



OCTOBER 10, 2018
CITY COUNCIL CHAMBERS
3:30 P.M. Closed Session; 4:30 P.M. Regular Session
201 N. Broadway, Escondido, CA 92025

MAYOR	Sam Abed
DEPUTY MAYOR	John Masson
COUNCIL MEMBERS	Olga Diaz Ed Gallo Michael Morasco
CITY MANAGER	Jeffrey Epp
CITY CLERK	Diane Halverson
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

**October 10, 2018
3:30 P.M. Meeting**

Escondido City Council

CALL TO ORDER

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

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/SUCCESSOR AGENCY/RRB)

- I. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)**
- a. **Property:** 480 North Spruce Street, APN 232-091-28-00
City Negotiator: Jeffrey Epp, City Manager
Negotiating Parties: Pretium LLC (Custom Blow Molding)
Under Negotiation: Price and Terms of Existing Lease
- II. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION/SIGNIFICANT EXPOSURE (Government Code 54956.9(d)(2))**
- a. One Case - Claim No. 4980
 - b. One Matter involving the potential sale of Municipal Parking Lot #1, APN 229-421-26

ADJOURNMENT



Council Meeting Agenda

**October 10, 2018
4:30 P.M. Meeting**

Escondido City Council

CALL TO ORDER

MOMENT OF REFLECTION:

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

FLAG SALUTE

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

PRESENTATIONS: Presentation from Senator Joel Anderson to Mayor Abed
SANDAG Update
Caltrans Update on SR78 Projects

PROCLAMATIONS: Pollution Prevention Week
Fire Prevention Week

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/SUCCESSOR AGENCY/RRB)**

2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**

3. **[APPROVAL OF MINUTES: Regular Meeting of September 19, 2018](#)**

4. **[CONSULTING AGREEMENT WITH ESGIL, LLC FOR THE CONTINUATION OF BUILDING PLAN CHECK AND INSPECTION SERVICES -](#)**

Request the City Council approve a new Consulting Agreement with EsGil, LLC in an amount not to exceed \$165,000 to continue providing professional building plan check and inspection services as a contracted extension of staff.

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

RESOLUTION NO. 2018-134

5. **[TELECOMMUNICATION NETWORK LICENSE AND ENCROACHMENT AGREEMENT WITH MOBILITIE, LLC -](#)**

Request the City Council approve authorizing the Mayor and City Clerk to execute a Telecommunication Network License and Encroachment Agreement with Mobilitie, LLC; and authorize the Real Property Manager to act on behalf of the City of Escondido as necessary to implement the Agreement.

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

RESOLUTION NO. 2018-151

6. **[HOMELESS EMERGENCY AID PROGRAM \(HEAP\) GRANT APPLICATION AND DECLARATION OF SHELTER CRISIS -](#)**

Request the City Council approve declaring a shelter crisis in the City of Escondido and authorize the Deputy City Manager or his designee to apply for Homeless Emergency Aid Program (HEAP) funds.

Staff Recommendation: **Approval (City Manager's Office: William L. Wolfe)**

RESOLUTION NO. 2018-153

7. **[LEASE AGREEMENT WITH DAVID CARR, TRUSTEE OF THE KATHLEEN DUQUE CARR INTER-VIVOS REVOCABLE TRUST, AT 1045 WEST MISSION AVENUE \(RECORDS CENTER\) -](#)**

Request the City Council approve authorizing the Real Property Manager and City Clerk to execute a Lease Agreement with David Carr, Trustee of the Kathleen Duque Carr Inter-Vivos Revocable Trust for records storage at 1045 West Mission Avenue.

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

RESOLUTION NO. 2018-157

8. LEASE AGREEMENT WITH STYLUTION USA, INC. (DBA WICKLINE BEDDING) AT 455 NORTH QUINCE STREET -

Request the City Council approve authorizing the Real Property Manager to execute, on behalf of the City of Escondido, a Lease Agreement with Stylution USA, Inc. (dba Wickline Bedding) for the property at 455 North Quince Street.

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

RESOLUTION NO. 2018-158

CONSENT – RESOLUTIONS AND ORDINANCES (COUNCIL/SUCCESSOR AGENCY/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/Successor Agency/RRB at a previous City Council/Successor Agency/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

9. MEMORANDUM OF UNDERSTANDING AND EXCLUSIVE NEGOTIATING AGREEMENT FOR THE POTENTIAL SALE OF 1600 WEST NINTH AVENUE (WINDSOR GARDENS) -

Request the City Council approve authorizing the Mayor and City Clerk to execute a Memorandum of Understanding with the Escondido Senior Housing Corporation and an Exclusive Negotiating Agreement with Community HousingWorks regarding the potential sale of Windsor Gardens.

Staff Recommendation: **Approval (City Manager's Office: Jay Petrek)**

RESOLUTION NO. 2018-163

FUTURE AGENDA

10. 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: Diane Halverson)**

COUNCIL MEMBERS SUBCOMMITTEE 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.

- [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
October 17	-	-	No Meeting	-
October 24	Wednesday	3:30 & 4:30 p.m.	Regular Meeting	Council Chambers
October 31	-	-	No Meeting	-
November 7	Wednesday	3:30 & 4:30 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
- In the Library (239 S. Kalmia) during regular business hours and
- Placed in the Council Chambers (See: City Clerk/Minutes Clerk) immediately before and during the Council meeting.

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

LIVE BROADCAST

Council meetings are broadcast live on Cox Cable Channel 19 and U-verse Channel 99 – Escondido Gov TV. They can also be viewed the following Sunday and Monday evenings at 6:00 p.m. on those same channels. The Council meetings are also available live via the Internet by accessing the City's website at www.escondido.org, and 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 3:30 in Closed Session and 4:30 in Open Session.
(Verify schedule with City Clerk's Office)**

**Members of the Council also sit as the Successor Agency to the CDC, 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.



AFFIDAVITS

OF

ITEM

POSTING



Consent Item No. 2

October 10, 2018

APPROVAL

OF

WARRANT REGISTER

CITY OF ESCONDIDO
September 19, 2018
3:30 P.M. Meeting Minutes
Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 3:30 p.m. on Wednesday, September 19, 2018 in the City Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE:

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

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

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

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

a. **Case Name:** City of Escondido v. Pacific Harmony Grove Development et al.
 Case No: 37-2016-00010237-CU-EI-NC

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

a. **Property:** 16625 Sun Energy Road, Valley Center, CA 92082, APNs 189-060-42 and 189-060-44
 City Negotiator: Jeffrey Epp, City Manager
 Negotiating Parties: Lianne C. Thompson Mueller and Harlan L. Thompson
 Under Negotiation: Price and Terms of Agreement

ITEM I. a. WAS REMOVED AND NOT DISCUSSED.

ADJOURNMENT

Mayor Abed adjourned the meeting at 3:45 p.m.

MAYOR

CITY CLERK

DEPUTY CITY CLERK

CITY OF ESCONDIDO
September 19, 2018
4:30 P.M. Meeting Minutes

Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 4:30 p.m. on Wednesday, September 19, 2018 in the City Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION

Vicki Stone led the Moment of Reflection.

FLAG SALUTE

Jordan Campbell and Nathan Walker from Troop 655 led the flag salute.

ATTENDANCE:

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

Also present were: Jeffrey Epp, City Manager; Michael R. McGuinness, City Attorney; Bill Martin, Director of Community Development; Julie Procopio, Director of Engineering Services; Diane Halverson, City Clerk; and Jennifer Ekblad, Deputy City Clerk.

PROCLAMATIONS

Jeff Murdock, Disaster and Emergency Preparedness Manager, accepted the proclamation for National Preparedness Month.

PRESENTATIONS

Badge Presentation to Captain Edward Varso

ORAL COMMUNICATIONS

Thomas Lopez, representative for Justice in Equity Coalition, invited the City Council to attend an event on October 14 at 2:00 p.m. at the Resurrection Catholic Church in Escondido.

Robert O’Sullivan, Escondido, shared an excerpt from a poem about Escondido and provided information regarding a book about poems and art in Escondido.

Gerda Govine Ituarte, Pasadena, shared a poem and invited the City Council to a poetry event.

CONSENT CALENDAR

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Diaz to approve all Consent Calendar items with the exception of item 8 and item 15. Motion carried unanimously.

- 1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**

2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
3. **APPROVAL OF MINUTES: A) Regular Meeting of August 15, 2018 B) Regular Meeting of August 22, 2018**

4. **WALMART FOUNDATION GRANT AWARD ACCEPTANCE AND BUDGET ADJUSTMENT -**
Request the City Council approve accepting \$1,900 in grant funding from the Walmart Foundation to purchase six new wildland fire shelters; authorize the Fire Chief or his designee to execute grant documents on behalf of the City; and authorize the necessary budget adjustment to establish a new project tracking number to track these grant funds. (File No. 0480-70)

Staff Recommendation: **Approval (Fire Department: Rick Vogt)**

5. **FISCAL YEAR 2018-19 STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY PEDESTRIAN AND BICYCLE SAFETY PROGRAM GRANT AND BUDGET ADJUSTMENT -**
Request the City Council approve authorizing the Escondido Police Department to accept Fiscal Year 2018-19 California Office of Traffic Safety (OTS) Pedestrian and Bicycle Safety Program Grant in the amount of \$25,000; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. (File No. 0480-70)

Staff Recommendation: **Approval (Police Department: Craig Carter)**

6. **FISCAL YEAR 2018-19 STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT AND BUDGET ADJUSTMENT -**
Request the City Council approve authorizing the Escondido Police Department to accept a Fiscal Year 2018-19 California Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP) Grant in the amount of \$410,000; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. (File No. 0480-70)

Staff Recommendation: **Approval (Police Department: Craig Carter)**

7. **ESCONDIDO TRACT SUB 15-0031 FINAL MAP, LOCATED AT 2319 CRANSTON DRIVE -**
Request the City Council approve the Final Map for Tract SUB 15-0031, a five lot subdivision located at 2319 Cranston Drive consisting of four single family residential lots and a single commercial lot being developed as a self-storage facility. (File No. 0800-10)

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

8. **DISPOSITION OF PROPERTY: 137-151 WEST VALLEY PARKWAY -**
Request the City Council approve authorizing the Real Property Manager and City Clerk to execute a purchase agreement and escrow documents necessary to complete the sale of 137-151 West Valley Parkway (APN 229-421-26) to Touchstone MF Fund I, LLC. (File No. 0690-20)

Staff Recommendation: **Approval (City Manager's Office: Jay Petrek)**

RESOLUTION NO. 2018-160

Deputy Mayor Masson abstained from this item and left the dais.

Jay Petrek, Assistant City Manager, presented the staff report utilizing a PowerPoint presentation.

Robert DePhilippis, Chula Vista, spoke in opposition to the proposed project and shared concerns about the impact to his business.

James Crone, Escondido, shared concerns regarding inadequate parking downtown.

Maria Bowman, Escondido, voiced her support for the proposed project.

Dan Forster, representative for the Escondido Downtown Business Association, shared concerns regarding inadequate parking downtown and spoke in opposition to the project unless adequate parking is provided.

David Ferguson, Escondido, representative for Touchstone Communities, shared that the agreement is consistent with other agreements.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Morasco to approve authorizing the Real Property Manager and City Clerk to execute a purchase agreement and escrow documents necessary to complete the sale of 137-151 West Valley Parkway (APN 229-421-26) to Touchstone MF Fund I, LLC and adopt Resolution No. 2018-160. Ayes: Abed, Gallo, and Morasco. Noes: Diaz. Abstain: Masson. Motion carried.

9. AMEND ENGINEERING AND TRAFFIC SURVEY (SPEED ZONE) ON BROADWAY -

Request the City Council approve amending an Engineering and Traffic Survey (Speed Zone) on Broadway between El Norte Parkway and Leslie Lane to be consistent with the existing speed limit on Broadway north of Leslie Lane. (File No. 1050-50)

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

RESOLUTION NO. 2018-144

10. AMEND THE CITY OF ESCONDIDO'S SCHEDULE OF STOP SIGNS AT VARIOUS LOCATIONS CITYWIDE -

Request the City Council approve amending the City's schedule of stop signs adding to the official inventory 30 stop signs that were previously approved and installed as part of five development projects and remove eight stop signs replaced by traffic signals. (File No. 1050-50)

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

RESOLUTION NO. 2018-145

11. ADOPTION OF A RESOLUTION DELEGATING FIDUCIARY DUTIES RELATED TO THE PLAN MANAGEMENT OF THE CITY OF ESCONDIDO EMPLOYEES' 401(K), 457(B), AND RETIREMENT HEALTH SAVINGS PLANS -

Request the City Council approve delegating fiduciary responsibility for plan management associated with the operation and maintenance of the City's deferred compensations plans to the Deputy City Manager/Administrative Services. (File No. 0720-40)

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

RESOLUTION NO. 2018-147

12. NOTICE OF COMPLETION: EMERGENCY REPAIR OF FIVE SECTIONS OF ESCONDIDO SEWER PIPELINE GENERALLY ALONG HALE AVENUE (HALE AVENUE UNDERPASS OF I-15, KIA DEALERSHIP PARKING LOT, SOUTH HALE AVENUE, CASA GRANDE MOBILE ESTATES, AND GREEN TREE MOBILE HOME ESTATES) -

Request the City Council approve authorizing the Director of Utilities to file a Notice of Completion for the Emergency Repair of the Five Sections of Escondido Sewer Pipeline generally along Hale Avenue. (File No. 0600-10 [A-3242])

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

RESOLUTION NO. 2018-148

13. LEASE AGREEMENT WITH GRUPO FUNERARIO SANTANA CORPORATION DBA FUNERARIA LA PAZ AT 240 SOUTH BROADWAY -

Request the City Council approve authorizing the Real Property Manager and the City Clerk to execute a Lease Agreement with Grupo Funerario Santana Corporation dba Funeraria La Paz for property located at 240 South Broadway for funeral services. (File No. 0600-10 [A-3263])

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

RESOLUTION NO. 2018-149

14. LEASE AGREEMENT WITH ESCONDIDO EDUCATION COMPACT FOR PROPERTY LOCATED AT 220, 228, AND 230 SOUTH BROADWAY -

Request the City Council approve authorizing the Real Property Manager and the City Clerk to execute a Lease Agreement with Escondido Education Compact for property located at 220, 228, and 230 South Broadway. (File No. 0600-10 [A-3264])

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

RESOLUTION NO. 2018-150

15. SET THE DATE OF OCTOBER 10, 2018 FOR A PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION OF NECESSITY AUTHORIZING THE CITY ATTORNEY TO INITIATE A CONDEMNATION PROCEEDING -

Request the City Council approve setting the date of October 10, 2018 for a Public Hearing to consider adoption of a Resolution of Necessity authorizing the City Attorney to initiate condemnation proceedings to acquire the property rights required across portions of San Diego County assessor's parcel numbers 189-060-42 and 189-060-44 for the construction of the San Pasqual Underground Canal Project. (File No. 0690-50)

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

RESOLUTION NO. 2018-152

Deputy Mayor Masson abstained from this item and left the dais.

MOTION: Moved by Councilmember Morasco and seconded by Councilmember Gallo to approve setting the date of October 10, 2018 for a Public Hearing to consider adoption of a Resolution of Necessity authorizing the City Attorney to initiate condemnation proceedings to acquire the property rights required across portions of San Diego County assessor's parcel numbers 189-060-42 and 189-060-44 for the construction of the San Pasqual Underground Canal Project and adopt Resolution No. 2018-152. Ayes: Abed, Diaz, Gallo, Morasco. Noes: None. Abstain: Masson. Motion carried.

CONSENT – RESOLUTIONS AND ORDINANCES (COUNCIL/SUCCESSOR AGENCY/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/Successor Agency/RRB at a previous City Council/Successor Agency/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

16. RECYCLED WATER EASTERLY MAIN AND TANKS PROJECT: BID AWARD, CONSULTING AGREEMENT, AND BUDGET ADJUSTMENT -

Request the City Council approve authorizing the Mayor and City Clerk to execute a Public Improvement Agreement with SC Valley Engineering, Inc., the lowest responsive and responsible bidder, in the amount of \$9,652,000 for construction of the Recycled Water Easterly Main and Tanks Project (also known as the Blended RO Line Project - Package 2A & 2B); authorize the Mayor and City Clerk to execute a Consulting Agreement with Valley Construction Management in the amount of \$623,988 for construction management services for the Recycled Water Easterly Main and Tanks Project (also known as the Blended RO Line Project - Package 2A & 2B); and approve a budget adjustment in the amount of \$2,808,038.52. (File No. 0600-10 [A-3248, A-3266])

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

A) RESOLUTION NO. 2018-100 B) RESOLUTION NO. 2018-116

Angela Morrow, Deputy Director of Utilities/Construction & Engineering, presented the staff report utilizing a PowerPoint presentation.

Patricia Borchmann, Escondido, shared concerns regarding budget adjustments, the scope and scale of the project, and the use of state revolving funds not benefitting low income citizens; spoke in opposition to the proposed project.

MOTION: Moved by Councilmember Gallo and seconded by Deputy Mayor Masson to approve authorizing the Mayor and City Clerk to execute a Public Improvement Agreement with SC Valley Engineering, Inc., the lowest responsive and responsible bidder, in the amount of \$9,652,000 for construction of the Recycled Water Easterly Main and Tanks Project (also known as the Blended RO Line Project - Package 2A & 2B); authorize the Mayor and City Clerk to execute a Consulting Agreement with Valley Construction Management in the amount of \$623,988 for construction management services for the Recycled Water Easterly Main and Tanks Project (also known as the Blended RO Line Project - Package 2A & 2B); and approve a budget adjustment in the amount of \$2,808,038.52 and adopt Resolution No. 2018-100 and Resolution No. 2018-116. Motion carried unanimously.

17. BUDGET ADJUSTMENT AND LOAN TO THE CALIFORNIA CENTER FOR THE ARTS, ESCONDIDO -

Request the City Council approve a budget adjustment to facilitate a \$261,500 loan from the City's Public Facilities Fund to the California Center for the Arts, Escondido (CCAЕ) for financing a new sound system in the CCAЕ Concert Hall. (File No. 0910-10)

Staff Recommendation: **Approval (City Manager's Office: Jay Petrek)**

RESOLUTION NO. 2018-146

Jay Petrek, Assistant City Manager, presented the staff report utilizing a PowerPoint presentation.

MOTION: Moved by Councilmember Gallo and seconded by Deputy Mayor Masson to approve a budget adjustment to facilitate a \$261,500 loan from the City's Public Facilities Fund to the California Center for the Arts, Escondido (CCAЕ) for financing a new sound system in the CCAЕ Concert Hall and adopt Resolution No. 2018-146. Motion carried unanimously.

FUTURE AGENDA

18. 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: Diane Halverson)**

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

Councilmember Diaz attended the High School/Elementary School Districts Council Subcommittee meeting and reported discussing partnerships to provide an aquatic center.

Councilmember Morasco attended the High School/Elementary School Districts Subcommittee meeting; shared the California Center for the Arts, Escondido 2018-2019 season program is available; Regional Solid Waste Association is increasing annual donation for city projects to \$7000.

Mayor Abed reported SANDAG hired an Executive Director, Hasan Ikhata; Escondido tied for grant funding for Smart Growth, and shared slides regarding projected growth and existing housing stock.

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.

- **WEEKLY ACTIVITY REPORT**

ORAL COMMUNICATIONS

Patricia Borchmann, Escondido, shared appreciation for the Future Agenda calendar on the agenda and suggested a public workshop regarding placement of items on the Consent Calendar.

ADJOURNMENT

Mayor Abed adjourned the meeting at 6:16 p.m.

MAYOR

CITY CLERK

DEPUTY CITY CLERK



CITY COUNCIL STAFF REPORT

Consent Item No. 4

October 10, 2018

File No. 0600-10, A-3260

SUBJECT: Consulting Agreement with EsGil, LLC for the Continuation of Building Plan Check and Inspection Services

DEPARTMENT: Community Development Department, Building Division

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2018-134 approving a new Consulting Agreement with EsGil, LLC in an amount not to exceed \$165,000 to continue providing professional building plan check and inspection services as a contracted extension of staff.

FISCAL ANALYSIS:

Fees collected from permit applicants at the time of building permit issuance pay for these services. This is a cost recovery service that is funded by building permit applicants and will have no impact on the General Fund.

BACKGROUND:

The City has successfully contracted with EsGil for building plan check services for over 25 years. Past contract amounts were always within City Manager thresholds, including the last contract for \$75,000 in 2014. Increased numbers of permit applications combined with the elimination of a plan checker position several years ago now require a contractual amount that exceeds the \$100,000 threshold thus requiring City Council approval.

The Building Division solicited three bids for these services in May of 2018. EsGil, LLC and Bureau Veritas North America, Inc. were the only two firms that responded with proposals and costs for the provision of requested services. The two proposals were similar in the range of services that could be provided. Hourly rates for the different task classifications were fairly even as well with each firm alternating being slightly lower or higher through the various classifications. Upon review of the solicited information and evaluation of our current relationship with EsGil, the Building Division determined EsGil, LLC represents the best choice to continue providing these extension of staff services for our building customers.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Bill Martin, Director of Community Development
10/3/2018 12:51 p.m.

Tim Draper, Building Official
10/3/2018 1:59 p.m.

ATTACHMENTS:

1. Resolution No. 2018-134
2. Resolution No. 2018-134 – Exhibit A

RESOLUTION NO. 2018-134

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 ESGIL, LLC TO PROVIDE CONTRACT BUILDING PLAN CHECK AND INSPECTION SERVICES

WHEREAS, it has been determined to be in the City's best interest to retain the professional services of a consultant firm to provide comprehensive Building Division plan check and inspection services for construction projects on properties located in the City of Escondido; and

WHEREAS, the City of Escondido has contracted for building plan check services for over 25 years and on July 1, 2014, the City Manager, approved and signed a consulting agreement with EsGil Corporation for the sum of \$75,000 to continue providing professional plan check and inspection services; and

WHEREAS, increased numbers of permit applications combined with a reduction in Building Division staffing necessitates an increase in the volume of plans outsourced for plan check with a commensurate need to increase the contract for said services; and

WHEREAS, fees collected from permit applicants at the time of building permit issuance pay for these cost recovery services and there is no impact on the City's General Fund; and

WHEREAS, the Building Division solicited bids for plan check and inspection services in May of 2018, and EsGil, LLC and Bureau Veritas North America, Inc. were

the only two firms that responded with proposals and costs for the provision of the requested services; and

WHEREAS, upon review of the solicited information, the Building Division determined EsGil, LLC represents the best choice to continue providing contract plan check and inspection services for the City's building customers; and

WHEREAS, the Director of Community Development recommends the execution of a Consulting Agreement with EsGil, LLC in an amount not to exceed \$165,000 for the continuation of contract plan check and inspection services; and

WHEREAS, the City Council desires at this time and deems it to be in the best public interest to approve said Consulting Agreement with EsGil, LLC attached as Exhibit "A" for contract plan check and inspection services, in accordance with the Scope of Work identified as Attachment "A" to Exhibit "A."

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 of the Director of Community Development.
3. That the Mayor and City Clerk are authorized to execute, on behalf of the City, a Consulting Agreement with EsGil, LLC in the amount not-to-exceed \$165,000 for contract plan check and inspection services. A copy of the Consulting Agreement is attached as Exhibit "A" and is incorporated herein by this reference as though fully set forth.



CITY OF ESCONDIDO
CONSULTING AGREEMENT

This Agreement is made this _____ day of _____, 2018.

Between: CITY OF ESCONDIDO
a Municipal Corporation
201 N. Broadway
Escondido, California 92025
Attn: Tim Draper, Building Official
760-839-6372
("CITY")

And: EsGil, LLC
9320 Chesapeake Drive, Suite 208
San Diego, CA 92123
[Attn: Joe Arbios, Business Development Representative
916-216-0428
("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 comprehensive Building Division plan check and inspection services for construction projects on properties located in the City of Escondido; 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 a sum not to exceed \$165,000. 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: _____

Sam Abed
Mayor

Date: _____

Diane Halverson
City Clerk

EsGil, LLC

Date: _____

Thomas P. Wilkas, CFO
EsGil, LLC

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"

ESGIL, LLC Scope of Work and Compensation

Plan Review and Inspection Services

1. Perform traditional preliminary plan review consultations in CONSULTANT'S main office by meetings or by telephone.
2. Perform traditional plan review of submitted plans to determine compliance with CITY adopted:
 - Title 24
 - Building Code
 - Plumbing Code
 - Mechanical Code
 - Electrical Code
 - Energy Conservation and Disabled Access
 - Cal Green Code (Additional Fee)
3. Provide applicant's designee and the CITY a keyboarded list of items needing clarification or change to achieve conformance with the above regulations.
4. Perform all necessary liaison with the applicant's designee, by telephone, fax, email, mail or meeting in CONSULTANT'S main office, and perform all necessary rechecks to achieve conformance with regulations.
5. Perform all necessary liaison with the Building Official or his designee, by mail, telephone, email, fax, or in CONSULTANT'S main office regarding any discretionary code issues.
6. Perform plan reviews of revisions to plans that have previously been approved for permit issuance.
7. Perform extra work when requested in writing by the Building Official or his designee.
8. Perform expedited pan checks (additional fee) when requested.
9. Attend meetings related to proposed building projects at the request of the Building Official at locations other than the CONSULTANT'S office.
10. On a temporary, as needed basis, provide a qualified inspector for assigned projects. Compensation to be provided on an hourly (\$93.00/hr.) or "fixed fee" basis mutually agreed upon by CITY and CONSULTANT. CONSULTANT inspectors are not limited to projects that have been plan checked by CONSULTANT.

Cost Proposal

EsGil's pricing is tailored to each municipal contract. We work with each individual community to establish quality rates for the services we provide. Our fee is all-inclusive of overhead and transportation of materials.

a. Hourly Rates

Hourly Rates by Classification*	
Personnel	Hourly Rate
Supervising Structural Engineer	\$ 145.00 per hour
Structural Engineer	\$ 130.00 per hour
Civil Engineer	\$ 112.00 per hour
Electrical Engineer	\$ 112.00 per hour
Mechanical Engineer	\$ 112.00 per hour
ICC Plans Examiner	\$ 96.00 per hour
ICC Building Inspector	\$ 93.00 per hour
Certified Accessibility Specialist	\$ 130.00 per hour
Plans Examiner	\$ 96.00 per hour
Senior Plans Examiner	\$ 112.00 per hour
Plan Check Engineer	\$ 112.00 per hour

*Hourly rates are good for 24 months and will increase by 4 percent every 24 months moving forward.

b. Percentage of Fee

Compensation for plan check services is structured as follows:

- ✓ EsGil plan review fee is 50 percent of the fees in the following table.
- ✓ The valuation multipliers used for fee calculation will be actual contract bid, the architects' estimate or based on those valuation multipliers by ICC as agreed to by the City.
- ✓ Compensation for structural-only plan reviews is reduced to 35 percent of the fees in the table.
- ✓ The single fee includes all rechecks, plan check conferences at our office, review of plans initially found to be incomplete, and transportation of materials.
- ✓ For repeat buildings, the fee is 10 percent of the fees in the table.
- ✓ The charge for expedited plan check is an additional 50 percent of the fees in the table below.

Fee Schedule

Total Valuation	Fee
\$1.00 to \$500.000	\$ 23.50
\$501.00 to \$2,000.00	\$ 23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$ 69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$993.75 for the first \$100,000.00 plus \$5.60 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.15 for each additional \$1,000.00, or fraction thereof

Attachment "B"

STAFF QUALIFICATIONS

PLAN REVIEWERS

KURT CULVER, S.E., CASp
Civil & Structural Engineer
Years with EsGil: 34

- 39 Years building inspection department experience
- B.S. Degree in Civil Engineering from San Diego University
- Former Plan Review Civil and Structural Engineer for San Diego City Building Inspection Department
- I.C.C. Certified Building Official
- I.C.C. Certified Building Plans Examiner
- State Certified California Access Specialist (CASp-539)
- Nevada PE/SE# 9272
- California SE# S3242
- California CE# C34525

GLEN ADAMEK
Mechanical Engineer, BSME
Years with EsGil: 34

- 42 Years building inspection department experience
- Former Building Inspector Plan Review Engineer, San Diego County Building Inspection Department
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified Building Inspector
- I.C.C. Certified Mechanical Inspector
- U.P.C. Certified Plumbing Inspector
- CBCI Certified Energy Plans Examiner; Residential and Non-Residential

DWIGHT ASHMAN, E.I.T.
Plans Examiner
Years with EsGil: 4

- 4 Years plan review experience
- B.S. Degree in Civil Engineering from San Diego University
- I.C.C. Certified Building Plans Examiner
- California EIT #153985

MORTEZA BEHESHTI, P.E.
Electrical Engineer
Years with EsGil: 16

- 35 years plan review experience
- B.S. Degree in Electrical and Computer Engineering from San Diego State University
- Former Associate Electrical Engineer for San Diego City Building Inspection Department
- 8 years electrical inspection experience
- 10 years electrical design experience
- 5 years San Diego State University, Construction Engineering Instructor
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified Electrical Inspector
- C.A.B.E.C. Certified Energy Analyst
- California PE# E16211

ABE DOLIENTE, P.E.
Civil Engineer
Years with EsGil: 26

- 30 Years building inspection department experience
- B.S. Degree in Civil Engineering from the Technological Institute of the Philippines
- Former Senior Structural Engineer in San Diego County Building Inspection Plan Review Division
- 6 Years private sector design experience
- I.C.C. Certified Building Plans Examiner
- California CE# 24660 (retired)

BERT DOMINGO, P.E.

Civil Engineer
Years with EsGil: 12

- 19 years building inspection department experience
- B.S. Degree in Civil Engineering from Mapua Institute of Technology
- Former Plan Review Engineer for San Diego County Building Inspection Plan Review Division
- 17 years private sector engineering experience
- I.C.C. Certified Building Plans Examiner
- California CE #29118

KAT FANKOWSKI

Plans Examiner
Years with EsGil: 1

- 1 year plan review experience
- B.S. Degree in Civil Engineering from San Diego State University

TAMARA FISCHER, P.E.

Civil Engineer
Years with EsGil: 8

- 9 Years plan review experience
- B.S. Degree in Civil Engineering from California Polytechnic State University, San Luis Obispo
- I.C.C. Certified Building Plans Examiner
- California CE# 53230

ERIC JENSEN

Plans Examiner
Years with EsGil: 22

- 29 Years building department experience
- Former Chief Electrical Inspector, County of San Diego
- 28 Years Palomar College, Electrical Code Instructor
- 10 Years Foreman Electrician
- B.S. Degree San Diego State University
- L.E.E.D., Green Associate Certified
- C.A.B.E.C. Certified Energy Analyst

DOUG MOODY, C.B.O., CASp

Plans Examiner
Years with EsGil: 18

- 18 Years Plan Review experience
- 19 Years private sector construction experience
- I.C.C. Certified Building Official
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified Building Inspector
- I.C.C. Certified Combination Inspector
- I.C.C. Certified Mechanical Inspector
- I.C.C. Certified Electrical Inspector
- I.C.C. Certified Plumbing Inspector
- I.C.C. Certified Fire Plans Examiner
- State Certified California Access Specialist (CASp-042)

RICHARD MORENO

Plans Examiner
Years with EsGil: 2

- 2 years plan review experience
- B.S. Degree in Civil Engineering from San Diego State University

RYAN MURPHY
Plans Examiner
Years with EsGil: 1

- 1 years building department experience
- 3 years building industry experience
- Civil Engineering Student at San Diego State University

JASON PASIUT, C.B.O.
Plans Examiner
Years with EsGil: 4

- 18 years building inspection department experience
- Masters Degree in Public Administration; concentration in City Planning from San Diego State University
- Retired US Army Reserve Construction Engineering Supervisor
- I.C.C. Certified Building Official
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified Residential Plans Examiner
- I.C.C. Certified Accessibility Inspector / Plans Examiner
- I.C.C. Certified Building Inspector
- I.C.C. Certified Mechanical Inspector UMC
- I.C.C. Certified Commercial Electrical Inspector
- I.C.C. Certified Plumbing Inspector UPC
- I.C.C. Certified Residential Fire Sprinkler Inspector / Plans Examiner
- I.C.C. Certified Fire Inspector I & II
- I.C.C. Certified Structural Masonry Special Inspector
- Safety Assessment Program (SAP) Evaluator

CONNOR REUSS
Plans Examiner
Years with EsGil: 6 months

- 6 months plan review experience
- B.S. Degree in Mechanical Engineering from University of San Diego
- L.E.E.D., Green Associate Certified

ALI SADRE, P.E., S.E.
Civil & Structural Engineer
Years with EsGil: 32

- 32 Years plan review experience, former Plan Review Engineer for San Diego City Building Inspection Department
- Master's Degree in Structural Engineering form Georgia Tech
- Former Plan Review Engineer for San Diego City Building Inspection Department
- Former Chair of the Structural Engineers Assoc. of Ca (SEAOC) Seismology Committee; President of Structural Engineers Assoc. of San Diego (SEAOSD) 2009-2010; Ca Seismic Safety Commission Member 2007-2011; SEAOC Board Member 2007-2011; Ca Hospital Seismic Safety Board (HSSB); Strong Motion Instrumentation Program (SMIP); City of San Diego Board of Appeals Chairman 2007-2014
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified Building Inspector
- I.C.C. Certified Residential Combination Inspector
- California SE# S3715
- California PE# C42877

CHRIS SHAVER
Plans Examiner
Years with EsGil: 6 months

JAVIER SNIDER
Plans Examiner
Years with EsGil: 6 months

DAVID YAO, P.E.
Civil Engineer
Years with EsGil: 31

- 6 months plan review experience
- B.S. Degree in Civil Engineering from San Diego State University
- 6 months plan review experience
- B.S. Degree in Civil Engineering from San Diego State University
- 36 Years building inspection plan review experience
- Master's Degree in Civil Engineering from Brigham Young University
- Former Plan Review Engineer for the County of Salt Lake, Utah
- 7 Years of private sector design experience
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified Building Inspector
- I.C.C. Certified Fire Inspector II
- I.C.C. Structural Masonry Special Inspector
- California PE# C35702

STAFF QUALIFICATIONS

INSPECTORS

WILLIAM ELIZARRARAS

Operations Manager
Years with EsGil: 20

- 30 years building department experience
- Former Plans Examiner for San Diego County Building Department
- 10 years private sector construction experience
- I.C.C. Certified California Residential Building Inspector
- I.C.C. Certified California Residential Mechanical Inspector
- I.C.C. Certified California Residential Plumbing Inspector

JAMES BEEBE

Building Inspector
Years with EsGil: 6 months

- 28 years building & fire service experience
- I.C.C. Certified Building Plans Examiner
- I.C.C. Accessibility Inspector / Plans Examiner
- I.C.C. Certified Residential Combination Inspector
- I.C.C. Certified Fire Inspector II

GORDON DAY

Building Inspector
Years with EsGil: 2

- 19 years building inspection department experience
- 45 years building industry experience
- 2 Former Building Project Manager for the City of Chula Vista
- 6 years Southwestern College, Electrical Code and Blue Print Reading Instructor
- 2 years San Diego Electrical Training Institute, Code Instructor
- 35 years experience as an electrical contractor
- A.S. Degree in Construction Inspection
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified Building Inspector
- I.C.C. Certified Combination Inspector
- I.C.C. Certified Combination Inspector - Legacy
- I.C.C. Certified Mechanical Inspector
- I.C.C. Certified Mechanical Inspector UMC
- I.C.C. Certified Electrical Inspector
- I.C.C. Certified Plumbing Inspector
- I.C.C. Certified Plumbing Inspector UPC
- I.C.C. Certified Structural Masonry Special Inspector

OSCAR HERRERA

Building Inspector
Years with EsGil: 1

- 1 years building department experience
- 14 years building industry experience
- 9 years experience as a general contractor
- I.C.C. Certified Residential Building Inspector
- I.C.C. Certified Residential Mechanical Inspector
- I.C.C. Certified Residential Plumbing Inspector

TRISH JOHNSON
Building Inspector
Years with EsGil: 29

- 28 years building department experience
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified California Building Plans Examiner
- I.C.C. Accessibility Inspector / Plans Examiner
- I.C.C. Certified California Commercial Building Inspector
- I.C.C. Certified California Residential Building Inspector
- I.C.C. Certified Building Inspector
- I.C.C. Certified Mechanical Inspector UMC
- I.C.C. Certified Plumbing Inspector UPC
- I.C.C. / A.A.C.E. Certified Zoning Inspector
- I.C.C. Certified Permit Technician

JOHN MILDBRANDT
Building Inspector
Years with EsGil: 6

- 19 years building department experience
- B.S. Degree in Business Administration from San Diego State University
- I.C.C. Certified Combination Dwelling Inspector
- I.C.C. Certified Fire Inspector I
- Cal EMA Safety Assessment Program Evaluator

ELETTE NASH
Building Inspector
Years with EsGil: 12

- 33 years building department experience
- 23 years building inspection experience
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified Building Inspector
- I.C.C. Certified Residential Combination Inspector
- I.C.C. Certified Fire Inspector I & II

STACEY SAPP
Building Inspector
Years with EsGil: 7

- 8 years building inspection department experience
- 14 years building and construction experience
- 10 years permit specialist experience
- I.C.C. Certified Commercial Building Inspector
- I.C.C. Certified Residential Building Inspector

JOE SOLIS
Building Inspector
Years with EsGil: 1

- 1 year building inspection department experience
- 6 years construction experience as a Sr. Maintenance Technician
- 5 years home inspection experience
- 4 years solar project management and inspection coordination experience
- I.C.C. Certified Residential Building Inspector

ROB STEPHENS
Building Inspector
Years with EsGil: 2

- 2 years building inspection department experience
- 17 years experience as a Journeyman / Foreman Electrician
- 8 years experience as an electrical contractor
- 2 years experience as a Solar PV Quality Assurance / Quality Control Inspector
- I.C.C. Certified Commercial Building Inspector
- I.C.C. Certified Residential Building Inspector
- I.C.C. Certified California Commercial Electrical Inspector
- I.C.C. Certified Fire Inspector I
- HAZMAT First Responder
- OSHA 30 Certified

STEVE STINGL
Building Inspector
Years with EsGil: 6 months

- 29 years building inspection department experience
- 21 years building inspection supervisor experience
- Former Building Inspection Manager at the City of Chula Vista
- A.S. Degree in Construction Inspection
- I.C.C. Certified Building Plans Examiner
- I.C.C. Certified Building Inspector
- I.C.C. Certified Combination Inspector
- I.C.C. Certified Combination Inspector - Legacy
- I.C.C. Certified Combination Dwelling Inspector
- I.C.C. Certified Residential Combination Inspector
- I.C.C. Certified Mechanical Inspector
- I.C.C. Certified Mechanical Inspector - UMC
- I.C.C. Certified Electrical Inspector
- I.C.C. Certified Plumbing Inspector
- I.C.C. Certified Plumbing Inspector - UPC

MONTY WENTZEL
Building Inspector
Years with EsGil: 1

- 41 years building industry experience
- 19 years experience as a general building contractor
- 4 years lead construction expert experience in defect litigation
- I.C.C. Certified Building Inspector
- I.C.C. Certified California Commercial Building Inspector
- I.C.C. Certified California Residential Building Inspector
- OSHA 30 Certified
- OSHA 10 Certified



CITY COUNCIL STAFF REPORT

Consent Item No. 5

October 10, 2018

File No. 0600-10, A-3265

SUBJECT: Telecommunication Network License and Encroachment Agreement with Mobilitie, LLC

DEPARTMENT: Engineering Services Department

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2018-151, authorizing the Mayor and the City Clerk to execute a Telecommunication Network License and Encroachment Agreement (Agreement) with Mobilitie, LLC; and authorize the Real Property Manager to act on behalf of the City of Escondido (City) as necessary to implement the Agreement.

FISCAL ANALYSIS:

The City will receive a fee of \$1,650 per year for each municipal facility used within the City's right-of-way, subject to an increase of not less than three percent, based on the most recently published consumer price index. Initially, Mobilitie intends to install eight (8) small cell-site facilities on locations within the City's right-of-way, however additional locations are anticipated. The initial rental revenue, in the amount of \$13,200 per year, will be deposited into the General Fund.

The City will also recover a one-time \$8,000 administrative fee to cover the City's costs of the initial administration of the agreement. Mobilitie will also pay the normal published encroachment and planning related permitting fees for processing of permit applications.

PREVIOUS ACTION:

On June 14, 2017, the City Council adopted Ordinance No. 2017-10R, which amended Article 34 (Communication Antennas) of the Escondido Zoning Code, with modifications to the regulations for wireless facilities within the right-of-way, developing a flexible framework for streamlining project review while balancing the expectations of community compatibility and community involvement. The Ordinance provides general development and operating standards for all wireless service facilities.

BACKGROUND:

Mobilitie desires to provide enhanced wireless communication services within the City by installing small cell facilities on City infrastructure in order to meet the needs of their customers, particularly with respect to data capacity and speed. Mobilitie operates as a broker of telecommunication facilities and enters into agreements to sublease their facilities to various telecommunication carriers.

A small cell-site facility installation consists of low power antennas that are connected by fiber optic lines to the carrier's hubs. Small cell facilities distribute wireless network coverage, providing for more efficient management of wireless cellular telephone and data capacity in heavily trafficked areas. Small cell sites have the ability to provide more consistent and enhanced wireless coverage to

customers in both indoor and outdoor areas where geographic or other limitations might otherwise prevent more traditional cell tower installation.

Under the Telecommunication Network License and Encroachment Agreement, prior to the installation of any equipment, Mobilitie must obtain land use approvals and permits, in accordance with the City's Communication Antennas Ordinance. Several sites are being considered in the initial application, which will be evaluated through the land-use entitlement process. Those that meet the City's requirements can be approved administratively and those that do not, will need to follow the minor CUP process.

Each new location will constitute an amendment to the Agreement. Mobilitie will identify the proposed location within the right-of-way and indicate the small cell-site equipment to be installed prior to installation. The City reserves its right to require the relocation, modification or removal of any facility that may be required for any governmental purpose.

City staff compiled data from various cities that have negotiated agreements with providers and used this information during negotiations with Mobilitie to ensure the City is getting competitive rates. The Agreement is effective for a period of ten (10) years and is renewable upon mutual written agreement of the City and Mobilitie. The annual fee for each City facility used is \$1,650, subject to an annual increase that is based on the most recently published Consumer Price Index, which shall not be less than three percent.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Julie Procopio, Director of Engineering Services
10/3/2018 2:33 p.m.

ATTACHMENTS:

1. Resolution No. 2018-151
2. Resolution No. 2018-151 – Exhibit A – Lease Agreement

RESOLUTION NO. 2018-151

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
TELECOMMUNICATION NETWORK LICENSE
AND ENCROACHMENT AGREEMENT WITH
MOBILITIE, LLC

WHEREAS, the City of Escondido (“City”) desires to approve a Telecommunication Network License and Encroachment Agreement (“Agreement”) with Mobilitie, LLC to encroach upon and occupy a portion of the public right-of-way to construct, install, operate and maintain small cell-site facilities; and

WHEREAS, the City authorizes Mobilitie to attach their facilities to certain municipal facility locations that will be added to the Agreement as a Site Addendum; and

WHEREAS, the City desires to approve the Agreement with Mobilitie for use of the municipal facilities over the next ten years; and

WHEREAS, the annual fee for each City facility used is \$1,650, subject to an annual increase that is based on the Consumer Price Index – All Urban Consumers for the San Diego MSA, which shall not be less than three percent; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve of the Telecommunication Network License and Encroachment Agreement with Mobilitie, LLC.

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

1. That the above recitations are true.
2. The Mayor and City Clerk are authorized to execute, on behalf of the City, the Telecommunication Network License and Encroachment Agreement with Mobilitie, LLC, which is attached hereto as Exhibit "A" and is incorporated by this reference, and as approved by the City Attorney in substantially similar form.
3. That the City Manager, or designee, shall be authorized to act on behalf of the City as necessary to implement the Agreement.



TELECOMMUNICATION NETWORK LICENSE AND ENCROACHMENT AGREEMENT

Licensee: Mobilitie, LLC a Nevada limited
liability company

Term: Ten Years

Premises: As supplemented by Site Addendums

Date: _____, 2018

Exhibit A: Licensee Facility

Exhibit B: Network Plan

Exhibit C: Site Addendum For

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CITY OF ESCONDIDO
TELECOMMUNICATION NETWORK
LICENSE AND ENCROACHMENT AGREEMENT

This License and Encroachment Agreement (“Agreement”) is entered into this _____ day of _____, 2018, by and between the **City of Escondido**, a California municipal corporation and Mobilitie, LLC, a Nevada limited liability company (“Licensee”) (collectively, the “Parties”). The effective date shall be the date this Agreement is executed by both Parties (the “Effective Date”).

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following covenants, terms, and conditions:

Section 1 Definition of Terms

The following definitions shall apply generally to the provisions of this Agreement:

- 1.1 **Annual Fee.** “Annual Fee” means the fees charged on a monthly basis as provided in Section 8.3.
- 1.2 **City.** “City” means the City of Escondido.
- 1.3 **Fee.** “Fee” means any assessment, license, charge, fee, imposition, tax, or levy of general application to entities doing business in the City lawfully imposed by any governmental body.
- 1.4 **Laws.** “Laws” means any and all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, administrative orders, certificates, orders, or other requirements of the City or other governmental agency having joint or several jurisdictions over the Parties to this Agreement.
- 1.5 **Licensee’s Facilities.** Only the installation design configurations of Licensee’s Facilities that are shown in the drawings and photographs attached hereto as Exhibit A and incorporated herein by reference may be used on City Municipal Facilities. Any Licensee Facility installation or configuration not contained within Exhibit A, or that the City determines is not substantially similar, must receive written City approval before it may be used on any City Municipal Facility or placed on or in the Public Rights-of-Way.
- 1.6 **Municipal Facilities.** “Municipal Facilities” means City-owned Streetlight Poles, lighting fixtures, electroliers, or comparable facility located within the Public Right of Way and may refer to such facilities in the singular or plural, as appropriate to the context in which used.
- 1.7 **Network Plan.** “Network Plan” means the Licensee’s proposed locations as attached in Exhibit B, and amended by any Site Addendums.

- 1.8 **Licensee.** “Licensee” means Mobilitie, LLC, a Nevada limited liability company, a limited liability company duly organized and existing under the laws of the State of Nevada, and its lawful successors, assigns, and transferees.
- 1.9 **Permit Fee.** “Permit Fee” means the fees charged for permitting the encroachment in the City’s right of way and the permitting by the City’s planning department.
- 1.10 **Public Way, Right-of-Way, or Public Rights-of-Way.** “Public Way,” “Right-of-Way, or “Public Rights-of-Way” means the space in, upon, above, along, across, and over the public streets, roads, lanes, courts, ways, alleys, boulevards, and places, including all public utility easements and public service easements as the same now or may hereafter exist, that are under the jurisdiction of the City. This term shall not include any other property owned by the City or any property owned by any person or entity (e.g. county, state, or federal rights-of-way) other than the City, except as provided by applicable Laws or pursuant to an agreement between the City and any such person or entity.
- 1.11 **PUC.** “PUC” means the California Public Utilities Commission.
- 1.12 **Related Entity.** “Related Entity” means another entity where the Licensee owns 51% of the stock or other membership interest.
- 1.13 **Site.** “Site” means a location added to this Agreement by a Site Addendum.
- 1.14 **Site Addendum.** “Site Addendum” means an agreement for a particular site, or group of sites, licensed to the Licensee, which will be added as an addendum to this Agreement in substantially the same form as Exhibit C.
- 1.15 **Streetlight Pole.** “Streetlight Pole” shall mean any standard-design concrete, fiberglass, or metal pole that has a mast arm for electrolier support and is used for street lighting purposes. A Streetlight Pole may need to incorporate artistic design elements not typically found in standard steel or aluminum streetlight poles. The design of all Streetlight Pole that will become a Municipal Facility must be approved by the City in writing.
- 1.16 **Term.** “Term” shall mean the term of this Agreement in accordance with Section 3.

Section 2 Premises and Use

Subject to the terms and conditions contained herein, the City hereby authorizes Licensee to attach Licensee’s Facilities to certain Municipal Facility locations as will be added to this Agreement as a Site Addendum. Further, the City authorizes Licensee to encroach upon and occupy a portion of the Public Rights-of-Way for the limited purpose of constructing, installing, operating and maintaining Licensee’s Facilities.

Section 3 Term

This Agreement shall be effective for a period of ten (10) years from the Effective Date,

renewable upon mutual written consent of the Parties.

Section 4 Equipment

- 4.1 The Parties agree that Exhibit A represents a good-faith representation of the equipment that Licensee plans to attach to Municipal Facilities, that such design configurations and specifications may be attached to Municipal Facilities.
- 4.2 Licensee shall present plans for each Site added by a Site Addendum to this Agreement for the City's approval prior to installation.

Section 5 Location

- 5.1 City shall process all locations to be added as Sites pursuant to Site Addendums as a single Right-of-Way encroachment permit or other mutually agreeable process, so long as it complies with the terms and conditions of this Agreement. Licensee shall not submit or have more than ten (10) applications outstanding at any one time to allow the City time for processing. In addition to the City permitting process, Licensee agrees to seek any and all additional local, state and federal approvals that may be required for its deployments including, but not limited to the City's Zoning Code.
- 5.2 For Licensee's initial deployment, City shall make available to Licensee approximately eight (8) locations within the City's Right-of-Way for the placement of Licensee's Facilities, substantially in the locations described in the Network Plan. The use of any particular Municipal Facility Right-of-Way structure, comparable facility, or pole shall be subject to the City Engineer's discretion and approval in advance of the placement of the Licensee Facilities. City may make available additional Sites at the City's sole discretion. Any additional Sites or locations proposed by Licensee during the Term of this Agreement must be made in accordance with this Agreement.

Section 6 Improvements

Where requested by the City, Licensee shall install a vertical light standard at each location to provide illumination and to be used for Licensee's Facilities. If the proposed site has an existing City pole that is structurally sound and in accordance with the City's design for that particular area, then Licensee may utilize the existing pole with the City's written approval. Licensee shall replace any existing light fixture with a low energy use LED light per City standards, unless a separate source of power is provided to the Licensee's Facilities. After completion of construction, the City will own the street light standard and related equipment which will become a Municipal Facility. Licensee will continue to own Licensee's Facilities.

Section 7 Scope of Agreement

- 7.1 Licensee hereby acknowledges, agrees and covenants that this Agreement only allows for the occupation of the Right of Way and Municipal Facilities by Licensee's Facilities identified in each Site Addendum to this Agreement and does

not authorize or bestow any interest in real property including any fee, leasehold interest or easement.

- 7.2 Nothing in this Agreement is intended to create an interest or estate of any kind or extent in the property or premises. Licensee further acknowledges and agrees that this Agreement does not create a landlord-tenant relationship and Licensee is not entitled to avail itself of any rights afforded to tenants under the laws of the State of California.
- 7.3 City makes no warranty or representation that the premises are suitable for Licensee's use. Licensee has inspected the premises and accepts the same "AS IS". City is under no obligation to perform any work or provide any materials to prepare the premises for Licensee.

Section 8 Compensation and Fees

- 8.1 **Encroachment Permit Fee.** Licensee shall pay the normal published encroachment, planning, encroachment agreement/inspection and other planning related permitting fees for the processing of Licensee's permit applications ("Permit Fee").
- 8.2 **Administration Fee.** Licensee will pay the City a one-time fee of eight thousand dollars (\$8,000) for the costs of the initial administration of this Agreement.
- 8.3 **Compensation for Administration and Use of City Infrastructure.** Licensee will compensate City for the costs of the administration of this Agreement and use of Municipal Facilities a fee of One Thousand Six Hundred Fifty Dollars (\$1,650.00) per Annum (the "Annual Fee") for each Municipal Facility within the City's Right-of-Way used by Licensee. The annual fee shall be due and payable on each anniversary of the Effective Date; provided, however, the initial Annual Fee for each Site shall be due and payable upon the City's final approval of the applicable Site Addendum and prorated accordingly.
- 8.4 **Minimum Annual Fee Adjustment Date.** The Annual Fee will be adjusted annually on the anniversary of the Effective Date by the percentage annual increase in the most recently published Consumer Price Index – All Urban Consumers for the San Diego Metropolitan Statistical Area. This increase shall not be less than three percent (3%).
- 8.5 **Delinquent Payment.** Payments not received within five days of the due dates shall accrue interest at a rate of five percent (5%) per annum from the due date. In addition, a late fee in the amount of five percent (5%) of the amount due shall be imposed in the event a payment is not received within thirty (30) days of the due date. Notwithstanding the provisions of this Section, failure to make payments when they are due is considered a default of the terms of the Agreement. Licensee assumes all risk of loss and responsibility for delinquent payments.
- 8.6 **Payment Location.** Licensee agrees to make checks payable to the City of Escondido and delivered to: City of Escondido City Treasurer, City Hall, Second

Floor 201 North Broadway, Escondido, CA 92025 The City reserves the right to change the place and time of payment at any time.

- 8.7 **Audit.** The City may require a physical audit of all of Licensee's Sites at Licensee's expense at any time during this Agreement, provided that only one audit may be requested every 3 years. Upon the City's request, Licensee shall furnish to City a complete list of all Sites within one hundred eighty (180) days of the request. The list shall at a minimum include the location of each Site, the date the required approvals were obtained, and the date construction was completed.

Section 9 Assignment or Transfer of Authorization

This Agreement shall not be assigned by Licensee without the express written consent of the City. The City may approve the assignment of this Agreement to a Related Entity. The City shall have the right to ensure that the proposed Assignee has the financial capability to complete and fulfill any requirements or obligations of this Agreement. Licensee will not allow any additional Licensee Facilities on a Municipal Facility without permission of the City and payment of additional Fees, in an amount to be fixed at the City's sole discretion.

Section 10 Assumption of Risk

The Licensee, on the Licensee's own behalf and on behalf of any successor or assign, hereby acknowledges and assumes all responsibility, financial or otherwise, for the permitted use of the Public Rights-of-Way property and City Municipal Facilities and the planning, design, installation, construction, maintenance, repair, operation and removal of the Licensee's Facilities, which shall be undertaken without risk or liability on the part of the City. All of Licensee's constructions, installation, removal, repair and maintenance work shall be performed at Licensee's sole cost and expense in accordance with applicable law, using generally accepted construction standards.

Section 11 Maintenance

- 11.1 Licensee shall ensure that Licensee's Facilities are maintained in a clean and safe condition, in good repair and free of any defects. Licensee shall employ reasonable care at all times in installing and maintaining Licensee's Facilities and will install and maintain in use commonly accepted methods and/or devices to reduce the likelihood of damage, injury or nuisance to the public. The construction, operation, and maintenance of Licensee's Facilities shall be performed by experienced and properly trained, and if required, licensed maintenance and construction personnel.

Section 12 Interruption or Relocation

- 12.1 Licensee shall, at its sole expense, protect, support, temporarily disconnect, relocate, modify or remove all or any portion of Licensee's Facilities at the time and in the manner required by the City for any governmental purpose. Except in an emergency, the City shall give written notice describing where the work is to be performed at least thirty (30) days before the date the work is to be performed. Should the public health, safety or welfare require that the City undertake

immediate maintenance, repair or other action, Licensee shall take the measures required under this Section within 72 hours of receiving notice from the City.

- 12.2 If Licensee does not protect, temporarily disconnect, relocate, or remove Licensee's Facilities within the time period specified above, City may remove the equipment, facilities, and property and charge Licensee for the actual cost of removal and storage including any indirect costs. Alternatively, upon Licensee's request, City may approve the abandonment of Licensee's Facilities in place. Upon approval, Licensee shall execute, acknowledge and deliver any necessary documents to transfer ownership of the Licensee's Facilities to City.
- 12.3 In a true emergency, where there is an imminent danger to the public health, safety or property, the City may take the measures required by Licensee under this Section without prior notice to Licensee; however, the City will make reasonable efforts to provide prior notice.

Section 13 Change in Equipment

If Licensee proposes to install equipment, which is different in any material way from the specifications or design configurations attached hereto as Exhibit A, then Licensee shall first obtain the approval for the use and installation of the equipment from the City. In addition to any other submittal requirements, at City's request, Licensee shall provide "load" calculations for all Streetlight Poles it intends to install in the Public Rights-of-Way, notwithstanding original installation or by way of equipment type changes. The City may approve or disapprove of the use of the different equipment from the specifications set forth in Exhibit A.

Section 14 Repair of Facility

Licensee shall repair or refinish in a workmanlike manner, at Licensee's sole cost and expense, any surface or other portion of the Public Rights-of-Way property, City Municipal Facilities, and any and all utility lines, including but not limited to, gas, water and sewer lines, that are disturbed or damaged during the construction, installation, maintenance, or operation of Licensee Facilities. Without limiting any other available remedies, if Licensee fails to repair or refinish such damage, City may, in its sole discretion, but without any obligation to do so, repair or refinish the disturbance or damage and Licensee shall reimburse City all reasonable costs and expenses incurred in the repair or refinishing.

Section 15 Clean Up and Removal upon Termination or Abandonment

Licensee shall remove the equipment within ninety (90) days after abandonment of the equipment or termination of this Agreement, at Licensee's sole cost and expense. If Licensee fails to remove the equipment, City is entitled to remove and dispose of the equipment at Licensee's sole cost and expense, upon thirty (30) days written notice to Licensee. Licensee's obligations to reimburse the City for removal and disposal of equipment under this section shall survive the expiration or termination of this Agreement.

Section 16 License to Bear All Costs

The Licensee, or any successor or authorized assign, shall bear all costs incurred in connection with the planning, design, installation, construction, maintenance, repair, operation, modification, disconnection, relocation and removal of the Licensee Facilities. The Licensee shall be responsible and must bear all cost of any movement to, damage to or repair of Licensee's Facilities due to repair, maintenance and/or failure/collapse of any existing utility lines, including but not limited to, gas, water and sewer lines or any other City improvements or works approximate to Licensee's Facilities. Licensee agrees to bear this cost regardless of whether or not such damage may be directly or indirectly attributable to the installation, operation, maintenance, repair or upgrade work on the Licensee's Facilities, unless and to the extent the damage results from the gross negligence or willful misconduct of the City, its officers, agents or employees. These costs include electrical utility charges to the applicable utility company based upon the Licensee Facilities usage of electricity and applicable tariffs.

Section 17 Undergrounding

Licensee has been advised and understands that the utilities in the area of Licensee's planned facilities are subject to future under-grounding requirements. In the event of an under-grounding project, Licensee is willing to participate in such project and shall pay its pro rata share of said costs. Licensee and the City agree to work cooperatively on a suitable relocation of Licensee's Facilities in the event of an undergrounding project.

Section 18 Future Rules or Orders

The Licensee, or any successor or authorized assign, shall abide by any agreements, rules, regulations, orders, or directives governing the use of the Public Rights-of-Way property or City Municipal Facilities as the City may find necessary and appropriate in executing its responsibilities for Public Right-of-Way management.

Section 19 License to Submit Acceptable Plans

Prior to construction and installation of Licensee's Facilities, Licensee shall, at its sole cost and expense, prepare and submit, together with payment of all related fees, any reasonable plans and specifications required by the City Engineer, which shall include detailed maps showing the planned construction, the size and the location and number, and any other details regarding the placement of appurtenant above-ground equipment to be located in the Public Rights-of-Way and on City Municipal Facilities. The City Engineer shall be authorized to review the plans and specifications and to impose such reasonable requirements as are necessary to protect the public health and safety and to minimize any negative impact on aesthetics in the case of the above-ground improvements. The City Engineer shall be authorized to require an alternate location for the Licensee's Facilities on Streetlight Poles or comparable facilities to avoid conflict with public safety as well as other permitted City uses in or future public needs of the Public Rights-of-Way identified in this Agreement. Licensee shall, at its sole cost and expense, submit traffic control plans for approval by the City Engineer. The City reserves the right to inspect the installation and maintenance of Licensee's Facilities at any time. Licensee shall pay all reasonable plan

check, inspection and other related fees prior to the issuance of any permit for the installation and construction of Licensee's Facilities. All work within the Public Rights-of-Way and Municipal Facilities shall be performed in strict compliance with plans and permits approved by the City Engineer.

Section 20 License to Secure Approval and Permits

Licensee agrees and understands that City requires Licensee to obtain valid encroachment permits for purposes of entering onto the Public Rights-of-Way to install its facilities located thereon. Licensee agrees to comply with all relevant provisions of the Escondido Municipal Code. In addition to obtaining and maintaining the permits, Licensee understands and agrees that Licensee's ability to use the Public Rights-of-Way and Municipal Facilities for the purposes contemplated by this Agreement is dependent upon Licensee obtaining and maintaining all of the certificates, permits and other approvals which may be required from other federal, state or local authorities, and any easements which are required from any third parties. City shall cooperate with Licensee in its efforts to obtain such approvals and/or easements, as may be required for Licensee's Facilities as approved in the permits.

Section 21 Design, Location, and Appearance

This Agreement hereby expressly incorporates the requirements for wireless facilities in Article 34, Chapter 33 of the Escondido Zoning Code as if fully set forth herein. Should any requirement be invalidated by any Laws, Licensee hereby agrees and acknowledges that all locations, Sites and Licensee Facilities in the Right of Way shall be designed, located, and generally in accordance with the requirements in Article 34 as if fully set forth herein. This includes any resolutions adopted pursuant to Article 34.

Section 22 As-Built Drawings to be Provided

The Licensee shall provide as-built drawings, in any format acceptable to the City Engineer, detailing the location of Licensee's Facilities installed pursuant to this Agreement within (sixty) 60 days after facilities are installed.

Section 23 Liability Insurance

Licensee shall obtain and maintain for the duration of this Agreement and any amendments hereto, adequate insurance against claims for injuries to persons or damage to property which in any way relate to, arise out of or are connected to the use of the Public Rights-of-Way and Municipal Facilities by Licensee or to the construction, operation or repair of Licensee's Facilities by Licensee or Licensee's agents, representatives, employees or contractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A- ", Class V carrier or better.

- 23.1 Licensee shall maintain the types of coverage's and minimum limits indicated below, unless the City Attorney or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Licensee's indemnification obligations under this Agreement. The City, its officers,

agents and employees make no representation that the limits of the insurance specified to be carried by Licensee pursuant to this Agreement are adequate to protect Licensee. If Licensee believes that any required insurance coverage is inadequate, Licensee will obtain such additional insurance coverage, as Licensee deems adequate, at Licensee's sole expense.

- A. Commercial General Liability Insurance. \$3,000,000 combined single-limit per occurrence for bodily injury, personal injury and property damage. If the submitted policies contain aggregate limits, the general aggregate will be twice the required per occurrence limit.
 - B. Automobile Liability. \$1,000,000 combined single-limit per accident for bodily injury and property damage.
 - C. Workers Compensation and Employer's Liability. Worker's Compensation limits as required by the California Labor Code and Employer's Liability limits of \$1,000,000 per accident for bodily injury.
- 23.2 Licensee will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:
- A. The City of Escondido will be named as an additional insured on General Liability and Automobile Liability.
 - B. Licensee will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.
 - C. This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) day's prior written notice to City sent by certified mail pursuant to the Notice endorsements to City.
- 23.3 Prior to City's execution of this Agreement and annually thereafter, Licensee will furnish certificates of insurance and endorsements to City.
- 23.4 Failure to maintain any of these insurance coverages, shall be deemed a material default of this Agreement.
- 23.5 City reserves the right to require at any time, complete and certified copies of any or all required insurance policies and endorsements.
- 23.6 All insurance companies affording coverage to the Licensee shall be required to add the City of Escondido as "additional insured" under the insurance policy(s) required in accordance with this Agreement. Insurance coverage provided to the City as an additional insured shall be primary insurance and other insurance maintained by the City, its officers, agents and employees shall be excess only and not contributing with the insurance provided pursuant to this Agreement.
- 23.7 All insurance companies affording coverage to the Licensee shall be insurance organizations authorized by the Insurance Commissioner of the State Department

of Insurance to transact business of insurance in the State of California and must carry a rating by Best of not less than "A-".

- 23.8 City may require the revision of amounts and coverage at any time during the term of this Agreement by giving Licensee 60 day's prior written notice. City's requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Public Rights-of-Way and Municipal Facilities. Licensee also agrees to obtain any additional insurance required by City for new improvements, in order to meet the requirements of this Agreement.

Section 24 Performance Bond

Prior to construction of Licensee's Facilities, Licensee shall post a bond with the City in the amount of One Hundred Thousand Dollars (\$100,000.00) ("Performance Bond") substantially in a form acceptable to the City Attorney to ensure performance of the obligations and duties under this Agreement. This Performance Bond shall remain in place for the term of the Agreement. The Performance Bond shall also secure any maintenance, clean up and any other obligations contained in this Agreement and will be released in accordance with City policy upon the termination of this Agreement and the satisfaction of Licensee's obligations hereunder.

Section 25 Accident Reports

Licensee shall, within 48 hours after occurrence, report to City any accident causing property damage or any serious injury to persons resulting from any of Licensee's activities under this Agreement. This report shall contain the names and addresses of the Parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses and other pertinent information.

Section 26 Indemnification of City

- 26.1 Licensee shall waive all claims against City for any damages to the personal property and equipment of Licensee or City in, upon or about the Public Rights-of-Way and Municipal Facilities and for injuries to any employees of Licensee or their agents in, upon, or about the Public Rights-of-Way and Municipal Facilities from any cause arising at any time, unless the damages and/or injuries arise out of the City's sole gross negligence or willful misconduct. In addition, Licensee will fully indemnify, hold harmless, and faithfully defend, the City, including its elected and appointed officials, officers, employees, contractors and agents ("Indemnified Parties"), from any damage or injury to any person, or any property, arising from the use of the Public Rights-of-Way and Municipal Facilities by Licensee or Licensee's officers, employees, contractors, or agents, or from the failure of Licensee to keep Licensee's Facilities and equipment in good condition and repair, as provided for in this Agreement.
- 26.2 Licensee shall indemnify and hold harmless City and its employees from and against all claims, damages, losses, expenses, including attorney's fees arising out of or resulting from the performance by Licensee of the Agreement whether resolution proceeds to judgment or not. Should a conflict arise, Licensee shall

bear the reasonable cost of retaining independent counsel to represent the City, which counsel shall be chosen by the City and Licensee.

- 26.3 Licensee acknowledges and agrees that Licensee bears all risks of loss or damage of its equipment and materials installed in the Public Rights-of-Way and on Municipal Facilities pursuant to this Agreement from any cause, and the City shall not be liable for any cost of repair to damaged equipment, including, without limitation, damage caused by the City's removal of the equipment other than that caused by the City's sole gross negligence.

Section 27 Revocation of Authorization

If the Licensee fails to comply with any of the material terms and conditions of this Agreement and/or any applicable law, the City may revoke the authorization granted herein subject to the cure provision in Section 37.

Section 28 Terms and Conditions Specific to this Agreement

The terms and conditions of this Agreement shall apply solely to the Licensee's Facilities and the Public Rights-of-Way and Municipal Facilities described in Exhibit A, and shall not apply to, nor establish any precedent for, the conditions the City may impose upon Licensee in the event Licensee seeks to provide other telecommunications services or cable services to the public for hire within the City.

Section 29 Waiver of Rights

By entering into this Agreement, the Licensee waives any current or future rights reserved under California Government Code Section 50030, California Public Utility Code or the Telecommunications Act of 1996 (the "Act") including but not limited to, those rights set forth in Section 253(c), or other right pursuant to subsequently enacted State or Federal Law, to the extent inconsistent with this Agreement. This Agreement shall govern the placement of any similar types of Licensee Facilities, for the term of this Agreement. In the event a court finds the Licensee may not waive such rights, then the Parties agree to modify this Agreement to conform to the future changes in a manner that will keep the City whole regarding the obligations of Licensee to the City under this Agreement.

Section 30 Governing Law; Jurisdiction

This Agreement shall be governed and construed by and in accordance with the laws of the United States and the State of California without reference to general conflicts of law principles. If suit is brought by a Party to this Agreement, the Parties agree that trial of such action shall be vested exclusively in the State courts of San Diego County, California or in the United States District Court, Southern District of California.

Section 31 Amendment of Agreement

This Agreement shall not be modified or amended except by a writing signed by authorized representatives of the Parties.

Section 32 Entire Agreement

This Agreement contains the entire understanding between the Parties with respect to the subject matter herein. There are no representations, agreements, or understandings, whether oral or written, between or among the Parties relating to the subject matter of this Agreement, which are not fully expressed herein. Each Party has relied on advice from its own attorneys, and the warranties, representations, and covenants of this Agreement itself. The terms and conditions of this Agreement shall bind and inure to the benefit of City and Licensee and, except as otherwise provided in this Agreement, their respective heirs, distributees, executors, administrators, successors, and assigns.

Section 33 Severability

If any part of any provision of this Agreement or any other agreement, document, or writing given pursuant to or in connection with this Agreement is finally determined to be invalid or unenforceable under applicable law, that part or provision shall be ineffective to the extent of such invalidity only, and the remaining terms and condition shall be interpreted so as to give the greatest effect to them.

Section 34 Taxes

Licensee shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon Licensee or the Licensee's Facilities, including, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by Licensee or levied by reason of the business or other Licensee activities related to this Agreement, including any licenses or permits. Licensee specifically acknowledges that the grant of this license may subject Licensee to certain taxes under California Revenue and Taxation Code Section 107.6 and agrees it is solely responsible for the payment of these taxes.

Licensee shall be responsible for all utilities and any property taxes imposed as a result of the use of the Property by Licensee. Licensee specifically acknowledges that the grant of this license may be subject Licensee to certain taxes under California Revenue and Taxation Code section 107.6 and agrees to be solely responsible for the payment of these taxes.

Section 35 Non-Exclusivity

Neither this Agreement nor the permit granted hereunder is exclusive. The City reserves the right to enter into co-location agreements with other Parties, including but not limited to telecommunications and information services providers (hereinafter "Carriers") for use of the Public Rights-of-Way or Municipal Facilities provided such agreements do not result in interference with Licensee's Facilities.

Section 36 Notices

All notices under this Agreement shall be in writing and, unless otherwise provided in this Agreement, shall be deemed validly given if sent by certified mail, return receipt requested, or via recognized overnight courier service, addressed as follows (or to any other mailing

address which the Party to be notified may designate to the other Party by such notice). All notices properly given as provided for in this section shall be deemed to be given on the date when sent.

Should City or Licensee have a change of address, the other Party shall immediately be notified as provided in this section of such change.

LISENSEE:

Mobilitie, LLC
660 Newport Center Drive, Suite 200
Newport Beach, CA 92660
Attn: Legal Department

CITY:

CITY OF ESCONDIDO
City Hall, Second Floor.
201 N. Broadway, Escondido, CA 92025
Attn: Real Property Manager

Either Party may change its address by notice to the other Party as provided herein. Communications shall be deemed to have been given and received on the first to occur if (i) actual receipt at the offices of the Party to whom the communication is to be sent, as designated above, or (ii) three working days following the deposit in the United States Mail of registered or certified mail, postage prepaid, return receipt requested, addressed to the offices of the Party to whom the communication is to be sent, as designated above.

Section 37 Termination

This Agreement may only be terminated by either Party upon forty five (45) days' prior written notice to the other Party upon a default of any material covenant or term hereof by the other Party, which default is not cured within forty five (45) days of receipt of written notice of default (or, if such default is not curable within forty five (45) days, if the defaulting Party fails to commence such cure within forty five (45) days or fails thereafter diligently to prosecute such cure to completion), provided that the grace period for any monetary default shall be thirty (30) days from receipt of notice. Should Licensee use the Licensee's Facilities for a purpose that requires additional City approvals that have not been obtained, City may terminate this Agreement in the manner authorized by this Section.

Section 38 Other Regulations

All Licensee's use of the Public Rights-of-Way and Municipal Facilities under this Agreement shall be in accordance with the laws of the United States of America, the State of California and in accordance with all applicable rules and regulations and ordinances of the City of Escondido now in force, or hereinafter prescribed or promulgated by resolution or ordinance or by State or Federal law.

Section 39 Related Actions

By the granting of this Agreement, neither City nor the Council of the City is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to the use of the Public Rights-of-Way and Municipal Facilities. Discretionary action includes, but is not limited to, permits, environmental clearances or any other governmental agency approvals, which may be required for the development and

operation of the Licensee's Facilities within the Public Rights-of-Way and Municipal Facilities.

Section 40 Use of the Public Rights-of-Way

Licensee acknowledges that the paramount use of Public Rights-of-Way Property or Municipal Facilities is for the public. Licensee agrees to coordinate use of the Public Rights-of-Way Property or Municipal Facilities with City so as not to conflict with City's programs and activities.

Section 41 Powers to Enter into Agreement

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Licensee and the City.

Section 42 Independent Contractor

Nothing contained in this Agreement shall be deemed or construed to create the relationship of principal and agent or of partnership or of joint-venture or of any association whatsoever between City and Licensee, it being expressly understood and agreed that neither the computation of fees nor any other provisions contained in this Agreement nor any act or acts of the Parties hereto shall be deemed to create any relationship between City and Licensee other than the relationship of City and Licensee.

Section 43 Administrative Decisions

Where this Agreement may require approvals, additional sites, interpretations, or other decisions, the City Manager or designee may make said decisions in accordance with the terms and conditions of this Agreement and City policies and procedures.

IN WITNESS WHEREOF the Parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Agreement to be executed by setting hereunto their signatures on the day and year respectively written herein below.

CITY OF ESCONDIDO

Date: _____

Sam Abed, Mayor

Date: _____

Diane Halverson, City Clerk

LICENSEE: MOBILITIE, LLC, A NEVADA LIMITED
LIABILITY COMPANY

Date: _____

Name

Title

APPROVED AS TO FORM:

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

By: _____

EXHIBIT A

This Exhibit A, regarding the facilities, is to be provided subsequently by Licensee, which must be approved by the City Engineer, in the City Engineer's sole and absolute discretion.

EXHIBIT B

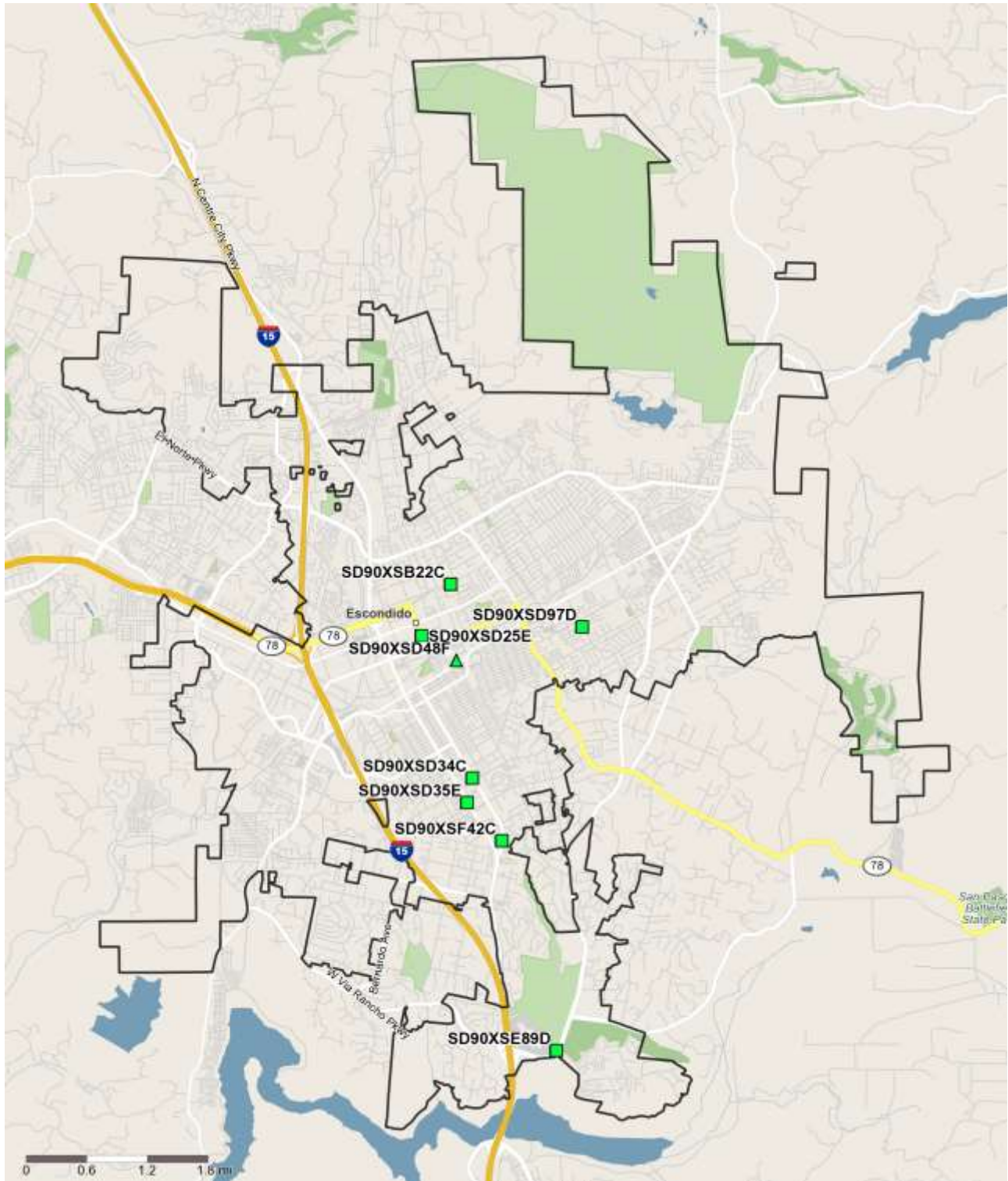


EXHIBIT C

SITE ADDENDUM NO. _____

Pursuant to that certain Telecommunication Network License and Encroachment Agreement (the “Encroachment Agreement”) between the City of Escondido, a California municipal corporation (the “**City**”) and Mobilitie, LLC, a Nevada limited liability company (“**Licensee**”), and dated _____, 2018, Licensee submits to the City this Site Addendum, together with all the items listed below.

1. Exhibit C-1, which includes complete, detailed plans and specifications for all Licensee’s Equipment to be installed in the License Area, subject to Regulatory Approvals;
2. Exhibit C-2, which designates all Pole Locations that Licensee seeks to be included in the License Area under this Site Addendum;

Licensee acknowledges that: (1) this Site Addendum will not be effective until the City returns a fully executed copy to Licensee; (2) Licensee will not have the right to access or install equipment until after Licensee has: (a) submitted all payments required; (b) submitted insurance information to the City as required under the Encroachment Agreement; (c) obtained Regulatory Approvals.

This Site Addendum is executed and effective on the last date written below and, upon full execution will be the City’s authorization for the City to begin its review of the pole locations and plans and specifications proposed in this application.

THE CITY:

LICENSEE:

City of Escondido,
a California municipal corporation

Mobilitie, LLC,
a Nevada limited liability company

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

EXHIBIT C-1

LICENSEE'S PLANS AND SPECIFICATIONS

Site Addendum No. _____

[Licensee to attach all plans and specifications for all equipment proposed to be installed at all proposed locations]

EXHIBIT C-2

POLE LOCATIONS / LICENSE AREA

Site Addendum No. _____

[List all proposed Pole Locations requested in this Site Addendum,
including plot plan # and gps coordinates.]

CITY COUNCIL STAFF REPORT

Consent Item No. 6

October 10, 2018

File No. 0480-70

SUBJECT: Homeless Emergency Aid Program (HEAP) Grant Application and Declaration of Shelter Crisis

DEPARTMENT: City Manager's Office

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2018-153 declaring a shelter crisis in the City of Escondido and authorizing the Deputy City Manager or his designee to apply for Homeless Emergency Aid Program (HEAP) funds.

FISCAL ANALYSIS:

There is no impact to the General Fund. Declaration of a shelter crisis, pursuant to Government Code Section 8698 et seq., makes the City of Escondido and those service providers operating within Escondido eligible to apply to the Continuum of Care (CoC) for HEAP funds.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

This item relates to the Council's Action Plan regarding Public Safety Strategy #1.

PREVIOUS ACTION:

None.

BACKGROUND:

The State of California has recognized the urgent and immediate need for funding at the local level to combat homelessness and has provided funding to local governments under the Homeless Emergency Aid Program (HEAP). HEAP is a \$500 million block grant program designed to provide direct assistance to cities, counties and CoCs to address the homelessness crisis throughout California. HEAP is authorized by SB 850, which was signed into law by Governor Edmund G. Brown, Jr. on June 27, 2018. Funding is available to CoC and large cities with a population over 330,000. Under this one-time flexible funding source, approximately \$18.8m will be made available to the Regional Taskforce for the Homeless (RTFH) as the San Diego County CoC.

To provide immediate emergency assistance to persons experiencing homelessness, HEAP funds may be used for the following activities:

- Homelessness prevention activities,
- Criminal justice diversion programs for homeless individuals with mental health needs,
- Establishing or expanding services meeting the needs of homeless youth or youth at risk of homelessness, and
- Emergency aid.

Declaration of a shelter crisis under Government Code Section 8698 means that a significant number of persons are without housing and that the situation represents a health and safety concern to the community. The 2017 Regional Task Force on the Homeless Point in Time Count identified 523 homeless individuals (254 were unsheltered) within the City of Escondido, which constituted approximately 5.7% of the County's homeless population. The 2018 Point in Time Count identified 411 homeless individuals (263 were unsheltered) or approximately 4.8% of the County's homeless population. If the City of Escondido does not make this declaration, no entity may use HEAP funds to address homelessness within the City of Escondido.

While a declaration of a shelter crisis makes available potential funding sources, such as HEAP, declaration of such crisis has impacts beyond funding. Upon declaration of a shelter crisis, the City may allow homeless persons to occupy "designated public facilities" during the state of emergency. In addition, Government Code Section 8698.1 (b) requires the suspension of any state or local regulatory statute, regulation or ordinance prescribing standards of housing, health or safety to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. These provisions apply only to additional public facilities (any facility of a political subdivision including parks, schools, and vacant or underutilized facilities which are owned, operated, leased, or maintained, or any combination thereof, by the political subdivision through money derived by taxation or assessment) open to the homeless pursuant to this chapter. In place of such suspended standards, the City may enact minimal health and safety standards to ensure basic levels of public health and safety conditions. The City shall be immune from liability for ordinary negligence in the provision of emergency housing pursuant to Section 8698.2

RTFH anticipates making their application to the State by October 31, 2018. They anticipate releasing an RFP for service providers in November or December 2018 and awarding the funds in February/March 2019. The City will be eligible to apply directly for funds for City programs or support third party service providers working in Escondido. Staff is currently assessing the most beneficial use of funds and whether it would be more efficient to support a third party application of funds, apply directly for City-run projects, or a combination.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

William L. Wolfe, Deputy City Manager
10/3/2018 1:31 p.m.

ATTACHMENTS:

1. Resolution No. 2018-153

RESOLUTION NO. 2018-153

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, DECLARING A SHELTER CRISIS PURSUANT TO SB 850 (CHAPTER 48, STATUTES OF 2018 AND GOVERNMENT CODE SECTION 8698.2) AND AUTHORIZING THE DEPUTY CITY MANAGER TO APPLY FOR HOMELESS EMERGENCY AID PROGRAM FUNDS FOR THE REGIONAL TASK FORCE ON THE HOMELESS

WHEREAS, California's Governor Edmund G. Brown, Jr. and the members of the California Legislature have recognized the urgent and immediate need for funding at the local level to combat homelessness; and

WHEREAS, the Governor and Legislature have provided funding to local governments under the Homeless Emergency Aid Program ("HEAP") as part of SB 850 and the 2018-19 Budget Act (Chapter 48, Statutes of 2018); and

WHEREAS, the Governor and Legislature require jurisdictions seeking an allocation through the Homeless Emergency Aid Program to declare a Shelter Crisis pursuant to Government Code Section 8698.2; and

WHEREAS, the City of Escondido has developed a homelessness plan and undertaken multiple efforts at the local level to combat homelessness; and

WHEREAS, the City of Escondido finds that the 2017 Regional Taskforce for the Homeless ("RTFH") Point in Time Count identified 523 persons within the City of Escondido as homeless and living without shelter, including 254 unsheltered homeless persons within the City, equating to approximately 5.7% of the entire homeless population in the San Diego region; and

WHEREAS, the City of Escondido finds that the number of homeless is significant, and these persons are without the ability to obtain shelter; and

WHEREAS, the City of Escondido finds that the health and safety of unsheltered persons in the City of Escondido is threatened by a lack of shelter; and

WHEREAS, the City of Escondido affirms the City's commitment to combatting homelessness and creating or augmenting a continuum of shelter and service options for those living without shelter in our communities.

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

1. That the above recitations are true.
2. That the City Council declares that a shelter crisis pursuant to Government Code Section 8698.2 exists in the City of Escondido, and authorizes Escondido's participation in the Homeless Emergency Aid Program.
3. That the City Council appoints the Deputy City Manager or his designee to act as agent to conduct all negotiations, execute and submit all documents to the RTFH including, but not limited to applications, agreements, payment requests, et cetera, which may be necessary for the use of HEAP funds to assist homeless persons in the City of Escondido.
4. That this Resolution shall remain in place until June 30, 2021.



CITY COUNCIL STAFF REPORT

Consent Item No. 7

October 10, 2018

File No. 0600-10, A-3267

SUBJECT: Lease Agreement with David Carr, Trustee of the Kathleen Duque Carr Inter-Vivos Revocable Trust, at 1045 West Mission Avenue (Records Center)

DEPARTMENT: Engineering Services Department

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2018-157 authorizing the Real Property Manager and the City Clerk to execute a Lease Agreement ("Agreement") with David Carr, Trustee of Kathleen Duque Carr Inter-Vivos Revocable Trust for records storage at 1045 West Mission Avenue.

FISCAL ANALYSIS:

This lease is based on a monthly rent of \$4,000.00 and may be renewed for one additional one-year term, upon written mutual agreement.

PREVIOUS ACTION:

On October 3, 2012, the City Council approved a First Amendment to the Lease Agreement, via Resolution No. 2012-160.

BACKGROUND:

The City has been leasing the subject property for its Records Center since 2000 when it relocated from another leased facility to reduce the square footage to meet requirements of the City's Records Management Plan. The City Clerk's Office desires to continue use of the current property for the Records Center for another year. The property owner passed away after the Second Amendment to the Lease Agreement was signed and the new Lease is with the new ownership entity, for a term of one year and includes an option for one additional year.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Julie Procopio, Director of Engineering Services
10/3/2018 2:33 p.m.

ATTACHMENTS:

1. Resolution No. 2018-157
2. Resolution No. 2018-157 – Exhibit A – Lease Agreement

RESOLUTION NO. 2018-157

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE REAL PROPERTY MANAGER AND CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, A LEASE AGREEMENT WITH DAVID CARR, TRUSTEE OF THE KATHLEEN DUQUE CARR INTER-VIVOS REVOCABLE TRUST

(City of Escondido Records Center)

WHEREAS, David Carr, Trustee of the Kathleen Duque Carr Inter-vivos Revocable Trust is the owner of certain real property located at 1045 West Mission Avenue; and

WHEREAS, the City of Escondido ("City") has been leasing this property for its Records Center since 2000; and

WHEREAS, said real property is functional and meets the City's needs for its Records Center; and

WHEREAS, the current lease agreement expires on September 30, 2018; and

WHEREAS, the City and David Carr, Trustee of the Kathleen Duque Carr Inter-Vivos Revocable Trust, desire to enter into a Lease Agreement to allow the City continued occupancy at said real property for the operation of its Records Center; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve the Lease 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. The Real Property Manager and City Clerk are authorized to execute, on behalf of the City, the Lease Agreement with David Carr, Trustee of the Kathleen Duque Carr Inter-Vivos Revocable Trust, which is attached hereto as Exhibit "A" and is incorporated by this reference.



CALIFORNIA
ASSOCIATION
OF REALTORS®

COMMERCIAL LEASE AGREEMENT

(C.A.R. Form CL, Revised 12/15)

Date (For reference only): September 10, 2018

David Carr, Trustee of the Kathleen Duque Carr Intervivos revocable Trust dtd 02/06/2014
City of Escondido

("Landlord") and
("Tenant") agree as follows.

1. PROPERTY: Landlord rents to Tenant and Tenant rents from Landlord, the real property and improvements described as: 1045 W. Mission Avenue, Escondido CA 92025 ("Premises"), which comprise approximately 100,000 % of the total square footage of rentable space in the entire property. See exhibit _____ for a further description of the Premises.

2. TERM: The term begins on (date) September 30, 2018 ("Commencement Date").
(Check A or B):

- A. Lease: and shall terminate on (date) September 30, 2019 at 6:00 AM PM. Any holding over after the term of this agreement expires, with Landlord's consent, shall create a month-to-month tenancy that either party may terminate as specified in paragraph 2B. Rent shall be at a rate equal to the rent for the immediately preceding month, payable in advance. All other terms and conditions of this agreement shall remain in full force and effect.
- B. Month-to-month: and continues as a month-to-month tenancy. Either party may terminate the tenancy by giving written notice to the other at least 30 days prior to the intended termination date, subject to any applicable laws. Such notice may be given on any date.
- C. RENEWAL OR EXTENSION TERMS: See attached addendum _____

3. BASE RENT:

- A. Tenant agrees to pay Base Rent at the rate of (CHECK ONE ONLY):
 - (1) \$4,000.00 per month, for the term of the agreement.
 - (2) \$ _____ per month, for the first 12 months of the agreement. Commencing with the 13th month, and upon expiration of each 12 months thereafter, rent shall be adjusted according to any increase in the U.S. Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor for All Urban Consumers ("CPI") for _____ (the city nearest the location of the Premises), based on the following formula: Base Rent will be multiplied by the most current CPI preceding the first calendar month during which the adjustment is to take effect, and divided by the most recent CPI preceding the Commencement Date. In no event shall any adjusted Base Rent be less than the Base Rent for the month immediately preceding the adjustment. If the CPI is no longer published, then the adjustment to Base Rent shall be based on an alternate index that most closely reflects the CPI.
 - (3) \$ _____ per month for the period commencing _____ and ending _____ and \$ _____ per month for the period commencing _____ and ending _____ and \$ _____ per month for the period commencing _____ and ending _____
 - (4) In accordance with the attached rent schedule.
 - (5) Other: _____
- B. Base Rent is payable in advance on the 1st (or _____) day of each calendar month, and is delinquent on the next day.
- C. If the Commencement Date falls on any day other than the first day of the month, Base Rent for the first calendar month shall be prorated based on a 30-day period. If Tenant has paid one full month's Base Rent in advance of Commencement Date, Base Rent for the second calendar month shall be prorated based on a 30-day period.

4. RENT:

- A. Definition: ("Rent") shall mean all monetary obligations of Tenant to Landlord under the terms of this agreement, except security deposit.
- B. Payment: Rent shall be paid to (Name) _____ at (address) _____, or at any other location specified by Landlord in writing to Tenant.
- C. Timing: Base Rent shall be paid as specified in paragraph 3. All other Rent shall be paid within 30 days after Tenant is billed by Landlord.

5. EARLY POSSESSION: Tenant is entitled to possession of the Premises on _____

Tenant is in possession

If Tenant is in possession prior to the Commencement Date, during this time (i) Tenant is not obligated to pay Base Rent, and (ii) Tenant is not obligated to pay Rent other than Base Rent. Whether or not Tenant is obligated to pay Rent prior to Commencement Date, Tenant is obligated to comply with all other terms of this agreement.

~~6. SECURITY DEPOSIT:~~

- ~~A. Tenant agrees to pay Landlord \$ _____ as a security deposit. Tenant agrees not to hold Broker responsible for its return. (IF CHECKED) If Base Rent increases during the term of this agreement, Tenant agrees to increase security deposit by the same proportion as the increase in Base Rent.~~
- ~~B. All or any portion of the security deposit may be used, as reasonably necessary, to: (i) cure Tenant's default in payment of Rent, late charges, non-sufficient funds ("NSF") fees, or other sums due; (ii) repair damage, excluding ordinary wear and tear, caused by Tenant or by a guest or licensee of Tenant; (iii) broom clean the Premises, if necessary, upon termination of tenancy; and (iv) cover any other unfulfilled obligation of Tenant. SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF LAST MONTH'S RENT. If all or any portion of the security deposit is used during tenancy, Tenant agrees to reinstate the total security deposit within 5 days after written notice is delivered to Tenant. Within 30 days after Landlord receives possession of the Premises, Landlord shall: (i) furnish Tenant an itemized statement indicating the amount of any security deposit received and the basis for its disposition, and (ii) return any remaining portion of security deposit to Tenant. However, if the Landlord's only claim upon the security deposit is for unpaid Rent, then the remaining portion of the security deposit, after deduction of unpaid Rent, shall be returned within 14 days after the Landlord receives possession.~~

~~_____ shall be paid on security deposit, unless required by local ordinance.~~

Landlord's Initials X()X()

Tenant's Initials () ()



Premises: 1045 W. Mission Avenue, Escondido CA 92025

Date September 10, 2018

7. PAYMENTS:

	TOTAL DUE	PAYMENT RECEIVED	BALANCE DUE	DUE DATE
A. Rent: From 10/01/2018 To 10/31/2018 Date Date	\$ 4,000.00	\$	\$ 4,000.00	
B. Security Deposit	\$	\$	\$	
C. Other: Category	\$	\$	\$	
D. Other: Category	\$	\$	\$	
E. Total	\$ 4,000.00	\$	\$ 4,000.00	

8. PARKING: Tenant is entitled to _____ unreserved and _____ reserved vehicle parking spaces. The right to parking is is not included in the Base Rent charged pursuant to paragraph 3. If not included in the Base Rent, the parking rental fee shall be an additional \$ _____ per month. Parking space(s) are to be used for parking operable motor vehicles, except for trailers, boats, campers, buses or trucks (other than pick-up trucks). Tenant shall park in assigned space(s) only. Parking space(s) are to be kept clean. Vehicles leaking oil, gas or other motor vehicle fluids shall not be parked in parking spaces or on the Premises. Mechanical work or storage of inoperable vehicles is not allowed in parking space(s) or elsewhere on the Premises. No overnight parking is permitted.

9. ADDITIONAL STORAGE: Storage is permitted as follows: _____
The right to additional storage space is is not included in the Base Rent charged pursuant to paragraph 3. If not included in Base Rent, storage space shall be an additional \$ _____ per month. Tenant shall store only personal property that Tenant owns, and shall not store property that is claimed by another, or in which another has any right, title, or interest. Tenant shall not store any improperly packaged food or perishable goods, flammable materials, explosives, or other dangerous or hazardous material. Tenant shall pay for, and be responsible for, the clean-up of any contamination caused by Tenant's use of the storage area.

~~10. LATE CHARGE, INTEREST, NSF CHECKS: Tenant acknowledges that either late payment of Rent or issuance of a NSF check may cause Landlord to incur costs and expenses, the exact amount of which are extremely difficult and impractical to determine. These costs may include, but are not limited to, processing, enforcement and accounting expenses, and late charges imposed on Landlord. If any installment of Rent due from Tenant is not received by Landlord within 5 calendar days after date due, or if a check is returned NSF, Tenant shall pay to Landlord, respectively, \$ _____ as late charge, plus 10% interest per annum on the delinquent amount and \$25.00 as a NSF fee, any of which shall be deemed additional Rent. Landlord and Tenant agree that these charges represent a fair and reasonable estimate of the costs Landlord may incur by reason of Tenant's late or NSF payment. Any late charge, delinquent interest, or NSF fee due shall be paid with the current installment of Rent. Landlord's acceptance of any late charge or NSF fee shall not constitute a waiver as to any default of Tenant. Landlord's right to collect a Late Charge or NSF fee shall not be deemed an extension of the date Rent is due under paragraph 4, or prevent Landlord from exercising any other rights and remedies under this agreement, and as provided by law.~~

11. CONDITION OF PREMISES: Tenant has examined the Premises and acknowledges that Premise is clean and in operative condition, with the following exceptions: _____
Items listed as exceptions shall be dealt with in the following manner: _____

12. ZONING AND LAND USE: Tenant accepts the Premises subject to all local, state and federal laws, regulations and ordinances ("Laws"). Landlord makes no representation or warranty that Premises are now or in the future will be suitable for Tenant's use. Tenant has made its own investigation regarding all applicable Laws.

13. TENANT OPERATING EXPENSES: Tenant agrees to pay for all utilities and services directly billed to Tenant. _____

14. PROPERTY OPERATING EXPENSES:

A. Tenant agrees to pay its proportionate share of Landlord's estimated monthly property operating expenses, including but not limited to, common area maintenance, consolidated utility and service bills, insurance, and real property taxes, based on the ratio of the square footage of the Premises to the total square footage of the rentable space in the entire property. **Tenant to pay the property tax and provide their own insurance**

OR B. (If checked) Paragraph 14 does not apply.

15. USE: The Premises are for the sole use as _____.
No other use is permitted without Landlord's prior written consent. If any use by Tenant causes an increase in the premium on Landlord's existing property insurance, Tenant shall pay for the increased cost. Tenant will comply with all Laws affecting its use of the Premises.

16. RULES/REGULATIONS: Tenant agrees to comply with all rules and regulations of Landlord (and, if applicable, Owner's Association) that are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant do not, disturb, annoy, endanger, or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, including, but not limited to, using, manufacturing, selling, storing, or transporting illicit drugs or other contraband, or violate any law or ordinance, or committing a waste or nuisance on or about the Premises.

17. MAINTENANCE:

A. Tenant OR (If checked, Landlord) shall professionally maintain the Premises including heating, air conditioning, electrical, plumbing and water systems, if any, and keep glass, windows and doors in operable and safe condition. Unless Landlord is checked, if Tenant fails to maintain the Premises, Landlord may contract for or perform such maintenance, and charge Tenant for Landlord's cost.
B. Landlord OR (If checked, Tenant) shall maintain the roof, foundation, exterior walls, common areas and _____

Landlord's Initials X(_____)X(_____)

Tenant's Initials (_____) (_____) (_____)

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COMMERCIAL LEASE AGREEMENT (CL PAGE 2 OF 6)



Premises: 1045 W. Mission Avenue, Escondido CA 92025

Date September 10, 2018

- 18. **ALTERATIONS:** Tenant shall not make any alterations in or about the Premises, including installation of trade fixtures and signs, without Landlord's prior written consent, which shall not be unreasonably withheld. Any alterations to the Premises shall be done according to Law and with required permits. Tenant shall give Landlord advance notice of the commencement date of any planned alteration, so that Landlord, at its option, may post a Notice of Non-Responsibility to prevent potential liens against Landlord's interest in the Premises. Landlord may also require Tenant to provide Landlord with lien releases from any contractor performing work on the Premises.
- 19. **GOVERNMENT IMPOSED ALTERATIONS:** Any alterations required by Law as a result of Tenant's use shall be Tenant's responsibility. Landlord shall be responsible for any other alterations required by Law.
- 20. **ENTRY:** Tenant shall make Premises available to Landlord or Landlord's agent for the purpose of entering to make inspections, necessary or agreed repairs, alterations, or improvements, or to supply necessary or agreed services, or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, or contractors. Landlord and Tenant agree that 24 hours notice (oral or written) shall be reasonable and sufficient notice. In an emergency, Landlord or Landlord's representative may enter Premises at any time without prior notice.
- 21. **SIGNS:** Tenant authorizes Landlord to place a FOR SALE sign on the Premises at any time, and a FOR LEASE sign on the Premises within the 90 (or) day period preceding the termination of the agreement.
- 22. **SUBLETTING/ASSIGNMENT:** Tenant shall not sublet or encumber all or any part of Premises, or assign or transfer this agreement or any interest in it, without the prior written consent of Landlord, which shall not be unreasonably withheld. Unless such consent is obtained, any subletting, assignment, transfer, or encumbrance of the Premises, agreement, or tenancy, by voluntary act of Tenant, operation of law, or otherwise, shall be null and void, and, at the option of Landlord, terminate this agreement. Any proposed sublessee, assignee, or transferee shall submit to Landlord an application and credit information for Landlord's approval, and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one sublease, assignment, or transfer, shall not be construed as consent to any subsequent sublease, assignment, or transfer, and does not release Tenant of Tenant's obligation under this agreement.
- 23. **POSSESSION:** If Landlord is unable to deliver possession of Premises on Commencement Date, such date shall be extended to the date on which possession is made available to Tenant. However, the expiration date shall remain the same as specified in paragraph 2. If Landlord is unable to deliver possession within 60 (or) calendar days after the agreed Commencement Date, Tenant may terminate this agreement by giving written notice to Landlord, and shall be refunded all Rent and security deposit paid.
- 24. **TENANT'S OBLIGATIONS UPON VACATING PREMISES:** Upon termination of agreement, Tenant shall: (i) give Landlord all copies of all keys or opening devices to Premises, including any common areas; (ii) vacate Premises and surrender it to Landlord empty of all persons and personal property; (iii) vacate all parking and storage spaces; (iv) deliver Premises to Landlord in the same condition as referenced in paragraph 11; (v) clean Premises; (vi) give written notice to Landlord of Tenant's forwarding address; and (vii)

All improvements installed by Tenant, with or without Landlord's consent, become the property of Landlord upon termination. Landlord may nevertheless require Tenant to remove any such improvement that did not exist at the time possession was made available to Tenant.

- 25. **BREACH OF CONTRACT/EARLY TERMINATION:** In event Tenant, prior to expiration of this agreement, breaches any obligation in this agreement, abandons the premises, or gives notice of tenant's intent to terminate this tenancy prior to its expiration, in addition to any obligations established by paragraph 24, Tenant shall also be responsible for lost rent, rental commissions, advertising expenses, and painting costs necessary to ready Premises for re-rental. Landlord may also recover from Tenant: (i) the worth, at the time of award, of the unpaid Rent that had been earned at the time of termination; (ii) the worth, at the time of award, of the amount by which the unpaid Rent that would have been earned after expiration until the time of award exceeds the amount of such rental loss the Tenant proves could have been reasonably avoided; and (iii) the worth, at the time of award, of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided. Landlord may elect to continue the tenancy in effect for so long as Landlord does not terminate Tenant's right to possession, by either written notice of termination of possession or by reletting the Premises to another who takes possession, and Landlord may enforce all Landlord's rights and remedies under this agreement, including the right to recover the Rent as it becomes due.
- 26. **DAMAGE TO PREMISES:** If, by no fault of Tenant, Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty, Landlord shall have the right to restore the Premises by repair or rebuilding. If Landlord elects to repair or rebuild, and is able to complete such restoration within 90 days from the date of damage, subject to the terms of this paragraph, this agreement shall remain in full force and effect. If Landlord is unable to restore the Premises within this time, or if Landlord elects not to restore, then either Landlord or Tenant may terminate this agreement by giving the other written notice. Rent shall be abated as of the date of damage. The abated amount shall be the current monthly Base Rent prorated on a 30-day basis. If this agreement is not terminated, and the damage is not repaired, then Rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of the Premises. If total or partial destruction or damage occurs as a result of an act of Tenant or Tenant's guests, (i) only Landlord shall have the right, at Landlord's sole discretion, within 30 days after such total or partial destruction or damage to treat the lease as terminated by Tenant, and (ii) Landlord shall have the right to recover damages from Tenant.
- 27. **HAZARDOUS MATERIALS:** Tenant shall not use, store, generate, release or dispose of any hazardous material on the Premises or the property of which the Premises are part. However, Tenant is permitted to make use of such materials that are required to be used in the normal course of Tenant's business provided that Tenant complies with all applicable Laws related to the hazardous materials. Tenant is responsible for the cost of removal and remediation, or any clean-up of any contamination caused by Tenant.
- 28. **CONDEMNATION:** If all or part of the Premises is condemned for public use, either party may terminate this agreement as of the date possession is given to the condemner. All condemnation proceeds, exclusive of those allocated by the condemner to Tenant's relocation costs and trade fixtures, belong to Landlord.
- 29. **INSURANCE:** Tenant's personal property, fixtures, equipment, inventory and vehicles are not insured by Landlord against loss or damage due to fire, theft, vandalism, rain, water, criminal or negligent acts of others, or any other cause. Tenant is to carry Tenant's own property insurance to protect Tenant from any such loss. In addition, Tenant shall carry (i) liability insurance in an amount of not less than \$2,000,000.00 and (ii) property insurance in an amount sufficient to cover the replacement cost of the property if Tenant is responsible for maintenance under paragraph 17B. Tenant's insurance shall name Landlord and Landlord's agent as additional insured. Tenant, upon Landlord's request, shall provide Landlord with a certificate of insurance establishing Tenant's compliance. Landlord shall maintain liability insurance insuring Landlord, but not Tenant, in an amount of at least \$555,000.00, plus property insurance in an amount sufficient to cover the replacement cost of the property unless Tenant is responsible for maintenance pursuant to paragraph 17B. Tenant is advised to carry business interruption insurance in an amount at least sufficient to cover Tenant's complete rental obligation to Landlord. Landlord is advised to obtain a policy of rental loss insurance. Both Landlord and Tenant release each other, and waive their respective rights to subrogation against each other, for loss or damage covered by insurance.

Landlord's Initials X () X () Tenant's Initials () ()



Premises: 1045 W. Mission Avenue, Escondido CA 92025

Date September 10, 2018

- 30. **TENANCY STATEMENT (ESTOPPEL CERTIFICATE):** Tenant shall execute and return a tenancy statement (estoppel certificate), delivered to Tenant by Landlord or Landlord's agent, within 3 days after its receipt. The tenancy statement shall acknowledge that this agreement is unmodified and in full force, or in full force as modified, and state the modifications. Failure to comply with this requirement: (i) shall be deemed Tenant's acknowledgment that the tenancy statement is true and correct, and may be relied upon by a prospective lender or purchaser; and (ii) may be treated by Landlord as a material breach of this agreement. Tenant shall also prepare, execute, and deliver to Landlord any financial statement (which will be held in confidence) reasonably requested by a prospective lender or buyer.
 - 31. **LANDLORD'S TRANSFER:** Tenant agrees that the transferee of Landlord's interest shall be substituted as Landlord under this agreement. Landlord will be released of any further obligation to Tenant regarding the security deposit, only if the security deposit is returned to Tenant upon such transfer, or if the security deposit is actually transferred to the transferee. For all other obligations under this agreement, Landlord is released of any further liability to Tenant, upon Landlord's transfer.
 - 32. **SUBORDINATION:** This agreement shall be subordinate to all existing liens and, at Landlord's option, the lien of any first deed of trust or first mortgage subsequently placed upon the real property of which the Premises are a part, and to any advances made on the security of the Premises, and to all renewals, modifications, consolidations, replacements, and extensions. However, as to the lien of any deed of trust or mortgage entered into after execution of this agreement, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant pays the Rent and observes and performs all of the provisions of this agreement, unless this agreement is otherwise terminated pursuant to its terms. If any mortgagee, trustee, or ground lessor elects to have this agreement placed in a security position prior to the lien of a mortgage, deed of trust, or ground lease, and gives written notice to Tenant, this agreement shall be deemed prior to that mortgage, deed of trust, or ground lease, or the date of recording.
 - 33. **TENANT REPRESENTATIONS; CREDIT:** Tenant warrants that all statements in Tenant's financial documents and rental application are accurate. Tenant authorizes Landlord and Broker(s) to obtain Tenant's credit report at time of application and periodically during tenancy in connection with approval, modification, or enforcement of this agreement. Landlord may cancel this agreement: (i) before occupancy begins, upon disapproval of the credit report(s); or (ii) at any time, upon discovering that information in Tenant's application is false. A negative credit report reflecting on Tenant's record may be submitted to a credit reporting agency, if Tenant fails to pay Rent or comply with any other obligation under this agreement.
 - 34. **CONSTRUCTION-RELATED ACCESSIBILITY STANDARDS:** Landlord states that the Premises has, or has not been inspected by a Certified Access Specialist. If so, Landlord states that the Premises has, or has not been determined to meet all applicable construction-related accessibility standards pursuant to Civil Code Section 55.53.
 - 35. **DISPUTE RESOLUTION:**
 - A. **MEDIATION:** Tenant and Landlord agree to mediate any dispute or claim arising between them out of this agreement, or any resulting transaction, before resorting to arbitration or court action, subject to paragraph 35B(2) below. Paragraphs 35B(2) and (3) apply whether or not the arbitration provision is initiated. Mediation fees, if any, shall be divided equally among the parties involved. If for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.
 - ~~B. **ARBITRATION OF DISPUTES:** (1) Tenant and Landlord agree that any dispute or claim in law or equity arising between them out of this agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration, including and subject to paragraphs 35B(2) and (3) below. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of real estate transactional law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. In all other respects, the arbitration shall be conducted in accordance with Part III, Title 9 of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered in any court having jurisdiction. The parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05.~~
 - ~~(2) **EXCLUSIONS FROM MEDIATION AND ARBITRATION:** The following matters are excluded from Mediation and Arbitration hereunder: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; (iv) any matter that is within the jurisdiction of a probate, small claims, or bankruptcy court; and (v) an action for bodily injury or wrongful death, or for latent or patent defects to which Code of Civil Procedure §337.1 or §337.15 applies. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a violation of the mediation and arbitration provisions.~~
 - ~~(3) **BROKERS:** Tenant and Landlord agree to mediate and arbitrate disputes or claims involving either or both Brokers, provided either or both Brokers shall have agreed to such mediation or arbitration, prior to, or within a reasonable time after the dispute or claim is presented to Brokers. Any election by either or both Brokers to participate in mediation or arbitration shall not result in Brokers being deemed parties to the agreement.~~
- ~~"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."~~
- ~~"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."~~

Landlord's Initials / Tenant's Initials /

Landlord's Initials X()X()

Tenant's Initials () ()

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COMMERCIAL LEASE AGREEMENT (CL PAGE 4 OF 6)



Premises: 1045 W. Mission Avenue, Escondido CA 92025

Date September 10, 2018

- 36. **JOINT AND INDIVIDUAL OBLIGATIONS:** If there is more than one Tenant, each one shall be individually and completely responsible for the performance of all obligations of Tenant under this agreement, jointly with every other Tenant, and individually, whether or not in possession.
- 37. **NOTICE:** Notices may be served by mail, facsimile, or courier at the following address or location, or at any other location subsequently designated:

Landlord: David Carr, TTEE

Tenant: City of Escondido
201 N. Broadway, Escondido CA 92025

935 Laguna Dr. Apt 12
Carlsbads, CA 92008

Notice is deemed effective upon the earliest of the following: (i) personal receipt by either party or their agent; (ii) written acknowledgement of notice; or (iii) 5 days after mailing notice to such location by first class mail, postage pre-paid.

- 38. **WAIVER:** The waiver of any breach shall not be construed as a continuing waiver of the same breach or a waiver of any subsequent breach.
- 39. **INDEMNIFICATION:** Tenant shall indemnify, defend and hold Landlord harmless from all claims, disputes, litigation, judgments and attorney fees arising out of Tenant's use of the Premises.
- 40. **OTHER TERMS AND CONDITIONS/SUPPLEMENTS:**

The following ATTACHED supplements/exhibits are incorporated in this agreement: Option Agreement (C.A.R. Form OA)

- 41. **ATTORNEY FEES:** In any action or proceeding arising out of this agreement, the prevailing party between Landlord and Tenant shall be entitled to reasonable attorney fees and costs from the non-prevailing Landlord or Tenant, except as provided in paragraph 35A.
- 42. **ENTIRE CONTRACT:** Time is of the essence. All prior agreements between Landlord and Tenant are incorporated in this agreement, which constitutes the entire contract. It is intended as a final expression of the parties' agreement, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. The parties further intend that this agreement constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence whatsoever may be introduced in any judicial or other proceeding, if any, involving this agreement. Any provision of this agreement that is held to be invalid shall not affect the validity or enforceability of any other provision in this agreement. This agreement shall be binding upon, and inure to the benefit of, the heirs, assignees and successors to the parties.
- 43. **BROKERAGE:** Landlord and Tenant shall each pay to Broker(s) the fee agreed to, if any, in a separate written agreement. Neither Tenant nor Landlord has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as named in this agreement, in connection with any act relating to the Premises, including, but not limited to, inquiries, introductions, consultations, and negotiations leading to this agreement. Tenant and Landlord each agree to indemnify, defend and hold harmless the other, and the Brokers specified herein, from and against any costs, expenses, or liability for compensation claimed inconsistent with the warranty and representation in this paragraph 43.
- 44. **AGENCY CONFIRMATION:** The following agency relationships are hereby confirmed for this transaction:
 Listing Agent: Brush Real Estate (Print Firm Name) is the agent of (check one):
 the Landlord exclusively; or both the Tenant and Landlord.
 Selling Agent: _____ (Print Firm Name) (if not same as Listing Agent) is the agent of (check one):
 the Tenant exclusively; or the Landlord exclusively; or both the Tenant and Landlord.
 Real Estate Brokers are not parties to the agreement between Tenant and Landlord

Landlord's Initials X(_____)X(_____)

Tenant's Initials (_____) (_____)



Premises: **1045 W. Mission Avenue, Escondido CA 92025**

Date **September 10, 2018**

Landlord and Tenant acknowledge and agree that Brokers: (i) do not guarantee the condition of the Premises; (ii) cannot verify representations made by others; (iii) will not verify zoning and land use restrictions; (iv) cannot provide legal or tax advice; (v) will not provide other advice or information that exceeds the knowledge, education or experience required to obtain a real estate license. Furthermore, if Brokers are not also acting as Landlord in this agreement, Brokers: (vi) do not decide what rental rate a Tenant should pay or Landlord should accept; and (vii) do not decide upon the length or other terms of tenancy. Landlord and Tenant agree that they will seek legal, tax, insurance, and other desired assistance from appropriate professionals.

Tenant _____ Date _____
City of Escondido
(Print name)
Address **201 N Broadway** City **Escondido** State **CA** Zip **92025**

Tenant _____ Date _____
(Print name)
Address _____ City _____ State _____ Zip _____

GUARANTEE: In consideration of the execution of this Agreement by and between Landlord and Tenant and for valuable consideration, receipt of which is hereby acknowledged, the undersigned ("Guarantor") does hereby: (i) guarantee unconditionally to Landlord and Landlord's agents, successors and assigns, the prompt payment of Rent or other sums that become due pursuant to this Agreement, including any and all court costs and attorney fees included in enforcing the Agreement; (ii) consent to any changes, modifications or alterations of any term in this Agreement agreed to by Landlord and Tenant; and (iii) waive any right to require Landlord and/or Landlord's agents to proceed against Tenant for any default occurring under this Agreement before seeking to enforce this Guarantee.

Guarantor (Print Name) _____
Guarantor _____ Date _____
Address _____ City _____ State _____ Zip _____
Telephone _____ Fax _____ E-mail _____

Landlord agrees to rent the Premises on the above terms and conditions.

Landlord X _____ Date _____
(owner or agent with authority to enter into this agreement) **David Carr, Trustee of the Kathleen Duque Carr Intervivos revocable Trust dtd**
Address **935 Laguna Dr. Apt 12** City **Carlsbads,** State **AZ** Zip **92008**

Landlord X _____ Date _____
(owner or agent with authority to enter into this agreement)
Address _____ City _____ State _____ Zip _____

Agency relationships are confirmed as above. Real estate brokers who are not also Landlord in this agreement are not a party to the agreement between Landlord and Tenant.

Real Estate Broker (Leasing Firm) _____ DRE Lic. # _____

By (Agent) _____ DRE Lic. # _____ Date _____

Address _____ City _____ State _____ Zip _____
Telephone _____ Fax _____ E-mail _____

Real Estate Broker (Listing Firm) **Brush Real Estate** DRE Lic. # **01248553**

By (Agent) _____ DRE Lic. # **01248553** Date _____

Glen E. Brush

Address **520 W. Valley Parkway, Suite A** City **Escondido** State **CA** Zip **92025**

Telephone **(760)745-6700** Fax **(760)745-7611** E-mail **glen@brushrealty.com**

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COMMERCIAL LEASE AGREEMENT (CL PAGE 6 OF 6)



ADDENDUM

The following terms and conditions are hereby incorporated in and made a part of the **Commercial Lease Agreement** on the property known as **1045 W, Mission Ave, Escondido, CA 92025** in which the **City of Escondido** is referred to as "Tenant" and **David Carr, Trustee of the Kathleen Duque Carr Intervivos Revocable Trust dtd 02/06/14** is referred to as "Landlord".

The following terms shall be incorporated into the Commercial Lease Agreement:

Section 2C, RENEWAL OR EXTENSION: At the end of the term, this lease may be renewed for one additional one year term upon mutual written agreement by the Tenant and the Landlord.

CITY OF ESCONDIDO, Tenant

Date: _____

Vince McCaw
Real Property Manager

Date: _____

Diane Halverson
City Clerk

David Carr, Trustee of the Kathleen Duque
Carr Intervivos Revocable Trust dtd 02/06/14,
Landlord

Date: _____

David Carr, Trustee



CITY COUNCIL STAFF REPORT

Consent Item No. 8

October 10, 2018

File No. 0600-10, A-3268

SUBJECT: Lease Agreement with Stylution USA, Inc. (dba Wickline Bedding) at 455 North Quince Street

DEPARTMENT: Engineering Services Department

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2018-158 authorizing the Real Property Manager to execute, on behalf of the City of Escondido (City), a Lease Agreement with Stylution USA, Inc. (dba Wickline Bedding) for the property at 455 North Quince Street.

FISCAL ANALYSIS:

Monthly payments in the amount of \$19,373.30 will be deposited into the City's General Fund and will include an increase of three percent each year.

PREVIOUS ACTION:

On June 24, 2015, the City Council approved the Lease Agreement between the City and Stylution USA, Inc. (dba Wickline Bedding) via Resolution No. 2015-78.

BACKGROUND:

The City acquired 455 North Quince Street for a proposed ballpark/industrial park project and assumed the lease of the existing tenant, Stylution USA, Inc. (dba Wickline Bedding). The City has continued to lease to Stylution USA, Inc. (dba Wickline Bedding) since that time for continued operations of its mattress manufacturing business. The existing lease is below fair market value due to the short lease term and condition of the structure (roof leaks, HVAC issues); however, the tenant is responsible for all maintenance and repairs of the premises.

The existing Lease Agreement expired September 17, 2018, and has continued on a month-to-month basis per the terms of the agreement. The parties desire to execute a new Lease Agreement with a term of three years. The Lease Agreement can be terminated by either party with written notice of 180 days in advance.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Julie Procopio, Director of Engineering Services
10/3/2018 2:33 p.m.

ATTACHMENTS:

1. Resolution No. 2018-158
2. Resolution No. 2018-158 – Exhibit A – Lease Agreement

RESOLUTION NO. 2018-158

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE REAL PROPERTY MANAGER AND CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY AS THE SUCCESSOR AGENCY TO THE ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION, A LEASE AGREEMENT WITH STYLUTION USA, DBA WICKLINE BEDDING COMPANY

WHEREAS, the City of Escondido (“City”), as the Successor Agency to the Escondido Community Development Commission, owns certain real property located at 455 North Quince (“Property”); and

WHEREAS, the City has leased the Property to Stylution USA, Inc. (dba Wickline Bedding) since the City acquired it in 2011: and

WHEREAS the current lease with Stylution USA, Inc. (dba Wickline Bedding) expired on September 17, 2018; and

WHEREAS, Stylution USA, Inc. (dba Wickline Bedding) is presently occupying and leasing the Property from the City on a month-to-month basis; and

WHEREAS, the City and Stylution USA, Inc. (dba Wickline Bedding) desire to enter into a new lease agreement (“Lease Agreement”) to allow Stylution USA, Inc. (dba Wickline Bedding) continued occupancy at the Property for assembling, manufacturing and warehousing of bedding and furniture facilities; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve the Lease 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 Real Property Manager and City Clerk are authorized to execute, on behalf of the City, the Lease Agreement with Stylution USA, (dba Wickline Bedding), in substantially the same form that is attached hereto as Exhibit "A" and incorporated by this reference.



455 N. Quince Street LEASE AGREEMENT

Lessee: Stylution USA, dba Wickline Bedding

Term: 3 Years

Address: 455 N. Quince, Escondido, CA 92025

Date: October ____, 2018



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CITY OF ESCONDIDO LEASE AGREEMENT

This Lease is made as of _____, 2018 between the **City** and **Stylution USA, dba Wickline Bedding**.

Section 1 Definition of Terms

The following words in this Lease shall have the significance attached to them in this Section unless otherwise apparent from their context.

- 1.1 **City.** The City means the City of Escondido, a California general law City.
- 1.2 **Lease.** Lease means this lease agreement.
- 1.3 **Lease Administrator.** The Lease Administrator means the City of Escondido Real Property Agent or, upon written notice to Lessee, such other person as shall be designated from time to time by City.
- 1.4 **Lessee.** Lessee means Stylution USA, dba Wickline Bedding, and does not include its heirs, assigns, or successors-in-interest.
- 1.5 **Party.** Lessee or City may be referred to individually as Party or collectively as Parties.
- 1.6 **Premises.** Premises means the real property commonly known as 455 N. Quince Street, Escondido, CA 92025, as depicted on **EXHIBIT A**.

Section 2 Administration

This Lease will be administered on behalf of City by the Lease Administrator, whose address is:

City of Escondido
Attn: Real Property Manager
201 North Broadway
Escondido, CA 92025

and on behalf of Lessee by Ed Scott, whose address is:

Stylution USA, dba Wickline Bedding
Attn: Ed Scott
455 N Quince Street
Escondido, CA 92025

Section 3 Term

- 3.1 The term of this Lease shall be **three (3) years**, commencing on _____, 2018.
- 3.2 Hold Over. The occupancy of the Premises by Lessee, after the expiration of the Term shall be construed as a month to month tenancy, and all other terms and conditions of this Lease shall continue in full force and effect, on a month to month basis. The City shall have the right to terminate the month to month tenancy without cause and for any reason by giving 30 days prior notice to Lessee.

Section 4 Termination of Lease

- 4.1 Each party shall have the right to terminate this Lease early without penalty by providing the other with a written notice 180 days in advance.
- 4.2 Default. If the City discovers at any time that the Lessee has violated any provision of this Lease, City may notify Lessee of the violation and immediately terminate the Lease upon written notice.

Section 5 Options to Renew

- 5.1 Options to renew are not applicable to this lease.

Section 6 Vacation of Premises

- 6.1 Upon termination of this Lease for any reason, Lessee shall peaceably vacate and deliver the Premises to City in the same condition as Lessee found them upon its acceptance of the Premises hereunder, excepting ordinary wear and tear and conditions caused by acts of God.
- 6.2 Upon such termination, Lessee shall immediately:
- A. Provide a written statement to the Lease Administrator of Lessee's new address for purpose of refunding monies, if any, due Lessee under this Lease; and
 - B. Deliver any keys for the Premises to the Administrator or send said keys by certified mail to the City.

Section 7 Rent

- 7.1 Rental Rate. In consideration of the possession and use of the Premises,

Lessee shall deliver and pay rent to City **\$19,373.30** per month on or prior to the first day of each month. Rent payments will commence on _____, 2018.

- 7.2 Rent Adjustment. The base rental rate shall increase 3% annually on the anniversary of the Effective Date.
- 7.3 Hold Over Rental Rate. The rent payments for any hold over will be equal to the previous year's Rental Rate plus ten percent (10%).

Section 8 Security Deposit

A security deposit has already been paid by Lessee in the amount of \$15,300.

Section 9 Late Payment

Rent payments received after the fifth day of any month will be charged an additional 20% late payment fee.

Section 10 Utilities Payments

Lessee agrees to provide and pay for all utilities and services necessary for the occupancy and use of the Premises, including, but not limited to: gas, water, electricity, sewage charges or septic service, trash and any telecommunications services.

Section 11 Taxes, Assessments and Fees

- 11.1 The terms of this Lease may result in the creation of a possessory interest. If such a possessory interest is vested in Lessee, Lessee may be subjected to the payment of personal property taxes levied on such interest. Lessee shall be responsible for the payment of, and shall pay before delinquent, all taxes, assessments, and fees assessed or levied upon Lessee, on said Premises or any interest therein, on any buildings, structures, machines, appliances, or other improvements of any nature whatsoever, or on any interest therein.
- 11.2 Lessee further agrees not to allow such taxes, assessments, or fees to become a lien against said premises or any improvement thereon. Nothing herein contained shall be deemed to prevent or prohibit Lessee from contesting the validity of amount of any such tax, assessment, or fee in any manner authorized by law.

Section 12 Acceptance and Maintenance

- 12.1 Lessee hereby acknowledges that Lessee has inspected the Premises and Lessee accepts said Premises "as is" and "where is." Lessee acknowledges

that the City makes no representations as to the condition or suitability of the Premises or any improvements on the Premises. Pursuant to the noticing requirements of California Civil Code Section 1938, Lessee acknowledges that the Premises being leased has not undergone inspection by a Certified Access Specialist.

- 12.2 Lessee agrees to maintain the Premises in good condition and in compliance with all applicable property maintenance and related laws. Lessee releases the City from the obligation to maintain any portion of the Premises. Said release is part of the consideration for the rental of the Premises, and Lessee therefore waives all rights it may otherwise have under Sections 1941 and 1942 of the Civil Code.
- 12.3 In the event Lessee fails to properly maintain the premises as required by City, City may notify Lessee in writing of said failure. In the event Lessee fails to perform said maintenance within 30 days after such notice by City, City may perform such maintenance, and any costs including, but not limited to, the cost of labor, material, and equipment, shall be paid by Lessee to City within 10 days from receipt by Lessee of an invoice from City.

Section 13 Alterations

Lessee shall not paint, alter, cut, add to, or otherwise change the appearance, structure, or condition of the Premises without the prior written consent of the Lease Administrator and only after obtaining applicable permits. Any tenant improvements and additional improvements made with the consent of the Lease Administrator shall become a fixture to the realty and shall remain on and be surrendered with the Premises upon termination of this Lease.

Section 14 Use

Lessee agrees to use the Premises for assembly, manufacturing and warehousing of bedding and furniture in a manner consistent with this Lease. Additionally, Lessee agrees to use the Premises in accordance with the provisions and requirements contained in any permits required by the City of Escondido. Lessee shall not use, nor permit the use of, the Premises other than as described. In any case where Lessee is, or should reasonably be, in doubt as to the propriety of any particular use, Lessee may request, and will not be in breach or default if Lessee abides by, the written determination of the Lease Administrator that such use is or is not permitted.

Section 15 Occupancy, Assignment and Subletting

The Premises shall only be occupied by Lessee except with prior written consent of the Lease Administrator. Lessee may not assign or sublease any interest in this Lease to any other Party, at any time, including a transferee of a controlling interest in Lessee without written consent from the Lease Administrator.

Section 16 Conduct

Lessee shall not violate, or permit the violation of, any City or County ordinance, or state or federal law, in or about the Premises.

Section 17 Pets

No pets or livestock of any kind may be kept on the Premises without the prior written consent of the Lease Administrator.

Section 18 Notices

Any notice required or permitted to be given by this Lease must either be personally served on the other Party or served by certified mail, return receipt requested, to the addressee. Notices served by mail shall be sent to the address listed above. A change of either Party's address must also be immediately served in the manner described above.

Section 19 Right of Inspection

City reserves the right for its agents or employees to enter upon and inspect the Premises at any reasonable time to ascertain if Lessee is complying with the provisions of this Lease.

Section 20 Insurance

- 20.1 Lessee must have insurance in the following amounts at all times during this Lease:
- A. General liability insurance with at least \$2 Million combined single-limit coverage per occurrence for bodily injury and property damage.
 - B. Automobile liability insurance of \$1 Million combined single-limit per accident for bodily injury and property damage for any and all vehicles that are owned by the Lessee (if applicable).
 - C. Workers' compensation and employer's liability insurance as required by the California Labor Code, as amended, or certificate of sole proprietorship.

- D. Commercial property insurance in an amount commensurate with the value of the improvements on the Premises.
- 20.2 Each insurance policy required above must be acceptable to the City Attorney:
- A. Each policy must name the City specifically as an additional insured under the policy on a separate endorsement page, with the exception of the workers' compensation policy.
 - B. 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.
 - C. All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.
- 20.3 Lessee agrees to deposit with City, on or before the effective date of this Lease, one certificate of insurance for each of the policy or policies necessary to satisfy the insurance provisions of this Lease and to keep such insurance in effect during the entire term of this Lease. This certificate must be reviewed by, and acceptable to, the City Attorney, prior to commencement of the Lease Term. Lessee will also deposit with the City within 60 days of the Effective Date of this Lease, an additional insured endorsement naming City specifically and separately as an "additional insured", with the exception of the worker's compensation policy. The appropriate endorsements described above shall follow within 60 days.
- 20.4 City shall retain the right at any time to review the coverage, form and amount of the insurance required hereby. If, in the opinion of the Lease Administrator, the insurance provisions in this Lease do not provide adequate protection for City and for members of the public using the Premises, City may require Lessee to obtain insurance sufficient in coverage, form and amount to provide adequate protection from and against the kind and extent of risks which exist or are foreseeable at the time a change in insurance is required. City's requirements shall be reasonable, but shall be designed to assure adequate protection of the City's interests. The Lease Administrator shall notify Lessee in writing of changes in the insurance requirements and, if Lessee does not deposit with

City within 60 days of receipt of such notice a new Certificate of Insurance for each policy or policies of insurance incorporating such changes, this Lease shall be deemed in default without further notice to Lessee and may be forthwith terminated by the Lease Administrator.

- 20.5 The procuring of such required policy or policies of insurance shall not be construed to limit Lessee's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policy or policies of insurance, Lessee shall be obligated for the full and total amount of any damage, injury or loss attributable to any act or omission of it or its agents, customers or guests in connection with this Lease or with use or occupancy of the Premises.

Section 21 Indemnification

Lessee shall defend, indemnify, and hold harmless City, its officers, agents, and employees from and against any and all claims, demands, and liabilities for loss of any kind or nature which City, its officers, agents, or employees may sustain or incur or which may be imposed upon them or any of them for injury to or death of persons or damage to property as a result of, arising out of, or in any manner connected with this Lease or with the occupancy and use of the Premises by Lessee, its invitees, visitors, or any other persons whatsoever. Lessee further agrees to pay any and all costs and expenses, including, but not limited to, court costs and reasonable attorney's fees incurred by City on account of any such claims, demands, or liabilities. However, the provisions of this Lease shall not be construed to indemnify City for claims or acts arising from City's sole negligence.

Section 22 Attorney's Fees, Costs and Expenses

In the event legal action is brought to enforce the terms of or to declare a termination of this Lease for reason of breach thereof, the unsuccessful Party shall pay all of the successful Party's costs of such action, together with reasonable attorney's fees, in an amount to be fixed by the court.

Section 23 Non-Discrimination

Lessee covenants that this Lease is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of physical or mental disabilities, race, color, creed, religion, sex, marital status, national origin or ancestry in the use, occupancy, tenure or enjoyment of the leased premises. Lessee shall not establish or permit any such practice of discrimination or segregation with reference to the selection, location, number, or use of occupancy by customers, tenants or vendees in the leased premises.

Section 24 Supersede

This Lease, upon becoming effective, shall supersede any leases or rental agreements heretofore made or issued for the Premises between the City and Lessee.

Section 25 Hazardous and/or Contaminated Soil and Material

Lessee will not place or permit to be placed materials and/or contaminated soils on the premises which under federal, state, or local law, statute, ordinance, or regulations require special handling in collection, storage, treatment, and/or disposal. Lessee also hereby covenants and agrees that, if at any time it is determined there are materials and/or contaminated soils located on the premises which under any environmental requirement require special handling in collection, storage, treatment, or disposal, Lessee shall notify City. Within thirty (30) days after written notice to City or from City, Lessee shall commence to take and thereafter diligently complete, at Lessee's sole expense, such actions as may be necessary to comply with environmental requirements.

Section 26 Law to Govern; Venue

This Lease is governed by the laws of the State of California. Venue for all actions arising from this Lease must be exclusively in the North County Division of the San Diego County Superior Court or federal courts located in San Diego County, California.

Section 27 Special Provisions

Lessee hereby acknowledges that Lessee waives all rights to any form of relocation assistance provided for by local, state, or federal law to which Lessee may be entitled by reason of this Lease.

Section 28 Compliance with Federal, State, and Local Laws

It is the duty of the Lessee while operating under this Lease to comply with all local, state, and federal laws, and to indemnify City from any violation of any such law. Failure to comply with a provision of local, state, or federal law is grounds for the Lease Administrator's immediate termination of this Lease.

Section 29 Amendment

This Lease may not be amended, modified, or supplemented except by a writing executed both Parties.

Section 30 Waiver

No waiver by a Party of any provision of this Lease shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision. The exercise by a Party of any right or remedy provided in this Lease or provided by law shall



not prevent the exercise by that Party of any other remedy provided in this Lease or under the law.



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

STYLUTION USA, DBA WICKLINE BEDDING

Date: _____

Ed Scott, President

CITY OF ESCONDIDO

Date: _____

Vince McCaw, Real Property Manager

Date: _____

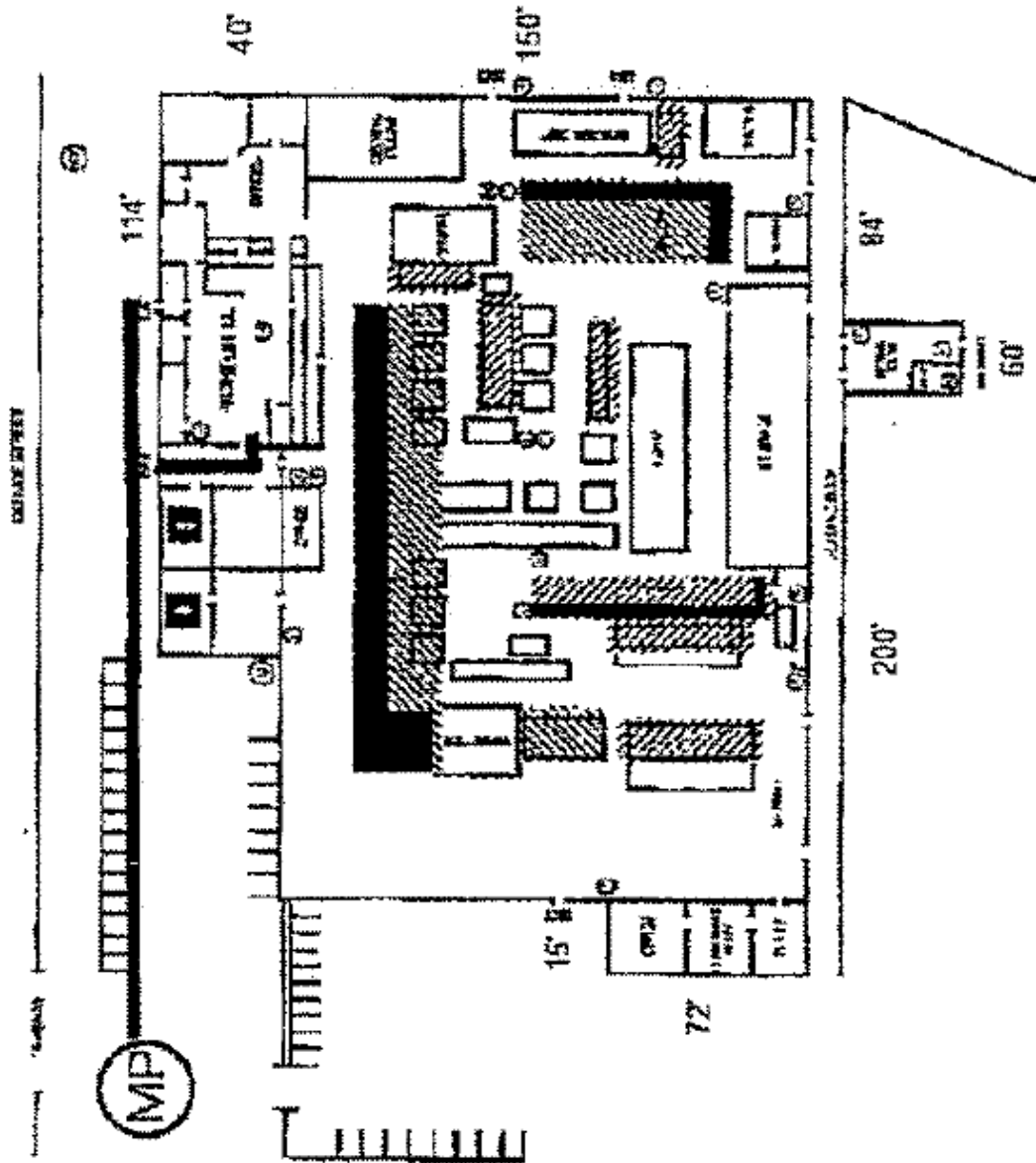
Diane Halverson, City Clerk

APPROVED AS TO FORM:

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

By: _____

Exhibit A Site Plan



All measurements are approximate. Drawing is not to scale.

CITY COUNCIL STAFF REPORT

Public Hearing No.9

October 10, 2018

File No. 0690-20

SUBJECT: Memorandum of Understanding and Exclusive Negotiating Agreement for the Potential Sale of 1600 West Ninth Avenue (Windsor Gardens)

DEPARTMENT: City Manager's Office
Real Property
Housing & Neighborhood Services

RECOMMENDATION:

It is requested that Council adopt Resolution 2018-163 authorizing the Mayor and City Clerk to execute a Memorandum of Understanding ("MOU") with the Escondido Senior Housing Corporation ("ESHC") and an Exclusive Negotiating Agreement ("ENA") with Community HousingWorks ("CHW") regarding the potential sale of Windsor Gardens.

FISCAL ANALYSIS:

Both the General Fund and the Low and Moderate-Income Housing Set-Aside Fund ("Set-Aside") will be affected by the sale of the property at 1600 West Ninth Avenue commonly known as Windsor Gardens ("Property"). The General Fund owns the Property upon which Windsor Gardens was constructed by ESHC. The City currently leases the land to ESHC at a nominal amount. The Set-Aside fund has an affordable housing loan with long-term recorded affordability restrictions on the development.

CHW and EAH, two organizations that own, operate, and manage affordable housing developments, submitted strong proposals for the purchase the Property from the City and the underlying ground lease from the ESHC. Staff recommends accepting CHW's offer and working with CHW to develop their financing based on a higher purchase price for the property, with a long-term management plan for the Windsor Gardens property that includes social programs to meet the needs of the residents.

As part of the process, an appraisal conducted on December 14, 2017 valued the Property at \$13,100,000. CHW has proposed a purchase price of \$13,100,000. Total development costs, including acquisition, are anticipated to be approximately \$23,747,000. The City General Fund would receive \$3,745,000 cash at close of escrow. CHW would also assume the current Set-Aside loan valued at approximately \$800,000 (a 55-year residual receipts note with a rate of 3%).

The remaining balance of \$8,554,000 will be repaid to the City General Fund from residual receipts over 55 years as evidenced by a promissory note secured by a deed a trust. The interest rate on the note would be at the Federal Applicable Rate (APR); the actual interest rate will be determined at close of escrow. These estimates may be modified by an updated appraisal, additional issues discovered during the due diligence period, or changes in tax credit pricing.

The final terms of the agreement for the potential sale will be brought to the Council for approval in approximately six to eight months. As CHW completes their due diligence, some of these figures may change. For instance, the California Tax Credit Allocation Committee (CTCAC) will require an updated appraisal which could raise or lower the purchase price.

PREVIOUS ACTION:

On January 12, 1977, the City Council adopted Resolution 77-8 authorizing a fifty-year ground lease of City owned land in the vicinity of Ninth and Hale Avenue to ESHC for the purpose of constructing a senior housing project with affordable rents for low-income seniors.

On June 16, 2010, the Community Development Commission (CDC) adopted Resolution CDC 2010-04 authorizing a loan not to exceed \$915,000 from the Set-Aside Fund to ESHC for the Windsor Gardens apartments at 1600 West Ninth Avenue to pay off an existing first mortgage. On January 25, 2012, the City Council adopted Resolution No. 2012-16 electing to serve as the Successor Housing Agency of the CDC.

BACKGROUND:

Windsor Gardens is built on property owned by the City of Escondido and leased to ESHC, a non-profit corporation that improved the site with 132 units of rental housing (33 garden style four-plexes) in 1977 using private financing backed by a HUD 221(d)(3) mortgage guaranty. The land lease with the City stated that the improvements are to revert back to city ownership at the expiration of the lease on December 31, 2026.

Due to specific federal Department of Housing and Urban Development (HUD) rules regarding rent increases, the project did not have sufficient reserves to begin the necessary rehabilitation of the units. ESHC requested that the CDC assist the project by making an \$873,599 Set-Aside loan to pay off the existing first mortgage, releasing the HUD covenants and making the property subject to Redevelopment Law.

CDC affordability covenants ensure that Windsor Gardens remains an affordable low-income senior housing project for 55 years (through 2065). By agreement, 33 of the units at Windsor Gardens are restricted to Extremely Low-Income Households (maximum household income is 30% of the Area Median Income (AMI)), 32 of the units in the Project are restricted to Very Low-Income Households (maximum household income is 50% AMI), 65 of the units in the Project are restricted to Low Income Households (maximum household income is 60% AMI), and two units are unrestricted manager units. The underlying land lease was not renegotiated in 2010.

The 2010 Set-Aside loan refinanced Windsor Gardens, but did not include funds for the rehabilitation of the property. Funds for rehabilitation were anticipated to come from an increased cash flow for the project. Several of the four-plexes were renovated (upgrade of HVAC, water heating system, energy efficient windows; replacement of roofing, termite damage repaired, kitchen and bath upgrades), ADA site issues were addressed, as were stormwater conditions and site lighting. The slow pace of

rehabilitation necessitated by the funding model proved difficult, and in 2016 the ESHC began to explore options regarding the long-term ownership of Windsor Gardens.

ESHC released a Request for Proposals to solicit offers regarding the potential sale and maintenance of the project and received approximately six responses. There were two proposals preferred by ESHC, one from CHW and one from EAH. Both proposals included substantial rehabilitation of the property using 4% tax credits, purchase of the underlying ground lease from ESHC and the Property from the City, commitment to continue ESHC's policy of enhanced affordability restrictions for existing residents, and significant supportive services for the tenants.

City staff reviewed the proposals and worked with KMA to review the pro-formas (see Attachment 1). Staff is recommending entering into an ENA with CHW for the potential sale of the Property and executing a MOU with ESHC regarding ESHC's terms for the potential sale (see Resolution No. 2018-163). The MOU proposed by ESHC contains the following restrictions on the potential sale:

1. Current residents may not be displaced (except temporarily during rehabilitation activities);
2. Annual rent increases for current residents would be limited to 2.5%;
3. Long-term affordability must be preserved by restriction;
4. The purchaser must have a committed plan for social services that meets the needs of the residents and a commitment to budgeting for future services; and
5. ESHC will retain assets to meet its outstanding obligations including, but not limited to, wind up and dissolution activities and charitable contribution(s) in furtherance of its charitable purposes.

In order for CHW to pursue funding and complete due diligence on the property, CHW has requested the City enter into an ENA. CHW anticipates applying for Affordable Housing Program (AHP) funds from the Federal Home Loan Bank and 4% tax credits in Spring 2019. This would allow for a winter 2019/2020 close on the property and an immediate commencement of rehabilitation of the units.

In appreciation of the work that ESHC has done for the seniors at Windsor Gardens, staff recommends that ESHC retain \$15,000 from the sale of the property to make a charitable donation to a nonprofit organization with a similar mission in furtherance of its charitable purposes as provided in the MOU.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Jay Petrek, Assistant City Manager
10/3/2018 3:32 p.m.

ATTACHMENTS:

1. Attachment 1 - KMA pro forma review
2. Resolution No. 2018-163
3. Resolution No.2018-163 – Exhibit A
4. Resolution No. 2018-163 – Exhibit B

SUMMARY TABLE

TOTAL PAYMENTS TO CITY/CDC ⁽¹⁾

WINDSOR GARDENS

CITY OF ESCONDIDO

	CHW	EAH
Allocation of Surplus Cash Flow - Developer vs. Public Lenders	50% Developer/ 50% Public	50% Developer/ 50% Public ⁽²⁾
Distribution of Cash Flow to Public Lenders - CDC vs. City	50% / 50% Distribution	
	25% CDC / 25% City	25% CDC / 25% City
I. Repayment of Existing CDC Loan	\$0	\$0
II. Upfront Cash Payment to City General Fund	\$3,745,000	\$2,810,000
III. <i>Payments During 55-Year Loan Term(s)</i>		
<i>Payments Years 1-55 (Existing CDC Loan)</i>	<i>\$1,330,000</i>	<i>\$1,371,000</i>
<i>Lump Sum Payoff at end of Loan (CDC Loan)</i>	<i>\$0</i>	<i>\$0</i>
<i>Subtotal</i>	<i>\$1,330,000</i>	<i>\$1,371,000</i>
<i>Payments Years 1-55 (City Seller Note)</i>	<i>\$7,830,000</i>	<i>\$10,537,000</i>
<i>Lump Sum Payoff at end of Loan (City Seller Note)</i>	<i><u>\$15,554,000</u></i>	<i><u>\$0</u></i>
<i>Subtotal</i>	<i>\$23,384,000</i>	<i>\$10,537,000</i>
<i>Total</i>	<i>\$24,714,000</i>	<i>\$11,908,000</i>
IV. Present Value of Share of Future Surplus Cash Flow ⁽³⁾		
Payments toward Existing CDC Loan	\$258,000	\$248,000
Payments toward City Note	<u>\$547,000</u> ⁽⁴⁾	<u>\$464,000</u>
Total	\$805,000	\$712,000
V. Total Value to CDC/City (I + II + IV) ⁽⁵⁾	\$4,550,000	\$3,522,000

(1) Includes AHP commitment of \$1.3 million.

(2) EAH proposed allocation not provided; allocation of surplus cash flow based on June 2017 analysis.

(3) Present value of surplus cash flow at Year 1 assuming a 10.0% discount rate.

(4) Includes repayment of outstanding balance at Year 55.

(5) Combination of upfront cash and present value of future payments.

TABLE 1

**PROJECT DESCRIPTION
WINDSOR GARDENS
CITY OF ESCONDIDO**

	CHW			EAH		
I. Site Area	6.03 Acres			6.03 Acres		
II. Housing Type	Senior Apartments			Senior Apartments		
III. Gross Building Area (GBA)						
Net Rentable Area	68,440 SF (1)	96%		68,440 SF	96%	
Common Areas/Circulation	<u>2,650</u> SF	<u>4%</u>		<u>2,650</u> SF (2)	<u>4%</u>	
Total GBA	71,090 SF	100%		71,090 SF	100%	
IV. Number of Stories	1 Story			1 Story		
V. Construction Type	Type V Acquisition / Rehabilitation			Type V Acquisition / Rehabilitation		
VI. Unit Mix	<u>Units</u>		<u>Average Unit Size</u>	<u>Units</u>		<u>Average Unit Size</u>
One Bedroom	128 Units	97%	536 SF	127 Units	96%	510 SF
One Bedroom - Manager	0 Units	0%	536 SF	1 Unit	1%	504 SF
Two Bedroom	2 Units	2%	790 SF	3 Units	2%	790 SF
Two Bedroom - Manager	<u>2</u> Units	<u>2%</u>	<u>790</u> SF	<u>1</u> Unit	<u>1%</u>	<u>790</u> SF
Total/Average	132 Units	100%	544 SF (1)	132 Units	100%	519 SF
VII. Density	22 Units/Acre			22 Units/Acre		
VIII. Affordability Mix						
Units @ 30% AMI	33 Units	25%		36 Units	27%	
Units @ 50% AMI	47 Units	36%		62 Units	47%	
Units @ 60% AMI	50 Units	38%		32 Units	24%	
Manager	<u>2</u> Units	<u>2%</u>		<u>2</u> Units	<u>2%</u>	
Total	132 Units	100%		132 Units	100%	
Average Affordability (excl. Manager)	49% of AMI			47% of AMI		
IX. Parking						
Residential Parking Spaces	82 Spaces			82 Spaces (3)		
Parking Ratio	0.62 Spaces/Unit			0.62 Spaces/Unit		

(1) Reflects inconsistency; rental area of 68,440 SF / 132 units = 518 SF average unit size.

(2) EAH did not provide estimate for common area/circulation; figure shown reflects CHW estimate.

(3) EAH did not provide estimate for number of parking spaces; figure shown reflects CHW estimate.

TABLE 2

ESTIMATED DEVELOPMENT COSTS
WINDSOR GARDENS
CITY OF ESCONDIDO

CHW			
	<u>Totals</u>	<u>Per Unit</u>	<u>Notes</u>
I. Direct Costs ⁽¹⁾			
Off-Site Improvements	\$0	\$0	\$0 /SF Site Area
On-Site Improvements/Landscaping ⁽²⁾	\$456,316	\$3,457	\$2 /SF Site Area
Remediation	\$0	\$0	\$0 /SF Site Area
Parking	\$0	\$0	\$0 /Space
Building Rehabilitation ⁽²⁾	\$4,271,229	\$32,358	\$60 /SF GBA
Amenities/FF&E	\$40,000	\$303	Allowance
Contingency	<u>\$522,525</u>	<u>\$3,959</u>	11.0% of Above Directs
Total Direct Costs	\$5,290,070	\$40,076	\$74 /SF GBA
II. Indirect Costs			
Architecture & Engineering	\$353,500	\$2,678	6.7% of Directs
Permits & Fees	\$39,600	\$300	\$1 /SF GBA
Legal & Accounting	\$144,800	\$1,097	2.7% of Directs
Taxes & Insurance	\$88,555	\$671	1.7% of Directs
Developer Fee	\$2,853,226	\$21,615	53.9% of Directs
Construction Management	\$57,000	\$432	1.1% of Directs
Relocation ⁽³⁾⁽⁴⁾	\$430,000	\$3,258	8.1% of Directs
Marketing/Lease-Up	\$7,500	\$57	0.1% of Directs
Contingency	<u>\$58,107</u>	<u>\$440</u>	1.5% of Above Indirects
Total Indirect Costs	\$4,032,288	\$30,548	76.2% of Directs
III. Financing Costs			
Loan Fees ⁽⁵⁾	\$430,054	\$3,258	8.1% of Directs
Interest During Construction	\$251,875	\$1,908	4.8% of Directs
Interest During Lease-Up	\$188,907	\$1,431	3.6% of Directs
TCAC Fees/Syndication Costs	\$216,863	\$1,643	4.1% of Directs
Operating Lease-Up/Reserves	\$187,115	\$1,418	3.5% of Directs
Replacement Reserves	<u>\$39,600</u>	<u>\$300</u>	0.7% of Directs
Total Financing Costs	\$1,314,414	\$9,958	24.8% of Directs
IV. Total Development Costs excluding Acquisition	\$10,636,772	\$80,582	\$150 /SF GBA
V. Acquisition Costs			
Land/Buildings ⁽⁶⁾	\$13,100,000	\$99,242	\$184 /SF GBA
Other Acquisition Costs	<u>\$0</u>	<u>\$0</u>	0.0% of Acquisition Costs
Total Acquisition Costs	\$13,100,000	\$99,242	\$184 /SF GBA
VI. Total Development Costs including Acquisition	\$23,736,772	\$179,824	\$334 /SF GBA
Or Say (Rounded)	\$23,737,000		

(1) Does not assume the payment of prevailing wages.

(2) Includes pro rata share of general conditions and contractor fee.

(3) Reflects temporary relocation at \$2,500 per unit (130 Units).

(4) Includes allowance of \$105,000 for possible relocation of three households for prudent/practical purposes. A preliminary assessment by CHW appears to indicate there will be no need for permanent relocation.

(5) Includes "other soft costs".

(6) Value as of December 11, 2017. Source: Colliers International Appraisal Report dated December 14, 2017.

TABLE 3

**ESTIMATED DEVELOPMENT COSTS
WINDSOR GARDENS
CITY OF ESCONDIDO**

				EAH		
				<u>Totals</u>	<u>Per Unit</u>	<u>Notes</u>
I. Direct Costs ⁽¹⁾						
Off-Site Improvements		\$0	\$0	\$0	/SF Site Area	
On-Site Improvements/Landscaping		\$112,149	\$850	\$0	/SF Site Area	
Remediation		\$218,868	\$1,658	\$1	/SF Site Area	
Parking		\$125,135	\$948	\$1,526	/Space	
Building Rehabilitation		\$4,295,432	\$32,541	\$60	/SF GBA	
Amenities/FF&E		\$88,539	\$671		Allowance	
Contingency		<u>\$750,219</u>	<u>\$5,683</u>		15.5% of Above Directs	
Total Direct Costs		\$5,590,342	\$42,351	\$79	/SF GBA	
II. Indirect Costs						
Architecture & Engineering		\$434,400	\$3,291		7.8% of Directs	
Permits & Fees		\$21,605	\$164	\$0	/SF GBA	
Legal & Accounting		\$72,500	\$549		1.3% of Directs	
Taxes & Insurance		\$40,000	\$303		0.7% of Directs	
Developer Fee		\$2,686,843	\$20,355		48.1% of Directs	
Construction Management		\$0	\$0		0.0% of Directs	
Relocation ⁽²⁾		\$330,000	\$2,500		5.9% of Directs	
Marketing/Lease-Up		\$10,000	\$76		0.2% of Directs	
Contingency ⁽³⁾		<u>\$289,654</u>	<u>\$2,194</u>		8.1% of Above Indirects	
Total Indirect Costs		\$3,885,002	\$29,432		69.5% of Directs	
III. Financing Costs						
Loan Fees		\$428,525	\$3,246		7.7% of Directs	
Interest During Construction		\$664,938	\$5,037		11.9% of Directs	
Interest During Lease-Up		\$0	\$0		0.0% of Directs	
TCAC Fees/Syndication Costs		\$187,338	\$1,419		3.4% of Directs	
Operating Lease-Up/Reserves		\$199,274	\$1,510		3.6% of Directs	
Replacement Reserves		<u>\$0</u>	<u>\$0</u>		0.0% of Directs	
Total Financing Costs		\$1,480,075	\$11,213		26.5% of Directs	
IV. Total Development Costs excluding Acquisition		\$10,955,419	\$82,996	\$154	/SF GBA	
V. Acquisition Costs						
Land/Buildings ⁽⁴⁾		\$13,300,000	\$100,758	\$187	/SF GBA	
Other Acquisition Costs ⁽⁵⁾		<u>\$111,700</u>	<u>\$846</u>		0.8% of Acquisition Costs	
Total Acquisition Costs		\$13,411,700	\$101,604	\$189	/SF GBA	
VI. Total Development Costs including Acquisition		\$24,367,119	\$184,599	\$343	/SF GBA	
Or Say (Rounded)		\$24,367,000				

(1) Does not assume the payment of prevailing wages.

(2) Reflects temporary relocation at \$2,500 per unit (132 Units).

(3) Includes "other soft costs".

(4) Value as of November 28, 2017. Source: Novogradac and Company, December 21, 2017.

(5) Adjusted by KMA to exclude the City's existing loan (\$808,844). Assumes purchase price for land/buildings will be offset by assumption of existing City loan (see Tables 6 and 7).

TABLE 4

**NET OPERATING INCOME
WINDSOR GARDENS
CITY OF ESCONDIDO**

Required Affordability Restrictions	
Extremely Low - 30% AMI	33 Units
Very Low - 50% AMI	32 Units
Low - 60% AMI (Rent)	65 Units
Manager (unrestricted)	2 Units
Total	132 Units

		CHW					CRL Rent Limits ⁽¹⁾
		Unit Size (SF)	# of Units	Monthly Rent	Rent/SF	Total Annual	
I. Residential Income		<i>Income at 100% Transition @ Year 15 (2017 \$'s)</i>					
One Bedroom @	30% AMI	536 SF	48	\$905	\$1.69	\$521,280	\$440
One Bedroom @	50% AMI	536 SF	15	\$807	\$1.51	\$145,260	\$757
One Bedroom @	50% AMI	536 SF	32	\$747	\$1.39	\$286,848	\$757
One Bedroom @	60% AMI	536 SF	33	\$429	\$0.80	\$169,884	\$916
One Bedroom @	Manager	---	---	---	---	---	---
Two Bedroom @	50% AMI	---	---	---	---	---	---
Two Bedroom @	60% AMI	790 SF	2	\$1,012	\$1.28	\$24,288	\$1,022
Two Bedroom @	Manager	<u>790 SF</u>	<u>2</u>	<u>\$0</u>	<u>\$0.00</u>	<u>\$0</u>	---
Total/Average		544 SF	132	\$724	\$1.33	\$1,147,560	
II. Alternative Income		<i>Income to Preserve Rents in Place Year 1 of 14-Year Transition</i>					
Rental Income - Tenant Rent ⁽²⁾			132	\$536 Unit/Month		\$848,340	
Rental Income - Vouchers ⁽³⁾			---	---	---	---	
Total Rental Income			132	\$536 Unit/Month		\$848,340	
Add: Other Income				\$6 Unit/Month		<u>\$9,768</u>	
III. Gross Scheduled Income (GSI)						\$858,108	
(Less) Vacancy			5.0% of GSI			<u>(\$42,905)</u>	
IV. Effective Gross Income (EGI)						\$815,203	
V. Operating Expenses							
(Less) Operating Expenses			\$3,791	Unit/Year		(\$500,358)	
(Less) Replacement Reserves			\$300	Unit/Year		(\$39,600)	
(Less) Property Taxes			\$11	Unit/Year		(\$1,428)	
(Less) Services/Amenities			<u>\$273</u>	Unit/Year		<u>(\$36,000)</u>	
Total Operating Expenses			\$4,374	Unit/Year		(\$577,386)	
VII. Net Operating Income (NOI)						\$237,817	

(1) Reflects California Redevelopment Law rent limits net of developer assumed utility allowance.

(2) Assumes current residents continue to pay rents at no more than 30% of actual resident's income. Estimate based on November 2017 Rent Roll.

(3) Included above.

TABLE 5

**NET OPERATING INCOME
WINDSOR GARDENS
CITY OF ESCONDIDO**

Required Affordability Restrictions	
Extremely Low - 30% AMI	33 Units
Very Low - 50% AMI	32 Units
Low - 60% AMI (Rent)	65 Units
Manager (unrestricted)	2 Units
Total	132 Units

EAH							CRL Rent Limits ⁽¹⁾
Unit Size (SF)	# of Units	Monthly Rent	Rent/SF	Total Annual			
I. Residential Income							
<i>Income at 0% Transition @ Year 2</i>							
One Bedroom @ 30% AMI	508 SF					\$423	
One Bedroom @ 50% AMI	514 SF					\$740	
One Bedroom @ 50% AMI	---					\$0	
One Bedroom @ 60% AMI	506 SF					\$899	
One Bedroom @ Manager	504 SF						
Two Bedroom @ 50% AMI	790 SF					\$827	
Two Bedroom @ 60% AMI	790 SF					\$1,005	
Two Bedroom @ Manager	790 SF					---	
rent schedule by unit type/income level not provided							
Total/Average	519 SF	132	\$582	\$1.12	\$922,157	⁽²⁾	
II. Alternative Income							
<i>Income to Preserve Rents @ Year 2 Prior to Transition</i>							
Rental Income - Tenant Rent							
Rental Income - Vouchers							
Total Rental Income					\$922,157		
Add: Other Income			\$9 Unit/Month		\$14,541		
III. Gross Scheduled Income (GSI)							\$936,698
(Less) Vacancy		5.0% of GSI			(\$46,835)		
IV. Effective Gross Income (EGI)							\$889,863
V. Operating Expenses							
(Less) Operating Expenses		\$4,055 Unit/Year			(\$535,258)		
(Less) Replacement Reserves		\$300 Unit/Year			(\$39,600)		
(Less) Property Taxes		\$0 Unit/Year			\$0		
(Less) Services/Amenities		\$281 Unit/Year ⁽³⁾			(\$37,080)		
Total Operating Expenses		\$4,636 Unit/Year			(\$611,938)		
VII. Net Operating Income (NOI)					\$277,925		

(1) Reflects California Redevelopment Law rent limits net of developer assumed utility allowance.

(2) Assumes that rents will rise no more than 3.0% per year for half the residents and 39 residents will not experience any increase in rent.

(3) Per Developer, February 7, 2018.

TABLE 6

**FINANCING SURPLUS/(DEFICIT)
WINDSOR GARDENS
CITY OF ESCONDIDO**

	CHW	EAH
I. Sources of Funds		
Supportable Permanent Loan (1)	\$3,430,000	\$4,167,000
Tax Credit Equity Investment (2)	\$7,634,000	\$6,880,000
Deferred Developer Fee (3)	\$1,453,000	\$422,000
Income During Construction/Lease-Up	\$303,000	\$221,000
Refunds	\$63,000	\$0
Existing Reserves	\$199,000	\$182,000
Deferred Interest on Seller Note - EAH	\$0	\$180,000
Deferred Interest on Seller Note - City	<u>\$0</u>	<u>\$180,000</u>
Total Sources of Funds	\$13,082,000	\$12,232,000
II. (Less) Development Costs	<u>(\$23,737,000)</u>	<u>(\$24,367,000)</u>
III. Financing Gap	<u>(\$10,655,000)</u>	<u>(\$12,135,000)</u>
IV. Affordable Housing Program (AHP)	<u>\$1,300,000</u>	<u>\$1,300,000</u>
V. Net Financing Gap	<u>(\$9,355,000)</u>	<u>(\$10,835,000)</u>
Financing Gap Proposed Sources of Funds:	<u>CHW</u>	<u>EAH</u>
General Partner Loan	\$0	\$1,043,000 (4)
EAH Loan From Sales Price	\$0	\$1,191,000 (5)
Seller Note - EAH	<u>\$0</u>	<u>\$4,300,000</u>
Subtotal - Developer	\$0	\$6,534,000
Assumption of Existing CDC Loan	\$801,000	\$809,000
Seller Note - City	<u>\$8,554,000</u>	<u>\$4,300,000</u>
Subtotal - CDC/City	\$9,355,000	\$4,301,000
Total Sources of Gap Financing	\$9,355,000	\$10,835,000

TABLE 6 (CONT'D.)

**FINANCING SURPLUS/(DEFICIT)
WINDSOR GARDENS
CITY OF ESCONDIDO**

	CHW	EAH
(1) Supportable Permanent Loan:		
Net Operating Income	\$237,816	\$277,925
Debt Service Coverage Ratio @	1.15	1.15
Interest Rate @	4.98%	4.65%
Term (Years)	35	35
Annual Debt Service	\$207,074	\$241,426
Supportable Permanent Loan	\$3,430,000	\$4,166,997
(2) Low Income Housing Tax Credits		
<u>Estimate of Eligible Basis</u>		
Total Development Costs	\$23,736,772	\$24,367,119
(Less) Ineligible Costs	<u>(\$1,862,041)</u>	<u>(\$4,576,835)</u>
Eligible Basis	\$21,874,731	\$19,790,284
Acquisition Basis	\$14,454,534	\$12,318,455
Rehabilitation Basis	<u>\$7,420,197</u>	<u>\$8,280,673</u>
Eligible Basis	\$21,874,731	\$20,599,128
<u>Tax Credit Proceeds</u>		
Maximum Eligible Basis	\$21,874,731	\$20,599,128
Acquisition Basis/Applicable Factor	100% \$14,454,534	100% \$12,318,455
Impacted Bonus Factor (Rehabilitation Basis)	130% <u>\$9,646,256</u>	130% <u>\$10,764,875</u>
Total Acquisition and Rehabilitation Basis	\$24,100,790	\$23,083,330
Tax Credit Rate	3.30% \$795,326	3.24% \$747,900
Total Tax Credits @	10 \$7,953,261	10 \$7,478,999
Limited Partner Share	99.99% \$7,952,465	99.99% \$7,478,251
Present Market Value @	96.0% * \$7,634,000	92.0% \$6,879,991
* Tax credit pricing adjusted from \$1.00 to \$0.96 based on discussions between CHW and the City re: current trends in tax credit pricing.		
(3) Deferred Developer Fee		
Eligible Basis	\$21,874,731	\$20,599,128
(Less) Developer Fee	<u>(\$2,853,226)</u>	<u>(\$2,686,843)</u>
Unadjusted Eligible Basis	\$19,021,505	\$17,912,285
Total Developer Fee	15.0% \$2,853,226	15.0% \$2,686,843
Developer Fee	\$2,853,226	\$2,686,843
Total Deferred Developer Fee	50.9% \$1,453,226	15.7% \$422,244
(4) Total Developer Contribution		
Deferred Developer Fee	\$1,453,226	\$422,244
General Partner Loan	\$0	\$1,042,876
Total Developer Contribution	\$1,453,226	\$1,465,120

(5) Reflects sales proceeds to EAH to be transferred to construction lender as security at time of construction loan closing and subsequently disbursed at permanent loan conversion to fund partnership costs.

TABLE 7

**ESTIMATE OF CASH PROCEEDS TO SELLER / CITY
WINDSOR GARDENS
CITY OF ESCONDIDO**

	CHW	EAH
I. Acquisition Costs	\$13,100,000	\$13,412,000
(Less) Seller Note - City	(\$8,554,000)	(\$4,300,000)
(Less) Seller Note - Developer	\$0	(\$4,300,000)
(Less) Assumption of Existing CDC Loan	(\$801,000)	(\$809,000)
(Less) EAH Loan from Sales Price	<u>\$0</u>	<u>(\$1,191,000)</u>
Total	(\$9,355,000)	(\$10,600,000)
II. Total Cash to Seller/City	\$3,745,000	\$2,810,000
III. (Less) Payoff of Existing CDC Loan	<u>\$0</u>	<u>\$0</u>
IV. Net Cash to Seller/City	\$3,745,000	\$2,810,000

TABLE 8

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

			CHW								
			1	2	3	4	5	6	7	8	9
I.	Gross Scheduled Income (GSI)	2.5%	\$848,340	\$895,379	\$943,593	\$993,013	\$1,043,668	\$1,095,590	\$1,148,810	\$1,203,360	\$1,259,274
	Add: Increased Income from Turnover		\$25,200	\$25,200	\$25,200	\$25,200	\$25,200	\$25,200	\$25,200	\$25,200	\$25,200
	Total Rental Income		\$873,540	\$920,579	\$968,793	\$1,018,213	\$1,068,868	\$1,120,790	\$1,174,010	\$1,228,560	\$1,284,474
				5.4%	5.2%	5.1%	5.0%	4.9%	4.7%	4.6%	4.6%
	Other Income	2.5%	\$9,768	\$10,012	\$10,263	\$10,519	\$10,782	\$11,052	\$11,328	\$11,611	\$11,901
	Total GSI		\$883,308	\$930,591	\$979,055	\$1,028,732	\$1,079,650	\$1,131,841	\$1,185,337	\$1,240,171	\$1,296,375
	(Less) Vacancy	5.0%	(\$44,165)	(\$46,530)	(\$48,953)	(\$51,437)	(\$53,983)	(\$56,592)	(\$59,267)	(\$62,009)	(\$64,819)
II.	Effective Gross Income (EGI)		\$839,143	\$884,061	\$930,103	\$977,295	\$1,025,668	\$1,075,249	\$1,126,071	\$1,178,162	\$1,231,556
	(Less) Total Operating Expenses	3.5%	(\$577,386)	(\$597,595)	(\$618,510)	(\$640,158)	(\$662,564)	(\$685,753)	(\$709,755)	(\$734,596)	(\$760,307)
III.	Net Operating Income		\$261,757	\$286,467	\$311,592	\$337,137	\$363,104	\$389,496	\$416,316	\$443,566	\$471,249
	(Less) Debt Service		(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)
IV.	Residential Cash Flow		\$54,683	\$79,393	\$104,518	\$130,063	\$156,030	\$182,422	\$209,242	\$236,492	\$264,175
V.	(Less) Limited Partner Asset Mgmt. Fee	3.5%	(\$10,000)	(\$10,350)	(\$10,712)	(\$11,087)	(\$11,475)	(\$11,877)	(\$12,293)	(\$12,723)	(\$13,168)
	(Less) Additional Resident Services Fee (1)	3.5%	(\$14,000)	(\$14,490)	(\$14,997)	(\$15,522)	(\$16,065)	(\$16,628)	(\$17,210)	(\$17,812)	(\$18,435)
	(Less) General Partner Asset Mgmt. Fee	3.5%	(\$17,500)	(\$18,113)	(\$18,746)	(\$19,403)	(\$20,082)	(\$20,785)	(\$21,512)	(\$22,265)	(\$23,044)
	Total Asset Management Fees		(\$41,500)	(\$42,953)	(\$44,456)	(\$46,012)	(\$47,622)	(\$49,289)	(\$51,014)	(\$52,800)	(\$54,648)
VI.	Total Project Cash Flow		\$13,183	\$36,440	\$60,063	\$84,051	\$108,408	\$133,133	\$158,228	\$183,693	\$209,528
VII.	Deferred Developer Fee Repayment										
	Beginning Balance		\$1,453,226	\$1,440,043	\$1,403,603	\$1,343,540	\$1,259,489	\$1,151,081	\$1,017,948	\$859,721	\$676,028
	Interest	0.0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	(Less) Cash Flow Credit		(\$13,183)	(\$36,440)	(\$60,063)	(\$84,051)	(\$108,408)	(\$133,133)	(\$158,228)	(\$183,693)	(\$209,528)
	Ending Balance		\$1,440,043	\$1,403,603	\$1,343,540	\$1,259,489	\$1,151,081	\$1,017,948	\$859,721	\$676,028	\$466,501
VIII.	Cash Flow Available for Distribution		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
IX.	Repayment of CDC Loan										
	Beginning Balance		\$801,000	\$825,030	\$849,060	\$873,090	\$897,120	\$921,150	\$945,180	\$969,210	\$993,240
	Interest	3.0% (2)	\$24,030	\$24,030	\$24,030	\$24,030	\$24,030	\$24,030	\$24,030	\$24,030	\$24,030
	(Less) Cash Flow Credit	25.0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Ending Balance		\$825,030	\$849,060	\$873,090	\$897,120	\$921,150	\$945,180	\$969,210	\$993,240	\$1,017,270
	NPV of Cash Flow to CDC @	10.0%	\$258,000								
X.	Repayment of City Loan										
	Beginning Balance		\$8,554,000	\$8,810,620	\$9,067,240	\$9,323,860	\$9,580,480	\$9,837,100	\$10,093,720	\$10,350,340	\$10,606,960
	Interest	3.0% (2)	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620
	(Less) Cash Flow Credit	25.0% (3)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Ending Balance		\$8,810,620	\$9,067,240	\$9,323,860	\$9,580,480	\$9,837,100	\$10,093,720	\$10,350,340	\$10,606,960	\$10,863,580
	NPV of Cash Flow to City @	10.0%	\$547,000 (4)								

(1) CHW proposes to contribute \$50,000 annually to fund resident services program. \$25,000 of contribution to be part of operating expense receipts as a fixed expense; the remaining \$25,000 to come from net (if available) before distribution of proceeds to City and CHW.

(2) KMA assumption. Assumes CDC Loan and Seller Note at 3.0% simple interest.
 (3) Assumes City share of cash flow to repay City Seller Note increases to 50% after CDC loan is repaid.
 (4) Includes repayment of outstanding balance at Year 55.
 (5) Reflects KMA projection beginning in Year 16.

TABLE 8

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

		CHW										
		10	11	12	13	14	15	16 ⁽⁵⁾	17	18	19	20
I.	Gross Scheduled Income (GSI)	\$1,316,586	\$1,375,330	\$1,435,544	\$1,497,262	\$1,581,924	\$1,621,472	\$1,662,009	\$1,703,559	\$1,746,148	\$1,789,802	\$1,834,547
	Add: Increased Income from Turnover	\$25,200	\$25,200	\$25,200	\$25,200	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total Rental Income	\$1,341,786	\$1,400,530	\$1,460,744	\$1,522,462	\$1,581,924	\$1,621,472	\$1,662,009	\$1,703,559	\$1,746,148	\$1,789,802	\$1,834,547
		4.5%	4.4%	4.3%	4.2%	3.9%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%
	Other Income	\$12,199	\$12,504	\$12,816	\$13,137	\$13,465	\$13,802	\$14,147	\$14,501	\$14,863	\$15,235	\$15,616
	Total GSI	\$1,353,985	\$1,413,034	\$1,473,560	\$1,535,599	\$1,595,389	\$1,635,274	\$1,676,156	\$1,718,060	\$1,761,011	\$1,805,037	\$1,850,163
	(Less) Vacancy	(\$67,699)	(\$70,652)	(\$73,678)	(\$76,780)	(\$79,769)	(\$81,764)	(\$83,808)	(\$85,903)	(\$88,051)	(\$90,252)	(\$92,508)
II.	Effective Gross Income (EGI)	\$1,286,285	\$1,342,382	\$1,399,882	\$1,458,819	\$1,515,620	\$1,553,510	\$1,592,348	\$1,632,157	\$1,672,961	\$1,714,785	\$1,757,654
	(Less) Total Operating Expenses	(\$786,918)	(\$814,460)	(\$842,966)	(\$872,470)	(\$903,006)	(\$934,612)	(\$967,288)	(\$1,001,108)	(\$1,036,111)	(\$1,072,338)	(\$1,109,832)
III.	Net Operating Income	\$499,367	\$527,922	\$556,916	\$586,349	\$612,614	\$618,899	\$625,060	\$631,049	\$636,850	\$642,447	\$647,822
	(Less) Debt Service	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)
IV.	Residential Cash Flow	\$292,293	\$320,848	\$349,842	\$379,275	\$405,540	\$411,825	\$417,986	\$423,975	\$429,776	\$435,373	\$440,748
V.	(Less) Limited Partner Asset Mgmt. Fee	(\$13,629)	(\$14,106)	(\$14,600)	(\$15,111)	(\$15,640)	(\$16,187)	\$0	\$0	\$0	\$0	\$0
	(Less) Additional Resident Services Fee (1)	(\$19,081)	(\$19,748)	(\$20,440)	(\$21,155)	(\$21,895)	(\$22,662)	(\$23,455)	(\$24,276)	(\$25,125)	(\$26,005)	(\$26,915)
	(Less) General Partner Asset Mgmt. Fee	(\$23,851)	(\$24,685)	(\$25,549)	(\$26,444)	(\$27,369)	(\$28,327)	(\$29,319)	(\$30,345)	(\$31,407)	(\$32,506)	(\$33,644)
	Total Asset Management Fees	(\$56,560)	(\$58,540)	(\$60,589)	(\$62,709)	(\$64,904)	(\$67,176)	(\$52,773)	(\$54,621)	(\$56,532)	(\$58,511)	(\$60,559)
VI.	Total Project Cash Flow	\$235,733	\$262,309	\$289,253	\$316,566	\$340,635	\$344,649	\$365,212	\$369,354	\$373,244	\$376,862	\$380,190
VII.	Deferred Developer Fee Repayment											
	Beginning Balance	\$466,501	\$230,767									
	Interest	\$0	\$0									
	(Less) Cash Flow Credit	(\$235,733)	(\$230,767)									
	Ending Balance	\$230,767	\$0									
VIII.	Cash Flow Available for Distribution	\$0	\$31,541	\$289,253	\$316,566	\$340,635	\$344,649	\$365,212	\$369,354	\$373,244	\$376,862	\$380,190
IX.	Repayment of CDC Loan											
	Beginning Balance	\$1,017,270	\$1,041,300	\$1,057,445	\$1,009,161	\$960,295	\$903,945	\$844,901	\$778,945	\$709,974	\$637,963	\$562,886
	Interest	\$24,030	\$24,030	\$24,030	\$30,275	\$28,809	\$27,118	\$25,347	\$23,368	\$21,299	\$19,139	\$16,887
	(Less) Cash Flow Credit	\$0	(\$7,885)	(\$72,313)	(\$79,141)	(\$85,159)	(\$86,162)	(\$91,303)	(\$92,339)	(\$93,311)	(\$94,216)	(\$95,047)
	Ending Balance	\$1,041,300	\$1,057,445	\$1,009,161	\$960,295	\$903,945	\$844,901	\$778,945	\$709,974	\$637,963	\$562,886	\$484,725
	NPV of Cash Flow to CDC @											
X.	Repayment of City Loan											
	Beginning Balance	\$10,863,580	\$11,120,200	\$11,368,935	\$11,553,241	\$11,730,720	\$11,902,181	\$12,072,639	\$12,237,956	\$12,402,237	\$12,565,546	\$12,727,951
	Interest	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620
	(Less) Cash Flow Credit	\$0	(\$7,885)	(\$72,313)	(\$79,141)	(\$85,159)	(\$86,162)	(\$91,303)	(\$92,339)	(\$93,311)	(\$94,216)	(\$95,047)
	Ending Balance	\$11,120,200	\$11,368,935	\$11,553,241	\$11,730,720	\$11,902,181	\$12,072,639	\$12,237,956	\$12,402,237	\$12,565,546	\$12,727,951	\$12,889,523
	NPV of Cash Flow to City @											

(1) CHW proposes to contribute \$50,000 annually to fund resident services program. \$25,000 of contribution to be part of operating expense receipts as a fixed expense; the remaining \$25,000 to come from net (if available) before distribution of proceeds to City and CHW.

(2) KMA assumption. Assumes CDC Loan and Seller Note at 3.0% simple interest.
 (3) Assumes City share of cash flow to repay City Seller Note increases to 50% after CDC loan is repaid.
 (4) Includes repayment of outstanding balance at Year 55.
 (5) Reflects KMA projection beginning in Year 16.

TABLE 8

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

		CHW											
		21	22	23	24	25	26	27	28	29	30	31	32
I.	Gross Scheduled Income (GSI)	\$1,880,411	\$1,927,421	\$1,975,606	\$2,024,997	\$2,075,622	\$2,127,512	\$2,180,700	\$2,235,217	\$2,291,098	\$2,348,375	\$2,407,085	\$2,467,262
	Add: Increased Income from Turnover	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total Rental Income	\$1,880,411	\$1,927,421	\$1,975,606	\$2,024,997	\$2,075,622	\$2,127,512	\$2,180,700	\$2,235,217	\$2,291,098	\$2,348,375	\$2,407,085	\$2,467,262
		2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%
	Other Income	\$16,006	\$16,406	\$16,816	\$17,237	\$17,668	\$18,109	\$18,562	\$19,026	\$19,502	\$19,989	\$20,489	\$21,001
	Total GSI	\$1,896,417	\$1,943,827	\$1,992,423	\$2,042,233	\$2,093,289	\$2,145,621	\$2,199,262	\$2,254,243	\$2,310,600	\$2,368,365	\$2,427,574	\$2,488,263
	(Less) Vacancy	(\$94,821)	(\$97,191)	(\$99,621)	(\$102,112)	(\$104,664)	(\$107,281)	(\$109,963)	(\$112,712)	(\$115,530)	(\$118,418)	(\$121,379)	(\$124,413)
II.	Effective Gross Income (EGI)	\$1,801,596	\$1,846,636	\$1,892,802	\$1,940,122	\$1,988,625	\$2,038,340	\$2,089,299	\$2,141,531	\$2,195,070	\$2,249,946	\$2,306,195	\$2,363,850
	(Less) Total Operating Expenses	(\$1,148,638)	(\$1,188,801)	(\$1,230,369)	(\$1,273,392)	(\$1,317,919)	(\$1,364,004)	(\$1,411,701)	(\$1,461,066)	(\$1,512,159)	(\$1,565,039)	(\$1,619,768)	(\$1,676,413)
III.	Net Operating Income	\$652,958	\$657,835	\$662,432	\$666,730	\$670,706	\$674,336	\$677,598	\$680,465	\$682,911	\$684,908	\$686,427	\$687,437
	(Less) Debt Service	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)	(\$207,074)
IV.	Residential Cash Flow	\$445,884	\$450,761	\$455,358	\$459,656	\$463,632	\$467,262	\$470,524	\$473,391	\$475,837	\$477,834	\$479,353	\$480,363
V.	(Less) Limited Partner Asset Mgmt. Fee	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	(Less) Additional Resident Services Fee (1)	(\$27,857)	(\$28,832)	(\$29,841)	(\$30,886)	(\$31,967)	(\$33,085)	(\$34,243)	(\$35,442)	(\$36,682)	(\$37,966)	(\$39,295)	(\$40,670)
	(Less) General Partner Asset Mgmt. Fee	(\$34,821)	(\$36,040)	(\$37,301)	(\$38,607)	(\$39,958)	(\$41,357)	(\$42,804)	(\$44,302)	(\$45,853)	(\$47,458)	(\$49,119)	(\$50,838)
	Total Asset Management Fees	(\$62,678)	(\$64,872)	(\$67,143)	(\$69,493)	(\$71,925)	(\$74,442)	(\$77,048)	(\$79,744)	(\$82,535)	(\$85,424)	(\$88,414)	(\$91,508)
VI.	Total Project Cash Flow	\$383,206	\$385,888	\$388,216	\$390,163	\$391,707	\$392,820	\$393,476	\$393,646	\$393,301	\$392,409	\$390,939	\$388,855
VII.	Deferred Developer Fee Repayment												
	Beginning Balance												
	Interest												
	(Less) Cash Flow Credit												
	Ending Balance												
VIII.	Cash Flow Available for Distribution	\$383,206	\$385,888	\$388,216	\$390,163	\$391,707	\$392,820	\$393,476	\$393,646	\$393,301	\$392,409	\$390,939	\$388,855
IX.	Repayment of CDC Loan												
	Beginning Balance	\$484,725	\$403,466	\$319,098	\$231,617	\$141,024	\$47,328						
	Interest	\$14,542	\$12,104	\$9,573	\$6,948	\$4,231	\$1,420						
	(Less) Cash Flow Credit	(\$95,801)	(\$96,472)	(\$97,054)	(\$97,541)	(\$97,927)	(\$48,748)						
	Ending Balance	\$403,466	\$319,098	\$231,617	\$141,024	\$47,328	\$0						
	NPV of Cash Flow to CDC @												
X.	Repayment of City Loan												
	Beginning Balance	\$12,889,523	\$13,050,342	\$13,210,490	\$13,370,056	\$13,529,135	\$13,687,828	\$13,796,786	\$13,856,668	\$13,916,465	\$13,976,434	\$14,036,850	\$14,098,000
	Interest	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620
	(Less) Cash Flow Credit	(\$95,801)	(\$96,472)	(\$97,054)	(\$97,541)	(\$97,927)	(\$147,662)	(\$196,738)	(\$196,823)	(\$196,651)	(\$196,205)	(\$195,469)	(\$194,427)
	Ending Balance	\$13,050,342	\$13,210,490	\$13,370,056	\$13,529,135	\$13,687,828	\$13,796,786	\$13,856,668	\$13,916,465	\$13,976,434	\$14,036,850	\$14,098,000	\$14,160,193
	NPV of Cash Flow to City @												

(1) CHW proposes to contribute \$50,000 annually to fund resident services program. \$25,000 of contribution to be part of operating expense receipts as a fixed expense; the remaining \$25,000 to come from net (if available) before distribution of proceeds to City and CHW.

(2) KMA assumption. Assumes CDC Loan and Seller Note at 3.0% simple interest.

(3) Assumes City share of cash flow to repay City Seller Note increases to 50% after CDC loan is repaid.

(4) Includes repayment of outstanding balance at Year 55.

(5) Reflects KMA projection beginning in Year 16.

TABLE 8

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

		CHW											
		33	34	35	36	37	38	39	40	41	42	43	44
I.	Gross Scheduled Income (GSI)	\$2,528,943	\$2,592,167	\$2,656,971	\$2,723,395	\$2,791,480	\$2,861,267	\$2,932,799	\$3,006,119	\$3,081,272	\$3,158,304	\$3,237,261	\$3,318,193
	Add: Increased Income from Turnover	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total Rental Income	\$2,528,943	\$2,592,167	\$2,656,971	\$2,723,395	\$2,791,480	\$2,861,267	\$2,932,799	\$3,006,119	\$3,081,272	\$3,158,304	\$3,237,261	\$3,318,193
		2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%
	Other Income	\$21,526	\$22,064	\$22,616	\$23,181	\$23,761	\$24,355	\$24,964	\$25,588	\$26,228	\$26,883	\$27,555	\$28,244
	Total GSI	\$2,550,470	\$2,614,231	\$2,679,587	\$2,746,577	\$2,815,241	\$2,885,622	\$2,957,763	\$3,031,707	\$3,107,500	\$3,185,187	\$3,264,817	\$3,346,437
	(Less) Vacancy	(\$127,523)	(\$130,712)	(\$133,979)	(\$137,329)	(\$140,762)	(\$144,281)	(\$147,888)	(\$151,585)	(\$155,375)	(\$159,259)	(\$163,241)	(\$167,322)
II.	Effective Gross Income (EGI)	\$2,422,946	\$2,483,520	\$2,545,608	\$2,609,248	\$2,674,479	\$2,741,341	\$2,809,875	\$2,880,122	\$2,952,125	\$3,025,928	\$3,101,576	\$3,179,115
	(Less) Total Operating Expenses	(\$1,735,039)	(\$1,795,716)	(\$1,858,515)	(\$1,923,512)	(\$1,990,782)	(\$2,060,406)	(\$2,132,465)	(\$2,207,046)	(\$2,284,235)	(\$2,364,126)	(\$2,446,811)	(\$2,532,389)
III.	Net Operating Income	\$687,907	\$687,804	\$687,093	\$685,736	\$683,697	\$680,935	\$677,409	\$673,076	\$667,889	\$661,802	\$654,765	\$646,726
	(Less) Debt Service	(\$207,074)	(\$207,074)	(\$207,074)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
IV.	Residential Cash Flow	\$480,833	\$480,730	\$480,019	\$685,736	\$683,697	\$680,935	\$677,409	\$673,076	\$667,889	\$661,802	\$654,765	\$646,726
V.	(Less) Limited Partner Asset Mgmt. Fee	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	(Less) Additional Resident Services Fee (1)	(\$42,094)	(\$43,567)	(\$45,092)	(\$46,670)	(\$48,304)	(\$49,994)	(\$51,744)	(\$53,555)	(\$55,430)	(\$57,370)	(\$59,378)	(\$61,456)
	(Less) General Partner Asset Mgmt. Fee	(\$52,617)	(\$54,459)	(\$56,365)	(\$58,338)	(\$60,380)	(\$62,493)	(\$64,680)	(\$66,944)	(\$69,287)	(\$71,712)	(\$74,222)	(\$76,820)
	Total Asset Management Fees	(\$94,711)	(\$98,026)	(\$101,457)	(\$105,008)	(\$108,683)	(\$112,487)	(\$116,424)	(\$120,499)	(\$124,717)	(\$129,082)	(\$133,600)	(\$138,276)
VI.	Total Project Cash Flow	\$386,122	\$382,704	\$378,562	\$580,728	\$575,014	\$568,448	\$560,985	\$552,577	\$543,172	\$532,720	\$521,165	\$508,451
VII.	Deferred Developer Fee Repayment												
	Beginning Balance												
	Interest												
	(Less) Cash Flow Credit												
	Ending Balance												
VIII.	Cash Flow Available for Distribution	\$386,122	\$382,704	\$378,562	\$580,728	\$575,014	\$568,448	\$560,985	\$552,577	\$543,172	\$532,720	\$521,165	\$508,451
IX.	Repayment of CDC Loan												
	Beginning Balance												
	Interest												
	(Less) Cash Flow Credit												
	Ending Balance												
	NPV of Cash Flow to CDC @												
X.	Repayment of City Loan												
	Beginning Balance	\$14,160,193	\$14,223,752	\$14,289,020	\$14,356,359	\$14,322,615	\$14,464,786	\$14,437,182	\$14,589,805	\$14,570,137	\$14,735,655	\$14,725,915	\$14,907,109
	Interest	\$256,620	\$256,620	\$256,620	\$256,620	\$429,678	\$256,620	\$433,115	\$256,620	\$437,104	\$256,620	\$441,777	\$256,620
	(Less) Cash Flow Credit	(\$193,061)	(\$191,352)	(\$189,281)	(\$290,364)	(\$287,507)	(\$284,224)	(\$280,493)	(\$276,288)	(\$271,586)	(\$266,360)	(\$260,583)	(\$254,225)
	Ending Balance	\$14,223,752	\$14,289,020	\$14,356,359	\$14,322,615	\$14,464,786	\$14,437,182	\$14,589,805	\$14,570,137	\$14,735,655	\$14,725,915	\$14,907,109	\$14,909,504
	NPV of Cash Flow to City @												

(1) CHW proposes to contribute \$50,000 annually to fund resident services program. \$25,000 of contribution to be part of operating expense receipts as a fixed expense; the remaining \$25,000 to come from net (if available) before distribution of proceeds to City and CHW.

(2) KMA assumption. Assumes CDC Loan and Seller Note at 3.0% simple interest.
 (3) Assumes City share of cash flow to repay City Seller Note increases to 50% after CDC loan is repaid.
 (4) Includes repayment of outstanding balance at Year 55.
 (5) Reflects KMA projection beginning in Year 16.

TABLE 8

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

		CHW										
		45	46	47	48	49	50	51	52	53	54	55
I.	Gross Scheduled Income (GSI)	\$3,401,148	\$3,486,176	\$3,573,331	\$3,662,664	\$3,754,231	\$3,848,086	\$3,944,288	\$4,042,896	\$4,143,968	\$4,247,567	\$4,353,756
	Add: Increased Income from Turnover	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total Rental Income	\$3,401,148	\$3,486,176	\$3,573,331	\$3,662,664	\$3,754,231	\$3,848,086	\$3,944,288	\$4,042,896	\$4,143,968	\$4,247,567	\$4,353,756
		2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%
	Other Income	\$28,950	\$29,674	\$30,416	\$31,176	\$31,956	\$32,755	\$33,574	\$34,413	\$35,273	\$36,155	\$37,059
	Total GSI	\$3,430,098	\$3,515,851	\$3,603,747	\$3,693,840	\$3,786,186	\$3,880,841	\$3,977,862	\$4,077,309	\$4,179,241	\$4,283,722	\$4,390,816
	(Less) Vacancy	(\$171,505)	(\$175,793)	(\$180,187)	(\$184,692)	(\$189,309)	(\$194,042)	(\$198,893)	(\$203,865)	(\$208,962)	(\$214,186)	(\$219,541)
II.	Effective Gross Income (EGI)	\$3,258,593	\$3,340,058	\$3,423,559	\$3,509,148	\$3,596,877	\$3,686,799	\$3,778,969	\$3,873,443	\$3,970,279	\$4,069,536	\$4,171,275
	(Less) Total Operating Expenses	(\$2,620,961)	(\$2,712,632)	(\$2,807,510)	(\$2,905,707)	(\$3,007,340)	(\$3,112,529)	(\$3,221,398)	(\$3,334,077)	(\$3,450,697)	(\$3,571,398)	(\$3,696,322)
III.	Net Operating Income	\$637,632	\$627,426	\$616,050	\$603,441	\$589,537	\$574,270	\$557,571	\$539,367	\$519,582	\$498,138	\$474,953
	(Less) Debt Service	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
IV.	Residential Cash Flow	\$637,632	\$627,426	\$616,050	\$603,441	\$589,537	\$574,270	\$557,571	\$539,367	\$519,582	\$498,138	\$474,953
V.	(Less) Limited Partner Asset Mgmt. Fee	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	(Less) Additional Resident Services Fee (1)	(\$63,607)	(\$65,833)	(\$68,137)	(\$70,522)	(\$72,990)	(\$75,545)	(\$78,189)	(\$80,926)	(\$83,758)	(\$86,690)	(\$89,724)
	(Less) General Partner Asset Mgmt. Fee	(\$79,508)	(\$82,291)	(\$85,171)	(\$88,152)	(\$91,238)	(\$94,431)	(\$97,736)	(\$101,157)	(\$104,697)	(\$108,362)	(\$112,155)
	Total Asset Management Fees	(\$143,115)	(\$148,124)	(\$153,309)	(\$158,674)	(\$164,228)	(\$169,976)	(\$175,925)	(\$182,083)	(\$188,455)	(\$195,051)	(\$201,878)
VI.	Total Project Cash Flow	\$494,517	\$479,302	\$462,741	\$444,767	\$425,309	\$404,294	\$381,645	\$357,284	\$331,127	\$303,087	\$273,075
VII.	Deferred Developer Fee Repayment											
	Beginning Balance											
	Interest											
	(Less) Cash Flow Credit											
	Ending Balance											
VIII.	Cash Flow Available for Distribution	\$494,517	\$479,302	\$462,741	\$444,767	\$425,309	\$404,294	\$381,645	\$357,284	\$331,127	\$303,087	\$273,075
IX.	Repayment of CDC Loan											
	Beginning Balance											
	Interest											
	(Less) Cash Flow Credit											
	Ending Balance											
	NPV of Cash Flow to CDC @											
X.	Repayment of City Loan											
	Beginning Balance	\$14,909,504	\$14,918,865	\$14,935,834	\$14,961,084	\$14,995,320	\$15,039,286	\$15,093,759	\$15,159,557	\$15,237,535	\$15,328,591	\$15,433,668
	Interest	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620	\$256,620
	(Less) Cash Flow Credit	(\$247,259)	(\$239,651)	(\$231,371)	(\$222,383)	(\$212,654)	(\$202,147)	(\$190,823)	(\$178,642)	(\$165,563)	(\$151,543)	(\$136,537)
	Ending Balance	\$14,918,865	\$14,935,834	\$14,961,084	\$14,995,320	\$15,039,286	\$15,093,759	\$15,159,557	\$15,237,535	\$15,328,591	\$15,433,668	\$15,553,751
	NPV of Cash Flow to City @											

(1) CHW proposes to contribute \$50,000 annually to fund resident services program. \$25,000 of contribution to be part of operating expense receipts as a fixed expense; the remaining \$25,000 to come from net (if available) before distribution of proceeds to City and CHW.

(2) KMA assumption. Assumes CDC Loan and Seller Note at 3.0% simple interest.
 (3) Assumes City share of cash flow to repay City Seller Note increases to 50% after CDC loan is repaid.
 (4) Includes repayment of outstanding balance at Year 55.
 (5) Reflects KMA projection beginning in Year 16.

TABLE 9

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

			EAH								
			1	2	3	4	5	6	7	8	9
I.	Gross Scheduled Income (GSI) ⁽¹⁾	2.0%	\$936,698	\$955,432	\$987,509	\$1,021,369	\$1,057,092	\$1,094,767	\$1,134,481	\$1,176,328	\$1,220,404
	(Less) Vacancy	5.0%	(\$46,835)	(\$47,772)	(\$49,375)	(\$51,068)	(\$52,855)	(\$54,738)	(\$56,724)	(\$58,816)	(\$61,020)
II.	Effective Gross Income (EGI)		\$889,863	\$907,660	\$938,134	\$970,300	\$1,004,238	\$1,040,029	\$1,077,757	\$1,117,512	\$1,159,384
	(Less) Total Operating Expenses	3.0%	(\$611,938)	(\$629,108)	(\$646,793)	(\$665,009)	(\$683,771)	(\$703,097)	(\$723,002)	(\$743,504)	(\$764,621)
III.	Net Operating Income		\$277,925	\$278,552	\$291,340	\$305,291	\$320,466	\$336,932	\$354,756	\$374,008	\$394,764
	(Less) Debt Service		(\$40,238)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)
IV.	Residential Cash Flow		\$237,687	\$37,126	\$49,914	\$63,865	\$79,040	\$95,506	\$113,330	\$132,582	\$153,338
V.	(Less) General Partner Asset Mgmt. Fee ⁽²⁾	3.0%	(\$25,000)	(\$25,000)	(\$25,750)	(\$26,523)	(\$27,318)	(\$28,138)	(\$28,982)	(\$29,851)	(\$30,747)
	(Less) Limited Partner Asset Mgmt. Fee ⁽²⁾	3.0%	(\$8,500)	(\$8,500)	(\$8,755)	(\$9,018)	(\$9,288)	(\$9,567)	(\$9,854)	(\$10,149)	(\$10,454)
	Total Asset Management Fees		(\$33,500)	(\$33,500)	(\$34,505)	(\$35,540)	(\$36,606)	(\$37,705)	(\$38,836)	(\$40,001)	(\$41,201)
VI.	Total Project Cash Flow		\$204,187	\$3,626	\$15,409	\$28,325	\$42,434	\$57,801	\$74,494	\$92,582	\$112,137
VII.	Deferred Developer Fee Repayment										
	Beginning Balance		\$422,000	\$420,917	\$417,291	\$401,881	\$373,557	\$331,123	\$273,321	\$198,827	\$106,246
	Interest	0.0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	(Less) Cash Flow Credit		(\$1,083)	(\$3,626)	(\$15,409)	(\$28,325)	(\$42,434)	(\$57,801)	(\$74,494)	(\$92,582)	(\$106,246)
	Ending Balance		\$420,917	\$417,291	\$401,881	\$373,557	\$331,123	\$273,321	\$198,827	\$106,246	\$0
VIII.	Cash Flow Available for Distribution		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$5,891
IX.	Repayment of Assumed CDC Loan										
	Beginning Balance		\$809,000	\$833,270	\$857,540	\$881,810	\$906,080	\$930,350	\$954,620	\$978,890	\$1,003,160
	Interest	3.0% ⁽³⁾	\$24,270	\$24,270	\$24,270	\$24,270	\$24,270	\$24,270	\$24,270	\$24,270	\$24,270
	(Less) Cash Flow Credit	25.0% ⁽⁴⁾	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$1,473)
	Ending Balance		\$833,270	\$857,540	\$881,810	\$906,080	\$930,350	\$954,620	\$978,890	\$1,003,160	\$1,025,957
	NPV of Cash Flow to City at Year 1 @	10.0%	\$248,000								
X.	Repayment of Seller Note - City ⁽³⁾										
	Beginning Balance		\$4,300,000	\$4,429,000	\$4,558,000	\$4,687,000	\$4,816,000	\$4,945,000	\$5,074,000	\$5,203,000	\$5,332,000
	Interest	3.0% ⁽³⁾	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000
	(Less) Cash Flow Credit	25.0% ⁽⁴⁾	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$1,473)
	Ending Balance		\$4,429,000	\$4,558,000	\$4,687,000	\$4,816,000	\$4,945,000	\$5,074,000	\$5,203,000	\$5,332,000	\$5,459,527
	NPV of Cash Flow to City at Year 1 @	10.0%	\$464,000								

(1) Assumes units will turnover over time and be re-rented at the maximum rent permitted by regulatory agreements.
(2) Per teleconference with EAH, August 15, 2017.

(3) KMA assumption. Assumes RDA Loan and Seller Note-City at 3.0% simple interest.
(4) Assumes City share of cash flow to repay Seller Note increases to 50% after CDC loan is repaid.

TABLE 9

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

		EAH										
		10	11	12	13	14	15	16	17	18	19	20
I.	Gross Scheduled Income (GSI) ⁽¹⁾	\$1,266,810 3.8%	\$1,315,648 3.9%	\$1,367,028 3.9%	\$1,421,061 4.0%	\$1,477,864 4.0%	\$1,537,558 4.0%	\$1,575,288 2.5%	\$1,614,670 2.5%	\$1,655,037 2.5%	\$1,696,413 2.5%	\$1,738,823 2.5%
	(Less) Vacancy	(\$63,340)	(\$65,782)	(\$68,351)	(\$71,053)	(\$73,893)	(\$76,878)	(\$78,764)	(\$80,734)	(\$82,752)	(\$84,821)	(\$86,941)
II.	Effective Gross Income (EGI)	\$1,203,469	\$1,249,866	\$1,298,677	\$1,350,008	\$1,403,971	\$1,460,680	\$1,496,523	\$1,533,937	\$1,572,285	\$1,611,592	\$1,651,882
	(Less) Total Operating Expenses	(\$786,371)	(\$808,774)	(\$831,850)	(\$855,617)	(\$880,098)	(\$905,313)	(\$931,284)	(\$958,034)	(\$985,588)	(\$1,013,967)	(\$1,043,198)
III.	Net Operating Income	\$417,098	\$441,091	\$466,827	\$494,391	\$523,874	\$555,368	\$565,239	\$575,902	\$586,697	\$597,625	\$608,684
	(Less) Debt Service	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)
IV.	Residential Cash Flow	\$175,672	\$199,665	\$225,401	\$252,965	\$282,448	\$313,942	\$323,813	\$334,476	\$345,271	\$356,199	\$367,258
V.	(Less) General Partner Asset Mgmt. Fee ⁽²⁾	(\$31,669)	(\$32,619)	(\$33,598)	(\$34,606)	(\$35,644)	(\$36,713)	(\$37,815)	(\$38,949)	(\$40,118)	(\$41,321)	(\$42,561)
	(Less) Limited Partner Asset Mgmt. Fee ⁽²⁾	(\$10,768)	(\$11,091)	(\$11,423)	(\$11,766)	(\$12,119)	(\$12,483)	\$0	\$0	\$0	\$0	\$0
	Total Asset Management Fees	(\$42,437)	(\$43,710)	(\$45,021)	(\$46,372)	(\$47,763)	(\$49,196)	(\$37,815)	(\$38,949)	(\$40,118)	(\$41,321)	(\$42,561)
VI.	Total Project Cash Flow	\$133,235	\$155,956	\$180,380	\$206,593	\$234,685	\$264,746	\$285,999	\$295,527	\$305,154	\$314,878	\$324,697
VII.	Deferred Developer Fee Repayment											
	Beginning Balance											
	Interest											
	(Less) Cash Flow Credit											
	Ending Balance											
VIII.	Cash Flow Available for Distribution	\$133,235	\$155,956	\$180,380	\$206,593	\$234,685	\$264,746	\$285,999	\$295,527	\$305,154	\$314,878	\$324,697
IX.	Repayment of Assumed CDC Loan											
	Beginning Balance	\$1,025,957	\$1,016,918	\$1,002,200	\$981,375	\$953,996	\$919,595	\$877,679	\$830,449	\$780,837	\$727,974	\$671,094
	Interest	\$24,270	\$24,270	\$24,270	\$24,270	\$24,270	\$24,270	\$24,270	\$24,270	\$23,425	\$21,839	\$20,133
	(Less) Cash Flow Credit	(\$33,309)	(\$38,989)	(\$45,095)	(\$51,648)	(\$58,671)	(\$66,186)	(\$71,500)	(\$73,882)	(\$76,288)	(\$78,719)	(\$81,174)
	Ending Balance	\$1,016,918	\$1,002,200	\$981,375	\$953,996	\$919,595	\$877,679	\$830,449	\$780,837	\$727,974	\$671,094	\$610,052
	NPV of Cash Flow to City at Year 1 @											
X.	Repayment of Seller Note - City ⁽³⁾											
	Beginning Balance	\$5,459,527	\$5,555,218	\$5,645,230	\$5,729,135	\$5,806,486	\$5,876,815	\$5,939,629	\$5,997,129	\$6,052,247	\$6,104,959	\$6,155,239
	Interest	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000
	(Less) Cash Flow Credit	(\$33,309)	(\$38,989)	(\$45,095)	(\$51,648)	(\$58,671)	(\$66,186)	(\$71,500)	(\$73,882)	(\$76,288)	(\$78,719)	(\$81,174)
	Ending Balance	\$5,555,218	\$5,645,230	\$5,729,135	\$5,806,486	\$5,876,815	\$5,939,629	\$5,997,129	\$6,052,247	\$6,104,959	\$6,155,239	\$6,203,065
	NPV of Cash Flow to City at Year 1 @											

(1) Assumes units will turnover over time and be re-rented at the maximum rent permitted by regulatory agreements.
(2) Per teleconference with EAH, August 15, 2017.

(3) KMA assumption. Assumes RDA Loan and Seller Note-City at 3.0% simple interest.
(4) Assumes City share of cash flow to repay Seller Note increases to 50% after CDC loan is repaid.

TABLE 9

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

		EAH											
		21	22	23	24	25	26	27	28	29	30	31	32
I.	Gross Scheduled Income (GSI) ⁽¹⁾	\$1,782,294 2.5%	\$1,826,851 2.5%	\$1,872,522 2.5%	\$1,919,335 2.5%	\$1,967,319 2.5%	\$2,016,502 2.5%	\$2,066,914 2.5%	\$2,118,587 2.5%	\$2,171,552 2.5%	\$2,225,840 2.5%	\$2,281,486 2.5%	\$2,338,524 2.5%
	(Less) Vacancy	(\$89,115)	(\$91,343)	(\$93,626)	(\$95,967)	(\$98,366)	(\$100,825)	(\$103,346)	(\$105,929)	(\$108,578)	(\$111,292)	(\$114,074)	(\$116,926)
II.	Effective Gross Income (EGI)	\$1,693,179	\$1,735,508	\$1,778,896	\$1,823,369	\$1,868,953	\$1,915,677	\$1,963,568	\$2,012,658	\$2,062,974	\$2,114,548	\$2,167,412	\$2,221,597
	(Less) Total Operating Expenses	(\$1,073,306)	(\$1,104,317)	(\$1,136,259)	(\$1,169,159)	(\$1,203,045)	(\$1,237,949)	(\$1,273,899)	(\$1,310,928)	(\$1,349,068)	(\$1,388,352)	(\$1,428,815)	(\$1,470,491)
III.	Net Operating Income	\$619,873	\$631,191	\$642,637	\$654,210	\$665,907	\$677,728	\$689,669	\$701,730	\$713,906	\$726,196	\$738,598	\$751,106
	(Less) Debt Service	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)	(\$241,426)
IV.	Residential Cash Flow	\$378,447	\$389,765	\$401,211	\$412,784	\$424,481	\$436,302	\$448,243	\$460,304	\$472,480	\$484,770	\$497,172	\$509,680
V.	(Less) General Partner Asset Mgmt. Fee ⁽²⁾	(\$43,838)	(\$45,153)	(\$46,507)	(\$47,903)	(\$49,340)	(\$50,820)	(\$52,344)	(\$53,915)	(\$55,532)	(\$57,198)	(\$58,914)	(\$60,682)
	(Less) Limited Partner Asset Mgmt. Fee ⁽²⁾	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total Asset Management Fees	(\$43,838)	(\$45,153)	(\$46,507)	(\$47,903)	(\$49,340)	(\$50,820)	(\$52,344)	(\$53,915)	(\$55,532)	(\$57,198)	(\$58,914)	(\$60,682)
VI.	Total Project Cash Flow	\$334,609	\$344,612	\$354,704	\$364,881	\$375,142	\$385,482	\$395,899	\$406,389	\$416,948	\$427,572	\$438,257	\$448,999
VII.	Deferred Developer Fee Repayment												
	Beginning Balance												
	Interest												
	(Less) Cash Flow Credit												
	Ending Balance												
VIII.	Cash Flow Available for Distribution	\$334,609	\$344,612	\$354,704	\$364,881	\$375,142	\$385,482	\$395,899	\$406,389	\$416,948	\$427,572	\$438,257	\$448,999
IX.	Repayment of Assumed CDC Loan												
	Beginning Balance	\$610,052	\$544,701	\$474,889	\$400,460	\$321,254	\$237,106	\$147,848	\$53,309				
	Interest	\$18,302	\$16,341	\$14,247	\$12,014	\$9,638	\$7,113	\$4,435	\$1,599				
	(Less) Cash Flow Credit	(\$83,652)	(\$86,153)	(\$88,676)	(\$91,220)	(\$93,785)	(\$96,371)	(\$98,975)	(\$54,908)				
	Ending Balance	\$544,701	\$474,889	\$400,460	\$321,254	\$237,106	\$147,848	\$53,309	\$0				
	NPV of Cash Flow to City at Year 1 @												
X.	Repayment of Seller Note - City ⁽³⁾												
	Beginning Balance	\$6,203,065	\$6,248,413	\$6,291,260	\$6,331,584	\$6,369,363	\$6,404,578	\$6,437,207	\$6,467,233	\$6,447,947	\$6,368,473	\$6,283,687	\$6,193,558
	Interest	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000
	(Less) Cash Flow Credit	(\$83,652)	(\$86,153)	(\$88,676)	(\$91,220)	(\$93,785)	(\$96,371)	(\$98,975)	(\$148,286)	(\$208,474)	(\$213,786)	(\$219,129)	(\$224,499)
	Ending Balance	\$6,248,413	\$6,291,260	\$6,331,584	\$6,369,363	\$6,404,578	\$6,437,207	\$6,467,233	\$6,447,947	\$6,368,473	\$6,283,687	\$6,193,558	\$6,098,058
	NPV of Cash Flow to City at Year 1 @												

(1) Assumes units will turnover over time and be re-rented at the maximum rent permitted by regulatory agreements.
(2) Per teleconference with EAH, August 15, 2017.

(3) KMA assumption. Assumes RDA Loan and Seller Note-City at 3.0% simple interest.
(4) Assumes City share of cash flow to repay Seller Note increases to 50% after CDC loan is repaid.

TABLE 9

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

		EAH											
		33	34	35	36	37	38	39	40	41	42	43	44
I.	Gross Scheduled Income (GSI) ⁽¹⁾	\$2,396,987 2.5%	\$2,456,911 2.5%	\$2,518,334 2.5%	\$2,581,293 2.5%	\$2,645,825 2.5%	\$2,711,970 2.5%	\$2,779,770 2.5%	\$2,849,264 2.5%	\$2,920,496 2.5%	\$2,993,508 2.5%	\$3,068,346 2.5%	\$3,145,054 2.5%
	(Less) Vacancy	(\$119,849)	(\$122,846)	(\$125,917)	(\$129,065)	(\$132,291)	(\$135,599)	(\$138,988)	(\$142,463)	(\$146,025)	(\$149,675)	(\$153,417)	(\$157,253)
II.	Effective Gross Income (EGI)	\$2,277,137	\$2,334,066	\$2,392,417	\$2,452,228	\$2,513,534	\$2,576,372	\$2,640,781	\$2,706,801	\$2,774,471	\$2,843,833	\$2,914,928	\$2,987,802
	(Less) Total Operating Expenses	(\$1,513,418)	(\$1,557,632)	(\$1,603,173)	(\$1,650,080)	(\$1,698,395)	(\$1,748,159)	(\$1,799,415)	(\$1,852,210)	(\$1,906,588)	(\$1,962,598)	(\$2,020,288)	(\$2,079,708)
III.	Net Operating Income	\$763,720	\$776,434	\$789,244	\$802,148	\$815,139	\$828,213	\$841,366	\$854,591	\$867,883	\$881,235	\$894,641	\$908,093
	(Less) Debt Service	(\$241,426)	(\$241,426)	(\$241,426)	(\$201,188)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
IV.	Residential Cash Flow	\$522,294	\$535,008	\$547,818	\$600,960	\$815,139	\$828,213	\$841,366	\$854,591	\$867,883	\$881,235	\$894,641	\$908,093
V.	(Less) General Partner Asset Mgmt. Fee ⁽²⁾	(\$62,502)	(\$64,377)	(\$66,308)	(\$68,298)	(\$70,347)	(\$72,457)	(\$74,631)	(\$76,870)	(\$79,176)	(\$81,551)	(\$83,997)	(\$86,517)
	(Less) Limited Partner Asset Mgmt. Fee ⁽²⁾	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total Asset Management Fees	(\$62,502)	(\$64,377)	(\$66,308)	(\$68,298)	(\$70,347)	(\$72,457)	(\$74,631)	(\$76,870)	(\$79,176)	(\$81,551)	(\$83,997)	(\$86,517)
VI.	Total Project Cash Flow	\$459,792	\$470,631	\$481,510	\$532,662	\$744,792	\$755,756	\$766,735	\$777,721	\$788,707	\$799,684	\$810,643	\$821,576
VII.	Deferred Developer Fee Repayment												
	Beginning Balance												
	Interest												
	(Less) Cash Flow Credit												
	Ending Balance												
VIII.	Cash Flow Available for Distribution	\$459,792	\$470,631	\$481,510	\$532,662	\$744,792	\$755,756	\$766,735	\$777,721	\$788,707	\$799,684	\$810,643	\$821,576
IX.	Repayment of Assumed CDC Loan												
	Beginning Balance												
	Interest												
	(Less) Cash Flow Credit												
	Ending Balance												
	NPV of Cash Flow to City at Year 1 @												
X.	Repayment of Seller Note - City ⁽³⁾												
	Beginning Balance	\$6,098,058	\$5,997,163	\$5,890,847	\$5,779,092	\$5,641,761	\$5,398,365	\$5,149,487	\$4,895,120	\$4,635,259	\$4,369,905	\$4,099,063	\$3,816,714
	Interest	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000	\$122,972	\$114,501
	(Less) Cash Flow Credit	(\$229,896)	(\$235,315)	(\$240,755)	(\$266,331)	(\$372,396)	(\$377,878)	(\$383,368)	(\$388,861)	(\$394,353)	(\$399,842)	(\$405,322)	(\$410,788)
	Ending Balance	\$5,997,163	\$5,890,847	\$5,779,092	\$5,641,761	\$5,398,365	\$5,149,487	\$4,895,120	\$4,635,259	\$4,369,905	\$4,099,063	\$3,816,714	\$3,520,427
	NPV of Cash Flow to City at Year 1 @												

(1) Assumes units will turnover over time and be re-rented at the maximum rent permitted by regulatory agreements.
(2) Per teleconference with EAH, August 15, 2017.

(3) KMA assumption. Assumes RDA Loan and Seller Note-City at 3.0% simple interest.
(4) Assumes City share of cash flow to repay Seller Note increases to 50% after CDC loan is repaid.

TABLE 9

55-YEAR CASH FLOW PROJECTION
WINDSOR GARDENS
CITY OF ESCONDIDO

		EAH										
		45	46	47	48	49	50	51	52	53	54	55
I.	Gross Scheduled Income (GSI) ⁽¹⁾	\$3,223,681 2.5%	\$3,304,273 2.5%	\$3,386,880 2.5%	\$3,471,552 2.5%	\$3,558,340 2.5%	\$3,647,299 2.5%	\$3,738,481 2.5%	\$3,831,943 2.5%	\$3,927,742 2.5%	\$4,025,935 2.5%	\$4,126,584 2.5%
	(Less) Vacancy	(\$161,184)	(\$165,214)	(\$169,344)	(\$173,578)	(\$177,917)	(\$182,365)	(\$186,924)	(\$191,597)	(\$196,387)	(\$201,297)	(\$206,329)
II.	Effective Gross Income (EGI)	\$3,062,497	\$3,139,059	\$3,217,536	\$3,297,974	\$3,380,423	\$3,464,934	\$3,551,557	\$3,640,346	\$3,731,355	\$3,824,639	\$3,920,255
	(Less) Total Operating Expenses	(\$2,140,912)	(\$2,203,951)	(\$2,268,882)	(\$2,335,760)	(\$2,404,645)	(\$2,475,596)	(\$2,548,676)	(\$2,623,948)	(\$2,701,479)	(\$2,781,335)	(\$2,863,587)
III.	Net Operating Income	\$921,585	\$935,108	\$948,654	\$962,214	\$975,779	\$989,338	\$1,002,881	\$1,016,398	\$1,029,876	\$1,043,304	\$1,056,667
	(Less) Debt Service	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
IV.	Residential Cash Flow	\$921,585	\$935,108	\$948,654	\$962,214	\$975,779	\$989,338	\$1,002,881	\$1,016,398	\$1,029,876	\$1,043,304	\$1,056,667
V.	(Less) General Partner Asset Mgmt. Fee ⁽²⁾	(\$89,113)	(\$91,786)	(\$94,540)	(\$97,376)	(\$100,297)	(\$103,306)	(\$106,405)	(\$109,598)	(\$112,886)	(\$116,272)	(\$119,760)
	(Less) Limited Partner Asset Mgmt. Fee ⁽²⁾	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total Asset Management Fees	(\$89,113)	(\$91,786)	(\$94,540)	(\$97,376)	(\$100,297)	(\$103,306)	(\$106,405)	(\$109,598)	(\$112,886)	(\$116,272)	(\$119,760)
VI.	Total Project Cash Flow	\$832,472	\$843,322	\$854,114	\$864,838	\$875,481	\$886,031	\$896,476	\$906,800	\$916,990	\$927,031	\$936,907
VII.	Deferred Developer Fee Repayment											
	Beginning Balance											
	Interest											
	(Less) Cash Flow Credit											
	Ending Balance											
VIII.	Cash Flow Available for Distribution	\$832,472	\$843,322	\$854,114	\$864,838	\$875,481	\$886,031	\$896,476	\$906,800	\$916,990	\$927,031	\$936,907
IX.	Repayment of Assumed CDC Loan											
	Beginning Balance											
	Interest											
	(Less) Cash Flow Credit											
	Ending Balance											
	NPV of Cash Flow to City at Year 1 @											
X.	Repayment of Seller Note - City ⁽³⁾											
	Beginning Balance	\$3,520,427	\$3,209,804	\$2,884,437	\$2,543,913	\$2,187,812	\$1,815,706	\$1,427,161	\$1,021,738	\$598,990	\$158,464	
	Interest	\$105,613	\$96,294	\$86,533	\$76,317	\$65,634	\$54,471	\$42,815	\$30,652	\$17,970	\$4,754	
	(Less) Cash Flow Credit	(\$416,236)	(\$421,661)	(\$427,057)	(\$432,419)	(\$437,741)	(\$443,016)	(\$448,238)	(\$453,400)	(\$458,495)	(\$163,218)	
	Ending Balance	\$3,209,804	\$2,884,437	\$2,543,913	\$2,187,812	\$1,815,706	\$1,427,161	\$1,021,738	\$598,990	\$158,464	\$0	
	NPV of Cash Flow to City at Year 1 @											

(1) Assumes units will turnover over time and be re-rented at the maximum rent permitted by regulatory agreements.
(2) Per teleconference with EAH, August 15, 2017.

(3) KMA assumption. Assumes RDA Loan and Seller Note-City at 3.0% simple interest.
(4) Assumes City share of cash flow to repay Seller Note increases to 50% after CDC loan is repaid.

RESOLUTION NO. 2018-163R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE, ON THE BEHALF OF THE CITY, A MEMORANDUM OF UNDERSTANDING (MOU) WITH ESCONDIDO SENIOR HOUSING CORPORATION AND AN EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH COMMUNITY HOUSINGWORKS REGARDING THE POTENTIAL SALE OF WINDSOR GARDENS.

(1600 West Ninth Ave, Escondido, California)

WHEREAS, the City owns certain real property with an address of 1600 West Ninth Avenue, Assessor Parcel Number 232-542-1300, commonly known as Windsor Gardens (the "Property"); and

WHEREAS, on January 12, 1977, the City Council adopted Resolution 77-8 authorizing a fifty-year ground lease of City owned land to the Escondido Seniors Housing Corporation (ESHC) for the purpose of constructing a senior housing project which expires on December 31, 2026; and

WHEREAS, ESHC released a Request for Proposals to solicit offers for the potential sale of Windsor Gardens and the proposals were reviewed by ESHC and City staff; and

WHEREAS, ESHC has approved and proposes a MOU with the City containing the terms ESHC is willing to participate in the sale of the Property and their underlying ground lease; and

WHEREAS, Staff recommends the proposal submitted by Community HousingWorks; and

WHEREAS, Community HousingWorks has requested an ENA with the City to potentially negotiate an agreement for the sale of the Property consistent with the terms of the MOU; and

WHEREAS, the City desires at this time, and deems it to be in the best public interest, to authorize the execution of an ENA and the MOU.

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 Clerk are hereby authorized to execute an MOU between the City and ESHC regarding the general terms of the sale of the Property currently being leased by ESHC in substantially similar form, subject to City Attorney approval, as attached in Exhibit A.
3. That the Mayor and City Clerk are hereby authorized to execute an ENA between the City and Community HousingWorks in substantially similar form, subject to City Attorney approval, as attached in Exhibit B.

MEMORANDUM OF UNDERSTANDING
(Windsor Gardens)

This memorandum of understanding ("MOU") is entered into on _____, 2018 (the "Effective Date"), by and between Escondido Seniors Housing Corporation, a California nonprofit public benefit corporation ("ESHC"), and the City of Escondido, a public body, corporate, and politic (the "City").

RECITALS

A. ESHC was incorporated in 1975 to assist the City in acquiring, constructing, and operating a housing project for the elderly (Windsor Gardens). Windsor Gardens is a 132-unit residential rental project for seniors located at 1600 W. Ninth Avenue in the City of Escondido, California (the "Project"). ESHC's organizational documents provide that (i) once the debt on the Project has been repaid, the Project will be transferred to the City and (ii) upon dissolution of the corporation, any remaining assets will be distributed to the City.

B. The City and ESHC (the "Parties") entered into a Ground Lease dated January 14, 1977, through which the City agreed to lease the land on which the Project is sited to ESHC (the "Ground Lease"). The Ground Lease term expires in 2026.

C. On October 4, 2010, the City provided a \$915,000 loan to ESHC to refinance the debt on the property. The Project is subject to a 2011 Regulatory Agreement between the City and ESHC whereby the Project is restricted to senior housing for 55 years (the "Regulatory Agreement") following the date of the recording of the CDC Deed of Trust of November 18, 2010. Pursuant to the Regulatory Agreement, 33 of the units in the Project are restricted to Extremely Low Income Households (30% AMI), 32 of the units in the Project are restricted to Very Low Income Households (50% AMI), 65 of the units in the Project are restricted to Low Income Households (60% AMI), and 2 units are unrestricted manager units (collectively, the "City Affordability Restrictions").

D. At this time, the Project is in need of significant maintenance and repair. The Parties desire to sell the Project to an experienced affordable housing developer that can access and leverage sufficient resources to acquire and rehabilitate the Project and preserve the quality of affordable senior housing for the current and future residents of the Project.

E. At this time, transfer of the Project to an affordable housing developer is subject to the approval of the City as owner and ESHC as the lessee. This MOU is intended to memorialize ESHC; conditions for required of the sale of the Project to an affordable housing developer, including (i) nondisplacement of current residents (except for temporary relocation during rehabilitation activities); (ii) rent increases limited to 2.5% annually for current residents; (iii) preservation of long-term affordability, as described in detail below; (iv) a committed plan for social services that meets the needs of the residents and a commitment to budgeting for future services; and (v) ESHC will retain assets as described below to meet its outstanding obligations, including, but not limited to wind up and dissolution activities and to make a charitable contribution in furtherance of its charitable purposes, as further described below.

Therefore, the Parties agree as follows:

ARTICLE I.
PROTECTIONS FOR CURRENT RESIDENTS.

A. Nondisplacement. The City and ESHC agree that any purchase contract for transfer of the Project will require the buyer to agree not to displace any of the current residents, with the exception of necessary, temporary relocation for a reasonable time period.

B. Rent Increase Limitation. The City and ESHC agree that any purchase contract for transfer of the Project will require the buyer to agree to limit annual rent increases for the current residents of the Project to 2.5% annual increase from their existing rent.

ARTICLE II.
AFFORDABILITY RESTRICTIONS.

The City and ESHC agree that any purchase contract for transfer of the Project will require the buyer to agree to the affordability restrictions described below, and the City agrees to effectuate the recordation of a legal document evidencing these restrictions for a minimum of 55 years from transfer: 50 units will be income- and rent-restricted to households earning less than 60% AMI; 47 units will be income- and rent-restricted to households earning less than 50% AMI; 33 units will be income- and rent-restricted to households earning less than 30% AMI; and 2 units will be unrestricted manager units. These affordability restrictions may be implemented by the buyer agreeing to execute a regulatory agreement with the Tax Credit Allocation Committee documenting the restrictions.

ARTICLE III.
SOCIAL SERVICES PLAN AND BUDGET.

A. Service Plan. The City and ESHC agree that any purchase contract for transfer of the Project will require the buyer to commit to offering supportive services appropriate to seniors for a minimum of 55 years.

B. Services Budget. The City and ESHC agree that any purchase contract for transfer of the Project will require the buyer to commit to a budget for social services of \$50,000 a year, increasing by 3.5% annually, with a minimum of \$36,000 per year, increasing by 3.5% annually, to be paid as an operating expense prior to hard debt service, and the balance to be paid out of cash flow prior to deferred developer fee, partnership management fee payable to the general partner, and residual receipts debt payments on soft loans.

ARTICLE IV.
ESHG ASSETS.

A. Wind Up and Dissolution. The Parties understand and agree that after transfer of the Project, ESHC intends to wind up its affairs and to dissolve the Corporation. ESHC shall retain sufficient assets, at the mutual agreement of the Parties, to wind up its affairs and complete the dissolution.

B. Charitable Contribution. ESHC shall retain \$15,000 to make a charitable donation to a nonprofit organization with a similar mission in furtherance of its charitable purposes.

C. Transfer of Remaining Assets to City. The Parties agree that any assets of ESHC remaining after the payments described in subsections A and B above shall be transferred to the City.

ARTICLE V.
PURCHASE AGREEMENT

ESHC agrees to reasonably approve and execute a purchase contract consistent with the terms and conditions of this MOU.

ARTICLE VI.
MISCELLANEOUS

A. Term. This MOU shall commence on the Effective Date and unless sooner terminated by the mutual consent of the Parties, shall continue until the execution of a purchase contract with the buyer of the Project in accordance with the terms and conditions of this MOU.

B. Nondiscrimination. The Parties agree that there shall be no discrimination by any Party of any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual orientation, age, handicap, ancestry or national origin in the operation of the Project or the Project.

C. Severability. In the event any provision of this MOU shall be found to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity, legality and enforceability of the remainder of this MOU.

D. Amendments. This MOU may be amended only in writing and authorized by the designated representatives of ESHC and the City.

E. Notice. Formal notices, demands, and communications between the Parties shall be sufficiently given if and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

City:

City of Escondido
201 N Broadway
Escondido, CA 92025
Attention: Karen Youel, Housing & Neighborhood Services Manager

ESHC:

Escondido Seniors Housing Corporation
c/o Joan Johnston
3143 Quiet Hills Drive
Escondido, CA 92029

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

F. Multiple Originals; Counterpart. This MOU may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterpart.

G. Applicable Law. This MOU shall be governed by California law.

H. No Third Party Beneficiaries. There shall be no third party beneficiaries to this MOU.

I. Relationship of Parties. Nothing contained in this MOU is to be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture among the parties.

J. Consultation with Counsel. Each of the Parties to this MOU hereby acknowledges that it has executed this Agreement with the consent, and upon the advice, of its own attorney.

K. Authorization. Each person executing this MOU hereby warrants and represents that they have the authority to enter into this MOU and to bind the respective entity to the provisions hereof.

[SIGNATURE PAGE FOLLOWS]

WHEREAS, this MOU has been entered into by the Parties as of the date first above written.

ESHC:

ESCONDIDO SENIORS HOUSING CORPORATION,
a California nonprofit public benefit corporation,

By: _____
Joan Johnston
President

By: _____
Leanne Page
Secretary

CITY:

CITY OF ESCONDIDO,
a public body, corporate and politic

By: _____
Sam Abed, Mayor

By: _____
Diane Halverson, City Clerk

APPROVED AS TO FORM:

By: _____
Name: _____
Its: _____

EXCLUSIVE NEGOTIATION AGREEMENT

This Exclusive Negotiation Agreement (the "Agreement") is made as of _____, 2018 between the City of Escondido, a municipal corporation ("City") and Community HousingWorks ("CHW"), a California non-profit corporation, Entity Number C1617323, collectively referred to as the "Parties," with reference to the following background:

A. CHW wishes to evaluate whether or not to purchase and develop certain City properties with and address of 1600 West Ninth Avenue, Accessor Parcel Number 232-542-1300. ("Property").

B. Both the City and CHW wish to evaluate the financial and economic feasibility of CHW's purchase and development plans;

Section 1 Negotiation.

1.1 Good Faith: The City and CHW agree that during the term of this Agreement, the Parties shall exclusively negotiate diligently and in good faith to evaluate the purchase and development of the Property by CHW.

1.2 City Commitment: During the term of this Agreement, the City agrees it will not negotiate with any person or entity, other than CHW, including but not limited to affirmatively expending money, holding meetings, or negotiating any other proposals from any other source or entity to purchase and develop the Property with persons or entities other than CHW.

The City also agrees that to the extent permissible under the California Public Records Act, it shall maintain the confidentiality of all proposals or financial information provided by CHW directly to the City, and which is prominently marked as "confidential" by CHW. If the City receives a request under the Public Records Act for such materials, the City's sole obligation under this Agreement shall be to promptly notify CHW of such a request.

1.3 CHW Commitment: During the Term of this Agreement, CHW agrees that it shall maintain the confidentiality of any proposals or financial information provided by the City directly to CHW, and which is prominently marked as "confidential" by City.

Section 2 Term.

2.1 Negotiation Period. The term of this Agreement commences on the Date set forth above and shall continue thereafter for a period of one hundred eighty (180) days unless extended as provided in Section 2.2.

2.2 Extension. Upon mutual written agreement executed prior to expiration of this Agreement, the Negotiation Period may be extended for an additional one hundred eighty (180) days.

2.3 Document Preparation and Processing. In the event that the Parties reach an agreement concerning the purchase or development of the properties, the Negotiation Period will automatically extend for such time as is necessary to prepare the documents memorializing the agreement and for such time as may be necessary for the City to hold any public hearings required for the consideration and adoption of the agreement.

Section 3 Preservation of Authority, Indemnification and Assumption of Risk.

3.1 Entitlements. CHW acknowledges that the City is under no obligation to sell or transfer any interest in the Property. CHW further understands that any Entitlements which may be sought for projects proposed for any of the properties require staff and the City Council to act in the public interest and according to applicable legal requirements, including the California Environmental Quality Act, without regard for this Agreement. Nothing in this Agreement shall in any manner affect the City Council or its staff or any of its Boards and Planning Commission's sole and absolute discretion to disapprove, modify, or otherwise take any action regarding an application or request for any of the entitlement to the extent such entitlement is considered by the City.

3.2 CHW shall defend, indemnify, and hold harmless the City, its officers, agents, and employees from and against any and all claims, demands, and liabilities for loss of any kind or nature which the City, its officers, agents, or employees may sustain or incur or which may be imposed upon them or any of them as a result of, arising out of, this Agreement, or CHW's agents' use of or entry onto the Property. CHW further agrees to defend the City against any claim made for which this indemnity applies, with council reasonably acceptable to the City, and to pay any and all costs and expenses, including, but not limited to, court costs and reasonable attorney's fees related to such defense. However, the provisions of this Agreement shall not be construed to require any such indemnity or defense of the City for claims or acts arising from the negligence or willful misconduct of the City, its employees, agents, contractors or invitees.

3.3 CHW and the City each assume the risk of entering into this Agreement. In no event will the City be responsible for CHW's loss of profits or for any special, indirect, consequential or incidental damages, however caused, even if the City has been advised of the possibility of such damages due to the failure to renew this Agreement or enter into any subsequent agreement.

Section 4 Law to Govern; Venue.

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 North County Branch of the San Diego County Superior Court.

Section 5 Drafting.

Each Party has cooperated in the drafting and preparation of this Agreement and any construction to be made of this Agreement, shall not be construed against any Party.

Section 6 Costs and Expenses.

Except as otherwise specified herein, each Party shall be responsible for its own costs and expenses in connection with any activities and negotiations undertaken as required by this Agreement and the performance of each Party's obligations under this Agreement.

Section 7 Consultation with Counsel.

Each of the Parties to this Agreement hereby acknowledges that it has executed this Agreement with the consent, and upon the advice, of its own attorney.

Section 8 Amendment.

This Agreement may not be amended, modified, or supplemented except by a writing executed both Parties.

Section 9 Waiver.

No waiver by a Party of any provision of this Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision. The exercise by a Party of any right or remedy provided in this Agreement or provided by law shall not prevent the exercise by that Party of any other remedy provided in this Agreement or under the law.

Section 10 Entire Agreement.

This Agreement contains the entire agreement between the Parties hereto, and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties. The terms of this Agreement are contractual in nature and not a mere recital. This Agreement is executed without reliance upon any representation by any person concerning the nature or extent of damages or legal liability therefore, and

each signer of this Agreement has carefully read and understood the contents of this Agreement and signs the same as his or her own free act.

Section 11 Notice.

All notices or other documents required or permitted under this Agreement shall be delivered to a party and the recipient of a copy under this Agreement, and shall be delivered at the addresses set forth herein. Any such notices or documents shall, unless otherwise provided herein, be delivered (a) by overnight delivery using a nationally recognized overnight courier, (b) by personal delivery, or (c) by facsimile transmission during normal business hours with a confirmation copy delivered by another method permitted under this Section. Delivery in accordance herewith shall be effective upon the earlier to occur of actual delivery by one of the foregoing methods to the address of the addressee or refusal of receipt by the addressee. Delivery shall be effective if sent by electronic means. An address may be changed by written notice to the other party delivered in accordance with this Section. The following shall serve as the recipients' addresses for all delivery purposes under this Agreement:

If to CHW, to: Community HousingWorks
2815 CAMINO DEL RIO SOUTH, SUITE 350
SAN DIEGO CA 92108
Telephone: 619-450-8690
Email: sreynolds@chworks.org

If to the City, to: City of Escondido
City Clerk
201 N. Broadway
Escondido, CA 92025
Telephone: 760-839-4617
Facsimile: 760-735-5782

Section 12 Execution in Counterparts.

This Agreement may be executed in any number of counterparts or by facsimile transmission, each of which shall be deemed an original with the same effect as if all signatures were on the same instrument.

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

COMMUNITY HOUSINGWORKS

Community HousingWorks by

Date: _____

Anne B. Wilson, Senior Vice President

CITY OF ESCONDIDO

Date: _____

Jeffrey R. Epp, City Manager

APPROVED AS TO FORM:

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

By: _____



FUTURE CITY COUNCIL AGENDA ITEMS

Updated October 3, 2018

*AGENDA ITEMS AND CITY COUNCIL MEETING DATES ARE SUBJECT TO CHANGE.
CHECK WITH THE CITY CLERK'S OFFICE AT 839-4617*

October 17, 2018
NO MEETING

October 24, 2018
4:30 p.m.

PRESENTATIONS	
	California Center for the Arts, Escondido
CONSENT CALENDAR	
	<p>Telecommunications Network License and Encroachment Agreement with New Cingular Wireless PCS, LLC (J. Procopio)</p> <p><i>In an effort to extend their service coverage and increase network capacity, New Cingular Wireless PCS, LLC wishes to enter into an agreement with the City to install small cell nodes on existing right of way infrastructure, in accordance with the City's Wireless Infrastructure Ordinance. The Agreement is for a term of ten years and the annual fee for each node is \$1,650, which is subject to an increase of at least 3%.</i></p>
	<p>Professional Services Agreement with Questica Ltd. To Provide Budget Software and Implementation Services and Budget Adjustment (S. Bennett)</p> <p><i>In order to enhance the City's current budgeting process and financial reporting system, staff performed a Request for Proposals and selected Questica's budget software solution. Questica Ltd. Provides a comprehensive budgeting and forecasting solution that is user-friendly and that will provide an efficient means for staff to input and report on financial data. Staff will be provided a tool that will allow them to spend less time on reviewing data for errors and more time reviewing analytics to achieve City Council Action Plan strategic goals.</i></p>
	<p>Annual Destruction of Records (D. Halverson)</p> <p><i>The records identified for destruction are more than two years old, do not affect the title to real property or liens thereon, are not court records, are not required to be kept further by a statute and are no longer required by the City. Authority to destroy these records is requested as provided by California Government Code Section 34090 and the City's adopted Records Retention Schedule.</i></p>

October 24, 2018
4:30 p.m.

PUBLIC HEARINGS

CURRENT BUSINESS

Year-End Financial Status Report for Fiscal Year 2017/18 and Budget Adjustment
(S. Bennett)

Quarterly financial reports present written financial updates to City Council concerning certain funds of the City based on the most recent financial information available. These quarterly financial reports include budgetary information along with the actual resources received to date and the use of these resources in fulfilling each fund's financial plan. The report provides information for the General Fund, Reidy Creek Golf Course Operations, and Water and Wastewater Funds.

FUTURE AGENDA ITEMS (D. Halverson)

Weekly Activity Report



October 4, 2018

FEATURED THIS WEEK

First Responder Exhibit is a Hit!

San Diego Children's Discovery Museum has partnered with the Escondido Police Department and the Escondido Fire Department to bridge the gap in understanding of first responders – police, fire fighters, and paramedics – and familiarize young visitors with the ordinary heroes in our community. This week CBS 8 visited the exhibit and presented this wonderful news feature:

<http://www.cbs8.com/story/39213366/new-childrens-discovery-museum-exhibit-celebrates-heroes-culture>

Local Businessman Named “Handmade Entrepreneur of the Year”

Escondido's own James Stone of Stone and Glass was by *Handmade Business Magazine* as their Entrepreneur of the year. Congratulations to Mr. Stone for this prestigious recognition.

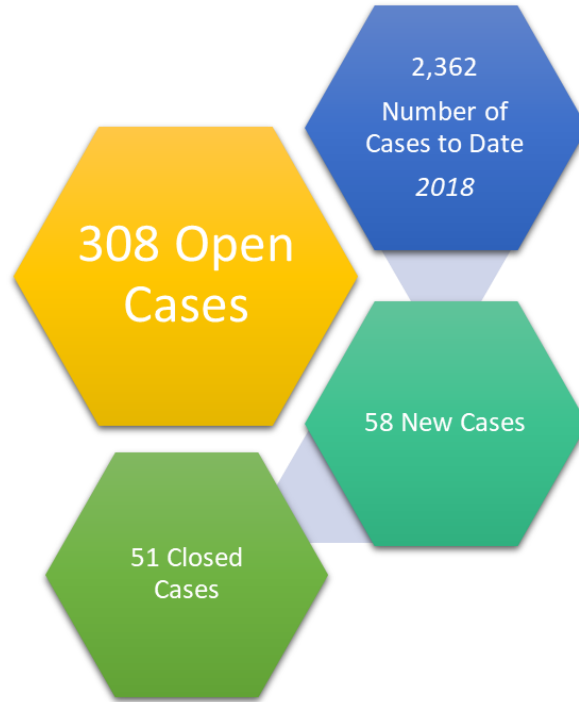


Grand Avenue Sidewalks Refreshed

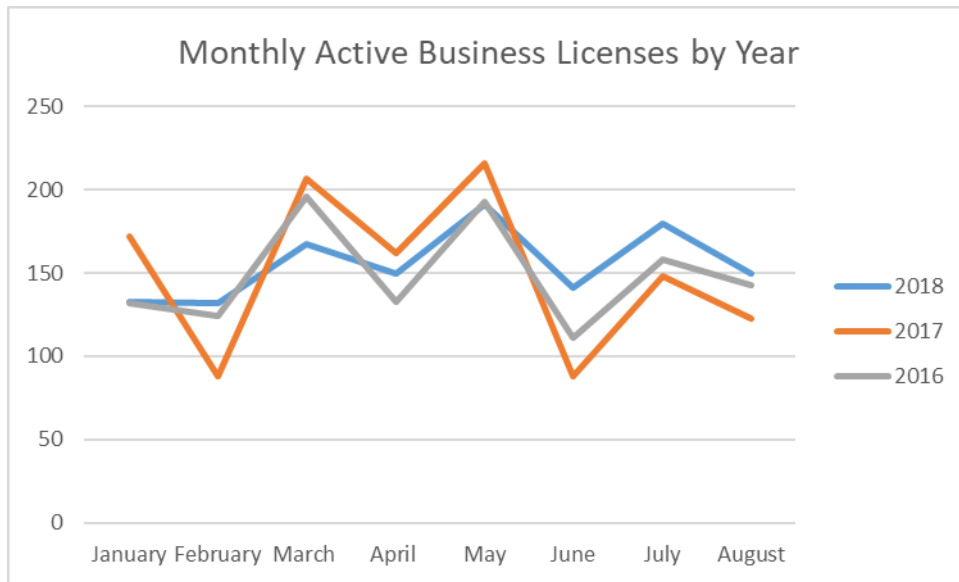
After a summer chock full of special events and our weekly Cruisin' Grand event, the sidewalks along Grand Avenue were treated to a thorough powerwash. The City partners with a contractor to perform the powerwashing to ensure we meet all stormwater regulations. In previous years the sidewalks were deep cleaned every six months, they will now be cleaned monthly to keep our downtown looking clean.

BY THE NUMBERS

Code Enforcement



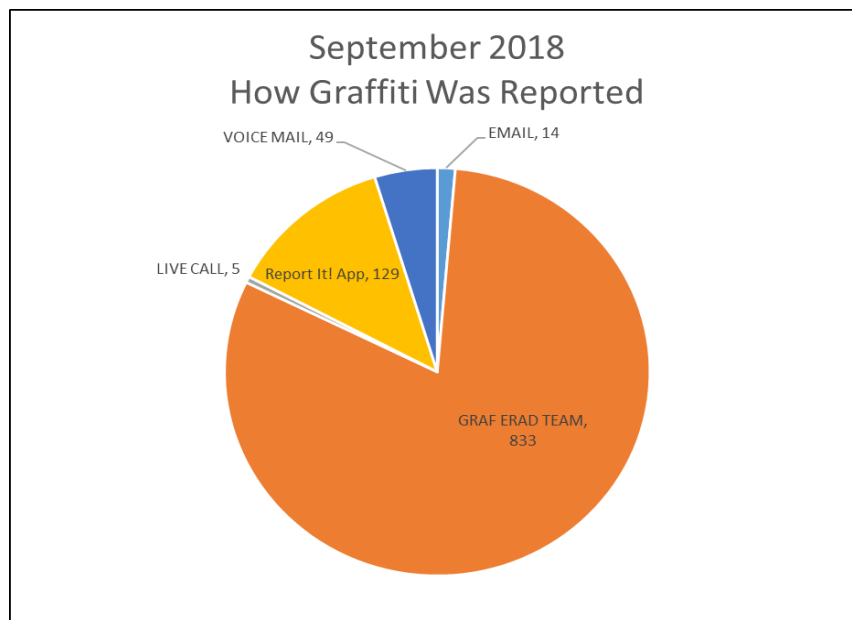
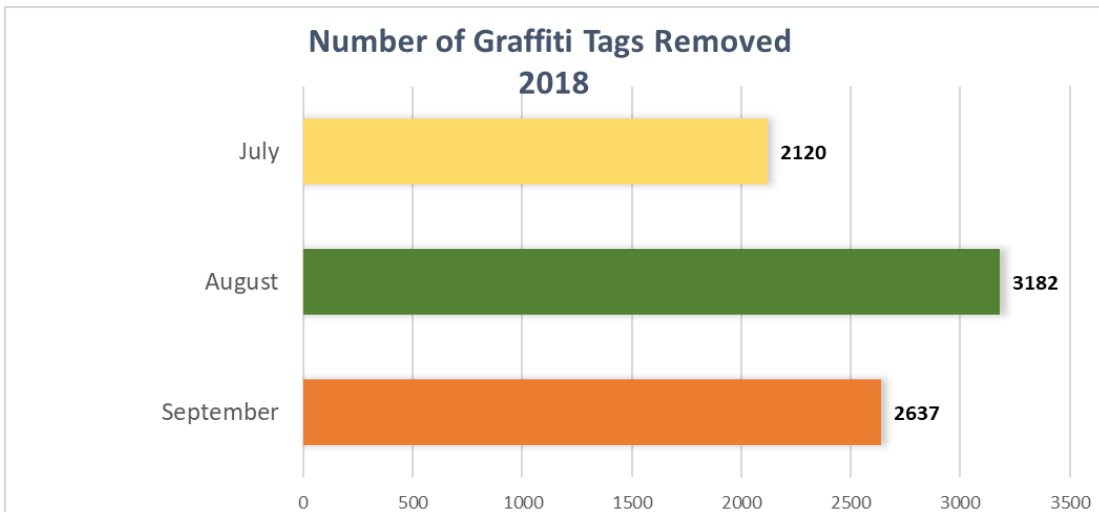
Business Licenses



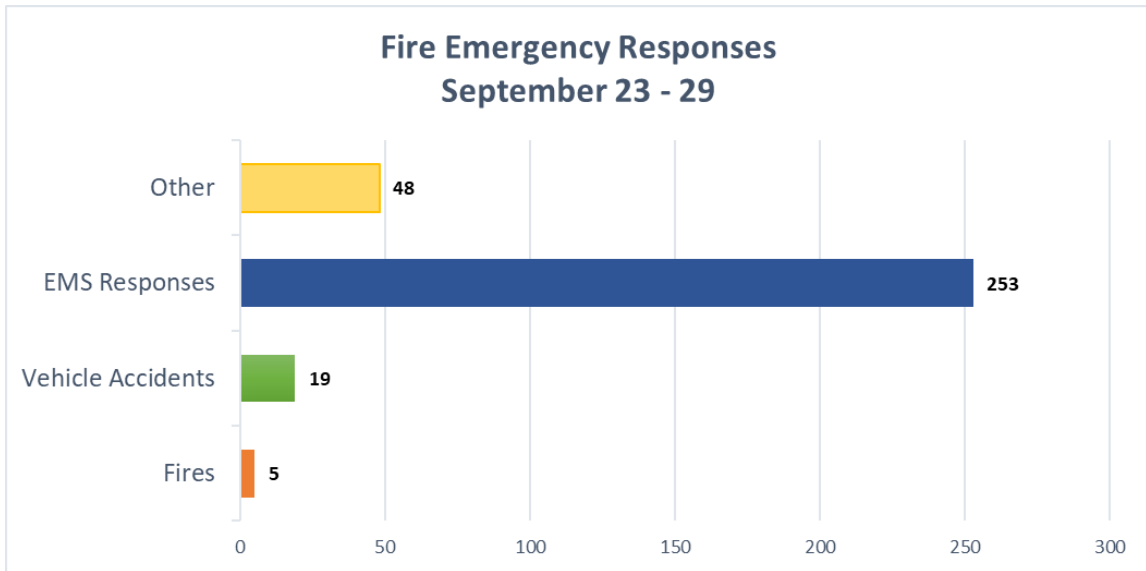
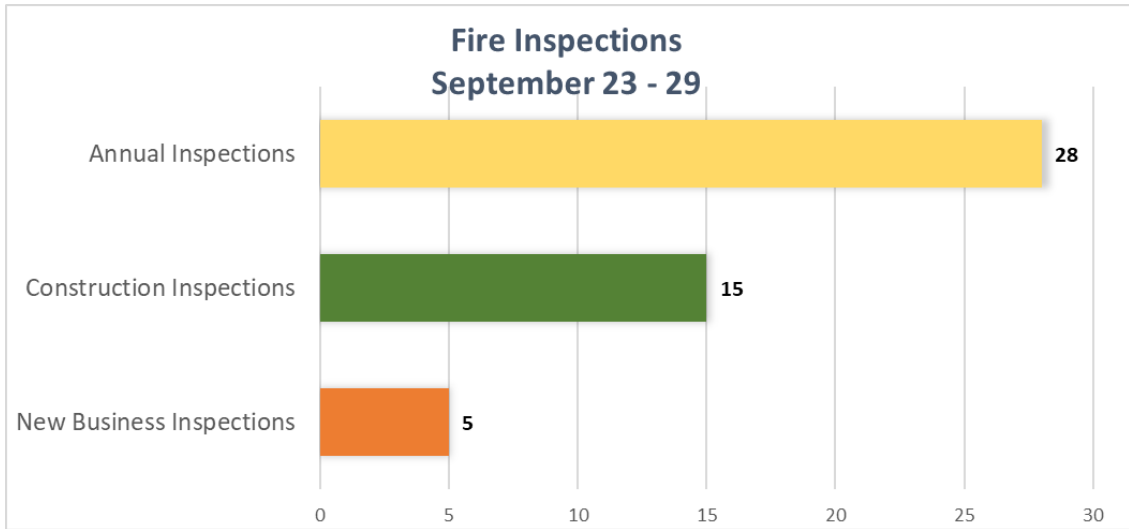
Graffiti Restitution

Collected This Week	Collected Year to Date
\$0	\$8,290.35

Public Works

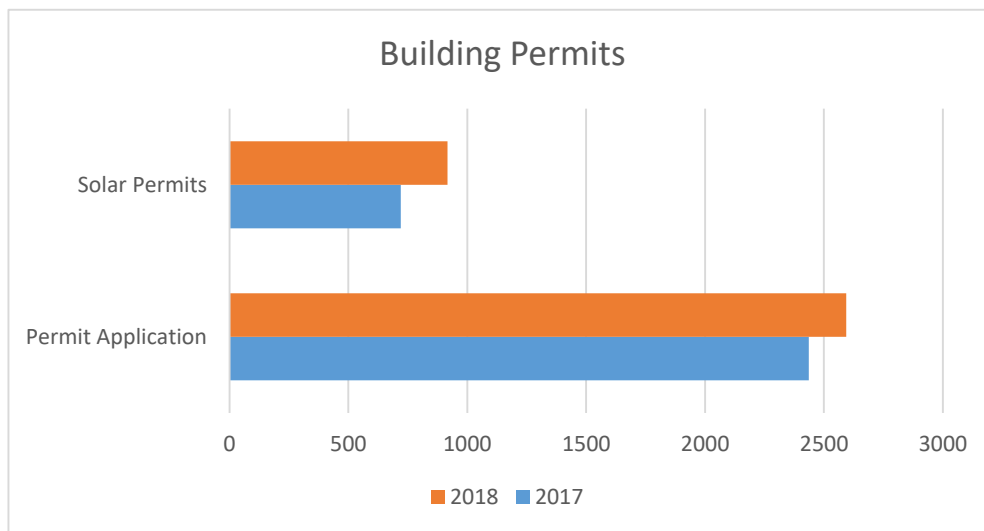
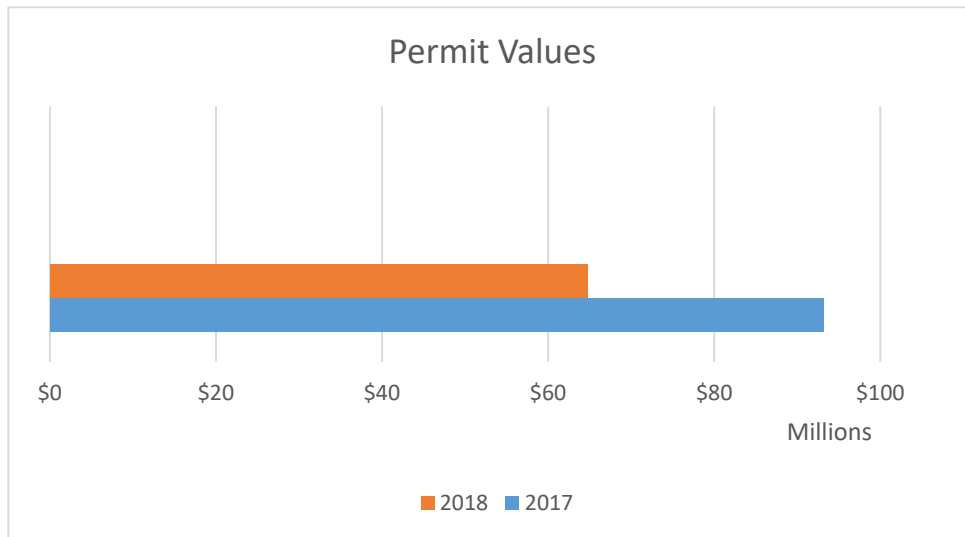


Fire:



Total Emergency Responses (Year To Date)	11,779
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Building Division:



FIRE DEPARTMENT NEWS

- Escondido Fire responded to a structure fire on September 29th at 4:26 A.M. at the 1600 block of Cambria Place. The fire was confined to the garage and completely contained within thirty minutes. There were no injuries to civilians, however, a Firefighter sustained a minor injury. The cause of the fire is still being investigated. The occupants of the home were alerted to the fire by their dog and they were all able to escape unharmed.



- September is National Preparedness Month! As the month comes to a close, take the time to watch the following video: <https://www.youtube.com/watch?v=8iPAvVchGng>
- Truck 131 departed for its 5-day journey to the Sutphen factory in Ohio for repairs. It is expected to be back in service in 45-60 days.



POLICE DEPARTMENT

INCIDENTS:

- On 9-23-2018, officers responded to a residence in the 600 block of Vine St. reference a call of a male armed with a rifle holding a female hostage. Officers arrived on scene and established a perimeter around the residence. Once the perimeter had been established, officers attempted to make contact with the people inside the residence. Two people exited the residence and the house was checked. During the investigation, it was discovered an unknown person placed a false call to the police department regarding the hostage situation. These types of prank calls are highly volatile and dangerous due to the dramatic claims made by the person placing the call, and have resulted in a deadly force encounters. In December of 2017, police in Wichita, Kanas shot an innocent man after responding to his residence because of a hoax call. Escondido Police officers showed great restraint and applied proven police tactics. The investigation into who placed the call is still under investigation.
- On 9-24-2018, officers responded to the 400 block of S. Grape St. reference a report of a male who was bleeding. Officers arrived on scene and determined the male had been stabbed and that the suspect was still inside the residence. The residence was evacuated and officers made over 30 announcements requesting the suspect to exited the residence and surrender. Eventually, officers entered the house and located the suspect hiding in the closet. The suspect was taken into custody without incident and transported to the hospital for treatment of injuries he received from other residents prior to the arrival of the police. The suspect was charged with assault with a deadly weapon and booked into the Vista Detention facility. The victim had been stabbed numerous times and was transported to the hospital.
- On 9-26-2018, detectives developed information of a stolen car driving around in the area of Shade Tree Ln and Singing Wood Pl. Officers quickly arrived in the area and waited for the stolen car to exit the housing community. The stolen car exited the community and was immediately stopped by awaiting officers. The driver yielded and was taken into custody without incident. The driver was arrested for possession of a stolen vehicle and two felony warrants involving possession of a stolen vehicle. A wallet from an address off of Singing Wood Pl was located in the stolen car. Officer Correa contacted the owner of the wallet and confirmed it had recently been stolen out of a vehicle parked in the driveway of the victim's residence. Detective Havens responded to the scene and took over the investigation.
- On 9-26-2018, officer responded to Reidy Creek Golf Course reference a person trapped under the water by a golf cart. Officers arrived on scene and located an elderly male submerged in a pond with a bystander keeping the male's head above water. The golf cart was resting on the male's chest and lower extremities, pinning him beneath the water. Officers entered the pond and lifted the cart off the male. The elderly man complained of pain to his chest and was transported to the hospital for treatment.
- On 9-29-18, officers responded to the 600 block of S. Midway Dr. reference a vehicle that had hit a house. Officers arrived on scene at talked to both the driver and passenger of the vehicle. The investigation revealed that the driver and passenger got into an argument while driving down the street. The passenger became enraged,

grabbed the steering wheel and intentionally pulled on it. The driver was not able to gain control of the vehicle and collided into the residence. The passenger was arrested on several charges. There were no reported injuries.



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.

- 3 arrests were made
- 3 citations were issued

EVENTS:

- On Saturday, 9-29-2018, approximately 180 people from Emmanuel Faith Community Church participated in major cleanup projects at Grape Day Park and the California Center for the Arts Escondido. The cleanup was a collaboration between Emmanuel Faith Community Church, Public Works and the Police Department as part of the Neighborhood Transformation Project.



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. Escondido Research and Technology Center (ERTC) – West (Developer: James McCann) 2181 Citracado Parkway – A plan for a new two-story, 57,000 SF, 52-bed Palomar Rehabilitation Institute was submitted as a Plot Plan on July 31, 2017. The Plot Plan approval letter was issued on February 7, 2018. A second grading plan check was submitted by the applicant on April 16, 2018, and the grading permit is ready to be issued once bonds are posted and fees paid. The Building Division provided the applicant a fee calculation for the development impact fees on July 11, 2018. Planning is awaiting information from the applicant that assures adequate parking is provided.
2. Ritz Theater “The Grand” (Developer: New Venture Church) 301, 309 E. Grand Avenue – A proposed CUP to renovate the existing Ritz Theater and adjacent commercial building to provide for a variety of assembly uses including performing arts and religious services. A café, offices and classroom studios are also included. The application was submitted on May 17, 2018. The applicant submitted revised plans on July 3, 2018. The Historic Preservation Commission considered historic-related design issues on July 19, 2018, and provided direction to the applicant. Planning provided comments from all departments to the applicant on July 31, 2018. The applicant requested expedited processing through the Business Enhancement Zone regulations at a City Council Economic Development Subcommittee meeting on August 9, 2018. That request was granted and the application will now proceed directly to the City Council following CEQA clearance and resolution of the remaining issues. First draft environmental documents were submitted to Planning on September 13, 2018. Staff comments on the environmental documents were sent to the applicant the following week and a resubmittal is expected soon.

Industrial

1. Escondido Self-Storage Facility (Developer: Brandywine Homes, Inc.) 2319 Cranston Dr. – Updated building plans were resubmitted into plan check on July 24, 2018. Esgil and Fire have approved the plans. Planning and Engineering comments are pending. The final map was approved by City Council on September 19, 2018, and should record this week. The grading permit has been approved and the final improvement plan mylars are in for signature.
2. Citracado Business Park (Developer: Dent 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 submitted on August 14, 2018. All departments have completed their initial review and comments were sent to the applicant on September 17, 2018. SDG&E has provided comments regarding the high voltage power lines that traverse the site.

City Projects

1. Micro-Filtration Reverse Osmosis (Developer: City of Escondido Utilities Department) SE corner Ash/Washington – The City Council approved a contractual agreement with Black and Veatch for engineering services on April 4, 2018. A project design kick-off meeting occurred on June 13, 2018. A Request for Qualifications to solicit a Design/Build firm was released

the first week of September. A site walk with potential bidders was conducted the last week of September. Statements of Qualifications are due October 18, 2018.

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 is being compiled by the City’s biological consultants based on recent conversations with the agencies. The biological consultant and staff met on October 4, 2018, to discuss potential options.

Institutional

1. Escondido Assisted Living (Developer: Tigg Mitchell, Mitchell Group) 1802 N. Centre City Parkway – This CUP application for a 71,300 SF three-story, assisted living and memory care facility with 90 total units was submitted on October 31, 2017. The City Council authorized review of a General Plan Amendment request on March 21, 2018, which was necessary to review the request to allow a third floor for the building. The applicant has been actively engaged with Fire, Engineering and Planning staff and has provided several revisions intended to address identified issues with the most recent project revision received on June 25, 2018. Draft environmental documents were submitted to Planning the second week of August and comments on those documents were returned to the applicant on August 29, 2018. The applicant and Planning staff discussed the comments on September 12, 2018. Revised documents are expected soon. Recent changes to the Zoning Code regarding the definition of “building height” could affect the project design or process.

Residential

1. Safari Highlands Ranch (SHR) (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 Draft 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>

It is expected the responses to comments will generate related revisions to the project design. The applicant’s engineer is currently working to incorporate those revisions into the proposed tentative map. The project engineer met with Utilities, Engineering and Planning on August 15, 2018 to discuss some of the proposed revisions. Revisions to the tentative map are expected to be submitted in approximately two weeks.

2. 18 lots at 701 San Pasqual Valley Rd (Developer: Bob Stewart) – Staff comments on the revised tentative map were issued the last week of July 2017. Planning staff met with the applicant on June 27, 2018 to discuss remaining issues. The applicant has occasionally

engaged in discussions with various departments since that time, but has declined a staff offer to schedule a comprehensive meeting with all city departments.

3. The Villages at Escondido Country Club (Developer: Jason Han, New Urban West, Inc.) 380 residences – The City Council voted 3-2 to approve the project on November 15, 2017. A lawsuit challenging the project approval was filed in Superior Court on behalf of the Escondido Country Club Homeowners (ECCHO) on December 15, 2017. The City has agreed to review construction plans for the project while the lawsuit is pending. The applicant submitted rough grading plans, drainage improvement plans and utility relocation plans for all three villages on May 7, 2018. There have been three rounds of plan checks on the rough grading plans since the original submittal and a permit-ready letter for rough grading was issued on August 31, 2018 and revised on September 4, 2018. Landscape plans were submitted on June 5, 2018, and a second submittal was received on October 2, 2018. The applicant submitted the final map and other improvement plans on July 9, 2018. Additional comments on the improvement plans, utility location plans, storm drain plans and all technical studies were provided by Engineering on September 11, 2018. Country Club Lane street improvement plans are expected to be submitted in the second week of October.

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>

5. 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. A first round of final engineering plans was submitted on May 24, 2018. Comments were returned to the applicant on July 5, 2018.
6. Aspire (106 condo units on Municipal Lot 1) (Developer: Addison Garza, Touchstone Communities) – The proposal consists of a six-story mixed-use development across from City Hall on Parking Lot 1. The project was initially submitted for entitlement processing on June 23, 2017. Subsequent meetings with the applicant and staff have been on-going, and the most recent resubmittal of the project plans was received on May 10, 2018. Fire is awaiting confirmation that Maple Street will support the weight of their apparatus. A Traffic Impact Analysis has been provided and Planning is awaiting submittal of the rest of the environmental documentation for review. A meeting with the applicant occurred on September 12, 2018, to discuss remaining project issues. A purchase and sale agreement for the project site (Parking Lot 1) was approved by the City Council on September 19, 2018. Concerns regarding parking have been expressed; and the applicant is in the process of bringing a parking consultant on board to review the issue.
7. The Ivy (95 condo units at 343 E. 2nd) (Developer: Addison Garza, Touchstone Communities) - The condo project was initially submitted for entitlement processing on June 23, 2017. Subsequent meetings with the applicant and staff have been on-going, and the most recent resubmittal of the project plans was received on May 10, 2018. The applicant has proposed changing circulation through the adjacent alley to one-way southbound; and a field demonstration of fire truck turning radii at the site occurred on May 2, 2018. Fire has now indicated they support the project design. An environmental initial study and Draft Mitigated Negative Declaration (MND) were submitted for review on June 11, 2018.

Comments on the MND were sent to the applicant and consultant on July 30, 2018. Planning met with the applicant and consultant to discuss the comments on August 9, 2018. A meeting with the applicant occurred on September 12, 2018, to discuss remaining project issues.

8. Grand Avenue Apartments (Developer: Norm LaCaze, Escondido Venture 99, LLC) 15 apt. units at 1316 E. Grand Ave. – A planned development application proposing 15 multi-family units in one three-story building on a vacant 0.51-acre lot was submitted for entitlement processing on September 22, 2017. Several follow-up meetings with staff were held to discuss issues regarding the project design and revised plans were submitted in early April, and most recently on August 10, 2018. Outstanding issues include guest parking, drainage, additional fire hydrant and an ambulance turnaround. A meeting with the applicant to discuss these issues took place on October 4, 2018.
9. Quince Street Senior Housing (Developer: Matt Jumper, 220 Quince, L.P.) 145 apartment units at 220 N. Quince St.– The five-story affordable senior housing apartment project was submitted on November 21, 2017. Four meetings with the applicant team and multiple city departments have occurred since the project submittal to discuss project design issues, with the most recent meeting occurring on July 12, 2018. Utilities conducted a fire flow test at the site on June 26, 2018. A constraints map to identify access, utilities and building area has been approved by staff and will allow the applicant to commence with redesign efforts.
10. 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 Dailey 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 project webpage containing draft documents and plans has been added to the Planning Division's website at the following link:

[Daley Ranch Resort Specific Plan - City of Escondido](#)

11. 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 vacation of approximately one acre of public right-of-way for use in the project. The project application was received on June 15, 2018. Comments from Planning, Fire, Engineering, Utilities and Traffic Engineering were provided to the applicant on July 13, 2018. A follow-up meeting with the applicant to discuss the comments occurred on July 31, 2018. Engineering has indicated that a specific alignment plan will be required to

address the street radius on Nutmeg in the vicinity of the project. Fire has identified some access issues that need to be addressed as well. Based on a preliminary environmental study of the project, it has been determined that an Environmental Impact Report will be prepared to support the project. A Notice of Preparation was sent out on August 29, 2018, and a Scoping Meeting occurred on September 6, 2018.

12. Oak Creek (Builder: KB Homes) 65 single-family residential lots on approximately 44 acres at Felicita Road and Hamilton Lane – This planned residential development project was originally approved by the City Council in March of 2015, and a three-year extension of time was recently granted. The original developer, New Urban West, has secured permits from CDFW, ACOE and RWQCB. Grading, drainage and storm water management plans were submitted for first plan check on July 25, 2018. The new builder (KB Homes) has filed a modification to the Precise Development Plan to revise the architecture and reduce the size of the homes. A second staff-level design review has been completed on the revised home designs. Fire and Engineering issued comments on the rough grading plan on September 4, 2018. Engineering and Utilities met with the applicant last week to discuss sewer and grading issues.
13. Mercado 3-Story Mixed Use Building (Developer: Curtis Lively) 5 residences and 2 commercial suites on 0.14-acre at 510 W. 2nd Avenue – A Plot Plan for five two-story residential units on top of 2,375 SF of commercial floor area and a parking garage was submitted July 13, 2018. Staff review comments were provided to the applicant who then submitted revised plans. A water main extension north from Third Avenue will be required to serve the project. Additional Planning and Engineering comments were sent to the applicant on September 27, 2018.
14. 555 West Grand Mixed-Use Building (Developer: Ed McCoy) 32 condo units in three floors over a parking garage – This 32-unit mixed-use development with 610 SF of office/flex space was submitted as a planned development application on August 27, 2018. The project is seeking a reduction in parking and open space standards. Initial multi-department comments were sent to the applicant on September 26, 2018.
15. Accessory Dwelling Units – Planning staff is currently working on eight applications for accessory dwelling units. 19 accessory dwelling units have been approved so far this year. Three accessory dwelling units were approved last year.

Building Division:

1. The Building Division issued 78 permits (including 34 solar photovoltaic) with a total valuation of \$301,539.
2. Our building inspectors responded to 207 inspection requests and 179 customers visited the Building counter during the week.
3. The Meadowbrook three-story apartment building with underground garage at 2081 Garden Valley Glen is preparing the building for final inspection. Building inspected the gas lines on September 13, 2018. Cabinetry installation is ongoing. *No Change from the previous.*

4. The Westminster Seminary at 1725 Bear Valley Pkwy so far has received final inspection approval for all buildings except for Buildings B and H. *No Change from the previous.*
5. The Emanuel Faith Church at 639 E 17th Ave is preparing for final inspection. A 30-day Temporary Certificate of Occupancy has been issued. *No Change from the previous.*
6. Electrical panels have been inspected and released at the Veterans Village project at 1540 S Escondido Blvd.
7. Centre City Shopping Center (Centre City Parkway/Mission Avenue) - Drywall installation has been inspected and approved for the new carwash business in the southernmost building. Interior tenant improvement permits were issued and underground plumbing has been inspected for the new Yoshinoya restaurant in the center building. Interior tenant improvement permits were issued for the new Habit Burger and Stanton Optical in the northern building. Habit Burger has received drywall approval for the ceiling. Stanton Optical has partial drywall approval.
8. The Latitude 2 apartment project at 650 Center City Pkwy is currently going through inspections on all buildings for rough framing, drywall and exterior lath. A Certificate of Occupancy for the first building is expected in November.
9. The new two story church sanctuary building at 1864 N Broadway has completed the slab, roof sheathing and exterior lath. *No Change from the previous.*
10. The 212,000 SF industrial shell building at 2005 Harmony Grove has received final inspection approval from Building. Engineering approval is pending for issuance of the Certificate of Occupancy. *No Change from the previous.*
11. The new 63-unit condominium project, Citron, at 2516 S Escondido Blvd has received foundation approval for Buildings 4, 5, 9 and 10 and final Fire approval for Building 1. Rough framing has been approved for Buildings 2 and 3.
12. The new 105 room hotel at 200 La Terraza received approval for first floor ceiling drywall.
13. The 4 story, 102,774 sf storage building at 222 W Mission Ave has received drywall inspection approval for the elevator shafts and first floor framing approval.
14. The new five-story storage building at 852 Metcalf St has received slab inspection approval. *No Change from the previous.*
15. The new Gateway Grand 126-unit apartment project at 700 W. Grand Ave. has received underground plumbing inspection and partial foundation inspection.
16. Permits were issued this week for a new single-family residence at 134 La Lomita.

ENGINEERING DEPARTMENT

Capital Improvements

Valley Pkwy/Valley Center Road Widening Project: Calendar Day 306

The landscape contractor is continuing with the installation of the 15" deep moisture barrier along the median islands on Valley Center Road this week. Landscape soil sample reports have been returned for review by the landscape architect. Clearance has not been given to start planting at this time. The first phase of the paving operation began on Monday of this week and will continue through Thursday. During Tuesday's paving operation, 900 tons of asphalt was placed along Valley Center Road and Valley Parkway. The second phase will include the reconstruction of the intersection at Lake Wohlford Road and Valley Parkway. This work will be completed during a night time operation during the second week in October. Electronic message boards will be placed 72 hours in advance of the work. The traffic signal will also be placed in a red flash condition with the addition of Stop signs. Final pavement striping will be delayed until all of the landscaping elements are completed in the coming weeks.

Transit Center Pedestrian Bridge Project

No changes from that reported last week: Transit Center Pedestrian Bridge and Spruce Street Channel Improvement Project is moving forward with 100% design. Resource agency permits from the Regional Water Board and Fish & Wildlife have been obtained and the City is now pursuing a final Permit from the Army Corps. Negotiations of drainage/wall easements and TCEs with property owners are underway.

Missing Link Project

The traffic signal contractor has received a portion of the new traffic signal gear. New signal heads are needed to modify the existing systems along Valley Parkway between Broadway and Centre City Parkway. The new striping and surface improvement are to be completed over the next two weeks. This will allow for the activation of the new bike path between the Broadway/ Pennsylvania intersection and the Centre City Parkway / Valley Parkway intersection. The traffic signal poles for Woodward Avenue, as well as the metal pedestrian bridge elements, are not expected to be delivered to the site until late October.

Public Service Agreement: Maintenance Yard Groundwater Monitoring Well Destruction

No changes from that reported last week: The City has solicited bids for the destruction of 14 groundwater monitoring wells located within the Public Works Maintenance Yard. The apparent low bid was \$33,680.00 for the project. The bid will be awarded after review of the project documents by the attorney's office.

PRIVATE DEVELOPMENT

Centre City Shopping Center

Construction of the offsite median island at the North East corner of Centre City Parkway and Mission Avenue has been completed. The existing island is being reduced in size to accommodate the 3rd North bound travel lane along Centre City Parkway. When completed, the new roadway will provide for 3 North bound travel lanes, a bike lane, and access and egress driveway to the new retail center along the Centre City frontage.

The frontage improvement along Mission Avenue has been delayed until next week.

The project is located at 425 W. Mission Avenue.

Tract 932 - Canyon Grove Shea Homes Community

No changes from that reported last week. Paving will begin for Vista Avenue and Vista Verde Road this week.

Latitude II Condominiums by a Lyon Homes Partnership: Washington Avenue @ Centre City Parkway:

Reconstruction of the Centre City Parkway / Washington Avenue intersection improvements resumed this week with the installation of the new concrete improvements. The work includes construction of 22 feet of new roadway. When completed, the project will have created 3 North bound travel lanes, a bike lane and access/ egress driveway to the new community along the Centre City frontage. The curb and gutter formed along Centre City Parkway and Washington Avenue is being scheduled for completion.

Exeter Industrial Park

No changes from that reported last week: The contractor is working with the local water district to remove two water service laterals this week. The offsite improvement is being interrupted due to the discovery of an unmarked 16" ductile iron reclaimed water main found while drilling for the traffic signal foundation. The project team is working on a solution for relocating the signal foundation to a minimum of 5' clearance of the discovered line. The lead time for reordering a longer mast arm is 16 weeks. The project is located at 2005 Harmony Grove Road and is 5.4 acres in size.

Citron Project

No change from that reported last week. Offsite public improvements along Cranston Avenue started with the installation of the concrete curb and gutter. This is a 65-unit condo project located at 2516 S. Escondido Boulevard.

Gateway Project

The contractor is continuing with the construction of offsite utility trenches along Grand Avenue. The contractor is potholing existing utilities along Valley Parkway, in preparation for the installation of the new water main. The project is located at 700 W. Grand Avenue, the previous site of Escondido Police Department.

Emanuel Faith Church

The installation of the new traffic signal poles at Encino Drive and Felicita /17th Avenue was completed on Saturday September 8th. The electrical meter for servicing the new traffic signal was released to the utility company 3 weeks ago and is awaiting installation. We do not have a signal activation date at this time.

Lincoln Rock Apartments

No changes from that reported last week: The construction of the retaining wall along the freeway frontage has been completed. The wall is a design element for the construction of the bio retention basin. Testing of the new water line has started this week. The project is located at the Southwest corner of Rock Springs Road and Lincoln Avenue.

KB Homes

The construction of the new street light foundation at the intersection of Vista Avenue / Bienvenido was completed. The new pole is scheduled for installation this week. The developer is continuing with the development of all remaining houses within the project.

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