



# Council Meeting Agenda

**APRIL 21, 2021**  
**VIDEO CONFERENCE**  
**5:00 P.M. Regular Session**  
**201 N. Broadway, Escondido, CA 92025**

MAYOR	<b>Paul McNamara</b>
DEPUTY MAYOR	<b>Michael Morasco</b>
COUNCIL MEMBERS	<b>Consuelo Martinez</b> <b>Tina Inscoe</b> <b>Joe Garcia</b>
CITY MANAGER	<b>Jeffrey Epp</b>
CITY CLERK	<b>Zack Beck</b>
CITY ATTORNEY	<b>Michael McGuinness</b>
DIRECTOR OF COMMUNITY DEVELOPMENT	<b>Mike Strong</b>
DIRECTOR OF ENGINEERING SERVICES	<b>Julie Procopio</b>

**COVID-19 PUBLIC SERVICE ANNOUNCEMENT**

Pursuant to Governor Newsom’s Executive Orders, including N-25-20 and N-29-20: Certain Brown Act requirements for the holding of a public meeting have been temporarily suspended and members of the Escondido City Council and staff will participate in this meeting via teleconference. In the interest of reducing the spread of COVID-19, members of the public are encouraged to submit their agenda and non-agenda comments online at the following link: <https://www.escondido.org/agenda-position.aspx>. Council Chambers will be closed.

Public Comment: To submit comments in writing, please do so at the following link: <https://www.escondido.org/agenda-position.aspx>.

Depending on the volume and/or similarity of public comments, and pursuant to the City Council Rules of Procedure, the Mayor or Presiding Councilmember may limit the number of comments to be read and/or limit the amount of time each comment may be read. It is in the interests of members of the public who desire that their statement be read out loud to be mindful of this potential limitation when drafting their comment. The entirety of all comments received from the public will be made a part of the record of the meeting.

The meeting will be available for viewing via public television on Cox Communications Channel 19 (Escondido only). The meeting will also be live streamed online at the following link: <https://www.escondido.org/meeting-broadcasts.aspx>

In the event a quorum of the City Council loses electrical power or suffers an internet connection outage not corrected within 15 minutes, the meeting will be adjourned. Any items noticed as public hearings will be continued to the next regularly scheduled meeting of the City Council. Any other agenda items the Council has not taken action on will be placed on a future agenda.

**ELECTRONIC MEDIA:**

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

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

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

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



# Council Meeting Agenda

**April 21, 2021  
5:00 P.M. Meeting**

**Escondido City Council**

## **CALL TO ORDER**

### **MOMENT OF REFLECTION:**

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

### **FLAG SALUTE**

**ROLL CALL:** Garcia, Inscoe, Martinez, Morasco, McNamara

**PROCLAMATIONS:** National Volunteer Week, April 18-24, 2021  
Mayor's Monarch Pledge Day 2021

## **ORAL COMMUNICATIONS**

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

## **CONSENT CALENDAR**

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

- [1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING \(COUNCIL/RRB\)](#)**

**2. APPROVAL OF WARRANT REGISTER (Council)**

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

- 351479 - 351673 dated March 31, 2021
- 351674 - 351850 dated April 7, 2021

Staff Recommendation: **Approval (Finance Department: Christina Holmes)**

**3. APPROVAL OF MINUTES: Regular Meetings of March 24, 2021 and April 7, 2021**

**4. BID AWARD FOR THE WASHINGTON PARK SKATE SPOT PROJECT -**

Request the City Council approve authorizing the Mayor to execute a Public Improvement Agreement with the lowest responsive and responsible bidder for the Washington Park Skate Spot Project.

Staff Recommendation: **Approval (Communications and Community Services Department: Danielle Lopez)**

RESOLUTION NO. 2021-58

**5. AUTHORIZATION TO ACCEPT A \$12,000 GRANT FROM THE CALIFORNIA STATE LIBRARY, ON BEHALF OF THE ESCONDIDO PUBLIC LIBRARY, TO IMPROVE VIRTUAL PROGRAMMING -**

Request the City Council approve authorizing the Escondido Public Library to accept a grant from the California State Library to purchase equipment and materials that will improve the quality of virtual programming; execute all documents necessary for the management and completion of the grant scope; and authorize the necessary budget adjustment needed to establish a new project number for tracking and spending of grant funds.

Staff Recommendation: **Approval (Communications and Community Services Department: Danielle Lopez)**

RESOLUTION NO. 2021-57

**6. APPROVAL OF THE FY 2020-21 TRAFFIC SIGNAL PRIORITY LISTS -**

Request the City Council approve the FY 2020-21 Traffic Signal Priority List for new traffic signal projects and for modification of existing traffic signals, as recommended by the Transportation and Community Safety Commission. Established ranking criteria, including accident data and delay, has been used to set the order of priority for signal projects that will be budgeted as a part of the Capital Improvement Program.

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

RESOLUTION NO. 2021-36

**7. RIMINI STREET SUPPORT CONTRACT AUTHORIZATION -**

Request the City Council approve authorizing the Mayor to execute on behalf of the City, a software maintenance contract for our Oracle PeopleSoft system with Rimini Street, Inc.

Staff Recommendation: **Approval (Information Systems Department: Rob Van De Hey)**

RESOLUTION NO. 2021-55

## CONSENT RESOLUTIONS AND ORDINANCES (COUNCIL/RRB)

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

## PUBLIC HEARINGS

8. **PUBLIC HEARING FOR CITY OF ESCONDIDO LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT ZONES 1 THROUGH 38 -**

Request the City Council hold a public hearing to receive input on the levy of the proposed annual assessments for the City of Escondido Landscape Maintenance District ("LMD") Zones 1 through 38.

Staff Recommendation: **Receive Public Input (Engineering Services Department: Julie Procopio)**

9. **PUBLIC HEARING AND ADOPTION OF THE UPDATED TRAFFIC IMPACT ANALYSIS GUIDELINES -**

Request the City Council approve adopting the Traffic Impact Analysis Guidelines.

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

RESOLUTION NO. 2021-47

10. **ANNUAL ACTION PLAN FOR FISCAL YEAR 2021-2022 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ("HUD") FUNDING, FIFTH AMENDMENT TO THE FISCAL YEAR 2019-2020 ANNUAL ACTION PLAN, AND BUDGET ADJUSTMENT -**

Request the City Council approve the following: 1) Fiscal Year 2021-2022 HOME, CDBG, and ESG budget and allocation to projects; 2) the City of Escondido's One Year Action Plan and submittal to HUD; 3) an amendment to the FY 2019-2020 One Year Action Plan and submittal to HUD; 4) budget adjustment for the proper classification of rental income. This is a required hearing for the Annual Action Plan for allocating federal HOME, CDBG, and ESG funds for projects and programs.

Staff Recommendation: **Approval (Community Development Department: Mike Strong)**

a) RESOLUTION NO. 2021-50 b) RESOLUTION NO. 2021-51 c) RESOLUTION NO. 2021-59

## CURRENT BUSINESS

11. **SINGLE-USE PLASTICS POLICY -**

Request the City Council consider including a Single-Use Plastics Policy in the Climate Action Plan.

Staff Recommendation: **None (Mayor Paul McNamara)**

## FUTURE AGENDA

### 12. FUTURE AGENDA -

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

Staff Recommendation: **None (City Clerk's Office: Zack Beck)**

## COUNCIL MEMBERS SUBCOMMITTEE REPORTS AND OTHER REPORTS

## CITY MANAGER'S WEEKLY ACTIVITY REPORT

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

- WEEKLY ACTIVITY REPORT -

## ORAL COMMUNICATIONS

The public may address the Council on any item that is not on the agenda and that is within the subject matter jurisdiction of the legislative body. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. Speakers are limited to only one opportunity to address the Council under Oral Communications.

## ADJOURNMENT

### UPCOMING MEETING SCHEDULE

Date	Day	Time	Meeting Type	Location
April 28	-	-	No Meeting (Spring Break)	-
May 5	-	-	No Meeting (Spring Break)	-
May 12	Wednesday	4:00 & 5:00 p.m.	Regular Meeting	Council Chambers
May 19	Wednesday	4:00 & 5:00 p.m.	Regular Meeting	Council Chambers

**TO ADDRESS THE COUNCIL**

The public may address the City Council on any agenda item. Public Comment process: To submit comments in writing, please do so at the following link: <https://www.escondido.org/agenda-position.aspx>.

If you wish to speak concerning an item not on the agenda, you may do so under "Oral Communications." To submit comments in writing, please do so at the following link: <https://www.escondido.org/agenda-position.aspx>.

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

- Online at <http://www.escondido.org/meeting-agendas.aspx>
- In the City Clerk's Office at City Hall
- Placed in the Council Chambers (See: City Clerk/Minutes Clerk) immediately before and during the Council meeting.

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

**LIVE BROADCAST**

Council meetings are broadcast live on Cox Cable Channel 19 and U-verse Channel 99 – Escondido Gov TV. They can also be viewed the following Sunday and Monday evenings at 6:00 p.m. on those same channels. The Council meetings are also available live via the Internet by accessing the City's website at [www.escondido.org](http://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 4:00 in Closed Session and 5:00 in Open Session.**  
*(Verify schedule with City Clerk's Office)*

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

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



*If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4643. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.*

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



**AFFIDAVITS**

**OF**

**ITEM**

**POSTING**





# CITY COUNCIL STAFF REPORT

Consent Item No. 2

April 21, 2021

File No. 0400-40

SUBJECT: Approval of Warrants

DEPARTMENT: Finance Department

RECOMMENDATION:

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

351479 – 351673 dated March 31, 2021

351674 – 351850 dated April 7, 2021

FISCAL ANALYSIS:

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

March 25 – March 31, 2021, is \$ 728,436.61

April 1 – April 7, 2021, is \$ 1,230,950.63

BACKGROUND:

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

**March 24, 2021**  
**4:30 p.m. Meeting**  
Mitchell Room  
**Escondido City Council**

**CALL TO ORDER**

The Regular Meeting of the Escondido City Council was called to order at 4:30 p.m. on March 24, 2021 in the Mitchell Room at City Hall with Mayor McNamara presiding.

**ATTENDANCE**

The following members were present: Councilmember Joe Garcia, Councilmember Tina Inscoe, Councilmember Consuelo Martinez, Deputy Mayor Michael Morasco, and Mayor Paul McNamara. Quorum present.

**ORAL COMMUNICATIONS**

None.

**CLOSED SESSION: (COUNCIL/RRB)**

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

- a. **Property:** 1050 N. Broadway, Escondido  
**City Negotiator:** Jeffrey Epp, City Manager, or designee  
**Negotiating Parties:** YMCA representatives  
**Under Negotiation:** Price and Terms of Purchase and/or Lease
  
- b. **Property:** 272 E. Via Rancho Pkwy, APN: 2710301400, 2710301600  
**City Negotiator:** Jeffrey Epp, City Manager, or designee  
**Negotiating Parties:** Transform SR Holdings, LLC. or affiliates  
**Under Negotiation:** Price and Terms of Lease

**ADJOURNMENT**

Mayor McNamara adjourned the meeting at 4:50 p.m.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

**March 24, 2021  
5:00 P.M. Meeting**

**Escondido City Council**

**CALL TO ORDER**

The Regular Meeting of the Escondido City Council was called to order at 5:00 p.m. on March 24, 2021 via video conference and in the City Council Chambers with Mayor McNamara presiding.

**MOMENT OF REFLECTION**

Zack Beck, City Clerk led the Moment of Reflection

**FLAG SALUTE**

Michael McGuinness, City Attorney, led the Flag Salute

**ATTENDANCE**

The following members were present: Councilmember Joe Garcia, Councilmember Tina Inscoe, Councilmember Consuelo Martinez, Deputy Mayor Michael Morasco, and Mayor Paul McNamara. Quorum present.

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

**CLOSED SESSION REPORT**

None.

**ORAL COMMUNICATIONS**

Leticia Daue – Expressed concerning regarding homelessness in Escondido.

Judith Drake – Expressed concerning regarding homelessness in Escondido.

Verna Sundquist – Expressed concerning regarding homelessness in Escondido.

Veronica Cortez – Expressed concerning regarding homelessness in Escondido.

Kathleen Kimberly – Expressed concerning regarding homelessness in Escondido.

James Coyne – Expressed concerning regarding homelessness in Escondido.

**CONSENT CALENDAR**

**MOTION:** Moved by Councilmember Martinez and seconded by Councilmember Inscoe to approve all consent calendar items except item 8. Approved unanimously.

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

**2. APPROVAL OF WARRANT REGISTER (Council)**

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

- 350658 350882 dated March 3, 2021
- 350883 351099 dated March 10, 2021

Staff Recommendation: **Approval (Finance Department: Christina Holmes)**

**3. APPROVAL OF MINUTES: Regular Meetings of March 3, 2021 and March 10, 2021**

**4. ANNUAL PROGRESS REPORT ON THE IMPLEMENTATION OF THE GENERAL PLAN AND ANNUAL HOUSING ELEMENT REPORT (PL21-0061) -**

Request the City Council receive and file the annual report and authorize staff to submit the 2020 General Plan Annual Report to the State Office of Planning and Research, Department of Housing and Community Development, and SANDAG. (File No. 0875-70)

Staff Recommendation: **Receive and file (Community Development Department: Mike Strong)**

**5. CITY OF ESCONDIDO LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT - PRELIMINARY ENGINEER'S REPORT FOR ZONES 1-38 FOR FISCAL YEAR 2021/2022 -**

Request the City Council approve the Preliminary Engineer's Report and set a Public Hearing date for April 21, 2021, for the City of Escondido Landscape Maintenance Assessment District (LMD) Zones 1 through 38 for FY 2021/2022. (File No. 0685-10)

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

a) RESOLUTION NO. 2021-18 b) RESOLUTION NO. 2021-19

**6. APPROVAL OF CALPERS INDUSTRIAL DISABILITY RETIREMENT FOR POLICE OFFICER BRETT M. BYLER -**

Request the City Council approve the Industrial Disability Retirement of Police Officer Brett M. Byler. (File No. 0170-57)

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

RESOLUTION NO. 2021-30

**7. APPROVAL OF CALPERS INDUSTRIAL DISABILITY RETIREMENT FOR POLICE OFFICER NICHOLAS A. KLUKA -**

Request the City Council approve the Industrial Disability Retirement of Police Officer Nicholas A. Kluka. (File No. 0170-57)

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

RESOLUTION NO. 2021-38

**CONSENT RESOLUTIONS AND ORDINANCES (COUNCIL/RRB)**

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

**8. ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, TO REPEAL AND REPLACE PROVISIONS OF ESCONDIDO MUNICIPAL CODE CHAPTER 2, ARTICLE 2, CONTROLS ON CAMPAIGN CONTRIBUTIONS -**

Approved on March 3, 2021 with a vote of 3/2 (Martinez, McNamara - No)

ORDINANCE NO. 2021-04 (Second Reading and Adoption)

**MOTION:** Moved by Councilmember Inscoe and seconded by Councilmember Garcia to adopt Ordinance No. 2021-14. Approved 3-2 (Martinez, McNamara – No)

## **CURRENT BUSINESS**

**9. HOUSING AND COMMUNITY INVESTMENT STUDY - INFORMATIONAL REPORT AND STATUS UPDATE -**

Request the City Council receive report and presentation. No action is required at this time except to provide direction to staff as appropriate. (File No. 0875-70)

Staff Recommendation: **Provide Direction (Community Development Department: Mike Strong)**

Patricia Borchmann – Expressed opposition to the item.

**MOTION:** Moved by Councilmember Inscoe and seconded by Councilmember Garcia to approve staff recommendations. Approved unanimously.

**10. REQUEST FOR AUTHORIZATION TO PROCESS AMENDMENTS TO THE DOWNTOWN SPECIFIC PLAN RELATED TO OPEN SPACE, PARKING, PARKLETS, AND HISTORIC PRESERVATION COMMISSION OVERSIGHT -**

Request the City Council approve the request to initiate processing of the requested specific plan amendments related to (1) open space standards for new residential development; (2) residential and non-residential parking requirements; (3) parklets for downtown businesses. Rather than initiating a specific plan amendment to expand Historic Preservation Commission oversight over land use development projects, provide direction to staff on how to more broadly increase public participation. (File No. 0800-70)

Staff Recommendation: **Approval (Community Development Department: Mike Strong)**

Carol Rea – Expressed opposition to the item.

**MOTION:** Moved by Councilmember Inscoe and seconded by Deputy Mayor Morasco to approve the request to initiate processing of the requested specific plan amendments related to (1) open space standards for new residential development; (2) residential and non-residential parking requirements; (3) parklets for downtown businesses. Approved unanimously.

**11. POTENTIAL LEGALIZATION OF CANNABIS SALES AND CANNABIS EQUITY ACT GRANT FUNDING -**

Request the City Council review the status of commercial cannabis sales in San Diego County and provide policy direction concerning local measures to legalize cultivation and sale of cannabis products in the City of Escondido, and adopt a resolution authorizing grant funding through the State of California Cannabis Equity Act Grant program of up to \$75,000. (File No. 0480-70)

Staff Recommendation: **Approval (City Manager's Department: Christopher McKinney)**

RESOLUTION NO. 2021-40

**MOTION:** Moved by Deputy Mayor Morasco and seconded by Councilmember Inscoe to continue this item to a later date. Approved 3-2 (McNamara, Martinez - No)

**12. CITY COUNCIL PUBLIC COMMENT PRACTICES -**

Request the City Council consider department reports and give direction to staff regarding the City's current practices adopted pursuant to the Governor's Executive Orders regarding public participation in City Council meetings during the COVID stay at home orders.

Staff Recommendation: **None (Councilmember Joe Garcia)**

Daisy Ponce – Expressed support for additional public comment options.

Gloria Conejo – Expressed support for additional public comment options.

Greg Anglea – Expressed support for additional public comment options.

Laura Hunter – Expressed support for additional public comment options.

Patricia Borchmann– Expressed support for additional public comment options.

**MOTION:** Moved by Councilmember Garcia and seconded by Councilmember Martinez to implement a hybrid model of public comments via voice recording and email. Approved unanimously.

**13. APPOINTMENT TO THE LIBRARY BOARD OF TRUSTEES -**

Request the City Council approve and ratify the Mayor's appointment of Virginia Segarra Bunnell to the Library Board of Trustees. (File No. 0120-10)

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

**MOTION:** Moved by Councilmember Garcia and seconded by Councilmember Inscoe to appoint Virginia Segarra Bunnell to the Library Board of Trustees. Approved unanimously.

**FUTURE AGENDA**

**14. FUTURE AGENDA -**

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

Staff Recommendation: **None (City Clerk's Office: Zack Beck)**

**Councilmember Garcia - Formation of Housing Subcommittee**

**COUNCIL MEMBERS SUBCOMMITTEE REPORTS AND OTHER REPORTS**

**Councilmember Martinez - Toured Interfaith Community Services. Was sworn-in as a member of the Air Pollution Control District.**

**Councilmember Inscoe - Attended a ribbon cutting ceremony at Goodwill.**

**Councilmember Garcia - Attended a San Dieguito River Park JPA meeting. Attended a ribbon cutting ceremony at Goodwill.**

**Deputy Mayor Morasco - RSWA meeting on April 1, 2021.**

**Mayor McNamara - Attended a San Diego Airport Board meeting.**

## **CITY MANAGER'S WEEKLY ACTIVITY REPORT**

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

- **WEEKLY ACTIVITY REPORT -**

## **ORAL COMMUNICATIONS**

None.

## **ADJOURNMENT**

Mayor McNamara adjourned the meeting at 7:56 p.m.

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MAYOR

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CITY CLERK

**April 7, 2021**  
**4:00 p.m. Meeting**  
Mitchell Room  
**Escondido City Council**

**CALL TO ORDER**

The Regular Meeting of the Escondido City Council was called to order at 4:00 p.m. on April 7, 2021 in the Mitchell Room at City Hall with Mayor McNamara presiding.

**ATTENDANCE**

The following members were present: Councilmember Joe Garcia, Councilmember Tina Inscoe, Councilmember Consuelo Martinez, Deputy Mayor Michael Morasco, and Mayor Paul McNamara. Quorum present.

**ORAL COMMUNICATIONS**

None.

**CLOSED SESSION: (COUNCIL/RRB)**

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Government Code §54956.9(d)(1))**

- a. **Newell v. City of Escondido, et. al.**  
Case No. 37-2020-00023879-CU-PA-NC
- b. **Noah Werner v. City of Escondido, et. al.**  
Case No. 37-2021-00011594-CU-OR-NC
- c. **Building Industry Association of S.D. County v. City of Escondido**  
Case No. 37-2021-00008423-CU-MC-CTL

**CONFERENCE WITH LABOR NEGOTIATORS (Government Code § 54957.6)**

- a. **Agency representative:** Jeffrey Epp (City Manager) and/or designee  
**Employee organization:** Maintenance and Operations Bargaining Unit (Teamsters)
- b. **Agency representative:** Jeffrey Epp (City Manager) and/or designee  
**Employee organization:** ECEA Unit (ACE and Supervisory)
- c. **Agency representative:** Jeffrey Epp (City Manager) and/or designee  
**Employee organization:** Police Officers' Association Non-Sworn Bargaining Unit

**ADJOURNMENT**

Mayor McNamara adjourned the meeting at 4:40 p.m.

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MAYOR

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CITY CLERK



**April 7, 2021  
5:00 P.M. Meeting**

**Escondido City Council**

**CALL TO ORDER**

The Regular Meeting of the Escondido City Council was called to order at 5:00 p.m. April 7, 2021 via video conference and in the City Council Chambers with Mayor McNamara presiding.

**MOMENT OF REFLECTION**

Zack Beck, City Clerk led the Moment of Reflection

**FLAG SALUTE**

Michael McGuinness, City Attorney, led the Flag Salute

**PROCLAMATIONS:** Adult Education Week, April 19 - 23  
Fair Housing Month

**ATTENDANCE**

The following members were present: Councilmember Joe Garcia, Councilmember Tina Inscoe, Councilmember Consuelo Martinez, Deputy Mayor Michael Morasco, and Mayor Paul McNamara. Quorum present.

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

**CLOSED SESSION REPORT**

**Newell v. City of Escondido, et. al.**

Case No. 37-2020-00023879-CU-PA-NC

**COUNCIL ACTION:** Settlement in the amount of \$12,000. Approved unanimously.

**ORAL COMMUNICATIONS**

Abel Magana – Expressed support for cannabis.

Barabara Godon – Expressed opposition towards cannabis.

Becky Rapp – Expressed opposition towards cannabis.

Candice Lynch – Expressed support for cannabis.

Carol Green – Expressed opposition towards cannabis.

Cole Mattingly – Expressed support for cannabis.

Dani DiMemmo – Expressed support for cannabis.

Diane Grace – Expressed opposition towards cannabis.

Fabiola Godinez – Expressed support for cannabis.

Frida Gonzalez – Expressed support for cannabis.

Gustavo Romo – Expressed support for cannabis.

Jakob Woo-Ming – Expressed support for cannabis.

Karla A – Expressed support for cannabis.

Katherine Salazar – Expressed support for cannabis.

## **CONSENT CALENDAR**

**MOTION:** Moved by Deputy Mayor Morasco and seconded by Councilmember Inscoc to approve all consent calendar items. Approved unanimously.

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

**2. APPROVAL OF WARRANT REGISTER (Council)**

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

- 351100 - 351270 dated March 17, 2021
- 351271 - 351478 dated March 24, 2021

Staff Recommendation: **Approval (Finance Department: Christina Holmes)**

**3. APPROVAL OF MINUTES: None Scheduled**

**4. ANNUAL STATE MANDATED INSPECTION COMPLIANCE REPORT -**

Request the City Council approve acknowledging the Fire Department's report of compliance with annual State mandated inspections. (File No. 0320-10)

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

RESOLUTION NO. 2021-29

**5. AUTHORIZATION OF ESRI ENTERPRISE AGREEMENT -**

Request the City Council approve authorizing the Mayor to execute, on behalf of the City of Escondido ("City"), a Small Municipal and County Enterprise Agreement ("SGEA") with Environmental Systems Research Institute, Inc. ("ESRI") for software and maintenance services. (File No. 0600-10, A-3355)

Staff Recommendation: **Approval (Information Systems Department: Rob Van De Hey)**

RESOLUTION NO. 2021-39

**6. SUNRISE PROJECT TRAFFIC MITIGATION AGREEMENT -**

Request the City Council approve authorizing the Mayor to execute a Traffic Mitigation Funding Agreement with Lennar Homes, the Developer of a 192-unit multi-family residential project with the City of San Marcos, to fund mitigation measures within the City of Escondido. (File No. 0600-10, A-3356)

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

RESOLUTION NO. 2021-41

**7. CONTRACT RENEWAL FOR THE PURCHASE OF CHEMICALS FOR THE WATER AND WASTEWATER TREATMENT PLANTS -**

Request the City Council approve authorizing the Director of Finance to exercise the last year renewal option of the purchase order contracts, to purchase chemicals used at the Water and Wastewater Treatment Plants and approve the unit price increases for FY 2021/22. (File No. 0470-25)

Staff Recommendation: **Approval (Finance Department: Christina Holmes)**

RESOLUTION NO. 2021-46

**8. AUTHORIZATION OF PARTICIPATION AGREEMENT, EASEMENT, AND PLOT PLAN APPROVAL -**

Request the City Council approve entering into an agreement with San Diego Gas and Electric ("SDG&E") for the installation and operation of electric vehicle charging stations ("EV Stations") and related underground and above-ground equipment on City-owned property within the Grape Day parking lot adjacent to Woodward Avenue. The request also includes granting SDG&E an easement for the installation and operation of the EV Stations. (File No. 0600-10, A-3357)

Staff Recommendation: **Approval (Community Development Department: Mike Strong)**

RESOLUTION NO. 2021-53

**CONSENT RESOLUTIONS AND ORDINANCES (COUNCIL/RRB)**

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

**CURRENT BUSINESS**

**9. APPROVAL OF CITY MANAGER AGREEMENT AND AMENDMENT TO EXISTING CITY MANAGER RETIREE APPOINTMENT AGREEMENT –**

Request the City Council approve an Employment Agreement between the City of Escondido and Sean McGlynn to perform the responsibilities of and serve as the City Manager; and approve First Amendment to Retiree Agreement with Jeffrey Epp. (File No. 0610-10)

Staff Recommendation: **Approval (City Attorney's Office: Michael McGuinness)**

a). RESOLUTION NO. 2021-49 b). RESOLUTION NO. 2021-52

**MOTION:** Moved by Councilmember Garcia and seconded by Deputy Mayor Morasco to approve an Employment Agreement between the City of Escondido and Sean McGlynn to perform the responsibilities of and serve as the City Manager; and approve First Amendment to Retiree Agreement with Jeffrey Epp. Approved unanimously.

**10. APPROVAL OF A MEMORANDUM OF UNDERSTANDING ("MOU") BETWEEN THE CITY OF ESCONDIDO AND THE US SOCCER FOUNDATION RELATED TO THE INSTALLATION OF TWO MINI-PITCH/FUTSAL COURTS IN WASHINGTON PARK -**

Request the City Council approve to a) authorize the Deputy City Manager/Director of Communications and Community Services or her designee to accept a grant from the US Soccer Foundation to fund two Mini-Pitch/Futsal Courts in Washington Park, b) execute all documents necessary for the management and completion of the grant scope; and c) authorize the necessary budget adjustment needed to establish a new project number for tracking and spending of grant funds. (File No. 0480-70)

Staff Recommendation: **Approval (Communications and Community Services Department: Danielle Lopez)**

RESOLUTION NO. 2021-54

Angela Salcido – Expressed support for the item.

Courtney Wood – Expressed support for the item.

Lilian Arjona Garzon – Expressed support for the item.

Edmundo Garcia-Vaquero – Expressed support for the item.

Kaden Buckwalter – Expressed support for the item.

Amparo Martinez – Expressed support for the item.

Juan Tapia – Expressed support for the item.

Leonardo Velazquez – Expressed support for the item.

Manny Artega – Expressed support for the item.

Nedy Velazquez – Expressed support for the item.

**MOTION:** Moved by Councilmember Martinez and seconded by Councilmember Inscoe to approve to a) authorize the Deputy City Manager/Director of Communications and Community Services or her designee to accept a grant from the US Soccer Foundation to fund two Mini-Pitch/Futsal Courts in Washington Park, b) execute all documents necessary for the management and completion of the grant scope; and c) authorize the necessary budget adjustment needed to establish a new project number for tracking and spending of grant funds. Approved unanimously.

**11. DALEY RANCH MITIGATION BANK CREDITS -**

Request the City Council discuss Mitigation Bank Credits per Deputy Mayor Morasco's requisition during the February 10, 2021 City Council meeting. (File No. 0230-31)

Staff Recommendation: **None (Utilities Department: Christopher McKinney; Community Development Department: Mike Strong)**

**12. AMERICAN RESCUE PLAN ACT UPDATE -**

Request the City Council receive and file and update on the American Rescue Plan Act of 2021 and the estimated funding allocation to the City of Escondido. (File No. 0220-55)

Staff Recommendation: **Receive and File (Finance Department: Christina Holmes)**

**13. APPOINTMENT AND DIRECTION REGARDING HOUSING SUBCOMMITTEE, AND RELATED DETAILS SUCH AS SCOPE, DURATION AND STAFF REPORT -**

Request the City Council appoint a Housing Element Subcommittee.

Staff Recommendation: **Approval (Councilmember Joe Garcia)**

**MOTION:** Moved by Councilmember Garcia and seconded by Councilmember Martinez to appoint Councilmember Garcia and Councilmember Martinez to the Housing Subcommittee. Approved unanimously.

**FUTURE AGENDA**

**FUTURE AGENDA -**

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

Staff Recommendation: **None (City Clerk's Office: Zack Beck)**

## **COUNCIL MEMBERS SUBCOMMITTEE REPORTS AND OTHER REPORTS**

Councilmember Morasco - Attended a RSWA Meeting.

Councilmember Inscoe - Attended a CCAE Subcommittee meeting.

Councilmember Martinez - Attended a CCAE Subcommittee meeting.

## **CITY MANAGER'S WEEKLY ACTIVITY REPORT**

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

- **WEEKLY ACTIVITY REPORT -**

## **ORAL COMMUNICATIONS**

Kathleen Lippitt – Expressed opposition towards cannabis.

Katie Poponyak – Expressed opposition towards cannabis.

KB Strange – Expressed opposition towards cannabis.

Kelly McCormick– Expressed opposition towards cannabis.

Kevin Stevenson – Expressed support for cannabis.

Krissy Lowe– Expressed opposition towards cannabis.

Leslie Ellsworth – Expressed support for cannabis.

Leyel Malave – Expressed support for cannabis.

Marissa Alen– Expressed support for cannabis.

Molly Godfrey – Expressed support for cannabis.

Nahida Kayed – Expressed support for cannabis.

Nicolas Domingo Andrade – Expressed support for cannabis.

Peggy Walker– Expressed opposition towards cannabis.

Rebecca Brown – Expressed support for cannabis.

Romae Walker – Expressed support for cannabis.

Rosa Martinez – Expressed support for cannabis.

Terri-Ann Skelly – Expressed opposition towards cannabis.

Joseph Jawad Masso – Expressed support for cannabis.

## **ADJOURNMENT**

Mayor McNamara adjourned the meeting at 7:00 p.m.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK



# CITY COUNCIL STAFF REPORT

**Consent Item No. 4**

**April 21, 2021**

**File No. 0600-10, A-3352**

SUBJECT: Bid Award for the Washington Park Skate Spot Project

DEPARTMENT: Communications and Community Services

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2021-58 authorizing the Mayor to execute, on behalf of the City, a Public Improvement Agreement in the amount of \$386,932.50 for the Washington Park Skate Spot Project (“Project”) with GeoCon Skateparks.

FISCAL ANALYSIS:

The Project is fully funded by the Fiscal Year (“FY”) 2017-18 and 2019-20 Capital Improvement Program (“CIP”) budgets, and will not impact the General Fund.

PREVIOUS ACTION:

On June 21, 2017, the City Council approved the Five-Year CIP, and FY 2017/18 CIP budget.

On June 12, 2019, the City Council Approved the Five-Year CIP, and FY 2019/20 CIP budget.

BACKGROUND:

The Project will include the construction of a permanent, custom skate park in Washington Park located at 501 N. Rose St., Escondido, CA 92027. The work consists generally of construction including traffic control and public convenience, removal of existing improvements for installation of skate park, new storm drain system, installation and reconnection of realigned electrical system, installation of removed turf and trees, installation and reconnection of removed irrigation components., and compliance to all applicable storm water pollution prevention (“NPDES”).

On April 1, 2021, five sealed bids were received in response to the City Notice Inviting Sealed Bids for the Project. The City Engineer’s estimate for the Project was \$400,000. The five bidders and corresponding bid totals received on April 1, 2021 are as follows:

GeoCon Skateparks	\$386,932.50
HSCC, Inc.	\$489,579.75
California Skate Parks	\$525,836.25
Palm Engineering Construction Company	\$713,315
Grindline Skateparks	\$770,398.22

Bid award for the Washington Park Skate Spot  
April 21, 2021  
Page 2

Staff recommends that: (1) the bid submitted by GeoCon Skateparks be considered the lowest responsive bid, (2) GeoCon Skateparks be considered a responsible bidder for the Project, and (3) a Public Improvement Agreement in the amount of \$386,932.50 for the Project be awarded to GeoCon Skateparks.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

*Danielle Lopez*, Assistant Director of Community Services  
04/15/21 9:32 a.m.

ATTACHMENTS:

1. Resolution No. 2021-58
2. Resolution No. 2021-58 Exhibit "A" Public improvement Agreement



RESOLUTION NO. 2021-58

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AWARDING A BID FOR THE WASHINGTON PARK SKATE SPOT; AND AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY, A PUBLIC IMPROVEMENT AGREEMENT WITH GEOCON SKATEPARKS

WHEREAS, the City Council has allocated funding in the adopted Capital Improvement Program Budget for the Washington Park Skate Spot; and

WHEREAS, a notice inviting bids for said project was duly published; and

WHEREAS, pursuant to said notice, five sealed bids for the project were opened and evaluated on April 1, 2021; and

WHEREAS, GeoCon Skateparks was determined to be the lowest responsive and responsible bidder; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to award this contract to GeoCon Skateparks in the amount of \$386,932.50.

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 is authorized to execute, on behalf of the City, a Public Improvement Agreement with GeoCon Skateparks, in a substantially similar form to that

which is attached and incorporated to this Resolution as Exhibit "A", and subject to final approval as to form by the City Attorney.



CITY OF ESCONDIDO  
PUBLIC IMPROVEMENT AGREEMENT

This Public Improvement Agreement ("Agreement") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2021 ("Effective Date"),

Between: CITY OF ESCONDIDO  
a California municipal corporation  
201 N. Broadway  
Escondido, CA 92025  
Attn: Matthew C. Souttere  
760-839-4574  
("CITY")

And: GeoCon Engineering, Inc.  
dba GeoCon Skateparks  
a California corporation  
24738 Gallineta Way  
Ramona, CA, 92065  
Attn: George Zadrozny  
760-822-2959  
("CONTRACTOR").

(The CITY and CONTRACTOR each may be referred to herein as a "Party" and collectively as the "Parties.")

WHEREAS, the Parties desire to enter into this Agreement for the performance of work relating to the Washington Park Skate Spot Project ("Project"), occurring on property located at 501 N. Rose St., Escondido, CA 92027 and having assessor's parcel number 230-141-20 ("Property"), as further described herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, and conditions set forth herein, and the mutual benefits derived therefrom, the Parties hereby agree as follows:

1. Project Documents. The Notice Inviting Sealed Bids/Notice to Contractors, Instructions to Bidders, Bid Form, Designation of Subcontractors, Workers' Compensation Certificate, Change Orders, Shop Drawing Transmittals, Information Required of CONTRACTOR, Non-collusion Affidavit, Insurance Certificates, Guarantees, General Conditions, Supplementary General Conditions, Special Conditions, Plans, Drawings, Specifications, the Agreement, and all modifications, addenda, and amendments thereto ("Project Documents") are incorporated herein

by this reference as if fully set forth herein. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.

2. Description and Performance of Work. CONTRACTOR shall furnish all work described in the Project Documents ("Work"). All Work to be performed and materials to be furnished shall be completed in a good workmanlike manner, free from defects, in strict accordance with the plans, drawings, specifications, and requirements set forth in the Project Documents and all provisions of this Agreement.
3. Compensation. In exchange for CONTRACTOR's completion of the Work, the CITY shall pay, and CONTRACTOR shall accept in full, an amount not to exceed the sum of \$386,932.50 ("Contract Price"). CONTRACTOR shall be compensated only for performance of the Work described in this Agreement. No compensation shall be provided for any other work or services without the CITY's prior written consent.
4. Term and Time of Performance. CONTRACTOR shall commence work within one week from the CITY's notice to proceed ("NTP"). CONTRACTOR shall diligently perform and complete the Work with professional quality and technical accuracy within 60 working days of the NTP ("Completion Date"). Extension of terms or time of performance shall be subject to the CITY's sole discretion.
5. Time Is of the Essence. If the Work is not completed by the Completion Date, it is understood that the CITY will suffer damage. It being impractical and infeasible to determine the amount of actual damage, in accordance with Government Code section 53069.85, the Parties agree that CONTRACTOR shall pay to the CITY as fixed and liquidated damages, and not as a penalty, the sum of \$500 per day for each calendar day of delay until the Work is completed and accepted ("Liquidated Damages Amount"). The Liquidated Damages Amount shall be deducted from any payments due to, or that become due to, CONTRACTOR. CONTRACTOR and CONTRACTOR'S surety shall be liable for the Liquidated Damages Amount.
6. Insurance Requirements.
  - a. CONTRACTOR shall procure and maintain, at its own cost, during the entire term of this Agreement, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Work, and the results of such Work, by CONTRACTOR, its agents, representatives, employees, or subcontractors. Insurance coverage shall be at least as broad as the following:
    - (1) *Commercial General Liability.* Insurance Services Office ("ISO") Form CG 0001 11188 covering Commercial General Liability on an "occurrence" basis, including products and completed operations, property damage, bodily injury (including emotional distress), sickness, disease, or death of any person other than the CONTRACTOR's employees, and personal and advertising injury, and damages because of injury or destruction of tangible property, including loss of use resulting there from, with limits no less than \$3,000,000 combined single limit coverage per occurrence for bodily injury and property damage; or, if a general aggregate limit is applicable, either: (i) the general aggregate limit shall specifically apply to the project identified in the bid specifications or to the location of such project which is the subject of these bid specifications with coverage to be no less than \$3,000,000, or (ii) the general aggregate shall be at least \$3,000,000 combined single limit coverage per occurrence for bodily injury and property damage.
    - (2) *Automobile Liability.* ISO Form CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired (Code 8) and non-owned autos (Code 9), including damages because of bodily injury, death of a person, or property damage

arising out of the ownership, maintenance, or use of a motor vehicle, all mobile equipment, and vehicles moving under CONTRACTOR's control and engaged in the Work, with limits no less than \$3,000,000 combined single limit per accident for bodily injury and property damage.

- (3) *Workers' Compensation.* Workers' Compensation as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
  - (4) *Fire Insurance.* Before the commencement of the Work, the CONTRACTOR shall procure, maintain, and cause to be maintained at the CONTRACTOR's expense, fire insurance on all Work subject to loss or damage by fire and the entire structure on which the Work of this Agreement is to be done to the insurable value thereof. The amount of fire insurance shall be subject to approval by the CITY and shall be sufficient to protect the Work against loss or damage in full until the Work is completed and accepted by the CITY. Should the Work being constructed be damaged by fire or other causes during construction, it shall be replaced in accordance with the requirements of the drawings and specifications without additional expense to the CITY.
  - (5) *Builder's Risk/"All Risk" Insurance.* The CONTRACTOR, during the progress of the Work and until final acceptance of the Work by CITY, shall maintain Builder's Risk/"All Risk," course-of-construction insurance satisfactory to CITY issued on a completed value basis of all WORK pursuant to this Agreement. Coverage is to provide extended coverage and insurance against vandalism, theft, malicious mischief, perils of fire, sprinkler leakage, civil authority, sonic boom, earthquake, collapse, flood, wind, lightning, smoke, riot, debris removal (including demolition), and reasonable compensation for the Engineer's services and expenses required as a result of such insured loss upon the Work, including completed Work and Work in progress to the full insurable value thereof. Such insurance shall include the CITY and the City Engineer as an additional named insured and any other person with an insurable interest designated.
  - (6) If CONTRACTOR maintains broader coverage and/or higher limits than the minimums otherwise required by this Agreement, the CITY requires and shall be entitled to the broader coverage and/or the higher limits maintained by CONTRACTOR.
- b. Each insurance policy required by this Agreement must be acceptable to the City Attorney and shall meet the following requirements:
- (1) *Compliance with General Condition Requirements.* Insurance coverage shall comply with and meet all requirements set forth in Article 5.2 of General Conditions
  - (2) *Acceptability of Insurers.* Insurance coverage must be provided by an insurer authorized to conduct business in the state of California with a current A.M. Best's rating of no less than A-:VII, or as approved by the CITY.
  - (3) *Additional Insured Status.* Both the Commercial General Liability and the Automobile Liability policies must name the CITY (including its officials, officers, agents, employees, and volunteers) specifically as an additional insured under the policy on a separate endorsement page. The Commercial General Liability additional insured endorsement shall be at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of *both* CG 20 10, CG 20 26, CG 20 33, or CG 20 38, *and* CG 20 37 if a later edition is used. The Automobile Liability additional insured endorsement shall be at least as broad as ISO Form CA 20 01.

- (4) *Primary Coverage.* CONTRACTOR's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 with respect to the CITY, its officials, officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officials, officers, agents, employees, or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.
  - (5) *Notice of Cancellation.* Each insurance policy shall provide that coverage shall not be canceled, except with prior written notice to the CITY.
  - (6) *Subcontractors.* If applicable, CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated within this Agreement, and CONTRACTOR shall ensure that the CITY (including its officials, officers, agents, employees, and volunteers) is an additional insured on any insurance required from a subcontractor.
  - (7) *Waiver of Subrogation.* CONTRACTOR hereby grants to the CITY a waiver of any right to subrogation that any insurer of CONTRACTOR may acquire against the CITY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this subsection shall apply regardless of whether or not the CITY has received a waiver of subrogation endorsement from the insurer. Any Workers' Compensation policy required by this Agreement shall be endorsed with a waiver of subrogation in favor of the CITY for all work performed by the CONTRACTOR, its agents, representatives, employees and subcontractors.
  - (8) *Self-Insurance.* CONTRACTOR may, with the CITY's prior written consent, fulfill some or all of the insurance requirements contained in this Agreement under a plan of self-insurance. CONTRACTOR shall only be permitted to utilize such self-insurance if, in the opinion of the CITY, CONTRACTOR's (i) net worth and (ii) reserves for payment of claims of liability against CONTRACTOR are sufficient to adequately compensate for the lack of other insurance coverage required by this Agreement. CONTRACTOR's utilization of self-insurance shall not in any way limit the liabilities assumed by CONTRACTOR pursuant to this Agreement.
  - (9) *Self-Insured Retentions.* Self-insured retentions must be declared to and approved by the CITY.
- c. *Verification of Coverage.* At the time CONTRACTOR executes this Agreement, CONTRACTOR shall provide the CITY with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting the insurance coverage required by this Agreement), which shall meet all requirements under this Agreement. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this Agreement, at any time.
  - d. *Special Risks or Circumstances.* The CITY reserves the right, at any point during the term of this Agreement, to modify the insurance requirements in this Agreement, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
  - e. *No Limitation of Obligations.* The insurance requirements within this Agreement, including the types and limits of insurance coverage CONTRACTOR must maintain, and any approval of such insurance by the CITY, are not intended to and shall not in any manner limit or qualify the

liabilities and obligations otherwise assumed by CONTRACTOR pursuant to this Agreement, including but not limited to any provisions within this Agreement concerning indemnification.

- f. *Compliance.* Failure to comply with any of the insurance requirements in this Agreement, including but not limited to a lapse in any required insurance coverage during the term of this Agreement, shall be a material breach of this Agreement. Compliance by CONTRACTOR with the requirement to carry insurance and furnish certificates, policies, Additional Insured Endorsement and Declarations Page evidencing the same shall not relieve the CONTRACTOR from liability assumed under any provision of this Agreement, including, without limitation, the obligation to defend and indemnify the CTY and the City Engineer. In the event that CONTRACTOR fails to comply with any insurance requirement set forth in this Agreement, in addition to any other remedies the CITY may have, the CITY may, at its sole option, (i) immediately terminate this Agreement; or (ii) order CONTRACTOR to stop Work under this Agreement and/or withhold any payment that becomes due to CONTRACTOR until CONTRACTOR demonstrates compliance with the insurance requirements in this Agreement.

7. Indemnification, Duty to Defend, and Hold Harmless.

- a. CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors, if any) shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers from and against any and all claims, demands, actions, causes of action, proceedings (including but not limited to legal and administrative proceedings of any kind), suits, fines, penalties, judgments, orders, levies, costs, expenses, liabilities, losses, damages, or injuries, in law or equity, including without limitation the payment of all consequential damages and attorney's fees and other related litigation costs and expenses (collectively, "Claims"), of every nature caused by, arising out of, or in connection with CONTRACTOR's (including CONTRACTOR's agents, employees, and subcontractors, if any) Work pursuant to this Agreement or its failure to comply with any of its obligations contained herein, except where caused by the active negligence, sole negligence, or willful misconduct of the CITY.
- b. CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors, if any) shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers from and against any and all Claims caused by, arising under, or resulting from any violation, or claim of violation, of the San Diego Municipal Storm Water Permit (Order No. R9-2013-0001, as amended) of the California Regional Water Quality Control Board, Region 9, San Diego, that the CITY might suffer, incur, or become subject to by reason of, or occurring as a result of, or allegedly caused by, any Work performed pursuant to this Agreement.
- c. All terms and provisions within this Section 7 shall survive the termination of this Agreement.

8. Bonds.

- a. CONTRACTOR shall furnish and deliver to the CITY, simultaneously with the execution of this Agreement, the following surety bonds:
  - (1) *Faithful Performance Bond.* CONTRACTOR shall furnish to the CITY a surety bond in an amount equal to the Contract Price as security for faithful performance of this Agreement.
  - (2) *Labor and Materials Bond.* CONTRACTOR shall furnish to the CITY a surety bond in an amount equal to the Contract Price as security for payment to persons performing labor and furnishing materials in connection with the Project.

- b. All bonds furnished to the CITY pursuant to this Agreement shall be in the form set forth herein and approved by the City Attorney.
  - c. All bonds shall be executed by sureties that are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.
  - d. If the surety on any bond furnished by the CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Work is located, the CONTRACTOR shall, within seven days thereafter, substitute another bond and surety, which must be acceptable to the CITY. No portion of the Work shall be performed without bonds, in a form and issued by a surety acceptable to the City. If one or more of such bonds shall, at any time, not be in full force and effect, CONTRACTOR shall immediately cease performance of the Work until CONTRACTOR is in full compliance with the bonding requirements of this Agreement and California law. All delays and costs incurred or resulting from such occurrence shall be to the exclusive account of CONTRACTOR. Failure of the CONTRACTOR to promptly cure any failure to have the necessary bonds in full force and effect shall be grounds for immediate termination of this Agreement.
  - e. All bonds shall be obtained from surety companies that are duly licensed or authorized in the State of California. Such surety companies shall also meet any additional requirements and qualifications as may be provided in the Supplementary General Conditions.
9. Substitution of Securities. This Agreement is subject to California Public Contract Code section 22300, which permits the substitution of securities for any monies withheld by the CITY to ensure performance of this Agreement. At the request and expense of the CONTRACTOR, securities equivalent to the amount withheld shall be deposited with the CITY, or with a state- or federally-chartered bank in this state as the escrow agent, who shall then pay those moneys to CONTRACTOR. Upon satisfactory completion and acceptance of the Work, such securities shall be returned to the CONTRACTOR.
10. Contractor Default. In the event CONTRACTOR, for a period of 10 calendar days after receipt of written demand from the CITY to do so ("Cure Period"), fails to furnish tools, equipment, or labor in the necessary quantity or quality required by this Agreement, or fails to prosecute the Work and all parts thereof in a diligent and workmanlike manner, or after commencing to do so within the Cure Period, fails to continue to do so, then the CITY in its sole discretion may exclude the CONTRACTOR from the Property, or any portion thereof, and take exclusive possession of the Property or any portion thereof, together with all material and equipment thereon, and may complete the Work or any portion of the Work, either by (i) furnishing the necessary tools, equipment, labor, or materials; or (ii) letting the unfinished portion of the work, or any portion thereof, to another contractor; or (iii) demanding the surety hire another contractor; or (iv) any combination of such methods. The CITY's procuring of the completion of the Work, or the portion of the Work taken over by the CITY, shall be a charge against the CONTRACTOR and may be deducted from any money due or to become due to CONTRACTOR from the CITY, or the CONTRACTOR shall pay the CITY the amount of such charge, or the portion thereof unsatisfied. The sureties provided for under this Agreement shall become liable for payment if CONTRACTOR fails to pay in full any such cost incurred by the CITY. The permissible charges for any such procurement of the completion of the Work include actual costs and fees incurred to third party individuals and entities (including but not limited to consultants, attorneys, inspectors, and



designers) and actual costs incurred by the CITY for the increased dedication of time of the CITY's employees to the Project.

11. Other Legal Requirements Incorporated. Each and every provision of law and clause required by law to be inserted in this Agreement or its attachments shall be deemed to be inserted herein, and this Agreement shall be read and enforced as though such law or clause were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either Party, the Agreement shall forthwith be physically amended to make such insertion or correction, without further changes to the remainder of the Agreement.
12. Merger Clause. This Agreement, together with its attachments or other documents described or incorporated herein, if any, constitutes the entire agreement and understanding of the CITY and CONTRACTOR concerning the subject of this Agreement and supersedes and replaces all prior negotiations, understandings, or proposed agreements, written or oral, except as otherwise provided herein. In the event of any conflict between the provisions of this Agreement and any of its attachments or related documents, if any, the provisions of this Agreement shall prevail.
13. Attorney's Fees and Costs. In any action to enforce the terms and conditions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs.
14. Independent Contractor. CONTRACTOR is an independent contractor, and no agency or employment relationship is created by the execution of this Agreement.
15. Amendment. This Agreement shall not be amended except in a writing signed by the CITY and CONTRACTOR, and pursuant to action of the Escondido City Council.
16. Anti-Waiver Clause. None of the provisions of this Agreement shall be waived by the CITY because of previous failure to insist upon strict performance, nor shall any provision be waived because any other provision has been waived by the CITY, in whole or in part.
17. Severability. This Agreement shall be performed and shall be enforceable to the full extent allowed by applicable law, and the illegality, invalidity, waiver, or unenforceability of any provision of this Agreement shall not affect the legality, validity, applicability, or enforceability of the remaining provisions of this Agreement.
18. Governing Law. This Agreement and all rights and obligations arising out of it shall be construed in accordance with the laws of the State of California. Venue for any action arising from this Agreement shall be conducted only in the state or federal courts of San Diego County, California.
19. Counterparts. This Agreement may be executed on separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed signature page of this Agreement by electronic means, including an attachment to an email, shall be effective as delivery of an executed original. The Agreement on file with the City is the copy of the Agreement that shall take precedence if any differences exist between or among copies or counterparts of the Agreement.
20. Provisions Cumulative. The foregoing provisions are cumulative to, in addition to, and not in limitation of any other rights or remedies available to the CITY.
21. Business License. CONTRACTOR shall obtain a City of Escondido Business License prior to execution of this Agreement and shall maintain such Business License throughout the term of this Agreement.

22. Compliance with Laws, Permits, and Licenses. CONTRACTOR shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, rules, and other legal requirements in effect during the term of this Agreement. This shall include, but shall not be limited to, all California Labor Code laws regarding payment of prevailing wages and all OSHA regulations. CONTRACTOR shall obtain any and all permits, licenses, and other authorizations necessary to perform the work under this Agreement. Neither the CITY, nor any elected or appointed boards, officers, officials, employees, or agents of the CITY, shall be liable, at law or in equity, as a result of any failure of CONTRACTOR to comply with this section.
23. Prevailing Wages and Department of Industrial Relations Compliance. Pursuant to California Labor Code section 1770 et seq., CONTRACTOR agrees that a prevailing rate and scale of wages, in accordance with applicable laws, shall be paid in performing this Agreement. CONTRACTOR shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, rules, and other legal requirements pertaining to the payment of prevailing wages, including but not limited to the keeping of certified payroll records, overtime pay, employment of apprentices, and workers' compensation coverage, as further set forth in the General Conditions. CONTRACTOR shall file the required workers' compensation certificate before commencing work under this Agreement. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONTRACTOR shall post all job site notices required by regulation. CONTRACTOR, as well as any subcontractors, shall be registered pursuant to California Labor Code section 1725.5 to be qualified to bid on, be listed in a bid proposal (subject to the requirements of Public Contract Code section 4104), or engage in the performance of any public works contract subject to the requirements of Division 2, Part 7, Chapter 1 of the California Labor Code. Neither the CITY, nor any elected or appointed boards, officers, officials, employees, or agents of the CITY, shall be liable, at law or in equity, as a result of any failure of CONTRACTOR to comply with this section.
24. Immigration Reform and Control Act of 1986. CONTRACTOR shall keep itself informed of and shall comply with the Immigration Reform and Control Act of 1986 ("IRCA"). CONTRACTOR represents and warrants that all of its employees and the employees of any subcontractor retained by CONTRACTOR who perform any portion of the Work under this Agreement are and will be authorized to perform the Work in full compliance with the IRCA. CONTRACTOR affirms that as a licensed contractor and employer in the State of California, all new employees must produce proof of eligibility to work in the United States within the first three days of employment and that only employees legally eligible to work in the United States will perform the Work. CONTRACTOR agrees to comply with the IRCA before commencing any portion of the Work, and continuously throughout the performance of the Work and the term of this Agreement.
25. Effective Date. Unless a different date is provided in this Agreement, the effective date of this Agreement shall be the latest date of execution set forth by the names of the signators below.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, this Agreement is executed by the Parties or their duly authorized representatives as of the Effective Date:

CITY OF ESCONDIDO

Date: \_\_\_\_\_

\_\_\_\_\_  
Paul McNamara, Mayor

GeoCon Engineering, Inc.  
dba GeoCon Skateparks

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name & Title (please print)

\_\_\_\_\_  
Contractor's License No.

\_\_\_\_\_  
Tax ID/Social Security No.

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.

## CITY COUNCIL STAFF REPORT

**Consent Item No. 5**

**April 21, 2021**

**File No. 0480-70**

SUBJECT: Authorization to accept a \$12,000 grant from the California State Library, on behalf of the Escondido Public Library, to improve virtual programming

DEPARTMENT: Library

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2021-57 authorizing the Deputy City Manager/Director of Communications and Community Services or her designee to accept a grant from the California State Library on behalf of the Escondido Public Library to purchase equipment and materials that will improve the quality of virtual programming; execute all documents necessary for the management and completion of the grant scope; and authorize the necessary budget adjustment needed to establish a new project number for tracking and spending of grant funds.

FISCAL ANALYSIS:

Grant funds will be used to purchase equipment and materials that will improve the quality of virtual programming offered at the Library. This will have no impact on the General Fund Budget or the library contract.

PREVIOUS ACTION:

None

BACKGROUND:

Administered in California by the State Librarian, the federal Institute of Museum and Library Services (IMLS), through its Grants to States Program, provides funding for California's libraries from the federal Library Services and Technology Act (LSTA). The funds are used to provide financial support for service improvements; to facilitate access to, and sharing of, resources and services between libraries and between libraries and partner institutions; and to achieve economical and effective delivery of services for the purpose of cultivating an educated and informed citizenry.

The Escondido Public Library has been awarded \$12,000.00 in federal LSTA funds. These funds will be used to purchase hardware (laptops, camera components, cables, etc.) and software (Windows 10, Adobe) needed for the library to improve the quality of broadcasts and editing of virtual programs. Funding will also be used to pay instructors, and purchase books and art supplies for specially created virtual art classes taught by experts that will expand the

already established "Virtual Art @ Your Library!" project. Once funding is received, programs will begin, and are expected to run from April, 2021, through August, 2021.

A description of the new virtual programs Escondido Public Library plans to offer are below.

**Virtual Tween Book Clubs** - Participants will be provided a copy of the selected book to keep, to help build their personal home libraries, as well as an art craft kit that is tied to the book. Participants will discuss the book and work on the art project during a live Zoom session.

**Virtual Teen Book Clubs** - Participants will be provided a copy of the selected book to keep, to help build their personal home libraries, as well as an art craft kit that is tied to the book. Participants will discuss the book and work on the art project during a live Zoom session.

**Virtual Inclusive Art Clubs** - Participants will pick up an Inclusive Art Club Kit that is designed with sensory learning in mind. They will participate in a live story time and art session that will feature that session's Inclusive Art Kit. This club has been developed for individuals of all abilities.

**How to Make a Comic Books Classes** – Over the course of four weeks, tween participants will be provided with the tools used by professionals and taught the writing, rough draft/storytelling, penciling and inking of comic books. Classes will take place on a live Zoom session.

**Artist Deep Dive Classes** - Youth participants will be provided with art supplies that will be used at each class. They will listen to time period appropriate music while making art, and will take a deep dive into the history and work of an artist of color. They will look at the artist's life, their work and the art process. The class will conclude with the students participating in a "virtual" art exhibition to show off the work they've created. Students are encouraged to interact with each other during the learning process. Classes will take place on a live Zoom session.

**How to Make Manga Classes** – Over the course of four weeks, teen participants will be provided with the tools used by professionals and taught the writing, rough draft/storytelling, penciling and inking of Manga, or Japanese style, comic books. Classes will take place on a live Zoom session.

The mission of Escondido Public Library is to provide library users with equal access to information and educational experiences that inspire learning and foster participation in a thoughtful, diverse society. The strategic plan's three key points are to connect, inspire, and grow. The "Virtual Art @ Your Library!" project fits perfectly with this mission and strategic plan.

This grant would allow the library to offer higher quality virtual programming for our community and expand the "Virtual Art @ Your Library!" project. Multiple studies have shown that art is directly correlated to a student's learning process and success. As distance learning continues,

these classes are more important than ever, and provide opportunities for the youth to connect with their peers on a creative level, inspire critical thinking and thoughts about careers in art, all while having fun and learning something new. Furthermore, these programs increase library use, and awareness of library services and programs.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

*Danielle Lopez*, Assistant Director of Community Services  
04/15/21 9:32 a.m.

ATTACHMENTS:

1. Budget Adjustment
2. Resolution No. 2021-57



RESOLUTION NO. 2021-57.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE DEPUTY CITY MANAGER / DIRECTOR OF COMMUNICATIONS AND COMMUNITY SERVICES OR HER DESIGNEE TO ACCEPT A GRANT FROM THE CALIFORNIA STATE LIBRARY ON BEHALF OF THE ESCONDIDO PUBLIC LIBRARY; AND EXECUTE ALL DOCUMENTS NECESSARY FOR THE MANAGEMENT AND COMPLETION OF THE GRANT SCOPE; AND AUTHORIZE THE NECESSARY BUDGET ADJUSTMENT.

WHEREAS, the federal Institute of Museum and Library Services (“IMLS”), through its Grants to States Program, administered by the California State Librarian, provides funding for California’s libraries from the federal Library Services and Technology Act (“LSTA”) to fund service improvements; to facilitate access to, and sharing of, resources and services between libraries and between libraries and partner institutions; and to achieve economical and effective delivery of services for the purpose of cultivating an educated and informed citizenry; and

WHEREAS, the City Council of the City of Escondido desires to authorize the Deputy City Manager / Director of Communications and Community Services to accept a grant from the California State Library on behalf of the Escondido public Library to purchase equipment and materials that will improve the quality of virtual programming; to execute all documents necessary for the management and completion of the grant scope; and, to authorize the necessary budget adjustment needed to establish a new project number for tracking and spending of grant funds.



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 hereby directs and authorizes the Deputy City Manager / Director of Communications and Community Services to accept the grant from the IMLS and the California State Librarian on behalf of the City of Escondido and execute all documents necessary for the management and completion of the grant.
3. That the City Council hereby also approves and authorizes the necessary budget adjustment needed to establish a new project number for tracking and spending of grant funds.

## CITY COUNCIL STAFF REPORT

**Consent Item No. 6**

**April 21, 2021**

**File No. 1050-65**

SUBJECT: Approval of the FY 2020-21 Traffic Signal Priority List

DEPARTMENT: Engineering Services Department

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2021-36 approving the FY 2020-21 Traffic Signal Priority List for new traffic signal projects and for modification of existing traffic signals, as recommended by the Transportation and Community Safety Commission. Established ranking criteria, including accident data and delay, has been used to set the order of priority for signal projects that will be budgeted as a part of the Capital Improvement Program.

FISCAL ANALYSIS:

The Traffic Signal Priority List is used to guide future projects recommended for the Capital Improvement Program (CIP) budget.

PREVIOUS ACTION:

The City Council adopted the 2013 Traffic Signal Priority List on April 17, 2013 by Resolution 2013-45.

TRANSPORTATION AND COMMUNITY SAFETY COMMISSION REVIEW:

The Transportation and Community Safety Commission ("TCSC") discussed the item on April 11, 2019, October 10, 2019, and January 9, 2020 and voted to recommend approval of the Traffic Signal Priority List for new traffic signals and signal modifications at their meeting on July 9, 2020.

BACKGROUND:

In order to prioritize the use of limited funds, the City of Escondido ("City") has routinely adopted a Traffic Signal Priority List ("TSPL") that ranks the priority of the installation of new signals and the addition of left turn arrows to existing signals using adopted criteria. The last TSPL, approved by the City Council in 2013, included seven (7) new signal locations and eleven traffic signals prioritized for left turn protection (arrows). Since adoption of the 2013 list, five (5) locations have been addressed, including installation of four (4) new signals and one signal modification scheduled for completion early next year.

In April 2019, the TCSC reviewed a list of proposed signals for consideration in the updated TSPL. This list included signals remaining incomplete from the 2013 TSPL along with additional locations

added based on accident data and community input. The TCSC recommended six (6) intersections be evaluated for new traffic signals and fifteen (15) intersections for the addition of protected left turns using Traffic Engineering Policy #11. The evaluation and ranking method based on Traffic Engineering Policy No. 11, provides a rational and impartial way of comparing intersections for relative need and priority, and includes delays experienced, the history of accidents that were preventable with a traffic signal, the occurrence of gaps in the major and minor traffic streams, and the volume of pedestrian crossings.

**New Traffic Signal Locations:**

In order to install a signal, the California Manual on Uniform Traffic Control Devices requires that certain criteria, or Warrants, be met. Analysis showed that three (3) of the six (6) intersections met the required Warrants. The three (3) locations that met required Warrants were advanced for further analysis for a new traffic signal.

Warrants Met	Warrants Not Met
Rock Springs Rd/ Lincoln Ave.	S. Broadway/ 5 <sup>th</sup> Ave.
Harding St./ Lincoln Ave.	Sierra Linda Dr./ San Pasqual Rd.
Lomas Serenas Dr. / Via Rancho Pkwy	Rose St./ Oak Hill Dr.

The table below summarizes the results of the traffic signal ranking analysis. As shown, the intersections are listed in order of highest to lowest total points based on Criterion 1 through 10. Synchro Analysis shows that a new traffic signal would improve intersection operation conditions at all three (3) intersections and all are expected to operate at acceptable levels of service (D or better) with the installation of a new traffic signal.

Study Intersection	Criteria 1: Total Volume	Criteria 2: Interruption of Continuous Flow	Criteria 3: Pedestrian Volume	Criteria 4: School Area	Criteria 5: Signal System Warrant (Warrant 5)	Criteria 6: Accident History	Criteria 7: Four Hour Volume (Warrant 2)	Criteria 9: Peak Hour Volume (Warrant 3)	Criteria 10: Special Circumstances		Total Points (Max 92)
									School Proximity	ADA Compliant	
(Maximum Points per Criteria)	Points (15)	Points (10)	Points (10)	Points (10)	Points (5)	Points (15)	Points (6)	Points (6)	Points (5)	Points (10)	
1 - Rock Springs Road / Lincoln Avenue	15	5	0	0	0	1	6	2	0	10	39
2 - Harding Street / Lincoln Avenue	4	4	0	0	0	0	2	0	5	10	25
3 - Lomas Serenas Drive / Via Rancho Parkway	6	4	5	0	0	0	0	0	0	10	25

**Note:** Ranking of study intersections 2 & 3 was based on the number of accidents reported at each location since both locations have 25 points. Harding Street / Lincoln Avenue has three accidents reported and Lomas Serenas Drive / Via Rancho Parkway has no accidents reported, refer to Appendix C for collision reports. The level of service improvement for Harding Street / Lincoln Avenue (LOS F to LOS A) is greater than that for Lomas Serenas Drive / Via Rancho Parkway (LOS C/B to LOS B/A).

**Traffic Signal Modifications (Left Turn Phasing/Arrows):**

A list of potential traffic signal modification locations was created from the compilation of police reports at the City’s highest-ranking accident locations, resident and School District requests, internal assessment and previous priority locations. Escondido Blvd at Felicita Avenue, ranked 1<sup>st</sup> on the 2013 TSPL, is under design and will be completed as a part of a grant funded project. Left Turn Warrants were evaluated for left turn phasing based on Peak-hour volumes, speeds and intersection geometry. All intersections met the minimum requirements and were then ranked based on volumes, crashes and vehicle speeds. The results are summarized in the table below. Vehicle volumes were used to rank intersections with the same weighted average score, so that the protected left turns were prioritized where they would benefit the highest number of drivers.

Int. ID	Study Intersection		Existing Left Turn Treatment		Left Turn Phasing Recommendation	Left Turn & Opposing Through Volume (Critical Peak 1-hour)					Volume Score <sup>1</sup>	Left Turn Related Crashes	Left Turn Crash Rate <sup>2</sup>	Crash Score <sup>3</sup>	85% Speed (MPH)	Speed Score <sup>4</sup>	Weighted Average Score <sup>5</sup>	Overall Rank
			N-S	E-W		AM		PM		Total								
	(North/South)	(East/West)	Left Turn	Opp. Thru		Left Turn	Opp. Thru											
21	Bear Valley Parkway	Mary Lane	Prot.	Perm.	Install east-west left turn phasing	26	1253	44	1239	2,562	14	1	0.014	5	45	14	11.8	1
10	Metcalf Street	Mission Avenue	Perm.	Perm.	Install LT phasing on all approaches	10	855	44	971	1,880	12	3	0.056	11	40	12	11.8	2
8	Quince Street	Washington Avenue	Perm.	Perm.	Install LT phasing on all approaches	11	798	54	773	1,636	11	11	0.169	14	38	11	11.8	3
11	Fig Street	East Valley Parkway	Perm.	Perm.	Install LT phasing on all approaches	36	1175	59	828	2,098	13	5	0.053	10	33	8	11.0	4
9	Rose Street	Washington Avenue	Perm.	Perm.	Install east-west left turn phasing	22	621	59	618	1,320	9	7	0.086	13	41	13	11.0	5
7	Fig Street	Mission Avenue	Perm.	Perm.	Install LT phasing on all approaches	95	561	23	650	1,329	10	2	0.017	6	40	12	9.5	6
15	Centre City Parkway	Ninth Avenue	Prot.	Perm.	Install east-west left turn phasing	22	486	27	540	1,075	7	2	0.041	9	40	12	8.8	7
19	Rock Springs Road	Mission Avenue	Perm.	Prot.	Install north-south left turn phasing	54	404	100	494	1,052	6	3	0.019	8	41	13	8.3	8
12	Juniper Street	Felicita Avenue	Perm.	Perm. <sup>6</sup>	Install LT phasing on all approaches	76	385	9	639	1,109	8	1	0.012	4	40	12	8.0	9
18	Escondido Boulevard	Grand Avenue	Perm.	Perm.	Install east-west left turn phasing	43	284	68	485	880	4	7	0.063	12	40	12	8.0	10
13	Escondido Boulevard	Fifth Avenue	Perm.	Perm.	Install north-south left turn phasing	86	281	25	500	892	5	2	0.018	7	37	10	6.8	11
20	Escondido Boulevard	Ninth Avenue	Prot.	Perm.	Install east-west left turn phasing	71	382	112	236	801	3	2	0.011	3	34	9	4.5	12
16	Centre City Parkway	Thirteenth Avenue	Prot.	Perm.	Install east-west left turn phasing	54	195	57	227	533	2	1	0.009	2	32	7	3.3	13
14	Centre City Parkway	Fifth Avenue	Prot.	Perm.	Install east-west left turn phasing	87	102	93	166	448	1	1	0.006	1	37	10	3.3	14

CP = Left Turn Phasing is Currently Protected. N/A = Not Applicable

<sup>1</sup> Volume Score was based on the total AM and PM left turns and opposing through volume ranked from the highest volume (14 points) to the lowest volume (1 point).

<sup>2</sup> Left Turn Crash Rate = (# of left turn related crashes) / (Critical AM & PM Peak Hour Left Turn Volume)

<sup>3</sup> Crash Score is based on the crash rate from the highest crash rate (14 points) to lowest crash rate (1 point).

<sup>4</sup> Speed Score is based on the highest speeds (14 points) to lowest speeds (1 point).

<sup>5</sup> Overall Rank is based on Weighted Average Score = 50% x Volume Score + 25% x Crash Score + 25% x Speed Score. For Weighted Average Scores that are tied, the intersection with the higher volume is ranked higher on the Overall Rank.

<sup>6</sup> Protected left turn phasing is currently provided at the eastbound approach of Felicita Avenue.

**Table 3:** Left Turn Phase Ranking

Protected-Permissive Left Turn Phasing (“PPLT”) allows a portion of the signal phase to serve protected left turns after which vehicles can make unprotected left turns when there is no conflicting

through traffic. PPLT phasing often incorporates yellow arrows during which motorists can make left turns only when it is safe to do so.

The feasibility of PPLT was evaluated at the top three (3) signal modification locations. Evaluation was based on criteria prepared by the San Diego Regional Traffic Engineer Council (SANTEC) and included studies on accident data, roadway conditions and vehicle-pedestrian conflicts. One of the top three locations was deemed appropriate for PPLT. Staff recommends that PPLT phasing be piloted at the intersection of Metcalf Street and Mission Avenue. As PPLT is not widely used in Northern San Diego County and this would be the first signal of its kind in Escondido, a 12-month Pilot Program is recommended to determine suitability for Escondido before any additional installations.

### **Available Funding and Implementation**

The cost to modify or install a new signal is estimated at \$350,000-\$500,000 per location. COVID-19 has impacted the revenue stream used to install new traffic signals (TransNet). It is estimated that revenues can be programmed in FY 2021/22 to provide the balance of funding necessary to complete one signal or one signal modification. Staff recommends that the signal modification at Bear Valley Pkwy/Mary Lane be completed as first priority.

A development project is expected to install the highest ranked new signal to be located at Rock Spring Rd./Lincoln Ave.

Dependent upon on how TransNet revenues recover from the pandemic, the second highest ranked locations, new signal at Harding St./Lincoln Ave. and modification at Metcalf St./Mission Ave., are anticipated to be budgeted in the CIP during FY 23/24 and FY25/26, respectively.

### **APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:**

*Julie Procopio*, Director of Engineering Services

04/15/21 9:59 a.m.

### **ATTACHMENTS:**

1. Resolution No. 2021-36
2. Resolution No. 2021-36 Exhibit "A"

RESOLUTION NO. 2021-36

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
ADOPTING THE FY2020-21 TRAFFIC  
SIGNAL PRIORITY LIST

WHEREAS, the Engineering Services Department conducted traffic engineering studies at numerous intersection locations in the City of Escondido (“City”); and

WHEREAS, the Transportation and Community Safety Commission analyzed the studies to evaluate the need for new or modified traffic signals at various intersection locations; and

WHEREAS, the Transportation and Community Safety Commission has recommended a priority list of new or modified traffic signals; and

WHEREAS the Transportation and Community Safety Commission recommends that the City Council approve the FY 2020-21 Traffic Signal Priority List as provided in Exhibit “A”, the “FY 2020-21 Traffic Signal Priority List for New Traffic Signals and Signal Modifications”. A copy of Exhibit “A” is attached to this resolution and incorporated by this reference.

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

1. That the above recitations are true.
2. That the City Council does hereby adopt the Traffic Signal Priority List as shown on Exhibit “A”.

Exhibit "A"

FY 2020-21 Traffic Signal Priority List

New Traffic Signals

<b>Rank</b>	<b>Intersection</b>
1	Rock Springs Road at Lincoln Avenue
2	Harding Street at Lincoln Avenue
3	Lomas Serenas Drive at Via Rancho Parkway

Traffic Signal Modifications

<b>Rank</b>	<b>Intersection</b>	<b>Left-Turn Phasing Recommendation</b>
1	Bear Valley Parkway at Mary Lane	East-West Approach
2	Metcalf St at Mission Ave	All Approaches
3	Quince St at Washington Ave	All Approaches
4	Fig St at East Valley Parkway	All Approaches
5	Rose St at Washington Avenue	East-West Approach
6	Fig St at Mission Ave	All Approaches
7	Centre City Pkwy at Ninth Ave	East-West Approach
8	Rock Springs Rd at Mission Ave	North-South Approach
9	Juniper St at Felicita Ave	All Approaches
10	Escondido Blvd at Grand Ave	East-West Approaches

## CITY COUNCIL STAFF REPORT

**Consent Item No. 7**

**April 21, 2021**

**File No. 0600-10, A-3359**

SUBJECT: Rimini Street Support Contract Authorization

DEPARTMENT: Information Systems

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2021-55, authorizing the Mayor, on behalf of the City, to execute a Master Service Agreement with Rimini Street, Inc. ("Rimini Street"), to provide software support and regulatory updates for PeopleSoft and Oracle Database software (the "Agreement").

FISCAL ANALYSIS:

Since implementation, the City of Escondido ("City") has contracted with Oracle Corporation ("Oracle") to provide software support for PeopleSoft, Oracle Middleware, and Oracle Database. The total cost of this support for fiscal year 2021/22 was projected to be \$282,084.87. By contracting with Rimini Street for support and regulatory updates, the fiscal year 2021/22 support cost will be reduced to \$135,618.00, with a 5% increase per year built into the Agreement, beginning with the fiscal year 2022/23 renewal.

BACKGROUND:

The City's PeopleSoft HR and Financials environments no longer require upgrades or new functionality, as they are in sustaining support pending longer term technology evaluation. However, the City will still require receipt and application of legal and regulatory updates to ensure compliance of the City's HR, Payroll, and Accounts Payable functions. With this in mind, the Information Systems Department ("IS") began a process to identify an alternative support provider for these environments.

Rimini Street is a third-party provider of support for PeopleSoft Enterprise FSCM, PeopleSoft Enterprise HCM, Oracle Middleware, and Oracle database. Pursuant to the proposed Agreement, Rimini Street will provide functional and technical software support, create and apply bug fixes, and implement necessary regulatory updates to the City's PeopleSoft HR and Financials environments ("Environments") at a significant cost savings over the current support provided by Oracle.

IS personnel contacted Rimini Street customers City of Costa Mesa and City of Santa Monica. These agencies indicated that Rimini Street has provided dependable and rapid support to them, and they are highly satisfied with the services provided. The City of Costa Mesa indicated that there were no other support providers in this space other than Oracle and Rimini Street.

To verify the assertion that only Oracle and Rimini Street provide regulatory updates for PeopleSoft applications, IS also contacted potential competitors to Rimini Street in an attempt to find a third



business that could provide a quote for these services. As part of this process, IS reached out to Appspan, MoTown, and Work Strategy. All indicated that they do not provide regulatory updates, that Rimini Street is the only competitor to Oracle in this area, and that IS's recommendation that the City enter into the Agreement is a sound strategy.

Given the nature of the services, necessary qualifications required of Rimini Street to furnishing the services, and the unavailability of the service from public sources, the City may contract out for these services.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

*Rob Van De Hey*, Deputy City Manager/Director of Information Systems

04/15/21 9:42 a.m.

ATTACHMENTS:

1. Resolution No. 2021-55
2. Resolution No. 2021-55 Exhibit "A" – Rimini Street Agreement

RESOLUTION NO. 2021-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY, A MASTER SERVICES AGREEMENT WITH RIMINI STREET, INC.

WHEREAS, the City currently contracts with Oracle Corporation for PeopleSoft, Oracle Middleware, and Oracle Database support services; and

WHEREAS, the City now desires to enter into a 15-year Master Services Agreement with Rimini Street, Inc., to provide PeopleSoft, Oracle Middleware, and Oracle Database support services (the "Agreement"); and

WHEREAS, the City Council desires at this time and deems it to be in the best public interest to approve the agreement with Rimini Street, Inc.

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

1. That the above recitations are true.
2. That the Mayor and City Council accepts the recommendation of the Information Systems Department regarding approval of the Agreement.
3. That the City Council authorizes the Mayor to execute, on behalf of the City, the Agreement in substantially the same format as Exhibit "A," which is attached to this Resolution and incorporated herein by this reference, subject to final approval as to form by the City Attorney.

# Master Services Agreement

This Master Services Agreement ("**Agreement**") is made by and between Rimini Street, Inc. ("**Rimini Street**"), a Delaware corporation having a principal place of business at 3993 Howard Hughes Parkway, Suite 500, Las Vegas, Nevada 89169, and City of Escondido, a California municipal corporation ("**Client**"), having a principal place of business at 201 North Broadway, Escondido, California 92025. Rimini Street and Client shall each individually be referred to as a "**Party**" and jointly referred to as the "**Parties**." This Agreement is effective as of the date of the last signature of the Parties below ("**Effective Date**").

The Parties agree as follows:

## 1. Services

Rimini Street shall provide Client with the services described in each Statement of Work ("**SOW**") issued under this Agreement (the "**Services**"). This Agreement shall govern all Services during the term of this Agreement.

## 2. Term

**A. General.** The term of this Agreement shall be from the Effective Date until the expiration or termination of the last effective SOW executed under this Agreement, unless terminated earlier for cause.

**B. Non-Appropriation.** Rimini Street acknowledges that the term of this Agreement may extend over multiple City of Escondido fiscal years, and that compensation under this Agreement is contingent on the Escondido City Council appropriating funding for and authorizing such work and compensation for those fiscal years. Accordingly, this Agreement may be terminated by Client at the end of a Support Period Year with no less than ninety (90) days calendar days written notice before the start date of any subsequent Support Period Year as defined in the applicable SOW, if sufficient funding is not appropriated and authorized by the Escondido City Council.

## 3. Termination

A Party may terminate any SOW issued pursuant to this Agreement for cause if (a) the other Party has breached any material term or condition of that SOW or this Agreement and (b) such breach is not cured within thirty (30) days after written notice of breach to the breaching Party. If Client exercises a valid termination for cause pursuant to this section, Client shall be entitled to a pro-rated refund for any prepaid Services not received after the effective date of the termination, calculated using a daily proration and measured from the effective date of the termination through the end of the prepaid period.

## 4. Confidentiality

**A. Confidential Information.** During the course of the Parties' relationship, a Party may have access to the other Party's Confidential Information. The term "**Confidential Information**" shall mean any information, technical data, or know-how, including, without limitation, information which relates to products, services, customers, personnel, markets, research, intellectual property, inventions, processes, designs, marketing, future business strategies, trade secrets, finances, and other nonpublic information of the disclosing Party, including the details of this Agreement and all SOWs under this Agreement.

**B. Non-Confidential Information.** Confidential Information does not include information that the receiving Party can establish by legally sufficient evidence: (i) was in the possession of, or rightfully known by, the receiving Party without a confidentiality obligation prior to its disclosure by the disclosing Party; (ii) is, or becomes, generally known to the public without breach of this Agreement; (iii) is obtained by the receiving Party in good faith from a third party without any communicated confidentiality obligation; (iv) is independently developed by the receiving Party without use of the disclosing Party's Confidential Information; or (v) is authorized in writing by the disclosing Party to be released from the confidentiality obligations of this Agreement.

**C. Non-Disclosure.** The receiving Party shall use the disclosing Party's Confidential Information only for purposes of this Agreement and applicable SOWs under this Agreement, and shall not disclose it to any person or entity other than its or its affiliates' employees, directors, contractors, consultants, service providers, counsel or agents who have a

reasonable need to know such information and who are bound by at least equivalent obligations of confidentiality and non-disclosure as those under this Agreement (such recipients being "**Authorized Recipients**"). The receiving Party is responsible for the compliance of its Authorized Recipients with the confidentiality and non-disclosure obligations of this Agreement. The receiving Party will use the same standard of care to protect the disclosing Party's Confidential Information as it uses to protect its own similar confidential and proprietary information, but no less than reasonable care. Notwithstanding the non-disclosure requirements of this section, Client authorizes Rimini Street to refer to Client as a customer and use Client's name and logo in such references. Each Party agrees that damages may not be adequate to protect the other Party in the event of an actual or threatened breach of the confidentiality and nondisclosure obligations of this Agreement, and that either Party may take equitable action, including seeking injunctive relief, to enforce such obligations. The confidentiality and non-disclosure obligations under this Agreement shall survive expiration or termination of the last effective SOW issued under this Agreement by two (2) years.

**D. Legal Disclosure.** If it becomes necessary for the receiving Party to disclose any Confidential Information to enforce this Agreement or comply with a judicial, administrative proceeding (or equivalent process), or applicable law, the receiving Party shall, to the extent legally permitted, provide the disclosing Party with prompt written notice so the disclosing Party may, at the disclosing Party's expense, seek a protective order or other appropriate remedy to protect such information. If such protective order or other remedy is not obtained, the receiving Party will not be in breach of this Agreement by furnishing such Confidential Information as required.

## 5. Effective Performance of Services

Rimini Street shall perform the Services in a timely manner in accordance with each applicable SOW using qualified personnel. Client shall provide a primary point of contact for each SOW who shall be Client's authorized representative to work with Rimini Street regarding the Services. Client shall provide qualified personnel capable of: (i) making necessary and timely decisions on behalf of Client; (ii) implementing Rimini Street's advice and recommendations; (iii) facilitating the testing of any deliverables provided by Rimini Street or the original software vendor; and (iv) and customizing, installing, and configuring deliverables provided by Rimini Street or the original software vendor. Client shall provide all information reasonably required for Rimini Street to perform the Services and shall ensure that such information is accurate in all material respects. Upon execution of this Agreement, Client shall timely provide Rimini Street with remote access for performance of the Services, without requiring Rimini Street to comply with additional contractual or policy requirements not already contained in this Agreement or the applicable SOW. Client agrees that Rimini Street's ability to perform the Services is materially dependent on Client's timely performance of its own obligations as described herein. Except as otherwise specified in a SOW, the Parties agree that all Services will be rendered in the English language only. Client shall provide access to Client's location(s) as reasonably requested by Rimini Street for effective performance of Services, as well as reasonable equipment, office support, and a suitable environment for Rimini Street representatives to conduct work and meet with Client personnel as necessary. If Client requests that any Services be performed at a location other than Rimini Street's own locations, Rimini Street will seek pre-approval from Client before incurring any reasonable travel expenses, for which Client agrees to reimburse Rimini Street within twenty (20) days after Rimini Street provides Client with reasonable and appropriate expense documentation.

## 6. Work Product

Any expression of Rimini Street's findings, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, designs, and other technical information, together with any programs, enhancements, source, and object code that are not derivative works of Client or Client's licensor(s), shall be deemed Rimini Street work product ("**Rimini Street Work Product**"). Rimini Street Work Product shall not include any intellectual property owned by Client or a third party unless Rimini Street or Client has procured proper permission for the inclusion of such third party intellectual property. Subject to the foregoing, as between Rimini Street and the Client, all intellectual property rights related to Rimini Street, Rimini Street Work Product, or the Services, in whole or in part, are and shall remain the exclusive property of Rimini Street.

Rimini Street hereby grants to Client a perpetual, worldwide, irrevocable (except for cause due to breach or license misuse), royalty-free, and nonexclusive license to use the Rimini Street Work Product that is incorporated into the Services, in accordance with the terms of this Agreement, for Client's internal business purposes. Client is not licensed to sell, sublicense, distribute, rent, lease, transfer, share, or assign the Rimini Street Work Product to any other person, entity, affiliate, beneficiary, or contractor, regardless of their relationship to Client, except as expressly permitted by this Agreement. To the extent Client acquires any rights in the Rimini Street Work Product by operation of law despite the terms of this

Agreement, Client hereby assigns those rights to Rimini Street and agrees to take such further actions as Rimini Street may reasonably request to give effect to this section.

## **7. Use by Client's Agents and Affiliates**

Client may permit its Authorized Recipients to access or use the Rimini Street Work Product for the sole purpose of supporting Client's own use as permitted under this Agreement, provided that Client shall be liable to Rimini Street for any access or use of the Rimini Street Work Product by Client's Authorized Recipients that violates this Agreement. In addition, the Rimini Street Work Product licensed to Client, and the Services provided to Client, under this Agreement may be used by, and for the benefit of, Client's Affiliates (as defined below) to the same extent Client is allowed to use and benefit from such Services, provided that: (i) each such Affiliate has the right to use the Covered Products set forth in Schedule A of each applicable SOW pursuant to Client's original vendor license agreement(s) for such Covered Products; (ii) such Affiliates' use of, or benefit from, the Rimini Street Work Product and Services shall be subject to all applicable terms, conditions and limitations of this Agreement and each applicable SOW; (iii) Client, as the signatory to this Agreement, shall be responsible for such Affiliates' compliance with the terms, conditions and limitations of this Agreement, and shall indemnify, defend and hold harmless Rimini Street for any and all claims, damages, liability and expenses, including attorneys' fees and costs, sought by any such Affiliate that exceeds Rimini Street's agreed upon liability or obligations under this Agreement; and (iv) such Affiliates' use of the Rimini Street Work Product and Services is restricted solely to use with Client's Covered Products as set forth in any Schedule A of each applicable SOW. "Affiliates" means any corporate entity that, directly or indirectly, controls or is controlled by, or is under common control with, Client.

## **8. Indemnity**

Rimini Street shall indemnify, defend or, at its sole option, settle, and hold Client (including Client's officials, officers, agents, employees, and volunteers) harmless from and against any third party claims that the Rimini Street Work Product or Services delivered to Client pursuant to this Agreement infringe any third party intellectual property rights, except to the extent: (i) the alleged infringement is based on information, software, or other material (other than the Covered Products under the applicable SOW) not furnished by Rimini Street, or is the result of a modification made by anyone other than Rimini Street; (ii) such claim would have been avoided but for the combination or use of the Rimini Street Work Product, the Services, or any portion thereof, with other products, processes or materials (other than the Covered Products under the applicable SOW) where the alleged infringement relates to such combination; (iii) Client uses the Rimini Street Work Product or Services in a manner that is inconsistent with, or contrary to, this Agreement or any applicable license agreement between Client and a third party; or (iv) Client continues any allegedly infringing activity after being provided with modifications that would have avoided such alleged infringement. In the event of a claim, Client shall provide Rimini Street with prompt written notice, as well as information, reasonable assistance, and the sole authority to defend or settle such claim. In addition to providing any indemnification owed to Client, Rimini Street may, in its reasonable judgment, and at its option and expense, obtain for Client the right to continue using the Rimini Street Work Product or Services, replace or modify the Rimini Street Work Product or Services to render such Rimini Street Work Product or Services non-infringing, or terminate the right to use the Rimini Street Work Product in question and make all reasonable efforts to provide Client with a non-infringing replacement with equivalent functionality at no additional cost to Client. Client shall have the right, at its option, to participate in the settlement or defense of the claim, with its own counsel and at its own expense, but Rimini Street will have the exclusive authority and control of the settlement or defense. Rimini Street shall not enter into any settlement that imposes any legal liability or financial obligation on Client without Client's prior written consent. THIS SECTION STATES THE ENTIRE LIABILITY AND EXCLUSIVE OBLIGATIONS OF RIMINI STREET WITH RESPECT TO ANY ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR IN CONNECTION WITH THE RIMINI STREET WORK PRODUCT OR THE SERVICES.

## **9. Limited Warranty**

Each Party warrants that it has full legal authority to enter into this Agreement and perform its obligations hereunder, and that no third party rights or permissions are required in order for it to do so. Client warrants that the entity entering into any SOW with Rimini Street under this Agreement is the valid license holder for the licensed software to which Rimini Street's Services relate. Rimini Street warrants that the Services will be performed consistent with generally accepted industry standards. Client must provide written notice to Rimini Street within thirty (30) days of the completion of the Services alleged to have been performed inconsistent with this warranty. Client's sole remedy and Rimini Street's sole obligation in the event of a breach of this warranty is, at Rimini Street's option, to re-perform the Services or refund the amounts paid by Client for the Services that were not as warranted. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE PARTIES

DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR USE, AND NON-INFRINGEMENT.

## 10. Limitation of Liability

NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING OR ALLEGED, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF, RELATING TO OR IN ANY WAY CONNECTED WITH THE RELATIONSHIP OF THE PARTIES, THIS AGREEMENT, ITS NEGOTIATION OR TERMINATION, OR THE PROVISION OR NONPROVISION OF SERVICES PURSUANT TO ANY SOW (WHETHER IN CONTRACT OR TORT) SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES RECEIVED BY RIMINI STREET FROM CLIENT PURSUANT TO THE APPLICABLE SOW FOR THE SUPPORT PERIOD YEAR IN WHICH THE ALLEGED LIABILITY AROSE. THE PARTIES EXPRESSLY AGREE TO THIS ALLOCATION OF LIABILITY.

## 11. Insurance

**A.** Rimini Street shall procure and maintain, at its own cost, during the entire term of this Agreement, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Services, and the results of such work, by Rimini Street, its agents, representatives, employees, or subcontractor. Insurance coverage shall be at least as broad as the following:

i. Commercial General Liability. Insurance Services Office ("ISO") Form CG 00 01 covering Commercial General Liability on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury, with limits no less than \$2,000,000 per occurrence and \$4,000,000 general aggregate.

ii. Workers' Compensation. Worker's Compensation as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.

**B.** Each insurance policy required by this Agreement must be acceptable to the City Attorney and shall meet the following requirements:

i. Acceptability of Insurers. Insurance coverage must be provided by an insurer authorized to conduct business in the state of California with a current A.M. Best's rating of no less than A-:VII, or as approved by the Client.

ii. Additional Insured Status. Both the Commercial General Liability and the Automobile Liability policies must name the Client (including its officials, officers, agents, employees, and volunteers) specifically as an additional insured under the policy on a separate endorsement page. The Commercial General Liability additional insured endorsement shall be at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38, and CG 20 37 if a later edition is used. The Automobile Liability endorsement shall be at least as broad as ISO Form CA 20 01.

iii. Primary Coverage. Rimini Street's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 with respect to the Client, its officials, officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by the Client, its officials, officers, agents, employees, or volunteers shall be in excess of Rimini Street's insurance and shall not contribute with it.

iv. Notice of Cancellation. Each insurance policy shall provide that coverage shall not be canceled, except with prior written notice to the Client.

v. Subcontractors. If applicable, Rimini Street shall require and verify that all subcontractors maintain insurance meeting all the requirements stated in this Agreement, and Rimini Street shall ensure that the Client (including its officials, officers, agents, employees, and volunteers) is an additional insured on any insurance required from a subcontractor.

vi. Waiver of Subrogation. Rimini Street hereby grants to the Client a waiver of any right to subrogation that any insurer of Rimini Street may acquire against the Client by virtue of the payment of any loss under such insurance.

Rimini Street agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this subsection shall apply regardless of whether or not the Client has received a waiver of subrogation endorsement from the insurer. Any Workers' Compensation policy required by this Agreement shall be endorsed with a waiver of subrogation in favor of the Client for all work performed by the Rimini Street, its agents, representatives, employees and subcontractors.

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

**C. Verification of Coverage.** At the time Rimini Street executes this Agreement, Rimini Street shall provide the Client with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting the insurance coverage required by this Agreement), which shall meet all requirements under this Agreement. The Client reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this Agreement, at any time.

**D. Special Risks or Circumstances.** The Client reserves the right, at any point during the term of this Agreement, to modify the insurance requirements in this Agreement, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**E. No Limitation of Obligations.** The insurance requirements in this Agreement, including the types and limits of insurance coverage Rimini Street must maintain, and any approval of such insurance by the Client, are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Rimini Street pursuant to this Agreement, including but not limited to any provisions in this Agreement concerning indemnification.

**F. Failure to comply with any of the insurance requirements in this Agreement, including but not limited to a lapse in any required insurance coverage during the term of this Agreement, shall be a material breach of this Agreement. In the event that Rimini Street fails to comply with any such insurance requirements in this Agreement, in addition to any other remedies the Client may have, the Client may, at its sole option, (i) immediately terminate this Agreement; or (ii) order Rimini Street to stop work under this Agreement and/or withhold any payment that becomes due to Rimini Street until Rimini Street demonstrates compliance with the insurance requirements in this Agreement.**

## **12. Payment for Services**

Client shall make payments to Rimini Street in accordance with the payment schedule set forth in the applicable SOW, together with any applicable sales, use, value-added tax (VAT), or any other taxes applicable to the Services, however designated, other than those based on Rimini Street's net income ("**Payments**"). Fees listed in any SOW are exclusive of any value-added tax (VAT) or other applicable taxes or duties. All past-due amounts not subject to a good faith dispute shall bear interest at the lesser of one and one-half percent (1.5%) per month or the highest interest rate allowable under applicable law. Except as otherwise expressly provided, Payments made by Client are non-refundable and shall be made without set-off or counter-claim. If any invoiced Payments are more than fifteen (15) days past due (beyond the due date already provided under the payment schedule of the applicable SOW), Rimini Street, in its sole discretion and not in lieu of any other remedy, may cease providing Services until such time as Rimini Street has received payment from Client for all invoiced and past-due Payments. If Rimini Street determines that any applicable tax or duty should be included in the invoice and Client requests that such tax or duty not be included, Client shall provide a tax exemption letter or its functional equivalent in a form reasonably acceptable to Rimini Street prior to invoicing or, if such letter is not provided prior to invoicing, pay such tax or duty and seek a refund from the relevant taxing authority on Client's own behalf at a later date.

## **13. Anti-Assignment Clause.**

Rimini Street and Client shall not assign or transfer this Agreement, nor its interest, rights or responsibilities under this Agreement, including as to any portion of the Services, without the other party's prior written consent, provided that any assignment by operation of law in the context of the sale of substantially all of a party's stock or assets shall not constitute an assignment for purposes of this prohibition. Any purported assignment or transfer made without the appropriate consent shall be void and ineffective. Rimini Street shall be the sole payee under this Agreement. Any and all payments made

pursuant to the terms of this Agreement are otherwise not assignable. Notwithstanding the foregoing, use of Supplemental Personnel shall not constitute subcontracting and use of such Supplemental Personnel shall not be subject to the requirements of this Section 13. "Supplemental Personnel" means individual contractors engaged by Rimini Street to supplement the Rimini Street's workforce by performing tasks alongside the Rimini Street's employees that are the same as or similar to the tasks performed by the Rimini Street's employees using Rimini Street's equipment. To the extent that any Services under this Agreement are performed by Supplemental Personnel, Rimini Street shall be liable for any and all failures by such Supplemental Personnel to comply with the terms of this Agreement to the same extent as if such failure was committed by Rimini Street.

#### **14. Anti-Waiver Clause.**

None of the provisions of this Agreement shall be waived by the either Party because of previous failure to insist upon strict performance, nor shall any provision be waived because any other provision has been waived by a Party, in whole or in part.

#### **15. Compliance with Laws, Permits, and Licenses.**

Rimini Street shall comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, rules, and other legal requirements in effect during the term of this Agreement. Rimini Street shall obtain any and all permits and governmental licenses necessary to perform the Services. Subject to Client's warranties in Section 9 of this Agreement, neither the Client, nor any elected or appointed boards, officers, officials, employees, or agents of the Client, shall be liable, at law or in equity, as a result of any failure of Rimini Street to comply with this Section.

#### **16. Amendments**

All amendments to this Agreement or any SOW must be in writing and executed by authorized representatives of each Party. No purchase order or other ordering document that purports to modify or supplement the terms of this Agreement or any SOW shall be of any legal effect, and all such proposed modifications or supplements are objected to and deemed material. In the event of a conflict in terms between any contract document and one or more of its amendments, the order of precedence shall be from the most recently properly executed amendment backward to the original contract document.

#### **17. Notice**

All notices shall be in writing and sent by United States mail with return receipt, registered mail, overnight mail, or well-known courier service, delivered to the addresses indicated below (or such other address as either Party may provide in writing to the other Party at least ten (10) business days prior to the date of any notice provided hereunder), unless otherwise expressly provided in this Agreement. Notices shall be deemed to have been provided as required by this Section on the date of delivery as shown on the receipt evidencing delivery of the notice.

For Rimini Street:

Rimini Street, Inc.  
Attn: Legal Department  
3993 Howard Hughes Parkway  
Suite 500  
Las Vegas, Nevada 89169

For Client:

City of Escondido  
Attn: IS Department  
201 North Broadway  
Escondido, California 92025



## **18. Force Majeure**

Each Party's failure to perform in a timely manner shall be excused to the extent caused by conditions beyond the reasonable control of the affected Party and which could not have been avoided by reasonable diligence. Such conditions may include but are not limited to natural disaster, fire, accidents, actions or decrees of governmental bodies, Internet or other communication line failure not the fault of the affected Party, strikes, acts of God, wars (declared and undeclared), acts of terrorism, riots, embargoes, and civil insurrection, but shall not include a lack of funds or insufficiency of resources caused by lack of funds. The Party affected shall immediately give notice to the other Party of such delay and shall resume timely performance as soon as such condition is terminated. If the period of force majeure exceeds thirty (30) days from the receipt of notice, the non-affected Party may terminate this Agreement without being in breach of this Agreement, and Client shall be entitled to a pro-rated refund for any prepaid Services not received after the effective date of the termination, calculated using a daily proration and measured from the effective date of the termination through the end of the prepaid period.

## **19. Independent Contractor Status**

Rimini Street performs its obligations pursuant to this Agreement as an independent contractor, not as an employee of Client. Nothing in this Agreement is intended to create or be construed as the existence of a partnership, joint venture, or general agency relationship between the Parties.

## **20. Legal Interpretation**

No provision of this Agreement shall be construed against either Party by virtue of the fact of having drafted such provision. Each Party represents that it had a sufficient opportunity to consult with legal counsel and to fully consider and negotiate the provisions of this Agreement. If any provision of this Agreement is held to be invalid, illegal or unenforceable, its invalidity shall not affect the remainder of the Agreement, and to the maximum extent possible, such provision shall be interpreted to give effect to the original intent of the Parties while meeting the minimum requirements for validity, legality, and enforceability. Except as otherwise specifically stated herein, remedies shall be cumulative and there shall be no obligation to exercise a particular remedy.

## **21. General**

This Agreement shall be governed by the laws of the State of California, United States of America, without regard to the choice of law principles of any jurisdiction. Exclusive jurisdiction and venue shall be in San Diego County, California, United States of America, and each Party waives any objection to the adjudication of disputes in that forum. Except an action for breach of Rimini Street's proprietary rights in the Rimini Street Work Product, no action, regardless of form, arising out of this Agreement may be brought by either Party more than one year after the cause of action accrued. This Agreement constitutes the entire agreement between the Parties, and replaces and supersedes any prior verbal or written understandings, proposals, quotations, communications, or representations between the Parties relating to the subject matter of this Agreement. Except as otherwise expressly provided, nothing in this Agreement creates any rights, obligations, or benefits directly or indirectly to any non-Party. This Agreement and any SOWs under this Agreement may be signed in counterparts, which together shall be deemed one instrument, and may be signed and delivered electronically.

## 22. Signatures

The undersigned represent and warrant that they are authorized to sign on behalf of, and bind, their respective Party.

### For Client:

\_\_\_\_\_  
Authorized Signature

Rob Van De Hey

\_\_\_\_\_  
Printed Name

Deputy City Manager / Director of  
Information Systems

\_\_\_\_\_  
Title

04/21/2021

\_\_\_\_\_  
Date

### For Rimini Street, Inc.:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# Statement of Work No. 1

## PeopleSoft Support Services

This Statement of Work No. 1 – PeopleSoft Support Services (“**PS SOW**”) is issued pursuant to that certain Master Services Agreement dated on or about \_\_\_\_\_ (the “**Agreement**”) between City of Escondido (“**Client**”) and Rimini Street, Inc. (“**Rimini Street**”). This PS SOW is effective as of the date of the last signature of the Parties below (“**PS SOW Effective Date**”). Unless otherwise indicated herein, capitalized terms used in this PS SOW without definition shall have the respective meanings specified in the Agreement and all section, schedule and attachment references in this PS SOW shall be to applicable sections, schedules and attachments of the Agreement. To the extent that the terms and conditions set forth in this PS SOW and Schedules attached hereto conflict with the terms and conditions of the Agreement, the terms and conditions of this PS SOW and Schedule A will prevail.

### 1. Services

Rimini Street shall provide Client with certain support services and certain deliverables as follows for the Covered Products listed in Schedule A attached hereto and subject to the capitalized definitions and additional terms found in Section 7 below (hereafter collectively referred to as “**Services**”):

**A. Product Support.** Rimini Street will provide Client with diagnostic services, advice, and recommendations relating to the proper operation of Client’s PeopleSoft System.

**B. Product Fixes.** Rimini Street will provide fixes for Issues Client encounters in the Covered Products listed in Schedule A, used in the PeopleSoft Production Release (as well as the Target PeopleSoft Production Release for any PeopleSoft upgrade project Client undertakes). Rimini Street will provide fixes to the original code as delivered by Oracle Corporation (as successor in interest to PeopleSoft USA, Inc.) as well as to Client-Made Customized Code for on-line, batch, and report code.

**C. Tax, Legal and Regulatory Updates.** Rimini Street will provide tax, legal and regulatory updates during the Support Period for the Covered Products and jurisdictions detailed in Schedule A.

**D. Installation Support.** Rimini Street will provide support for reinstallations of the PeopleSoft System if required as a result of an Issue with Client’s development, test, or production environments. Installation support shall include advice and recommendations for the execution of installation scripts, configuring the PeopleSoft Technology Foundation, and advice and recommendations for the installation and configuration of supported versions of third-party products from MicroFocus and Crystal Reports. Installation support shall also include advice and recommendations related specifically to Client’s choice of a Rimini Street Supported RDBMS platform and Client’s choice of a Rimini Street Supported Operating System platform for the PeopleSoft Technology Foundation servers and RDBMS servers.

**E. Interoperability Support.** Rimini Street will provide advice, recommendations, and testing assistance with Issues determined to likely involve interoperability issues between the PeopleSoft Technology Foundation, PeopleSoft Applications, Rimini Street Supported RDBMS platform, Rimini Street Supported Operating System, implemented Crystal Reports software, and implemented MicroFocus software.

**F. Performance Tuning Support.** Rimini Street will provide performance tuning diagnostics, advice, and recommendations for the PeopleSoft Technology Foundation and PeopleSoft Applications using proprietary and commercially available tools. Rimini Street will use commercially reasonable efforts to provide advice and recommendations for performance tuning Client’s Rimini Street Supported RDBMS, Rimini Street Supported Operating System, and other third-party products used in the PeopleSoft System.

**G. Upgrade Process Support.** Rimini Street will provide upgrade process support from Client's current PeopleSoft Production Release to any Target PeopleSoft Production Release listed on Schedule A. Rimini Street will make upgrade support available to any such Target PeopleSoft Production Release for at least fifteen (15) years after the PS SOW Effective Date, provided this PS SOW remains in effect without interruption during said fifteen (15) year period.

**H. Archiving Assistance.** Rimini Street shall assist Client in identifying a specific scope of software updates and other support-related materials for the Covered Products that Client may elect to obtain from Oracle prior to the expiration date of the corresponding Oracle support services for the Covered Products (that expiration date being referred to as the "**Maintenance End Date**"). All Covered Product files or materials that Client downloads or otherwise obtains from Oracle prior to the Maintenance End Date shall be referred to collectively as the "**Client Archive**." Client shall deposit the Client Archive on a file storage location owned, leased, or otherwise controlled by Client (the file storage location with the Client Archive shall be referred to as the "**Client Archive Repository**"). If Client requests that Rimini Street access the Client Archive in rendering Services under this PS SOW, the Client Archive Repository and remote access connectivity thereto must meet the technical guidelines provided by Rimini Street to Client.

## **2. Support Period**

Rimini Street will provide Client with Services beginning at one minute past midnight (12:01 a.m.) United States Pacific Time on the PS SOW Effective Date and ending at one minute before midnight (11:59 p.m.) United States Pacific Time on June 30, 2036 ("**Support Period**").

## **3. Termination by Client**

Client may terminate Services for all Covered Products in this PS SOW at the end of a Support Period Year with no less than ninety (90) calendar days written notice prior to the start date of any subsequent Support Period Year set forth in Section 5.A below for any reason or no reason, provided that all fees, taxes, duties, and expense reimbursements due under this PS SOW shall be paid by Client to Rimini Street on or before the actual date of termination.

## **4. Service Level Agreement**

During the Support Period, Client will be entitled to receive support twenty-four (24) hours a day, seven (7) days a week (including major holidays) for Critical Issue (P1) cases. Response time commitment for a first live conversation with a Rimini Street engineer after Client contacts Rimini Street with a request for support on a Critical Issue case is ten (10) minutes or less. Client will be entitled to receive support for all other Issues during Rimini Street Business Hours as specified in Schedule A. Response time commitments and communication update intervals for each Issue are detailed in Table 1 below. Business Impact Guidelines for each Client Priority Level are detailed in Table 2 below.

Further, Rimini Street will provide Client with at least one Named Primary Support Engineer. Client's Named Primary Support Engineer shall be the point of contact at Rimini Street for Client's personnel and agents reporting and working to resolve Issues with the Covered Products listed in Schedule A during the Support Period. When Client's Named Primary Support Engineer is unavailable due to on-call rotations or days off, a temporary on-call Named Primary Support Engineer shall be available to Client.

**Table 1**

Issue Severity	Client Priority Level	Rimini Street Initial Response Commitment	Client Communications Update Commitment*
Critical Issue	Priority 1	10 Elapsed Minutes	Every 2 Elapsed Hours
Serious Issue	Priority 2	15 Elapsed Minutes	Every 4 Business Hours
Standard Issue	Priority 3	1 Business Day	Every 5 Business Days
Q&A	Priority 4	1 Business Day	As appropriate

\*If resolution of an Issue is dependent upon some interim measure, such as developing a software patch, etc., an alternative communication update commitment may be defined and agreed upon with Client.

**Table 2**

Client Priority Level	Business Impact Guidelines
Priority 1	Issue where a supported Covered Product is completely unavailable to users or is working at a severely degraded capacity/performance level for multiple users that makes Covered Product unusable; or Issue has a major impact to external client/customer; or Issue is impacting revenue or time sensitive regulatory compliance AND no acceptable workaround exists.
Priority 2	Issue where a supported Covered Product's functionality has become limited or is working at marginally degraded capacity or performance for multiple users AND no acceptable workaround exists; or Issue where a Covered Product component is unavailable or is working at a severely degraded capacity/performance AND an acceptable workaround exists.
Priority 3	Issue where a single user is unable to use a Covered Product or a component of a Covered Product that is necessary for the user to perform their primary work activities; or Issue that is not critical is encountered with the Covered Product that leads to a minimal loss of functionality, capacity or performance; or A feature is unavailable where another can be readily used (e.g., routing to a different printer).
Priority 4	General request for information or "how to" (Q&A); or Report of event not causing impact to work operation or production.

## 5. Fees and Payment Schedule

**A. Annual Support Fees.** In consideration for Services provided pursuant to this PS SOW, Client agrees to pay Rimini Street fees ("**Annual Support Fees**") for each year the PS SOW remains in effect during the Support Period in accordance with the terms set forth herein as follows: for the period from the PS SOW Effective Date through June 30, 2022 (Year 1 of the Support Period), the Annual Support Fee shall be \$ 106,215.00 USD. Unless terminated pursuant to Section 3, for the period from July 1, 2022 through June 30, 2023 (Year 2 of the Support Period), the Annual Support Fee shall be \$ 111,526.00 USD. Unless terminated pursuant to Section 3, the Annual Support Fee for Years 3 through 15 of the Support Period shall increase each Year by 5% over the fee for Services paid by Client for the immediately preceding contiguous Year.

Notwithstanding the foregoing, in the event that Client adds additional licensed products to the Covered Products listed in Schedule A or increases the license usage of any Covered Product beyond the "Maximum License Metric" listed in Schedule A for one or more Covered Products (whether or not such increased usage required Client to pay Oracle Corporation additional license fees), Client agrees to an equitable adjustment of the Annual Support Fees to reflect 50% of the projected Covered Product support and maintenance fees that would have been paid by Client to Oracle for annual support services on the expanded license or expanded license usage of the Covered Products. Any such equitable adjustment of

the Annual Support Fees shall also be subject to the annual percentage increase described in the first paragraph of this Section 5.A.

**B. Payment Schedule.** Annual Support Fees are due and payable by Client to Rimini Street according to the following agreed payment schedule ("**Payment Schedule**"):

<b>Payment Schedule</b>	<b>Amount (USD)</b>
Year 1 of the Support Period: Payment shall be due and payable on the PS SOW Effective Date	\$ 106,215.00
Subsequent Support Period Years: Payment shall be due and payable on or before the start date of the next subsequent Support Period Year	\$ As calculated per Section 5.A above

A purchase order, if required by Client, shall be provided to Rimini Street immediately upon execution of this PS SOW and annually thereafter at least sixty (60) days prior to the start date of each subsequent Support Period Year, provided that Client's failure to timely send a purchase order shall not prevent Rimini Street from invoicing Client or excuse any delay in payment by Client.

Client certifies that the Annual Support Fee for Year 1 of the Support Period (prior to any Rimini Street discounting for multi-year pre-payment) is no less than 50% of the total maintenance fees being charged by, and reflected in the most recent invoice(s) received from, the original software vendor (excluding all applicable taxes) for the Covered Products covering the period from July 1, 2020 to June 30, 2021 ("**Maintenance Invoices**"). Client further certifies that the Covered Products listed in Schedule A of this PS SOW, including but not limited to the license metrics and user counts of such products, are identical to those products covered by the Maintenance Invoices. For purposes of clarity, Client agrees that the Schedule A Covered Products do not, and shall not, have any additions to or omissions from the products covered in the Maintenance Invoices.

## **6. Additional Client Obligations**

**A. Final Testing of Fixes and Updates.** Client is responsible for all final system testing to assure that Rimini Street provided fixes and updates perform as documented with the PeopleSoft System before moving said fixes and updates into any production environment.

**B. Access to Software.** Client acknowledges that Rimini Street may need, and Client therefore authorizes Rimini Street, to: (i) access, install, work with, configure, test, and possibly modify the Covered Products listed in Schedule A, which are used in the PeopleSoft Production Release (as well as the Target PeopleSoft Production Release for any upgrade project that Client undertakes), in order to render Services pursuant to this PS SOW; and (ii) access the Client Archive (if any, and if Client requests that Rimini Street access the Client Archive in providing Services under this PS SOW). Accordingly, Client shall provide Rimini Street with remote access to one or more non-production development and test environment(s), on servers owned, leased, or otherwise controlled by Client, that include the Covered Products and Client Archive, together with all license codes and other software required for their proper operation (each a "**Non-Production Environment**"). Each Non-Production Environment and remote access connectivity thereto must meet the technical guidelines provided by Rimini Street to Client.

**C. Work Product License Usage.** Notwithstanding anything to the contrary in the Agreement, Client may provide Client's employees or a third party access to Rimini Street Work Product for the sole purpose of supporting the Covered Products listed in Schedule A in the event that Client chooses to terminate this PS SOW and undertake self-support or contract with a different service provider to provide support and maintenance services for the Covered Products listed in Schedule A. In such event, Client shall bind such employee or third party to obligations of non-disclosure and restricted use which are no less stringent than those contained within this PS SOW and the Agreement.

**D. Internal Client Support.** Client is responsible for providing Help Desk Support and System Administration Support.

## 7. Additional Services Terms

The following additional terms apply to the Services described in Section 1:

- A. Definitions.** The following definitions are used throughout this PS SOW:
- I. Client-Made Customized Code:** Changes or updates made by Client or Client's representatives to PeopleTools objects, COBOL objects, SQR, Crystal Reports, and Visual Basic (VB) subroutines called from PeopleTools that vary from the standard, unmodified, but fix-mastered code line delivered by Oracle in its fix-mastered Applications.
  - II. Covered Products:** The individual product modules licensed to Client and set forth in Schedule A.
  - III. Crystal Reports:** A software product that performs as a reporting tool, and is bundled and licensed by Oracle or SAP AG for use with PeopleSoft Systems. Crystal Reports is alternatively known as Seagate 9, Business Objects 10, and Business Objects Enterprise XI.
  - IV. PeopleSoft Application:** An Oracle product whose definition, design, and operating characteristics are defined as on-line and batch code that is managed in PeopleTools or as a callout subroutine from PeopleTools and that can be altered using PeopleTools, SQR, Crystal Reports, Visual Basic (VB), or COBOL.
  - V. PeopleSoft Production Release:** The PeopleSoft product release level of the Covered Products that Client is currently using in its live, production environment, as specified in Schedule A as the current release.
  - VI. PeopleSoft System:** Includes the Client's PeopleSoft Technology Foundation and PeopleSoft Applications listed on Schedule A operating on the PeopleSoft Production Release.
  - VII. PeopleSoft Technology Foundation:** Includes the group of PeopleSoft and third party products known as PeopleTools, application servers, web servers, and middleware products such as BEA WebLogic, IBM WebSphere, and Oracle Fusion Middleware.
  - VIII. RDBMS:** Relational Database Management System. Examples include DB2 or Informix, Sybase, Oracle, and SQL Server products by IBM, Sybase, Oracle, and Microsoft, respectively.
  - IX. Rimini Street Supported Operating System:** An operating system and operating system release level supported by Oracle on or before Client terminates its Oracle Support Services Agreement, or subsequently agreed to be supported by Rimini Street for use with Client's PeopleSoft Production Release.
  - X. Rimini Street Supported RDBMS Release:** An RDBMS and RDBMS release level supported by Oracle on or before Client terminates their Oracle Support Services Agreement, or subsequently agreed to be supported by Rimini Street for use with Client's PeopleSoft Production Release.
  - XI. Issue:** An issue to be addressed pursuant to Table 1 in Section 4 that meets all of the following criteria: (i) found by Client in the PeopleSoft Technology Foundation, PeopleSoft

Applications, or Crystal Reports implementation, or in any updates and fixes provided to Client by Rimini Street, or by Oracle and obtained from Oracle by Client up through Client's Maintenance End Date; (ii) Client becomes aware of the issue during the Support Period and reports the issue to Rimini Street during the Support Period; and (iii) meets one of the four Priority Level criteria set forth on Table 2 of Section 4.

**XII. Target PeopleSoft Production Release:** The PeopleSoft product release level(s) of the Covered Products that are: (a) generally available to Oracle customers prior to termination of Client's Oracle support services agreement for the Covered Products; (b) obtained by Client; and that (c) Client may desire to upgrade to as its next, live, production environment, as specified in Schedule A.

**XIII. Help Desk Support:** Means first line, simple corrective assistance by one or more individuals or a third party organization designated and/or contracted by Client to be the first point of contact for Client's entire user population for Covered Products. Help Desk Support provides an initial front-line response to all Client user-reported cases, and resolves certain low-level user reported issues. Common issues to be resolved by Help Desk Support include general system information requests, Covered Product user administration (e.g., user setup and security), Client-specific operational procedures, hardware issues and infrastructure availability (e.g., LAN, web, Internet Service Provider, application, and database access), and similar activities.

**XIV. System Administration Support:** Means in-depth technical and system administration support that includes technical troubleshooting, analysis and resolution options for the Covered Products. System Administration Support services are more advanced than those generally provided by Help Desk Support and typically staffed with product trained personnel experienced with the Covered Products. Issues with Covered Products reported by Client end users to Help Desk Support that are not fully resolved by Help Desk Support may be escalated to System Administration Support. System Administration Support may include assisting Help Desk Support with resolution of issues, independent System Administration Support diagnosis and resolution of more advanced issues, and/or installation and configuration of software workarounds, updates or fixes made available and provided by Rimini Street. Issues not able to be resolved by System Administration Support may be escalated to Rimini Street.

**XV. Business Hour:** A single hour of time during the Rimini Street Business Hours specified in Schedule A, Monday through Friday.

**XVI. Business Day:** Nine (9) Business Hours.

**XVII. Elapsed Minutes:** Actual accrued time from a specific event (such as logging a case).

**B. PeopleTools, Third Party Products, and Language Support.** Rimini Street will provide support for PeopleSoft PeopleTools under this PS SOW. However, Client understands and acknowledges that Rimini Street is not able and will not provide any fixes or updates for the PeopleSoft PeopleTools product or any third party, non-PeopleSoft products used with, embedded, integrated, or bundled with the Covered Products since Client does not have rights to access or modify source code for these products. For purposes of example only, such third party products include, but are not limited to, operating systems, database systems, application servers, web servers, online and batch processing tools, reporting tools and analytic tools (such as Actuate, Oracle Hyperion, Oracle OBIEE, SAP Business Objects and Crystal Reports). The scope of this PS SOW expressly excludes support for any language objects other than for those listed for Covered Products in any Schedule A.

**C. Installation Support.** Rimini Street will remotely support Client with respect to initial, first-time installations and configurations of PeopleSoft products that Client was not using in production on or



before the Support Period. Installation Support does not include project planning, advice, or recommendations relating to the migration of RDBMS platforms or PeopleSoft Technology Foundation server and RDBMS server operating system platforms (e.g., Oracle to DB2 RDBMS or Windows 2000 to UNIX), nor installations of a new major release of PeopleSoft products performed as the first step in an upgrade project to a new production PeopleSoft major release (e.g., PeopleSoft 8.8 SP1 to PeopleSoft 9.1). Installation Support is subject to Client having a sufficient backup of the software installation, or a copy of the Covered Products with all necessary components, and making it available to Rimini Street for reinstallation.

**D. Interoperability Support.** Interoperability Support will be remotely available to Client for its PeopleSoft System so long as the combination of products and platforms is supported and designed for compatible use in the PeopleSoft System and such combination of products and platforms has been fully tested for proper interoperability prior to production rollout and go-live. Client is fully responsible for any interoperability issues related to third-party products that are incompatible with, or that were not properly tested for proper operation with, Client's PeopleSoft System. Rimini Street will provide upon request, at an additional fee per request and with Client providing copies of all source and target software releases, interoperability testing for operating system and RDBMS release updates that have not been tested by Oracle for proper operation with the PeopleSoft System prior to the termination of Client's PeopleSoft Support Services Agreement.

**E. Performance Tuning.** Client is responsible for ensuring that adequate and reasonable functional, scalability, and regression testing have been completed in the development and test phases prior to production rollout and go-live. Performance tuning support includes recommendations and advice for configuration, deployment model, and parameter settings for the PeopleSoft Technology Foundation and PeopleSoft Applications.

**F. Upgrade Support.** Client is responsible for obtaining any Target PeopleSoft Production Release, as well as all related and available PeopleSoft upgrade deliverables that include upgrade script templates, patches, localizations, technical platforms, PeopleSoft Fix Bundles, PeopleSoft Hot Fixes, release notes, release documentation, upgrade documentation, or necessary license keys.

**G. Upgrade Process Support.** Client is responsible for actual upgrade project planning, resourcing, and execution.

**H. Client-Made Customized Code Support.** Client must make its Client-Made Customized Code and related customized documentation available to Rimini Street with reasonable lead time prior to the first support request by Client. Further, only customizations that have been implemented and coded using PeopleSoft Tools, SQR, Crystal Reports, MicroFocus COBOL, and VB/eScripting will be supported as part of this PS SOW, and said Client-Made Customized Code must have: (a) been tested and proven functionally stable in a development and/or test environment; (b) undergone reasonable, industry-standard functional, regression, and scalability testing prior to production rollout and go-live; and (c) worked successfully in production before an Issue arises.

**I. Tax, Legal and Regulatory Support.** Client must possess the most recent tax, legal and regulatory updates made available by Oracle for the PeopleSoft Production Release and any Target PeopleSoft Production Release before Client's Maintenance End Date ("**Tax, Legal & Regulatory Foundation**"). Rimini Street will build future tax, legal and regulatory updates starting from the Tax, Legal & Regulatory Foundation, provided that Rimini Street shall not be required to provide any such updates prior to Client's Maintenance End Date.

**J. Twenty-First Century Dates.** PeopleSoft designed two-digit year displays to resolve into four-digit years for storage and manipulation. Therefore, two-digit year displays in online panels or reports are not programming errors or considered an Issue in the context of this PS SOW.

**K. Additional Consulting.** Any services required by Client outside the defined Services in this PS SOW are expressly excluded from the scope of this PS SOW. Rimini Street will not perform out-of-scope services without Client's pre-approval. If Client desires Rimini Street to provide additional out-of-scope services, separate agreements in the form of an amendment to this PS SOW or an additional SOW will need to be executed by the Parties prior to Rimini Street performing such services.

**L. Trade Names.** The PeopleSoft name, PeopleSoft product names, and PeopleSoft release names are trademarks of Oracle Corporation. All other names and product names are the property of their respective owners.

**8. Client Contacts**

Primary Contact	Billing Contact	Shipping Contact
Name: Jamie Eubanks	Name: Scarlett McElwee	Name: Same as Primary
Address1: 201 North Broadway	Address1: 201 North Broadway	Address1:
Address2: IS Department	Address2: IS Department	Address2:
City, St, Zip: Escondido, California 92025	City, St, Zip: Escondido, California 92025	City, St, Zip:
Phone: +1 (760) 839-4868	Phone: +1 (760) 839-6268	Phone:
Email: <a href="mailto:jeubanks@escondido.org">jeubanks@escondido.org</a>	Email: <a href="mailto:smcelwee@escondido.org">smcelwee@escondido.org</a>	Email:

**9. Signatures**

The undersigned represent and warrant that they are authorized, as representatives of the party on whose behalf they are signing, to sign this PS SOW and to bind their respective party thereto.

**For Client:**

**For Rimini Street, Inc.:**

\_\_\_\_\_  
 Authorized Signature

\_\_\_\_\_  
 Authorized Signature

Rob Van De Hey  
 \_\_\_\_\_

\_\_\_\_\_  
 Printed Name

Printed Name

Deputy City Manager / Director of  
 Information Systems  
 \_\_\_\_\_

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date

04/21/2021  
 \_\_\_\_\_

Date

## Schedule A to Statement of Work No. 1 – Instance #1

<b>Data Center Location(s):</b>	Escondido, CA
<b>Client Support Team Location(s):</b>	Escondido, CA
<b>Support to be provided in the following Language(s):</b>	English
<b>Client Support Team Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Rimini Street Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Responsibility for Maintaining and Supporting Interfaces:</b>	Client and Rimini Street
<b>Production Instances Supported:</b>	Two (2)
<b>DBMS Hardware Platform, OS, and RDBMS:</b>	Virtual Machine; Windows 2019; Oracle DB 11.2.0.4.0
<b>Oracle Maintenance End Date (“MED”):</b>	June 30, 2021

**Countries Supported:** United States (**Note:** Subject to Client possessing country materials for each country supported for a Covered Product. Additional countries may be added after the PS SOW Effective Date at Client’s discretion, subject to reasonable fees to be agreed upon by the Parties. Client shall provide Rimini Street a written request for new country additions at least 90 days in advance of Client’s desired go-live date with each country addition.)

**Panel Languages Supported:** English (**Note:** Subject to Client possessing panel language materials for each system language supported for a Covered Product. Additional panel languages may be added after the PS SOW Effective Date at Client’s discretion, subject to reasonable fees to be agreed upon by the Parties. Client shall provide Rimini Street a written request for new panel language additions at least 90 days in advance of Client’s desired go-live date with each system language addition.)

**Report Languages Supported:** English (**Note:** Subject to Client possessing report language materials for each report language supported for a Covered Product. Additional report languages may be added after the PS SOW Effective Date at Client’s discretion, subject to reasonable fees to be agreed upon by the Parties. Client shall provide Rimini Street a written request for new report language additions at least 90 days in advance of Client’s desired go-live date with each report language addition.)

**Applications Data:** FSCM

### Covered Products

	PeopleSoft Module	CSI Number	Current Release and Patch Level	Future Target Release(s) and Minimum Patch Level(s)	Tax, Legal & Regulatory Updates	Applicable Tax & Regulatory Jurisdiction	Maximum License Metric	Notes
1	Expansion	14485510	9.2	Latest Available on PS SOW Effective Date (“LAOED”)	No	Not Applicable	200000000 Reported Budget Perpetual	
2	PeopleSoft Enterprise Accts Receivable For The Public Sector	14485509	9.2	LAOED	No	Not Applicable	180000000 Reported Budget Perpetual	
3	PeopleSoft Enterprise Asset Management	14485509	9.2	LAOED	Yes	United States	180000000 Reported Budget Perpetual	United States Federal Depreciation Updates
4	PeopleSoft Enterprise Billing	14482976	9.2	LAOED	No	Not Applicable	180000000 Reported Budget Perpetual	
5	PeopleSoft Enterprise Extended Enterprise License	14482977	9.2	LAOED	No	Not Applicable	1 Nonstandard User	
6	PeopleSoft Enterprise General Ledger	14485509	9.2	LAOED	No	Not Applicable	180000000 Reported Budget Perpetual	
7	PeopleSoft Enterprise Payables	14485509	9.2	LAOED	Yes	United States	180000000 Reported Budget Perpetual	United States IRS Form 1099 Updates
8	PeopleSoft Enterprise Planning And Budgeting	14470913	9.2	LAOED	No	Not Applicable	800000000 Reported Budget Perpetual	

	PeopleSoft Module	CSI Number	Current Release and Patch Level	Future Target Release(s) and Minimum Patch Level(s)	Tax, Legal & Regulatory Updates	Applicable Tax & Regulatory Jurisdiction	Maximum License Metric	Notes
9	PeopleSoft Enterprise Project Costing	14485509	9.2	LAOED	No	Not Applicable	180000000 Reported Budget Perpetual	
10	PeopleSoft Enterprise Purchasing	14485509	9.2	LAOED	No	Not Applicable	180000000 Reported Budget Perpetual	
11	PeopleSoft Enterprise Receivables	14482977 14485509	9.2	LAOED	No	Not Applicable	180000000 Reported Budget Perpetual	
12	PeopleTools	Not Applicable	8.54	LAOED	No	Not Applicable	Not Applicable	

## Schedule A to Statement of Work No. 1 – Instance #2

<b>Data Center Location(s):</b>	Escondido, CA
<b>Client Support Team Location(s):</b>	Escondido, CA
<b>Support to be provided in the following Language(s):</b>	English
<b>Client Support Team Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Rimini Street Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Responsibility for Maintaining and Supporting Interfaces:</b>	Client and Rimini Street
<b>Production Instances Supported:</b>	Two (2)
<b>DBMS Hardware Platform, OS, and RDBMS:</b>	Virtual Machine; Windows 2019; Oracle DB 11.2.0.4.0
<b>Oracle Maintenance End Date (“MED”):</b>	June 30, 2021

**Countries Supported:** United States (**Note:** Subject to Client possessing country materials for each country supported for a Covered Product. Additional countries may be added after the PS SOW Effective Date at Client’s discretion, subject to reasonable fees to be agreed upon by the Parties. Client shall provide Rimini Street a written request for new country additions at least 90 days in advance of Client’s desired go-live date with each country addition.)

**Panel Languages Supported:** English (**Note:** Subject to Client possessing panel language materials for each system language supported for a Covered Product. Additional panel languages may be added after the PS SOW Effective Date at Client’s discretion, subject to reasonable fees to be agreed upon by the Parties. Client shall provide Rimini Street a written request for new panel language additions at least 90 days in advance of Client’s desired go-live date with each system language addition.)

**Report Languages Supported:** English (**Note:** Subject to Client possessing report language materials for each report language supported for a Covered Product. Additional report languages may be added after the PS SOW Effective Date at Client’s discretion, subject to reasonable fees to be agreed upon by the Parties. Client shall provide Rimini Street a written request for new report language additions at least 90 days in advance of Client’s desired go-live date with each report language addition.)

**Applications Data:** HCM

### Covered Products

	PeopleSoft Module	CSI Number	Current Release and Patch Level	Future Target Release(s) and Minimum Patch Level(s)	Tax, Legal & Regulatory Updates	Applicable Tax & Regulatory Jurisdiction	Maximum License Metric	Notes
1	PeopleSoft Enterprise Human Resources For Public Sector	14485511	9.2	Latest Available on PS SOW Effective Date (“LAOED”)	Yes	United States	1000 Employee Count Perpetual	United States Federal Forms
2	PeopleSoft Enterprise Payroll For Public Sector	14485511	9.2	LAOED	Yes	United States	1000 Employee Count Perpetual	United States Federal + 50 States; First Required Update: Oracle 2021 C
3	PeopleTools	Not Applicable	8.54	LAOED	No	Not Applicable	Not applicable	

## Schedule A to Statement of Work No. 1 – Instance #3

<b>Data Center Location(s):</b>	Escondido, CA
<b>Client Support Team Location(s):</b>	Escondido, CA
<b>Support to be provided in the following Language(s):</b>	English
<b>Client Support Team Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Rimini Street Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Responsibility for Maintaining and Supporting Interfaces:</b>	Client and Rimini Street
<b>Production Instances Supported:</b>	Two (2)
<b>DBMS Hardware Platform, OS, and RDBMS:</b>	Virtual Machine; Windows 2019; Oracle DB 11.2.0.4.0
<b>Oracle Maintenance End Date (“MED”):</b>	June 30, 2021

**Countries Supported:** United States (**Note:** Subject to Client possessing country materials for each country supported for a Covered Product. Additional countries may be added after the PS SOW Effective Date at Client’s discretion, subject to reasonable fees to be agreed upon by the Parties. Client shall provide Rimini Street a written request for new country additions at least 90 days in advance of Client’s desired go-live date with each country addition.)

**Panel Languages Supported:** English (**Note:** Subject to Client possessing panel language materials for each system language supported for a Covered Product. Additional panel languages may be added after the PS SOW Effective Date at Client’s discretion, subject to reasonable fees to be agreed upon by the Parties. Client shall provide Rimini Street a written request for new panel language additions at least 90 days in advance of Client’s desired go-live date with each system language addition.)

**Report Languages Supported:** English (**Note:** Subject to Client possessing report language materials for each report language supported for a Covered Product. Additional report languages may be added after the PS SOW Effective Date at Client’s discretion, subject to reasonable fees to be agreed upon by the Parties. Client shall provide Rimini Street a written request for new report language additions at least 90 days in advance of Client’s desired go-live date with each report language addition.)

**Applications Data:** Portal

### Covered Products

	PeopleSoft Module	CSI Number	Current Release and Patch Level	Future Target Release(s) and Minimum Patch Level(s)	Tax, Legal & Regulatory Updates	Applicable Tax & Regulatory Jurisdiction	Maximum License Metric	Notes
1	PeopleSoft Enterprise HCM Portal Pack	14485514, 14684169	9.2	Latest Available on PS SOW Effective Date (“LAOED”)	No	Not Applicable	2200 Employee Count Perpetual	
2	PeopleSoft Enterprise Interaction Hub	14684169	9.2	LAOED	No	Not Applicable	200 Nonstandard User	
3	Peopletools	Not Applicable	8.5.4	LAOED	No	Not Applicable	1	

## Statement of Work No. 2

### Oracle Technology Support Services

This Statement of Work No. 2 – Oracle Technology Support Services (“**OT SOW**”) is issued pursuant to that certain Master Services Agreement dated on or about \_\_\_\_\_ (the “**Agreement**”) between City of Escondido (“**Client**”) and Rimini Street, Inc. (“**Rimini Street**”). This OT SOW is effective as of the date of the last signature of the Parties below (“**OT SOW Effective Date**”). Unless otherwise indicated herein, capitalized terms used in this OT SOW without definition shall have the respective meanings specified in the Agreement. To the extent that the terms and conditions set forth in this OT SOW and Schedules attached hereto conflict with the terms and conditions of the Agreement, the terms and conditions of this OT SOW and Schedule A will prevail.

#### 1. Services

Rimini Street shall provide Client with certain support services and certain deliverables as follows for the Covered Products listed in Schedule A attached hereto (hereafter collectively referred to as “**Services**”):

**A. Product Support.** Rimini Street will provide Client with diagnostic services, advice, and recommendations relating to the proper operation of the Covered Products. Since Client does not have access to source code for the Covered Products, product support specifically excludes the development and delivery of code changes, code fixes, and code updates of any kind for the Covered Products.

**B. Installation Support.** Rimini Street will provide advice and recommendations for re-installations and configuration of the Covered Products if required as a result of an Issue with Client’s development, test, or production environments.

**C. Interoperability Support.** Rimini Street will provide advice, recommendations, and testing assistance with Issues determined to likely involve interoperability issues between the Covered Products and Client’s server operating system.

**D. Performance Tuning Support.** Rimini Street will provide performance tuning diagnostics, advice, and recommendations for the Covered Products using proprietary and commercially available tools. Rimini Street will use commercially reasonable efforts to provide advice and recommendations for performance tuning Client’s server operating system.

**E. Upgrade Process Support.** Rimini Street will provide upgrade process support from Client’s current OT Production Release to any Target OT Production Release listed on Schedule A. Rimini Street will make upgrade support available to any such Target OT Production Release for at least fifteen (15) years after the OT SOW Effective Date, provided this OT SOW remains in effect without interruption during said fifteen (15) year period.

**F. Archiving Assistance.** Rimini Street shall assist Client in identifying a specific scope of software updates and other support-related materials for the Covered Products that Client may elect to obtain from Oracle prior to the expiration date of the corresponding Oracle support services for the Covered Products (that expiration date being referred to as the “**Maintenance End Date**”). All Covered Product files or materials that Client downloads or otherwise obtains from Oracle prior to the Maintenance End Date shall be referred to collectively as the “**Client Archive**.” Client shall deposit the Client Archive on a file storage location owned, leased, or otherwise controlled by Client (the file storage location with the Client Archive shall be referred to as the “**Client Archive Repository**”). If Client requests that Rimini Street access the Client Archive in rendering Services under this OT SOW, the Client Archive Repository and remote access connectivity thereto must meet the technical guidelines provided by Rimini Street to Client.

## 2. Support Period

Rimini Street will provide Client with Services beginning at one minute past midnight (12:01 a.m.) United States Pacific Time on the OT SOW Effective Date and ending at one minute before midnight (11:59 p.m.) United States Pacific Time on June 30, 2036 (“**Support Period**”).

## 3. Termination by Client

Client may terminate Services for all Covered Products in this OT SOW at the end of a Support Period Year with no less than ninety (90) calendar days written notice prior to the start date of any subsequent Support Period Year set forth in Section 5.A. below for any reason or no reason, provided that all fees, taxes, duties, and expense reimbursements due under this OT SOW shall be paid by Client to Rimini Street on or before the actual date of termination.

## 4. Service Level Agreement

During the Support Period, Client will be entitled to receive support twenty-four (24) hours a day, seven (7) days a week (including major holidays) for Critical Issue (P1) cases. Response time commitment for a first live conversation with a Rimini Street engineer after Client contacts Rimini Street with a request for support on a Critical Issue case is ten (10) minutes or less. Client will be entitled to receive support for all other Issues during Rimini Street Business Hours as specified in Schedule A. Response time commitments and communication update intervals for each Issue are detailed in Table 1 below. Business Impact Guidelines for each Client Priority Level are detailed in Table 2 below.

Further, Rimini Street will provide Client with at least one Named Primary Support Engineer. Client’s Named Primary Support Engineer shall be the point of contact at Rimini Street for Client’s personnel and agents reporting and working to resolve Issues with the Covered Products listed in Schedule A during the Support Period. When Client’s Named Primary Support Engineer is unavailable due to on-call rotations or days off, a temporary on-call Named Primary Support Engineer shall be available to Client.

**Table 1**

Issue Severity	Client Priority Level	Rimini Street Initial Response Commitment	Client Communications Update Commitment*
Critical Issue	Priority 1	10 Elapsed Minutes	Every 2 Elapsed Hours
Serious Issue	Priority 2	15 Elapsed Minutes	Every 4 Business Hours
Standard Issue	Priority 3	1 Business Day	Every 5 Business Days
Q&A	Priority 4	1 Business Day	As appropriate

\*If resolution of an Issue is dependent upon some interim measure, such as developing a software patch, etc., an alternative communication update commitment may be defined and agreed upon with Client.

**Table 2**

Client Priority Level	Business Impact Guidelines
Priority 1	Issue where a Covered Product is completely unavailable to users or is working at a severely degraded capacity/performance level for multiple users that makes a Covered Product unusable; or Issue has a major impact to external client/customer; or Issue is impacting revenue or time sensitive regulatory compliance AND no acceptable workaround exists.
Priority 2	Issue where a Covered Product’s functionality has become limited or is working at marginally degraded capacity or performance for multiple users AND no acceptable workaround exists; or Issue where a Covered Product component is unavailable or is working at a severely degraded capacity/performance AND an acceptable workaround exists.



Priority 3	Issue where a single user is unable to use a Covered Product or a component of a Covered Product that is necessary for the user to perform their primary work activities; or Issue that is not critical is encountered with the Covered Product that leads to a minimal loss of functionality, capacity or performance; or A feature is unavailable where another can be readily used (i.e. routing to a different printer).
Priority 4	General request for information or "how to" (Q&A); or Report of event not causing impact to work operation or production.

## 5. Fees and Payment Schedule

**A. Annual Support Fees.** In consideration for Services provided pursuant to this OT SOW, Client agrees to pay Rimini Street fees ("**Annual Support Fees**") for each year the OT SOW remains in effect during the Support Period in accordance with the terms set forth herein as follows: for the period from the OT SOW Effective Date through June 30, 2022 (Year 1 of the Support Period), the Annual Support Fee shall be \$ 9,964.00 USD. Unless terminated pursuant to Section 3, for the period from July 1, 2022 through June 30, 2023 (Year 2 of the Support Period), the Annual Support Fee shall be \$ 10,462.00 USD. Unless terminated pursuant to Section 3, the Annual Support Fee for Years 3 through 15 of the Support Period shall increase each Year by 5% over the fee for Services paid by Client for the immediately preceding contiguous Year.

Notwithstanding the foregoing, in the event that Client adds additional licensed products to the Covered Products listed in Schedule A or increases the license usage of any Covered Product beyond the maximum license metric listed in Schedule A for one or more Covered Products (whether or not such increased usage required Client to pay Oracle additional license fees), Client agrees to an equitable adjustment of the Annual Support Fees to reflect 50% of the projected Covered Product support and maintenance fees that would have been paid by Client to Oracle for annual support services on the expanded license or expanded license usage of the Covered Products. Any such equitable adjustment of the Annual Support Fees shall also be subject to the annual percentage increase described in the first paragraph of this Section 5.A.

**B. Payment Schedule.** Annual Support Fees are due and payable by Client to Rimini Street according to the following agreed payment schedule ("**Payment Schedule**"):

Payment Schedule	Amount (USD)
Year 1 of the Support Period: Payment shall be due and payable on the OT SOW Effective Date	\$ 9,964.00
Subsequent Support Period Years: Payment shall be due and payable on or before the start date of the next subsequent Support Period Year	\$ As calculated per Section 5.A above

A purchase order, if required by Client, shall be provided to Rimini Street immediately upon execution of this OT SOW and annually thereafter at least sixty (60) days prior to the start date of each subsequent Support Period Year, provided that Client's failure to timely send a purchase order shall not prevent Rimini Street from invoicing Client or excuse any delay in payment by Client.

Client certifies that the Annual Support Fee for Year 1 of the Support Period (prior to any Rimini Street discounting for multi-year pre-payment) is no less than 50% of the total maintenance fees being charged by, and reflected in the most recent invoice(s) received from, the original software vendor (excluding all applicable taxes) for the Covered Products covering the period from July 1, 2020 to June 30, 2021 ("**Maintenance Invoices**"). Client further certifies that the Covered Products listed in Schedule A of this OT SOW, including but not limited to the license metrics and user counts of such products, are identical to those products covered by the Maintenance Invoices. For purposes of clarity, Client agrees that the Schedule A Covered Products do not, and shall not, have any additions to or omissions from the products covered in the Maintenance Invoices.

## 6. Additional Client Obligations

**A. Final Testing of Fixes and Updates.** Client is responsible for all final system testing to assure that Rimini Street changes perform as documented with the Covered Products before implementing said changes in any production environment.

**B. Access to Software.** Client acknowledges that Rimini Street may need, and Client therefore authorizes Rimini Street, to: (i) access, install, work with, configure, test, and possibly modify the Covered Products listed in Schedule A, which are used in the OT Production Release (as well as the Target OT Production Release for any upgrade project that Client undertakes), in order to render Services pursuant to this OT SOW; and (ii) access the Client Archive (if any, and if Client requests that Rimini Street access the Client Archive in providing Services under this OT SOW). Accordingly, Client shall provide Rimini Street with remote access to one or more non-production development and test environment(s), on servers owned, leased, or otherwise controlled by Client, that include the Covered Products and Client Archive, together with all license codes and other software required for their proper operation (each a "**Non-Production Environment**"). Each Non-Production Environment and remote access connectivity thereto must meet the technical guidelines provided by Rimini Street to Client.

**C. Work Product License Use Clarification.** Notwithstanding anything to the contrary in the Agreement, Client may provide Client's employees or a third party access to Rimini Street Work Product for the sole purpose of supporting the Covered Products listed in Schedule A in the event that Client chooses to terminate this OT SOW and undertake self-support or contract with a different service provider to provide support and maintenance services for the Covered Products listed in Schedule A. In such event, Client shall bind such employee or third party to obligations of non-disclosure and restricted use which are no less stringent than those contained within this OT SOW and the Agreement.

**D. Internal Client Support.** Client is responsible for providing Help Desk Support and System Administration Support.

## 7. Additional Services Terms

The following additional terms apply to the Services described in Section 1:

- A. Definitions.** The following definitions are used throughout this OT SOW:
- I. OT Production Release:** The OT product release level of the Covered Products that Client is currently using in its live, production environment, as specified in Schedule A as the current release.
  - II. Covered Products:** The individual product modules licensed to Client and set forth in Schedule A.
  - III. Issue:** An issue to be addressed pursuant to Section 4, Table 1 above that meets all of the following criteria: (i) found by Client in the Covered Products or in any changes provided to Client by Rimini Street or Oracle or obtained by Client from Oracle up through the date that Client terminates its Oracle support services agreement for the Covered Products; (ii) Client becomes aware of the issue during the Support Period and reports the issue to Rimini Street during the applicable Support Period; and (iii) meets one of the four Priority Level criteria set forth in Section 4, Table 2 above.
  - IV. Target OT Production Release:** The OT product release level(s) of the Covered Products that are: (a) generally available to OT customers prior to termination of Client's original software vendor support services agreement for the Covered Products; (b) obtained by

Client; and that (c) Client may desire to upgrade to as its next, live, production environment, as specified in Schedule A.

- V. Help Desk Support:** Means first line, simple corrective assistance by one or more individuals or a third party organization designated and/or contracted by Client to be the first point of contact for Client's entire user population for Covered Products. Help Desk Support provides an initial front-line response to all Client user-reported cases, and resolves certain low-level user reported issues. Common issues to be resolved by Help Desk Support include general system information requests, Covered Product user administration (e.g., user setup and security), Client-specific operational procedures, hardware issues and infrastructure availability (e.g., LAN, web, Internet Service Provider, application, and database access), and similar activities.
- VI. System Administration Support:** Means in-depth technical and system administration support that includes technical troubleshooting, analysis and resolution options for the Covered Products. System Administration Support services are more advanced than those generally provided by Help Desk Support and typically staffed with product trained personnel experienced with the Covered Products. Issues with Covered Products reported by Client end users to Help Desk Support that are not fully resolved by Help Desk Support may be escalated to System Administration Support. System Administration Support may include assisting Help Desk Support with resolution of issues, independent System Administration Support diagnosis and resolution of more advanced issues, and/or installation and configuration of software workarounds, updates or fixes made available and provided by Rimini Street. Issues not able to be resolved by System Administration Support may be escalated to Rimini Street.
- VII. Business Hour:** A single hour of time during the Rimini Street Business Hours specified in Schedule A, Monday through Friday.
- VIII. Business Day:** Nine (9) Business Hours.
- IX. Elapsed Minutes:** Actual accrued time from a specific event (such as logging a case).
- B. Third Party Products.** Rimini Street is not able and will not provide any fixes or updates to any third party products used with, imbedded, integrated or bundled with the Covered Products. The scope of this OT SOW expressly excludes support for any object issues other than for those listed as covered in any Schedule A.
- C. Installation Support.** Rimini Street will remotely support Client with respect to initial, first-time installations and configurations of Covered Products that the Client was not using in production on or before the Support Period. Installation Support does not include project planning, advice, or recommendations relating to changes in the underlying system infrastructure (e.g., hardware or network configuration), nor installations of a new major release of a Covered Product performed as the first step in an upgrade project to a new production Covered Product major release. Installation Support is subject to Client having a sufficient backup of the software installation, or a copy of the Covered Products with all necessary components, and making it available to Rimini Street for re-installation.
- D. Interoperability Support.** Interoperability Support will be remotely available to Client for its Covered Products so long as the combination of products and platforms is supported and designed for compatible use with the Covered Products and such combination of products and platforms has been fully tested for proper interoperability prior to production rollout and go-live. Client is fully responsible for any interoperability issues related to third-party products that are incompatible with or that were not properly tested for proper operation with Client's Technology Products. Rimini Street will provide upon request, at an additional fee and with Client providing copies of all source and target software releases, interoperability testing for applications and operating systems that have not been tested by the applications licensor for

proper operation with the Covered Products prior to the termination of Client's Oracle support services agreement for the Covered Products.

**E. Performance Tuning.** Client is responsible for ensuring adequate and reasonable functional, scalability, and regression testing have been completed in development and test phases prior to production rollout and go-live of the Covered Products. Performance tuning support includes recommendations and advice for configuration, deployment model, and parameter settings for the Covered Products.

**F. Upgrade Support.** Client is responsible for obtaining any Target OT Production Release, as well as all related and available upgrade deliverables from Oracle for the Covered Products that include major upgrades, maintenance packs, family packs, minipacks, critical patch updates, interoperability patches (e.g., updated versions of 3<sup>rd</sup> party technology components or updated operating system versions), language patches and any documented patch dependencies, localizations, technical platforms, release notes, release documentation, or upgrade documentation.

**G. Upgrade Process Support.** Client is responsible for actual upgrade project planning, resourcing, and execution.

**H. Rimini Street Work Product.** All deliverables under this OT SOW are considered Rimini Street Work Product as defined in the Agreement.

**I. Additional Consulting.** Any services required by Client outside the Services defined in this OT SOW are expressly excluded from the scope of this OT SOW. Rimini Street will not perform out-of-scope services without Client's pre-approval. If Client desires Rimini Street to provide additional out-of-scope services, separate agreements in the form of an amendment to this OT SOW or an additional SOW will need to be executed by the Parties prior to Rimini Street performing such services.

**J. Trade Names.** The Oracle name, Oracle product names, and Oracle release names are trademarks of Oracle Corporation. All other names and product names are the property of their respective owners.

## 8. Client Contacts

Primary Contact	Billing Contact	Shipping Contact
Name: Jamie Eubanks	Name: Scarlett McElwee	Name: Same as Primary
Address1: 201 North Broadway	Address1: 201 North Broadway	Address1:
Address2: IS Department	Address2: IS Department	Address2:
City, St, Zip: Escondido, California 92025	City, St, Zip: Escondido, California 92025	City, St, Zip:
Phone: +1 (760) 839-4868	Phone: +1 (760) 839-6268	Phone:
Email: <a href="mailto:jeubanks@escondido.org">jeubanks@escondido.org</a>	Email: <a href="mailto:smcelwee@escondido.org">smcelwee@escondido.org</a>	Email:

## 9. Signatures

The undersigned represent and warrant that they are authorized, as representatives of the party on whose behalf they are signing, to sign this OT SOW and to bind their respective party thereto.

### For Client:

\_\_\_\_\_  
Authorized Signature

Rob Van De Hey

\_\_\_\_\_  
Printed Name

Deputy City Manager / Director of  
Information Systems

\_\_\_\_\_  
Title

04/21/2021

\_\_\_\_\_  
Date

### For Rimini Street, Inc.:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Schedule A to Statement of Work No. 2

<b>Data Center Location(s):</b>	Escondido, CA
<b>Client Support Team Location(s):</b>	Escondido, CA
<b>Support to be provided in the following Language(s):</b>	English
<b>Client Support Team Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Rimini Street Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Database Hardware:</b>	Virtual Machine
<b>Database Operating System:</b>	Windows 2019
<b>Database Version:</b>	11.2.0.4.0
<b>Number of Database Servers:</b>	Two (2)
<b>Application Server Version:</b>	Oracle Tuxedo, Version 12.1.1.0_VS2012, 64bit, Patch Level 089
<b>Number of Application Servers:</b>	Two (2)
<b>Middleware and Version:</b>	Oracle Fusion Middleware 12c R1; Weblogic 12.1.3.0.0
<b>Technology Maintenance End Date ("MED"):</b>	June 30, 2021

## Covered Products

	Technology Product	CSI Number	Current Release and Patch Level	Future Target Release(s) and Minimum Patch Level(s)	Licensing Metric	Maximum Licensing Count	Notes
1	Oracle Diagnostic Management Pack	3236778	11,12	Latest Available on OT SOW Effective Date ("LAOED")	Named User Multi Server	150	
2	Oracle Internet Application Server Standard Edition	3236778	11,12	LAOED	Universal Power Unit	1,000	
3	Oracle Internet Developer Suite -	3236778	11,12	LAOED	Named User Multi Server	1	
4	Oracle Tuning Management Pack	3236778	11,12	LAOED	Named User Multi Server	150	

## Statement of Work No. 3

### Oracle Database Support Services

This Statement of Work No. 3 – Oracle Database Support Services (“**ODB SOW**”) is issued pursuant to that certain Master Services Agreement dated on or about \_\_\_\_\_ (the “**Agreement**”) between City of Escondido (“**Client**”) and Rimini Street, Inc. (“**Rimini Street**”). This ODB SOW is effective as of the date of the last signature of the Parties below (“**ODB SOW Effective Date**”). Unless otherwise indicated herein, capitalized terms used in this ODB SOW without definition shall have the respective meanings specified in the Agreement. To the extent that the terms and conditions set forth in this ODB SOW and Schedules attached hereto conflict with the terms and conditions of the Agreement, the terms and conditions of this ODB SOW and Schedule A will prevail.

#### 1. Services

Rimini Street shall provide Client with certain support services and certain deliverables (hereafter collectively referred to as “**Services**”) as follows for the Covered Products listed in Schedule A attached hereto:

**A. Product Support.** Rimini Street will provide Client with diagnostic services, advice, and recommendations relating to the proper operation of Client’s Covered Products. Since Client does not have access to source code for the Covered Products, product support specifically excludes the development and delivery of code changes, code fixes, and code updates of any kind for the Covered Products.

**B. Installation Support.** Rimini Street will provide advice and recommendations for reinstallations and configuration of the Covered Products if required as a result of an Issue with Client’s development, test, or production environments.

**C. Interoperability Support.** Rimini Street will provide advice, recommendations, and testing assistance with Issues determined to likely involve interoperability issues between the Covered Products and Client’s server operating system.

**D. Performance Tuning Support.** Rimini Street will provide performance tuning diagnostics, advice, and recommendations for the Covered Products using proprietary and commercially available tools. Rimini Street will use commercially reasonable efforts to provide advice and recommendations for performance tuning Client’s server operating system.

**E. Upgrade Process Support.** Rimini Street will provide upgrade process support from Client’s current Database Production Release to any Target Database Production Release listed on Schedule A. Rimini Street will make upgrade support available to any such Target Database Production Release for at least fifteen (15) years after the ODB SOW Effective Date, provided this ODB SOW remains in effect without interruption during said fifteen (15) year period.

**F. Archiving Assistance.** Rimini Street shall assist Client in identifying a specific scope of software updates and other support-related materials for the Covered Products that Client may elect to obtain from Oracle prior to the expiration date of the corresponding Oracle support services for the Covered Products (that expiration date being referred to as the “**Maintenance End Date**”). All Covered Product files or materials that Client downloads or otherwise obtains from Oracle prior to the Maintenance End Date shall be referred to collectively as the “**Client Archive**.” Client shall deposit the Client Archive on a file storage location owned, leased, or otherwise controlled by Client (the file storage location with the Client Archive shall be referred to as the “**Client Archive Repository**”). If Client requests that Rimini Street access the Client Archive in rendering Services under this ODB SOW, the Client Archive Repository and remote access connectivity thereto must meet the technical guidelines provided by Rimini Street to Client.

## 2. Support Period

Rimini Street will provide Client with Services beginning at one minute past midnight (12:01 a.m.) United States Pacific Time on the ODB SOW Effective Date and ending at one minute before midnight (11:59 p.m.) United States Pacific Time on June 30, 2036 (“**Support Period**”).

## 3. Termination by Client

Client may terminate Services for all Covered Products in this ODB SOW at the end of a Support Period Year with no less than ninety (90) calendar days written notice prior to the start date of any subsequent Support Period Year set forth in Section 5.A below for any reason or no reason, provided that all fees, taxes, duties, and expense reimbursements due under this ODB SOW shall be paid by Client to Rimini Street on or before the actual date of termination.

## 4. Service Level Agreement

During the Support Period, Client will be entitled to receive support twenty-four (24) hours a day, seven (7) days a week (including major holidays) for Critical Issue (P1) cases. Response time commitment for a first live conversation with a Rimini Street engineer after Client contacts Rimini Street with a request for support on a Critical Issue case is ten (10) minutes or less. Client will be entitled to receive support for all other Issues during Rimini Street Business Hours as specified in Schedule A. Response time commitments and communication update intervals for each Issue are detailed in Table 1 below. Business Impact Guidelines for each Client Priority Level are detailed in Table 2 below.

Further, Rimini Street will provide Client with at least one Named Primary Support Engineer. Client’s Named Primary Support Engineer shall be the point of contact at Rimini Street for Client’s personnel and agents reporting and working to resolve Issues with the Covered Products listed in Schedule A during the Support Period. When Client’s Named Primary Support Engineer is unavailable due to on-call rotations or days off, a temporary on-call Named Primary Support Engineer shall be available to Client.

**Table 1**

Issue Severity	Client Priority Level	Rimini Street Initial Response Commitment	Client Communications Update Commitment*
Critical Issue	Priority 1	10 Elapsed Minutes	Every 2 Elapsed Hours
Serious Issue	Priority 2	15 Elapsed Minutes	Every 4 Business Hours
Standard Issue	Priority 3	1 Business Day	Every 5 Business Days
Q&A	Priority 4	1 Business Day	As appropriate

\*If resolution of an Issue is dependent upon some interim measure, such as developing a software patch, etc., an alternative communication update commitment may be defined and agreed upon with Client.

**Table 2**

Client Priority Level	Business Impact Guidelines
Priority 1	Issue where a supported Covered Product is completely unavailable to users or is working at a severely degraded capacity/performance level for multiple users that makes a Covered Product unusable; or Issue has a major impact to external client/customer; or Issue is impacting revenue or time sensitive regulatory compliance AND no acceptable workaround exists.
Priority 2	Issue where a Covered Product’s functionality has become limited or is working at marginally degraded capacity or performance for multiple users AND no acceptable workaround exists; or Issue where a Covered Product component is unavailable or is working at a severely degraded capacity/performance AND an acceptable workaround exists.



Priority 3	Issue where a single user is unable to use a Covered Product or a component of a Covered Product that is necessary for the user to perform their primary work activities; or Issue that is not critical is encountered with the Covered Product that leads to a minimal loss of functionality, capacity or performance; or A feature is unavailable where another can be readily used (e.g., routing to a different printer).
Priority 4	General request for information or "how to" (Q&A); or Report of event not causing impact to work operation or production.

## 5. Fees and Payment Schedule

**A. Annual Support Fees.** In consideration for Services provided pursuant to this ODB SOW, Client agrees to pay Rimini Street fees ("**Annual Support Fees**") for each year the ODB SOW remains in effect during the Support Period in accordance with the terms set forth herein as follows: for the period from the ODB SOW Effective Date through June 30, 2022 (Year 1 of the Support Period), the Annual Support Fee shall be \$ 19,439.00 USD. Unless terminated pursuant to Section 3, for the period from July 1, 2022 through June 30, 2023 (Year 2 of the Support Period), the Annual Support Fee shall be \$ 20,411.00 USD. Unless terminated pursuant to Section 3, the Annual Support Fee for Years 3 through 15 of the Support Period shall increase each Year by 5% over the fee for Services paid by Client for the immediately preceding contiguous Year.

Notwithstanding the foregoing, in the event that Client adds additional licensed products to the Covered Products listed in Schedule A or increases the license usage of any Covered Product beyond the "Maximum License Metric" listed in Schedule A for one or more Covered Products (whether or not such increased usage required Client to pay Oracle additional license fees), Client agrees to an equitable adjustment of the Annual Support Fees to reflect 50% of the projected Covered Product support and maintenance fees that would have been paid by Client to Oracle for annual support services on the expanded license or expanded license usage of the Covered Products. Any such equitable adjustment of the Annual Support Fees shall also be subject to the annual percentage increase described in the first paragraph of this Section 5.A.

**A. Payment Schedule.** Annual Support Fees are due and payable by Client to Rimini Street according to the following agreed payment schedule ("**Payment Schedule**"):

Payment Schedule	Amount (USD)
Year 1 of the Support Period: Payment shall be due and payable on the ODB SOW Effective Date	\$ 19,439.00
Subsequent Support Period Years: Payment shall be due and payable on or before the start date of the next subsequent Support Period Year	\$ As calculated per Section 5.A above

A purchase order, if required by Client, shall be provided to Rimini Street immediately upon execution of this ODB SOW and annually thereafter at least sixty (60) days prior to the start date of each subsequent Support Period Year, provided that Client's failure to timely send a purchase order shall not prevent Rimini Street from invoicing Client or excuse any delay in payment by Client.

Client certifies that the Annual Support Fee for Year 1 of the Support Period (prior to any Rimini Street discounting for multi-year pre-payment) is no less than 50% of the total maintenance fees being charged by, and reflected in the most recent invoice(s) received from, the original software vendor (excluding all applicable taxes) for the Covered Products covering the period from July 1, 2020 to June 30, 2021 ("**Maintenance Invoices**"). Client further certifies that the Covered Products listed in Schedule A of this ODB SOW, including but not limited to the license metrics and user counts of such products, are identical to those products covered by the Maintenance Invoices. For purposes of clarity, Client agrees that the

Schedule A Covered Products do not, and shall not, have any additions to or omissions from the products covered in the Maintenance Invoices.

## 6. Additional Client Obligations

**A. Final Testing of Fixes and Updates.** Client is responsible for all final system testing to assure that Rimini Street changes perform as documented with the Covered Products before implementing said changes in any production environment.

**B. Access to Software.** Client acknowledges that Rimini Street may need, and Client therefore authorizes Rimini Street, to: (i) access, install, work with, configure, test, and possibly modify the Covered Products listed in Schedule A, which are used in the Database Production Release (as well as the Target Database Production Release for any upgrade project that Client undertakes), in order to render Services pursuant to this ODB SOW; and (ii) access the Client Archive (if any, and if Client requests that Rimini Street access the Client Archive in providing Services under this ODB SOW). Accordingly, Client shall provide Rimini Street with remote access to one or more non-production development and test environment(s), on servers owned, leased, or otherwise controlled by Client, that include the Covered Products and Client Archive, together with all license codes and other software required for their proper operation (each a "**Non-Production Environment**"). Each Non-Production Environment and remote access connectivity thereto must meet the technical guidelines provided by Rimini Street to Client.

**C. Work Product License Use Clarification.** Notwithstanding anything to the contrary in the Agreement, Client may provide Client's employees or a third party access to Rimini Street Work Product for the sole purpose of supporting the Covered Products listed in Schedule A in the event that Client chooses to terminate this ODB SOW and undertake self-support or contract with a different service provider to provide support and maintenance services for the Covered Products listed in Schedule A. In such event, Client shall bind such employee or third party to obligations of non-disclosure and restricted use which are no less stringent than those contained within this ODB SOW and the Agreement.

**D. Internal Client Support.** Client is responsible for providing Help Desk Support and System Administration Support.

## 7. Additional Services Terms

The following additional terms apply to the Services described in Section 1:

**A. Definitions.** The following definitions are used throughout this ODB SOW:

- I. Database Production Release:** The database product release level of the Covered Products that Client is currently using in its live, production environment, as specified in Schedule A as the current release.
- II. Covered Products:** The individual products licensed to Client and set forth in Schedule A.
- III. Issue:** An issue to be addressed pursuant to Section 4, Table 1 above that meets all of the following criteria: (i) found by Client in the Covered Products or in any changes provided to Client by Rimini Street or Oracle or obtained by Client from Oracle up through the date that Client terminates its Oracle support services agreement for the Covered Products; (ii) Client becomes aware of the issue during the Support Period and reports the issue to Rimini Street during the applicable Support Period; and (iii) meets one of the four Priority Level criteria set forth in Section 4, Table 2 above.
- IV. Target Database Production Release:** The database product release level(s) of the Covered Products that are: (a) generally available to database customers prior to termination of Client's original software vendor's support services agreement for the

Covered Products; (b) obtained by Client; and that (c) Client may desire to upgrade to its next, live, production environment, as specified in Schedule A.

- V. Help Desk Support:** Means first line, simple corrective assistance by one or more individuals or a third party organization designated and/or contracted by Client to be the first point of contact for Client's entire user population for the Covered Products. Help Desk Support provides an initial front-line response to all Client user-reported cases, and resolves certain low-level user reported issues. Common issues to be resolved by Help Desk Support include general system information requests, Covered Product user administration (e.g., user setup and security), Client-specific operational procedures, hardware issues and infrastructure availability (e.g., LAN, web, Internet Service Provider, application, and database access), and similar activities.
- VI. System Administration Support:** Means in-depth technical and system administration support that includes technical troubleshooting, analysis and resolution options for the Covered Products. System Administration Support services are more advanced than those generally provided by Help Desk Support and typically staffed with product trained personnel experienced with the Covered Products. Issues with Covered Products reported by Client end users to Help Desk Support that are not fully resolved by Help Desk Support may be escalated to System Administration Support. System Administration Support may include assisting Help Desk Support with resolution of issues, independent System Administration Support diagnosis and resolution of more advanced issues, and/or installation and configuration of software workarounds, updates or fixes made available and provided by Rimini Street. Issues not able to be resolved by System Administration Support may be escalated to Rimini Street.
- VII. Business Hour:** A single hour of time during the Rimini Street Business Hours specified in Schedule A, Monday through Friday.
- VIII. Business Day:** Nine (9) Business Hours.
- IX. Elapsed Minutes:** Actual accrued time from a specific event (such as logging a case).
- B. Third Party Products.** Rimini Street is not able and will not provide any fixes or updates to any third party products used with, imbedded, integrated or bundled with the Covered Products. The scope of this ODB SOW expressly excludes support for any object issues other than for those listed as covered in any Schedule A.
- C. Installation Support.** Rimini Street will remotely support Client with respect to initial, first-time installations and configurations of Covered Products that the Client was not using in production on or before the Support Period. Installation Support does not include project planning, advice, or recommendations relating to changes in the underlying system infrastructure (e.g., hardware or network configuration), nor installations of a new major release of a Covered Product performed as the first step in an upgrade project to a new production Covered Product major release. Installation Support is subject to Client having a sufficient backup of the software installation, or a copy of the Covered Products with all necessary components, and making it available to Rimini Street for reinstallation.
- D. Interoperability Support.** Interoperability Support will be remotely available to Client for its Covered Products so long as the combination of products and platforms is supported and designed for compatible use with the Covered Products and such combination of products and platforms has been fully tested for proper interoperability prior to production rollout and go-live. Client is fully responsible for any interoperability issues related to third-party products that are incompatible with or that were not properly tested for proper operation with Client's Covered Products. Rimini Street will provide upon request, at an additional fee and with Client providing copies of all source and target software releases, interoperability testing for applications and operating systems that have not been tested by the applications licensor for

proper operation with the Covered Products prior to the termination of Client's Oracle support services agreement for the Covered Products.

**E. Performance Tuning.** Client is responsible for ensuring adequate and reasonable functional, scalability, and regression testing have been completed in development and test phases prior to production rollout and go-live of the Covered Products. Performance tuning support includes recommendations and advice for configuration, deployment model, and parameter settings for the Covered Products.

**F. Upgrade Support.** Client is responsible for obtaining any Target Database Production Release, as well as all related and available upgrade deliverables from Oracle for the Covered Products that include major upgrades, maintenance packs, family packs, minipacks, critical patch updates, interoperability patches (e.g., updated versions of third-party technology components or updated operating system versions), language patches and any documented patch dependencies, localizations, technical platforms, release notes, release documentation, or upgrade documentation.

**G. Upgrade Process Support.** Client is responsible for actual upgrade project planning, resourcing, and execution.

**H. Rimini Street Work Product.** All deliverables under this ODB SOW are considered Rimini Street Work Product as defined in the Agreement.

**I. Additional Consulting.** Any services required by Client outside the Services defined in this ODB SOW are expressly excluded from the scope of this ODB SOW. Rimini Street will not perform out-of-scope services without Client's pre-approval. If Client desires Rimini Street to provide additional out-of-scope services, separate agreements in the form of an amendment to this ODB SOW or an additional SOW will need to be executed by the Parties prior to Rimini Street performing such services.

**J. Trade Names.** The Oracle name, Oracle product names, and Oracle release names are trademarks of Oracle Corporation. All other names and product names are the property of their respective owners.

## 8. Client Contacts

Primary Contact	Billing Contact	Shipping Contact
Name: Jamie Eubanks	Name: Scarlett McElwee	Name: Same as Primary
Address1: 201 North Broadway	Address1: 201 North Broadway	Address1:
Address2: IS Department	Address2: IS Department	Address2:
City, St, Zip: Escondido, California 92025	City, St, Zip: Escondido, California 92025	City, St, Zip:
Phone: +1 (760) 839-4868	Phone: +1 (760) 839-6268	Phone:
Email: <a href="mailto:jeubanks@escondido.org">jeubanks@escondido.org</a>	Email: <a href="mailto:smcelwee@escondido.org">smcelwee@escondido.org</a>	Email:

## 9. Signatures

The undersigned represent and warrant that they are authorized, as representatives of the party on whose behalf they are signing, to sign this ODB SOW and to bind their respective party thereto.

### For Client:

\_\_\_\_\_  
Authorized Signature

Rob Van De Hey

\_\_\_\_\_  
Printed Name

Deputy City Manager / Director of  
Information Systems

\_\_\_\_\_  
Title

04/21/2021

\_\_\_\_\_  
Date

### For Rimini Street, Inc.:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Schedule A to Statement of Work No. 3

<b>Data Center Location(s):</b>	Escondido, CA
<b>Client Support Team Location(s):</b>	Escondido, CA
<b>Support to be provided in the following Language(s):</b>	English
<b>Client Support Team Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Rimini Street Business Hours/Time Zone:</b>	8:00 a.m. – 5:00 p.m. Pacific Time
<b>Database Hardware:</b>	Virtual Machine
<b>Database Operating System:</b>	Windows 2019
<b>Number of Database Servers:</b>	Two (2)
<b>Technology Maintenance End Date ("MED"):</b>	June 30, 2021

## Covered Products

	Core Database Product	CSI Number	Current Release and Patch Level	Future Target Release(s) and Minimum Patch Level(s)	Licensing Metric	Maximum Licensing Count	Notes
1	Oracle Database Enterprise Edition - Named User Multi Server	3236778	11.2.0.4.0	Latest Available on ODB SOW Effective Date ("LAOED")	FULL USE	300	
2	Oracle Database Standard Edition - Named User Multi Server	3236778	11.2.0.4.0	LAOED	FULL USE	350	
3	Oracle Database Standard Edition - Universal Power Unit	3236778	11.2.0.4.0	LAOED	FULL USE	1,000	

## MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Non-Disclosure Agreement ("**Agreement**") is made by and between Rimini Street, Inc. ("**Rimini Street**"), a Delaware corporation having a principal place of business at 3993 Howard Hughes Parkway, Suite 500, Las Vegas, Nevada 89169, United States of America, and the City of Escondido, a California municipal corporation ("**Counterparty**"), having a principal place of business at 201 N Broadway, Escondido, CA 92025. Rimini Street and Counterparty shall each individually be referred to as a "**Party**" and jointly referred to as the "**Parties**." This Agreement is effective as of the date of the last signature of the Parties below ("**Effective Date**") but is retroactive to the date of first disclosure of Confidential Information as defined below. The Parties are having discussions and exchanging information for the purpose of exploring a possible business relationship (the "**Purpose**"), and want to ensure the confidentiality of such discussions and information, so the Parties agree as follows:

- Confidential Information.** The term "**Confidential Information**" means any information relating to services, products, customers, markets, inventions, software, systems, processes, personnel, designs, marketing, business strategies, trade secrets, finances, and other nonpublic information of the disclosing Party or its affiliates ("**Disclosing Party**") disclosed to the receiving Party or its affiliates ("**Receiving Party**") for the Purpose. Confidential Information does not include information that the Receiving Party can establish by legally sufficient evidence: (i) was in the possession of, or was rightfully known by the Receiving Party without an obligation to maintain its confidentiality prior to its disclosure by the Disclosing Party; (ii) is or becomes generally known to the public without breach of this Agreement; (iii) is obtained by the Receiving Party in good faith from a third party without any communicated obligation of confidentiality; (iv) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or (v) is authorized in writing by the Disclosing Party to be released from the confidentiality obligations of this Agreement.
- Non-Disclosure.** The Receiving Party shall use the Disclosing Party's Confidential Information only for the Purpose and shall not disclose it to any person or entity other than its or its affiliates' employees, directors, contractors, consultants, counsel or agents (collectively, "**Authorized Recipients**") who have a reasonable need to know such information for the Purpose and who are bound by at least equivalent obligations of confidentiality and non-disclosure as those under this Agreement. The Receiving Party is responsible for the compliance of its Authorized Recipients with the confidentiality and non-disclosure obligations of this Agreement. The Receiving Party will use the same standard of care to protect the Disclosing Party's Confidential Information as it uses to protect its own similar confidential and proprietary information, but no less than reasonable care.
- Court or Administrative Order.** Notwithstanding the provisions of Section 2 of this Agreement, the Receiving Party and its Authorized Recipients may disclose any of the Confidential Information in the event, but only to the extent, that, based upon reasonable advice of counsel, the Receiving Party is required to do so by the disclosure requirements of any law, rule, or regulation, including but not limited to the California Public Records Act (Cal. Gov't Code § 6250 et seq.), or any order, decree, subpoena, ruling, or other similar process of any court, tribunal, securities exchange, governmental agency, or governmental or regulatory authority, or if such disclosure is to necessary to enforce this Agreement ("**Necessary Disclosure**"). In the event of a Necessary Disclosure, the Receiving Party shall, to the extent legally permitted, provide the Disclosing Party with prompt written notice so the Disclosing Party may, at the Disclosing Party's expense, seek a protective order or other appropriate remedy to protect such information. If such protective order or other remedy is not obtained, the Receiving Party will not be in breach by furnishing such Confidential Information as required.
- Term.** Unless earlier terminated at any time by either Party with written notice to the other, this Agreement shall automatically terminate one year from the Effective Date or upon execution of a Master Services Agreement between the Parties arising from the Purpose, whichever occurs first. The obligations of confidentiality and non-disclosure shall survive termination of this Agreement but in no event shall extend beyond two years from the termination date of this Agreement. Upon Disclosing Party's written request, the Receiving Party shall promptly return or destroy all copies of the Confidential Information and all documents, computer files and other items containing any part of the Confidential Information, except as otherwise required for compliance with legal, regulatory, electronic backup or internal recordkeeping requirements,

provided that any Confidential Information retained pursuant to such requirements remains subject to the confidentiality and nondisclosure obligations of this Agreement for as long as such Confidential Information is retained.

5. **Notice.** Any notice relating to this Agreement shall be in writing and sent either: (i) by United States mail with return receipt or well-known courier service, delivered "Attn: Legal Dept." to the Party's address noted above, effective on the date of evidenced delivery; or (ii) sent by email to the email address set forth below, with confirmation of receipt requested, with a copy of the notice also deposited in the United States mail (postage prepaid) the same business day, in which case notice shall be deemed delivered as of the date of confirmation of receipt.

If to Counterparty:

Robert Van De Hey, Deputy City Mgr/Dir of Info Systems, [rvandehey@escondido.org](mailto:rvandehey@escondido.org)  
Jamie Eubanks, Applications Development Mgr, [jeubanks@escondido.org](mailto:jeubanks@escondido.org)

cc: Kurt G. Whitman, Senior Deputy City Attorney, [kwhitman@escondido.org](mailto:kwhitman@escondido.org)  
Elyse E. Dayrit, Deputy City Attorney, [edayrit@escondido.org](mailto:edayrit@escondido.org)  
Alma Gurrola, Deputy City Attorney, [agurrola@escondido.org](mailto:agurrola@escondido.org)

If to Rimini Street:


Legal Department, [legal@riministreet.com](mailto:legal@riministreet.com)

6. **Governing Law.** This Agreement shall be governed by the laws of the State of California, United States of America, without regard to the choice of law principles of any jurisdiction. Exclusive jurisdiction and venue shall be in San Diego, California, United States of America, and each Party waives any objection to the adjudication of disputes in that forum.


7. **General.** As between the Disclosing Party and the Receiving Party, all right, title and interest in and to the Confidential Information is and shall remain the exclusive property of the Disclosing Party. Nothing contained in this Agreement will be construed as granting any ownership right, title or interest in or to the Confidential Information by license or otherwise. The Parties acknowledge that no representation or warranty of any kind, express or implied, is being made by the Disclosing Party with respect to the Confidential Information. The Parties agree that monetary damages may not be adequate in the event of a breach or threatened breach of this Agreement, and that either Party may take equitable action, including seeking injunctive relief, to enforce this Agreement. Nothing in this Agreement shall obligate the Parties to proceed with any transaction or business relationship. Nothing in this Agreement shall be construed to create or imply a joint venture, partnership, agency or employment relationship of any kind between the Parties. Neither Party shall assign this Agreement or transfer its responsibilities under this Agreement, nor any interest in this Agreement, except with written consent of the other Party. This Agreement may only be amended in writing signed by authorized representatives of the Parties. This Agreement supersedes all previous oral or written agreements, if any, between the Parties regarding the confidentiality of information disclosed for the Purpose, and the Parties agree that this Agreement constitutes the entire agreement between the Parties with respect to such disclosures. This Agreement may be signed in counterparts, which together shall be deemed one instrument, and may be signed and delivered electronically.

The undersigned individuals represent and warrant that they are authorized to sign this Agreement on behalf of their respective Party.

**For Rimini Street, Inc.:**

  
\_\_\_\_\_  
Authorized Signature  
**Monet H. Jordan**  
\_\_\_\_\_  
Printed Name  
Corporate Counsel  
\_\_\_\_\_  
Title  
April 5, 2021  
\_\_\_\_\_  
Date

**For Counterparty:**

  
\_\_\_\_\_  
Authorized Signature  
Elyse E. Dayrit  
\_\_\_\_\_  
Printed Name  
Deputy City Attorney  
\_\_\_\_\_  
Title  
April 5, 2021  
\_\_\_\_\_  
Date



## CITY COUNCIL STAFF REPORT

**Public Hearing Item No. 8**

**April 21, 2021**

**File No. 0685-10**

SUBJECT: Public Hearing for City of Escondido Landscape Maintenance Assessment District Zones 1 through 38

DEPARTMENT: Engineering Services Department

RECOMMENDATION:

It is requested that the City Council receive input from the property owners in Zones 1 through 38 of the City of Escondido ("City") Landscape Maintenance Assessment District ("LMD") on the proposed budget and assessments for Fiscal Year ("FY") 2021/2022. No Council action is required.

FISCAL ANALYSIS:

The LMD reimburses all costs incurred by the City in all zones except Zones 12 and 13. The City purchased property adjacent to the Reidy Creek environmental channel that lies within Zone 12 and therefore, assumed the LMD assessment assigned to this property. Zone 13 was formed to pay for the maintenance of the median landscaping on Centre City Parkway south of Felicita Avenue and north of Montview Drive. The City shares the cost of the maintenance in Zone 13 with the two shopping centers on either side of the parkway.

A Consumer Price Index ("CPI") increase of 1.50251 percent per Bureau of Labor Statistics: San Diego-Carlsbad, California, is included for Zones 4, 6, 9, 11, 13, 15, 16, 17, 18, and 24. Property owners within these zones previously approved annual CPI adjustments. Each assessment remains at or under the maximum authorized levy. Other increases under the maximum allowable levy are proposed for zones 14, 21, 22, 23, 26, 27, 28, 29, 32, and 38 have been prepared.

PREVIOUS ACTION:

On March 24, 2021, the City Council approved the FY 2021/2022 preliminary LMD Engineer's Report and set a public hearing date of April 21, 2021, for LMD Zones 1 through 38.

BACKGROUND:

The LMD was established as a means to fund the ongoing maintenance of certain landscape improvements associated with the development of specific properties. These landscape improvements have special benefit to those specific properties. When properties are developed, a study is prepared to determine the cost of maintenance of the proposed landscaping and improvements. The maximum annual levy is calculated and the developer/property owner(s) vote to

be assessed in that maximum amount. The maximum annual levy may or may not be established with an inflationary adjustment.

The LMD is divided into various zones. Property owners of parcels within each zone are assessed for the benefit received within their zone for the maintenance of the landscape improvements. All funds collected must be used within the specific zone.

Each year the City Council is required to review and approve the upcoming fiscal year budget and assessment for the LMD. As part of the approval process, a public hearing is held to give property owners within Zones 1 through 38 of the LMD the opportunity to comment on the proposed budget and assessment. This is the purpose of the public hearing today. No City Council action is required.

All Zones:

The City's contractor conducts weekly maintenance within each zone. Staff regularly inspects each zone to identify additional needs, including vegetation replacement, irrigation repairs, and major tree pruning. This fiscal year 34 trees and 770 shrubs have been planted within the LMD area and 13 potentially hazardous trees have been removed.

Zone 9 – Laurel Valley: During FY 20/21 the leaning wall along Rincon Avenue was replaced with a vinyl fence. The vinyl fence was funded largely through reduction in irrigation of turf areas along Rincon Ave. During FY 21/22, these turf areas will be converted to drought tolerant landscaping. In addition, there is a need for tree pruning and removal of potentially hazardous trees. Given the large expenses within this zone, work will be prioritized and conducted over the next few years.

Zone 19 – Brookside: The largest zone in the City, staff frequently inspects this zone and directs vegetation replacement, repair of erosion at the bridal trail, wetland and drainage area maintenance, gopher mitigation, dog waste station maintenance, and irrigation repairs. In FY 20/21, major maintenance activities within the creek abutting Rincon Avenue was conducted, including selective dead vegetation removal of approximately 16 tons (18 loads) of material. In FY 21/22, it is anticipated that the LMD will focus on additional tree work and water saving strategies.

The Final Engineer's Report for LMD Zones 1 through 38 for FY 2021/2022 will be presented to the City Council for approval on May 26, 2021. All proposed levies remain at or under the maximum authorized levy approved by the property owner(s).

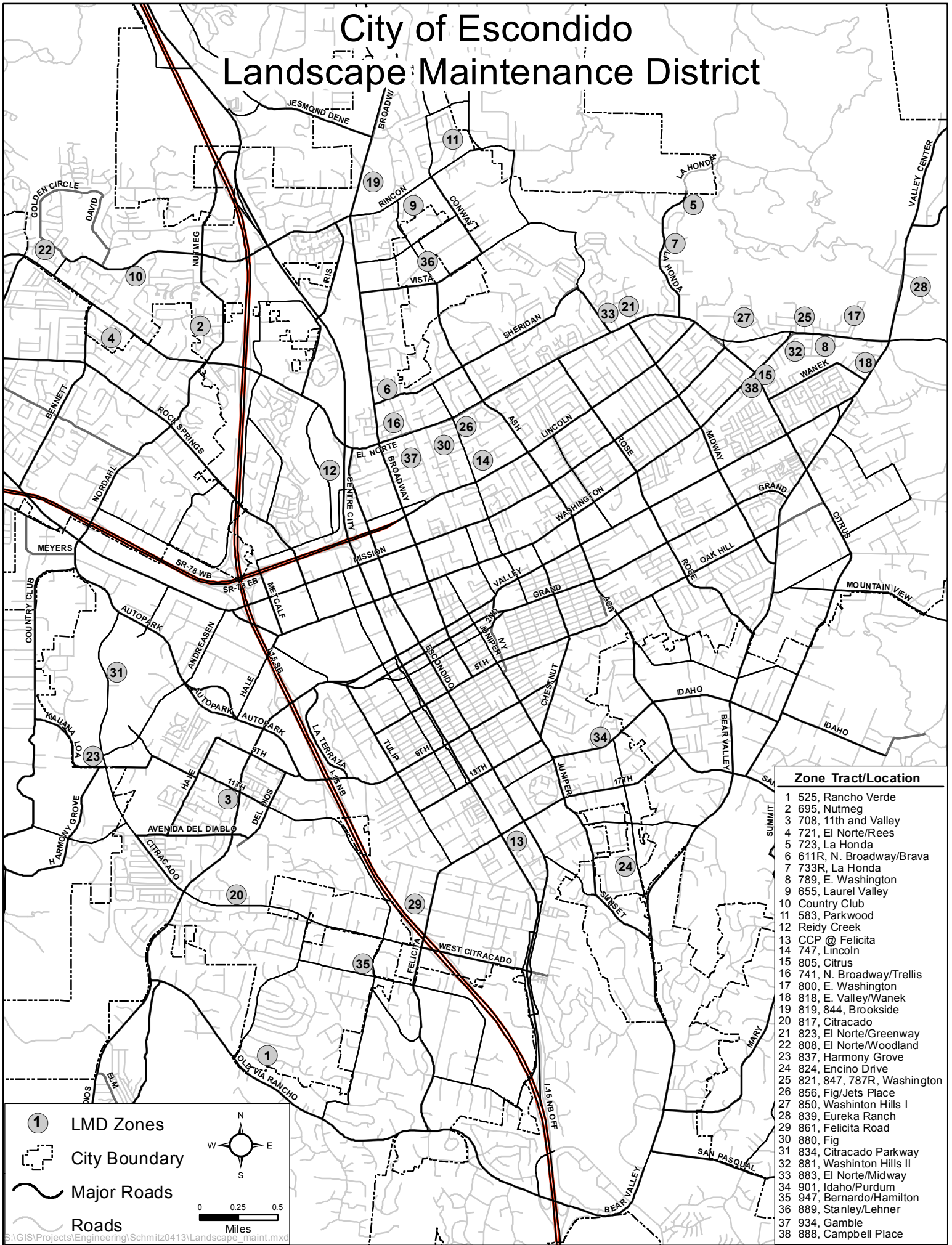
APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

*Julie Procopio*, Director of Engineering Services  
04/15/21 9:59 a.m.

ATTACHMENTS:

1. Attachment 1 – LMD Zone Map

# City of Escondido Landscape Maintenance District



**Zone Tract/Location**

- 1 525, Rancho Verde
- 2 695, Nutmeg
- 3 708, 11th and Valley
- 4 721, El Norte/Rees
- 5 723, La Honda
- 6 611R, N. Broadway/Brava
- 7 733R, La Honda
- 8 789, E. Washington
- 9 655, Laurel Valley
- 10 Country Club
- 11 583, Parkwood
- 12 Reidy Creek
- 13 CCP @ Felicita
- 14 747, Lincoln
- 15 805, Citrus
- 16 741, N. Broadway/Trellis
- 17 800, E. Washington
- 18 818, E. Valley/Wanek
- 19 819, 844, Brookside
- 20 817, Citracado
- 21 823, El Norte/Greenway
- 22 808, El Norte/Woodland
- 23 837, Harmony Grove
- 24 824, Encino Drive
- 25 821, 847, 787R, Washington
- 26 856, Fig/Jets Place
- 27 850, Washinton Hills I
- 28 839, Eureka Ranch
- 29 861, Felicita Road
- 30 880, Fig
- 31 834, Citracado Parkway
- 32 881, Washinton Hills II
- 33 883, El Norte/Midway
- 34 901, Idaho/Purdum
- 35 947, Bernardo/Hamilton
- 36 889, Stanley/Lehner
- 37 934, Gamble
- 38 888, Campbell Place

1 LMD Zones  
 City Boundary  
 Major Roads  
 Roads



0 0.25 0.5  
Miles

S:\GIS\Projects\Engineering\Schmitz0413\Landscape\_maint.mxd

# CITY COUNCIL STAFF REPORT

**Public Hearing Item No. 9**

**April 21, 2021**

**File No. 0110-30**

SUBJECT: Public Hearing and Adoption of the Updated Traffic Impact Analysis Guidelines

DEPARTMENT: Engineering Services Department

RECOMMENDATION:

It is requested that the City Council hold a public hearing and approve Resolution No. 2021-47 adopting the Updated Traffic Impact Analysis Guidelines.

FISCAL ANALYSIS:

The cost to prepare the updated Traffic Impact Analysis (“TIA”) Guidelines was included in the General Fund budget. The cost for review of Traffic Impact studies is generally reimbursed by applicants through payment of adopted fees.

TRANSPORTATION AND COMMUNITY SAFETY COMMISSION REVIEW:

On January 14, 2021, the Transportation and Community Safety Commission (“TCSC”) reviewed the key metrics, thresholds of significance, and screening criteria recommended for incorporation into the TIA Guidelines. On April 8, 2021, the TCSC voted unanimously to recommend approval of the updated TIA Guidelines.

BACKGROUND:

In 2013, Senate Bill 743 was enacted requiring changes to the California Environmental Quality Act (“CEQA”) Guidelines for determining the significance of transportation impacts of projects. The Governor’s Office of Planning and Research (“OPR”) was assigned the task of drafting changes to CEQA Guidelines. In 2018, OPR proposed, and the California Natural Resources Agency certified and adopted, new CEQA Guidelines. These guidelines identified VMT, meaning the amount and distance of automobile travel attributable to a project, as the most appropriate metric to evaluate a project’s transportation impacts. Further, CEQA Guidelines require that lead agencies, for purposes of CEQA, evaluate the transportation impacts of a project using the VMT metric.

According to the new CEQA guidelines, lead agencies, such as the City of Escondido, (“City”) are required to determine the significance of all environmental effects for a project. The CEQA guidelines encourage public agencies to develop and publish generally applicable “thresholds of significance” to be used in determining the significance of a project’s environmental effects. The guidelines (Section 15064.7(b)) requires that thresholds of significance must be adopted by ordinance, resolution, rule, or regulations, developed through a public review process, and be supported by substantial evidence.

Since the passage of SB 743, several agencies and entities have been working on interpretation and implementation of the law. In addition to OPR Guidance, the local San Diego Section of the Institute of Transportation Engineers has also developed interpretation and implementation recommendations for use by local agencies in our region. In addition, SANDAG has created a GIS-based VMT calculator for County agencies to adopt and use in their guidelines. Lastly, a number of other municipalities in the county have moved forward with their interpretation and implementation of SB743.

It is important to note that VMT only replaces Level of Service (LOS) for CEQA transportation impact analysis. LOS is still a component of the City’s General Plan Quality of Life Standards for Transportation and will still be analyzed for that purpose and remain a part of our City Traffic Impact Analysis Guidelines. This is consistent with most other jurisdictions in our area.

Fehr & Peers, a nationally recognized firm with expertise in the area of VMT analysis, was selected to develop clear guidelines for the City of Escondido that comply with OPR requirements and that are also consistent with the approach used in the San Diego region

VMT Significance Thresholds:

The OPR Technical Advisory recommends that projects generating less than 15% of either the regional or Citywide average be considered to have a less than significant VMT impact. For consistency with other San Diego region jurisdictions, staff recommends that significance thresholds for Escondido be established at 15% below the regional average for residential and office projects.

Residential and Employment Uses Threshold Options:

Land Use	Regional Average	Regional Threshold	Citywide Average	Citywide Threshold
Residential	19.0	16.2	17.2	14.6
Employment	27.2	26.0	26.0	22.1

Staff recommends the residential threshold be set at 15% below Regional Average VMT/Capita (currently 16.2 VMT/Capita). In surveying local agencies in the region, it was determined that the Regional Average was selected by nearly all agencies, except for the County, which created its own evaluation method. Given Escondido’s diverse geography and its mix of urban, suburban and rural areas, the Regional Average is most appropriate.

Staff recommends the employment threshold be set at 15% below the Regional Average VMT/Employee (currently 26.0 VMT/Employee). Again, the majority of local agencies in the region selected the Regional Average.

Staff recommends setting the industrial employment threshold at or below the Regional Average VMT/Employee. Purely industrial employment uses are desired to be located in less VMT efficient, higher VMT areas in the City of Escondido. Placing these land intensive uses in areas with less efficient VMT allows land in efficient VMT areas to be more effectively utilized as high density residential and commercial uses. This will encourage lower VMT-generating industrial uses to develop in locations appropriate for industrial uses, leaving infill and more VMT efficient areas available for more dense uses. Chula Vista, Oceanside, Carlsbad, and the City of San Diego have all set the threshold for industrial employment at the average VMT (instead of 15% below).

#### VMT Screening Criteria:

Screening procedures allow jurisdictions to quickly determine whether projects can be presumed to have a less-than-significant VMT impact, and therefore do not need to conduct CEQA-related VMT transportation analysis. The OPR Technical Advisory provides recommendations for screening criteria based on research. OPR suggests certain projects can be presumed to have a less-than-significant transportation VMT impact. Staff recommends the following screening criteria for projects within Escondido. If one of the screening criteria is met, then the project can be presumed to have a less than significant transportation VMT impact without further analysis:

- Projects located in efficient VMT areas (Areas with VMT 15% below regional average are shown as green areas on Attachment 1 maps)
- Locally serving retail (<50,000-square feet with 75% or more customers from local community)
- Locally serving community-purpose facility (examples are post office, public schools, libraries, and local parks)
- Small Projects (generating 200 or fewer daily trips)
- Redevelopment generating less VMT than the existing development
- Projects within ½-mile accessible walking distance of a high-quality transit corridor

For projects that are not screened out, analysis of VMT impacts and mitigation to below the significance threshold will be required to determine the impact to be less than significant. The TIA Guidelines are organized into four (4) Chapters:

Chapter 1: Provides background on SB 743 and changes to how CEQA evaluates a project's transportation impacts. This section also guides applicants on how to process a TIA, including providing scoping forms to clearly define the scope of the study in advance of commencing analysis.

Chapter 2: Details the types of transportation studies, study requirements, including project descriptions, site plans, trip generation, trip reductions and trip distribution.

Chapter 3: Provides the metrics, screening criteria, methodology and thresholds of significance for conducting VMT analysis. This chapter also includes information regarding VMT reduction and mitigation measures.

Chapter 4: Provides analysis criteria and thresholds of significance for the Level of Service (LOS) analysis. These criteria have been in use for more than two decades in order to verify conformance with the City of Escondido's General Plan Quality of Life Standards and to address congestion-related effects of a project.

Mitigation strategies, including a toolkit offered by SANDAG and in a manual prepared by the California Air Pollution Control Officers Association, have been cited in the updated TIA Guidelines as options for reducing VMT impacts. However, projects in rural areas may find that current mitigation options are inadequate to mitigate a project's impacts within the project footprint. Staff is currently working with Fehr & Peers to evaluate the feasibility of providing additional options to development projects to mitigate VMT impacts that could include a VMT Exchange Program or VMT Mitigation Fee Program. Staff will report back with more information on the feasibility of VMT mitigation programs later this year.

#### ENVIRONMENTAL REVIEW:

The adoption of the TIA Guidelines, including the thresholds of significance therein, is exempt from further environmental review under CEQA pursuant to CEQA Guidelines section 15308 (Actions by a Regulatory Agency for Protection of the Environment). The adoption of the TIA Guidelines is compliant with SB 743, a state mandate, and has been done in accordance with CEQA procedural requirements. The City will use the TIA Guidelines as part of a regulatory process that involves procedures for protection of the environment, and the thresholds within the TIA Guidelines will provide the City with project-specific transportation information as part of that regulatory process. The adoption of the TIA Guidelines is thus categorically exempt pursuant to CEQA Guidelines section 15308.

#### APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

*Julie Procopio*, Director of Engineering Services

04/15/21 9:59 a.m.

#### ATTACHMENTS:

1. Attachment 1 Current VMT/Capita and VMT/Employee Maps
2. Attachment 2 TCSC January 14, 2021 Staff Report
3. Attachment 3 TCSC April 8, 2021 Staff Report
4. Resolution No. 2021- 47
5. Resolution No.2021-47 Exhibit A: City of Escondido Transportation Impact Analysis Guidelines

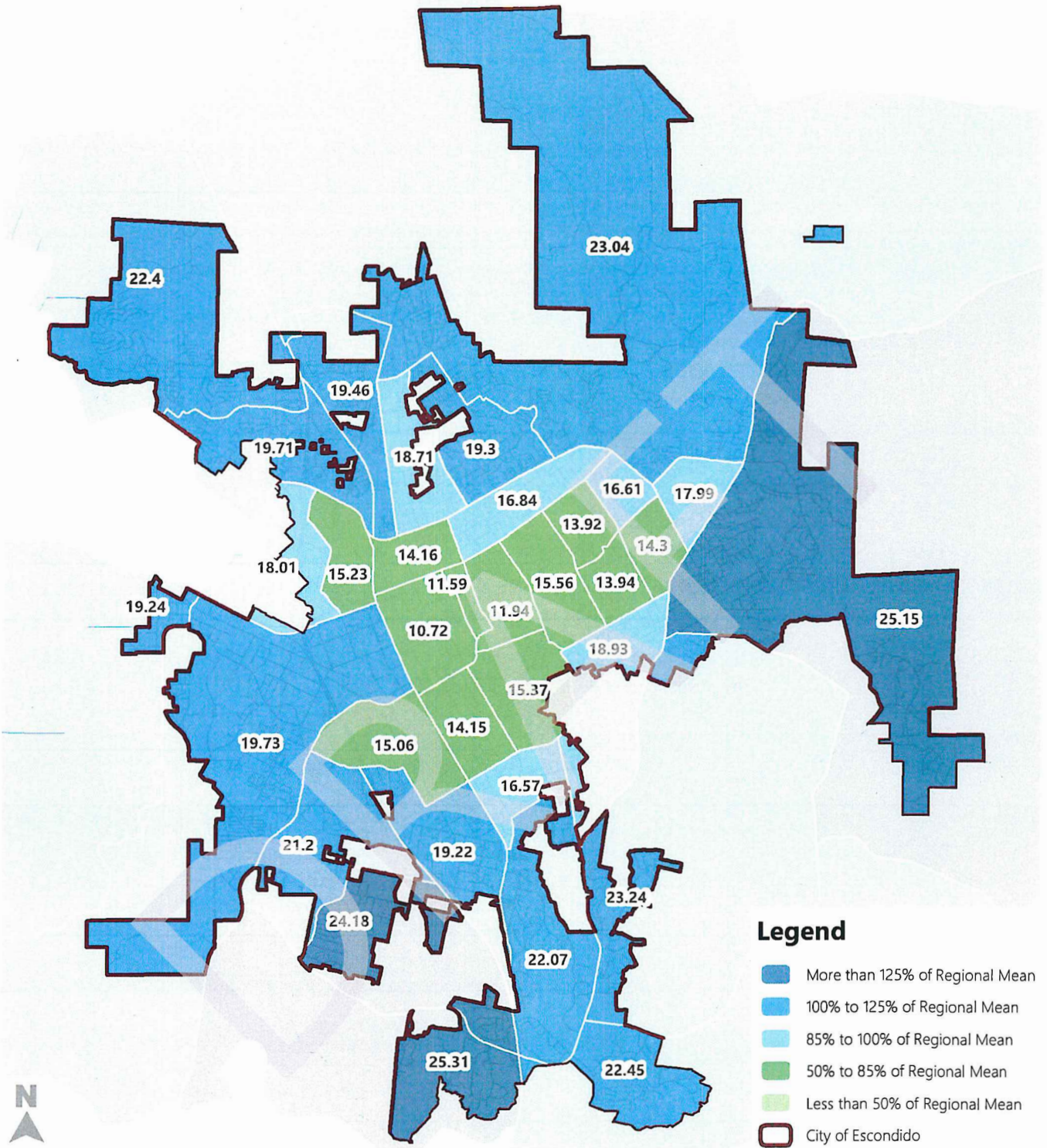


Figure 1

2016 Vehicle Miles Traveled (VMT) per Capita by Census Tract Comparison to Regional Average (19.0 VMT/Capita)





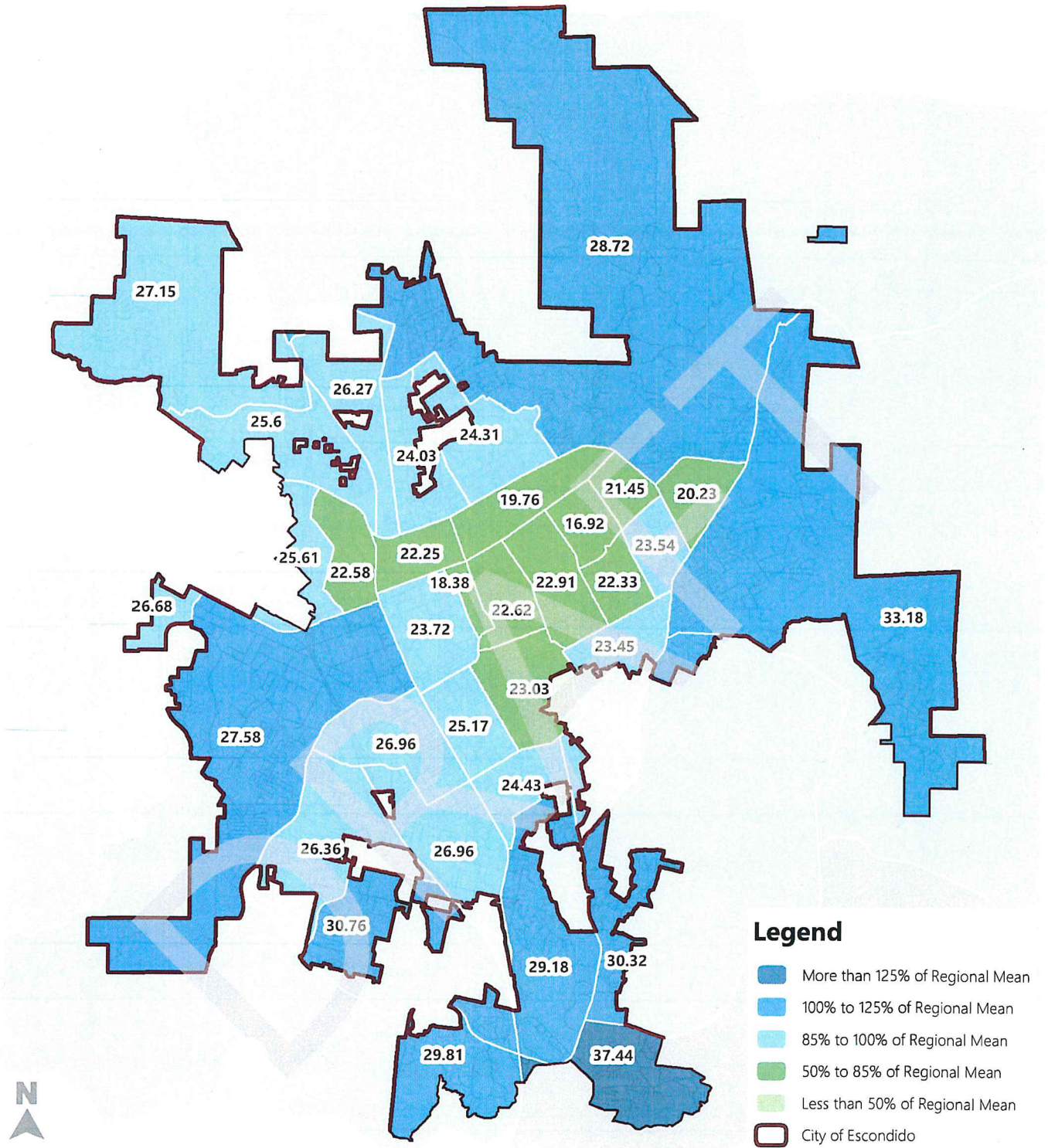


Figure 3  
 2016 Vehicle Miles Traveled (VMT) per Employee by Census Tract  
 Comparison to Regional Average (27.2 VMT/Employee)



**CITY OF ESCONDIDO**  
**TRANSPORTATION and**  
**COMMUNITY SAFETY COMMISSION**

**Commission Report of: January 14<sup>th</sup>, 2021**

**Item No.: F1**

**Location: Citywide**

**Initiated By: Staff**

**Request: Progress Report on Transportation Impact Analysis - VMT Guidelines Development and Decision Points - Recommendation to City Council**

**Background:**

The following excerpt from Caltrans' website provides an excellent view into the intent and purpose of SB 743 and the shift toward examining project impacts through Vehicle Miles Traveled analysis:

“SB 743 was signed in 2013, with the intent to “more appropriately balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions.” When implemented, “traffic congestion shall not be considered a significant impact on the environment” within California Environmental Quality Act (CEQA) transportation analysis.

SB 743 requires the Governor's Office of Planning and Research (OPR) to identify new metrics for identifying and mitigating transportation impacts within CEQA. For land use projects, OPR identified Vehicle Miles Traveled (VMT) per capita, VMT per employee, and net VMT as new metrics for transportation analysis. For transportation projects, lead agencies for roadway capacity projects have discretion, consistent with CEQA and planning requirements, to choose which metric to use to evaluate transportation impacts.”

VMT is a way to measure the amount of vehicular travel that a project will generate. VMT looks at the total amount of miles driven generated by a project, rather than a congestion and delay factor that a project generates at nearby intersections and roadway segments. VMT is also referenced throughout the City's Climate Action Plan as a tool to measure Greenhouse Gas Emissions, energy analysis and air quality analysis.

Since the passage of SB 743, several agencies and entities have been working on interpretation and implementation of the law with the lead statewide agency in this regard being the Office of Planning and Research (OPR). The local San Diego Section of the Institute of Transportation Engineers has also developed interpretation and implementation recommendations for use by local agencies. In addition, SANDAG has created a GIS-based VMT calculator for County agencies to adopt and use in their guidelines. And lastly, a number of other municipalities in the county have moved forward with their interpretation and implementation of SB743. We have included several of these examples in our discussions.

It is important to note, however, that VMT only replaces LOS for CEQA transportation impact analysis. LOS is still a component of the City's General Plan Quality of Life Standards for Transportation and will still be analyzed for that purpose and remain a part of our City Traffic Impact Analysis Guidelines.

Since June 2020, the City has been working with a consultant – Fehr & Peers – to prepare VMT guidelines to be added to and update our current Transportation Impact Analysis Guidelines.

## **Discussion and Purpose**

Over the past several months, City staff have worked closely with our Consultant to develop updated Transportation Impact Analysis Guidelines with an emphasis on adding and adopting VMT Standards. This process has included researching what the key guiding documents suggest as mandates and best practices, what our neighbors are doing with VMT, and then focusing on the best options for the City of Escondido.

This staff report provides an overview of key SB 743 implementation decisions with Staff recommendations that need to be selected by the City of Escondido. Key decisions discussed within this report are:

1. VMT Metrics (methods of measuring VMT impacts)
2. Thresholds (limits that determine when a project may have an impact and therefore needs to provide VMT analysis)
3. Screening Criteria (which projects can be exempted from VMT analysis because of low impact)

The City of Escondido Transportation Impact Analysis Guidelines will serve as a guide for practitioners and reviewers throughout the transportation analysis process.

### **1. VMT Metric Options**

The Office of Planning and Research's (OPR) *Technical Advisory on Evaluating Transportation Impacts in CEQA* (December 2018) provides agencies the discretion to choose the most appropriate VMT metrics for their jurisdiction.

Both the OPR Technical Advisory and the San Diego ITE: *Guidelines for Transportation Studies in the San Diego Region* (May 2019), have thoroughly reviewed and presented the metric options below. Further, various of these suggested metrics have been adopted by our neighboring municipalities, as well as the City of San Diego and the County of San Diego.

Staff recommends approval of the following metrics for the City of Escondido:

***VMT/Capita metric used for Residential Projects:*** VMT/Capita is established by dividing the total daily VMT generated by residents living in the geographic area being used as the comparison (e.g., census tract), divided by the population of that geographic area. To analyze the VMT/Capita for a proposed project, the total daily VMT generated by project residents is divided by the project population.

***VMT/Employee Metric used for Office and Employment Projects:*** VMT/Employee is established by dividing the total daily VMT generated by employees of the geographic area being used as the comparison (e.g., census tract), by the number of employees in that geographic area. To analyze the VMT/Employee for a proposed project, the total daily VMT produced by project's employees is divided by the total number of employees working in the project.

Estimates for VMT/Capita and VMT/Employee have been developed by SANDAG and presented in an easily accessed format<sup>1</sup>, which will be discussed later in this report. This methodology will be updated from time to time. Since these are the methods developed and supported by SANDAG, they are recommended for use in Escondido.

***Net Increase in Total Area VMT for Regional Retail Projects:*** For regional retail projects, the OPR Technical Advisory recommends a metric of any net increase in total area VMT. Total area VMT is measured for a set

<sup>1</sup> <https://sandag.maps.arcgis.com/apps/webappviewer/index.html?id=5b4af92bc0dd4b7babbce21a7423402a>

geography which can be defined by the City or set on a project-by-project basis. The geography could be set as the region, the City, the market area to be served by the retail project, or a different geography. Our consultant suggests keeping this flexible in the guidelines to be applied based on the general market area of the project.

Other Metric Options (provided as information but not recommended at this time)

An additional metric that has been used by some agencies -- VMT/service population -- was presented for consideration. The VMT/Service Population metric is established by dividing the total VMT generated by a particular geographic area, divided by the population plus employment of that geographic area. Since this metric combines VMT for residents and employees and reflects how accessible all land uses are (for example, geographies with higher density, more shopping, and more jobs will have lower VMT/Service Population) it can be used to evaluate residential and employment projects.

Despite this benefit, VMT/Service Population has drawbacks such as producing unusual results for single-use projects (or projects dominated by a single land use). It is also not supported by SANDAG, is not included in the San Diego Section ITE Regional Guidelines, and was not recommended in the OPR Technical Advisory (OPR has indicated that they are not supportive of the VMT/service population metric). Therefore, this option will not be included in the City's guidelines.

## **2. Threshold Options**

Building on the metric options presented above, the next step is to determine how these metrics are applied. Establishing thresholds is required by the new statutes added by SB 743, as well as traditional guidance contained in CEQA Guidelines Section 15064.7 and new language proposed as part of the *Updated CEQA Guidelines* (2019).

Based on the OPR Technical Advisory and consistency with other San Diego region jurisdictions, staff recommends that significance thresholds for Escondido be established by project type (residential, employment, and retail). The following summarizes the OPR Technical Advisory recommendations:

- Residential Uses Threshold Options: 15% below either the Regional **or** Citywide Average VMT/Capita.
  - The following VMT/Capita averages are produced by the SANDAG ABM 2 model<sup>2</sup>:
    - VMT/Capita Regional Average: 19.0
      - Threshold Based on Regional Average: 16.2
    - VMT/Capita Escondido Average: 17.2
      - Threshold Based on Citywide Average: 14.6
  - Staff recommendation: Residential Uses Threshold: 15% below Regional Average VMT/Capita. In surveying local agencies in the region, it was determined that the Regional Average was selected by nearly all agencies, except for the County, which created its own evaluation method. Given Escondido's diverse geography and its mix of urban, suburban and rural areas, the Regional Average is most appropriate.
- Employment Uses Threshold Options: 15% below the Regional **or** Citywide Average VMT/Employee.
  - The SANDAG ABM 2 2016 VMT/Employee Regional Average is: 27.2

<sup>2</sup> <https://sandag.maps.arcgis.com/apps/webappviewer/index.html?id=5b4af92bc0dd4b7babbce21a7423402a>

## Attachment 2

- For informational purposes, the SANDAG ABM 2 2016 VMT/Employee Citywide Average for Escondido is: 26.0
- Staff recommendation: 15% below the Regional Average VMT/Employee. Again, the majority of local agencies in the region selected the Regional Average.
- Retail Uses Threshold: Use of the net increase in total “area” VMT, with area defined on a project by project basis. (Recommended by staff)
- Industrial Employment Threshold:
  - Staff recommends one deviation from the thresholds recommended in the OPR Technical Advisory -- related to industrial employment (since OPR does not include a category for Industrial Employment). Purely industrial employment uses are desired to be located in less VMT efficient, higher VMT areas in the City of Escondido. Placing these land intensive uses in areas with less efficient VMT allows land in efficient VMT areas to be more effectively utilized as high density residential and commercial uses. This will encourage lower VMT-generating industrial uses to develop in locations appropriate for industrial uses, leaving infill and more VMT efficient areas available for more dense uses. Chula Vista, Oceanside, Carlsbad, and the City of San Diego have all set the threshold for industrial employment at the average VMT (instead of 15% below).
  - Staff recommendation: Industrial Employment Threshold At or Below Regional Average

**Table 1** provides recommended thresholds for projects in Escondido. These are generally consistent with the OPR Technical Advisory and other local agencies.

**Table 1: Recommended Thresholds**

Land Use	Thresholds
Residential	15% below the Regional Average VMT/Capita
Employment	15% below the Regional Average VMT/Employee
Regional Retail	Any increase in total Regional VMT
Industrial Employment	At or below Regional Average VMT
Regional Public & Recreational Facilities	Any increase in total Regional VMT

### **3. Screening Criteria**

Screening procedures allow jurisdictions to quickly determine whether projects can be presumed to have a less-than-significant VMT impact, and therefore do not need to conduct CEQA-related VMT transportation analysis. The OPR Technical Advisory provides recommendations for screening criteria based on research. OPR suggests the following types of projects can be presumed to have a less-than-significant transportation VMT impact:

- Low VMT Generating Area
- Small Project (<110 Daily Trips)
- Locally Serving Retail (<50,000 sf)
- Near Major/High-Quality Transit

- Infill Affordable Housing

If one of the screening criteria is met, then the project can be presumed to have a less than significant transportation VMT impact. The following sections describe each screening criteria.

Maps are used to display the locations within a region that are VMT efficient. SANDAG has produced maps<sup>3</sup> for the SANDAG Region using the Series 14, Activity-Based Model 2 (ABM 2), base year travel demand model for both VMT/Capita and VMT/Employee. These maps display data for each census tract. Census tracts are geographic units that are used to organize demographic and other data collected by the U.S. Census Bureau. Census tracts are used frequently for general planning purposes and are larger geographic areas than transportation analysis zones (TAZs) and provide less variation in VMT information. Some jurisdictions in the region have opted to display data for each TAZ. TAZs are usually used in travel demand forecasting. When data is extracted from the SANDAG model, the data is presented at the TAZ level. TAZs are smaller geographic areas than census tracts and for this reason, provide a more fine-grained view of VMT efficiency within the City. The City of Escondido includes 34 census tracts and 250 TAZs.

The City has a choice of whether to display data at a census tract or TAZ level. To aid in the decision, maps were provided that displayed VMT/Capita and VMT/Employee by census tract and TAZ. The following VMT efficiency maps are provided in the attachments:

- Figure 1: 2016 VMT/Capita by Census Tract compared to the Regional Average
- Figure 5: 2016 VMT/Capita by TAZ compared to the Regional Average

**Table 2: Pros and Cons of Displaying VMT Data by Census Tract vs. TAZ**

<i>Option1: Displaying VMT Data Census Tract Level Data</i>	
<b>PROS</b>	<b>CONS</b>
<ul style="list-style-type: none"> <li>• Maintains consistency with the geographic unit that SANDAG is using to display VMT data.</li> <li>• Provides a familiar geographical unit for project applicants.</li> <li>• Census tracts are large enough to “smooth” out the data. TAZs that have limited land use data must be eliminated (or combined with other TAZs) to provide reasonable results.</li> </ul>	<ul style="list-style-type: none"> <li>• Specificity of the data is reduced when amalgamated at a larger scale.</li> </ul>
<i>Option2: TAZ Level Data</i>	
<b>PROS</b>	<b>CONS</b>
<ul style="list-style-type: none"> <li>• Maintains consistency with the geographic unit that data is presented at when first extracted from the SANDAG model.</li> <li>• Provides location-specific information (greater specificity) than at the census tract.</li> </ul>	<ul style="list-style-type: none"> <li>• TAZs that have limited land use data must be eliminated (or combined with other TAZs) to provide reasonable results.</li> <li>• SANDAG is using the census tract level to display information, therefore, TAZ level maps would need to be created for the City when the SANDAG model is updated.</li> </ul>

Staff recommendation: Utilize Census Tract, but allow TAZ as an unpublished option should a developer provide support that the Census Tract data is not representative of the project area.

<sup>3</sup> <https://sandag.maps.arcgis.com/apps/webappviewer/index.html?id=5b4af92bc0dd4b7babbce21a7423402a>

### **Low VMT Generating Area (VMT Efficient Area Screening Maps)**

Residential and office projects, for example, that are located within a low VMT generating area may be presumed to have a less-than-significant impact absent substantial evidence to the contrary.

### **Small Projects**

The OPR Technical Advisory recommends that a small project is defined as generating 110 daily trips or less. This value was determined by OPR using the ITE Trip Generation manual for office land uses. In CEQA, it is possible to qualify for a categorical exemption for building additions of up to 10,000 square feet. Therefore, OPR identified a small project as a 10,000 square foot office building and determined that on average, using the ITE Trip Generation rates, an office building of that size would generate 110 daily trips. For context, projects generating less than 110 daily vehicle trips corresponds to the following “typical” development potentials:

- 11 single family housing units
- 16 multi-family, condominiums, or townhouse housing units
- 10,000 sq. ft. of office
- 15,000 sq. ft. of light industrial<sup>4</sup>
- The County of San Diego and Carlsbad are both using 110 or less daily trips to define a small project.

Other jurisdictions in the San Diego region have used the same process for determining the definition of a small project as OPR, but utilized region or city-specific trip generation rates. For example:

- City of San Diego: Small project is 300 or less daily trips. This was developed based on a 10,000 square foot office building, but using the City of San Diego’s city-specific trip generation rates.
- City of Chula Vista: Small project is 200 or less daily trips. This was developed based on a 10,000 square foot office building, but using the SANDAG (Not So Brief) Guide Trip Generation Rates.
- The San Diego ITE Regional Guidelines suggest using either 200 daily trips or less, OR 500/1,000 daily trips or less depending on inconsistent/consistent with the city’s general plan.
- The City of Escondido’s Traffic Impact Analysis Guidelines currently set the threshold for analysis at 200 ADT or greater.

For consistency with the OPR Technical Advisory, using a 10,000 square foot office building and SANDAG trip generation rationale, Staff recommends setting the small project definition at 200 daily trips.

### **Locally Serving Projects**

OPR identified local serving retail projects as being presumed to have a less-than-significant impact absent substantial evidence to the contrary. Local serving retail projects (less than 50,000 square feet) generally improve the convenience of shopping close to home and have the effect of reducing vehicle travel.

The City can define a locally serving project as 50,000 square-feet or less or can identify a different size that corresponds to locally serving with evidence to support the decision.

<sup>4</sup> Threshold may be higher depending on the tenant and the use of the site. This number was estimated using rates from ITE’s Trip Generation Manual (10<sup>th</sup> Edition).

## Attachment 2

For comparison:

- San Diego County defines a locally serving retail project as 50,000 square feet or less.
- Chula Vista defines a locally serving retail project as 125,000 square feet or less (consistent with SANDAG's community/neighborhood commercial trip generation rates). They also indicate that a market study may be required to demonstrate that the project is locally serving.
- City of San Diego defines a locally serving retail project as 100,000 square feet or less consistent with their definition of community/neighborhood commercial. They require a market study to demonstrate that the project is locally serving.

In addition to local serving retail, many agencies have also identified several public facilities and other types of land uses as locally serving. The following list summarizes land uses that other agencies have defined as locally serving:

- Local-serving K-12 schools (may or may not include private or charter schools)
- Local parks
- Local-serving retail uses less than 50,000 square feet, including:
  - Gas stations
  - Banks
  - Restaurants
  - Shopping Center
- Student housing projects on or adjacent to a college campus
- Community institutions (public libraries, fire stations, local government)

Staff Recommendation: Define a locally serving project as 50,000 square-feet or less with developer demonstration that the business is local-serving.

### **Transit Priority Area (TPA) Screening**

Projects located within a Transit Priority Area (TPA) may be presumed to have a less than significant impact absent substantial evidence to the contrary. OPR simply describes this area as ½ mile from a transit stop on a high-priority transit line (service at least every 15 minutes). The transit screening presumption may *not* be appropriate if the project:

1. Has a Floor Area Ratio (FAR) of less than 0.75;
2. Includes more parking for use by residents, customers, or employees of the project than required by the City (if the City requires the project to supply parking);
3. Is inconsistent with the applicable Sustainable Communities Strategy (as determined by the lead agency, with input from the Metropolitan Planning Organization); or
4. Replaces affordable residential units with a smaller number of moderate- or high-income residential units.

Staff Recommendation: Allow projects within a ½ mile walking distance (along a high-quality walk route) to a stop on a high-priority transit line to meet screening criteria for a less-than-significant VMT impact.

### **Active Transportation Accessibility Evaluation**

Staff recommends that all projects, including those 'screened-out,' conduct an evaluation of accessibility to destinations such as schools and transit and look for opportunities to fill gaps and improve accessibility proportionate with the project size.



Following is a summary of the staff recommendations for the City’s VMT implementation:

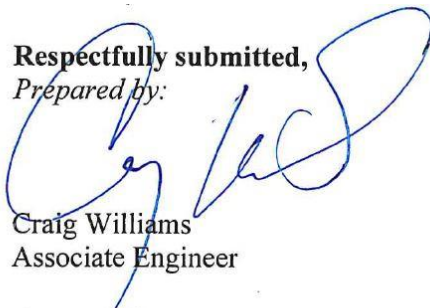
**Table 3: Summary of SB 743 Implementation for the City of Escondido**

VMT Metrics	Significance Thresholds	Screening Criteria
<ul style="list-style-type: none"> <li>• <b>Residential:</b> VMT/Capita</li> <li>• <b>Employment:</b> VMT/Employee</li> <li>• <b>Retail:</b> Change in Total Regional VMT</li> <li>• Using <b>SANDAG ABM2</b> Model</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Residential and Employment:</b> 15% below the regional average</li> <li>• <b>Industrial:</b> at or below regional average</li> <li>• <b>Retail, Public, &amp; Recreational Facilities:</b> Any increase in total area VMT.</li> </ul>	<ul style="list-style-type: none"> <li>• Projects located in efficient VMT areas</li> <li>• Locally serving retail</li> <li>• Locally serving community-purpose facility</li> <li>• Small Projects (generating 200 or fewer daily trips)</li> <li>• Redevelopment generating less VMT than the existing development</li> <li>• A Mixed-use project’s individual land uses evaluated independently</li> <li>• Project near major transit stops or high-quality transit corridors</li> </ul>

**Recommendation:** Recommend to City Council to accept Staff recommendations for VMT Methods, Thresholds and Screening Criteria.


**Necessary Commission Action:** Approval.

Respectfully submitted,  
Prepared by:



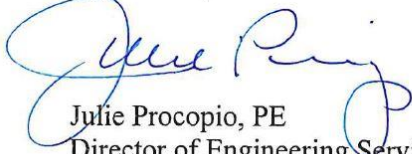
Craig Williams  
Associate Engineer

Reviewed by:



Owen Tunnell, PE  
Assistant City Engineer

Approved by:



Julie Procopio, PE  
Director of Engineering Services/City Engineer

Attachments:

- Figure 1
- Figure 5

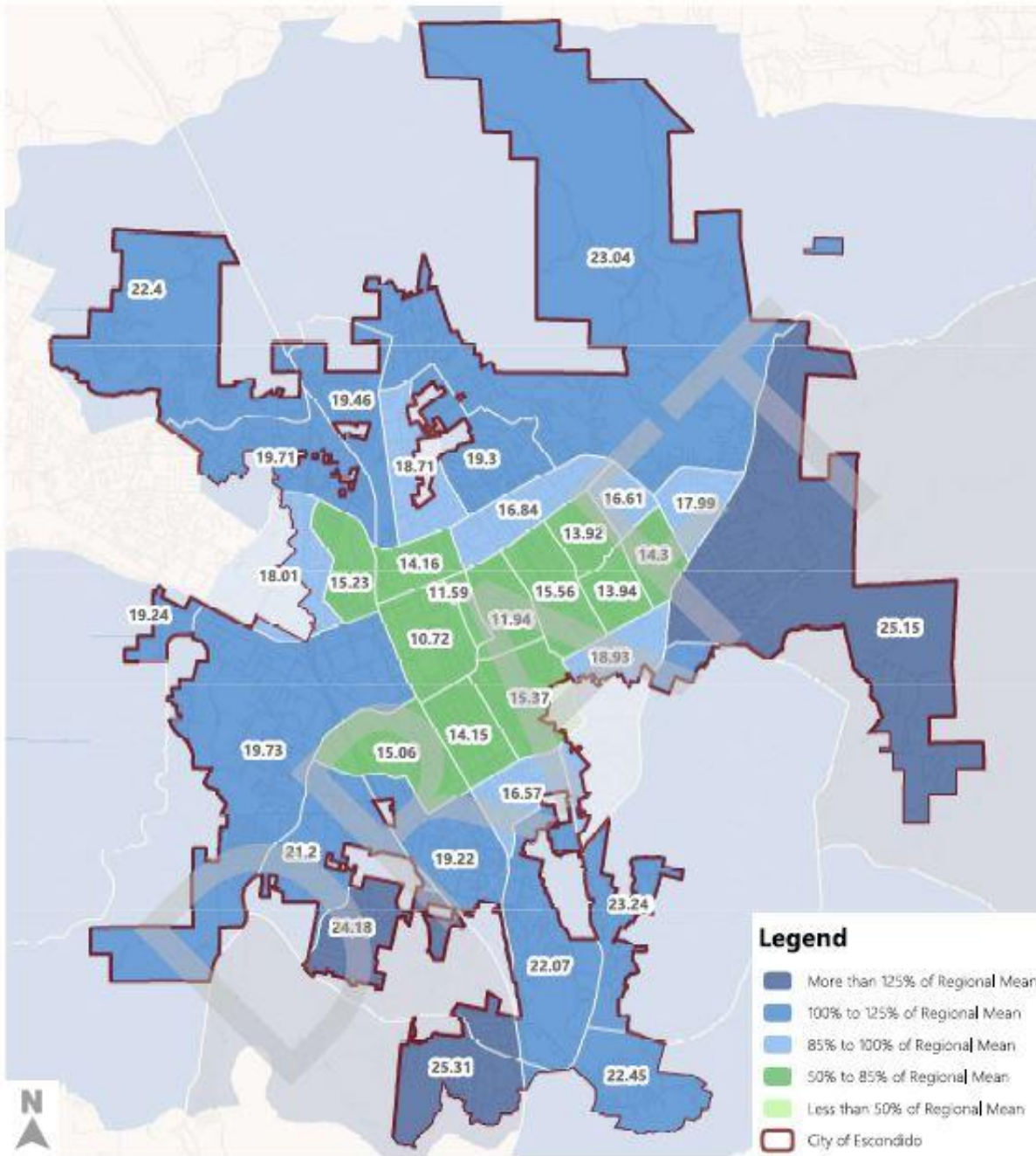


Figure 1

2016 Vehicle Miles Traveled (VMT) per Capita by Census Tract  
Comparison to Regional Average (19.0 VMT/Capita)



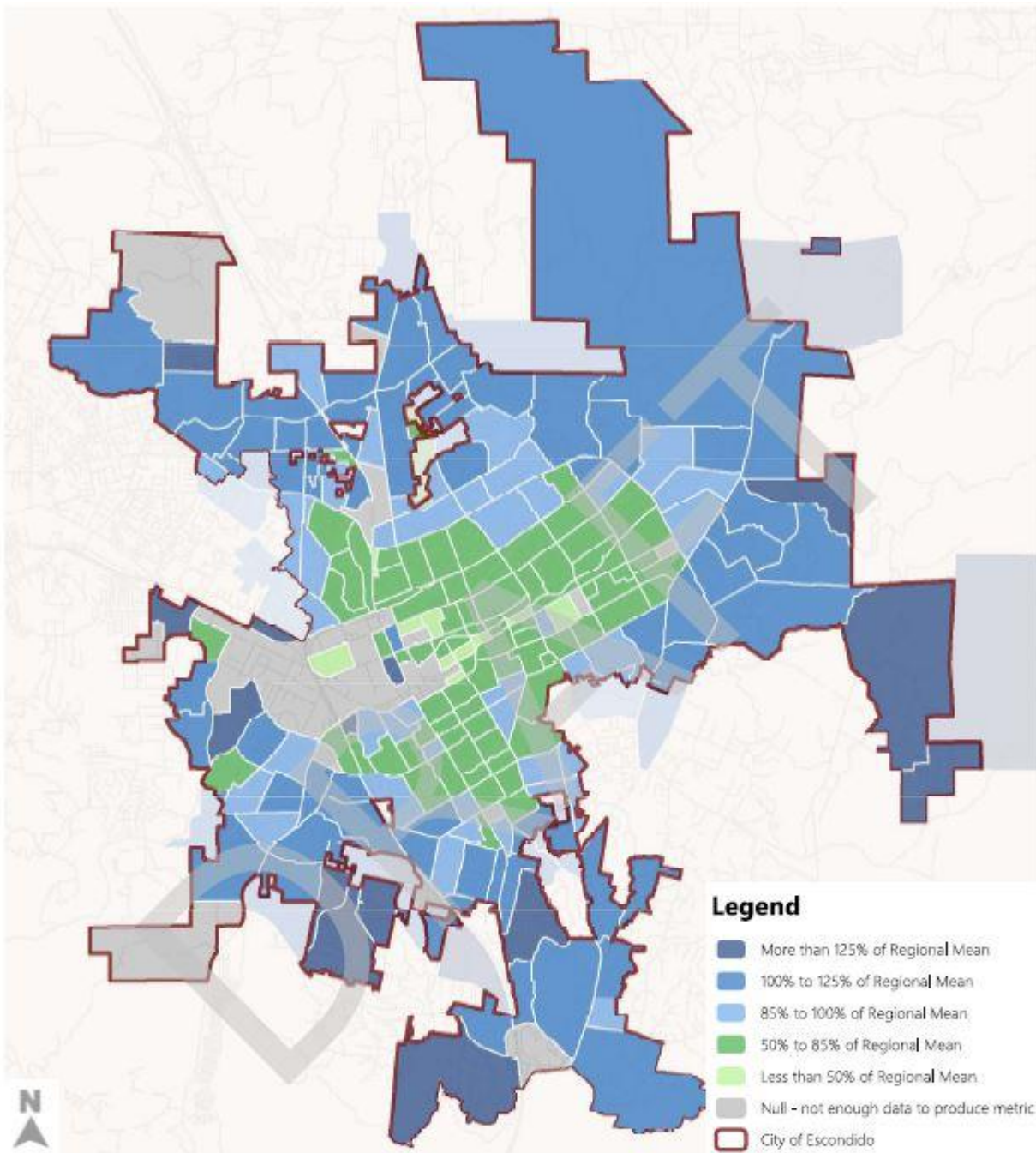


Figure 5

2016 Vehicle Miles Traveled (VMT) per Capita by TAZ  
Comparison to Regional Average (19.0 VMT/Capita)





**CITY OF ESCONDIDO**  
**TRANSPORTATION and**  
**COMMUNITY SAFETY COMMISSION**

**Commission Report of: April 8, 2021**

**Item No.: F2**

**Location: Citywide**

**Initiated By: Staff**

**Request: Approve VMT / Transportation Impact Analysis Guidelines - Recommendation to City Council**

**Background:**

In 2013, Senate Bill 743 was enacted. This bill required changes to the California Environmental Quality Act (“CEQA”) Guidelines regarding the criteria for determining the significance of transportation impacts of projects. In 2018, the Governor’s Office of Planning and Research proposed, and the California Natural Resources Agency certified and adopted, new CEQA Guidelines, which identified the metric “vehicle miles traveled” (VMT) – meaning the amount and distance of automobile travel attributable to a project – as the most appropriate metric to evaluate a project’s transportation impacts. Further, CEQA Guidelines required that lead agencies, for purposes of CEQA, evaluate the transportation impacts of a project using the VMT metric. The guidelines detailed that automobile delay, as measured by “level of service” (LOS) and other similar metrics, generally no longer constituted a significant environmental effect under CEQA.

According to the new CEQA guidelines, lead agencies, such as the City of Escondido, are required to determine the significance of all environmental effects for a project. The CEQA guidelines encourage public agencies to develop and publish generally applicable “thresholds of significance” to be used in determining the significance of a project’s environmental effects. CEQA Section 15064.7(a) defined a threshold of significance as “an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.” The guidelines (Section 15064.7(b)) requires that thresholds of significance must be adopted by ordinance, resolution, rule, or regulations, developed through a public review process, and be supported by substantial evidence.

Thus, at the January 14, 2021 Commission meeting, staff presented a brief background on the City’s progress toward updating our Transportation Impact Analysis guidelines to include VMT assessment. The Commission members were asked to review and approve a number of key metrics, thresholds of significance, and screening criteria and to recommend that the City Council approve those thresholds. A copy of that staff report is attached as reference. Following is a summary of those decision points:

**Table 3: Summary of SB 743 Implementation for the City of Escondido**

VMT Metrics	Significance Thresholds	Screening Criteria
<ul style="list-style-type: none"> <li>• <b>Residential:</b> VMT/Capita</li> <li>• <b>Employment:</b> VMT/Employee</li> <li>• <b>Retail:</b> Change in Total Regional VMT</li> <li>• Using SANDAG ABM2 Model</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Residential and Employment:</b> 15% below the regional average</li> <li>• <b>Industrial:</b> at or below regional average</li> <li>• <b>Retail, Public, &amp; Recreational Facilities:</b> Any increase in total area VMT.</li> </ul>	<ul style="list-style-type: none"> <li>• Projects located in efficient VMT areas</li> <li>• Locally serving retail</li> <li>• Locally serving community-purpose facility</li> <li>• Small Projects (generating 200 or fewer daily trips)</li> <li>• Redevelopment generating less VMT than the existing development</li> <li>• A Mixed-use project's individual land uses evaluated independently</li> <li>• Project near major transit stops or high-quality transit corridors</li> </ul>

Staff delivered those recommendations back to the consultant, Fehr & Peers, who incorporated the criteria into the guidelines and continued to build the document that is attached for review. In addition to the new VMT component to our existing TIA Guidelines, the document provides a perspective of the potential transportation impacts of land development.

The document is organized into 4 sections:

The **Introduction** provides background on SB 743, which directed changes to evaluation of CEQA (California Environmental Quality Act) projects to look at how those projects might cause more vehicle travel, rather than vehicular congestion or delay. This section reviews changes in procedures as a result of the law. This section also provides context to the SB 743 changes and related policies within the City's General Plan. It also discusses and clarifies the differences and similarities between CEQA and non-CEQA transportation analyses. Finally, this section provides an overview of the process required for analysis, including a scoping agreement, determining study requirements, conducting transportation impact analysis, submitting the analysis for review and the City's role in review and coordination.

The **Transportation Impact Analysis Initiation** section details the types of transportation studies, study requirements, including project descriptions, site plans, trip generation, trip reductions and trip distribution.

The **CEQA Requirements for Transportation VMT** chapter provides an overview of the process, metrics and methodology for calculating VMT, and VMT analysis for land use projects. This VMT section includes screening criteria for VMT analysis and thresholds of significance. This chapter also includes VMT analysis for transportation projects, as well as a discussion of VMT reduction and mitigation measures (more detail on this will be provided in the next phase of work). Finally, there is a discussion on cumulative VMT impacts.

The final chapter focuses on **Local Mobility Analysis**, which is an enhanced version of the Transportation Impact Analysis guidelines that have been in use for many years. It should be clearly noted that these requirements have not changed with the advent of VMT analysis. VMT analysis is in addition to the requirements outlined in the City General Plan. This chapter adds emphasis on active transportation, such bicycle travel, walking and transit use. In addition, an Identifying Transportation Improvements section provides focus on vehicular access as well as active transportation access, such as sidewalks and ADA curb ramps.

The Appendices provides additional detail, such as the Scoping Agreement Form, transit stops and corridors, and screening criteria, maps and threshold evidence. To address comments of the Commission, Appendix C has been provided, that lists the land use designations that are generally considered locally serving. Section

Attachment 3

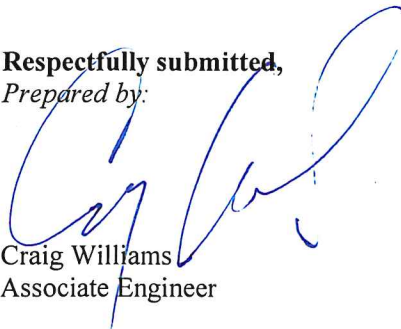
April 8, 2021  
VMT Guidelines  
Page 3 of 3

3.3 provides the threshold criteria that locally serving retail projects are generally 50,000 square feet or smaller and are expected to draw at least 75% of customers from the Escondido and the surrounding area.

**Recommendation:** Recommend to City Council to Adopt the City of Escondido Transportation Impact Analysis Guidelines.

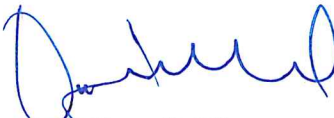
**Necessary Commission Action:** Approval.

**Respectfully submitted,**  
*Prepared by:*



Craig Williams  
Associate Engineer

*Reviewed by:*



Owen Tunnell, PE  
Assistant City Engineer

*Approved by:*



Julie Procopio, PE  
Director of Engineering Services/City Engineer

Attachments:

January 14, 2021 Commission VMT Staff Report  
City of Escondido Transportation Impact Analysis Guidelines

RESOLUTION NO. 2021-47

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
APPROVING THE UPDATED TRAFFIC  
IMPACT ANALYSIS GUIDELINES

WHEREAS, Senate Bill 743, enacted in 2013, required changes to the California Environmental Quality Act (“CEQA”) Guidelines regarding the criteria for determining the significance of transportation impacts of projects; and

WHEREAS, in 2018, the Governor’s Office of Planning and Research proposed, and the California Natural Resources Agency certified and adopted, new CEQA Guidelines section 15064.3, which identifies the metric “vehicle miles traveled” (“VMT”) – meaning the amount and distance of automobile travel attributable to a project – as the most appropriate metric to evaluate a project’s transportation impacts; and

WHEREAS, CEQA Guidelines section 15064.3 requires that lead agencies, for purposes of CEQA, evaluate the transportation impacts of a project using the metric VMT; and

WHEREAS, automobile delay, as measured by “level of service” and other similar metrics, with limited exceptions in the context of roadway capacity projects, generally no longer constitutes a significant environmental effect under CEQA; and

WHEREAS, pursuant to CEQA, lead agencies are required to determine the significance of all environmental effects for a project; and

WHEREAS, CEQA Guidelines section 15064.7 encourages public agencies to develop and publish generally applicable “thresholds of significance” to be used in determining the significance of a project’s environmental effects; and

WHEREAS, CEQA Guidelines section 15064.7(a) defines a threshold of significance as “an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant”; and

WHEREAS, CEQA Guidelines section 15064.7(b) requires that thresholds of significance must be adopted by ordinance, resolution, rule, or regulations, developed through a public review process, and be supported by substantial evidence; and

WHEREAS, The City engaged the assistance of a consultant – Fehr & Peers – to prepare VMT guidelines to supplement and update the City’s current (2014) Transportation Impact Analysis Guidelines. City staff and the Consultant developed updated Transportation Impact Analysis Guidelines with an emphasis on adding and adopting VMT Standards. This process included research on mandates and best practices, what our neighbors have elected to do with VMT, and then developing the recommended options for the City of Escondido; and

WHEREAS, Key SB 743 implementation decisions were presented to the Transportation and Community Safety Commission on January 14, 2021. The Commission recommended the following elements for approval by City Council:

1. VMT Metrics (methods of measuring VMT impacts)



2. Thresholds (limits that determine when a project may have an impact and therefore needs to provide VMT analysis)
3. Screening Criteria (which projects can be exempted from VMT analysis because of low impact)

WHEREAS, The Transportation and Community Safety Commission on April 8, 2021 recommended the updated Transportation Impact Analysis Guidelines for approval by the City Council, attached as Exhibit A; and

WHEREAS, a duly noticed public hearing was held on April 21, 2021 to receive public input on the proposed Traffic Impact Analysis Guidelines.

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

1. That the above recitations are true.
2. That the Mayor and City Council does hereby adopt the VMT Metrics, Thresholds, Screening Criteria, and updated Traffic Impact Analysis Guidelines.



# Transportation Impact Analysis Guidelines

March 30, 2021

Prepared by: FEHR & PEERS

## **Placeholder for Approval Document**

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## List of Abbreviated Terms

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ADA	Americans with Disabilities Act
ADT	average daily traffic
Caltrans	California Department of Transportation
CAPCOA	California Air Pollution Control Officers Association
CEQA	California Environmental Quality Act
City	City of Escondido
CSTDM	California Statewide Travel Demand Model
DPW	Department of Public Works
EIR	environmental impact report
FHWA	Federal Highway Administration
GHG	greenhouse gas
GPA	General Plan Amendment
HCM	Highway Capacity Manual
ICE	intersection control evaluation
ITE	Institute of Transportation Engineers
IX	internal-to-external
LMA	Local Mobility Analysis
LOS	level of service
MTS	Metropolitan Transit System
CA MUTCD	California Manual on Uniform Traffic Control Devices
MXD	mixed-use development
NCTD	North County Transit District
O-D	origin-destination
OPR	Governor's Office of Planning and Research
PCE	passenger car equivalent
PHF	peak hour factor
RTP	Regional Transportation Plan
SANDAG	San Diego Association of Governments
SB	Senate Bill

SCS	Sustainable Communities Strategy
TAZ	transportation analysis zone
TDM	transportation demand management
TIAG	Transportation Impact Analysis Guidelines
TSM	transportation system management
XI	external-to-internal
XX	external-to-external

# 1. Introduction

## 1.1 Background

Under the California Environmental Quality Act ("CEQA"), all phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation. The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency ("Lead Agency") involved. Thresholds of significance, as defined in California Environmental Quality Act Guidelines ("CEQA Guidelines") section 15064.7(a), may assist lead agencies in determining whether a project may cause a significant impact. In the past, CEQA review of a project's transportation impacts focused primarily on metrics related to vehicle delay and Level of Service ("LOS"). These analysis requirements involved a quantitative analysis to determine whether a project may have a significant impact on the roadway network pursuant to CEQA.

### **CEQA Changes**

On September 27, 2013, Governor Jerry Brown signed Senate Bill 743 ("SB 743") into law and started a process intended to fundamentally change transportation impact analysis as part of CEQA compliance. A key element of this law is the elimination of auto delay, LOS, and other similar measures of vehicular capacity or traffic congestion as a basis for determining significant impacts under CEQA. The change was to balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and the reduction of greenhouse gas emissions.

As a result, the Governor's Office of Planning and Research ("OPR") updated CEQA Guidelines to establish new criteria for determining the significance of transportation impacts. Based on feedback from the public, public agencies, and various organizations, OPR recommended that Vehicle Miles Traveled ("VMT") be the primary metric for evaluating transportation impacts under CEQA. VMT refers to the amount and distance of automobile travel attributable to a project. Pursuant to CEQA Guidelines section 15064, transportation projects that reduce, or have no impact on, vehicle miles traveled should be presumed to cause a less than significant transportation impact. Other relevant considerations may include the effects of the project on transit and non-motorized travel.

SB 743 does not prevent a city or county from continuing to analyze local mobility in terms of delay or LOS as part of other plans (e.g., general plans); studies; congestion management plans; or transportation improvement plans, but these metrics may no longer constitute the basis for CEQA transportation impacts as of July 1, 2020.

### **City General Plan Goals and Policies**

The City of Escondido's ("City's") General Plan (Adopted 2012) forms the foundation upon which all land use decisions in the City are based. The General Plan includes goals and policies that guide the City's growth, and many of these policies relate to and support the intent of SB 743. The City has also adopted



specific greenhouse gas ("GHG") reduction targets and has completed a climate action plan ("CAP") that identifies policies and programs designed to meet those targets. Among other things, approaches for reducing GHGs in the transportation sector address vehicle efficiency and low-carbon fuels, as well as measures designed to reduce annual VMT. VMT-reduction measures include alternatives to passenger vehicle travel, land use policies that incentivize compact development, and incentives and disincentives aimed at changing individual behavior through transportation demand management ("TDM") practices.

#### *SB 743-Related General Plan Policies*

The General Plan goals and policies that are most consistent with the intent of SB 743 are those regarding planned improvements, including districts that contain a mix of uses, an accessible and integrated multi-modal network, and improvements that enhance connectivity to major transit stations. For example, promoting integrated transportation and land use decisions that enhance smart growth development, requiring sidewalks along all classified streets designated on the Circulation Plan, requiring larger new developments to provide connections to existing and proposed bicycle routes, and encouraging employers to offer incentives to their employees to promote carpooling and other alternative modes are among the existing City of Escondido policies that align with SB 743.

The General Plan requires analysis of a project's impacts to roadway level of service and implementation of measures necessary to reduce impacts to level of service below specified thresholds. A Local Mobility Analysis is required for General Plan conformance and to evaluate the effects of a proposed development project on traffic operations.

## **1.2 Purpose**

The City of Escondido's goal is to achieve a safe, efficient, accessible, and sustainable transportation system that meets the needs of all users. Transportation improvements and mitigation from proposed land development projects should be consistent with City-adopted plans and policies, as well as regional and state environmental and legislative requirements. The Transportation Impact Analysis Guidelines ("TIAG") provides criteria on how projects should be evaluated for consistency related to the City's transportation goals, policies, and plans, and through procedures established under CEQA. The TIAG establishes the contents and procedures for preparing a Transportation Impact Analysis in the City of Escondido.

The purpose of the TIAG (and a Transportation Impact Analysis) is to inform land use and development decisions by providing qualitative and quantitative criteria to assess the transportation system within the vicinity of a land development project. The TIAG aids in determining appropriate mitigation under CEQA, as well as site-specific improvements to the transportation system to accommodate project traffic.

Reasons to perform a Transportation Impact Analysis:

- Provide public agencies with a mechanism for managing transportation impacts of land development projects.

- Provide applicants with transportation-related site planning recommendations.
- Provide a method for analyzing the transportation effects of development projects.
- Establish a framework for transportation mitigation measures and project conditions for land development.
- Implement CEQA and General Plan policies.

## 1.3 Objectives

The following objectives are intended to provide consistency between local, regional, and state policies in forecasting, describing, and analyzing the effects of land development on transportation and circulation for all transportation modes and users:

- Provide clear direction to applicants and consultants to better meet expectations, increase the efficiency of the review process, and minimize delays.
- Provide scoping procedures and recommendations for early coordination during the planning/discretionary phases of a land development project.
- Provide guidance in determining when, what type, and how to prepare a Transportation Impact Analysis.
- Help achieve consistency, uniformity, and accuracy in the preparation of a Transportation Impact Analysis.
- Promote quality assurance in transportation studies by agreeing to the assumptions, data requirements, study scenarios, and analysis methodologies.
- Provide consistency and equity in the identification of measures to mitigate the transportation impacts generated by land development.
- Assist City staff in developing objective recommendations and project conditions of approval as part of the land development discretionary review process.
- Help to ensure that City transportation studies are in conformance with all applicable City, region and state regulations, including legislative requirements as part of CEQA.

## 1.4 CEQA vs. Non-CEQA Transportation Analysis

The City TIAG is a comprehensive manual for both CEQA VMT analysis and discretionary/entitlement non-CEQA Local Mobility Analysis ("LMA"). The TIAG provides guidance for the two elements of transportation analyses needed to comprehensively assess the potential effects from new development to the City's roadway and mobility system.

### **CEQA Transportation Analysis (VMT Analysis)**

CEQA requires VMT analysis for compliance with state policies to evaluate a project's potential impacts related to VMT significance criteria. The VMT analysis will:

- Enable proposed development projects to comply with current CEQA requirements as a result of the implementation of SB 743.
- Outline the City's VMT significance thresholds, screening criteria, and methodology for conducting the transportation VMT analysis.
- Help determine if mitigation is required to offset a project's significant VMT impacts.
- Identify VMT reduction measures and strategies to mitigate potential impacts below a level of significance.
- Reduce the need to widen or build roads through effective use of the existing transportation network and maximizing the use of alternative modes of travel throughout the City.

### **Non-CEQA Transportation Analysis (Local Mobility Analysis)**

An LMA is required by the City of Escondido to assess transportation effects and ensure orderly development, public safety, adequate infrastructure, and consistency with the General Plan. The LMA analysis will:

- Specify the City's screening criteria, study area, and methodologies to assess the potential need for off-site operation improvements to the project study area transportation network.
- Ensure that the local transportation facilities will have sufficient capacity to accommodate the project's demand on various modes of travel, and that improvements identified by the City are constructed when needed consistent with the City's adopted standards and policies.
- Ensure consistency with transportation planning documents (such as bicycle and pedestrian planning efforts).
- Establish measures of effectiveness to maintain vehicular LOS consistent with the City's General Plan Mobility and Infrastructure Element, as may be amended from time to time.
- Facilitate site project access and roadway frontage infrastructure improvements to serve the project vicinity.
- Identify project-level design features, standards, and/or conditions appropriate to, and as applied to facilitate General Plan consistency review and make determinations on new land use development projects. General Plan consistency findings, when required by State law or by the City's Municipal or Zoning Code, shall be based upon the implementation of the recommended design features, standards, and/or conditions and be the basis to make one or more findings to disapprove, approve, or conditionally approve a land use development project application.

## **1.5 Process Overview**

The TIAG is intended for the use by City staff, project applicants, consultants, other agencies/jurisdictions, the general public, and decision makers to evaluate transportation effects of proposed land development and infrastructure projects going through the environmental or discretionary planning/entitlement processes within the jurisdiction of the City of Escondido.

The following summarizes the typical process for completing a Transportation Impact Analysis in the City of Escondido:

**Step 1 – Complete Part 1 of the Scoping Agreement:** The applicant will complete and submit a scoping agreement to City staff to determine if a Transportation Impact Analysis is required. If the project is screened out, a technical memorandum is required to document the decision, screening process, and justification for why an analysis is not required. If not screened out, the applicant must complete Part 2 of the Scoping Agreement and the project proceeds to Step 2.

**Step 2 – Determine Study Requirements:** The consultant will meet or coordinate with City staff regarding the scoping agreement items including the proposed project description, location, site plan, site access, estimated trip generation and trip distribution, study area, methodology requirements, and any other specific issues to be addressed in the Transportation Impact Analysis.

**Step 3 – Conduct Transportation Impact Analysis and Submit Draft:** The consultant will prepare the Transportation Impact Analysis consistent with the requirements established in Step 2 (and as outlined in the TIAG) and will submit a draft to the City. The City will provide written comments on the draft study. During this process, the consultant may request a meeting with City staff to clarify study requirements or comments received on the draft study.

**Step 4 – Submit Final Transportation Impact Analysis:** The consultant will address all City comments and produce a Final Transportation Impact Analysis to be approved by staff. Multiple iterations of study review may be necessary to adequately address all staff comments. It is critical that staff and the consultant coordinate closely during review process to ensure productive and efficient communications in achieving the mutual goal to finalize the Transportation Impact Analysis. A record identifying how each comment was addressed should also accompany the Final Transportation Impact Analysis. Depending on whether the Transportation Impact Analysis included a VMT analysis, the final mitigation recommendations or improvements will be in the CEQA Findings or the discretionary Conditions of Approval.

It should be noted that the City may update the TIAG on an as-needed basis to reflect the best state of practice methodologies and changes in CEQA requirements. As such, the City will continually review the TIAG for applicability and coordinate with other jurisdictions and professionals to ensure the most recent guidance and best practices are being applied for land development review and transportation analysis. Additional information regarding the applicability of the procedures outlined in this document for various project types are provided in **Chapter 2**.

The TIAG is not binding on any decision maker and should not be substituted for the use of independent professional judgment and evaluation of evidence in the record. The City also reserves the right to request further, project-specific information in its evaluation that may not be identified or described in this document.

### **City Review and Outside Agency Coordination**

Transportation Studies will be reviewed by appropriate City of Escondido staff.

If a project will affect another agency or jurisdiction, such as the California Department of Transportation ("Caltrans"), San Diego Association of Governments (SANDAG), San Diego Metropolitan Transit System (MTS), North County Transit District (NCTD), or neighboring cities, coordination with that agency or jurisdiction may be required and will be identified during the scoping process. City of Escondido staff can provide guidance and contact information for other agencies or jurisdictions.

## 2. Transportation Impact Analysis Initiation

The applicant should first complete the Transportation Impact Scoping Agreement (form in Appendix A) and coordinate with City staff to determine the Transportation Impact Analysis requirements.

### 2.1 Types of Transportation Studies

CEQA and LMA requirements should be determined separately, as CEQA VMT analysis and/or LMA may apply to any type of transportation study. The following types of transportation studies (or a combination) may be required:

- **No Transportation Analysis Required:** If CEQA does not apply to a project (e.g., is screened out or the project is ministerial) and the project meets LMA screening criteria, a Transportation Impact Analysis is not required. A technical memorandum accompanied by the completed Part 1 of the Scoping Agreement is required to document justification for why an analysis is not required.
- **Detailed CEQA VMT Analysis and LMA Required:** Transportation studies that include both a CEQA VMT analysis and LMA are required for projects that are not screened out based on the City's screening criteria.
- **LMA Only Required:** Transportation studies only require an LMA when the project meets CEQA VMT screening criteria in **Section 3.3**. The findings of the VMT screening analysis must be documented in the Transportation Impact Analysis. A technical memorandum accompanied by the completed Part 1 of the Scoping Agreement is required to document justification for why transportation CEQA analysis is not required.

### 2.2 Determining Study Requirements

#### Scoping Agreement

The consultant will prepare a Scoping Agreement (Appendix A) before coordinating with the City to ensure all information needed to determine the study requirements are compiled, including the key items outlined below.

#### Project Location

- Project location and vicinity map
- Zoning and General Plan land use designation of the project site (to demonstrate consistency)

## Detailed Project Description

- Land uses and intensities.
- Gross and developable acreage or building square footage or number of proposed residential units.
- Number of parking spaces: vehicle (including accessible spaces), bicycle (racks and secure storage), motorcycle, and electric vehicle (EV).

## Site Plan

- Driveway locations and access type (e.g., full access, partial access, right in/out only).
- Pedestrian access, bicycle access, and on-site pedestrian circulation.
- Location/distance of nearest existing transit stop (measure as walking distance to project entrance/or middle of parcel).
- Location of any planned sidewalks or bikeways identified in the Bicycle Master Plan and other City planning documents within ¼ mile of the project location.

## Trip Generation

The consultant should identify the number of new daily and peak hour driveway vehicle-trips added by the project as described in this section.

Trip generation rates are commonly expressed in trips per unit of development – for example, trips per housing unit or trips per thousand square feet – and are derived by averaging trip generation data collected from existing land uses.

For the City of Escondido, the following trip generation sources should be used:

- The current version of SANDAG's *(Not So) Brief Guide of Vehicle Traffic Generation Rates for the San Diego Region*. The SANDAG guide provides average trip generation rates for a wide variety of land use categories.
- If the proposed use is not included in SANDAG's *(Not So) Brief Guide of Vehicle Traffic Generation Rates for the San Diego Region*, City staff, at their sole discretion, may consider an applicable rate published by the Institute of Transportation Engineers ("ITE") in the most recent edition of the *ITE Trip Generation Manual*.
- Where uses are not included in either the SANDAG or ITE documents, trip generation should be derived from locally observed data that includes trip generation samples from at least three similar facilities at the City's discretion. The facilities selected as samples, and the timing and methods of data collection, must be approved by City staff prior to data collection.
- For existing facilities that are being expanded, trip generation should be determined by surveying the existing use to generate a project-specific trip generation rate. The survey of the existing use should be conducted using driveway counts or SANDAG/ITE published rates at the City's discretion.

- The most detailed project information should be used to determine a project's trip generation estimate. For example, if the project's building square footage and the project acreage are both known, the building square footage is more detailed; therefore, it should be used to estimate the trip generation.

## **Trip Reductions**

Reasonable reductions to trip rates may also be considered, including the following (as shown on the trip generation process shown on **Figure 1**):

### *Internal Capture*

For mixed-use development projects, it is appropriate to estimate the interaction between the project uses. For example, for a project that has retail, residential, and office uses, with compatible supporting land uses within a ¼ mile walking distance, trip reductions may be used. Most trip generation data is for stand-alone, single land uses and does not account for the interaction between land uses for a mixed-use development project.

Trip internalization for mixed-use developments (if applicable) should be calculated using state of the practice methodologies. The *ITE Trip Generation Handbook* provides a procedure for calculating internal trips for mixed-use projects. SANDAG's mixed-use trip generation or ("MXD") methodology may also be considered. The consultant may also propose a method for determining adjustments to trip generation for mixed-use projects, with approval from City staff.

Trip generation adjustments to account for internal capture should be applied to the raw trip generation calculated for each land use.

### *Alternative Modes*

Most trip generation data is based on suburban locations with primarily auto trips. Transit, bicycling, and walking is not generally captured in the trip generation data. For projects that will have alternative modes, transit use, bicycling, and walking may be specifically acknowledged to reduce the trip generation (after the internal capture step) with proper justification and subject to the approval of City staff.

Accounting for alternative modes includes considerations for project proposed (or required) TDM measures. Consultant should propose the alternative modes reduction factor for the project to be reviewed and approved by City staff.

SANDAG trip reduction factors may also be considered for developments within ¼ mile walking distance to a local transit station.

### *Pass-By & Diverted Trips*

Properly estimating the number of pass-by trips is important because even though pass-by trips do not add extra trips to the surrounding roadway system, such trips impact the traffic at the driveways and all the turning movements expected at these driveways. The percentage of pass-by and diverted link trips



should be estimated based on data provided by ITE or actual surveys of similar land uses. The pass-by reduction should not exceed 10% of the adjacent street volume.

Typically, pass-by trips will not be added to the study intersections (except for accounting for them at project driveways). Typically, diverted link trips are added to all study intersections along with the net new project trips, unless there is specific justification to demonstrate where the trips are diverting from.

#### *Credit for Existing Uses*

For redevelopment projects, it may be appropriate to apply a "trip credit" to account for vehicle trips being generated by an existing use that will be redeveloped. Traffic counts should be performed to determine the appropriate trip credit. The "trip credit" should be applied after internal capture and alternative modes are accounted for. The existing use should be operating at the time of data collection or be in operation within the last six months prior to submitting discretionary permits as demonstrated to the satisfaction of the City Engineer.

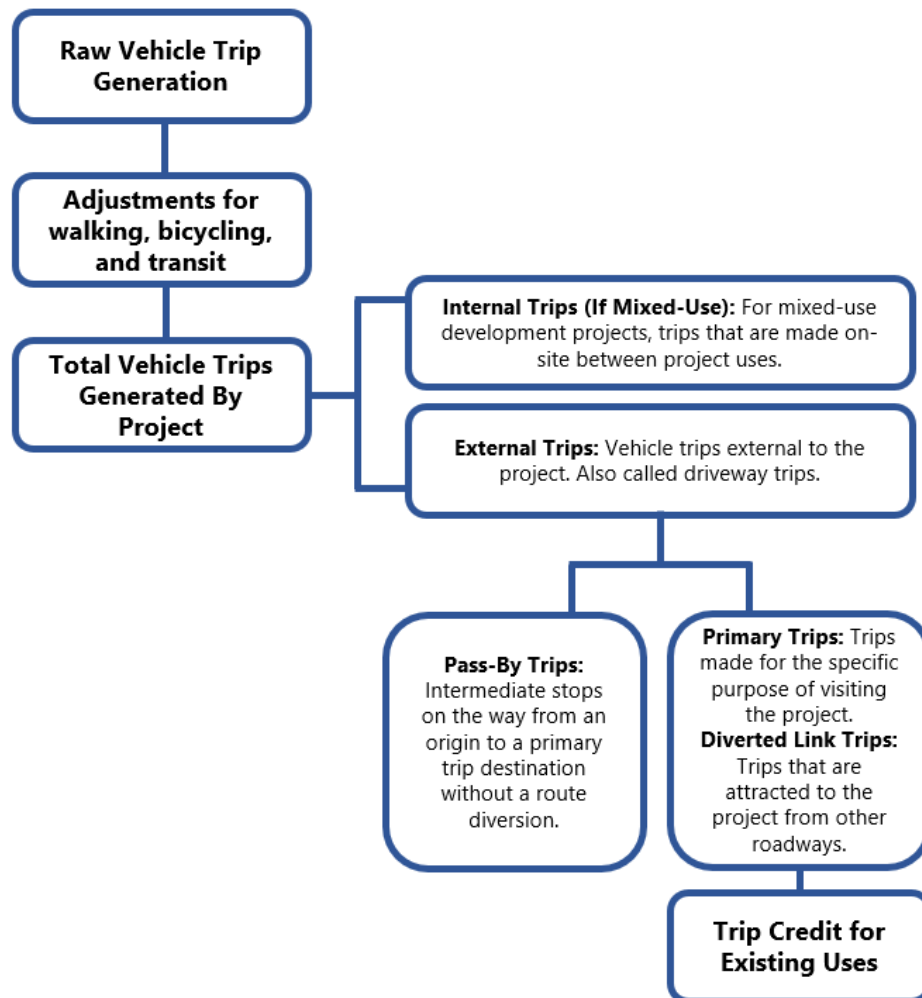
#### *Truck Traffic*

For projects that anticipate the generation of significant truck traffic (typically a project that estimates that truck traffic will account for 25% or more of the total project trip generation), all truck trips should be converted to passenger car equivalents ("PCE") for the capacity analysis. Typically, the PCE factor that should be applied is 2.5 passenger cars for each truck trip.

#### *Other Jurisdictions*

Caltrans or adjacent jurisdictions may use different trip reduction rates. Early consultation with reviewing agencies is strongly recommended.

Figure 1: Trip Generation Calculation Process



## Trip Distribution

The following describes the procedure for assigning project trips to the roadway network. Trip distribution can be determined from zip code data, census data, market research, travel demand models, existing travel patterns, or the locations of complementary land uses. Trip distribution assumptions should be consistent for developments of the same use in the same areas. Trip distribution for the City of Escondido can be estimated using two methods:

- Manual estimation using existing traffic volumes, location of complementary land uses, and engineering judgement. The trip distribution should be clearly communicated on a map that shows the percent of project traffic on each roadway in the vicinity of the project site. Manual estimation is generally appropriate for projects that generate fewer than 2,400 daily trips.

- Use the current version of the SANDAG Regional Travel Demand Model to perform a select zone analysis. The SANDAG Regional Travel Demand Model should generally be used to determine the trip distribution for projects that generate 2,400 or greater daily trips.

# 3. CEQA Requirements for Transportation VMT

## 3.1 Overview

SB 743 changes the focus of transportation impact analysis in CEQA from measuring impacts to drivers, to measuring the impact of driving. The change is being made by replacing LOS with VMT and providing streamlined review of land use and transportation projects that will help reduce future VMT growth. This shift in transportation impact focus is expected to better align transportation impact analysis and mitigation outcomes with the State's goals to reduce GHG emissions, encourage infill development, and improve public health through more active transportation.

In January 2019, the Natural Resources Agency finalized updates to the CEQA Guidelines including the incorporation of SB 743 modifications. The OPR published its latest Technical Advisory on Evaluating Transportation Impacts in CEQA to the California Natural Resources Agency in December 2018. This Technical Advisory provides recommendations on how to evaluate transportation impacts under SB 743. These changes include elimination of auto delay, LOS, and other similar measures of vehicular capacity or traffic congestion as a basis for determining significant CEQA transportation impacts. The OPR guidance recommends the use of VMT as the preferred CEQA transportation metric. To comply with the new legislation, the City of Escondido has identified VMT analysis methodology, establishment of VMT thresholds for CEQA transportation impacts, and identification of possible mitigation strategies. SB 743 includes the following two legislative intent statements:

1. Ensure that the environmental impacts of traffic, such as noise, air pollution, and safety concerns, continue to be properly addressed and mitigated through the California Environmental Quality Act.
2. More appropriately balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of GHG emissions.

VMT is a metric that accounts for the number of vehicle trips generated and the length or distance of those trips. VMT does not directly measure traffic operations but instead is a measure of network use or efficiency, especially if expressed as a function of population or employment (e.g., VMT/capita). VMT tends to increase as land use density decreases and travel becomes more reliant on the use of the automobile due to the long distances between origins and destinations. VMT can also serve as a proxy for impacts related to energy use, air pollution emissions, GHG emissions, safety, and roadway maintenance. The relationship between VMT and energy or emissions is based on fuel consumption. The traditional use of VMT in environmental impact analysis is to estimate mobile air pollution emissions, GHGs, and energy consumption.

## 3.2 Metrics and Methodology for Calculating VMT

In general, transportation VMT analysis for CEQA should be conducted using the SANDAG Regional Travel Demand Model. The model outputs can be used to produce VMT/capita, VMT/employee, and Total VMT.

There may be special circumstances under which other tools and techniques should be used to perform VMT analysis. There are some unique land uses that are not appropriately modeled using the SANDAG model, such as uses that have the majority of their activity on the weekends (the SANDAG Model produces weekday results). The applicant's consultant should coordinate with City staff if a VMT estimate tool other than the SANDAG Model is proposed for use.

### Summary of Metrics by Project Type

The following summarizes the appropriate metric for various types of projects. Detailed definitions of the metrics follow.

- **Residential:** VMT/capita
- **General Employment:** VMT/employee
- **Industrial Employment:** VMT/employee
- **Regional Retail, Regional Recreational, or Regional Public Facilities:** Change in total VMT (using the boundary method)
- **Mixed-Use:** Each project component evaluated per the appropriate metric based on land use type (e.g., residential, employment, and retail)
- **Transportation Project:** Change in total VMT (using the boundary method)
- Unique circumstances may require alternate metrics

### VMT per Capita

VMT/capita is established by summing up total daily VMT generated by residents of a geographic area and dividing by the population of that geographic area. Total daily VMT includes all trip tours made by residents: home-based and non-home-based trip tours (i.e., all VMT for a resident for the entire day regardless of trip purpose or origin/destination).

To analyze the VMT/capita for a proposed project, total daily VMT generated by project residents is divided by the project resident population.

SANDAG has a procedure to produce VMT/capita; however, the SANDAG procedure to produce this metric only includes VMT generated within the SANDAG region by residents of the SANDAG region. If a project is expected to produce consistent travel outside of the SANDAG region, the VMT outside of the regional should be included in the analysis. To account for VMT generated by residents of the SANDAG region traveling outside of the region, the SANDAG model data should be appended with the VMT that occurs by SANDAG region residents outside of the region. The steps necessary to include VMT from all trips that enter or exit the SANDAG region are explained in the Trip Length Adjustment in Appendix G.

## **VMT per Employee**

VMT/employee is established by summing the total daily VMT generated by resident employees<sup>1</sup> of a geographic area and dividing by the number of employees of that geographic area. Total daily VMT includes all trip tours made by employees, not just work-related trips (i.e., all VMT for a resident for the entire day regardless of trip purpose or origin/destination). Employees whose work location is specified as home are not included in the calculations. To analyze the VMT/employee for a proposed project, the total daily VMT produced by the project's employees is divided by the total number of employees.

The procedure developed by SANDAG to calculate VMT/employee by TAZ only accounts for VMT generated within the SANDAG region by employees who are also residents of the SANDAG region. Employees that live outside of the region and travel into the SANDAG region for work are not accounted for because of the nature of the calculation.

## **Total VMT**

Total VMT can be calculated by either of two methods – the Boundary Method or the Origin-Destination Method.

### *Boundary Method*

Total daily VMT (Boundary Method) within a given area can be measured by multiplying the daily volume on every roadway segment by the length of every roadway segment within the area. This is called Boundary Method VMT. Examples of Total VMT (Boundary Method) are VMT within the SANDAG region, VMT within a defined planning area, or VMT within the market area to be served by the project.

This metric is used to analyze regional retail, service, recreational, regional public facilities, and transportation infrastructure projects.

### *Origin-Destination Method*

Total daily VMT (Origin-Destination Method) within a given area can be calculated directly from model outputs by multiplying the origin-destination (O-D) trip matrix by the final assignment skims (O-D Method VMT). The total VMT value should be appended to include VMT from all trips that enter or exit the SANDAG region.

This metric is used to evaluate a regional project if that project is expected to draw trips from outside the region (e.g., an amusement park).

## **Other VMT Metrics**

There may be circumstances where other types of VMT metrics may be appropriate, such as projects that draw people from outside of the SANDAG region. One of these is the VMT/service population metric. VMT/service population is established by dividing the total VMT with at least one trip end in a geographic

<sup>1</sup> Resident employees both live and work in the SANDAG region.

area by the population plus employment of that geographic area. The total VMT includes all internal VMT, internal-to-external, and external-to-internal VMT (i.e., all VMT regardless of geographic boundaries). Since this metric combines VMT for residents and employees and reflects how accessible all land uses are (e.g., geographies with higher density, more shopping, and more jobs will have lower VMT/service population) it can be useful to understand a variety of project types. To analyze the VMT/service population for a proposed project, the project's total VMT (using the origin-destination method) is divided by the project population plus employment. Use of an alternate metric, such as VMT/service population, should be used only when standard metrics are not applicable and after coordinating with City staff in advance.

### **Trip Length Adjustments**

Trip length adjustments for trips leaving the SANDAG Model Area can be made by using the California Statewide Travel Demand Model (CSTDm). Information on adjusting trip lengths is provided in Appendix G.

## **3.3 VMT Analysis for Land Use Projects**

### **Screening Criteria for CEQA VMT Analysis**

The requirements to prepare a detailed transportation VMT analysis apply to all land development projects, except those that meet at least one of the screening criteria. A project that meets at least one of the screening criteria below would be presumed to have a less than significant VMT impact due to project characteristics and/or location.

Projects screened out shall still evaluate connectivity to existing sidewalks on adjacent key land uses (e.g., schools for residential projects, transit for employment uses) and propose improvements to address connectivity gaps in a manner proportionate to the project size and demand.

#### *1. Small Residential and Employment Projects*

Projects generating 200 or fewer net new daily vehicle trips may be presumed to have a less-than-significant impact absent substantial evidence to the contrary. Trips are based on the number of vehicle trips calculated using SANDAG's *(Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region* or ITE trip generation rates with any alternative modes/location-based adjustments applied.

#### *2. Projects Located in a Transit-Accessible Area*

Projects located within a half-mile walking distance of an existing major transit stop or an existing stop along a high-quality transit corridor<sup>2</sup> may be presumed to have a less-than-significant impact absent substantial evidence to the contrary. Distance to transit should be determined along an ADA-accessible

<sup>2</sup> Major transit stop: a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. High quality transit corridor: a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute periods.

path of travel, not "as the crow flies" measurements. Note that SPRINTER Light Rail stations are considered major transit stops. A map of existing major transit stops and existing stops along high-quality transit corridors is provided in **Appendix B**.

The presumption of a less-than-significant impact near these transit stops may **not** be appropriate if the project:

- Has a Floor Area Ratio of less than 0.75
- Includes more parking for use by residents, customers, or employees of the project than required by the City
- Is inconsistent with SANDAG's most recent Sustainable Communities Strategy or the land use growth assumption accommodated by the Land Use Element portion of the General Plan
- Replaces affordable residential units with a smaller number of moderate- or high-income residential units
- Does not have basic walking and biking access to transit (e.g., sidewalks connecting to transit stops)

### 3. *Projects in a VMT-Efficient Area*

A VMT-efficient area is any area within the City with an average VMT/capita or VMT/employee below the thresholds as compared to the baseline regional average for the census tract it is located within, as provided on the SANDAG website.<sup>3</sup>

**Residential projects** located within a VMT-efficient area may be presumed to have a less-than-significant impact absent substantial evidence to the contrary. A VMT-efficient area for residential projects is any area with an average VMT/capita 15% below the baseline regional average for the census tract it is located within.

**Employment projects** located within a VMT-efficient area may be presumed to have a less-than-significant impact absent substantial evidence to the contrary. A VMT-efficient area for employment projects (excluding industrial employment projects) is any area with an average VMT/employee 15% below the baseline regional average for the census tract it is located within.

<sup>3</sup> The VMT/Capita and VMT/Employee screening maps are created using information from the current version of the SANDAG model at the time a project notice of preparation (NOP) is produced. The current web address is: <https://sandag.maps.arcgis.com/apps/webappviewer/index.html?id=5b4af92bc0dd4b7babbce21a7423402a>. As SANDAG updates the model to reflect development and planning throughout the region, the screening maps will be updated and may change resulting in development that may have at one time been screened to no longer be screened and vice versa. As the model is updated, earlier versions of the model will also cease to be supported by SANDAG, meaning that model runs can no longer be completed with the previous versions of the model. If a project begins the transportation study process using one version of the model that becomes unsupported during the process, the project can utilize model outputs from the older model version, as long as no additional modeling work will be done. Projects cannot complete their transportation analysis using multiple model versions.



**Industrial Employment projects** located within a VMT-efficient area may be presumed to have a less-than-significant impact absent substantial evidence to the contrary. A VMT-efficient area for industrial employment projects is any area with an average VMT/employee at or below the baseline regional average for the census tract it is located within.

**Mixed-Use projects** located within a VMT-efficient area for each of its land uses may be presumed to have a less-than-significant impact absent substantial evidence to the contrary. Refer to the appropriate section for each land use included as a part of the mixed-use project to determine the definition of a VMT-efficient area for each land use.

#### *4. Locally-Serving Retail Projects*

Local serving retail projects less than 50,000 square feet that are expected to draw at least 75% of customers from the local area (based on a market study and/or qualitative information provided by the applicant) may be presumed to have a less than significant impact absent substantial evidence to the contrary. Local serving retail generally improves the convenience of shopping close to home and has the effect of reducing vehicle travel.

#### *5. Locally-Serving Public Facilities*

Public facilities that serve the surrounding community or public facilities that are passive use may be presumed to have a less-than-significant impact absent substantial evidence to the contrary. The following are considered locally serving facilities:

- Transit centers
- Public schools
- Libraries
- Post offices
- Park-and-ride lots
- Police and fire facilities
- Parks and trailheads
- Government offices
- Passive public uses, including communication and utility buildings, water sanitation, and waste management
- Other public uses as shown in **Appendix C** or determined by City staff

#### *6. Redevelopment Projects with Lower Total VMT*

A redevelopment project may be presumed to have a less-than-significant impact absent substantial evidence to the contrary if the proposed project's total project VMT is less than the existing land use's total VMT and the CEQA action includes closing the existing land use.

For projects that meet one of the screening criteria for CEQA VMT analysis, a detailed VMT analysis is not necessary. The Transportation Impact Analysis must include a technical memorandum to document the screening process and findings, including attaching screening maps, market studies, evaluation of sidewalk gaps and proposed improvements, or other relevant supporting data. Additionally, the Transportation Impact Analysis must include a conclusion that the transportation impact is presumed to be less than significant in accordance with criterion b, Section XVII of *Appendix G* to the CEQA Guidelines.

### **VMT Thresholds of Significance**

Projects that do not meet the above screening criteria must include a detailed evaluation of the VMT produced by the project. The significant thresholds and specific VMT metrics used to measure VMT are described by land use type below.

- **Residential:** 15% below regional average VMT/capita
- **Employment:** 15% below regional average VMT/employee
- **Industrial Employment:** At or below regional average VMT/employee
- **Mixed-Use:** Each project component evaluated per the appropriate metric based on land use type (e.g., residential, employment, and retail)
- **Regional Retail, Regional Recreational, or Regional Public Facilities:** A net increase in total regional VMT using the boundary method

**Appendix C** provides a list of unique project types and which land use category is appropriate for VMT analysis purposes.

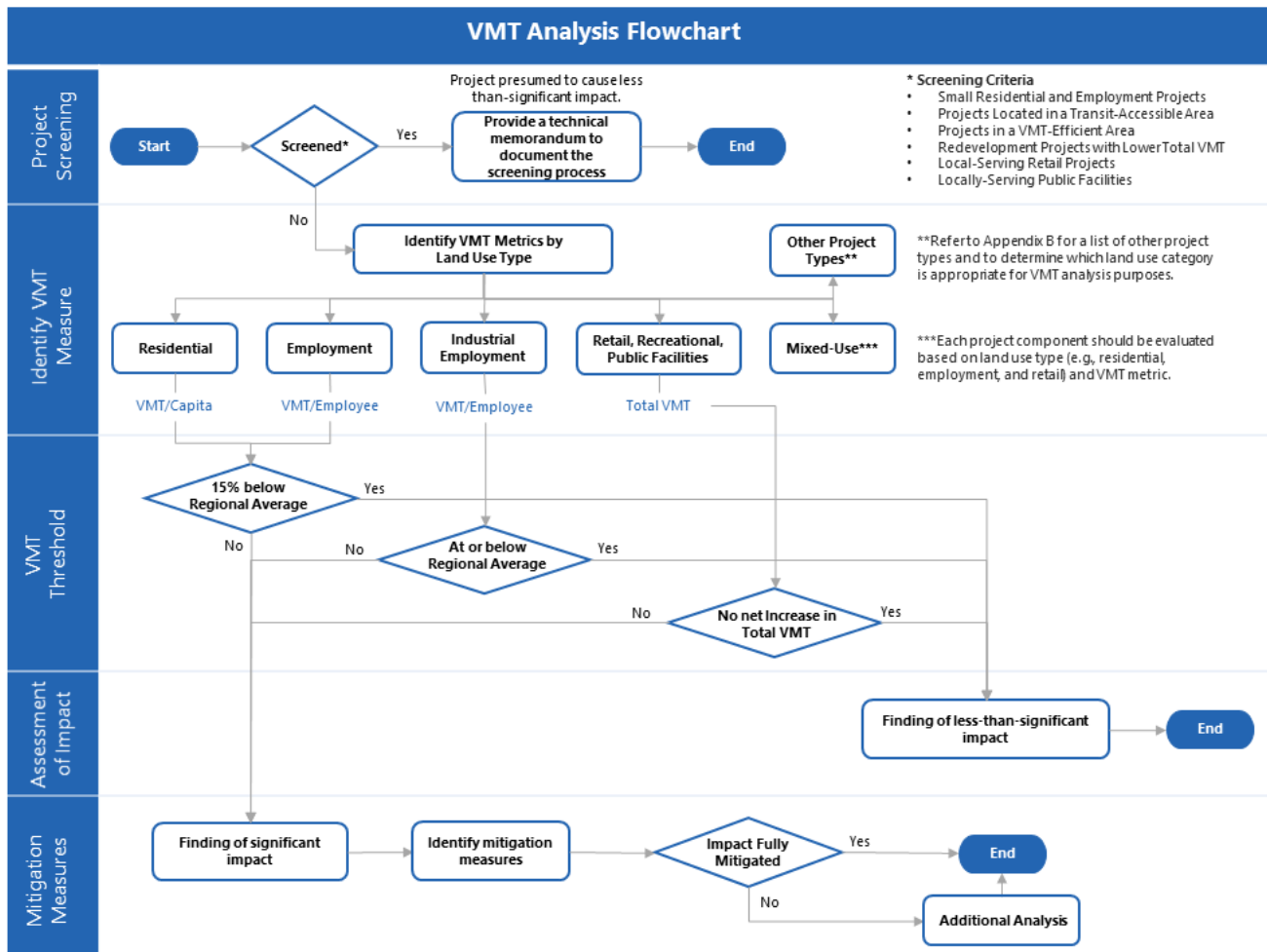
**Specific Plans or General Plan Amendments:** The land use plan should be compared to the region overall. Comparison to the region is appropriate because large land use plans can have an effect on regional VMT (akin to how a regional retail project affects regional VMT). The significance thresholds described above apply to specific plans or General Plan Amendments. In addition, plan buildout/cumulative analysis is needed.

Additional information regarding the significance thresholds presented here is provided in **Appendix D**.

### **VMT Analysis Procedures**

For projects that are not screened and must provide a detailed evaluation of the VMT produced by the project, guidance is provided below on how to conduct transportation VMT analysis by project type. In addition, **Figure 2** displays the VMT analysis process.

Figure 2: VMT Analysis Process



Note that there may be unique circumstances that require use of tools/techniques other than the SANDAG Regional Travel Demand Model. Use of a tool other than the SANDAG Model should be discussed and documented with City staff in advance.

*Residential Projects*

**For projects that generate fewer than 2,400 daily unadjusted driveway trips:** Identify the location of the project on SANDAG’s VMT/capita map. The project’s VMT/capita will be considered the same as the VMT/capita of the census tract it is located in. Compare the project’s VMT/capita to the threshold to determine if the impact is significant, or input the project into the SANDAG Regional Travel Demand Model to determine the project’s VMT/capita.

**For projects that generate 2,400 or greater daily unadjusted driveway trips:** Input the project into the SANDAG Regional Travel Demand Model for SANDAG to provide the project’s VMT/capita. To perform

the analysis, all project land uses should be inputted, and the VMT/capita should be determined using the same method/scripts that SANDAG utilizes to calculate the VMT/capita metric. Note that there may be some circumstances where use of the screening maps or other sketch modeling tools are appropriate for larger projects.

#### *Employment Projects*

**For projects that generate fewer than 2,400 daily unadjusted driveway trips:** Identify the location of the project on SANDAG's VMT/employee map. The project's VMT/Employee will be considered the same as the VMT/Employee of the census tract it is located in. Alternatively, the project's VMT can be determined by inputting the project into the SANDAG Regional Travel Demand Model in the manner previously described. Compare the project's VMT/Employee to the threshold to determine if the impact is significant.

**For projects that generate 2,400 or greater daily unadjusted driveway trips:** Input the project into the SANDAG Regional Travel Demand Model to determine the project's VMT/Employee. To perform the analysis, all project land uses should be inputted, and the VMT/Employee should be determined using the same method/scripts that SANDAG utilizes to develop the VMT/Employee metric. Note that there may be some circumstances where use of the screening maps or other sketch modeling tools are appropriate for larger projects.

#### *Retail Projects*

Calculate the change to area VMT using the SANDAG Travel Demand Model (or other appropriate sketch model as coordinated with City Staff). To calculate the change in area VMT, the regional retail component of the project should be inputted into the travel demand model (year that is used to determine the VMT thresholds). The "with project regional retail" area VMT produced by the model run is compared to the "no project" area VMT.

#### *Mixed-Use Projects*

Evaluate each individual project component per the appropriate metric based on land use type (e.g., residential, employment, and retail) as described above.

#### *Other Projects*

Input the project into the SANDAG Regional Travel Demand Model for SANDAG to provide the project's applicable VMT metric. To perform the analysis, all project land uses should be inputted, and the VMT metric that is appropriate based on the land use type should be determined using the methodology described in **Section 3.2**.

#### *VMT Reductions*

If the project includes transportation demand management (TDM) measures, the reduction in VMT due to each measure shall be calculated and can be applied to the project analysis. See **Section 3.5** for resources for determining the reduction in VMT due to TDM measures.

The VMT reductions associated with project TDM should be applied to the appropriate metrics based on the project land uses. If the project does not include any TDM, then no reduction is taken.

The resulting VMT values should be compared to the appropriate threshold (described previously under **VMT Thresholds of Significance**) to determine whether the project results in a significant CEQA transportation impact due to VMT.

### 3.4 VMT Analysis for Transportation Projects

Projects that result in an increase in additional motor vehicle capacity (such as constructing a new roadway or adding more vehicle travel lanes to an existing roadway) has the potential to increase vehicle travel, referred to as "induced vehicle travel."

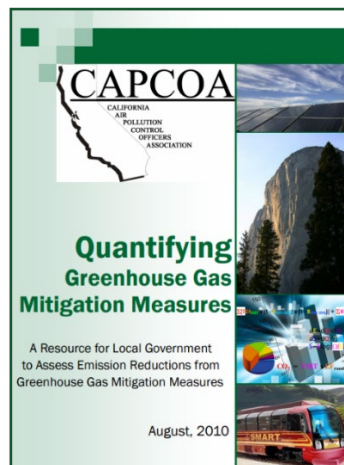
**Appendix E** contains a list of transportation projects that, absent substantial evidence to the contrary, do not require an induced travel/VMT analysis since they typically do not cause substantial or measurable increases in VMT.

For all other projects, a VMT analysis must be done. To calculate the change in area VMT (boundary method), the project should be inputted into the travel demand model. The "with project" area VMT produced by the model run is compared to the "no project" area VMT. A net increase in area VMT indicates that the project has a significant impact.

### 3.5 VMT Reduction and Mitigation Measures

To mitigate VMT impacts, the project applicant must reduce VMT, which can be done by either reducing the number of automobile trips generated by the project or by reducing the distance that people drive. The following strategies are available to achieve this:

1. Modify the project's built environment characteristics to reduce VMT generated by the project.
2. Implement TDM measures to reduce VMT generated by the project.



*CAPCOA Quantification Report, which includes quantification of VMT reducing measures.*



*SANDAG Mobility Management Guidebook, which includes recommendations of VMT-reducing measures.*

Strategies that reduce single-occupant automobile trips or reduce travel distances are called TDM strategies. There are several resources for determining the reduction in VMT due to TDM measures, such as the California Air Pollution Control Officers Association ("CAPCOA") *Quantifying Greenhouse Gas*

*Mitigation Measures* (2010) (Quantification Report) and the SANDAG *Mobility Management Guidebook/VMT Reduction Calculator Tool*.

- [CAPCOA Quantification Report](#)
- [SANDAG Mobility Management Guidebook/VMT Reduction Calculator Tool](#)

Both resources above include equations that address the diminishing value or decreased effectiveness of TDM measures when those measures are used in combination. The equation below should be used by applicants to accurately quantify the effectiveness of a proposed TDM program.

$$\text{Total VMT Reduction} = (1 - P_a) * (1 - P_b) * (1 - P_c) * \dots$$

where:

$$P_x = \text{percent reduction of each VMT reduction strategy}$$

Additionally, applicants should be aware of limits to overall program effectiveness (i.e., VMT reduction) that may be achieved from TDM strategies dependent on the project's land use context. Projects that are in urban areas have a higher limit of effectiveness (i.e., they can result in higher VMT reductions) than those in suburban areas. The formula defines the particular conditions that lead to different ways that the TDM measure may be applied or how a TDM measure might be applied in different circumstances. That is, to proposed effective and appropriate TDM measures is based on the project's size, location, and land uses for varying levels of implementation.

Special attention should be given to ensuring that measures are not double-counted through the transportation analysis process. For example, if a project identifies telecommuting as a reduction strategy, care should be taken to identify the level of telecommuting that has already been assumed as part of the travel demand model through coordination with SANDAG modeling staff or review of SANDAG model documentation available on SANDAG's website.

An example VMT reduction calculation is provided below showing quantified TDM measures for a sample mixed-use development project is provided in **Appendix H**. The City of Escondido is currently evaluating VMT Mitigation Strategies that could include, among other things, a VMT Exchange Program or VMT Mitigation Bank. Until such a program is adopted, applicants should reach out to City staff to identify candidate VMT mitigation projects within the City of Escondido that can be analyzed to mitigate VMT impacts. Pursuant to the City's Climate Action Plan, mitigation is required to be local.

### 3.6 Cumulative VMT Impacts

Since VMT is a composite metric that will continue to be generated over time, a key consideration for cumulative scenarios is whether the rate of VMT generation gets better or worse in the long term. If the rate is trending down over time consistent with expectations for air pollutant and GHGs, then the project level analysis may suffice. However, the trend direction must be supported with substantial evidence. A project would result in a significant project-generated VMT impact under cumulative conditions if the applicable cumulative project-generated VMT thresholds are exceeded.

Measuring the project's effect on VMT is necessary especially under cumulative conditions to fully explain the project's impact. A project effect on VMT under cumulative conditions would be considered significant if the cumulative link-level boundary VMT/capita or VMT/employee for the San Diego region increases under the "plus project" condition compared to the "no project" condition.

Please note that the cumulative "no project" condition shall reflect the adopted Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS); as such, if a project is consistent with the regional RTP/SCS, then the cumulative impacts shall be considered less than significant.

# 4. Local Mobility Analysis

## 4.1 Overview

The authority for requiring non-CEQA transportation analysis and potentially requiring project improvement conditions to address identified deficiencies lies in the City's project review authority and General Plan policies to promote orderly development, promote public safety, and ensure land development site planning and needed infrastructure are adequate.

The LMA evaluates the effects of a proposed development project on traffic operations and safety for the roadway network in the proximate area of the project. The LMA will:

- Specify the City's screening criteria, study area, and methodologies to assess the potential need for off-site operation improvements to the project study area transportation network.
- Ensure that the local transportation facilities will have sufficient capacity to accommodate the project's demand on various modes of travel, and that improvements identified by the City are constructed when needed, consistent with the City's adopted standards and policies.
- Ensure consistency with transportation planning documents (such as bicycle and pedestrian planning efforts).
- Establish measures of effectiveness to maintain vehicular LOS consistent with the City's General Plan Mobility and Infrastructure Element, as may be amended from time to time.
- Facilitate site project access and roadway frontage infrastructure improvements to serve the project vicinity.

Detailed information on the analysis methodologies, standards, and thresholds are discussed in the following sections. As discussed previously and in **Section 2.3**, all projects will be required to coordinate with City staff prior to project initiation to ensure an efficient review process.

## 4.2 Requirements

The required study scenarios and scope will vary depending on the total number of daily trips the project is anticipated to generate. Both the analysis scenarios and the facilities that need to be analyzed are to be confirmed with City staff (see **Sections 1.5 and 2.2**) prior to conducting an LMA through the scoping process.

The LMA should use the current state-of-the-practice analysis methodologies to analyze traffic conditions. General requirements for analysis in the LMA are outlined below:



## Vehicle

The City's General Plan (2012) establishes a goal of LOS C for all City streets; however, due to overall citywide traffic conditions, LOS D was considered acceptable. If the existing LOS is D or worse, preservation of the existing LOS must be maintained, or acceptable mitigation must be identified.

Currently the approved level of service standards for different street segments based on their classifications and average daily vehicle trips (ADT) within the City of Escondido are provided in **Table 1**.

Table 1: City of Escondido Level of Service Standards:  
 Street Segments Average Daily Vehicle Trip Thresholds

Street Classification	Lanes	Cross Sections	Level of Service				
			A	B	C	D	E
Prime Arterial	(8 lanes)	116/136 (NP)	23,800	37,800	51,800	62,300	70,000
	(6 lanes)	106/126 (NP)	20,400	32,400	44,400	53,400	60,000
Major Road	(6 lanes)	90/110 (NP)	17,000	27,000	37,000	44,500	50,000
	(4 lanes)	82/102 (NP)	12,600	20,000	27,400	32,900	37,000
Collector	(4 lanes)	64/84 (NP)	11,600	18,500	25,300	30,400	34,200
	(4 lanes)	(WP)	6,800	10,800	14,800	17,800	20,000
Local Collector	(2 lanes)	42/66 (NP)	5,100	8,100	11,100	13,400	15,000
		(WP)	3,400	5,400	7,400	8,900	10,000

Source: City of Escondido former Traffic Impact Analysis Guidelines.

Notes:

NP: No Parking, WP: With Parking

The following V/C Ratios were utilized for determining Existing and Future Level of Service.

Level of Service	(V/C Ratio)
A - Less than or Equal to	0.00 to 0.34
B - Less than or Equal to	0.35 to 0.54
C - Less than or Equal to	0.55 to 0.74
D - Less than or Equal to	0.75 to 0.89
E - Less than or Equal to	0.90 to 1.00

Trip generation should be determined following the guidelines outlined in **Section 2.2**. Based on the adopted 2013 General Plan with a goal of LOS C, an LMA must be prepared for any project that generates and adds more than 2% of the ADT to any street segments operating at LOS C or worse within the preliminary study area identified by the City staff. Based on this threshold, **Table 2** contains the trigger-points for a required LMA within the City of Escondido for each street classification.

Table 2: ADT Thresholds for Roadway Segments to Trigger Local Mobility Analysis for New Development

Street Classification	Lanes	Cross Sections (ft.)	LMA Trigger-Points (ADT generation)
<b>Prime Arterial</b>	(8 lanes)	116/136 (NP)	900
	(6 lanes)	106/126 (NP)	800
<b>Major Road</b>	(6 lanes)	90/110 (NP)	700
	(4 lanes)	82/102 (NP)	500
<b>Collector</b>	(4 lanes)	64/84 (NP)	500
	(4 lanes)	(WP)	250
<b>Local Collector and other</b>	(2 lanes)	42/66 (NP)	200
	(2 lanes)	(WP)	200

Source: City of Escondido former Traffic Impact Analysis Guidelines.

Notes:

2% of ADT for LOS C has been used as a guide to calculate the trigger point values

NP: No Parking, WP: With Parking

An LMA should be undertaken for any type of development that generates daily trips more than the above-mentioned trigger points. Certain types of projects that generate fewer than 500 ADTs may be considered by the City staff for an LMA waiver only where the affected segments and intersections operate at LOS C or better. On the contrary, City staff may require an LMA for any kind of development if the possible traffic effect of the project is believed to be considerable. At a minimum, the study area should include at least all site access points and major intersections (signalized and un-signalized) adjacent to the site in the study area. **Table 3** provides the peak hour trip thresholds for determining if an intersection should be included in the LMA. The thresholds represent the sum of all trips (inbound and outbound) added to any leg of the intersection.

Table 3: ADT Thresholds for Intersections to be included in the LMA

Intersection Classification	LMA Trigger Points (AM or PM peak hour trips added to any leg)
<b>Prime Arterial</b>	50
<b>Major Road</b>	40
<b>Collector</b>	30
<b>Local Collector</b>	20

Source: City of Escondido former Traffic Impact Analysis Guidelines.

Notes:

Study area can be expanded by City Engineer

At isolated intersections that are not heavily congested, deterministic methods that apply HCM equations for each intersection in isolation can be used. The current version of the Highway Capacity Manual reflects current state-of-the-practice methodology. There are several software packages that use deterministic methods such as Synchro, Vistro (previously Traffix), and Highway Capacity Software. The HCM methodology assigns a LOS grade to an intersection based on estimated delay.

For intersections that are closely spaced, have a unique geometry, or are part of a congested corridor, micro-simulation analysis should be performed. Micro-simulation can more accurately evaluate intersections with unique characteristics or in congested systems because the method accounts for how intersections within a system interact with one another. For example, if a vehicle queue extends from an intersection and blocks a different intersection, micro-simulation will account for that condition, whereas deterministic methods will not. Micro-simulation should also be considered when determining required turn lane storage if the analyst believes deterministic methods are not producing reasonable maximum or 95th percentile queue lengths. There are several micro-simulation software packages such as SimTraffic (which is a module of Synchro) and Vissim.

Signalized intersections, all-way-stop intersections, and roundabouts should have the entire intersection average vehicle delay reported. Minor side-street stop intersections should have the worst-case movement average vehicle delay reported.

It is recommended that the methodology and software proposed for use is coordinated with City staff. City staff may also request the consultant provide micro-simulation electronic files for review.

### **Active Transportation**

**Pedestrian:** The pedestrian analysis should document existing and planned pedestrian facilities and any substandard or missing facilities (e.g., missing sidewalk, curb ramps, major obstructions) within a ¼-mile walking distance measured from each pedestrian access point (e.g., driveways, on-site sidewalk connections to the street). Planned facilities should be determined based on relevant planning documents (e.g., General Plan, other City planning documents).

**Bicycle:** The bicycle analysis should document existing and planned bicycle facilities and any substandard or missing facilities (e.g., bike lane gaps, obstructions) within a one-mile bicycling distance measured from the centroid point of the parcel's linear frontage or from the center of the intersection formed by each project driveway. Planned facilities should be determined based on relevant planning documents (e.g., General Plan, Bicycle Master Plan).

**Transit:** The transit analysis should focus on transit amenities and connectivity to transit, especially for projects where the entire project site within a half-mile walkshed from the centroid point of the parcel's linear frontage to a major transit stop or a high-quality transit corridor<sup>4</sup>. The analysis should identify the closest transit routes and stops to the project within ¼-mile walking distance and documentation of amenities at existing transit stops (e.g., shelters, maps, benches). Evaluation of transit amenities should be completed considering the requirements in the latest North County Transit District (NCTD) Bus Stop Development Handbook and improved where demand of the project warrants such improvement. A sample of the amenity requirements is provided in **Appendix F**. Project applicants should always

<sup>4</sup> Major transit stop: a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. High quality transit corridor: a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute periods.

coordinate with City and NCTD staff to determine appropriate transit amenities and applicable guidelines. The analysis should include discussion on the quality of the nearby transit facilities, including frequency of service, connections to hubs, etc.

### **Site Access and Circulation**

The LMA should address the following site-specific topics, where applicable:

- Appropriate access management standards for median openings and spacing between major driveway connections
- Potential sight distance problems
- Potential pedestrian or bicycle conflicts
- Relationship of internal circulation facilities to public streets
- Sufficiency of driveway length at major entrances
- On-site circulation as it impacts the public roadway system or access to public transportation and bicycle/pedestrian network
- Potential for shared access among developments, including alternate access roads.

### **Data Collection and Study Periods**

- Traffic counts should be collected for each of the study locations and should be no more than two years old unless older counts are demonstrated to be still valid for Existing Conditions. Counts older than four years old must be updated. Coordination with City staff is required to determine appropriate use of any historic data.
- The LMA should provide tables and map figures of the traffic count data. Technical Appendices should include original traffic count data sheets.
- Traffic counts should typically be conducted during a.m. and p.m. peak periods on weekdays (Tuesdays, Wednesdays, or Thursdays), unless approved by City staff. For typical commute hours, the peak hours will fall between 7 and 9 a.m. and between 4 and 6 p.m.
- Other peak hours, off-peak, or special event peak periods, may also be required depending on the project location and type of use. Projects involving or located near schools may need to evaluate traffic during the associated school hours of operation (e.g., morning drop-off and afternoon dismissal times). If the study necessitates a weekend analysis, Saturday from 11 a.m. to 1 p.m. will be the analyzed peak period. The need for analysis during non-typical commute times should be established with City staff during the scoping process.
- Traffic data should not be collected on weeks that include a holiday and non-school session time periods, unless approved by City staff.

### **Other Data Collection Considerations**

Other considerations in data collection documentation and analysis should incorporate all applicable components that relate to the transportation network, which may include:

- Speed limits and average/85th percentile vehicle speed
- Parking characteristics (on-street parking presence and type, bus stops)
- Signing (static, dynamic, or variable) and pavement markings
- School zone
- Signal phasing and timing plans
- Intersection control type
- Right turn and left turn treatments
- Railroad crossing location
- Ramp metering
- Pedestrian counts
- Bicycle counts
- Transit stops (type, frequency/schedule, dwell time, trip length, bus blockage)
- Roadway classification (functional class, rural/urban designation, access class, area type)
- Cross section elements (number, width and purpose of lanes, shoulder type and width, median type and width, pavement type and rating condition, cross slope, sidewalk, bicycle lane)
- Geometry (horizontal and vertical alignment, storage lengths, intersection/interchange configurations, auxiliary lanes)
- Pedestrian and bicycle accommodation
- Transit (location, position, proportions with shelters and benches)
- Roadside (clear zone width, lateral clearance, driveway counts)

## Study Scenarios

The following scenarios should be evaluated for the LMA:

- Existing Conditions
- Existing Plus Project Conditions
- Near Term Conditions (includes near term planned and approved projects)
- Near Term Plus Project Conditions
- Long Term (future year) Conditions (if the project is not consistent with the GP)
- Long Term (future year) Plus Project Conditions (if the project is not consistent with the GP)
- Special Scenarios (e.g., a phased project analysis)

Trip generation and distribution should be determined following the guidelines outlined in **Section 2.2**.

## 4.3 Identifying Transportation Improvements

In general, a project should consider feasible improvements to accommodate the addition of the proposed project’s vehicular, pedestrian, and bicycle traffic, and both the transit access and increased demand for transit services and facilities.

The following sections provide guidance for identifying when a transportation improvement is necessary by facility type:

### Vehicle

The following thresholds shall be used to identify if a project is responsible to make transportation operational improvements. If at any time the project causes the values in **Table 4** below to be exceeded on a roadway segment or at an intersection that is operating at a LOS D or worse, the project shall identify improvements to achieve the desired LOS/delay. Below are the proposed thresholds for determining when improvements are needed to a roadway segment or an intersection. The Downtown Specific Plan identifies select roadway segment locations where LOS E is considered acceptable if adjacent intersection operations are LOS D or better. Coordination with City staff for projects within the Downtown Specific Plan is required.

Table 4: Level of Service Thresholds

Level of Service with Project	Allowable Change due to Project		
	Roadway Segments	Intersections	
	V/C	Speed Reduction (mph)	Delay (sec/veh)
D, E, or F	0.02	1	2

Notes:

The Downtown Specific Plan identifies select roadway segments where LOS E is acceptable if adjacent intersection operations are LOS D or better.

Transportation improvements should be considered for any segment or intersection operating on LOS F.

V/C: Volume-to-capacity ratio. The roadway capacity is the LOS E threshold as defined in Table 1.

Where existing segments or intersections operate at LOS F, projects should consider measures to reduce any impact or make improvements to a failing facility.

### Active Transportation

**Pedestrian:** The project should construct sidewalks to close sidewalk gaps adjacent to the project site.

The project should remove sidewalk obstructions that limit the pedestrian accessible route to less than four feet in width adjacent to the project site.

The project should construct curb ramps and meet ADA accessibility standards for any intersections adjacent to the project site.

Consideration should be made for traffic calming and pedestrian-related signal timing changes (e.g., leading pedestrian interval signal timing, pedestrian signal head upgrades, installation of accessible signal features) to accommodate an increase in pedestrian demand on roadways and intersections adjacent to the project site.

**Bicycle:** The project should construct (or preserve space for) any planned bicycle facility pursuant to the City's Bicycle Master Plan, other planning documents, and City design standards.

The project may consider upgrading adjacent bicycle facilities by adding upgraded treatments (e.g., adding buffers or protected bike lanes, where appropriate) to accommodate an increase in bicycle demand.

The project should construct any planned bicycle facilities adjacent to the project frontage to be consistent with the City's Mobility and Infrastructure Element, the Bicycle Master Plan, and other applicable City documents, and through coordination with the City. (This might not be appropriate for short segments.)

# Appendix A: Scoping Agreement Form



**PART 1**

**General Project Information and Description**

**Project Information**

<b>Project Name:</b>
<b>Project Location:</b>

**Project Description**

<b>Land Uses and Intensities:</b>
<b>Gross and Developable Acreage:</b>
<b>Building Square Footage or Number of Dwelling Units:</b>
<b>Vehicle Parking Spaces:</b>
<b>Bicycle Parking Spaces:</b>
<b>Motorcycle Spaces:</b>
<b>Electric Vehicle Spaces:</b>

**Project Applicant:**

<b>Name:</b>
<b>Address:</b>
<b>Telephone and Email:</b>

**Consultant**

<b>Firm:</b>
<b>Project Manager:</b>
<b>Address:</b>
<b>Telephone and Email:</b>

**Project Trip Generation**

<b>Source:</b>	<b>Pass-by Trips:</b>
<b>Total Daily Trips*:</b>	<b>Diverted Trips:</b>
<b>Internal Capture Rate:</b>	<b>Trip Credit:</b>
<b>Alternative Modes:</b>	<b>Net New Daily Trips:</b>

\*If truck traffic accounts for 25% or more of project trips, then a Passenger Car Equivalent (PCE) factor of 2.5 should be applied to all truck trips.

**General Plan Consistency**

<b>Is this project consistent with the General Plan?</b> <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
---

## Site Plan

### Attach 11x17 copies of the project location/vicinity map and site plan containing the following:

- Driveway locations and access type
- Pedestrian access, bicycle access, and on-site pedestrian circulation
- Location and distance to nearest existing transit stop (measure as walking distance to project entrance or middle of parcel)
- Location of planned or proposed pedestrian or bicycle improvements within ¼ mile of the project identified in the General Plan Mobility and Infrastructure Element or the Bicycle Master Plan

## CEQA Transportation Analysis Screening

### Project Type Screening Criteria for CEQA Vehicle Miles Travelled (VMT) Analysis

	Screened Out	Not Screened Out
	Yes	No
1) Select the Land Uses that apply to your project		
2) Answer the questions for each Land Use that applies to your project <i>(if "Yes" in any land use category below then that land use (or a portion of the land use) is screened from CEQA VMT Analysis; If a project is screened out, a technical memorandum is still required to document the screening process)</i>		
<input type="checkbox"/> <b>1. Small Residential and Employment Projects:</b>		
a. Does the project result in 200 daily trips or less?	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>2. Project is Located in a Transit-Accessible Area:</b>		
a. Is the project located within a half-mile walking distance of an existing major transit stop or an existing stop along a high-quality transit corridor?	<input type="checkbox"/>	<input type="checkbox"/>
b. Additional project features:		
i. Does the project have a Floor Area Ratio $\geq 0.75$ ?	<input type="checkbox"/>	<input type="checkbox"/>
ii. Does project include the least amount of parking required for residents, customers, or employees (i.e. not more than required)?	<input type="checkbox"/>	<input type="checkbox"/>
iii. Is the project consistent with SANDAG's most recent Sustainable Communities Strategy or the City of Escondido General Plan?	<input type="checkbox"/>	<input type="checkbox"/>
iv. Does the project replace affordable residential units with a greater number of moderate- or high-income residential units?	<input type="checkbox"/>	<input type="checkbox"/>
v. Does the project have basic walking and biking access to transit (e.g., sidewalks connecting to transit stops)?	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>3. Project is in a VMT-Efficient Area:</b>		
a. Is the project in a VMT/Capita or VMT/Employee Efficient Area per SANDAG screening maps?	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>4. Locally-Serving Retail Project:</b>		
a. Is the project less than 50,000 square feet and expected to draw at least 75% of customers from the local area?	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>5. Locally Serving Public Facility:</b>		
a. Is the project a locally serving public facility?	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>6. Redevelopment Project:</b>		
a. Does the project result in a net decrease in total Project VMT than the existing use?	<input type="checkbox"/>	<input type="checkbox"/>

## Non-CEQA Local Mobility Analysis

### Local Mobility Analysis (LMA) Requirement

	Yes	No
1) Select the Street Classifications for each street in the study area		
2) Answer the questions for each Street Classification that applies to your project		
<input type="checkbox"/> <b>1. Prime Arterial:</b>		
a. Does the project add 900 ADT or more to any segment classified as 8-lane Prime Arterial?	<input type="checkbox"/>	<input type="checkbox"/>
b. Does the project add 800 ADT or more to any segment classified as 6-lane Prime Arterial?	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>2. Major Road:</b>		
a. Does the project add 700 ADT or more to any segment classified as 6-lane Major Road?	<input type="checkbox"/>	<input type="checkbox"/>
b. Does the project add 500 ADT or more to any segment classified as 4-lane Major Road?	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>3. Collector:</b>		
a. Does the project add 500 ADT or more to any segment classified as 4-lane Collector without parking?	<input type="checkbox"/>	<input type="checkbox"/>
b. Does the project add 250 ADT or more to any segment classified as 4-lane Collector with parking?	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>4. Local Collector and other:</b>		
a. Does the project add 200 ADT or more to any segment classified as 2-lane Local Collector or any other classifications?	<input type="checkbox"/>	<input type="checkbox"/>

**Certain types of projects which generate less than 500 ADT may be considered by the City staff for an LMA waiver only where the affected segments and intersections operate at LOS C or better. Please briefly explain why your project might be eligible for an LMA waiver.**

---

## PART 2

### Trip Distribution and Trip Assignment

<input type="checkbox"/> <b>Select Zone (Model Series _____)</b>	Projects that generate greater than 2,400 daily trips
<input type="checkbox"/> <b>Manual Estimation</b>	Projects that generate less than 2,400 daily trips
<b>Provide an exhibit detailing the project's trip distribution and trip assignment.</b>	
<b>Provide a table with the project's daily trip assignment for each street segment in the study area.</b>	

**Study Intersections and Roadway Segments** (NOTE: Subject to change based of staff review)

1.	6.
2.	7.
3.	8.
4.	9.
5.	10.

Attach a separate page if the number of study locations exceeds 10.

**Other Jurisdictions**

Is this project located within one mile of another Local Jurisdiction?  Yes  No

If yes, name of Jurisdiction:

**Specific Issues to be addressed within the Study**  
(in addition to requirements described in the Guidelines – to be filled out by City Staff)

1.
2.
3.
4.
5.

**Recommended by:**

\_\_\_\_\_  
Consultant's Representative

\_\_\_\_\_  
Date

Scoping Agreement Submitted on

\_\_\_\_\_  
Date

Scoping Agreement Re-submitted on

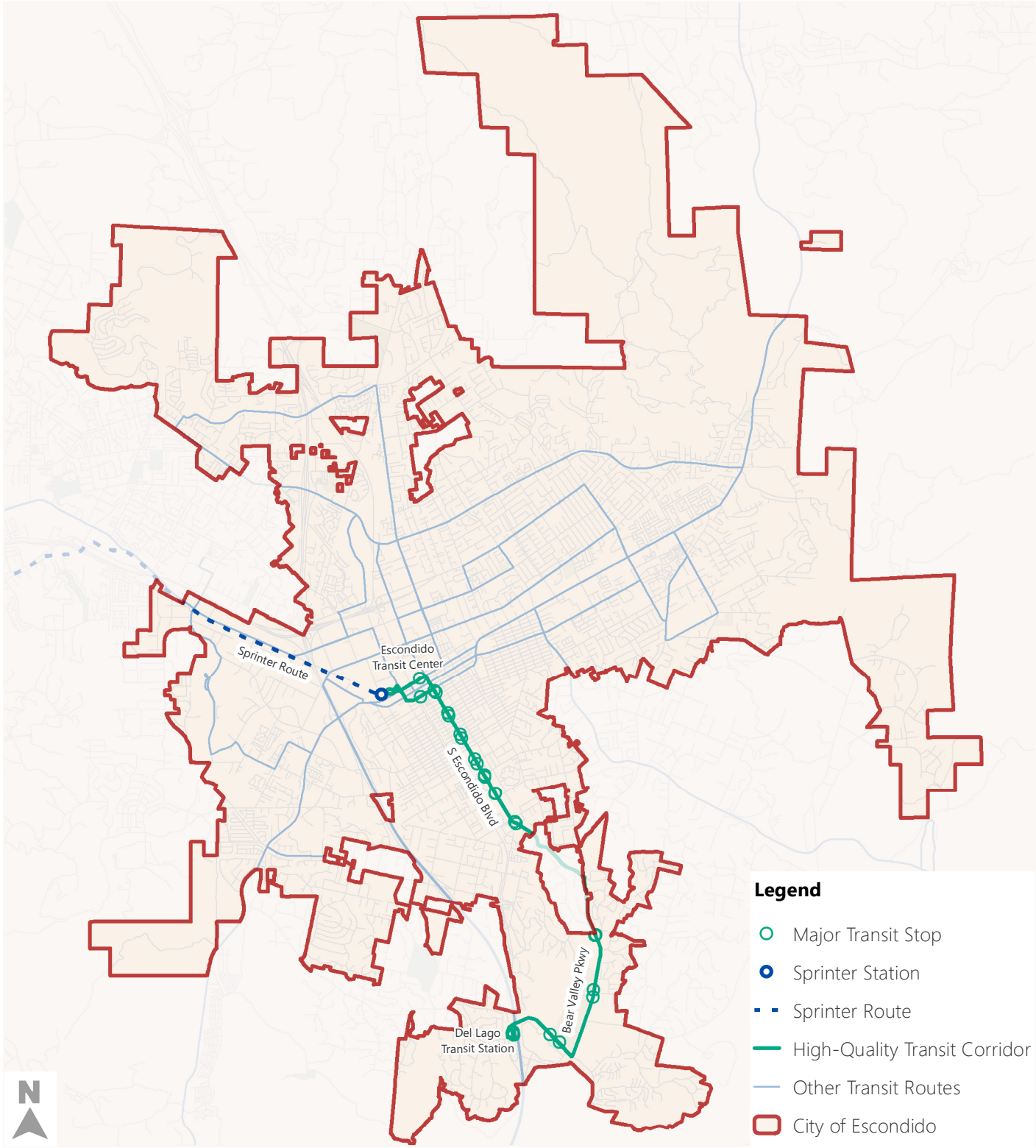
\_\_\_\_\_  
Date

**Approved Scoping Agreement:**

\_\_\_\_\_  
City of Escondido  
Transportation Specialist

\_\_\_\_\_  
Date

# **Appendix B: Existing Major Transit Stops and Existing High-Quality Transit Corridors**



### Existing Major Transit Stops and Existing High-Quality Transit Corridors

# Appendix C: Land Use Designations

The following table provides a list of unique project types and the land use type they should be considered under for SB 743 screening and analysis.

## Land Use Categories

### Land Use Category for SB 743 Analysis for all Project Types

#### 1. Residential Projects

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Estate, Urban, or Rural</li> <li>• Single Family Detached</li> <li>• Condominium</li> <li>• Apartment</li> <li>• Transitional Housing</li> </ul> | <ul style="list-style-type: none"> <li>• Military Housing (off-base, multi-family)</li> <li>• Mobile Home</li> <li>• Retirement Community</li> <li>• Congregate/Recuperative Care Facility</li> </ul> |
|---|---|

#### 2. Employment Projects

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Agriculture</li> <li>• Hospital: General</li> <li>• Hospital: Convalescent/Nursing</li> <li>• Industrial/Business Park (commercial included)</li> <li>• Science Research &amp; Development</li> <li>• Hotel (with convention facilities/restaurant)</li> <li>• Motel</li> <li>• Resort Hotel</li> <li>• Business Hotel</li> </ul> | <ul style="list-style-type: none"> <li>• Military</li> <li>• Standard Commercial Office</li> <li>• Large (High-Rise) Commercial Office</li> <li>• Office Park</li> <li>• Single Tenant Office</li> <li>• Corporate Headquarters (without commercial)</li> <li>• Government Offices (Use is primarily office with employees; no substantial in-person service)</li> <li>• Medical/Dental</li> </ul> |
|--|--|

#### 3. Industrial Employment Projects

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Industrial Park (no commercial)</li> <li>• Industrial Plant (multiple shifts)</li> <li>• Manufacturing/Assembly</li> </ul> | <ul style="list-style-type: none"> <li>• Warehousing</li> <li>• Storage</li> </ul> |
|---|--|

#### 4. Regional Retail Projects (includes Recreational Uses): Not Locally-Serving

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Super Regional Shopping Center</li> <li>• Regional Shopping Center</li> <li>• Community Shopping Center</li> </ul> | <ul style="list-style-type: none"> <li>• Parks: Amusement</li> <li>• Golf Course (includes driving ranges)</li> </ul> |
|---|---|



## Land Use Categories

### Land Use Category for SB 743 Analysis for all Project Types

#### 5. Retail Projects (includes Recreational Uses): May qualify for locally-serving based on size/market study

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Car Wash</li> <li>• Gasoline</li> <li>• Sales (Dealer &amp; Repair)</li> <li>• Auto Repair Center</li> <li>• Auto Parts Sales</li> <li>• Quick Lube</li> <li>• Tire Store</li> <li>• Neighborhood Shopping Center</li> <li>• Commercial Shops</li> <li>• Mixed Use: Commercial (with supermarket)/<br/>Residential: <i>consider each land use type separately for screening</i></li> </ul> | <ul style="list-style-type: none"> <li>• Bowling Center</li> <li>• Multi-purpose (miniature golf, video arcade, batting cage, etc.)</li> <li>• Racquetball/Health Club</li> <li>• Tennis Courts</li> <li>• Sports Facilities (indoor/outdoor)</li> <li>• Theaters (multiplex with matinee)</li> <li>• Restaurant</li> <li>• Financial (Bank or Savings &amp; Loan)</li> </ul> |
|---|---|

#### 6. Regional Public Facilities: Generally Not Locally-Serving

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Airport: Commercial</li> <li>• Airport: General Aviation</li> <li>• Airport: Heliports</li> <li>• Cemetery</li> <li>• Regional Church (or Synagogue)</li> <li>• University (4 years)</li> <li>• Junior College (2 years)</li> <li>• High School: Private</li> <li>• Middle/Junior High School: Private</li> </ul> | <ul style="list-style-type: none"> <li>• Elementary School: Private</li> <li>• Parks: Regional (developed)</li> <li>• Parks: State</li> <li>• Bus Depot</li> <li>• Truck Terminal</li> <li>• Beach, Ocean, or Bay</li> <li>• Beach, Lake (fresh water)</li> <li>• Landfill &amp; Recycling Center</li> </ul> |
|--|--|

#### 7. Locally-Serving Public Facilities

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• High School: Public</li> <li>• Middle/Junior High School: Public</li> <li>• Elementary School: Public</li> <li>• Day Care (Public or Private)</li> <li>• Library</li> <li>• Park: City</li> <li>• Park: Neighborhood/County</li> </ul> | <ul style="list-style-type: none"> <li>• Post Office</li> <li>• Department of Motor Vehicles</li> <li>• Government Offices (Providing primarily in-person customer service)</li> <li>• Transit Station (light rail with parking)</li> <li>• Park &amp; Ride Lots</li> </ul> |
|---|---|

\* Land use designations match the categories in SANDAG's (Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region.

# Appendix D: Screening Criteria and Threshold Evidence

## Screening Criteria and Threshold Evidence

This appendix provides context and justification/rationale for the screening criteria and thresholds for performing transportation VMT CEQA impact analysis.

## Screening Criteria

Development projects are presumed to have less-than-significant impacts to the transportation system, and therefore would not be required to conduct a VMT analysis, if any of the following criteria are established.

### 1. Small Residential and Employment Projects

Small projects, which are wholly residential and/or employment projects with independent utility that would generate fewer than 200 net average daily vehicle trips (ADT), would also not result in significant VMT impacts on the transportation system.

**Evidence** – The OPR Technical Advisory states that “projects that generate or attract fewer than 110 trips per day generally may be assumed to cause a less than significant impact.” This is supported by the fact that CEQA provides a categorical exemption for existing facilities, including additions to existing structures of up to 10,000 square feet, so long as the project is in an area where public services and facilities are available to allow for maximum planned development, and the project is not located in an environmentally sensitive area [CEQA Guidelines § 15301(e)(2)]. Typical project types for which trip generation increases relatively linearly with building footprint (e.g., general office building, single tenant office building, office park, or business park) generate or attract an additional 110 to 124 trips per 10,000 square feet. Therefore, absent substantial evidence otherwise, it is reasonable to conclude that the addition of 110 or fewer trips could be considered not to lead to a significant impact.

The OPR Technical Advisory uses the Institute of Transportation Engineers (ITE) trip generation rates. In Escondido, the trip generation for a small project was determined utilizing the SANDAG *(Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region* trip generation rates for Standard Commercial Office following the same OPR Technical Advisory rationale. These rates are listed below.

### Trip Generation Rate

Land Use	Quantity	Trip Generation
Standard Commercial Office	1,000 square feet (sf)	20 Trips
<b>Trip Generation for 10,000 sf of Standard Commercial Office</b>		
Standard Commercial Office	10,000 sf	200 Trips

Source: SANDAG's *(Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region*.

Using SANDAG's trip generation rates for a 10,000-square-foot standard commercial office, the daily trip generation is calculated as 200. This number was used to define a small residential or employment project. Use of SANDAG's trip generation rates is appropriate for determining the small project threshold, since this is the source for trip generation for projects reviewed by the City of Escondido.

## 2. Projects Located in a Transit-Accessible Area

Projects located within a half mile of an existing major transit stop or an existing stop along a high-quality transit corridor<sup>5</sup> may be presumed to have a less-than-significant impact provided the following:

- Has a Floor Area Ratio of at least 0.75
- Includes no more than the minimum parking for use by residents, customers, or employees of the project as required by the City
- Is consistent with SANDAG's most recent Sustainable Communities Strategy or the City of Escondido General Plan
- Does not replace affordable residential units with a smaller number of moderate- or high-income residential units
- Has basic walking and biking access to transit (e.g., sidewalks connecting to transit stops)

**Evidence** – Projects located within a half mile of an existing major transit stop or a half mile from stops along high-quality transit corridors can help reduce VMT by increasing capacity for transit-supportive residential and/or employment densities in low VMT areas. The increased density that is associated with projects in a transit-accessible area can increase transit ridership and therefore justify enhanced transit service, which would in turn increase the number of destinations that are accessible by transit and further increase transit ridership and decrease VMT.

Additionally, CEQA Guidelines section 15064.3(b) states, "Generally, projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor should be presumed to cause a less than significant transportation impact."

## 3. Projects in a VMT-Efficient Area

If a residential development is located in an area where VMT/capita is 15% or more below the regional average, or a commercial employment development is located in an area where VMT/employee is 15% or more below the regional average, or an industrial employment development is located in an area where the VMT per employee is at or below the regional average, the project is presumed to result in a less-than-significant CEQA impact.

<sup>5</sup> "Major transit stop" means a site containing an existing rail or bus rapid transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. (See Public Resources Code § 21064.3.) "High-quality transit corridor" means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. (See Public Resources Code § 21155(b).)

The City of Escondido will determine VMT-efficient areas using maps provided on the SANDAG website.<sup>6</sup> As new model versions are released (e.g., ABM 2+), SANDAG will produce VMT screening maps consistent with the final OPR Technical Advisory and Updated CEQA Guidelines (December 2018) for use by its member agencies.

**Evidence** – This presumption is consistent with the Office of Planning and Research Technical Advisory on Evaluating Transportation Impacts in CEQA (December 2018) (OPR Technical Advisory), which provides that, “residential and office projects that locate in areas with low VMT, and that incorporate similar features (i.e., density, mix of uses, transit accessibility), will tend to exhibit similarly low VMT. Maps created with data from a travel survey or travel demand model can illustrate areas that are currently below threshold. Because new development in such locations would likely result in a similar level of VMT, such maps can be used to screen out residential and office projects from needing to prepare a detailed VMT analysis.”

**Evidence** – Purely industrial uses are desired to be located in less VMT-efficient, higher-VMT areas in the City of Escondido. Placing these land intensive uses in areas with less efficient VMT allows land in efficient VMT areas to be more effectively utilized as high density residential and commercial uses. This threshold will encourage industrial uses to develop in locations appropriate for industrial and agricultural uses, leaving infill and more VMT-efficient areas available for more dense uses.

Specifically, the OPR Technical Advisory states, “Of land use projects, residential, office, and retail projects tend to have the greatest influence on VMT. For that reason, OPR recommends the quantified thresholds described above for purposes of analysis and mitigation. Lead agencies, using more location-specific information, may develop their own more specific thresholds, which may include other land use types.”

#### **4. Locally-Serving Retail Projects**

Locally serving retail projects less than 50,000 square feet that are expected to draw at least 75% of customers from the local area may be presumed to have a less than significant impact absent substantial evidence to the contrary. Locally serving retail generally improves the convenience of shopping close to home and has the effect of reducing vehicle travel.

<sup>6</sup> The VMT/Capita and VMT/Employee screening maps are created using information from the current version of the SANDAG model at the time a project notice of preparation (NOP) is produced. As SANDAG updates the model to reflect development and planning throughout the region, the screening maps will be updated and may change resulting in development that may have at one time been screened to no longer be screened and vice versa. As the model is updated, earlier versions of the model will also cease to be supported by SANDAG, meaning that model runs can no longer be completed with the previous versions of the model. If a project begins the transportation study process using one version of the model that becomes unsupported during the process, the project can utilize model outputs from the older model version, as long as no additional modeling work will be done. Projects cannot complete their transportation analysis using multiple model versions.

**Evidence** – The OPR Technical Advisory states, “Because new retail development typically redistributes shopping trips rather than creating new trips,<sup>7</sup> estimating the total change in VMT (i.e., the difference in total VMT in the area affected with and without the project) is the best way to analyze a retail project’s transportation impacts.” Local serving retail generally shortens trips as longer trips from regional retail are redistributed to new local retail.

## 5. Locally-Serving Public Facilities

Community-purpose facilities serve the community and either produce very low VMT or divert existing trips from established local facilities. A replacement/remodel of an existing local serving public facility with no net increase in VMT would not require a VMT analysis for CEQA.

**Evidence** – Similar to locally serving retail, locally serving community-purpose facilities would redistribute trips and would not create new trips.<sup>8</sup> Thus, similar to locally serving retail, trips are generally shortened as longer trips from a regional facility are redistributed to the locally serving public facility.

## 6. Redevelopment Projects with Lower Total VMT

A redevelopment project that demonstrates that the total project VMT is less than the existing land use’s total VMT is not required to complete a VMT analysis.

**Evidence** – Consistent with the OPR Technical Advisory, “[w]here a project replaces existing VMT-generating land uses, if the replacement leads to a net overall decrease in VMT, the project would lead to a less-than-significant transportation impact. If the project leads to a net overall increase in VMT, then the thresholds described above should apply.”

If a residential or office project leads to a net increase in VMT, then the project’s VMT/capita (residential) or VMT/employee (office) should be compared to thresholds recommended above. Per capita and per employee VMT are efficiency metrics, and, as such, apply only to the proposed project without regard to the VMT generated by the previously existing land use.

“If the project leads to a net increase in provision of locally-serving retail, transportation impacts from the retail portion of the development should be presumed to be less than significant. If the project consists of regionally-serving retail, and increases overall VMT compared to with existing uses, then the project would lead to a significant transportation impact.” – OPR Technical Advisory on Evaluating Transportation Impacts in CEQA (December 2018).

# Thresholds

<sup>7</sup> Lovejoy, et al., Measuring the Impacts of Local Land-Use Policies on Vehicle Miles of Travel: The Case of the First Big-Box Store in Davis, California, *Journal of Transport and Land Use*, 2013.

<sup>8</sup> Lovejoy, et al., Measuring the Impacts of Local Land-Use Policies on Vehicle Miles of Travel: The Case of the First Big-Box Store in Davis, California, *Journal of Transport and Land Use*, 2013.

If a project is required to complete a VMT analysis, the project's impacts to the transportation system would be significant if the VMT would exceed any of the thresholds below.

## **Residential**

**Threshold** – 15% below regional average VMT/capita

**Evidence** – The OPR Technical Advisory provides that, "residential development that would generate vehicle travel that is 15 or more percent below the existing residential VMT per capita, measured against the region or city, may indicate a less-than-significant transportation impact."

## **Employment**

**Threshold** – 15% below regional average VMT/employee

**Evidence** – The OPR Technical Advisory provides that, "office projects that would generate vehicle travel exceeding 15 percent below existing VMT per employee for the region may indicate a significant transportation impact."

## **Industrial Employment**

**Threshold** – At or below regional average VMT/employee

**Evidence** – The OPR Technical Advisory states, "Of land use projects, residential, office, and retail projects tend to have the greatest influence on VMT. For that reason, OPR recommends the quantified thresholds described above for purposes of analysis and mitigation. Lead agencies, using more location-specific information, may develop their own more specific thresholds, which may include other land use types." Purely industrial uses are desired to be located in locations that are less dense and not within urban areas, which typically have higher VMT/employee. Industrial land uses are land intensive; therefore, placing industrial land uses in less urban areas characterized by having higher VMT/employee allows land in efficient VMT areas to be more effectively utilized as high density residential and commercial uses. This threshold is consistent with achieving an overall reduction in Regional VMT as it recognizes that industrial uses, which are relatively lower total VMT generating uses, are most appropriate in areas that have a lower potential to reduce VMT because it results in more available land within areas with a high potential to achieve VMT reductions available for more dense development.

## **Regional Retail, Regional Recreational, or Regional Public Facilities**

**Threshold** – A net increase in total regional VMT using the boundary method

**Evidence** – The OPR Technical Advisory states, "Because new retail development typically redistributes shopping trips rather than creating new trips, estimating the total change in VMT (i.e., the difference in total VMT in the area affected with and without the project) is the best way to analyze a retail project's transportation impacts... Regional-serving retail development... which can lead to substitution of longer trips for shorter ones, may tend to have a significant impact. Where such development decreases VMT, lead agencies should consider the impact to be less than significant."

Retail within the City of Escondido will be analyzed consistent with the OPR technical advisory. The City of Escondido has retail uses that attract trips from beyond a neighborhood, which are defined in the SANDAG *(Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region* as "Community Shopping Center," "Regional Shopping Center," and "Super Regional Shopping Center."

The recommendations for regional retail uses can also be applied to regional recreational and regional public facilities since these types of facilities operate in a similar way from a transportation/customer attraction perspective.



# Appendix E: Transportation Project Screening

## Transportation Project Screening Criteria

The following complete list is provided in the OPR Technical Advisory (December 2018, Pages 20-21) and refined for the City of Escondido for transportation projects that, "would not likely lead to a substantial or measurable increase in vehicle travel, and therefore generally should not require an induced travel analysis."

- Rehabilitation, maintenance, replacement, safety, and repair projects designed to improve the condition of existing transportation assets (e.g., highways; roadways; bridges; culverts; Transportation Management System field elements such as cameras, message signs, detection, or signals; tunnels; transit systems; and assets that serve bicycle and pedestrian facilities) and that do not add additional motor vehicle capacity
- Roadside safety devices or hardware installation, such as median barriers and guardrails
- Roadway shoulder enhancements to provide "breakdown space," dedicated space for use only by transit vehicles, to provide bicycle access, or to otherwise improve safety, but which will not be used as automobile vehicle travel lanes
- Addition of an auxiliary lane of less than one mile in length designed to improve roadway safety
- Installation, removal, or reconfiguration of traffic lanes that are not for through traffic, such as left, right, and U-turn pockets, two-way left-turn lanes, or emergency breakdown lanes that are not utilized as through lanes
- Addition of roadway capacity on local or collector streets, provided the project also substantially improves conditions for pedestrians, cyclists, and, if applicable, transit
- Closing gaps in the transportation network in conformance with the Circulation Element of the General Plan where the project also substantially improves conditions for pedestrians, cyclists, and, if applicable, transit.
- Conversion of existing general purpose lanes (including ramps) to managed lanes or transit lanes, or changing lane management in a manner that would not substantially increase vehicle travel
- Addition of a new lane that is permanently restricted to use only by transit vehicles
- Reduction in number of through lanes
- Grade separation to separate vehicles from rail, transit, pedestrians or bicycles, or to replace a lane in order to separate preferential vehicles (e.g., HOV, HOT, or trucks) from general vehicles
- Installation, removal, or reconfiguration of traffic control devices, including Transit Signal Priority (TSP) features
- Installation of traffic metering systems, detection systems, cameras, changeable message signs, and other electronics designed to optimize vehicle, bicycle, or pedestrian flow
- Timing of signals to optimize vehicle, bicycle, or pedestrian flow
- Installation of roundabouts, or traffic circles
- Traffic signal modifications and new traffic signals where warrants are met by existing levels of traffic and the project improves accessibility for active transportation.

- Installation or reconfiguration of traffic calming devices
- Adoption of or increase in tolls
- Addition of tolled lanes, where tolls are sufficient to mitigate VMT increase
- Initiation of new transit service
- Conversion of streets from one-way to two-way operation with no net increase in number of traffic lanes
- Removal or relocation of off-street or on-street parking spaces
- Adoption or modification of on-street parking or loading restrictions (including meters, time limits, accessible spaces, and preferential/reserved parking permit programs)
- Addition of traffic wayfinding signage
- Rehabilitation and maintenance projects that do not add motor vehicle capacity
- Addition of new or enhanced bike or pedestrian facilities on existing streets/highways or within existing public rights-of-way
- Addition of Class I bike paths, trails, multi-use paths, or other off-road facilities that serve non-motorized travel
- Installation of publicly available alternative fuel/charging infrastructure
- Addition of passing lanes, truck climbing lanes, or truck brake-check lanes in rural areas that do not increase overall vehicle capacity along the corridor

# Appendix F: Summary of Desired Transit Stop Features

Excerpt from North County Transit District's *Bus Stop Development Handbook* (March 2018)

### 3.0 Bus Stop Guidelines

Obstacles to improving transit infrastructure – lack of sidewalk and bike network, available space for stop infrastructure (including ADA), accessible neighborhood sidewalks connecting to stops, accessible street crossings. Work with city departments to make improvements and encourage continued upgrades to complete the networks, especially during other construction projects.

#### 3.1 Curb-Side Improvements

Passenger comfort, safety, and convenience are all impacted by bus stop features that are located off the street or roadway, commonly referred to as curbside improvements. This section outlines how developers and jurisdictions can appropriately locate bus stops and choose the correct stop type, as well as information on general preferred and recommended curbside improvements.

##### 3.1.1 Bus Stop Types

The design of a bus stop can often impact the amount of ridership at that particular location. A stop must be accessible, safe, and convenient for passengers. NCTD has developed three distinct bus stop types – the basic stop, the bench stop, and the shelter stop – as well as stops associated with transit stations/centers.

**BASIC STOPS** are characterized by the presence of a bus stop sign only, and do not contain passenger amenities like benches or shelters. These stops are generally utilized in rural areas or those areas with lower density and lower ridership. Basic stops are required to meet ADA design requirements.

**BENCH STOPS** are basic transit stops with the addition of a bench for waiting passengers and trash receptacles. In some cases, additional amenities such as lighting or bicycle racks may be warranted. Bench stops are best suited for areas with low to medium density and ridership.

	Required Amenities	Recommended Amenities	Optional Amenities
<b>Bench Stops</b>	<ul style="list-style-type: none"> <li>• Bus stop sign</li> <li>• ADA accessible pad</li> <li>• Bench</li> <li>• Connection to adjacent sidewalks/pathways</li> <li>• Trash receptacle</li> </ul>	<ul style="list-style-type: none"> <li>• Lighting</li> <li>• Bicycle racks/lockers</li> <li>• Transit route information</li> </ul>	<ul style="list-style-type: none"> <li>• Screening from sun / elements (landscaping)</li> <li>• Transit system information</li> </ul>

**SHELTER STOPS** are located in areas with higher ridership and medium to high density developments. In addition to a sign, ADA compliant concrete pad, and bench, these stops include a shelter and trash receptacle, at a minimum. Additional amenities like lighting and bicycle racks are highly encouraged. The design of a shelter stop is dependent upon the existing features of the site, including sidewalk design, right-of-way, and proximity to existing structures.

	Required Amenities	Recommended Amenities	Optional Amenities
<b>Shelter Stops</b>	<ul style="list-style-type: none"> <li>• Bus stop sign</li> <li>• ADA accessible pad</li> <li>• Bench</li> <li>• Shelter</li> <li>• Connection to adjacent sidewalks/pathways</li> <li>• Trash receptacle</li> </ul>	<ul style="list-style-type: none"> <li>• Lighting</li> <li>• Bicycle racks/lockers</li> <li>• Transit route information</li> <li>• Screening from sun / elements (landscaping)</li> <li>• Transit system information</li> </ul>	<ul style="list-style-type: none"> <li>• Digital messaging signs</li> </ul>

**STATION STOPS** are associated with branded services like BREEZE Rapid. These stops have enhanced passenger amenities, including more robust transit system information signage and branded shelters.

	Required Amenities	Recommended Amenities
<b>Station Stops (BREEZE Rapid)</b>	<ul style="list-style-type: none"> <li>• All requirements of shelter stops, plus:</li> <li>• Single shelter or double shelter with integrated station marker</li> <li>• Station marker with integrated seats</li> <li>• Solar-powered LED lighting</li> </ul>	<ul style="list-style-type: none"> <li>• Transit route and schedule information</li> <li>• Transit system information</li> <li>• Wayfinding signage</li> <li>• Digital messaging signs</li> </ul>

The dimensions for each stop type above have been provided as guidelines for the development of new bus stops. District staff understands that some stops may not be able to be retrofitted to meet these standards, or alternative designs may be more feasible based on existing conditions. When a developer has been required to upgrade an existing stop, District staff should be contacted to help create an appropriate design.

### 3.1.2 Bus Stop Type Selection Criteria

The type of stop provided is primarily driven by route frequency and land use density – routes with higher frequency are typically located in areas with more intensive development, and generally result in more daily boardings. The table below shows the recommended attributes for each of the four stop types. District staff will assist developers in determining the appropriate stop type on a case-by-case basis.

Table 1: Bus Stop Type Location Recommendations

Criteria	Basic Stop	Bench Stop	Shelter Stop
<b>Minimum Daily Boardings</b>			
Rural Stop	<5 daily boardings	5 – 10 daily boardings	10+ daily boardings
Suburban Stop	<10 daily boardings	10 – 20 daily boardings	>20 daily boardings
Urban Stop	<20 daily boardings	20 – 30 daily boardings	>30 daily boardings
<b>Density Considerations</b>	Low density residential; Rural	Low to Medium Density Residential; Commercial; Industrial	Medium to High Density Residential; Mixed-Use; Commercial Core
<b>Land Use and Development:</b> Located ¼-mile (max.) from employment center, retail/commercial center, mixed use development or other major activity center			✓
<b>Population Considerations:</b> Youths, seniors, disabled persons, low-income households		Within ¼-mile of population concentrations	Within 1/8-mile of population concentrations
<b>Connections with other NCTD mode or transit provider</b>		✓	✓
<b>Located within Planned Enhanced Development Corridor</b>			✓

In addition, NCTD’s system also includes Station Stops, which are generally characterized by service from multiple routes and/or providers, enhanced facilities, and higher ridership. Stops that are served by BREEZE Rapid are also categorized as Station Stops. New stations should be focused in urban and more developed suburban areas with a mix of uses, commercial core development, and medium to higher density housing, particularly with affordable and multi-family housing, in addition to the provision of enhanced transit service or connections to multiple transit options. In suburban settings, a minimum of 100 daily boardings may warrant a general station, while in urban settings, a minimum of 500 daily boardings should be generated.

### 3.1.3 Design and Access

Providing defined, safe, and direct access to a bus stop is critical to maintaining and increasing transit usage. Access to a bus stop from an intersection or land use should be as direct as possible, and provide essential security and safety along the route. General guidelines for access are as follows:

# Appendix G: Trip Length Adjustments



## Trip Length Adjustments

Trip length adjustments for trips leaving the SANDAG Model Area can be made by using the California Statewide Travel Demand Model (CSTDM).

Adjusting the length of trips leaving a model boundary requires appending extra distance at the model gateway zone (or external centroid) connectors. This process results in new gateway distances that are weighted based on the amount and location of external travel origins and destinations.

The first step of this process is to determine trip volume leaving or entering the model boundary. These are referred to as internal-to-external (IX) and external-to-internal (XI) trips. This data can be generated either from O-D trip matrices or by conducting a select zone analysis to track trips to the model gateways. The volume at the gateways for this purpose should not include external-to-external (XX) through trips.

Determining the full length of trips leaving or entering a model boundary requires an OD dataset that includes flows between the model area and the area external to the model. The California Statewide Travel Demand Model (CSTDM) should be used to develop the OD dataset.

The next step requires determining the gateway(s) based on the SANDAG model which trips from the OD data source would travel through. The trip length adjustment process ultimately requires calculating the weighted average distance beyond each model gateway. The process of calculating trip lengths external to the SANDAG model region for trips entering or exiting the SANDAG model area using the CSTDM is described below:

- Create correspondence between Study Area TAZs within SANDAG model to the Statewide Model TAZs.
- Add "Gate" attribute to CSTDM roadway network links and set "Gate" equal to gateway id only for those links identified as the locations corresponding to the SANDAG model gateways.
- Add "Gate\_Dist" attribute to CSTDM roadway network links and set "Gate\_Dist" equal to the link distance for those links outside the SANDAG model boundary. All the CSTDM roadway links inside the SANDAG model boundary will have a "Gate\_Dist" attribute of 0.
- Run a highway skim on the CSTDM roadway network to skim the shortest travel time between each OD pair, tracking the gateway and distance outside the SANDAG model boundary.
- For each gateway, summarize the average distance beyond the SANDAG model boundary weighted by volume at each gateway.
- Tag the gateway distance from the above step using CSTDM to the gateways in the SANDAG model and multiply to the gateway volume from the SANDAG model to determine the gateway external VMT to the SANDAG model. Make sure not to double-count any overlap distance that is already accounted for in the VMT calculation from the SANDAG model.

**Table G1** shows the base year (2012) weighted average distance beyond the SANDAG model boundary for trips passing through each model gateway, as calculated using the methodology above.

Table G1: Trip Distances Outside San Diego County for Entering and Exiting Trips

<b>Gateway</b>		<b>Distance Outside San Diego County (miles)</b>	
<b>Route</b>	<b>County</b>	<b>IX Trips</b>	<b>XI Trips</b>
<b>I-8</b>	Imperial	70.16	69.20
<b>SR-78</b>	Imperial	54.07	58.90
<b>SR-79</b>	Riverside	71.71	62.54
<b>Pechanga Pkwy</b>	Riverside	35.89	30.91
<b>I-15</b>	Riverside	24.86	24.81
<b>I-5</b>	Orange County	60.54	62.81

Source: Fehr & Peers, California Statewide Travel Demand Model.

# Appendix H: VMT Mitigation Sample Calculation

## VMT Mitigation Sample Calculation

As shown, each VMT reduction strategy is calculated individually then combined in the equation to determine the overall VMT reduction. The sum of all strategies results in a total of 11.6%; however, the overall VMT reduction is calculated using the multiplicative formula to account for the fact that some strategies are redundant or duplicative in nature.

### Land Use Strategies

- **Land Use/Diversity: 5.0%**  **$P_a = 5.0\%$**

### Travel & Commute Services for Residents

- **Neighborhood/Site Enhancements: 3.0%**  **$P_b = 3.0\%$** 
  - Pedestrian/Bicyclist Trails Network: 2.0%
  - Electric Bike-Share Program: 0.6%
  - Car-share Program: 0.4%
  - Category % VMT Reduction =  $1 - (1 - 2.0\%) * (1 - 0.6\%) * (1 - 0.4\%) = 3.0\%$
- **Transit System Improvements Strategies: 1.2%**  **$P_c = 1.2\%$** 
  - Network Expansion (through Local Shuttle Service): 0.9%
  - Service Frequency/Speed Increase (through Local Shuttle Service): 0.3%
  - Category % VMT Reduction =  $1 - (1 - 0.9\%) * (1 - 0.3\%) = 1.2\%$
- **Commute Trip Reduction (CTR) for residents (home based work): 2.0%**  **$P_d = 2.0\%$** 
  - Ridesharing Support Features for Residents: 0.6%
  - Transit Fare Subsidy for Residents: 0.9%
  - TDM Program Marketing for Residents: 0.5%
  - Category % VMT Reduction =  $1 - (1 - 0.6\%) * (1 - 0.9\%) * (1 - 0.5\%) = 2.0\%$

### Commute Services for Employees

- **Commute Trip Reduction (CTR) for employees: 0.4%**  **$P_e = 0.4\%$** 
  - Transit Fare Subsidy for Employees: 0.3%
  - TDM Program Marketing for Employees: 0.1%
  - Category % VMT Reduction =  $1 - (1 - 0.3\%) * (1 - 0.1\%) = 0.4\%$

$$\text{Total VMT Reduction} = (1 - P_a) * (1 - P_b) * (1 - P_c) * (1 - P_d) * (1 - P_e)$$

$P_x$  = percent reduction of each VMT reduction strategy

$$\text{Total VMT Reduction} = (1 - 5.0\%) * (1 - 3.0\%) * (1 - 1.2\%) * (1 - 2.0\%) * (1 - 0.4\%) = \underline{11}$$

## CITY COUNCIL STAFF REPORT

**Public Hearing Item No. 10**

**April 21, 2021**

**File No. 0870-11**

SUBJECT: Annual Action Plan for Fiscal Year 2021-2022 Department of Housing and Urban Development (“HUD”) Funding, Fifth Amendment to the Fiscal Year 2019-2020 HUD Annual Action Plan, and Budget Adjustment

DEPARTMENT: Community Development Department/Housing & Neighborhood Services

RECOMMENDATION:

It is requested that the City Council:

- Solicit and consider citizen input on the FY 2021-2022 HUD Annual Action Plan for the use of Community Development Block Grant (“CDBG”), Emergency Solutions Grant (“ESG”) and HOME Investment Program (“HOME”) funds;
- Solicit and consider citizen input on the FY 2019-2020 Annual Action Plan Amendment for the use of Emergency Solutions Grant – Coronavirus (“ESG-CV”) funds;
- Adopt Resolution No. 2021-50 to approve the FY 2021-2022 CDBG, ESG, and HOME budget, conditionally commit funds to projects, and authorize the Director of Community Development to execute contracts as appropriate;
- Adopt Resolution No. 2021-51 approving the submittal of the FY 2021-2022 Annual Action Plan to HUD;
- Adopt Resolution No 2021-59 amending the FY 2019-2020 Annual Action Plan to add funding to the Homeless Outreach ESG-CV activity and conditionally commit funds to a project; and
- Approve Budget Adjustments in the total amount of \$85,855.

FISCAL ANALYSIS:

The City of Escondido (“City”) receives annual federal entitlements from HUD for community development, homeless and housing activities. HUD has announced the City will receive FY 2021-2022 allocations of \$1,691,588 in CDBG, \$155,124 in ESG, and \$624,351 in HOME funds. CDBG funds will be used to support community development priorities, funding City-sponsored and non-profit-sponsored public services, capital, and neighborhood improvement projects. ESG funds can only be used for homeless priorities. Required administrative matching funds will be provided by Successor Housing Agency funds. ESG-CV funds can only be used for projects which address ESG

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priorities and prevent, prepare for, or respond to COVID-19 pandemic. HOME funds can only be used for the provision of affordable housing. HUD funds must assist the low-income residents of Escondido and may not be used to supplant previously allocated City funds. Funds may also be used to pay for administrative and planning services, subject to regulatory limitations.

On March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Public Law 116-136, into law providing \$2.2 trillion in federal funds to respond to the COVID-19 pandemic. The CARES Act included \$5 billion for the Community Development Block Grant – Coronavirus ("CDBG-CV") program and \$4 billion for the ESG-CV program to prevent, prepare for and respond to the COVID-19 pandemic. The City received \$2,394,882 in CDBG-CV funds and \$4,487,427 in ESG-CV funds. This funding, authorized under the CARES Act, is in addition to the City's annual allocations of CDBG, ESG and HOME funds from HUD.

PREVIOUS ACTION:

The City's [2015-2019 Five Year Consolidated Plan](#) was adopted in 2015 and was amended in 2017 to include the ESG funds. This plan established priorities for the use of CDBG, ESG, and HOME funds for the period of July 1, 2015 through June 30, 2020, including the FY 2019-2020 Action Plan. At HUD's direction, all activities associated with all funding rounds of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Public Law 116-136, will amend the FY 2019-2020 Annual Action Plan.

On May 20, 2020, the City Council amended the City's [Citizen Participation Plan](#) and confirmed policy priorities for both CDBG-CV and ESG-CV funding. Council reaffirmed existing priorities in the Consolidated Plan and directed staff to work with current subrecipients to allocate additional funds as efficiently as possible.

On May 20, 2020, the City Council held a public hearing and approved the [FY 2020-2024 Consolidated Plan](#) ("Con Plan"). The Plan established priorities for the use of CDBG, ESG and HOME funds over the five-year period ending June 30, 2025, to benefit low-income residents and neighborhoods in the City of Escondido. On November 18, 2020, the City Council amended the FY 2020-2024 Con Plan to add new projects to the first year Annual Action Plan.

On June 24, 2020, the City Council approved the second amendment to the FY 2019-2020 Annual Action Plan in order to receive CARES Act Round 1 allocations, including \$1,070,025 in Community Development Block Grant-Coronavirus ("CDBG-CV") funds and \$552,803 in ESG-CV funds.

On December 16, 2020, the City Council approved a third amendment to the FY 2019-2020 Annual Action Plan to accept \$3,934,624 in CARES Act Round 2 ESG-CV funds and create a new program.

# Annual Action Plan for FY 2021-2022 HUD Funding, Fifth Amendment to the FY 2019-2020 Annual Action Plan and Budget Adjustment

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On March 3, 2021, the City Council amended the FY 2019-2020 Action Plan for a fourth time to accept \$1,324,858 in CARES Act Round 3 CDBG-CV funds and to create new or expand existing CDBG-CV and ESG-CV projects.

On March 3, 2021, the City Council held the first of two public hearings associated with the FY 2021-2022 Annual Action Plan to reaffirm the community development, housing and homeless priorities adopted in the 2020-2024 Five-Year Consolidated Plan.

## BACKGROUND:

The Con Plan is a federally-required document for communities that receive federal HUD funds that provides a comprehensive, strategic framework for a community to establish a unified vision and action plan to address the needs of low-income individuals, families and neighborhoods. The goals of CDBG, ESG, and HOME programs included in the Con Plan are to provide decent housing, provide services to households experiencing homelessness, provide a suitable living environment, and expand economic opportunities.

## **Second Year Annual Action Plan (FY 2021-2022)**

The one-year action plan, required for each year of the Con Plan period, determines the specific goals, objectives and performance benchmarks for activities for a single year and will specify how CDBG, ESG, and HOME entitlement funds are spent. Projects must address the Con Plan priorities. In accordance with the Citizen Participation Plan, the City must conduct two public hearings to solicit and consider citizen input on the Annual Action Plan. The [draft FY 2021-2022 Action Plan](#) is posted on the City's website.

Today's City Council actions will identify specific programs and activities to be undertaken with FY 2021-2022 funds and conditionally commit funding. Final commitment is dependent on HUD's acceptance of the Action Plan, completion of a National Environmental Policy Act ("NEPA") environmental review, receipt of environmental clearance from HUD, provision of appropriate insurance verification, and acceptance of City contract terms.

## **CDBG Funds**

The CDBG program is a flexible block grant program that provides communities with resources to address a wide range of unique community development needs. The CDBG program works to ensure decent affordable housing and neighborhoods, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses. Each CDBG activity must meet one of the following national objectives for the program: benefit low- and moderate-income persons, prevent or eliminate slums or blight, or address community development needs having a particular urgency. Escondido projects have focused on benefit to low- and moderate-

income persons. The City will receive \$1,691,588 in CDBG entitlement funds for FY 2021-2022. This is a 7% decrease from FY 2020-2021. Statutorily, no more than 20% of entitlement funds (\$338,317) may be expended for administrative activities and no more than 15% (\$253,738) may be used for public service activities.

As a recipient of CDBG funds, the City is also required to take steps to affirmatively further fair housing within its jurisdiction as part of the obligation it assumes when it accepts these funds. Fair Housing services are allowable under Public Service or Administration. By utilizing Administration funds, the City is able to fund more programs under Public Service. Last year, the City of Escondido participated in a North County Request for Proposals to select Legal Aid Society of San Diego County as our fair housing provider. Staff recommends renewing the \$35,000 agreement using administrative funds.

#### ***FY 2020-2024 Community Development Priorities***

1. Homeless Services: Support homeless shelter and other services.
2. Basic Needs: Provide access to food, water, shelter, and sanitation.
3. Health and Human Development: Provide access to recreation, education, and healthcare (including mental health).
4. Neighborhood Revitalization: Improve the livability of neighborhoods.
5. Economic Development: to provide economic development opportunities to low-mod income residents and business.

Each year, the City must develop an action plan that describes all the activities the City plans to carry out that year. Both City-sponsored and non-profit-sponsored projects may be considered. This year an RFP was released on March 4, 2021, with applications due March 31, 2021. The City received eight proposals from outside agencies for FY 2021-2022 CDBG funding. Seven requests are for public service funds: (1) Meals on Wheels is requesting \$25,000 for its in-home meal delivery to moderate and low-income seniors; (2) San Diego Children's Discovery Museum is requesting \$17,250 to provide free or reduced cost memberships to the museum; (3) Alliance for Regional Solutions is requesting \$45,000 for its Bridge Housing Network providing year round shelter and services for homeless individuals; (4) Voices for Children is requesting \$10,000 for direct advocacy, assessment and ongoing case monitoring for Escondido foster youth; (5) Palomar Family Counseling Service is requesting \$12,000 to promote long-term social and emotional well-being of women and children affected by domestic violence; (6) Mama's Kitchen, a new applicant, is requesting \$6,000 for its in-home meal delivery to critically ill Escondido residents; and (7) Escondido Education COMPACT, a new applicant, is requesting \$49,868 to reduce youth access to alcohol in the Mission Park and surrounding areas. Additionally, the Boys and Girls Clubs of Greater San Diego is requesting \$27,699.10 to repair and replace the existing Spanish style roof on their Baker Family Branch facility on 15<sup>th</sup> Avenue.

Staff has reviewed the applications for completeness and eligibility. Criteria for review includes, but is not limited to, a pre-award risk assessment based on subrecipient history, complexity of the project,



funding and budget appropriateness, experience, and compliance with federal criteria. Staff also reviews each non-profits' ratings and profiles on sites such as Charity Navigator and Guidestar, and performs other general research. The application from the Alliance for Regional Solutions was removed from CDBG consideration and reclassified as an ESG application. Specific allocation recommendations for CDBG-funded activities are included as Attachment 1 and are described below.

### **Proposed Public Service Activities (\$253,738)**

#### Learn-to-Swim (\$15,000)

The Learn-to-Swim program provides water safety training to low-income youth, addressing the Con Plan's Health and Human Development CDBG priority.

#### Senior Transportation, Senior Nutrition, Senior Care (\$34,610; \$56,110; \$16,000)

Programs offered by Older Adult services provided by the City's Community Services Department address the senior services priority. These programs include a low-cost transportation program, lunch program and staff assistance to promote the independence of seniors by assisting them to resolve their issue(s) themselves and encouraging independence and self-sufficiency while providing support and resources at the Park Avenue Community Center. These programs address the Con Plan's Basic Need CDBG priority.

#### Neighbor-to-Neighbor (\$45,000)

Neighbor-to-Neighbor supports the Neighborhood Revitalization priority as an additional component to the Grants to Blocks Program. Neighborhood clean-ups block parties, leadership trainings, neighborhood group meetings, and other neighborhood organization efforts in low-income neighborhoods would be supported through this program.

#### Neighborhood Improvement Planning Program (\$30,018)

The objective of this program is to determine whether a proposed future CDBG Neighborhood Revitalization project is feasible and that at least 51% of the intended beneficiaries will be of low or moderate income. Eligible activities include feasibility studies, preliminary architectural and engineering design, cost estimates, and market analysis. Detailed engineering specifications and working drawings are not eligible. This project would help to guide future projects and speed delivery of City projects. Staff anticipates studying localized infrastructure needs where complaints have occurred, such as Gamble Street. This project addresses the Con Plan's Neighborhood Revitalization CDBG priority.

#### Escondido Fire Department ("EFD") Residential KnoxBox Installation Pilot Program (\$10,000)

EFD is requesting funding for a pilot program to install KnoxBoxes upon request at the homes of high-risk individuals to allow EFD the ability to quickly gain entrance during a medical or other emergency. Program participants would receive a Residential KnoxBox that is installed over the front door and can only be unlocked by fire and emergency medical personnel using the Knox Key that is secured

on EFD emergency vehicles. This program gives participants the peace of mind knowing that if they need to call 911 and are unable to unlock the door, firefighters and paramedics will have the ability to enter their home without forcible entry that could cause damage to doors or windows. In addition to house keys, these small and secure boxes could also store information on allergies, current medication/medical condition info, emergency contact info and DNR orders. Advantages to the systems include: reduction in entry time, reduction in property damage, and ability to re-secure accessed property reliably and quickly. This new project would address the Con Plan's Health and Human Development CDBG priority.

Meals-on-Wheels of San Diego County Meal Delivery Program (\$25,000)

Meals-on-Wheels Program provides daily delivery of up to two nutritious meals a day to the home, accompanied by a daily safety check, in-home social visit, and care navigation. This program addresses the Con Plan's Basic Needs CDBG priority by addressing food insecurity for homebound seniors and people with disabilities. Meals on Wheels has been a recipient of City CDBG funds since 2005.

San Diego Children's Discovery Museum (SDCDM) Access for All Initiative (\$6,000)

The San Diego Children's Discovery Museum provides fun hands-on early educational experiences to children aged pre-school through third grade. This program would provide reduced-price annual memberships to low-income families, addressing the Con Plan's Health and Human Services CDBG priority and helping to address educational equity in the community. SDCDM has received City CDBG funding since 2017.

Voices for Children Case Liaison Program (\$10,000)

Voices for Children provides advocacy services to Escondido foster youth through Court Appointed Special Advocate ("CASA") and Case Liaison programs. This project would provide Escondido foster youth with case oversight, triage, and advocacy services as needed to ensure that their education, mental and physical health and placement needs are met. This program addresses the Con Plan's Health and Human Development CDBG priority. This would be the third year Voices for Children receives City CDBG funding.

Mama's Kitchen Home Delivered Meal Service: Escondido (\$6,000)

Mama's Kitchen's Home-Delivered Meal Service provides medically tailored meals to low-to-moderate income Escondido residents facing critical illnesses such as cancer, type 2 diabetes, congestive heart failure and chronic kidney disease. Funding would allow Mama's Kitchen to expand services in Escondido. This program addresses the Con Plan's Basic Needs Priority. This would be Mama's Kitchen's first round of City CDBG funding.

## **Proposed Capital Improvement and Neighborhood Revitalization Activities (\$1,099,540)**

### CDBG-Funded Code Enforcement (\$115,000)

CDBG-funded neighborhood revitalization efforts would include funding four part-time Code Enforcement Officers to work in commercial and residential areas of CDBG-eligible census tracts. The officers would address code issues relating to business licensing, illegal signage and other appearance and compliance issues generally associated with commercial and residential areas. This project addresses the Con Plan's Neighborhood Revitalization CDBG priority.

### Grants to Blocks (\$85,000)

This program addresses the need to fund multiple, small neighborhood revitalization projects and Right-of-Way Enhancement mini grants associated with street improvement projects. Efforts are focused in organized neighborhood group areas. This project addresses the Con Plan's Neighborhood Revitalization CDBG priority.

### Graffiti Removal (\$157,500)

The Graffiti Removal Project provides funding for graffiti removal in qualifying low-mod income census tracts and applies only to private properties. CDBG funds can be used to remove graffiti from private homes, garages, fences and exterior surfaces of privately owned businesses. This project addresses the Con Plan's Neighborhood Revitalization CDBG priority.

### Project NEAT (\$45,000)

The goal of Project NEAT (Neighborhood Enhancement, Awareness and Training) is to improve the appearance and safety of neighborhoods through mediation, education and fostering relationships with neighbors. Project NEAT proactively works with organized neighborhood groups to resolve potential code compliance issues, mostly with regard to yard maintenance and other appearance-related issues, before they reach the level of code enforcement cases. This project addresses the Con Plan's Neighborhood Revitalization CDBG priority.

### Escondido Creek Trail Fencing (\$325,000)

This project would add funding to an existing CDBG funded project to install wrought iron fencing along the Escondido Creek Trail to promote a safer and cleaner spaces. Current funding is for fencing between Midway and Harding; additional funds would expand fencing to Broadway in accordance with the with the Creek design standards. This project addresses the Con Plan's Neighborhood Revitalization CDBG priority.

### Sidewalk Infill (\$100,000)

The Sidewalk Infill Program's goals are to provide safe pedestrian travel in and around our community, and improve walkability, by completing small segments of discontinuous sidewalk in CDBG-eligible areas. Priority for projects would initially be within existing right-of way in the

neighborhood groups and projects necessary to address ADA issues. This project addresses the Con Plan's Neighborhood Revitalization CDBG priority.

#### Debris Removal (\$52,000)

CDBG funds may be used for certain activities on an interim basis to stop physical deterioration until a permanent solution can be found, including special garbage, trash and debris removal, above and beyond that normally provided. Due to recent increases in homelessness and dumping in Escondido, the Public Works Department has been challenged to maintain safe and clean public and private spaces and is requesting funding for a new two person team (part-time staff) address on demand, trash and debris cleanup in CDBG-eligible areas. This new project would address the Con Plan's Neighborhood Revitalization CDBG priority.

#### Hoffman Victorian Fenestration Preservation (\$90,000)

The Historic Structure Assessment Report for the Hoffman Victorian at the Escondido History Center in Grape Day Park has identified one stabilization project and four preservation projects to deal with short and medium term repairs and upgrades. The stabilization project has been funded with CDBG funds in FY 2020-2021. This project proposes the repair of wood windows and exterior doors using in-kind materials to protect the home and maintain its historic character. This new project would address the Con Plan's Neighborhood Revitalization CDBG priority.

#### Fitness Court at Washington Park (\$130,040)

The Fitness Court is an outdoor bodyweight circuit training system that provides a full-body workout to people of all ability levels. The first fitness court in Escondido was opened in Mountain View Park in 2020 with four additional courts planned. CDBG funding can be used to construct a court in Washington Park. CDBG funds would partially fund one Fitness Court (total installation budget is \$210,000), requiring future CDBG funds or other City funds be allocated to complete the project. This new project would address the Con Plan's Health and Human Development CDBG priority.

In addition to unspent project funds, program income is also deposited into the CDBG Unallocated account. Rent payments from leases on CDBG purchased property at 613-623 E. Lincoln have been deposited into this account. In FY 2019-2020, lease payments did not reach the threshold to be considered program income. Staff recommends transferring these funds to the Neighborhood Outreach and Support account. Funds in this account are used for small CDBG-eligible purchases following City purchasing procedures.

#### ESG Funds

The ESG program provides a first response to people with a housing crisis and engages people living on the streets with a focus to assist people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness. Allocations are based on a jurisdiction's CDBG allocation; HUD's allocation to the City of Escondido for FY 2021-2022 is \$155,124. As an ESG

recipient, the City is required to work with the local Continuum of Care (“CoC”) to determine how ESG will be used and evaluated, and how to apply CoC-wide ESG Standards to service providers. In San Diego County, the Regional Taskforce for the Homeless (“RTFH”) is the CoC Lead Agency and Administrative Entity.

ESG funds may be used for five program components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS (Homeless Management Information database; this is a required activity), as well as administrative activities. The City may reserve up to 7.5%, or \$11,634, in FY 2021-2022 for grant administration; the remaining funds (\$143,490) are to be made available for projects and activities that serve the homeless and those at-risk of homelessness. Costs associated with shelter operations and outreach (combined) may not exceed 60% of the grant funds. The subrecipient must match allocated ESG funds with an equal amount of funds from a non-federal source that can be in cash and/or non-cash contributions.

#### ***FY 2020-2024 Homeless Priorities***

1. Homelessness Prevention: To keep households at imminent risk of homelessness from becoming homeless.
2. Emergency Shelters: To temporarily house homeless residents.
3. Essential Services to Shelter Residents: To provide basic needs and case management to homeless residents living in an emergency shelter.
4. Engagement of Homeless Individuals and Families: To conduct outreach to unsheltered people.
5. Rapid Rehousing: To provide permanent housing to homeless households.

This year an RFP was released on March 4, 2021, with applications due March 31, 2021. The RFP also included \$150,000 in ESG-CV funds reserved for the provision of emergency shelter and essential services to shelter residents. The City received two proposals from outside agencies: (1) Escondido Education COMPACT is requesting \$143,490 in ESG funds to create a new homelessness prevention program; and (2) Interfaith Community Services is requesting \$149,280 in ESG-CV funds for the provision of emergency shelter, \$64,944 in ESG funds for homelessness prevention programs, and \$78,337 for street outreach. Additionally, staff reclassified the Alliance for Regional Solutions CDBG application for consideration for ESG/ESG-CV funds.

Staff has reviewed the applications for completeness and eligibility. Criteria for review includes, but is not limited to, a pre-award risk assessment based on subrecipient history, complexity of the project, funding and budget appropriateness, and experience. Staff also looks at each individual ratings and profiles on sites such as Charity Navigator and Guidestar, and other general research. Specific allocation recommendations for ESG-funded activities are included as Attachment 2. Due to the strength of the applications and the City’s desire to address homelessness in the community, Staff is recommending using funding available in the RFP plus additional ESG-CV funds which had been allocated for administration on March 3 2021. Reallocating these funds triggers a substantial

amendment to the FY 2019-2020 Annual Action Plan. A draft [FY 2019-2020 Fifth Annual Action Plan](#) amendment is published on the City website.

### **Proposed ESG & ESG-CV Fund Activities**

#### Escondido Education COMPACT (“COMPACT”) Family First Initiative (\$143,490, ESG)

The goal of the Family First Initiative is to reduce the number of families with children aged 10-18 who become homeless due to unemployment or underemployment in the City of Escondido. Leveraging COMPACT’s reach into the community and partnerships, including those with the Escondido Union High School District and the Escondido Police Department, a case manager would work with families to provide prevention and intervention strategies (including, but not limited to credit repair, mediation, housing navigation, and financial assistance) to create an Individualized Housing Stability Plan. This would be a new program and would address the Con Plan’s Homelessness Prevention ESG priority.

#### Alliance for Regional Solutions (“Alliance”) Bridge to Housing Network (\$150,000, ESG-CV)

Alliance would work with the Bridge to Housing Network and Haven House Shelter to provide 200 community members with emergency shelter. In addition to a safe place, case management to increase self-sufficiency with the goal of stable, long-term housing would be offered to all clients. This project would address the Con Plan’s Emergency Shelter/Essential Services to Shelter Residents ESG priority.

#### Interfaith Community Services (“Interfaith”) Escondido Ending Homelessness Project (\$78,337 ESG-CV)

Interfaith would provide a behavioral health clinician, working with a homeless outreach worker, to provide targeted street outreach, crisis intervention, intake and assessments, case management and follow-up to people experiencing street homelessness. Referrals would additionally be taken from the Escondido Police Department and County Live Well staff. Trauma-informed outreach builds relations with those experiencing homelessness and with service providers and mental health professionals with the goal of supporting transition to permanent housing and/or needed treatment. Although Interfaith has received non-federal funding from the City to provide street outreach, this would be a new program addressing the Con Plan’s Engagement of Homeless Individuals and Families ESG priority.

### **HOME Funds**

The City will receive \$624,351 in HOME funds for Fiscal Year 2021-2022. HUD provides formula grants to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people. The City may allocate 10% of new HOME allocation, interest, and program income derived from loan repayments for administration. A minimum of 15% of the annual allocation of HOME Program funds must be reserved for the housing development activities of Community Housing Development

Organizations (“CHDOs”). A total of 5% of the HOME grant may, but is not required to, be used to provide operating funds to certified CHDOs. Federal regulations state that HOME Program funds must be committed within two years and expended within five years of allocation; recent guidance from HUD has relaxed the commitment deadline, but not the expenditure deadline. Allocation recommendations for HOME-funded activities are included as Attachment 3.

### ***FY 2020-2024 Housing Priorities***

1. Creation and preservation of affordable rental housing; and
2. Conservation and expansion of affordable homeownership opportunities.

#### Creation and Preservation of Affordable Rental Housing

This priority relates to the improvement of the supply of rental housing in the City to meet the needs of Escondido residents. Overpayment for housing is a widespread housing problem in Escondido, especially among lower-income renters. Additionally, the rate of overcrowding is especially acute for large renter households. In order to meet this goal, HOME funding and recycled Housing Set-Aside/Successor Housing Agency (“SHA”) funds are used as leverage to other funding sources, such as Low-Income Tax Credits.

During the 2015-2019 Con Plan cycle, the City has used HOME funds to assist several projects, resulting in 253 units of existing housing either becoming newly affordable or extending affordability restrictions. Existing funds are available for inclusion in an RFP to provide additional Affordable Housing opportunities.

#### Conservation and Expansion of Affordable Homeownership Opportunities

This priority relates to the need for homeownership in Escondido. The rate of homeownership in Escondido is 51.2%, which is lower than the state and national averages of 54.8% and 64.0% respectively as reported by the July 1, 2019 United States Census Quick Facts.

The City developed the Homebuyer Entry Loan Program (“HELP”) to assist first-time homebuyers in the purchase of their homes in 1996. The HELP program currently provides loans up to 5% of the purchase price of a home (up to a maximum of \$25,000) to assist homebuyers earning 80% or less of the San Diego County area median income to purchase their first home. This year, one HELP loan has been made.

Additionally, during the 2015-2019 Con Plan Cycle, the City provided funds for a San Diego Habitat for Humanity project in Elm Street, creating 11 new homeownership units. San Diego Habitat for Humanity currently has a conditional commitment of \$1,000,000 to build 10 new homeownership units on El Norte Parkway.

Annual Action Plan for FY 2021-2022 HUD Funding, Fifth Amendment to the FY 2019-2020 Annual Action Plan and Budget Adjustment

April 21, 2021

Page 12

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

*Mike Strong*, Director of Community Development

04/15/21 10:07 a.m.

ATTACHMENTS:

1. Attachment 1 – FY 2021-2022 Proposed CDBG Allocations
2. Attachment 2 – FY 2021-2022 Proposed ESG & ESG-CV Allocations
3. Attachment 3 – FY 2021-2022 Proposed HOME Allocations
4. Attachment 4 – Budget Adjustment
5. Resolution No. 2021-50
6. Resolution No. 2021-50 – Exhibits A, B, C, D, and E
7. Resolution No. 2021-51
8. Resolution No. 2021-59



Attachment 1

**City of Escondido, Fiscal Year 2021-2022  
CDBG Allocations  
2021 HUD Allocation: \$1,691,588**

<b>Administration - 20% cap of allocation (\$338,317 max.)</b>		
116-109	CDBG Administration	\$303,310
347259	Fair Housing	\$35,000
	<b>Total</b>	<b>\$338,310</b>
<b>Public Service - 15% cap of allocation (\$253,738 max.)</b>		
347469	Learn to Swim	\$15,000
347429	Senior Transportation	\$34,610
347489	Senior Nutrition	\$56,110
347419	Senior CARE	\$16,000
347640	Neighbor to Neighbor	\$45,000
347663	Neighborhood Improvement Planning Program	\$30,018
347379	Meals on Wheels In Home Meal Delivery	\$25,000
347661	San Diego Children's Discovery Museum	\$6,000
347662	Voices for Children	\$10,000
	EPD Residential KnoxBox Pilot Program	\$10,000
	Mama's Kitchen Home Delivered Meal Service	\$6,000
	<b>Total</b>	<b>\$253,738</b>
<b>Uncapped Capital Improvement &amp; Other Neighborhood Revitalization Activities - (No max.)</b>		
347580	Code Enforcement	\$115,000
347359	Grants to Blocks	\$85,000
347500	Project Neat	\$45,000
347610	Graffiti Removal	\$157,500
344901	Creek Trail Fencing	\$325,000
345664	Sidewalk Infill	\$100,000
	Debris Team	\$52,000
	Hoffman Victorian Fenestration Preservation	\$90,000
	Fitness Court at Washington Park	\$130,040
	<b>Total</b>	<b>\$1,099,540</b>
<b>Total CDBG Allocations</b>		<b>\$1,691,588</b>

Attachment 2

**City of Escondido, Fiscal Year 2021-2022 ESG Allocations**  
**2021 HUD Allocation: \$155,124**

	<b>ESG Administration</b> (7.5% cap of allocation)	\$ 11,634
	Total:	\$ 11,634
	<b>ESG Activities</b>	
	Escondido Education COMPACT – Families First Initiative	\$ 143,490
	Total:	\$ 143,490
	Total ESG Allocations	\$ 155,124

**City of Escondido, Fiscal Year 2019-2020**  
**ESG-CV Allocations**  
**Round 1 CARES Act Funds**  
**Round 2 CARES Act Funds**  
**Round 1 & 2 HUD Allocation: \$4,487,427**

	<b>Administration</b>	
	10% cap of allocation (\$448,782 max)	
	Proposed Reduction from previous approval	\$366,287
	Total:	\$366,287
<b>ESG-CV Activities</b>		
	Previously Approved	For Approval April 21, 2021
Interfaith Community Services, Homelessness Prevention	\$2,767,648	
Interfaith Community Services, Rapid Rehousing	\$785,155	
Interfaith Community Services, Quarantined Entry	\$20,000	
Homeless Outreach Program	\$250,000	
Emergency Shelter	\$70,000	
Alliance for Regional Solutions, Emergency Shelter		\$150,000
Interfaith Community Services, Street Outreach		\$78,337
	Total:	\$4,121,140
Total ESG-CV Allocations		\$4,487,427

Attachment 3

HOME Investment Partnership Program  
FY 2021-2022

SUMMARY OF HOME FUNDING CATEGORIES

FUNDING CATEGORY	AMOUNT AVAILABLE
<p style="text-align: center;"><b>2021 Allocation</b></p> <p style="text-align: center;"><i>Loan Repayments</i></p>	<p style="text-align: right;"><b>\$624,351</b></p> <p style="text-align: right;"><u>100,000</u></p>
<p><b>TOTAL AVAILABLE FUNDS</b></p>	<p style="text-align: right;"><b>\$724,351</b></p>
<p style="text-align: center;"><i>10% of Allocation</i></p> <p style="text-align: center;"><i>10% of Program Income <sup>1</sup></i></p> <p><b>City's Administrative Cost</b></p>	<p style="text-align: right;"><b>\$ 62,190</b></p> <p style="text-align: right;"><u>\$10,000</u></p> <p style="text-align: right;"><b>\$72,190</b></p>
<p><b><u>Mandatory</u></b></p> <p style="text-align: center;">CHDO Set-Aside (15% of allocation)</p>	<p style="text-align: right;"><b>\$93,655</b></p>
<p style="text-align: center;">Housing Development</p>	<p style="text-align: right;"><b>\$558,506</b></p>
<p><b>TOTAL EXPENDITURES</b></p>	<p style="text-align: right;"><b>\$724,351</b></p>

1. Generated from Loan Repayments received in the previous fiscal year



RESOLUTION NO. 2021-50

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
ADOPTING THE CDBG, ESG, AND HOME  
BUDGETS FOR FISCAL YEAR 2021-2022,  
CONDITIONALLY COMMITTING FUNDS TO  
PROJECTS, AND AUTHORIZING THE  
COMMUNITY DEVELOPMENT DIRECTOR TO  
EXECUTE AGREEMENTS FOR USE OF  
CDBG, ESG AND HOME FUNDS

WHEREAS, the City OF Escondido (“City”) is a recipient of Community Development Block Grant (“CDBG”), Emergency Solutions Grant (“ESG”), and HOME Investment Partnerships Program (“HOME”) funds from the United States Department of Housing and Urban Development (“HUD”); and

WHEREAS, a maximum of 20% of CDBG funds received may be used for administration, a maximum of 15% of CDBG funds may be used for public service activities and with the remaining funds used for capital improvements and neighborhood revitalization; and

WHEREAS, a maximum of 7.5% of ESG funds received by the City may be used for administration, and the remaining ESG funds received by the City must be used for homeless priorities; and

WHEREAS, a total of 15% of HOME funds received by the City must be used for the provision of affordable housing by eligible Community Housing Development Organizations (“CHDOs”), 10% of the HOME funds received by the City may be used for administration, and the remaining HOME funds received by the City may be used for Housing Development; and

WHEREAS, the City Council desires at this time, and deems it to be in the best public interest, to adopt both CDBG, ESG, and HOME budgets for FY 2021-2022, which are attached as Exhibits “A,” “B,” and “C” respectively, and which are incorporated by this reference; and

WHEREAS, CDBG, ESG, and HOME funds cannot be committed to projects until certain conditions are met including HUD’s acceptance of the Action Plan, completion of a National Environmental Policy Act (“NEPA”) environmental review for each project, receipt of environmental clearance from HUD, provision of appropriate insurance verification by subrecipients, and acceptance of City contract terms.

WHEREAS, the CDBG, ESG, and HOME budgets reflect the work program for the coming year based on the City’s Action Plan for FY 2021-2022, which identifies the goals and priorities, established in the 2020-2024 Consolidated Plan; and

WHEREAS, the City Council also desires to authorize the Director of Community Development to execute agreements to provide for the use of CDBG, ESG and HOME funds.

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 CDBG, ESG and HOME budgets and administration of programs for the period of July 1, 2021, through June 30, 2022 inclusive, contained in the FY 2021-

2022 CDBG, ESG and HOME Budget Documents, attached as Exhibit “A,” “B,” and “C” are hereby adopted.

3. That the Director of Community Development can authorize non-substantial changes to the CDBG, ESG, or HOME budgets within 25%, whether above or below the projected allocation; and, the allocation may be proportionally dispersed to current distributions.

4. That the Community Development Director is hereby authorized to execute contracts with specific providers for use of CDBG and ESG funds in the amounts set forth in Exhibit “A,” and Exhibit “B,” provided such agreements have been approved as to form by the City Attorney, and provided such agreements are substantially in the form as that attached in Exhibit “D” and Exhibit “E,” which are incorporated by this reference and conditions of commitment are met.



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 CDBG Allocations  
 2021 HUD Allocation: \$1,691,588**

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**HOME Investment Partnership Program  
 FY 2021-2022  
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<b><u>Mandatory</u></b>	
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Housing Development	<b>\$558,506</b>
<b>TOTAL EXPENDITURES</b>	<b>\$724,351</b>



## SUBRECIPIENT AGREEMENT

between  
CITY OF ESCONDIDO  
and  
**NONPROFIT NAME**  
for  
**PROJECT TITLE**

This SUBRECIPIENT AGREEMENT ("Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date") by and between the City of Escondido, a California municipal Corporation ("Grantee") and **[NONPROFIT NAME/ENTITY DESIGNATION]** ("Subrecipient"). (The City and Subrecipient may each individually be referred to herein as a "Party" and collectively as the "Parties.")

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds.

NOW, THEREFORE, the Parties mutually agree as follows:

### I. SCOPE OF SERVICE

A. Activities. The Subrecipient shall be responsible for administering a Community Development Block Grant ("CDBG") Year **[ ]** program titled, **[Project Title]** in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program shall include the activities eligible under the CDBG program that are specified in **Exhibit A**, which is attached hereto and incorporated herein by this reference ("Activities").

### B. National Objectives.

1. All activities funded with CDBG funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as further described in 24 C.F.R. § 570.208.

2. The Subrecipient certifies that the Activities carried out under this Agreement will meet the National Objective of **[ ]**.

C. Levels of Accomplishment – Goals and Performance Measures. The levels of accomplishment may include such measures as units rehabilitated, persons or households assisted, or meals served, and should include periods for performance. The Subrecipient agrees to provide certain levels of program services, as set forth in **Exhibit A**.

D. Staffing. Subrecipient shall be responsible for staff and time to be allocated to each of the Activities, as set forth in **Exhibit A**.

- E. Performance Monitoring. The Grantee will monitor the performance of the Subrecipient against the goals and performance standards stated within this Agreement. Substandard performance as determined by the Grantee shall constitute noncompliance with this Agreement. If the Subrecipient does not take action to correct such substandard performance within 30 days after being notified by the Grantee, Grantee may suspend or terminate this Agreement pursuant to the procedures described herein.

## II. TIME OF PERFORMANCE

- A. The Subrecipient's performance of the Activities shall commence on [REDACTED] and end on [REDACTED].
- B. The term of this Agreement shall be extended to cover any additional time period during which the Subrecipient remains in control of CDBG funds or other CDBG assets, including any program income as defined by 24 C.F.R. § 570.500 ("Program Income").

## III. BUDGET

- A. Subrecipient shall adhere to the budget specified in Exhibit B, which is attached hereto and incorporated herein by this reference ("Budget").
- B. Any indirect costs charged must be consistent with the conditions of Paragraph IX(C)(2) of this Agreement.
- C. The Grantee may require a more detailed Budget breakdown than what is contained in Exhibit B, and the Subrecipient shall provide such supplementary Budget information in a timely fashion in the form and content prescribed by the Grantee. Any changes to the Budget may only be made by written amendment signed by both the Grantee and the Subrecipient

## IV. PAYMENT

- A. The total amount to be paid by the Grantee under this Agreement shall not exceed [REDACTED].
- B. Drawdowns for the payment of eligible expenses shall be made against line items specified in the Budget and in accordance with Subrecipient's performance of the Activities. Expenses for general administration shall also be paid against line items specified in the Budget and in accordance with Subrecipient's performance of the Activities.
- C. Payments to the Subrecipient are contingent upon the U.S. Department of Housing and Urban Development's ("HUD") delivery of payment to the Grantee.
- D. Payments to the Subrecipient may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 2 C.F.R. § 200.302.

## V. NOTICES

- A. All notices required by this Agreement shall be in writing and delivered to the appropriate Party via mail (postage prepaid), commercial courier, or personal delivery, or sent by e-mail.

B. All communications and details concerning this Agreement shall be directed to the following representatives:

If to the Grantee

Karen Youel  
City of Escondido  
201 N. Broadway  
Escondido, CA 92115  
kyouel@escondido.org  
(760) 839-4518

If to the Subrecipient

[REDACTED]

VI. GENERAL CONDITIONS

A. General Compliance.

1. The Subrecipient shall comply with the requirements of 24 C.F.R. Part 570 (HUD regulations concerning CDBG), including Subpart K of such regulations, except that (1) the Subrecipient does not assume the recipient's environmental responsibilities described in 24 C.F.R. § 570.604 and (2) the Subrecipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 C.F.R. Part 52.
2. The Subrecipient shall comply with all applicable federal, state, and local laws, regulations, and policies governing the funds provided under this Agreement.
3. The Subrecipient shall utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Independent Contractor. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the Parties. The Subrecipient is an independent contractor and no agency or employment relationship, either express or implied, is created by the execution of this Agreement. The performance of the Activities is an integral part of the regular business operations of the Subrecipient. The Subrecipient shall have exclusive control over all work performed by its employees and the manner in which it is performed and shall determine the method, details, and means of performing the Activities. In addition to any other indemnification required by the Subrecipient under this Agreement, the Subrecipient indemnifies Grantee for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by the Grantee arising out of the Subrecipient's breach of this section.

C. Grantee Recognition. The Subrecipient shall insure recognition of the role of the Grantee in the Subrecipient's performance of the Activities through this Agreement. Any activity, facility, or item utilized pursuant to this Agreement shall be prominently labeled as to its funding source. In addition,

the Subrecipient shall include a reference to the support provided in this Agreement in all publications made possible with funds made available under this Agreement.

D. Amendment.

1. The Grantee or the Subrecipient may amend this Agreement at any time provided that such amendment makes specific reference to this Agreement; is executed in writing and signed by a duly authorized representative of each Party; and is approved by the Grantee's governing body.
2. The Grantee may, in its discretion, amend this Agreement to comply with federal, state, or local laws, regulations, guidelines, or policies, except that if any such amendment results in a change in the funding or the Activities under this Agreement, such amendment may be made only by written amendment signed by both the Grantee and the Subrecipient as otherwise required by this Agreement.

VII. INDEMNIFICATION, BONDING, INSURANCE

- A. Indemnification, Duty to Defend, and Hold Harmless. The Subrecipient (including the Subrecipient's agents, employees, and subcontractors, if any) shall hold harmless, defend, and indemnify the Grantee, its officials, officers, agents, employees, and volunteers from and against any and all claims, demands, actions, causes of action, proceedings (including but not limited to legal and administrative proceedings of any kind), suits, fines, penalties, judgments, orders, levies, costs, expenses, liabilities, losses, damages, or injuries, in law or equity, including without limitation the payment of all consequential damages and attorney's fees and other related litigation costs and expenses (collectively, "Claims"), of every nature caused by, arising out of, or in connection with the Subrecipient's (including the Subrecipient's agents, employees, and subcontractors, if any) performance of the Activities or its failure to comply with any of its obligations contained in this Agreement, except where caused by the active negligence, sole negligence, or willful misconduct of the Grantee. This provision shall survive the termination of this Agreement.
- B. Bonding. The Subrecipient shall comply with the bonding requirements of 2 C.F.R. § 200.325. The Subrecipient as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.
- C. Insurance.
  1. The Subrecipient shall comply with the insurance requirements of 2 C.F.R. §§ 200.310 and 200.447.
  2. The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, and undue physical damage.
  3. The Subrecipient shall procure and maintain, at its own cost, during the entire term of this Agreement, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Activities, and the results of such work, by the Subrecipient, its agents, representatives, employees, or subcontracts. Insurance coverage shall be at least as broad as the following:
    - a. *Commercial General Liability.* Insurance Services Office ("ISO") Form CG 00 01 covering Commercial General Liability on an "occurrence" basis, including products and completed



- operations, property damage, bodily injury, and personal & advertising injury, with limits no less than \$2,000,000 per occurrence, \$4,000,000 general aggregate.
- b. *Automobile Liability.* ISO Form CA 00 01 covering any auto (Code 1), or if the Subrecipient has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage, unless waived by the Grantee and approved in writing by the Grantee's Risk and Safety Division.
  - c. *Workers' Compensation.* Workers' Compensation as required by the state of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
  - d. *Professional Liability (Errors and Omissions).* Professional Liability (Errors and Omissions) appropriate to the Subrecipient's professions, with limits no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.
  - e. If the Subrecipient maintains broader coverage and/or higher limits than the minimums otherwise required by this Agreement, the Grantee requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Subrecipient.
4. Each insurance policy required by this Agreement must be acceptable to the Grantee's City Attorney and shall meet the following requirements:
- a. *Acceptability of Insurers.* Insurance coverage must be provided by an insurer authorized to conduct business in the state of California with a current A.M. Best's rating of no less than A-:VII, or as approved by the Grantee.
  - b. *Additional Insured Status.* Both the Commercial General Liability and the Automobile Liability policies must name the Grantee (including its officials, officers, agents, employees, and volunteers) specifically as an additional insured under the policy on a separate endorsement page. The Commercial General Liability additional insured endorsement shall be at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of *both* CG 20 10, CG 20 26, CG 20 33, or CG 20 38, *and* CG 20 37 if a later edition is used. The Automobile Liability endorsement shall be at least as broad as ISO Form CA 20 01.
  - c. *Primary Coverage.* The Subrecipient's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 with respect to the Grantee, its officials, officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by the Grantee, its officials, officers, agents, employees, or volunteers shall be in excess of the Subrecipient's insurance and shall not contribute with it.
  - d. *Notice of Cancellation.* Each insurance policy shall provide that coverage shall not be canceled, except with prior written notice to the Grantee.
  - e. *Subcontractors.* If applicable, the Subrecipient shall require and verify that all subcontractors maintain insurance meeting all the requirements stated within this Agreement, and the Subrecipient shall ensure that the Grantee (including its officials, officers, agents, employees, and volunteers) is an additional insured of any insurance required from a subcontractor.
  - f. *Waiver of Subrogation.* The Subrecipient hereby grants to the Grantee a waiver of any right to subrogation that any insurer of the Subrecipient may acquire against the Grantee by virtue of

the payment of any loss under such insurance. The Subrecipient agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but his subsection shall apply regardless of whether or not the Grantee has received a waiver of subrogation endorsement from the insurer. Any Workers' Compensation policy required by this Agreement shall be endorsed with a waiver of subrogation in favor of the Grantee for all work performed by the Subrecipient, its agents, representatives, employees, and subcontractors.

- g. *Self-Insurance.* The Subrecipient may, with the Grantee's prior written consent, fulfill some or all of the insurance requirements contained in this Agreement under a plan of self-insurance. The Subrecipient shall only be permitted to utilize such self-insurance if, in the opinion of the Grantee, the Subrecipient's (i) net worth and (ii) reserves for payment of claims of liability against the Subrecipient are sufficient to adequately compensate for the lack of other insurance coverage required by this Agreement. The Subrecipient's utilization of self-insurance shall not in any way limit the liabilities assumed by the Subrecipient pursuant to this Agreement.
  - h. *Self-Insured Retentions.* Self-insured retentions must be declared to and approved by this Grantee.
- 5. *Verification of Coverage.* At the time the Subrecipient executes this Agreement, the Subrecipient shall provide the Grantee with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting the insurance coverage required by this Agreement), which shall meet all requirements under this Agreement. The Grantee reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this Agreement, at any time.
  - 6. *Special Risks or Circumstances.* The Grantee reserves the right, at any point during the term of this Agreement, to modify the insurance requirements in this Agreement, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
  - 7. *No Limitation of Obligations.* The insurance requirements in this Agreement, including the types and limits of insurance coverage the Subrecipient must maintain, and any approval of such insurance by the Grantee, are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Subrecipient pursuant to this Agreement, including but not limited to any provisions in this Agreement concerning indemnification.
  - 8. Failure to comply with any of the insurance requirements in this Agreement, including but not limited to a lapse in any required insurance coverage during the term of this Agreement, shall be a material breach of this Agreement. In the event that the Subrecipient fails to comply with any such insurance requirements in this Agreement, in addition to any other remedies the Grantee may have, the Grantee may, at its sole option, (i) immediately terminate this Agreement, or (ii) order the Subrecipient to stop work under this Agreement and/or withhold any payment that becomes due to the Subrecipient until the Subrecipient demonstrates compliance with the insurance requirements in this Agreement.

## VIII. TERMINATION

- A. Suspension or Termination. The Grantee may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which may include (but is not limited to) the following:

1. Failure to comply with any of the federal, state, or local laws, regulations, executive orders, HUD guidelines, policies, or directives referred to herein, or any federal, state, or local laws, regulations, executive orders, HUD guidelines, policies, or directives that may become applicable to this Agreement at any time;
  2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement, as determined by Grantee in its sole discretion;
  3. Ineffective or improper use of funds provided under this Agreement; or
  4. Submission by the Subrecipient to the Grantee a report that is incorrect or incomplete in any material respect.
- B. The Grantee shall have the right to terminate this Agreement immediately or withhold payment of invoice for failure of the Subrecipient to comply with the terms and conditions of this Agreement. If the Grantee decides to terminate this Agreement, after a full evaluation of all circumstances has been completed, the Subrecipient shall, upon written request, have the right to an appeal process. The Grantee shall attach a copy of the appeal process to any termination notice.
- C. If the Grantee finds that the Subrecipient has violated any term or condition of this Agreement, the Subrecipient shall be required to:
1. Repay all monies received from the Grantee under this Agreement; and
  2. Transfer possession of all materials and equipment purchased with grant money to the Grantee.
- D. In the case of early termination, the Grantee may make a final payment to the Subrecipient upon receipt of a Final Report and invoices covering eligible costs incurred prior to such termination. The total of all payments, including the final payment, shall not exceed the amount specified in this Agreement.
- E. Termination for Convenience. This Agreement may be terminated for convenience by either Party, in whole or in part, by setting forth the reasons for such termination, the effective date of such termination, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the Agreement in its entirety. Grantee and Subrecipient agree to provide written notice to the other party within 30 days prior to the effective date of any termination for convenience. In the event that HUD withdraws any portion of the City's CDBG funds, the City shall not be obligated to reimburse the Subrecipient for any activity expense incurred and may recover reimbursed amounts already paid. The Grantee shall notify the Subrecipient if such event by HUD occurs.

## IX. ADMINISTRATIVE REQUIREMENTS

### A. Financial Management.

1. Accounting Standards. The Subrecipient shall comply with 2 C.F.R. Part 200 and shall adhere to the accounting principles and procedures required therein, including following Generally Accepted Accounting Principles (GAAP) as defined in 2 C.F.R. § 200.49. The Subrecipient shall utilize adequate internal controls and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with 2 C.F.R. Part 200, Subpart E. These principles shall be applied for all costs incurred, whether charged on a direct or indirect basis.

B. Documentation and Record Keeping.

1. Records to Be Maintained. The Subrecipient shall maintain all records required by the regulations specified in 24 C.F.R. § 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but shall not be limited to:
  - a. records providing a full description of each activity undertaken;
  - b. records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
  - c. records required to determine the eligibility of activities;
  - d. records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with CDBG assistance;
  - e. records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
  - f. financial records as required by 24 C.F.R. § 570.502; and
  - g. other records necessary to document compliance with Subpart K of 24 C.F.R. Part 570.
2. Retention. The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.
3. Client Data. The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but shall not be limited to, client name, address, income level, or any other basis for determining eligibility, and description of service provided. Such information shall be made available to the Grantee monitors or their designees for review upon request.
4. Disclosure. The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities under this Agreement, may be prohibited by state and federal law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.
5. Close-outs. The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Close-out requirements shall include, but are not limited to: making final payments; disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, Program Income balances, and accounts receivable to the

Grantee); and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over CDBG funds, including program income.

6. Audits & Inspections. All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States, or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the audit requirements within this Agreement shall constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning subrecipient audits and 2 C.F.R. Part 200, Subpart F.
7. Additional Documentation. The Subrecipient shall provide further documentation as the Grantee may request in relation to the requirements of this Agreement.

C. Reporting and Payment Procedures.

1. Program Income. The Subrecipient shall report quarterly all Program Income. The Subrecipient may use such Program Income during the term of the Agreement for the Activities and shall reduce requests for additional funds by the amount of any such Program Income balance on hand. All unexpended Program Income shall be returned to the Grantee at the end of the term of the Agreement, or as otherwise provided herein if the Agreement is terminated early. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not Program Income and shall be remitted promptly to the Grantee. The use of Program Income by the Subrecipient shall comply with the requirements set forth in 24 C.F.R. § 570.504.
2. Indirect Costs. If indirect costs are charged, the Subrecipient shall develop an indirect cost allocation plan for determining the Subrecipient's appropriate share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.
3. Payment Procedures. The Grantee shall pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with the approved Budget and Grantee policy concerning payments. With the exception of certain advances, payments shall only be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments shall be adjusted by the Grantee in accordance with advance fund and Program Income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this Agreement for costs incurred by the Grantee on behalf of the Subrecipient.
4. Progress Reports. The Subrecipient shall submit regular progress reports to the Grantee in the form, content, and frequency required by the Grantee.

D. Procurement.

1. Compliance. The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment, including but not limited to any such policies articulated in Chapter 10 of the Escondido Municipal Code, and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided under this Agreement. All program

assets (e.g., unexpended Program Income, property, equipment) shall revert to the Grantee upon termination of this Agreement.

2. **Standards.** Unless specified otherwise within this Agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 2 C.F.R. §§ 200.318-326.
3. **Travel.** The Subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement.

E. Use and Reversion of Assets.

1. The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 C.F.R. §§ 570.502-504, as applicable.
2. The Subrecipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
3. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives until five (5) years after expiration of this Agreement, or such longer period of time as the Grantee approves in writing. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Subrecipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute Program Income to the Grantee. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period, or such longer period of time as the Grantee approves in writing.
4. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be Program Income (prorated to reflect the extent that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee, an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.

X. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT

- A. The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and its implementing regulations at 49 C.F.R. Part 24 and 24 C.F.R. § 570.606(b); (b) the requirements of 24 C.F.R. § 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 C.F.R. § 570.606(d) governing optional relocation policies.
- B. The Subrecipient shall provide relocation assistance to displaced persons, as defined in 24 C.F.R. § 570.606(b)(2), whom are displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with any applicable Grantee ordinances, resolutions, and policies concerning the displacement of persons from their residences.

## XI. PERSONNEL & PARTICIPANT CONDITIONS

### A. Civil Rights.

1. Compliance. The Subrecipient agrees to comply with local and state civil rights laws and regulations, including but not limited to the Unruh Civil Rights Act, California Civil Code § 51, and the Fair Employment and Housing Act, California Government Code section 12900 et seq. The Subrecipient also agrees to comply with Title VI of the Civil Rights Act of 1964, as amended; Title VIII of the Civil Rights Act of 1968, as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended ("HCDA"); Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11063, as amended; Executive Order 11246, as amended, and of the rules, regulations, and relevant orders of the United States Secretary of Labor.
2. Nondiscrimination. The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 C.F.R. § 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.
3. Land Covenants. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 C.F.R. §§ 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared, or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted within the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease, or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.
4. Section 504. The Subrecipient agrees to comply with all federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), which prohibits discrimination against the individuals with disabilities or handicaps in any federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.
5. Executive Order 11246 (Nondiscrimination Provisions). During the performance of this Agreement, the Subrecipient agrees as follows:
  - a. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws. The Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants

for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- b. The Subrecipient will, in all solicitations or advancements for employees placed by or on behalf of the Subrecipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws.
- c. The Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Subrecipient's legal duty to furnish information.
- d. The Subrecipient will send to each labor union, or representative of workers with whom the Subrecipient has a collective bargaining agreement or other contract or other understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments under Section 202 of Executive Order 11246, as amended, and any other commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Subrecipient will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the United States Secretary of Labor.
- f. The Subrecipient will furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required by Executive Order 11246, as amended; the rules, regulations, and relevant orders of the United States Secretary of Labor; and any such information or reports otherwise required hereunder, and will permit access to its books, records, and accounts by the Grantee, HUD or its agent, the United States Secretary of Labor, or other authorized federal officials for purposes of investigation to ascertain compliance with such rules, regulations, and orders, and the provisions stated herein.
- g. In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Subrecipient may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provide in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the United States Secretary of Labor, or as otherwise provided by law.
- h. The Subrecipient will include the provisions of Section XI(A)(5)(a)-(h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the United States Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as



amended, so that such provisions will be binding upon each subcontractor or vendor. The Subrecipient will take such action with respect to any subcontract or purchase order as may be directed by the United States Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Subrecipient becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Subrecipient may request the United States to enter into such litigation to protect the interests of the United States.

**B. Affirmative Action.**

1. Approved Plan. The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965, as amended. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds, consistent with the Affirmative Action Program Policy articulated in **Exhibit C**, which is attached hereto and incorporated herein by this reference.
2. Women- and Minority-Owned Businesses. The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "small business" shall mean a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. § 632), and the terms "minority business enterprise" and "women's business enterprise" shall mean a business at least 51% owned and controlled by minority group members or women, as further defined in 15 U.S.C. § 632(n). For the purpose of this definition, "minority group members" are such groups including but not limited to African Americans, Hispanic Americans, Native Americans, Indian tribes, Asian Pacific Americans, Native Hawaiian Organizations, and other minorities. The Subrecipient may rely on written representations by a business regarding its status as a women's business enterprise or minority business enterprise in lieu of an independent investigation.
3. Prior Discrimination. The Subrecipient shall comply with 24 C.F.R. §§ 570.506, 570.602, and 24 C.F.R. Part 6, with respect to affirmative action necessary to overcome the effects of prior discrimination, if any, and such affirmative action shall be incorporated into the Subrecipient's Affirmative Action Program.

**C. Employment Restrictions.**

1. Prohibited Activity. The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities, inherently religious activities, lobbying, political patronage, and nepotism activities.
2. Labor Standards.
  - a. The Subrecipient shall comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended; the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. § 327 et seq.); and all other applicable federal, state, and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall comply with the Copeland Anti-Kick Back Act (18 U.S.C. § 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 C.F.R. Part 5. The Subrecipient shall maintain documentation that demonstrates compliance

with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

- b. The Subrecipient, except with respect to the rehabilitation or construction of residential property containing fewer than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation, or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 C.F.R. Parts 1, 3, 5, and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.
- c. Workers' Compensation and Safety. The Subrecipient shall comply with all federal and state workers' compensation and safety laws, including but not limited to the applicable provisions of Divisions 4 and 5 of the California Labor Code and all amendments thereto, and all similar and applicable state or federal acts or laws.

3. "Section 3" Clause.

a. Compliance.

(i.) Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 C.F.R. Part 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the federal financial assistance provided under this Agreement and binding upon the Grantee, the Subrecipient, and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient, and any of the Subrecipient's subrecipients and subcontractors, and their successors and assigns, to those sanctions specified by the agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

(ii.) The Subrecipient shall comply with the "Section 3" requirements referenced in this Agreement and shall include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. § 1701). Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very-low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very-low-income persons residing in the metropolitan area in which the project is located."

(iii.) The Subrecipient shall ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based

paint hazards), housing construction, or other public construction project are given to low- and very-low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, shall give priority to low- and very-low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very-low-income participants in other HUD programs; and shall award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very-low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, shall give priority to business concerns that provide economic opportunities to low- and very-low-income residents and very-low-income participants in other HUDG programs.

(iv.) The Subrecipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

- b. Notifications. The Subrecipient shall send to each labor organization or representative of workers with whom the Subrecipient has a collective bargaining agreement or other contract or understanding, if any, a notice advising such labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- c. Subcontracts. The Subrecipient shall include this Section 3 clause in every subcontract and shall take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient shall not subcontract with any entity where the Subrecipient has notice or knowledge that the entity has been found in violation of regulations under 24 C.F.R. Part 135 and shall not let any subcontract unless the entity has first provided the Subrecipient with a preliminary statement of ability to comply with the requirements of these regulations.

#### D. Conduct.

- 1. Assignability. The Subrecipient shall not assign or transfer any interest in this Agreement without the Grantee's prior written consent; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.
- 2. Subcontracts.
  - a. Approvals. The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the Grantee's prior written consent.
  - b. Monitoring. The Subrecipient shall monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.
  - c. Content. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

- d. Selection Process. The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with any documentation concerning the selection process.
3. Hatch Act. The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.
  4. Conflict of Interest. The Subrecipient shall abide by the provisions of 24 C.F.R. § 570.611, which include (but are not limited to) the following:
    - a. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees, or agents engaged in the award and administration of contracts supported by federal funds.
    - b. No employee, officer, or agent of the Subrecipient shall participate in the selection, award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.
    - c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.
  5. Lobbying. The Subrecipient hereby certifies that:
    - a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
    - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Subrecipient will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
    - c. The Subrecipient will require that the certification language expressed in subparagraph (d) be included in the award documents for all subawards at all tiers (including subcontracts,

subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly:

- d. Lobbying Certification. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
6. Copyright. If this Agreement results in the creation or production of any copyrightable work, material, or invention, the Grantee and grantor agency reserves the right to a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, such work, material, or invention for governmental purposes.
7. Religious Activities. The Subrecipient agrees that funds provided under this Agreement shall not be utilized for inherently religious activities prohibited by 24 C.F.R. § 570.200(j), such as worship, religious instruction, or proselytization.

## XII. ENVIRONMENTAL CONDITIONS

- A. Air and Water. The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:
  1. Clean Air Act, 42 U.S.C. § 7401 et seq., as amended, and all regulations and guidelines issued thereunder;
  2. Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as amended, and all regulations and guidelines issued thereunder, including but not limited to the requirements within 33 U.S.C. § 1318 relating to inspection, monitoring, entry, reports, and information; and
  3. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R. Part 50, as amended.
- B. Flood Disaster Protection. In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4001), the Subrecipient shall ensure that for activities located in an area identified by the Federal Emergency Management Act (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).
- C. Lead-Based Paint. The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 C.F.R. § 570.608, and 24 C.F.R. Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment, and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of federal funds applied to a property, paint testing, risk assessment, treatment, and/or abatement may be conducted.

- D. Historic Preservation. The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, 16 U.S.C. § 470, as amended, and the procedures set forth in 36 C.F.R. Part 800, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are 50 years old or older, or that are included on a federal, state, or local historic property list.

### XIII. MISCELLANEOUS

- A. Severability. This Agreement shall be performed and shall be enforceable to the full extent allowed by applicable law, and the illegality, invalidity, waiver, or unenforceability of any provisions of this Agreement shall not affect the legality, validity, applicability, or enforceability of the remaining provisions of this Agreement.
- B. Merger Clause. This Agreement, together with its attachments or other documents described or incorporated herein, if any, constitutes the entire agreement and understanding of the Parties concerning the subject of this Agreement and supersedes and replaces all prior negotiations, understandings, or proposed agreements, written or oral, except as otherwise provided herein. In the event of any conflict between the provisions of this Agreement and any of its attachments or related documents, if any, the provisions of this Agreement shall prevail.
- C. Governing Law. This Agreement and all rights and obligations arising out of it shall be construed in accordance with the laws of the State of California. Venue for any action arising from this Agreement shall be conducted only in the state or federal courts of San Diego County, California.
- D. Anti-Waiver Clause. None of the provisions of this Agreement shall be waived by the Grantee because of previous failure to insist upon strict performance, nor shall any provision be waived because any other provision has been waived by the Grantee, in whole or in part.
- E. Attorney's Fees and Costs. In any action to enforce the terms and conditions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs.
- F. Multiple Copies of Agreements/Counterparts. This Agreement may be executed on separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed signature page of this Agreement by electronic means, including an attachment to an email, shall be effective as delivery of an executed original.
- G. Provisions Cumulative. The provisions in this Agreement are cumulative to, in addition to, and not in limitation of any other rights or remedies available to the Grantee.
- H. Business License. The Subrecipient shall obtain a City of Escondido Business License prior to execution of this Agreement and shall maintain such Business License throughout the term of this Agreement.
- I. Compliance with Laws, Permits, and Licenses. The Subrecipient shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, rules, and other legal requirements in effect during the term of this Agreement, including but not limited to any such laws, statutes, codes, ordinances, regulations, and other legal requirements expressly referenced in this Agreement. The Subrecipient shall obtain any and all permits, licenses, and other authorizations necessary to perform the Activities. Neither the Grantee, nor any

elected or appointed boards, officers, officials, employees, or agents of the Grantee, shall be liable, at law or in equity, as a result of any failure of the Subrecipient to comply with this paragraph.

J. Effective Date. Unless a different date is provided in this Agreement, the effective date of this Agreement shall be the latest date of execution set forth by the names of the signators below.

IN WITNESS WHEREOF, this Agreement is executed by the Parties or their duly authorized representatives as of the Effective Date.

CITY OF ESCONDIDO

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Strong  
Director of Community Development

[SUBRECIPIENT COMPANY NAME]

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name & Title (please print)

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.

EXHIBIT A

Scope of Activities



EXHIBIT B

Budget

EXHIBIT C

Affirmative Action Program Policy

**AFFIRMATIVE ACTION PLAN**

SUBRECIPIENT: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

IRS/ID: \_\_\_\_\_

1. The Subrecipient named above is committed to a policy of Affirmative Action to ensure Equal Employment Opportunity in response to Executive Orders 10925, 11114, and 11246, as amended, and relevant requirements adopted by the City, including all provisions of the Subrecipient Agreement concurrently entered into between the Subrecipient and the City.
2. The official designated by the Subrecipient to be Equal Employment Officer is:  
\_\_\_\_\_.
3. The Subrecipient will document fully its affirmative actions, which will be at least as extensive as the following:
  - a. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws. The Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
  - b. The Subrecipient will ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the Subrecipient's employees are assigned to work. The Subrecipient, where possible, will assign two (2) or more women to each construction project. The Subrecipient shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of, and carry out, the Subrecipient's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - c. The Subrecipient will establish and maintain a current list of minority and female recruitment sources and provide written notification to minority and female recruitment sources and to community organizations when the Subrecipient or its unions have employment opportunities available and maintain a record of the organizations' responses.

- d. The Subrecipient will maintain a current file on the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Subrecipient by the union or, if referred, not employed by the Subrecipient, this shall be documented in the file with the reason therefore, along with whatever additional actions the Subrecipient may have taken.
- e. The Subrecipient will provide immediate written notification to the Director of Office of Federal Contract Compliance Programs when the union or unions with which the Subrecipient has a collective bargaining agreement has not referred to the Subrecipient a minority person or woman sent by the Subrecipient, or when the Subrecipient has other information that the union referral process has impeded the Subrecipient 's efforts to meet its obligations.
- f. The Subrecipient will develop on-the-job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Subrecipient 's employment needs, especially those programs funded or approved by the Department of Labor. The Subrecipient shall provide notice of these programs to the sources compiled under subsection (b) above.
- g. The Subrecipient will disseminate the Subrecipient 's Equal Employment Opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Subrecipient in meeting its Equal Employment Opportunity obligations; by including the policy in any policy manual and collective bargaining agreement; by publicizing the policy in the company newspaper, annual report, and similar publications; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the policy on bulletin boards accessible to all employees at each location where construction work is performed.
- h. The Subrecipient will review, at least annually, the company's Equal Employment Opportunity Policy and Affirmative Action obligations with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items with on-site supervisory personnel including but not limited to superintendents and general foremen, prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- i. The Subrecipient will disseminate the Subrecipient's Equal Employment Opportunity policy externally by including it in any advertising in the news media, specifically including minority and female news media and providing written notification to and discussing the Subrecipient's Equal Employment Opportunity policy with other Subrecipients and Contractors with whom the Subrecipient does, or anticipates doing, business.
- j. The Subrecipient will direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Subrecipient's recruitment area and employment needs. Not later than one (1) month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Subrecipient shall

send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- k. The Subrecipient will encourage present minority and female employees to recruit other minority persons and women and where reasonable, provide after-school, summer, and vacation employment to minority and female youth, both on the site and in other areas of a Subrecipient's workforce.
  - l. The Subrecipient will validate all tests and other selection requirements where there is an obligation to do so.
  - m. The Subrecipient will conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, such opportunities.
  - n. The Subrecipient will ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the Equal Employment Opportunity policy, Affirmative Action policy, and the Subrecipient's related obligations are being carried out.
  - o. The Subrecipient will ensure that all facilities and company activities are non-segregated except that separate and single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - p. The Subrecipient will document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - q. The Subrecipient will conduct a review, at least annually, of all supervisors' adherence to and performance under the Subrecipient's Equal Employment Opportunity policy and Affirmative Action obligations.
4. Subrecipients, subcontractors, and related contractors shall maintain all required records for a period of three years, or until audited, and permit access by the City to all such records.

Signed: \_\_\_\_\_  
Equal Employment Officer

Signed: \_\_\_\_\_  
Authorized Officer/Title

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_



**SUBRECIPIENT AGREEMENT**  
between  
CITY OF ESCONDIDO  
and  
INTERFAITH COMMUNITY SERVICES, INC.  
for  
the use of Emergency Solutions Grant (ESG-CV) Funds

This SUBRECIPIENT AGREEMENT ("Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2021 ("Effective Date"), by and between the City of Escondido, a California municipal Corporation ("Grantee"), and Interfaith Community Services, a California Public Benefit Corporation ("Subrecipient"). (The City and Subrecipient may each individually be referred to herein as a "Party" and collectively as the "Parties.")

WHEREAS, the Grantee has been allocated Emergency Solutions Grants program ("ESG") stimulus funding through the Coronavirus Aid, Relief, and Economic Security (CARES) Act ("ESG-CV Funds") from the United States Department of Housing and Urban Development ("HUD"), pursuant to Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. §§ 11371–78) (the "Act"), for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain expenses related to operating emergency shelters, for essential services related to emergency shelters and street outreach for the homeless, and for homeless prevention and rapid re-housing assistance. [Catalogue of Federal Domestic Assistance (CFDA) 14.231; Federal Award Identification Number (FAIN) [REDACTED].]; and

WHEREAS, the Grantee has approved the provision of funds under the Act to be used by the Subrecipient as provided in the Subrecipient's Work Plan, attached hereto as **Exhibit A** and incorporated herein by this reference, and as further modified by any negotiated Statement of Work ("Work Plan"); and

WHEREAS, the Subrecipient represents that it shall perform the work as set forth in the Work Plan pursuant to the Budget, attached hereto as **Exhibit B** and incorporated herein by this reference ("Budget"); and

WHEREAS, the Subrecipient warrants that it has the expertise and experience to perform the work set forth in the Work Plan; and

WHEREAS, the Grantee shall provide ESG-CV Funds to the Subrecipient in the amount set forth in the Budget, and pursuant to the terms of this Agreement; and

NOW, THEREFORE, in consideration of the foregoing recitals and based on the mutual covenants, terms, and conditions expressed herein, the Parties mutually agree as follows:

- I. **TERM.** The term of this Agreement shall be from the Effective Date of this Agreement through December 30, 2021 ("Term").

## II. SCOPE OF SERVICES

A. General Administration. In compliance with all of the terms and conditions of this Agreement, the Subrecipient shall provide the services set forth in the Scope of Work, which provides a description of each activity, including the services to be performed, the person or entity providing the services, the estimated number for recipients of the services, and the manner and means of the services. The Subrecipient represents and warrants that the services to be provided to implement the Scope of Work shall be performed in a competent, professional, and satisfactory manner in accordance with the ESG.

### B. Statement of Work.

1. The Subrecipient represents that it will negotiate a Statement of Work in accordance with the Work Plan, which shall include an accurate schedule for performance and completion of the work ("Statement of Work").
2. The Statement of Work shall be in sufficient detail to provide a sound basis for Grantee to effectively monitor performance under this Agreement.
3. The Statement of Work shall draw a nexus between the ESG and the Subrecipient's work to prevent, prepare for, or respond to the COVID-19 pandemic.
4. The Subrecipient shall ensure that there are no duplications of benefits. A duplication of benefits exists when a program beneficiary receives assistance from multiple funding sources totaling an amount that exceeds the need for a particular funding need.

### C. Use of Funds.

1. The Subrecipient agrees to use any ESG-CV Funds provided by the Grantee pursuant to the provisions of this Agreement, the Work Plan, the Statement of Work, and the Budget. The Subrecipient's failure to perform as required may, in addition to other remedies set forth in this Agreement, result in the readjustment of the amount of ESG-CV Funds the Grantee is otherwise obligated to pay to the Subrecipient under this Agreement.
2. The Subrecipient shall use any ESG-CV Funds to pay for necessary and reasonable costs to operate the ESG, including wages, administrative costs, employee benefits comparable to other similarly situated employees, and other allowable costs as described in the Budget.
3. If the Subrecipient uses any ESG-CV Funds for the purpose of acquiring real property or to reduce the cost of financing of the acquisition of real property, there shall be no alteration of the use of the acquired real property and no additional encumbrances placed on such real property during the Term of this Agreement, without prior written consent of the Grantee, such consent not to be unreasonably withheld.
4. The Subrecipient shall, upon receipt of ESG-CV Funds for the purpose of acquiring or improving real property, cause a Deed of Trust, secured by a Promissory Note, to be executed and recorded, in favor of the Grantee, for the amount of the ESG-CF Funds provided by the Grantee.

5. If the Subrecipient uses ESG-CV Funds for the purpose of acquiring or improving real property, and further encumbers such real property without first giving notice to the Grantee and obtaining the Grantee's written consent, such consent not to be unreasonably withheld, such occurrence shall be cause for termination or revocation of this Agreement and reversion of the assets as described in this Agreement, or collection on any Promissory Note executed in favor of the Grantee.

### III. BUDGET

- A. The Subrecipient shall adhere to the Budget specified in Exhibit B.
- B. The Subrecipient represents that the Budget includes only allowable costs and an accurate analysis of costs applicable to ESG-CV Funds pursuant to 24 C.F.R. § 576.100, which includes requirements for compliance with the following in addition to other requirements as stated in 2 C.F.R. Part 200, Subpart E (Cost Principles).
- C. The Budget shall be in sufficient detail to provide a sound basis for the Grantee to effectively monitor performance under this Agreement.
- D. The Grantee may require a more detailed Budget breakdown than what is contained in Exhibit B, and the Subrecipient shall provide such supplementary Budget information in a timely fashion in the form and content prescribed by the Grantee. Any changes to the Budget may only be made by written amendment signed by both the Grantee and the Subrecipient

### IV. PAYMENT

- A. The total amount of ESG-CV Funds to be paid by the Grantee under this Agreement shall not exceed \$552,803.
- B. Any payment of ESG-CV Funds shall be made in installments determined by the Grantee. Payment shall be made to the Subrecipient through the submission of monthly invoices, in a form prescribed by the Grantee, detailing such expenses. The Grantee shall pay such invoices within 30 days after receipt thereof, provided the Grantee is satisfied that such expenses have been incurred pursuant to and within the scope of this Agreement and that the Subrecipient is otherwise in compliance with the terms and conditions of this Agreement.
- C. Payments to the Subrecipient are contingent upon HUD's delivery of payment to the Grantee.
- D. Payments to the Subrecipient may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 2 C.F.R. § 200.302.

- V. NOTICES. All notices required by this Agreement shall be in writing and delivered to the appropriate Party via U.S. mail (postage prepaid), commercial courier, or personal delivery, and addressed as follows:

If to the Grantee

City of Escondido  
Housing & Neighborhood Services Division



201 N. Broadway  
Escondido, CA 92115

If to the Subrecipient

Interfaith Community Services  
550 West Washington  
Escondido, CA 92025

VI. GENERAL CONDITIONS

A. General Compliance.

1. The Subrecipient shall comply with all applicable federal, state, and local laws, regulations, and policies governing the funds provided under this Agreement, including but not limited to federal ESG-CV financial and contractual procedures and 2 C.F.R. Part 200.
2. The Subrecipient shall lawfully secure any permits required for the activities described in the Scope of Work and shall maintain any presently required permits.
3. The Subrecipient shall obtain and maintain all licenses, registrations, accreditations, and inspections from all agencies governing its operations. The Subrecipient shall ensure that its staff and volunteers also obtain and maintain all required licenses, registrations, accreditations, and inspections from all agencies regulating the Subrecipient's operations.
4. The Subrecipient shall utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Independent Contractor. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the Parties. The Subrecipient is an independent contractor and no agency or employment relationship, either express or implied, is created by the execution of this Agreement. The performance of the Activities is an integral part of the regular business operations of the Subrecipient. The Subrecipient shall have exclusive control over all work performed by its employees and the manner in which it is performed and shall determine the method, details, and means of performing the Activities. In addition to any other indemnification required by the Subrecipient under this Agreement, the Subrecipient indemnifies Grantee for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by the Grantee arising out of the Subrecipient's breach of this section.

C. Grantee Recognition. The Subrecipient shall insure recognition of the role of the Grantee in the Subrecipient's performance of the activities through this Agreement. Any activity, facility, or item performed or utilized pursuant to this Agreement shall be prominently labeled as to its funding source. In addition, the Subrecipient shall include a reference to the support provided in this Agreement in all publications made possible with funds made available under this Agreement.

D. Amendment.

1. The Grantee or the Subrecipient may amend this Agreement at any time provided that such amendment makes specific reference to this Agreement; is executed in writing and signed by a duly authorized representative of each Party; and is approved by the Grantee's governing body.
2. The Grantee may, in its discretion, amend this Agreement to comply with federal, state, or local laws, regulations, guidelines, or policies, except that if any such amendment results in a change in the funding or the Activities under this Agreement, such amendment may be made only by written amendment signed by both the Grantee and the Subrecipient as otherwise required by this Agreement.

## VII. INDEMNIFICATION & INSURANCE

A. Indemnification, Duty to Defend, and Hold Harmless. The Subrecipient (including the Subrecipient's agents, employees, and subcontractors, if any) shall hold harmless, defend, and indemnify the Grantee, its officials, officers, agents, employees, and volunteers from and against any and all claims, demands, actions, causes of action, proceedings (including but not limited to legal and administrative proceedings of any kind), suits, fines, penalties, judgments, orders, levies, costs, expenses, liabilities, losses, damages, or injuries, in law or equity, including without limitation the payment of all consequential damages and attorney's fees and other related litigation costs and expenses (collectively, "Claims"), of every nature caused by, arising out of, or in connection with the Subrecipient's (including the Subrecipient's agents, employees, and subcontractors, if any) performance of the Activities or its failure to comply with any of its obligations contained in this Agreement, except where caused by the active negligence, sole negligence, or willful misconduct of the Grantee. This provision shall survive the termination of this Agreement.

B. Insurance.

1. The Subrecipient shall comply with the insurance requirements of 2 C.F.R. §§ 200.310 and 200.447.
2. The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, and undue physical damage.
3. The Subrecipient shall procure and maintain, at its own cost, during the entire term of this Agreement, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Activities, and the results of such work, by the Subrecipient, its agents, representatives, employees, or subcontracts. Insurance coverage shall be at least as broad as the following:
  - a. *Commercial General Liability.* Insurance Services Office ("ISO") Form CG 00 01 covering Commercial General Liability on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury, with limits no less than \$2,000,000 per occurrence, \$4,000,000 general aggregate.
  - b. *Automobile Liability.* ISO Form CA 00 01 covering any auto (Code 1), or if the Subrecipient has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage,

unless waived by the Grantee and approved in writing by the Grantee's Risk and Safety Division.

- c. *Workers' Compensation.* Workers' Compensation as required by the state of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
  - d. *Professional Liability (Errors and Omissions).* Professional Liability (Errors and Omissions) appropriate to the Subrecipient's professions, with limits no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.
  - e. If the Subrecipient maintains broader coverage and/or higher limits than the minimums otherwise required by this Agreement, the Grantee requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Subrecipient.
4. Each insurance policy required by this Agreement must be acceptable to the Grantee's City Attorney and shall meet the following requirements:
- a. *Acceptability of Insurers.* Insurance coverage must be provided by an insurer authorized to conduct business in the state of California with a current A.M. Best's rating of no less than A-:VII, or as approved by the Grantee.
  - b. *Additional Insured Status.* Both the Commercial General Liability and the Automobile Liability policies must name the Grantee (including its officials, officers, agents, employees, and volunteers) specifically as an additional insured under the policy on a separate endorsement page. The Commercial General Liability additional insured endorsement shall be at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of *both* CG 20 10, CG 20 26, CG 20 33, or CG 20 38, *and* CG 20 37 if a later edition is used. The Automobile Liability endorsement shall be at least as broad as ISO Form CA 20 01.
  - c. *Primary Coverage.* The Subrecipient's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 with respect to the Grantee, its officials, officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by the Grantee, its officials, officers, agents, employees, or volunteers shall be in excess of the Subrecipient's insurance and shall not contribute with it.
  - d. *Notice of Cancellation.* Each insurance policy shall provide that coverage shall not be canceled, except with prior written notice to the Grantee.
  - e. *Subcontractors.* If applicable, the Subrecipient shall require and verify that all subcontractors maintain insurance meeting all the requirements stated within this Agreement, and the Subrecipient shall ensure that the Grantee (including its officials, officers, agents, employees, and volunteers) is an additional insured of any insurance required from a subcontractor.
  - f. *Waiver of Subrogation.* The Subrecipient hereby grants to the Grantee a waiver of any right to subrogation that any insurer of the Subrecipient may acquire against the Grantee by virtue of the payment of any loss under such insurance. The Subrecipient agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but his subsection shall apply regardless of whether or not the Grantee

has received a waiver of subrogation endorsement from the insurer. Any Workers' Compensation policy required by this Agreement shall be endorsed with a waiver of subrogation in favor of the Grantee for all work performed by the Subrecipient, its agents, representatives, employees, and subcontractors.

- g. *Self-Insurance.* The Subrecipient may, with the Grantee's prior written consent, fulfill some or all of the insurance requirements contained in this Agreement under a plan of self-insurance. The Subrecipient shall only be permitted to utilize such self-insurance if, in the opinion of the Grantee, the Subrecipient's (i) net worth and (ii) reserves for payment of claims of liability against the Subrecipient are sufficient to adequately compensate for the lack of other insurance coverage required by this Agreement. The Subrecipient's utilization of self-insurance shall not in any way limit the liabilities assumed by the Subrecipient pursuant to this Agreement.
  - h. *Self-Insured Retentions.* Self-insured retentions must be declared to and approved by this Grantee.
- 5. *Verification of Coverage.* At the time the Subrecipient executes this Agreement, the Subrecipient shall provide the Grantee with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting the insurance coverage required by this Agreement), which shall meet all requirements under this Agreement. The Grantee reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this Agreement, at any time.
  - 6. *Special Risks or Circumstances.* The Grantee reserves the right, at any point during the term of this Agreement, to modify the insurance requirements in this Agreement, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
  - 7. *No Limitation of Obligations.* The insurance requirements in this Agreement, including the types and limits of insurance coverage the Subrecipient must maintain, and any approval of such insurance by the Grantee, are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Subrecipient pursuant to this Agreement, including but not limited to any provisions in this Agreement concerning indemnification.
  - 8. Failure to comply with any of the insurance requirements in this Agreement, including but not limited to a lapse in any required insurance coverage during the term of this Agreement, shall be a material breach of this Agreement. In the event that the Subrecipient fails to comply with any such insurance requirements in this Agreement, in addition to any other remedies the Grantee may have, the Grantee may, at its sole option, (i) immediately terminate this Agreement, or (ii) order the Subrecipient to stop work under this Agreement and/or withhold any payment that becomes due to the Subrecipient until the Subrecipient demonstrates compliance with the insurance requirements in this Agreement.

## VIII. TERMINATION

- A. Suspension or Termination. The Grantee may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which may include (but is not limited to) the following:
1. Failure to comply with any of the federal, state, or local laws, regulations, executive orders, HUD guidelines, policies, or directives referred to herein, or any federal, state, or local laws, regulations, executive orders, HUD guidelines, policies, or directives that may become applicable to this Agreement at any time;
  2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement, as determined by Grantee in its sole discretion;
  3. Ineffective or improper use of funds provided under this Agreement; or
  4. Submission by the Subrecipient to the Grantee a report that is incorrect or incomplete in any material respect.
- B. The Grantee shall have the right to terminate this Agreement immediately or withhold payment of invoice for failure of the Subrecipient to comply with the terms and conditions of this Agreement. If the Grantee decides to terminate this Agreement, after a full evaluation of all circumstances has been completed, the Subrecipient shall, upon written request, have the right to an appeal process. The Grantee shall attach a copy of the appeal process to any termination notice.
- C. If the Grantee finds that the Subrecipient has violated any term or condition of this Agreement, the Subrecipient shall be required to:
1. Repay all monies received from the Grantee under this Agreement; and
  2. Transfer possession of all materials and equipment purchased with grant money to the Grantee.
- D. In the case of early termination, the Grantee may make a final payment to the Subrecipient upon receipt of a Final Report and invoices covering eligible costs incurred prior to such termination. The total of all payments, including the final payment, shall not exceed the amount specified in this Agreement.
- E. Termination for Convenience. This Agreement may be terminated for convenience by either Party, in whole or in part, by setting forth the reasons for such termination, the effective date of such termination, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the Agreement in its entirety. Grantee and Subrecipient agree to provide written notice to the other party within 30 days prior to the effective date of any termination for convenience. In the event that HUD withdraws any portion of the City's ESG-CV funds, the City shall not be obligated to reimburse the Subrecipient for any activity expense incurred and may recover reimbursed amounts already paid. The Grantee shall notify the Subrecipient if such event by HUD occurs.

## IX. ADMINISTRATIVE REQUIREMENTS

A. Financial Management.

1. Accounting Standards. The Subrecipient shall comply with 2 C.F.R. Part 200 and shall adhere to the accounting principles and procedures required therein, including following Generally Accepted Accounting Principles (GAAP) as defined in 2 C.F.R. § 200.49. The Subrecipient shall utilize adequate internal controls and maintain necessary source documentation for all costs incurred.
2. Cost Principles. The Subrecipient shall administer its program in conformance with 2 C.F.R. Part 200, Subpart E. These principles shall be applied for all costs incurred, whether charged on a direct or indirect basis.
3. Separation of Accounts. All funds received by the Subrecipient from the Grantee pursuant to this Agreement shall be maintained separate and apart from any other fund of the Subrecipient, or of any principal or member of the Subrecipient, in an account in a federally insured banking or savings and loan institution. No monies shall be withdrawn from such account except for expenditures authorized by this Agreement.
4. Audit of Account. The Grantee shall include an audit of the account maintained by the Subrecipient in the City's annual audit of all ESG-CV Funds pursuant to federal regulations found in Title 24 of the Code of Federal Regulations and other applicable federal laws and regulations.

B. Documentation and Record Keeping.

1. Records and Reports to Be Maintained. The Subrecipient shall maintain all records and reports required by the regulations specified in 24 C.F.R. §§ 576.2 and 576.407, and 2 C.F.R. Part 200, that are pertinent to the activities to be funded under this Agreement. Such records and reports shall include but shall not be limited to:
  - a. records providing a full description of each activity undertaken;
  - b. records demonstrating that each activity undertaken meets one of the ESG-CV Eligible Activities;
  - c. records documenting the number, race, and income level of persons and/or families participating in or benefiting from the Subrecipient's program;
  - d. records documenting the acquisition, improvement, use, or disposition of real property or equipment acquired or improved with ESG-CV Funds;
  - e. records documenting compliance with the fair housing and equal opportunity components of the program;
  - f. records documenting all ESG-CV Funds received from the Grantee;
  - g. records documenting expenses as identified in the Budget;
  - h. records documenting how duplication of benefits has been avoided;
  - i. any other related records as the Grantee may require;

- j. Payment Request/Invoice Reports;
  - k. Quarterly Performance and Demographic Reports;
  - l. Final Evaluation Reports;
  - m. any such other reports as the Grantee may require;
5. Homeless Management Information System (HMIS). The Subrecipient shall adopt and comply with all required Homeless Management Information System ("HMIS") policies and procedures, including data collection, privacy, and security requirements. The Subrecipient shall use HMIS and other pertinent data collected in the community to assist with evaluating ESG-CV activities within the context of broader system performance and to inform subsequent ESG-CV program allocations. The Subrecipient shall consistently collect and report performance data to integrate into HMIS. The Subrecipient shall provide HMIS data necessary for specific elements of the Consolidated Plan and Consolidated Annual Performance Evaluation Report (CAPER).
  6. Retention. The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.
  3. Client Data. The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but shall not be limited to, client name, address, income level, or any other basis for determining eligibility, and description of service provided. Such information shall be made available to the Grantee monitors or their designees for review upon request.
  4. Disclosure. The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities under this Agreement, may be prohibited by state and federal law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.
  6. Audits & Inspections. All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States, or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Such monitoring activities may also include, but are not limited to, questioning employees and participants in the program and entering any premises or any site in which any of the services of activities funded by ESG-CV Funds are conducted or in which any of the records of the Subrecipient are stored. In the event the Subrecipient does not make any requested documents or records available within the City

of Escondido, California, the Subrecipient shall pay all necessary and reasonable expenses incurred by the City in conducting any audit at the location where such documents or records are maintained. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the audit requirements within this Agreement shall constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning subrecipient audits and 2 C.F.R. Part 200, Subpart F.

7. Additional Documentation. The Subrecipient shall provide further documentation as the Grantee may request in relation to the requirements of this Agreement.

C. Reporting and Payment Procedures.

1. Program Income. Program income shall have the same meaning provided in 2 C.F.R. § 200.80. For purposes of ESG, program income will also include any amount of a security or utility deposit returned to the Subrecipient. The Subrecipient shall use all income received from the ESG-CV Funds only for the same purposes for which the ESG-CV Funds may be expended pursuant to the terms and conditions of this Agreement. Costs paid by program income may count toward meeting the matching requirements, provided the costs are eligible ESG costs that supplement the program.
2. Indirect Costs. If indirect costs are charged, the Subrecipient shall develop an indirect cost allocation plan for determining the Subrecipient's appropriate share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.
3. Payment Procedures. The Grantee shall pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with the approved Budget and Grantee policy concerning payments. With the exception of certain advances, payments shall only be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments shall be adjusted by the Grantee in accordance with advance fund balances available in Subrecipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this Agreement for costs incurred by the Grantee on behalf of the Subrecipient.
4. Progress Reports. The Subrecipient shall submit regular progress reports to the Grantee in the form, content, and frequency required by the Grantee.

D. Use and Reversion of Assets.

1. Upon the termination or expiration of the Term of this Agreement, the Subrecipient shall transfer to the Grantee any ESG-CV Funds on hand at the time of such termination or expiration, in addition to any accounts receivable attributable to the use of such ESG-CV Funds.
2. Any real property under the Subrecipient's control that was acquired or improved in whole or in part with ESG-CV Funds shall either be:
  - a. used to meet one of the eligible activities stated in 24 C.F.R. §§ 576.100-109 until five years after termination or expiration of the Term of this Agreement, or for such longer periods of time as determined to be appropriate by the Grantee; or



- b. disposed of in a manner that results in the Grantee being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-ESG-CV Funds for acquisition or improvement of the property. Reimbursement to the Grantee shall not be required after the period specified in Section IX(D)(2)(a) of this Agreement.

## X. PERSONNEL & PARTICIPANT CONDITIONS

### A. Civil Rights.

1. Compliance. The Subrecipient agrees to comply with local and state civil rights laws and regulations, including but not limited to the Unruh Civil Rights Act, California Civil Code § 51, and the Fair Employment and Housing Act, California Government Code section 12900 et seq. The Subrecipient also agrees to comply with Title VI of the Civil Rights Act of 1964, as amended; Title VIII of the Civil Rights Act of 1968, as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended ("HCDA"); Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11063, as amended; Executive Order 11246, as amended, and of the rules, regulations, and relevant orders of the United States Secretary of Labor.
2. Land Covenants. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352). In regard to the sale, lease, or other transfer of land acquired, cleared, or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted within the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease, or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.
3. Section 504. The Subrecipient agrees to comply with all federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), which prohibits discrimination against the individuals with disabilities or handicaps in any federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.
4. Executive Order 11246 (Nondiscrimination Provisions). During the performance of this Agreement, the Subrecipient agrees as follows:
  - a. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws. The Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are

treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- b. The Subrecipient will, in all solicitations or advancements for employees placed by or on behalf of the Subrecipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws.
- c. The Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Subrecipient's legal duty to furnish information.
- d. The Subrecipient will send to each labor union, or representative of workers with whom the Subrecipient has a collective bargaining agreement or other contract or other understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments under Section 202 of Executive Order 11246, as amended, and any other commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Subrecipient will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the United States Secretary of Labor.
- f. The Subrecipient will furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required by Executive Order 11246, as amended; the rules, regulations, and relevant orders of the United States Secretary of Labor; and any such information or reports otherwise required hereunder, and will permit access to its books, records, and accounts by the Grantee, HUD or its agent, the United States Secretary of Labor, or other authorized federal officials for purposes of investigation to ascertain compliance with such rules, regulations, and orders, and the provisions stated herein.

- g. In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Subrecipient may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provide in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the United States Secretary of Labor, or as otherwise provided by law.
- h. The Subrecipient will include the provisions of Section X(A)(4)(a)-(h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the United States Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Subrecipient will take such action with respect to any subcontract or purchase order as may be directed by the United States Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Subrecipient becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Subrecipient may request the United States to enter into such litigation to protect the interests of the United States.

**B. Affirmative Action.**

1. Approved Plan. The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965, as amended. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds, consistent with the Affirmative Action Program Policy articulated in **Exhibit C**, which is attached hereto and incorporated herein by this reference.
2. Women- and Minority-Owned Businesses. The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "small business" shall mean a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. § 632), and the terms "minority business enterprise" and "women's business enterprise" shall mean a business at least 51% owned and controlled by minority group members or women, as further defined in 15 U.S.C. § 632(n). For the purpose of this definition, "minority group members" are such groups including but not limited to African Americans, Hispanic Americans, Native Americans, Indian tribes, Asian Pacific Americans, Native Hawaiian Organizations, and other minorities. The Subrecipient may rely on written representations by a business regarding its status as a women's business enterprise or minority business enterprise in lieu of an independent investigation.
3. Prior Discrimination. The Subrecipient shall comply with 24 C.F.R. Part 6, with respect to affirmative action necessary to overcome the effects of prior discrimination, if any, and such affirmative action shall be incorporated into the Subrecipient's Affirmative Action Program.

C. Employment Restrictions.

1. Prohibited Activity. The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities, inherently religious activities, lobbying, political patronage, and nepotism activities.
2. Labor Standards.
  - a. The Subrecipient shall comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended; the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. § 327 et seq.); and all other applicable federal, state, and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall comply with the Copeland Anti-Kick Back Act (18 U.S.C. § 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 C.F.R. Part 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.
  - b. The Subrecipient, except with respect to the rehabilitation or construction of residential property containing fewer than eight units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation, or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 C.F.R. Parts 1, 3, 5, and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.
  - c. Workers' Compensation and Safety. The Subrecipient shall comply with all federal and state workers' compensation and safety laws, including but not limited to the applicable provisions of Divisions 4 and 5 of the California Labor Code and all amendments thereto, and all similar and applicable state or federal acts or laws.
3. Economic Opportunities for Low- and Very Low-Income Persons. The Subrecipient shall ensure that employment and other economic opportunities generated by the program shall, to the greatest extent feasible, be directed to low- and very-low-income persons, particularly those who are recipients of government assistance for housing. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. § 1701u, and regulations at 24 C.F.R. Part 135 apply to this Agreement, except that homeless individuals have priority over other Section 3 residents in accordance with 24 C.F.R. § 576.405(c).

D. Conduct.

1. Assignability. The Subrecipient shall not assign or transfer any interest in this Agreement without the Grantee's prior written consent; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this Agreement may be

assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts.

- a. Approvals. The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the Grantee's prior written consent.
- b. Monitoring. The Subrecipient shall monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.
- c. Content. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.
- d. Selection Process. The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with any documentation concerning the selection process.

3. Hatch Act. The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest. In the procurement of supplies, equipment, construction, and services by the Subrecipient, the conflict of interest provisions in 2 C.F.R. §§ 200.317-326 and 24 C.F.R. § 576.404 shall apply.

5. Lobbying. The Subrecipient hereby certifies that:

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Subrecipient will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

- c. The Subrecipient will require that the certification language expressed in subparagraph (d) be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly:
  - d. Lobbying Certification. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
6. Copyright. If this Agreement results in the creation or production of any copyrightable work, material, or invention, the Grantee and grantor agency reserves the right to a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, such work, material, or invention for governmental purposes.
  7. Religious Activities. The Subrecipient agrees that funds provided under this Agreement shall not be utilized for inherently religious activities, such as worship, religious instruction, or proselytization, as part of the Subrecipient's program or services. If the Subrecipient conducts such activities, the activities must be offered separately, in time or location, from such programs or services, and participation must be voluntary for the participants. The Subrecipient shall not, in providing program assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief. If the Subrecipient is a religious organization, it retains its independence from federal, state, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that the religious organization does not use direct ESG-CV Funds to support any inherently religious activities. The Subrecipient agrees that rehabilitation of structures by the religious organization in connection with such program must be in sound accord with 24 C.F.R. § 576.406.
  8. Ineligibility of Subrecipients. The Subrecipient shall not use ESG-CV Funds directly or indirectly in its operations or to employ, award contracts to, or otherwise engage the services of or fund any contractor or subcontractor, during any period of disbarment, suspension, or placement in ineligibility status of the Subrecipient or such contractor or subcontractor under the provisions of 24 C.F.R. Part 24.

## XI. ENVIRONMENTAL CONDITIONS

- A. Air and Water. The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:
  1. Clean Air Act, 42 U.S.C. § 7401 et seq., as amended, and all regulations and guidelines issued thereunder;
  2. Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as amended, and all regulations and guidelines issued thereunder, including but not limited to the requirements within 33 U.S.C. § 1318 relating to inspection, monitoring, entry, reports, and information; and

3. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R. Part 50, as amended.
- B. Flood Disaster Protection. In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4001), the Subrecipient shall ensure that for activities located in an area identified by the Federal Emergency Management Act (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).
  - C. Lead-Based Paint. The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 C.F.R. Part 35, Subpart B. Such regulations require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment, and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of federal funds applied to a property, paint testing, risk assessment, treatment, and/or abatement may be conducted.
  - D. Historic Preservation. The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, 16 U.S.C. § 470, as amended, and the procedures set forth in 36 C.F.R. Part 800, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are 50 years old or older, or that are included on a federal, state, or local historic property list.
- XII. DRUG-FREE WORKPLACE. Throughout the Term of this Agreement, the Subrecipient shall provide a drug-free workplace by:
- B. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
  - C. Establishing an ongoing drug-free awareness program to inform employees about:
    1. the dangers of drug abuse in the workplace;
    2. the Subrecipient's policy of maintaining a drug-free workplace;
    3. any available drug counseling, rehabilitation, and employee assistance programs; and
    4. the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
  - D. Requiring that each employee who is engaged in the performance of activities under the Agreement be given a copy of the statement required by Section XII(A) of this Agreement

and notifying such employee that, as a condition of employment, the employee will (i) abide by the terms of the statement, and (ii) notify the Subrecipient and appropriate Grantee officials in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

- E. Notifying the Grantee and HUD, in writing, within 10 calendar days after receiving notice from an employee under Section XII(C) of this Agreement, or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number of each affected grant.
- F. Within 30 days of receiving notice of any violation, the Subrecipient shall take appropriate personnel action against the applicable employee, up to and including termination, and requiring each such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
- G. For the purposes of this Section XII, "employee" shall mean a person directly engaged in the performance of work under this Agreement, including (i) all "direct charge" employees; (ii) all "indirect charge" employees, unless their impact or involvement is insignificant to the performance of work under this Agreement; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under this Agreement and on the Subrecipient's payroll.

### XIII. MISCELLANEOUS

- A. Severability. This Agreement shall be performed and shall be enforceable to the full extent allowed by applicable law, and the illegality, invalidity, waiver, or unenforceability of any provisions of this Agreement shall not affect the legality, validity, applicability, or enforceability of the remaining provisions of this Agreement.
- B. Merger Clause. This Agreement, together with its attachments or other documents described or incorporated herein, if any, constitutes the entire agreement and understanding of the Parties concerning the subject of this Agreement and supersedes and replaces all prior negotiations, understandings, or proposed agreements, written or oral, except as otherwise provided herein. In the event of any conflict between the provisions of this Agreement and any of its attachments or related documents, if any, the provisions of this Agreement shall prevail.
- C. Governing Law. This Agreement and all rights and obligations arising out of it shall be construed in accordance with the laws of the State of California. Venue for any action arising from this Agreement shall be conducted only in the state or federal courts of San Diego County, California.
- D. Anti-Waiver Clause. None of the provisions of this Agreement shall be waived by the Grantee because of previous failure to insist upon strict performance, nor shall any



provision be waived because any other provision has been waived by the Grantee, in whole or in part.

- E. Attorney's Fees and Costs. In any action to enforce the terms and conditions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs.
- F. Multiple Copies of Agreements/Counterparts. This Agreement may be executed on separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed signature page of this Agreement by electronic means, including an attachment to an email, shall be effective as delivery of an executed original.
- G. Provisions Cumulative. The provisions in this Agreement are cumulative to, in addition to, and not in limitation of any other rights or remedies available to the Grantee.
- H. Business License. The Subrecipient shall obtain a City of Escondido Business License prior to execution of this Agreement and shall maintain such Business License throughout the term of this Agreement.
- I. Compliance with Laws, Permits, and Licenses. The Subrecipient shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, rules, and other legal requirements in effect during the term of this Agreement, including but not limited to any such laws, statutes, codes, ordinances, regulations, and other legal requirements expressly referenced in this Agreement. The Subrecipient shall obtain any and all permits, licenses, and other authorizations necessary to perform the Activities. Neither the Grantee, nor any elected or appointed boards, officers, officials, employees, or agents of the Grantee, shall be liable, at law or in equity, as a result of any failure of the Subrecipient to comply with this paragraph.
- J. Immigration Reform and Control Act of 1986. The Subrecipient shall keep itself informed of and shall comply with the Immigration Reform and Control Act of 1986 ("IRCA"). The Subrecipient represents and warrants that all of its employees and the employees of any subcontractor retained by the Subrecipient who perform any of the activities under this Agreement, are and will be authorized to perform such activities in full compliance with the IRCA. The Subrecipient affirms that as a licensed 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 perform the activities under this Agreement. The Subrecipient agrees to comply with the IRCA before commencing any activities under this Agreement, and continuously throughout the performance of such activities and the Term of this Agreement.
- K. Effective Date. Unless a different date is provided in this Agreement, the effective date of this Agreement shall be the latest date of execution set forth by the names of the signatories below.

IN WITNESS WHEREOF, this Agreement is executed by the Parties or their duly authorized representatives as of the Effective Date.

CITY OF ESCONDIDO

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Strong  
Director of Community Development

INTERFAITH COMMUNITY SERVICES, INC.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name & Title (please print)

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.

EXHIBIT A

Scope of Work

EXHIBIT B

Budget

EXHIBIT C

Affirmative Action Program Policy

**AFFIRMATIVE ACTION PLAN**

SUBRECIPIENT: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

IRS/ID: \_\_\_\_\_

1. The Subrecipient named above is committed to a policy of Affirmative Action to ensure Equal Employment Opportunity in response to Executive Orders 10925, 11114, and 11246, as amended, and relevant requirements adopted by the City, including all provisions of the Subrecipient Agreement concurrently entered into between the Subrecipient and the City.
2. The official designated by the Subrecipient to be Equal Employment Officer is:  
\_\_\_\_\_.
3. The Subrecipient will document fully its affirmative actions, which will be at least as extensive as the following:
  - a. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws. The Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, or an individual's status in any group or class protected by applicable federal, state, or local laws. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
  - b. The Subrecipient will ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the Subrecipient's employees are assigned to work. The Subrecipient, where possible, will assign two or more women to each construction project. The Subrecipient shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of, and carry out, the Subrecipient's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - c. The Subrecipient will establish and maintain a current list of minority and female recruitment sources and provide written notification to minority and female recruitment

sources and to community organizations when the Subrecipient or its unions have employment opportunities available and maintain a record of the organizations' responses.

- d. The Subrecipient will maintain a current file on the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Subrecipient by the union or, if referred, not employed by the Subrecipient, this shall be documented in the file with the reason therefore, along with whatever additional actions the Subrecipient may have taken.
- e. The Subrecipient will provide immediate written notification to the Director of Office of Federal Contract Compliance Programs when the union or unions with which the Subrecipient has a collective bargaining agreement has not referred to the Subrecipient a minority person or woman sent by the Subrecipient, or when the Subrecipient has other information that the union referral process has impeded the Subrecipient 's efforts to meet its obligations.
- f. The Subrecipient will develop on-the-job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Subrecipient 's employment needs, especially those programs funded or approved by the Department of Labor. The Subrecipient shall provide notice of these programs to the sources compiled under subsection (b) above.
- g. The Subrecipient will disseminate the Subrecipient 's Equal Employment Opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Subrecipient in meeting its Equal Employment Opportunity obligations; by including the policy in any policy manual and collective bargaining agreement; by publicizing the policy in the company newspaper, annual report, and similar publications; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the policy on bulletin boards accessible to all employees at each location where construction work is performed.
- h. The Subrecipient will review, at least annually, the company's Equal Employment Opportunity Policy and Affirmative Action obligations with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items with on-site supervisory personnel including but not limited to superintendents and general foremen, prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- i. The Subrecipient will disseminate the Subrecipient's Equal Employment Opportunity policy externally by including it in any advertising in the news media, specifically including minority and female news media and providing written notification to and discussing the Subrecipient's Equal Employment Opportunity policy with other

Subrecipients and Contractors with whom the Subrecipient does, or anticipates doing, business.

- j. The Subrecipient will direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Subrecipient's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Subrecipient shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
  - k. The Subrecipient will encourage present minority and female employees to recruit other minority persons and women and where reasonable, provide after-school, summer, and vacation employment to minority and female youth, both on the site and in other areas of a Subrecipient's workforce.
  - l. The Subrecipient will validate all tests and other selection requirements where there is an obligation to do so.
  - m. The Subrecipient will conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, such opportunities.
  - n. The Subrecipient will ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the Equal Employment Opportunity policy, Affirmative Action policy, and the Subrecipient's related obligations are being carried out.
  - o. The Subrecipient will ensure that all facilities and company activities are non-segregated except that separate and single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - p. The Subrecipient will document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - q. The Subrecipient will conduct a review, at least annually, of all supervisors' adherence to and performance under the Subrecipient's Equal Employment Opportunity policy and Affirmative Action obligations.
4. Subrecipients, subcontractors, and related contractors shall maintain all required records for a period of four years, or until audited, and permit access by the City to all such records.

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_



Equal Employment Officer

Authorized Officer/Title

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

RESOLUTION NO. 2021-51

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
ADOPTING THE FY 2021-2022 ANNUAL  
ACTION PLAN FOR CDBG, ESG AND HOME  
FUNDS; AND APPROVING SUBMITTAL TO  
THE DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT

WHEREAS, the City is a recipient of Community Development Block Grant (“CDBG”), Emergency Solutions Grant (“ESG”) and HOME Investment Partnerships Program (“HOME”) funds from the United States Department of Housing and Urban Development (“HUD”); and

WHEREAS, the City desires at this time and deems it to be in the best interest to adopt the One-Year Action Plan for HOME, CDBG, and ESG funds for FY 2021-2022.

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

1. That the above recitations are true.
2. The City Council approves the adoption of the 2021-2022 One-Year Action Plan for HOME, CDBG, and ESG funds.
3. The City Council approves the submittal of the 2021-2022 One-Year Action Plan to the Department of Housing and Urban Development.

RESOLUTION NO. 2021-59

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
AMENDING THE CITY OF ESCONDIDO FY  
2019-2020 ONE-YEAR ACTION PLAN AND  
APPROVING SUBMITTAL OF FIFTH  
AMENDED PLAN FOR CDBG AND ESG TO  
THE DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT

WHEREAS, the City of Escondido (“City”) is a recipient of Community Development Block Grant (“CDBG”) and Emergency Solutions Grant (“ESG”) from the United States Department of Housing and Urban Development (“HUD”); and

WHEREAS, the City must submit an approved Annual Action Plan listing all CDBG and ESG projects and their budgets before the beginning of each program year; and

WHEREAS, HUD allocated a total of \$2,394,882 Community Development Block Grant (“CDBG-CV”) funds and a total of \$4,487,437 in Emergency Solutions Grant (“ESG-CV”) Program funds to the City, as authorized by the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Public Law 116-136, to prevent, prepare for, and respond to the coronavirus pandemic; and

WHEREAS, the City must file an Action Plan Amendment to make a substantial change to the Annual Action Plan including an addition, modification, or elimination of a Consolidated Plan goal; an addition of a new activity not previously identified in the Annual Plan; or a change that affects the funding level of more than \$25,000 for projects budgeted at \$100,000 or less, or greater than 25 percent of projects budgeted at more than \$100,000; and

WHEREAS, the City wishes to increase funding to a Homeless Outreach Program from \$250,000 to \$328,337 using ESG-CV funds; and

WHEREAS, the City desires at this time and deems it to be in the best public interest to amend the FY 2019-2020 One-Year Action Plan for the fifth time to allow for the conditional commitment of ESG-CV funds.

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 approves the amendment of the FY 2019-2020 One-Year Action Plan, and reducing the ESG Administration budget to \$366,287 and increasing the Homeless Outreach Program to \$328,337.
3. That the City Council conditionally commits \$78,337 to Interfaith Community Services to fund the homeless outreach portion of the Escondido Ending Homelessness Project. Final commitment is dependent on HUD's acceptance of the Action Plan Amendment, completion of a National Environmental Policy Act ("NEPA") environmental review, receipt of environmental clearance from HUD, provision of appropriate insurance verification, and acceptance of City contract terms.
4. That the City Council approves the submittal of the amended FY 2019-2020 One-Year Action Plan to the Department of Housing and Urban Development, including modifications to Sections AD-26, AP-05, AP-12, AP-15, AP-20, and AP-38.



April 21, 2021

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## **Item No. 11: SINGLE-USE PLASTICS POLICY -**

- **No materials available at this time. Request the City Council consider including a Single-Use Plastics Policy in the Climate Action Plan.**



## FUTURE CITY COUNCIL AGENDA ITEMS

Updated April 15, 2021

AGENDA ITEMS AND CITY COUNCIL MEETING DATES ARE SUBJECT TO CHANGE.  
CHECK WITH THE CITY CLERK'S OFFICE AT (760) 839-4617

**April 28, 2021 NO MEETING (Spring Break)**

**May 5, 2021 NO MEETING (Spring Break)**

**May 12, 2021  
5:00 p.m.**

### CONSENT CALENDAR

**First Quarter 2021 Treasurer's Report**  
(D. Schultz)

*It is requested that the City Council receive and file the January through March 2021 Treasurer's Report.*

**Reimbursement Agreement with CWC Escondido 113, LLC, to Evaluate the Formation of a Community Facilities District for the Del Prado Project**  
(J. Procopio)

*It is requested that the City Council adopt Resolution No. 2021-56, authorizing the Mayor and the City Clerk to execute a Reimbursement Agreement with CWC ESCONDIDO 113, LLC, for the Del Prado project, approved by the City Council on May 11, 2016. The developer has requested that a Community Facilities District for Facilities be formed for their project to fund development impact fees. CWC Escondido 113, LLC has offered to annex the project into Services CFD 2020-1 if the proposed Facilities CFD is approved.*

**Bid Award for the Senior Nutrition Program**  
(J. Axelrod)

*It is requested that the City Council adopt Resolution No. 2021-63 authorizing the Mayor and City Clerk to execute the Public Services Agreement with the lowest responsive and responsible bidder for the Senior Nutrition Program.*

## **PUBLIC HEARINGS**

### **Tentative Subdivision Map, Master and Precise Development Plan, Specific Plan Amendment, and Purchase and Sale Agreement (SUB 20-0001, PHG 20-0009, ENV 20-0001)**

(M. Strong)

*It is requested that the City Council introduce Ordinance No. 2021-05 for an Amendment to the Downtown Specific Plan to eliminate the ground-floor commercial requirement and permit ground floor residential units within the Mercado District, along with a Master and Precise Development Plan to allow for a reduction in open space, setbacks and parking requirements. In conjunction with this action, it is requested that City Council adopt Resolution No. 2021-61 to approve a Tentative Subdivision Map for the development of 120 air-space condominium units located at 235 S. Pine Street and others, along with the vacation of public right-of-way along portions of W. 3rd Avenue, S. Pine Street and a public alley along the project frontages; and adopt Resolution No. 2021-6 to approve a Purchase and Sale Agreement of five City parcels.*

## **CURRENT BUSINESS**

### **Oakvale Road Realignment Project Bid Award**

(C. McKinney)

*It is requested that the City Council adopt Resolution No. 2021-45, authorizing the Mayor and City Clerk to execute a Public Improvement Agreement with the lowest responsive and responsible bidder for construction of the Oakvale Road Realignment Project.*

### **Financial Status Report for the FY2020/21 Third Quarter Ending March 31, 2021 and Budget Adjustment**

(C. Holmes)

*Quarterly financial reports present written financial updates to 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.*

### **American Rescue Plan Follow-Up**

(C. Holmes)

## **WORKSHOP**

### **Fiscal Year 2021/22 Operating Budget Briefing**

(C. Holmes)

*The Finance department will take direction from the City Council on preparing the 2021/22 operating budget to be considered in June 2021.*

### **Preliminary Five-Year Capital Improvement Program and Project Budgets for FY2021/2022**

(C. Holmes)

*Preliminary meeting to discuss staff recommended capital project requests for the 2021/22 Capital Improvement Program and Budget.*

## **FUTURE AGENDA ITEMS**



April 21, 2021

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## CITY MANAGER'S WEEKLY ACTIVITY REPORT

- Please refer to the City's website at <https://www.escondido.org/latest-news-from-the-city-managers-office.aspx>