



Council Meeting Agenda

FEBRUARY 5, 2020
CITY COUNCIL CHAMBERS
5:00 P.M. Closed Session; 6:00 P.M. Regular Session
201 N. Broadway, Escondido, CA 92025

MAYOR	Paul McNamara
DEPUTY MAYOR	Consuelo Martinez
COUNCIL MEMBERS	Olga Diaz John Masson Michael Morasco
CITY MANAGER	Jeffrey Epp
CITY CLERK	Zack Beck
CITY ATTORNEY	Michael McGuinness
DIRECTOR OF COMMUNITY DEVELOPMENT	Bill Martin
DIRECTOR OF ENGINEERING SERVICES	Julie Procopio

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

**February 5, 2020
5:00 p.m. Meeting**

Escondido City Council

CALL TO ORDER

ROLL CALL: Diaz, Martinez, Masson, Morasco, McNamara

ORAL COMMUNICATIONS

In addition to speaking during particular agenda items, the public may address the Council on any item which is not on the agenda provided the item is within the subject matter jurisdiction of the City Council. 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.) Speakers are limited to only one opportunity to address the Council under Oral Communications.

CLOSED SESSION: (COUNCIL/RRB)

I. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)

- a. **Property:** 2001 La Honda Drive, APN 225-010-3500
City Negotiator: Jeffrey Epp, City Manager
Negotiating Parties: Friends of Daley Ranch / Paul Van Elderen
Under Negotiation: Review Unsolicited Offer

II. CONFERENCE WITH LEGAL COUNSEL-- EXISTING LITIGATION (Government Code 54956.9(d)(1))

- a. **Case Name:** City of Escondido v. General Reinsurance Corp.; Genesis Management and Ins. Services Corp
Case No: 3:19-CV-00868-MMA-BGS
- b. **Case Name:** Paula Westenberger v. City of Escondido
Case No: WCAB Nos: ADJ3448350; ADJ4436156
- c. **Case Name:** Kenneth Head v. City of Escondido; AdminSure, Inc.
Case No: WCAB Nos: ADJ11833809; ADJ11833730
- d. **Case Name:** City of Escondido v. Nilesh Patel, an individual, Jai Ambe Phoenix, LLC
Case No: 37-2018-00023279-CU-MC-NC

ADJOURNMENT



Council Meeting Agenda

**February 5, 2020
6:00 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, Martinez, Masson, Morasco, McNamara

CLOSED SESSION REPORT

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/RRB)**
- 2. APPROVAL OF WARRANT REGISTER (Council)**

Request the City Council approve the City Council and Housing Successor Agency warrant numbers:

338295 – 338558 dated January 15, 2020

338559 – 338823 dated January 22, 2020

Staff Recommendation: **Approval (Finance Department: Joan Ryan)**

3. **APPROVAL OF MINUTES: Regular Meetings of January 15, 2020 and January 22, 2020**
4. **APPROVAL OF CALPERS INDUSTRIAL DISABILITY RETIREMENT FOR POLICE OFFICER LEE ANNE MCCOLLOUGH -**
Request the City Council approve the California Public Employees' Retirement System (CalPERS) Industrial Disability Retirement for Police Officer Lee Anne McCollough.

Staff Recommendation: **Approval (Human Resources Department: Jessica Perpetua)**

RESOLUTION NO. 2020-12
5. **APPLICATION FOR FY 2020 BUREAU OF RECLAMATION TITLE XVI GRANT FUNDING FOR THE PLANNED MEMBRANE FILTRATION / REVERSE OSMOSIS (MFRO) FACILITY -**
Request the City Council approve verifying the City of Escondido's ("City") financial capability and commitment to meet established grant deadlines in a modified assistance agreement with the Bureau of Reclamation for the WaterSMART: Title XVI Water Reclamation and Reuse Projects program. The existing agreement will be modified if the City's pending application for additional program funding is approved.

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

RESOLUTION NO. 2020-13
6. **CONSULTING AGREEMENT FOR THE CITRACADO PARKWAY EXTENSION PROJECT -**
Request the City Council approve authorizing the Mayor and City Clerk to execute, on behalf of the City of Escondido, a Consulting Agreement with TY Lin International for Construction Management Services in the amount of \$1,596,544 for the Citracado Parkway Extension Project.

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

RESOLUTION NO. 2020-08
7. **AGREEMENT FOR THE CITRACADO PARKWAY EXTENSION PROJECT -**
Request the City Council approve authorizing the Mayor and City Clerk to execute a Reimbursement Agreement in the amount of \$2,190,631 with Rincon del Diablo Municipal Water District for Recycled Water and Potable Water Construction and Relocation as part of the Citracado Parkway Extension Project.

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

RESOLUTION NO. 2020-14
8. **ACCEPTANCE OF A \$132,693.68 GRANT AND EXECUTION OF THE COUNTY CONTRACT NO. 561764 AGREEMENT WITH THE COUNTY OF SAN DIEGO HEALTH AND HUMAN SERVICES AGENCY FOR THE SENIOR NUTRITION PROGRAM -**
Request the City Council approve authorizing the Mayor and City Clerk to accept a \$132,693.68 grant from the County of San Diego Health and Human Services Agency for the senior Nutrition Program offered at the Park Avenue Community Center, and execute County Contract No. 561764, the Agreement with the County of San Diego Health and Human Services Agency for the Senior Nutrition Program on behalf of the City of Escondido.

Staff Recommendation: **Approval (Communications and Community Services Department: Joanna Axelrod)**

RESOLUTION NO. 2020-15

CONSENT RESOLUTIONS AND ORDINANCES (COUNCIL/RRB)

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

9. [**SPECIFIC PLAN AMENDMENT AND CONDITIONAL USE PERMIT - DISCOUNT TIRE REDEVELOPMENT PROJECT \(PHG 19-0031 AND PHG 19-0032\) -**](#)

Approved on January 15, 2020 with a vote of 5/0

ORDINANCE NO. 2020-02 (Second Reading and Adoption)

10. [**ADOPTION OF A UTILITY BILLING COLLECTION AND DISCONTINUATION OF SERVICE POLICY -**](#)

Approved on January 15, 2020 with a vote of 5/0

ORDINANCE NO. 2020-04 (Second Reading and Adoption)

11. [**RESERVE POLICE OFFICER AUTHORITY -**](#)

Approved on January 15, 2020 with a vote of 5/0

ORDINANCE NO. 2020-05 (Second Reading and Adoption)

PUBLIC HEARINGS

12. [**AMENDMENT TO ARTICLE 34 \(COMMUNICATION ANTENNAS\) OF THE ESCONDIDO ZONING CODE, ADOPTION OF GUIDELINES FOR THE DEPLOYMENT OF SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY, ESTABLISHMENT OF FEES RELATED TO SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY, AND AMENDMENT TO PUBLIC SERVICES AGREEMENT FOR THE CITYWORKS IMPLEMENTATION PROJECT -**](#)

Request the City Council approve amending Article 34 (Communication Antennas) of the Escondido Zoning Code related to personal wireless service facilities; approve Guidelines for the Deployment of Small Wireless Facilities in the Public Right-of-Way and establishing fees for such facilities; approve executing a Second Amendment to the Public Services Agreement for the CityWorks implementation project with Timmons Group; and approve a budget adjustment relative to said amendment. The request also includes the adoption of the environmental determination prepared for the project.

Staff Recommendation: **Approval (Community Development Department: Bill Martin)**

A) ORDINANCE NO. 2020-03 (First Reading and Introduction)

B) RESOLUTION NO. 2020-04 C) RESOLUTION NO. 2020-18

FUTURE AGENDA

13. [**FUTURE AGENDA -**](#)

The purpose of this item is to identify issues presently known to staff or which members of the City 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: Zack Beck)**

COUNCIL MEMBERS SUBCOMMITTEE REPORTS AND OTHER REPORTS

CITY MANAGER'S WEEKLY ACTIVITY REPORT

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development. This report is also available on the City's website, www.escondido.org.

- [WEEKLY ACTIVITY REPORT -](#)

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. Speakers are limited to only one opportunity to address the Council under Oral Communications.

ADJOURNMENT

UPCOMING MEETING SCHEDULE				
Date	Day	Time	Meeting Type	Location
February 12	Wednesday	5:00 & 6:00 p.m.	Regular Meeting	Council Chambers
February 19	-	--	No Meeting	-
February 26	Wednesday	8:00 a.m.	State of the City	CCAЕ
March 4	Wednesday	5:00 & 6:00 p.m.	Regular Meeting	Council Chambers

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. Submission of Speaker forms prior to the discussion of an item is highly encouraged. 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.

Nomination forms for Community Awards are available at the Escondido City Clerk's Office or at <http://www.escondido.org/city-clerks-office.aspx>

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.escondido.org/meeting-agendas.aspx>
- In the City Clerk's Office at City Hall
- 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 clicking the "Live Streaming –City Council Meeting now in progress" button on the home page.

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 5:00 in Closed Session and 6:00 in Open Session.
(Verify schedule with City Clerk's Office)**

**Members of the Council also sit as the Successor Agency to the Community Development
Commission, Escondido Joint Powers Financing Authority,
and the Mobilehome Rent Review Board.**

**CITY HALL HOURS OF OPERATION
Monday-Friday 8:00 a.m. to 5:00 p.m.**



If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4643. 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.



A F F I D A V I T S

O F

I T E M

P O S T I N G



CITY COUNCIL STAFF REPORT

Consent Item No. 2

February 5, 2020

File No. 0400-40

SUBJECT: Approval of Warrants

DEPARTMENT: Finance Department

RECOMMENDATION:

Request approval for City Council and Housing Successor Agency warrant numbers:

338295 – 338558 dated January 15, 2020

338559 – 338823 dated January 22, 2020

FISCAL ANALYSIS:

The total amount of the warrants for the following periods are as follows:

January 9 – January 15, 2019, is \$ 1,483,610.78

January 16 – January 22, 2019, is \$ 9,572,285.63

BACKGROUND:

The Escondido Municipal Code Section 10-49 states that warrants or checks may be issued and paid prior to audit by the City Council, provided the warrants or checks are certified and approved by the Director of Finance as conforming to the current budget. These warrants or checks must then be ratified and approved by the City Council at the next regular Council meeting.

CITY OF ESCONDIDO

**January 15, 2020
6:00 P.M. Meeting Minutes**

Escondido City Council Mobilehome Rent Review Board

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 6:00 p.m. on Wednesday, January 15, 2020 in the City Council Chambers at City Hall with Mayor McNamara presiding.

MOMENT OF REFLECTION

Gary Debondt, led the Moment of Reflection

FLAG SALUTE

Consuelo Martinez, Deputy Mayor, led the flag salute

ATTENDANCE

The following members were present: Councilmember Olga Diaz, Deputy Mayor Consuelo Martinez, Councilmember John Masson, Councilmember Michael Morasco, and Mayor Paul McNamara. Quorum present.

Also present were: Jeffrey Epp, City Manager; Michael McGuinness, City Attorney; Bill Martin, Director of Community Development; Julie Procopio, Director of Engineering Services; and Zack Beck, City Clerk.

PRESENTATIONS:

Police Chief Promotion - Edward Varso

Police Captain Promotion - David Cramer

CLOSED SESSION REPORT

None.

ORAL COMMUNICATIONS

Chris Hazeltine – City Manager of Poway. Expressed gratitude to the City of Escondido for assisting the City of Poway during a recent water system issue.

CONSENT CALENDAR

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Morasco to approve all Consent Calendar items except item #4. Approved unanimously.

1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/RRB)

2. APPROVAL OF WARRANT REGISTER (Council)

Request the City Council approve the City Council and Housing Successor Agency warrant numbers:

337241 – 337456 dated December 11, 2019

337457 – 337682 dated December 18, 2019

337683 – 337874 dated December 24, 2019

337875 – 338077 dated December 31, 2019

Staff Recommendation: **Approval (Finance Department: Joan Ryan)**

3. APPROVAL OF MINUTES: Regular Meeting of December 18, 2019

4. RESERVE POLICE OFFICER AUTHORITY -

Request the City Council approve granting the Chief of Police authority to supervise the Reserve Police Officers. (File No. 0270-40)

Staff Recommendation: **Approval (Police Department: Edward Varso)**

ORDINANCE NO. 2020-05 (First Reading and Introduction)

Motion by Councilmember Masson and seconded by Councilmember Morasco to approve granting the Chief of Police authority to supervise the Reserve Police Officers. Approved unanimously.

5. BID AWARD FOR THE MITCHELL ROOM AND CREDIT UNION ROOF DECK REPLACEMENT PROJECT, AND A BUDGET ADJUSTMENT -

Request the City Council approve awarding the bid to Wanke, Industrial, Commercial, Residential, Inc. of San Diego California, determined to be the lowest responsive and responsible bidder; authorizing the Mayor and City Clerk to execute a Public Services Agreement in the amount of \$154,178; authorizing staff to approve change orders up to 20 percent of the bid price to replace the roof deck above the Mitchell Room and the Escondido Credit Union Project; and approve the budget adjustment needed to cover the roof deck replacement costs. (File No. 0600-10, A-3324)

Staff Recommendation: **Approval (Public Works Department: Joseph Goulart)**

RESOLUTION NO. 2020-09

6. ACCEPTANCE OF \$40,000 SAHM FAMILY FOUNDATION GRANT -

Request the City Council approve authorizing the Communications and Community Services Department to accept a \$40,000 Sahm Family Foundation grant and approve the budget adjustment needed to expend the funds. These funds will be utilized to purchase new furniture for the Park Avenue Community Center (PACC) common areas, and to replace aging pool tables in the PACC's Billiards Room. (File No. 0480-70)

Staff Recommendation: **Approval (Communication & Community Services Department: Joanna Axelrod)**

RESOLUTION NO. 2020-11

CONSENT RESOLUTIONS AND ORDINANCES (COUNCIL/RRB)

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

PUBLIC HEARINGS

7. SHORT-FORM RENT INCREASE APPLICATION SUNDANCE MHC, LP (FILE NO. 0697-20-10224) -

Request the City Council approve granting an increase of 75 percent of the change in the Consumer Price Index (CPI), or 2.087 percent (an average of \$16.66) for the period of June 30, 2018, to June 30, 2019. (File No. 0697-20-10224)

Staff Recommendation: **Approval (Community Development Department: Bill Martin)**
RENT REVIEW BOARD RESOLUTION NO. 2020-01

Jeff Fisher - Park Representative, expressed support for the short-form rent increase application.

Moved by Councilmember Morasco and seconded by Councilmember Masson to approve granting an increase of 75 percent of the change in the Consumer Price Index (CPI), or 2.087 percent (an average of \$16.66) for the period of June 30, 2018, to June 30, 2019. Approved unanimously.

8. SPECIFIC PLAN AMENDMENT AND CONDITIONAL USE PERMIT - DISCOUNT TIRE REDEVELOPMENT PROJECT (PHG 19-0031 AND PHG 19-0032) -

Request the City Council conduct a public hearing on the Discount Tire Redevelopment Project proposal, which includes a Specific Plan Amendment and a Conditional Use Permit for four adjacent lots at the southwest corner of South Escondido Boulevard and West 2nd Avenue; and take action on the recommendations of City Staff and the Planning Commission, which recommends that the City Council: Introduce Ordinance No. 2020-02, for a Specific Plan Amendment to reassign the project site from the Historic Downtown District of the Downtown Specific Plan, via an adjustment of the boundary between these two districts; and adopt Resolution No. 2020-03, for a Conditional Use Permit to allow the demolition of an existing tire shop and bridal shop, and the construction of a new tire shop in their place, with associated parking, landscaping, and stormwater facilities. (File No. 0800-70)

Staff Recommendation: **Approval (Community Development Department: Bill Martin)**

A) ORDINANCE NO. 2020-02 (First Reading and Introduction) B) RESOLUTION NO. 2020-03

Moved by Councilmember Diaz and seconded by Councilmember Masson to introduce Ordinance No. 2020-02, for a Specific Plan Amendment to reassign the project site from the Historic Downtown District of the Downtown Specific Plan, via an adjustment of the boundary between these two districts; and adopt Resolution No. 2020-03, for a Conditional Use Permit to allow the demolition of an existing tire shop and bridal shop, and the construction of a new tire shop in their place, with associated parking, landscaping, and stormwater facilities. Approved unanimously.

9. ADOPTION OF A UTILITY BILLING COLLECTION AND DISCONTINUATION OF SERVICE POLICY -

Request the City Council approve the Utility Billing Collection and Discontinuance of Service Policy, and repeal Chapter 31-9 and amending Chapter 31-20 of the Escondido Municipal Code. (File No. 0400-75)

Staff Recommendation: **Approval (Finance Department: Joan Ryan)**

A) RESOLUTION NO. 2020-05R B) ORDINANCE NO. 2020-04 (First Reading and Introduction)

Moved by Councilmember Morasco and seconded by Councilmember Masson to approve the Utility Billing Collection and Discontinuance of Service Policy, and repeal Chapter 31-9 and amending Chapter 31-20 of the Escondido Municipal Code. Approved unanimously.

CURRENT BUSINESS

10. CITYWIDE COMMUNITY FACILITIES DISTRICT TO FUND MUNICIPAL SERVICES FOR NEW RESIDENTIAL DEVELOPMENT -

Request the City Council provide direction to prepare documents necessary for the formation of a Citywide Community Facilities District to offset ongoing municipal costs of serving new residential development. (File No. 0685-20)

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**
RESOLUTION NO. 2020-02

Pam Stahl - Member of the Escondido Chamber of Citizens. Expressed support for the City of Escondido to collect sufficient development impact fees.

David Shepherd - Expressed support for the project.

Patricia Borchmann - Member of Escondido Chamber of Citizens. Expressed support for the City of Escondido to collect sufficient development impact fees.

Laura Hunter - Requested that the City Council take more time before approving the Citywide Community Facilities District.

Moved by Councilmember Morasco and seconded by Deputy Mayor Martinez to adopt Resolution No. 2020-02 directing staff to prepare documents necessary for the formation of a Citywide Community Facilities District to offset ongoing municipal costs of serving new residential development (the Services CFD). Approved unanimously.

11. CITY COUNCIL MEETING TIMES -

Request the City Council review Section 2-21 of the Escondido Municipal Code pertaining to the time of City Council Meetings and provide direction to staff. (File No. 0680-10)

Staff Recommendation: **Provide Direction (City Clerk's Office: Zack Beck)**

Laura Hunter - Expressed support for the current City Council Meeting start time.

Alicia Wallace-Palomares - Expressed support for the current City Council meeting start time.

No Council Action on this Item.

FUTURE AGENDA

12. Future Agenda -

The purpose of this item is to identify issues presently known to staff or which members of the City 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: Zack Beck)**

Councilmember Diaz requested an item be placed on the Future Agenda outlining the City Council redistricting process following the 2020 Census.

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

Councilmember Diaz - Attended the League of California Cities subcommittee meeting.

Mayor McNamara - Attended a recent SANDAG meeting.

CITY MANAGER'S WEEKLY ACTIVITY REPORT

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development. This report is also available on the City's website, www.escondido.org.

- **WEEKLY ACTIVITY REPORT -**

ORAL COMMUNICATIONS

None.

ADJOURNMENT

Mayor McNamara adjourned the meeting at 8:25 p.m.

MAYOR

CITY CLERK

CITY OF ESCONDIDO
January 22, 2020
6:00 P.M. Meeting Minutes

Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 6:00 p.m. on Wednesday, January 22, 2020 in the City Council Chambers at City Hall with Mayor McNamara presiding.

MOMENT OF REFLECTION

Zack Beck, led the Moment of Reflection

FLAG SALUTE

Paul McNamara, led the flag salute

ATTENDANCE

The following members were present: Councilmember Olga Diaz, Deputy Mayor Consuelo Martinez, Councilmember John Masson, Councilmember Michael Morasco, and Mayor Paul McNamara. Quorum present.

Also present were: Jeffrey Epp, City Manager; Michael McGuinness, City Attorney; Bill Martin, Director of Community Development; Julie Procopio, Director of Engineering Services; and Zack Beck, City Clerk.

PROCLAMATIONS:

Martin Luther King Jr. Day

CLOSED SESSION REPORT

None.

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

MOTION: Moved by Councilmember Masson and seconded by Councilmember Diaz to approve all Consent Calendar items except item #4. Approved unanimously.

1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/RRB)

2. APPROVAL OF WARRANT REGISTER (Council)

Request the City Council approve the City Council and Housing Successor Agency warrant numbers:
338078 – 338294 dated January 8, 2020

Staff Recommendation: **Approval (Finance Department: Joan Ryan)**

3. NOTICE OF COMPLETION FOR THE KIA DEALERSHIP GRADING PROJECT -

Request the City Council approve authorizing the Director of Utilities to file a Notice of Completion for the Kia Dealership Grading Project. (File No. 0600-10, A-3305)

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

RESOLUTION NO. 2020-10

4. NOTICE OF COMPLETION FOR THE STORM DRAIN PIPE LINING AND REHABILITATION PROJECT PHASE I -

Request the City Council approve authorizing the City Engineer to file a Notice of Completion for the Storm Drain Pipe Lining and Rehabilitation Project Phase I. (File No. 0600-10, A-3281)

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

RESOLUTION NO. 2020-06

MOTION: Moved by Councilmember Masson and seconded by Councilmember Diaz to approve authorizing the City Engineer to file a Notice of Completion for the Storm Drain Pipe Lining and Rehabilitation Project Phase I. Approved unanimously.

CONSENT RESOLUTIONS AND ORDINANCES (COUNCIL/RRB)

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

CURRENT BUSINESS

5. CONTRACT AWARD AND COST SHARING AGREEMENT FOR COMMUNITY CHOICE AGGREGATION/ENERGY TECHNICAL FEASIBILITY STUDY -

Request the City Council approve authorizing the City Manager, in consultation with the City Attorney, to execute a cost sharing agreement to prepare a Community Choice Aggregation/Energy Technical Feasibility Study for the cities of Escondido, San Marcos, and Vista. (File No. 0600-11)

Staff Recommendation: **Approval (Community Development Department: Bill Martin)**

Laura Hunter - Representing the Sierra Club. Expressed support for Community Choice Aggregation/Energy.

Maria Wallace - Expressed support for Community Choice Aggregation/Energy.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Morasco to approve authorizing the City Manager, in consultation with the City Attorney, to execute a cost sharing agreement to prepare a Community Choice Aggregation/Energy Technical Feasibility Study for the cities of Escondido, San Marcos, and Vista. Approved unanimously

FUTURE AGENDA

6. FUTURE AGENDA -

The purpose of this item is to identify issues presently known to staff or which members of the City 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: Zack Beck)**

Councilmember Diaz requested that a "Downtown Parking Subcommittee" meeting be scheduled.

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

Councilmember Diaz - Attended a San Dieguito River Park JPA meeting.

Mayor McNamara - Attended a SANDAG meeting.

CITY MANAGER'S WEEKLY ACTIVITY REPORT

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development. This report is also available on the City's website, www.escondido.org.

- **WEEKLY ACTIVITY REPORT -**

ORAL COMMUNICATIONS

None.

ADJOURNMENT

Mayor McNamara adjourned the meeting at 6:51 p.m.

MAYOR

CITY CLERK

CITY COUNCIL STAFF REPORT

Consent Item No. 4

February 5, 2020

File No. 0170-57

SUBJECT: Approval of CalPERS Industrial Disability Retirement for Police Officer Lee Anne McCollough

DEPARTMENT: Human Resources Department

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2020-12, approving the California Public Employees' Retirement System (CalPERS) Industrial Disability Retirement for Police Officer Lee Anne McCollough.

BACKGROUND:

Ms. McCollough filed for Industrial Disability Retirement on December 16, 2019, as a 44-year-old Police Officer. She has been employed by the City of Escondido for 14 years. The basis for Ms. McCollough's Industrial Disability Retirement application is confirmed by medical reports from Dr. Jon Kelly. Ms. McCollough's condition is orthopedic in nature. Accordingly, Ms. McCollough is incapacitated within the meaning of the Public Employees' Retirement Law for performance of her usual and customary duties in the position of Police Officer.

Under State Law, the City Council is required to adopt a Resolution determining that competent medical evidence supports the granting of an Industrial Disability Retirement. Based on medical evidence, staff recommends the City Council adopt Resolution No. 2020-12, approving the CalPERS Industrial Disability Retirement for Lee Anne McCollough to be effective February 8, 2020.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Jessica Perpetua, Director of Human Resources
1/29/20 4:58 p.m.

ATTACHMENTS:

1. Resolution No. 2020-12

RESOLUTION NO. 2020-12

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING THE CALPERS INDUSTRIAL
DISABILITY RETIREMENT FOR POLICE
OFFICER LEE ANNE MCCOLLOUGH

WHEREAS, the City of Escondido (“City”) is a contracting agency of the California Public Employees’ Retirement System (“CalPERS”); and

WHEREAS, the California Public Employees’ Retirement Law (Govt. Code § 20000 et seq.) (“California law”) requires that the City determine whether an employee classified as a local safety member is disabled for purpose of the California law and whether such disability is “industrial” within the meaning of such law; and

WHEREAS, Lee Anne McCollough (“Employee”) filed an application with CalPERS on December 16, 2019, for Industrial Disability Retirement due to orthopedic injuries; and

WHEREAS, the Employee, is employed by the City in the position of Police Officer; and

WHEREAS, the City Council of the City of Escondido has reviewed the medical and other evidence relevant to this industrial disability.

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

1. That the above recitations are true.
2. That the City Council of the City of Escondido, California does hereby find and determine that Employee is incapacitated within the meaning of the California Public Employees’ Retirement Law for performance of her duties in the position of Police Officer.

3. That the City Council certifies, in accordance with Govt. Code § 21156, that this determination was made on the basis of competent medical opinion, and was not used as a substitute for the disciplinary process.

4. That the Employee had filed a Workers' Compensation claim for her disabling condition. The City accepted the Employee's Workers' Compensation claim.

5. That neither the Employee nor the City has applied to the Worker's Compensation Appeals Board for a determination pursuant to Govt. Code Code § 21166 whether such disability is industrial.

6. That the Employee's retirement date will be effective February 8, 2020, and her last day on paid status is February 7, 2020.

7. That there is not a possibility of third party liability.

8. That the City will make monthly Advanced Disability Pension Payments of \$4,193.68, beginning March 1, 2020, until CalPERS begins making retirement payments. The City will also make a one-time advance disability payment of \$3,181.42, for the remaining twenty-two days of February 2020.

9. That the primary disabling condition is an orthopedic injury to her left knee, which arose out of and in the course of employment, and that there is competent medical opinion certifying the disabling condition to be permanent.

10. That based on information and belief, and on the information provided by City staff, the City Council certifies under penalty of perjury that all statements in this Resolution are true and correct.

CITY COUNCIL STAFF REPORT

Consent Item No. 5

February 5, 2020

File No. 0600-10, A-3310

SUBJECT: Application for FY 2020 Bureau of Reclamation Title XVI Grant Funding for the Planned Membrane Filtration / Reverse Osmosis Facility

DEPARTMENT: Utilities Department, Construction and Engineering Division

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2020-13, verifying the City of Escondido's ("City") financial capability and commitment to meet established grant deadlines in a modified assistance agreement with the Bureau of Reclamation ("BOR") for the WaterSMART: Title XVI Water Reclamation and Reuse Projects program. The existing agreement will be modified if the City's pending application for additional program funding is approved.

FISCAL ANALYSIS:

The cost of constructing the planned Membrane Filtration/Reverse Osmosis ("MFRO") Facility, not including the additional recycled water pipeline and intermediate booster pump station, is estimated to be \$44,700,000. In addition to the BOR funding assistance under consideration today, other sources of Project funding are:

- a pending \$29,000,000 State Revolving Fund ("SRF") loan;
- a \$4,884,000 initial award from BOR's WaterSMART: Title XVI funding program;
- a \$2,000,000 state award from Prop 84 Integrated Regional Water Management (IRWM); and
- Wastewater Fund Capital Improvement Plan ("CIP") Reserves.

The Utilities Department is also considering submitting an application to the California Infrastructure and Economic Development Bank (IBank) to request up to \$20,000,000 in financing for the MFRO Facility Project. This loan would fund the additional recycled water pipeline, intermediate booster pump station, and a portion of the MFRO Facility.

PREVIOUS ACTIONS:

On August 7, 2019, the City Council adopted Resolution No. 2019-108, authorizing the Director of Utilities to execute a Financial Assistance Agreement with the U.S. Department of the Interior, Bureau of Reclamation in the amount of \$11,175,000, with an initial award of \$4,884,000.

BACKGROUND:

In Escondido's 2018 application for BOR Title XVI funding, the cost of constructing the planned MFRO Facility Project was estimated to be \$44,700,000. Though the initial amount of funding awarded to the

City was \$4,884,000, the total estimated amount of federal funding allocated to the agreement in 2019 was \$11,175,000, which is 25 percent of the Project's total cost or the maximum allowed for Title XVI funding.

Recent Congressional appropriations have made available additional funds, so the City may request the balance of the federal funding (up to \$6,291,000) in the agreement. To request the additional funds, the City is required to submit a new application to the Bureau of Reclamation. If additional Title XVI funding is granted to the City, a modified assistance agreement will be negotiated with the BOR.

The MFRO Project originally was conceived as part of the City's Potable Water Reuse Program, and was identified in the Recycled Water Master Plan. The City is constructing this important component of the Reuse Program to achieve two primary goals:

1. To direct water away from the Escondido Land Outfall, which has insufficient capacity to meet the City's long-term needs, and
2. To expedite a new, high-quality water supply that can be used by local agricultural growers, thus reducing the City's dependence on imported water.

The MFRO facility will treat recycled water to a higher standard using membrane filtration (MF) and reverse osmosis (RO) technologies, providing high-quality water that is low in total dissolved solids and chlorides. The water will serve high-water-demand avocado growers who serve a vital role in Escondido's economy.

This agreement covers the activities necessary for planning, design, and construction of water reclamation and reuse facilities for the City to reclaim and reuse water in the San Diego metropolitan service area, as required by the original Title XVI allocation. Fundable activities include environmental compliance, obtaining permits, preparing preliminary and final designs, and construction.

The activities to be funded through this agreement include the following:

1. California Environmental Quality Act (CEQA) Documentation
2. Completion of the 60 percent design for the facility
3. Completion of the 100 percent design for the facility
4. Mobilization
5. Yard piping and Site Work
6. MFRO Process Building
7. Chemical Storage Area
8. Inter-process Storage Tank
9. Product Water Storage Tank
10. Startup, Testing, and Project Closeout

Application for FY 2020 Bureau of Reclamation Title XVI Funding for the Planned MFRO Facility
February 5, 2020
Page 3

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Christopher W. McKinney, Director of Utilities
1/30/20 9:07 a.m.

ATTACHMENTS:

1. Resolution No. 2020-13

RESOLUTION NO. 2020-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, VERIFYING THE CITY OF ESCONDIDO'S FINANCIAL CAPABILITY AND COMMITMENT TO MEET ESTABLISHED DEADLINES SHOULD IT BE OFFERED A FINANCIAL AWARD AND ENTER INTO A MODIFIED ASSISTANCE AGREEMENT UNDER THE BUREAU OF RECLAMATION'S WATERSMART: TITLE XVI PROGRAM

WHEREAS, the City of Escondido ("City") submitted an application to the Bureau of Reclamation's WaterSMART: Title XVI Water Reclamation and Reuse Projects funding program in July 2018 for construction of the proposed Membrane Filtration Reverse Osmosis ("MFRO") Facility; and

WHEREAS, the Bureau of Reclamation awarded an assistance agreement to the City in August 2019 with an initial amount of \$4,884,000 and a total estimated amount of \$11,175,000; and

WHEREAS, the City intends to submit an application to the Bureau of Reclamation to receive the balance of the total WaterSMART: Title XVI award for construction of the proposed MFRO Facility; and

WHEREAS, the application identifies Christopher W. McKinney, Director of Utilities, as the City's authorized representative with legal authority to enter into a modified agreement; and

WHEREAS, the City's Wastewater Enterprise Fund is capable of providing the amount of funding and/or in-kind contributions specified in the funding plan for the MFRO Project; and

WHEREAS, the City and its authorized representative will work with the Bureau of Reclamation to meet established deadlines for entering into an assistance agreement.

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 City Council have reviewed and support the City of Escondido's submitted application for additional financial assistance from the Bureau of Reclamation's WaterSMART: Title XVI Water Reclamation and Reuse Projects funding program.

CITY COUNCIL STAFF REPORT

Consent Item No. 6

February 5, 2020

File No. 0600-10, A-3325

SUBJECT: Consulting Agreement for the Citracado Parkway Extension Project

DEPARTMENT: Engineering Services Department

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2020-08, authorizing the Mayor and City Clerk to execute, on behalf of the City of Escondido, a Consulting Agreement (“Agreement”) with TY Lin International (“TY Lin”) for Construction Management Services in the amount of \$1,596,544 for the Citracado Parkway Extension Project (“Project”).

FISCAL ANALYSIS:

The estimated Project cost is \$31.6 million. Funds in the amount of \$27.5 million have been budgeted for the Project, including a \$12.5 million Local Partnership Program Grant, a competitive grant of SB-1 funds selected by Caltrans. The construction cost estimate updated in November 2019, shows the anticipated cost of construction is \$26.3 million. The Capital Improvement Program (“CIP”) budget recommends programming of TransNet and Traffic Impact Fee funds in the amount of \$1.3 million in FY 20/21.

BACKGROUND/DISCUSSION:

This Project extends Citracado Parkway from Harmony Grove Village Parkway to Andreasen Drive and widens the roadway between W. Valley Parkway and Avenida Del Diablo. Due to the size and complexity of the Project, consultant services are required to manage construction.

Four (4) proposals were received in response to the City’s request. The proposal amounts are shown below. One of the firms provided a lower cost proposal; however, the staffing levels were determined to be inadequate for a Project of this complexity. The top two rated firms were interviewed. TY Lin was selected as the team most qualified, based on their experienced Resident Engineer, work near sensitive cultural resources, public outreach plan, understanding and approach to the Project.

TY Lin International	\$1,596,544
Psomas	\$1,585,824
KOA	\$1,203,735
S2 Engineering, Inc.	\$3,590,647

If approved, TY Lin will manage all aspects of construction, including communication with the public in advance of and during construction, coordination of inspection and testing of all public improvements,

environmental monitoring, responding to all requests for information, review of all submittals and Contractor pay requests. In addition, TY Lin will work with utility companies to coordinate relocation of conflicting utility facilities. Construction management services generally cost 7-15% of the estimated construction cost. The proposed contract amount of \$1,596,544 is 6.1% of the anticipated construction cost.

Project Status:

On December 18, 2019, the City Council approved an amendment to contract with Brian F. Smith and Associates to perform required screening of culturally sensitive soil as required by the Memorandum of Agreement (“MOA”) with the State Historic Preservation Officer and affected Native American Tribes. Work to perform these services is expected to begin in February 2020 and is anticipated to require approximately three (3) months to complete.

Utility companies expect to complete design for relocation of the power distribution and communications systems by Spring of 2020. Completed designs for these systems will be incorporated into the Project’s construction drawings. SDG&E design for the relocation of the high transmission electric system has been delayed. SDG&E engineers encountered problems with the initial design, requiring re-design using different pole types. SDG&E engineers are currently working to update their final design. SDG&E is currently working to provide the City with a schedule to complete the updated design and to fabricate steel poles.

Revisions to Project plans and specifications to address Citywide and utility plan review comments is currently in final review. A third party review is underway, with anticipated completion by the end of February 2020. Revisions to Project plans and specifications to address the third party review comments should be complete by May 2020. Final plans and specifications for bidding are expected in Summer of 2020. Construction is anticipated to start in 2020 and require approximately eighteen months to complete.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Julie Procopio, Director of Engineering Services
1/30/20 9:02 a.m.

ATTACHMENTS:

1. Resolution No. 2020-08
2. Resolution No. 2020-08 - Exhibit “1” Consulting Agreement with TY Lin International

RESOLUTION NO. 2020-08

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 CONSULTING AGREEMENT WITH T.Y. LIN INTERNATIONAL FOR THE CITRACADO EXTENSION PROJECT

WHEREAS, the City Council has allocated funding in the adopted Capital Improvement Program Budget for the Citracado Extension Project (“Project”); and

WHEREAS, Construction Management and Testing Services are requested of T.Y. Lin International (“TYLin”) for construction work to comply with Project plans, specifications, and permitting requirements in the amount of \$1,596,544; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve a Consulting Agreement with TYLin for Construction Management and Testing Services in the amount of \$1,596,544 for the Project.

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 authorizes the Mayor and City Clerk to execute, a Consulting Agreement with TYLin, which is attached and incorporated to this Resolution as Exhibit “1,” and subject to final approval as to form by the City Attorney.



CITY OF ESCONDIDO
CONSULTING AGREEMENT

This Agreement is made this _____ day of _____, 20____.

Between: CITY OF ESCONDIDO
a Municipal Corporation
201 N. Broadway
Escondido, California 92025
Attn: Julie Procopio
760-839-4001
("CITY")

And: T.Y. Lin International
404 Camino del Rio South, Suite 700
San Diego, CA 92108
Attn: Joseph Smith
(619) 692-1920
("CONSULTANT")

Witness that whereas:

- A. It has been determined to be in the CITY's best interest to retain the professional services of a consultant to provide bid support, early property owner coordination, utility company coordination and management of all aspects of construction for the Citracado Parkway Extension project. In addition, the consultant will manage all construction aspects along with sub-consultants who will provide quality assurance, special inspection and testing services in accordance with the City's Quality Assurance Plan; and
- B. The CONSULTANT is considered competent to perform the necessary professional services for CITY;

NOW, THEREFORE, it is mutually agreed by and between CITY and CONSULTANT as follows:

1. Services. The CONSULTANT will furnish all of the services as described in "Attachment A" which is attached and incorporated by this reference.
2. Compensation. The CITY will pay the CONSULTANT in accordance with the conditions specified in "Attachment A," in the sum of \$1,596,544. Any breach of this Agreement will relieve CITY from the obligation to pay CONSULTANT, if CONSULTANT has not corrected the breach after CITY provides notice and a reasonable time to correct it. If this Agreement is amended at any time, additional compensation of CONSULTANT

contained in subsequent amendment(s) shall not exceed a cumulative total of twenty-five percent (25%) of the maximum payment provided for in this Section 2.

3. Scope of Compensation. The CONSULTANT will be compensated for performance of tasks specified in "Attachment A" only. No compensation will be provided for any other tasks without specific prior written consent from the CITY.
4. Duties. CONSULTANT will be responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports and other services furnished by the CONSULTANT under this Agreement, except that the CONSULTANT will not be responsible for the accuracy of information supplied by the CITY.
5. Personnel. The performance of services under this Agreement by certain professionals is significant to the CITY. CONSULTANT will assign the persons listed on "Attachment B," which is attached and incorporated by this reference, to perform the Services described in Paragraph 1, and will not add or remove persons from the list without the prior written consent of the CITY. If no designation is made, then CONSULTANT may not assign services without obtaining the advance written consent of the CITY. CONSULTANT will not subcontract any tasks under this Agreement without obtaining the advance written consent of the CITY.
6. Termination. Either CONSULTANT or the CITY may terminate this Agreement with thirty (30) days advance written notice.
7. City Property. All original documents, drawings, electronic media, and other material prepared by CONSULTANT under this Agreement immediately becomes the exclusive property of the CITY, and may not be used by CONSULTANT for any other purpose without prior written consent of the CITY.
8. Insurance.
 - a. The CONSULTANT 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 8(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. CONSULTANT acknowledges that operating a motor vehicle is outside the scope of this Agreement and occurs only at the convenience of the CONSULTANT. A waiver of automobile liability insurance is only effective if both sets of initials appear below, otherwise such insurance is required.

Acknowledged by CONSULTANT _____

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 CITY includes its officials, employees, and volunteers. The endorsement must be ISO Form CG 20 10 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 CONSULTANT'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, CONSULTANT 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.
9. Indemnification. CONSULTANT (which in this paragraph 9 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 CONSULTANT in the performance of this Agreement;
 - b. Any personal injuries, property damage or death that CONSULTANT 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
 - c. Any injury or death which results or increases by any action taken to medically treat CONSULTANT.
10. Anti-Assignment Clause. The CONSULTANT may not assign, delegate or transfer any interest or duty under this Agreement without advance written approval of the CITY, and any attempt to do so will immediately render this entire Agreement null and void. Unless CONSULTANT assigns this entire Agreement, including all rights and duties herein, to a third party with the CITY'S written consent, CONSULTANT shall be the sole payee under this Agreement. Any and all payments made pursuant to the terms of this Agreement are otherwise not assignable.

11. 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.
12. Independent Contractor. CONSULTANT is an independent contractor and no agency or employment relationship, either express or implied, is created by the execution of this Agreement.
13. 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.
14. 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 by CITY because any other provision has been waived, in whole or in part.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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, at the address first above written.
20. Business License. The CONSULTANT is required to obtain a City of Escondido Business License prior to execution of this Agreement.
21. Compliance with Applicable Laws, Permits and Licenses. CONSULTANT 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. CONSULTANT shall obtain any and all licenses, permits, and authorizations necessary to perform 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 CONSULTANT to comply with this section.

22. Immigration Reform and Control Act of 1986. CONSULTANT shall keep itself informed of and comply with the Immigration Reform and Control Act of 1986. CONSULTANT 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. CONSULTANT agrees to comply with such provisions before commencing and continuously throughout the performance of this Agreement.

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: _____

Paul McNamara
Mayor

Date: _____

Zachary Beck
City Clerk

T.Y. LIN INTERNATIONAL

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
MICHAEL R. MCGUINNESS, City Attorney

Signature

By: _____

Name & Title (please print)

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

T.Y. Lin International**Construction Management, Inspection, and Material Testing of Project Work****A. General.**

The City is seeking Construction Manager (CM) services to provide pre-construction coordination and bid support, early property owner coordination, utility company coordination and management of all aspects of construction for the Citracado Parkway Extension project. In addition, the CM will manage sub-consultants who will provide quality assurance, special inspection and testing services in accordance with the City's Quality Assurance Plan.

B. Services

1. Consultant shall provide property owner and homeowner's association coordination, including coordination with effected property owners in advance of construction of the soundwall, and continued coordination during construction.
2. Consultant shall provide support during project bidding, including assistance with responses to requests for information, preparation of addenda, conducting job walk, analysis of bids and identification of bid irregularities.
3. Consultant shall provide utility company coordination, including coordinating with SDG&E, Cox, AT&T, to finalize their designs, complete relocations in advance of construction, where needed, and incorporating utility company relocation plans and language into the contract documents to provide construction windows for efficient relocation of facilities during construction.
4. Consultant shall provide coordination and inspection for Rincon Water District facilities shown to be relocated or installed on the plans, including receiving Rincon's concurrence on invoicing by the contractor and coordinating water shut downs and other necessary project management functions.
5. Consultant shall provide management of all aspects of construction, including inspection services for compliance with the contract, responding to requests for information, reviewing submittals, reviewing compliance and feasibility of schedules, reviewing invoices, change order requests for additional time and/or compensation and making recommendations for change orders.
6. Consultant shall provide quality assurance, special inspection and testing services in accordance with the City's Quality Assurance Plan, contract documents and including management of subconsultants and coordination with contractor. (This task could be completed through a separate contract).
7. Consultant shall coordinate with project Archeologist, Native American Monitors, resource agencies and the contractor to ensure compliance with the Memorandum of Understanding and all Permits.
8. Consultant shall coordinate with the City, design Engineer, AECOM, and its subconsultants as

needed for input on proposed design revisions.

C. Rates.

The City will pay Consultant for their Services on a time and material basis, in an amount not to exceed \$1,596,544.00, in accordance with the attached proposal.

D. Payment.

Consultant will invoice City on a monthly basis for work completed. Invoices will be paid within 30 days of receipt.

CITY COUNCIL STAFF REPORT

Consent Item No. 7

February 5, 2020

File No. 0600-10, A-3126

SUBJECT: Agreement for the Citracado Parkway Extension Project

DEPARTMENT: Engineering Services Department

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2020-14, authorizing the Mayor and City Clerk to execute a Reimbursement Agreement in the amount of \$2,190,631 with Rincon del Diablo Municipal Water District ("Rincon") for Recycled Water and Potable Water Construction and Relocation as part of the Citracado Parkway Extension Project ("Project").

FISCAL ANALYSIS:

Rincon will reimburse the City of Escondido in the amount of \$2,190,631. The estimated Project cost is \$31.6 million. Funds in the amount of \$27.5 million have been budgeted for the Project, including a \$12.5 million Local Partnership Program Grant, a competitive grant of SB-1 funds selected by Caltrans. The construction cost estimate updated in November 2019, shows the anticipated cost of construction is \$26.3 million. The Capital Improvement Program ("CIP") budget recommends programming of TransNet and Traffic Impact Fee funds in the amount of \$1.3 million in FY 20/21.

BACKGROUND/DISCUSSION:

This Project widens Citracado Parkway between West Valley Parkway and Avenida Del Diablo, and extends Citracado Parkway from Harmony Grove Village Parkway to Andreasen Drive. The extended portion of the Project requires the relocation of a portion of Rincon's existing water main. Rincon desires additional relocation of the pipeline from adjacent undeveloped land into the roadway, upsizing of one potable water main, and construction of a new recycled water main. It is most efficient to construct these pipelines during the extension of Citracado Parkway, and avoids later disturbance of the new roadway. This agreement allows Rincon to reimburse the City for the actual cost of betterments to their facilities, including a fair share of construction management, testing and inspection costs.

Project Status:

Work to perform screening of culturally sensitive soil required by the Memorandum of Agreement ("MOA") with the State Historic Preservation Officer is expected to begin in February 2020, and is anticipated to require approximately three (3) months to complete.

Utility companies expect to complete design for relocation of the power distribution and communications systems by Spring of 2020, for incorporation into Project plans. SDG&E engineers are currently working to update their final high energy/transmission system design to accommodate the Project. SDG&E is currently working to provide the City with a schedule to complete the updated design and fabricate the system's steel poles.

Revisions to Project plans and specifications to address Citywide and utility plan review comments is currently in final review. A third party review is underway, with anticipated completion by the end of February 2020. Revisions to Project plans and specifications to address the third party review comments should be complete by May 2020. Final plans and specifications for bidding are expected in Summer of 2020. Construction is anticipated to start in 2020 and require approximately eighteen months to complete.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Julie Procopio, Director of Engineering Services
1/29/20 5:02 p.m.

ATTACHMENTS:

1. Resolution No. 2020-14
2. Resolution No. 2020-14 - Exhibit "1" Agreement with Rincon

RESOLUTION NO. 2020-14

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, AN AGREEMENT WITH RINCON DEL DIABLO MUNICIPAL WATER DISTRICT FOR REIMBURSEMENT FOR RECYCLED WATER AND POTABLE WATER LINE RELOCATION WITHIN THE CITRACADO PARKWAY EXTENSION PROJECT

WHEREAS, the City Council has allocated funding in the adopted Capital Improvement Program Budget for the Citracado Extension Project ("Project"); and

WHEREAS, a Rincon del Diablo Municipal Water District (Rincon) existing pipeline needs to be relocated to accommodate the Project; and

WHEREAS, Rincon desires additional relocation of the pipeline into the roadway, upsizing of one potable water main, and construction of a new recycled water main as part of the Project; and

WHEREAS, Rincon agrees to reimburse the City for these construction costs, including a fair share of construction management, testing and inspections costs in the amount of \$2,190,631; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve a Reimbursement Agreement with Rincon for relocation,

upsizing and construction of their facilities per Project plans and specifications in the amount of \$2,190,631 as part of the Project.

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 authorizes the Mayor and City Clerk to execute, an Agreement with Rincon del Diablo Municipal Water District for reimbursement for Recycled Water and Potable Water Line Relocation within Citracado Parkway Extension Project , which is attached and incorporated to this Resolution as Exhibit "1," and subject to final approval as to form by the City Attorney.

**AGREEMENT FOR REIMBURSEMENT FOR RECYCLED WATER AND
POTABLE WATER LINE RELOCATION WITHIN CITRACADO PARKWAY
EXTENSION**

THIS AGREEMENT is made and entered into as of this _____ day of _____ 2019, by and between The City of Escondido (“ESCONDIDO”), and Rincon del Diablo Municipal Water District (“RINCON”).

RECITALS

ESCONDIDO is currently in the design process for road improvements (road extension and bridge) for Citracado Parkway, between West Valley Parkway and Andreasen Drive (“PROJECT”). ESCONDIDO and RINCON entered into an agreement, dated October 3, 2014 to address the reimbursement of design costs.

RINCON has existing potable and recycled water systems, which serve properties within the PROJECT area.

As part of the PROJECT, certain RINCON facilities will be relocated and replaced and/or upsized (“RINCON FACILITIES”), including but not limited to transmission mains, combination air and vacuum valve assemblies, blow off assemblies, fire hydrant assemblies, and water services.

Portions of RINCON FACILITIES are located within easements where RINCON has prior rights; other portions are located within right-of-way where ESCONDIDO has prior rights.

Portions of the RINCON FACILITIES currently located within easements will be effected by the PROJECT and will be relocated to within the new proposed right of way for Citracado Parkway. The PROJECT requires the relocation of approximately 1,065-feet of 14-inch potable water main. The locations of PROJECT effected main are approximately between station 40+85 and station 46+00 and also between station 51+50 and station 57+00 as shown on “Attachment A”, which is attached and incorporated by reference.

RINCON desires to relocate the entire 14-inch potable water main between Harmony Grove Village Drive and Andreasen and agrees to pay for the cost of said relocation that is not effected by the PROJECT, as defined herein.

In addition, RINCON desires additional improvements be included in the PROJECT at their own sole cost including upsizing the potable water pipeline to 24-inches and also installation of a new 12-inch recycled water pipeline.

Also included in RINCON FACILITIES is an existing 16-inch potable water main located within Harmony Grove Road and where ESCONDIDO has prior rights. RINCON desires that relocation of the 16-inch potable water main in order to match the grade of the new roadway be included as a part of the PROJECT at their sole cost.

NOW, THEREFORE, pursuant to the foregoing recitals, ESCONDIDO and RINCON hereby agree as follows:

1. ESCONDIDO will administer design of the PROJECT and produce plans and specifications, ESCONDIDO will advertise for bids for the PROJECT and on the date set by ESCONDIDO, will conduct a formal bid opening for the purpose of selecting a General Contractor to construct the PROJECT.
2. ESCONDIDO certifies that all applicable requirements of the Public Contract Code and insurance requirements will be met in the design, bid and construction of the PROJECT. ESCONDIDO shall retain records relating to direct expenses reimbursed by RINCON and furnish copies upon request.
3. RINCON agrees that the General Contractor selected by ESCONDIDO for the PROJECT will also install RINCON FACILITIES as part of the PROJECT, and the selected General Contractor shall meet RINCON's insurance and bonding requirements.
4. RINCON agrees to reimburse ESCONDIDO for 100% of the actual cost of the recycled waterline which is currently estimated at \$593,636. RINCON also agrees to reimburse ESCONDIDO for the actual cost of the potable waterline less the PROJECT effected main costs as defined herein. The PROJECT effected main includes the cost of 1,065-feet of a 14-inch potable water main between station 40+85 and station 46+00 and also between station 51+50 and station 57+00 which is estimated at 75% the cost of an equal length of 24-inch main and is estimated at \$319,287. RINCON cost for the potable water line is currently estimated at \$1,871,344. Basis for these costs are shown in, "Attachment B", which is attached and incorporated by this reference.
5. In the event design changes become necessary, responsibility for those costs will be assigned based on the party causing or requesting change and consistent with recitals in this agreement shown above. Responsibility for unforeseen costs will assigned based on the reimbursement provisions of paragraph 4 as defined in this agreement.
6. ESCONDIDO shall be responsible for the design and management of the PROJECT, in accordance with the terms, covenants and provisions of this agreement. All design and sequence of work related to RINCON'S FACILITIES shall comply with RINCON standards and approval.

7. RINCON agrees to reimburse ESCONDIDO for its pro-rata share of construction management, testing and inspection costs. ESCONDIDO will invoice RINCON for its share of costs based on the bid amount within 30 days after awarding a contract and no more than monthly thereafter. RINCON agrees to reimburse the City within 30-days of receipt of each invoice.

All notices, demands, requests, or approvals from ESCONDIDO to RINCON shall be addressed to RINCON at:

Rincon del Diablo Municipal Water District
1920 North Iris Lane
Escondido, CA 92026
Attention: Clint Baze, General Manager

All notices, demands, requests, or approvals from RINCON to ESCONDIDO shall be addressed to ESCONDIDO at:

City of Escondido
Engineering Services Department
201 N. Broadway
Escondido, CA 92025
Attention: Julie Procopio, Director of Engineering Services

RINCON DEL DIABLO MUNICIPALWATER DISTRICT

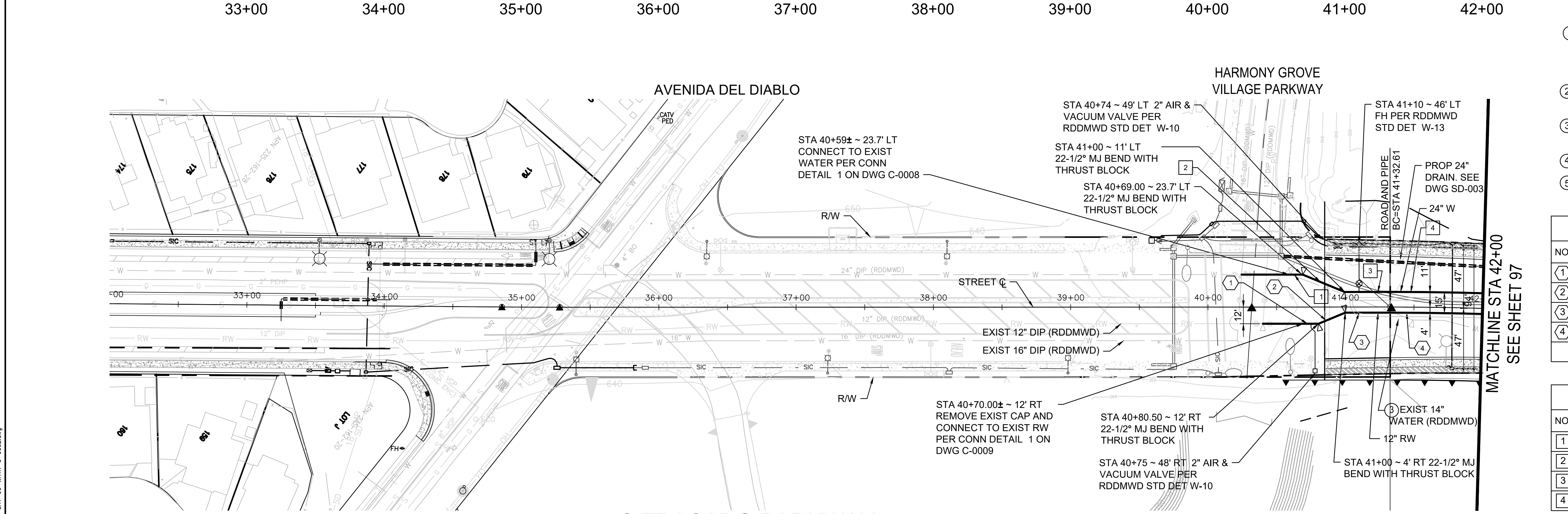
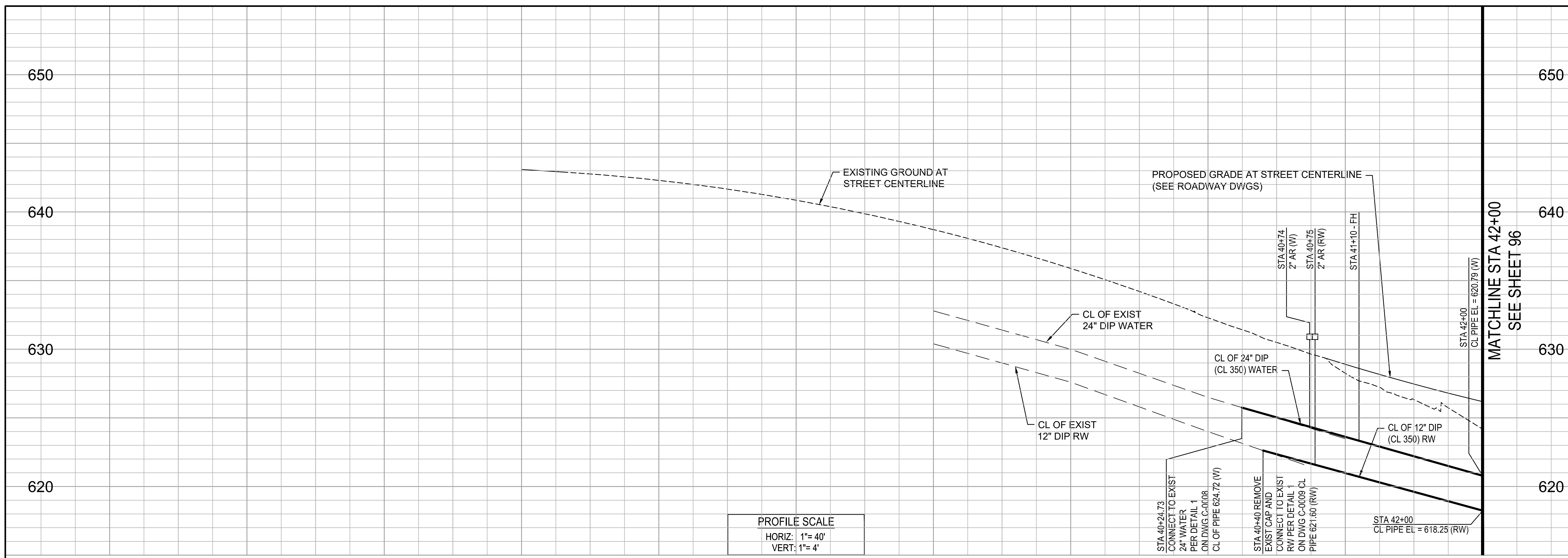
By _____

_____ Date _____

CITY OF ESCONDIDO

By _____
Paul McNamara
Mayor Date _____

By _____
Zachary Beck
Mayor Date _____



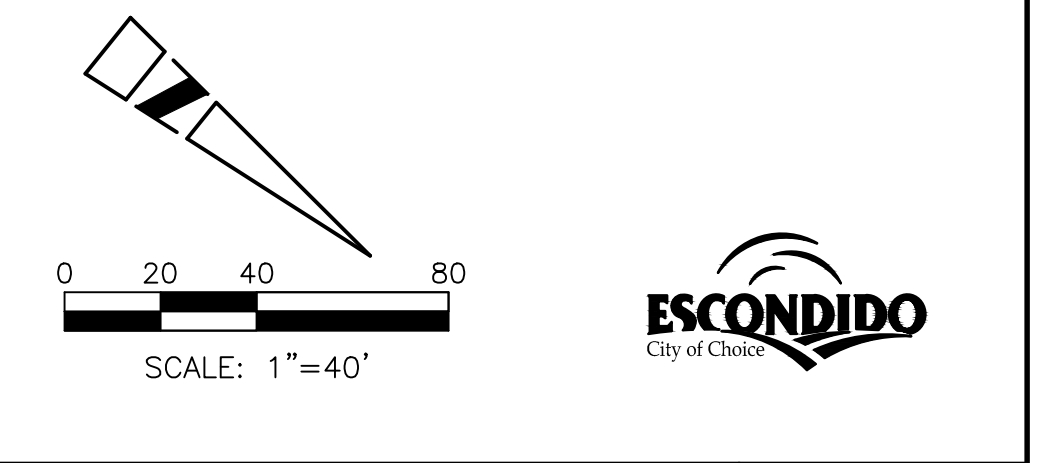
- CONSTRUCTION NOTES**
- TOP OF PIPE ELEVATIONS FOR EXISTING CONNECTION POINTS OBTAINED FROM HARMONY GROVE VILLAGE PKWY AND CITRACADO PARKWAY STREET IMPROVEMENT PLANS.
 - POTHOLE TO CONFIRM ACTUAL PIPE ELEVATIONS PRIOR TO MAKING CONNECTION.
 - REMOVE INTERFERING PORTIONS EXIST WATER (RDDMWD) PRIOR TO CONSTRUCTION.
 - DEWATER PER SPECIFICATIONS.
 - CONTRACTOR TO SUBMIT DEMOLITION SEQUENCE PRIOR TO CONSTRUCTION.

RECYCLED WATER DATA

NO.	DELTA OR BRG	RADIUS	LENGTH	REMARKS
①	N 38°41'51\" W		40.45'	12\" DIP (CL 350)
②	N 61°11'51\" W		21.07'	12\" DIP (CL 350)
③	N 38°41'51\" W		32.61'	12\" DIP (CL 350)
④	Δ=01°40'44\"	2296.00'	117.45'	12\" DIP (CL 350)

WATER DATA

NO.	DELTA OR BRG	RADIUS	LENGTH	REMARKS
①	N 38°41'51\" W		44.51'	24\" DIP (CL 350)
②	N 16°11'51\" W		33.09'	24\" DIP (CL 350)
③	N 38°41'51\" W		33.03'	24\" DIP (CL 350)
④	Δ=01°40'44\"	2311.00'	117.46'	24\" DIP (CL 350)



APPROVED:
RINCON DEL DIABLO MUNICIPAL WATER DISTRICT

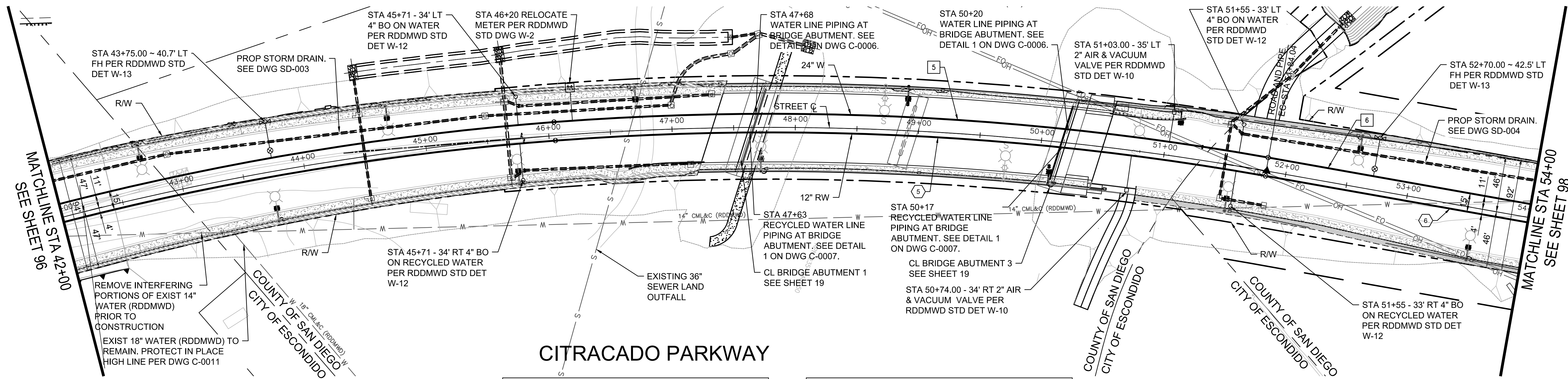
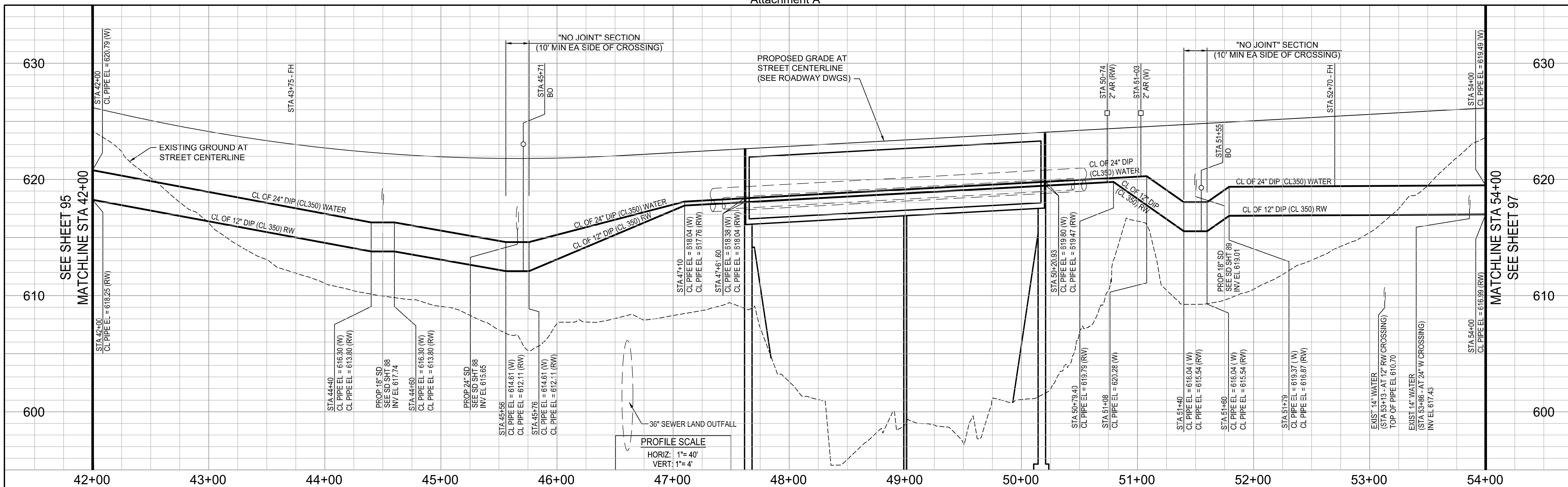
APPROVED BY _____ R.C.E. _____ DATE _____

811 CALL 811 AT LEAST TWO DAYS BEFORE YOU DIG. Know what's Below. Call before you dig. UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

CONSTRUCTION RECORD		REFERENCES		Date	By	REVISIONS		App'd	Date	BENCH MARK		SCALE	Office	Designed By	Drawn By	Checked By	Submitted	Approved	CITY OF ESCONDIDO		DEPARTMENT OF PUBLIC WORKS	Drawing No.		
Contractor	Inspector	Date Completed								CONTROL PT 2045 PER RECORD OF SURVEY 14236. A 2.5\" BRASS DISC STAMPED \"EGCS 1992-2045\" IN AC PAVEMENT LOCATED AT THE CORNER OF CITRACADO PARKWAY AND AVENIDA DEL DIABLO. ELEV. 642.965 DATUM: NGVD 29.	Horizontal 1\"=40' Vertical 1\"=4'	Traffic	AP Plans Prepared Under Supervision Of ERIC A. ZIELKE	RR	EZ	Date 06/30/2021 R.C.E. No. 77895	Assistant City Engineer	Assistant Director of Public Works	By _____	By _____	Water Improvement Plans for: CITRACADO PARKWAY		PLAN & PROFILE STA 40+59 TO STA 42+00	C-0002
																						Sheet 96 of 186		

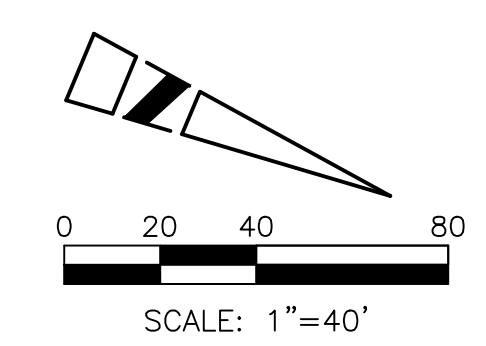
DWG: P:\02214407_499_000_CAD\006_Civil\Sheets\60274407-SH1-00-WATR-C-0002.dwg

UPDATED 100% SUBMITTAL - NOT FOR CONSTRUCTION - OCTOBER 2019



RECYCLED WATER DATA				
NO.	DELTA OR BRG	RADIUS	LENGTH	REMARKS
5	Δ=24°30'49"	2296.00'	930.48'	12" DIP (CL 350)
6	N 12°30'18" W		214.08'	12" DIP (CL 350)

WATER DATA				
NO.	DELTA OR BRG	RADIUS	LENGTH	REMARKS
5	Δ=24°30'49"	2311.00'	986.88'	24" DIP (CL 350)
6	N 12°30'18" W		214.63'	24" DIP (CL 350)



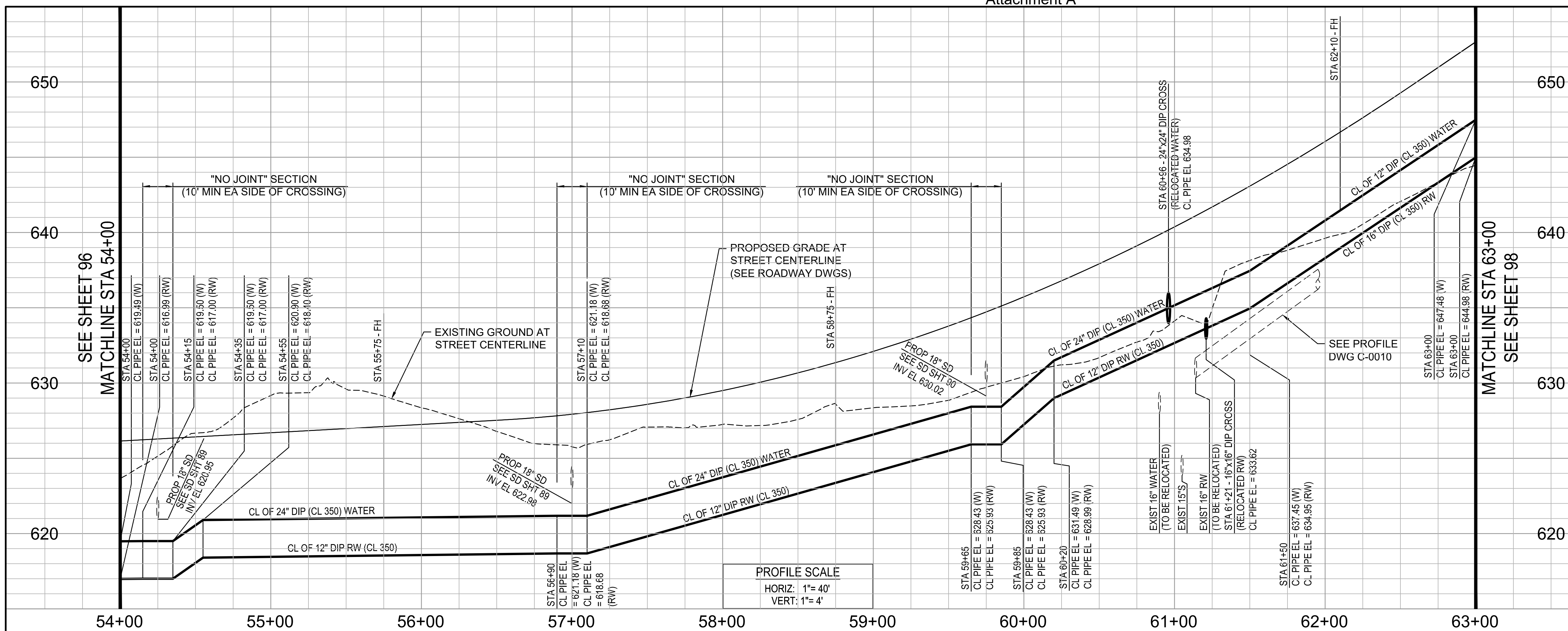
APPROVED:
RINCON DEL DIABLO MUNICIPAL WATER DISTRICT

APPROVED BY: _____ R.C.E. _____ DATE: _____

811 CALL 811 AT LEAST TWO DAYS BEFORE YOU DIG. Know what's below. Call before you dig. UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

CONTRACTOR	INSPECTOR	DATE COMPLETED	REFERENCES	REVISIONS	App'd	Date	BENCH MARK	SCALE	Office	Designed By	Drawn By	Checked By	Submitted	Approved	CITY OF ESCONDIDO	DEPARTMENT OF PUBLIC WORKS	Drawing No.
							CONTROL PT 2045 PER RECORD OF SURVEY 14236. A 2.5" BRASS DISC STAMPED "EGCS 1992-2045" IN AC PAVEMENT LOCATED AT THE INT. OF CITRACADO PARKWAY AND AVENIDA DEL DIABLO. ELEV. 642.965 DATUM: NGVD 29.	Horizontal 1"=40' Vertical 1"=4'		AP	RR	EZ			Water Improvement Plans for: CITRACADO PARKWAY	PLAN & PROFILE STA 42+00.00 TO STA 54+00.00	C-0003
													By: _____ Assistant City Engineer	By: _____ Assistant Director of Public Works		Sheet 97 of 186	

UPDATED 100% SUBMITTAL - NOT FOR CONSTRUCTION - OCTOBER 2019



CONSTRUCTION NOTES

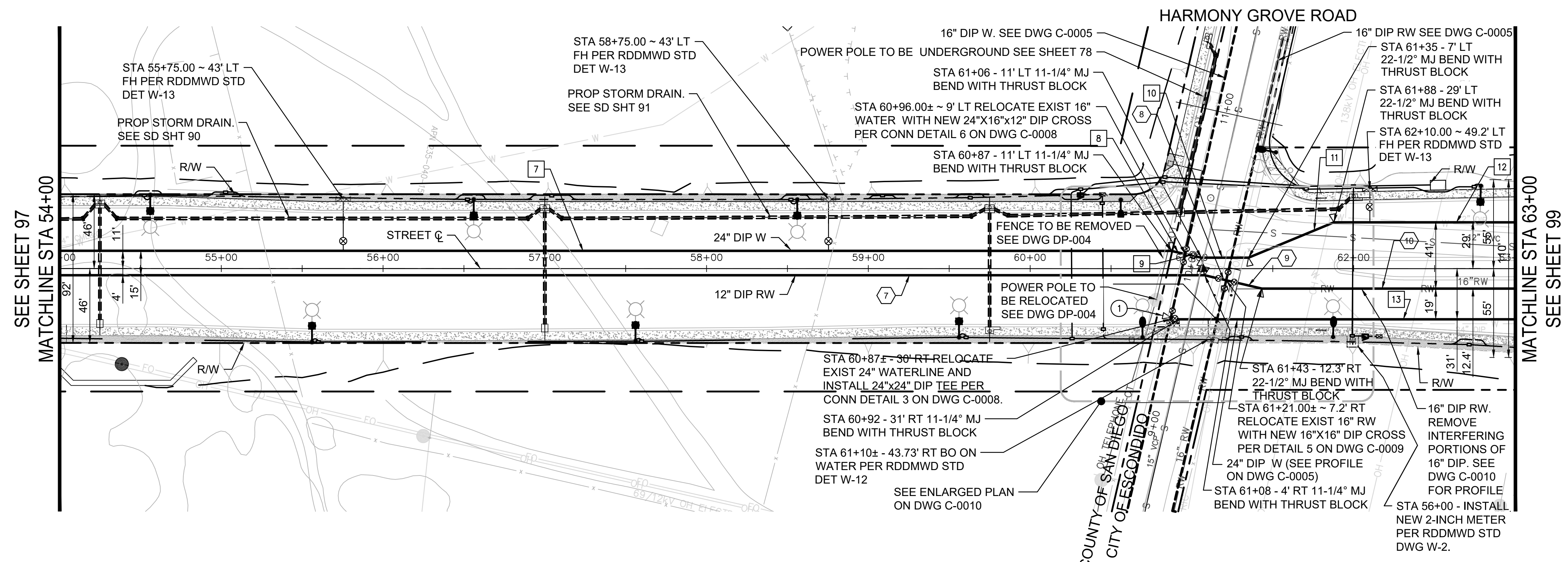
- ① INSTALL THRUST BLOCK PER STD DETAIL W-20.

RECYCLED WATER DATA				
NO.	DELTA OR BRG	RADIUS	LENGTH	REMARKS
7	N 12°30'18" W		707.86'	12" DIP (CL 350)
8	N 12°30'44" W		13.69'	12" DIP (CL 350)
9	N 09°59'16" E		22.62'	16" DIP (CL 350)
10	N 12°30'44" W		156.78'	16" DIP (CL 350)

NOTE: MINOR DEFLECTIONS AT CROSSES AND TIE-INS ARE NOT SHOWN

WATER DATA				
NO.	DELTA OR BRG	RADIUS	LENGTH	REMARKS
7	N 12°30'18" W		687.19'	24" DIP (CL 350)
8	N 0°12'29" W		8.87'	24" DIP (CL 350)
9	N 0°12'29" W		6.57'	12" DIP (CL 350)
10	N 12°30'18" W		29.21'	12" DIP (CL 350)
11	N 35°00'44" W		57.14'	12" DIP (CL 350)
12	N 12°30'44" W		112.21'	12" DIP (CL 350)
13	N 12°30'31" W		213.15'	24" DIP (CL 350)

NOTE: MINOR DEFLECTIONS AT CROSSES AND TIE-INS ARE NOT SHOWN



APPROVED: RINCON DEL DIABLO MUNICIPAL WATER DISTRICT

APPROVED BY: _____ R.C.E. _____ DATE: _____

811 CALL 811 AT LEAST TWO DAYS BEFORE YOU DIG. Know what's below. Call before you dig. UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

CITRACADO PARKWAY

CONSTRUCTION RECORD		REFERENCES		REVISIONS		BENCH MARK		SCALE		Office		Designed By		Drawn By		Checked By		Submitted		Approved	
Contractor	Inspector	Date Completed		Date	By	App'd	Date	Horizontal	Filmed	Traffic	AP	RR	ERIC A. ZIELKE								
CONTROL PT 2045 PER RECORD OF SURVEY 14236. A 2.5" BRASS DISC STAMPED "EGCS 1992-2045" IN AC PAVEMENT LOCATED AT THE CORNER OF CITRACADO PARKWAY AND AVENIDA DEL DIABLO. ELEV. 642.965 DATUM: NGVD 29.																					
SCALE: 1"=40' Date: 06/30/2021 R.C.E. No. 77895 Assistant City Engineer Assistant Director of Public Works																					
CITY OF ESCONDIDO										DEPARTMENT OF PUBLIC WORKS											
Water Improvement Plans for:										PLAN & PROFILE											
CITRACADO PARKWAY										STA 54+00.00 TO STA 63+00.00											
Drawing No. C-0004 Sheet 98 of 186																					

UPDATED 100% SUBMITTAL - NOT FOR CONSTRUCTION - OCTOBER 2019

Attachment B
 City of Escondido and Rincon Water District
 Citracado Parkway Extension

Item	Description	Qty	Unit	Unit Cost	Total Cost	Project Effected Unit	Project Effected Cost	Rincon Share	Recycled Water Portion
60	Utility Verification for Water and Recycled Water Construction	1	LS	\$ 9,004.29	\$ 9,004	15%	\$ 1,350.64	\$ 7,653.65	
61	Construct 12" Recycled Water Main	2,078	LF	\$ 137.32	\$ 285,351			\$ 285,351	\$ 285,351
61	Construct 16" Recycled Water Main	554	LF	\$ 183.46	\$ 101,637			\$ 101,637	\$ 101,637
62	Construct 12" Potable Water Main	275	LF	\$ 137.32	\$ 37,763			\$ 37,763	
62	Construct 16" Potable Water Main	564	LF	\$ 183.46	\$ 103,471			\$ 103,471	
63	Construct 24" Potable Water Main	2,612	LF	\$ 275.76	\$ 720,285	1,065	\$ 220,263.30	\$ 500,022	
63	Construct 3" Recycled Water Service to New 2" Meter	2	LS	\$ 2,530.00	\$ 5,060			\$ 5,060	\$ 5,060
64	Construct 24" Connection to Existing 16" Water Main (Sta. 40+59±)	1	LS	\$ 7,878.75	\$ 7,879			\$ 7,879	
64	Construct 24" Cross and Valve Assembly Connection to Existing 24" Water Main (Sta. 60+96±)	1	LS	\$ 114,428.08	\$ 114,428			\$ 114,428	
65	Construct 24" Tee and Valve Assembly Connection to Existing 24" Water Main (Sta. 60+86±)	1	LS	\$ 76,536.46	\$ 76,536			\$ 76,536	
65	Construct 24" Connection to Existing 16" Water Main (Sta. 60+75±) In Harmony Grove Rd, East of Citracado Pkwy	1	LS	\$ 7,878.75	\$ 7,879			\$ 7,879	
66	Construct 24" Connection to Existing 24" Water Main (Sta. 63+23±)	1	LS	\$ 16,883.04	\$ 16,883			\$ 16,883	
66	Construct 24" Connection to Existing 12" Water Main (Sta. 63+75±)	1	LS	\$ 6,753.22	\$ 6,753			\$ 6,753	
67	Construct 12" Connection to Existing 12" Recycled Water Main (Sta. 40+70±)	1	LS	\$ 4,502.14	\$ 4,502			\$ 4,502	\$ 4,502
67	Construct 16" Connection to Existing 16" Recycled Water Main (Sta. 61+04±) In Harmony Grove Rd, East of Citracado Pkwy	1	LS	\$ 3,000.00	\$ 3,377			\$ 3,377	\$ 3,377
68	Construct 12" Connection to Existing 16" Recycled Water Main (Sta. 63+75±)	1	LS	\$ 6,753.22	\$ 6,753			\$ 6,753	\$ 6,753
68	Construct 16" Connection to Existing 16" Recycled Water Main (Sta. 61+63±) At Harmony Grove Rd and Kuana Loa Dr	1	LS	\$ 3,376.61	\$ 3,377			\$ 3,377	\$ 3,377
69	Construct 16" Cross and Valve Assembly Connection to Existing 16" Recycled Water Main (Sta. 61+22±)	1	LS	\$ 39,393.76	\$ 39,394			\$ 39,394	\$ 39,394
69	Construct 6" Fire Hydrant (Two Way) Assembly	5	EA	\$ 10,129.83	\$ 50,649	2	\$ 20,259.66	\$ 30,389.49	
70	Construct 2" Combination Air Release and Vacuum Valve Assembly	3	EA	\$ 4,502.14	\$ 13,506			\$ 13,506	
70	Construct 4" Blow Off Assembly	5	EA	\$ 11,255.36	\$ 56,277	2	\$ 22,510.72	\$ 33,766.08	
71	Construct 22" Casing (0.375" Thick)	74	LF	\$ 337.66	\$ 24,987			\$ 24,987	\$ 24,987
71	Construct 34" Casing (0.375" Thick)	74	LF	\$ 506.49	\$ 37,480			\$ 37,480	
72	Removal, Salvaging and Abandonment of Water Facilities	1	LS	\$ 11,255.36	\$ 11,255	15%	\$ 1,688.30	\$ 9,567.06	
72	12" Double Ball Expansion Joint EBAA Iron Model 400F21	2	EA	\$ 10,129.83	\$ 20,260			\$ 20,260	\$ 20,260
72	24" Double Ball Expansion Joint EBAA Iron Model 400F21	2	EA	\$ 30,389.48	\$ 60,779			\$ 60,779	
	Bid Item for High Lining?								
	Total Construction Cost				\$ 1,825,526		\$ 266,072.63	\$ 1,559,453	\$ 494,697
	Subtotal Capital Cost				\$ 1,825,526		\$ 266,073	\$ 1,559,453	\$ 494,697
	Construction Management, Testing and Inspection		10%		\$ 182,553		\$ 26,607	\$ 155,945	\$ 49,469.66
	Contingency (10% of Construction Cost)		10%		\$ 182,553		\$ 26,607.26	\$ 155,945	\$ 49,469.66
	Total Capital Cost				\$ 2,190,631		\$ 319,287	\$ 1,871,344	\$ 593,636

CITY COUNCIL STAFF REPORT

Consent Item No. 8

February 5, 2020

File No. 0600-10, Misc.

SUBJECT: Acceptance of a \$132,693.68 Grant and Execution of the County Contract No. 561764 Agreement with the County of San Diego Health and Human Services Agency for the Senior Nutrition Program

DEPARTMENT: Communications & Community Services

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2020-15 authorizing the Mayor and City Clerk to accept a \$132,693.68 grant from the County of San Diego Health and Human Services Agency ("County") for the senior Nutrition Program offered at the Park Avenue Community Center, and execute County Contract No. 561764, the Agreement with the County of San Diego Health and Human Services Agency for the Senior Nutrition Program on behalf of the City of Escondido.

FISCAL ANALYSIS:

The Senior Nutrition Program is funded through the general fund. However, acceptance of this grant and execution of the County Contract Number 561764 (Agreement) will offset costs up to \$132,693.68 for the remainder of fiscal year 2019/2020. Additionally, the County may elect to extend the Agreement for three (3) one year periods beyond the expiration of the initial term for \$233,863.08 per year.

PREVIOUS ACTION:

On July 1, 2014, the City Council approved the previous Agreement (Contract No. 547766) with the County of San Diego, Health and Human Services Agency by adopting Resolution No. 2014-90. Amendments to this agreement have been approved by the City Council each fiscal year thereafter.

BACKGROUND:

The Senior Nutrition Program offers seniors nutritionally balanced meals in a congregate setting to increase overall health and reduce senior isolation. The Park Avenue Community Center has offered this program Monday through Friday, excluding holidays, for over 40 years. Furthermore, grants through the County have helped to offset costs for the Senior Nutrition Program for over 30 years.

The Senior Nutrition Program is comprised of two distinct components: transportation and meal service. The transportation component provides seniors a means to access the meal service component at the Park Avenue Community Center. The County grant reimburses the City for both components. Therefore, reimbursement is received for transportation based on each one-way ride and for meal service based on each meal served to seniors 60 and older. In Fiscal Year 2018/2019 almost 13,000 one-way rides were completed and 24,000 meals served.

Acceptance of a \$132,693.68 Grant and Execution of County Contract No. 561764 with the County of San Diego and Health and Human Services Agency for the Senior Nutrition Program
February 5, 2020
Page 2

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Joanna Axelrod, Director of Communications and Community Services
1/29/20 4:39 p.m.

ATTACHMENTS:

1. Resolution No. 2020-15
2. Exhibit 1 – County Contract No. 561764

RESOLUTION NO. 2020-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR AND CITY CLERK, TO ACCEPT A GRANT IN THE AMOUNT OF \$132,693.68 FOR THE REMAINDER OF FISCAL YEAR 2019/2020 AND EXECUTE, ON BEHALF OF THE CITY, COUNTY CONTRACT NO. 561764, AGREEMENT WITH THE COUNTY OF SAN DIEGO AND HUMAN SERVICES AGENCY FOR THE SENIOR NUTRITION PROGRAM

WHEREAS, the City of Escondido ("City") is a Live Well San Diego partner and understands that there is a need to provide Escondido seniors with nutritious meals and transportation to a congregate setting to improve health and limit isolation; and

WHEREAS, the City desires to make available the Senior Nutrition Program at the Park Avenue Community Center; and

WHEREAS, the Senior Nutrition Program will be funded in part from funds made available through a grant provided by the County of San Diego ("County"); and

WHEREAS the County proposes to enter into an agreement for the remainder of Fiscal Year 2019/2020 with an option for three (3) one year periods beyond the expiration of the initial term; and

WHEREAS, the Director of Communications and Community Services recommends approval of the County Contract Number 561764 ("Agreement"); and

WHEREAS, this City Council deems it to be in the best public interest, to

approve this Agreement to provide nutritionally balanced lunches and transportation to Escondido seniors.

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 accepts the recommendation from the Director of Communications and Community Services.
3. That the City Council authorizes the Mayor and City Clerk to receive \$132,693.68 grant from the County of San Diego and execute, on its behalf, County Contract No. 561764, including any extensions or amendments thereof. A copy of the Agreement is attached as Exhibit "1" and is incorporated by this reference.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

This agreement (“Agreement”) is made and entered into effective as of the date of the last signature on the signature page by and between the County of San Diego, a political subdivision of the State of California (“County”) and The City of Escondido, 201 N Broadway, Escondido, CA 92025 (“Contractor”), with reference to the following facts:

RECITALS

- A. The County, by action of the Board of Supervisors on October 10th, 2017 Minute Order No. 05 authorized the Director of Purchasing and Contracting, to award a contract for Senior Nutrition Services.
- B. Contractor is specially trained and possesses certain skills, experience, education and competency to perform these services.
- C. The Chief Administrative Officer made a determination that Contractor can perform the services more economically and efficiently than the County, pursuant to Section 703.10 of the County Charter.
- D. The Agreement shall consist of this document, Exhibit A Statement of Work, Exhibit B Insurance Requirements and Exhibit C, Pricing Schedule. In the event that any provision of the Agreement or its Exhibits, A, B or C, conflicts with any other term or condition, precedence shall be: First (1st) the Agreement; Second (2nd) Exhibit B; Third (3rd) Exhibit A; and Fourth (4th) Exhibit C.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1
PERFORMANCE OF WORK

- 1.1 **Standard of Performance.** Contractor shall, in good and workmanlike manner and in accordance with the highest professional standards, at its own cost and expense, furnish all of the labor, technical, administrative, professional and all other personnel, all supplies and materials, equipment, printing, transportation, training, facilities, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by County, necessary or proper to perform and complete the work and provide the services required of Contractor by this Agreement.
- 1.2 **Contractor’s Representative.** The person identified on the signature page (“Contractor’s Representative”) shall ensure that Contractor’s duties under this Agreement shall be performed on behalf of the Contractor by qualified personnel; Contractor represents and warrants that (1) Contractor has fulfilled all applicable requirements of the laws of the State of California to perform the services under this Agreement and (2) Contractor’s Representative has full authority to act for Contractor hereunder. Contractor and County recognize that the services to be provided by Contractor’s Representative pursuant to this Agreement are unique: accordingly, Contractor’s Representative shall not be changed during the Term of the Agreement without County’s written consent. County reserves the right to terminate this Agreement pursuant to Clause 7.1 “Termination for Default”, if Contractor’s Representative should leave Contractor’s employ, or if, in County’s judgment, the work hereunder is not being performed by Contractor’s Representative.
- 1.3 **Contractor as Independent Contractor.** Contractor is, for all purposes of this Agreement, an independent contractor, and neither Contractor nor Contractor’s employees or subcontractors shall be deemed to be employees of the County. Contractor shall perform its obligations under this Agreement according to the Contractor’s own means and methods of work, which shall be in the exclusive charge and under the control of the Contractor, and which shall not be subject to control or supervision by County except as to the results of the work. County hereby delegates to Contractor any and all responsibility for the safety of Contractor’s employees, which shall include inspection of property to identify potential hazards. Neither Contractor nor Contractor’s employees or subcontractors shall be entitled to any benefits to which County employees are entitled, including without limitation, overtime, retirement benefits, workers’ compensation benefits and injury leave.
- 1.4 **Contractor’s Agents and Employees or Subcontractors.** Contractor shall obtain, at Contractor’s expense, all agents, employees and subcontractors required for Contractor to perform its duties under this Agreement, and all such services shall be performed by Contractor’s Representative, or under Contractor’s Representatives’ supervision, by persons authorized by law to perform such services. Retention by Contractor of any agent, employee or subcontractor shall be at Contractor’s sole cost and expense, and County shall have no obligation to pay Contractor’s agents, employees or subcontractors; to support any such person’s or entity’s claim against the Contractor; or to defend Contractor against any such claim.

Any subcontract or consultant agreement that is in excess of fifty thousand dollars (\$50,000) or twenty five percent (25%) of the value of the contract, whichever is less, or a combination of subcontracts or consultant agreements to the same individual or firm for the agreement period, or any subcontract or consultant agreement for professional medical or mental health services, regardless of value, must have prior concurrence of the Contracting Officer’s Representative (“COR”). Contractor shall provide Contracting Officer Representative with copies of all other subcontracts relating to this Agreement entered into by Contractor within 30 days after the effective date of the subcontract. Such subcontractors of Contractor shall be notified

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

of Contractor's relationship to County. "Subcontractor" means any entity, other than County, that furnishes to Contractor services or supplies relevant to this Agreement other than standard commercial supplies, office space, and printing services.

- 1.4.1 Contractor Responsibility. In the event any subcontractor is utilized by Contractor for any portion of the project, Contractor retains the prime responsibility for carrying out all the terms of this Agreement, including the responsibility for performance and insuring the availability and retention of records of subcontractors in accordance with this Agreement.
- 1.4.2 Mandated Clause. All subcontracts shall include the Standard Terms and Conditions required of Contractor Articles 3, 7, 8, 9, 10, 11, 12, 13, 14 and 16 herein.
- 1.4.3 County Approval. As identified above, all subcontracts under this Agreement shall have prior written approval of the Contracting Officer Representative.
- 1.5 Off Shore Prohibition. Except where Contractor obtains the County's prior written approval, Contractor shall perform the work of this Agreement only from or at locations within the United States. Any County approval for the performance of work outside of the United States shall be limited to the specific instance and scope of such written approval, including the types of work and locations involved. Notwithstanding the foregoing, this Section shall not restrict the country or countries of origin of any assets purchased to provide the work hereunder; provided that when such assets are used to provide the work, such assets shall be used only from or at locations within the geographic boundaries of the United States.

ARTICLE 2
SCOPE OF WORK

- 2.1 Statement of Work. Contractor shall perform the work described in the "Statement of Work" attached as Exhibit "A" to this Agreement, and by this reference incorporated herein, except for any work therein designated to be performed by County.
- 2.2 Right to Acquire Equipment and Services. Nothing in this Agreement shall prohibit the County from acquiring the same type or equivalent equipment and/or service from other sources, when deemed by the County to be in its best interest.
- 2.3 Responsibility for Equipment. For cost reimbursement agreements, County shall not be responsible nor be held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by Contractor or any of Contractor's employees, even though such equipment may be furnished, rented, or loaned to Contractor by County. The acceptance or use of any such equipment by Contractor or Contractor's employees shall be construed to mean that Contractor accepts full responsibility for and agrees to exonerate, indemnify and hold harmless County from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment, whether such damage be to the employee or property of Contractor, other Contractors, County, or other persons. Equipment includes, but is not limited to material, computer hardware and software, tools, or other things.
 - 2.3.1 Contractor shall repair or replace, at Contractor's expense, all County equipment or fixed assets that are damaged or lost as a result of Contractor negligence.
- 2.4 Non-Expendable Property Acquisition. County retains title to all non-expendable property provided to Contractor by County, or which Contractor may acquire with funds from this Agreement if payment is on a cost reimbursement basis, including property acquired by lease purchase Agreement. Contractor may not expend funds under this Agreement for the acquisition of non-expendable property having a unit cost of \$5,000 or more and a normal life expectancy of more than one year without the prior written approval of Contracting Officer Representative. Contractor shall maintain an inventory of non-expendable equipment, including dates of purchase and disposition of the property. Inventory records on non-expendable equipment shall be retained, and shall be made available to the County upon request, for at least three years following date of disposition. Non-expendable property that has value at the end of the Agreement (e.g. has not been depreciated so that its value is zero), and to which the County may retain title under this paragraph, shall be disposed of at the end of the Agreement as follows: At County's option, it may: 1) have Contractor deliver to another County contractor or have another County contractor pick up the non-expendable property; 2) allow the contractor to retain the non-expendable property provided that the contractor submits to the County a written statement in the format directed by the County of how the non-expendable property will be used for the public good; or 3) direct the Contractor to return to the County the non-expendable property.

ARTICLE 3
DISENTANGLEMENT

- 3.1 General Obligations.

At County's discretion, Contractor shall accomplish a complete transition of the services as set forth in Exhibit A to this Agreement (for purposes of this Article 3.1, these shall be referred to as the "Disentangled Services") being terminated from Contractor and the Subcontractors to County, or to any replacement provider designated by County, without any interruption

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

of or adverse impact on the Disentangled Services or any other services provided by third parties. This process shall be referred to as the Disentanglement. Contractor shall fully cooperate with County and any new service provider and otherwise promptly take all steps, including, but not limited to providing to County or any new service provider all requested information or documentation, required to assist County in effecting a complete Disentanglement. Contractor shall provide all information or documentation regarding the Disentangled Services or as otherwise needed for Disentanglement, including, but not limited to, data conversion, client files, interface specifications, training staff assuming responsibility, and related professional services. Contractor shall provide for the prompt and orderly conclusion of all work required under the Agreement, as County may direct, including completion or partial completion of projects, documentation of work in process, and other measures to assure an orderly transition to County or the County's designee of the Disentangled Services. All Contractor work done as part of the Disentanglement shall be performed by Contractor and will be reimbursed by the County at no more than Contractor's costs, up to the total amount of this Agreement. Contractor shall not receive any additional or different compensation for the work otherwise required by the Agreement. Contractor's obligation to provide the Services shall not cease until the earlier of the following: 1) The Disentanglement is satisfactory to County, including the performance by Contractor of all asset-transfers and other obligations of Contractor provided in this Paragraph, has been completed to the County's reasonable satisfaction or 2) twelve (12) months after the Expiration Date of the Agreement.

3.2 Disentanglement Process.

The Disentanglement process shall begin on any of the following dates: (i) the date County notifies Contractor that no funds or insufficient funds have been appropriated so that the Term shall be terminated pursuant to the Agreement, Article 7; (ii) the date designated by County not earlier than sixty (60) days prior to the end of any initial or extended term that County has not elected to extend pursuant to the Agreement's, Signature Page, Agreement Term; or (iii) the date any Termination Notice is delivered, if County elects to terminate any or all of the Services pursuant to the Agreement, Article 7. Subject to Exhibit A Contractor's obligation to perform Disentangled Services, and County's obligation to pay for Disentangled Services, shall expire: (A) when funds appropriated for payment under this Agreement are exhausted, as provided in this Agreement, Article 7; (B) at the end of the initial or extended term set forth in this Agreement's, Signature Page, Agreement Term; or (C) on the Termination Date, pursuant to this Agreement, Article 7 (with the applicable date on which Contractor's obligation to perform the Services expires being referred to herein as the "Expiration Date"). Contractor and County shall discuss in good faith a plan for determining the nature and extent of Contractor's Disentanglement obligations and for the transfer of the Disentangled Services in process provided, however, that Contractor's obligation under this Agreement to provide all Disentangled Services shall not be lessened in any respect.

3.3 Specific Obligations.

The Disentanglement shall include the performance of the following specific obligations:

3.3.1 No Interruption or Adverse Impact

Contractor shall cooperate with County and all of the County's other service providers to ensure a smooth transition at the time of Disentanglement, with no interruption of Disentangled Services or other work required under the Agreement, no adverse impact on the provision of Disentangled Services or other work required under the Agreement or County's activities, no interruption of any services provided by third parties, and no adverse impact on the provision of services provided by third parties.

3.3.2 Third-Party Authorizations.

Without limiting the obligations of Contractor pursuant to any other clause in Exhibit A herein, Contractor shall, subject to the terms of any third-party agreements, procure at no charge to County any third-party authorizations necessary to grant County the use and benefit of any third-party agreements between Contractor and third-party contractors used to provide the Disentangled Services, pending their assignment to County. Similarly, at County's direction, Contractor shall obtain all legally necessary client consents or authorizations legally necessary to transfer client data to County or any new service provider.

3.3.3 Reserved

3.3.4 Return, Transfer and Removal of Assets.

3.3.4.1 Contractor shall return to County all County assets in Contractor's possession, pursuant to Paragraph 2.4 of the Agreement.

3.3.4.2 County shall be entitled to purchase at net book value those Contractor assets used for the provision of Disentangled Services to or for County, other than those assets expressly identified by the Parties as not being subject to this provision. Contractor shall promptly remove from County's premises, or the site of

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

the work being performed by Contractor for County, any Contractor assets that County, or its designee, chooses not to purchase under this provision.

3.3.5 Transfer of Leases, Licenses, and Agreements.

Contractor, at its expense, shall convey or assign to County or its designee such fully-paid leases, licenses, and other agreements used by Contractor, County, or any other Person in connection with the Disentangled Services, as County may select, when such leases, licenses, and other agreements have no other use by Contractor. Contractor's obligation described herein, shall include Contractor's performance of all obligations under such leases, licenses, and other agreements to be performed by it with respect to periods prior to the date of conveyance or assignment and Contractor shall reimburse County for any losses resulting from any claim that Contractor did not perform any such obligations.

3.3.6 Delivery of Documentation.

Contractor shall deliver to County or its designee, at County's request, all documentation and data related to County, including, but not limited to, the County Data and client files, held by Contractor, and Contractor shall destroy all copies thereof not turned over to County, all at no charge to County. Notwithstanding the foregoing, Contractor may retain one (1) copy of the documentation and data, excluding County Data, for archival purposes or warranty support.

3.4 Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by Contractor under this Agreement that the County requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

3.5 Publication, Reproduction or Use of Materials. No material produced, in whole or in part, under this Agreement shall be subject to copyright in the United States or in any other country. The County shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement. All reports, data and other materials prepared under this Agreement shall be the property of the County upon completion of this Agreement.

ARTICLE 4
COMPENSATION

The Pricing Schedule, and/or budget are in Exhibit C and the compensation is on the Signature page. County will pay Contractor the agreed upon price(s), pursuant to Exhibit C for the work specified in Exhibit A, Statement of Work. The County is precluded from making payments prior to receipt of services (advance payments). Contractor shall provide and maintain an accounting and financial support system to monitor and control costs to assure the Agreements completion. Invoices are subject to the requirements below.

4.1 Fiscal for Provisional Rate, or Fixed Price Contracts with Cost Reimbursement Elements (Rev. 7/1/17)

4.1.1 General Principles. Contractor shall, comply with generally accepted accounting principles and good business practices, including all applicable cost principles published by the [Federal Office of Management and Budget \(OMB\)](#), including 2 CFR 200 - UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS "The Uniform Guidance", which can be viewed at https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl. Contractor shall comply with all federal, State and other funding source requirements. Contractor shall, at its own expense, furnish all cost items associated with this Agreement except as herein otherwise specified in the budget or elsewhere to be furnished by County. Contractor shall submit annually to the County a cost allocation plan in accordance with The Uniform Guidance.

If the pricing schedule and budget are segregated, the Pricing Schedule is in Exhibit C-1 and the budget for cost reimbursement elements is in Exhibit C-2. Invoices are subject to the requirements of Paragraph 4.2 below.

4.1.2 Agreement Budget for Cost Reimbursement Elements. In no event shall the Agreement budget total be increased or decreased prior to County approved Agreement amendment. Some budget line item adjustments require County review and approval. Adjustments requiring County review and approval are listed in Exhibit C-2 "Contractor's Budget."

4.1.3 Administrative Adjustment. The COR may make administrative Agreement adjustments to change or modify the budget as long as the total Agreement amount or Agreement term is not modified.

4.1.4 Agreement Amendment. An Agreement amendment signed by the Contracting Officer is required to modify the total Agreement amount or Agreement term.

4.1.5 Maximum Price. During the performance period of this Agreement, the maximum price for the same or similar items and/or services shall not exceed the lowest price at which Contractor then offers the items and/or services to its most favored customer.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

4.2 Invoices and Payment

4.2.1 Invoices. County agrees to pay Contractor in arrears only after receipt and approval of properly completed monthly invoices by the Contracting Officer's Representative ("COR") for the work performed in the prior month. Invoices shall be detailed and itemized referencing the Agreement number and a detailed listing of each pay point target, accomplishment, unit price and/or percentages, and showing the appropriate calculation for each, or cost of each line item in the budget, and a progress report documenting the status and accomplishments of Contractor during the billing period pursuant to Exhibit C, documenting the total invoiced amount by Contractor. Contractor's monthly invoices shall include a statement certifying whether it is in compliance with Paragraph 8.16 of this Agreement

4.2.2 Provisional Rates / Cost Reimbursement Elements. For provisional rates, or cost reimbursement elements, Contractor shall maintain records of its actual costs, as required herein, for those services paid under a provisional rate or as cost reimbursement. Contractor's last payment each fiscal year shall be withheld until after County and Contractor reconcile Contractor's actual costs with the amount paid from the provisional rates, if any. If County has paid Contractor more than their actual costs, Contractor shall refund County the excess amount paid in accordance with Paragraph 4.2.3. If Contractor's actual costs are more than the amount paid by County, County will pay Contractor the difference, up to, but not to exceed the annual contract amount identified in the Signature Page, in accordance with Paragraph 4.2.3 County's obligation to pay is also subject to the other requirements of this Agreement.

4.2.3 Payments. Payment for the services performed under this Agreement shall be in accordance with Exhibit C, unless other payment methodologies are negotiated and agreed to by both Contractor and County. Contractor shall maintain supporting documentation of expenses as specified in Articles 11 and 13 for provisional rates or cost reimbursement elements. Payments will be made in arrears after receipt of properly completed invoice approved by the COR. Payment shall be NET 30 days from receipt and approval of invoice unless otherwise stated.

For Provisional Rates, County will reimburse the good faith estimate of the actual allowable, allocable and reasonable costs incurred associated with the work performed during the month of service. Contractor shall maintain supporting documentation of expenses as specified in Articles 11 and 13.

4.2.3.1 This monthly invoice shall reflect a good faith estimate of the actual allowable, allocable and reasonable costs incurred associated with the work performed during the month of service. This good faith estimate shall be based on the budgeted net unit cost for each service category, hereafter known as provisional rates, multiplied by the units provided.

4.2.3.2 Reconciliation of Good Faith Estimates to Actual Allowable Expenses. Contractor shall submit a cost report to complete a reconciliation of the actual allowable, allocable and reasonable expenses incurred associated with the work performed under this agreement twice annually at a minimum; the COR may require them more frequently. Cost reports submitted by Contractor shall include the actual allowable cumulative year to date expenses by service category for the period. Upon receipt of each cost report, County will reconcile year to date payments with year to date actual allowable, allocable and reasonable expenses and adjust the next monthly invoice for under payments or overpayments in excess of \$100. Cost reports shall also include total amounts over paid by the County to Contractor or under paid by the County to the Contractor for each month of service. At the end of each fiscal year, Contractor shall complete an annual reconciliation of the actual allowable expenses incurred associated with the work performed under this agreement for that fiscal year. Overpayments and underpayments will be adjusted during the fiscal year and at the end of the fiscal year as instructed by the COR.

4.2.3.3 Final Fiscal Year End Settlements. Contractor shall submit the final cost report reflecting the actual costs for reimbursement for services performed during the County fiscal year by the final fiscal year settlement date, which will be established by each program. This settlement date shall be no more than 60 calendar days from the end of the County fiscal year. Upon receipt of the fiscal year end cost report, County will reconcile year to date payments with fiscal year end actual allowable, allocable and reasonable expenses. County will reimburse Contractor for underpayments and will recoup overpayments from Contractor. County may, in its sole discretion, choose to not process invoices for reimbursement for services performed during that fiscal year after this date. The County fiscal year shall be defined as July 1, through June 30, unless otherwise defined in this Agreement. | |

4.2.3.4 Final Agreement Settlement Date. Contractor shall submit the final invoice for reimbursement for services performed during the final fiscal year of the contract by the final contract settlement date, which shall be no more than 60 calendar days from the final date of the contract services. County may, in its sole discretion, choose to not process invoices for reimbursement for services performed during the final fiscal year of the contract after the final Agreement settlement date.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

4.2.4 Full Compensation. Pending any adjustments by the COR and except as otherwise provided for in the cost reports submitted by Contractor to County if Provisional Rates are utilized, each invoice approved and paid shall constitute full and complete compensation to Contractor for all work completed during the billing period pursuant to Exhibit A and Exhibit C. This Agreement constitutes the entire Agreement between Contractor and County. Contractor shall be entitled only to payment and, if Provisional Rates or Reimbursable elements are included in this Agreement, reimbursement for allowable, allocable and reasonable costs, associated with services pursuant to Exhibit A.

4.2.5 Prompt Payment for Vendors and Subcontractors

4.2.5.1 Prompt payment for vendors and subcontractors.

4.1.5.1.1. Unless otherwise set forth in this paragraph, Contractor shall promptly pay its vendors and subcontractor(s) for satisfactory performance under its subcontract(s) to this Agreement. Such prompt payment shall be no later than thirty (30) days after Contractor receives payment for such services from County and shall be paid out of such amounts as are paid to Contractor under this Agreement.

4.1.5.1.1. Contractor shall include a payment clause conforming to the standards set forth in Paragraph 4.1.5.1.1 of this Agreement in each of its subcontracts, and shall require each of its subcontractors to include such a clause in their subcontracts with each lower-tier subcontractor or supplier.

4.2.5.2 If Contractor, after submitting a claim for payment to County but before making a payment to a vendor or subcontractor for the goods or performance covered by the claim, discovers that all or a portion of the payment otherwise due such vendor or subcontractor is subject to withholding from the vendor or subcontractor in accordance with the vendor or subcontract agreement, then the Contractor shall:

4.1.5.1.1. Furnish to the vendor or subcontractor and the COR within three (3) business days of withholding funds from its vendor or subcontractor a notice stating the amount to be withheld, the specific causes for the withholding under the terms of the subcontract or vendor agreement; and the remedial actions to be taken by the vendor or subcontractor in order to receive payment of the amounts withheld.

4.1.5.1.1. Contractor shall reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph 4.1.5.1.1 of this Agreement and Contractor may not claim from the County this amount until its subcontractor has cured the cause of Contractor withholding funds;

4.1.5.1.1. Upon the vendor's or subcontractor's cure of the cause of withholding funds, Contractor shall pay the vendor or subcontractor as soon as practicable, and in no circumstances later than ten (10) days after the Contractor claims and receives such funds from County.

4.2.5.3 Contractor shall not claim from County all of or that portion of a payment otherwise due to a vendor or subcontractor that Contractor is withholding from the vendor or subcontractor in accordance with the subcontract agreement where Contractor withholds the money before submitting a claim to County. Contractor shall provide its vendor or subcontractor and the COR with the notice set forth in Paragraph 4.2.5.2.1 of this Agreement and shall follow Paragraph 4.2.5.2.3 of this Agreement when vendor or subcontractor cures the cause of Contractor withholding its vendors or subcontractor's funds.

4.2.5.4 Overpayments. If Contractor becomes aware of a duplicate contract financing or invoice payment or that County has otherwise overpaid on a contract financing or invoice payment, Contractor shall immediately notify the COR and request instructions for disposition of the overpayment.

4.2.6 Availability of Funding. The County's obligation for payment of any Agreement beyond the current fiscal year is contingent upon the availability of funding from which payment can be made. No legal liability on the part of the County shall arise for payment beyond June 30 of the calendar year unless funds are designated by the County and are made available for such performance.

County shall, in its sole discretion, have the right to terminate or suspend this Agreement or reduce compensation and service levels proportionately upon thirty (30) days' written notice to Contractor in the event that Federal, State or County funding for this Agreement ceases or is reduced prior to the ordinary expiration of the term of this Agreement. In the event of reduction of funding for the Agreement, County and Contractor shall meet within ten (10) days of written notice to renegotiate this Agreement based upon the modified level of funding. In this case if no Agreement is reached between County and Contractor within 10 days of the first meeting, either party shall have the right to terminate this Agreement within ten (10) days written notice of termination.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

In the event of termination of this Agreement in accordance with the terms of this Section, Contractor shall be entitled to retain all sums paid as of the effective date of such termination, subject to any payment offset to which County may be entitled, for damages or otherwise, under the terms of this Agreement. In the event of termination of this Agreement pursuant to this Section, in no event shall Contractor be entitled to any loss of profits on the portion of this Agreement so terminated, or to other compensation, benefits, reimbursements or ancillary services other than as herein expressly provided.

- 4.2.7 Conditions Prerequisite To Payments. County may elect not to make a particular payment if any of the following exists:
- 4.2.7.1 Misrepresentation. Contractor, with or without knowledge, made any misrepresentation of substantial and material nature with respect to any information furnished to County.
 - 4.2.7.2 Unauthorized Actions by Contractor. Contractor took any action pertaining to this Agreement, which required County approval, without having first received said County approval.
 - 4.2.7.3 Default. Contractor was in default under any terms and conditions of this Agreement.
 - 4.2.7.4 Fees for Service. Contractor implemented a schedule of fees to be charged to clients or third party client representatives without prior County approval, unless authorized elsewhere in this Agreement.
- 4.2.8 Withholding Of Payment. County may withhold reimbursement until reports, data, audits, or other information required for Agreement administration or to meet County, State, Federal or other funding source reporting or auditing requirements are received and approved by COR or designee. County may also withhold payment if, in County's opinion, Contractor is in noncompliance with this Agreement.
- 4.2.9 Interpretation of Claim Provisions. As used in this Article 4, the term "claim" refers to a claim filed pursuant to [San Diego County Code of Administrative Ordinances Article V-A](#), "Processing and Certification of Routine Claims." The term "claim" as used in this Article 4 does not refer to a claim filed pursuant to San Diego County Code of Administrative Ordinances, [Article X](#), "Claims against the County."
- 4.2.10 Severability Limits. Severability pertains only to those Agreements that originate in one fiscal year and end in another fiscal year. This Agreement is severable for and limited to the amounts in the attached budget. In no event shall Contractor exceed the Severability Limits.
- 4.2.11 Disallowance. In the event Contractor receives payment from County for a service, reimbursement for which is later disallowed by County or the State, the Federal government, or any other funding source, Contractor shall promptly refund the disallowed amount to County on request, or County may offset the amount disallowed from any payment due to or to become due to Contractor under this Agreement or any other Agreement. Similarly, a disallowance under a prior Agreement may be offset against this Agreement.
- 4.2.12 Partial Payment. If Contractor fails to perform specified services, provide specified products or perform services or provide products timely and in accordance with specified requirements, Contractor shall be paid only the reasonable cost for the services performed or products provided for the payment period as determined by the COR.
- 4.2.13 Project Generated Revenue. Project Generated Revenue realized by Contractor in excess of the Agreement budget shall be utilized in support of the Project.
- 4.2.13.1 Project Generated Revenue and Expenditures shall be reported at the end of the Agreement period.
 - 4.2.13.2 With COR approval, Contractor may expend a remaining balance of project generated revenue in the term of a subsequent County Agreement in support of this Project.
- 4.2.14 Rate of Expense. Contractor shall control its rate of expense in relation to units of service and anticipated revenues.
- 4.2.15 Contractor shall inform the COR when it is anticipated that the need for services will exceed the approved service units and budget; however, Contractor's claim/invoice shall not exceed the approved budget.
- 4.2.16 Any records of revenues, expenditures and/or clinical records under this Agreement shall be subject to compliance with Federal, State or local laws or regulations and may be audited and/or reviewed by the County and/or the appropriate Federal, State or County agency. In the event of an audit disallowance of any claimed cost which is subject to compliance with Federal, State or local law or regulations, Contractor shall be liable for any costs or lost revenue resulting therefrom.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

ARTICLE 5
AGREEMENT ADMINISTRATION

- 5.1 County's Agreement Administrator. The Director of Purchasing and Contracting is designated as the Contracting officer ("Contracting Officer") and is the only County official authorized to make any Changes to this Agreement. The County has designated the individual identified on the signature page as the Contracting Officer's Representative ("COR")
- 5.1.1 County's COR will chair Contractor progress meetings and will coordinate County's Agreement administrative functions. The COR is designated to receive and approve Contractor invoices for payment, audit and inspect records, inspect Contractor services, and provide other technical guidance as required. The COR is not authorized to change any terms and conditions of this Agreement. Only the Contracting Officer, by issuing a properly executed amendment to this Agreement, may make changes to the scope of work or total price.
- 5.1.2 Notwithstanding any provision of this Agreement to the contrary, County's COR may make Administrative Adjustments ("AA") to the Agreement, such as line item budget changes or adjustments to the service requirements that do not change the purpose or intent of the Statement of Work, the Terms and Conditions, the Agreement Term or the total Agreement price. Each AA shall be in writing and signed by COR and Contractor. All inquiries about such AA will be referred directly to the COR.
- 5.2 Agreement Progress Meeting. The COR and other County personnel, as appropriate, will meet periodically with the Contractor to review the Agreement performance. At these meetings the COR will apprise the Contractor of how the County views the Contractor's performance and the Contractor will apprise the County of problems, if any, being experienced. The Contractor shall also notify the Contracting Officer (in writing) of any work being performed, if any, that the Contractor considers being over and above the requirements of the Agreement. Appropriate action shall be taken to resolve outstanding issues. The minutes of these meetings will be reduced to writing and signed by the COR and the Contractor. Should the Contractor not concur with the minutes, the Contractor shall set out in writing any area of disagreement. Appropriate action will be taken to resolve any areas of disagreement.

ARTICLE 6
CHANGES

- 6.1 Contracting Officer. The Contracting Officer may at any time, by a written order, make changes ("Changes"), within the general scope of this Agreement, in the definition of services to be performed, and the time (i.e.) hours of the day, days of the week, etc. and place of performance thereof. If any such Change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this Agreement, whether changed or not changed by such an order, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified in writing accordingly. Such changes may require Board of Supervisors approval.
- 6.2 Claims. Contractor must assert any claim for adjustment under this clause within thirty (30) days from the date of receipt by the Contractor of the notification of Change; provided, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this Agreement. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Agreement entitled "Disputes" (Article 15). However, nothing in this clause shall excuse the Contractor from proceeding with this Agreement as changed.

ARTICLE 7
SUSPENSION, DELAY AND TERMINATION

- 7.1 Termination for Default. Upon Contractor's breach of this Agreement, County shall have the right to terminate this Agreement, in whole or part. Prior to termination for default, County will send Contractor written notice specifying the cause. The notice will give Contractor ten (10) days from the date the notice is issued to cure the default or make progress satisfactory to County in curing the default, unless a different time is given in the notice. If County determines that the default contributes to the curtailment of an essential service or poses an immediate threat to life, health or property, County may terminate this Agreement immediately upon issuing oral or written notice to the Contractor without any prior notice or opportunity to cure. In the event of termination under this Article, all finished or unfinished documents, and other materials, prepared by Contractor under this Agreement shall become the sole and exclusive property of County.

In the event of such termination, the County may purchase or obtain the supplies or services elsewhere, and Contractor shall be liable for the difference between the prices set forth in the terminated order and the actual cost thereof to the County. The prevailing market price shall be considered the fair repurchase price. Notwithstanding the above, Contractor shall not be relieved of liability to County for damages sustained by County by virtue of any breach of this Agreement by Contractor, and

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

County may withhold any reimbursement to Contractor for the purpose of off-setting until such time as the exact amount of damages due County from Contractor is determined.

If, after notice of termination of this Agreement under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, the rights and obligations of the parties shall, if this Agreement contains a clause providing for termination for convenience of the County, be the same as if the notice of termination had been issued pursuant to such clause.

- 7.2 Damages for Delay. If Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as shall ensure its completion within the time specified in this Agreement, or any extension thereof, or fails to complete said work within such time, County will be entitled to the resulting damages caused by the delay. Damages will be the cost to County incurred as a result of continuing the current level and type of service over that cost that would be incurred had the Agreement segments been completed by the time frame stipulated and any other damages suffered by County.
- 7.3 County Exemption from Liability. In the event there is a reduction of funds made available by County to Contractor under this or subsequent agreements, the County of San Diego and its Departments, officers and employees shall incur no liability to Contractor and shall be held harmless from any and all claims, demands, losses, damages, injuries, or liabilities arising directly or from such action.
- 7.4 Full Cost Recovery Of Investigation And Audit Costs. Contractor shall reimburse County of San Diego for all direct and indirect expenditures incurred in conducting an audit/investigation when Contractor is found in violation (material breach) of the terms of the Agreement.

At the sole discretion of the County, and subject to funding source restrictions and federal and State law, County may (1) withhold reimbursement for such costs from any amounts due to Contractor pursuant to the payment terms of the Agreement, (2) withhold reimbursement for such costs from any other amounts due to Contractor from County, and/or (3) require Contractor to remit a check for the total amount due (or a lesser amount specified by the County) to County within thirty (30) days of request by County. Alternatively, at the County's sole discretion, County and Contractor may enter into a written repayment plan for the reimbursement of the audit/investigation costs.

- 7.5 Termination for Convenience. The County may, by written notice stating the extent and effective date terminate this Agreement for convenience in whole or in part, at any time. The County shall pay the Contractor as full compensation for work performed in accordance with the terms of this Agreement until such termination:
- 7.5.1 The unit or pro rata price for any delivered and accepted portion of the work.
- 7.5.2 A reasonable amount, as costs of termination, not otherwise recoverable from other sources by the Contractor as approved by the County, with respect to the undelivered or unaccepted portion of the order, provided compensation hereunder shall in no event exceed the total price.
- 7.5.3 In no event shall the County be liable for any loss of profits on the resulting order or portion thereof so terminated.
- 7.5.4 County's termination of this Agreement for convenience shall not preclude County from taking any action in law or equity against Contractor for:
- 7.5.4.1 Fraud, waste or abuse of Agreement funds, or
- 7.5.4.2 Improperly submitted claims, or
- 7.5.4.3 Any failure to perform the work in accordance with the Statement of Work, or
- 7.5.4.4 Any breach of any term or condition of the Agreement, or
- 7.5.4.5 Any actions under any warranty, express or implied, or
- 7.5.4.6 Any claim of professional negligence, or
- 7.5.4.7 Any other matter arising from or related to this Agreement, whether known, knowable or unknown before, during or after the date of termination.

- 7.6 Suspension of Work. The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this Agreement for the period of time that the Contracting Officer determines appropriate for the convenience of the Government. County reserves the right to prohibit, without prior notice, contractor or contractor's employees, directors, officers, agents, subcontractors, vendors, consultants or volunteers from 1) accessing County data systems and County owned software applications, including websites, domain names, platforms, physical files, 2) treating County's patients, clients, or facility residents, or 3) providing any other services under this Agreement.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

- 7.7 Remedies Not Exclusive. The rights and remedies of County provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law, equity, or under resulting order.

ARTICLE 8
COMPLIANCE WITH LAWS AND REGULATIONS

- 8.1 Compliance with Laws and Regulations. Contractor shall at all times perform its obligations hereunder in compliance with all applicable federal, State, County, and local laws, rules, and regulations, current and hereinafter enacted, including facility and professional licensing and/or certification laws and keep in effect any and all licenses, permits, notices and certificates as are required. Contractor shall further comply with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health and sanitation.
- 8.2 Contractor Permits and License. Contractor certifies that it possesses and shall continue to maintain or shall cause to be obtained and maintained, at no cost to the County, all approvals, permissions, permits, licenses, and other forms of documentation required for it and its employees to comply with all existing foreign or domestic statutes, ordinances, and regulations, or other laws, that may be applicable to performance of services hereunder. The County reserves the right to reasonably request and review all such applications, permits, and licenses prior to the commencement of any services hereunder.
- 8.3 Equal Opportunity. Contractor shall comply with the provisions of Title VII of the Civil Rights Act of 1964 in that it will not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment nor shall Contractor discriminate in any way that would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, handicap, medical condition, sexual orientation or marital status.
- 8.4 Affirmative Action. Each Contractor of services and supplies employing fifteen (15) or more full-time permanent employees, shall comply with the Affirmative Action Program for Vendors as set forth in Article IIIk (commencing at Section 84) of the San Diego County Administrative Code, which program is incorporated herein by reference. A copy of this Affirmative Action Program will be furnished upon request by COR or from the County of San Diego Internet web-site (www.co.san-diego.ca.us).
- 8.5 Non Discrimination. Contractor shall ensure that services and facilities are provided without regard to ethnic group identification, race, color, nation origin, creed, religion, age, sex, physical or mental disability, political affiliation or marital status in accordance with applicable laws, including, but not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C 200-d), Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 U.S.C 324), Section 504 of the Rehabilitation Act of 1973, The Civil Rights Restoration Act of 1987 (P.L. 100-209), Executive Order 12898 (February 11, 1994), Executive Order 13166 (August 16, 2000), Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000-d), the Age Discrimination of 1975 (42 U.S.C. 6101), Article 9.5, Chapter 1, Part 1, Division 2, Title 2 (Section 11135, et seq) of the California Government Code, Title 9, Chapter 4, Subchapter 6 (Section 10800, et seq) of the CCR and California Dept of Social Services Manual of Policies and Procedures (CDSS MPP) Division 21.
- 8.6 AIDS Discrimination. Contractor shall not deny any person the full and equal enjoyment of, or impose less advantageous terms, or restrict the availability of, the use of any County facility or participation in any County funded or supported service or program on the grounds that such person has Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS) as those terms are defined in Title 3, Division 2, Chapter 8, Section 32.803, of the San Diego County Code of Regulatory Ordinances.
- 8.7 American with Disabilities Act (ADA) 1990. Contractor shall not discriminate against qualified people with disabilities in employment, public services, transportation, public accommodations and telecommunications services in compliance with the Americans with Disabilities Act (ADA) and California Administrative Code Title 24.
- 8.8 Political Activities Prohibited. None of the funds, provided directly or indirectly, under this Agreement shall be used for any political activities or to further the election or defeat of any candidate for public office. Contractor shall not utilize or allow its name to be utilized in any endorsement of any candidate for elected office. Neither this Agreement nor any funds provided hereunder shall be utilized in support of any partisan political activities, or activities for or against the election of a candidate for an elected office.
- 8.9 Lobbying. Contractor agrees to comply with the lobbying ordinances of the County and to assure that its officers and employees comply before any appearance before the County Board of Supervisors. Except as required by this Agreement, none of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat any legislation pending before State and federal Legislatures, the Board of Supervisors of the County, or before any other local governmental entity. This provision shall not preclude Contractor from seeking necessary permits, licenses and the like necessary for it to comply with the terms of this Agreement.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

- 8.9.1 Byrd Anti-Lobbying Amendment. Contractor shall file Standard Form-LLL, "Disclosure Form to Report Lobbying," to certify that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award by Contractor or Contractor's Subcontractors. In accordance with 31 U.S.C. 1352, Contractor shall also file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. Contractor shall include this provision in all subcontracts and require each of its subcontractors to comply with the certification and disclosure requirements of this provision.
- 8.10 Religious Activity Prohibited. There shall be no religious worship, instructions or proselytization as part of or in connection with the performance of this Agreement.
- 8.11 Drug and Alcohol-Free Workplace. The County of San Diego, in recognition of individual rights to work in a safe, healthful and productive work place, has adopted a requirement for a drug and alcohol free work place, County of San Diego Drug and Alcohol Use Policy C-25, available on the County of San Diego website. This policy provides that all County-employed Contractors and Contractor employees shall assist in meeting this requirement.
- 8.11.1 As a material condition of this Agreement, the Contractor agrees that the Contractor and the Contractor employees, while performing service for the County, on County property, or while using County equipment:
- 8.11.1.1 Shall not be in any way impaired because of being under the influence of alcohol or a drug.
- 8.11.1.2 Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.
- 8.11.1.3 Shall not sell, offer, or provide alcohol or an illegal drug to another person; provided, however, that the foregoing restriction shall not be applicable to a Contractor or Contractor employee who as part of the performance of normal job duties and responsibilities prescribes or administers medically prescribed drugs.
- 8.11.2 Contractor shall inform all employees who are performing service for the County on County property or using County equipment of the County objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.
- 8.11.3 The County may terminate for default or breach this Agreement, and any other agreement the Contractor has with the County, if the Contractor, or Contractor employees are determined by the Contracting Officer not to be in compliance with the conditions listed herein.
- 8.12 Board of Supervisors' Policies. Contractor represents that it is familiar, and shall use its best efforts to comply, with the following policies of the Board of Supervisors, available on the County of San Diego website:
- 8.12.1 Board Policy B-67, which encourages the County's Contractors to offer products made with recycled materials, reusable products, and products designed to be recycled to the County in response to the County's requirements; and
- 8.12.2 Board Policies B-53 and B-39a, which encourage the participation of small and disabled veterans' business enterprises in County procurements; and
- 8.12.3 Zero Tolerance for Fraudulent Conduct in County Services. Contractor shall comply with County of San Diego Board of Supervisors Policy A-120 "Zero Tolerance for Fraudulent Conduct in County Services." There shall be "Zero Tolerance" for fraud committed by contractors in the administration of County programs and the provision of County services. Upon proven instances of fraud committed by independent contractors in connection with their performance under the Agreement, said contractor shall be subject to corrective action up to and including termination of the Agreement; and
- 8.12.4 Interlocking Directorate. In recognition of Board Policy A-79, available on the County of San Diego Website, not-for-profit Contractors shall not subcontract with related for-profit subcontractors for which an interlocking relationship exist unless specifically authorized in writing by the Board of Supervisors; and
- 8.12.5 Zero Tolerance in Coaching Medi-Cal or Welfare Clients (Including Undocumented Immigrants). The County of San Diego in recognition of its unique geographical location and the utilization of the Welfare and Medi-Cal systems by foreign nationals who are not legal residents of this county or country, has adopted a Zero Tolerance policy and shall aggressively prosecute employees and Contractors who coach Medi-Cal or Welfare clients (including undocumented immigrants), to obtain services for which they are not otherwise entitled.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

As a material condition of this Agreement, Contractor agrees that the Contractor and Contractor's employees, while performing service for the County, on County property or while using County equipment shall not:

- (a) in any way coach, instruct, advise, or guide any Medi-Cal or Welfare clients or prospective clients who are undocumented immigrants on ways to obtain or qualify for Medi-Cal assistance, for which they are not otherwise entitled.
- (b) support or provide funds to any organization engaged directly or indirectly in advising undocumented immigrants on ways to obtain or qualify for Medi-Cal assistance, for which they are not otherwise entitled.

Contractor shall inform all employees that are performing service for the County on County property or using County equipment of County's Zero Tolerance Policy as referenced herein.

County may terminate for default or breach this Agreement and any other agreement Contractor has with County, if Contractor or Contractor employees are determined not to be in compliance with the conditions stated herein.

- 8.13 Cartwright Act. Following receipt of final payment under the Agreement, Contractor assigns to the County all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright act (Chapter 2) (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Contractor for sale to the County under this Agreement.
- 8.14 Hazardous Materials. Contractor shall comply with all Environmental Laws and all other laws, rules, regulations, and requirements regarding Hazardous Materials, health and safety, notices, and training. Contractor agrees that it will not store any Hazardous Materials at any County facility for periods in excess of ninety (90) days or in violation of the applicable site storage limitations imposed by Environmental Law. Contractor agrees to take, at its expense, all actions necessary to protect third parties, including, without limitation, employees and agents of the County, from any exposure to Hazardous Materials generated or utilized in its performance under this Agreement. Contractor agrees to report to the appropriate governmental agencies all discharges, releases, and spills of Hazardous Materials that are required to be reported by any Environmental Law and to immediately notify the County of it. Contractor shall not be liable to the County for the County's failure to comply with, or violation of, any Environmental Law. As used in this section, the term "Environmental Laws" means any and all federal, state or local laws or ordinances, rules, decrees, orders, regulations or court decisions (including the so-called "common law"), including, but not limited to, the Resource Conservation and Recovery Act, relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions or other similar substances or conditions. As used in this section the term "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (a) is a flammable, explosive, asbestos, radioactive nuclear medicine, vaccine, bacteria, virus, hazardous waste, toxic, overtly injurious or potentially injurious material, whether injurious or potentially injurious by itself or in combination with other materials; (b) is controlled, referred to, designated in or governed by any Environmental Laws; (c) gives rise to any reporting, notice or publication requirements under any Environmental Laws, or (d) is any other material or substance giving rise to any liability, responsibility or duty upon the County or Lessee with respect to any third person under any Environmental Laws.
- 8.15 Clean Air Act and Federal Water Pollution Control Act.
- 8.15.1 Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Contractor agrees to report each violation to the USDA and the appropriate EPA Regional Office.
- 8.15.2 Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 et seq.). Contractor agrees to report each violation to the USDA and the appropriate EPA Regional Office.
- 8.16 Debarment, Exclusion, Suspension, and Ineligibility.
- 8.16.1 Contractor certifies that, except as disclosed to County and acknowledged in writing by County prior to the execution of this Agreement, Contractor, its employees, directors, officers, agents, subcontractors, vendors, consultants, and volunteers:
- 8.16.1.1 Are not presently debarred, excluded, suspended, declared ineligible, voluntarily excluded, or proposed for debarment, exclusion, suspension or ineligibility by any federal, state, or local department or agency; and
- 8.16.1.2 Have not within a 3-year period preceding this Agreement been convicted of, or had a civil or administrative judgment rendered against them for, the commission of fraud or a criminal offense or civil action in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction; violation of federal or State anti-trust statutes or commission of embezzlement, theft, forgery,

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

bribery, falsification or destruction of records, making false statements, receiving stolen property; physical, financial or sexual abuse or misconduct with a patient or client, or medical negligence or malpractice;

8.16.1.3 Are not presently indicted or otherwise criminally, civilly or administratively charged by a government entity (federal, State, or local) with commission of any of the offenses enumerated in the paragraph above; and

8.16.1.4 Have not within a 3-year period preceding this Agreement had one or more public transaction (federal, State, or local) terminated for cause or default.

8.16.2 Contractor shall have an ongoing duty during the term of this Agreement to disclose to the County any occurrence that would prevent Contractor from making the certifications contained in this Section 8.16 on an ongoing basis. Such disclosure shall be made in writing to the COR and the County Office of Ethics and Compliance within five (5) business days of when Contractor discovers or reasonably believes there is a likelihood of such occurrence.

8.16.3 Contractor invoices shall include the following language:

I certify that the above deliverables and/or services were delivered and/or performed specifically for this Agreement in accordance with the terms and conditions set forth herein.

I further certify, under penalty of perjury under the laws of the State of California, that no employee or entity providing services under the terms and conditions of this Agreement is currently listed as debarred, excluded, suspended, or ineligible on the Federal System for Award Management (SAM: <http://SAM.gov>), the Federal Health and Human Services Office of Inspector General List of Excluded Individuals/Entities (LEIE: <http://exclusions.oig.hhs.gov>), or the State of California Medi-Cal Suspended and Ineligible list (www.medi-cal.ca.gov).

8.17 Display of Fraud Hotline Poster(s). As a material term and condition of this Agreement, Contractor shall:

8.17.1 Prominently display in common work areas within all business segments performing work under this Agreement County of San Diego Office of Ethics and Compliance Ethics Hotline posters;

8.17.2 Posters may be downloaded from the County Office of Ethics and Compliance website at: <http://www.sandiegocounty.gov/content/sdc/cao/oec.html>. Additionally, if Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website;

8.17.3 If Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, the Contractor need not display the County poster;

8.17.4 In the event Contractor subcontracts any of the work performed under this Agreement, Contractor include this clause in the subcontract(s) and shall take appropriate steps to ensure compliance by the subcontractor(s).

8.18 False Claims Act Training. Contractor shall, not less than annually, provide training on the Federal False Claims Act (31 USC 3729-3730) and State False Claims Act (California Government Code 12650-12653) to all employees, directors, officers, agents, subcontractors, consultants or volunteers providing services under this Agreement. Contractor shall maintain verification of this training. Contractor shall retain these forms, or an electronic version, in accordance with the Agreement requirement for retention of records. For the purposes of this section, "Subcontractor" shall include any entity, other than County, that furnishes to Contractor services or supplies relevant to this Agreement other than standard commercial supplies, office space, and printing services.

8.19 Code of Ethics. As a material term and condition of this Agreement, Contractor shall develop and implement a Code of Ethics or similar document and maintain it during the term of this Agreement. Additionally, Contractor shall train all employees and volunteers on the Code of Ethics, and all employees, volunteers, directors, officers, and agents shall certify that they have received training and have been provided an opportunity to ask questions of their employer regarding the Code of Ethics. Contractor shall retain these certifications in accordance with the Agreement's provision regarding retention of records. Contractor shall pass this requirement down to its subcontractors in its entirety. For purposes of this section, "Subcontractor" shall mean any entity, other than County, that furnishes to Contractor services or supplies relevant to this Agreement other than standard commercial supplies, office space, and printing services.

8.20 Compliance Program. Contractors with an agreement that exceeds more than \$250,000 in value annually shall establish, and maintain for the duration of this Agreement, a compliance program that meets the standards of Federal Sentencing Guidelines section 8B2.1 and 42 CFR 438.608 (b)(1) – (b) (7) regardless of funding source or services.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

8.21 Investigations. Unless prohibited by an investigating government authority, Contractor shall cooperate and participate fully in any investigation initiated by County relative to this Agreement. Upon County's request, Contractor shall promptly provide to County any and all documents, including any and all communications or information stored digitally, and make available for interviews any employee(s) of Contractor identified by County. Contractor further agrees to immediately notify County if any employee, director, officer, agent, subcontractor, vendor, consultant or volunteer of Contractor comes under investigation by any federal, State or local government entity with law enforcement or oversight authority over the Agreement or its funding for conduct arising out of, or related to, performance under this Agreement.

Contractor shall promptly make available to County all internal investigative results, findings, conclusions, recommendations and corrective action plans pertaining to the investigation in its possession as requested by the County, unless otherwise protected by applicable law or privilege.

8.22 Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms. Contractor shall, in accordance with 2 CFR 200.321 - Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms, take affirmative steps to include minority business, women's business enterprises, and labor surplus area firm by:

8.22.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

8.22.2 Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

8.22.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

8.22.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and

8.22.5 Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

8.23 Procurement of Recovered Materials. Contractor shall comply with 2 CFR part 200.322. Contractor shall procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000. Contractor certifies that the percentage of recovered materials to be used in the performance of this Agreement will be at least the amount required by applicable specifications or other contractual requirements. For contracts over \$100,000 in total value, Contractor shall estimate the percentage of total material utilized for the performance of the Agreement that is recovered materials and shall provide such estimate to County upon request.

8.24 Contract Work Hours and Safety Standards. If mechanics or laborers are to be employed under this Agreement, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Contractor shall not require any laborer or mechanic to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous.

ARTICLE 9
CONFLICTS OF INTEREST; CONTRACTOR'S CONDUCT

9.1 Conflicts of Interest. Contractor presently has no interest, including but not limited to other projects or independent agreements, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Contractor shall not employ any person having any such interest in the performance of this Agreement. Contractor shall not hire County's employees to perform any portion of the work or services provided for herein including secretarial, clerical and similar incidental services except upon the written approval of County. Without such written approval, performance of services under this Agreement by associates or employees of County shall not relieve Contractor from any responsibility under this Agreement.

9.1.1 California Political Reform Act and Government Code Section 1090 Et Seq. Contractor acknowledges that the California Political Reform Act ("Act"), Government Code section 81000 et seq., provides that Contractors hired by a public agency, such as County, may be deemed to be a "public official" subject to the Act if the Contractor advises the agency on decisions or actions to be taken by the agency. The Act requires such public officials to disqualify themselves from participating in any way in such decisions if they have any one of several specified "conflicts of interest" relating to the decision. To the extent the Act applies to Contractor, Contractor shall abide by the Act. In

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

addition, Contractor acknowledges and shall abide by the conflict of interest restrictions imposed on public officials by Government Code section 1090 et seq.

9.2 Conduct of Contractor.

- 9.2.1 Contractor shall inform the County of all Contractor's interests, if any, that are, or that Contractor believes to be, incompatible with any interests of the County.
- 9.2.2 Contractor shall not, under circumstances that might reasonably be interpreted as an attempt to influence the recipient in the conduct of his duties, accept any gratuity or special favor from individuals or organizations with whom the Contractor is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 9.2.3 Contractor shall not use for personal gain or make other improper use of confidential information, which is acquired in connection with his employment. In this connection, the term "confidential information" includes, but is not limited to, unpublished information relating to technological and scientific development; medical, personnel, or security records of the individuals; anticipated materials requirements or pricing actions; and knowledge of selections of Contractors or subcontractors in advance of official announcement.
- 9.2.4 Contractor, its employees, directors, officers, agents, subcontractors, vendors, consultants, and volunteers shall not offer, directly or indirectly, any unlawful gift, gratuity, favor, entertainment, or other item(s) of monetary value to an employee or official of the County.
- 9.2.5 Referrals. Contractor further covenants that no referrals of clients through Contractor's intake or referral process shall be made to the private practice of any person(s) employed by the Contractor.

9.3 Prohibited Agreements. As required by Section 67 of the San Diego County Administrative Code, Contractor certifies that it is not in violation of the provisions of Section 67, and that Contractor is not, and will not subcontract with, any of the following:

- 9.3.1. Persons employed by County or of public agencies for which the Board of Supervisors is the governing body;
- 9.3.2. Profit-making firms or businesses in which employees described in sub-section 9.3.1, above, serve as officers, principals, partners, or major shareholders;
- 9.3.3. Persons who, within the immediately preceding twelve (12) months came within the provisions of the above sub-sections and who (1) were employed in positions of substantial responsibility in the area of service to be performed by the Agreement, or (2) participated in any way in developing the Agreement or its service specifications; and
- 9.3.4. Profit-making firms or businesses, in which the former employees described in sub-section 9.3.3 above, serve as officers, principals, partners, or major shareholders.

9.4 Limitation of Future Agreements or Grants. It is agreed by the parties to the Agreement that Contractor shall be restricted in its future contracting with the County to the manner described below. Except as specifically provided in this clause, Contractor shall be free to compete for business on an equal basis with other companies.

- 9.4.1 If Contractor, under the terms of the Agreement, or through the performance of tasks pursuant to this Agreement, is required to develop specifications or statements of work and such specifications or statements of work are to be incorporated into a solicitation, Contractor shall be ineligible to perform the work described within that solicitation as a prime or subcontractor under an ensuing County agreement. It is further agreed, however, that County will not, as additional work, unilaterally require Contractor to prepare such specifications or statements of work under this Agreement.
- 9.4.2 Contractor may not apply for nor accept additional payments for the same services contained in the Statement of Work.

ARTICLE 10
INDEMNITY AND INSURANCE

- 10.1 Indemnity. County shall not be liable for, and Contractor shall defend and indemnify County and the employees and agents of County (collectively "County Parties"), against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), related to this Agreement or the work covered by this Agreement and arising either directly or indirectly from any act, error, omission or negligence of Contractor or its Contractors, licensees, agents, servants or employees, including, without limitation, Claims caused by the sole passive negligent act or the concurrent negligent act, error or omission, whether active or passive, of County Parties. Contractor shall have no obligation,

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

however, to defend or indemnify County Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of County Parties.

- 10.2 Insurance. Prior to execution of this Agreement, Contractor must obtain at its own cost and expense, and keep in force and effect during the term of this Agreement, including all extensions, the insurance specified in Exhibit "B," "Insurance Requirements," attached hereto.

ARTICLE 11
AUDIT AND INSPECTION OF RECORDS

The County shall have the audit and inspection rights described in this section.

- 11.1 Audit and Inspection. Contractor agrees to maintain and/or make available within San Diego County accurate books and accounting records relative to all its activities under this Agreement. Authorized federal, State or County representatives shall have the right to monitor, assess, or evaluate Contractor's performance pursuant to this Agreement, said monitoring, assessments, or evaluations to include but not limited to audits, inspection of premises, reports, and interviews of project staff and participants. Contractor assertions of confidentiality shall not be a bar to full access to the records.

At any time during normal business hours and as often as County may deem necessary, Contractor shall make available to County, State or federal officials for examination all of its records with respect to all matters covered by this Agreement and will permit County, State or federal officials to audit, examine and make excerpts or transcripts from such records, and to make audits of all invoices, materials, payrolls, records of personnel, information regarding clients receiving services, and other data relating to all matters covered by this Agreement. If an audit is conducted, it will be done in accordance with generally accepted government auditing standards as described in "Government Auditing Standards," published for the United States General Accountability Office or the Institute of Internal Auditors International Standards for the Professional Practice of Internal Auditing.

If any services performed hereunder are not in conformity with the specifications and requirements of this Agreement, County shall have the right to require the Contractor to perform the services in conformity with said specifications and requirements at no additional increase in total Agreement amount. When the services to be performed are of such nature that the difference cannot be corrected, County shall have the right to (1) require Contractor immediately to take all necessary steps to ensure future performance of the services in conformity with requirements of the Agreement, and (2) reduce the Agreement price to reflect the reduced value of the services performed. In the event Contractor fails to perform the services promptly or to take necessary steps to ensure future performance of the service in conformity with the specifications and requirements of the Agreement, County shall have the right to either (1) by agreement or to otherwise have the services performed in conformity with the Agreement specifications and charge to Contractor any cost occasioned to County that is directly related to the performance of such services, or (2) terminate this Agreement for default as provided in the Termination clause.

- 11.2 External Audits. Contractors will provide the following to the COR:

11.2.1 Contractor shall provide COR a copy of all notifications of audits or pending audits by federal or State representatives regarding contracted services identified in this Agreement no later than three (3) business days of Contractor receiving notice of the audit.

11.2.2 Contractor shall provide COR with a copy of the draft and final State or federal audit reports within twenty four (24) hours of receiving them (Health and Human Services Agency (HHS) Contractors shall also provide electronic copies to Agency Contract Support (ACS) at ACS.HHSA@sdcounty.ca.gov).

11.2.3 Contractor shall provide COR a copy of the contractor's response to the draft and final State or federal audit reports at the same time as response provided to the State or federal representatives.

11.2.4 Unless prohibited by the government agency conducting the audit, Contractor shall provide COR a copy of all responses made by the federal or State audit representative to the contractors' audit response no later than three (3) business days of receiving it. This will continue until the federal or State auditors have accepted and closed the audit.

- 11.3 Cost or Pricing Data. If the Contractor submitted cost or pricing data in connection with the pricing of this Agreement or any change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities of the general public, or prices set by law or regulation, the Contracting Officer or his representatives who are employees of the County or its agent shall have the right to examine all books, records, documents and other data of the Contractor related to the negotiation pricing or performance of such Agreement, change or modification, for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

- 11.4 Availability. The materials described above shall be made available at the office of the Contractor, at all reasonable times, for inspection, audit or reproduction, until the expiration of three (3) years from the date of final payment under this Agreement, or by section 11.4.1 and 11.4.2, below:
- 11.4.1 If this Agreement is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three (3) years from the date of any resulting final settlement.
- 11.4.2 Record that relate to appeals under the “Disputes” clause of this Agreement, or litigation or the settlement of claims arising out of the performance of this Agreement, shall be made available until such appeals, litigation, or claims have been disposed of, or three years after Agreement completion, whichever is longer. County shall keep the materials described above confidential unless otherwise required by law.
- 11.5 Subcontract. The Contractor shall insert a clause containing all the provisions of this Article 11 in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the contracting officer.

ARTICLE 12
INSPECTION OF SERVICE

- 12.1 Subject to Inspection. All performance (including services, materials, supplies and equipment furnished or utilized in the performance of this Agreement, and workmanship in the performance of services) shall be subject to inspection and test by the County at all times during the term of this Agreement. Contractor shall cooperate with any inspector assigned by the County to permit the inspector to determine whether Contractor’s performance conforms to the requirements of this Agreement. County shall perform such inspection in a manner as not to unduly interfere with Contractor’s performance.
- 12.2 Specification and Requirements. If any services performed by Contractor do not conform to the specifications and requirements of this Agreement, County may require Contractor to re-perform the services until they conform to said specifications and requirements, at no additional cost, and County may withhold payment for such services until Contractor correctly performs them. When the services to be performed are of such a nature that Contractor’s cannot correct its performance, the County shall have the right to (1) require the Contractor to immediately take all necessary steps to ensure future performance of services conforms to the requirements of this Agreement, and (2) reduce the Agreement price to reflect the reduced value of the services received by County. In the event Contractor fails to promptly re-perform the services or to take necessary steps to ensure that future performance of the service conforms to the specifications and requirements of this Agreement, the County shall have the right to either (1) without terminating this Agreement, have the services performed, by agreement or otherwise, in conformance with the specifications of this Agreement, and charge Contractor, and/or withhold from payments due to Contractor, any costs incurred by County that are directly related to the performance of such services, or (2) terminate this Agreement for default.

ARTICLE 13
USE OF DOCUMENTS AND REPORTS

- 13.1 Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by Contractor under this Agreement that the County requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.
- 13.2 Ownership, Publication, Reproduction and Use of Material. All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other material or properties produced under this Agreement shall be the sole and exclusive property of County. No such materials or properties produced in whole or in part under this Agreement shall be subject to private use, copyright or patent right by Contractor in the United States or in any other country without the express written consent of County. County shall have unrestricted authority to publish, disclose, distribute and otherwise use, copyright or patent, in whole or in part, any such reports, studies, data, statistics, forms or other materials or properties produced under this Agreement.
- 13.3 Confidentiality. Contractor agrees to maintain the confidentiality of and take industry appropriate and legally required measures to prevent the unlawful disclosure of any information that is legally required to be kept confidential. Except as otherwise allowed by local, State or federal law or regulation and pursuant to this Section 13.3, Contractor agrees to only disclose confidential records where the holder of the privilege, whether the County, or a third party, provides written permission authorizing the disclosure.
- 13.4 Public Records Act. The California Public Records Act (“CPRA”) requires County to disclose “public records” in its actual or constructive possession unless a statutory exemption applies. This generally includes contracts and related documents. If County receives a CPRA request for records relating to the Agreement, County may, at its sole discretion, either determine its response to the request without notifying Contractor or notify Contractor of the request. If County determines its response to the request without notifying Contractor, Contractor shall hold County harmless for such determination. If County notifies

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

Contractor of the request, Contractor may request that County withhold or redact records responsive to the request by submitting to County a written request within five (5) business days after receipt of the County's notice. Contractor's request must identify specific records to be withheld or redacted and applicable exemptions. Upon timely receipt of Contractor's request, County will review the request and at its sole discretion withhold and/or redact the records identified by Contractor. Contractor shall hold County harmless for County's decision whether to withhold and/or redact pursuant to Contractor's written request. Contractor further agrees that its defense and indemnification obligations set forth in Section 10.1 of this Agreement extend to any Claim (as defined in Section 10.1) against the County Parties (as defined in Section 10.1) arising out of County's withholding and/or redacting of records pursuant to Contractor's request. Nothing in this section shall preclude Contractor from bringing a "reverse CPRA action" to prevent disclosure of records. Nothing in this section shall prevent the County or its agents or any other governmental entity from accessing any records for the purpose of audits or program reviews if that access is legally permissible under the applicable local, State or federal laws or regulations. Similarly, County or its agent or designee may take possession of the record(s) where legally authorized to do so.

- 13.5 Maintenance of Records. Contractor shall maintain all records relating to its performance under this Agreement, including all records of costs charged to this Agreement, and shall make them available within San Diego County for a minimum of five (5) years from the ending date of this Agreement, or longer where required by funding source or while under dispute under the terms of this Agreement, unless County agrees in writing to an earlier disposition. Contractor shall provide any requested records to County within two (2) business days of request.
- 13.6 Custody of Records. County, at its option, may take custody of Contractor's client records upon Agreement, termination, expiration, or at such other time as County may deem necessary. County agrees that such custody will conform to applicable confidentiality provisions of State and federal law. Said records shall be kept by County in an accessible location within San Diego County and shall be available to Contractor for examination and inspection.
- 13.7 Audit Requirement.
- (a) Contractor shall annually engage a Licensed Certified Public Accountant licensed to perform audits and attests in the State of California to conduct an annual audit of its operations. Contractors that expend \$750,000 or more of federal grant funds per year shall also have an audit conducted in compliance with Government Auditing Standards, which includes Single Audit Act Amendments and the Compliance Supplement (2 CFR part 200 App. XI). Contractors that are commercial organizations (for-profit) are required to have a non-federal audit if, during its fiscal year, it expended a total of \$750,000 or more under one or more HHS awards. 45 CFR part 74.26(d) incorporates the threshold and deadlines of the Compliance Supplement but provides for-profit organizations two options regarding the type of audit that will satisfy the audit requirements. Contractor shall include a clause in any agreement entered into with an audit firm, or notify the audit firm in writing prior to the audit firm commencing its work for Contractor, that the audit firm shall, pursuant to 31 U.S.C. 7503, and to the extent otherwise required by law, provide access by the federal government or other legally required entity to the independent auditor's working papers that were part of the independent auditor's audit of Contractor. Contractor shall submit two (2) copies of the annual audit report, the audit performed in accordance with the Compliance Supplement, and the management letter to the County fifteen (15) days after receipt from the independent Certified Public Accountant but no later than nine (9) months after the Contractor's fiscal year end.
- (b) Contractor shall immediately notify County upon learning that Contractor's independent Certified Public Accountant may or will issue a disclaimer of opinion due to substantial doubt of Contractor's ability to continue as a going concern.
- 13.8 Reports. Contractor shall submit reports required in Exhibit A and additional reports as may be requested by the COR and agreed to by the Contractor. Format for the content of such reports may be developed by County. The timely submission of these reports is a necessary and material term and condition of this Agreement and Contractor agrees that failure to meet specified deadlines will be sufficient cause to withhold payment. Contractor shall submit to County within thirty (30) days of the termination of this Agreement a report detailing all work done pursuant to this Agreement by Contractor.
- 13.9 Evaluation Studies. Contractor shall participate as requested by the County in research and/or evaluative studies designed to show the effectiveness and/or efficiency of Contractor services or to provide information about Contractor's project.

ARTICLE 14
INFORMATION PRIVACY AND SECURITY PROVISIONS

- 14.1 Recitals. This Article is intended to protect the privacy and security of County information that Contractor may create, receive, access, store, transmit, and/or destroy under this Agreement. In addition to the below Responsibilities, contractor shall be in compliance with the following rules, regulations, and agreements, *as applicable*:

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

- 14.1.1 Health Insurance Portability and Accountability Act, specifically, Public Law 104-191, the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005, 42USC section 17921 et seq., and 45CFR Parts 160 and 164, collectively referred to as “HIPAA;”
- 14.1.2 County agreements with the State of California, collectively referred to as “State Agreements” and posted on the County’s website at: www.cosdcompliance.org, including:
 - 14.1.2.1 The Medi-Cal Privacy and Security Agreement Between the California Department of Health Care Services (DHCS) and the County;
 - 14.1.2.2 The Medi-Cal Behavioral Health Services Performance Agreement between DHCS and the County;
 - 14.1.2.3 The San Diego County Alcohol and Drug Program Administrator Agreement between DHCS and the County
 - 14.1.2.4 The Refugee Health Agreement between the California Department of Public Health (CDPH) and the County;
 - 14.1.2.5 The HIV/AIDS Case Reporting System Data Use Agreement between CDPH and the County;
 - 14.1.2.6 The Childhood Lead Poisoning Prevention Program between CDPH and the County;
 - 14.1.2.7 The Standard Agreement between the County and the California Department of Aging; and
 - 14.1.2.8 The Agreement for Whole Person Care Pilot Program for San Diego County with DHCS.
- 14.1.3 Title 42 Code of Federal Regulations, Chapter 1, Subchapter A, Part 2.

- 14.2 Definitions. Terms used, but not otherwise defined, in this Article shall have the same meaning as defined by HIPAA.
 - 14.2.1 “Breach” of Protected Health Information (PHI) shall have the same meaning given to the term “breach” under HIPAA and “breach” of Personal Information (PI)/Personally Identifiable Information (PII) shall have the same meaning as given to it under the State Agreements.
 - 14.2.2 “Business Associate,” when applicable, shall mean the Contractor.
 - 14.2.3 “County PHI” shall have the same meaning as PHI under HIPAA, specific to PHI under this Agreement.
 - 14.2.4 “County PI/PII” shall have the same meaning as PI/PII under the State Agreements, specific to PI/PII under this Agreement.
 - 14.2.5 “Covered Entity,” when applicable, shall mean the County.
 - 14.2.6 “Security incident” shall have the same meaning as defined by the State Agreements.

- 14.3 Responsibilities of Contractor.
 - 14.3.1 Use and Disclosure of County PHI/PI/PII. Contractor shall use the minimum County PHI/PI/PII required to accomplish the requirements of this Agreement or as required by Law. Contractor may not use or disclose County PHI/PI/PII in a manner that would violate HIPAA or the State Agreements if done by the County.
 - 14.3.2 Safeguards. Contractor shall develop and maintain a HIPAA-compliant information privacy and security program to prevent use or disclosure of County PHI/PI/PII, other than as required by this Agreement.
 - 14.3.3 Mitigation. Contractor shall mitigate, to the extent practicable, any harmful effects caused by violation of the requirements of this Article, as directed by the County.
 - 14.3.4 Subcontractors. Contractor shall ensure that any agent, including a subcontractor, to whom it provides County PHI/PI/PII, imposes the same conditions on such agents that apply to Contractor under this Article.
 - 14.3.5 Cooperation with County.
 - 14.3.5.1 Contractor shall provide access to County PHI/PI/PII, as well as internal practices and records related to County PHI/PI/PII, at the written request of County within ten (10) calendar days.
 - 14.3.5.2 Contractor will assist County regarding individual’s access, copy, amendment, accounting of disclosure, and other such requests for County PHI/PI/PII in the time and manner designated by County.
 - 14.3.6 Breach Reporting. Contractor shall report breaches and suspected security incidents to County, to include:
 - 14.3.6.1 Initial Report.
 - 14.3.6.1.1 Contractor shall email County Contracting Officer’s Representative (COR) and HHS Privacy Officer immediately upon the discovery of a suspected security incident that involves data provided to County by the Social Security Administration, as per the State Agreements.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

- 14.3.6.1.2 Contractor shall email COR and HHS Privacy Officer immediately of breaches and suspected privacy incidents involving 500 or more individuals.
- 14.3.6.1.3 Contractor shall additionally submit an online County “Privacy Incident Report” through the online portal at www.cosdcompliance.org within one (1) business day.
- 14.3.6.2 Investigation Report. Contractor shall immediately investigate such suspected security incident or breach and provide the County a complete report of the investigation within seven (7) working days using County’s “Privacy Incident Report” online form.
- 14.3.6.3 Notification. Contractor will comply with County’s request to notify individuals and/or media and shall pay any costs of such notifications, as well as any costs associated with the breach. County shall approve the time, manner and content of any such notifications before notifications are made.
- 14.3.7 Designation of Individuals. Contractor shall designate a Privacy Official and a Security Official to oversee its privacy and security requirements herein.
- 14.3.8 Data Security. Contractor shall comply with, as applicable, data privacy and security requirements specified by HIPAA and the State Agreements, which may include, but are not limited to:
 - 14.3.8.1 Workforce members, including employees, interns, volunteers, subcontractors, etc., with access to applicable County PHI/PI/PII shall:
 - 14.3.8.1.1 Complete privacy and security training to include a signed certification within thirty (30) days of hire, and at least annually thereafter; and
 - 14.3.8.1.2 Sign a confidentiality statement, prior to access to such PHI/PI/PII; and
 - 14.3.8.2 Computer warning banners for all systems containing applicable County PHI/PI/PII
 - 14.3.8.3 Comprehensive, annual security risk assessments
 - 14.3.8.4 Policies and internal controls to ensure secure transport and storage of County PHI/PI/PII in cars, airplanes, trains, and buses.
 - 14.3.8.5 Sufficient administrative, physical, and technical controls in place to protect County PHI/PI/PII
- 14.3.9 Termination. Upon termination of the Agreement for any reason, Contractor shall return or destroy all County PHI/PI/PI, except County PHI/PI/PI necessary for Contractor to continue its proper management and administration or to carry out its legal responsibilities, as mutually agreed upon by the Parties. If the Parties mutually agree that return or destruction of County PHI/PI/PI is infeasible, Contractor shall extend the protections of this Article to such County PHI/PI/PI for so long as Contractor maintains such County PHI/PI/PI.

ARTICLE 15
DISPUTES

Notwithstanding any provision of this Agreement to the contrary, the Contracting Officer shall decide any dispute concerning a question of fact arising out of this Agreement that is not otherwise disposed of by the parties within a reasonable period of time. The decision of the Contracting Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary or so grossly erroneous as necessarily to imply bad faith. Contractor shall proceed diligently with its performance hereunder pending resolution by the Contracting Officer of any such dispute. Nothing herein shall be construed as granting the Contracting Officer or any other administrative official, representative or board authority to decide questions of law, or issues regarding the medical necessity of treatment or to pre-empt any medical practitioners’ judgment regarding the medical necessity of treatment of patients in their care. The foregoing does not change the County’s ability to refuse to pay for services rendered if County disputes the medical necessity of care.

ARTICLE 16
GENERAL PROVISIONS

- 16.1 Assignment and Subcontracting. Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County; County’s consent shall not be unreasonably withheld. The Contractor shall make no agreement with any party for furnishing any of the work or services herein contained without the prior written consent of the COR, pursuant to Paragraph 1.4.
- 16.2 Contingency. This Agreement shall bind the County only following its approval by the Board of Supervisors or when signed by the Purchasing and Contracting Director.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

- 16.3 Entire Agreement. This Agreement, together with all Exhibits attached hereto and other agreements expressly referred to herein, constitute the entire agreement between the parties with respect to the subject matter contained herein. All prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, including any proposals from Contractor and requests for proposals from County, are superseded.
- 16.4 Sections and Exhibits. All sections and exhibits referred to herein are attached hereto and incorporated by reference.
- 16.5 Further Assurances. Parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the parties.
- 16.6 Governing Law. This Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of the State of California.
- 16.7 Headings. The Article captions, Clause and Section headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the construction or interpretation of any term or provision hereof.
- 16.8 Modification Waiver. Except as otherwise provided in Article 6, "Changes," above, no modification, waiver, amendment or discharge of this Agreement shall be valid unless the same is in writing and signed by both parties.
- 16.9 Neither Party Considered Drafter. Despite the possibility that one party may have prepared the initial draft of this Agreement or played the greater role in the physical preparation of subsequent drafts, neither party shall be deemed the drafter of this Agreement and that, in construing this Agreement in case of any claim that any provision hereof may be ambiguous, no such provision shall be construed in favor of one party on the ground that such provision was drafted by the other.
- 16.10 No Other Inducement. The making, execution and delivery of this Agreement by the parties hereto has been induced by no representations, statements, warranties or agreements other than those expressed herein.
- 16.11 Notices. Notice to either party shall be in writing and personally delivered; sent by certified mail, postage prepaid, return receipt requested; or emailed to the County's or Contractor's designated representative (or such party's authorized representative). Any such notice shall be deemed received by the party (or such party's authorized representative) on the earliest of the date of personal delivery, three (3) business days after deposit in the U.S. Mail, or upon sending of an email from which an acknowledgement of receipt has been received other than an out of office, unavailable, or undeliverable reply.
- 16.12 Severability. If any term, provision, covenant or condition of this Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term, provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 16.13 Successors. Subject to the limitations on assignment set forth in Clause 16.1 above, all terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective heirs, legal representatives, successors, and assigns.
- 16.14 Time. Time is of the essence for each provision of this Agreement.
- 16.15 Time Period Computation. All periods of time referred to in this Agreement shall be calendar days, unless the period of time specifies business days. Calendar days shall include all days of the week, including holidays. Business days shall be Monday through Friday, excluding County observed holidays.
- 16.16 Waiver. The waiver by one party of the performance of any term, provision, covenant or condition shall not invalidate this Agreement, nor shall it be considered as a waiver by such party of any other term, provision, covenant or condition. Delay by any party in pursuing any remedy or in insisting upon full performance for any breach or failure of any term, provision, covenant or condition shall not prevent such party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.
- 16.17 Third Party Beneficiaries Excluded. This Agreement is intended solely for the benefit of the County and its Contractor. Any benefit to any third party is incidental and does not confer on any third party to this Agreement any rights whatsoever regarding the performance of this Agreement. Any attempt to enforce provisions of this Agreement by third parties is specifically prohibited.
- 16.18 Publicity Announcements and Materials. All public announcements, including those issued on Contractor letterhead, and materials distributed to the community shall identify the County of San Diego as the funding source for contracted programs identified in this Agreement. Copies of publicity materials related to contracted programs identified in this Agreement shall be filed with the COR. County shall be advised at least twenty four (24) hours in advance of all locally generated press releases and media events regarding contracted services identified in this Agreement. Alcohol and Drug Prevention Services

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

Contractors shall notify COR or designee at least five (5) business days in advance of all Contractor generated media releases and media events regarding contracted services identified in this Agreement.

- 16.19 Critical Incidents. Contractor shall have written plans or protocols and provide employee training for handling critical incidents involving: external or internal instances of violence or threat of violence directed toward staff or clients; loss, theft or unlawful accessing of confidential client, patient or facility resident Personal Information (PI), Personally Identifiable Information (PII) and/or Personal Health Information (PHI); fraud, waste and/or abuse of Agreement funds; unethical conduct; or violation of any portion of San Diego County Board of Supervisors Policy C-25 “Drug & Alcohol Use” while performing under this Agreement. Contractor shall report all such incidents to the COR within one business day of their occurrence. However, if this Agreement includes Article 14, Contractor must adhere to the timelines and processes contained in Article 14.
- 16.20 Responsiveness to Community Concerns. Unless prohibited by applicable State or federal law, Contractor shall notify County within one business day of receipt of any material complaints including but not limited to complaints referring to issues of abuse or quality of care, submitted to Contractor orally or in writing, regarding the operation of Contractor’s program or facility under this Agreement. Contractor shall take appropriate steps to acknowledge receipt of said complaint(s) from individuals or organizations. Contractor shall take appropriate steps to utilize appropriate forums to address or resolve any such complaints received. Nothing in this provision shall be interpreted to preclude Contractor from engaging in any legally authorized use of its facility, property or business as approved, permitted or licensed by the applicable authority.
- 16.21 Criminal Background Check Requirements. Contractor shall ensure that criminal background checks are required and completed prior to employment or placement of any employee, director, officer, agent, subcontractor, consultant or volunteer in compliance with any licensing, certification, funding, or Agreement requirements, including the Statement of Work, which may be higher than the minimum standards described herein. At a minimum, background checks shall be in compliance with Board of Supervisors Policy C-28, available on the County of San Diego website, and are required for any individuals identified above who will be providing services under this Agreement or who will be assigned to sensitive positions funded by this Agreement. Sensitive positions are those that: (1) physically supervise minors or vulnerable adults; (2) have unsupervised physical contact with minors or vulnerable adults; and/or (3) have a fiduciary responsibility to any County client, or direct access to, or control over, bank accounts or accounts with financial institutions of any client. If this Agreement includes Article 14, Contractor must also adhere to requirements contained in Article 14.

Contractor shall have a documented process for reviewing the information and determine if criminal history demonstrates behavior that could create an increased risk of harm to clients. Contractor shall document review of criminal background findings and consideration of criminal history in the selection of such persons listed above in this section

- 16.21.1 Contractor shall utilize a subsequent arrest notification service during employee or volunteer’ tenure or perform criminal history annually.
- 16.21.2 Contractor shall keep the documentation of their review and consideration of the individual’s criminal history on file in accordance with paragraph 13.4 “Maintenance of Records.”
- 16.21.3 Definitions
- A. Activities of Daily Living: The basic tasks of everyday life, such as eating, bathing, dressing, toileting, and transferring.
 - B. Minor: Individuals under the age of eighteen (18) years old.
 - C. Sensitive Position: A job with responsibilities that can be criminally abused at great harm to the Agreement or the clients served. All positions that (1) physically supervise minors or vulnerable adults, (2) have unsupervised physical contact with minors or vulnerable adults, or (3) have fiduciary responsibility to a County client or direct access to, or control over client bank accounts, or serve in a financial capacity to the County client.
 - D. Vulnerable Adult: (1) Individuals age eighteen (18) years or older, who require assistance with activities of daily living and who may be put at risk of abuse during service provision; (2) Individuals age eighteen (18) years or older who have a permanent or temporary limited physical and/or mental capacity that may put them at risk of abuse during service provision because it renders them: unable to make decisions for themselves, unable to physically defend themselves, or unaware of physical abuse or other harm that could be perpetrated against them.
 - E. Volunteer: A person who performs a service willingly and without pay.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM

16.22 Health Insurance. Contractors providing direct services to the public shall ask if the client and any minor(s) for whom they are responsible have health insurance coverage. If the response is “no” for client or minor(s) the Contractor shall refer the client to Covered California at <https://www.coveredca.com/> or to 1-800-300-1506.

16.23 Survival. The following sections or articles of this Agreement shall survive the expiration or earlier termination of this Agreement: Sections 8.1, 8.13, 8.14, 8.15, 8.21, 10.1, 11.1, 11.2, and 11.4, and Articles 7 and 13.

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**COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM**

SIGNATURE PAGE

AGREEMENT TERM. The initial term of this Agreement shall begin the 1st day of February 2020 and end on June 30, 2020. (“Initial Term”).

OPTION TO EXTEND. The County shall have the option to extend the term of this Agreement for 3 increments of 1 year(s) each for a total of 3 years beyond the expiration of the Initial Term, not to exceed June 30, 2023, pursuant to Exhibit C Pricing Schedule or other applicable pricing provisions of this Agreement. Unless County notifies Contractor in writing not less than thirty (30) days prior to the expiration date that the County does not intend to extend the Agreement, the Agreement will be automatically extended for the next option period.

Options to Extend For One To Six Additional Months at End of Agreement. County shall also have the option to extend the term of this Agreement, in one or more increments, for a total of no less than one (1) and no more than six (6) calendar months (“Incremental Options”). The County may exercise each Incremental Option by providing written notice to Contractor no fewer than fifteen (15) calendar days prior to expiration of this Agreement. The rates in effect at the time an Incremental Option is exercised shall apply during the term of the Incremental Option.

COMPENSATION: Pursuant to Exhibit C or other applicable pricing provisions of this Agreement, County agrees to pay Contractor a sum not to exceed one hundred thirty two thousand six hundred ninety three dollars and sixty eight cents (\$132,693.68) for the initial term of this Agreement and a sum not to exceed two hundred thirty three thousand eight hundred sixty three dollars and eight cents (\$233,863.08) for each of the 3 one-year option periods, for a maximum Agreement amount of eight hundred thirty four thousand two hundred eighty two dollars and ninety two cents (\$834,282.92), in accordance with the method of payment stipulated in Article 4.

COR. The County has designated the following individual as the Contracting Officer’s Representative (“COR”)

Patricia Rollin, Administrative Analyst III
5560 Overland Avenue, Ste. 310
San Diego, CA 92123
Phone 858-505-6533 and email Patricia.Rollin@sdcounty.ca.gov

CONTRACTOR’S REPRESENTATIVE. The Contractor has designated the following individual as the Contractor’s Representative.

Jilaine Hernandez, Community Services Supervisor III
201 N Broadway Avenue
Escondido, CA 92025
Phone 760-839-4934, FAX 760-839-6269 and email jahernandez@escondido.org

IN WITNESS WHEREOF, County and Contractor have executed this Agreement effective as of the date of the last signature below.

COUNTY OF SAN DIEGO

CITY OF ESCONDIDO

By: _____
JOHN M. PELLEGRINO, Director
Department of Purchasing and Contracting

By: _____
PAUL MCNAMARA, Escondido Mayor

Date: _____

Date: _____

By: _____
ZACHARY BECK, Escondido City Clerk

Date: _____

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

1. Scope of Work/Purpose

Contractor shall provide nutritionally sound meals to individuals sixty (60) years of age and older living throughout San Diego County and may provide transportation to and from the congregate dining site. The meals shall be provided in a congregate (group setting) at Senior Dining Centers. There is no charge to the senior for these services, but Contractor shall provide the opportunity for the senior to make a contribution at a suggested donation amount. The eligible population for Title III C-1. As defined as individuals sixty (60) years of age or older, with emphasis on those in greatest economic and social need with particular attention to low-income minority older individuals, older individuals with Limited English Proficiency (LEP), and older individuals residing in rural areas.

2. Background Information

The Senior Nutrition Program, which began in the County of San Diego in 1975, is funded through Title III of the Older Americans Act, a federal program administered by State and County governments and operated under rules, policies, and regulations of the California Department of Aging (CDA). County of San Diego Health and Human Services Agency (HHSA), Aging & Independence Services (AIS), as the designated Area Agency on Aging, oversees this program. Nutrition services assist older individuals to live independently by promoting better health and reduced isolation through a program of coordinated congregate meals, home-delivered meals, transportation and supportive services. In fiscal year 2017/2018 various contractors served approximately 7,500 clients with lunches at several sites throughout the county, and many contractors also served approximately 2,300 clients with home-delivered meals. Breakfast is also provided at some sites and to some home-delivered meal recipients.

Live Well San Diego Vision: The County of San Diego, Health and Human Service Agency (HHSA), supports the *Live Well San Diego* vision of Building Better Health, Living Safely, and Thriving. *Live Well San Diego*, developed by the County of San Diego, is a comprehensive, innovative regional vision that combines the efforts of partners inside and outside County government to help all residents be healthy, safe, and thriving. All HHSA partners and contractors, to the extent feasible, are expected to advance this vision. Building Better Health focuses on improving the health of residents and supporting healthy choices. Living safely seeks to ensure residents are protected from crime and abuse, neighborhoods are safe, and communities are resilient to disasters and emergencies. Thriving focuses on promoting a region in which residents can enjoy the highest quality of life.

On December 13, 2016, the San Diego County Board of Supervisors at the recommendation of Chairman Ron Roberts and Supervisor Greg Cox unanimously voted to establish the *Live Well San Diego* Food System Initiative (Initiative), which positions the County of San Diego to take on a greater role in the advancement of a safe, healthy, and robust food system. As part of the Initiative, the County Board of Supervisors also received the Eat Well Practices, a guide for expanding healthy, local and sustainable food and beverage options for the County. The County updated this policy to reflect the San Diego County Board of Supervisors' direction as well as United States Department of Agriculture (USDA) regulations, General Services Administration's Wellness and Sustainability requirements and Center for Disease Control's Smart Food Choices: How to Implement Food Service Guidelines in Public Facilities.

Information about *Live Well San Diego* can be found on the County's website and a website dedicated to the vision:

2.1 http://www.sdcounty.ca.gov/hhsa/programs/sd/live_well_san_diego/index.html

2.2 <http://www.LiveWellSD.org>

3. Goals

3.1 Contractor shall provide the services described herein to accomplish the following goals:

3.1.1 Assist individuals sixty (60) years of age and older to live independently by promoting better health and reduced isolation as a result of the Senior Nutrition Program, a program of coordinated congregate meals and transportation to and from congregate meal sites.

3.2 Contractor shall comply with the Regulations/Standards that apply to the Title IIIC Elderly Nutrition

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

Program(ENP).

3.2.1 Regulation websites are as follows:

[California Code of Regulations - Title 22, Division 1.8](#)

[California Retail Food Code \(CRFC\)](#)

[California Welfare and Institutions Code](#)

<https://www.acl.gov/about-acl/authorizing-statutes/older-americans-act>

<https://www.aging.ca.gov/PM/> (For Year 2012 – PM12-17(P) and attachment)

[Occupational Safety and Health Administration\(OSHA\)](#)

[Dietary Guidelines for Americans 2015 \(DGA\) CDA Standard Agreement](#)

4. Deliverables

4.1 Meals.

4.1.1 Meals shall be planned in accordance with:

4.1.1.1 Title 22, Social Security, Division 1.8 California Department of Aging, Chapter 4 (1) Title III Programs – Program and Service Provider Requirements, Article 5. Title III C- Elderly Nutrition Program (herein referred to as Title 22) Section 7638.5 Nutrition Requirements of Meals:

https://www.aging.ca.gov/ProgramsProviders/AAA/Nutrition/Code_of_Regulations/

4.1.1.2 CDA Program Memo 12-17 (P) Nutrition Older Americans Act Nutrition Services Menu Guidance for Compliance with Dietary Guidelines for Americans, 2010:

<https://www.aging.ca.gov/PM/>(For Year 2012 – PM12-17(P) and attachment).

4.1.2 Each meal shall contain at least one-third (1/3) of the current Dietary Reference Intakes (DRIs) as established by the Food and Nutrition Board, Institute of Medicine, National Academy of Sciences (2007), which are incorporated by reference.

http://www.nationalacademies.org/hmd/~media/Files/Activity%20Files/Nutrition/DRI-Tables/2_%20RDA%20and%20AI%20Values_Vitamin%20and%20Elements.pdf?la=en

4.1.2.1 If the program provides two (2) meals per day, second meal shall be different from the first meal and a minimum of two-thirds (2/3) of the DRI shall be provided.

4.1.3 Meals shall comply with the Dietary Guidelines for Americans (2015, 8th edition) established by the U.S. Department of Agriculture and the U.S. Department of Health and Human Services.
<http://fnic.nal.usda.gov/dietary-guidance/dietary-guidelines>

4.1.4 Contractor shall submit menus to the County's Registered Dietitian for review and approval four (4) weeks prior to the start of the month. Menus shall reflect cultural and ethnic dietary needs of participants, when feasible and appropriate.

4.1.5 Contractor shall meet, when feasible, the Guidelines for Congregate/Custodial Meal Programs in the Eat Well Standards and shall not supersede Section 4.1.1 above.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

http://www.livewellsd.org/content/dam/livewell/topics/Eat-Well-Practices/PDFs_EatWell/Eat%20Well%20Practices.pdf

- 4.1.6 Contractor shall include, when feasible, the use of locally grown foods and identify potential partnerships with local producers and providers of locally grown foods.
- 4.1.7 Contractor shall ensure that each food facility has equipment necessary for preparing and serving meals that are safe and of good quality.
- 4.1.8 The County's Registered Dietitian shall provide input, review, and approval of the menus to ensure compliance with Title 22 CCR 7634.3 (d)(1) and Title 22 CCR 7638.
- 4.2 Congregate Meals. Contractor shall provide the maximum number of meals annually, pursuant to Exhibit C, to eligible seniors in a congregate setting a minimum of five (5) days per week. A lesser frequency must be approved in advance by the County.
 - 4.2.1 Contractor shall complete an initial client assessment to determine the eligibility of participants. Factors include age and nutrition screening assessments. All assessments shall be made available to the Contracting Officer's Representative (COR) and County's Registered Dietitian upon request.
 - 4.2.2 Contractor shall complete a reassessment on an annual basis prior to or on the date of the original assessment.
 - 4.2.3 Participants shall not be means tested [OAA 315(b)(3)].
 - 4.2.4 Contractor shall have a paid staff member or a trained volunteer responsible for the day-to-day activities at each site, and be physically present on site during the time nutrition program activities are taking place.
 - 4.2.5 Contractor shall ensure that each congregate meal site has equipment, including tables and chairs that is sturdy and appropriate for older individuals. Tables shall be arranged to assure ease of access and encourage socialization. (Title 22 s7638.1(b)(3)).
 - 4.2.6 All congregate nutrition sites shall be open and accessible to the public.
 - 4.2.7 Contractor shall ensure that eligible individuals with ADA accessibility requirements are not excluded from, or restricted in, participating in the program.
 - 4.2.7.1 All sites shall be ADA accessible. CDA Standard Agreement Exhibit D. Article II, C.3
 - 4.2.7.1.1 Americans with Disabilities Act (ADA) regulations and design:
<https://www.ada.gov/>
 - 4.2.7.2 Contractor shall make accommodations for individuals with ADA accessibility requirements.
 - 4.2.8 Contractor shall post monthly menus at the congregate site in a location easily seen by participants, be legible and in the language of the majority of the participants. Daily meal(s) shall match the County's Registered Dietitian approved menu.
- 4.3 Transportation. Contractor shall provide units of transportation annually, pursuant to Exhibit C, to eligible program participants. Contractor shall count each trip to or from a senior dining center for participation in the meal program as a one-way trip.
 - 4.3.1 Contractor's staff and/or volunteers providing transportation services shall possess a current and valid driver's

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

license issued by the State of California, and Contractor shall maintain a copy(ies) of said licenses on site for review by COR. Drivers shall maintain the appropriate type of California license for the type and size of the vehicle being driven to transport passengers

4.4 Nutrition Education. Contractor shall provide a minimum of four (4) nutrition education programs per contract year to participants in each of Contractor’s congregate sites.

4.4.1 Nutrition Education services shall be provided in accordance with Title 22, Section 7638.11 Nutrition Education Services for Participants.

4.4.2 Nutrition Education shall include teaching participants about healthful food choices, balancing food and physical activity, and promoting behaviors recommended in the Dietary Guidelines for Americans.

4.4.3 An annual needs assessment shall be performed by the Contractor to determine the nutrition education services needed by congregate meal and transportation participants.

4.4.4 The County’s Registered Dietitian shall provide input, review and approve the content of nutrition education prior to presentation.

4.4.5 Contractor shall develop an annual nutrition education plan which shall be implemented, monitored by the County’s Registered Dietitian and kept on file for review by the County. The plan shall meet the requirements of Title 22, Section 7638.11 Nutrition Education Services for Participants.

5. Target Population and Geographic Service Area

5.1 Contractor shall provide services to eligible population for Title III C-1 and Title III B. As defined as individuals sixty (60) years of age or older, with emphasis on those in greatest economic and social need with particular attention to low-income minority older individuals, older individuals with Limited English Proficiency (LEP), and older individuals residing in rural areas. The areas identified as greatest economic and social need are in red on the AIS Senior Nutrition Map:

<http://sdcounty.maps.arcgis.com/apps/webappviewer/index.html?id=c1da92cfb82d4294a7356e2965310f0f>

5.2 Client address must be in the following zip codes to qualify as a Rural Area:

5.2.1 91905 – Boulevard

5.2.2 91906 – Campo

5.2.3 91916 – Descanso

5.2.4 91917 - Dulzura

5.2.5 91934 – Jacumba

5.2.6 91935 – Jamul

5.2.7 91962 – Pine Valley

5.2.8 91963 – Potrero

5.2.9 91980 – Tecate

5.2.10 92003 – Bonsall

5.2.11 92004 – Borrego Springs/Ocotillo Wells

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

- 5.2.12 92036 – Julian
- 5.2.13 92059 – Pala
- 5.2.14 92061 – Pauma Valley, Pala
- 5.2.15 92066 – Ranchita, Warner Springs
- 5.2.16 92070 – San Ysabel
- 5.2.17 92082 – Valley Center
- 5.2.18 92068 – Warner Springs

5.3 Contractor shall post congregate dining site location(s), days of service, hours of service and type(s) of meal served (breakfast and/or lunch) on Contractor’s website.

- 5.3.1 Congregate Meal Site: North Inland Region: Escondido Senior Center, 210 Park Avenue, Escondido, CA 92025, Monday thru Friday, 11:30 am to 12:20 pm (Lunch)

6. Payment for Services

6.1 Contractor shall submit a monthly claim for the actual service deliverables for the prior month to the COR by the fifteenth (15th) of the following month.

6.1.1 Invoices/Claims will not be processed for payment until COR-approved, which will occur once all required information is included and submitted to COR.

6.2 Funding Components: Fiscal Terms and Conditions. The Senior Nutrition Program is funded by the following components and follow the fiscal terms and conditions listed below:

6.2.1 Older Americans Act (OAA)/California Department of Aging (CDA) Title III Allocation. This funding is allocated as follows:

6.2.1.1 State of California Title III C-1 Funding Stream. This is the fixed supplemental rate dollar amount for a portion of Contractor’s congregate meals costs. Payments are monthly compensation payments to Contractor for the provision of congregate meals according to Exhibit A, Statement of Work

6.2.1.2 State of California Title III B Funding Stream. This is the fixed supplemental rate dollar amount for a portion of Contractor’s transportation costs. Payments are monthly compensation payments to Contractor for the provision of transportation (one-way trips) services according to Exhibit A, Statement of Work.

6.2.2 Nutrition Services Incentive Program (NSIP). This is the fixed supplemental rate dollar amount for incentive payments from the NSIP. NSIP payments are monthly incentives based on the number of meals served per Exhibit C – Pricing Schedule. This amount will be determined annually by the County, based on funds received from the State and Contractor’s prior year’s performance (i.e., meals served). NSIP funds shall only be used to purchase food to be used in the Senior Nutrition Program and not to meet cost sharing or to match funds for any other federal program.

6.2.3 One-Time-Only (OTO) Allocation. OTO allocations are one-time annual monetary awards for the purchase of equipment/vehicle that enhances the delivery of services to the eligible population which are directly related to the Senior Nutrition Program. OTO awards are based on funds received from the State of California, and must be approved in advance by the County. Contractor shall procure the goods or services

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

by utilizing competitive measures, and provide documentation of receiving three (3) or more quotes to substantiate fair and reasonable pricing. County will reimburse costs upon submission of receipts with the invoice in the month following the month in which the expenditure(s) occurred.

- 6.2.4 Contractor's program income. Program income means revenue generated by the Contractor from contract supported activities and may include:
- 6.2.4.1 Voluntary contributions received from a participant or other party for services received.
 - 6.2.4.2 Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
 - 6.2.4.3 Royalties received on patents and copyrights from contract supported activities.
 - 6.2.4.4 Proceeds from the sale of items purchased under a CDA contract agreement. No equipment purchased with CDA funds will be sold without preapproval from the County and the CDA.
 - 6.2.4.5 Contractor shall not receive funds from another source for the cost of the same meal, equipment, or services [2 CFR 200.403(f)][45 CFR 75.403(f)] and OAA Title VI. In order to avoid duplicate reimbursement, Contractor shall not claim the cost of the same meal, equipment or services from another funding source.
- 6.2.5 Contractor's other revenue, such as fundraising and other donations. The fixed supplement rates are determined to offset the cost of providing services based on and subject to availability of funds from the State of California, California Department of Aging (CDA). Said compensation is not designed to fully fund the Senior Nutrition Program. Funding provided by County is only intended to supplement meal cost.
- 6.2.6 The County shall have the authority to increase or reduce the contract compensation, via the issuance of an amendment, signed by the County's Director of Purchasing and Contracting.
- 6.2.7 Contractor shall create a waiting list only when Contractor projects to serve over the contracted amount allocated in Exhibit C. If Contractor projections determines a need to establish a waiting list Contractor shall provide written notification to COR within twenty-four hours (24) prior to establishing a waiting list and provide the following:
- 6.2.7.1 Justification as to why eligible individuals are being placed on waiting list.
 - 6.2.7.2 Justification of the ranking of the eligible individual placement on the waiting list shall be based on greatest need and/or in accordance with Contractor's established policy and approved by COR. Copy of policy shall be provided to COR annually.

7. General Requirements for Service Delivery

- 7.1 Contractor's food services shall comply with the California Code of Regulations, Title 22, The California Retail Food Code(CRFC)
(<https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/CaliforniaRetailFoodCode.pdf>)
- 7.2 Contractor shall comply with the Division of Occupational Safety and Health (Cal/OSHA), Department of Industrial Relations requirements (<https://www.dir.ca.gov/dosh/>) regarding staff and participant safety.
- 7.3 Contractor shall possess and maintain a valid health permit from the County of San Diego Department of Environmental

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

Health (<http://www.sdcounty.ca.gov/deh/>) for food preparation sites and shall post the permit as required. A copy of a valid health permit for a subcontracted Caterer or Vendor must be kept on file by the Contractor,

- 7.4 Food preparation is defined as packaging, processing, assembling, portioning, or any operation that changes the form, flavor or consistency of food.
- 7.5 A Limited Service Charitable Feeding Site Registration from the County of San Diego Department of Environmental Health (<http://www.sdcounty.ca.gov/deh/>) is required for satellite sites and catered meal sites where no food preparation is taking place.
- 7.6 The County’s Registered Dietitian shall conduct announced and unannounced site visits to food preparation and congregate meal sites quarterly for compliance with the above stated regulations.
- 7.7 Contractor shall provide County-supplied SNAP/CalFresh program information to all senior nutrition clients as the information is available.
- 7.8 Contractor shall ensure policies that support tobacco-free environments are in place, which includes:
- 7.8.1 Smoke-free entrances.
- 7.8.2 Smoke-free facilities (no designated smoking areas).
- 7.8.3 No smoking signs are posted at all entrances/exits.
- 7.9 Staff and Volunteer Orientation and Training.
- 7.9.1 All of Contractor staff, paid and volunteer, shall be oriented and trained to perform their assigned responsibilities and tasks per Title 22 CCR 7636.5 (a)-(f).
- 7.9.1.1 At a minimum, training shall include:
- 7.9.1.1.1 Food safety, prevention of foodborne illness, and HACCP principles.
- 7.9.1.1.2 Accident prevention, instruction on fire safety, first aid, choking, earthquake preparedness, and other emergency procedures.
- 7.9.1.2 Contractor shall provide a minimum of four (4) hours of in-service staff training annually to paid and volunteer congregate and home delivered meal staff.
- 7.9.1.3 Contractor shall provide a yearly written plan that shall be developed, implemented and maintained by the Contractor that identify who is to be trained, who will conduct training, content and date scheduled.
- 7.9.1.4 The County’s Registered Dietitian shall review and approve the content of the staff/volunteer training prior to presentation.
- 7.9.1.5. Contractor training sessions shall be evaluated by those receiving the training and attendance records shall be maintained and on file.
- 7.9.1 Contractor shall ensure all staff and volunteers are trained in elder abuse awareness and know how and when to report if they suspect an elder may have symptoms of abuse or neglect. Contractor shall contact local law enforcement or call 1-800-510- 2020 to report suspected elder abuse.
- 7.9.2 Contractor shall comply with the Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations requirements regarding staff and participant safety. All Contractor

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

facilities are subject to inspection and approval.

- 7.10 Performance Expectations. Contractor shall maintain ninety-five percent (95%) compliance with service levels stated in this Agreement. A Performance Improvement Plan may be required to be submitted by Contractor if Contractor consistently (i.e., three (3) consecutive months or more) falls below ninety percent (90%) of the service levels. Service levels shall be reviewed monthly, quarterly, and annually by Contractor and County staff. Failure to bring service levels up to the contracted levels may result in re-negotiation of the contracted service levels or termination of the contract. The Exhibit C – Pricing Schedule may be revised to be commensurate with the lower level of service(s).
- 7.11 Reference to AIS. All printed materials, publicity, and media outreach prepared or conducted by Contractor shall include a reference to County of San Diego Health and Human Services Agency (HHSA), Aging & Independence Services (AIS) as the funding source. County of San Diego logos shall be included as appropriate. Copies of publicity materials related to programs identified in this contract shall be provided to the COR in advance for pre-approval as referenced in Section 16.18 of the contract.
- 7.12 Match. Contractor shall provide a minimum of an eleven point eleven percent (11.11%) match for program costs in cash or in-kind contributions. In-kind contributions are defined as the value of non-cash contributions donated to support the project or program (e.g., property, service, etc.).
- 7.13 Cultural Competence and Diversity. Contractor shall support the County of San Diego, Health and Human Services Agency, Aging & Independence Services (AIS) through organizational and systematic practices demonstrating cultural competence and diversity. Contractor shall have an employee training plan that addresses these competencies and shall provide a copy to the COR annually. All services provided shall be oriented to meet the linguistic and cultural needs of the diverse clients to be served.
- 7.14 Vehicles. Contractor shall provide their own vehicles to deliver meals to nutrition sites and/or to transport clients to congregate sites unless vehicles are provided by the County. Vehicles may be provided by County, through this Agreement based on need and the availability of funding but are not guaranteed. Contractor shall comply with all rules and regulations of the State of California Department of Motor Vehicles, the California Code of Regulations, the California Retail Food Code, Exhibit B –Insurance Requirements, Exhibit B-1 – Vehicle Usage Agreement and a separate usage, maintenance, and operations agreement which shall be incorporated herein.
- 7.15 AIS Contractor Meetings. AIS may schedule Contractor meetings on an as-needed basis pertaining to the needs of the contract requirements. Contractor shall have at least one representative present at all meetings. These meetings are at the discretion of AIS and will be held at the AIS office at 5560 Overland Ave, San Diego, CA 92123 and location is subject to change if needed.
- 7.16 Detailed Budget. Contractor shall use the Nutrition Contract Budget Template to submit a detailed budget with line items to the COR on an annual basis no later than July 1st of each fiscal year

8 Specific Requirements for Service Delivery

- 8.9 Meal Service. Contractor shall:
 - 8.9.1 Provide a hot or other appropriate meal approved by the County Registered Dietitian that meets minimum nutrition requirements, served a minimum of five (5) or more days a week in a congregate setting that is open to the public [45 CFR 1321.53(b)(3)].
 - 8.9.2 Each meal shall comply with the most recent DGA and provide each participating older individual:
 - 8.9.2.1 A minimum of 33 1/3 percent DRIs per meal if the program provides one meal per day.
 - 8.9.2.2 A minimum of 66 2/3 percent DRIs per meal if the program provides 2 meals per day.
 - 8.9.2.3 If providing multiple meals per day, program shall ensure that each participant is receiving both

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

meals, or that each of the meals provides 33 1/3 percent DRIs

- 8.10 Staffing/Administration. Contractor shall maintain an adequate number of qualified persons to assure the satisfactory implementation of: program leadership; program planning; provision of nutrition services; transportation; outreach and other services; volunteer activities; financial and contract management; data collection for required federal, State and County reports and records. **Notification of program changes must be made to the County within twenty-four (24) hours when said changes will affect the delivery of services to the participants.**
- 8.10.1 Contractor shall comply with Title 22 Section 7636.3 Staff Qualifications. https://www.aging.ca.gov/ProgramsProviders/AAA/Nutrition/Code_of_Regulations/
- 8.11 Meal Contributions by Eligible Participants. Eligible persons receiving nutrition services shall be given the opportunity to contribute to the cost of the service provided and shall determine for themselves what they are able to contribute. Contractor shall post a suggested donation amount. Contractor shall not deny services to any person because of failure to contribute [OAA 315(b)(4)]22CCR 7638.9]. Methods to receive contributions shall ensure anonymity and protect the privacy and confidentiality of each recipient with respect to the recipient's contribution or lack of contribution. Contractor shall provide a 30-day notification to participants of increases in recommended donations.
- 8.11.1 Contractor shall establish written procedures to protect contributions and fees from loss, mishandling, and theft. Such procedures shall be kept on file at Contractor's site, and provided to the COR annually for pre-approval.
- 8.11.2 Contributions are considered program income and shall be used in support of the nutrition program.
- 8.11.3 Meal participants shall be informed that there is no obligation to contribute and contributions are purely voluntary.
- 8.12 Meal Charges for Staff and Guests under Sixty (60) Years of Age. Contractor may serve meals to staff and guests under sixty (60) years of age if doing so shall not deprive an eligible participant of a meal. These individuals shall pay at least the full cost of the meal. Contractor shall post the price for guests under sixty (60) years of age.
- 8.12.1 Charges for meals are considered program income and shall be used in support of the nutrition program.
- 8.13 Records, Reports and Distribution Information. Contractor shall maintain a system for the collection of data that will accurately reflect the Contractor's program and financial operations, will meet requirements with respect to confidentiality, and fulfill the information required by this contract.
- 8.13.1 Contractor shall have a clear sign-in process utilized at each meal. Guests under sixty (60) years of age shall be recorded separately or in a way that clearly indicates they are under sixty (60) years of age.
- 8.13.2 Contractor shall report all program income and match to the County on a monthly basis.
- 8.14 Holidays. A maximum of twelve (12) recognized holiday closings will be allowed per year. A holiday schedule must be submitted to the COR at the beginning of each fiscal year for pre-approval, no later than thirty (30) days after the start of the new fiscal year. Additional closures will be handled on a case-by-case basis and require a minimum of thirty (30) days advance notice to the County.
- 8.6.1 If more than twelve (12) holiday closings are taken, Contractor must make up the days lost.
- 8.15 Data Collection and Reporting.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

- 8.15.1 Contractor shall utilize the AIS-identified automated data collection system to:
- 8.7.1.1 Register and maintain all CDA required client demographic and assessment data for all active clients. AIS Client Intake & Assessment Form shall be used to collect required information.
 - 8.7.1.2 Track and report all service unit delivery data (via bar-coding and manual data entry) on an on- going basis.
- 8.15.2 Contractor shall maintain and report accurate daily meal counts, nutrition education, and transportation units in the County-identified automated data collection system.
- 8.15.3 Contractor shall submit monthly summary reports of the information listed in 8.7 and claims to the designated COR by the fifteenth (15th) of the month following the month in which the services were provided. Claims will be paid upon successful determination of reconciled data as mentioned in paragraphs 8.7.1.1 and 8.7.1.2.
- 8.15.4 Contractor shall submit a completed report of actual costs expended for each service category at the end of each contract fiscal year for the term of the contract, as requested by the County, in the form and format as provided by COR.
- 8.16 Customer Satisfaction Survey. Contractor shall annually obtain the views of participants regarding the services received through the development and utilization of a customer satisfaction survey.
- 8.16.1 Contractor shall provide a summary report of the results of the satisfaction survey to the COR by the fifteenth (15th) of the month following the completion of the survey cycle.
 - 8.16.2 Contractor shall make all survey results available to COR upon request.
- 8.17 Grievance Procedure. Contractor shall develop a written grievance process per Title 22 CCR 7400(a)(2)-(3) for clients to report grievances pertaining to the nutrition program, inclusive of the complainant’s rights to privacy. The process shall be posted in a visible and accessible area of each congregate site. Homebound individuals shall be notified of the grievance process in writing. Contractor shall provide copy to COR annually for pre-approval.

9 Disaster Preparedness

- 9.1 As a provider of critical services to seniors and individuals with ADA accessibility requirements during a disaster, each multipurpose senior center and each senior center, as defined in subdivisions (j) and (n) of Section 9591 (n) “Senior center” means a community focal point on aging, where older individuals as individuals or in groups come together for services and activities which enhance their dignity, support their independence, and encourage their involvement in and with the community. Senior center programs consist of a variety of services and activities in areas, such as education, creative arts, recreation, advocacy, leadership development, employment, health, nutrition, social work, and other supportive services.

WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 8.5. MELLO-GRANLUND OLDER CALIFORNIANS ACT [9000 - 9750] (*Division 8.5 repealed and added by Stats. 1996, Ch. 1097, Sec. 13.*)

CHAPTER 9.5. Multipurpose Senior Centers And Senior Centers Emergency Operations Plans [9625- 9625.] (*Chapter 9.5 added by Stats. 2006, Ch. 620, Sec. 2.*)

- 9.2 Contractor shall:
- 9.2.1 Develop and maintain a written emergency operations plan to ensure preparedness and the ability to continue

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT A – STATEMENT OF WORK
CONGREGATE MEALS WITH TRANSPORTATION IN THE NORTH INLAND REGION

to deliver services during and post-disaster. Contractor shall submit the plan for review and pre-approval by COR annually and shall keep the plan on site.

- 9.2.1.1 This emergency operation plan shall include, but not be limited to, all of the following:
 - 9.2.1.2 Facility preparation procedures to identify the location of first aid supplies, secure all furniture, appliances, and other free-standing objects, and provide instructions for operating gas and water shutoff valves.
 - 9.2.1.3 An inventory of neighborhood resources that shall include, but not be limited to, the identification and location of all the following nearby resources:
 - 9.2.1.3.1 Generators
 - 9.2.1.3.2 Telephones
 - 9.2.1.3.3 Hospitals and public health clinics
 - 9.2.1.3.4 Fire stations and police stations
 - 9.2.1.4 Evacuation procedures, including procedures to accommodate those who will need assistance in evacuating the center. This evacuation plan shall be located in an area that is accessible to the public.
 - 9.2.1.5 Procedures to accommodate seniors, individuals with ADA accessibility requirements, and other community members in need of shelter at the senior center, in the event that other community facilities are inoperable.
 - 9.2.1.6 Personnel resources necessary for post disaster response.
 - 9.2.1.7 Procedures for conducting periodic evacuation drills, fire drills, and earthquake drills.
 - 9.2.1.8 Procedures to ensure service continuation after a disaster.
 - 9.2.1.9 Consideration of cultural and linguistic barriers in emergency and evacuation plans, and ways to appropriately address those barriers.
 - 9.2.1.9.1 In the development of the emergency operations plans required by this chapter, multipurpose senior centers and senior centers shall coordinate with the local Area Agency on Aging, as defined in Section 9006, and other relevant agencies and stakeholders.
(Amended by Stats. 2013, Ch. 352, Sec. 537. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)
 - 9.2.1.10 Where feasible and appropriate, make arrangements for the availability of meals to participants during a major disaster, as defined in 42 U.S.C. 5122(2).
- 9.3 Provide the County with the following:
- 9.3.1 Primary and secondary emergency contact phone numbers.
 - 9.3.2 Status updates, upon request, during and post-disaster, including the following at a minimum:
 - 9.3.2.1.1 Operability of sites and/or services.
 - 9.3.2.1.2 Services provided to the target population.
 - 9.3.2.1.3 Service capacity.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT B – INSURANCE REQUIREMENTS

Without limiting Contractor's indemnification obligations to County, Contractor shall provide at its sole expense and maintain for the duration of this contract, or as may be further required herein, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of the work by the Contractor, his agents, representatives, employees or subcontractors.

1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- A. Commercial General Liability, Occurrence form, Insurance Services Office form CG0001.
- B. Automobile Liability covering all owned, non-owned, hired auto Insurance Services Office form CA0001.
- C. Automobile Physical Damage providing ACV Comprehensive and Collision on Program vehicles.
- D. Workers' Compensation, as required by State of California and Employer's Liability Insurance.

2. Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- A. Commercial General Liability including Premises, Operations, Products and Completed Operations, Contractual Liability, and Independent Contractors Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. The General Aggregate limit shall be \$4,000,000.
- B. Automobile Liability: \$1,000,000 each accident for bodily injury and property damage.
- C. Automobile Physical Damage: Coverage shall include a Loss Payable clause to the County of San Diego. Maximum deductible of \$2,500 per occurrence
- C. Employer's Liability: \$1,000,000 each accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of County of San Diego.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. As a requirement of this contract, any available insurance proceeds in excess of the specified minimum limits and coverage stated above, shall also be available to the County of San Diego.

3. Deductibles and Self-Insured Retentions

Any self-insured retention must be declared to and approved by County Risk Management.

4. Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain the following provisions:

- A. Additional Insured Endorsement
The County of San Diego, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively are to be covered as additional insureds on the General Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed by or on behalf of the Contractor. General Liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO from CG 2010 11 85 or **both** CG 2010, CG 2026, CG 2033, or CG 2038; **and** CG 2037 forms if later revisions used).
- B. Primary Insurance Endorsement
For any claims related to this contract, the Contractor's insurance coverage, including any excess liability policies, shall be primary insurance at least as broad as ISO CG 2001 04 13 as respects the County, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively. Any insurance or self-insurance maintained by the County, its officers, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

COUNTY CONTRACT NUMBER 561764
AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
EXHIBIT B – INSURANCE REQUIREMENTS

C. Notice of Cancellation

Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

D. Severability of Interest Clause

Coverage applies separately to each insured, except with respect to the limits of liability, and that an act or omission by one of the named insureds shall not reduce or avoid coverage to the other named insureds.

General Provisions

5. Qualifying Insurers

All required policies of insurance shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current policy holder's alphabetic and financial size category rating of not less than A, VII according to the current Best's Key Rating guide, or a company of equal financial stability that is approved in writing by County Risk Management.

6. Evidence of Insurance

Prior to commencement of this Contract, but in no event later than the effective date of the Contract, Contractor shall furnish the County with a copy of the policy declaration and endorsement pages along with the certificates of insurance and amendatory endorsements effecting coverage required by this clause. Policy declaration and endorsement pages shall be included with renewal certificates and amendatory endorsements submissions and shall be furnished to County within thirty days of the expiration of the term of any required policy. Contractor shall permit County at all reasonable times to inspect any required policies of insurance.

7. Failure to Obtain or Maintain Insurance; County's Remedies

Contractor's failure to provide insurance specified or failure to furnish certificates of insurance and amendatory endorsements or failure to make premium payments required by such insurance, shall constitute a material breach of the Contract, and County may, at its option, terminate the Contract for any such default by Contractor.

8. No Limitation of Obligations

The foregoing insurance requirements as to the types and limits of insurance coverage to be maintained by Contractor, and any approval of said insurance by the County are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Contractor pursuant to the Contract, including, but not limited to, the provisions concerning indemnification.

9. Review of Coverage County retains the right at any time to review the coverage, form and amount of insurance required herein and may require Contractor to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

10. Self-Insurance

Contractor may, with the prior written consent of County Risk Management, fulfill some or all of the insurance requirements contained in this Contract under a plan of self-insurance. Contractor shall only be permitted to utilize such self-insurance if in the opinion of County Risk Management, Contractor's (i) net worth, and (ii) reserves for payment of claims of liability against Contractor, are sufficient to adequately compensate for the lack of other insurance coverage required by this Contract. Contractor's utilization of self-insurance shall not in any way limit liabilities assumed by Contractor under the Contract.

11. Subcontractors' Insurance

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors. Such Additional Insured endorsement shall be attached to the certificate of insurance in order to be valid and on a form at least as broad as ISO from CG 2010 11 85 or both CG 2010, CG 2026, CG 2033, or CG 2038; and CG 2037 forms if later revisions used. If any sub contractor's coverage does not comply with the foregoing provisions, Contractor shall defend and indemnify the County from any damage, loss, cost, or expense, including attorneys' fees, incurred by County as a result of subcontractor's failure to maintain required coverage.

12. Waiver of Subrogation

Contractor hereby grants to County a waiver of their rights of subrogation which any insurer of Contractor may acquire against County by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the County for all work performed by the Contractor, its employees, agents and subcontractors.

**COUNTY CONTRACT NUMBER 561764
 AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
 EXHIBIT C – PRICING SCHEDULE**

COMPENSATION: The compensation listed below is not designed to fully fund the program. The fixed supplemental rates are developed annually based on funding and determined to offset the cost of providing services. These rates are subject to availability of funding from the State of California, California Department of Aging (CDA) and can change annually. A completed report of actual costs (closeout report) expended shall be submitted at the end of the fiscal year.

BASE PERIOD February 1, 2020 – June 30, 2020

Services	Proposed Number of Service Meals	County's Fixed Supplemental Rate	Total (Multiply the # of Service Meals by the County Supplemental Rate or Incentive Payment for the total)	Contractor's Match (Multiply the total by 11.11% for total contractor match)
Congregate Meals	16,907	\$4.96	\$83,858.72	\$9,316.70
Home-Delivered Meals	N/A	N/A	N/A	N/A
Transportation (Number of proposed Congregate Meals)	6,229	\$5.75	\$35,816.75	\$3,979.24
Incentive Payments* (Number of proposed Congregate Meals)	16,907	\$0.77	\$13,018.39	N/A
Incentive Payments* (Number of proposed Home-Delivered Meals)	N/A	N/A	N/A	N/A
GRAND TOTAL:			\$132,693.68	\$13,295.94

*Nutrition Services Incentive Payment (NSIP) dollar amounts are estimates ONLY and may be adjusted based on actual prior year number of meals served.

1. Cost Reimbursement

- 1.1. Contractor may be reimbursed for items purchased under this agreement in accordance with SOW paragraph 6.2.3 for One-Time-Only (OTO) Funds.
- 1.2. OTO Funds are based funds received from the State of California. The County cannot guarantee the receipt of the funds and all expenditures must be approved in advance by the County.
- 1.3. Contractor shall procure County approved goods and services through competitive measures further defined in SOW paragraph 6.2.3.
 - 1.3.1. Contractor shall provide a log of purchases made during the billing period and provide with an invoice for reimbursement. Information provided shall include:
 - 1.3.1.1. Description of item purchased
 - 1.3.1.2. Description of competitive measures taken to make said purchase
 - 1.3.1.2.1. Back up documentation providing competitive measures were taken.
 - 1.3.1.3. Total Price of item(s) purchased
 - 1.3.1.4. Date of items(s) purchased

**COUNTY CONTRACT NUMBER 561764
 AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
 EXHIBIT C – PRICING SCHEDULE**

OPTION 1 - July 1, 2020 – June 30, 2021

Services	Proposed Number of Service Meals	County’s Fixed Supplemental Rate	Total (Multiply the # of Service Meals by the County Supplemental Rate or Incentive Payment for the total)	Contractor’s Match (Multiply the total by 11.11% for total contractor match)
Congregate Meals	26,496	\$4.96	\$131,420.16	\$14,600.78
Home-Delivered Meals	N/A	N/A	N/A	N/A
Transportation (Number of proposed Congregate Meals)	14,268	\$5.75	\$82,041.00	\$9,114.76
Incentive Payments* (Number of proposed Congregate Meals)	26,496	\$0.77	\$20,401.92	N/A
Incentive Payments* (Number of proposed Home-Delivered Meals)	N/A	N/A	N/A	N/A
GRAND TOTAL:			\$233,863.08	\$23,715.53

*Nutrition Services Incentive Payment (NSIP) dollar amounts are estimates ONLY and may be adjusted based on actual prior year number of meals served.

1. Cost Reimbursement

- 1.1. Contractor may be reimbursed for items purchased under this agreement in accordance with SOW paragraph 6.2.3 for One-Time-Only (OTO) Funds.
- 1.2. OTO Funds are based funds received from the State of California. The County cannot guarantee the receipt of the funds and all expenditures must be approved in advance by the County.
- 1.3. Contractor shall procure County approved goods and services through competitive measures further defined in SOW paragraph 6.2.3.
 - 1.3.1. Contractor shall provide a log of purchases made during the billing period and provide with an invoice for reimbursement. Information provided shall include:
 - 1.3.1.1. Description of item purchased
 - 1.3.1.2. Description of competitive measures taken to make said purchase
 - 1.3.1.2.1. Back up documentation providing competitive measures were taken.
 - 1.3.1.3. Total Price of item(s) purchased.
 - 1.3.1.4. Date of items(s) purchased.

**COUNTY CONTRACT NUMBER 561764
 AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
 EXHIBIT C – PRICING SCHEDULE**

OPTION 2 - July 1, 2021 – June 30, 2022

Services	Proposed Number of Service Meals	County's Fixed Supplemental Rate	Total (Multiply the # of Service Meals by the County Supplemental Rate or Incentive Payment for the total)	Contractor's Match (Multiply the total by 11.11% for total contractor match)
Congregate Meals	26,496	\$4.96	\$131,420.16	\$14,600.78
Home-Delivered Meals	N/A	N/A	N/A	N/A
Transportation (Number of proposed Congregate Meals)	14,268	\$5.75	\$82,041.00	\$9,114.76
Incentive Payments* (Number of proposed Congregate Meals)	26,496	\$0.77	\$20,401.92	N/A
Incentive Payments* (Number of proposed Home-Delivered Meals)	N/A	N/A	N/A	N/A
GRAND TOTAL:			\$233,863.08	\$23,715.53

*Nutrition Services Incentive Payment (NSIP) dollar amounts are estimates ONLY and may be adjusted based on actual prior year number of meals served.

1. Cost Reimbursement

- 1.1. Contractor may be reimbursed for items purchased under this agreement in accordance with SOW paragraph 6.2.3 for One-Time-Only (OTO) Funds.
- 1.2. OTO Funds are based funds received from the State of California. The County cannot guarantee the receipt of the funds and all expenditures must be approved in advance by the County.
- 1.3. Contractor shall procure County approved goods and services through competitive measures further defined in SOW paragraph 6.2.3.
 - 1.3.1. Contractor shall provide a log of purchases made during the billing period and provide with an invoice for reimbursement. Information provided shall include:
 - 1.3.1.1. Description of item purchased
 - 1.3.1.2. Description of competitive measures taken to make said purchase
 - 1.3.1.2.1. Back up documentation providing competitive measures were taken.
 - 1.3.1.3. Total Price of items(s) purchased
 - 1.3.1.4. Date of items(s) purchased

**COUNTY CONTRACT NUMBER 561764
 AGREEMENT WITH CITY OF ESCONDIDO FOR SENIOR NUTRITION PROGRAM
 EXHIBIT C – PRICING SCHEDULE**

OPTION 3 - July 1, 2022 – June 30, 2023

Services	Proposed Number of Service Meals	County’s Fixed Supplemental Rate	Total (Multiply the # of Service Meals by the County Supplemental Rate or Incentive Payment for the total)	Contractor’s Match (Multiply the total by 11.11% for total contractor match)
Congregate Meals	26,496	\$4.96	\$131,420.16	\$14,600.78
Home-Delivered Meals	N/A	N/A	N/A	N/A
Transportation (Number of proposed Congregate Meals)	14,268	\$5.75	\$82,041.00	\$9,114.76
Incentive Payments* (Number of proposed Congregate Meals)	26,496	\$0.77	\$20,401.92	N/A
Incentive Payments* (Number of proposed Home-Delivered Meals)	N/A	N/A	N/A	N/A
GRAND TOTAL:			\$233,863.08	\$23,715.53

*Nutrition Services Incentive Payment (NSIP) dollar amounts are estimates ONLY and may be adjusted based on actual prior year number of meals served.

1. Cost Reimbursement

- 1.1. Contractor may be reimbursed for items purchased under this agreement in accordance with SOW paragraph 6.2.3 for One-Time-Only (OTO) Funds.
- 1.2. OTO Funds are based funds received from the State of California. The County cannot guarantee the receipt of the funds and all expenditures must be approved in advance by the County.
- 1.3. Contractor shall procure County approved goods and services through competitive measures further defined in SOW paragraph 6.2.3.
 - 1.3.1. Contractor shall provide a log of purchases made during the billing period and provide with an invoice for reimbursement. Information provided shall include:
 - 1.3.1.1. Description of item purchased
 - 1.3.1.2. Description of competitive measures taken to make said purchase
 - 1.3.1.2.1. Back up documentation providing competitive measures were taken.
 - 1.3.1.3. Total Price of items(s) purchased
 - 1.3.1.4. Date of items(s) purchased

ORDINANCE NO. 2020-02

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
ADOPTING AN AMENDMENT TO THE
DOWNTOWN SPECIFIC PLAN TO REASSIGN
A 0.8-ACRE PROJECT SITE FROM THE
HISTORIC DOWNTOWN DISTRICT TO THE
SOUTHERN GATEWAY DISTRICT

APPLICANT: Reid Kunishige, raSmith Inc.
CASE NO.: PHG 19-0031

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

SECTION 1. The City Council makes the following findings:

a) Reid Kunishige of raSmith Inc. ("Applicant") submitted a verified land use development application on property located in the central portion of the City of Escondido ("City"), at the southwest corner of South Escondido Boulevard and West 2nd Avenue. The Project site is currently 0.8 acre in size and is comprised of four lots with Assessor's Parcel Numbers 233-052-04, 233-052-06, 233-052-13, and 233-052-15, legally described as Exhibit "A" to Resolution No. 2020-03, which is incorporated herein by this reference as though fully set forth herein. Said verified application was submitted to, and processed by, the Planning Division of the Community Development Department as Planning Case Nos. PHG 19-0031 and PHG 19-0032, and seeks approval of a Specific Plan Amendment and Conditional Use Permit relating to the Project site.

b) The Planning Division of the Community Development Department completed its review and scheduled a public hearing regarding the application before the Planning Commission for December 10, 2019. Following the public hearing on December 10, 2019, the Planning Commission adopted Resolution No. 2019-25, which

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

ORDINANCE NO. 2020-04

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AMENDING CHAPTER 31 OF THE ESCONDIDO
MUNICIPAL CODE TO UPDATE WATER
POLICIES

WHEREAS, the City of Escondido, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, the City owns and operates a public water system that supplies water to residential, commercial, and industrial customers throughout the City’s jurisdiction; and

WHEREAS, in 2018, the California Legislature adopted Senate Bill 998 (“SB 998”), which adopted new and expanded protections regarding discontinuation of water service for nonpayment and related matters; and

WHEREAS, the City Council desires to amend Article I of Chapter Thirty-One of the Escondido Municipal Code to ensure consistency with the requirements of SB 998 and other laws.

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

SECTION 1. That the above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. That Section 31-9 of Article 1, Chapter 31, of the Escondido Municipal Code, is hereby repealed in its entirety.

<p>A COMPLETE COPY OF THIS ORDINANCE IS ON FILE IN THE OFFICE OF THE CITY CLERK FOR YOUR REVIEW.</p>
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ORDINANCE NO. 2020-05

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AMENDING ESCONDIDO MUNICIPAL CODE
CHAPTER NINETEEN, ARTICLE ONE, TO
ADDRESS RESERVE POLICE OFFICER
AUTHORITY

WHEREAS, California Penal Code section 830.6 authorizes the appointment of Reserve Police Officers who have completed the State of California Commission on Peace Officer Standards and Training (“POST”) courses commensurate with their assigned duties and level of supervision; and

WHEREAS, the Escondido Police Department has four (4) Reserve Police Officers who volunteer their time and provide a wide variety of services to the City of Escondido; and

WHEREAS, the Reserve Police Officers who successfully complete a Reserve Officer Level I POST course of instruction may operate independently and must meet the same training standards as regular police officers; and

WHEREAS, adoption of this ordinance would authorize Escondido Reserve Police Officers who have completed a POST Level I course of instruction, and any requirements established by the Chief of Police, to have full peace officer powers in accordance with California Penal Code section 830.6(a)(2), and

WHEREAS, the Escondido Reserve Police Officers who have not completed the POST Level I course of instruction and all training requirements established by the Chief of Police would retain limited peace officer powers commensurate with their training and assignment.

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

CITY COUNCIL STAFF REPORT

Public Hearing Item No. 12

February 5, 2020

File No. 0810-20, 0600-10, A-3261

SUBJECT: Amendment to Article 34 (Communication Antennas) of the Escondido Zoning Code, Adoption of Guidelines for the Deployment of Small Wireless Facilities in the Public Right-of-Way, Establishment of Fees related to Small Wireless Facilities in the Public Right-of-Way, and Amendment to Public Services Agreement for the CityWorks Implementation Project (AZ 19-0001)

DEPARTMENT: Community Development Department, Planning Division

RECOMMENDATION:

It is recommended that the City Council 1) introduce Ordinance No. 2020-03, amending Article 34 (Communication Antennas) of the Escondido Zoning Code related to personal wireless service facilities; 2) adopt Resolution No. 2020-04, approving *Guidelines for the Deployment of Small Wireless Facilities in the Public Right-of-Way* (the "Guidelines") and establishing fees for such facilities; and 3) adopt Resolution No. 2020-18, executing a Second Amendment to the Public Services Agreement for the CityWorks implementation project with Timmons Group and approving a budget adjustment relative to said amendment. The request also includes the adoption of the environmental determination prepared for the project.

FISCAL ANALYSIS:

The cost associated with the preparation of the draft ordinance amendment and associated guidelines is included within the City Attorney and Community Development Department budgets. The cost to implement the ordinance should be paid for by the applicants of small wireless facilities. However, the current, adopted fee schedule does not recover the full cost of providing city planning and engineering services for small wireless facilities. This results in on-going General Fund subsidy, which shifts funds away from other critical and high priority programs that may not have similar cost recovery options. Resolution No. 2020-04 would establish one-time and recurring fees associated with the placement and construction of small wireless facilities. Establishing user fees would help ensure that those who use proprietary services pay for those services in proportion to the benefit received. The proposed fees are based on an estimate of staff time and resources necessary to process and conduct said actions. As such, this proposal is intended to be revenue neutral because the one-time and recurring fees will cover the actual cost of implementing the ordinance.

As described herein, additional resources would also be necessary to process applications and conduct other necessary administrative activities relative to the small wireless facilities. Integrating this type of permitting and management into CityWorks requires an upfront cost of \$119,440 and an anticipated \$23,880 share of annual update costs. There are not sufficient funds in the adopted FY2019-20 IS department budget to cover the costs of the recommendation. Additional funds must be budgeted in

FY2019-20, and the fiscal years beyond, to complete the work and to perform annual system updates. The upfront project cost of \$119,440 is included in the recommended budget adjustment (Exhibit “B” to Resolution No. 2020-18). Annual technology expenses would be included in future years’ budgets. It is anticipated that full cost recovery would be achieved through the adoption of the proposed fees.

PREVIOUS ACTION:

On June 14, 2017, the City Council adopted Ordinance No. 2017-10RR, amending Article 34 (Communication Antennas) of the Escondido Zoning Code related to the regulation of small wireless facilities in the public right-of-way, with the intent to revisit the subject in two years. On December 10, 2019, the Escondido Planning Commission voted 6 – 0 (one seat vacant) to recommend approval of the currently proposed Zoning Code Amendment and Guidelines (AZ 19-0001) to the City Council. The Planning Commission staff report and meeting minutes from the December 10, 2019, Planning Commission meeting are attached hereto for reference (Attachments 1 and 2, respectively).

On August 22, 2018, the City Council adopted Resolution No. 2018-13, authorizing the Mayor and City Clerk to execute a Public Services Agreement (“Agreement”) with Timmons Group for the four-sided, multi-phase, CityWorks PLL development and implementation project. On February 13, 2019, the City Council adopted Resolution No. 2019-27 executing a First Amendment to the Agreement and a Budget Adjustment expanding the scope and potential of the aforementioned project.

BACKGROUND:

On September 26, 2018, the Federal Communications Commission (FCC) adopted a Declaratory Ruling and Third Report and Order (the “Order”) geared toward speeding up the deployment of small wireless facilities. The FCC ruling established limitations on state and local government regulation of such facilities that are placed on existing or new utility poles, street light standards and other vertical structures located in the public right-of-way and on private property. As a result, the City of Escondido needs to modify several sections of its code to update definitions, application submittal requirements, and the overall review process. Additional background information has been provided in the December 10, 2019 Planning Commission staff report (see Attachment 1).

PROJECT ANALYSIS

Over the course of the past year, the Planning Division has worked with the Engineering Services Department, including the Real Property and Field Engineering Divisions, and the City Attorney’s office, to identify necessary revisions to Article 34 (Communication Antennas) of the Escondido Zoning Code and to create a set of guidelines related to small wireless facilities in the public right-of-way (the aforementioned Guidelines). The draft Zoning Code Amendment language and Guidelines, attached to Ordinance No. 2020-03 as Exhibit “B” and Resolution No. 2020-04 as Exhibit “B,” respectively, have been developed in order to comply with the Order identified above.

The most significant modifications necessitated by the Order relate to 1) timelines for processing applications for small wireless facilities; 2) regulations that might prohibit or have the effect of prohibiting deployment of said facilities; 3) objectivity of design standards; and 4) fees assessed by a local jurisdiction for processing applications for the facilities and leasing of the public right-of-way and structures on which the facilities would be placed. The first three items are addressed as part of the Zoning Code Amendment and Guidelines. The fourth will be addressed through establishment of fees necessary to offset costs associated with activities undertaken by City staff related to small wireless facilities in the public right-of-way.

Zoning Code Amendment – Article 34 (Communication Antennas)

The overall intent of the Zoning Code Amendment is to achieve compliance with the Order in the best interest of the City. The following list summarizes the code revisions proposed to this end:

1. Clarification of provisions which are not applicable to small wireless facilities in the public right-of-way;
2. Modifications, additions and deletions of various definitions;
3. Deferral of design and development specifications to the Guidelines;
4. Creation of an administrative permit procedure; and
5. Revisions to required findings for approval of permits.

The aforementioned Exhibit “B” to Ordinance No. 2020-03 provides the final, as-amended version of the proposed Zoning Code Amendment language. Additionally, a strike-thru/underline version of the proposed Zoning Code Amendment language has been included as Attachment 3 to this staff report identifying deletions with ~~strike-thru~~ text and additions with underline text.

Guidelines for the Deployment of Small Wireless Facilities in the Public Right-of-Way

The proposed Guidelines are intended to supplement the information contained in the Escondido Zoning Code as it relates to small wireless facilities in the public right-of-way. They provide a greater level of detail and are presented in a manner that is more appropriate than if they were to be included within the text of the Zoning Code itself. Additionally, they can be amended by resolution of the City Council rather than by ordinance, which provides the City with the ability to act in a more expeditious manner when necessary revisions are identified.

The Guidelines have been drafted to provide comprehensive information to all parties involved in the processing of applications for small wireless facilities proposed in the public right-of-way. They include the following sections:

- Introduction – Provides general information on the purpose, intent, and use of the document.
- Applicability – Identifies which facilities are subject to the Guidelines.

- Application Processing – Describes the types of permits and agreements necessary to install small wireless facilities in the public right-of-way, and the process through which an applicant would obtain them.
- Design and Development Standards – Provides specific criteria relating to the design of proposed facilities. Said criteria include size, location, separation, and other antenna and accessory equipment specifications, among others.
- Standard Conditions of Approval – Creates conditions of approval that would be placed on all facilities that are subject to the Guidelines. (Additional site-specific conditions of approval could still be applied to individual facilities, as necessary.)

The Design and Development Standards section includes the majority of the information that pertains to the location, size, placement and orientation of facilities. Staff has crafted the standards in a manner that would accommodate a majority of the small wireless facilities for which applications have been submitted over the past couple years through an administrative permit process. Staff believes that the standards are appropriate to minimize visual clutter, will not prohibit or have the effect of prohibiting provision of wireless services, and are comparable to standards adopted by other jurisdictions in the region. To that end, the table below identifies quantitative standards for small wireless facilities that have been adopted in various jurisdictions, and shows how the standards proposed in the Guidelines compare. It should also be noted that the proposed Zoning Code Amendment retains the ability for wireless service providers to request approval of proposed facilities which exceed the quantitative standards through a minor conditional use permit process.

<u>Jurisdiction</u>	<u>Antennas</u>	<u>Support Equipment</u>
Escondido	<u>Dimensions:</u> Top-mount: 16" max width Side-mount: 12" max width 9" max projection from pole <u>Volume:</u> 3 CF max per facility <u>Height:</u> 4 ft. max above existing structure	<u>Dimensions:</u> 20" max width 16" max projection from pole <u>Volume:</u> 7 CF max pole-mounted
City of San Diego	<u>Dimensions:</u> 24" max in all dimensions <u>Volume:</u> 7 CF max per pole <u>Height:</u> Varies	<u>Dimensions:</u> 24" max width 12" max depth <u>Volume:</u> 7 CF max pole-mounted
County of San Diego	Per FCC definition*	Per FCC definition

Vista	<u>Dimensions:</u> Not specified <u>Volume:</u> 3 CF max per antenna 6 CF max per facility <u>Height:</u> 5 ft. max above existing structure	<u>Dimensions:</u> Not specified <u>Volume:</u> 9 CF max residential 17 CF max non-residential
Encinitas	<u>Dimensions:</u> 24" max (projection from pole) <u>Volume:</u> 3 CF max residential 6 CF max non-residential <u>Height:</u> 5 ft. max above existing structure	<u>Dimensions:</u> 18" max (projection from pole) <u>Volume:</u> 9 CF max residential 12 CF max non-residential
Carlsbad	<u>Dimensions:</u> Not specified <u>Volume:</u> 3 CF max per antenna 6 CF max per facility <u>Height:</u> Not specified	<u>Dimensions:</u> 10" max (projection from pole) <u>Volume:</u> 6.5 CF max

* See *Small Wireless Facility* definition included in Exhibit "B" to Ordinance No. 2020-03

Establishment of Fees

The FCC Order establishes a "safe harbor" for fees a jurisdiction can charge for one-time and annual administrative activities related to small wireless facilities. Said "safe harbor" identifies a fee of \$500 for a single application for up to five small wireless facilities and \$100 for each facility in excess of five, \$270 annually for attachment to a City light pole, and \$1,000 as a one-time fee for a new pole. This "safe harbor" does not limit the amount a jurisdiction can charge, but rather they establish a threshold beyond which a jurisdiction, if challenged, must be able to justify the fees. The fees charged by a jurisdiction must represent a reasonable approximation of its costs, and the costs themselves must be reasonable.

City staff has analyzed the work effort required to process applications, conduct inspections (during initial construction/installation and annually thereafter), and appropriately track and monitor the status of small wireless facilities in the public right-of-way. The following fees are proposed in order to achieve full cost recovery, as supported by time and materials documentation attached hereto (Attachment 4):

<u>One-Time Fees</u>	
Encroachment Permit*	\$1,390
Five-year Master License Agreement**	\$1,140
Small Wireless Facility Permit*	
Administrative Permit	\$721
or	or
Minor Conditional Use Permit	\$2,668

<u>Annual Fees*</u>	
Site Administration	\$395
Technology Tracking Fee	\$215

* Per facility

* Per facility

** Per carrier; Expires after five years

A majority of the fees are tied directly to staff time necessary to perform the related tasks. The Technology Tracking Fee is related to the costs associated with implementation of a software module to provide staff with the ability to effectively permit, track and administer each Small Wireless Facility. The module will create a coordinated system whereby each facility's permits, agreements and related documents can be linked to each other and cross-referenced, providing staff with an efficient means to manage tasks related to that facility. The module is being developed as part of the City's migration from TRAKiT to CityWorks, which is a more robust software that integrates industry best practices to achieve a system that can be custom tailored for each Department's specific needs while streamlining the overall efficiency of the City. Further expansion of this work effort is necessary to configure, test, and deploy a Small Wireless Facility asset management module within CityWorks.

PUBLIC OUTREACH

City staff understands the importance of engaging the community in the process and has conducted outreach activities to solicit public input. To this end, staff held a public workshop on the topic on November 25, 2019 (prior to the Planning Commission hearing on December 10, 2019), and has created a webpage (<https://www.escondido.org/small-cell-wireless-service-facilities.aspx>, accessible directly from the City's homepage) to disseminate information. Concerns raised by community members at the workshop and in written correspondence focused primarily on the perceived health impacts related to radio frequency emissions generated by wireless communication facilities. Written correspondence received prior to publication of the December 10, 2019, Planning Commission staff report was included with that report (Attachment 1 hereto). Any correspondence received since that report was published has also been attached hereto (Attachment 5).

While staff is aware of and certainly understands the public's concerns, it must be noted that the City is preempted from considering potential health-related impacts of wireless facilities when reviewing and making decisions on applications for such facilities. This preemption was established by the Federal Communications Act of 1996 and reaffirmed by the Order.

CONSULTATION WITH THE WIRELESS INDUSTRY

City staff also consulted with representatives from the wireless communication industry regarding the proposed changes to City policies and regulations. The goal of this consultation was to identify issues that may be problematic for both the City and the wireless communication industry in the implementation of the updated policies and regulations. Two working drafts of the proposed Zoning Code Amendment language and Guidelines were provided to the industry representatives for comment during the preparation of the documents. Staff also met with the industry representatives so that both parties could further understand each other's concerns. Through the consultation process, the following significant areas of concern were identified:

- Applicability of various zoning code provisions;

- Quantitative standards;
- Process to allow consideration of small wireless facilities that do not comply with the quantitative standards;
- Application processing;
- Batching of applications;
- Subjectivity of design standards; and
- Support Structures.

Appropriate revisions determined to be in the best interest of the City were made to the proposed Zoning Code Amendment language and Guidelines as a result of comments received from the industry representatives. Additional information on the consultation process and a more-detailed discussion of the areas of concern, including correspondence received from industry representatives, can be found in the December 10, 2019, Planning Commission staff report (Attachment 1). Any correspondence received from industry representatives since that report was published is also attached hereto (Attachment 6).

ENVIRONMENTAL STATUS

The proposed Zoning Code Amendment and associated Guidelines are categorically exempt from environmental review in conformance with CEQA Section 15061(b)(3). The activity is covered by the general rule (“common sense” rule) that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code and the associated guidelines would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendment to the Zoning Code (Article 34) and adoption of associated guidelines only updates and expands upon established criteria that in turn would be utilized to assess and process applications for the development of personal wireless service facilities within the public right-of-way. The proposed Zoning Code Amendment and associated guidelines are not a “physical condition” that will impact the environment for the purposes of CEQA. Therefore, the proposed Zoning Code Amendment and associated Guidelines are not subject to CEQA under the General Rule and no further environmental review is necessary.

The associated fees are exempt from environmental review in conformance with CEQA Public Resources Code Sections 21000 et seq., because it approves and sets forth a procedure for determining fees for the purpose of meeting the operating expenses of City departments, as set forth in Public Resources Code Section 21080(b)(8)(A).

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Bill Martin, Director of Community Development
1/30/20 9:51 a.m.

Adam Finestone, Principal Planner
1/30/20 8:32 a.m.

ATTACHMENTS:

1. Attachment 1 - December 10, 2019, Planning Commission Staff Report
2. Attachment 2 - December 10, 2019, Planning Commission Meeting Minutes
3. Attachment 3 - Proposed Zoning Code Language – ~~Strike-thru~~/Underline Version
4. Attachment 4 -Documentation Related to Proposed Rates, Fees and Charges for Small Wireless Facilities
5. Attachment 5 - Public Correspondence Received Subsequent to Publication of the December 10, 2019, Planning Commission Staff Report
6. Attachment 6 - Wireless Communication Industry Correspondence Received Subsequent to Publication of the December 10, 2019, Planning Commission Staff Report
7. Ordinance No. 2020-03
8. Ordinance No, 2020-03 – Exhibits “A” and “B”
9. Resolution No. 2020-04
10. Resolution No. 2020-04 – Exhibits “A,” “B” and “C”
11. Resolution No. 2020-18
12. Resolution No. 2020-18 – Exhibits “A” and “B”

ATTACHMENT 1

Due to the number of pages of Attachment 1, the following link has been provided to review the document electronically on the City's web site:

<https://www.escondido.org/Data/Sites/1/media/PlanningDivision/StaffReport.pdf>

A hardcopy of the Attachment is available for review in the Office of the Planning Division during normal business hours. To obtain a copy, please contact the City Clerk at (760) 839-4617 or Planning Division at (760) 839-4671.

Motion carried unanimously. Ayes: Cohen, Garcia, Romo, Spann, and Weiler. Noes: None. 6-0-0 (1 vacancy).

3. ZONING CODE AMENDMENT – AZ 19-0001:

REQUEST: A proposed amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code to update the requirements for wireless communication facilities within the right-of-way. The amendment includes an update to the entitlement process to streamline deployment wireless networks and simplified language to be consistent with Federal Communications Commission Order. The proposal also includes new guidelines for wireless communications facilities in the right-of-way, as well as the environmental determination prepared for the project. No development project is proposed.

PROPERTY SIZE AND LOCATION: Citywide

ENVIRONMENTAL STATUS: Exemption under the Common Sense Exemption, CEQA Section 15061(b)(3).

STAFF RECOMMENDATION: Recommend City Council approval

PUBLIC SPEAKERS:

Adrian Salas, with Crown Castle, shared concerns regarding the ordinance and guidelines.

Michael Farraher, with Verizon, shared concerns regarding the ordinance and guidelines.

COMMISSIONER DISCUSSION AND QUESTIONS:

The Commissioners discussed various aspects of the project.

COMMISSION ACTION: Motion by Cohen, seconded by Weiler to approve staff's recommendation.

Motion carried unanimously. Ayes: Cohen, Garcia, Romo, Spann, and Weiler. Noes: None. 6-0-0 (1 vacancy).

CURRENT BUSINESS: – None.

Attachment 3

Sec. 33-700. Purpose.

The purpose of this article is to provide standards and design guidelines for satellite dish antennas and other personal wireless service facilities. It is intended that such antennas and facilities be installed and operated in a manner consistent with all of the articulated health, safety, visual and aesthetic objectives of this article, while preserving the viability of these antennas and facilities as communication systems.

Sec. 33-701. Objectives.

The objectives of this article are:

- (a) To provide reasonable opportunities for installations of satellite dish antennas and personal wireless service facilities;
- (b) To ensure secure installations to prevent possible injury to persons or damage to property;
- (c) To permit locations which do not obstruct or interfere with the provision of emergency services and communications;
- (d) To preserve the city's authority over the placement, construction, modification, and design of facilities addressed by this article.

Sec. 33-702. Definitions.

(a) For the purposes of this article and any guidelines adopted pursuant to it, the following words, terms, phrases, and their derivations have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.

Accessory Equipment means any non-antenna portion of a personal wireless service facility, except concealment features, including, but is not limited to, remote radio units, surge protectors, diplexers, triplexers, battery racks, generators, air conditioners, wires, cables, and cabinets.

ANSI means the American National Standards Institute.

Antenna means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended.

Antenna shroud means a solid barrier that screens an antenna (or antennas) and any accessory equipment attached thereto, including, but not limited to, radio units, wires, cables, and brackets, entirely from view.

Camouflaged or Stealthy means a personal wireless service that is disguised, hidden, integrated into the architecture of an existing or proposed structure or placed within an existing or proposed structure, and designed to be compatible with the existing scale and pattern of development and/or characteristics of the site, as determined by the director of community development.

~~*Co-Location* means the use of a single mount on the ground by more than one carrier and/or personal wireless service facility (vertical co-location) and/or several mounts on an existing building, structure or site (horizontal co-location) by more than one carrier and/or personal wireless service facility.~~

Collocation means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended.

Attachment 3

Concealed or Concealment means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique.

~~EMF~~ means ~~electromagnetic fields, or the formation of electric and magnetic fields whenever electromagnetic energy moves from one point to another through electrical wires.~~

FCC means the Federal Communications Commission.

Fixed Wireless Service means a local wireless operation providing services such as local and long distance telephone, high-speed internet, and digital television to residential and business customers by means of a small equipment installation of less than thirty (30) inches in diameter (the "Remote Unit") on the exterior of each home or business that elects to use this service.

IEEE means the Institute of Electrical and Electronics Engineers.

NCRP means the National Council on Radiation Protection and Measurements.

~~Personal Wireless Service~~ means ~~any personal wireless service as defined by the Telecommunications Act, including but not limited to, commercial mobile radio services, unlicensed wireless services, common carrier wireless exchange access services, cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, ground based repeaters for satellite radio services, micro-cell antennae and similar systems which exhibit similar technological characteristics, the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended.~~

~~Personal Wireless Service Facility~~ means ~~any component for the provision of personal wireless service including all related equipment, buildings, structures, and improvements, the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended.~~

~~Power Density~~ means ~~the measures of a wave's total energy as a function of its distance from its source (generally measured in milliwatts per square centimeter or mW/cm²) as defined by the FCC.~~

Radome means a cylindrical antenna shroud.

RF means radiofrequency or electromagnetic waves.

RFR means radiofrequency radiation, or the formation of radiofrequency radiation generated by the movement of electromagnetic energy through space, including radio and microwaves, which is used for providing telecommunications, broadcast and other services.

Satellite Dish Antennas means circular or saucer shaped antennas using parabolic or spherical reflecting surfaces, or similar antennas which are designed to transmit and/or receive communication signals from satellites.

Shot Clock means the presumptively reasonable time frame within which a local jurisdiction must act on a wireless application, as defined by the FCC and as may be amended from time to time.

Small Wireless Facility means a Personal Wireless Service Facility which:

Attachment 3

(1) is mounted on a structure 50 feet or less in height including their antennas, mounted on a structure which is no more than ten (10) percent taller than other adjacent structures, or does not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and

(2) has antennas no larger than three (3) cubic feet; and

(3) has associated wireless equipment which is cumulatively no larger than 28 square feet, including any pre-existing equipment; and

(4) does not require antenna structure registration; and

(5) is not located on tribal lands; and

(6) does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards.

Structure means the same as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended.

Technically feasible means that the siting, location, and equipment proposed for a Personal Wireless Service Facility are available and known to be able meet the service objectives of that facility.

Telecommunications Act means the Telecommunications Act of 1996.

Sec. 33-703. Personal wireless service facilities guidelines—Five general principles.

The following principles shall serve as general guidelines for the city's consideration of applications for personal wireless service facilities which are not small wireless facilities located in the public right-of-way:

(a) Height guidelines—Utilize lowest profile technology.

(1) Discourage further consideration of high-profile antenna installations (such as non-camouflaged towers and monopoles) on visually prominent sites. Personal wireless service facilities should be designed to be in scale with surrounding buildings and tree heights.

(2) Use existing structures as opposed to introducing new ones.

(3) Encourage facilities that meet the zone's height standards.

(4) Use landscaping (such as dense tree growth) or other measures to minimize visual impacts and screen the facility.

(b) Location guidelines—Avoid proliferations that create or compound undesirable visual impacts, but also encourage co-location, where appropriate.

(1) Encourage the use of commercial, and industrial, and public right-of-way sites whenever possible, and discourage the use of residential zones. Wireless communication facilities proposed to be located within residential zones/areas shall consider the following and submit a feasibility study to implement the following options before proposing a wireless facility on a residentially developed property:

(A) Residential zoned properties developed with nonresidential uses (i.e., schools, churches, parks, etc.);

(B) Public right-of-way (such as existing or new light pole or other utility structures).

(2) Encourage single sites utilizing stealth designs and latest technologies.

Attachment 3

- (3) Ensure full aesthetic integration of new facilities into the proposed locations.
- (4) Ensure that the area covered by wireless facilities which are screened and landscaped to minimize visual impacts is large enough to incorporate appropriate visual screening methods.
- (5) Ensure that proposed landscaping has permanent proper irrigation and maintenance.
- (6) Require amended co-location language for facility leases on city-owned properties to include:
 - (A) Modification requirements as technology advances.
 - (B) Square foot minimums for leased lots to ensure proper buffering areas.
- (7) Encourage co-location on existing sites where it is possible to avoid obtrusiveness, up to the point where a structure or site has too many antennae/structures and becomes visually cluttered.
- (8) Ensure that the mass and scale of proposed facilities are not excessive in order to meet the carrier's reasonable coverage objectives.
 - (c) Stealth technology guideline - Encourage creative, unobtrusive stealth technology.
 - (1) Encourage personal wireless service facilities to be camouflaged or integrated into or onto existing structures, wherever possible. When a personal wireless service facility extends above the roof height of a building on which it is mounted, the facility should be concealed within or behind architectural features to limit its visibility from public ways. Facilities mounted on a roof should be stepped back from the façade in order to limit their impact on the building's silhouette and reduce visibility from adjacent public ways. Existing visual obstructions or clutter on the roof or along the roof line should, in a commercially practical matter, be removed or screened (such as a parapet or architectural element that serves as a rooftop screen) as a precursor to the new wireless installation. Facilities which are façade-mounted should blend with the existing building's architecture, materials and colors.
 - (2) Require designs that are in scale and context with their surroundings.
 - (3) Encourage creative designs with the least visual impact and the use of microtechnology where possible.
 - (4) Encourage designs that mimic natural elements, and that are natural in appearance, by including:
 - (A) Natural colors applied in a natural-looking way.
 - (B) Inclusion of related forms and textures as they commonly would be found in nature.
 - (C) Antenna or facility elements formed in, clad by, or screened by natural-looking features.
 - (5) If a stealthy design is not feasible, proposed facilities shall be surrounded by buffers of dense landscaping including tree growth of sufficient width, height and understory vegetation to create an effective year-round visual buffer. Permanent irrigation shall also be provided.

Attachment 3

(d) Older facility guidelines—Encourage older facilities to upgrade using less obtrusive technology.

(1) Require facility upgrade when leases on City-owned property are up for renewal.

(2) Facility modifications should incorporate the latest technology consistent with this article.

(e) Emissions guidelines—Ensure that emissions do not exceed federal thresholds.

(1) Require that every installation meets all Federal Radiation Standards to ensure public health, including NCRP, ANSI/IEEE and FCC standards and guidelines.

(2) Require that each facility owner adhere to all Federal (FCC) emission testing stipulations and timetables.

Sec. 33-704. Personal wireless service facilities—Development and operating standards.

The following operating standards shall apply to all personal wireless service facilities:

(a) Interference. The operation of personal wireless service facilities shall be in conformance with all applicable Federal Communications Commission regulations regarding interference with other equipment.

(b) Screening. All personal wireless utility equipment (i.e., antennas, support structures, mounts, equipment, etc.) shall be screened from view of adjacent properties or public rights-of-way to the maximum extent possible. Screening may include integrating architectural elements, color and texture of the antenna structure, fencing, landscaping, or other method appropriate to the specific situation. Screening may be waived by the director of community development if the available methods of screening create a greater visual impact, or call greater attention to the facility than if otherwise left unscreened.

(c) Equipment. With the exception of small wireless facilities located in the public right-of-way, associated equipment shall be placed within an existing building whenever possible. Locational standards for equipment associated with small wireless facilities in the public right-of-way shall comply with development standards contained in any guidelines adopted pursuant to Section 33-704(k).

(d) Setbacks and height. With the exception of small wireless facilities located in the public right-of-way, antennas, poles, mounts and all utility equipment shall not be located in required front, rear, side and street side-yard setback areas. All façade-mounted and roof-mounted facilities and screening materials shall not project above the height limit of the zoning district within which the facility is located, unless otherwise permitted in conformance with section 33-8 (building height) and section 33-1075 (permitted structures in excess of height limits) of the zoning code. Facilities installed on residential uses in residential zones shall meet the underlying zone's height standards for principal structures. Height limitations for small wireless facilities in the public right-of-way shall comply with development standards contained in any guidelines adopted pursuant to Section 33-704(k).

Attachment 3

(e) RFR emissions. Ninety (90) days after installation of any facility, under full operating conditions, the applicant shall measure the radio frequency(ies) emitted by the facility and submit an operational radio frequency study to the planning division to verify conformance of the facility with the theoretical study and applicable ANSI/IEEE and FCC standards for radiofrequency radiation exposure.

(f) Noise. Noise levels generated by wireless equipment shall not exceed the noise level limits of the underlying zone and receiving land use, whichever is less. Appropriate siting and building measures shall be incorporated into the facility to comply with the city's noise requirements. An acoustical study may be required, as determined by the director of community development.

(g) Lighting. Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other on-site facilities for maintenance purposes shall be shielded from abutting properties.

(h) Signage. Signs shall be limited to those needed to identify the property and the owner and to warn of any danger; shall provide one (1) or more twenty-four (24) hour emergency telephone numbers; and shall be subject to the approval of the planning division.

(i) Maintenance. All facilities, landscaping and related equipment shall be maintained in good working condition and free from trash, debris, graffiti and designed to discourage vandalism. Any damaged equipment shall be repaired or replaced within thirty (30) calendar days. Damaged, dead or decaying plant materials shall be removed and replaced within thirty (30) calendar days.

(j) Hillside and ridgeline overlay district. Personal wireless service facilities located within close proximity to a skyline ridge or intermediate ridgeline shall be subject to the provisions of the hillside and ridgeline overlay district.

(k) Public right-of-way. Unless expressly stated otherwise, aAll requirements of this article shall apply to the placement, construction, modification or reconstruction of any personal wireless service facilities proposed within the public right-of-way, except to the extent precluded by state or federal law. The following ~~general~~ additional requirements also shall apply:

(1) All personal wireless service facilities must comply with the city's requirements for an encroachment permit as set forth in Chapter 23 of this code and any guidelines adopted pursuant to this article. All applicants shall enter into a license agreement as provided by the city to the extent the facility is proposed to be located on city facilities.

(2) All personal wireless service facilities in the public right-of-way that are not small wireless service facilities shall require a major conditional use permit.

~~(23) Personal wireless service facilities in the right-of-way shall be installed on existing street light poles or substantially similar replacement poles in the same location. Where it has been demonstrated that it is not feasible to locate on an existing street light or similar replacement pole, a wireless facility may install a new streetlight to supplement existing~~

Attachment 3

~~lighting. New or replacement street light poles shall be designed to resemble the appearance and dimensions of a street light typical of the surrounding neighborhood, including size, height, color, materials and style, whenever feasible. Where it has been demonstrated that it is not feasible to locate on a new streetlight, a wireless facility may locate on an existing traffic signal, utility pole, bus stop, or other appropriate vertical structure within the right-of-way. The installation of a new structure, that is not a street light, may be permitted by minor conditional use permit. The installation of a new wooden pole is not permitted. Small wireless facilities in the public right-of-way. All small wireless facilities installed in the public right-of-way shall comply with the development standards included in any guidelines adopted pursuant to this section. Development standards in the adopted guidelines may address various design, use of right of way, and aesthetic aspects including, but not limited to, size, spacing, quantity, location, color, method of mounting, orientation, concealment of cables, wires, and conduit, and other physical aspects of the antennas, equipment, and structures on which the facilities are mounted.~~

~~— (3) All personal wireless service facilities in the right-of-way shall be sited in order to minimize potential visual and compatibility impacts with adjacent properties. Placing wireless facilities along non-classified residential streets and/or along the front yard of single-family residential properties should be avoided. Wireless facilities must be designed to be visually unobtrusive with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses. The equipment must be painted or textured to match the color or surface of the structure on which they are attached, or otherwise screened to reduce their visibility.~~

~~— (4) No more than two (2) panel antennas may be mounted on a single pole or structure. No antenna may exceed three (3) feet in length. Antennas shall be vertically mounted to a pole or support structure (excluding strand mounts) in compliance with any applicable separation requirements. An antenna enclosure attached to the top of a utility pole or street light shall be cylindrical in shape and shall not exceed four (4) feet in height. New street lights or replacement poles must match the height and design of the existing street light in the same neighborhood. In no case shall a new wireless facility exceed thirty-five (35) feet in height. The antennas and other related equipment shall be mounted as close to the pole as possible, with no more than a four (4) inch gap, to minimize impacts to the visual profile. Pole-mounted equipment, exclusive of antennas, shall not exceed seven (7) cubic feet in dimension. Pole-mounted equipment shall not exceed a dimension of twelve (12) inches in width and twelve (12) inches in depth. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.~~

~~— (5) The spacing between existing poles and new personal wireless service facilities must avoid visual clutter and maintain the existing character of the surrounding neighborhood. In residential areas, an individual wireless carrier must provide a minimum separation of three hundred (300) feet from any of their other wireless facilities within the right-of-way.~~

~~— (6) No personal wireless service facility may be located within the right-of-way where there are no overhead utility facilities or streetlight poles unless permitted pursuant to a minor conditional use permit. No new overhead wires shall be allowed in areas where undergrounding of utilities has occurred.~~

Attachment 3

~~— (7) All other non-antenna equipment associated with the personal wireless service facility shall be placed underground, except any required electric meter or disconnect switch associated with an installation on an existing utility pole. Equipment shelters shall not be allowed in the public right-of-way where their presence would interfere with existing uses or infrastructure, and shall be located as to minimize impacts to neighborhood aesthetics, pedestrian access, and vehicular site distance and safety.~~

~~(84) Small Wireless facility permits. All new personal small wireless service facilities proposed within the public right-of-way, and any collocations or modifications to existing small wireless facilities within the public right-of-way shall require the issuance of a small wireless facility permit. The director may establish the forms and submittal requirements to implement the requirements of this article section and any guidelines adopted pursuant to it. ~~The director may refer any application for a wireless facility permit to the planning commission for consideration at a noticed public hearing.~~~~

~~(A) Administrative permit. All proposed small wireless facilities which meet all the requirements in this article and any adopted guidelines adopted pursuant to it, may be processed through an administrative small wireless facility permit. The director shall determine whether an application meets the requirements of this article and any adopted guidelines. The permit will be approved if the regulations are met, or denied if the regulations are not met. The application process shall follow the procedures and fees for a plot plan and design review set forth in any guidelines adopted pursuant to this article.~~

~~(B) Minor conditional use permit. Any small wireless facility proposed on a new vertical structure that is not a street light, any facilities that project from a support structure by use of an arm or other horizontal bracket/brace, and any facility that exceeds the quantitative limitations described in this article and any guidelines adopted pursuant to it, shall require a minor conditional use permit, pursuant to Article 61 of this code. All other proposed facilities that the director determines do not meet the requirements of this article or any adopted guidelines must be processed through a minor conditional use permit. The applicant must pay any necessary application fees in accordance with a minor conditional use permit application.~~

~~— (C) Zoning administrator findings. In addition to the findings in section 33-1203, the zoning administrator must also make the following findings in approving a minor conditional use permit for a personal wireless service facility:~~

~~— (i) That the applicant has demonstrated that the site is necessary to close a significant gap in service;~~

~~— (ii) That the location proposed conforms to the requirements of this article and any adopted guidelines to the maximum extent possible;~~

~~— (iii) That the design proposed conforms to the requirements of this article and any adopted guidelines to the maximum extent possible; and~~

Attachment 3

~~(iv) That the applicant has demonstrated a good-faith effort to identify and evaluate more preferred locations and that alternative locations are not feasible or potentially available.~~

(C) Findings. Applications for small wireless facility permits shall demonstrate complete conformance with the development standards established by this section any guidelines adopted pursuant to it.

(i) Administrative permit. In order to determine conformance with development standards, the director shall make all of the following findings when issuing an administrative permit:

a. That the applicant has demonstrated that the small wireless facility is being placed on the most-preferred support structure that is technically feasible;

b. That the location of the proposed small wireless facility conforms to the requirements of this article and any adopted guidelines; and

c. That the design of the proposed small wireless facility conforms to the requirements of this article and any adopted guidelines;

(ii) Minor conditional use permit. In addition to the findings in section 33-1203, the zoning administrator must also make the same findings required under Section 33-704(k)(4)(C)(i). If the decision of the Zoning Administrator is not satisfactory to the applicant, the applicant may appeal the decision to the Planning Commission in accordance with procedures set forth in Article 61.

(D) Appeals. Decisions of the director and zoning administrator may be appealed pursuant to Section 33-1303 of the Escondido Zoning Code.

~~(95) The city council may, by resolution, establish additional criteria, clarifications and guidelines for the location, operation, design and review of personal small wireless service facilities in the public right-of-way.~~

~~(l) Installation of remote units (less than thirty (30) inches in diameter) required for private, fixed wireless service on private property or installed by the City are not subject to the provisions of this Article 34 and are exempt from review by the zoning administrator, planning commission or the city council.~~

~~(m) Residential locations. The following development standards shall apply to any wireless communication facility located on land developed with residential as the primary use. This excludes the public right-of-way adjacent to such land.~~

~~(1) A wireless facility ~~should~~ shall not be located on a parcel less than ten thousand (10,000) square feet, with no more than one (1) wireless facility located on a parcel less than one (1) acre in size.~~

Attachment 3

(2) Freestanding wireless antenna facilities/structures (not incorporated into the architecture of the main residence) ~~should~~ shall be set back from the adjacent property boundary a minimum distance of one and one-half (1.5) times the height of the wireless facility.

(3) Wireless antenna facilities ~~should~~ shall not encroach into the minimum setbacks required of the main residence.

(4) Freestanding equipment structures may be located anywhere on the site as provided for accessory structures. The equipment structures ~~should~~ shall be designed to be architecturally compatible with the main residence/residential structure.

(5) The planning commission may modify development requirements: (1) and (2) of this subsection (m) upon the findings the proposed wireless facility will not result in any adverse compatibility, noise or visual impacts to surrounding properties; and the project design and location modifications represents the most appropriate alternatives for the subject property.

Sec. 33-705. Personal wireless service facilities—Application requirements.

(a) The following shall be included with an application for all personal wireless service facilities except for small wireless facilities in the public right-of-way:

(1) A city-wide map showing the provider's other existing facilities and the general area of currently anticipated future personal wireless service facilities in the city and outside the city, within one (1) mile of its corporate limits.

(2) The qualifications of the person who prepared the required RFR study, including such information as his or her education and professional qualifications, experience preparing studies, history demonstrating compliance with FCC guidelines, etc.

(3) Existing before photographs and after visual simulations. A sight line representation drawn to scale) may also be required (as determined by the director of community development) which shall be drawn from adjacent public roads and the adjacent properties (viewpoint) to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile and show all intervening trees and buildings, and be accompanied by photographs of what currently can be seen from the specific site and a visual simulation of the proposed facility. An on-site mock-up or balloon simulation also might be required for highly visible or sensitive sites to adequately assess the potential visual impact of the proposed facility.

(4) A description of proposed materials and colors of the proposed facility specific by type and treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.).

(5) Preliminary landscape and irrigation plan, if required.

(b) The city reserves the right to employ experts, at the applicant's expense, to evaluate information submitted with the application to ensure compliance with local regulations for land use, and to verify compliance with the Federal Communications Commission's standards for RFR emissions.

Attachment 3

(c) Applicants shall submit a theoretical radiofrequency radiation study (prepared by a person qualified to prepare such studies) with the application which quantifies the proposed project's radiofrequency emissions, demonstrating compliance of the proposed facility with applicable NCRP and ANSI/IEEE and FCC policies, standards, and guidelines for maximum permissible exposure (MPE) to radiofrequency radiation emissions. The study shall also include a combined (cumulative) analysis of all the wireless operators/facilities located on and/or adjacent to the project site, identifying total exposure from all facilities and demonstrating compliance with FCC guidelines. An updated radiofrequency study shall be submitted for any modification to a facility.

(d) Application materials required for small wireless facilities proposed in the public right-of-way pursuant to Section 33-704(k) shall comply with any guidelines adopted pursuant to that section.

Sec. 33-706. Personal wireless service facilities—Land use approval.

(a) City staff shall review plans for planning, siting, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and conformance with the wireless facilities guidelines. After such review, staff may approve, conditionally approve, or deny the proposed facility, or refer it to the planning commission for approval, conditional approval, or denial. As a component of the project review, the applicant must include details regarding the ability to provide the necessary utilities (i.e., telco and power) and appropriate access to the site. All new utility service runs shall be placed underground.

(b) Land use approval requirements for small wireless facilities located in the public right-of-way are provided in Section 33-704(k).

(ac) Except for small wireless facilities in the public right-of-way, aA plot plan application shall be required for all personal wireless service facilities/antennas and facilities which are permitted in the zone and which do not require a conditional use permit.

~~—(b) City staff shall review plans for planning, siting, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and conformance with the wireless facilities guidelines. After such review, staff may approve, conditionally approve, or deny the proposed plan, or refer it to the planning commission for approval, conditional approval, or denial. As a component of the project review, the applicant must include details regarding the ability to provide the necessary utilities (i.e., telco and power) and appropriate access to the site. All new utility service runs shall be placed underground.~~

(ed) Residential and open space zones. Personal wireless service facilities in these zones shall require a conditional use permit issued by the planning commission pursuant to Division 1 of Article 61 in all residential and open space zones. Personal wireless service facilities located within the public right-of-way within or adjacent to residential zones or open space zones shall require the issuance of a conditional use permit.

(de) Commercial and industrial zones. Plot plan approval or a conditional use permit shall be required in commercial and industrial zones according to the following chart:

Attachment 3

	CG	CN	CP	HPI-O	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Roof-mounted or building-mounted incorporating stealthy designs and/or screened from public ways or significant views	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that incorporate stealthy designs and do not exceed 35' in height	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that exceed 35' in height, or roof or building mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(ef) Co-Location. Co-location of personal wireless service facilities is encouraged to the extent it is technically feasible, up to the point where a structure or site has too many antennae and becomes visually cluttered, subject to the following siting criteria and chart:

	CG	CN	CP	HPI-O	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Co-location on existing buildings or structures, or adding an additional facility on a site	P	P	P	P	P	P	C
Co-location including new pole-mounted or ground-mounted structures that exceed 35' in height, or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

Attachment 3

RA	RE	R-1	R-2	R-3	R-4	RT	OS
C	C	C	C	C	C	C	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(fg) Planned Development and Specific Plans. Unless specifically permitted or conditionally permitted as part of the planned development or specific plan, any wireless communication facility shall not be permitted within these zones unless a modification to the master development plan or specific plan is approved by the planning commission or city council, as may be required. This provision does not apply to small wireless facilities in the public right-of-way.

Sec. 33-707. Personal wireless service facilities—Modifications and upgrades.

Except for small wireless facilities in the public right-of-way identified in section 33-704(k), the A modification of a personal wireless service facility which was not specified in the original design/approval (including, as examples, an increase in height, the number of antennas/panels, an increase in mass and scale, etc.) may be considered equivalent to an application for a new personal wireless service facility, and will be subject to the requirements of this article. However, upgrades to existing facilities to incorporate new technology which, in the discretion of the director, do not increase the existing mass and scale, increase the height or visibility of the structures, or decrease the overall height of the facility, may be approved by the director, and/or may be referred to the planning commission. Modifications and upgrades to small wireless facilities installed in the public right-of-way pursuant to section 33-704(k) shall be reviewed as described in said section and in any guidelines adopted pursuant to it.

Sec. 33-708. Personal wireless service facilities—Abandonment or discontinuation of use.

(a) At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier shall notify the city in writing of the proposed date of abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

(b) Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

Attachment 3

(1) Removal of antennas, mount, equipment shelters and security barriers from the subject property;

(2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal programs;

(3) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

(c) For small wireless facilities installed in the public ~~rights~~right-of-way, the city shall reserve the right to require a bond to ensure removal of such facilities, and the replacement of any structures removed as part of the installation, upon abandonment or discontinued use. The city may, at its sole discretion, require any structure installed in the public right-of-way for the purpose of installation of a small wireless facility to be left in place, and such structure shall become the possession of the city upon abandonment or discontinuance of use by the carrier. The city may also require the carrier to replace any structure that was removed in order to install the small wireless facility

Small Wireless Facility Permit

Description	Planning - Administrative Coordinator	Planning - Department Assistant	Planning - Graphics/GIS Technician I	Planning - Graphics/GIS Technician	Planning - Sr Graphics/GIS Technician	Planning - Asst Planner I	Planning - Asst Planner II	Planning - Principal Planner	Planning - Asst Dir of Planning	Engineering - Engineer II	Engineering - Associate Engineer	Engineering - Asst City Engineer	Full Cost
Small Cell Administrative Permit	\$63.97	\$50.97	\$30.92	\$71.01	\$73.78	\$81.71	\$108.94	\$131.51	\$100.91	\$117.69	\$133.32	\$791.56	
Conditional Use Permit - Minor	1.00	4.00	7.50	0.50	3.00	14.75	1.00	2.00	3.00	0.50	0.25	\$2,507.12	

Encroachment Permit and Master License Agreement

Description	Engineering - Real Property Manager	Engineering - Field Engineering Supervisor	Engineering - Field Engineering Inspector II	Engineering - Design & Construction Proj Mgr	Engineering - Administrative Assistant	Full Cost
Encroachment Permit for Small Cell Trenching less than 50'	\$143.61	\$100.82	\$82.16	\$113.11	\$45.64	\$1,398.03
Master License Agreement	8.00	1.50	12.00	1.50	2.00	\$1,148.86

ATTACHMENT 4

Ongoing Costs Associated with Managing Small Cell Sites				
Upfront IS Costs	\$	119,400		
Portion of Software Cost for 5 years	\$	75,540		
Update Cost for 4-years	\$	95,520		
Total IS Costs for 5-Years	\$	290,460		
	Permits	Nodes Added	Total Nodes	Est. Revenue
	Y1	75	75	\$ 34,499
	Y2	85	160	\$ 73,598
	Y3	100	260	\$ 119,597
	Y4	115	375	\$ 172,496
	Y5	125	500	\$ 229,995
		500		\$ 630,185
		1330	Total Payments*	<i>* Assume 3/4 revenue for first year prorated fee based on application date</i>
	IS Cost Per Node	\$	218.39	
	Finance/Field Cost Per Node	\$	394.93	
	Total Annual Cost	\$	613.32	
Detail:				
IS Tracking System Costs	Total Cost	%	Cost/Yr	Description
Baselayer development	\$ 30,000	100%	\$ 30,000	Spread over 5 years
Module Development	\$ 89,400	100%	\$ 89,400	Spread over 5 years
			\$ 119,400	Upfront Small Cell Module Design
Cityworks PLL Software	\$ 385,000	6.5%	\$ 25,025	
Cityworks AMS Software	\$ 480,000	6.5%	\$ 31,200	
Timmons Portal	\$ 79,800	6.5%	\$ 5,187	
ESRI Software	\$ 131,000	6.5%	\$ 8,515	
Hyland On Base	\$ 86,360	6.5%	\$ 5,613	
			\$ 75,540	Portion of Software Costs for 5-years
Module Updates	\$ 17,880	100%	\$ 17,880	Annual Cost (20% of development)
Baselayer Updates	\$ 6,000	100%	\$ 6,000	GIS updates (20% cost of development)
			\$ 23,880	Annual Update Costs
Finance/Field Costs Per Node:				
Invoicing/payment confirm (0.75 hrs)	\$	108		Note: Assumes LED retrofit by telecom
Inspection/coordination (2 hrs)	\$	287		
	\$	395		
Inspection/Coordination Per Node:				
Annual site inspection		1.00		
Cityworks update		0.50		
Coord. w/ carrier/reinspect *		0.50		
* 2.5 hours - approx. 15% of the time.		2.00		
Percentage of Software System:				
Division	Share	# Permits	Permit Tot	% permits % of total
Planning	25%	100	640	15.63% 3.91%
Engineering	18%	100	685	14.60% 2.63%
Fire	13%			
Code	13%			
Business License	13%			
Building	18%			
	100%			6.53%

ATTACHMENT 5

Adam Finestone

From: herbsarnoff@yahoo.com
Sent: Friday, December 13, 2019 11:34 AM
To: Adam Finestone
Subject: RE: [EXT] RE: Small Wireless Facilities - Proposed Zoning Code Amendment and Guidelines

Adam,

Thanks again for your help to understand the status of things here in Escondido. People in many cities around CA and elsewhere are pushing for caution, and even pushing back entirely on the idea of putting more powerful signals so close to where they live. My guess is that people in Escondido simply do not (yet?) understand this issue fully. I do hope the city council will consider this issue fully on behalf of residents, even if the residents have not yet engaged or understood the trade-offs being considered. I did my best to at least outline some of the risk areas, and to provide some links to information that provides a counter-argument to the Telecom industry's narrative, something clearly designed to maximize their shareholders profit. The health issues will clearly be debated for a while, but more and more evidence is coming out every year that there are significant risks to human health, and that kids and the elderly are the most vulnerable. Again, I do hope you and the city will consider, at a minimum, limiting access to towers being placed near kids (schools, day care facilities, parks, etc.) and near elder care facilities.

Please do let me know when this issue will be on the agenda for City Council, and I will make every attempt to be there. I have a special needs daughter that sometimes limits my ability to get to events.

Best regards for a great holiday.

Herb
P.s. Please call me Herb.

From: Adam Finestone <afinestone@escondido.org>
Sent: Thursday, December 12, 2019 5:49 PM
To: herbsarnoff@yahoo.com
Subject: RE: [EXT] RE: Small Wireless Facilities - Proposed Zoning Code Amendment and Guidelines

Good evening Mr. Sarnoff,

The meeting was actually very sparsely attended. It was the last item on the agenda, and by the time it was presented (around 8:00pm) only two people were in the audience, both representatives from the wireless industry. There may have been a couple others that left before the item was heard, but it's not possible for me to know what they may have been there for.

Your comments were attached to the staff report that was provided to the Planning Commission and are part of the public record. After I provided a PowerPoint presentation, the Planning Commission discussed the proposed modifications for probably about 30 minutes. Both wireless industry representatives provided public comments, though the Planning Commission did not deem it necessary to make any changes to the proposed code amendment and guidelines, and wound up forwarding staff's recommendation on to the City Council with no changes from what was presented in the staff report. (If you have not seen it, the staff report can be found at the following link: <https://www.escondido.org/small-cell-wireless-service-facilities.aspx>.)

ATTACHMENT 5

The City Council will make the final decision on the proposed Zoning Code Amendment and guidelines. I am shooting for the January 22, 2020, meeting.

Let me know if you have any further questions, and please, call me Adam.

Thanks,

Adam Finestone, AICP
Principal Planner
City of Escondido

From: herbsarnoff@yahoo.com <herbsarnoff@yahoo.com>
Sent: Thursday, December 12, 2019 5:12 PM
To: Adam Finestone <afinestone@escondido.org>
Subject: [EXT] RE: Small Wireless Facilities - Proposed Zoning Code Amendment and Guidelines

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender email address AND know the content is safe.

Hello Mr. Finestone,

Due to a family situation, I was not able to attend the City Council meeting this past Tuesday. Was there much discussion of the planned revisions, or of the potential impacts/risks from, a rapid wireless (4G/5G) rollout? Did my comments make it into the public record?

Please include me in future communications on this topic.

Best Regards,
Herb Sarnoff
760-855-1477

From: herbsarnoff@yahoo.com <herbsarnoff@yahoo.com>
Sent: Tuesday, December 3, 2019 12:18 PM
To: 'Adam Finestone' <afinestone@escondido.org>
Subject: RE: Small Wireless Facilities - Proposed Zoning Code Amendment and Guidelines

Dear Mr. Finestone,

Thank you for your careful review of the issues surrounding Small Cell Wireless installations. Please forward this note along to the Escondido City Council members, and to the City Clerk for inclusion in the public record. Please also include the information previously sent regarding the NEPA ruling as this provides the strongest case the city can make to delay things a bit, and to force additional environmental and safety data be provided by the wireless providers.

Many who live in Escondido are either alarmed by (or unaware of), the planned 5G (5th Generation) wireless telecom roll out, with a "small cell" tower to be installed on every street, next to many buildings/apartments, often closer than 100 feet from where people are living, walking and/or working. I believe this planned infrastructure poses several important risks, and only few benefits to the people of Escondido or the City. I believe the City Council should consider all of these risks/issues (see below) very carefully, prior to moving ahead to allow essentially unlimited access to telecom industry's rollout of these new small cell wireless towers.

I personally advocate for hard-wired copper landlines and fiber optic broadband as the primary robust and reliable communication network that Escondido residents need today. Hard-wired systems are especially needed in emergencies. If this issue is new to you, perhaps this short video of state Senator Colbeck's riveting testimony against 5G will be useful: <https://www.youtube.com/watch?v=j-UEuOYOFD4> See also: www.scientists4wiredtech.com

ATTACHMENT 5

I also believe in taking an evidence-based, precautionary approach to wireless development. I also advocate for the use of best practices in the regulation of telecommunications facilities, and a strong defense of the zoning and regulatory rights of local government which are seemingly under threat as a result of what appears to be Federal Communications Commission (FCC) overreach. The industry-captured FCC (See: https://ethics.harvard.edu/files/center-for-ethics/files/capturedagency_alster.pdf) is trying to force possibly unconstitutional policy through the Federal government which is now increasingly under fire in court by many local governments and tribes.

I strongly suggest putting a hold on issuing permits for 4G/5G “small cell” towers in residential neighborhoods or next to businesses until you are confident that the risks listed below have been properly addressed. I realize this takes courage and perhaps even the threat of lawsuits, but if cities band together (which they are already doing), the telecom industry will have no choice but to address these concerns.

At a minimum, I would suggest an ‘urgency ordinance’ for Escondido that includes at least a 1,000 foot minimum setback from schools and childcare centers, healthcare facilities, businesses, and scenic corridors. The health risks to kids are evidently more significant than for adults, and extreme precaution should be taken.

Adopting such an urgency ordinance may help to reduce/prevent the following risks associated with Small Cell Wireless rollouts:

1. Decreased reliability of the communications system as a whole. A wired (underground) system is inherently more robust. Full-scale rollout could eliminate the need for wired connections altogether, leading to a reduction in Escondido’s resilience when disaster strikes (if our reliable communication network is replaced with one that can more easily fail during a disaster). For example, the Camp Fire and other recent catastrophic wildfires have revealed the **weakness and fallibility of cellular systems in emergencies**. People died because they did not receive timely warnings from a wireless communications network that was already compromised by fire when it was needed most.

2. Related fires and potential electrocutions from having this type of voltage and electricity requirements every few houses throughout the city – with maintenance mostly outside of city control and/or oversight.

3. Privacy and security breaches. Wireless communication is inherently less secure than a wired infrastructure.

4. Increased energy use. This distributed wireless system will only serve to increase the energy usage of our communication infrastructure (vs. a wired system). If every city does this, our carbon footprint will surely increase. See: <https://watershedsentinel.ca/articles/5g-corporate-grail/>

5. Unsightly and hazardous industrial clutter in our neighborhoods.

6. Property devaluation due to landowners’ concerns regarding health, environment, and esthetics. Homeowners will likely be forced to disclose the proximity of their home to “small cell”, with an expected drop in property values as a result. Has the city discussed with realtors in the area? See: <https://magazine.realtor/daily-news/2014/07/25/cell-towers-antennas-problematic-for-buyers>

7. Harmful health impacts – There are many studies that contradict the telecom’s view that there is “nothing to worry about.” Please consider:

www.bioinitiative.org

<https://ehtrust.org/science/>

www.icems.eu

<https://mdsafetech.org/>

<https://www.americansforresponsiblettech.org/scientific-studies>

<http://www.5gappeal.eu/scientists-and-doctors-warn-of-potential-serious-health-effects-of-5g/>

8. Slower internet speeds than wired cable or fiber optic going all the into the home. See: <https://www.eff.org/deeplinks/2019/02/enough-5g-hype>

9. Loss of local sovereignty and the right to defend constituents from Telecom industry demands, and FCC overreach. (Partial remedy proposed by Anna Eshoo HR 530). <https://eshoo.house.gov/news-stories/press-releases/eshoo-introduces-legislation-to-restore-local-control-in-deployment-of-5g/>

ATTACHMENT 5

10. Potential significant expenses for cities, and certainly increased risks that cannot be fully understood as of yet. Will residents hold the City Council responsible for lack of oversight in the face of these very real risk? See: <https://www.eugeneweekly.com/2019/02/07/5g-the-next-generation/>

These are some of the significant risks from an over-reliance on wireless technology. But there are other risks.

5G installations pose fire hazards of their own. “Small cells” weighing up to 300 lbs (located on utility poles, street lights, people’s front yards, etc.) would likely be powered by diesel-fueled backup generators the size of mini refrigerators. The catastrophic Malibu fire of 2007 was evidently caused by overloading utility poles. That overloading was modest compared to what 5G promises. The greatest risk, however, may come from explosions when the diesel fuel-containing generators encounter fire or a car crash. In the event of a major earthquake, these remote generators could pose a true hazard to many people.

Firefighters were granted a SB 649 exemption. They’ve fought cell towers on their stations for almost 20 years due to resulting extreme neurological disabilities, so there is now a moratorium on the placement of cell towers on fire stations throughout the US. Yet children and the elderly are more vulnerable than firefighters. <https://ehtrust.org/firefighters-wake-call-us-susan-foster-re-sb-649-opposing-cell-towers-rights-way/>

Unions have reported that workers were injured, unaware they were working near transmitting cell antennas. 5G will increase risk to utility workers, HVAC workers, window washers, and tree trimmers. <https://ehtrust.org/cell-tower-worker-accident-health-safety-issues/>

We need policy clearly supporting our wired landline network and slowing the 5G roll out until the above mentioned issues can be fully considered.

This isn’t a partisan or geographical issue. 5G opponents are all over the political map. Local governments as diverse as Booneville, Arkansas and Mason, Ohio have passed ordinances prohibiting cell towers (including 5G small cells) from residential areas, and requiring setbacks from sensitive locations. Sebastopol, Mill Valley, Ross, Fairfax, and San Anselmo banned 5G, at least in residential areas. Petaluma and Santa Rosa took action, too. We urge you to adopt an urgency ordinance to defend Escondido against telecom industry rapid rollout of a new technology with significant risks to health, property values, and city liability. See: <https://ehtrust.org/usa-city-ordinances-to-limit-and-control-wireless-facilities-small-cells-in-rights-of-ways/>

The book, *Re-Inventing Wires: The Future of Landlines & Networks* published by the National Institute for Science, Law & Public Policy. It explains thirteen reasons why **fiber to the premises** (not fiber to support wireless) is “unquestionably the very best technological option to support our economy and society,” which will provide **greater internet access speed than wireless**, achieves **superior voice quality**, is a **better value** for the cost than 5G, is **more reliable** with more equality in internet access, and—unlike 5G—will not negatively impact the integrity of the communications system as a whole.

A review, “Wireless Networks are Not as Fast, Secure, Reliable or Energy-Efficient as Wired Systems.” was published in Business Wire (a Berkshire Hathaway Co.) stating that antenna densification plans “do not serve the public’s best interest” and that the internet and broadband networks “must be steered towards the fastest, most reliable, future-proof, and secure infrastructure available” which “would be wired.”

In the early Verizon home 5G broadband test cities, where the connections were marketed as faster than your cable broadband, it turned out that speeds average around 300 Mbps with some peaking to gigabit speeds. By comparison, cable networks had already deployed gigabit download networks earlier in 2018 and have plans to upgrade 10-gigabit networks.” So 5G top speeds only match broadband speeds that have already been surpassed. **Fiber to the home speeds currently dwarf 5G promises.**

Consider also that the city of Eugene, Oregon is facing a loss in its general fund from \$2 million to \$4.2 million annually (without even counting legal defense costs) according to Eugene’s Finance Director. From the above mentioned article: “The FCC is also facing opposition on the push for rapid 5G deployments from the U.S. Conference of Mayors, National League of Cities and the League of Oregon Cities.”

Please acknowledge receipt of this letter, and supply a copy to Escondido City Council members, the City Clerk and for submission to the public record.

ATTACHMENT 5

I appreciate your hard work on behalf of Escondido residents, and I hope you will consider all of the many risks prior to approving planning commission changes that streamline an unfettered rollout of Small Cell Wireless towers.

Sincerely,

Herb Sarnoff (Escondido, 92027)

From: Adam Finestone <afinestone@escondido.org>

Sent: Tuesday, November 26, 2019 5:26 PM

To: Adam Finestone <afinestone@escondido.org>

Cc: Jay Paul <jpaul@escondido.org>; Mike Strong <mstrong@escondido.org>; Darren Parker <dparker@escondido.org>; Adam C. Phillips <aphillips@escondido.org>; Bill Martin <bmartin@escondido.org>

Subject: Small Wireless Facilities - Proposed Zoning Code Amendment and Guidelines

Attached is a copy of the draft Zoning Code Amendment and draft Guidelines that were distributed at the meeting last night. Any comments provided to my attention by 5 p.m. on Tuesday, December 3, will be taken into consideration prior to finalizing the draft documents for consideration by the Planning Commission at their December 10 meeting.

Please let me know if you have any questions. Thank you.



Adam Finestone, AICP
Principal Planner
Community Development Department | City of Escondido
760-839-6203
www.escondido.org

ATTACHMENT 5

Adam Finestone

From: herbsarnoff@yahoo.com
Sent: Sunday, December 15, 2019 10:38 AM
To: Adam Finestone
Cc: herbsarnoff@yahoo.com
Subject: RE: [EXT] RE: Small Wireless Facilities - Proposed Zoning Code Amendment and Guidelines
Attachments: Encinitas 5G Limitation - Article.pdf; 5G Insurance and Liability White Papers.pdf; BioInitiative Report Conclusion.pdf; BioInitiative Report Update 2019..pdf

Hello Adam,

I don't know all the details, but it seems that Encinitas has taken steps to limit wireless infrastructure:

"In a unanimous vote, the City Council barred construction of 5G small-cell antennas in residential areas and parks, areas with high risk of fire, and within 500 feet of any primary school or daycare."

Full article here: <https://5gtechnologynews.com/bittersweet-victory-for-encinitas-5g-opponents/> - Attached as PDF.

Clearly health issues is the primary concern, especially when it comes to children. The Bio Initiative website shares a comprehensive compiling of research on the impacts of 5G/wireless on health. The full report is too long to attach to an email, but easily downloaded here:

<https://bioinitiative.org/> - Conclusions are attached as a PDF.

<https://bioinitiative.org/whats-new/> -- Updates in research since publication in 2012. Attached as PDF.

There is also clearly evidence that the insurance industry is considering constant (i.e. 24/7) microwave radiation as an emerging risk area, especially as the proximity to people and power increase to meet the demands of wi-fi (vs. cell phone) capability, broadband data rates, etc. Here is a good summary of research on this topic:

See: <https://ehtrust.org/key-issues/reports-white-papers-insurance-industry/> - Attached as a PDF.

I think it is important for the City Council to know they DO have options, and that other cities are proceeding with substantially more caution as it relates to health, liability, and property value concerns. Perhaps the Escondido city attorney should chat with the city attorney from Encinitas to learn more about how they came to this conclusion, including the decision to push back on Telecom industry demands for essentially unlimited expansion.

Please add this email and the attached PDFs to the public record file for the City Council to review.

Thank you.

Herb Sarnoff

From: Adam Finestone <afinestone@escondido.org>

Sent: Thursday, December 12, 2019 5:49 PM

To: herbsarnoff@yahoo.com

Subject: RE: [EXT] RE: Small Wireless Facilities - Proposed Zoning Code Amendment and Guidelines



BioInitiative 2012

A Rationale for Biologically-based Exposure Standards
for Low-Intensity Electromagnetic Radiation



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1

05, 2019

Updated Research Summaries

May 1st, 2019



Many new scientific studies have been published since the 2017 update. As a result, several of the Research Summaries by Dr. Lai are updated in 2019. They are the abstract collections for neurological effects of ELF-EMF and RFR; and for free radical (oxidative damage) effects from ELF-EMF, static fields and RFR. Corresponding graphics on "Effect vs No Effect" are also brought current for these new 2019 abstract collections. 2019 Updated Research Summaries (May, 2019) These new and updated Research Summaries include downloadable files on Free Radicals (oxidative damage) from ELF-EMF, [...]

[READ MORE](#)

2

07, 2018

Martin Blank (1933-2018)

July 2nd, 2018



It is with great appreciation for Martin Blank that the BioInitiative Working

Group acknowledges his many contributions, and sadness we feel in losing a cherished friend and humanitarian. Martin was the kind of scientist and colleague who understood that science needs a human voice. In his professional life, he gave endlessly to promote public communication on complex health issues. He understood that waiting for academic certainty on scientific issues would penalize families who should be preventing EMF exposures in their children's critical developmental phases of life. He didn't shy away [...]

[READ MORE](#)

17

11, 2017



BioInitiative Report: Medical concerns intensify over deadly brain tumors from cell phone use/Orebro University Hospital, Sweden

November 17th, 2017

There is a consistent pattern of increased risk for glioma (a malignant brain tumor) and acoustic neuroma with use of mobile and cordless phones” says Lennart Hardell, MD, PhD, Orebro University, Sweden, according to publications through mid-2017. “Epidemiological evidence shows that radiofrequency should be classified as a Group 1 (Known) Human Carcinogen..... [...]

[READ MORE](#)

15

05, 2017



Electromagnetic Fields, Pulsed Radiofrequency Radiation, and Epigenetics: How Wireless Technologies May Affect Childhood Development

May 15th, 2017

Announcing a Special Section of Child Development from © The Society for Research in Child Development, Inc. Contemporary Mobile Technology and Child and Adolescent Development, edited by Zheng Yan and Lennart Hardell, May 15, 2017
Article by Cindy Sage and Ernesto Burgio Abstract
Mobile phones and other wireless devices that produce electromagnetic fields (EMF) and pulsed radiofrequency radiation (RFR) are widely documented to cause potentially harmful health impacts that can be detrimental to young people. New epigenetic studies are profiled in this review to account for some neurodevelopmental and neurobehavioral [...]

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15

05, 2017



Effects of Mobile Phones on Children's and Adolescents' Health: A Commentary

May 15th, 2017

Announcing a Special Section of Child Development from © The Society for Research in Child Development, Inc. Contemporary Mobile Technology and Child and Adolescent Development, edited by Zheng Yan and Lennart Hardell, May 15, 2017
Article by Lennart Hardell Orebro University Abstract

The use of digital technology has grown rapidly during the last couple of decades. During use, mobile phones and cordless phones emit radiofrequency (RF) radiation. No previous generation has been exposed during childhood and adolescence to this kind of radiation. The brain is the main target organ for [...]

[READ MORE](#)

1
02, 2017



Comment to the FCC on Docket 16-421 on Streamlining for Small Cell (Antenna) Rollout By Relaxing the Rules for Siting

February 1st, 2017

The FCC is proposing to 'streamline' the permitting process for small wireless facilities, without completing its investigation of RF health effects of low-intensity radio frequency radiation. This fact alone argues against the FCC speeding and easing the approval of millions of new 'small cell' wireless antenna sites under Docket 16-421. It also argues against permitting thousands of new satellite RF sources (Boeing Docket No. 16-1244, SAT-LOA-20160622-00058). Health consequences have not been identified nor been factored into public safety limits. This is particularly true for the new 5G wireless technologies using millimeter wave frequencies [...]

[READ MORE](#)

01, 2017



BioInitiative Working Group Suggests New Members to Replace the Existing WHO RF EHC Core Group and Advisors Committee

January 24th, 2017

A list of highly qualified replacement members for the WHO Core Group and Advisors was transmitted to Dr. Emilie van Deventer, WHO EMF Program Director in a letter dated January 24, 2017.... [...]

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19

12, 2016



BioInitiative Working Group Issues a “No Confidence” Letter to the WHO EMF Program Manager

December 19th, 2016

The BioInitiative Working Group has advised the World Health Organization's Dr. Emilie van Deventer that the membership composition of the RF Environmental Health Criteria Core Group is unacceptable. WHO is urged to make changes to the WHO RF EHC Core Group membership to more fairly reflect membership and expertise of the 2011 IARC RF Working Group. At present the WHO RF EHC Core Group is indistinguishable from ICNIRP (1, 2) undermining credibility of the process and ensuring doubt about conclusions. Even if schedule delays occur as a result... READ MORE [...]

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31

05, 2016

Cell Phone Radiation Study Confirms Cancer Risk

May 31st, 2016



Cell Phone Radiation Study Confirms Cancer Risk Orebro University, Sweden May 31, 2016 The National Toxicology Program under the National Institutes of Health has completed the largest-ever animal study on cell phone radiation and cancer. The results confirm that cell phone radiation exposure levels within the currently allowable safety limits are the "likely cause" of brain and heart cancers in these animals, according to Dr. John Bucher, Associate Director of the NTP. One in twelve (12) male rats developed either malignant cancer (brain and rare heart tumors) or pre-cancerous lesions [...]

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28

02, 2016

Comment Letter: Rebutting the validity of findings of SCENIHR's Final Opinion on Potential Health Effects of Electromagnetic Fields (EMF)

February 28th, 2016



BioInitiative Working Group's members Cindy Sage, MA, Lennart Hardell, MD, PhD and David O. Carpenter, MD have published a Comment Letter in the journal Bioelectromagnetics rebutting the validity of findings of SCENIHR's Final Opinion on Potential Health Effects of Electromagnetic Fields (EMF). Sage C, Hardell L, Carpenter DO. Comment on SCENIHR: Opinion on Potential Health Effects of Exposure to Electromagnetic Fields,

Bioelectromagnetics 36:480-484 (2015). The transmittal of this publication to John Ryan, Acting Director, Public Health Directorate, Directorate General for Health and Food Safety, European Commission is posted below. The transmittal letter [...]

[READ MORE](#)

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Reports And White Papers Of Insurance Industry

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(<https://www.addtoany.com/share#url=https%3A%2F%2Fehtrust.org%2Fkey-issues%2Freports-white-papers-insurance-industry%2F&title=Reports%20and%20White%20Papers%20of%20Insurance%20Industry>)

Reports & White Papers Of Insurance Industry On Electromagnetic Radiation Health Risks And Liability

Insurance companies do not want to insure for electromagnetic radiation because it is simply too risky. Please see on this webpage the reports, white papers and news articles where companies report on the liability issue.

"It may take two more decades to know if electromagnetic radiofrequency energy is a significant liability issue for telecommunications companies, so, in the interim, insurers are treating the risk as cautiously as a downed power line after a storm.

Insurers often exclude the risk from commercial general liability policies, strictly limit the coverage or avoid policyholders in the wireless industry, brokers say."

— [Roseanne White Geisel, 6/3/2007 Business Insurance](#)

<http://www.businessinsurance.com/article/20070603/ISSUE03/100022051/insurers-exclude-risks-associated-with-electromagnetic-radiation>

2019 Swiss Re Report

5G is rated as a “high impact” emerging risk affecting property and casualty claims in more than 3 years

“Off the leash – 5G mobile networks” (p. 29) (<https://ehtrust.org/wp-content/uploads/Swiss-Re-SONAR-Publication-2019-excerpt-1.pdf>)

“5G – short for fifth generation – is the latest standard for cellular mobile communications. Providing ultrafast broadband connection with higher capacity and lower latency, 5G is not only heaven for your smartphone. It will enable wireless connectivity in real time for any device of the Internet of things (IoT), whether that be autonomous cars or sensor-steered factory. In doing so, it will allow decentralised seamless interconnectivity between devices.

To allow for a functional network coverage and increased capacity overall, more antennas will be needed, including acceptance of higher levels of electromagnetic radiation. In some jurisdictions, the rise of threshold values will require legal adaptation. Existing concerns regarding potential negative health effects from electromagnetic fields (EMF) are only likely to increase. An uptick in liability claims could be a potential long-term consequence.

Other concerns are focused on cyber exposures, which increase with the wider scope of 5G wireless attack surfaces. Traditionally IoT devices have poor security features. Moreover, hackers can also exploit 5G speed and volume, meaning that more data can be stolen much quicker. A large-scale breakthrough of autonomous cars and other IoT applications will mean that security features need to be enhanced at the same pace. Without, interruption and subversion of the 5G platform could trigger catastrophic, cumulative damage. ...

Potential impacts:

- Cyber exposures are significantly increased with 5G, as attacks become faster and higher in volume. This increases the challenge of defence.
- Growing concerns of the health implications of 5G may lead to political friction and delay of implementation, and to liability claims. The introductions of 3G and 4G faced similar challenges
- Information security and national sovereignty concerns might delay implementation of 5G further, increasing uncertainty for planning authorities, investors, tech companies and insurers.
- Heated international dispute over 5G contractors and potential for espionage or sabotage could affect international cooperation, and impact financial markets negatively.
- **As the biological effects of EMF in general and 5G in particular are still being debated, potential claims for health impairments may come with a long latency.**

Read the **2019 Swiss Re Report** (<https://ehtrust.org/wp-content/uploads/Swiss-Re-SONAR-Publication-2019-excerpt-1.pdf>)

Vodafone 2017 Report

This 2017 Report ranks the EMF health risk issue as having a “high” impact . Please see page 29 of the report for a graphic on “Our Principal Risks” that features the EMF risk as “High.” The graphic states, “EMF health related risks EMF found to pose health risks causing reduction in mobile usage or litigation.” See the Vodafone 2017 graphic here (<https://ehtrust.org/wp-content/uploads/Vodafone-Principal-Risk-EMF-.jpg>).

Vodafone 2018 Report (https://www.vodafone.com/content/annualreport/annual_report18/downloads/Vodafone-full-annual-report-2018.pdf) (EMF is a “Key Principal Risk” rated as high in the graphic on page 38)

In addition this Report states that:

“What is the risk? Electro-magnetic signals emitted by mobile devices and base stations may be found to pose health risks, with potential impacts including: changes to national legislation, a reduction in mobile phone usage or litigation.”

Read the Vodafone 2017 Report

(https://www.vodafone.com/content/annualreport/annual_report17/downloads/Vodafone-full-annual-report-2017.pdf)

2014 Swiss Re SONAR Report

"Swiss Re SONAR 2014 Report: New emerging risk insights." (http://media.swissre.com/documents/SONAR_2014.pdf)
Unforeseen consequences of electromagnetic fields are categorized as having a potential impact of HIGH in this report on emerging risks.

"This report highlights 26 new emerging risk themes. It is meant to provide a first indication of what might lie beyond the horizon so that our readers can prepare for future challenges. Themes were identified through Swiss Re's SONAR process and have been reviewed by Swiss Re's emerging risk management experts. They draw on all areas of insurance, and many themes have cascading effects across areas and lines of business. Unforeseen consequences of electromagnetic fields are categorized as having high potential impacts."

The section on Smart Cities (page 22) states that "an increasing level of interconnectivity and the growing prevalence of digital steering and feedback systems also give rise to new vulnerabilities. These could involve cascading effects with multiple damages as well as long-lasting interruptions if the problems turned out to be complex and/or difficult to repair. Interconnectivity and permanent data generation give rise to concerns about data privacy, and exposure to electromagnetic fields may also increase."

2013 Swiss Re SONAR Report

Swiss Re SONAR 2013 Report: "Emerging risk insights."
(<http://nebula.wsimg.com/3ef9a4d9a5a32e5aeaf9226b982e9fb3?AccessKeyId=045114F8E0676B9465FB&disposition=0&alloworigin=1>)

"Unforeseen consequences of electromagnetic fields. Potential impact: High. Time Frame >10 Years.

The ubiquity of electromagnetic fields (EMF) raises concerns about potential implications for human health, in particular with regard to the use of mobile phones, power lines or antennas for broadcasting. Over the last decade, the spread of wireless devices has accelerated enormously. The convergence of mobile phones with computer technology has led to the proliferation of new and emerging technologies. This development has increased exposure to electromagnetic fields, the health impacts of which remain unknown. Anxiety over the potential risks related to EMF has risen. Studies are difficult to conduct, since time trend studies are inconsistent due to the still rather recent proliferation of wireless technology. The WHO has classified extremely low-frequency magnetic fields and radiofrequency electromagnetic fields, such as radiation emitted by cell phones, as potentially carcinogenic to humans (Class 2B carcinogen). Furthermore, a recent ruling by an Italian court suggested a link between mobile phone radiation and human health impairment. Overall, however, scientific studies are still inconclusive regarding possible adverse health effects of EMF. If a direct link between EMF and human health problems were established, it would open doors for new claims and could ultimately lead to large losses under product liability covers. Liability rates would likely rise."

Read the Swiss Re SONAR 2013 Report: "Emerging risk insights."
(<http://nebula.wsimg.com/3ef9a4d9a5a32e5aeaf9226b982e9fb3?AccessKeyId=045114F8E0676B9465FB&disposition=0&alloworigin=1>)

Swiss Re 2004 Report

Holzheu, Thomas and Rudolf Enz., The economics of liability losses – insuring a moving target, Sigma No 6/2004
(https://www.researchgate.net/publication/316583554_The_economics_of_liability_losses_-_insuring_a_moving_target)

Emerging risks worldwide

“What is the next asbestos?” is a question that all insurers ask and worry about. Since many potential liability risks would be covered by liability policies unless

explicitly excluded, managing so-called “emerging risks” has become a key challenge for liability underwriters. As yet, there is no clear definition of what

precisely constitutes an “emerging risk”, but we will illustrate the phenomenon with a few examples.

Electromagnetic fields, genetically modified food, and nanotechnology are discussed as possible emerging risks. Risks to the human body arising from electromagnetic fields produced by power lines, cell phones, and other mobile communication equipment are currently the subject of intense debate.

Swiss Re 2004 The Risk Landscape of the Future (http://litigationconferences.com/wp-content/uploads/2010/03/411a9a00455c7a2ab124bb80a45d76a0-Publ04_Risk_Landscape_en.pdf)

on cell phone radiation, “It would therefore be careless to insure the risks associated with new technology before more is known about them”

1996 Swiss Re “Electrosmog – a phantom risk.” (<http://www.emfandhealth.com/Swiss-ReElectrosmog.pdf>)

“The following chapters explain in detail why it is not possible to answer with certainty the question of whether weak electromagnetic phenomena pose health risks.”

This report was later followed up by a 2013 report which stated that the consequences of electromagnetic fields have a high potential impact.

2013 AM Best Briefing

“Emerging Technologies Pose Significant Risks with Possible Long-Tail Losses”

(<https://web.archive.org/web/20180519101714/http://www.ambest.com/directories/bestconnect/EmergingRisks.pdf>)

“The risks associated with long term use of cell phones, although much studied over the past 10 years, remains unclear. Dangers to the estimated 250,000 workers per year who come in close contact with cell phone antennas, however, are now more clearly established. Thermal effects of the cellular antennas, which act at close range essentially as open microwave ovens can include eye damage, sterility and cognitive impairments. While workers of cellular companies are well trained on the potential dangers, other workers exposed to the antennas are often unaware of the health risks. The continued exponential growth of cellular towers will significantly increase exposure to these workers and others coming into close contact with high-energy cell phone antenna radiation.”

Great American Insurance Group Non-ionizing Radiation Factsheet

(https://www.greatamericaninsurancegroup.com/docs/default-source/loss-prevention/f13784non-ionizing-radiation.pdf?sfvrsn=756b77b1_4)

2011 Business Insurance White Paper

“The Next Asbestos: Five emerging risks that could shift the liability landscape.”

(<https://www.businessinsurance.com/article/99999999/wp05/110519977/the-next-asbestos-five-emerging-risks-that-could-shift-the-liability-landscape>)

This white paper examines mass tort exposures that may have the potential to cause major difficulties for commercial policyholders and their insurers and includes workers’ overexposure to radio frequency waves from rooftop wireless transmitters and also states, “research, meanwhile, also has shown biological effects from lower-level “nonthermal” exposure, and people exposed at lower levels have reported headache, dizziness, nausea, mood disorders, mental slowing and memory loss.”

Lloyds of London White Papers

2018 Lloyds of London 2018 Emerging Risk Report (https://ehtrust.org/wp-content/uploads/New_realities.pdf)

- This report does not specifically address electromagnetic radiation exposure but does review the “Human risks including physical risks, mental risks, and digital consent. Physical risks: people using new realities technology may become disorientated in their real-world environments and injure themselves. Users may also become so used to making consequence-free actions in the metaverse – walking into traffic, for example – they could become desensitised to potentially fatal realworld risks. Mental risks: because these are relatively new technologies, there are currently no available long-term studies on their physical and mental impacts. Side effects vary dramatically from person to person but some of those associated with immersive gaming may include depression, isolation, reclusive behaviour, and even suicide and violence. Employers are going to have to consider the impacts of physical and mental risks from an employer’s liability perspective.”

2017 Lloyds of London Report cites the 2010 Lloyds Report in a powerpoint on risk.

(https://higherlogicdownload.s3.amazonaws.com/RIMS/441965db-40b0-4796-b21a-da09b349652a/UploadedFiles/58lafpugTU6bM5Rb0f5G_Lloyd's%20-%20Presentation%20to%20FairfieldWestchester%20RIMS%20-%20September%202017.pdf)

2013 Lloyd of Londons Risk Index Report (<https://ehtrust.org/wp-content/uploads/Lloyds-Risk-Index-2013report100713.pdf>)

- In this 2013 Report “harmful effects of new technology’ is listed as a factor increasing in risk in both North America and Latin America.

2010 Lloyd’s of London Report on Electromagnetic Fields (<https://www.lloyds.com/news-and-insight/risk-insight/library/technology/emf>) “Electromagnetic fields from mobile phones: recent developments.” Lloyd’s Emerging Risks Team Report, November 2010 (<http://nebula.wsimg.com/ad527ad4c67225c56e189704fcc343d3?AccessKeyId=045114F8E0676B9465FB&disposition=0&alloworigin=1>)

- This report looks first at current views on EMF as stated by international bodies such as the World Health Organisation and the European Union, and then goes on to examine recent scientific research into the field. It finally considers the implications for the insurance industry by scrutinising current legal cases on EMF and any comparisons which can be drawn with asbestos.
- “The danger with EMF is that, like asbestos, the exposure insurers face is underestimated and could grow exponentially and be with us for many years.” Lloyd’s refuses to cover claims linked with RF radiation
- This 2010 Report is repeatedly cited in Lloyd’s presentations in future years. Lloyd’s: cover to cover A Day at Lloyd’s An Introduction to the Lloyd’s Market Structure Hank Watkins, President, Lloyd’s North America February 5, 2013 (https://www.americanbar.org/content/dam/aba/events/tort_trial_insurance_practice/2013/02/a-day-at-lloyds/lloyds_cover_to_cover.authcheckdam.pdf)

Austrian Accident Insurance Institute

2016 Austrian Accident Insurance Institute (AUVA) ATHEM Report 2

“Investigation of athermal effects of electromagnetic fields in mobile communications.” (<https://www.diagnose-funk.org/download.php?field=filename&id=366&class=DownloadItem>) in German

“The ATHEM 2 project investigated cognitive effects as well as whether and how the RF-EMF changes cells of the human body.”

2011 Austrian Accident Insurance Institute (AUVA) ATHEM Report 1

“Investigation of athermal effects of electromagnetic fields in mobile radio areas.” (<https://www.diagnose-funk.org/download.php?field=filename&id=368&class=DownloadItem>) in German

"The ATHEM project investigates the athermal (heat-independent) biological effects of radiofrequency electromagnetic fields on an interdisciplinary basis."

2009 Austrian Accident Insurance Institute (AUVA) ATHEM Report

"Athermal effects confirmed – Limits questioned – Precaution required." (<https://www.diagnose-funk.org/download.php?field=filename&id=122&class=DownloadItem>) German document

"The Austrian General Accident Insurance provides a research report on athermal effects of mobile radio radiation and calls for precautionary policies"

2009 Austrian Accident Insurance Institute Report on Health Risks from Cell Phone Radiation

"Nonthermal Effects of Electromagnetic Radiation in the Cell Phone Frequency Range"

(<http://nebula.wsimg.com/d2b92dccccea973e7ddcb579c2d081cc?AccessKeyId=045114F8E0676B9465FB&disposition=0&alloworigin=1>)

"The AUVA studies have verified that: Electromagnetic fields from cell phone radiation have an impact on the Central Nervous System (brain), Immune System, Protein Syntheses"

"The radiation-induced effects observed, however, were not always dosage-dependent as would be expected from thermal effects. Some cells showed an even stronger response when the 5-minute exposure was followed by a 10-minute break (intermittent exposure). This would also support a nonthermal effect mechanism. The project results, therefore, serve as a further confirmation of the existence of so-called nonthermal effects." (p. 169)

"Any person, of course, can learn important lessons from these results. The findings of the study show that a cell phone user can minimize the potential risks through a prudent use of this technology." (p.169)

"One of the observations showed that, among the different cells, those respond particularly strongly, which are metabolically active. This cell property is especially pronounced in growing tissues, that is, in children and youth. Consequently, these population groups would be more susceptible than average to the described effects"

September 2016, KPMG International Cooperative ("Emerging Risks in the Global Insurance Industry September 2016, Evolving Insurance Risk and Regulation Preparing for the future – Chapter 5"

(<https://assets.kpmg.com/content/dam/kpmg/ca/pdf/2016/10/ca-emerging-risks-global-insurance.pdf>)

Although EMFs are not mentioned, the paper does reference the impact to the eyes from blue light.

- "Two main risks could arise from LED usage – Sleep disruption: LEDs emit a blue light which may affect melatonin production and circadian rhythms in the human body. These in turn can lead to sleep disruption and corresponding health problems. – Retina damage: The risk exists that the blue light emitted by LEDs could damage the retina. This is particularly risky for children as their eyes are not yet fully developed. LEDs are typically covered with a coating of phosphor which converts the blue light to white. However, over time this coating may wear down, meaning that the longer a product is used the more the risk increases. Currently, there is no widespread move by manufacturers or product developers to minimize these risks. In the future, if this risk manifests itself, insurers could face challenges similar to those that arose with asbestos, namely in defining when an injury is deemed to have occurred, and what product in particular can be attached to that injury."

NEWS ARTICLES

A Coming Storm For Wireless? By Investment Analyst Gloria Vogel July 27, 2017 in Talk Markets

(<http://www.talkmarkets.com/content/stocks-equities/a-coming-storm-for-wireless?post=143501>)

- "Increased RF injuries may result from the proliferation of antennas to support expanding wireless activity."

- As workers and the medical community begin to better understand those RF injuries, the wireless industry could face increased RF safety awareness issues.
- Insurers no longer provide RF exposure coverage, so wireless providers may find property owners less willing to renew existing leases, or to lease space for antennas."

"The Warning In Your Smartphone" By Dr. Anna Young Published By Ferris University Of Sydney Business School

(http://sydney.edu.au/business/news_and_events/opinion/2015/the_warning_in_your_smart_phone)

Dr. Anna Young-Ferris published an article in The Responsible Investment Association of Australia in 2015

"Contingent liabilities that arise from the threat of litigation for smartphone manufacturers and service providers are one of the major investment risks. So much so that telco companies could be the next wave of 'sin stocks'." R

(http://sydney.edu.au/business/news_and_events/opinion/2015/the_warning_in_your_smart_phone)

Geovital: A Review Of The UNSW Sydney 'Faculty Of Law' Program: Risks, Regulations And Liability Around Exposing Other People To Wireless Technology EMF Radiation

The educational program at the University of New South Wales (UNSW) was aimed at lawyers, school principals, union representatives and others with an interest in radiation exposure, its legal ramifications and liability. This seminar was the first of its kind to be held in Australia and attracted professionals from across the country. Presentations were made by the following experts on various subjects related to radiation exposure. Read it here (<http://en.geovital.com/risks-regulations-and-liability-around-exposing-people-and-students-to-wireless-technology-emf-radiation-part1/>)

Legal Presentations Which Includes The Electromagnetic Radiation Exclusion.

See Powerpoint Slide #13 from "An Assessment of Current Products, Risks, Coverages and Claims in Cyber Coverage Mary-Pat Cormier Bowditch & Dewey, LLP (<http://www.bowditch.com/BE5C2B/assets/files/News/B0466817.PDF>)

2012 Willis Insurance Broker Article on Electromagnetic Fields

"Electromagnetic Fields: More than Just an Eye Sore." pg. 11-12.

(https://www.willis.com/Documents/Publications/Industries/Real_Estate/Views_March2012_Facing_Future.pdf)

"Public health and toxic tort liabilities concerns surrounding EMFs have become contentious among utility companies, regulatory agencies, land owners and other affected stakeholders. While many studies have produced varying (and sometimes contradictory) results, many epidemiological studies suggest a possible human carcinogenic link in a classification group similar to, say – formaldehyde, DDT, dioxins and PCBs."

"From an insurance perspective, when considering the potential legal and toxic tort implications, a layer of defense against EMF liabilities and exposures could be found through an environmental insurance product. Among other coverage grants being provided, these environmental policies cover third-party bodily injury and property damage claims and legal defense associated with EMFs. Many carriers have EMF coverage built directly into their form via their definition of "Pollutants" (e g.,...any solid, liquid, gaseous or thermal pollutant, irritant or contaminant including but not limited to...smoke, vapors, toxic chemicals, hazardous substances... electromagnetic fields .") And, most environmental policies include "diminished third-party property value" in their definition of "property damage."

2011 Business Insurance Article

Geisel, Roseanne White. "Insurers exclude risks associated with electromagnetic radiation."

(<http://www.businessinsurance.com/article/20070603/ISSUE03/100022051/insurers-exclude-risks-associated-with-electromagnetic-radiation>)

The article provides a brief overview of electromagnetic radiation and the possible health effects, then notes multiple litigation cases on radiofrequency radiation exposure, as well as interviewing multiple insurance companies

2011 Business Insurance Article on White Paper “The Next Asbestos: Five Emerging Risks that Could Shift the Liability Landscape”

“White paper explores risks that could become ‘the next asbestos.’”

(<http://www.businessinsurance.com/article/20110517/STORY/110519944/White-paper-explores-risks-that-could-become-the-next-asbestos-->)

2002 Real Estate Finance Journal Article on the growing presence of electromagnetic field litigation

Forcade, Bill S. “Electromagnetic Field Litigation A Growing Issue for Real Estate and Building Concerns.”

(<https://jenner.com/system/assets/assets/6135/original/REFJForcade.pdf?1327948224>)

“There is a growing public concern that electromagnetic fields cause personal injury or property damage. That concern is expressed in toxic tort litigation, commercial property transactions, and insurance considerations. Because the number and variety of conflicts is increasing, it is important for prudent property managers to understand what this conflict is about, what kind of situations prompt EMF conflicts, what the courts have done, and what to do to reduce the risks of an EMF conflict.”

“Second, EMF litigation is profoundly dependent upon the character of the most recent scientific studies on the health effects of EMF. Even a single reputable scientific study showing that EMF are a direct cause of an adverse health effect could lead to an explosion in litigation.”

1999 Microwave News Article on Refusal of Lloyd’s of London to cover cell phone manufacturers

Microwave News March/April, “Wireless Notes” (<http://microwavenews.com/news/backissues/m-a99issue.pdf>)

“Lloyd’s of London, the leading U.K. insurance underwriter, is refusing to cover manufacturers of wireless phones against health risks to users of their phones, the Guardian and its sister publication, the Sunday Observer, both leading British newspapers, reported on April 10 and April 11, respectively. The announcement follows the release of the University of Bristol findings of changes in cognitive function following exposure to signals from a mobile phone”

1999 News Article in the Guardian on Current Status of Britain’s Insurance Policies

Ryle, Sarah. “Insurers balk at risks of phones.” (<https://www.theguardian.com/uk/1999/apr/11/sarahryle.theobserver>)

News article from the Guardian describing the events leading up to a Lloyd’s underwriting refusing insure phone manufacturers against the damage to user’s health. The article briefly outlines Britain’s efforts in the wake of scientific publications showing harm from cell phone exposure.



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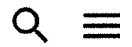


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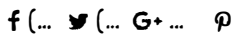
Bittersweet Victory For Encinitas 5G Opponents

Author: R. Vincent



By **SGTNEWS** ([HTTPS://5GTECHNOLOGYNEWS.COM/AUTHOR/SGTNEWS/](https://5gtechnologynews.com/author/sgtnews/)) © December 3, 2019 226

views



Recently, the Encinitas, California City Council voted to *impose restrictions on the placement of controversial 5G wireless network antennas within its city limits*. The move comes in response to protests by some residents who are concerned, primarily, about the potential health risks of the high-frequency small-cell antennas. The council’s vote represented a partial victory for Stop 5G Encinitas supporters (thanks to the outstanding community outreach), which have been lobbying heavily to prevent further construction of 5G towers – but its members had hoped for much more.

A scenic seaside suburb just north of San Diego, Encinitas has a history of citizen-led initiatives that often butt heads with federal, state, or local mandates. Earlier this year the Federal Communications Commission (FCC) issued a ruling ordering local governments to clear the way

for 5G by repealing any regulatory barriers that would impede its rollout. The Encinitas City Council complied with an “urgency” vote that would have accelerated 5G construction in the city, but Stop 5G Encinitas wasn’t having it.



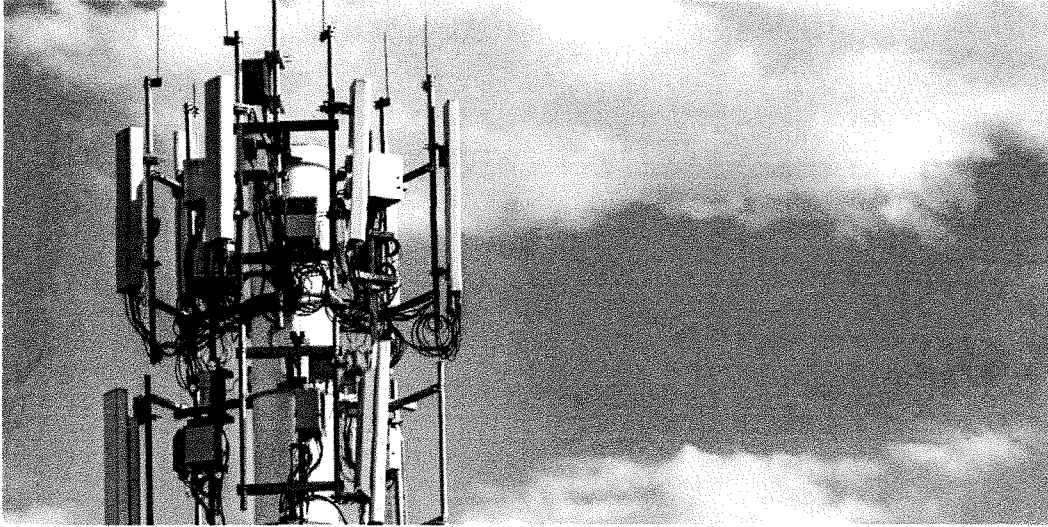
Opponents of the 5G towers have several concerns, including the unsightly nature of the towers – which are typically installed on utility poles every 100 yards or so – and the possibility the towers would reduce home values. But at the forefront of the controversy are health concerns.

5G technology, at its fastest data rates, uses millimeter-wave transmission which produces radiation at a much higher frequency than previous mobile communication networks.

Opposition groups cite concerns by scientists worldwide that little is understood about the effects of long-term exposure to those frequencies at such close range. Most of all, they want to have a say in whether these antennas are installed in their own communities.

Stop 5G Encinitas

According to the Stop 5G Encinitas website (<https://www.stop5gencinitas.com/>), a \$30 million study (concluded in 2018) by the US National Institutes of Environmental Health Science (A division of the National Institutes of Health) showed clear evidence that exposure to cellular phone radiation results in increased cancer risk. The study revealed a higher instance of brain and heart cancer cells in male rats exposed to GSM and CDMA cell phone frequencies over the course of the study. Furthermore, the website says that the World Health Organization has put cellular phone radiation on par with diesel exhaust and lead as a “possible carcinogen”.



In all, the group’s lawyer requested 26 amendments to Encinitas’ 5G policy. In a unanimous vote, the City Council barred construction of 5G small-cell antennas in residential areas and parks, areas with high risk of fire, and within 500 feet of any primary school or daycare. Telecommunications providers can seek an exemption to these restrictions from the city planner, but any decision can be appealed to the council.

The Fight Continues

Although opponents of 5G in Encinitas think that the City Council’s decision has them moved in the right direction, many would like to see more happen. Several members of Stop 5G Encinitas want 5G antennas that have already been installed taken down until more is understood about their health effects. Others want the barring of antennas near schools to be extended to middle schools and high schools as well. The group vows to keep fighting.

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(<https://5gtechnologynews.com/2020-miami-super-bowl-is-opening-day-for-5g-in-usa/>)

BioInitiative 2012

A Rationale for Biologically-based Exposure Standards
for Low-Intensity Electromagnetic Radiation



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BIOINITIATIVE 2012 – CONCLUSIONS

Table 1-1

Overall, these 1800 or so new studies report abnormal gene transcription (Section 5); genotoxicity and single-and double-strand DNA damage (Section 6); stress proteins because of the fractal RF-antenna like nature of DNA (Section 7); chromatin condensation and loss of DNA repair capacity in human stem cells (Sections 6 and 15); reduction in free-radical scavengers – particularly melatonin (Sections 5, 9, 13, 14, 15, 16 and 17); neurotoxicity in humans and animals (Section 9), carcinogenicity in humans (Sections 11, 12, 13, 14, 15, 16 and 17); serious impacts on human and animal sperm morphology and function (Section 18); effects on offspring behavior (Section 18, 19 and 20); and effects on brain and cranial bone development in the offspring of animals that are exposed to cell phone radiation during pregnancy (Sections 5 and 18). This is only a snapshot of the evidence presented in the BioInitiative 2012 updated report.

BIOEFFECTS ARE CLEARLY ESTABLISHED

Bioeffects are clearly established and occur at very low levels of exposure to electromagnetic fields and radiofrequency radiation. Bioeffects can  in the

first few minutes at levels associated with cell and cordless phone use. Bioeffects can also occur from just minutes of exposure to mobile phone masts (cell towers), WI-FI, and wireless utility 'smart' meters that produce whole-body exposure. Chronic base station level exposures can result in illness.

BIOEFFECTS WITH CHRONIC EXPOSURES CAN REASONABLY BE PRESUMED TO RESULT IN ADVERSE HEALTH EFFECTS

Many of these bioeffects can reasonably be presumed to result in adverse health effects if the exposures are prolonged or chronic. This is because they interfere with normal body processes (disrupt homeostasis), prevent the body from healing damaged DNA, produce immune system imbalances, metabolic disruption and lower resilience to disease across multiple pathways. Essential body processes can eventually be disabled by incessant external stresses (from system-wide electrophysiological interference) and lead to pervasive impairment of metabolic and reproductive functions.

LOW EXPOSURE LEVELS ARE ASSOCIATED WITH BIOEFFECTS AND ADVERSE HEALTH EFFECTS AT CELL TOWER RFR EXPOSURE LEVELS

At least five new cell tower studies are reporting bioeffects in the range of 0.003 to 0.05 $\mu\text{W}/\text{cm}^2$ at lower levels than reported in 2007 (0.05 to 0.1 $\mu\text{W}/\text{cm}^2$ was the range below which, in 2007, effects were not observed). Researchers report headaches, concentration difficulties and behavioral problems in children and adolescents; and sleep disturbances, headaches and concentration problems in adults. Public safety standards are 1,000 – 10,000 or more times higher than levels now commonly reported in

mobile phone base station studies to cause bioeffects.

EVIDENCE FOR FERTILITY AND REPRODUCTION EFFECTS: HUMAN SPERM AND THEIR DNA ARE DAMAGED

Human sperm are damaged by cell phone radiation at very low intensities in the low microwatt and nanowatt/cm² range (0.00034 – 0.07 uW/cm²). There is a veritable flood of new studies reporting sperm damage in humans and animals, leading to substantial concerns for fertility, reproduction and health of the offspring (unrepaired de novo mutations in sperm). Exposure levels are similar to those resulting from wearing a cell phone on the belt, or in the pants pocket, or using a wireless laptop computer on the lap. Sperm lack the ability to repair DNA damage.

Studies of human sperm show genetic (DNA) damage from cell phones on standby mode and wireless laptop use. Impaired sperm quality, motility and viability occur at exposures of 0.00034 uW/cm² to 0.07 uW/cm² with a resultant reduction in human male fertility. Sperm cannot repair DNA damage. Several international laboratories have replicated studies showing adverse effects on sperm quality, motility and pathology in men who use and particularly those who wear a cell phone, PDA or pager on their belt or in a pocket (Agarwal et al, 2008; Agarwal et al, 2009; Wdowiak et al, 2007; De Luliis et al, 2009; Fejes et al, 2005; Aitken et al, 2005; Kumar, 2012). Other studies conclude that usage of cell phones, exposure to cell phone radiation, or storage of a mobile phone close to the testes of human males affect sperm counts, motility, viability and structure (Aitken et al, 2004; Agarwal et al, 2007; Eroglu et al., 2006). Animal studies have demonstrated oxidative and DNA damage, pathological changes in the testes of animals, decreased sperm mobility and viability, and

measures of deleterious damage to the male germ line (Dasdag et al, 1999; Yan et al, 2007; Otitolaju et al, 2010; Salama et al, 2008; Behari et al, 2006; Kumar et al, 2012). There are fewer animal studies that have studied effects of cell phone radiation on female fertility parameters. Panagopoulous et al. 2012 report decreased ovarian development and size of ovaries, and premature cell death of ovarian follicles and nurse cells in *Drosophila melanogaster*. Gul et al (2009) report rats exposed to stand-by level RFR (phones on but not transmitting calls) caused decrease in the number of ovarian follicles in pups born to these exposed dams. Magras and Xenos (1997) reported irreversible infertility in mice after five (5) generations of exposure to RFR at cell phone tower exposure levels of less than one microwatt per centimeter squared ($\mu\text{W}/\text{cm}^2$).

EVIDENCE THAT CHILDREN ARE MORE VULNERABLE

There is good evidence to suggest that many toxic exposures to the fetus and very young child have especially detrimental consequences depending on when they occur during critical phases of growth and development (time windows of critical development), where such exposures may lay the seeds of health harm that develops even decades later. Existing FCC and ICNIRP public safety limits seem to be not sufficiently protective of public health, in particular for the young (embryo, fetus, neonate, very young child).

The Presidential Cancer Panel (2010) found that children *'are at special risk due to their smaller body mass and rapid physical development, both of which magnify their vulnerability to known carcinogens, including radiation.'*

The American Academy of Pediatrics, in a letter to Congressman Dennis Kucinich dated 12 mber

2012 states “*Children are disproportionately affected by environmental exposures, including cell phone radiation. The differences in bone density and the amount of fluid in a child’s brain compared to an adult’s brain could allow children to absorb greater quantities of RF energy deeper into their brains than adults. It is essential that any new standards for cell phones or other wireless devices be based on protecting the youngest and most vulnerable populations to ensure they are safeguarded through their lifetimes.*”

FETAL AND NEONATAL EFFECTS OF EMF

Fetal (*in-utero*) and early childhood exposures to cell phone radiation and wireless technologies in general may be a risk factor for hyperactivity, learning disorders and behavioral problems in school.

Fetal Development Studies:

Effects on the developing fetus from *in-utero* exposure to cell phone radiation have been observed in both human and animal studies since 2006. Divan et al (2008) found that children born of mothers who used cell phones during pregnancy develop more behavioral problems by the time they have reached school age than children whose mothers did not use cell phones during pregnancy. Children whose mothers used cell phones during pregnancy had 25% more emotional problems, 35% more hyperactivity, 49% more conduct problems and 34% more peer problems (Divan et al., 2008).

Common sense measures to limit both ELF-EMF and RF EMF in these populations is needed, especially with respect to avoidable exposures like incubators that can be modified; and where education of the pregnant mother with respect to laptop computers, mobile phones and other sources

of ELF-EMF and RF EMF are easily instituted. Sources of fetal and neonatal exposures of concern include cell phone radiation (both paternal use of wireless devices worn on the body and maternal use of wireless phones during pregnancy). Exposure to whole-body RFR from base stations and Wi-Fi, use of wireless laptops, use of incubators for newborns with excessively high ELF-EMF levels resulting in altered heart rate variability and reduced melatonin levels in newborns, fetal exposures to MRI of the pregnant mother, and greater susceptibility to leukemia and asthma in the child where there have been maternal exposures to ELF-EMF.

A precautionary approach may provide the frame for decision-making where remediation actions have to be realized to prevent high exposures of children and pregnant woman.

(Bellieni and Pinto, 2012 – Section 19)

EMF/RFR AS A PLAUSIBLE BIOLOGICAL MECHANISM FOR AUTISM (ASD)

- Children with existing neurological problems that include cognitive, learning, attention, memory, or behavioral problems should as much as possible be provided with wired (not wireless) learning, living and sleeping environments,
- Special education classrooms should observe 'no wireless' conditions to reduce avoidable stressors that may impede social, academic and behavioral progress.
- All children should reasonably be protected from the physiological stressor of significantly elevated EMF/RFR (wireless in classrooms, or home environments).
- School districts that are now considering all-wireless learning environments sh

strongly cautioned that wired environments are likely to provide better learning and teaching environments, and prevent possible adverse health consequences for both students and faculty in the long-term.

- Monitoring of the impacts of wireless technology in learning and care environments should be performed with sophisticated measurement and data analysis techniques that are cognizant of the non-linear impacts of EMF/RFR and of data techniques most appropriate for discerning these impacts.
- There is sufficient scientific evidence to warrant the selection of wired internet, wired classrooms and wired learning devices, rather than making an expensive and potentially health-harming commitment to wireless devices that may have to be substituted out later, and
- Wired classrooms should reasonably be provided to all students who opt-out of wireless environments. (Herbert and Sage, 2012 – Section 20)

Many disrupted physiological processes and impaired behaviors in people with ASDs closely resemble those related to biological and health effects of EMF/RFR exposure. Biomarkers and indicators of disease and their clinical symptoms have striking similarities. Broadly speaking, these types of phenomena can fall into one or more of several classes: a) alteration of genes or gene expression, b) induction of change in brain or organismic development, c) alteration of phenomena modulating systemic and brain function on an ongoing basis throughout the life course (which can include systemic pathophysiology as well as brain-based changes), and d) evidence of functional alteration in domains such as behavior,

interaction and attention known to be challenged in ASD. Several thousand scientific studies over four decades point to serious biological effects and health harm from EMF and RFR. These studies report genotoxicity, single- and double-strand DNA damage, chromatin condensation, loss of DNA repair capacity in human stem cells, reduction in free-radical scavengers (particularly melatonin), abnormal gene transcription, neurotoxicity, carcinogenicity, damage to sperm morphology and function, effects on behavior, and effects on brain development in the fetus of human mothers that use cell phones during pregnancy. Cell phone exposure has been linked to altered fetal brain development and ADHD-like behavior in the offspring of pregnant mice. Reducing life-long health risks begins in the earliest stages of embryonic and fetal development, is accelerated for the infant and very young child compared to adults, and is not complete in young people (as far as brain and nervous system maturation) until the early 20's. Windows of critical development mean that risk factors once laid down in the cells, or in epigenetic changes in the genome may have grave and life-long consequences for health or illness for every individual.

All relevant environmental conditions, including EMF and RFR, which can degrade the human genome, and impair normal health and development of species including homo sapiens, should be given weight in defining and implementing prudent, precautionary actions to protect public health.

Allostatic load in autism and autistic decompensation – we may be at a tipping point that can be pushed back by removing unnecessary stressors like EMF/RFR and building resilience.

The consequence of ignoring clear evidence of large-scale health risks to global populations, when the risk factors are largely avoidable or | ^ table

is too high a risk to take. With the epidemic of autism (ASD) putting the welfare of children, and their families in peril at a rate of one family in 88, the rate still increasing annually, we cannot afford to ignore this body of evidence. The public needs to know that these risks exist, that transition to wireless should not be presumed safe, and that it is very much worth the effort to minimize exposures that still provide the benefits of technology in learning, but without the threat of health risk and development impairments to learning and behavior in the classroom.

(Herbert and Sage, 2010 – Section 20)

THE BLOOD-BRAIN BARRIER IS AT RISK

The BBB is a protective barrier that prevents the flow of toxins into sensitive brain tissue. Increased permeability of the BBB caused by cell phone RFR may result in neuronal damage. Many research studies show that very low intensity exposures to RFR can affect the blood-brain barrier (BBB) (mostly animal studies). Summing up the research, it is more probable than unlikely that non-thermal EMF from cell phones and base stations do have effects upon biology. A single 2-hr exposure to cell phone radiation can result in increased leakage of the BBB, and 50 days after exposure, neuronal damage can be seen, and at the later time point also albumin leakage is demonstrated. The levels of RFR needed to affect the BBB have been shown to be as low as 0.001 W/kg, or less than holding a mobile phone at arm's length. The US FCC standard is 1.6 W/kg; the ICNIRP standard is 2 W/kg of energy (SAR) into brain tissue from cell/cordless phone use. Thus, BBB effects occur at about 1000 times lower RFR exposure levels than the US and ICNIRP limits allow. (Salford, 2012 – Section 10)

If the blood-brain barrier is vulnerable to serious and on-going damage from wireless exposure, then we

should perhaps also be looking at the blood-ocular barrier (that protects the eyes), the blood-placenta barrier (that protects the developing fetus) and the blood-gut barrier (that protects proper digestion and nutrition), and the blood-testes barrier (that protects developing sperm) to see if they too can be damaged by RFR.

EPIDEMIOLOGICAL STUDIES CONSISTENTLY SHOW ELEVATIONS IN RISK OF BRAIN CANCERS

Brain Tumors: There is a consistent pattern of increased risk of glioma and acoustic neuroma associated with use of mobile phones and cordless phones.

“Based on epidemiological studies there is a consistent pattern of increased risk for glioma and acoustic neuroma associated with use of mobile phones and cordless phones. The evidence comes mainly from two study centres, the Hardell group in Sweden and the Interphone Study Group. No consistent pattern of an increased risk is seen for meningioma. A systematic bias in the studies that explains the results would also have been the case for meningioma. The different risk pattern for tumor type strengthens the findings regarding glioma and acoustic neuroma. Meta-analyses of the Hardell group and Interphone studies show an increased risk for glioma and acoustic neuroma. Supportive evidence comes also from anatomical localisation of the tumor to the most exposed area of the brain, cumulative exposure in hours and latency time that all add to the biological relevance of an increased risk. In addition risk calculations based on estimated absorbed dose give strength to the findings.

(Hardell, 2012 – Section 11)

“There is reasonable basis to conclude that RF-EMFs are bioactive and have a potential to cause

health impacts. There is a consistent pattern of increased risk for glioma and acoustic neuroma associated with use of wireless phones (mobile phones and cordless phones) mainly based on results from case-control studies from the Hardell group and Interphone Final Study results. Epidemiological evidence gives that RF-EMF should be classified as a human carcinogen.

Based on our own research and review of other evidence the existing FCC/IEE and ICNIRP public safety limits and reference levels are not adequate to protect public health. New public health standards and limits are needed.

EVIDENCE FOR GENETIC EFFECTS

Eighty six (86) new papers on genotoxic effects of RFR published between 2007 and mid-2012 are profiled. Of these, 54 (63%) showed effects and 32 (37%) showed no effects.

Forty three (43) new ELF-EMF papers and two static magnetic field papers that report on genotoxic effects of ELF-EMF published between 2007 and mid-2012 are profiled. Of these, 35 (81%) show effects and 8 (19%) show no effect.

EVIDENCE FOR NEUROLOGICAL EFFECTS

One hundred fifty five (155) new papers that report on neurological effects of RFR published between 2007 and mid-2012 are profiled. Of these, 98 (63%) showed effects and 57 (37%) showed no effects.

Sixty nine (69) new ELF-EMF papers (including two static field papers) that report on genotoxic effects of ELF-EMF published between 2007 and mid-2012 are profiled. Of these, 64 (93%) show effects and 5 (7%) show no effect.

EVIDENCE FOR CHILDHOOD CANCERS (LEUKEMIA)

With overall 42 epidemiological studies published to date power frequency EMFs are among the most comprehensively studied environmental factors. Except ionizing radiation no other environmental factor has been as firmly established to increase the risk of childhood leukemia.

Sufficient evidence from epidemiological studies of an increased risk from exposure to EMF (power frequency magnetic fields) that cannot be attributed to chance, bias or confounding. Therefore, according to the rules of IARC such exposures can be classified as a

Group 1 carcinogen (Known Carcinogen).

There is no other risk factor identified so far for which such unlikely conditions have been put forward to postpone or deny the necessity to take steps towards exposure reduction. As one step in the direction of precaution, measures should be implemented to guarantee that exposure due to transmission and distribution lines is below an average of about 1 mG. This value is arbitrary at present and only supported by the fact that in many studies this level has been chosen as a reference.

Base-station level RFR at levels ranging from less than 0.001 uW/cm² to 0.05 uW/cm². In 5 new studies since 2007, researchers report headaches, concentration difficulties and behavioral problems in children and adolescents; and sleep disturbances, headaches and concentration problems in adults.

MELATONIN, BREAST CANCER AND ALZHEIMER'S DISEASE

MELATONIN AND BREAST CANCER

Conclusion: Eleven (11) of the 13 published epidemiologic residential and occupational studies are considered to provide (positive) evidence that high ELF MF exposure can result in decreased melatonin production. The two negative studies had important deficiencies that may certainly have biased the results. There is sufficient evidence to conclude that long-term relatively high ELF MF exposure can result in a decrease in melatonin production. It has not been determined to what extent personal characteristics, e.g., medications, interact with ELF MF exposure in decreasing melatonin production

Conclusion: New research indicates that ELF MF exposure, in vitro, can significantly decrease melatonin activity through effects on MT1, an important melatonin receptor.

ALZHEIMER'S DISEASE

There is strong epidemiologic evidence that exposure to ELF MF is a risk factor for AD. There are now twelve (12) studies of ELF MF exposure and AD or dementia which . Nine (9) of these studies are considered positive and three (3) are considered negative. The three negative studies have serious deficiencies in ELF MF exposure classification that results in subjects with rather low exposure being considered as having significant exposure. There are insufficient studies to formulate an opinion as to whether radiofrequency MF exposure is a risk or protective factor for AD.

There is now evidence that (i) high levels of peripheral amyloid beta are a risk factor for AD and (ii) medium to high ELF MF exposure can increase peripheral amyloid beta. High brain levels of amyloid beta are also a risk factor for AD and medium to high ELF MF exposure to brain cells likely also increases these cells' production of amyloid beta.

There is considerable in vitro and animal evidence that melatonin protects against AD. Therefore it is certainly possible that low levels of melatonin production are associated with an increase in the risk of AD.

(Davanipour and Sobel, 2012 – Section 13)

STRESS PROTEINS AND DNA AS A FRACTAL ANTENNA FOR RFR

DNA acts as a 'fractal antenna' for EMF and RFR. The coiled-coil structure of DNA in the nucleus makes the molecule react like a fractal antenna to a wide range of frequencies. The structure makes DNA particularly vulnerable to EMF damage.

The mechanism involves direct interaction of EMF with the DNA molecule (claims that there are no known mechanisms of interaction are patently false)

Many EMF frequencies in the environment can and do cause DNA changes.

The EMF-activated cellular stress response is an effective protective mechanism for cells exposed to a wide range of EMF frequencies.

EMF stimulates stress proteins (indicating an assault on the cell).

EMF efficiently harms cells at a billion times lower levels than conventional heating.

Safety standards based on heating are irrelevant to protect against EMF-levels of exposure. There is an urgent need to revise EMF exposure standards. Research has shown thresholds are very low (safety standards must be reduced to limit biological responses). Biologically-based EMF safety standards could be developed from the research on the stress response.

EVIDENCE FOR DISRUPTION OF THE MODULATING SIGNAL HUMAN STEM CELL DNA DOES NOT ADAPT OR REPAIR

Human stem cells do not adapt to chronic exposures to non-thermal microwave (cannot repair damaged DNA), and damage to DNA in genes in other cells generally do not repair as efficiently.

Non-thermal effects of microwaves depend on variety of biological and physical parameters that should be taken into account in setting the safety standards. Emerging evidence suggests that the SAR concept, which has been widely adopted for safety standards, is not useful alone for the evaluation of health risks from non-thermal microwave of mobile communication. Other parameters of exposure, such as frequency, modulation, duration, and dose should be taken into account. Lower intensities are not always less harmful; they may be more harmful. Intensity windows exist, where bioeffects are much more powerful.

A linear, dose-response relationship test is probably invalid for testing of RFR and EMF (as is done in chemicals testing for toxicity).

Resonant frequencies may result in biological effects at very low intensities comparable to base station (cell tower) and other microwave sources used in mobile communications.

These exposures can cause health risk. The current safety standards are insufficient to protect from non-thermal microwave effects.

The data about the effects of microwave at super-low intensities and significant role of duration of exposure in these effects along with the data showing that adverse effects of non-thermal microwave from gsm/UMTS mobile pho pend

on carrier frequency and type of the microwave signal suggest that microwave from base-stations/masts, wireless routers, WI-FI and other wireless devices and exposures in common use today can also produce adverse effects at prolonged durations of exposure.

Most of the real signals that are in use in mobile communication have not been tested so far. Very little research has been done with real signals and for durations and intermittences of exposure that are relevant to chronic exposures from mobile communication. In some studies, so-called “mobile communication-like” signals were investigated that in fact were **different** from the real exposures in such important aspects as intensity, carrier frequency, modulation, polarization, duration and intermittence.

New standards should be developed based on knowledge of mechanisms of non-thermal effects. Importantly, because the signals of mobile communication are completely replaced by other signals faster than once per 10 years, duration comparable with latent period, epidemiologic studies cannot provide basement for cancer risk assessment from upcoming new signals.

In many cases, because of ELF modulation and additional ELF fields created by the microwave sources, for example by mobile phones, it is difficult to distinguish the effects of exposures to ELF and microwave. Therefore, these combined exposures and their possible cancer risks should be considered in combination.

As far as different types of microwave signals (carrier frequency, modulation, polarization, far and near field, intermittence, coherence, *etc.*) may produce different effects, cancer risks should ideally be estimated for each microwave signal separately.

The Precautionary Principle should be implemented while new standards are in progress.

It should be anticipated that some part of the human population, such as children, pregnant women and groups of hypersensitive persons could be especially sensitive to the non-thermal microwave exposures.

N. EFFECTS OF WEAK-FIELD INTERACTIONS ON NON-LINEAR BIOLOGICAL OSCILLATORS AND SYNCHRONIZED NEURAL ACTIVITY

A unifying hypothesis for a plausible biological mechanism to account for very weak field EMF bioeffects other than cancer may lie with weak field interactions of pulsed RFR and ELF-modulated RFR as disrupters of synchronized neural activity. Electrical rhythms in our brains can be influenced by external signals. This is consistent with established weak field effects on coupled biological oscillators in living tissues. Biological systems of the heart, brain and gut are dependent on the cooperative actions of cells that function according to principles of non-linear, coupled biological oscillations for their synchrony, and are dependent on exquisitely timed cues from the environment at vanishingly small levels (Buzsaki, 2006; Strogatz, 2003). The key to synchronization is the joint actions of cells that cooperate electrically – linking populations of biological oscillators that couple together in large arrays and synchronize spontaneously. Synchronous biological oscillations in cells (pacemaker cells) can be disrupted by artificial, exogenous environmental signals, resulting in desynchronization of neural activity that regulates critical functions (including metabolism) in the brain, gut and heart and circadian rhythms governing sleep and hormone cycles (Strogatz, 1987). The brain contains a population of oscillators with distributed natural frequencies, which pull one another into synchrony (the circ

pacemaker cells). Strogatz has addressed the unifying mathematics of biological cycles and external factors disrupt these cycles (Strogatz, 2001, 2003). *“Rhythms can be altered by a wide variety of agents and that these perturbations must seriously alter brain performance”* (Buzsaki, 2006).

“Organisms are biochemically dynamic. They are continuously subjected to time-varying conditions in the form of both extrinsic driving from the environment and intrinsic rhythms generated by specialized cellular clocks within the organism itself. Relevant examples of the latter are the cardiac pacemaker located at the sinoatrial node in mammalian hearts (1) and the circadian clock residing at the suprachiasmatic nuclei in mammalian brains (2). These rhythm generators are composed of thousands of clock cells that are intrinsically diverse but nevertheless manage to function in a coherent oscillatory state. This is the case, for instance, of the circadian oscillations exhibited by the suprachiasmatic nuclei, the period of which is known to be determined by the mean period of the individual neurons making up the circadian clock (3–7). The mechanisms by which this collective behavior arises remain to be understood.” (Strogatz, 2001; Strogatz, 2003)

Synchronous biological oscillations in cells (pacemaker cells) can be disrupted by artificial, exogenous environmental signals, resulting in desynchronization of neural activity that regulates critical functions (including metabolism) in the brain, gut and heart and circadian rhythms governing sleep and hormone cycles. The brain contains a population of oscillators with distributed natural frequencies, which pull one another into synchrony (the circadian pacemaker cells). Strogatz has addressed the unifying mathematics of biological cycles and external factors disrupt these cycles.

EMF AND RFR MAKE CHEMICAL TOXINS MORE HARMFUL

EMF acts on the body like other environmental toxicants do (heavy metals, organic chemicals and pesticides). Both toxic chemicals and EMF may generate free radicals, produce stress proteins and cause indirect damage to DNA. Where there is combined exposure the damages may add or even synergistically interact, and result in worse damage to genes.

EMF IS SUCCESSFULLY USED IN HEALING AND DISEASE TREATMENTS

“The potential application of the up-regulation of the HSP70 gene by both ELF-EMF and nanosecond PEMF in clinical practice would include trauma, surgery, peripheral nerve damage, orthopedic fracture, and vascular graft support, among others. Regardless of pulse design, EMF technology has been shown to be effective in bone healing [5], wound repair [11] and neural regeneration [31,36,48,49,51,63,64,65,66]. In terms of clinical application, EMF-induction of elevated levels of hsp70 protein also confers protection against hypoxia [61] and aid myocardial function and survival [20,22]. Given these results, we are particularly interested in the translational significance of effect vs. efficacy which is not usually reported by designers or investigators of EMF devices. More precise description of EM pulse and sine wave parameters, including the specific EM output sector, will provide consistency and “scientific basis” in reporting findings.”“The degree of electromagnetic field-effects on biological systems is known to be dependent on a number of criteria in the waveform pattern of the exposure system used; these include frequency, duration, wave shape, and relative orientation of the fields [6,29,32,33,39,40]. In some cases pulsed fields have demons;

increased efficacy over static designs [19,21] in both medical and experimental settings.”(Madkan et al, 2009)

ELF-EMF AND RFR ARE CLASSIFIED AS POSSIBLE CANCER-CAUSING AGENTS – WHY ARE GOVERNMENTS NOT ACTING?

The World Health Organization International Agency for Research on Cancer has classified wireless radiofrequency as a Possible Human Carcinogen (May, 2011)*. The designation applies to low-intensity RFR in general, covering all RFR-emitting devices and exposure sources (cell and cordless phones, WI-FI, wireless laptops, wireless hotspots, electronic baby monitors, wireless classroom access points, wireless antenna facilities, etc). The IARC Panel could have chosen to classify RFR as a Group 4 – Not A Carcinogen if the evidence was clear that RFR is not a cancer-causing agent. It could also have found a Group 3 designation was a good interim choice (Insufficient Evidence). IARC did neither.

NEW SAFETY LIMITS MUST BE ESTABLISHED – HEALTH AGENCIES SHOULD ACT NOW

Existing public safety limits (FCC and ICNIRP public safety limits) do not sufficiently protect public health against chronic exposure from very low-intensity exposures. If no mid-course corrections are made to existing and outdated safety limits, such delay will magnify the public health impacts with even more applications of wireless-enabled technologies exposing even greater populations around the world in daily life.

SCIENTIFIC BENCHMARKS FOR HARM PLUS SAFETY MARGIN = NEW SAFETY LIMITS THAT ARE VALID

Health agencies and regulatory agencies that set public safety standards for ELF-EMF and RFR should act now to adopt new, biologically-relevant safety limits that key to the lowest scientific benchmarks for harm coming from the recent studies, plus a lower safety margin. Existing public safety limits are too high by several orders of magnitude, if prevention of bioeffects and minimization or elimination of resulting adverse human health effects. Most safety standards are a thousand times or more too high to protect healthy populations, and even less effective in protecting sensitive subpopulations.

SENSITIVE POPULATIONS MUST BE PROTECTED

Safety standards for sensitive populations will more likely need to be set at lower levels than for healthy adult populations. Sensitive populations include the developing fetus, the infant, children, the elderly, those with pre-existing chronic diseases, and those with developed electrical sensitivity (EHS).

PROTECTING NEW LIFE – INFANTS AND CHILDREN

Strong precautionary action and clear public health warnings are warranted immediately to help prevent a global epidemic of brain tumors resulting from the use of wireless devices (mobile phones and cordless phones). Common sense measures to limit both ELF-EMF and RFR in the fetus and newborn infant (sensitive populations) are needed, especially with respect to avoidable exposures like baby monitors in the crib and baby isolettes (incubators) in hospitals that can be modified; and where education of the pregnant mother with respect to laptop computers, mobile phones and other sources of ELF-EMF and RFR are easily instituted. Wireless laptops and other wireless devices should be strongly discouraged in schools for children of all ages.

STANDARD OF EVIDENCE FOR JUDGING THE SCIENCE

The standard of evidence for judging the scientific evidence should be based on good public health principles rather than demanding scientific certainty before actions are taken.

WIRELESS WARNINGS FOR ALL

The continued rollout of wireless technologies and devices puts global public health at risk from unrestricted wireless commerce unless new, and far lower exposure limits and strong precautionary warnings for their use are implemented.

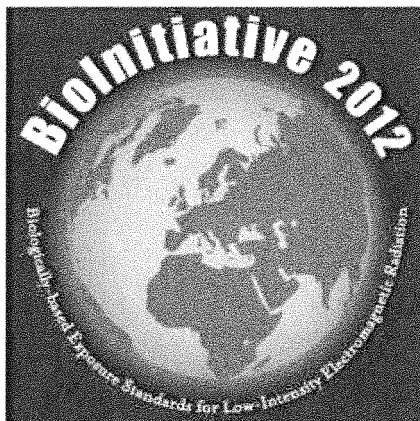
EMF AND RFR ARE PREVENTABLE TOXIC EXPOSURES

We have the knowledge and means to save global populations from multi-generational adverse health consequences by reducing both ELF and RFR exposures. Proactive and immediate measures to reduce unnecessary EMF exposures will lower disease burden and rates of premature death.

DEFINING A NEW 'EFFECT LEVEL' FOR RFR

On a precautionary public health basis, a reduction from the BioInitiative 2007 recommendation of 0.1 $\mu\text{W}/\text{cm}^2$ (or one-tenth of a microwatt per square centimeter) for cumulative outdoor RFR down to something three orders of magnitude lower (in the low nanowatt per square centimeter range) is justified.

A scientific benchmark of 0.003 $\mu\text{W}/\text{cm}^2$ or three nanowatts per centimeter squared for 'lowest observed effect level' for RFR is based on mobile phone base station-level studies. Applying a ten-fold reduction to compensate for the lack of long-term exposure (to provide a safety buffer for chronic exposure, if needed) or for children as a 'five



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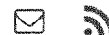
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subpopulation yields a 300 to 600 picowatts per square centimeter precautionary action level. This equates to a 0.3 nanowatts to 0.6 nanowatts per square centimeter as a reasonable, precautionary action level for chronic exposure to pulsed RFR. These levels may need to change in the future, as new and better studies are completed. We leave room for future studies that may lower or raise today's observed 'effects levels' and should be prepared to accept new information as a guide for new precautionary actions.



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ATTACHMENT 5

Adam Finestone

From: Adam Finestone
Sent: Tuesday, January 21, 2020 8:40 AM
To: 'herbsarnoff@yahoo.com'
Subject: RE: [EXT] RE: City Council Hearing re: Small Wireless Facilities Zoning Code Amendment and Guidelines

Good morning Herb,

Sorry you won't be able to make it. I can assure you that all correspondence received before publication of the City Council staff report will be attached to the staff report and anything received subsequent to publication will be provided to the council members prior to the meeting.

I will keep you posted on future meetings on the topic.

Thank you,

Adam Finestone, AICP
Principal Planner
City of Escondido

From: herbsarnoff@yahoo.com <herbsarnoff@yahoo.com>
Sent: Monday, January 20, 2020 9:57 PM
To: Adam Finestone <afinestone@escondido.org>
Subject: [EXT] RE: City Council Hearing re: Small Wireless Facilities Zoning Code Amendment and Guidelines

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender email address AND know the content is safe.

Hello Adam,

Unfortunately, I will be traveling on February 5. I do hope the City Council and Planning Dept will be considering the many implications of the city's plans to allow the rollout of 5G across Escondido. Several California cities are beginning to take the inherent risks and potential impacts on health, property values, etc. more seriously. Hopefully Escondido will do so as well.

Do keep me on this list so that I might attend future council meetings that are discussing this important issue.

Regards,
Herb Sarnoff

From: Adam Finestone <afinestone@escondido.org>
Sent: Monday, January 13, 2020 5:22 PM
To: Adam Finestone <afinestone@escondido.org>
Subject: City Council Hearing re: Small Wireless Facilities Zoning Code Amendment and Guidelines

This email is being sent due to previous interest you have expressed in the City's efforts to update its Communication Antennas ordinance and create guidelines related to small wireless facilities in the public right-of-way. You may be aware that the proposed Zoning Code Amendment and consideration of the guidelines were scheduled to be presented

ATTACHMENT 5

to City Council at a public hearing on January 22, 2020. Please be advised that the hearing has been postponed until the City Council's February 5, 2020, meeting.

Feel free to reach out to me should you have any questions.

Thank you,



Adam Finestone, AICP
Principal Planner
Community Development Department | City of Escondido
760-839-6203
www.escondido.org



ATTACHMENT 6

Crown Castle
10301 Meanly Dr.
Suite 200
San Diego, CA 92131

Adrian Salas
Government Affairs Manager, San Diego
Crown Castle

Tuesday, December 10, 2019

City of Escondido
Attn: Planning Commission
CC: Mike Strong, Adam Finestone
201 North Broadway
Escondido CA 92025

Sent via email.

Re: Agenda Item: G3 - AZ 19-0001 / Personal Wireless Service Facilities Regulations

Commissioners,

Crown Castle appreciates the opportunity to address and comment on this important topic. We begin with the fact that ubiquitous coverage is becoming more critical at the same time as the supporting networks are straining to keep up with exploding demand. Simply put, wireless access has become a necessity of modern life. According to the Centers for Disease Control and Prevention, over half of American households are wireless-only, meaning they have no 'land line' service. Additionally, mobile data traffic has increased 238% in the last two years alone (2016-2018), and that trend is expected to continue (Accenture). Like access to good roads and highways, there are direct and indirect economic benefits associated with dependable wireless connectivity. The next generation of wireless technology will be the basis for critical connectivity capabilities and innovative advances yet to be seen. From Smart City applications, to transportation and healthcare, next generation communications infrastructure will enable it all.

There are also public safety benefits of wireless coverage as well: 80% of 911 calls originate from a mobile device (NENA). Reliable and resilient communications connect police officers, firefighters, and other first responders by providing information they need wherever they are. The Chula Vista Police Department, for example, is expanding their Drones as First Responder Program, which can dispatch a drone in less than 90 seconds to an emergency and send HD video back to Headquarters. The County of San Diego has strategically invested in a mobile strategy for communicating to citizens during emergencies through services like the SD Emergencies App, CA Shakealert, and AlertSanDiego, which provide information on disasters, maps, and shelters directly to smart phones within a "geofenced" area (provided there is enough network capacity). This increased usage and innovation needs infrastructure to support it. We are trying to keep up with ballooning demand and provide the platform for flourishing innovative applications. Additionally, coverage and capacity are two very different components of wireless service. Coverage can be seen as if there is wireless signal in the area, while capacity is the amount of traffic that coverage can reasonably accommodate. Small wireless facilities

ATTACHMENT 6

are a direct response to capacity constraints on a network that was never designed for such high usage of mobile data.

We respectfully remind the City of Escondido that the FCC's Declaratory Ruling and Third Report and Order (Order) and federal law require that small wireless facilities deployments are held to the same processes/procedures as other users of the right-of-way. "We conclude that aesthetics requirements are not preempted if they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments..." (FCC Order 18-133 §§ 86). Regulation also bars prohibition of service (including effective prohibitions). "Congress determined that state or local requirements that prohibit or have the effect of prohibiting the provision of service are unlawful and thus preempted." (47 U.S.C. §§ 253(a), 332(c)(7)(B)(i)(II)).

It is within this context that we have the following comments/recommendations on specifics of the proposed ordinance:

III.C. Acceptance of Applications: The draft state that applications that do not include all required materials will not be accepted are not considered submitted and duly filed with the City. The process universally adhered to is: City completes a review cycle of an application for completeness and issue a Notice of Incompleteness (NOI) within 10 days of submittal, allowing the applicant to cure ALL deficiencies. Upon resubmittal, the shot clock review timeframes (60 – collocation, 90- new pole install) reset to 0. Additionally, are all other applicants restricted to certain 8 hours of intake?

III.B.3. Master License Agreement: As we mentioned in our comments to the Planning Department, there has been no draft Master License Agreement shared with the public. Has the city produced a pole license agreement template and shared it with the public? Requiring a document at time of application that has not been created will cause a prohibition of service.

III.G. Application fee: No application fee schedule has been shared with the public. We request that the amount being considered be included in this process and be made public before these regulations take effect.

IV.D.1. Traffic signals prohibited: In other cities, traffic signals have made for good siting locations as they typically provide line of site in 4 directions (which is efficient for signal propagation), while limiting visual impacts, and rarely near a residential unit. Additionally, a traffic signal is another option for co-location, and would be preferred to placing a stand-alone pole in the ROW. We recommend removing the traffic light prohibition, or perhaps including them under an MCUP or as a least preferred support structure. We are happy to meet with your Public Works Department and work out any structural or maintenance related concerns.

V.L. Post installation certification: this requirement is costly and burdensome for both applicants and city staff. Crown Castle already and routinely submits report certifying the emissions from the equipment that will be used at the time of application, which shows FCC RF compliance. As we have said to the city earlier in this process: we have set equipment specifications, and everything we design, procure and install complies with FCC RF limits. This requirement would add considerable amount of

ATTACHMENT 6

reporting and costs. We suggest removing this requirement, or perhaps requiring one post-installation certification per design, as the same design will likely be replicated at different sites.

V.N. Site maintenance (any issues shall be remedied by the applicant within 24 hours' notice): We request this be changed match other utility stated policy and separated into "urgent" and "non-urgent" categories. Safety issues will of course be prioritized and addressed as soon as possible. Non-safety maintenance issues will be scheduled based on crew availability and other factors. SDG&E for example, states graffiti abatement will occur within 10 days of notice.

IV.D.2(second list). 40 feet from any residential windows or doors: This will require MCUPs in most cases. WCF permits should be ministerial in nature. If MCUPs are denied because of a window or door within 40 feet, that could be an effective prohibition in certain areas, especially is available poles are already within this distance. We recommend this restriction be removed entirely or drastically reduced.

We are happy to answer any questions, and we look forward to continuing to invest in and work with the City of Escondido.

Thank you,
Adrian Salas
Government Affairs Manager, San Diego
Crown Castle
10301 Meanley Dr. Ste. 200 San Diego, CA 92131
adrian.salas@crowncastle.com

References:

Centers for Disease Control and Prevention - Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July–December 2016; 2017.

<https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201705.pdf>

Accenture; How the Wireless Industry Powers the US Economy; 2018

<https://api.ctia.org/wpcontent/uploads/2018/04/Accenture-Strategy-Wireless-Industry-Powers-US-Economy-2018-POV.pdf>

NENA – National Emergency Number Association; <https://www.nena.org/page/AboutNENA>

Pew Research, Mobile Fact Sheet; 2019. <https://www.pewinternet.org/fact-sheet/mobile/>

ORDINANCE NO. 2020-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING ARTICLE 34 OF THE ESCONDIDO ZONING CODE RELATED TO SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

APPLICANT: City of Escondido
PLANNING CASE NO.: AZ 19-0001

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. The Planning Commission conducted a public hearing on December 10, 2019, to discuss and consider the proposed amendment to Article 34 of the Escondido Zoning Code; considered public testimony; and made a recommendation to the City Council.

SECTION 3. The City Council conducted a public hearing on the matter on February 5, 2020. The City Council has duly reviewed and considered all evidence submitted at said hearing, including, without limitation:

- a. Written information;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated February 5, 2020, which along with its attachments is incorporated herein by this reference as though fully set forth herein; and
- d. Additional information submitted during the Public Hearing.

SECTION 4. That upon consideration of the staff report, Planning Commission recommendation, all public testimony presented at the hearing held on this matter, and

the “Findings of Fact,” attached as Exhibit “A” to this Ordinance and incorporated herein by this reference as though fully set forth herein, this City Council finds the Zoning Code Amendment to be consistent with the General Plan.

SECTION 5. This action is exempt from environmental review pursuant to California Environmental Quality Act Guidelines (“CEQA” and “CEQA Guidelines”) Section 15061(b)(3) since there would be no possibility of a significant effect on the environment because the amendment will not directly result in any development or physical change to the environment. Any future project or development as defined by the CEQA that may occur as a result of the amended language would be subject to CEQA review and analysis.

SECTION 6. That Article 34 of the Escondido Zoning Code is amended as set forth in Exhibit “B” to this Ordinance and incorporated herein by this reference as though fully set forth herein

SECTION 7. 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 8. That as of the effective date of this Ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. That the City Clerk is hereby directed to certify to the passage of this Ordinance and to cause the same or a summary to be prepared in accordance with Government Code Section 36933, to be published one time within 15 days of its passage

in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

EXHIBIT "A"

FACTORS TO BE CONSIDERED / FINDINGS OF FACT

Zoning Code Amendment

1. Approval of the amendment to Article 34 (Communication Antennas) of the Escondido Zoning Code will not be detrimental to the public health, safety or welfare, or injurious to the property or improvements in the City of Escondido because Personal Wireless Service Facilities are currently allowed within the public right-of-way in all zones throughout the City. The City Council adopted Ordinance No. 2017-10RR on June 21, 2017, approving a previous amendment to Article 34 (Communication Antennas) of the Escondido Zoning Code. The June 14, 2017 City Council Staff Report, which introduced the ordinance for adoption, suggested monitoring the effectiveness of the Communications Antennas Ordinance and returning to City Council in two (2) years to address any modifications that may be necessary to keep up with the changing industry and small wireless facility technology. The proposed amendment re-examines the efficiency and efficacy of the existing provisions contained in Article 34, and proposes changes to said Article in order to comply with federal regulations in a manner which is in the best interest of the City. No development project is proposed as part of this amendment.
2. Small wireless facilities are already permitted and exist in the public right-of-way, and said right-of-way can adequately accommodate such facilities in a manner that would not be detrimental to said right-of-way and/or adjacent and nearby properties. The amendment includes appropriate rules and regulations necessary to evaluate the appropriateness of proposed small wireless facilities within the public right-of-way in the best interest of the City.
3. The purpose of the amendment is to implement the zoning, land use and other laws, rules, regulations, and policies and procedures, applicable to the siting of small wireless facilities by small wireless facilities infrastructure owners, operators, and service providers in Escondido. The amendment accommodates new wireless technologies and continued improvements to existing small wireless facilities while minimizing their adverse visual and structural health and safety impacts. Consistent with that purpose, the provisions included in the Zoning Code Amendment are to be construed in a manner that is consistent with (1) the interest of consumers in receiving the benefits of the deployment of ultra-high-speed and capacity broadband wireless communication facilities technology and innovations, (2) the interest in safeguarding and addressing aesthetics and other local values, and (3) the interest in promoting the public health, safety and welfare in Escondido.

4. Recently, the Federal Communication Commission promulgated new rules designed to remove regulatory barriers to the deployment of infrastructure necessary to support 5G and other advanced wireless services and further limiting local discretion. These rules apply to a subset of wireless communication facilities defined as "small wireless facilities," which are commonly deployed on utility poles, streetlight standards and other vertical structures in the public right-of-way. Under the Federal Communication Commission Declaratory Ruling and Third Report and Order, cities are required to adopt reasonable and objective aesthetic standards for small wireless facilities. The amendment satisfies this requirement by reference to concurrently adopted guidelines (Guidelines for Deployment of Small Wireless Facilities in the Public Right-of-Way) which identify these aesthetic standards.

5. The amendment does not materially limit or inhibit the ability of any personal wireless service provider or potential provider to install small wireless facilities in the public right-of-way and to compete in a fair and balanced legal and regulatory environment. Rather, the amendment incorporates, by reference to the aforementioned guidelines, clearly-defined and ascertainable standards, which would be applied in a principled manner, while at the same time reflecting and supporting a marketplace in which a provider can engage in any of a variety of activities related to its provision of a covered service, densifying a wireless network, introducing new services, or otherwise improving service capabilities.

6. Escondido's economy relies on innovation and providing job opportunities for the City's residents. Ubiquitous, high speed mobile broadband is proven to have a significant impact on economic competitiveness and social prosperity. The proposed Zoning Code Amendment would be consistent with General Plan Goals and Policies that call for a "Diverse and Economically Prosperous Economy" that address the need to provide broad economic prosperity and support for businesses of all sizes. General Plan Mobility and Infrastructure Goals and Policies call for providing quality communication systems that enhance economic viability, governmental efficiency and equitable access for all (Goal 7, page III-50), require compatible collocation of telecommunication facilities that are designed in a manner to minimize visual impacts on surrounding uses (Telecommunications Policy 17.8, page III-51) and encourage the City to work with utility companies to provide opportunities for siting telecommunication facilities on city-owned property and in the public right-of-ways (Telecommunications Policy 17.9, page III-51). The proposed amendment also is consistent with General Plan Economic Prosperity Goals (Goal 9, page I-21) to provide adequate infrastructure to support and maintain the economic vitality of Escondido businesses.

7. The proposed Zoning Code Amendment would be applicable to the public right-of-way in all zones in the City, including the public right-of-way in areas covered by specific plans.

Environmental Determination:

1. The proposed Zoning Code Amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule ("common sense" rule) that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

EXHIBIT "B"

PROPOSED ZONING CODE AMENDMENT

SECTION I.

Repealing in its entirety, Article 34 of the Escondido Zoning Code, and adopting in full new text to read as specified below.

ARTICLE 34. COMMUNICATION ANTENNAS

Sec. 33-700. Purpose.

The purpose of this article is to provide standards and design guidelines for satellite dish antennas and other personal wireless service facilities. It is intended that such antennas and facilities be installed and operated in a manner consistent with all of the articulated health, safety, visual and aesthetic objectives of this article, while preserving the viability of these antennas and facilities as communication systems.

Sec. 33-701. Objectives.

The objectives of this article are:

- (a) To provide reasonable opportunities for installations of satellite dish antennas and personal wireless service facilities;
- (b) To ensure secure installations to prevent possible injury to persons or damage to property;
- (c) To permit locations which do not obstruct or interfere with the provision of emergency services and communications;
- (d) To preserve the city's authority over the placement, construction, modification, and design of facilities addressed by this article.

Sec. 33-702. Definitions.

(a) For the purposes of this article and any guidelines adopted pursuant to it, the following words, terms, phrases, and their derivations have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.

Accessory Equipment means any non-antenna portion of a personal wireless service facility, except concealment features, including, but is not limited to, remote radio units, surge protectors, diplexers, triplexers, battery racks, generators, air conditioners, wires, cables, and cabinets.

ANSI means the American National Standards Institute.

Antenna means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended.

Antenna shroud means a solid barrier that screens an antenna (or antennas) and any accessory equipment attached thereto, including, but not limited to, radio units, wires, cables, and brackets, entirely from view.

Camouflaged or Stealthy means a personal wireless service that is disguised, hidden, integrated into the architecture of an existing or proposed structure or placed within an existing or proposed structure, and designed to be compatible with the existing scale and pattern of development and/or characteristics of the site, as determined by the director of community development.

Collocation means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended.

Concealed or Concealment means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique.

FCC means the Federal Communications Commission.

Fixed Wireless Service means a local wireless operation providing services such as local and long distance telephone, high-speed internet, and digital television to residential and business customers by means of a small equipment installation of less than thirty (30) inches in diameter (the "Remote Unit") on the exterior of each home or business that elects to use this service.

IEEE means the Institute of Electrical and Electronics Engineers.

NCRP means the National Council on Radiation Protection and Measurements.

Personal Wireless Service means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended.

Personal Wireless Service Facility means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended.

Radome means a cylindrical antenna shroud.

RF means radiofrequency or electromagnetic waves.

RFR means radiofrequency radiation, or the formation of radiofrequency radiation generated by the movement of electromagnetic energy through space, including radio and microwaves, which is used for providing telecommunications, broadcast and other services.

Satellite Dish Antennas means circular or saucer shaped antennas using parabolic or spherical reflecting surfaces, or similar antennas which are designed to transmit and/or receive communication signals from satellites.

Shot Clock means the presumptively reasonable time frame within which a local jurisdiction must act on a wireless application, as defined by the FCC and as may be amended from time to time.

Small Wireless Facility means a Personal Wireless Service Facility which:

- (1) is mounted on a structure 50 feet or less in height including their antennas, mounted on a structure which is no more than ten (10) percent taller than other adjacent structures, or does not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and
- (2) has antennas no larger than three (3) cubic feet; and
- (3) has associated wireless equipment which is cumulatively no larger than 28 square feet, including any pre-existing equipment; and
- (4) does not require antenna structure registration; and
- (5) is not located on tribal lands; and
- (6) does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards.

Structure means the same as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended.

Technically feasible means that the siting, location, and equipment proposed for a Personal Wireless Service Facility are available and known to be able meet the service objectives of that facility.

Telecommunications Act means the Telecommunications Act of 1996.

Sec. 33-703. Personal wireless service facilities guidelines—Five general principles.

The following principles shall serve as general guidelines for the city's consideration of applications for personal wireless service facilities which are not small wireless facilities located in the public right-of-way:

(a) Height guidelines—Utilize lowest profile technology.

(1) Discourage further consideration of high-profile antenna installations (such as non-camouflaged towers and monopoles). Personal wireless service facilities should be designed to be in scale with surrounding buildings and tree heights.

(2) Use existing structures as opposed to introducing new ones.

(3) Encourage facilities that meet the zone's height standards.

(4) Use landscaping (such as dense tree growth) or other measures to minimize visual impacts and screen the facility.

(b) Location guidelines—Avoid proliferations that create or compound undesirable visual impacts, but also encourage co-location, where appropriate.

(1) Encourage the use of commercial, and industrial, and public right-of-way sites whenever possible, and discourage the use of residential zones. Wireless communication facilities proposed to be located within residential zones/areas shall consider the following and submit a feasibility study to implement the following options before proposing a wireless facility on a residentially developed property:

(A) Residential zoned properties developed with nonresidential uses (i.e., schools, churches, parks, etc.);

- (B) Public right-of-way (such as existing or new light pole or other utility structures).
- (2) Encourage single sites utilizing stealth designs and latest technologies.
- (3) Ensure full aesthetic integration of new facilities into the proposed locations.
- (4) Ensure that the area covered by wireless facilities which are screened and landscaped to minimize visual impacts is large enough to incorporate appropriate visual screening methods.
- (5) Ensure that proposed landscaping has permanent proper irrigation and maintenance.
- (6) Require amended co-location language for facility leases on city-owned properties to include:
 - (A) Modification requirements as technology advances.
 - (B) Square foot minimums for leased lots to ensure proper buffering areas.
- (7) Encourage co-location on existing sites where it is possible to avoid obtrusiveness, up to the point where a structure or site has too many antennae/structures and becomes visually cluttered.
- (8) Ensure that the mass and scale of proposed facilities are not excessive in order to meet the carrier's reasonable coverage objectives.
 - (c) Stealth technology guideline - Encourage creative, unobtrusive stealth technology.
 - (1) Encourage personal wireless service facilities to be camouflaged or integrated into or onto existing structures, wherever possible. When a personal wireless service facility extends above the roof height of a building on which it is mounted, the facility should be concealed within or behind architectural features to limit its visibility from public ways. Facilities mounted on a roof should be stepped back from the façade in order to limit their impact on the building's silhouette and reduce visibility from adjacent public ways. Existing visual obstructions or clutter on the roof or along the roof line should, in a commercially practical matter, be removed or screened (such as a parapet or architectural element that serves as a rooftop screen) as a precursor to the new wireless installation. Facilities which are façade-mounted should blend with the existing building's architecture, materials and colors.
 - (2) Require designs that are in scale and context with their surroundings.
 - (3) Encourage creative designs with the least visual impact and the use of microtechnology where possible.
 - (4) Encourage designs that mimic natural elements, and that are natural in appearance, by including:
 - (A) Natural colors applied in a natural-looking way.
 - (B) Inclusion of related forms and textures as they commonly would be found in nature.
 - (C) Antenna or facility elements formed in, clad by, or screened by natural-looking features.

(5) If a stealthy design is not feasible, proposed facilities shall be surrounded by buffers of dense landscaping including tree growth of sufficient width, height and understory vegetation to create an effective year-round visual buffer. Permanent irrigation shall also be provided.

(d) Older facility guidelines—Encourage older facilities to upgrade using less obtrusive technology.

(1) Require facility upgrade when leases on City-owned property are up for renewal.

(2) Facility modifications should incorporate the latest technology consistent with this article.

(e) Emissions guidelines—Ensure that emissions do not exceed federal thresholds.

(1) Require that every installation meets all Federal Radiation Standards to ensure public health, including NCRP, ANSI/IEEE and FCC standards and guidelines.

(2) Require that each facility owner adhere to all Federal (FCC) emission testing stipulations and timetables.

Sec. 33-704. Personal wireless service facilities—Development and operating standards.

The following operating standards shall apply to all personal wireless service facilities:

(a) Interference. The operation of personal wireless service facilities shall be in conformance with all applicable Federal Communications Commission regulations regarding interference with other equipment.

(b) Screening. All personal wireless utility equipment (i.e., antennas, support structures, mounts, equipment, etc.) shall be screened from view of adjacent properties or public rights-of-way to the maximum extent possible. Screening may include integrating architectural elements, color and texture of the antenna structure, fencing, landscaping, or other method appropriate to the specific situation. Screening may be waived by the director of community development if the available methods of screening create a greater visual impact, or call greater attention to the facility than if otherwise left unscreened.

(c) Equipment. With the exception of small wireless facilities located in the public right-of-way, associated equipment shall be placed within an existing building whenever possible. Locational standards for equipment associated with small wireless facilities in the public right-of-way shall comply with development standards contained in any guidelines adopted pursuant to Section 33-704(k).

(d) Setbacks and height. With the exception of small wireless facilities located in the public right-of-way, antennas, poles, mounts and all utility equipment shall not be located in required front, rear, side and street side-yard setback areas. All façade-mounted and roof-mounted facilities and screening materials shall not project above the height limit of the zoning district within which the facility is located, unless otherwise permitted in conformance

with section 33-8 (building height) and section 33-1075 (permitted structures in excess of height limits) of the zoning code. Facilities installed on residential uses in residential zones shall meet the underlying zone's height standards for principal structures. Height limitations for small wireless facilities in the public right-of-way shall comply with development standards contained in any guidelines adopted pursuant to Section 33-704(k).

(e) RFR emissions. Ninety (90) days after installation of any facility, under full operating conditions, the applicant shall measure the radio frequency(ies) emitted by the facility and submit an operational radio frequency study to the planning division to verify conformance of the facility with the theoretical study and applicable ANSI/IEEE and FCC standards for radiofrequency radiation exposure.

(f) Noise. Noise levels generated by wireless equipment shall not exceed the noise level limits of the underlying zone and receiving land use, whichever is less. Appropriate siting and building measures shall be incorporated into the facility to comply with the city's noise requirements. An acoustical study may be required, as determined by the director of community development.

(g) Lighting. Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other on-site facilities for maintenance purposes shall be shielded from abutting properties.

(h) Signage. Signs shall be limited to those needed to identify the property and the owner and to warn of any danger; shall provide one (1) or more twenty-four (24) hour emergency telephone numbers; and shall be subject to the approval of the planning division.

(i) Maintenance. All facilities, landscaping and related equipment shall be maintained in good working condition and free from trash, debris, graffiti and designed to discourage vandalism. Any damaged equipment shall be repaired or replaced within thirty (30) calendar days. Damaged, dead or decaying plant materials shall be removed and replaced within thirty (30) calendar days.

(j) Hillside and ridgeline overlay district. Personal wireless service facilities located within close proximity to a skyline ridge or intermediate ridgeline shall be subject to the provisions of the hillside and ridgeline overlay district.

(k) Public right-of-way. Unless expressly stated otherwise, all requirements of this article shall apply to the placement, construction, modification or reconstruction of any personal wireless service facilities proposed within the public right-of-way, except to the extent precluded by state or federal law. The following additional requirements also shall apply:

(1) All personal wireless service facilities must comply with the city's requirements for an encroachment permit as set forth in Chapter 23 of this code and any guidelines adopted pursuant to this article. All applicants shall enter into a license agreement as provided by the city to the extent the facility is proposed to be located on city facilities.

(2) All personal wireless service facilities in the public right-of-way that are not small wireless service facilities shall require a major conditional use permit.

(3) Small wireless facilities in the public right-of-way. All small wireless facilities installed in the public right-of-way shall comply with the development standards included in any guidelines adopted pursuant to this section. Development standards in the adopted guidelines may address various design, use of right of way, and aesthetic aspects including, but not limited to, size, spacing, quantity, location, color, method of mounting, orientation, concealment of cables, wires, and conduit, and other physical aspects of the antennas, equipment, and structures on which the facilities are mounted.

(4) Small wireless facility permits. All new small wireless facilities proposed within the public right-of-way, and any collocations or modifications to existing small wireless facilities within the public right-of-way shall require the issuance of a small wireless facility permit. The director may establish the forms and submittal requirements to implement the requirements of this section and any guidelines adopted pursuant to it.

(A) Administrative permit. All proposed small wireless facilities which meet all the requirements in this article and any guidelines adopted pursuant to it, may be processed through an administrative small wireless facility permit. The director shall determine whether an application meets the requirements of this article and any adopted guidelines. The permit will be approved if the regulations are met, or denied if the regulations are not met. The application process shall follow the procedures set forth in any guidelines adopted pursuant to this article.

(B) Minor conditional use permit. Any small wireless facility proposed on a new vertical structure that is not a street light, any facilities that project from a support structure by use of an arm or other horizontal bracket/brace, and any facility that exceeds the quantitative limitations described in this article and any guidelines adopted pursuant to it, shall require a minor conditional use permit, pursuant to Article 61 of this code.

(C) Findings. Applications for small wireless facility permits shall demonstrate complete conformance with the development standards established by this section any guidelines adopted pursuant to it.

(i) Administrative permit. In order to determine conformance with development standards, the director shall make all of the following findings when issuing an administrative permit:

a. That the applicant has demonstrated that the small wireless facility is being placed on the most-preferred support structure that is technically feasible;

b. That the location of the proposed small wireless facility conforms to the requirements of this article and any adopted guidelines; and

c. That the design of the proposed small wireless facility conforms to the requirements of this article and any adopted guidelines;

(ii) Minor conditional use permit. In addition to the findings in section 33-1203, the zoning administrator must also make the same findings required under Section 33-704(k)(4)(C)(i). If the decision of the Zoning Administrator is not satisfactory to the applicant, the applicant may appeal the decision to the Planning Commission in accordance with procedures set forth in Article 61.

(D) Appeals. Decisions of the director and zoning administrator may be appealed pursuant to Section 33-1303 of the Escondido Zoning Code.

(5) The city council may, by resolution, establish additional criteria, clarifications and guidelines for the location, operation, design and review of ~~personal~~ small wireless ~~service~~ facilities in the public right-of-way.

(l) Installation of remote units (less than thirty (30) inches in diameter) required for private, fixed wireless service on private property or installed by the City are not subject to the provisions of this Article 34 and are exempt from review by the zoning administrator, planning commission or city council.

(m) Residential locations. The following development standards shall apply to any wireless communication facility located on land developed with residential as the primary use. This excludes the public right-of-way adjacent to such land.

(1) A wireless facility ~~should~~ shall not be located on a parcel less than ten thousand (10,000) square feet, with no more than one (1) wireless facility located on a parcel less than one (1) acre in size.

(2) Freestanding wireless antenna facilities/structures (not incorporated into the architecture of the main residence) shall be set back from the adjacent property boundary a minimum distance of one and one-half (1.5) times the height of the wireless facility.

(3) Wireless antenna facilities shall not encroach into the minimum setbacks required of the main residence.

(4) Freestanding equipment structures may be located anywhere on the site as provided for accessory structures. The equipment structures shall be designed to be architecturally compatible with the main residence/residential structure.

(5) The planning commission may modify development requirements: (1) and (2) of this subsection (m) upon the findings the proposed wireless facility will not result in any adverse compatibility, noise or visual impacts to surrounding properties; and the project design and location modifications represents the most appropriate alternatives for the subject property.

Sec. 33-705. Personal wireless service facilities—Application requirements.

(a) The following shall be included with an application for all personal wireless service facilities except for small wireless facilities in the public right-of-way:

(1) A city-wide map showing the provider's other existing facilities and the general area of currently anticipated future personal wireless service facilities in the city and outside the city, within one (1) mile of its corporate limits.

(2) The qualifications of the person who prepared the required RFR study, including such information as his or her education and professional qualifications, experience preparing studies, history demonstrating compliance with FCC guidelines, etc.

(3) Existing before photographs and after visual simulations. A sight line representation drawn to scale) may also be required (as determined by the director of community development) which shall be drawn from adjacent public roads and the adjacent properties (viewpoint) to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile and show all intervening trees and buildings, and be accompanied by photographs of what currently can be seen from the specific site and a visual simulation of the proposed facility. An on-site mock-up or balloon simulation also might be required for highly visible or sensitive sites to adequately assess the potential visual impact of the proposed facility.

(4) A description of proposed materials and colors of the proposed facility specific by type and treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.).

(5) Preliminary landscape and irrigation plan, if required.

(b) The city reserves the right to employ experts, at the applicant's expense, to evaluate information submitted with the application to ensure compliance with local regulations for land use, and to verify compliance with the Federal Communications Commission's standards for RFR emissions.

(c) Applicants shall submit a theoretical radiofrequency radiation study (prepared by a person qualified to prepare such studies) with the application which quantifies the proposed project's radiofrequency emissions, demonstrating compliance of the proposed facility with applicable NCRP and ANSI/IEEE and FCC policies, standards, and guidelines for maximum permissible exposure (MPE) to radiofrequency radiation emissions. The study shall also include a combined (cumulative) analysis of all the wireless operators/facilities located on and/or adjacent to the project site, identifying total exposure from all facilities and demonstrating compliance with FCC guidelines. An updated radiofrequency study shall be submitted for any modification to a facility.

(d) Application materials required for small wireless facilities proposed in the public right-of-way pursuant to Section 33-704(k) shall comply with any guidelines adopted pursuant to that section.

Sec. 33-706. Personal wireless service facilities—Land use approval.

(a) City staff shall review plans for planning, siting, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and conformance with the wireless facilities guidelines. After such review, staff may approve, conditionally approve, or deny the proposed facility, or refer it to the planning commission for approval, conditional approval, or denial. As a component of the project review, the applicant must include details regarding the ability to provide the necessary utilities (i.e., telco and power) and appropriate access to the site. All new utility service runs shall be placed underground.

(b) Land use approval requirements for small wireless facilities located in the public right-of-way are provided in Section 33-704(k).

(c) Except for small wireless facilities in the public right-of-way, a plot plan application shall be required for all personal wireless service facilities/antennas and facilities which are permitted in the zone and which do not require a conditional use permit.

(d) Residential and open space zones. Personal wireless service facilities in these zones shall require a conditional use permit issued by the planning commission pursuant to Division 1 of Article 61 in all residential and open space zones. Personal wireless service facilities located within the public right-of-way within or adjacent to residential zones or open space zones shall require the issuance of a conditional use permit.

(e) Commercial and industrial zones. Plot plan approval or a conditional use permit shall be required in commercial and industrial zones according to the following chart:

	CG	CN	CP	I-O	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Roof-mounted or building-mounted incorporating stealthy designs and/or screened from public ways or significant views	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that incorporate stealthy designs and do not exceed 35' in height	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that exceed 35' in height, or roof or building mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(f) Co-Location. Co-location of personal wireless service facilities is encouraged to the extent it is technically feasible, up to the point where a structure or site has too many antennae and becomes visually cluttered, subject to the following siting criteria and chart:

	CG	CN	CP	I-O	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Co-location on existing buildings or structures, or adding an additional facility on a site	P	P	P	P	P	P	C
Co-location including new pole-mounted or ground-mounted structures that exceed 35' in height, or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

RA	RE	R-1	R-2	R-3	R-4	RT	OS
C	C	C	C	C	C	C	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(fg) Planned Development and Specific Plans. Unless specifically permitted or conditionally permitted as part of the planned development or specific plan, any wireless communication facility shall not be permitted within these zones unless a modification to the master development plan or specific plan is approved by the planning commission or city council, as may be required. This provision does not apply to small wireless facilities in the public right-of-way.

Sec. 33-707. Personal wireless service facilities—Modifications and upgrades.

Except for small wireless facilities in the public right-of-way identified in section 33-704(k), the modification of a personal wireless service facility which was not specified in the original design/approval (including, as examples, an increase in height, the number of antennas/panels, an increase in mass and scale, etc.) may be considered equivalent to an application for a new personal wireless service facility, and will be subject to the requirements of this article. However, upgrades to existing facilities to incorporate new technology which, in the discretion of the director, do not increase the existing mass and scale, increase the height or visibility of the structures, or decrease the overall height of the facility, may be approved by the director, and/or may be referred to the planning commission. Modifications and upgrades to small wireless facilities installed in the public right-of-way pursuant to section 33-704(k) shall be reviewed as described in said section and in any guidelines adopted pursuant to it.

Sec. 33-708. Personal wireless service facilities—Abandonment or discontinuation of use.

(a) At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier shall notify the city in writing of the proposed date of abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

(b) Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

(1) Removal of antennas, mount, equipment shelters and security barriers from the subject property;

(2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal programs;

(3) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

(c) For small wireless facilities installed in the public right-of-way, the city shall reserve the right to require a bond to ensure removal of such facilities, and the replacement of any structures removed as part of the installation, upon abandonment or discontinued use. The city may, at its sole discretion, require any structure installed in the public right-of-way for the purpose of installation of a small wireless facility to be left in place, and such structure shall become the possession of the city upon abandonment or discontinuance of use by the carrier. The city may also require the carrier to replace any structure that was removed in order to install the small wireless facility

RESOLUTION NO. 2020-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING DESIGN GUIDELINES AND PROCESSING REQUIREMENTS FOR WIRELESS COMMUNICATION FACILITIES WITHIN THE PUBLIC RIGHT-OF-WAY AND ESTABLISHING AND ADOPTING FEES TO PROCESS APPLICATIONS FOR WIRELESS COMMUNICATION FACILITIES WITHIN THE PUBLIC RIGHT-OF-WAY

Applicant: City of Escondido
Planning Case No: AZ 19-0001

WHEREAS, the Telecommunications Act of 1996 (the “1996 Act”) facilitated the deployment of telecommunications infrastructure and provides for a pro-competitive, deregulatory national policy framework intended to remove barriers to entry in the provision of telecommunications services. Under the 1996 Act, no State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services. Since then, the Federal Communications Commission has issued several rulings interpreting and providing guidance regarding the language in the 1996 Act, as amended; and

WHEREAS, the aforementioned, broad federal mandates still preserve state and local authority to manage the public rights-of-way; and

WHEREAS, the City Council desires to establish requirements necessary to preserve and advance universal wireless service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers; and

WHEREAS, the use of unduly vague or subjective criteria that may apply to land use development applications may be applied inconsistently to different providers or are only fully revealed after application, making it difficult to process land use development applications. It is essential to decision-makers, City officials, wireless service carriers, stakeholders, and the public to refer to guidelines during project reviews to ensure that compatible and appropriately sited and designed wireless communication facilities are placed, constructed, and maintained within the City's public right-of-way. The City of Escondido has determined that design guidelines for wireless communication facilities are needed; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.), the State CEQA Guidelines (Title 14 of the California Code of Regulations Section 15000 et. seq.), the City is the lead agency for the Project, as the public agency with the principal responsibility for approving the proposed Project; and

WHEREAS, the Planning Division of the Community Development Department scheduled a public hearing regarding the complete application (consisting of Planning Case No. AZ 19-0001) before the Planning Commission on December 10, 2019. Following the public hearing, the Planning Commission adopted Resolution No. 2019-13, which recommended that the City Council, among other things, approve the Project's proposed guidelines; and

WHEREAS, the City Council has heretofore established various schedules of rates, fees, and charges for services provided by the City including, but not limited to, processing land use development applications; and

WHEREAS, pursuant to the provisions of the California Constitution and the laws of the State of California, the City of Escondido is authorized to adopt and implement rates, fees, and charges for municipal services; provided, however, that such rates, fees, and/or charges do not exceed the estimated reasonable cost of providing such services; and

WHEREAS, California Government Code Section 66016 requires notice to be given and data made available at specified times prior to the adoption of increases in existing rates, fees, and charges, or the adoption of new rates, fees, and charges for permits and inspections sometime hereinafter at a public meeting of this City Council; and

WHEREAS, California Government Code Section 66018 requires notice to be published in accordance with California Government Code Section 6062a and data made available concerning rates, fees, and charges prior to conducting a public hearing with respect to the adoption of increases in rates, fees, and charges, or the adoption of new rates, fees, and charges for which no other procedure is provided by law; and

WHEREAS, a notice was published and mailed as required by the Escondido Zoning Code and applicable State law, and that the City Council held a regularly scheduled public hearing on February 5, 2020, regarding the proposed Project, in its entirety, and that all persons desiring to speak did so; and

WHEREAS, this City Council desires to establish fees associated with the review of applications for wireless communication facilities as set forth.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Escondido, in its independent judgement and after fully considering the totality of the record and evidence described and referenced in this Resolution, hereby declares:

1. That the above recitations are true.

2. That the Findings of Fact/Factors to be Considered, attached as Exhibit "A", and incorporated herein by this reference as though fully set forth herein, are hereby made by this City Council, and represent the City Council's careful consideration of the record. The findings of this City Council shall be the final and determinative Findings of Fact on this matter.

3. That upon consideration of the Findings/Factors to be Considered, all material in the February 5, 2020, City Council staff report (a copy of which is on file with the Office of the City Clerk), public testimony presented at the hearing, and all other oral and written evidence on the Project, this City Council approves the *Guidelines for Deployment of Small Wireless Facilities in the Public Right-of-Way* as provided for Exhibit "B," and incorporated herein by this reference as though fully set forth herein.

4. This City Council hereby finds and determines that based upon the data, information, analysis, oral and written documentation presented to this City Council concerning the rates, fees, and charges described in Exhibit "C" attached hereto and by this reference incorporated herein as though fully set forth herein, the rates, fees, and charges set forth in said Exhibit "C" do not exceed the established reasonable cost of providing the service for which the rates, fees, or charges are levied. The rates, fees, and charges set forth in Exhibit "C", are hereby adopted and approved as the rates, fees, and charges for the services identified for each such rate, fee, and/or charge.

5. It is the desire of the City Council that all fees and charges for services, programs or products be set forth in one document for ease of reference. Accordingly, any and all conflicting provisions of prior Resolutions of the City Council establishing or

modifying fees for the services, programs or products set forth in Exhibit “C,” are hereby repealed and replaced as of the effective date of this Resolution in the manner set forth in Exhibit “C,” provided, however, that such repeal shall not excuse or affect the failure of any person or entity to pay any fee heretofore imposed upon such person or entity. The City Council desires to clarify that in adopting this Resolution, it is taking action only on those fees for the services, programs or products set forth in Exhibit “C” which have been modified from prior resolutions of the City Council. The remaining fees that have not been modified from prior resolutions shall remain in full force and effect and are hereby restated for convenience so that all fees are set forth in one document.

6. The City Council hereby finds that the associated guidelines are exempt from environmental review in conformance with CEQA Guidelines Section 15061(b)(3). The activity is covered by the general rule (“common sense”) that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. The City Council hereby finds that the associated fees are exempt from environmental review in conformance with CEQA Public Resources Code Sections 21000 et Attachment 1, because it approves and sets forth a procedure for determining fees for the purpose of meeting the operating expenses of City departments, as set forth in Public Resources Code Section 21080(b)(8)(A). As such, the City Council hereby directs Planning Division staff to file the Notice of Exemption with the County Clerk, in conformance with CEQA Guidelines Section 15062.

7. This Resolution shall take effect upon the effective date of City Council Ordinance No. 2020-03. Should that Ordinance not be adopted concurrently with this

Resolution, this Resolution shall take effect on the 30th day following its adoption. All Guidelines and Service Fees shall take effect on the effective date of this Resolution.

FACTORS TO BE CONSIDERED / FINDINGS OF FACT

Wireless Communication Facility Guidelines Determinations:

1. The proposed guidelines only include appropriate standards and processing requirements to evaluate the appropriateness of a proposed wireless communication facility within the public right-of-way in the best interest of the City. The project implements the zoning, land use and other laws, rules, regulations, and policies and procedures, applicable to the siting of wireless communications facilities by infrastructure owners, operators, and service providers in Escondido. The project accommodates new wireless technologies and continued improvements to existing wireless communication facilities while minimizing their adverse impacts, consistent with (1) the interest of consumers in receiving the benefits of the deployment of ultra-high-speed and capacity broadband wireless communication facilities technology and innovations, (2) the interest in safeguarding and addressing aesthetics and other local values, and (3) the interest in promoting the public health, safety and welfare in Escondido.

2. Although broad federal mandates referenced in the February 5, 2020, City Council staff report have generally established some limitations over the "placement, construction, and modification of personal wireless service facilities," the City Council finds the proposed project is a valid City enactment regulating the time, place, and manner upon which wireless communication facilities are installed in the City's public right-of-way. Under the State Constitution, the City of Escondido may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws, often referred to as the "police power." Consistent with these principles, federal law does not grant industries, such as wireless carriers or applicants, unlimited rights. The action to which the City Council takes action on is sufficient under these rules and helps regulate and provide guidelines for the future installation of wireless communication facilities within the public right-of-way. The City Council further finds that the proposed project does not unreasonably discriminate among providers of functionally equivalent services; and does not prohibit or have the effect of prohibiting the provision of personal wireless services. The project does not materially limit or inhibit the ability of any small wireless facility competitor or potential competitor to compete in a fair and balanced legal and regulatory environment. Rather, the proposed guidelines incorporate clearly-defined and ascertainable standards, or direction, which would be applied in a principled manner, while at the same time reflecting and supporting a marketplace in which a provider can engage in any of a variety of activities related to its provision of a covered service, densifying a wireless network, introducing new services, or otherwise improving service capabilities.

Fee Determinations:

1. The City Council has determined that City staff provides many types of services ("Services") involving requests by City customers ("Applicants"). The City currently imposes service fees and development-related fees upon Applicants to recover the costs of staff time, copying costs, and other expenses related to providing these Services. In the intake and processing of wireless communication facilities, the City of Escondido incurs a variety of direct and actual costs in connection with the placement, construction, and modification of personal wireless service facilities, such as the cost for staff to review the provider's siting application, costs associated with a provider's use of the public right-of-way, and costs associated with maintaining the public right-of-way itself or structures within the public right-of-way.

2. The City Council has conducted an analysis of its services, the costs reasonably borne by the City in providing those services, the beneficiaries of those services, and the revenues produced by those paying fees and charges for special services, all of which is documented sufficiently as provided in the February 12, 2020 City Council Staff Report. Based upon and in consideration of all of the information provided in the February 12, 2020 City Council Staff Report, the City has sufficiently (i) identified the purpose of the proposed fees, (ii) identified the use to which the fees will be put, (iii) demonstrated a reasonable relationship between the fees' use and the types of projects on which the fees are imposed, and (iv) demonstrated a reasonable relationship between the amount of the fees and the cost of the City's Services attributable to the applications on which the fees are imposed.

3. Pursuant to state law, the City may impose service fees for certain services. Pursuant to Government Code Section 66000, et seq., the City is empowered to impose Development Fees covering up to 100 percent of the actual costs of providing Services to Applicants.

4. The City Council further finds that the record reflects the following:

- A. The fees or other costs associated with deploying wireless communication facilities and infrastructure are not excessive and do not materially inhibit the buildout of wireless services in the City of Escondido.
- B. The fees are fair and reasonable compensation as a reasonable approximation of cost. Government Code Section 66014 et al. allows local agencies to charge fees for various activities as long as those fees do not exceed the estimated reasonable costs of provided the service for which the fee is intended. The fees recover actual costs generated from various, related and necessary city applications, permits, and

activities, charged with respect to one-time fees generally, and recurring fees for deployment within the public right-of-way.

- C. The fees do not subsidize city costs elsewhere, for another service or another geographic area of the city.
- D. The fees are a direct function of the Applicants' "use" of the public right-of-way. The fees do not accomplish some public policy objective beyond the Applicants' use of the public-right-of-way.
- E. The fees are competitively neutral and nondiscriminatory. The City is not charging fees on new entrants and not on incumbents. The City would not impose a range of fees on one Applicant but not another.

5. All legal prerequisites to the adoption of this Resolution have occurred. Pursuant to California Government Code Section 66018, this City Council has conducted and concluded a duly noticed public hearing with respect to the rates, fees, and charges prior to the adoption of this Resolution.

Environmental Determinations:

1. The associated guidelines are exempt from environmental review in conformance with CEQA Guidelines Section 15061(b)(3). The activity is covered by the general rule ("common sense") that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

2. The associate fees are exempt from environmental review in conformance with CEQA Public Resources Code Sections 21000 et seq, because it approves and sets forth a procedure for determining fees for the purpose of meeting the operating expenses of City departments, as set forth in Public Resources Code Section 21080(b)(8)(A).

Guidelines for Deployment of Small Wireless Facilities in the Public Right-of-Way

I. INTRODUCTION

The following processing and design guidelines (the "Guidelines") have been developed to supplement and clarify the requirements of [Subsection 33-704\(k\)](#) of the Escondido Zoning Code, specifically related to small wireless facilities in the public right-of-way. These requirements are meant to provide a general overview of the procedures and requirements for installation of small wireless facilities. They also outline the City's permitting process for small wireless facilities, and provide detailed development standards and design requirements which the City will use to review proposed facilities.

The Guidelines provide comprehensive information to all parties involved in the processing of applications for small wireless facilities proposed in the public right-of-way in the City of Escondido. Specifically, they are intended to help achieve the following goals:

- Protect the health, safety, and welfare of the public;
- Accommodate and support deployment of personal wireless service facilities to provide robust coverage and capacity throughout the city;
- Protect the City's visual character from potential adverse impacts or visual blight created or exacerbated by personal wireless service facilities and related communications infrastructure;
- Create a clear set of development standards, siting criteria, design preferences, and other information for new facilities, additions and modifications to existing facilities to ensure that wireless service facilities are well-maintained and do not significantly detract from city streetscapes; and
- Provide definitions that are quantifiable and measurable.

These Guidelines have been adopted, and may be amended, by resolution of the City Council, as specified in Section 33-704(k) of the Escondido Zoning Code. Revisions to address clerical errors may be made administratively by the Director of Community Development.

II. APPLICABILITY

- A. Except as expressly provided otherwise, these Guidelines shall be applicable to all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, replace, relocate or otherwise deploy small wireless facilities in the public right-of-way, inclusive of applications which affect existing facilities.
- B. The provisions contained in these Guidelines do not apply to existing and proposed personal wireless service facilities which are:

1. Not in the public right-of-way; or
2. Not small wireless facilities.

III. APPLICATION PROCESSING

A. Voluntary Pre-Application Meeting

Federal laws and policies establish time limitations (referred to as a "shot clock") related to processing of all types of wireless communication facilities. The City must take action on a project within the established shot clock timeframes. As such, applicants should ensure that the appropriate amount of research is done prior to submittal. Failure to do so may result in application materials that do not provide adequate or accurate information, which in-turn may result in denial of an application.

Pre-application meetings are strongly encouraged in order to ensure that proposed small wireless facilities comply with the requirements of Subsection 33-704(k) of the Escondido Zoning Code and these Guidelines, and that application materials include adequate and accurate information. Please contact the Planning Division, Community Development Department, at (760) 839-4671, and Land Development Division, Engineering Services Department, at (760) 839-4651, if you would like to schedule a voluntary pre-application meeting with either division. Alternately, preliminary plans can be emailed to the City for a courtesy review.¹ Contact the Planning Division or Land Development Division at the numbers above to obtain the email addresses for the staff members best suited to assist you.

B. Required Permits

Prior to commencement of any work required for the installation of a small wireless facility in the public right-of-way, appropriate permits must be secured by the applicant. Two permits from the City of Escondido are necessary, as described below. A master license agreement is also required for any provider wishing to place a small wireless facility on any structure in the right-of-way owned by the City of Escondido.²

In addition to the small wireless facility itself, the permits described below allow up to 50 feet of trenching for electrical/fiber connections to existing infrastructure. Any large infrastructure projects that are not small wireless facilities shall be processed in accordance with the Engineering Services Department's standard procedures.³

¹ Plans which are emailed to City staff for a courtesy review are not considered a duly filed application with the City and therefore are not subject to FCC imposed time limits. The courtesy review is not exhaustive, and the City accepts no liability if it is determined, upon formal submittal, that the plans do not comply with these Guidelines.

² Additional permits from other government agencies may be required.

³ Encroachment permits for trenching in excess of 50-feet will be reviewed on a cost recovery basis in accordance with the City's standard improvement plan review process. The owner of the proposed underground facilities will be required to execute a one-time Right-of-Way and Maintenance Agreement with the City or provide evidence of prior Franchise Agreement rights. A boiler plate version of this Agreement is available on the City website.

1. *Small Wireless Facility Permit*

A small wireless facility permit must be obtained by an applicant prior to commencement of any work required for the installation of a small wireless facility in the public right-of-way. Application packets are available at the Planning Division and Engineering Services Department public counters, or on the Planning Division's webpage at <https://www.escondido.org/applications-for-processing-development-requests.aspx>.

a. *Administrative Permit*

The administrative permit process is intended to provide a simple and efficient way to expedite the permitting process for a large majority of proposed facilities. As such, administrative permits are available for all small wireless facilities that comply with these Guidelines and do not require a Minor Conditional Use Permit, as outlined in Section 33-704(k) of the Escondido Zoning Code. Applications for administrative permits shall include all items necessary for the City to make a determination regarding compliance with the established design and development standards⁴, and applicants will be required to certify that their plans and other application materials conform to said standards. If it is determined, after review of applications for administrative permits in the manner described in the Processing of Applications section below, that the plans or other application materials do not demonstrate conformance with the standards, or the applicant does not certify such conformance, the permit will be denied.

b. *Minor Conditional Use Permit*

A Minor Conditional Use Permit is required for certain small wireless facilities as identified in Section 33-704(k) of the Escondido Zoning Code. Applications for Minor Conditional Use Permits will be processed and reviewed pursuant to Article 61, Division 1, of the Escondido Zoning Code.

2. *Encroachment Permit*

An encroachment permit is required for any small wireless facility placed in the City of Escondido's public right-of-way. An encroachment permit application, including all submittal requirements identified on said application form and all required fees and deposits, shall be submitted concurrently with the small wireless facility permit application unless the applicant voluntarily agrees in writing to defer said submittal, as described in the tolling agreement section later in these Guidelines.

3. *Master License Agreement*

Wireless service providers proposing to install small wireless facilities on existing, replacement, or new City-owned structures in the public right-of-way are required to enter into a master license agreement with the City prior to installation of said facility. If a master license agreement has not yet been secured by the provider, it must be submitted concurrently with the small wireless facility and encroachment permit applications, unless the applicant voluntarily agrees in writing to defer said submittal, as described in the tolling agreement section later in these Guidelines. If a master

⁴ Submittal requirements are discussed later in these Guidelines.

license agreement has already been secured by the provider, a master license agreement site addendum for each additional site shall accompany the small wireless facility and encroachment permit applications. Additional information related to master license agreements can be obtained by contacting the Real Property Division, Engineering Services Department, at (760) 839-4597.

C. Acceptance of Applications

Applications for small wireless facility and encroachment permits, and any master license agreements or addenda, including all items and fees required as part of an application package, shall be submitted concurrently to the Planning Division. The City requires a whole application in order to review a project in the timeline established by the FCC shot clock. Applications which do not include all required submittal materials for all applicable permits/agreements, including all applicable fees, will not be accepted and are not considered submitted and duly filed with the City. Alternately, an applicant may voluntarily defer submittal of a small wireless facility permit application, encroachment permit application, or master license agreement, through the execution of a tolling agreement, as described in the submittal requirements section below.

The City will establish set hours during which applications may be submitted. A minimum of eight (8) hours each week will be available for application submittal, and said hours will be posted on the Planning Division's website and at the Planning Division counter.⁵ Submittals may also be made by appointment outside of these posted hours for intake through the Planning Division. An appointment is not required to submit an application, however it is strongly encouraged, especially if an applicant intends to submit a batched application or individual applications for multiple facilities at one time.

Applications must be submitted in-person. Application materials delivered by U.S. mail or other delivery service will not be processed and do not constitute a submitted and duly filed application. An application is not considered duly filed and submitted unless it contains all items necessary to comprise a whole application, and is provided in-person to a representative of the Planning Division and assigned a planning case number.

D. Batched Applications

Applicants may submit multiple applications for small wireless facilities as a single, batched application, as long as all facilities included in the batch utilize the same size and type of equipment, and are mounted in the same configuration on the same type of support structure. If the equipment, configuration, and support structure used for any facility that is submitted as part of a batched application is not consistent with the other facilities in that batch, all applications that are inconsistent will be removed from the batch and must be processed as separate applications. Each application in a batch must meet all the requirements for a whole application.

E. Submittal Requirements

Small wireless facility permit application packets are available at the Planning Division public counter and on the Planning Division website at

⁵ Fewer hours will available if the posted hours fall on a city holiday.

<https://www.escondido.org/applications-for-processing-development-requests.aspx>. In absence of a voluntary tolling agreement, said packets contain a detailed list of items that must be provided in order for the application to be duly filed and accepted by staff for review. The applicant will be required to certify that the submittal materials contained in the application packet demonstrate conformance with these Guidelines.

Encroachment permit application packets are available at the Engineering Services Department's public counter and on the Field Engineering Division's website at <https://www.escondido.org/field-engineering.aspx>. In absence of a voluntary tolling agreement, said application packet contains a detailed list of items that must be provided, in order to duly file an application for review.

1. *Tolling Agreement*

The City recognizes that concurrent submittal and review of a small wireless facility permit, an encroachment permit, and a master license agreement may be problematic for a wireless service provider due to the nature of permitting and issuance of said permits and agreements. As such, an applicant may voluntarily elect to defer submittal of any permit or agreement which is otherwise required as part of a whole application. The voluntary deferral of any such permit or agreement shall toll the shot clock on that item. Once the voluntarily deferred item is received, the City will provide comments on any deferred submittal in the same manner as if it was a new application. The City will continue to process all other permits and agreements that are not deferred.

F. Authority Granted to the Director of Community Development

The City Council authorizes the Director to establish other reasonable rules and regulations to efficiently and effectively administer Section 33-704(k) of the Escondido Zoning Code and these Guidelines. All such rules and regulations must be in written form and publicly available.

G. Fees

Small wireless facility permit fees (administrative and minor conditional use permit), encroachment permit fees, master license agreement fees, and site administration fees for small wireless facilities shall be as established by resolution of the City Council. All fees shall be paid at time of application submittal.

H. Processing of Applications

Upon submission of a whole application for a small wireless facility permit, encroachment permit, and master license agreement meeting the requirements identified in these Guidelines (unless voluntarily deferred by the applicant, as described in the Submittal Requirements section above), the Director will verify conformance of the proposed facility with all applicable design and development standards and forward a copy of the application materials to the Engineering Services Department for review of technical information.

Upon completion of the review of an administrative permit application, the Director will either approve the application, conditionally approve the application, or inform the applicant that the application is considered incomplete. Upon completion of the review of

a minor conditional use permit application, the Director will either forward the application on to the Zoning Administrator with a recommendation to approve the application, conditionally approve the application, or deny the application; or inform the applicant that the application is considered incomplete. If the application is deemed to not be complete, the City will provide comments in the form of written correspondence or markups on the plans and other submittal materials identifying missing, incomplete, erroneous, or inaccurate information. The required corrections shall be made by the applicant and resubmitted to the Planning Division. The applicant will be required to certify that all corrections have been addressed and that the size, dimensions, location, etc., of the antennas and equipment have not changed, unless such changes are in response to comments provided by the City. Resubmitted materials shall include a response to any written correspondence, identifying where the revisions and modifications can be found on the plans and other submittal materials. If marked-up plans/documents were provided to the applicant, they must be returned with the resubmittal. Applications that are resubmitted without revisions identified or not accompanied by any marked-up plans and documents provided by the city, will be denied.

Upon review of the resubmitted materials for an administrative permit application, the Director will either approve or conditionally approve the application, or will inform the applicant that the application is still considered incomplete in the same manner as described above. Upon review of the resubmitted materials for a minor conditional use permit application, the Director will either forward the application on to the Zoning Administrator with a recommendation to approve the application, conditionally approve the application, or deny the application; or will inform the applicant that the application is still considered incomplete in the same manner as described above. After a second resubmittal for an administrative permit application, the application will either be approved, conditionally approved, or denied. After a second resubmittal for a minor conditional use permit, the Director will forward the application on to the Zoning Administrator with a recommendation to approve the application, conditionally approve the application, or deny the application. No further resubmittal of application materials will be accepted. Denied administrative permit applications will include a written determination identifying the reason(s) for denial. Actions of the Zoning Administrator shall follow the procedures identified in Article 61, Division 1 of the Escondido Zoning Code.

If a permit is approved, one set of approved plans will be provided to the applicant. If a master license agreement has not yet been entered in to by the applicant, said agreement shall be entered into prior to issuance of an encroachment permit. If an encroachment permit has not yet been secured, the applicant will be required to secure one prior to installation of the facility.

Applications for facilities that were denied may be submitted to the Planning Division as new applications at any time, without prejudice. Said new application will be processed as a completely separate application, with new submittal materials and fees required, and shall demonstrate compliance with these Guidelines.

I. Determinative Action

The approval or denial of a small wireless facility permit by the director (for administrative permits) or Zoning Administrator (for minor conditional use permits) of a duly filed application is the City's action in response to the request for authorization to place, construct, or modify personal wireless service facilities. Any denial of a permit must be in writing and supported by substantial evidence.

IV. DESIGN AND DEVELOPMENT STANDARDS

A. Introduction and Review

The general intent of these design and development standards is to preserve the character of the City's neighborhoods and corridors by requiring small wireless facilities to utilize the least intrusive design available with regard to appearance, size, and location, and to blend into the existing streetscape as much as possible. They also seek to prevent conflict with existing and planned roadway, utility, and storm drain improvements.

The Director shall determine whether an application for a small wireless facility utilizes the least intrusive design available. For purposes of these guidelines, least intrusive design available means the most preferred design or development standard as provided in these guidelines that is technically feasible. For individual antennas, shrouds/radomes, accessory equipment, mounting brackets/attachments and any other physical aspect of a facility, least intrusive shall mean the smallest such item that is technically feasible. Any application for a permit that does not use the least intrusive design available shall include a technical feasibility report in the form and with the information as provided by the Director.

If an application is made for a minor conditional use permit, the Zoning Administrator shall determine whether an application for a small wireless facility utilizes the least intrusive design available. Any application for a minor conditional use permit shall include a technical feasibility report in the form and with the information as provided by the Director.

B. Support Structures

Antennas shall be placed according to the following preferences, ordered from most to least preferred:

1. Existing or replacement street lights – top of pole
2. Existing or replacement street lights – flush-mount on pole
3. Strand-mounted on existing overhead utility lines
4. New street lights – top of pole
5. New street lights – flush-mount on pole
6. Existing wooden utility poles – top of pole
7. Existing wooden utility poles – flush-mount on pole
8. Other existing vertical structures
9. Existing, replacement or new street lights – projecting from pole
10. Existing wooden utility poles – projecting from pole
11. New vertical structures that are not street lights

Antennas associated with any new small wireless facility, or any addition or modification to an existing facility shall be placed on the most preferred support structure, unless the applicant demonstrates that a review has been conducted, and no more-preferred support structure, or combination of structures, is available which would meet the service objectives of the proposed facility. This review shall include, but is not limited to, identification of technically feasible alternative site(s) within 150 feet, reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments.

C. Accessory Equipment

All accessory equipment (e.g., remote radio units, disconnect switch, converters, fuse box, etc.) required for small wireless facilities shall be installed utilizing the most-preferred placement that is technically feasible to serve the associated antenna(s). Ground-mounted equipment must be placed in the least conspicuous location available within a reasonable distance from the pole or support structure. If possible, one piece of accessory equipment that can support antennas in multiple locations (such as strand-mount facilities) shall be utilized. The list below prioritizes the preferred placement of accessory equipment from most desirable to least desirable.

1. Underground
2. Mounted on the same pole or support structure as the associated antenna
3. Above-ground equipment cabinet

Accessory equipment associated with any new small wireless facility, or addition or modification to an existing facility, shall follow this order, unless the applicant demonstrates that a review has been conducted which as determined that it is technically infeasible to achieve high-order preferences.

D. Prohibitions

Antennas and accessory equipment shall be prohibited on the following structures:

1. Traffic signals
2. Archways over roads or pedestrian plazas/walkways
3. Pieces of public art
4. Structures placed in the right-of-way through charitable donation(s)
5. Commemorative memorial structures
6. Utility poles and lines scheduled to be removed/undergrounded within 24 months of installation of the antenna or equipment, or required to be removed/undergrounded as a condition of approval of an existing entitlement.
7. New or replacement wooden utility poles

In addition to the prohibitions above, small wireless facilities (antennas and accessory equipment) shall not:

1. Compromise the purpose, performance, or integrity of any streetlight(s) or other support structures.
2. Be located closer than 40 feet to any residential unit unless said unit has no windows or doors on any wall facing the antenna. Proposed facilities which are less than 40 feet

- to any residential unit may be requested through the minor conditional use permit process.
3. Project from a support structure by use of an "arm" or other horizontal bracket/brace. Proposed facilities which project from a support structure by use of an "arm" or other horizontal bracket/brace may be requested through the minor conditional use permit process.
 4. Be placed in a location which would damage or require the removal or trimming of any mature or protected tree(s).
 5. Include ground-mounted equipment on blocks where a majority of equipment for other utility providers has been placed underground.
 6. Encroach over any adjacent property line(s).
 7. Be placed in a location or manner that negatively impacts Fire Department access and maneuverability.
 8. Include any signage or advertisement(s), unless required by law.
 9. Be placed in any fire lane.
 10. Conflict with requirements of the Americans with Disabilities Act or other disabled access criteria established by federal, state, or local codes.
 11. Be placed in a location or manner that negatively impacts the future planned installation or construction of public roadway, utility, or storm drain improvements.
 12. Obstruct visibility of any traffic signals, stop signs, or other traffic control signage.

E. Design Standards

All proposed installations must be the least intrusive possible with regard to appearance, size, and location. If installations are available (e.g., have been installed in other jurisdictions) that are less intrusive than those allowed herein, applicants must utilize those installations unless the Director or permit decision-maker determines that those installations are not feasible.

If an applicant proposes to install a facility that exceeds the height, size, or other quantitative criteria described below, they may submit an application for a minor Conditional Use Permit, which will be processed pursuant to Article 61 of the Escondido Zoning Code. Alternately, an applicant may request pre-approval of a design that exceeds the quantitative criteria below. Designs proposed for pre-approval must be approved by the City Council and will become appendices to these Guidelines.

1. Height
 - a. No facility shall exceed 50 feet in height or four feet above the support structure on which it is placed, whichever is less.
 - b. Replacement support structures shall be the same height as the existing structure that is being replaced.
 - c. New street lights shall be the same height as that identified for such structures in the City's standard drawings.
 - d. Pole-mounted antennas and accessory equipment shall maintain a minimum clearance of ten feet above any pedestrian path of travel and 14 feet above any roadway or other vehicular access point.

2. Antennas

- a. All antennas and associated mounting equipment, hardware, cables or other connectors shall be concealed in a shroud or radome. The shroud/radome shall be painted a flat, non-reflective color to match the underlying support structure.
- b. All antennas must be placed within the same shroud/radome.
- c. Multiple facilities may be installed on one support structure as long as all antennas on that support structure are placed within the same shroud/radome.
- d. Antennas for any small wireless facility shall not exceed three cubic feet in volume, including the shroud or radome, If more than one antenna is provided on any support structure, the volume above shall be cumulative. Notwithstanding the foregoing, top-mount antennas and shrouds may have a maximum volume of six cubic feet if necessary to provide a tapered transition to the pole on which it is mounted.
- e. Top-mount antennas (including the shroud) shall be no more than 16 inches wide when placed on light poles, and shall not exceed the width of any wooden utility pole on which they are mounted.
- f. Any top-mounted antennas which are wider than the light pole on which they are mounted shall be tapered to match the width of the pole at the point of attachment to the pole.
- g. Side/flush mount antennas, including those with integrated radio units, shall not exceed 12 inches in width and nine inches in depth (measured from the face of the pole), including the shroud.

3. Accessory Equipment

- a. Underground equipment may be as large as allowed by the FCC for small wireless facilities.
- b. Pole-mounted accessory equipment shall not exceed a maximum cumulative volume of seven cubic feet for any facility. The maximum width of any piece of accessory equipment shall be 20 inches (except as specified below for wooden utility poles), and the maximum depth shall be 16 inches (measured from the face of the pole). These volume and dimensional limitations are inclusive of shrouds and cabinets.
- c. If multiple facilities are installed on one pole, the pole-mounted volume and dimensional criteria specified above shall be cumulative for all accessory equipment.
- d. Pole-mounted accessory equipment shall be painted a flat, non-reflective color to match the pole on which the equipment is mounted.
- e. All pole-mounted accessory equipment shall be installed within the same shroud.
- f. Ground-mounted equipment cabinets:
 - i. Shall fully screen the equipment inside them from view.
 - ii. Shall not exceed six cubic feet in residential zones or adjacent to properties developed with residential uses, and 12 cubic feet in all other locations.
 - iii. Shall not be placed in the front yard of residentially zoned properties, or in street-side yard of any single-family residentially zoned property where the front door of said property faces and takes access from that street-side yard.
 - iv. Shall not exceed 36 inches in height in single-family residential zones.

- v. No more than one above-ground equipment cabinet shall be provided for any small wireless facility. The use of one above-ground equipment cabinet to serve multiple small wireless facility antennas is strongly encouraged (e.g., for stand-mount wireless facilities)
- vi. Shall be painted dark green or the same color as any existing equipment cabinet (for other utility providers) within 25 feet of the proposed equipment cabinet.
- vii. Shall not block or interfere with driveways, gates, entrances, sidewalks, and other points of vehicular and pedestrian access to adjacent properties and rights-of-way, nor interfere with sight distances.
- viii. Shall be lockable or otherwise designed to prevent unauthorized access.
- ix. Shall maintain a minimum separation from fire hydrants and other above-ground mechanical equipment as required by the public agency and utility providers.

4. Street Lights

- a. Small wireless facilities shall be placed on existing street lights as long as the existing street light has been designed and engineered to support the proposed facility in accordance with applicable health and safety regulations. If the existing street light cannot support the proposed facility, the applicant must remove and replace the existing street light with one substantially similar to the City's standards and specifications, but designed to accommodate the proposed facility.
- b. Any existing street light pole that does not have the ability to have all cables, conduit, fiber, etc., placed inside shall be replaced
- c. New and replacement poles shall be concrete, steel, or composite, and shall be designed to match the design, alignment, distribution, height and color/texture of the pole it replaced.
- d. No more than one top-mount shroud/radome and one side-mount antenna/radio/equipment cabinet, or two side-mount antenna/radio/equipment cabinets shall be allowed per pole.
- e. Any penetrations through the pole shall be screened behind the antenna or accessory equipment shroud/radome.
- f. A replacement pole shall be located as close to the removed pole as possible, but in no case more than ten (10) feet away. Replacement poles located more than 10 (ten) feet away from the removed pole shall be considered new poles.
- g. New (non-replacement) street lights shall be located no closer than 75 feet from any existing street light on the same side of the street.
- h. All luminaires shall be replaced with LED luminaires in accordance with the Escondido design standards and standard drawings.
- i. Disconnect switches are required. They must be located within the underground handhole or integrated into the pole-mounted equipment cabinets.
- j. Lights must be shielded to prevent light-spillage onto adjacent properties.

5. Wooden Utility Poles

- a. Applicants that propose to install small wireless facilities on an existing wooden utility pole must install all antennas above the pole within a canister-type shroud

painted to match the pole, unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible.

- b. Antennas and equipment mounted onto the side of a pole shall not exceed the width of the pole.
 - c. All cables mounted onto the exterior of the wooden pole shall be sheathed (or enclosed) within a durable tubing material (e.g., conduit) of the smallest diameter and shortest length necessary to serve the facility. The conduit shall be flush mounted to the pole and painted to blend with the pole. No loose, exposed, or dangling wiring or cables shall be allowed.
6. New Support Structures
Specifications for facilities proposed to be placed on new vertical structures that are not street lights will be reviewed as part of the Minor Conditional Use Permit process. In no case shall they exceed the most restrictive specifications for antennas and accessory equipment placed on other structures.
7. Orientation
Pole-mounted antennas and equipment shall be oriented away from adjacent residential structures and shall be placed to minimize visibility from adjacent sidewalks and structures, in order to achieve concealment, as defined in Section 33-702 of the Escondido Zoning Code, to the extent technically feasible.
8. Obstructions – Public Safety
All equipment located within the right-of-way shall be located such that it meets ADA requirements and does not obstruct, impede, or hinder usual pedestrian or vehicular travel. Small wireless facilities and any associated equipment or improvements shall not physically interfere with, block visibility of, or impede access to:
- a. Any above-ground or underground infrastructure for traffic control, streetlights or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors, etc.
 - b. Access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop
 - c. Worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency
 - d. Fire hydrants and other fire-prevention equipment or water valves
 - e. Fire escapes
 - f. Sight distance requirements
9. Electric Meter
Small wireless facilities shall use a flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicant may install a shrouded smart meter. Separate ground-mounted electric meter pedestals are prohibited.

V. STANDARD CONDITIONS OF APPROVAL

All small wireless facilities which are subject to these Guidelines, whether approved by the City of Escondido or deemed approved by law, shall be automatically subject to all standard conditions of approval set forth below, in addition to any specific conditions applied to the specific facility. For the purpose of these Conditions of Approval, the term "Applicant" shall also include the permittee, wireless carrier, or its successor(s) in interest in any small wireless facility, as may be applicable.

- A. Should the applicant fail to protest these conditions and/or file a timely and valid appeal of this Small Wireless Facility Permit, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - 1. Acceptance of the permit by the applicant; and
 - 2. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this Small Wireless Facility Permit or other approval(s) applicable to said permit.
- B. Compliance with all requirements contained in these Guidelines and Section 33-704(k) of the Escondido Zoning Code shall be strictly adhered to.
- C. The applicant shall remove any Notice of Public Hearing signage within 24 hours following a public hearing for any small wireless facility.
- D. All required permits and agreements must be in place prior to commencing installation of any facility.
- E. It shall be the responsibility of the applicant to secure any permits, approvals, agreements and authorizations from other agencies. Failure on behalf of the City of Escondido to ensure that said permits, approvals, agreements and authorizations have been secured shall not alleviate the applicant from this responsibility.
- F. All construction and operations shall comply with all applicable requirements of the Escondido Zoning Code, Escondido Municipal Code, and any other applicable policies and requirements of the City.
- G. The applicant shall pay all additional fees and deposits required by the City at the time of application for an encroachment permit, including those fees required by any master license agreement.
- H. All aspects of the facility shall strictly conform to the plans and other exhibits approved by the City and on-file with the Planning Division.
- I. As of the date of permit issuance, the applicant certifies that the facility utilizes the least intrusive design and that no less intrusive designs are available.
- J. Final inspections by the Planning and Field Engineering Divisions shall be required before commencement of operations of any facility. Any facility not installed in strict compliance with the approved permit(s) and these Guidelines shall be brought into compliance and subsequent inspection(s) shall be requested by the applicant. Operations shall not commence prior to the facility passing final inspection(s).
- K. Prior to commencement of operations, it shall be the applicant's responsibility to ensure that the facility has passed all inspections required by any other agencies with jurisdictional authority.
- L. Post-Installation Certification. Within 90 calendar days after the applicant commences full, unattended operations of a small wireless facility, the permittee shall provide documentation demonstrating that the facility has been installed and constructed in

compliance with the approved plans. Such documentation shall include without limitation as-built drawings, GIS data, and site photographs. Failure to provide such certification shall be cause for the City to rescind approval of the installation of the facility until such time as the certification has been provided.

- M. Build-Out Period. The small wireless facility permit and associated encroachment permit will automatically expire twelve (12) months from the approval date unless construction has commenced. Construction shall be completed within six (6) months of commencement.
- N. The applicant shall provide the City with a post-installation assessment report signed by a third-party RF engineer certifying the wireless facility's compliance with applicable FCC rules and regulations.
- O. Site Maintenance. The applicant shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean, and safe condition. Any such equipment, structures, etc., that, in the opinion of the Director, has become worn, weathered, or otherwise degraded, shall be repaired or replaced by the permittee at the permittee's sole expense. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 24 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- P. Applicant hereby agrees to investigate complaints related to possible interference with electronic equipment in the surrounding area, to determine the cause of the interference. If the facility is determined to be the cause of the electronic interference, applicant shall resolve the issue in a timely manner, to the satisfaction of the Director.
- Q. Any facility suspected of causing interference with Fire Department or public safety communications shall be immediately taken out of operation and said interference shall be investigated. Should the facility be found to be the cause of the interference, the issue must be resolved prior to recommencing operation of the facility, to the satisfaction of the City of Escondido.
- R. The final location of any small wireless facility shall be verified in the field to not interfere with visibility of any traffic control device or signage, or reduce sight distance below City and ASSHTO requirements, to the satisfaction of the City of Escondido prior to commencing operation of the facility.
- S. Small wireless facilities installed on or as part of a new or replacement street light shall not be placed in locations subject to future public road widening or in conflict with future planned utility or storm drain infrastructure.
- T. No facility shall be expanded, relocated, or otherwise modified without approval of subsequent permits by the City of Escondido.
- U. Any application for the modification of an existing facility shall require replacement of any portion of the facility for which a less intrusive design has become available,
- V. Any trenching in excess of fifty (50) feet will require a separate encroachment permit including a construction drawings submittal to the Engineering Services Department, and the owner of the proposed underground facilities will be required to execute a one-time Right-of-Way and Maintenance Agreement with the City of Escondido or provide evidence of prior Franchise Agreement rights.
- W. Any City infrastructure removed in order to install a small wireless facility shall be so removed in a manner which does not damage said infrastructure, and said infrastructure

shall be delivered to the City of Escondido public works yard, as directed by Field Engineering and Public Works staff.

- X. Installation of any facility shall be in full compliance with all applicable city, regional, and state design standards and standard drawings.
- Y. The foundation of any removed street light shall be removed to a depth of at least two feet below finished grade.
- Z. All street light conduit and wiring splicing shall be reconnected in accordance with the City's standard drawings, to the satisfaction of the city engineer.
- AA. The applicant shall be responsible to repair or replace any driveway approach, curb and gutter, sidewalk, or other damages which have occurred as a result of construction activities for the facility, to the satisfaction of the city engineer. All curb, gutter, sidewalk and driveway repairs and replacements shall be in accordance with standard drawing G-6-E.
- BB. The applicant shall be responsible to repair and resurface all trenched roadways per City of Escondido Standard Drawing G-2-E, to the satisfaction of the City Engineer.
- CC. The applicant or contractor will be responsible to implement Best Management Practices (BMPs) to prevent storm water pollution in accordance with the approved Erosion Control Plan, CASQA Guidelines and City of Escondido Municipal Code during all phases of project construction to the satisfaction of the City Engineer.
- DD. Erosion and sediment controls, and other storm water pollution control measures, shall be provided to control sediment and silt from construction work areas. The applicant and contractor shall be responsible for maintaining all erosion and sediment controls throughout the construction work.
- EE. Compliance with Conditions and Laws. The applicant shall comply with all conditions specified. Failure to comply with any condition shall constitute grounds for revocation of the small wireless facility permit. The applicant shall also maintain compliance at all times with all federal, state and local regulations applicable to the permittee, the subject property, and the small wireless facility, which includes without limitation any laws applicable to human exposure to RF emissions. In the event that RF emissions for the site exceed FCC standards, the applicant will be required to immediately cease operation of the facility until such time that the violation is corrected to the satisfaction of the Director. The applicant expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve, or otherwise lessen the permittee's obligations to maintain compliance with all laws.
- FF. No small wireless facility may encroach into, over, or across any adjacent property line.
- GG. No encroachment onto adjacent private property shall be allowed during the construction of any small wireless facility without express written consent of the adjacent property owner. This shall include private property owned by the City of Escondido.
- HH. Small wireless facilities shall be maintained by the permittee(s) and subsequent owners in a manner that implements requirements of the Zoning Code, these Guidelines, and all other applicable standards and permit conditions. Landscaping, painting, and other concealment treatment for any facility shall be maintained as such over time.
- II. The applicant shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal or other activities on or about the site. The

permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Escondido Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare a state of emergency within the City. The Director may issue a stop work order for any activities that violate this condition in whole or in part.

- JJ. Applicant's Contact Information. The applicant shall furnish the city engineer with accurate and up-to-date contact information for the person responsible for the small wireless facility, which includes without limitation such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times and promptly provide the city engineer with updated contact information if either the responsible person or such person's contact information changes.
- KK. Indemnification. The applicant, permittee, and any successor-in-interest thereof, shall defend, indemnify and hold harmless the City of Escondido, and its agent's officers or employees, from (1) any claim, action or proceeding against the City, its agents, officers or employees to attack, set aside, void or annul an approval of the City, arising out of or concerning the small cell wireless facility permit, and (2) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the small cell wireless facility permit or the small cell wireless facility. In the event the City becomes aware of any claims, the City will use best efforts to promptly notify the permittee and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the permittee shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. Within ten calendar days of the service of a claim, the permittee shall execute a letter of agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. The permittee expressly acknowledges and agrees that such indemnification obligations will survive the expiration, revocation or other termination of this small cell wireless facility permit.
- LL. Permit Revocation. Any permit granted under these Guidelines may be revoked by the Director if the facility is not operating in compliance with these conditions or any applicable federal, state, or local laws.
- MM. Abandoned Facilities. The small wireless facility authorized under this small wireless facility permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small cell wireless facility is abandoned or deemed abandoned, the applicant or support structure owner (if not on a City-owned support structure) shall completely remove the small wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Escondido Municipal Code and Escondido Zoning Code. In the event that neither the applicant or support structure owner (if not on City-owned infrastructure) complies with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice,

and the permittee and support structure owner (if not on City-owned infrastructure) shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and restoration activities.

- NN. Landscaping. The applicant shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged, destroyed or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in the nearest appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be a minimum 24-inch box specimen tree or larger, as determined by the Director, and shall be the same species as the tree which was removed unless determined by the Director that a different species is appropriate for the location. The applicant shall, at all times, be responsible to maintain any replacement landscape features and maintain any new landscaping installed in conjunction with the small wireless facility.
- OO. Protected trees. Any protected trees damaged as a result of the installation of a small wireless facility shall be assessed by a licensed arborist. All recommendations of the licensed arborist intended to restore the tree shall be carried out by the applicant. Should any protected tree be destroyed or otherwise displaced as a result of the installation of any facility shall be replaced at a ratio recommended by the licensed arborist. This condition shall apply to any protected trees damaged, destroyed or otherwise displaced during construction, operation and removal of any facility if the facility is determined to be the cause of said damage, destruction or displacement.
- PP. Cooperation with RF Compliance Evaluations. At all times relevant to this permit, the applicant and the property owner (if not on City-owned infrastructure) shall reasonably cooperate with efforts by the City to evaluate whether the facility complies with all applicable FCC rules and regulations for human exposure to RF emissions. Such cooperation shall be at no cost to the City and may include, but not be limited to: (1) furnishing the City with a post-installation assessment report signed by an RF engineer certifying the wireless facility's compliance with applicable FCC rules and regulations; (2) providing technical data such as the frequencies in use, power output levels and antenna specifications, reasonably necessary to evaluate compliance with maximum permissible exposure levels set by the FCC; and (3) promptly responding to all requests by the City or its designee for information and cooperation with respect to any of the foregoing.
- QQ. Future Undergrounding Programs. If other public utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public right-of-way where the applicant's small wireless facility is located, the applicant must underground its equipment except the antennas, any electric meter and any other equipment that must be placed above ground in order to function. Accessory equipment that requires an environmentally controlled underground vault to function are not exempt from this condition. Such undergrounding shall occur at the applicant's sole cost and expense.
- RR. Small wireless facilities which have been installed on utility poles which are removed as part of a utility undergrounding project, and any facilities that are strand-mounted between such poles, shall be removed by the permittee with no compensation provided

by the City or other entity carrying out the undergrounding project. The existence of small wireless facilities shall not prevent the City or other entity from carrying out an undergrounding project. Replacement of the facility shall be subject to a new small wireless facility permit. This condition includes utility poles and lines which are required to be placed underground as a condition of approval of a development project.

- SS. Small wireless facilities which are required to be removed or relocated as a result of a public works project shall be so removed or relocated at the sole expense of the permittee.
- TT. Any relocation of a small wireless facility required as a result of public works or utility undergrounding projects shall be processed in the same manner as a new small wireless facility.
- UU. Electric Meter Upgrades. If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.
- VV. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.
- WW. Existing City-owned structures on which any small wireless facility is placed shall remain the property of the City. Any new or replacement structures in the right-of-way which are subject to a master license agreement shall become the property of the City of Escondido in the event that an applicant removes or abandons any small wireless facility installed on said structure(s).

**RATES, FEES AND CHARGES FOR SMALL WIRELESS FACILITIES IN THE
PUBLIC RIGHT-OF-WAY**

One-Time Fees	
Encroachment Permit*	\$1,390
Master License Agreement**	\$1,140
Small Wireless Facility Permit*	
Administrative Permit	\$721
or	or
Minor Conditional Use Permit	\$2,668

* Per facility

** Per carrier; Expires after five years

Annual Fees*	
Site Administration	\$395
Technology Tracking Fee	\$215

* Per facility

RESOLUTION NO. 2020-18

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 SECOND AMENDMENT TO THE
PUBLIC SERVICES AGREEMENT FOR THE
CITYWORKS IMPLEMENTATION PROJECT
WITH TIMMONS GROUP

WHEREAS, on June 4, 2018, Request for Proposal No. 19-03 (“RFP No. 19-03”) for the Development and Implementation of Cityworks PLL was solicited to appropriate vendors; and

WHEREAS, on August 22, 2018, the City Council adopted Resolution No. 2018-13, authorizing the Mayor and City Clerk to execute a Public Services Agreement (“Agreement”) with Timmons Group for the four-sided, multi-phase, Cityworks PLL development and implementation project; and

WHEREAS, on February 13, 2019, the City Council adopted Resolution No. 2019-27 executing a First Amendment to the Agreement and a Budget Adjustment expanding the scope and potential of the aforementioned project; and

WHEREAS, the Information Systems department has deemed that additional data migration, collaboration, and implementation efforts are compulsory to expand the Cityworks project for additional departments and workflows; and

WHEREAS, the City Council desires at this time and deems it in the best interest of the Public to approve the Budget Adjustment, attached hereto as Exhibit “A” and incorporated by this reference, and the Second Amendment to the Development

Implementation of CityWorks PLL Public Services Agreement with Timmons Group in an amount not to exceed \$89,400, attached hereto as Exhibit "B" and incorporated by this reference.

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

1. That the above recitations are true and correct.
2. That the Mayor and City Clerk are authorized to execute, on behalf of the City of Escondido, the Second Amendment to the Development Implementation of Cityworks PLL Public Services Agreement with Timmons Group.



CITY OF ESCONDIDO
BUDGET ADJUSTMENT REQUEST

Date of Request: 01/28/2020
 Department: Information Systems Department
 Division: _____
 Project/Budget Manager: Robert Van De Hay
 Name Extension
 Council Date (if applicable): 02/05/2020
 (attach copy of staff report)


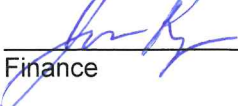
For Finance Use Only	
Log #	_____
Fiscal Year	_____
_____	Budget Balances
_____	General Fund Accts
_____	Revenue
_____	Interfund Transfers
_____	Fund Balance

Project/Account Description	Account Number	Amount of Increase	Amount of Decrease
Professional Services	5131-001-032	89,400	
RPTTF Residual Payment	4025-001-000	89,400	

Explanation of Request:

Increase Enterprise Software & Web Administration Department Budget to provide funding for Cityworks PLL software project. Funding for this request is coming from increased RPTTF Residual Payment funds received in January 2020 and will be recovered by future user fees imposed on small wireless facilities.

APPROVALS

	<u>1/29/20</u>	_____	_____
Department Head	Date	City Manager	Date
	<u>1/30/20</u>	_____	_____
Finance	Date	City Clerk	Date

Distribution (after approval): Original: Finance



CITY OF ESCONDIDO
SECOND AMENDMENT TO PUBLIC SERVICE AGREEMENT

This "Amendment" is made this 5th day of February, 2020.

Between: CITY OF ESCONDIDO
 a municipal corporation
 201 N. Broadway
 Escondido, California 92025
 ("CITY")

And: Timmons Group
 1001 Boulders Parkway
 Suite 300
 Redmond, VA 23225
 ATTN: Ronald Butcher
 443-904-3897
 ("CONTRACTOR")

Witness that hereas:

- A. CITY and CONTRACTOR entered into an agreement on September 12, 2018 ("Agreement"), wherein CITY retained CONTRACTOR to provide assistance with the implementation and configuration of Cityworks PLL, data conversion from TrakIt to Cityworks, and report customization and creation. As well as the implementation and configuration of the Timmons Group Public Facing Portal for PLL. And also, the implementation and configuration of Hyland OnBase for electronic plan review and document management curated for Cityworks PLL];

- B. CITY and CONTRACTOR desire to amend the Agreement to include additional work, which is defined in "Attachment A" to this Amendment, which is incorporated by reference;

NOW THEREFORE, it is mutually agreed by and between CITY and CONTRACTOR as follows:

1. The CONTRACTOR will furnish the services described in "Attachment A" to this Amendment.
2. CITY will compensate the CONTRACTOR in an additional amount not to exceed \$84,900, pursuant to the conditions contained in "Attachment A" to this Amendment.
3. All other terms of the original Agreement between CITY and CONTRACTOR shall remain in full force and effect; in the event of any conflict between any specific provision of the original Agreement and this Amendment, this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

CITY OF ESCONDIDO

Date: _____

Paul McNamara
Mayor

Date: _____

Zach Beck
City Clerk

Date: _____

TIMMONS GROUP

Ronald Butcher
Director of Asset Management Services

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
MICHAEL R. MCGUINNESS, City Attorney

By: _____

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

Attachment "A"



Change Order

Change Order #005

Project	Cityworks PLL Implementation	Created Date	1/28/2020
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Contact Info

Client Contact	City of Escondido, CA Robert Van De Hey (760) 839-6213 rvandehey@escondido.org	Timmons Group Project Manager	Lauren Sullivan (858) 254-3873 lauren.sullivan@timmons.com
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Scope of Work

This is a change order to the original contract to:

- Amend the project scope to add the addition of a phase to implement Cityworks as a solution for users working in Real Property transactions. Examples of business requirements to be included in this implementation include:
 - Tracking a new Master Agreement of a cell tower or parcel, including within the Timmons Group Public Portal.
 - Portal requirements may include but are not limited to:
 - Validation of existing customer with Master Agreement
 - Determination of existing Small Cell Permit at site and/or buffer zone (if required)
 - Allow customers with a Master Agreement on file to select a street light for a small cell location (with buffer zone if required) and begin a Small Cell Application workflow
 - Determination of documents, prorated fees and fields required for upload/submittal
 - Intake related documents such as Master Agreements and Liability Insurance Policy via the Timmons Group PLL Portal and relayed through a Hyland OnBase Unity Form (via existing integration between software solutions)
 - Acceptance of application into system only after requirements are met (i.e. trigger required City review process)
 - Renewal of Small Cell Licenses via Portal
 - Cityworks Core requirements may include but are not limited to:
 - Prorated fees on initial cell site applications until invoicing on Master agreement renewal is triggered

Attachment "A"



- Determination of workflow direction and automated project creation based on City encroachment requirements
- Invoice customers with such agreements monthly or annually (based on the agreement)
- Build a separate renewal process specific to the Master Agreements/Small Cell applications that will be ran monthly/annually
- Notification and Dashboards to ensure City staff can easily keep track of existing applications, which may include but are not limited to:
 - Notifications to staff during the workflow process alerting them as to how much time is remaining before a deliverable or task due date
 - Operations Dashboard or Inbox to indicate remaining timeline in active workflow

See full scope in Appendix A.

Schedule:

The contract schedule will be:

- Extended with the Real Property phase schedule anticipating Go-Live around 90 days from phase start.

See draft schedule in Appendix B

Cost:

The current contract cost will be impacted as follows:

- Current Fee: \$275,930.00
- This Change Order Fee: \$89,440.00
- Total New Fee: \$365,400.00



Appendix A

PROJECT METHODOLOGY

Timmons Group has developed a project methodology consisting of a well-honed project delivery specific to Escondido. We invite you to review our Proposal below to integrate the Real Property group into the existing Cityworks implementation currently ongoing.

IMPLEMENTATION PROJECT PLAN:

Task 1: Pre-Workshop Data Gathering

The goal of this task is to meet with City departments and gather critical information that will be later loaded into the PLL environment that is specific to Real Property. Data that will be gathered includes:

- Identify new RP Users
- Define ArcGIS Services for Cell Sites
- Identify Email & Notification Settings (if needed)
- Identify Master Agreement customers specific to RP workflow that will constitute applicants
- Gather New Cell Site Application Forms, Spreadsheets and other printed forms

City Responsibility - City staff will be available to assist with obtaining all information identified during the data gathering process.

Deliverables

- The City to provide information needed for data gathering (above) prior to onsite workshop

Assumptions

- Esri ArcGIS Server installed and configured with maps specific to RP
- Necessary hardware and ancillary software available

Task 2: Real Property Workflow Workshop

Our configuration team will conduct eight (8) hours of an offsite, web-based workshop to begin the process of documenting the details of each workflow identified to be built. The workshop acts as a discovery process to identify all of the components that are required to configure the software.

The goal of this task is to identify and prioritize the Real Property types and workflows based on complexity, commonality, and impact on the City. Our preliminary discussions with the City have led us to conclude that likely only one or two new permit types will need to be added to the system to accommodate Real Property business process, however, we anticipate this workflow may be complex.

Each workshop session begins with a brief software demonstration of Cityworks Server PLL to help familiarize participants with the core components and functionality of the software.

In support of these efforts, our configuration team will analyze with the City the following critical elements:

- **Workflows & Tasks** – Identify the current tasks and decisions that are involved with the workflow for Real Property. The implementation team will identify points of possible improvement and discuss how current business processes may change or be modified to fit within the Cityworks application. The workflow review will identify each task within the workflow, the possible outcomes for each task, and the party responsible for completing tasks. Task results can trigger changes in case status, dictate path that the workflow follows, and send email notifications.
- **Data Requirements** – Review of the current application forms, requirements for submittal, checklists, customer lists, and other data that needs to be tracked and recorded as part of an

Attachment "A"



application. Existing documents are reviewed, and the configuration team will discuss with the City how various items will fit into the Cityworks system. This will help give Real Property staff some insight on what their data will look like in Cityworks.

- **Fee Calculations** – Identify the fees associated with each case and the information used to calculate the fees. The fee schedule is reviewed to ensure both parties understand all fees involved and how they are calculated and when they are assessed. This includes fees for application submittal, permits, and violations.
- **Reports/Printing/Notifications** – Reports, printing needs, and notification requirements are identified and documented during the review of the case workflows. The system will be configured to meet reporting requirements. Items like permit cards and notification letters are also documented as these items will need to be developed as custom Crystal Reports that can be printed.
- **Best Practices** – Established best practices, as they relate to City’s current operations within Cityworks PLL

City Responsibility – Key City staff will provide data and discuss workflows identified in the workshops

Deliverables – Workshop meeting minutes, workflow models

Assumptions – City will provide a high-speed web connection for participants. Critical City staff will attend workshops defined by the configuration workshop agenda

Task 3: Cityworks PLL Configuration

The configuration team will take the information gathered and documented and configure the Cityworks database for the RP workflow(s) and corresponding data. The configuration of Cityworks will be based on the documents developed from the workshops.

Services for this task will include, but are not limited to:

Users/Employees	Departments/Divisions
Case Templates	Case Types/Subtypes
Status Codes	Tasks/Workflows
Checklists	Case Data
Fee Setup	Violations Library
Conditions	Flags
Contractors	People

City Responsibility – City will continue to review and comment on Cityworks environment.

Deliverables – Updated Cityworks Configuration in Test environment.

Assumptions – Cityworks configuration will implemented in Timmons Group cloud environment. Key City staff will have full access to this environment for training and review.

Task 4: Configuration Review Meetings

The configuration team will conduct multiple (see schedule) webinar reviews of the Cityworks configuration to gather feedback from City departments that take part in Real Property reviews. Review

Attachment "A"



workshops will be held in 1-2 hour intervals and will cover the workflows, fees, and PLL Portal functionality.

City Responsibility – Attend configuration review meetings.

Deliverables – Configuration meeting minutes and updated Cityworks Configuration.

Assumptions – City will ensure attendance by staff and provide review comments in a timely manner.

Task 5: Report Development

The goal of this task is to spend two (10) days configuring reports in support of the estimated five (5) reports related specifically to the RP workflow. These documents might include, for example, permit renewal notices or billing invoice templates based on data within the Cityworks database. These reports will be developed offsite in Crystal Reports.

City Responsibility – City will review and comment on reports developed for this task.

Deliverables – Crystal reports in PLL

Assumptions – Reports will be developed in Crystal format.

Task 6: Identify Portal Workflow, User Stories & Business Requirements/Portal Enhancements

Our configuration team will conduct four (4) hours of an offsite, web-based workshop to act as a discovery process to identify the requirements to configure and enhance the Portal software for Real Property. The City will provide feedback to Timmons staff as to how the Portal application should accept applications, for example, the following requirements may include, but are not limited to:

- Validation of existing customer with Master Agreement
- Determination of existing Small Cell Permit at site and/or buffer zone (if required)
- Allow customers with a Master Agreement on file to select a street light for a small cell location (with buffer zone if required) and begin a Small Cell Application workflow
- Determination of documents, prorated fees and fields required for upload/submittal
- Intake related documents such as Master Agreements and Liability Insurance Policy via the Timmons Group PLL Portal and relayed through a Hyland OnBase Unity Form (via existing integration between software solutions)
- Acceptance of application into system only after requirements are met (i.e. trigger required City review process)
- Renewal of Small Cell Licenses via Portal

City Responsibility – City will provide feedback as to customizations required within the PLL Portal in support of Real Property workflows

Deliverables – Documentation of user stories and portal business requirements; development or modification of Portal workflow model

Assumptions – Critical City staff will attend workshops and provide business process feedback and identify desired functionality within the Portal

Task 7: User Story & Enhancement Review Meetings

The configuration team will conduct multiple (see schedule) webinar reviews of the Portal user stories and requirements to gather feedback from City departments before completing any Portal configuration or enhancement. Review workshops will be held in 1-2 hour intervals and will cover the suggested PLL Portal requirements and resulting enhancements.

City Responsibility – Attend user story and enhancement review meetings.

Attachment "A"



Deliverables – Meeting minutes and updated requirements and enhancement documentation.

Assumptions – City will ensure attendance by staff and provide review comments in a timely manner.

Task 8: Portal Development & Customization Sprint

The development team will complete the Portal configuration and enhancements as outlined in the Portal User Story and Requirements document. Staff will work in a two week (14 calendar day) sprint to complete the enhancement requests as indicated in workflow discussions as well as noted during discovery by Timmons Group staff.

City Responsibility – N/A

Deliverables – TG staff will complete enhancements as outlined in requirements documentation

Assumptions – Known requirements and user stories for the PLL Portal on behalf of Real Property will be assumed complete. Enhancements not outlined in the original design of the requirements document will not be considered.

Task 9: Develop Test Real Property PLL Case (Portal/Core)

Our configuration team will develop a step-by-step test to identify all of the individual testing steps staff will undertake to complete Real Property workflow(s) from start to finish, including the application submittal from the Portal as applicable. The business requirements to complete the work as identified by the City will be accounted for in the test case.

City Responsibility – N/A

Deliverables – TG staff will complete the test case to handle both a new Real Property as outlined in requirements documentation

Assumptions – The test case will include all known requirements and user stories for the Real Property workflows as identified in both configuration and enhancement requirements documentation will be assumed complete.

Task 10: Knowledge Transfer/Tester Training

User training will consist of (2) two, four-hour blocks of training via hosted web meeting that includes users specific the departments involved with this project. This gives users an opportunity to have hands-on testing experience before testing the system during the UAT period.

Our configuration team, in conjunction with the City's Project Manager and key stake holders, will devise a brief training plan specific to your environment and data. A pro-active training plan will ensure that City staff are equipped to undertake the system testing immediately upon receipt of the system.

It is assumed that the City will provide the training facility where users will join the training, including computers. Coming into training, the users will need to possess basic functional knowledge of Personal Computers and Windows.

City Responsibility – City Project Manager will assist our configuration team in the creation of a brief training agenda for appropriate staff.

Deliverables – Training plan and documentation.

Assumptions – City will provide a conference or training room appropriately sized for the number of participants. The City will ensure attendance by identified staff. All City staff attending training should have basic functional knowledge of computers and the windows operating system.

Attachment "A"



Training Module	Course Description	Duration	User Group Level	Course Prerequisites
Introduction to Cityworks	Cityworks® Introduction. Course is designed to give an overview of Cityworks functionality from an end user's point of view. Users will learn basic operations within ArcMap, the Cityworks toolbar and functions, along with the creation of Service Requests and Event Layers.	Ongoing during Workshops and Configuration Reviews	Casual Group Users	N/A
Licenses/Permits	Cityworks® Permitting The course will cover user management, permit/case/license template configuration, workflow setup, fee configuration, custom case data fields, and basic reporting using Crystal Reports. Throughout the course, training staff will share example workflows and data from existing clients, as well as best business practices in Cityworks PLL configuration.	8 hours each class	Routine and Heavy Users	Intro to Cityworks

Task 11: User Acceptance Testing

Prior to Go-live there will be a fourteen (21) day acceptance testing period. During this period the City will test the Cityworks and Portal implementation against the design documentation and identify issues and opportunities and submit to the Timmons Group project management site. Desired changes or modifications to the system functionality that fall outside of the design plan will not be addressed at this time.

City Responsibility – City Project Manager will work with staff to implement the Testing and Acceptance Plan.

Deliverables – Testing Plan, results, and modifications.

Assumptions – City will be prepared to work through the Testing and Acceptance Plan and complete within a fourteen (21) day period.

Task 12: Portal Enhancement Testing Review Meeting

The City will conduct multiple tests of the customer side of the Portal to test the enhancements developed during the Portal Sprint effort and provide feedback to Timmons staff as well as identify issues to the Timmons Group project management site. Review meetings will be held in 1-2 hour intervals and will cover the suggested PLL Portal requirements and resulting enhancements.



City Responsibility – Test user stories and attend enhancement review meetings; provide feedback to development staff.

Deliverables – Updated requirements and enhancement results and modifications.

Assumptions – City will ensure attendance by staff and provide review comments in a timely manner.

Task 13: UAT Remediation

Our implementation team will complete final configuration and Portal enhancement remediation to address results of the acceptance testing. Our configuration team will provide documentation for the configuration defects within the system and will update documentation for all testing and configuration changes made that deviate from the initial configuration plan.

City Responsibility – Acceptance of documentation.

Deliverables – All project documentation developed to date.

Assumptions – City will receive all documentation in digital format.

Task 14: Go-live and Project Close-out

Having successfully completed all testing/acceptance procedures, production environment initialization, and Go-live preparation tasks, the system is deemed prepared for Go-live. At such time that end-user access has been configured/re-directed to the newly initialized production environment, the system is deemed to be in "Live" status. The City of Escondido Cityworks users will now be executing Real Property tasks in a live configured Cityworks production environment. After five (5) days of initialization of the Production Environment, the City shall generate a certificate signifying the Cityworks application functionality and database configuration is operational in a "Live" production capacity. The City Project Manager shall sign said "Go-live Certificate" and submit it to Timmons Group.

City Responsibility – Provide configuration team with a certificate of "Live" production capacity.

Deliverables – Last minute configuration and document modifications. Three days (24 hours) of offsite Go Live support.

Assumptions – Work through the Timmons Group Help Desk to resolve and issues.

Task 15: Post Go-live Support

Once the system has been rolled out and is being used, the Real Property group should look to the City staff supporting the project implementation as the gateway to address any configuration, implementation, or data migration matters that may arise. For example, these might include the redesign of printout forms or changes in the content of the work management portion of the Cityworks database. City staff will be able to access Timmons Group for assistance as part of the Ad Hoc support hours already included in the City's existing contract.

CITYWORKS SOFTWARE GO-LIVE SUPPORT

One of the most important aspects of corporate software is quality user support. Our goal is to have the very best customer support in the industry. We recognize if a user cannot use the software to their fullest expectation, it doesn't matter how great the software is. We endeavor to respond to inquiries in a timely manner. If a software problem causes the software to not function as designed, our staff's number one priority is to resolve the problem.

Attachment "A"



The City benefits from the existing support agreements already in place from the licensing of the software by other departments. Implementations are handled by the assigned Project Manager. Once the project is completed, user support is provided by the Customer Support Representative for your geographical area. They can assist with problems, enhancement requests, and questions specific to Cityworks software. Support is available by phone, email, interactive web meetings, and VPN connections. Additional support is available for perusing 24/7 at the mycityworks.com website.

Cityworks' Update and Support agreement supplies you with subsequent upgrades, enhancements and bug fixes for future releases of the licensed applications as long as the annual renewal is current. New versions of the software are generally available annually. Prior versions of the software continue to be supported for one year following the release of a new version.

The Update and Support Agreement allows clients to receive all subsequent upgrades, enhancements, and bug fixes for all future releases of the licensed applications as long as the client renews the agreement annually.

The Cityworks Maintenance Agreement allows clients to receive benefits, as well as subsequent upgrades, enhancements, and bug fixes of licensed applications, as long as the client renews the agreement annually.

Attachment "A"



TIMMONS GROUP
YOUR VISION ACHIEVED THROUGH OURS.

Appendix B

Proposed Schedule

Task Name	Duration	Start	Finish	Predecessors	Assigned To
Phase 3: Real Property	89d	01/29/20	06/01/20		
RP Configuration & Deployment	29d	01/29/20	03/09/20		
Real Property Workshop	2d	01/29/20	01/30/20		Kyle Kojan
Initial Cityworks PLL Configuration	10d	01/31/20	02/13/20	3	Lauren Sullivan
Configuration Review	2d	02/14/20	02/17/20	4	Kyle Kojan
Report Development	10d	02/18/20	03/02/20	5	Kyle Kojan
Finalize Configuration.	5d	03/03/20	03/09/20	6	Kyle Kojan
PLL Portal Integration	26d	03/10/20	04/14/20		
Identify Portal Workflow and User Story Development/BRDs	10d	03/10/20	03/23/20	7	Kyle Kojan
Escondido Review User Stories/Enhancements	5d	03/24/20	03/30/20	9	Jamie Eubanks
Revise User Stories	1d	03/31/20	03/31/20	10	Kyle Kojan
Portal Development & Customization Sprint	10d	04/01/20	04/14/20	11	River Stallings
Real Property Testing & Training	34d	04/15/20	06/01/20		
Develop Test PLL Cases (Portal/Core)	5d	04/22/20	04/28/20	19	Kyle Kojan
Escondido Review of Test Cases	3d	04/29/20	05/01/20	14	Jamie Eubanks
Prep for PLL Training	3d	05/04/20	05/06/20	15	Lauren Sullivan
PLL Tester Training	3d	05/07/20	05/11/20	16	Kyle Kojan
Escondido Conducts User Acceptance Testing	15d	05/12/20	06/01/20	17	Jamie Eubanks
Portal Enhancement Review	5d	04/15/20	04/21/20	18	River Stallings
Conduct PLL Testing Remediation	10d	04/22/20	05/05/20	19	Kyle Kojan
Escondido Sign-off on Testing	5d	05/06/20	05/12/20	20	Jamie Eubanks
Real Property Go-live	18d	05/06/20	05/29/20		
Develop Go-live Plan	5d	05/06/20	05/12/20	20	Lauren Sullivan
Escondido Review of Go-live Checklist	5d	05/13/20	05/19/20	23	Jamie Eubanks
Finalize Go-live Plan	2d	05/20/20	05/21/20	24	Lauren Sullivan
Perform Final PLL Configuration Adjustments	2d	05/22/20	05/25/20	25	Kyle Kojan
Migrate to Production	1d	05/26/20	05/26/20	26	William Dingus
Offsite Go-live	3d	05/27/20	05/29/20	27	Kyle Kojan



FUTURE CITY COUNCIL AGENDA ITEMS

Updated January 30, 2020

*AGENDA ITEMS AND CITY COUNCIL MEETING DATES ARE SUBJECT TO CHANGE.
CHECK WITH THE CITY CLERK'S OFFICE AT (760) 839-4617*

February 12, 2020				
6:00 p.m.				
PROCLAMATIONS				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px;"></td> <td style="padding: 5px;">Black History Month</td> </tr> </table>		Black History Month		
	Black History Month			
PRESENTATIONS				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px;"></td> <td style="padding: 5px;">Certificate of Recognition – Mike Dunlap</td> </tr> <tr> <td style="width: 20px;"></td> <td style="padding: 5px;">A Step Beyond – Frank Foster</td> </tr> </table>		Certificate of Recognition – Mike Dunlap		A Step Beyond – Frank Foster
	Certificate of Recognition – Mike Dunlap			
	A Step Beyond – Frank Foster			
CONSENT CALENDAR				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px;"></td> <td style="padding: 5px;">Fourth Quarter 2019 Treasurer’s Report (D. Shultz)</td> </tr> <tr> <td style="width: 20px;"></td> <td style="padding: 5px;"><i>In accordance with the City's Investment Policy, the City Treasurer is required to submit an investment report to the City Council for review on a quarterly basis. The report will include the type of investment, issuer, date of maturity, par value, book value, and market value for each security held by the City.</i></td> </tr> </table>		Fourth Quarter 2019 Treasurer’s Report (D. Shultz)		<i>In accordance with the City's Investment Policy, the City Treasurer is required to submit an investment report to the City Council for review on a quarterly basis. The report will include the type of investment, issuer, date of maturity, par value, book value, and market value for each security held by the City.</i>
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PUBLIC HEARINGS				
CURRENT BUSINESS				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px;"></td> <td style="padding: 5px;">Public Library Partnership between City and Palomar College (J. Axelrod)</td> </tr> <tr> <td style="width: 20px;"></td> <td style="padding: 5px;"><i>Staff will present information about a partnership between the City and Palomar College to promote and expand upon library services available to the general public at Palomar’s Ernest J. Allen Library on the Escondido campus. Palomar College will make services available to the general public including library collections, borrowing privileges, staff assistance, public-use computers, and printing and Wi-Fi access.</i></td> </tr> </table>		Public Library Partnership between City and Palomar College (J. Axelrod)		<i>Staff will present information about a partnership between the City and Palomar College to promote and expand upon library services available to the general public at Palomar’s Ernest J. Allen Library on the Escondido campus. Palomar College will make services available to the general public including library collections, borrowing privileges, staff assistance, public-use computers, and printing and Wi-Fi access.</i>
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February 12, 2020
Continued

CURRENT BUSINESS

True North Research Inc. Consulting Agreement and Formation of an Ad Hoc City Council Subcommittee

(J. Petrek)

The City contracted with True North Research to conduct a voter survey in November 2019 to determine support for a potential local sales tax ballot measure for consideration at the 2020 General Election. True North will conduct a follow up community survey seeking resident opinions on the level and quality of municipal services, as well as recommendations for prioritizing future programs and projects based on the future revenues.

FUTURE AGENDA ITEMS

February 19, 2020
NO MEETING (President's Day)

February 26, 2020
8:00 a.m.

State of the City – California Center for the Arts, Escondido

Weekly Activity Report



January 30, 2020

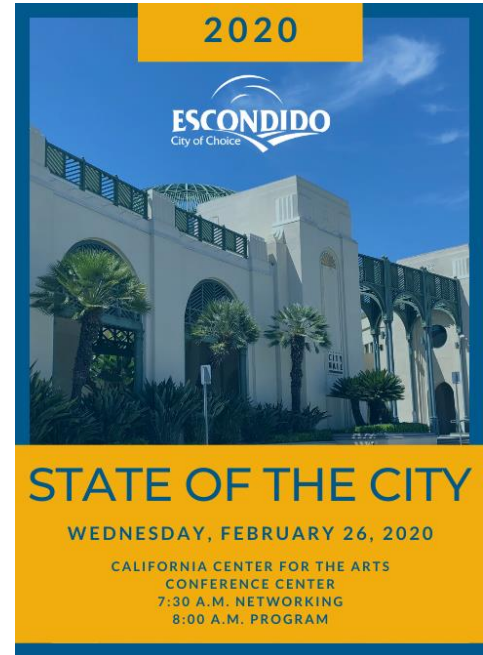
State of the City 2020

Mayor Paul McNamara will hold the 2020 State of the City address in partnership with the Escondido Chamber of Commerce on Wednesday, February 26, at 8:00 a.m. at the California Center for the Arts, Escondido. Doors will open at 7:30 a.m. for networking.

The event is free to attend, please RSVP at:

<http://escondido.chambermaster.com/events/details/2020-state-of-the-city-address-5286>

The meeting will be videotaped and rebroadcast the following Sunday and Monday evening at 6:00 p.m. on Cox Ch. 19 and AT&T U-Verse Ch. 99.



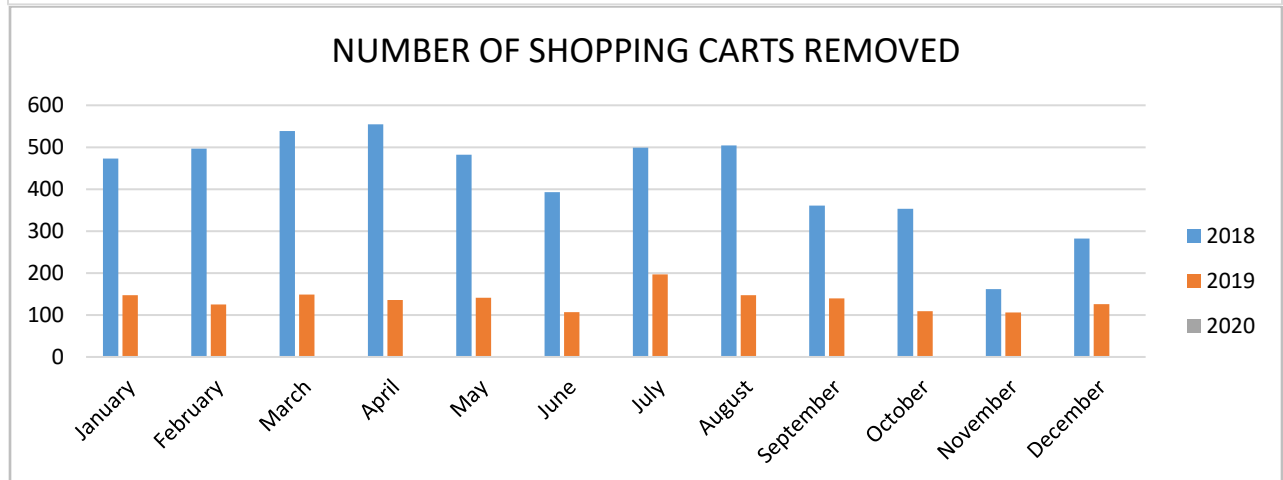
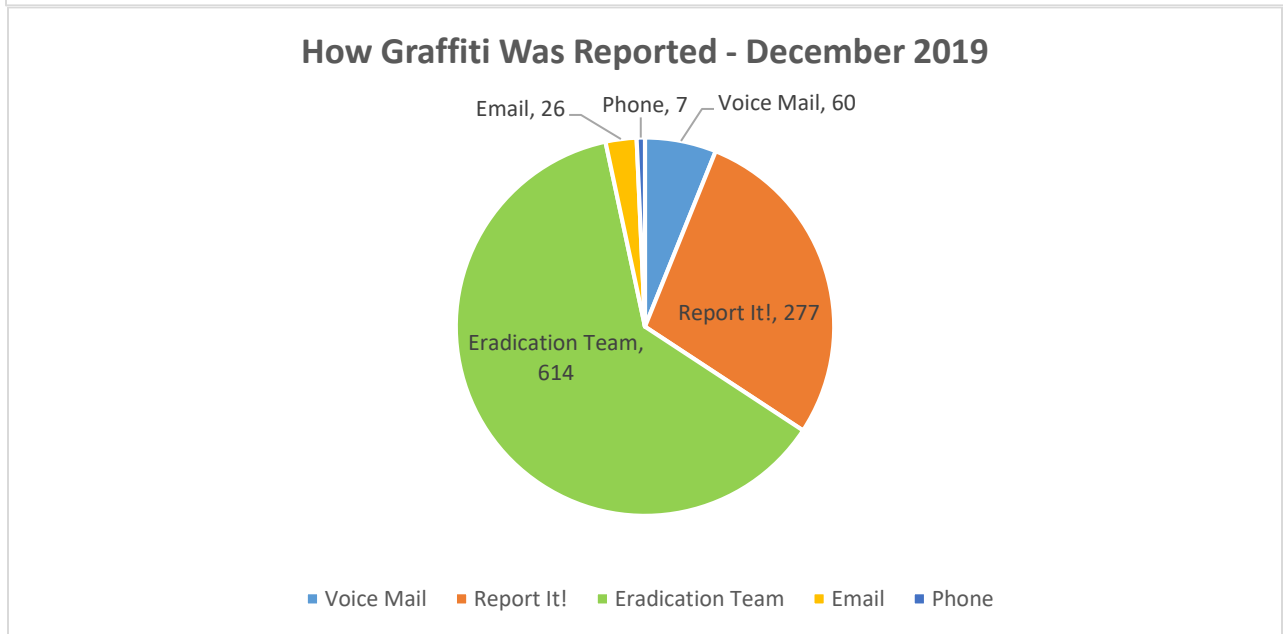
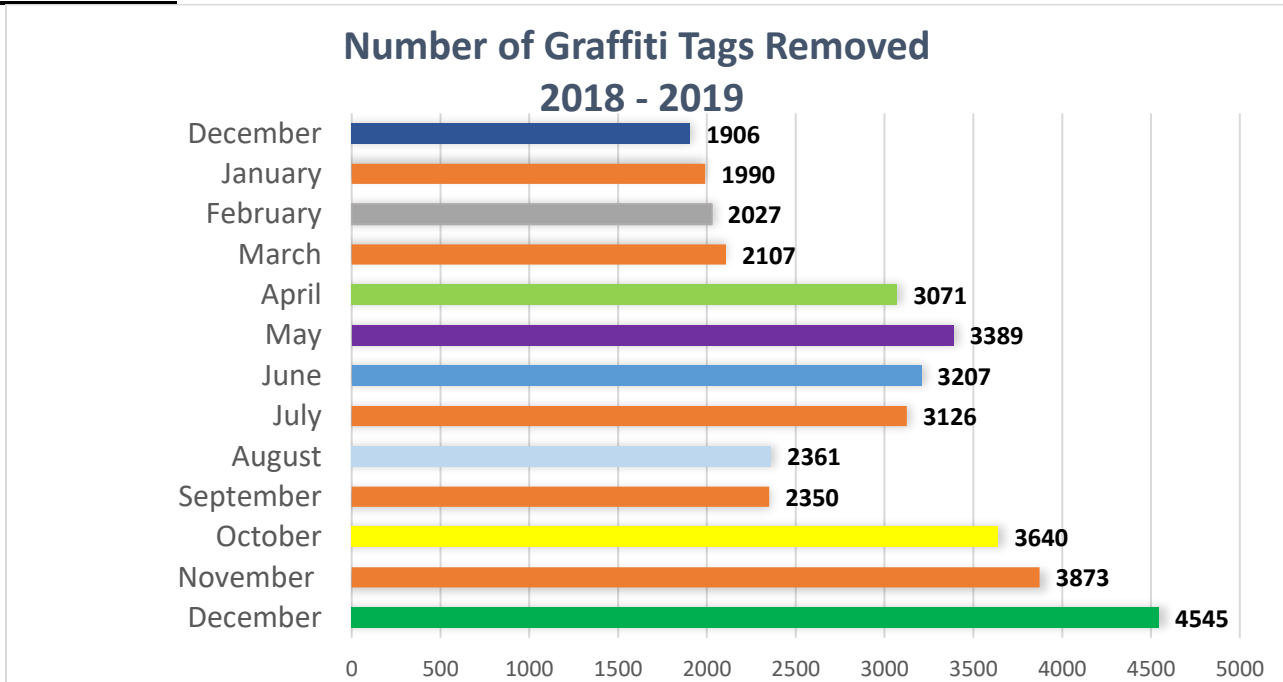
“Coffee with a Cop” in Escondido

Chief Ed Varso and officers from the Escondido Police Department were at a local Starbucks to meet with Escondido residents over one of our most sacred routines, the morning cup of coffee! The event provided residents the opportunity to meet with the police, express comments or concerns, and simply get to know each other. Future “Coffee with a Cop” events will be scheduled, stay tuned for updates.



BY THE NUMBERS

Public Works



Code Enforcement

246 Total Active Cases

40 New Cases

39 Cases Closed

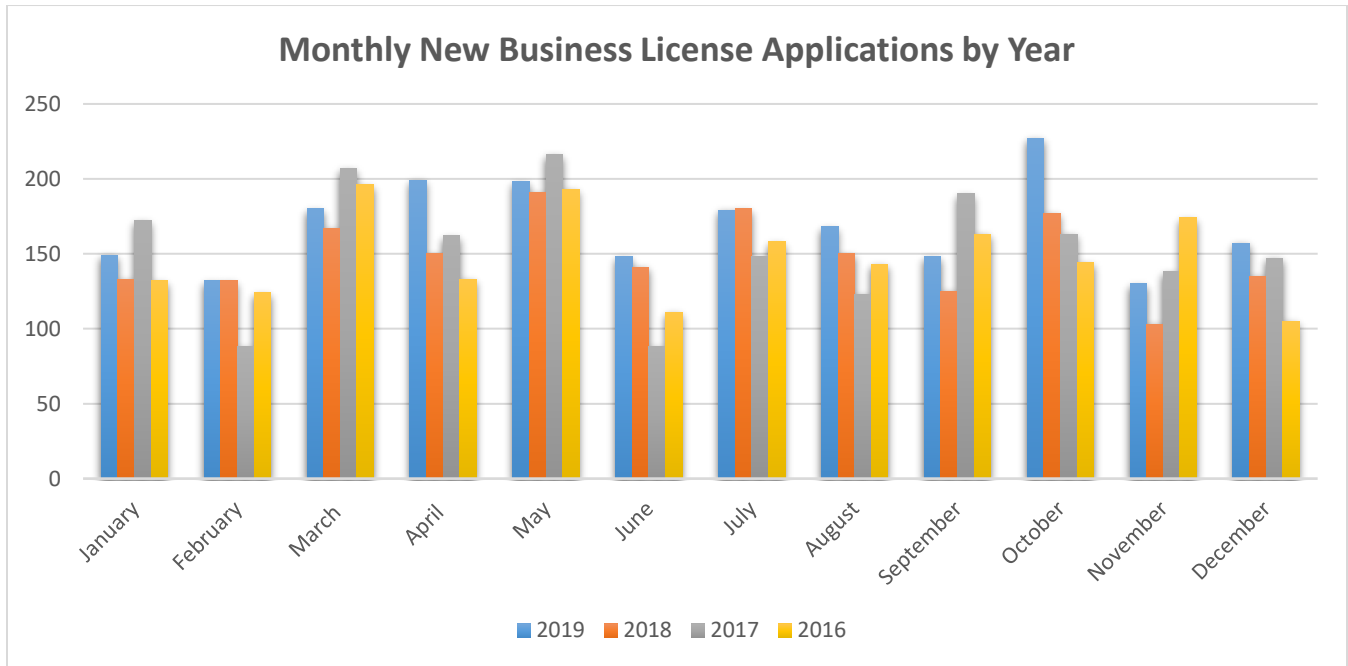
95% Voluntary Compliance

1 Citations Issued

20 Notices Issued

Total Code Cases (Year To Date)	87
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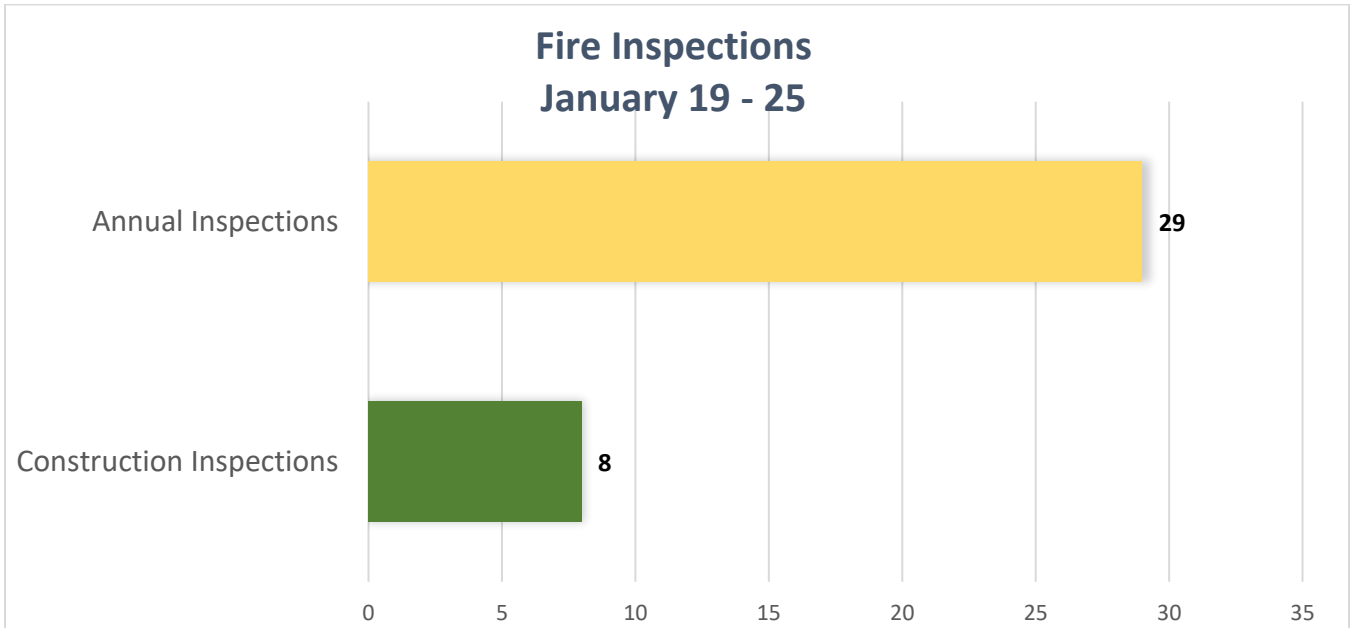
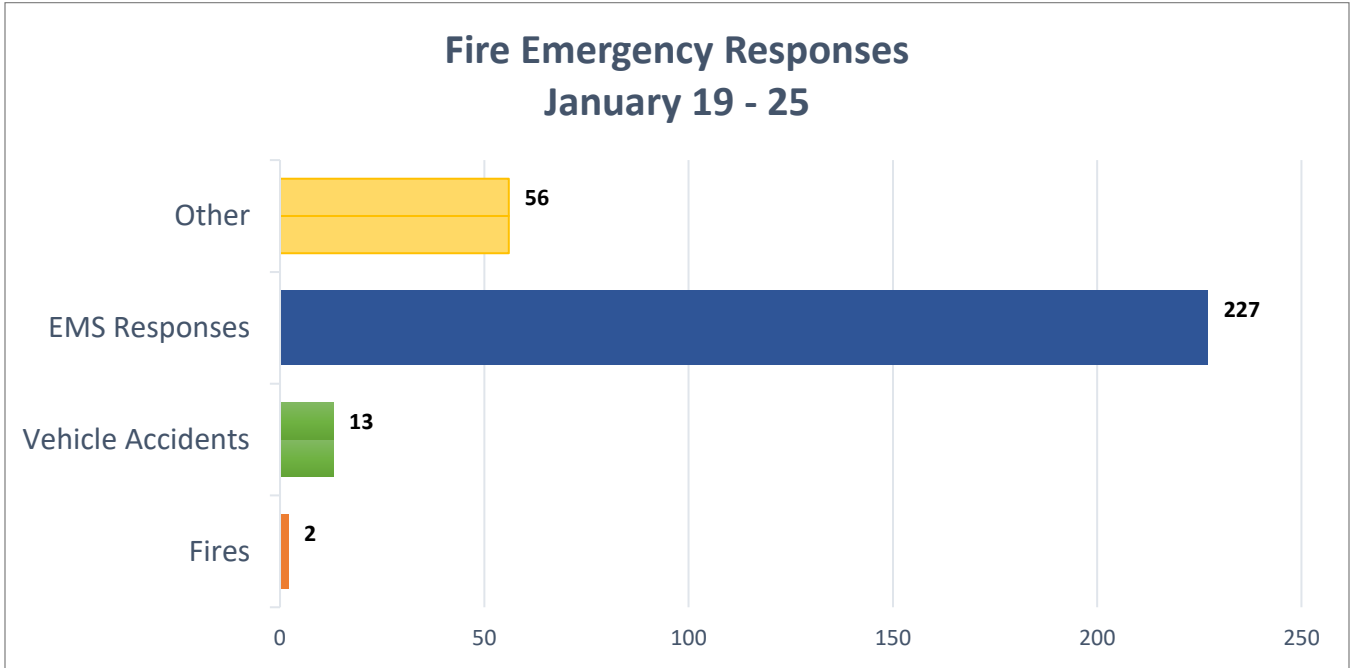
Business Licenses



Graffiti Restitution

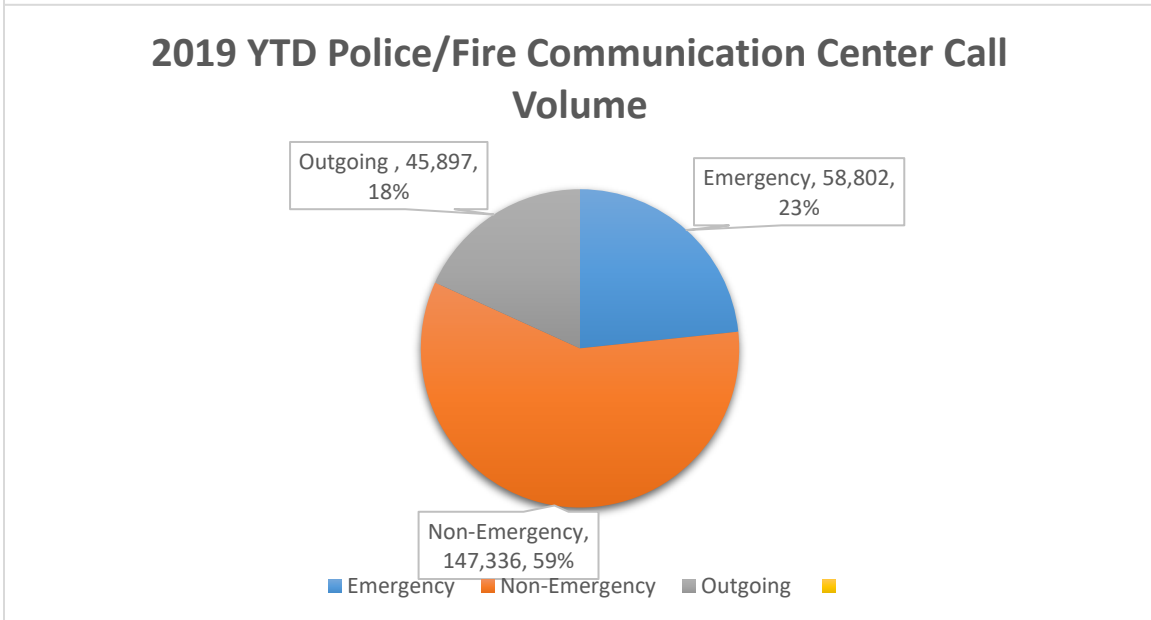
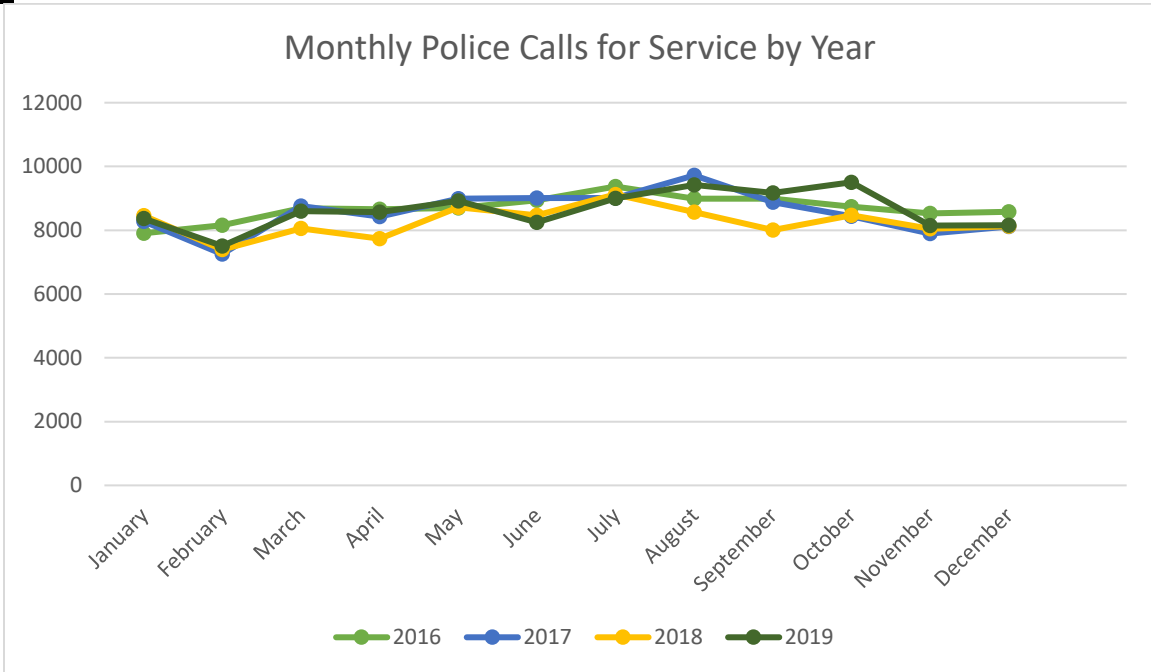
Collected Past Week	Collected Year to Date
\$0	\$2,264.07

Fire:

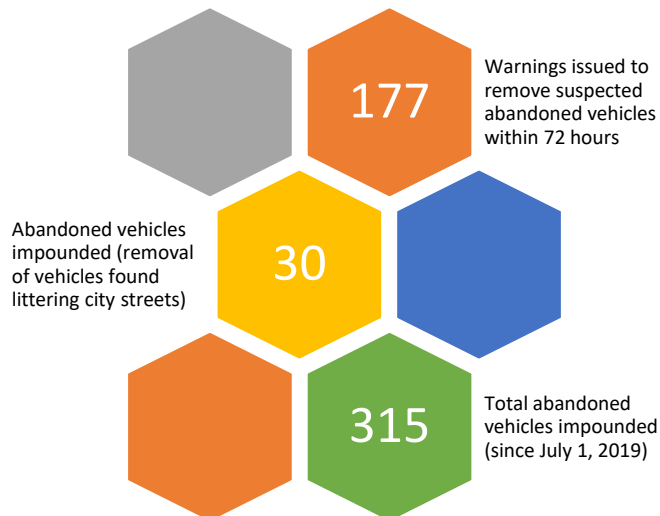


Total Emergency Responses (Year To Date)	1079
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Police:

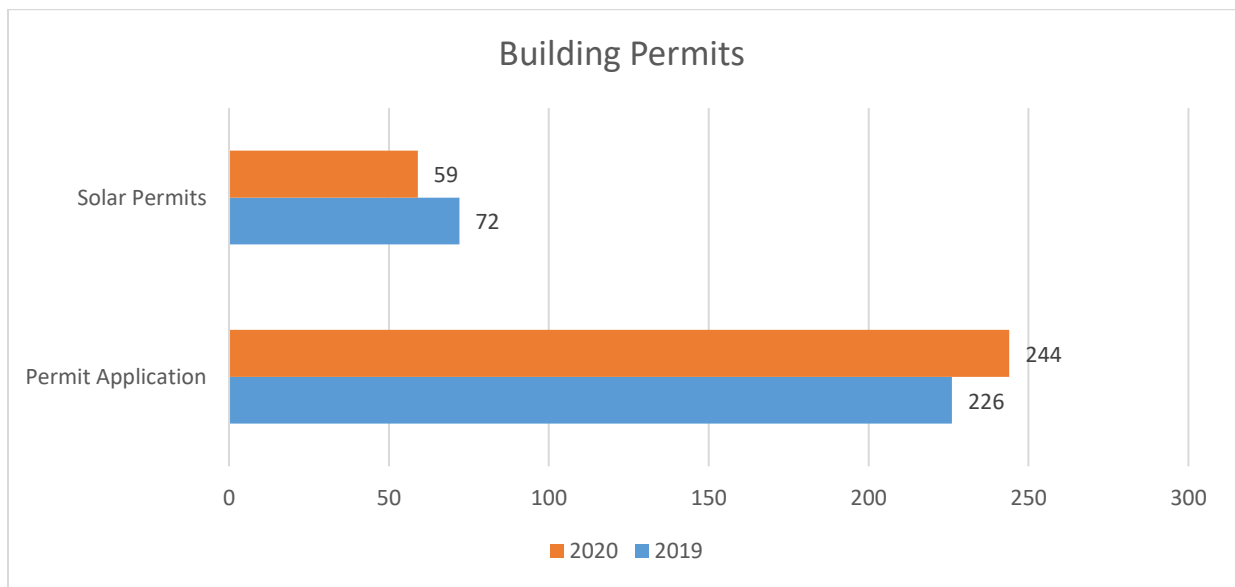
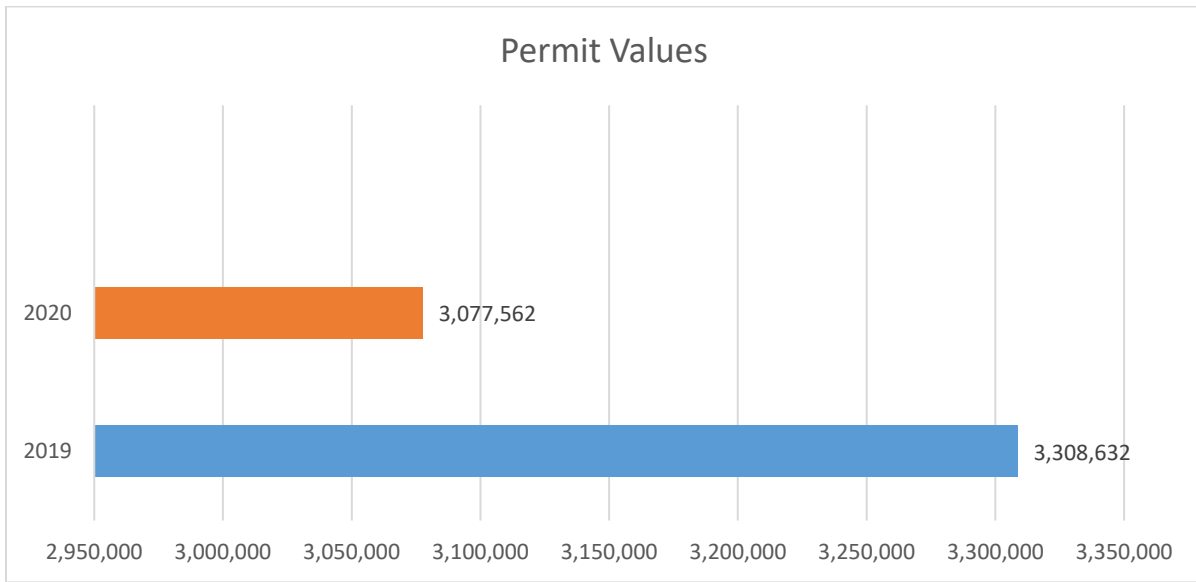


December Abandoned Vehicle Data



Building Division:

**Data reflects activity through January 25 of each year.*



VOLUNTEER PROGRAM



Get Involved:

If you would like to get involved with future projects and volunteer in Escondido, visit:
<https://volunteer.escondido.org/>

Upcoming Events:

Fire Hydrant Painting

Saturday, February 8 | 9:00 a.m. - 12:00 p.m.
Fire Station #2, 421 N Midway Dr., Escondido, CA 92027

Volunteers for this project will give neighborhood fire hydrants a fresh clean look with a new coat of paint. It is amazing how a freshly painted fire hydrant stands out! And you can help make sure that our fire hydrants are ready for emergency use. If caps are missing, you will be able to replace it which protects the threads so fire hose can properly be connected. If damage or leaks are noticed, volunteers will report them to the Water Department can make repairs ensuring that the fire hydrants are ready to go if they are needed during a fire.

POLICE DEPARTMENT

Incidents:

Suspect Brandishes Handgun to Stop Car from Being Repossessed

On January 22, a repo driver attempted to legally repossess a car from the driveway to a residence in the 500 block of N. Midway Dr. The resident came outside and brandished what appeared to be a handgun demanding that the repo driver abandon his efforts to take the car. The driver left the scene and contacted the police. An investigation was conducted and the suspect was later taken into custody during the service of a search warrant at the residence. The search revealed that the handgun was a Glock replica pellet gun. The suspect was arrested for carjacking and booked into county jail.

Escondido Man Fatally Stabbed Outside of Burger King

On January 27, a 32-year-old Escondido man was fatally stabbed outside of the Burger King in the 1300 block of W. Valley Pkwy. The victim was seen hanging out near one of the patio tables outside the restaurant when he was confronted by a male suspect. They appeared to have a brief conversation and then the suspect stabbed the victim one time in the neck. The suspect

then fled the scene on foot. The victim was transported to the hospital where he died from his injury.

COPPS:

The COPPS (Community Oriented Policing and Problem-Solving) Unit is dedicated to increasing the quality of life for the residents of Escondido through pro-active responses to crime trends, quality of life issues, and addressing crime and public nuisance in Grape Day Park and at Maple Plaza.

- 2 Arrests
- 12 Citations
- 75 Extra Patrols/Calls for Service

Events:

The Home Depot Donates Benches to Express Gratitude

Members from The Home Depot loss prevention department commissioned honorary benches to be displayed at Police & Fire Headquarters. The benches were made to show gratitude of the partnership formed with the police department in efforts to combat organized retail crime. Regional managers from The Home Depot, which covers the western states and Hawaii, relayed that they've never experienced a better law enforcement partner than EPD. They expressed appreciation for their public safety partners. The benches are proudly displayed in the lobby at Police & Fire Headquarters.



Tip of the Week:

Don't Fall Victim to Phone or Email Scams

- Scammers often ask you to go purchase cash gift cards in order pay off a fake debts or fines. Don't give gift card information over the phone or email unless you are making a purchase of your own accord.
- Thieves often pose as IRS agents and demand money be paid in exchange for paying off backed taxes, sometimes under threat of arrest. The IRS does not demand cash or gift cards from people over the phone or by email.
- There are scams where people are supposedly being contacted by the FBI or another law enforcement entity. They are being told that they or a loved one have a warrant for their arrest. If they don't pay off the fine, then they will be arrested and sent to jail. The FBI and other law enforcement agencies do not collect money or other means of

payment for arrest warrants or bail money. Only the courts collect fines and they do not do so over the phone or via email.

FIRE DEPARTMENT

News:

On Monday, January 20, Escondido Fire Engineer, Brad Bihun provided a first aid class for a Webelos Scout Group. The boys were elated to learn first aid from a firefighter and they all earned their first aid badge!



After nearly 10 years of service and 3,680 hours of donated time, Clint Sweet retired from the Escondido Fire Department's Support Volunteer Program. Clint volunteered his time to many activities that helped provide knowledge to community members and visitors of the City of Escondido. In recent years, Clint served as the program's volunteer coordinator and he provided 350 hours in 2019 alone! Clint retired last week and while he will be greatly missed, he will always be a part of our family!



COMMUNITY DEVELOPMENT

Major Projects Update

The following major projects are being reviewed and coordinated by Planning, Engineering, Fire, Building and Utilities. The list of projects below encompasses recent project updates and/or milestones from last week.

Commercial / Office:

1. Raising Cane's Restaurant – (Developer: Ada Fermin, PM Design Group) 1280 W. Valley Parkway – Demolition of vacant, former Coco's restaurant building and construction of new 3,744 SF drive-through restaurant for Raising Cane's. A CUP application was filed on October 30, 2019. The applicant recently resubmitted plans showing additional drive-through stacking. The traffic study was submitted for review on December 18, 2019. Department comments on the traffic study were provided on January 10, 2020, and staff is still working out traffic issues with the applicant.
2. Mercedes Benz Expansion – (Developer: Jody Stout, Integrity Design and Construction) 1101 W. 9th Avenue – A Master and Precise Plan modification to demo the existing dealership showroom and construct a new two-story, 52,334 SF showroom, office, parts storage and service building with rooftop parking/display. The application was submitted on November 20, 2019. Staff comments were provided to the applicant the week of December 16, 2019. Staff is awaiting resubmittal of the plans.
3. 7-Eleven Gas and Convenience Store – (Developer: Golcheh Group) 900 W. Mission Ave. – A proposal to relocate a 7-Eleven from the northeastern corner of Mission/Rock Springs to the northwestern corner and add a gas station. The City Council initiated study of a General Plan Amendment (from Industrial to Commercial) for the proposal on May 15, 2019. An application for a GPA, Zone Change and CUP was filed on September 12, 2019. A comprehensive list of comments from all departments was sent to the applicant on October 11, 2019. The applicant submitted a traffic study on December 17, 2019, and revised plans are expected next week.

Industrial

1. Citracado Business Park (Developer: Dentt Properties) 2207 Harmony Grove Road – A proposed specific plan for two industrial warehouse/office buildings (145,930 SF and 125,930 SF) with the buildings to be separated by the future extension of Citracado Parkway. The application was initially submitted on August 14, 2018, for a single tenant to use both buildings. The developer is now in discussions with new tenants regarding revisions to the development plans and expects to submit revised plans soon. Two vacant residences on the site were demolished on October 4, 2019.

City Projects

1. Membrane-Filtration Reverse Osmosis/ MFRO (Developer: City of Escondido Utilities Department) SE corner Ash/Washington – On January 16, 2019, the City Council expressed continued support for the MFRO, but directed staff to investigate moving the facility from Ash/Washington to another location. A city-owned property located at 901 W. Washington Avenue has been selected as the new MFRO site. A Design Build Agreement was approved

by the City Council on April 3, 2019. The Design Build Agreement with Filanc+BC Joint Venture provides for design and pre-construction services. The Design Build team met with Utilities and Planning on May 15, 2019 and June 5, 2019 to discuss design and timeline issues. City staff met with the Design Build team to review site plan comments on August 14, 2019, and again on September 3, 2019. A Plot Plan application was submitted for review on October 14, 2019. A comment letter was issued on November 6, 2019, and a follow-up meeting with Utilities occurred the next day. The first draft of the proposed Mitigated Negative Declaration (MND) was submitted for review on November 20, 2019, and Planning provided comments during the week following Christmas. A 60% design meeting occurred on December 9, 2019, and a follow-up meeting to discuss architecture occurred on January 30, 2020.

2. Lake Wohlford Replacement Dam (Developer: City of Escondido Utilities Department) – A Draft EIR was prepared and issued for a 45-day public review period that began on October 4, 2016 and closed on November 17, 2016. A field visit with staff from the state and federal wildlife agencies took place on May 11, 2017, to review biological mitigation requirements including an agency request for full mitigation for emergent vegetation at the eastern end of the lake that came into existence since the lake level was reduced for safety reasons. Staff sent a follow-up letter to the wildlife agencies on June 29, 2017, seeking clarification on the proposed biological mitigation requirements. Additional information has been compiled and analyzed by the City’s biological consultants based on recent conversations with the agencies. The biological consultant and staff met with the wildlife agencies on November 28, 2018 to discuss a modified approach to fulfilling mitigation requirements. Written information summarizing what was discussed at the meeting was transmitted to the agencies on December 4, 2018. City staff prepared a revised assessment of potential biological impacts and met with the agencies to present the findings. Additional information requested by the agencies was prepared and submitted as requested. The agencies ultimately responded they do not concur with the alternative mitigation proposal and the issue remains unresolved. Utilities is currently discussing a potential legislative solution to extend the state 1E Grant Funding. On December 18, 2019, the City Council considered a proposed amendment to the design contract to provide additional engineering services to evaluate the feasibility of rehabilitating the existing Lake Wohlford Dam and associated structures to address seismic deficiencies in lieu of building a replacement dam.

Residential

1. Harvest Hills (aka Safari Highlands Ranch) (Developer: Jeb Hall, Concordia Homes) 550 lots east of Rancho San Pasqual – A Notice of Availability for the Draft EIR was issued on October 16, 2017 for public review and comment. The comment period ended on January 2, 2018. Staff transmitted all the comment letters and emails to the EIR consultant for review and to prepare a response to each comment. The Draft EIR and appendices have been posted on the City’s website at the following link:

<https://www.escondido.org/safari-highlands-ranch-specific-plan.aspx>

The responses to comments have generated related revisions to the project design. The applicant’s engineer submitted a revised tentative map on October 26, 2018. Generally, the amount of grading and the area of disturbance has decreased, while the overall number of 550 residential lots has remained the same. Engineering met with the project engineer and applicant on January 31, 2019, to discuss their comments on the revised tentative map. The applicant met with Traffic Engineering during the week of February 25th to discuss off-site improvements. Staff, applicant and biological consultant met with the wildlife agencies on April

23, 2019, to discuss the revisions to the project design mentioned above. The applicant and staff met on June 20, 2019, to refine the list of outstanding issues remaining to be resolved prior to advancing to public hearings for the project. The applicant met with Traffic Engineering staff on August 15, 2019, and agreement was reached on several of the off-site mitigation locations on October 28, 2019. Additional information regarding biological resources was submitted on August 29, 2019. A revised tentative map addressing previous staff comments was submitted on November 6, 2019. The revised tentative map and exhibits have been posted on-line at the link above. A third amendment to the EIR contract for additional consultant funding was approved by the City Council on November 20, 2019. The revised specific plan was submitted on January 14, 2019. A consultation with the San Pasqual Tribe occurred on January 21, 2020.

2. 18 lots at 701 San Pasqual Valley Rd (Developer: Bob Stewart) – A tentative map for ten single-family lots was approved by City Council on February 8, 2008. The applicant has been working to revise the map to develop more homes on the property. In response to follow-up discussions with the applicant about revising the map, comments were provided on April 29, 2019. Additional discussions between the applicant and the City to resolve project issues also occurred on June 20, 2019.
3. The Villages at Escondido Country Club (Builder: Lennar Homes) 380 residences – The City Council voted 3-2 to approve the project on November 15, 2017. The applicant submitted rough grading plans, drainage improvement plans and utility relocation plans for all three villages on May 7, 2018. A revised Certified Tentative Map for substantial conformance review was submitted on May 23, 2019 and included a proposal to relocate approximately 10 residential lots within the development. The revised Certified Tentative Map was approved on September 3, 2019. A rough grading permit for Village 1 was issued on September 16, 2019, and grading is underway. All remaining buildings in the village center area of Village 1 have been demolished. Final engineering for Villages 2 and 3 was resubmitted to staff on October 14, 2019. This includes rough grading plans, improvement plans, and the final map. Village 1 improvement plans were approved on November 8, 2019. A design review application for all residences was submitted on November 20, 2019. CC&Rs are also under review. Precise grading plans have been submitted for the model homes. Building permit applications for the model homes were submitted before the end of 2019. Comments on final engineering for Villages 2 and 3 were sent to the project applicant on January 27, 2020. Country Club Drive improvement plans are nearing approval.

The approved tentative subdivision map, Final EIR and appendices, Specific Plan and other related information can be accessed on the City's website at the following link:

<https://www.escondido.org/ecc.aspx>

4. North Avenue Estates (Developer: Casey Johnson) 34 lots at North Ave./Conway Dr. –The City Council approved the project on January 10, 2018. LAFCO approved the annexation application on October 1, 2018, and the annexation has recorded. The new homebuilder, Taylor Morrison Homes submitted a Precise Development Plan to Planning on December 14, 2018. Grading plans, final map and improvement plans were submitted for review on December 7, 2018. Engineering met with the applicant's engineer on January 31, 2019 to discuss drainage issues. A revised Certified TM was approved on March 14, 2019. Final engineering plans were resubmitted on March 21, 2019. The project engineer, Engineering and County Water Authority staff met on April 2, 2019, to discuss the street and utility crossings over the CWA aqueduct. The applicant's engineer submitted a revised design to address the

CWA issues the week of June 3rd. Building plans for four model homes were submitted into plan check on July 15, 2019. The most recent comments by Planning on the building plans were sent on October 24, 2019. The Precise Development Plan was approved by the Planning Commission on August 13, 2019. Revised grading and improvement plans were resubmitted on October 25, 2019. Staff comments were provided on those plans and a follow-up meeting to discuss the comments took place on December 6, 2019. The applicant is working on storm water comments and a resubmittal of plans is expected this week. Engineering has provided comments on a proposed joint-use agreement with the County Water Authority.

5. Sager Ranch/Daley Ranch Resort Specific Plan (Developer: J. Whalen Associates, Inc., Sager Ranch Partners) 203 housing units and 225-room resort hotel on 1,783-acres, just north and east of Daley Ranch – This proposed residential and resort hotel annexation and specific plan project was received on March 2, 2018. The project submittal has been deemed incomplete and a letter from staff requesting additional project related information was sent to the applicant on April 4, 2018. Requested information includes annexation exhibits, proposed general plan amendment text, a proposed Transfer of Development Rights Program, environmental initial study, and a fiscal impact analysis. Planning met with the applicant on May 17, 2018 to discuss items listed in the letter. A follow-up meeting to discuss engineering issues occurred on June 27, 2018. The applicant met with Escondido Fire and Valley Center Fire on August 1, 2018 to discuss fire protection issues. Significant fire-related issues to be addressed include the steepness of the project entry road, secondary emergency access and Fire Department response times. A follow-up meeting with the applicant to discuss these issues occurred on October 11, 2018. On April 5, 2019, the applicant provided a letter response with alternative compliance proposals to address some of the fire-related issues. On May 14, 2019 the applicant provided additional fire-related information requested by Fire and Planning. Fire, Planning, and Engineering staff met with the applicant team on May 29, 2019 to discuss the fire-related information. A financial feasibility study for the proposed resort was submitted on July 8, 2019.

A project webpage containing draft documents and plans has been added to the Planning Division's website at the following link:

<https://www.escondido.org/daley-ranch-resort-specific-plan.aspx>

6. Nutmeg Condo General Plan Amendment (Developer: Jim Simmons, CCI) 137 townhome condo units on 7.7 acres on both sides of Nutmeg between I-15 and Centre City Parkway – This proposed multi-family residential development includes a GPA from Office to Urban III (up to 18 du/acre) as well as a specific alignment plan for Nutmeg and a vacation of approximately one acre of public right-of-way for use in the project. The project application was received on June 15, 2018. Initial comments from Planning, Fire, Engineering, Utilities and Traffic Engineering were provided to the applicant on July 13, 2018. A Notice of Availability for the Draft EIR was issued May 7, 2019, announcing a 45-day public review period from May 10, 2019 to June 24, 2019. Caltrans expressed a concern for having encroachment into their right of way. As a result, project revisions are necessary for the southern portion of the property to accommodate grading and fuel modification zone planning on-site. The applicant met with Planning and Engineering on August 14, 2019 to discuss potential changes to the project. The project applicant is splitting the project into northern and southern pieces. The GPA, Final EIR and northern piece were recommended for approval by the Planning Commission on October 22, 2019. The City Council approved the same part of the proposal on November 20, 2019. Staff is now awaiting resubmittal of the southern portion of the project.

7. Oak Creek (Builder: KB Homes) 65 single-family residential lots on approximately 44 acres at Felicita Road and Hamilton Lane – The Zoning Administrator approved a modification to the Precise Development Plan to revise the architecture on October 25, 2018. On-site remediation of hazardous materials has been completed and DTSC has issued a clearance letter. On-site improvement plans have been approved. The rough grading permit was issued on April 18, 2019, and grading has commenced on the site. The Precise Grading Plan for the model homes has been approved and building permits for two model homes were issued the week of July 8. A Model Home Permit was approved by Planning on July 10, 2019, for the sales office and temporary improvements. A second plan check submittal for the final map was received the week of May 13. Second plan check for the off-site improvement plans was received on June 3, 2019. Engineering comments have been returned and Engineering has approved all improvements, excepting those provided for on Felicita, which additional changes are expected. County of San Diego staff from the Parks and Public Works Divisions have met with the applicant to discuss ways to evaluate floodplain and drainage issues occurring at the Felicita Park. A follow up meeting with Engineering occurred on August 28, 2019. In response the applicant submitted a hydraulics study to DPW on September 9, 2019. The applicant is currently evaluating a drainage solution that minimizes or eliminates the need to construct drainage improvements in Felicita Park.
8. Villa Portofino (Developer: Chris Post, ATC Design Group) 15 apartment units in a three-story building with parking garage at 2690 S. Escondido Blvd. – This 15-unit multi-family residential project on a 0.52-acre parcel between S. Escondido Blvd and Cranston Drive was submitted as a Plot Plan application on November 28, 2018. A Development Agreement will be required to reduce open space. A comment letter was issued on December 20, 2018. Planning, Fire and Engineering met with the applicant on June 10, 2019, to discuss revisions to the plans intended to address the previous comments. A revised project design was routed to all departments on August 23, 2019. Planning has notified the applicant the project design is not consistent with the South Centre City Specific Plan. Engineering and Utilities comments were provided to the applicant on October 2, 2019 and staff has engaged in several follow-up meetings with the applicant.
9. Palomar Heights (Developer: Ninia Hammond, Integral Communities) Demolition and redevelopment of the old Palomar Hospital site with 510 multi-family units with 10,000 SF of commercial – A proposed Tentative Map, Planned Development, Specific Plan Amendment and EIR to redevelop the 13.8-acre former hospital site. A partial project application was submitted on December 24, 2018. Engineering and Planning comments on the initial project submittal were sent to the applicant on February 12, 2019. A contract for a developer-funded planning consultant to work on this project as an extension of Planning staff was approved by the City Council on February 13, 2019. Planning Engineering and Fire met with the applicant team on February 27, 2019 and again on April 24, 2019 to go through proposed revisions to the site plan and building designs. A Notice of Preparation (NOP) for the Draft EIR was issued on May 3, 2019 and a public scoping meeting took place on May 20, 2019. The public comment period for the NOP closed on June 3, 2019, and approximately 28 comment letters and written forms from the scoping meeting were received. Resubmittal of the redesign package was filed on June 25, 2019. Design and site plan information was submitted on July 1, 2019 and a screen check EIR was submitted on July 29, 2019. City comments on the design package was transmitted on August 2, 2019. Comments on the screen check EIR were issued on August 27, 2019, and a second screen check of the EIR was submitted on December 5, 2019. The third revision to project plans was submitted to Planning on September 11, 2019. A Planning Commission work session focused on project design occurred on October 8, 2019. A City comment letter, including Planning Commission feedback on design review, was

transmitted to the applicant on October 21, 2019. A fourth resubmittal of plans occurred on December 23, 2019. On January 8, 2020, the applicant met with staff from multiple departments to discuss permitting and logistics for the demolition of all existing structures on the site. City comments on the second screen check of the draft EIR were provided on January 10, 2019, and third screen check comments are expected to be issued this week. Staff comments on the revised plans are expected to be issued next week. Public review of the Draft EIR is expected to commence the second week of February.

The development proposal and other related information can be accessed on the City's website at the following link:

<https://www.escondido.org/palomarheights.aspx>

10. Henry Ranch (Builder: Joe Martin, Trumark Homes) An approved development of 97 single-family residential homes on 74.35 acres at the eastern terminus of Lincoln Avenue – The Tract 920 development proposal was originally approved in 2007 and an extension of the associated Development Agreement was approved in 2016. Final Map, grading plans and improvement plans were submitted for initial review on February 12, 2019. Architectural plans were submitted for Design Review on February 15, 2019, and comments were issued on March 14, 2019. The second submittal of final engineering was received on April 22, 2019, and several rounds of comments have been provided. Planning has provided comments on the 1st check for building plans and the model home complex. Fire met with the applicant on December 5, 2019, to discuss landscaping and fuel modification zones. The final map was resubmitted on December 6, 2019. The improvement plans were resubmitted the week of December 9, 2019. The site is currently being rough graded. The applicant submitted a precise grading plan for the entire site on January 3, 2020. Staff met with the applicant on January 22 to the off-site drainage improvements.
11. Del Prado (Developer: Kerry Garza, Touchstone Communities) – An approved 113-unit townhome-style Planned Development located at the southwestern corner of Brotherton Road and the Centre City Parkway frontage road - The Del Prado project was approved by the City Council in May of 2016. The project site is separated into two parcels by an SDGE parcel. Engineering and Planning are reviewing third plan check for final map, grading and improvement plans for Del Prado South. Del Prado North is in second plan check for the same plans. No building plans have been submitted into plan check. Planning has provided comments for the North landscape plans. The applicant is attempting to resolve sewer issues with the Regional Water Quality Control Board because sewer lines are proposed to cross over water lines. Incomplete plans for North were submitted in mid-November and immediately returned to the engineer. Improvement plans for the North were resubmitted on December 27, 2019. Staff comments on the grading and improvement plans are expected to be issued next week. Staff is aware of easement issues regarding the SDG&E access easement and are still working with the applicant on that driveway design.
12. Hacienda De Vega Redevelopment – (Developer: Tony Cassolato) A proposed residential condominium development consisting of 42 three-story attached townhomes on 1.75 acres – The project would demolish the vacant restaurant building and redevelop the entire site with residential townhomes. An application for a tentative map, plot plan and condominium permit was submitted on October 8, 2019. Initial comments from all departments were provided to the applicant on November 7, 2019, and a follow-up meeting to discuss the comments occurred on November 13, 2019. Revised plans to address street improvement and open space issues were submitted by the applicant on December 23, 2019. Planning hosted a neighborhood

meeting on January 7, 2020, to discuss the project and hear neighborhood concerns. The primary concern expressed by neighbors revolved around traffic in the area.

13. Casa Mercado Apartments (Developer: Paul Mayer, Pemcor) A four-story, 120-unit apartment complex on 2.31 acres – A proposed planned development and Specific Plan Amendment for a new residential development on Third Avenue between Quince Street and Pine Street in the Mercado District of the Downtown Specific Plan. A previous proposal for a 198-unit project was submitted on August 2, 2019. That project was withdrawn and the current project was submitted on January 21, 2020. Plans have been distributed to all departments for initial review.
14. Accessory Dwelling Units – Planning staff is currently working on fourteen (14) applications for accessory dwelling units. One (1) accessory dwelling unit has been approved in 2020. Thirty-seven (37) accessory dwelling units were approved in 2019. Twenty-four (24) accessory dwelling units were approved in 2018. Three (3) accessory dwelling units were approved in 2017.

Building Division:

1. The Building Division issued 63 permits (including 13 solar photovoltaic) with a total valuation of \$364,350.
2. Our building inspectors responded to 195 inspection requests. 154 customers visited the Building counter during the week.
3. *No change from the previous.* The Latitude 2 apartment project at 650 Center City Pkwy has received Building final approvals and Temporary Certificates of Occupancy for buildings 1-4. Field Engineering have released Building 6 for TCO. The Building Division has granted a Temporary Certificate of Occupancy, with minor restrictions and is awaiting a request for Final inspection of Bldg. 6. Final Inspection pending the receipt of all final reports from the contractor.
4. *No Change from the previous.* The new two story church sanctuary building at 1864 N. Broadway is progressing toward final inspection, and has received a 30-day Temporary Certificate of Occupancy.
5. *No Change from the previous.* The new 105 room hotel at 200 La Terraza is currently operating on a Temporary Certificate of Occupancy, pending Engineering final approval. Traffic signal poles have been set in place and should be fully operational soon. An additional 30-day extension of the TCO has been granted pending completion of the Engineering requirements.
6. The Gateway Grand (now named “Rowan”) 126-unit apartment project at 700 W. Grand Ave. has roof framing work ongoing in Buildings A & B in anticipation for a soon to be requested inspection. Drywall installation on-going in Building B on the 4th floor. framing on going in Building B, Top out plumbing in Building A, 3rd & 4th floor; Garage framing approved in Building B. Building B framing has been completed and approved. Drywall installation is on-going in Building B; Building A, framing work is on-going. Partial Exterior lath installation at building A.

7. *No change from the previous.* The new 2 story 20,000 sf office building for Superior Ready Mix on 1564 W Mission is scheduled to have the inspection of interior framing today, Dec.17, 2019.
8. *No change from the previous.* KB Homes, located at the Oak Creek development on Daisy Field Glen has completed the model home construction phase of the development. Plan revisions have been submitted and are currently under review. Staff has been informed by KB's permit coordinator that requests for permit issuance of the first phase could be occurring within the next 2 to 3 weeks. The number of homes in the first phase could total between 12-16 dwellings. Construction of the Guard shack is currently underway-so far framing, roof sheathing, drywall and exterior lath have been approved. Precise Grading plans for Phases 1 & 2, totaling 12 SFD's, are currently in review.
9. *No Change from the previous.* The Starbucks "shell" building located at 350 W Valley Pkwy has received partial pre-roofing inspection to allow for shear transfer connections to be placed. Exterior shear has been approved. Rough framing, electrical, plumbing and mechanical has been approved. Drywall & Exterior Lath have been approved. Shell Building Final is currently in progress; currently awaiting the installation of exterior building finishes. Framing of the interior tenant improvements has been approved. Temporary electrical and gas meters have been released. Staff is awaiting final inspection request.
10. The Medical office building located at 2130 Citracado Pkwy has received partial foundation inspection and partial underground electrical conduit. Foundation work, steel reinforcement on-going in preparation for future inspections. Underground plumbing and foundation work is on-going. Partial slab construction has been approved. The slab installation work has been completed, framing should commence soon.
11. Building staff has completed plan check fee estimates for the Villages project and are verifying correct addressing.

ENGINEERING DEPARTMENT

Capital Improvements:

1. El Norte Parkway Improvements –The contractor is continuing to work on the median islands including the installation of a new irrigation main line. Work continues on the new traffic signal alignment. Construction of the trailhead sign starts this week. The project includes widening of El Norte Parkway at the flood control channel by the installation of a new bridge, construction of new median islands from Valley Parkway to Washington Avenue, landscaping and a drip irrigation system, a bike/pedestrian signal at the flood control channel, along with roadway resurfacing. More information can be found at <https://www.escondido.org/el-norte-parkway-bridge-and-median-improvements-1.aspx>. Forty-one (41) working days are remaining for project completion.
2. Transit Center Pedestrian Bridge Project –The contractor has completed building the masonry flood walls along with the storm drain manhole's along Spruce Street. Seventeen (17) working days remain on the contract.
3. 2019 Street Rehabilitation and Maintenance Project Rebid- This year's project will resurface approximately 71-lane miles of pavement, replace 0.59- miles of sidewalk, and restripe 2.5- miles of bike lanes, install 51 pedestrian ramps, and replace 90 street trees that are damaging concrete improvements. With the continued investment into our streets, the City has

increased its Pavement Condition Index (PCI) from 55 to 61 points since 2013. This year's project is Maintenance Zone W, which is west of I-15 between State Route 78 and Felicita Avenue. Streets include Eucalyptus Avenue, Valley Parkway between Auto Parkway and 11th Avenue, Citracado Parkway East of Valley Parkway and 9th Avenue between Auto Parkway and Hale Avenue. Out of service area street is Valley Parkway between Fig Street and Grape Street. The contract has been signed and the project preconstruction meeting is scheduled for February 4, with a projected start shortly thereafter. More information can be found at <https://www.escondido.org/city-of-escondido-street-maintenance-program.aspx>

Private Development:

1. Tract 932 - Canyon Grove Shea Homes Community –*No changes from that reported last week.* The Project is currently in the punch list phase. The roadway connection between Vista Avenue and Vista Verde Way is scheduled to be opened to all traffic. This opening will connect El Norte Parkway to the South and Ash Street to the West.
2. Latitude II Condominiums: Washington Avenue @ Centre City Parkway – *No changes from that reported last week.* The project is working on punch list items.
3. Tract 934 – *No change from that reported last week.* The contractor has paved the in-track street. This is a 5-lot subdivision located at 1207 Gamble Street.
4. 1221 Gamble Street – *No changes from that noted last week.* The contractor has placed the curb and gutter along Gamble and Pear Blossom. This project is a 3-lot subdivision located adjacent to Tract 934.
5. KB Homes Oak Creek Project – The contractor is working on the onsite storm drain system.
6. North American Self Storage –*No changes from that reported last week.* This project is in the Punch list Phase. The project is located at 852 Metcalf Street.
7. Pradera by Lennar –The contractor will be starting the Conway street restoration next week. The work included the construction and installation of 779' of a 12" water main along Conway Drive, between Lehner Drive and Rincon Avenue. The installation is now complete. The contractor is tying the new line to the Cities potable water system.
8. Henry Ranch Tract 920 –*No changes from that reported last week.* Contractor is continuing with the in-track pad grading. The project is located at the intersection of El Norte Parkway/Lincoln Avenue. When completed the contractor will have processed 433,000 cubic yards of material with 50,000 cubic yards of material being exported off site.
9. The Villages – *No changes from that reported last week.* Contractor is working on the in-tract sewer main, manholes and laterals. Village 1 grading is continuing this week. Village 1 is between Country Club Drive to the south, David Drive to the east and Golden Circle Drive to the north. A total of 111 homes are to be constructed in Village 1. "No Parking" signs are placed on Country Club Drive South of Country Club Lane. The work will be for the construction of storm drain pipe at Country Club Drive and Fairway Park.
10. SDG&E 16" Gas Main Replacement: *No changes from that reported last week.* The City has issued an Encroachment Permit for pot holing of utilities for a future gas main replacement project on Bear Valley Parkway between HWY 78/San Pasqual Valley Road interaction then south to Beethoven Drive. Information is being gathered to aid in the development of the new gas main alignment. Potholing has begun. The construction phase is not expected until 2021.

11. Escondido Giving Arch: The contractor has placed concrete for the arch foundation's this week. When completed, this arch will be 108 feet across and will span Grand Avenue at Centre City Parkway. The color and design will match the Downtown architecture.

GRANT APPLICATIONS

Applications:

- None this week.

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