under the City of Escondido Municipal Code (Chapter 33, Article 55). Where *mature* and *protected* trees occur in open oak woodland and/or riparian habitat, habitat-based mitigation as required under MM-BIO-1 and MM-BIO-3 will reduce impacts to less than significant. Of the 38 mature trees, a total of 16 *mature* trees are not associated with riparian and oak woodland habitats on-site. These 16 *mature* trees that cannot be preserved on-site, shall be replaced at a minimum 1:1 ratio. Of the 33 protected trees, a total of 12 *protected* trees are not associated with riparian and oak woodland habitats on-site. These 12 *protected* trees that cannot be preserved on-site shall be replaced at a minimum 2:1 ratio. The number, size, species, and location of replacement trees shall be determined on a case-by-case basis by the City of Escondido Planning Department. Replacement trees shall be incorporated into the on-site revegetation plan, as required in MM-BIO-1.

MM-BIO-7: Indirect Impacts to Mature and Protected Trees

Implementation of measures as identified in MM-BIO-2 would reduce any potential indirect impacts to *mature* and *protected* trees to less than significant.

MM-BIO-8: Direct Impacts to Sensitive Plant Species (Engelmann Oaks)

Impacts to two Engelmann oak trees shall be avoided in the temporary impact area to the extent feasible, as required in MM-BIO-5. Permanent impacts to one Engelmann oak tree (and temporary impacts to the two Engelmann oak trees, if they cannot be avoided) shall be mitigated as required for *protected* trees under the City of Escondido Municipal Code (Chapter 33, Article 55). Engelmann oaks shall be replaced at a minimum 2:1 ratio at an on-site location, or elsewhere in the City, as determined by the City Director of Planning.

MM-BIO-9: Indirect Impacts to Sensitive Plant Species (Palmer's Sagewort and Engelmann Oaks)

MM-BIO-9.1: In the Project buffer, the four individuals of Palmer's sagewort shall be flagged for avoidance and further impacts shall be avoided through implementation of the

following: no unnecessary or unauthorized trespass by workers or equipment in the Project buffer, prohibition of staging and storage of equipment and materials, prohibition of refueling activities, and prohibition of littering or dumping debris in areas known to contain Palmer's sagewort outside the Project area. Palmer's sagewort shall also be planted within the Project's potential on-site wetland/riparian restoration area.

MM-BIO-9.2: Implementation of measures identified in MM-BIO-2 would reduce any potential indirect impacts to Engelmann oaks to less than significant.

MM-BIO-10: Direct Impacts to Cooper's Hawk, Yellow Warbler, Yellow-Breasted Chat, and Other Migratory Birds

Under CFGC Division 4, Part 2, Chapter 1, Section 3503.5, "it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto," where "take" is defined under Division 0.5, Chapter 1, Section 86 as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." In addition, the MBTA restricts the killing of migratory birds or destruction of active migratory bird nests and/or eggs. Therefore, vegetation clearing should occur outside of the typical breeding season for raptors and migratory birds (January 1 through September 1). If this is not possible, then a qualified biologist shall conduct a survey for nesting birds no more than 5 calendar days prior to construction to determine the presence or absence of nests in the Project area, and the potential need for additional Project mitigation measures. If construction is halted for more than 5 calendar days during the breeding season, then nest surveys must be repeated prior to any additional vegetation clearing.

MM-BIO-11: Indirect Impacts to Cooper's Hawk, Yellow Warbler, Yellow-Breasted Chat, and Other Migratory Birds

MM-BIO-11.1: If nesting birds, including but not limited to, special-status species and those species protected by the MBTA, are detected in the Project site or Project buffer, the nest shall be flagged and no construction activity shall take place within 500 feet of the nest until nesting is complete (nestlings have fledged or nest has failed) or a Project biologist and noise specialist have confirmed that construction noise levels are less than 60 dBA L_{eq} at the nest site.

MM-BIO-11.2: If construction activities occur at night, all Project lighting (e.g., staging areas, equipment storage sites, roadway) shall be directed onto the roadway or

construction site and away from sensitive habitat. Light glare shields shall also be used to reduce the extent of illumination into adjoining areas.

MM-BIO-11.3: Final construction plans shall detail all operational street light locations and shall be provided to the City of Escondido Planning Department for review. Operational street lights shall be directed onto the roadway and away from open space areas. When considering spacing of lighting along the roadway, special consideration shall be given to the lighting along the new bridge and in the vicinity of the riparian habitat in Escondido Creek. Lighting in the area of Escondido Creek should be avoided if possible. If lighting is necessary for safe roadway operations in the vicinity of the creek, filters, shields, automatic dusk-to-dawn sensors, and/or other commercially available devices shall be implemented so that lighting is not reflecting into the adjacent riparian habitat. Final construction plans detailing lighting shall include specifications for all proposed devices to avoid lighting impacts within the riparian habitat adjacent to the bridge. These lighting specifications shall be reviewed and approved by the City of Escondido Planning Department prior to Project implementation.

MM-BIO-11.4: Operational traffic noise may reduce breeding potential for the yellow warbler, yellow-breasted chat, and Cooper's hawk within 230 feet of the centerline of the bridge and/or roadway. Noise levels shall be considered when preparing the restoration plan to allow for the planting of mature and protected trees, as required in MM-BIO-6, in areas where traffic noise levels would not be expected to impact breeding and nesting activities of foraging raptors, including Cooper's hawk. Implementation of habitat-based mitigation for direct impacts as described in MM-BIO-1 and MM-BIO-3 would result in an overall increase in suitable habitat for yellow warbler and yellow-breasted chat, and would reduce any potential indirect noise impacts to less than significant.

MM-BIO-11.5: Implementation of measures as identified in MM-BIO-2 would also reduce any potential indirect impacts to sensitive wildlife species and birds protected under the MBTA to less than significant.

MM-BIO-12: Direct Impacts to Migratory Birds

Implementation of measures as identified in MM-BIO-10 would reduce any potential direct impacts to migratory bird populations to less than significant.

MM-BIO-13: Indirect Impacts to Migratory Birds

Implementation of measures as identified in MM-BIO-11.1, BIO-11.2, and BIO-11.3 would reduce any potential indirect impacts to migratory birds to less than significant.

5.1.2 Finding

The City finds that Mitigation Measures MM-BIO-1 through MM-BIO-13 are incorporated into the proposed Project, are feasible, and will reduce potentially significant impacts on biological resources to less than significant levels, thereby avoiding any significant effects as identified in the Final EIR.

5.1.3 Rationale for Finding

As described below, implementation of Mitigation Measures MM-BIO-1 through MM-BIO-13 will reduce the proposed Project's potentially significant impacts on biological resources to levels less than significant, thereby avoiding any significant impacts.

Mitigation Measures MM-BIO-1.1 through MM-BIO-1.6 will reduce potentially significant direct impacts to sensitive vegetation communities as a result of construction activities. Mitigation measure MM-BIO-1.1 will prevent incidental loss of sensitive habitat by fencing off the limits of disturbance before start of construction. MM-BIO-1.2 through MM-BIO-1.6 will mitigate temporary and permanent impacts sensitive upland, riparian and wetland habitats by replacing temporary and permanently impacted areas with new vegetation both on-site and off-site.

Measures MM-BIO-2.1 through MM-BIO-2.3 will reduce temporary and permanent indirect impacts to vegetation communities and mature and protected trees by: monitoring fugitive dust to a level that will not affect surrounding vegetation; storing soil and/or fill within the Project site or developed areas to limit contact with surrounding vegetation; and limiting access routes to existing and developed areas, so equipment will not disturb surrounding vegetated communities.

Measures MM-BIO-3.1 through MM-BIO-4 will mitigate permanent and temporary direct impacts to jurisdictional waters as a result of construction and placement of the Escondido Creek Bridge through mitigation at up to 3:1 that shall result in no net loss of wetland habitat, functions or values.

Measures MM-BIO-5.1 through MM-BIO-5.3 will reduce potential temporary and permanent indirect impacts to jurisdictional waters. Fencing at the Project site will ensure no unintentional

impacts to surrounding waters and erosion and sedimentation shall be managed through a SWPPP. All construction activities will be prohibited within off-site drainages as to not impact surrounding waters.

Measures MM-BIO-6.1, MM-BIO-6.2, and MM-BIO-7 will reduce potential direct and indirect impacts to mature and protected trees through the identification and avoidance of trees to the extent feasible. If mature or protected trees cannot be preserved onsite then mature trees shall be replaced at a minimum 1:1 ratio and protected trees shall be replaced at a minimum 2:1 ratio; resulting in no overall loss of mature trees and an increase in the amount of protected trees.

Measure MM-BIO-8 will reduce potential impacts to Engelmann oak trees through avoidance to the extent feasible. If avoidance is not feasible, Engelmann oak trees shall be replaced at a minimum 2:1 ratio; resulting in an increase in the amount of Engelmann oak trees.

Measures MM-BIO-9.1 and MM-BIO-9.2 will protect individual Palmers sagewort within the Project buffer from indirect impacts through flagging for avoidance and measures prohibiting harmful activities in and around the Project buffer and areas known to support Palmer's sagewort. Palmer's sagewort shall also be planted in the Project's on-site wetland/riparian restoration area. Engelmann oaks would be protected per MM-BIO-2.

Measure MM-BIO-10 will avoid direct impacts to Cooper's Hawk, Yellow Warbler, Yellow-breasted chat and other migratory birds by requiring vegetation clearing to occur outside the typical breeding season for raptors and migratory birds. If not possible, surveys shall determine the presence or absence of active nests in the area and any need for additional mitigation measures. MM-BIO-11.1 through MM-BIO-11.5 will avoid indirect impacts to these avian species and other migratory birds through buffers around occupied nests during construction, direction of Project lighting away from sensitive habitat, special consideration and requirements for operational lighting near open space areas and riparian habitat, and planting of trees in areas where traffic noise would be reduced.

Measure MM-BIO-12 and Measure MM-BIO-13 address reduction of direct and indirect impacts to migratory birds through the implementation of Measures MM-BIO-10 and MM-Bio-11.1 through BIO-11.3.

5.2 Cultural Resources

5.2.1 Impacts

Based on the information and analysis set forth in the Final EIR and the record of proceedings, the proposed Project would result in potentially significant impacts related to cultural resources including the potential to disturb human remains, impacts to significant known cultural deposits and rock art elements, and impacts to undocumented cultural deposits.

The following mitigation measures, as included in the Final EIR are feasible and will reduce potentially significant impacts to cultural resources to less than significant levels, thereby avoiding any significant effects:

MM-CR-1: Human Remains Encountered within the Construction Zone

MM-CR-1.1: In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, protocols and procedures noted in PRC Section 5097.98, the California Government Code Section 27491, the Health and Safety Code Section 7050.5, and the County of San Diego Historical Resources Guidelines for the treatment of human remains encountered at archaeological sites will be followed. The City of Escondido will prepare and submit to the Tribes for their review and comments a Pre-Excavation Agreement that is intended to outline the procedures and protocol to be followed in the event human remains are identified. This agreement is not a mandatory precursor to the implementation of the mitigation and monitoring program; however, the City is committed to the proper treatment of any human remains that may be encountered, and will make the necessary effort to implement the Pre-Excavation Agreement. The procedures listed below shall be followed where human remains are encountered:

- A. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - a. A City Official is contacted.
 - b. The Coroner is contacted to determine that no investigation of the cause of death is required, and
 - c. If the Coroner determines the remains are Native American:
 - i. The Coroner shall contact the Native American Heritage Commission (Commission) within 24 hours.
 - ii. The Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. Previous discoveries of human remains on this Project resulted in the NAHC identifying two MLDs, the KCRC for the Kumeyaay and Carmen Mojado

for the San Luis Rey (Luiseño). It is reasonable to assume that the MLDs will continue in that role for the duration of the Project.

- iii. The Most Likely Descendent (MLD) may make recommendations to the landowner or the City for the excavation work.
- B. The Native American human remains and associated funerary items that are removed from the Project APE may be reburied at a location mutually agreed upon by the City and the MLD(s). A portion of a City owned parcel has been designated by the City as a location where human remains can be reburied and preserved. An open space easement will be placed over this lot within the City-owned property adjacent to the Citracado Parkway Project. This easement will be permanent and will protect all cultural materials within the easement indefinitely. If reinterment of human remains cannot be accomplished at the time of discovery, the MLD(s) shall either take temporary possession of the remains or identify a location for the temporary but secure storage of the remains.
- C. Any time human remains are encountered or suspected and soil conditions are appropriate for the technique, the use of canine forensics will be considered when searching for human remains. The decision to use canine forensics will be made on a case-by-case basis through consultation between the City representative, the Consulting Archaeologist (defined as the individual charged with the responsibility of implementing the Mitigation Monitoring and Reporting Program and directing field excavations), and the MLD(s). Because human remains require special consideration and handling, they must be defined in a broad sense. For the purposes of this document, human remains are defined as:
- a. Cremations including the soil surrounding the deposit,
 - b. Interments including the soil surrounding the deposit, or
 - c. Associated funerary items.

MM-CR-1.2: In consultation with the City representative, the Consulting Archaeologist, and the MLD, additional measures, such as focused archaeological excavations, may be required to determine the extent of burials or ensure the recovery of all elements of the burial.

MM-CR-2: Disposition of Human Remains

The majority of Locus 1 of SDI-8280 is situated outside of the Project's APE and is located on property owned by the City of Escondido. To ensure the preservation of the significant pictographs recorded at SDI-8280 and located adjacent to the APE (and within the City's ownership), the City shall delineate an area for preservation that encompasses the pictographs. Furthermore, because of the high potential to recover additional human remains or sensitive artifacts associated with sacred, religious, or ceremonial components

of the material cultural of the prehistoric occupants of these sites, the City shall also identify this preservation area within Locus 1 of SDI-8280 as a location for the repatriation and reburial of such sacred, religious, or ceremonial artifacts or human remains identified by the MLD(s) as appropriate for reburial.

The preservation area within Locus 1 of SDI-8280 shall be either dedicated as an open space easement to ensure the perpetual protection of the pictographs and any reburied cultural materials; or, the preservation area may be legally separated from the City's property and ownership conveyed to the Kumeyaay-Diegueño Land Conservancy (KDLC) to provide the local Native American community direct control of the preservation area for perpetual access to the human remains reburied there and to facilitate their guardianship over this location. From the perspective of CEQA and the mitigation of impacts to cultural resources, either method of preservation would be sufficient to accomplish the goal of the mitigation program. The proposed preservation area within Locus 1 of SDI-8280 is depicted in the BFSAs technical report.

MM-CR-3: Indirect Impacts to Significant Cultural Deposits and Rock Art Elements at SDI-8280 and SDI-12,209

MM-CR-3.1: Indirect impacts to elements of SDI-8280 and SDI-12,209 that are adjacent to the construction APE shall be mitigated through fencing that will be used to isolate the work area. Notes shall be placed on the construction plans and notices posted on the job site stating that areas outside of the APE contain "Environmentally Sensitive Areas." No construction activity shall be permitted outside of the APE unless that area has been reviewed for potential impacts to cultural deposits.

MM-CR-3.2: Concerns over the pictograph at SDI-12,209, which is situated east of the alignment, have been raised by the Native American community. The boulder with the pictograph could be affected by vibrations from blasting or heavy equipment. Measures would be required to ensure indirect impacts do not cause any damage to this feature. Measures to protect the feature may include wrapping the rock with layers of fabric to protect the pictograph image. Engineering assistance will be necessary to calculate the need for any structural shoring of the rock to prevent movement. This pictograph is located on private property, and measures to mitigate potential indirect impacts may require the consent of the property owner. The status of access to the boulder at the time of construction to provide mitigation of indirect impacts is not known at this time. If access is denied, measures to protect the pictograph rock will be limited to fencing along the limits of construction.

MM-CR-3.3: The pictographs located in Locus 1 of SDI-8280 are situated near the APE and may be affected by the grading of the new road. The southernmost of the pictographs is immediately adjacent to the road cut, and will be very near the construction activity, which represents a source of potential indirect impacts. To ensure the preservation of the pictograph, measures will be needed to secure the boulder from dust and debris, vibrations, and any damage to the surface of the boulder. The following measures shall be completed prior to the initiation of grading within 500 feet of the pictographs at Locus 1 of SDI-8280:

- A. The Project engineer/design consultant shall devise a method to secure the slope between the southern pictograph boulder and the proposed retaining wall immediately adjacent to the pictographs.
- B. The drilling of tie rods needed to secure the retaining wall adjacent and downslope from the southern pictograph shall not cause any degradation to the soil below the pictograph that might over time affect the stability of the feature.
- C. Dust and debris from the grading of the road will affect and potentially damage the painted surface of the pictographs. Measures shall be implemented to ensure the surfaces of the boulders are protected. These measures may include the wrapping of the boulder first in a cloth to cover the boulder surface and the construction of a framework to create a barrier to flying debris. Prior to the start of grading, the City's resident engineer shall meet with the Consulting Archaeologist, the Tribal representatives, and the contractor to arrive at an agreement upon which method would be preferred to accomplish the protection of the feature. If, for any reason, a mutually-agreeable method cannot be achieved by all parties, then the Consulting Archaeologist shall be responsible to implement measures to ensure the pictograph is not damaged during construction. Prior to placement of any protective materials over the pictographics, digital photographs shall be taken with the purpose of using technological methods to enhance the observable image while the opportunity exists prior to construction of the roadway.
- D. Following the completion of the road project, all protective materials shall be removed from the pictographs and the area returned to its natural setting.

In addition to the protection of the pictograph features, the milling features that will be affected by the proposed Project and that are considered sensitive to Native American groups will be preserved (and capped) or possibly moved, where possible and feasible. The majority of milling features at SDI-12,209 are far too large to move, and may be capped and preserved in the fill soil needed to raise the roadbed. Smaller milling features may be moved to the open space easement at SDI-8280. To determine which milling

features within the APE will be preserved, moved, or destroyed, a field meeting will be required prior to the start of grading and will be attended by the City's engineer, the contractor, the Native American representatives, and the Consulting Archaeologist to review the inventory of milling features within the APE and determine the most appropriate candidates to move or relocate, which may be preserved by capping and will be impacted by grading. Where preservation cannot be accomplished, no additional work is required, as all the features have been previously recorded.

MM-CR-4: Direct Impacts to Significant Elements of SDI-12,209

For direct impacts to significant components of Site SDI-12,209 (Loci 1 and 2), mitigation of those impacts would be achieved through the implementation of a data recovery program. As a condition of approval for this Project, and prior to the initiation of any clearing, grading, or construction associated with the road project within the boundaries of the cultural sites, the City shall direct the archaeological consultant to prepare a detailed research design to orientate the research perspective, stipulate the archaeological goals, address Native American concerns, and direct the excavation process. The implementation of the research design constitutes mitigation for the proposed destruction of the significant portions of archaeological Site SDI-12,209 (Loci 1 and 2) within the alignment. The mitigation of impacts shall be achieved by the excavation and analysis of a sufficient sample of the significant deposits affected to exhaust the research potential of those areas. Based on the archaeological research records for this region, and following widely applied guideline requirements from agencies in this area, mitigation of impacts through applied data recovery programs will typically target a 10 to 15 percent sample as a statistically valid recovery level for significant deposits. However, the overriding measure of the adequacy of a sample of a significant deposit is the exhaustion of research potential and achievement of a redundant artifact recovery pattern. To facilitate the periodic review of the excavation collection and assessment of the status of the information accumulated, the data recovery program will utilize a statistical sampling process that will require the evaluation of the excavation at 5 percent sample increments, or phases. At the conclusion of each phase of sampling (potentially Phases 1, 2, 3), the Consulting Archaeologist shall determine if the subsequent phase of sampling is required, using criteria listed in the research design, and potentially stratifying the subsequent sample phase to focus excavations in areas with higher research potential. The Consulting Archaeologist responsible for the mitigation program will have the latitude to adjust the stratified sampling process to maximize efforts in any particular areas that possess identified higher research potential. The sampling protocol is highlighted below but will be presented in greater detail in the research design.

- A. The basic unit of the data recovery field program will be standard 1-meter-square test units. Each unit will be excavated using common archaeological protocols for fieldwork, including the excavation of each unit in decimeter levels to a depth that exceeds the lowest depth of the cultural deposit. All excavations will be completed using hand tools and work will be approached in a careful, professional manner. All of the soil excavated from the units will be subjected to hydro-screening on-site. The use of water to separate dirt from the archaeological collections will ensure that any human remains are immediately revealed and will also enhance the recovery of cultural materials that may be too small to otherwise be identified. All soils will be hydro-screened through one-eighth-inch mesh hardware cloth, with at least 10 percent of the excavated sample to be screened with one-tenth-inch mesh hardware cloth to search for those elements of the deposit that otherwise would pass through the one-eighth-inch mesh. All recovered cultural materials will be bagged by provenience, labeled, and transported to a secure location for laboratory analysis.
- B. All excavations (both archaeological and construction-related) will include monitoring by Luiseño and Kumeyaay MLDs (or their designated representatives).
- C. Detailed field maps will be completed using Global Positioning System technology with submeter accuracy to record all excavations and features encountered.
- D. Phase I of the fieldwork program will include a 5 percent hand-excavated sample of each identified subsurface deposit that will be directly impacted.
- E. At the completion of Phase I, the Consulting Archaeologist shall evaluate the results and consider issues of site integrity, data redundancy, spatial and temporal patterning, features, and other relevant topics in order to assess the adequacy of the initial five percent sample. The Consulting Archaeologist shall communicate with the City of Escondido and County of San Diego the results of the Phase I evaluation and recommendation for Phase II additional work. Based on this assessment, the site will be stratified to delineate areas with further research potential or the potential to produce features. A second phase of field investigations would consist of an additional 5 percent sample of that stratified area with further research potential. Adjustments in the sample size shall be an option of the Consulting Archaeologist should the assessment of the sources of the Phase I sample indicate the Phase II sample should be less than 5 percent.
- F. Implement Phase II of fieldwork, as necessary. Upon completion of the second phase of sampling, the Consulting Archaeologist will evaluate the success of the Phase II and consider the need for further sampling. The Consulting Archaeologist shall submit the results of this evaluation to the City of Escondido and County of San Diego as well as any recommendations for Phase III additional excavations. Should this analysis confirm research potential remains, a third phase (Phase III) will be employed. Typically, as a product of site organization and use pattern during the

Late Prehistoric period, the sampling process will identify a core area of more intense artifact concentration and variety of artifact types. The final phase (Phase III) of the stratified sample would commonly employ a large block excavation to focus Phase III efforts only upon the core deposit.

- G. Implement Phase III of sampling if determined to be necessary.
- H. Conduct an intensive laboratory program for all recovered cultural materials. All items in the collection will be subjected to standard laboratory procedures of cleaning, cataloging, data entry, and artifact analysis including lithics analysis, ceramics analysis, faunal analysis, floral analysis, assemblage analysis, and radiocarbon dating.
- I. Provide evidence to the satisfaction of the City that all archaeological materials recovered, during both the significance testing and data recovery phases, have been curated according to current professional repository standards. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. Agreements with the Native American representatives regarding elements of the archaeological excavation recovery will supersede curation requirements if these artifacts are requested by the tribes for repatriation, relocation, and/or reburial.
- J. Complete and submit the Final Technical Report to the satisfaction of the City.

MM-CR-5: Potential Impacts to Undocumented Cultural Deposits during Grading

The construction of the Citracado Parkway Extension would require the implementation of a MMRP. The basis for this requirement is that the construction APE will include known significant cultural resources and areas where potentially important cultural deposits could be discovered. To identify any significant and previously undocumented elements of SDI-8280 and SDI-12,209, the MMRP will require the presence of an archaeological monitor, as well as Luiseño and Kumeyaay Native American monitors, during all grading and trenching associated with the Project. The actual building of the roadway following the completion of earthwork will not require monitoring, although periodic visits by the monitors will be conducted to ensure the adjacent cultural resources remain intact. The MMRP shall state the following:

MM-CR-5.1: During the cutting of previously undisturbed soil, archaeological and Native American monitors shall be on-site full time to perform inspections of the excavations. The presence of the Consulting Archaeologist is a mandatory grading requirement; however, the Native American monitors may choose to monitor at their discretion during the grading program. The number of monitors permitted on the Project

will depend on the rate of excavation, the number of areas being graded at any one time, the materials excavated, and the presence and abundance of artifacts and features. The Consulting Archaeologist shall provide the City with a rationale for the number of monitors needed to comply with the mitigation measure. Safety issues and protocols will be cited in those instances where the number of individuals on-site may be limited due to hazardous conditions. Because of the constrained work environment, a monitoring team shall typically include one archaeological monitor and two Native American monitors, one Kumeyaay and one Luiseño. The supervising archaeologist will recommend additional monitoring teams should multiple work areas be graded simultaneously.

MM-CR-5.2: Prior to the initiation of grading, the contractor shall organize a preconstruction meeting of all personnel scheduled to work on the grading and construction phases of the Project. The purpose of this meeting will be a Worker's Education Program to instruct the workforce about the cultural resources associated with the Project, the sensitivity of these resources to the local Native American community, and the protocols to be followed should any workers encounter artifacts during work on the Project. The Consulting Archaeologist shall conduct the Worker's Education Program and shall include the Native American representatives as part of the presentation of Native American concerns.

MM-CR-5.3: Isolates and clearly nonsignificant deposits will be documented in the field but will not be subjected to data recovery mitigation.

MM-CR-5.4: In the event that previously unidentified and potentially significant cultural resources are discovered, the Consulting Archaeologist or Native American monitor shall have the authority to divert or temporarily halt ground disturbance operations to review possible discoveries. This temporary diversion of work shall be as brief as possible; however, if a discovery is confirmed, the supervising archaeologist shall report this to the City's resident engineer. The discovery location shall be secured from further disturbance to allow evaluation of potentially significant cultural resources. The Consulting Archaeologist shall contact the City's resident engineer at the time of any discovery. The Consulting Archaeologist, in consultation with tribal representatives, shall determine the significance of the discovered resources. For any significant cultural resources discovered during monitoring of grading, further mitigation measures (data recovery) will be necessary to complete the impact mitigation. A detailed description of additional mitigation measures will be prepared by the Consulting Archaeologist and approved by the City, prior to implementation. If any human remains are discovered, the County Coroner shall be contacted (see MM-CR-2). In the event that the remains are

determined to be of Native American origin, the MLDs shall be contacted to determine proper treatment and disposition of the remains.

MM-CR-5.5: In areas within the APE where significant deposits have been identified, controlled grading may be implemented to carefully peel away layers of soil, which could expose features or human remains with minimal damage. The Consulting Archaeologist, in conjunction with Native American monitors, shall determine when and where controlled grading is needed based upon the results of the Data Recovery Program and any new discoveries made during grading. The pace, depth, duration, and location of the controlled grading protocol will be made in concert with tribal monitors, but will ultimately be the responsibility of the Consulting Archaeologist to grade and implement the program.

MM-CR-5.6: All cultural material collected during the grading monitoring program shall be processed and curated according to current professional repository standards and as required by the environmental policies and guidelines of the County of San Diego. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. Agreements with the MLDs (Pre-Excavation Agreement) regarding human remains and associated grave goods will supersede curation requirements and all human remains and associated grave goods will be submitted to the tribes for repatriation, relocation, and/or reburial.

MM-CR-5.7: A section of the final data recovery report for the Citracado Extension Project shall include a description of the mitigation monitoring program and a report of all findings made during the monitoring process. Copies of the mitigation and monitoring report will be provided to the City of Escondido, County of San Diego, the Native American tribes, and the South Coastal Information Center at San Diego State University. The final technical report and the curation of collections shall be completed within 1 year of the termination of fieldwork and monitoring and grading.

5.2.2 Finding

The City finds that Mitigation Measures MM-CR-1 through MM-CR-5 are incorporated into the proposed Project, are feasible, and will reduce potentially significant impacts to cultural resources to less than significant levels, thereby avoiding any significant effects as identified in the Final EIR.

5.2.3 Rationale for Finding

As described below, implementation of Mitigation Measures MM-CR-1 through MM-CR-5 will reduce the proposed Project's potentially significant impacts to cultural resources to levels less than significant, thereby avoiding any significant impacts.

Mitigation Measure MM-CR-1 provides specific protocols and procedures that must be followed if human remains are encountered within the construction zone, including state Health and Safety Code requirements, Native American contact, reinternment, use of canine forensics in searching for human remains, and additional measures if necessary to determine the extent of burials and recovery.

Mitigation Measure MM-CR-2 ensures the protection of the significant pictographs through preservation of an area encompassing the pictographs. The preservation area shall also be identified as a location for the repatriation and reburial of artifacts or human remains as appropriate. Preservation of the area shall occur through the dedication of an open space easement or by ownership conveyed to the Kumeyaay-Diegueño Land Conservancy.

Mitigation Measure MM-CR-3 ensures the protection of elements of SDI-8280 and SDI-12,209 through fencing used to isolate the work area. Measures also include the wrapping of boulders with fabric or constructing a barrier to protect pictographs from dust, debris, and other potential damage, engineering to secure the boulders from construction-related vibrations, and return of the area to its natural setting once construction is complete. Milling features would also be protected as feasible through capping and preservation or relocation.

Mitigation Measure MM-CR-4 provides for the mitigation of impacts to significant element of SDI-12,209 through the implementation of a data recovery plan. The measure outlines the requirements of the data recovery planning include the field program, excavation monitoring, field maps, result evaluation, laboratory program for all recovered cultural materials, and curation requirements, and final technical report.

Mitigation Measure MM-CR-5 reduces potential impacts to undocumented cultural deposits during ground disturbance through the mandatory on-site full-time presence of an archaeological monitor and discretionary Native American monitors during all grading and trenching activities. If potentially significant cultural resources are discovered, the monitors shall be able to divert or halt ground disturbance operations. All cultural material collected during the grading monitoring program shall be appropriately processed and curated and a final data report shall be prepared.

6.0 SIGNIFICANT ENVIRONMENTAL EFFECTS THAT CANNOT BE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL THROUGH FEASIBLE MITIGATION MEASURES

Even after implementation of all identified feasible mitigation measures, impacts associated with the issue areas of Noise and Traffic will remain significant and unavoidable. There are no feasible mitigation measures beyond those presented in the Final EIR that would reduce or avoid the impacts; therefore, significant noise and traffic effects are unavoidable.

6.1 Noise

6.1.1 Impacts

The Final EIR discusses noise impacts in Section 3.9. Based on the information and analysis set forth in the Final EIR and record of proceedings, the proposed Project would result in potentially significant impacts at receptors located along the existing and proposed alignment. Sound walls proposed along the existing segment of Citracado Parkway are located at the same location as existing walls/fences along the alignment or at the edge of the future right-of-way. In addition, three walls are proposed on private property at R34, R35, and R37.

With implementation of the proposed Project, Build Condition 2014 noise levels would range from 54 to 71 dBA CNEL; 31 receptors would be exposed to noise levels equal to or greater than 60 dBA CNEL and 10 receptors would be exposed to noise level greater than 65 dBA CNEL. Noise-level increase under the Build Condition in 2014 would range from -4 to 21 dBA over the projected 2014 No Build and 1 to 24 dBA over existing 2010 noise levels; 16 receptors would be exposed to a noise-level increases of 5 dBA or greater when comparing the 2014 Build and No Build Conditions.

Under Build Condition 2014, noise levels at R1, R2, R4 through R10, R14 through R32, R34, R36, and R37 would equal or exceed 60 dBA CNEL, and noise levels would increase by 5 dBA CNEL or more at R15, R19, R21 through R25, R27, R28, R30, R31, R34, R35, R37, R38, and R40. However, R38 and R40 are not noise-sensitive receptors. Therefore, the proposed Project would cause a significant impact to R1 through R10, R14 through R16, R18 through R31, and R34 through R37.

Under 2030 conditions, all receptors except R33 and R39 would be exposed to noise levels in excess of 60 dBA or to noise increases over existing 2010 conditions of greater than 5 dBA. While impacts would occur when comparing the 2030 conditions to the 2010 conditions, traffic-related noise levels between West Valley Parkway and Andreasen Drive would be lower due to

reduced traffic volumes between the 2014 Build and the 2030 Build conditions. The reduced traffic volumes would be the result of future improvements in the local and regional transportation network (VRPA 2011). The Project would result in a cumulatively considerable substantial increase in noise levels, i.e., an increase greater than 1 dBA with Project implementation, at receptors R22, R27, R28, R30, R31, R34, R35, R36, R37, R38, and R40. It is not practical to reduce noise levels to ambient noise levels; thus, the goal would be to ensure noise levels at these locations are compatible with the land uses. Based on the noise levels presented in Table 3.9-8, R22, R27, R28, R30, R31, R34 and R36 would be exposed to a substantial increase in noise levels and a noise level in excess of 60 dBA CNEL. Therefore, the proposed Project would cause a significant impact at R22, R27, R28, R30, R31, R34, and R36.

The following mitigation measures, as included in the Final EIR are feasible and will reduce some potentially significant noise impacts:

MM-NOISE-1: Sound Walls

Soundwalls shall be constructed as shown in Figure 3.9-3 of the Final EIR. To reduce noise levels to 65 dBA CNEL or less, soundwall 1 (SW1) and soundwall 2 (SW2) shall be 10 feet in height and soundwalls 3–5 (SW3–SW5) shall be 8 feet in height. Additionally, to achieve a noticeable reduction (i.e., 3 dBA) an 8-foot-high soundwall (SW6) shall be constructed for R24 and R31, 6-foot-high soundwalls (SW7+SW8) shall be constructed for R34 and R35, and a 12-foot-high soundwall shall be constructed for R37 (SW9).

Mitigation was designed for R36 due to a cumulatively considerable impact but was determined infeasible, as no configuration could achieve a 3 dBA reduction due to the design and access requirements of the lot.

While the proposed Project would result in a substantial permanent increase in noise levels, with inclusion of the modeled walls in the proposed Project at the specified heights, the proposed Project would not expose local noise-sensitive receptors to noise levels in excess of 65 dBA CNEL and would not exceed interior noise level standards.

Given the City's goal of 60 dBA, even with the implementations of proposed mitigation, the proposed Project would result in a significant unavoidable impact at receptors R2, R4 through R10, R14 through R16, R18 through R20, R23, R24, R26 through R29, and R36, as noise levels would continue to exceed 60 dBA CNEL.

As the walls for R34, R35, and R37 are located on private property, permission would be required by the property owners to construct the soundwalls. Thus, it cannot be guaranteed that the soundwalls for these locations can be built. If the identified soundwalls cannot be built, impacts at these receptors would be significant and unavoidable.

6.1.2 Finding

The City finds that Mitigation Measure MM-Noise-1 is hereby incorporated into the proposed project. This mitigation measure will lessen, but not avoid the significant noise impacts identified above and in the Final EIR.

6.1.3 Rationale for Finding

Mitigation Measure MM-Noise-1 will not fully avoid the proposed Project's significant noise impacts. While the construction of soundwalls will help to reduce noise impacts to sensitive receptors, a number of these receptors will still be impacted and impacts will remain significant and unavoidable (R2, R4 through R10, R14 through R16, R18 through R20, R23, R24, R26 through R29, and R36) as noise levels would continue to exceed 60 dBA CNEL. Furthermore, it cannot be guaranteed that the soundwalls proposed on private property will be built, because property owner permission will be required to construct the soundwalls. If permission is denied, impacts at these receptors would also be significant and unavoidable. As set forth in the Statement of Overriding Considerations, these noise impacts are acceptable in light of the proposed Project's benefits.

6.2 **Traffic**

6.2.1 Impacts

The Final EIR discusses traffic and circulation impacts in Section 3.10. Based on the information and analysis set forth in the Final EIR and record of proceedings, the proposed Project would result in potentially significant impacts to traffic operations during construction and operation.

The traffic analysis found that in year 2014 the proposed Project would have a significant adverse impact on the operations of the intersection at Citracado Parkway and West Valley Parkway. The Traffic Technical Report indicates the LOS at this intersection would decline from LOS D to LOS F with proposed Project implementation.

The proposed Project would have a significant adverse impact on the operations of the intersection at Del Dios Highway and Via Rancho Parkway in both year 2014 and 2030 scenarios. The proposed Project would reduce the AM LOS value from LOS D to LOS F, and would also cause an incremental contribution to PM traffic volumes at the intersection that would result in a significant increase in motorist delay (greater than 2 seconds) compared to the no project condition.

For the 2014 forecast scenario, the proposed Project would have a significant adverse impact on the operations of the Via Rancho Parkway street segment south of Del Dios Highway. The Traffic Technical Report indicates that the segment operation would decline from LOS D to LOS E with proposed Project implementation.

The proposed Project would have a significant adverse impact on the operations of the Valley Parkway/Del Dios Highway segment between Citracado Parkway and Via Rancho Parkway in 2014. The Traffic Technical Report indicates that the average daily LOS for this segment would be LOS F with or without proposed Project implementation. The impact is considered significant due to the incremental contribution of the proposed Project to traffic volumes along the segment that would exceed 200 or more ADT.

Temporary vehicular traffic disruptions and detours during proposed Project construction would result in a temporary short-term adverse impact. The following mitigation measure, as included in the Final EIR is feasible and will reduce the potentially significant construction traffic impact:

MM-TR-5: Traffic Management Plan

To address temporary construction impacts, a Traffic Management Plan would be prepared to address the traffic control procedures during construction of the proposed Project. The plan would include measures to provide alternate routes for bicyclists and pedestrians that would use facilities affected by Project construction. Implementation of an approved Project Traffic Management Plan would reduce this impact to less than significant.

6.2.2 Finding

The City finds that there are no other feasible mitigation measures available to reduce or avoid proposed Project impacts to traffic operations during operation. The operational traffic impacts will remain significant and unavoidable as identified in the Final EIR.

The City finds that Mitigation Measure MM-TR-5 is hereby incorporated into the proposed Project. This mitigation measure will avoid the significant construction traffic impact identified above and in the Final EIR.

6.2.3 Rationale for Finding

The Traffic Management Plan required in Mitigation Measure MM-RT-5 would address the potential traffic disruptions that could result with construction activities and mitigate those construction traffic impacts to below a level of significance.

Various mitigation measures to reduce operational traffic impacts were considered in the Final EIR, such as additional turn lanes at intersections and roadway segment widening. However, these potential mitigation measures were not carried forward because the City determined them infeasible due to factors such as cost, right-of-way constraints, and future transportation improvements to improve the overall circulation system. Because of these social and economic considerations, the mitigation measures to reduce operational impacts are considered infeasible and not included in the Final EIR, or as part of the proposed Project. As set forth in the Statement of Overriding Considerations, these operational traffic impacts are acceptable in light of the proposed Project's benefits.

7.0 FINDINGS REGARDING PROJECT ALTERNATIVES

The CEQA Guidelines direct lead agencies that the “range of potential alternatives to the proposed Project shall include those that could feasibly accomplish most of the basic objectives of the Project and could avoid or substantially lessen one or more of the significant effects” (Section 15126.6[c]). The Final EIR evaluated a reasonable range of alternatives to the proposed Project. These alternatives are:

- No Project Alternative
- Construct without Annexation Alternative
- Construct with Bridge Over Harmony Grove to Escondido Creek Alternative

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. An alternative may be “infeasible” if it fails to fully promote the lead agency’s underlying goals and objectives with respect to the project. In considering alternatives, a number of factors, including the objectives of the proposed Project were considered, as described in the EIR. The objectives for the proposed Project are as follows:

1. Provide more direct access for drivers traveling to recent and planned developments such as the Escondido Research and Technology Center (ERTC) and Palomar Medical Center West, Citracado High School, residential neighborhoods, and commercial developments, and areas to the southeast (including the Felicita, Del Dios, and Lake Hodges neighborhoods in south Escondido and access for I-15).
2. Provide a direct connection between SR-78 and Del Dios Highway, and eventually connect SR-78 to I-15, which will enhance freeway access for businesses and residents in the southwestern area of the City.
3. Reduce existing and projected traffic congestion on local collector and arterial streets (e.g., Harmony Grove Road, West Valley Parkway, and 9th Avenue).
4. Provide facilities to improve connectivity and travel conditions for bicyclists and pedestrians.
5. Contribute to a safe and efficiently performing circulation system.
6. Implement a planned component of the City’s General Plan Circulation Element.
7. Remain within funding constraints identified in the City’s capital improvement plan.
8. Streamline Project review and permit requirements by expanding the City’s sphere of influence (SOI) and annexing three parcels of County land.

7.1 No Project Alternative

The Final EIR discusses the No Project Alternative and compares the No Project Alternative with the proposed Project in Section 5.0. Table 5-1 of the Final EIR summarizes the comparative impacts of all three Project alternatives.

The No Project Alternative considers the environmental impacts associated with the existing roadway system remaining as it currently operates and without any construction as a part of the proposed Project and no parcel annexation. The Citracado Parkway Extension Project would remain a proposed transportation improvement in the Circulation Element of the City's General Plan.

The City of Escondido rejects the No Project Alternative as infeasible within the meaning of CEQA.

7.1.1 No Project Alternative – Impacts

The No Project Alternative would have no impact on land use, biological resources, cultural resources, geology/seismicity, hydrology/water quality, noise, and municipal services and utilities. Compared to the proposed Project, the No Project Alternative would have similar impacts on air quality. This alternative would have substantially greater impacts on traffic and long-term adverse impacts to the City's transportation system would occur. Overall, the No Project Alternative would result in fewer environmental impacts than the proposed Project.

7.1.2 Feasibility of Alternative

The No Project alternative was rejected in favor of the proposed Project, because the No Project Alternative does not meet the objectives of the proposed Project. The No Project Alternative would not provide direct access and connections between locations within the City, would not reduce existing or projected traffic congestion, and would not improve conditions for bicyclists or pedestrians. Furthermore, the No Project Alternative would not meet the circulation element of the City General Plan, which includes the extension of Citracado Parkway.

The No Project alternative would result in fewer overall environmental impacts than the proposed Project; however, significant unavoidable impacts to traffic would still occur and would be greater than those associated with the proposed Project. Considering the social implications (lack of roadway network connectivity, increased traffic congestion, lack of

appropriate pedestrian and bicycle facilities) of the No Project Alternative's inability to meet Project objectives, and the adverse impacts to traffic, this alternative is considered infeasible.

7.2 Construct without Annexation Alternative

The Final EIR discusses the Construct without Annexation Alternative and compares it with the proposed Project in Section 5.0.

The Construct without Annexation Alternative would include all the construction components for widening and extending Citracado Parkway, but not include the proposed annexation of the three parcels into the City's boundary.

The City of Escondido does not reject this alternative and retains the option to implement this alternative.

7.2.1 Construct without Annexation Alternative – Impacts

Compared to the proposed Project, the Construct without Annexation Alternative would have less of an impact on land use. This alternative would have similar impacts on air quality, biological resources, cultural resources, geology/seismicity, hydrology/water quality, noise, traffic/circulation, visual resources, and municipal services/utilities. While impacts are considered similar, the Construct without Annexation Alternative would be required to comply with County regulations and policy for those components of the proposed Project that fall within the three County parcels.

7.2.2 Feasibility of Alternative

This alternative would achieve all of the Project objectives, except the expansion of the City's sphere of influence (SOI) and annexation of the three parcels of County land. The City desires to maintain the roadway extension within the jurisdictional limits of Escondido to avoid the potential need for a joint jurisdictional operation and maintenance agreement between the County and the City. However, the decision on whether to move forward with annexation is at the discretion of the decision makers and would be decided upon by LAFCO, who may approve, conditionally approve, or deny the proposed annexation. Should annexation not be approved by LAFCO, or result in a schedule delay, the City is retaining the option to proceed with construction of the roadway under this alternative.

7.3 Construct with Bridge Over Harmony Grove to Escondido Creek Alternative

The Final EIR discusses the Construct with Bridge over Harmony Grove to Escondido Creek Alternative (Construct with Bridge Alternative) and compares it with the proposed Project in Section 5.0.

The Construct with Bridge Alternative would involve construction of a bridge that would begin at Citracado Parkway in the north and cross Harmony Grove Road, and continue south across Escondido Creek. South of the creek and north of Lariat Drive, the bridge would terminate and Citracado Parkway would continue south, at grade, to Avenida del Diablo. Under this alternative there would be no connection for Harmony Grove to Citracado Parkway.

The City of Escondido rejects the Construct with Bridge Alternative as infeasible within the meaning of CEQA.

7.3.1 Construct with Bridge Alternative – Impacts

Compared to the proposed Project, the Construct with Bridge Alternative would have less of an impact on biological resources and cultural resources. This alternative would have similar impacts on land use, geologic/seismic hazards, hydrology/water quality, and municipal services/utilities. Greater impacts to air quality, noise, traffic, and visual resources would occur with implementation of this alternative.

7.3.2 Feasibility of Alternative

This alternative would achieve all of the Project's objectives, except Objective 7, which is to remain within funding constraints identified in the City's capital improvement plan. The City's capital improvement plan funding would be exceeded with implementation of this alternative due to the high costs associated with construction of the bridge and realignment of a 500-kV utility line. Additionally, this alternative would result in greater impacts than the proposed Project to air quality, noise, traffic, and visual resources. Because of the economic reasons (the high cost of this alternative and associated funding constraint) and social implications (increased impacts in four issue areas) the Construct with Bridge over Harmony Grove to Escondido Creek Alternative is considered infeasible.

8.0 STATEMENT OF OVERRIDING CONSIDERATIONS

Section 15093 of the CEQA guidelines states:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable.
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reason to support its actions based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

This Statement of Overriding Considerations describes the anticipated economic, social, and other benefits or other considerations of the proposed Project to support the decision to proceed with the proposed Project even though not all of the identified impacts are mitigated to a less than significant level.

8.1 Impacts that Remain Significant

All of the proposed Project's significant adverse impacts can be mitigated to a level of insignificance through implementation of feasible mitigation measures indentified in the Final EIR, except for the following significant adverse impacts:

Noise

- Long-term (operation-related) impacts to noise-sensitive receptors

Traffic

- Impacts on operations at the intersection at Citracado Parkway and West Valley Parkway
- Impacts on operations at the intersection at Del Dios Highway and Via Rancho Parkway
- Impacts on operations of the Via Rancho Parkway street segment south of Del Dios Highway
- Impacts on operations of the West Valley Parkway/Del Dios Highway segment between Citracado Parkway and Via Rancho Parkway

These significant adverse impacts would remain, even after implementation of all feasible mitigation measures identified in the Final EIR. Thus, these significant adverse impacts as a result of the proposed Project are unavoidable.

8.2 Overriding Considerations Justifying Project Approval

The City has balanced the proposed Project's benefits against the proposed Project's significant unavoidable impacts on noise and traffic. As detailed below, the City finds that the proposed Project's benefits outweigh the proposed Project's significant unavoidable impacts, and the impacts are therefore considered acceptable in light of the proposed Project's benefits. The City finds that each of the following benefits is an overriding consideration, independent of the other benefits, that warrants approval of the proposed Project, notwithstanding the proposed Project's significant unavoidable impacts:

1. The proposed Project would result in linear transportation improvements that would increase the efficiency of travel on the existing system and introduce a new transportation link in western Escondido.
2. The proposed Project is anticipated to be open to traffic by 2014 and would thereafter add roadway capacity and route choices for motorists traveling within southwestern Escondido.
3. The proposed Project improvements would reduce congestion on local streets and would reduce the travel time and cost for those traveling through and within this area of the City.
4. The proposed improvements are intended to benefit existing and projected roadway users traveling to and from the planned residential, commercial, and industrial uses surrounding the proposed Project.
5. The proposed improvements provide a public health and safety improvement by improving access to emergency medical facilities (Palomar Medical Center).
6. The proposed Project would implement a planned component of the City of Escondido General Plan Circulation Element and the completion of such transportation network improvements is crucial to ensuring that traffic is adequately accommodated through the City as planned.

**Mitigation Monitoring and Reporting Program (MMRP)
 For the EIR for the Citracado Parkway Extension Project**

PROJECT NAME: Environmental Impact Report for the Citracado Parkway Extension Project (SCH #2007041061)

PROJECT LOCATION: City of Escondido, CA and unincorporated San Diego County, including the area from West Valley Parkway to Andraesen Drive.

PROJECT DESCRIPTION: The City of Escondido (City) proposes to improve and extend Citracado Parkway from West Valley Parkway to Andraesen Drive, providing an arterial connection and roadway improvements. The City is also proposing the annexation of three parcels within the community of Harmony Grove, in unincorporated San Diego County, that are in proximity to the proposed roadway extension. Three alternatives are being considered for the proposed project, either (1) construct with annexation alternative; (2) construct without annexation alternative; (3) construct with bridge over Harmony Grove to Escondido Creek alternative; or (4) the no project alternative.

APPLICANT/CONTACT PERSON: Robert Zaino

PHONE NUMBER: (760) 839-4001

ASSOCIATED CASE NO.: ER-2006-10

APPROVAL BODY/DATE: _____

PROJECT MANAGER: Bill Martin

Phases at which the Mitigation Measures are to be implemented: Before, during, and after construction of the proposed Citracado Parkway roadway extension.

MITIGATION MEASURES

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
BIO-1. Permanent and temporary direct impacts to sensitive vegetation communities within the Project site would occur as a result of construction activities.	MM-BIO-1: Direct Impacts to Sensitive Vegetation Communities MM-BIO-1.1: To avoid incidental loss of sensitive habitat types during construction activities, environmentally sensitive area fencing shall be installed along the limits of disturbance prior to the start of construction. In addition, grading limits shall be flagged or fenced and grading shall not occur beyond this flagging/fencing. Construction crews shall be made fully aware of this boundary.	MM-BIO-1.1 Page 3.4-35 of EIR	Contractor		
	MM-BIO-1.2: Temporary impacts to sensitive upland and wetland habitats shall be mitigated through replacement on-site at a ratio of 1:1 for a total of 6.28 acres of habitat restoration. In addition to the 6.28-acre area, any bareground post-construction (e.g., areas of ornamental, disturbed, and eucalyptus woodland habitat impacted during construction) shall be planted post-construction for erosion control purposes.	MM-BIO-1.2 Page 3.4-36 of EIR	City of Escondido Planning Department		

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
	<p>MM-BIO-1.3: A restoration maintenance and monitoring plan for the 6.28 acres of habitat restoration, as described in MM-BIO-1.2, shall be prepared by a qualified restoration ecologist and shall incorporate an appropriate native species planting palette to blend in with the existing and surrounding habitats. Preference for habitat community restoration shall be determined based on the existing and surrounding habitats by a qualified restoration ecologist. Areas of nonnative grassland and eucalyptus woodland shall be restored in the form of native grassland and/or open oak woodland habitats. No nonnative species shall be incorporated into the restoration plan. This plan shall include details of site preparation, implementation and planting specifications, and maintenance and monitoring procedures. The plan shall also outline yearly success criteria and remedial measures should the mitigation effort fall short of the success criteria.</p>	MM-BIO-1.3 Page 3.4-36 of EIR	Restoration Ecologist TBD		
	<p>MM-BIO-1.4: Permanent impacts to sensitive upland habitats shall be mitigated off-site through drawdown of mitigation credits from the Daley Ranch Mitigation Bank. Mitigation shall be completed, as shown in Table 3.4-3, at ratios in accordance with the NCMSCP and Escondido Subarea Plan as the guiding regulatory documents for the proposed Project. Coast live oak woodland shall be mitigated at 2:1 inside PAMA and 1:1 outside PAMA for a total of 1.70 acres of mitigation. Coastal sage scrub shall be mitigated at 1.5:1 inside PAMA and 1:1 outside PAMA for a total of 0.63 acre of mitigation. Nonnative grassland shall be mitigated at a ratio of 1:1 inside PAMA and 0.5:1 outside PAMA for a total of 4.20 acres of mitigation. Total mitigation credit to be drawn down from the Daley Ranch Mitigation Bank shall be 6.53 acres.</p>	MM-BIO-1.4 Page 3.4-36 of EIR	City of Escondido Planning Department		
	<p>MM-BIO-1.5: Permanent impacts to riparian and wetland habitats shall be mitigated at a ratio of up to 3:1 for a total of up to 2.13 acres of mitigation required. All permanent shaded areas shall be mitigated at a ratio of up to 3:1 with the first 0.64 acre occurring through restoration on-site, the second 0.64 acre occurring off-site and the remaining 0.64 acre via debit of preservation credits at Daley Ranch. All other permanent impacts (0.07 acre) shall be mitigated at up to 3:1 ratio with 0.14 acre off-site and 0.07 acre via debit</p>	MM-BIO-1.5 Page 3.4-38 of EIR	City of Escondido Planning Department		

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
<p>BIO-2. Potential temporary and permanent indirect impacts to the vegetation communities surrounding the Project site would occur as a result of Project construction and operation.</p>	<p>preservation credits at Daley Ranch. Off-site mitigation in the amount of 0.78 acre shall occur directly adjacent to the Project site at the southeast portion of the Hale Avenue Resource Recovery Facility (HARRF) Expansion Parcel.</p> <p>MM-BIO-1.6: A mitigation maintenance and monitoring plan for both on-site and off-site riparian and wetland mitigation, as described in MM-BIO-1.5, shall be prepared by a qualified restoration ecologist and shall incorporate an appropriate native species planting palette to blend in with the existing and surrounding habitats. This plan shall include details of site preparation, implementation and planting specifications, and maintenance and monitoring procedures. The plan shall also outline yearly success criteria and remedial measures should the mitigation effort fall short of the success criteria.</p>	<p>MM-BIO-1.6 Page 3.4-38 of EIR</p>	<p>Restoration Ecologist TBD</p>		
<p>BIO-2. Potential temporary and permanent indirect impacts to the vegetation communities surrounding the Project site would occur as a result of Project construction and operation.</p>	<p>MM-BIO-2: Indirect Impacts to Sensitive Vegetation Communities</p> <p>MM-BIO-2.1: Storage of soil or fill material from the Project site shall be within the Project area or developed areas. The contractor shall delineate stockpile areas on the grading plans for review by the City.</p> <p>MM-BIO-2.2: Construction access shall use existing developed areas or be within the right-of-way of proposed road improvements. If unauthorized new or temporary access routes are determined to be necessary, these areas shall be surveyed for biological resources prior to their use. Contractors shall clearly mark all access routes (i.e., flagged and/or staked) prior to the onset of construction. Implementation of erosion and sedimentation control measures as identified in MM-BIO-5 would also reduce any potential indirect impacts to sensitive vegetation communities to less than significant.</p> <p>MM-BIO-2.3: The contractor shall periodically monitor the work area to ensure that construction-related activities do not generate excessive amounts of fugitive dust. Water shall be applied to the construction right-of-way, dirt roads, trenches, spoil piles, and other areas where ground disturbance has taken place to minimize dust emissions and topsoil erosion.</p>	<p>MM-BIO-2.1 Page 3.4-38 of EIR</p>	<p>Contractor</p>		
<p>BIO-2. Potential temporary and permanent indirect impacts to the vegetation communities surrounding the Project site would occur as a result of Project construction and operation.</p>	<p>MM-BIO-2.2: Construction access shall use existing developed areas or be within the right-of-way of proposed road improvements. If unauthorized new or temporary access routes are determined to be necessary, these areas shall be surveyed for biological resources prior to their use. Contractors shall clearly mark all access routes (i.e., flagged and/or staked) prior to the onset of construction. Implementation of erosion and sedimentation control measures as identified in MM-BIO-5 would also reduce any potential indirect impacts to sensitive vegetation communities to less than significant.</p> <p>MM-BIO-2.3: The contractor shall periodically monitor the work area to ensure that construction-related activities do not generate excessive amounts of fugitive dust. Water shall be applied to the construction right-of-way, dirt roads, trenches, spoil piles, and other areas where ground disturbance has taken place to minimize dust emissions and topsoil erosion.</p>	<p>MM-BIO-2.2 Page 3.4-38 of EIR</p>	<p>Contractor</p>		
<p>BIO-2. Potential temporary and permanent indirect impacts to the vegetation communities surrounding the Project site would occur as a result of Project construction and operation.</p>	<p>MM-BIO-2.3: The contractor shall periodically monitor the work area to ensure that construction-related activities do not generate excessive amounts of fugitive dust. Water shall be applied to the construction right-of-way, dirt roads, trenches, spoil piles, and other areas where ground disturbance has taken place to minimize dust emissions and topsoil erosion.</p>	<p>MM-BIO-2.3 Page 3.4-39 of EIR</p>	<p>Contractor</p>		

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<p>BIO-3. Within the Project site, construction and placement of the Escondido Creek Bridge would result in 0.01 acre of permanent direct impacts to potential jurisdictional waters. Temporary direct impacts to jurisdictional waters within the Project site would occur to 0.75 acre. Shading from bridge construction would directly and permanently impact 0.64 acre.</p>	<p>MM-BIO-3: Direct Impacts to Jurisdictional Waters</p> <p>MM-BIO-3.1: MM-BIO-1 requires mitigation for all permanent wetland habitat impacts at a ratio of up to 3:1. In addition, in accordance with resource agency policies, the mitigation shall not result in a net loss of wetland habitat or wetland functions and values. Therefore, a minimum of 1:1 of the final mitigation replacement ratio shall be accomplished by wetland/riparian restoration at the southeast portion of the HARRF Expansion Parcel (0.78 acre). The proposed mitigation is subject to the resource agencies' review and discretion; thus, the mitigation obligations for the impacts to jurisdictional wetland habitats may change from those presented here.</p> <p>MM-BIO-3.2: Impacts to riparian habitats and wetlands, as well as jurisdictional waters, shall require the following permits by regulatory federal and state agencies and acts: (1) USACE, CWA, Section 404 permit for placement of dredged or fill material within waters of the U.S.; (2) RWQCB, CWA, Section 401 state water quality certification/waiver for an action that may result in degradation of waters of the state; and (3) CDFG, CFGC, Section 1602 agreement for alteration of a streambed. The mitigation could occur in the form of wetland/riparian creation or restoration (which both result in a gain of wetland/riparian area), or creation or restoration combined with enhancement.</p>	<p>MM-BIO-3.1 Page 3.4-39 of EIR</p>	<p>City of Escondido Planning Department</p>		
<p>BIO-4. Impacts to jurisdictional waters would occur within a deed restricted mitigation area.</p>	<p>MM-BIO-4: Direct Impacts to a Deed Restricted Mitigation Area</p> <p>The deed restriction shall be removed from the area underneath the bridge. In kind, a deed restriction shall be placed on all mitigation acreage proposed at the southeast portion of the HARRF Expansion Parcel. In addition, an area of equal acreage to the area being removed from the deed restriction to the west of the bridge shall be placed under deed restriction in the vicinity of the now proposed mitigation location on the HARRF Expansion Parcel.</p>	<p>MM-BIO-4 Page 3.4-39 of EIR</p>	<p>City of Escondido Planning Department</p>		

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<p>BIO-5. Potential temporary and permanent indirect impacts to the jurisdictional waters surrounding the Project site would occur as a result of Project construction.</p>	<p>MM-BIO-5: Indirect Impacts to Jurisdictional Waters</p> <p>MM-BIO-5.1: As identified in MM-BIO-1, environmentally sensitive area fencing shall be installed at the Project site to ensure no unintentional impacts to sensitive habitats. In the area of the HARRF access driveway, the limits of potentially jurisdictional southern willow riparian forest shall be flagged for avoidance, and silt fencing shall be installed in this location to avoid any indirect impacts to this potentially jurisdictional habitat.</p>	<p>MM-BIO-5.1 Page 3.4-40 of EIR</p>	<p>Contractor</p>		
	<p>MM-BIO-5.2: A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared to comply with RWQCB requirements. The SWPPP shall identify the design features and BMPs that will be used to effectively manage drainage-related issues (e.g., erosion and sedimentation) during construction. Erosion control measures shall be regularly checked by the contractor, the Project biologist, and/or the City. Specific BMP plans shall be reviewed by the City and the Project biologist and modified, if necessary, prior to implementation. Fencing and erosion control measures of all Project areas shall be inspected a minimum of once per week.</p>	<p>MM-BIO-5.2 Page 3.4-40 of EIR</p>	<p>Contractor/ Project Biologist and/or City of Escondido Planning Department</p>		
	<p>MM-BIO-5.3: Activities, including staging areas, equipment access, and disposal or temporary placement of excess fill, shall be prohibited within off-site drainages. Implementation of measures as identified in MM-BIO-2 would also reduce any potential indirect impacts to jurisdictional waters to less than significant.</p>	<p>MM-BIO-5.3 Page 3.4-40 of EIR</p>	<p>Contractor</p>		
<p>BIO-6. Direct permanent impacts would occur to 16 mature and 12 protected trees.</p>	<p>MM-BIO-6: Direct Impacts to Mature and Protected Trees</p> <p>MM-BIO-6.1: Prior to the start of construction, all <i>mature</i> and/or <i>protected</i> trees shall be identified by a qualified biological monitor within the temporary and permanent impact areas. Impacts to trees in the temporary work area shall be avoided to the extent feasible. Trees in the temporary impact area that can be avoided shall be temporarily fenced off at the drip line of the tree to prevent impacts during construction.</p>	<p>MM-BIO-6.1 Page 3.4-40 of EIR</p>	<p>Project Biologist TBD</p>		

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	<p>MM-BIO-6.2: If <i>mature</i> and/or <i>protected</i> trees cannot be preserved on-site, then impacts shall be mitigated as required under the City of Escondido Municipal Code (Chapter 33, Article 55). Where mature and protected trees occur in open oak woodland and/or riparian habitat, habitat-based mitigation as required under MM-BIO-1 and MM-BIO-3 will reduce impacts to less than significant. Of the 38 mature trees, a total of 16 <i>mature</i> trees are not associated with riparian and oak woodland habitats on-site. These 16 <i>mature</i> trees that cannot be preserved on-site shall be replaced at a minimum 1:1 ratio. Of the 33 protected trees, a total of 12 <i>protected</i> trees are not associated with riparian and oak woodland habitats on-site. These 12 <i>protected</i> trees that cannot be preserved on-site shall be replaced at a minimum 2:1 ratio. The number, size, species, and location of replacement trees shall be determined on a case-by-case basis by the City of Escondido Planning Department. Replacement trees shall be incorporated into the on-site revegetation plan, as required in MM-BIO-1.</p>	<p>MM-BIO-6.2 Page 3.4-40 of EIR</p>	<p>City of Escondido Planning Department</p>		
<p>BIO-7. Mature and/or protected trees were not surveyed in the buffer; however, indirect impacts may occur to those adjacent to the Project site. Potential temporary, indirect impacts to mature and/or protected trees would arise during Project construction as a result of runoff and sedimentation, erosion, and fugitive dust.</p>	<p>MM-BIO-7: Indirect Impacts to Mature and Protected Trees Implementation of measures as identified in MM-BIO-2 would reduce any potential indirect impacts to <i>mature</i> and <i>protected</i> trees to less than significant.</p>	<p>MM-BIO-7 Page 3.4-41 of EIR</p>	<p>Contractor</p>		
<p>BIO-8. Direct permanent impacts would occur to three Engelmann oak that occur in the planned grading areas.</p>	<p>MM-BIO-8: Direct Impacts to Sensitive Plant Species (Engelmann Oaks) Impacts to two Engelmann oak trees shall be avoided in the temporary impact area to the extent feasible, as required in MM-BIO-5. Permanent impacts to one Engelmann oak tree (and temporary impacts to the two Engelmann oak trees, if they cannot be avoided) shall be mitigated as required for <i>protected</i> trees under the City of Escondido Municipal Code</p>	<p>MM-BIO-8 Page 3.4-41 of EIR</p>	<p>City of Escondido Planning Department</p>		

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<p>BIO-9. Potential temporary, indirect impacts to Palmer's sagewort and Engelmann oak would arise during Project construction as a result of runoff, sedimentation, erosion, and fugitive dust. Potential permanent indirect impacts to Palmer's sagewort and Engelmann oak may occur during Project operation, such as habitat degradation and introduction of harmful exotic plant species.</p>	<p>MM-BIO-9: Indirect Impacts to Sensitive Plant Species (Palmer's Sagewort and Engelmann Oaks)</p> <p>MM-BIO-9.1: In the Project buffer, the four individuals of Palmer's sagewort shall be flagged for avoidance and further impacts shall be avoided through implementation of the following: no unnecessary or unauthorized trespass by workers or equipment in the Project buffer, prohibition of staging and storage of equipment and materials, prohibition of refueling activities, and prohibition of littering or dumping debris in areas known to contain Palmer's sagewort outside the Project area. Palmer's sagewort shall also be planted within the Project's potential on-site wetland/riparian restoration area.</p>	<p>MM-BIO-9.1 Page 3.4-41 of EIR</p>	<p>Contractor</p>		
<p>BIO-10. Suitable Cooper's hawk, yellow warbler, and yellow-breasted chat habitat present in the Project site would be directly impacted by construction of the Project. Operation of the Project may temporarily directly impact these species when tree trimming is necessary during routine maintenance.</p>	<p>MM-BIO-9.2: Implementation of measures identified in MM-BIO-2 would reduce any potential indirect impacts to Engelmann oaks to less than significant.</p> <p>MM-BIO-10: Direct Impacts to Cooper's Hawk, Yellow Warbler, and Yellow-Breasted Chat and Other Migratory Birds</p> <p>Under CFGC Division 4, Part 2, Chapter 1, Section 3503.5, "it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto," where "take" is defined under Division 0.5, Chapter 1, Section 86 as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." In addition, the MBTA restricts the killing of migratory birds or destruction of active migratory bird nests and/or eggs. Therefore, vegetation clearing should occur outside of the typical breeding season for raptors and migratory birds (January 1 through September 1). If this is not possible, then a qualified biologist shall conduct a survey for nesting birds no more than 5 calendar days prior to construction to</p>	<p>MM-BIO-9.2 Page 3.4-41 of EIR</p> <p>MM-BIO-10 Page 3.4-41 of EIR</p>	<p>Contractor</p> <p>Project Biologist TBD</p>		

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<p>BIO-11. Temporary, indirect impacts are likely to arise from construction-generated fugitive dust accumulation on surrounding vegetation and/or noise resulting in destruction and/or avoidance of habitat by wildlife. Operation of the Project may result in permanent indirect impacts to Cooper's hawk, yellow warbler, and yellow-breasted chat, which includes edge effects, where the Project would lead to increased lighting, noise, and exotic plant and wildlife invasion.</p>	<p>determine the presence or absence of nests in the Project area, and the potential need for additional Project mitigation measures. If construction is halted for more than 5 calendar days during the breeding season, then nest surveys must be repeated prior to any additional vegetation clearing.</p> <p>MM-BIO-11: Indirect Impacts to Cooper's Hawk, Yellow Warbler, and Yellow-Breasted Chat and Birds and Other Migratory Birds</p> <p>MM-BIO-11.1: If nesting birds, including but not limited to, special-status species and those species protected by the MBTA, are detected in the Project site or Project buffer, the nest shall be flagged and no construction activity shall take place within 500 feet of the nest until nesting is complete (nestlings have fledged or nest has failed) or a Project biologist and noise specialist have confirmed that construction noise levels are less than 60 dBA L_{eq} at the nest site.</p> <p>MM-BIO-11.2: If construction activities occur at night, all Project lighting (e.g., staging areas, equipment storage sites, roadway) shall be directed onto the roadway or construction site and away from sensitive habitat. Light glare shields shall also be used to reduce the extent of illumination into adjoining areas.</p> <p>MM-BIO-11.3: Final construction plans shall detail all operational street light locations and shall be provided to the City of Escondido Planning Department for review. Operational street lights shall be directed onto the roadway and away from open space areas. When considering spacing of lighting along the roadway, special consideration shall be given to the lighting along the new bridge and in the vicinity of the riparian habitat in Escondido Creek. Lighting in the area of Escondido Creek should be avoided if possible. If lighting is necessary for safe roadway operations in the vicinity of the creek, filters, shields, automatic dusk-to-dawn sensors, and/or other commercially available devices shall be implemented so that lighting is not reflecting into the adjacent riparian habitat. Final construction plans detailing lighting shall include specifications for all proposed devices</p>	<p>MM-BIO-11.1 Page 3.4-42 of EIR</p>	<p>Project Biologist and Noise Specialist TBD</p>		
		<p>MM-BIO-11.2 Page 3.4-42 of EIR</p>	<p>Contractor</p>		
		<p>MM-BIO-11.3 Page 3.4-42 of EIR</p>	<p>City of Escondido Planning Department</p>		

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<p>to avoid lighting impacts within the riparian habitat adjacent to the bridge. These lighting specifications shall be reviewed and approved by the City of Escondido Planning Department prior to Project implementation.</p>	<p>MM-BIO-11.4: Operational traffic noise may reduce breeding potential for the yellow warbler, yellow-breasted chat, and Cooper's hawk within 230 feet of the centerline of the bridge and/or roadway. Noise levels shall be considered when preparing the restoration plan to allow for the planting of mature and protected trees, as required in MM-BIO-6, in areas where traffic noise levels would not be expected to impact breeding and nesting activities of foraging raptors, including Cooper's hawk. Implementation of habitat-based mitigation for direct impacts as described in MM-BIO-1 and MM-BIO-3 would result in an overall increase in suitable habitat for yellow warbler and yellow-breasted chat, and would reduce any potential indirect noise impacts to less than significant.</p>	<p>MM-BIO-11.4 Page 3.4-43 of EIR</p>			
<p>BIO-12. The Project would result in direct construction-related impacts to migratory bird populations on-site in the form of habitat destruction, and potentially death, injury, or harassment of nesting birds, their eggs, and their young.</p>	<p>MM-BIO-11.5: Implementation of measures as identified in MM-BIO-2 would also reduce any potential indirect impacts to sensitive wildlife species and birds protected under the MBTA to less than significant.</p> <p>MM-BIO-12: Direct Impacts to Migratory Birds Implementation of measures as identified in MM-BIO-10 would reduce any potential direct impacts to migratory bird populations to less than significant.</p>	<p>MM-BIO-11.5 Page 3.4-43 of EIR</p> <p>MM-BIO-12 Page 3.4-43 of EIR</p>	<p>Contractor</p> <p>Project Biologist TBD</p>		
<p>BIO-13. Temporary, indirect impacts are likely to arise from construction-generated fugitive dust accumulation on surrounding vegetation and construction-related</p>	<p>MM-BIO-13: Indirect Impacts to Migratory Birds Implementation of measures as identified in MM-BIO-11.1, BIO-11.2, and BIO-11.3 would reduce any potential indirect impacts to migratory birds to less than significant.</p>	<p>MM-BIO-13 Page 3.4-43 of EIR</p>	<p>Project Biologist and Noise Specialist TBD/ Contractor/City of Escondido Planning</p>		

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<p>erosion, runoff, and sedimentation into plant communities resulting in destruction and/or avoidance of migratory bird habitat. Additionally, construction-related noise is likely to cause migratory bird nest abandonment in areas adjacent to construction in the Project site.</p>			Department		
<p>CR-1. Evidence of human remains was discovered during the testing at Site SDI-12, 209 Locus 1 by EDW in 2008 within the Project's APE. No other remains were identified by BFSAs during subsequent subsurface excavations conducted in the Project APE. As noted previously, there is also the indication that the Project area was used by Native Americans for religious, ritual, or other special activities based upon the recordation of pictographs adjacent to the Project's APE. Therefore, impacts to Native American burials and sacred site elements are expected. These impacts are considered significant.</p>	<p>MM-CR-1: Human Remains Encountered within the Construction Zone</p> <p>MM-CR-1.1: In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, protocols and procedures noted in the PRC Section 5097.98, the California Government Code Section 27491, the Health and Safety Code Section 7050.5, and the County of San Diego Historical Resources Guidelines for the treatment of human remains encountered at archaeological sites will be followed. The City of Escondido will prepare and submit to the tribes for their review and comments a Pre-Excavation Agreement that is intended to outline the procedures and protocol to be followed in the event human remains are identified. This agreement is not a mandatory precursor to the implementation of the mitigation and monitoring program; however, the City is committed to the proper treatment of any human remains that may be encountered, and will make the necessary effort to implement the Pre-Excavation Agreement. The procedures listed below shall be followed where human remains are encountered:</p> <p>A. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:</p> <ol style="list-style-type: none"> a. A City Official is contacted. b. The Coroner is contacted to determine that no investigation of the cause of death is required, and 	MM-CR-1.1 Page 3.5-16 of EIR	City of Escondido/ Consulting Archaeologist/ MLD		

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	<p>c. If the Coroner determines the remains are Native American:</p> <ul style="list-style-type: none"> i. The Coroner shall contact the Native American Heritage Commission (Commission) within 24 hours. ii. The Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. Previous discoveries of human remains on this project resulted in the NAHC identifying two MLDs, the KCRC for the Kumeyaay and Carmen Mojado for the San Luis Rey (Luiseño). It is reasonable to assume that the MLDs will continue in that role for the duration of the project. iii. The Most Likely Descendent (MLD) may make recommendations to the landowner or the City for the excavation work. <p>B. The Native American human remains and associated funerary items that are removed from the Project APE may be reburied at a location mutually agreed upon by the City and the MLD(s). A portion of a City owned parcel has been designated by the City as a location where human remains can be reburied and preserved. An open space easement will be placed over this lot within the City-owned property adjacent to the Citracado Parkway Project. This easement will be permanent and will protect all cultural materials within the easement indefinitely. If reinterment of human remains cannot be accomplished at the time of discovery, the MLD(s) shall either take temporary possession of the remains or identify a location for the temporary but secure storage of the remains.</p> <p>C. Any time human remains are encountered or suspected and soil conditions are appropriate for the technique, the use of canine forensics will be considered when searching for human remains. The decision to use canine forensics will be made on a case-by-case basis through consultation between the City representative, the Consulting Archaeologist (defined as the individual charged with the responsibility of implementing the Mitigation Monitoring and Reporting Program and directing field</p>				

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<p>CR-2. Should human remains or sacred/religious artifacts be encountered and subsequently removed from the construction zone, the disposition of these remains after removal from the construction area represents a significant impact to Native American religious beliefs and customs (CR-2). Consultation with Native American representatives since 2008 has provided a platform to address the issue and propose mitigation measures to address this impact.</p>	<p>excavations), and the MLD(s). Because human remains require special consideration and handling, they must be defined in a broad sense. For the purposes of this document, human remains are defined as:</p> <p>a. Cremations including the soil surrounding the deposit,</p> <p>b. Interments including the soil surrounding the deposit, and</p> <p>c. Associated funerary items.</p> <p>MM-CR-1.2: In consultation with the City representative, the Consulting Archaeologist, and the MLD, additional measures, such as focused archaeological excavations, may be required to determine the extent of burials or ensure the recovery of all elements of the burial.</p>	<p>MM-CR-1.2 Page 3.5-17 of EIR</p>	<p>City of Escondido Planning Department/ Consulting Archaeologist/ MLD</p>		
<p>MM-CR-2: Disposition of Human Remains The majority of Locus 1 of SDI-8280 is situated outside of the Project's APE and is located on property owned by the City of Escondido. To ensure the preservation of the significant pictographs recorded at SDI-8280 and located adjacent to the APE (and within the City's ownership), the City shall delineate an area for preservation that encompasses the pictographs. Furthermore, because of the high potential to recover additional human remains or sensitive artifacts associated with sacred, religious, or ceremonial components of the material cultural of the prehistoric occupants of these sites, the City shall also identify this preservation area within Locus 1 of SDI-8280 as a location for the repatriation and reburial of such sacred, religious, or ceremonial artifacts or human remains identified by the MLD(s) as appropriate for reburial.</p> <p>The preservation area within Locus 1 of SDI-8280 shall be either dedicated as an open space easement to ensure the perpetual protection of the pictographs and any reburied cultural materials; or, the preservation area may be legally separated from the City's property and ownership conveyed to the Kumeyaay-Diegueño Land Conservancy (KDLC) to provide the local Native American community direct control of the preservation area for perpetual access to the human</p>		<p>MM-CR-2 Page 3.5-18 of EIR</p>	<p>City of Escondido Planning Department</p>		

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<p>CR-3. The construction project represents a source of potential indirect impacts to the significant prehistoric pictographs at Locus 1 of SDI-8280 and at SDI-12,209. Blasting, grading, dust, flying debris, and general construction activity are considered sources of potential indirect impacts to the rock art panels at these sites. The pictographs at SDI-8280 are the most likely to be indirectly affected by grading because these are approximately 20 feet from the construction zone. Furthermore, significant features and deposits of both SDI-8280 and SDI-12,209 border the APE and may be indirectly impacted by inadvertent grading or construction. Indirect impacts would be significant if construction activities stray beyond the APE.</p>	<p>remains reburied there and to facilitate their guardianship over this location. From the perspective of CEQA and the mitigation of impacts to cultural resources, either method of preservation would be sufficient to accomplish the goal of the mitigation program. The proposed preservation area within Locus 1 of SDI-8280 is depicted in the BFSA technical report.</p>	<p>MM-CR-3.1 Page 3.5-18 of EIR</p>	<p>Contractor</p>		
<p>MM-CR-3: Indirect Impacts to Significant Cultural Deposits and Rock Art Elements at SDI-8280 and SDI-12,209</p> <p>MM-CR-3.1: Indirect impacts to elements of SDI-8280 and SDI-12,209 that are adjacent to the construction APE shall be mitigated through fencing that will be used to isolate the work area. Notes shall be placed on the construction plans and notices posted on the job site that areas outside of the APE contain "Environmentally Sensitive Areas." No construction activity shall be permitted outside of the APE unless that area has been reviewed for potential impacts to cultural deposits.</p> <p>MM-CR-3.2: Concerns over the pictograph at SDI-12,209, which is situated east of the alignment, have been raised by the Native American community. The boulder with the pictograph could be affected by vibrations from blasting or heavy equipment. Measures would be required to ensure indirect impacts do not cause any damage to this feature. Measures to protect the feature may include wrapping the rock with layers of fabric to protect the pictograph image. Engineering assistance will be necessary to calculate the need for any structural shoring of the rock to prevent movement. This pictograph is located on private property, and measures to mitigate potential indirect impacts may require the consent of the property owner. The status of access to the boulder at the time of construction to provide mitigation of indirect impacts is not known at this time. If access is denied, measures to protect the pictograph rock will be limited to fencing along the limits of construction.</p>	<p>MM-CR-3.1 Page 3.5-18 of EIR</p>	<p>City of Escondido Engineering Department</p>			

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	<p>MM-CR-3.3: The pictographs located in Locus 1 of SDI-8280 are situated near the APE and may be affected by the grading of the new road. The southernmost of the pictographs is immediately adjacent to the road cut, and will be very near the construction activity, which represents a source of potential indirect impacts. To ensure the preservation of the pictograph, measures will be needed to secure the boulder from dust and debris, vibrations, and any damage to the surface of the boulder. The following measures shall be completed prior to the initiation of grading within 500 feet of the pictographs at Locus 1 of SDI-8280:</p> <p>A. The project engineer/design consultant shall devise a method to secure the slope between the southern pictograph boulder and the proposed retaining wall immediately adjacent to the pictograph.</p> <p>B. The drilling of tie rods needed to secure the retaining wall adjacent and downslope from the southern pictograph shall not cause any degradation to the soil below the pictograph that might over time affect the stability of the feature.</p> <p>C. Dust and debris from the grading of the road will affect and potentially damage the painted surface of the pictographs. Measures shall be implemented to ensure the surfaces of the boulders are protected. These measures may include the wrapping of the boulder first in a cloth to cover the boulder surface and the construction of a framework to create a barrier to flying debris. Prior to the start of grading, the City's resident engineer shall meet with the Consulting Archaeologist, the tribal representatives, and the contractor to arrive at an agreement upon which method would be preferred to accomplish the protection of the feature. If, for any reason, a mutually-agreeable method cannot be achieved by all parties, then the Consulting Archaeologist shall be responsible to implement measures to ensure the pictograph is not damaged during construction. Prior to placement of any protective materials over the pictographs, digital photographs shall be taken with the</p>	<p>MM-CR-3.3 Page 3.5-19 of EIR</p>	<p>City of Escondido Engineering/ Department/ Consulting Archaeologist/ Contractor</p>		

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<p>CR-4. The present study indicates that approximately 6,157 square meters of SDI-12,209 Locus 1 and 3,751 square meters of Locus 2 will be impacted by the proposed Project. Because the testing and evaluation program identified an intact subsurface deposit, the site is considered to have additional research potential. Therefore, Site</p>	<p>purpose of using technological methods to enhance the observable image while the opportunity exists prior to construction of the roadway.</p> <p>D. Following the completion of the road project, all protective materials shall be removed from the pictographs and the area returned to its natural setting.</p> <p>In addition to the protection of the pictograph features, the milling features that will be affected by the Project and that are considered sensitive to Native American groups will be preserved (and capped) or possibly moved, where possible and feasible. The majority of milling features at SDI-12,209 are far too large to move, and may be capped and preserved in the fill soil needed to raise the roadbed. Smaller milling features may be moved to the open space easement at SDI-8280. To determine which milling features within the APE will be preserved, moved, or destroyed, a field meeting will be required prior to the start of grading and will be attended by the City's engineer, the contractor, the Native American representatives, and the Consulting Archaeologist to review the inventory of milling features within the APE and determine the most appropriate candidates to move or relocate, which may be preserved by capping and will be impacted by grading. Where preservation cannot be accomplished, no additional work is required, as all the features have been previously recorded.</p> <p>MM-CR-4: Direct Impacts to Significant Elements of SDI-12,209</p> <p>For direct impacts to significant components of Site SDI-12,209 (Loci 1 and 2), mitigation of those impacts would be achieved through the implementation of a data recovery program. As a condition of approval for this Project, and prior to the initiation of any clearing, grading or construction associated with the road project within the boundaries of the cultural sites, the City shall direct the archaeological consultant to prepare a detailed research design to orientate the research perspective, stipulate the archaeological goals, address Native American concerns, and direct the excavation process. The implementation of the research design constitutes mitigation for the proposed destruction of the</p>	<p>MM-CR-4 Page 3.5-20 of EIR</p>	<p>Consulting Archaeologist</p>		

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
<p>SDI-12,209 is considered an important cultural resource according to the criteria listed in CEQA, Section 15064.5, and any impacts to the cultural resource will be considered significant.</p>	<p>significant portions of archaeological Site SDI-12,209 (Loc 1 and 2) within the alignment. The mitigation of impacts shall be achieved by the excavation and analysis of a sufficient sample of the significant deposits affected to exhaust the research potential of those areas. Based on the archaeological research records for this region, and following widely applied guideline requirements from agencies in this area, mitigation of impacts through applied data recovery programs will typically target a 10 to 15 percent sample as a statistically valid recovery level for significant deposits. However, the overriding measure of the adequacy of a sample of a significant deposit is the exhaustion of research potential and achievement of a redundant artifact recovery pattern. To facilitate the periodic review of the excavation collection and assessment of the status of the information accumulated, the data recovery program will utilize a statistical sampling process that will require the evaluation of the excavation at 5 percent sample increments, or phases. At the conclusion of each phase of sampling (potentially Phases 1, 2, 3), the Consulting Archaeologist shall determine if the subsequent phase of sampling is required, using criteria listed in the research design, and potentially stratifying the subsequent sample phase to focus excavations in areas with higher research potential. The Consulting Archaeologist responsible for the mitigation program will have the latitude to adjust the stratified sampling process to maximize efforts in any particular areas that possess identified higher research potential. The sampling protocol is highlighted below, but will be presented in greater detail in the research design.</p> <p>A. The basic unit of the data recovery field program will be standard one-meter-square test units. Each unit will be excavated using common archaeological protocols for fieldwork, including the excavation of each unit in decimeter levels to a depth that exceeds the lowest depth of the cultural deposit. All excavations will be completed using hand tools and work will be approached in a careful, professional manner. All of the soil excavated from the units will be subjected to hydro-screening on-site. The use of water to separate dirt from the</p>				

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
	<p>archaeological collections will ensure that any human remains are immediately revealed and will also enhance the recovery of cultural materials that may be too small to otherwise be identified. All soils will be hydro-screened through one-eighth-inch mesh hardware cloth, with at least 10 percent of the excavated sample to be screened with one-tenth-inch mesh hardware cloth to search for those elements of the deposit that otherwise would pass through the one-eighth-inch mesh. All recovered cultural materials will be bagged by provenience, labeled, and transported to a secure location for laboratory analysis.</p> <p>B. All excavations (both archaeological and construction-related) will include monitoring by Luiseño and Kumeyaay MLDs (or their designated representatives).</p> <p>C. Detailed field maps will be completed using Global Positioning System technology with submeter accuracy to record all excavations and features encountered.</p> <p>D. Phase I of the fieldwork program will include a five percent hand-excavated sample of each identified subsurface deposit that will be directly impacted.</p> <p>E. At the completion of Phase I, the Consulting Archaeologist shall evaluate the results and consider issues of site integrity, data redundancy, spatial and temporal patterning, features, and other relevant topics in order to assess the adequacy of the initial five percent sample. The Consulting Archaeologist shall communicate with the City of Escondido and County of San Diego the results of the Phase I evaluation and recommendation for Phase II additional work. Based on this assessment, the site will be stratified to delineate areas with further research potential or the potential to produce features. A second phase of field investigations would consist of an additional 5 percent sample of that stratified area with further research potential. Adjustments in the sample size shall be an option of the Consulting Archaeologist should the assessment of the sources of the Phase I sample indicate the Phase II sample should be less than 5</p>				

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
	<p>percent.</p> <p>F. Implement Phase II of fieldwork, as necessary. Upon completion of the second phase of sampling, the Consulting Archaeologist will evaluate the success of the Phase II and consider the need for further sampling. The Consulting Archaeologist shall submit the results of this evaluation to the City of Escondido and County of San Diego as well as any recommendations for Phase III additional excavations. Should this analysis confirm research potential remains, a third phase (Phase III) will be employed. Typically, as a product of site organization and use pattern during the Late Prehistoric period, the sampling process will identify a core area of more intense artifact concentration and variety of artifact types. The final phase (Phase III) of the stratified sample would commonly employ a large block excavation to focus Phase III efforts only upon the core deposit.</p> <p>G. Implement Phase III of sampling if determined to be necessary.</p> <p>H. Conduct an intensive laboratory program for all recovered cultural materials. All items in the collection will be subjected to standard laboratory procedures of cleaning, cataloging, data entry, and artifact analysis including lithics analysis, ceramics analysis, faunal analysis, floral analysis, assemblage analysis, and radiocarbon dating.</p> <p>I. Provide evidence to the satisfaction of the City that all archaeological materials recovered, during both the significance testing and data recovery phases, have been curated according to current professional repository standards. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. Agreements with the Native American representatives regarding elements of the archaeological excavation recovery will supersede curation requirements if these artifacts are requested by the tribes for repatriation.</p>				

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
<p>CR-5. The alignment for Citracado Parkway will pass through two significant prehistoric sites and across an area used extensively by prehistoric inhabitants of this village complex. The potential exists that undocumented cultural deposits may be encountered during grading of the Project. Impacts to undocumented elements of SDI-8280 or SDI-12,209 may be significant.</p>	<p>relocation, and/or reburial.</p> <p>Complete and submit the Final Technical Report to the satisfaction of the City.</p> <p>MM-CR-5: Potential Impacts to Undocumented Cultural Deposits During Grading</p> <p>The construction of the Citracado Parkway Extension would require the implementation of a MMRP. The basis for this requirement is that the construction APE will include known significant cultural resources and areas where potentially important cultural deposits could be discovered. To identify any significant and previously undocumented elements of SDI-8280 and SDI-12,209, the MMRP will require the presence of an archaeological monitor, as well as Luiseño and Kumeyaay Native American monitors, during all grading and trenching associated with the project. The actual building of the roadway following the completion of earthwork will not require monitoring, although periodic visits by the monitors will be conducted to ensure the adjacent cultural resources remain intact. The MMRP shall state the following:</p> <p>MM-CR-5.1: During the cutting of previously undisturbed soil, archaeological and Native American monitors shall be on-site full time to perform inspections of the excavations. The presence of the Consulting Archaeologist is a mandatory grading requirement; however, the Native American monitors may choose to monitor at their discretion during the grading program. The number of monitors permitted on the Project will depend on the rate of excavation, the number of areas being graded at any one time, the materials excavated, and the presence and abundance of artifacts and features. The Consulting Archaeologist shall provide the City with a rationale for the number of monitors needed to comply with the mitigation measure. Safety issues and protocols will be cited in those instances where the number of individuals on-site may be limited due to hazardous conditions. Because of the constrained work environment, a monitoring team shall typically include one archaeological monitor and two Native American monitors, one Kumeyaay and one Luiseño. The</p>	<p>MM-CR-5 Page 3.5-22 of EIR</p>	<p>City of Escondido Planning Department</p>		
		<p>MM-CR-5.1 Page 3.5-23 of EIR</p>	<p>Consulting Archaeologist</p>		

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
	<p>supervising archaeologist will recommend additional monitoring teams should multiple work areas be graded simultaneously.</p> <p>MM-CR-5.2: Prior to the initiation of grading, the contractor shall organize a preconstruction meeting of all personnel scheduled to work on the grading and construction phases of the project. The purpose of this meeting will be a Worker's Education Program to instruct the workforce about the cultural resources associated with the Project, the sensitivity of these resources to the local Native American community, and the protocols to be followed should any workers encounter artifacts during work on the project. The Consulting Archaeologist shall conduct the Worker's Education Program and shall include the Native American representatives as part of the presentation of Native American concerns.</p> <p>MM-CR-5.3: Isolates and clearly nonsignificant deposits will be documented in the field but will not be subjected to data recovery mitigation.</p> <p>MM-CR-5.4: In the event that previously unidentified and potentially significant cultural resources are discovered, the Consulting Archaeologist or Native American monitor shall have the authority to divert or temporarily halt ground disturbance operations to review possible discoveries. This temporary diversion of work shall be as brief as possible; however, if a discovery is confirmed, the supervising archaeologist shall report this to the City's resident engineer. The discovery location shall be secured from further disturbance to allow evaluation of potentially significant cultural resources. The Consulting Archaeologist shall contact the City's resident engineer at the time of any discovery. The Consulting Archaeologist, in consultation with tribal representatives, shall determine the significance of the discovered resources. For any significant cultural resources discovered during monitoring of grading, further mitigation measures (data recovery) will be necessary to complete the impact mitigation. A detailed description of additional mitigation measures will be prepared by the Consulting Archaeologist and approved by the City, prior to</p>	<p>MM-CR-5.2 Page 3.5-23 of EIR</p> <p>MM-CR-5.3 Page 3.5-23 of EIR</p> <p>MM-CR-5.4 Page 3.5-23 of EIR</p>	<p>Contractor/ Consulting Archaeologist</p> <p>Consulting Archaeologist</p> <p>Consulting Archaeologist / City of Escondido Engineering Department</p>		

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
	<p>implementation. If any human remains are discovered, the County Coroner shall be contacted (see MM-CR-2). In the event that the remains are determined to be of Native American origin, the MLDs shall be contacted to determine proper treatment and disposition of the remains.</p> <p>MM-CR-5.5: In areas within the APE where significant deposits have been identified, controlled grading may be implemented to carefully peel away layers of soil, which could expose features or human remains with minimal damage. The Consulting Archaeologist, in conjunction with Native American monitors, shall determine when and where controlled grading is needed based upon the results of the Data Recovery Program and any new discoveries made during grading. The pace, depth, duration, and location of the controlled grading protocol will be made in concert with tribal monitors but will ultimately be the responsibility of the Consulting Archaeologist to grade and implement the program.</p> <p>MM-CR-5.6: All cultural material collected during the grading monitoring program shall be processed and curated according to current professional repository standards and as required by the environmental policies and guidelines of the County of San Diego. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. Agreements with the MLDs (Pre-Excavation Agreement) regarding human remains and associated grave goods will supersede curation requirements and all human remains and associated grave goods will be submitted to the tribes for repatriation, relocation, and/or reburial.</p> <p>MM-CR-5.7: A section of the final data recovery report for the Citracado Extension Project shall include a description of the mitigation monitoring program and a report of all findings made during the monitoring process. Copies of the mitigation and monitoring report will be provided to the City of Escondido, County of San Diego, the Native American tribes, and the South Coastal Information Center at San</p>	<p>MM-CR-5.5 Page 3.5-24 of EIR</p> <p>MM-CR-5.6 Page 3.5-24 of EIR</p> <p>MM-CR-5.7 Page 3.5-24 of EIR</p>	<p>Consulting Archaeologist</p> <p>Consulting Archaeologist</p> <p>Consulting Archaeologist</p>		

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
<p>Construction-generated noise associated with the proposed Project would not result in significant temporary noise impacts to noise-sensitive receptors. The proposed Project would not expose local sensitive receptors to significant temporary impacts resulting from groundborne vibrations</p> <p>NOISE-1. With implementation of the proposed Project, 2014 noise levels would range from 54 to 71 dBA CNEL; 31 receptors would be exposed to noise levels equal to or greater than 60 dBA CNEL and 10 receptors would be exposed to noise level greater than 65 dBA CNEL. Noise-level increase under the Build Condition in 2014 would range from -4 to 21 dBA over the projected 2014 No Build and 1 to 24 dBA over existing 2010 noise levels; 16 receptors would be exposed to a noise-level increases of 5 dBA or greater when comparing the 2014 Build and No</p>	<p>Mitigation Measure Diego State University. The final technical report and the curation of collections shall be completed within 1 year of the termination of fieldwork and monitoring and grading. No construction-related temporary noise impacts to sensitive receptors were determined in the preceding analysis. As a result, construction-related noise impacts would be less than significant.</p> <p>MM-NOISE-1: Sound Walls Soundwalls shall be constructed as shown in Figure 3.9-3. To reduce noise levels to 65 dBA CNEL or less, soundwall 1 (SW1) and soundwall 2 (SW2) shall be 10 feet in height and soundwalls 3-5 (SW3-SW5) shall be 8 feet in height. Additionally, to achieve a noticeable reduction (i.e., 3 dBA) an 8-foot-high soundwall (SW6) shall be constructed for R24 and R31, 6-foot-high soundwalls (SW7+SW8) shall be constructed for R34 and R35, and a 12-foot-high soundwall shall be constructed for R37 (SW9).</p> <p>Mitigation was designed for R36 due to a cumulatively considerable impact but was determined infeasible, as no configuration could achieve a 3 dBA reduction due to the design and access requirements of the lot.</p> <p>While the proposed Project would result in a substantial permanent increase in noise levels, with inclusion of the modeled walls in the proposed project at the specified heights, the proposed Project would not expose local noise-sensitive receptors to noise levels in excess of 65 dBA CNEL and would not exceed interior noise level standards. Given the City's goal of 60 dBA, even with the implementations of proposed mitigation, the proposed Project would result in a significant unavoidable impact at receptors R2, R4 through R10, R14 through R16, R18 through R20, R23, R24, R26 through R29, and R36, as noise levels would continue to exceed 60 dBA CNEL.</p> <p>As the walls for R34, R35, and R37 are located on private property, permission would be required by the property</p>	<p>MM-Noise-1 Page 3.9-24 of EIR</p>	<p>Contractor</p>		

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
<p>Build Conditions.</p> <p>Under 2030 conditions all receptors except R33, and R39 would be exposed to noise levels in excess of 6 dBA or to noise increases over existing 2010 conditions of greater than 5 dBA. The Project would result in a cumulatively considerable substantial increase in noise levels, i.e. an increase greater than 1 dBA with Project, at receptors R22, R27, R28, R30, R31, R34, R35, R36, R37, R38. Based on the noise levels presented in Table 3.9-8, R22, R27, R28, R30, R31, R34 and R36 would be exposed to a substantial increase in noise levels and a noise level in excess of 60 dBA CNEL. Therefore, the proposed Project would cause a significant impact at R22, R27, R28, R30, R31, R34, and R36 (NOISE-1).</p>	<p>owners to construct the soundwalls. Thus, it cannot be guaranteed that the soundwalls for these locations can be built. If the identified soundwalls cannot be built, impacts at these receptors would be significant and unavoidable.</p>				

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
<p>TR-1. For the year 2014 forecast scenario, the proposed Project would have a significant adverse impact on the operations of the intersection at Citracado Parkway and West Valley Parkway (level of service [LOS] at this intersection would decline from LOS D to LOS F with Project implementation).</p>	<p>It is recommended that this intersection be left unimproved until Citracado Parkway can be extended to the east to connect to Interstate 15 (I-15) and/or lane geometry improvements can be made at the intersection. No mitigation measures are proposed as a part of this Project, and this impact would remain significant and unavoidable.</p>	<p>MM-TR-1 Page 3.10-11 of EIR</p>			
<p>TR-2. For the year 2014 and year 2030 forecast scenarios, the proposed Project would have a significant adverse impact on the operations of the intersection at Del Dios Highway and Via Rancho Parkway. Year 2014 and year 2030 LOS at this intersection would be LOS F with Project implementation. The proposed Project would reduce the AM LOS value from LOS D to LOS F, and would also cause an incremental contribution to PM traffic volumes at the intersection that would result in a significant increase in motorist delay compared to the no project condition.</p>	<p>In the event that this intersection receives no San Diego County (County) improvements, or if the City of Escondido (City) does not complete the Citracado Parkway link to I-15, then this impact would remain significant and unavoidable. No mitigation measures are proposed as a part of this Project (although other planned improvements would likely reduce this impact), and this impact would remain significant and unavoidable.</p>	<p>MM-TR-2 Page 3.10-12 of EIR</p>			

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
<p>TR-3. For the 2014 forecast scenarios, the proposed Project would have a significant adverse impact on the operations of the Via Rancho Parkway street segment south of Del Dios Highway. The average daily LOS for this segment would decline from LOS D to LOS E with Project implementation.</p>	<p>No mitigation measures are proposed as a part of this Project, and this impact would remain significant and unavoidable.</p>	<p>MM-TR-3 Page 3.10-13 of EIR</p>			
<p>TR-4. For the 2014 forecast scenarios, the proposed Project would have a significant adverse impact on the operations of the West Valley Parkway/Del Dios Highway (where Del Dios Highway begins within the County limits) segment between Citracado Parkway and Via Rancho Parkway. The average daily LOS for this segment would be LOS F with or without Project implementation. Although the proposed Project would not reduce the LOS value (LOS F is the lowest rating), the incremental contribution of the Project to traffic volumes along the segment would exceed the County's significance criteria for a significant impact by adding 200 or</p>	<p>No mitigation measures are proposed as a part of this Project, and this impact would remain significant and unavoidable.</p>	<p>MM-TR-4 Page 3.10-13 of EIR</p>			

Nature of Impact	Mitigation Measure	Identification No. Location in Doc.	Responsibility for Implementation	Certified Initials/Date	Comments
<p>more average daily trips (ADT) to a street segment performing at LOS F.</p> <p>TR-5. Temporary vehicular traffic disruptions and detours during Project construction would result in a temporary short-term adverse impact on alternative transportation facilities.</p>	<p>MM-TR-5: A Traffic Management Plan would be prepared to address the traffic control procedures during construction of the proposed Project. The plan would include measures to provide alternate routes for bicyclists and pedestrians that would use facilities affected by Project construction. Implementation of an approved Project Traffic Management Plan would reduce this impact to less than significant.</p>	<p>MM-TR-5 Page 3.10-11 of EIR</p>	<p>City of Escondido Planning Department</p>		

CITY COUNCIL

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Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 16
Date: April 18, 2012

TO: Honorable Mayor and Members of the City Council
FROM: Jerry H. Van Leeuwen, Director of Community Services
SUBJECT: Senior Rental Subsidy Programs

RECOMMENDATION:

Due to the dissolution of the redevelopment agency, the City's Senior Rental Subsidy Programs were suspended as of March 31, 2012. Under Council direction, staff has developed a plan to continue the Senior Rental Assistance Programs for seniors and persons with disabilities for FY 2012-13. Council is being asked to review the plan and direct staff regarding the future of the programs.

FISCAL ANALYSIS:

Costs to continue the programs for current participants whose income is less than 30% AMI for April-June 2012 is \$45,225. Continuation of the program for current participants whose income is less than 30% AMI for 4 quarters in FY 2012-13 is anticipated is cost \$222,000. The source of funds for the program would be from repayments of set-aside loans to the City of Escondido as the Successor Housing Agency of the Community Development Commission of the City of Escondido (the "SA").

Repayments are recycled from loans to first time homebuyers and developers of affordable housing. Individual subsidies are not recycled; payments can be made only once.

PREVIOUS ACTION:

On March 28, 2012, Council directed staff to continue the Senior Rental Subsidy Program for the month of April for current participants whose income is below 30% Area Median Income and to develop a plan to continue the Senior Rental Assistance Programs.

BACKGROUND:

In Spring 1999 the City adopted a program to provide rental assistance to seniors (62 years and older) and persons with disabilities who live in mobilehome parks. The City had agreements with 14 mobilehome parks to allow residents to participate. Residents of mobilehome parks who signed up for the program were initially eligible to receive \$75 dollars a month (increased to \$100 dollars a month in 2011) to help pay their rent.

Senior Rental Subsidy Programs

April 18, 2012

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In December 2001 the City approved a new rental subsidy program for seniors and persons with disabilities who rent apartments in senior complexes. The City had agreements with eight apartment complexes to allow residents to participate. This program was modeled after the City's Mobilehome Rental Subsidy program with the exception that households received \$100 each month (increased to \$125 a month in 2011) instead of \$75.

The basic requirements required the resident were:

- 1) 62+ years or certified as permanently disabled
- 2) Principal place of residence must be one of the contract senior apartment complexes or mobilehome parks
- 3) Resident must be eligible to apply for HUD Section 8 through the County of San Diego, but not currently receiving HUD Section 8
- 4) Total cash assets cannot exceed \$25,000
- 5) Gross annual income cannot exceed 50% of Area Median Income
- 6) Once the resident is determined eligible and starts receiving HUD Section 8, the resident is no longer eligible for the City's rental subsidy assistance. This also applies if the resident moves from a contracted residence to a non-contracting residence.

The programs were funded through Redevelopment Housing Set-Aside funds. Payments were paid directly to the property owners/management companies on behalf of the qualified resident and were issued on a quarterly basis in advance of the rent due date. On December 29, 2011, the California Supreme Court upheld the provisions of AB 1X26 which dissolved redevelopment agencies statewide. This effectively removed funding from the City's rental assistance programs. Payments for January-March 2012 had already been sent to participating mobilehome parks and apartment complexes when the decision was made. On January 30, 2012, the City gave a 60-day notice to each housing provider and each resident that the project would be suspended as of April 1, 2012.

Staff recommends amending the program in order to continue serving households who currently depend on the program. The basic requirements will be:

- 1) 62+ years or certified as permanently disabled
- 2) Principal place of residence must be one of the contract senior apartment complexes or mobilehome parks
- 3) Participant in the program when initial 60-day notice was given on January 30, 2012
- 4) Resident must be on the HUD Section 8 waitlist through the County of San Diego, but not currently receiving HUD Section 8
- 5) Total cash assets cannot exceed \$25,000
- 6) Gross annual income cannot exceed 30% of Area Median Income
- 7) Once the resident is determined eligible or ineligible to receive HUD Section 8, the resident is no longer eligible for the City's rental subsidy assistance. This also applies if the resident moves from a contracted residence to a non-contracting residence.

Based on Council direction, staff identified residents who were beneficiaries of the program on January 30, 2012, whose income did not exceed 30% of the Area Median Income at last income qualification, and who still resided in those homes. Payments totaling \$15,450 for 66 households in mobile home parks and 71 households in senior multifamily developments were sent out on April 5, 2012. Payments for May and June for both programs are anticipated to total \$30,900. Staff anticipates receiving sufficient repayments of set-aside loans to the SA to cover these payments.

Before payments are made for July-September, each household which was on the program would be asked to have their incomes re-qualified to ensure that all eligible households are served. It is anticipated that additional households will need to be added to the program. Taking into account current attrition rates from the program, staff anticipates serving 86 mobilehome households at the beginning of the year (down to 71 households by the end of the year) and 101 apartment households at the beginning of the year (down to 70 households by the end of the year). The programs are anticipated to cost approximately \$222,000 in FY 2012-13.

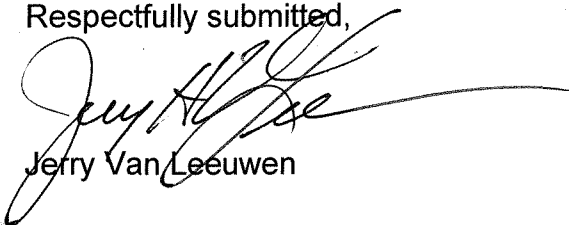
The Housing Division has two programs and one project to fund for FY 2012-13. Committed projects can be funded through either HOME funds or repayments of set-aside loans. The HELP Program (a first-time homebuyer program assisting households earning less than 80% of Area Median Income) is funded through HOME funds. All rental subsidy program funds would have to come from repayments of set-aside loans to the SA.

There will not be any resources from private philanthropists via the Escondido Charitable Foundation for the continuation of Rental Subsidy Programs. Sufficient funds are anticipated to fund the Programs. If repayments are used to fund the Rental Subsidy Programs, committed projects must use HOME funds. Funding for the HELP Program will thus be reduced.

RECOMMENDATION:

Due to the dissolution of the redevelopment agency, the City's Senior Rental Subsidy Programs were suspended as of March 31, 2012. Under Council direction, staff has developed a plan to continue the Senior Rental Assistance Programs for seniors and persons with disabilities for FY 2012-13. Staff requests direction regarding the future of these programs.

Respectfully submitted,



Jerry Van Leeuwen

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Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 17
Date: April 18, 2012
Continued from 3/28/12

TO: Honorable Mayor and Members of the City Council

FROM: Edward Domingue, Director of Engineering Services
Bud Oliveira, Special Projects Manager

SUBJECT: Status Report, Budget Adjustment and Bid Award - Daley Ranch

RECOMMENDATION:

It is requested that Council accept status report; approve a budget adjustment totaling \$725,550 for the road rehabilitation project and other Daley Ranch improvements; and adopt Resolution No. 2012-33 authorizing the Mayor and the City Clerk to execute a public improvement agreement with Asphalt and Concrete Enterprises, Inc. in the amount of \$165,868 for the Daley Ranch Access Road Rehabilitation Project.

FISCAL ANALYSIS:

Funding for the on-going renovation of the historic ranch house was established in the Capital Improvement Program (CIP) using \$700,000 in designated General Fund revenue generated by the sale of Daley Ranch Conservation Bank credits. Approximately \$568,000 has been expended to date on the renovation, with additional expenditures needed to complete the renovation and associated site improvements, construct a restroom building, and rehabilitate the road as detailed on the attached exhibit.

Two budget adjustments are proposed to transfer an additional \$725,550 into CIP account no.104901 for the combined Daley Ranch improvements. This includes the transfer of an additional \$200,000 (\$205,275 available balance) from the designated General Fund revenue generated by the habitat credit sales and a transfer of \$525,550 (\$1,444,592 available balance) from the Daley Ranch Restoration account. The City is required by our Conservation Bank agreement with the wildlife agencies to maintain a minimum balance of \$500,000 within the Restoration Fund, and the remaining \$929,592 is available for General Fund purposes. After the budget adjustment, \$5,275 will remain in the designated General Fund account and \$419,042 will remain available in the Restoration Fund account for future expenditures at the City Council's discretion. Both these accounts will continue to be replenished with future credit sales.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

PREVIOUS ACTION:

On February 2, 2005, the City Council authorized the General Fund portion of future credit sales to be designated for future improvement of the ranch house. On November 16, 2005, the City Council considered alternatives for improvement and public use of the ranch house, and approved Option D to enable the ranch house to be available for public use. This option included renovation of the ranch house and garage with multiple restroom facilities and storage areas, and associated improvements for ADA accessibility, fire protection and septic system operation, at an estimated cost of approximately \$471,000; rehabilitation of the access road was not included in this estimate. On July 15, 2009, Council approved the current design as recommended by the Appearance Committee and the Historical Preservation Commission. This design encompassed the renovation of the ranch house in anticipation of public use, site improvements to meet ADA accessibility and brush clearing requirements, installation of restroom facilities in a freestanding structure across the road from the ranch house, and exploring the availability of potable water for a drinking fountain.

BACKGROUND:

Improvements to the ranch house are well underway and are anticipated to be completed by the summer of 2012. Remaining work includes completion of the ranch house restoration and the construction of a new, separate restroom building. The restroom facilities are currently designed to include a septic system, but might need to go with another disposal option depending on the success of ground testing and processing with the County Department of Environmental Health. Funds hereby requested also will provide for ranch house furnishings, including tables and chairs for events. Once the ranch house repairs/improvements are completed, these facilities will support future recreational as well as revenue options for the City.

The access road project involves the rehabilitation of the existing road between the Lake Dixon gate and the ranch house. Numerous potholes and deteriorating pavement sections have compromised the integrity of this access road. The existing condition of this access makes it difficult to provide emergency and fire protection services to Daley Ranch. In addition, weekend shuttle access to the ranch house area for hikers and day use has been discontinued due to the poor condition of the access road.

Work to be performed will be along the same alignment and footprint of the existing road. The existing road will be recycled in-place, minimizing costs for additional import of base material as well as impacts on landfills. The recycled base material will be moisture conditioned, compacted and shaped into the desired grade and overlaid with a three-inch thick lift of asphalt pavement. Once this project is completed the rehabilitation work will enhance both the safety and recreational elements of Daley Ranch for many years to come.

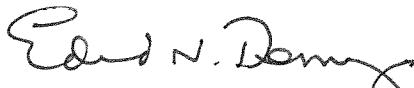
The Engineer's Estimate for the access road project is \$165,000 to \$185,000.

On March 8, 2012, the City of Escondido received fifteen (15) sealed bids on response to its advertised request for bids on the access road project. The sealed bids were opened by the City Clerk with the following bid results:

Asphalt & Concrete Enterprises, Inc.	\$165,868.00
SRM Contracting & Paving	\$166,900.00
ATP general Engineering Contractors	\$166,820.00
George Weir Asphalt	\$169,590.00
RAP Engineering	\$169,901.80
Ben's Asphalt	\$171,865.00
Hazard Construction	\$173,800.00
United Paving Company	\$176,507.00
Angus Asphalt, Inc.	\$178,300.00
Southland Paving, Inc.	\$178,900.00
T.C. Construction	\$179,380.00
Interwest Pacific, Ltd.	\$193,300.00
NPG Corporation	\$201,808.00
Sealright paving	\$214,418.53
All American Asphalt	\$217,140.00

Staff recommends approval of a budget adjustment totaling \$725,550 to augment the CIP budget for the Daley Ranch Access Road Rehabilitation Project and other Daley Ranch improvements and furnishings. Staff also recommends the bid submitted by Asphalt & Concrete Enterprises, Inc. be considered the lowest responsive and responsible bidder and the contract be awarded to Asphalt & Concrete Enterprises, Inc. in the amount of \$165,868.00. The budget adjustment includes \$210,000 of funding for the road rehabilitation project for the contract cost, in-house inspection services, material compliance testing, field testing services and contingencies for the completion of the road rehabilitation project.

Respectfully submitted,



Edward N. Domingue, P.E.
Director of Engineering Services



Bud Oliveira
Special Projects Manager

**DALEY RANCH - RANCH HOUSE IMPROVEMENTS EXHIBIT
 CIP 229-104901**

Revenue:	
Original CIP Budget (Ranch House Improvements)	\$700,000
Budget Adjustment from General Fund Credit Payments *	\$200,000
Budget Adjustment from Restoration Fund (122) Account**	\$525,550
Total Revenue	\$1,425,550
Expenditures:	
Expenditures to Date for Ranch House Improvements (through 3-12-12)	\$567,581
Additional Costs to Complete Ranch House	\$458,519
Restroom Building	\$174,450
Furnishings	\$15,000
Access Road Paving	\$210,000
Total Expenditures	\$1,425,550

* \$ 205,275 available as of January 31, 2012

** \$ 929,592 available as of January 31, 2012, retaining minimum balance of \$500,000 in Restoration Fund account pursuant to the Daley Ranch Conservation Bank Implementing Agreement

RESOLUTION NO. 2012-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AWARDING A BID FOR THE DALEY RANCH ACCESS ROAD REHABILITATION PROJECT AND AUTHORIZING THE MAYOR AND CITY CLERK, TO EXECUTE, ON BEHALF OF THE CITY A PUBLIC IMPROVEMENT AGREEMENT WITH ASPHALT & CONCRETE ENTERPRISES, INC.

WHEREAS, the City Council has allocated funding for the Daley Ranch restoration; and

WHEREAS, a notice inviting bids for the Daley Ranch Access Road rehabilitation Project was duly published, and pursuant to said notice, Asphalt & Concrete Enterprises, Inc. submitted a bid; and

WHEREAS, Asphalt & Concrete Enterprises, Inc. was determined to be the lowest responsive and responsible bidder; and

WHEREAS, the City Council desires at this time and deems it to be in the best public interest to award this Public Improvement Agreement ("Agreement") to Asphalt & Concrete Enterprises, Inc.

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

1. That the above recitations are true.
2. That the Mayor and the City Clerk are authorized to execute on behalf of the City, an Agreement with Asphalt & Concrete Enterprises, Inc. in substantially similar form to that which is attached and incorporated to this Resolution as Exhibit "A," and subject to final approval as to form by the City Attorney.

PUBLIC IMPROVEMENT AGREEMENT

This "Agreement", dated the _____ day of _____, 20____, in the County of SAN DIEGO, State of California, is by and between **THE CITY OF ESCONDIDO** (hereinafter referred to as "CITY"), and Asphalt & Concrete Enterprises, Inc. (hereinafter referred to as "CONTRACTOR").

The CITY and the CONTRACTOR, for the consideration stated herein, agree as follows:

1. The complete contract includes all of the Project Documents described in the General Conditions, which are incorporated by reference. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.
2. CONTRACTOR shall perform within the time set forth in Paragraph 4 of this Agreement everything required and reasonably inferred to be performed, and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services as described in the complete contract and required for construction of

Daley Ranch Access Road Rehabilitation Project

All of said work to be performed and materials to be furnished shall be completed in a good workmanlike manner, free from defects, in strict accordance with the plans, drawings, specifications and all provisions of the complete contract as hereinabove defined. The CONTRACTOR shall be liable to the CITY for any damages and resulting costs, including consultants' costs, arising as a result of a failure to fully comply with this obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of the Architect, Engineer, Inspector, or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the requirements of the Project Documents, and unless the CONTRACTOR protests at the time of such alleged prevention that the act or omission is preventing the CONTRACTOR from fully complying with the Project documents. Such protest shall not be effective unless reduced to writing and filed with the CITY within **three (3) working days** of the date of occurrence of the act or omission preventing the CONTRACTOR from fully complying with the Project documents.

3. CITY shall pay to the CONTRACTOR, as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the Project documents, the sum of One Hundred Sixty Five Thousand Eight Hundred Sixty Eight Dollars (\$165,868.00).
4. The work shall be commenced on or before the twenty-first (21st) day after receiving the CITY'S Notice to Proceed and shall be completed within **twenty five (25) working days** from the date specified in the Notice to Proceed.
5. Time is of the essence. If the work is not completed in accordance with Paragraph 4 above, it is understood that the CITY will suffer damage. It being impractical and infeasible to determine the amount of actual damage(s), in accordance with Government Code Section 53069.85, it is agreed that CONTRACTOR shall pay to CITY as fixed and liquidated damages, and not as a penalty, the sum(s) indicated in the LIQUIDATED DAMAGES SCHEDULE below for each calendar day of delay until work is completed and accepted. This amount shall be deducted from any payments due to or to become

due to CONTRACTOR. CONTRACTOR and CONTRACTOR'S surety shall be liable for the amount thereof. Time extensions may be granted by the CITY as provided in the General Conditions.

Liquidated damages schedule:

If the overall project is delayed **one (1) calendar day or more**, the rate shall be \$250/day.

Acknowledged:

Initials of Principal

6. In the event CONTRACTOR for a period of **ten (10) calendar days** after receipt of written demand from CITY to do so, fails to furnish tools, equipment, or labor in the necessary quantity or quality, or to prosecute said work and all parts thereof in a diligent and workmanlike manner, or after commencing to do so within said **ten (10) calendar days**, fails to continue to do so, then the CITY may exclude the CONTRACTOR from the premises, or any portion thereof, and take possession of said premises or any portion thereof, together with all material and equipment thereon, and may complete the work contemplated by this Agreement or any portion of said work, either by furnishing the tools, equipment, labor or material necessary, or by letting the unfinished portion of said work, or the portion taken over by the CITY to another contractor, or demanding the surety hire another contractor, or by any combination of such methods. In any event, the procuring of the completion of said work, or the portion thereof taken over by the CITY, shall be a charge against the CONTRACTOR, and may be deducted from any money due or to become due to CONTRACTOR from the CITY, or the CONTRACTOR shall pay the CITY the amount of said charge, or the portion thereof unsatisfied. The sureties provided for under this Agreement shall become liable for payment should CONTRACTOR fail to pay in full any said cost incurred by the CITY. The permissible charges for any such procurement of the completion of said work should include actual costs and fees incurred to third party individuals and entities (including, but not limited to consultants, attorneys, inspectors, and designers) and actual costs incurred by CITY for the increased dedication of time of CITY employees to the Project.
7. To the fullest extent permitted by law, the CONTRACTOR agrees to and does hereby agree to fully defend, indemnify and hold the CITY, its governing board, officers, agents, Project design team members (architect and consulting engineers), consultants, attorneys, and employees harmless of and from each and every claim, assertion, action, cause of action, arbitration, suit, proceedings, or demand made, and every liability, loss, judgment, award, damage, or expense, of any nature whatsoever (including attorneys' fees, consultant costs), which may be incurred by reason of:
 - (a) Asserted and/or actual liability arises from claims for and/or damages resulting from damages for:
 - (1) Death or bodily injury to persons.
 - (2) Injury to, loss or theft of tangible and/or intangible property/ e.g. economic loss.
 - (3) Any other loss, damage or expense arising under either (1) or (2) above, sustained by the CONTRACTOR upon or in connection with the work called for in this Project, except for liability resulting from the sole active negligence, or willful misconduct of the CITY.
 - (b) Any injury to or death of any person(s) or damage, loss or theft of any property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm, or corporation employed by the CONTRACTOR, either directly or by independent

contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs on or off City property.

- (c) Any and all liabilities, claims, actions, causes of action, proceedings, suits, administrative proceedings, damages, fines, penalties, judgments, orders, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements, arising out of any violation, or claim of violation of the San Diego Municipal Storm Water Permit (Order No. 2001-01), and updates or renewals, of the California Regional Water Quality Control Board Region 9, San Diego, which the CITY might suffer, incur, or become subject by reason of or occurring as a result of or allegedly caused by the construction, reconstruction, maintenance, and/or repair of the work under this Agreement.

The CONTRACTOR, at CONTRACTOR's own expense, cost, and risk shall defend any and all actions, suit, or other proceedings that may be brought or instituted against the CITY, its governing board, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the CITY, its governing board, officers, agents or employees in any action, suit or other proceedings as a result thereof.

8. (a) CONTRACTOR shall take out, prior to commencing the work, and maintain, during the life of this contract, and shall require all subcontractors, if any, of every tier, to take out and maintain:

(1) General Liability and Property Damage Insurance as defined in the General Conditions in the amount with a combined single limit of not less than **\$3,000,000 per occurrence**.

(2) Course of Construction / Builder's Risk Insurance See 5.2 of General Conditions.

(3) Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to the above-mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:

(A) Automotive and truck where operated in amounts as above

(B) Material hoist where used in amounts as above

(4) Workers' Compensation Insurance.

- (b) Each insurance policy required above must be acceptable to the City Attorney, as follows:

(1) Each policy must name the CITY specifically as an additional insured under the policy on a separate endorsement page, with the exception of the workers' compensation and the Errors and Omissions policies.

(2) Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage must be provided by an A.M. Best's A-rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.

- (3) All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.

(c) In executing this Agreement, CONTRACTOR agrees to have completed insurance documents on file with the CITY within 14 days after the date of execution. Failure to comply with insurance requirements under this Agreement will be a material breach of this Agreement, resulting in immediate termination at CITY's option.

- 9. Public Contract Code Section 22300 permits the substitution of securities for any monies withheld by a public agency to ensure performance under a contract. At the request and expense of the CONTRACTOR, securities equivalent to the amount withheld in retention by the CITY, then the subcontractor shall receive the identical rate of interest received by the CONTRACTOR on any retention monies withheld shall be deposited with the public agency, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to the CONTRACTOR. The City retains the sole discretion to approve the bank selected by the CONTRACTOR to serve as escrow agent. Upon satisfactory completion of the contract, the securities shall be returned to the CONTRACTOR. Securities eligible for investment shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. The CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

In the alternative, under Section 22300, the CONTRACTOR may request CITY to make payment of earned retentions directly to the escrow agent at the expense of the CONTRACTOR. Also at the CONTRACTOR's expense, the CONTRACTOR may direct investment of the payments in securities, and the CONTRACTOR shall receive interest earned on such investment upon the same conditions as provided for securities deposited by CONTRACTOR. Upon satisfactory completion of the contract, CONTRACTOR shall receive from the escrow agent all securities, interest and payments received by escrow agent from CITY pursuant to the terms of Section 22300. If CONTRACTOR elects to receive interest on moneys withheld in retention by CITY, CONTRACTOR shall, at the request of any subcontractor, make that option available to the subcontractor regarding any monies withheld in retention by the CONTRACTOR from the subcontractor. If the CONTRACTOR elects to receive any interest on any monies withheld in retention by the Owner, then the subcontractor shall receive the identical rate of interest received by the CONTRACTOR on any retention monies withheld from the subcontractor by the CONTRACTOR, less any actual pro rata costs associated with administering and calculating that interest. In the event the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If the CONTRACTOR elects to substitute securities in lieu of retention, then, by mutual consent of the CONTRACTOR and subcontractor, the subcontractor may substitute securities in exchange for the release of monies held in retention by CONTRACTOR. This shall apply only to those subcontractors performing more than five percent (5%) of the CONTRACTOR'S total bid. The CONTRACTOR shall not require any subcontractor to waive any provision of this section.

- 10. Each and every provision of law and clause required by law to be inserted in this Agreement or its attachments shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction, without further changes to the remainder of the Agreement.

11. The complete contract as set forth in Paragraph 1 of this Agreement constitutes the entire Agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Escondido City Council.
12. CONTRACTOR shall comply with those provisions of the Labor Code requiring payment of prevailing wages, keeping of certified payroll records, overtime pay, employment of apprentices, and workers' compensation coverage, as further set forth in the General Conditions, and shall file the required workers' compensation certificate before commencing work.
13. The terms "Project Documents" and/or "Contract Documents" where used, shall refer to those documents include in the definition set forth in the General Conditions made a part hereof.
14. CONTRACTOR shall keep itself informed of and comply with the Immigration Reform and Control Act of 1986. CONTRACTOR affirms that as an employer in the State of California, all new employees must produce proof of eligibility to work in the United States within the first three days of employment and that only employees legally eligible to work in the United States will be employed on this public project. CONTRACTOR agrees to comply with such provisions before commencing and continuously throughout the performance of this Agreement.

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

CITY OF ESCONDIDO
a municipal corporation
201 North Broadway
Escondido, CA 92025

By: _____
Diane Halverson, City Clerk

By: _____
Sam Abed, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

CONTRACTOR

By: _____
Signature

By: _____
Signature*

Print Name

Print Name

Title

Title

(Second signature required only for corporation)

By: _____
Signature**

Print Name

Title

(CORPORATE SEAL OF CONTRACTOR,
if corporation)

Contractor's License No.

Tax ID/Social Security No.

*If CONTRACTOR is a corporation, the first signature must be by one of the following officers of the corporation: Chairman of the Board, President, or any Vice President.

**If CONTRACTOR is a corporation, the second signature must be by a different person from the first signature and must be by one of the following officers of the corporation: Secretary, any Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.

FUTURE CITY COUNCIL AGENDA ITEMS
April 12, 2012

AGENDA ITEMS AND COUNCIL MEETING DATES ARE SUBJECT TO CHANGE.
CHECK WITH THE CITY CLERK'S OFFICE AT 839-4617

Green Sheet Due by Noon on Monday 4/9/12
Staff Reports/Resos due by Noon on Tuesday 4/17/12

APRIL 25, 2012
4:30 p.m.

PRESENTATION
Earth Day Poster Presentation (K. Winn)
CONSENT CALENDAR
Award Request for Proposal for a Call Center and Integrated Voice Response Solution for Utility Billing (G. Rojas) <i>On February 13, 2012, request for proposals were mailed to eleven bidders and on March 26, 2012, three proposals were received and opened.</i>
GRANT DEED AND PURCHASE & SALE AGREEMENT: 2165 VILLAGE ROAD (OLD FIRE STATION #3) (E. Domingue) <i>The subject property was improved with a fire station in 1976 in conjunction with the Escondido Hills Planned Development. The station was intended to serve north Escondido. The fire station was vacated in July 2008 when fire station personnel moved to the new Fire Station 3 located at 1808 N. Nutmeg Street. The new fire station was constructed at that location to improve response times and meet quality of life standards. The old fire station was then leased to a private firefighting company, Pac-West Fire, LLC, in November 2008. Pac-West Fire vacated the premises in February 2010. Council directed staff to dispose of the property in April 2010 when it was determined that the property was surplus to the city's needs.</i> <i>The Adroushan Andy Armenian offer of \$275,000.00 has been accepted by the City and escrow has been opened with contingencies removed, Staff now seeks authorization to execute the Grant Deed and Purchase & Sale Agreement needed to effectuate the sale, which shall be deposited in escrow until Close of Escrow. Escrow is expected to close by May 31, 2012.</i>

APRIL 25, 2012
Continued

CONSENT CALENDAR Continued

ECEA's Administrative, Clerical & Engineering Bargaining Unit Severance package for affected employees in the Housing Division of the Community Services Department due to layoff.

(S. Bennett)

A State law was passed that abolished Redevelopment Agencies throughout California as of February 1, 2012. The City's Housing Division is funded by the Redevelopment monies, and the loss of that fund has impacted Housing Operations and resulted in staff reductions. For that reason, the City of Escondido is providing a severance package due to layoffs for affected ECEA Administrative, Clerical and Engineering Bargaining Unit members.

Unclassified Employee Group severance package for affected employees in the Housing Division of the Community Services Department due to layoff.

(S. Bennett)

A State law was passed that abolished Redevelopment Agencies throughout California as of February 1, 2012. The City's Housing Division is funded by the Redevelopment monies, and the loss of that fund has impacted Housing Operations and resulted in staff reductions. For that reason, the City of Escondido is providing a severance package due to layoffs for affected Unclassified employee group members.

PUBLIC HEARINGS

One-Year Action Plan for FY 2012-2013 Home Funds for Affordable Housing Activities and CDBG Funds for Community Development Programs and Projects.

(R. Buquet/K. Youel)

This is a required hearing for the annual Action Plan for allocating federal HOME and CDBG funds for projects and programs.

Amendment to Municipal Code Section (AZ 12- 0002)

(B. Redlitz)

This item is being brought forward at the Mayor's request to preserve his appointment of Greg Johns to the Planning Commission. Mr. Johns lives just outside the city limits at a time when two current commissioners also live outside the city limits. Although the code was changed to limit non-residents to one seat on the Planning Commission in 2007, there has never been a point since that time when there were less than two non-residents on the commission.

APRIL 25, 2012
Continued

CURRENT BUSINESS

Preliminary Five-Year Capital Improvement Program and Project Budgets for Fiscal Year 2012/13.

(G. Rojas)

Per Council direction, preliminary meeting to discuss staff recommended capital project requests for the 2012/13 Capital Improvement Program and Budget.

Appointment of Special Counsel: Adopt Resolution appointing special counsel for campaign contribution matters as required by Escondido Municipal Code Section 2-115.5 (c).

(J. Epp)

(Need Green Sheet)

Senior Nutrition Program Budget Adjustment

(J. Van Leeuwen)

The Escondido Senior Center Nutrition Program offers meals to seniors ages 50 and above. Meals are offered to those 59 and under for \$4.00 per meal. Those 60 years and older may dine for a suggested donation of \$3.00 per meal. This program, established in 1976, still serves an average of 99 seniors per day. The Senior Nutrition program is provided as a service by the City. Expenses are reimbursed through CDBG and the County of San Diego Aging and Independence Services nutrition grant. The grant from the County of San Diego is specific in serving seniors 60 years and older and monthly grant reimbursements are based on the number of meals served. It is anticipated that staff will serve over 24,000 meals through the Senior Nutrition Program in Fiscal Year 11-12.

Modification to add a Second Driveway for Talk of the Town

(B. Redlitz)

(Need Green Sheet)

Future Agenda Items (D. Halverson)

MAY 2, 2012

Mayor's Town Hall Meeting

Council Chambers

4:30 p.m.