



Council Meeting Agenda

OCTOBER 13, 2021

COUNCIL CHAMBERS

4:30 P.M. Closed Session; 5:00 P.M. Regular Session

201 N. Broadway, Escondido, CA 92025

MAYOR	Paul McNamara
DEPUTY MAYOR	Michael Morasco
COUNCIL MEMBERS	Consuelo Martinez Tina Inscoe Joe Garcia
CITY MANAGER	Sean McGlynn
CITY CLERK	Zack Beck
CITY ATTORNEY	Michael McGuinness
DIRECTOR OF COMMUNITY DEVELOPMENT	Adam Finestone (Interim)
DIRECTOR OF ENGINEERING SERVICES	Julie Procopio

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

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

October 13, 2021
4:30 p.m. Meeting
Parkview Conference Room
Escondido City Council

CALL TO ORDER

ROLL CALL: Garcia, Inscoc, Martinez, Morasco, McNamara

ORAL COMMUNICATIONS

In addition to speaking during particular agenda items, the public may address the Council on any item which is not on the agenda provided the item is within the subject matter jurisdiction of the City Council. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.) Speakers are limited to only one opportunity to address the Council under Oral Communications.

CLOSED SESSION: (COUNCIL/RRB)

- I. **CONFERENCE WITH LEGAL COUNSEL-- EXISTING LITIGATION (Government Code 54956.9(d)(1))**
 - a. **Case Name:** Building Industry Association of San Diego County v. City of Escondido
Case No: San Diego Superior Court Case No. 37-2021-00008423-CU-MC-NC

ADJOURNMENT



Council Meeting Agenda

**October 13, 2021
5:00 P.M. Meeting**

**Escondido City Council
Mobilehome Rent Review Board**

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, Inscoc, Martinez, Morasco, McNamara

PROCLAMATIONS: National Women's Small Business Month, October 2021
Code Compliance Officer Appreciation Week, October 2021
2021-2022 Teacher of the Year, Laura Reyes

CLOSED SESSION REPORT

ORAL COMMUNICATIONS

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

CONSENT CALENDAR

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

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

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

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

- 356674 - 356818 dated September 22, 2021
- 356819 - 357058 dated September 29, 2021

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

3. **APPROVAL OF MINUTES: Regular Meeting of September 29, 2021**

4. **NOTICE OF COMPLETION FOR THE WASHINGTON PARK SKATE SPOT -**

Request the City Council approve and accept the public improvements and authorize staff to file a Notice of Completion for the Washington Park Skate Spot Project.

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

RESOLUTION NO. 2021-157

5. **RECEIVE \$25,000 IN PUBLIC RISK INNOVATION, SOLUTIONS, AND MANAGEMENT ("PRISM") PROPERTY GRANT FUNDING AND AUTHORIZE THE NECESSARY BUDGET ADJUSTMENT -**

Request the City Council approve authorizing the Director of Public Works to receive \$25,000 in funding from the Public Risk Innovation, Solutions, and Management "(PRISM)" Property Grant Program for the installation of a new fire alarm system at the Park Avenue Community Center and authorize the necessary Budget Adjustment.

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

RESOLUTION NO. 2021-155

6. **FISCAL YEAR 2021-22 STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY PEDESTRIAN AND BICYCLE SAFETY PROGRAM GRANT AND BUDGET ADJUSTMENT -**

Request the City Council approve authorizing the Escondido Police Department to accept a Fiscal Year 2020-21 California Office of Traffic Safety (OTS) Pedestrian and Bicycle Safety Program Grant in the amount of \$25,000; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. The Police Department will use grant funds to pay for police officer overtime for educational programs related to bicycle and pedestrian safety, and to provide bicycle helmets, educational materials and safety supplies to community members.

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

7. FISCAL YEAR 2021-22 STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT AND BUDGET ADJUSTMENT -

Request the City Council approve authorizing the Escondido Police Department to accept a FY 2021-22 California Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP) Grant in the amount of \$520,000; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. The Police Department will use grant funds to pay for salary and benefits for one full-time traffic enforcement officer, traffic safety supplies, and for DUI checkpoints, saturation patrols, and traffic safety enforcement details.

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

8. FISCAL YEAR 2020 OPERATION STONEGARDEN GRANT AND BUDGET ADJUSTMENT -

Request the City Council approve accepting Fiscal Year 2020 Operation Stonegarden Grant Funds in the amount of \$10,000 from the California Office of Emergency Services through the County of San Diego; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. The Department proposes to use grant funds to pay overtime expenses for multi-disciplinary crime suppression operations related to human trafficking, narcotics trafficking, criminal gang activity, and weapons trafficking.

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

9. FISCAL YEAR 2020-21 REGIONAL REALIGNMENT RESPONSE GRANT AND BUDGET ADJUSTMENT-

Request the City Council approve authorizing the Escondido Police Department to accept \$80,000 of Fiscal Year 2020-21 Regional Realignment Response Grant funds; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. Funding was provided by the State of California Board of Community Corrections through Assembly Bill 118 and Senate Bill 89, initiatives to reduce state prison overcrowding and support local law enforcement efforts to efficiently manage offenders and parole-violators. Escondido's allocation is used to support regional and local suppression operations. Funds must be used for police officer overtime and associated overhead.

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

10. CONSULTING AGREEMENT FOR THE ALLEY UTILITIES REPLACEMENT PROJECT -

Request the City Council approve authorizing the Mayor to execute a Consulting Agreement for engineering services for the Alley Utilities Replacement Project.

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

RESOLUTION NO. 2021-142

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

11. 2021 OMNIBUS ZONING CODE UPDATE AND EAST VALLEY PARKWAY SPECIFIC PLAN AMENDMENT (PL21-0152) -

Request the City Council approve a series of Escondido Zoning Code Amendments to address changes in state laws, correct errors, and clarify or improve existing regulations. The proposal involves minor amendments to Article 34 (Communication Antennas), Article 35 (Outdoor Lighting), Article 47 (Environmental Quality), Article 55 (Grading and Erosion Control), Article 56 (Miscellaneous Development Standards), Article 61 (Administration and Enforcement), Article 64 (Design Review), Article 65 (Old Escondido Neighborhood), Article 66 (Sign Ordinance), Article 67 (Density Bonus and Residential Incentives), Article 68 (Growth Management Ordinance), and Article 70 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of the Escondido Zoning Code. The project also includes a minor revision to Table 4.1 of the East Valley Specific Plan.

Staff Recommendation: **Approval (Community Development Department: Adam Finestone)**

a) ORDINANCE NO. 2021-10 b) ORDINANCE NO. 2021-11 (First Reading and Introduction)

12. SHORT-FORM RENT REVIEW BOARD HEARING FOR CITY-OWNED SPACES AT ESCONDIDO VIEWS MOBILE HOME PARK (FILE NO. 0697-20-10287) -

Request the City Council consider approving a short-form rent increase application involving four spaces submitted for the City-owned lots at Escondido Views Mobilehome Park located at 2400 W. Valley Parkway, and if approved, adopt Rent Review Board Resolution No. 2021-05 granting an increase as requested in the application.

Staff Recommendation: **Approval (Community Development Department: Adam Finestone)**

RESOLUTION NO. RRB 2021-05

13. SHORT-FORM RENT REVIEW BOARD HEARING FOR CITY-OWNED SPACES AT MOUNTAIN SHADOWS MOBILE HOME PARK (FILE NO. 0697-20-10286) -

Request the City Council consider approving a short-form rent increase application involving four spaces submitted for the City-owned lots at Mountain Shadows Mobilehome Park located at 1750-1751 W. Citracado Pkwy, and if approved, adopt Rent Review Board Resolution No. 2021-04 granting an increase as requested in the application.

Staff Recommendation: **Approval (Community Development Department: Adam Finestone)**

RESOLUTION NO. RRB 2021-04

CURRENT BUSINESS

14. SAN PASQUAL UNDERGROUNDING PROJECT: BID AWARD, CONSULTING AGREEMENTS, AND BUDGET ADJUSTMENT -

Request the City Council approve 1) authorizing the Mayor to execute a Public Improvement Agreement with the lowest responsive and responsible bidder for construction of the San Pasqual Undergrounding Project; 2) authorizing the Mayor to execute a Second Amendment to the Consulting Agreement with Michael Baker International for Engineering Services; and 3) authorizing the Mayor to execute a Consulting Agreement for Construction Management Services; 4) authorizing the Mayor to execute a Mitigation and Monitoring Agreement with the San Pasqual Band of Mission Indians for Native American monitoring activities and the protection of Native American cultural resources during the Project construction; and 5) Approve a Budget Adjustment.

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

- a) RESOLUTION NO. 2021-121 b) RESOLUTION NO. 2021-122
c) RESOLUTION NO. 2021-123 d) RESOLUTION NO. 2021-162

15. APPOINTMENT OF AN AD HOC CITY COUNCIL SUBCOMMITTEE TO REVIEW THE FINANCIAL STATUS OF THE CITY AND CONSIDER THE POSSIBILITY OF PLACING A REVENUE MEASURE ON THE NOVEMBER 2022 GENERAL ELECTION BALLOT -

Request the Mayor appoint an ad hoc subcommittee to review the financial status of the City and consider the possibility of placing a Revenue Measure on the November 2022 General Election Ballot.

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

FUTURE AGENDA

16. FUTURE AGENDA -

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

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

COUNCIL MEMBERS SUBCOMMITTEE REPORTS AND OTHER REPORTS

CITY MANAGER'S WEEKLY ACTIVITY REPORT

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

- **WEEKLY ACTIVITY REPORT -**

ORAL COMMUNICATIONS

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

ADJOURNMENT

UPCOMING MEETING SCHEDULE

Date	Day	Time	Meeting Type	Location
October 20	-	-	No Meeting	-
October 27	Wednesday	4:00 & 5:00 p.m.	Regular Meeting	Council Chambers
November 3	Wednesday	4:00 & 5:00 p.m.	Regular Meeting	Council Chambers
November 10	-	-	No Meeting	-

TO ADDRESS THE COUNCIL

The public may address the City Council on any agenda item. Please complete a Speaker's form and give it to the City Clerk. Submission of Speaker forms prior to the discussion of an item is highly encouraged. Comments are generally limited to 3 minutes.

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

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

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

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

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

LIVE BROADCAST

Council meetings are broadcast live on Cox Cable Channel 19 and U-verse Channel 99 – Escondido Gov TV. They can also be viewed the following Sunday and Monday evenings at 6:00 p.m. on those same channels. The Council meetings are also available live via the Internet by accessing the City's website at www.escondido.org, and clicking the "Live Streaming –City Council Meeting now in progress" button on the home page.

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

**The City Council is scheduled to meet the first four Wednesdays
of the month at 4:00 p.m. in Closed Session and 5:00 p.m. in Open Session.
(Verify schedule with City Clerk's Office)**

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

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



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

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



A F F I D A V I T S

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I T E M

P O S T I N G



CITY COUNCIL STAFF REPORT

Consent Item No. 2

October 13, 2021

File No. 0400-40

SUBJECT: Approval of Warrants

DEPARTMENT: Finance Department

RECOMMENDATION:

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

356674 – 356818 dated September 22, 2021

356819 – 357058 dated September 29, 2021

FISCAL ANALYSIS:

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

September 16 – September 22, 2021, is \$ 2,029,310.40

September 23 – September 29, 2021, is \$ 2,255,197.73

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.

**September 29, 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. September 29, 2021 in the City Council Chambers with Mayor McNamara presiding.

MOMENT OF REFLECTION

Zack Beck, City Clerk led the Moment of Reflection

FLAG SALUTE

Sean McGlynn, City Manager, 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: Sean McGlynn, City Manager; Gary McCarthy, Senior Deputy City Attorney; and Zack Beck, City Clerk.

PROCLAMATIONS: National Fire Prevention Week, October 3-9, 2021
Manufacturing Month, October, 2021

ORAL COMMUNICATIONS

Barry Baker - Expressed appreciation to the City of Escondido for assisting with the Grape Day 5K and for approving the development of Raising Canes.

Yusef Miller - Requested that the City Council adopt a resolution to divest all holdings of fossil fuels.

Naim Miller - Expressed opposition to the use of pesticides at parks in Escondido. Requested that the City Council adopt a resolution to divest all holdings of fossil fuels.

Evelyn Lazdale – Expressed opposition to the use of pesticides at parks in Escondido.

Hannah Smith – Expressed opposition to the use of pesticides at parks in Escondido.

Judith Pineda – Expressed opposition to the use of pesticides at parks in Escondido.

Lizbeth Aceves – Expressed opposition to the use of pesticides at parks in Escondido.

CONSENT CALENDAR

MOTION: Moved by Councilmember Martinez and seconded by Deputy Mayor Morasco 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:

- 356293 - 356456 dated September 8, 2021
- 356457 - 356673 dated September 15, 2021

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

3. APPROVAL OF MINUTES: Regular Meeting of September 15, 2021

4. APPROVAL OF CALPERS INDUSTRIAL DISABILITY FOR POLICE SERGEANT JOHN RUSSO -

Request the City Council approve the Industrial Disability Retirement of Police Sergeant John Russo. (File No. 0170-57)

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

RESOLUTION NO. 2021-112

5. YEAR 2022 HOLIDAYS -

Request the City Council approve the 2022 City Holiday Closure Schedule. (File No. 0700-80)

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

RESOLUTION NO. 2021-132

6. PROPOSED MILLS ACT CONTRACT AND CEQA EXEMPTION FOR 2775 LAS PALMAS AVENUE (CASE NO. PL20-0562) -

Request the City Council approve to enter into a Mills Act contract with the owner of 2775 Las Palmas Avenue and approve the CEQA exemption. (File No. 0600-10)

Staff Recommendation: **Approval (Community Development Department: Adam Finestone)**

RESOLUTION NO. 2021-125

7. NOTICE OF COMPLETION FOR THE 2021 STREET REHABILITATION AND MAINTENANCE PROJECT – PHASE 1 -

Request the City Council approve and accept the public improvements and authorize staff to file a Notice of Completion for the 2021 Street Rehabilitation and Maintenance Project – Phase 1 ("Project"). (File No. 0600-95)

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

RESOLUTION NO. 2021-144

8. **CAL RECYCLE RUBBERIZED PAVEMENT GRANT PROGRAM APPLICATION -**
Request the City Council approve authorizing the Director of Engineering Services or her designee to complete and submit an application to the Department of Resources Recycling and Recovery (CalRecycle) for the Rubberized Pavement Grant Program. (File No. 0480-70)

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

RESOLUTION NO. 2021-149

9. **COMPUTER AIDED DISPATCH "(CAD)" HARDWARE REPLACEMENT PURCHASE -**
Request the City Council approve authorizing the City's Police Department Chief to execute a contract amendment for the purchase and installation of replacement hardware for the City's CommandPoint Computer Aided Dispatch (CAD) system. Funding for the amendment was approved by the City Council on June 9, 2021, as part of the Police Departments General Fund Operating Budget. The amendment cost of \$294,625 covers hardware, software, installation, and maintenance of essential CAD system equipment. The current CAD system provider, Peraton Inc., is the only vendor that can maintain interoperability with the existing systems quality and performance. Per Escondido Municipal Code Section 10-97, City Council approval is needed for this proposed amendment to the current Peraton Inc. Public Services Agreement dated April 14, 2021. (File No. 0600-10, A-3362)

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

RESOLUTION NO. 2021-147

10. **AMENDMENT AND READOPTION OF CITY COUNCIL RULES AND PROCEDURES –**
Request the City Council approve to amend and readopt the Rules of Procedure for City Council Meetings and City Council Policies. (File No. 0610-90)

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

RESOLUTION NO. 2021-156

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

11. **SIXTH AMENDMENT TO THE FISCAL YEAR 2019-2020 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT "(HUD)" ANNUAL ACTION PLAN, AND BUDGET ADJUSTMENT -**
Request the City Council approve the sixth amendment to the FY 2019-2020 One Year Action Plan to reallocate ESG-CV funds and approving the submittal to HUD. It is requested that City Council approve a budget adjustment for the proper classification of rental income. This is a required public hearing for a substantial amendment to the FY 2019-2020 Annual Action Plan for allocating federal funds for projects and programs. (File No. 0870-11)

Staff Recommendation: **Approval (Community Development Department: Adam Finestone)**

RESOLUTION NO. 2021-150

Greg Anglea - Expressed support for the sixth amendment to the HUD annual plan.

MOTION: Moved by Councilmember Martinez and seconded by Councilmember Inscoe to approve the sixth amendment to the FY 2019-2020 One Year Action Plan to reallocate ESG-CV funds and approving the submittal to HUD; and approve a budget adjustment for the proper classification of rental income. Approved unanimously

CURRENT BUSINESS

12. **AMERICAN RESCUE PLAN FUNDING ALLOCATION -**

Request the City Council approve authorizing the acceptance of Coronavirus State and Local Fiscal Recovery Funds established by the American Rescue Plan Act of 2021 in the amount of \$38,808,509 and approve the budget adjustment for the appropriation of funds. (File No. 0430-30)

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

RESOLUTION NO. 2021-146

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Martinez to authorize the acceptance of Coronavirus State and Local Fiscal Recovery Funds established by the American Rescue Plan Act of 2021 in the amount of \$38,808,509 and approve the budget adjustment for the appropriation of funds. Approved unanimously.

13. **COVID-19 BUSINESS RECOVERY STRATEGY UPDATE -**

Request the City Council provide direction to city staff regarding what should be considered as we continue to refine the recovery strategy, however no changes to the current recovery measures are being proposed at this time. Throughout the COVID-19 pandemic, the City has continuously pursued measures to assist with the challenges faced by our business community. City staff recognizes that even when the pandemic is over, the impact to the community will be felt for some time still. Staff will be providing an update on current measures that are in-place and identify what has been determined to be beneficial to the business community. (File No. 0865-60)

Staff Recommendation: **Provide Direction (Community Development Department: Adam Finestone)**

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)**

COUNCIL MEMBERS SUBCOMMITTEE REPORTS AND OTHER REPORTS

Councilmember Martinez – Attended the League of CA Cities Conference

Councilmember Inscoe – Attended the League of CA Cities Conference

Councilmember Garcia – Attended the League of CA Cities Conference

Deputy Mayor Morasco – Attended the League of CA Cities Conference

Mayor McNamara – Attended the League of CA Cities Conference

CITY MANAGER'S WEEKLY ACTIVITY REPORT

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

- **WEEKLY ACTIVITY REPORT -**

ORAL COMMUNICATIONS

None.

ADJOURNMENT

Mayor McNamara adjourned the meeting at 7:41 p.m.

MAYOR

CITY CLERK

CITY COUNCIL STAFF REPORT

Consent Item No. 4

October 13, 2021

File No. 0600-95

SUBJECT: Notice of Completion for the Washington Park Skate Spot

DEPARTMENT: Engineering Services Department

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2021-157 to approve and accept the improvements and authorize the City Engineer to file a Notice of Completion (“NOC”) for the Washington Park Skate Spot Project (“Project”).

FISCAL ANALYSIS:

The project is included and fully funded in the CIP budget. Staff approved changes to contract work totaling \$14,210.86 to address unsuitable soil, and installation of an additional skate element. The total contract amount including the additional work is \$401,143.36, however staff continues to negotiate contract work items with an approximate value of \$17,488.

PREVIOUS ACTION:

On April 21, 2021, the City Council adopted 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 with GeoCon Skateparks.

BACKGROUND:

The Project included the construction of a 7000 square foot permanent, custom skate-spot in Washington Park located at 501 North Rose Street, Escondido, CA 92027. The work generally consisted of traffic control and public convenience, removal of existing-interfering park improvements for installation of skate park, new storm drain system, installation and reconnection of realigned electrical system for park lighting, installation of sod to replace removed landscaping, installation of new and reconnection of removed irrigation components, and compliance with all applicable storm water pollution prevention (“NPDES”).

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Julie Procopio, Director of Engineering Services
10/06/21 4:54 p.m.

ATTACHMENTS:

1. Resolution No. 2021-157

RESOLUTION NO. 2021-157

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE CITY ENGINEER, ON BEHALF OF THE CITY, TO FILE A NOTICE OF COMPLETION FOR THE WASHINGTON PARK SKATESPOT

WHEREAS, on April 21, 2021, the City Council adopted Resolution No. 2021-58 authorizing the Mayor to execute, on behalf of the City, a Public Improvement Agreement (“Agreement”) in the amount of \$386,932.50 for the construction of the Washington Park Skate Spot Project (“Project”) with GeoCon Skateparks; and

WHEREAS, the construction of the Project was completed by GeoCon Skateparks; and

WHEREAS, the City of Escondido (“City”) staff and the City Engineer deems the filing of the Notice of Completion (“NOC”) to be valid and recommends approval; and

WHEREAS, the City Council desires at this time and deems it to be in the best public interest to approve the filing of the NOC.

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

1. That the above recitations are true.
2. That the City Council accepts the recommendation of the City Engineer.
3. That the City Council approves Resolution No. 2021-157 authorizing the City Engineer to file the NOC for the Washington Park Skate Spot.

CITY COUNCIL STAFF REPORT

Consent Item No. 5

October 13, 2021

File No. 0480-70

SUBJECT: Receive \$25,000 in Public Risk Innovation, Solutions, and Management (“PRISM”) Property Grant funding and authorize the necessary Budget Adjustment

DEPARTMENT: Public Works/Building Maintenance

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2021-155 authorizing the Director of Public Works to receive \$25,000 in funding from the Public Risk Innovation, Solutions, and Management (“PRISM”) Property Grant Program and Budget Adjustment for the installation of a new fire alarm system at the Park Avenue Community Center (“PACC”).

FISCAL ANALYSIS:

The total estimated cost of the PACC fire alarm system project upgrade is \$125,000. The City Council approved \$80,000 in Capital Improvement Program (“CIP”) funds for the PACC fire alarm system upgrade in Fiscal Year (“FY”) 2020. The PRISM Property Grant supplements that project cost with an additional \$25,000 in grant funds. The remaining \$20,000 will come out of the Building Maintenance operating budget. The PRISM Property Grant Program’s matching requirement of \$25,000 is being fulfilled through the FY 2020 CIP allocation of \$80,000 for the PACC fire alarm system upgrade project.

PREVIOUS ACTION:

On June 12, 2019, City Council approved the FY 2020 Capital Improvement Program Budget which included \$80,000 in funding for the PACC Fire Alarm System.

BACKGROUND:

The Park Avenue Community Center is the home of the City of Escondido’s Senior Center. This busy Senior Center serves over 500 seniors Monday through Friday with a wide variety of programs, services, activities, and volunteer opportunities. More than 100 organizations and 200 volunteers enjoy participating in social activities and direct services as well as support services at the Senior Center. Other activities are offered in the evening through Community Services, San Diego Oasis, and a multitude of community organizations.

The four (4) buildings that comprise the PACC campus were built in 1973, 1982, 1987, and 1991. The City needs to install a new fire alarm system that is compliant with existing fire code regulations and covers the campus more comprehensively. There are currently three (3) separate, outdated

October 13, 2021
\$25,000 PRISM Grant
Page 2

systems and no coverage in the highly-used shuffleboard building. All three (3) systems are “maxed,” meaning they have no additional capacity. The City Fire Department has recommended that there be a single notification system that covers the entire PACC campus in order to safely alert all building occupants when an alarm has sounded.

By updating the PACC’s current separate and outdated systems, the new comprehensive fire alarm system will ensure that in the event of a fire, all persons on the PACC campus will be immediately alerted and can exit the buildings as soon as possible. This will allow fire fighters to focus on fighting the fire, rather than performing search and rescue operations. As a result, this system upgrade will ultimately lessen any property loss to the City.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Joseph Goulart, Director of Public Works
10/06/21 5:00 p.m.

ATTACHMENTS:

1. Attachment “1” Budget Adjustment
2. Resolution No. 2021-155

RESOLUTION NO. 2021-155

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE DIRECTOR OF PUBLIC WORKS, ON BEHALF OF THE CITY, TO ACCEPT \$25,000 IN PUBLIC RISK INNOVATION, SOLUTIONS, AND MANAGEMENT (“PRISM”) PROPERTY GRANT PROGRAM FUNDING FOR A PARK AVENUE COMMUNITY CENTER FIRE ALARM SYSTEM UPGRADE AND A BUDGET ADJUSTMENT

WHEREAS, Public Risk Innovation, Solutions, and Management (“PRISM”) is a member-directed risk sharing pool of public agencies committed to providing risk coverage programs and risk management services, which drive member stability, efficiency, and best practices; and

WHEREAS, the City of Escondido (“City”) is a member of the PRISM Property Program and thereby eligible to apply annually for the \$25,000 matching fund grant to address a property program exposure; and

WHEREAS, the City’s The Park Avenue Community Center (“PACC”) is the home of the City of Escondido’s Senior Center and serves over 500 seniors Monday through Friday with a wide variety of programs, services, activities, and volunteer opportunities; and

WHEREAS, the four buildings that comprise the PACC campus were built in 1973, 1982, 1987, and 1991; are serviced by three separate, outdated fire alarm systems that have no additional capacity; and there is no fire alarm coverage in the highly-used shuffleboard building.

WHEREAS, the City's Fire Department has recommended that there be a single fire alarm notification system that covers the entire PACC campus in order to safely alert all building occupants and ultimately lesson any property loss to the City.

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 Director of Public Works is authorized to receive, on behalf of the City, \$25,000 in Public Risk Innovation, Solutions, and Management ("PRISM") Property Grant funding for a new fire alarm system at the Park Avenue Community Center.
3. The City Council hereby authorizes the necessary budget adjustment which is attached hereto as Exhibit "1" and incorporated by this reference.

CITY COUNCIL STAFF REPORT

Consent Item No. 6

October 13, 2021

File No. 0480-70

SUBJECT: Fiscal Year 2021-22 State of California Office of Traffic Safety Pedestrian and Bicycle Safety Program Grant and Budget Adjustment

DEPARTMENT: Police Department

RECOMMENDATION:

It is requested that the City Council authorize the Escondido Police Department to accept a FY 2021-22 California Office of Traffic Safety (OTS) Pedestrian and Bicycle Safety Program Grant in the amount of \$25,000; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. The Police Department will use grant funds to pay for police officer overtime for educational programs related to bicycle and pedestrian safety, and to provide bicycle helmets, educational materials and safety supplies to community members.

FISCAL ANALYSIS:

This action will have no impact on the FY 2021-22 General Fund Budget. Grant funds will be used for expenses related to traffic safety educational activities and traffic safety supplies.

PREVIOUS ACTION:

The City Council accepted a FY 2020-21 OTS Pedestrian and Bicycle Safety Program Grant in the amount of \$25,000 on September 16, 2020.

BACKGROUND:

The Escondido Police Department received a FY 2021-22 State of OTS Pedestrian and Bicycle Safety Program Grant in the amount of \$25,000. Grant funds will enhance traffic safety programs from October 1, 2021 through September 30, 2022. The Police Department will use grant funds to pay for educational programs related to bicycle and pedestrian safety and to provide bicycle helmets, educational materials and safety supplies to community members.

Program Measures

The Escondido Police Department will work to enhance bicycle and pedestrian safety by providing safety equipment coupled with educational programs and safety materials. The goal is to reduce the number of collisions with injuries and fatalities involving bicycles and pedestrians.

The Escondido Police Department has established partnerships with community-based organizations to reach our target audience – school age children and senior citizens in the community. The Police Department partners with community-based organization Escondido Education COMPACT to provide bicycle safety rodeos, safe walk home programs, and a School Crossing Guard program. Safety equipment such as bicycle helmets, reflective bands, bicycle lights, zipper pulls, and school crossing guard equipment will be distributed thanks to this grant funding.

The Police Department also partners with the Park Avenue Senior Center and the Redwood Terrace Senior Community to increase awareness of traffic safety for seniors. Many seniors walk from their homes to exercise, socialize, or to go shopping. Busy streets and uncontrolled intersections can be problematic. The educational program for our senior community members has been successful in the past, and the OTS grant funds will assist in keeping our seniors safe.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Edward Varso, Chief of Police

10/06/21 5:46 p.m.

ATTACHMENTS:

1. Attachment "1" Budget Adjustment

CITY COUNCIL STAFF REPORT

Consent Item No. 7

October 13, 2021

File No. 0480-70

SUBJECT: Fiscal Year 2021-22 State of California Office of Traffic Safety Selective Traffic Enforcement Program Grant and Budget Adjustment

DEPARTMENT: Police Department

RECOMMENDATION:

It is requested that the City Council authorize the Escondido Police Department to accept a FY 2021-22 California Office of Traffic Safety (“OTS”) Selective Traffic Enforcement Program (“STEP”) Grant in the amount of \$520,000; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. The Police Department will use grant funds to pay for salary and benefits for one full-time traffic enforcement officer, traffic safety supplies, and for DUI checkpoints, saturation patrols, and traffic safety enforcement details.

FISCAL ANALYSIS:

This action will have no impact on the FY 2021-22 General Fund Budget. Grant funds will be used for salary and benefits for one full-time DUI traffic enforcement officer. The grant will also fund expenses related to traffic safety enforcement activities and traffic safety supplies. Funding will cover expenses from October 1, 2021 through September 30, 2022.

PREVIOUS ACTION:

The City Manager authorized the Escondido Police Department to accept a FY 2020-21 California OTS Selective Traffic Enforcement Grant in the amount of \$515,000 on September 24, 2020. Grant funds covered salary and benefits for one full-time DUI traffic enforcement officer, traffic safety supplies, DUI checkpoints, saturation patrols, and traffic safety enforcement details.

BACKGROUND:

The Escondido Police Department received a FY 2020-21 California OTS STEP Grant in the amount of \$520,000. Grant funds will enhance traffic safety programs during the operational period of October 1, 2021 through September 30, 2022.

The Police Department will use grant funds to improve community safety by focusing on the following traffic issues: drunk driving, distracted driving, excessive speed, pedestrian safety, bicycle safety motorcycle safety, and general traffic safety.

Escondido’s Need for Traffic Safety Funding

Compared to similar sized cities, Escondido ranks amongst the worst in the state for victims killed and injured in crashes. Alcohol related collisions were a specific problem for Escondido. The OTS Rankings were developed so similar sized cities can compare traffic safety statistics. OTS ranks cities from highest or worst to best, with “1” being the worst. For example, a ranking of 1/56 is the highest or worst, 27/56 is average, and 56/56 is the lowest or best. Escondido ranks in the top ten worst in several categories, including fatalities, injuries, and alcohol related crashes.

The most current OTS rankings are based on data from 2018. According to the 2018 composite traffic safety statistics, Escondido ranked 10th worst out of 59 California cities of similar size, which is an improvement from 5th worst in 2017. Slight improvements from 2017 to 2018 are encouraging. This grant funding will allow focused efforts to continue addressing Escondido’s traffic safety issues.

Ranking Description	2017	2018
Worst for fatal and injury traffic collisions	8th	9th
Worst for alcohol related fatal and injury collisions	3rd	8th
Worst for under 21-year-old driver had been drinking collisions	4th	3rd
Worst for 21-34-year-old driver had been drinking collisions	5th	8th
Worst for collisions involving a motorcycle	4th	6th

Escondido’s Most Current OTS Crash Rankings (2018)

TYPE OF CRASH	2017 VICTIMS KILLED & INJURED	2017 OTS RANKING	2018 VICTIMS KILLED & INJURED	2018 OTS RANKING
Total Fatal and Injury	1010	8/58	972	9/59
Alcohol Involved	121	3/58	112	8/59
Had Been Drinking Driver < 21	9	4/58	7	3/59
Had Been Drinking Driver 21 - 34	38	5/58	37	8/59
Motorcycles	52	4/58	53	6/59
Pedestrians	62	18/58	70	12/59
Pedestrians < 15	9	10/58	7	18/59
Pedestrians 65+	6	23/58	8	18/59
Bicyclists	37	29/58	41	32/59
Bicyclists < 15	2	48/58	4	29/59
Composite*	478	5/58	435	10/59

*Composite- Figures which show rankings only, an aggregate of several of the other rankings (Had been drinking under 21, alcohol involved, hit & run, nighttime and speed crashes). These figures are a means to give an indication of overall traffic safety

Historical data shows Escondido’s traffic safety rankings over the past several years.

- In 2012, Escondido ranked the worst overall, receiving the number one spot (1/56)
- In 2015, Escondido ranked second worst overall (2/57)
- In 2017, Escondido ranked fifth worst (5/58)
- In 2018, Escondido ranked tenth worst (10/59)

Since 2005, Escondido’s traffic safety has gradually improved. The OTS STEP Grant will allow education and proactive enforcement to continue this trend.

Escondido consistently maintains high DUI arrest rates. DUI arrests are a major factor in reducing alcohol related collisions. High DUI arrests are often a result of OTS grant funded operations.

Historical OTS Rankings and Data														
Description	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total Fatal/Injuries	1,268	1,238	1,095	988	844	888	890	959	832	1,215	1,131	1,088	1,010	972
OTS Ranking	6/50	5/50	6/52	6/55	13/56	8/53	7/55	6/56	10/56	4/57	4/57	11/58	8/58	9/59
Alcohol Related Fatal/Injured	182	143	128	138	99	106	92	102	78	113	169	126	121	112
OTS Ranking	1/50	3/50	3/52	3/55	7/56	3/53	7/55	3/56	17/56	10/57	2/57	10/58	3/58	8/59
Pedestrian Injured/Killed	45	59	76	57	53	57	55	70	54	68	76	77	62	70
OTS Ranking	26/50	12/50	5/52	13/55	18/56	8/53	14/55	7/56	12/56	10/57	11/57	16/58	18/58	12/59
Fatal/Injury Hit & Runs	103	104	100	80	68	72	75	74	62	97	97	69	63	60
OTS Ranking	3/50	2/50	2/52	3/55	4/56	2/53	3/55	2/56	8/56	3/57	7/57	19/58	23/58	25/59
DUI Arrests	1,030	1,066	911	828	861	841	607	545	377	399	412	415	498	N/A
OTS Ranking	49/49	48/50	47/52	49/55	50/56	49/53	47/55	45/56	36/56	42/57	42/57	N/A	54/58	N/A
Composite OTS Ranking	3/50	4/50	4/52	6/55	6/56	4/53	9/55	1/56	8/56	3/57	2/57	10/58	5/58	10/59

Traffic Collisions in Escondido

In 2020, there were approximately 2,374 calls for service of reported traffic collisions in Escondido.

The statistical breakdown of the 2020 collisions:

- 928 of the 2,374 reported collisions involved injuries, fatalities and hit & runs, a decrease of 136 collisions from 2019
 - 23% of the 928 collisions in Escondido involved alcohol, a 1% decrease from 2019
 - 7 fatal collisions with 11 people killed, same number of fatal collisions as 2019.

Grant Funding Making a Difference

OTS STEP Grant funding keeps drunk drivers off our community's streets. From October 1, 2020 – September 30, 2021, OTS STEP grant funding resulted in the following accomplishments:

- 236 DUI arrests, which is more than half of the Department's total DUI arrests
- 1,417 citations of traffic offenses issued

The current OTS STEP Grant proposal funds similar activities and operations.

Grant Provider and Funding Intention

OTS takes a leadership role in efforts to make California roadways safe for all users. OTS provides an effective means of eliminating fatalities, injuries, and economic losses resulting from crashes. Through grant funding made available to California by the National Highway Traffic Safety Administration (NHTSA), OTS annually funds over \$80 million dollars in innovative, evidence-based education and enforcement programs and technologies designed to make California's roadways safer. OTS is determined to identify and overcome new traffic safety issues as travel habits change and transportation technologies emerge.

Escondido's Grant Description

The purpose of the STEP Grant is to reduce the number of persons killed and injured in crashes in Escondido. Evidence-based strategies, including education and traffic safety enforcement, will be the primary focus of this project. The funded strategies will include impaired driving enforcement, enforcement operations focusing on primary collision factors, distracted driving, night-time seat belt enforcement, special enforcement operations encouraging motorcycle safety, enforcement and public awareness in areas with a high number of bicycle and pedestrian crashes, and educational programs. These strategies are designed to earn media attention, which will help the community focus on traffic safety.

Project Details and Investment

DUI Officer

- Personnel Costs: DUI Officer: \$111,758 salary and \$53,610 benefits
 - One officer assigned full-time to the Traffic Division will focus on DUI prevention; community engagement, education and awareness; and DUI enforcement
 - Salary and the following benefits are covered by the grant: Medicare, Dental, Life Insurance, State Unemployment Insurance, Benefits Admin Costs, PERS, Medical, and Workers Comp

Deliverables and Operations

In accordance with non-supplanting rules, the following grant funded operations must be worked as overtime events. Non-supplanting rules require grant funds to augment, not replace, general fund monies.

- DUI Saturation Patrols: \$115,900
 - Operation Intent: Prevent alcohol related collisions and DUIs
 - Operations include officers patrolling the city with the sole purpose of spotting and stopping drunk drivers; officers working these operations do not respond to routine calls and augment standard patrol efforts
 - Operations usually include five to six officers focusing on locating DUI suspects
 - Operational period lasts up to 10 hours, mostly during weekends, holidays and major events
 - Operations are data driven, focusing on areas and times that frequently experience alcohol related traffic problems

- DUI Checkpoints: \$75,000
 - Operation Intent: Public awareness and DUI deterrence
 - OTS requires six operations during the grant period
 - Operations are carefully planned to ensure community and officer safety
 - Drivers are randomly selected to enter the checkpoint area
 - Selection process involves using a neutral formula, for example 10 officers are working at the checkpoint entrance, so 10 vehicles are selected to proceed to the screening area, while remaining vehicles pass through without officer interaction
 - Officers engage in polite conversation including educational explanation of checkpoint and questions about alcohol consumption
 - Drivers that do not show signs of impairment nor pose a risk to traffic safety receive educational material and are then directed out of the checkpoint area
 - Officers must adhere to a set of procedures
 - Standard operating procedures and reports are required for each checkpoint
 - Checkpoints are publicized 48 hours in advance through media outlets, Nixle, Twitter, Facebook, and the Police Department's website
 - Checkpoints are data driven based on times, locations, and dates that are high risk for alcohol related problems, such as holidays, Super Bowl Sunday, and major local events

- Educational pamphlets, in English and Spanish, are provided to drivers that pass through the checkpoint
- Traffic Enforcement Operations: \$30,600
 - Operation Intent: Community safety through reduction of traffic collisions related to excessive speed and violations identified as primary collision factors
 - Operations include officers patrolling the city with the sole purpose of stopping drivers committing traffic safety violations; officers working these operations do not respond to calls and augment standard patrol efforts
 - Operations usually include five to six officers
 - Operational period lasts up to 10 hours
 - Operations are data driven, focusing on areas and times that have experienced an increase in traffic collisions
- Distracted Driving Operations: \$20,400
 - Operation Intent: Improve community safety by decreasing phone use while driving
 - Operations include officers patrolling the city with the sole purpose of stopping drivers distracted by their phones; officers working these operations do not respond to calls and augment standard patrol efforts
 - Operations usually include several officers
 - Operational period lasts several hours
 - Operations are conducted throughout the City
- Pedestrian and Bicycle Enforcement: \$15,300
 - Operation Intent: Improve pedestrian and bicycle safety
 - Operations include officers patrolling the city focusing on crosswalks, jaywalkers, bicycle lanes, and vehicles endangering pedestrians or bicycle riders; officers working these operations do not respond to calls and augment standard patrol efforts
 - Operations usually include several officers
 - Operational period lasts several hours
 - Operations are conducted throughout the City
- Motorcycle Safety Enforcement: \$4,200
 - Operation Intent: Improve motorcycle safety
 - Operations include officers patrolling the city focusing on motorcycle traffic violations and vehicles endangering motorcycle riders; officers working these operations do not respond to calls and augment standard patrol efforts

- Operations usually include three to four officers
- Operational period lasts up to 10 hours
- Operations are conducted throughout the City
- Collaborative DUI Enforcement: \$10,200
 - Operation Intent: Improve regional collaboration and reduce DUI collisions
 - Operations include regional collaborative efforts to stop DUI drivers
 - Operations usually include several officers and regional assistance
 - Operational period lasts up to 10 hours
 - Operations occur throughout the County as collaborative efforts to experience regional traffic safety practices
- Know Your Limit Operations: \$6,000
 - Operation Intent: Community engagement and education
 - Officers attend community events such as “Cruisin’ Grand” and local St. Patrick’s Day events
 - Officers talk with community members and discuss drinking and driving
 - Citizens have the opportunity to voluntarily use a breathalyzer to learn how alcohol consumption relates to their blood alcohol level and impairment
 - These encounters do not result in citations or any repercussions and have been well received by community members
- Collaborative Traffic Enforcement: \$5,100
 - Operation Intent: Improve regional collaboration and traffic safety
 - Operations include regional collaborative efforts to improve traffic safety
 - Operations usually include several officers and regional assistance
 - Operational period lasts up to 10 hours
 - Operations occur throughout the County as collaborative efforts to experience regional traffic safety practices

Education, Equipment, and Supplies

- DUI Trailer: \$35,000
Trailer to transport heavy checkpoint supplies, including lights, cones, and a generator
- Changeable Message Sign: \$18,000
Sign to increase traffic safety messaging/radar sign that gives drivers speed
- DUI Supplies: \$15,032

Costs may include 28" traffic cones, Manual on Uniform Traffic Controlled Devices (MUTCD) compliant traffic signs, MUTCD compliant high visibility vests (maximum of 10), traffic counters (maximum of 2), generator, gas for generators, lighting, reflective banners, electronic flares, PAS device supplies, heater, propane for heaters, fan, anti-fatigue mats, and canopies.

- Training: \$3,900
In State Travel - Costs are included for appropriate staff to attend conferences and training events supporting the grant goals and traffic safety.

STEP Grant Goals

The OTS STEP grant funding allows the Escondido Police Department to focus on education and traffic safety in the community. Based on current data the following grant goals were established based on current traffic safety issues in Escondido:

1. Reduce the number of persons killed in traffic crashes.
2. Reduce the number of persons injured in traffic crashes.
3. Reduce the number of pedestrians killed in traffic crashes.
4. Reduce the number of pedestrians injured in traffic crashes.
5. Reduce the number of bicyclists killed in traffic crashes.
6. Reduce the number of bicyclists injured in traffic crashes.
7. Reduce the number of persons killed in alcohol-involved crashes.
8. Reduce the number of persons injured in alcohol-involved crashes.
9. Reduce the number of persons killed in drug-involved crashes.
10. Reduce the number of persons injured in drug-involved crashes.
11. Reduce the number of persons killed in alcohol/drug combo-involved crashes.
12. Reduce the number of persons injured in alcohol/drug combo-involved crashes.
13. Reduce the number of motorcyclists killed in traffic crashes.
14. Reduce the number of motorcyclists injured in traffic crashes.
15. Reduce hit & run fatal crashes.
16. Reduce hit & run injury crashes.
17. Reduce nighttime (2100-0259 hours) fatal crashes.
18. Reduce nighttime (2100-0259 hours) injury crashes.

The Police Department is committed to improving traffic safety in Escondido. Funding provided by the OTS STEP Grant will support proactive enforcement operations that can help reduce the number of persons killed and injured in crashes in Escondido.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Edward Varso, Chief of Police

10/06/21 5:46 p.m.

ATTACHMENTS:

1. Attachment "1" Budget Adjustment

CITY COUNCIL STAFF REPORT

Consent Item No. 8

October 13, 2021

File No. 0480-70

SUBJECT: Fiscal Year 2020 Operation Stonegarden Grant and Budget Adjustment

DEPARTMENT: Police Department

RECOMMENDATION:

It is requested that the City Council accept FY 2020 Operation Stonegarden Grant funds in the amount of \$10,000 from the California Office of Emergency Services through the County of San Diego; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. The Department will use grant funds to pay overtime expenses for multi-disciplinary crime suppression operations related to human trafficking, narcotics trafficking, weapons trafficking, and criminal gang activity.

PREVIOUS ACTION:

On January 13, 2021, the City Council accepted a FY 2019 Operation Stonegarden Grant in the amount of \$13,900 to pay overtime expenses for crime suppression details. For the past ten years, Stonegarden funding has allowed the Escondido Police Department to partner with local law enforcement agencies to address criminal activities that affect the community. FY 2019 Stonegarden funds allowed the Escondido Police Department to participate in a regional operation that focused on gang crime and narcotic trafficking activities.

BACKGROUND:

The Police Department received a \$10,000 FY 2020 Operation Stonegarden Grant. Funding was provided by the California Office of Emergency Services, through the San Diego Sheriff's Department.

The Department proposes to use grant funds to pay overtime expenses for multi-disciplinary crime suppression operations related to human trafficking, narcotics trafficking, weapons trafficking, and criminal gang activity. Throughout San Diego County, all local law enforcement agencies participate in Operation Stonegarden. This grant will provide operational funding to enforce local and state laws. Grant funds will not be used to enforce immigration laws on behalf of Customs and Border Protection/Border Patrol.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Edward Varso, Chief of Police

10/06/21 5:46 p.m.

ATTACHMENTS:

1. Attachment "1" Budget Adjustment



CITY COUNCIL STAFF REPORT

Consent Item No. 9

October 13, 2021

File No. 0480-70

SUBJECT: Fiscal Year 2020-21 Regional Realignment Response Grant and Budget Adjustment

DEPARTMENT: Police Department

RECOMMENDATION:

It is requested that the City Council authorize the Escondido Police Department to accept a FY 2020-21 Regional Realignment Response Grant in the amount of \$80,000 from the State of California Board of Community Corrections; authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. Funding was provided by Assembly Bill 118 and Senate Bill 89, initiatives to reduce state prison overcrowding and support local law enforcement efforts to efficiently manage offenders and parole-violators. Escondido's allocation is used to support regional and local enforcement operations. Funds must be used for police officer overtime and associated overhead.

FISCAL ANALYSIS:

This will have no impact on the General Fund Budget. The FY 2020-21 Regional Realignment Response Grant is state funded. Funding will cover expenses through June 30, 2022.

PREVIOUS ACTION:

On December 16, 2020, the City Council authorized the Chief of Police to accept an \$80,000 FY 2020 Regional Realignment Response Grant.

BACKGROUND:

The Escondido Police Department has been allocated \$80,000 under the FY 2020-21 Regional Realignment Response Grant through the State of California Board of Community Corrections. This funding was provided by Assembly Bill 118 and Senate Bill 89, initiatives to reduce state prison overcrowding and support local law enforcement efforts to efficiently manage offenders and parole-violators. These bills allow for the release of subjects into the community from prison before their sentences were fully served, putting the responsibility of monitoring them on local law enforcement. Grant funds are used for regional and local enforcement operations to monitor prisoners that were released as a result of Assembly Bill 118 and Senate Bill 89.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Edward Varso, Chief of Police

10/06/21 5:46 p.m.

ATTACHMENTS:

1. Attachment "1" Budget Adjustment

CITY COUNCIL STAFF REPORT

Consent Item No. 10

October 13, 2021

File No. 0600-10, A-3389

SUBJECT: Consulting Agreement for the Alley Utilities Replacement Project

DEPARTMENT: Utilities Department, Construction and Engineering Division

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2021-142, authorizing the Mayor to execute a Consulting Agreement with NV5, Inc. in the amount of \$275,481 for engineering services for the Alley Utilities Replacement Project ("Project").

FISCAL ANALYSIS:

Funds for this project are available in the Wastewater Capital Improvement Project ("CIP") No. 807705 (Alley Rehabilitation Project) and the Water CIP No. 704003 (Water Pipeline Replacement). The engineering services costs will be split evenly between these CIP projects.

PREVIOUS ACTION:

None

BACKGROUND:

Portions of the City's water and wastewater infrastructure in the area bounded by Quince Street, Pine Street, Grand Avenue, and 11th Avenue are aging and in need of replacement. These pipelines, installed primarily in alleys between 1928 and 1982, serve as an integral part of the City's water distribution and wastewater conveyance systems, providing water and wastewater service for residential, commercial and industrial properties within the City.

This Project includes the replacement of approximately 3,500 lineal feet of water pipe and approximately 2,900 lineal feet of sewer pipe along seven existing alleys. Additionally, the project includes the abandonment of an existing sewer pipe that currently runs through a private property, and the addition of a new private sewer lateral that will re-connect the private property to the existing sewer main in Quince Street. Existing water and sewer pipelines that are a part of the project are shown on the image on the following page. The alignments are located within the public right-of-way or within public utility easements. The proposed improvements will minimize environmental and community impacts, while maintaining water and sewer service to customers.



The contract for engineering services includes:

- project management;
- engineering survey;
- “potholing” to identify the specific location of existing underground infrastructure;
- environmental documentation;
- development of detailed engineering plans and specifications, including highline plans to maintain water and sewer service during construction;
- stormwater documentation;
- engineering support during the bid phase; and
- engineering service during construction.

A Request for Proposal (RFP) was sent to engineering firms specializing in design of water and wastewater projects. Three proposals were received and reviewed by City Staff for responsiveness, understanding of the work, proposed project approach, scope of work, relevant experience, project team, schedule, and proposed fee. NV5, Inc. was selected based on their extensive experience of similar projects, proposed project approach, and fee.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Christopher McKinney, Deputy City Manager/Director of Utilities

10/06/21 5:20 p.m.

Angela Morrow, Deputy Director of Utilities/Construction & Engineering

10/06/21 5:15 p.m.

ATTACHMENTS:

1. Resolution No. 2021-142
2. Resolution No. 2021-142 – Exhibit “A”: Consulting Agreement

RESOLUTION NO. 2021-142

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR TO EXECUTE,
ON BEHALF OF THE CITY, A CONSULTING
AGREEMENT WITH NV5, INC. FOR
ENGINEERING DESIGN SERVICES FOR THE
ALLEY UTILITIES REPLACEMENT PROJECT

WHEREAS, the City of Escondido (“City”) desires to design the Alley Utilities Replacement Project (“Project”); and

WHEREAS, the Project will replace approximately 3,500 lineal feet of water pipe and approximately 2,900 lineal feet of sewer pipe along the existing alleys between Quince Street and Pine Street, spanning from Grand Avenue to 11th Avenue; abandon an existing sewer main that currently runs through a private property; and add a new private sewer lateral to re-connect the private property to the existing sewer main in Quince Street; and

WHEREAS, the City desires engineering design services for the Project; and

WHEREAS, City staff solicited proposals from firms specializing in engineering design of water and wastewater projects; and

WHEREAS, City staff thoroughly evaluated the three proposals received and the proposal from NV5, Inc. was determined to be the best value proposal; and

WHEREAS, NV5, Inc. has the personnel, specialized services and expertise to execute engineering design services; and

WHEREAS, City staff have completed negotiations with NV5, Inc. for said engineering design services and the Deputy City Manager / Director of Utilities recommends that the Consulting Agreement (“Agreement”) be approved; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve said Agreement in an amount not to exceed \$275,481.

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 Deputy City Manager / Director of Utilities.
3. That the Mayor is authorized to execute, on behalf of the City, a Consulting Agreement with NV5, Inc. in substantially the same format as Exhibit "A" which is attached hereto and incorporated by this reference, subject to final approval as to form by the City Attorney.



CITY OF ESCONDIDO
CONSULTING AGREEMENT

This Consulting 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: Stephanie Roman
760-839-6290, ext. 7035
("CITY")

And: NV5, Inc.
a California corporation
15092 Avenue of Science, Suite 200
San Diego, CA 92128
Attn: Julian Palacios
858-385-0500
("CONSULTANT").

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

WHEREAS, the CITY has determined that it is in the CITY's best interest to retain the professional services of a consultant to provide engineering consulting services for the CITY's Alley Utilities Replacement Project;

WHEREAS, CONSULTANT is considered competent to perform the necessary professional services for the CITY; and

WHEREAS, the CITY and CONSULTANT desire to enter into this Agreement for the performance of the Services 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. Description of Services. CONSULTANT shall furnish all of the Services described in the Scope of Work, which is attached to this Agreement as Attachment "A" and incorporated herein by this reference ("Services").
2. Compensation. In exchange for CONSULTANT's completion of the Services, the CITY shall pay,

and CONSULTANT shall accept in full, an amount not to exceed the sum of **\$275,481**. CONSULTANT shall be compensated only for performance of the Services described in this Agreement. No compensation shall be provided for any other work or services without the CITY's prior written consent. If this Agreement is amended at any time, additional compensation of CONSULTANT contained in any subsequent amendments shall not exceed a cumulative total of 25% of the maximum payment provided for in this Section 2, unless approved by resolution of the City Council.

3. Performance. CONSULTANT shall faithfully perform the Services in a proficient manner, to the satisfaction of the CITY, and in accord with the terms of this Agreement. CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports and other information furnished by CONSULTANT pursuant to this Agreement, except that CONSULTANT shall not be responsible for the accuracy of information supplied by the CITY.
4. Personnel. The performance of the Services by certain professionals is significant to the CITY. As such, CONSULTANT shall only assign the persons listed on Attachment "B", attached to this Agreement and incorporated herein by this reference ("Personnel List"), to perform the Services. CONSULTANT shall not add or remove persons from the Personnel List without the City's prior written consent. If CONSULTANT has not designated a person to perform a component of the Services, CONSULTANT shall not assign such component of the Services to a person without obtaining the City's prior written consent. CONSULTANT shall not subcontract any component of the Services without obtaining the City's prior written consent.
5. Termination. The Parties may mutually terminate this Agreement through a writing signed by both Parties. The CITY may terminate this Agreement for any reason upon providing CONSULTANT with 10 days' advance written notice. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of any notice of termination. If the CITY terminates this Agreement due to no fault or failure of performance by CONSULTANT, then CONSULTANT shall be compensated based on the work satisfactorily performed at the time of such termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to CONSULTANT for the full performance of the Services.
6. City Property. All original documents, drawings, electronic media, and other materials prepared by CONSULTANT pursuant to this Agreement immediately become the exclusive property of the CITY, and shall not be used by CONSULTANT for any other purpose without the CITY's prior written consent.
7. Insurance Requirements.
 - a. CONSULTANT 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 CONSULTANT, 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 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.
 - (2) *Automobile Liability*. ISO Form CA 00 01 covering any auto (Code 1), or if CONSULTANT 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 CITY and approved in writing by the CITY's Risk and Safety Division.

- (3) *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.
 - (4) *Professional Liability (Errors and Omissions).* Professional Liability (Errors and Omissions) appropriate to CONSULTANT's profession, with limits no less than \$2,000,000 per occurrence or claim and \$2,000,000 aggregate.
 - (5) If CONSULTANT 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 CONSULTANT.
- b. Each insurance policy required by this Agreement must be acceptable to the City Attorney and shall meet the following requirements:
- (1) *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-: FSC VII, or as approved by the CITY.
 - (2) *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 endorsement shall be at least as broad as ISO Form CA 20 01.
 - (3) *Primary Coverage.* CONSULTANT'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 CONSULTANT's insurance and shall not contribute with it.
 - (4) *Notice of Cancellation.* Each insurance policy shall provide that coverage shall not be canceled, except with prior written notice to the CITY.
 - (5) *Subcontractors.* If applicable, CONSULTANT shall require and verify that all subcontractors maintain insurance meeting all the requirements stated within this Agreement, and CONSULTANT shall ensure that the CITY (including its officials, officers, agents, employees, and volunteers) is an additional insured on any insurance required from a subcontractor.
 - (6) *Waiver of Subrogation.* CONSULTANT hereby grants to the CITY a waiver of any right to subrogation that any insurer of CONSULTANT may acquire against the CITY by virtue of the payment of any loss under such insurance. CONSULTANT 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 CONSULTANT, its agents, representatives, employees, and subcontractors.
 - (7) *Self-Insurance.* CONSULTANT 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. CONSULTANT shall only be permitted to utilize such self-insurance if, in the opinion of the CITY, CONSULTANT's (i) net worth and (ii) reserves for payment of claims of liability against CONSULTANT are sufficient to adequately compensate for the lack of

other insurance coverage required by this Agreement. CONSULTANT's utilization of self-insurance shall not in any way limit the liabilities assumed by CONSULTANT pursuant to this Agreement.

(8) *Self-Insured Retentions*. Self-insured retentions must be declared to and approved by the CITY.

- c. *Verification of Coverage*. At the time CONSULTANT executes this Agreement, CONSULTANT 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 in this Agreement, including the types and limits of insurance coverage CONSULTANT 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 CONSULTANT 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 CONSULTANT fails to comply with any such insurance requirements 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 CONSULTANT to stop work under this Agreement and/or withhold any payment that becomes due to CONSULTANT until CONSULTANT demonstrates compliance with the insurance requirements in this Agreement.

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

- a. CONSULTANT (including CONSULTANT'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 CONSULTANT's performance of the Services 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 CITY.
- b. CONSULTANT (including CONSULTANT'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 8 shall survive the termination of this Agreement.

9. Anti-Assignment Clause. Because the CITY has relied on the particular skills of CONSULTANT in entering into this Agreement, CONSULTANT shall not assign, delegate, subcontract, or otherwise transfer any duty or right under this Agreement, including as to any portion of the Services, without the CITY's prior written consent. Any purported assignment, delegation, subcontract, or other transfer made without the CITY's consent shall be void and ineffective. Unless CONSULTANT assigns this entire Agreement, including all rights and duties herein, to a third party with the CITY's prior written consent, CONSULTANT shall be the sole payee under this Agreement. Any and all payments made pursuant to the terms of this Agreement are otherwise not assignable.
10. 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.
11. Independent Contractor. CONSULTANT is an independent contractor, and no agency or employment relationship is created by the execution of this Agreement.
12. Amendment. This Agreement shall not be amended except in a writing signed by the CITY and CONSULTANT.
13. 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 CONSULTANT 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. Notice. Any statements, communications, or notices to be provided pursuant to this Agreement shall be sent to the attention of the persons indicated herein, and the CITY and CONSULTANT shall promptly provide the other Party with notice of any changes to such contact information.

20. Business License. CONSULTANT 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.
21. Compliance with Laws, Permits, and Licenses. CONSULTANT 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. CONSULTANT shall obtain any and all permits, licenses, and other authorizations necessary to perform the Services. 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 CONSULTANT to comply with this section.
22. Prevailing Wages. If applicable, pursuant to California Labor Code section 1770 et seq., CONSULTANT agrees that a prevailing rate and scale of wages, in accordance with applicable laws, shall be paid in performing this Agreement. CONSULTANT 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. The prevailing rate and scale to be paid shall be the same as the applicable "General Prevailing Wage Determination" approved by the Department of Industrial Relations as of the Effective Date of this Agreement, which are available online at <http://www.dir.ca.gov/oprl/dprevagedetermination.htm> and incorporated into this Agreement by this reference. 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 CONSULTANT to comply with this section.
23. Department of Industrial Relations Compliance. This public project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONSULTANT shall post all job site notices required by regulation. CONSULTANT, 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 CONSULTANT to comply with this section.
24. Immigration Reform and Control Act of 1986. CONSULTANT shall keep itself informed of and shall comply with the Immigration Reform and Control Act of 1986 ("IRCA"). CONSULTANT represents and warrants that all of its employees and the employees of any subcontractor retained by CONSULTANT who perform any of the Services under this Agreement, are and will be authorized to perform the Services in full compliance with the IRCA. CONSULTANT 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 Services. CONSULTANT agrees to comply with the IRCA before commencing any Services, and continuously throughout the performance of the Services 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 signatories 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

NV5, 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.

ATTACHMENT "A"

Scope of Work

A. General

NV5, Inc., a California corporation ("Consultant"), will provide the City of Escondido, a California municipal corporation ("City"), with engineering consulting services for the City's Alley Sewer Main Replacement Project ("Project").

B. Location

Consultant to provide services at various locations include the Project location. A map of the Project location is attached to this Scope of Work as Exhibit 1 and incorporated herein by this reference. Fieldwork will be performed in the alleys between Pine Street and Quince Street in Escondido, CA 92025.

C. Services

Task 1 – Project Management and Meetings

- a. Project Management. Consultant will provide a project manager ("PM") for the administration of the contract, including attending meetings, quality assurance/quality control ("QA/QC"), utility and subconsultant coordination, scheduling, budgeting, progress reporting and invoicing. PM will monitor and direct work activities in accordance to this scope of services and schedule.
- b. Kick-Off Meeting. Consultant and City will meet to discuss the Project scope, proposed schedule, and coordination requirements. Items to be discussed include the following:
 1. Existing sewer main and size confirmation;
 2. Alley repaving requirements;
 3. Connection to sewer main along Quince Street;
 4. Coordination with affected businesses;
 5. Bypass during construction;
 6. Lateral reconnections;
 7. Coordination with other City departments;
 8. California Environmental Quality Act ("CEQA") compliance approach;
 9. Closed-circuit television ("CCTV") inspection videos; and
 10. Transmittal to Consultant all City as-built plans applicable to the Project and Geographic Information System ("GIS") files.
- c. Review and Investigation of Existing Documents and Utilities. Consultant will contact known utilities in the area and research the locations of their facilities, including electricity, gas service, telecommunications providers and the property owner onsite utilities to assess conflicts to be considered for the proposed pipeline horizontal and vertical realignment. Consultant shall initiate work on Project by gathering available and applicable information including:
 1. As-built drawings (City and private facilities);
 2. Maps;
 3. Geotechnical reports (from a previous project in the area, if available);
 4. CCTV videos;
 5. Shutdown constraints; and
 6. Contact trash collection companies and North County Transit District for coordination requirements.

ATTACHMENT "A"

Scope of Work

- d. **Progress and Coordination Meetings.** Consultant shall coordinate with City on a biweekly basis, as a minimum, via email and phone to provide updates on the design progress and schedule. Progress meetings will be held at the completion of 50%, 90%, and 100% design phases to review and resolve comments from the City. It is anticipated that there will be four total meetings, including the kick-off meeting.
- e. **QA/QC.** Consultant will implement their Quality Management Plan for review of deliverables, including calculations, plans, specifications and estimates. Project construction document review will be completed by Consultant's engineer.

Task 2 – Survey

- a. **Control Survey.** Project control will be based on the California Coordinate System of 1983 (CCS83), Zone 6, by utilizing the City of Escondido Survey Control Network. Vertical control will be based on NGVD'29 benchmarks. A field survey will be performed within the Project area (Exhibit 1). Control points will be established in areas to minimize their destruction and at a spacing to maintain survey quality throughout the Project.
- b. **Topographic Survey.** Consultant shall set aerial targets, base station, and transects for use by their photogrammetrist to prepare aerial topography mapping of a 50-foot wide strip with planimetrics and one-foot contours for each sewer main alignment (1-inch equals 20-foot scale). Consultant will survey the location and depth of the existing sewer manholes at each end of the alleys and locate other visible utility appurtenances in the alleys. Consultant's field crews will survey curb returns and ramps, gutter, back of walk, finished surface grades at street at each ramp, and three additional sidewalk panels (panel corners and joints) in each direction. Base maps will be prepared from the field survey data to complete the American with Disabilities Act ("ADA") pedestrian ramp upgrades design detailed in the ADA Ramp Improvements table below.
- c. **Basemap.** Consultant will field survey the Project area (Exhibit 1), using sufficient boundary monuments, along with data from record maps and GIS, for calculation and drawing of existing right-of-way limits and property lines.

Task 3 – Potholing

- a. Consultant will prepare a potholing plan based on preliminary utility mapping from record drawings and proposed sewer main horizontal and vertical alignment. Once potholes are completed, Consultant will survey the pothole locations for mapping horizontal and vertical location of existing utilities.
- b. C Below, Inc., as a subconsultant to Consultant, will provide subsurface utility engineering services to locate underground facilities with potential conflict to the proposed sewer mains. C Below, Inc.'s scope of services includes the following:
 - 1. Complete up to 30 potholes (assuming potholes are less than 10-feet deep);
 - 2. Prepare traffic control plans and provide traffic control, if required, for traffic corridors to support potholing efforts;
 - 3. Resurface potholes using an asphalt hot mix patch and slurry backfill per City's requirements; and
 - 4. Prepare a potholing report including size of utility, material, depth to ground surface and photographs, pavement thickness and groundwater depth, if encountered. A

ATTACHMENT "A"

Scope of Work

hardcopy report provided to the City via mail and PDF report provided to the City via email.

Task 4 – CEQA Compliance

- a. Helix Environmental Planning, Inc. ("Helix"), as a subconsultant to Consultant, will provide CEQA compliance services for the Project. Currently the Project is expected to qualify for a Section 15302, Class 2 Replacement or Reconstruction Categorical Exemption because it consists of the replacement of existing facilities. As requested by the City, Helix will prepare a CEQA Notice of Exemption ("NOE") form citing the relevant exemption(s) and briefly summarize why the exemption(s) would be applicable to the Project. A Project site map showing the replacement pipeline alignments on an aerial photo base will support the NOE. Following City review, Helix will finalize the NOE. This assumes the City will file the NOE with the County Clerk.
- b. In the event the final design of the Project involves upsizing the capacity of the pipeline, or realigning in different streets, or include other changes in the assumptions listed in the Request for Proposal, additional environmental review may be required, which would require a revision in the scope of this task and fee estimate.

Task 5 – Plans, Specifications, and Estimates

- a. 50% Design Submittal
 1. Consultant will develop and submit the 50% design drawings and a draft of the technical specifications of the proposed sewer, water, alley repaving, and pedestrian ramp improvements for review and comment by the City. The design will include replacement of existing sewer and water mains in seven alleys between Quince Street and Pine Street, installation of a private lateral within a commercial site (lumberyard), repaving of alleys, and ADA improvements. The total length of water and sewer pipeline replacement is 2,500-feet (each) and it is assumed the pipelines will be replaced along their current alignment. Downstream connecting manholes will be rehabilitated and reconfigured to eliminate drop manholes. The design will include abandonment of an existing sewer main currently installed under existing commercial lumberyard buildings.
 2. Construction drawings will include plans and profiles for the proposed sewer and water pipeline replacement, and preliminary details of lateral reconnections and connection to existing sewer mains on Pine Street and Quince Street and sewer manholes on Quince Street, including reconfiguration of existing sewer mains to eliminate drop manholes, replacement of fire hydrants and laterals to fire hydrants to a minimum size of 6-inches, and water valves. Topographical base mapping will be shown as a background for this effort. The profile developed will include the existing ground profile over the pipe, unknown utilities which cross the alignment, and the connection details on both ends of the water lines. Separate plan and profile drawings will be prepared for the sewer and water mains. Plan and profile sheets will be drawn with 1-inch equals 20-foot horizontal and 1-inch equals 4-foot vertical scales.
 3. Limits of alley repaving will be based upon a combination of field investigations, a review of recent available high-resolution aerial imagery (NearMap or aerial

ATTACHMENT "A"

Scope of Work

topography from Task 2), and the proposed sewer replacement itself. The City has specified the use of an approved pavement section of 3-inch Asphalt Concrete ("AC") over 6-inch Class II Base for this Project. The limits and locations of pavement subject to replacement will be summarized in spreadsheet format along with any adjacent degraded segments that are noted during verification and will indicate required utility and survey monument adjustments.

4. Pavement improvement plans will consist of property lines, right-of-way lines, and the limits of the specific pavement repairs. Existing non-ADA compliant pedestrian ramps will be designated for replacement following the 2010 ADA Standards for Accessible Design. Ramps designated for replacement will be prepared under the San Diego Regional Standard Drawings ("SDRSD") guidelines and designed as "field fit" with a maximum transition length of two sidewalk panels. In addition to the field fit ramps, four locations have been determined to require design-level engineering. Construction specific details for these ramps will be designed utilizing survey data collected in the field. They will account for tie-in and flow-line elevations, as well as transitions to existing public and private improvements. ADA ramp improvements will be completed as described in the table below:

ADA Ramp Improvements		
Location	Improvement Location	Recommended Improvement
Grand Avenue and West Second Avenue (Quince Street)	NE Corner	Pedestrian Refuge and Mast Arm Signal Island
Grand Avenue and West Second Street (Pine Street)	SW Corner	SDRSD G-31 (Type D)
Escondido Lumber Company	Driveway	SDRSD G-14D
Alley between Fourth Avenue and Fifth Avenue (Quince Street)	Driveway	Blended Transition
Alley between Sixth Avenue and Seventh Avenue (Quince Street)	Alley Entrance	SDRSD G-14D
Alley between Seventh Avenue and Eighth Avenue (Quince Street)	Alley Entrance	SDRSD G-14D
Alley between Eighth Avenue and Ninth Avenue (Quince Street)	Alley Entrance	SDRSD G-14D
Alley between Eighth Avenue and Ninth Avenue (Pine Street)	SW Corner	SDRSD G-31 (Type D)
Alley between Ninth Avenue and 10 th Avenue (Quince Street)	Driveway	SDRSD G-14A (Type A)
Alley between Ninth Avenue and 10 th Avenue (Pine Street)	SW Corner	SDRSD G-31 (Type D)

5. Sewer bypassing and water highlining requirements will be included in the technical specifications. Consultant will prepare highlining plans to indicate conceptually in plan-view the location of temporary pipelines to maintain service to customers along the alignment, areas with burial requirements, and reference local agency standard drawings for typical details (temporary connections to fire hydrants, temporary service lateral connections, pipe protection at driveways). Highline plans will be prepared to indicate minimum requirements and constraints to the Project construction contractor. The Project construction contractor will be responsible for adjusting the highlining plans to meet their proposed means and

ATTACHMENT "A"

Scope of Work

methods to construct the water line replacement. Bypassing plans will be prepared by the Project construction contractor and are not included in this scope of services.

6. Consultant will prepare technical specifications for the 50% submittal in Construction Specification Institute ("CSI") format. The specifications will include, but not be limited to, individual sections of City standard specifications and drawings on the following items: trenching, backfilling, compaction, earthwork, pavement, manholes, sewer pipe, dewatering, bypassing, and any miscellaneous or special pipeline or appurtenance construction. The specifications will also include, but are not limited to: requirements for the Contractor regarding the Regional Water Quality Control Board ("RWQCB") Construction General Permit, preparing a Storm Water Pollution Prevention Plan ("SWPPP") if applicable, and submitting Notice of Intent ("NOI").
 7. Consultant will use the 50% plans and specifications to generate proposed construction quantities. Consultant will use known construction cost indices of the region and consult with their construction management staff to develop an opinion of probable construction costs. Consultant will also prepare a bid schedule for the 50% submittal but will not provide the bidding documents and front-end language as part of this item.
 8. Consultant will include detail for lateral replacement (to the property line) for use in cases determined during Project construction where the lateral should be replaced due to its condition.
 9. Consultant will coordinate with the SWRCB to obtain approval on the proposed sewer main replacement regarding separation requirements with existing potable water main along the alignments, as necessary.
 10. Deliverables will include:
 - i. Three full size copies of the plans (title sheet, notes sheets, plan and profile sheets, and details sheets);
 - ii. Two copies of the technical specifications;
 - iii. Electronic files of specifications in both Microsoft ("MS") Word and PDF format (PDFs with bookmarks for all sections and full-page view); and
 - iv. Three copies of the engineer's opinion of probable construction cost and bid schedule.
- b. 90% Design Submittal. Following the review and written approval of the 50% design package as described in Task 5(a), above, Consultant will develop 90% design drawings and specifications, a revised cost estimate, and bid schedule for final review and comment by the City. Deliverables will include:
1. Three full size copies of the plans (title sheet, notes sheets, plan and profile sheets, and details sheets);
 2. Two copies of the technical specifications;
 3. Electronic files of specifications in both MS Word and PDF format (PDFs with bookmarks for all sections and full-page view); and
 4. Three copies of the engineer's opinion of probable construction cost, bid schedule and anticipated construction schedule, including electronic file in PDF format.

ATTACHMENT "A"

Scope of Work

- c. 100% Design Submittal. Following review and written approval of the 90% design package as described in Task 5(b), above, Consultant will develop 100% design drawings and specifications, a revised cost estimate, and bid schedule for final review and comment by the City. Consultant will update the construction schedule prepared during the 90% design submittal as necessary. Deliverables will include:
 - 1. Three full size copies of the plans (title sheet, notes sheets, plan and profile sheets, and details sheets);
 - 2. Two copies of the technical specifications;
 - 3. Electronic files of specifications in both MS Word and PDF format (PDFs with bookmarks for all sections and full-page view); and
 - 4. Three copies of the engineer's opinion of probable construction cost, bid schedule and anticipated construction schedule, including electronic file in PDF format.

- d. Final Submittal (Bid Documents). Following review and written approval of the 100% design package as described in Task 5(c), above, Consultant will develop final design drawings and specifications. Deliverables will include:
 - 1. Three full size copies of the plans (title sheet, notes sheets, plan and profile sheets, and details sheets);
 - 2. Two copies of the technical specifications;
 - 3. Electronic files of specifications in both MS Word and PDF format (PDFs with bookmarks for all sections and full-page view); and
 - 4. Three copies of the engineer's opinion of probable construction cost, bid schedule and anticipated construction schedule, including electronic file in PDF format.

Task 6 – SWPPP

- a. Consultant will prepare a SWPPP for the Project based on the current State General Construction Permit for Stormwater Discharges, Order No. 2009-009-DWP ("CGP"). The SWPPP will be prepared by a qualified SWPPP developer following the California Storm Water Quality Association ("CASQA") template. The SWPPP text will include:
 - 1. Information on potential pollutants from the Project site as well as sampling and monitoring requirements during construction; and
 - 2. Water Pollution Control Plans ("WPCP") that will document Best Management Practices ("BMP") to be installed prior to the start of Project construction. BMPs will typically include, but are not limited to fiber rolls, storm drain inlet protection, silt fencing and slope stabilization. The Qualified SWPPP Practitioner will be responsible to update the WPCPs as Project construction progresses in order to maintain compliance.

- b. This task assumes response to one round of comments from the City. Consultant will provide one hard copy of the SWPPP upon request and electronic copies of all documents in PDF format to the City via email or Secure File Transfer Program as requested by the City.

Task 7 - Bid Phase Services

- a. Consultant will:
 - 1. Respond to technical questions related to the pipeline replacement design documents;
 - 2. Record questions from the contractors and prepare responses;

ATTACHMENT "A"

Scope of Work

3. Assist the City to prepare up to two addenda in response to bidder questions during the bid phase. City will be responsible for distribution of agenda to bidders; and
 4. Assist City in reviewing received bids for completeness.
- b. Consultant will prepare a conformed set of drawings and specifications to document any revisions to the Project construction documents from the bid phase and addenda issued. Deliverables include:
1. Three full size copies of the plans (title sheets, notes sheets, plan and profile sheets, and details sheets) including electronic file in PDF format;
 2. Two copies of the technical specifications;
 3. Electronic files of specifications in both MS Word and PDF format (PDFs with bookmarks for all sections and full-page view); and
 4. Three copies of the engineer's opinion of probable construction cost, including electronic file in PDF format.

Task 8 – Construction Support Services

- a. Consultant will:
1. Review submittals received from Project construction manager or City for conformance with the Project contract documents, incorporate comments from design team and return to the Project construction contractor within 15 calendar days of receipt of the submittal;
 2. Coordinate required reviews of submittals with the City or Project construction manager. Consultant anticipates 16 submittals, of which six will require resubmittal and review;
 3. Review and respond to Project contractor Request for Information ("RFI") and maintain an RFI log. Consultant will process, provide a written response to Project contractor and distribute to the Project construction manager and City. Consultant will discuss complex RFIs with the City before responding, review answers and prepare a formal response to Project contractor within seven calendar days of receipt of RFI. Consultant anticipates up to six RFIs to be submitted, requiring responses; and
 4. Upon completion of the Project, Consultant will prepare record drawings based on a set of Project contractor redlines, provided by the City to the Consultant. Changes on the drawings will be completed electronically (AutoCAD files). Record drawings will be provided in AutoCAD and PDF format.

A. Scheduling

Consultant to schedule specific date(s) of work in advance by contacting Stephanie Roman at 760-839-6290, ext. 7035, or sroman@escondido.org. Further instructions will be provided upon scheduling.

B. Contract Price and Payment Terms

The contract price shall not exceed **\$275,481**. The contract price includes all labor, materials, equipment, and transportation required to perform the work. Services will be billed as services are performed. Payment will be made after services have been performed and within 30 days of receipt of an invoice for those services.

ATTACHMENT "A"

Scope of Work

The service rates as described in Exhibit 2 to this Scope of Work, which is attached hereto and incorporated by this reference, shall remain in effect throughout the term of this Agreement.

C. Term

The term of this Agreement shall be for a period of **two years**, commencing on the Effective Date of this Agreement.

D. Other

Services are based on the following assumptions:

1. City will provide as-built drawings of water, sewer, and storm drain facilities in the Project area;
2. City will pay for permit, plan review and recording fees;
3. City will handle distribution of bid packages, advertisement and issuing of addenda during bid phase;
4. Project contractor will prepare the final sewer bypass plans in accordance with their construction techniques;
5. Location of laterals will be determined from City provided CCTV videos and inspection reports. Field investigation or potholing of laterals to determine locations is not anticipated or included in the scope of services;
6. Design of utility relocation for other utilities not directly related to the Project is not known and is not included in the scope of services;
7. Construction cost opinions and estimates are prepared and provided to the City for general guidance. Due to variations in bidding market, cost of materials, equipment and labor, Consultant does not guarantee cost opinions and estimates as compared to actual bids received and actual cost to the City.
8. Coordination with other agencies or tenants other than the City and the SWRCB is not included.
9. Bypass pumping requirements will be included in the technical specifications. Project contractor will be responsible for preparing bypass pumping plans in accordance with their means and methods for completing the work; and
10. All new pavement sections will consist of 3-inch AC/6-inch Class II base as directed by the City.

The following items and services are excluded from this scope of work but can be provided under an amendment to this Agreement:

1. Permit processing fees;
2. Traffic control plans for construction of the proposed pipeline;
3. Hydraulic modeling;
4. Front-end bidding documents other than a Bid Schedule and Supplemental General Conditions;
5. Biological and cultural technical reports;
6. Geotechnical observation and testing during Project construction;
7. Project construction management or inspection;
8. Project construction staking;
9. Record of survey and other record maps;
10. Public outreach;
11. Noise control design;
12. Dry utilities design;
13. Property owner negotiations;

ATTACHMENT "A"

Scope of Work

14. Design of public improvements or restoration of private improvements other than ADA ramp upgrades described in Task 5;
15. Agency and Title company services or fees or deposits;
16. Filing/recording any map with County Recorder's office;
17. Acquisition services such as Title Reports, Appraisals, Negotiations and/or document preparation;
18. Bypassing plans; and
19. Fees associated with submitting and renewing the NOI, annual reporting to the Regional Board, weekly and rain event inspections, sampling required by the SWPPPs monitoring program, preparing a Notice of Termination and accompanying documentation, any changes made necessary by plan checks or changes in site conditions (SWPPP amendments), design of active treatment systems or sediment basins, and soil monitoring/reporting.

ATTACHMENT "B" Personnel List

Pursuant to Section 4 of the Agreement, CONSULTANT shall only assign performance of Services to persons listed below.

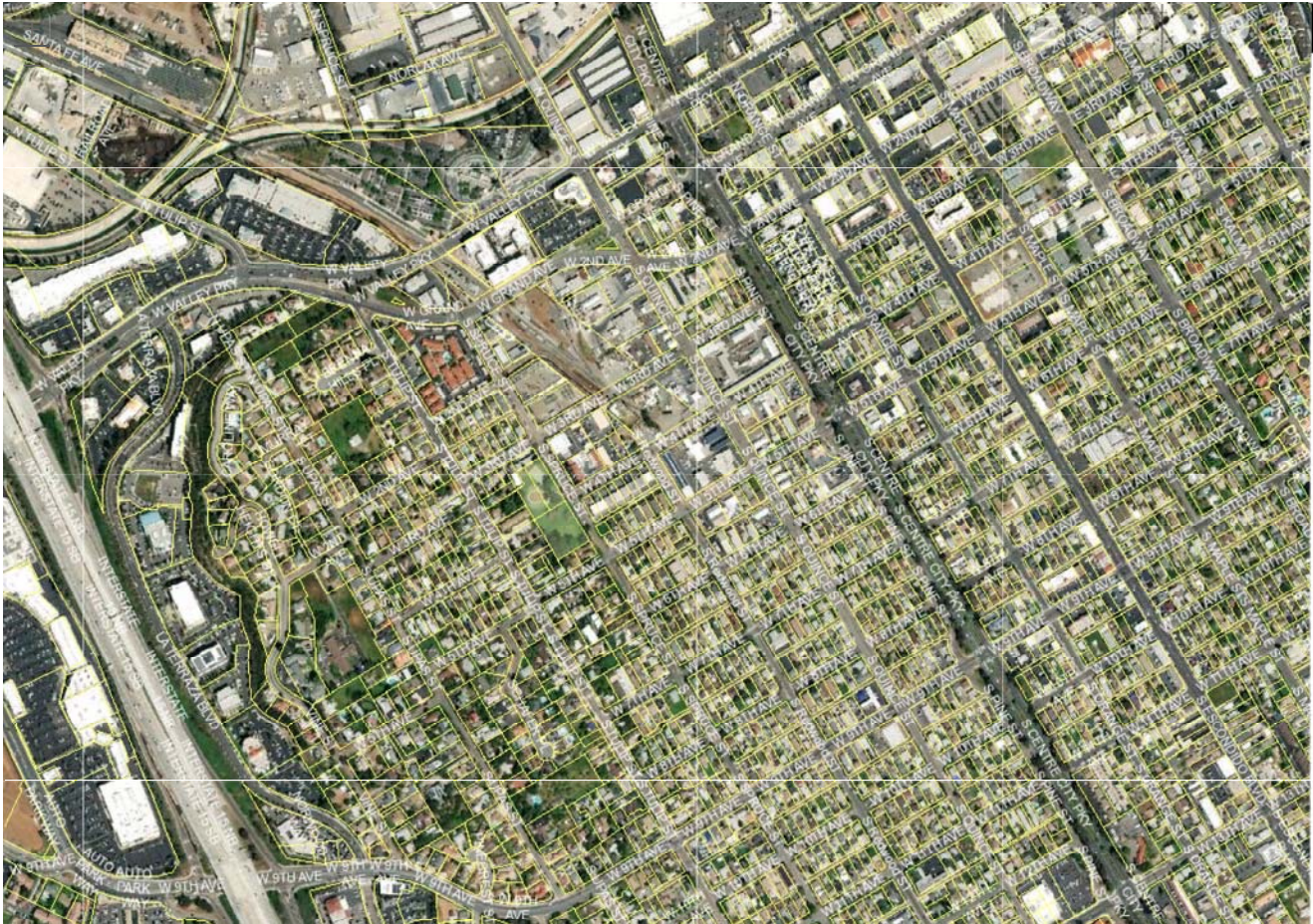
1. Julian Palacios, Project Manager, julian.palacios@nv5.com, NV5, Inc.;
2. Carmen Kasner, Principal in Charge, carmen.kasner@nv5.com, NV5, Inc.;
3. James Owens, QA/QC, james.owens@nv5.com, NV5, Inc.;
4. Steven Granados, Design Lead, steven.granados@nv5.com, NV5, Inc.;
5. Tamara O'neal, Site Improvements, tamara.oneal@nv5.com, NV5, Inc.;
6. Michael Rocco, Site Improvements, Michael.rocco@nv5.com, NV5, Inc.;
7. Paul Robotta, Survey, paul.robotta@nv5.com, NV5, Inc.;
8. Joanne Dramko, CEQA Compliance, joanned@helixpi.com, Helix Environmental Planning, Inc.;
9. Annette Hooks, Project Manager, annetteh@cbelow.com, C Below, Inc.;
10. Justin Solis, Pothole Foreman, justins@cbelow.com, C Below, Inc.;
11. Thomas Burger, Pothole Assistant, thomasb@cbelow.com, C Below, Inc.;
12. Joe Martinez, Pothole Foreman, joem@cbelow.com, C Below, Inc.; and
13. Eli Keane, Pothole Assistant, elijahk@cbelow.com, C Below, Inc.

CONSULTANT shall not add or remove persons from this Personnel List without the City's prior written consent. If CONSULTANT has not designated a person to perform a component of the Services, CONSULTANT shall not assign such component of the Services to a person without obtaining the City's prior written consent. CONSULTANT shall not subcontract any component of the Services without obtaining the City's prior written consent.

Acknowledged by:

Date: _____

NV5, Inc.



CITY COUNCIL STAFF REPORT

Public Hearing Item No. 11

October 13, 2021

File No. 0810-20

SUBJECT: 2021 Omnibus Zoning Code Update and East Valley Parkway Specific Plan Amendment (PL21-0152)

DEPARTMENT: Community Development

RECOMMENDATION:

It is requested that the City Council conduct a public hearing on the proposed Omnibus Zoning Code Update and East Valley Specific Plan Amendment and take action on the recommendations of City of Escondido ("City") staff and the Planning Commission, which recommends that the City Council:

- 1) Introduce Ordinance 2021-10, amending the Escondido Zoning Code ("EZC") to address changes in State law, correct errors, and clarify or improve existing regulations to the following Articles: Article 34 (Communication Antennas), Article 35 (Outdoor Lighting), Article 47 (Environmental Quality), Article 55 (Grading and Erosion Control), Article 56 (Miscellaneous Development Standards), Article 61 (Administration and Enforcement), Article 64 (Design Review), Article 65 (Old Escondido Neighborhood), Article 66 (Sign Ordinance), Article 67 (Density Bonus and Residential Incentives), Article 68 (Growth Management Ordinance), and Article 70 (Accessory Dwelling Units and Junior Accessory Dwelling Units); and
- 2) Introduce Ordinance 2021-11, amending the East Valley Parkway Specific Plan ("EVPSP") to clarify requirements in Table 4.1 associated with new drive-through uses.

FISCAL ANALYSIS:

This project has no direct fiscal impact to the City budget.

It is anticipated that this project will clarify development standards within the EZC and EVPSP allowing residents and applicants wanting to invest in the community to clearly understand local requirements.

PREVIOUS ACTION:

On August 24, 2021, the Planning Commission voted 5-0 (with two Commissioners absent) to recommend approval of the proposed amendments.

BACKGROUND:

It is important that municipalities periodically review and update their codes and regulations to ensure that they stay current and up-to-date. In 2017, the City initiated a new, reoccurring work program to annually review the Zoning Code to see if anything needs to be updated to reflect state-mandated changes, correct errors, resolve ambiguities or inconsistencies, conform to the City's Communications Plan (requiring use of AP Style), and address today's land use challenges. Now, as established, the Planning Division is able to maintain a regular process and consistent schedule for maintaining the City's codes and regulations. These amendments are combined into a single clean-up batch proposal, called the Omnibus Zoning Code Update, as a means of efficiently modifying the Zoning Code.

The 2021 batch of amendments affects many articles of the Escondido Zoning Code, and includes one amendment to the East Valley Parkway Specific Plan. As with past omnibus updates, a majority of the changes are minor and meant to more directly provide guidance to the public regarding Zoning Code requirements in Escondido. This year's omnibus also includes a full repeal and replacement of Article 67, Density Bonus and Residential Incentives, for consistency with state law and to clarify requirements for the public.

Zoning Code and Specific Plan amendments are prepared as separate ordinances and require separate City Council action. The Planning Commission unanimously recommended approval of the Omnibus and Specific Plan amendments as provided to City Council.

The Planning Commission Staff Report (excerpted) has been included as Attachment 1 to this Staff Report.

ANALYSIS:

For the 2021 Omnibus Zoning Code Update, the amendment list includes modifications to various articles in the Zoning Code, and a land-use related item in the East Valley Parkway Specific Plan. A majority of the Articles modified and items addressed are:

- Article 34 (Communication Antennas)—clarifying requirements
- Article 35 (Outdoor Lighting)—style changes and clarification of requirements
- Article 47 (Environmental Quality)—style changes, requirement clarifications, and updates to CEQA requirements pursuant to State Law
- Article 55 (Grading and Erosion Control)—style changes, requirement clarifications, and lowering decision making body to expedite review
- Article 56 (Miscellaneous Development Standards)—clarifying and reformatting requirements to be more user friendly for the public
- Article 61 (Administration and Enforcement)—style changes and clarification of requirements
- Article 64 (Design Review)—style changes and clarification of requirements

- Article 65 (Old Escondido Neighborhood)—style changes, clarification of requirements, and updates consistent with state law
- Article 66 (Sign Ordinance)—clarification of requirements

The proposed changes that require further explanation can be found below. Attachment “2” provides a strikethrough and underlined version of all Zoning Code and Specific Plan changes. Exhibit B to City Council Ordinance Nos. 2021-10 and 2021-11 provides a “clean” copy of the changes and reflects what they will look like if adopted by City Council.

Accessory Dwelling Unit (ADU) Requirements

Staff is receiving more applications for new ADUs, and in an effort to better inform the public of our requirements, minor revisions and clarification of requirements are proposed. The revisions to Article 70 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of the EZC would bring our local requirements directly in line with state ADU law (Government Code sections 65852.2 and 65852.22). The most significant modification relates to how many and what type of ADUs can be constructed at existing multi-family developments. State law allows multi-family developments to either have one attached ADU or 25% of the units in a building, whichever is greater, converted from existing non-living space. State law also allows for two detached ADUs per lot. Pursuant to state law, multi-family property owners may either have attached ADUs or detached ADUs, or both. A local jurisdiction must make provisions to allow multi-family property owners the option of either type of ADU, but the jurisdiction does not have to allow both concurrently. The EZC will be modified to clarify that multi-family property owners may have one type of ADU or the other, but not both.

Density Bonus and Residential Incentives

Article 67 (Density Bonus and Residential Incentives) of the Escondido Zoning Code was updated in 2017, with additional minor modifications in 2020. Since then, the California Legislature has tried to promote housing development, and in particular affordable housing development, in California. One such tool was to make modifications to state Density Bonus Law (Government Code section 65915 et seq.) to encourage the development of affordable housing through increased densities, additional incentives, and reduced requirements. The adoption of the new Article 67 brings our local requirements in line with state law, which is a goal of the newly adopted Housing Element. Among other changes, updating the City’s Density Bonus Ordinance in this manner will:

1. Clear up any confusion and potentially inaccurate interpretations of our local requirements as they relate to state law.
2. Simplify the language of Article 67 for comprehension of both the public and City staff.
3. Remove the density bonus report requirement in compliance with state law.

East Valley Parkway Specific Plan

The City is currently in the later stages of completing a comprehensive update that will affect part of the East Valley Specific Plan area. The proposed land-use modification before the City Council will require a Conditional Use Permit for new drive-through restaurant uses, and applies to the entire specific plan area (currently a Plot Plan Permit is required). This change is consistent with the comprehensive update mentioned above. Staff has received inquiries for new drive-through uses within the East Valley Parkway Specific Plan area, and to ensure a consistent level of review for these potential new uses, staff is recommending that the entitlement requirement be modified now. This change will be required only for new drive-through uses, not ones that are already existing or drive-through uses that are deemed complete in the discretionary review process.

PUBLIC INPUT:

As with past Omnibus modifications, the Planning Commission conducted a noticed public hearing on August 24, 2021, and there were no members of the public that spoke on the item. The nature of the amendments are not considered controversial or of significant public interest.

ENVIRONMENTAL STATUS:

There are a number of CEQA exemptions that are applicable to the 2021 Omnibus Zoning Code Update, all listed below. Additionally, some amendments are not considered to be a Project under CEQA, as defined in section 15378(b)(5) of the State CEQA Guidelines, including the update to the East Valley Parkway Specific Plan.

The following is a list of categorical or statutory exemptions under CEQA that apply to the various proposed changes, in addition to section 15378(b)(5):

- The amendments that relate to accessory dwelling units (Article 70) are statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h). Under Public Resources Code section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Sections 65852.1 or 65852.2 of the Government Code (Accessory Dwelling Unit law). CEQA Guidelines section 15282(h) statutorily exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of sections 65852.1 and 65852.2 of the Government Code as set forth in section 21080.17 of the Public Resources Code.
- The amendments that allow large family day care homes in the Old Escondido Neighborhood as a permitted principal use (Article 65) are statutorily exempt pursuant to CEQA Guidelines section 15274(a), which states that CEQA does not apply to the establishment or operation of a large family day care home providing in-home care for up to 14 children, as defined in section 1596.78 of the Health and Safety Code.

- The amendments that relate to grading activities (Article 55) are categorically exempt pursuant to CEQA Guidelines section 15304 (Minor Alterations to Land).
- The amendments that relate to personal wireless facilities (Article 34), fences and walls (Article 56), and screening requirements (Article 56), are categorically exempt pursuant to CEQA Guidelines section 15303 (New Construction or Conversion of Small Structures).
- The amendments that relate to outdoor lighting (Article 35) are categorically exempt pursuant to CEQA Guidelines section 15311 (Accessory Structures).
- The amendments that relate to the applicability of minor conditional use permits vs. major conditional use permits for modifications to certain existing uses (Article 61) and the applicability of staff design review vs. planning commission design review for architectural or site modifications to certain existing uses (Article 61) are categorically exempt pursuant to CEQA Guidelines section 15301 (Existing Facilities).
- The amendments that relate to plot plan approval for parking lot changes that reduce the number of spaces (Article 61), design review for parking lot changes that do not reduce spaces (Article 64), and the relationship between freestanding signs and utility easements (Article 66) are categorically exempt pursuant to CEQA Guidelines section 15311 (Accessory Structures) for non-residential uses and section 15303 (New Construction or Conversion of Small Structures) for multifamily residential uses.
- The amendments that relate to CEQA thresholds, city responsibility for environmental review, and enhanced CEQA review for projects subject to congestion management program requirements (Article 47) are categorically exempt pursuant to CEQA Guidelines section 15308 (Actions by Regulatory Agencies for Protection of the Environment). These amendments are intended to bring this article into conformity with recent changes in state law related to traffic impact analysis and greenhouse gas analysis, and to clarify the City's responsibility in fulfilling CEQA obligations.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Adam Finestone, Interim Director of Community Development
10/06/21 5:15 p.m.

Sean Nicholas, Principal Planner
10/06/21 5:08 p.m.

ATTACHMENTS:

1. Attachment "1" – August 24, 2021, Planning Commission Staff Report (excerpted)
2. Attachment "2" – Strike Through/Underlined changes
3. Ordinance No. 2021-10
4. Ordinance No. 2021-10 Exhibits "A" and "B"
5. Ordinance No. 2021-11
6. Ordinance No. 2021-11 Exhibits "A" and "B"



PLANNING COMMISSION

Agenda Item No.: X.X
Date: August 24, 2021

PROJECT NUMBER / NAME: PL21-0152 / 2021 Omnibus Zoning Code Update

REQUEST: A series of Escondido Zoning Code Amendments to address changes in state laws, correct errors, and clarify or improve existing regulations. The proposal involves minor amendments to Article 34 (Communication Antennas), Article 35 (Outdoor Lighting), Article 47 (Environmental Quality), Article 55 (Grading and Erosion Control), Article 56 (Miscellaneous Development Standards), Article 61 (Administration and Enforcement), Article 64 (Design Review), Article 65 (Old Escondido Neighborhood), Article 66 (Sign Ordinance), Article 67 (Density Bonus and Residential Incentives), Article 68 (Growth Management Ordinance), and Article 70 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of the Escondido Zoning Code. The request also includes a minor revision to Table 4.1 of the East Valley Specific Plan

LOCATION: Citywide

APPLICANT: City of Escondido

APN / APNS: N/A

PRIMARY REPRESENTATIVE:
Planning Division

GENERAL PLAN / ZONING: N/A

DISCRETIONARY ACTIONS REQUESTED: Zoning Code Amendments/East Valley Parkway Specific Plan Amendment

PREVIOUS ACTIONS: N/A

PROJECT PLANNER: Sean Nicholas, AICP, Principal Planner

CEQA RECOMMENDATION: Statutorily or categorically exempt pursuant to Public Resources Code section 21080.17 and CEQA Guidelines sections 15274(a), 15282(h), 15301, 15303, 15304, and 15311, or does not qualify as a "project" under CEQA

STAFF RECOMMENDATION: Provide a recommendation to City Council to approve the Project.

REQUESTED ACTION: Approve Planning Commission Resolution No. 2021-08

CITY COUNCIL HEARING REQUIRED: YES NO

REPORT APPROVALS: Adam Finestone, AICP
Interim Community Development Director

2021 Omnibus Zoning Code Update (PL21-0152)
Planning Commission Meeting
August 24, 2021

BACKGROUND:

It is important that municipalities periodically review and update their codes and regulations to ensure that they stay current and up-to-date. In 2017, the City initiated a new, reoccurring work program to annually review the Zoning Code to see if anything needs to be updated to reflect state-mandated changes, correct errors, resolve ambiguities or inconsistencies, conform to the City's Communications Plan (requiring use of AP Style), and address today's land use challenges. Now, as established, the Planning Division is able to maintain a regular process and consistent schedule for maintaining the City's codes and regulations. These amendments are combined into a single clean-up batch proposal, called the Omnibus Zoning Code Update, as a means of efficiently modifying the Zoning Code.

The 2021 batch of amendments affects many articles of the Escondido Zoning Code, and includes one amendment to the East Valley Parkway Specific Plan. As with past omnibus updates, a majority of the changes are minor and meant to more directly provide guidance to the public regarding Zoning Code requirements in Escondido. This year's omnibus also includes a full repeal and replacement of Article 67, Density Bonus and Residential Incentives, for consistency with state law and to clarify requirements for the public.

Zoning Code and Specific Plan amendments are prepared as separate ordinances and require Planning Commission recommendation and City Council adoption.

A. PROJECT ANALYSIS:

For the 2021 Omnibus Zoning Code Update, the suggested amendment list includes modifications to various articles in the Zoning Code, and a land-use related item in the East Valley Parkway Specific Plan. A majority of the Articles modified and items addressed are:

- Article 34 (Communication Antennas)—clarifying requirements
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- Article 65 (Old Escondido Neighborhood)—style changes, clarification of requirements, and updates consistent with state law
- Article 66 (Sign Ordinance)—clarification of requirements

2021 Omnibus Zoning Code Update (PL21-0152)
Planning Commission Meeting
August 24, 2021

The proposed changes that require further explanation can be found below. Attachment 1 provides a strikethrough and underlined version of all Zoning Code and Specific Plan changes. Exhibit B to Planning Commission Resolution No. 2021-08 (Attachment 2 to this report) provides a "clean" copy of the changes and reflects what they will look like if adopted by City Council.

East Valley Parkway Specific Plan

The City is currently in the later stages of completing a comprehensive update that will affect part of the East Valley Specific Plan area. The proposed land-use modification before the Planning Commission will require a Conditional Use Permit for drive-through restaurant uses, and applies to the entire specific plan area. (Currently only a Plot Plan Permit is required.) The update mentioned above will supersede changes made by this proposed amendment for the area included in that update. Staff has received requests for new drive-through uses within the East Valley Parkway Specific Plan area, and to ensure a consistent level of review for these potential new uses, staff is recommending that the entitlement requirement be modified now. This change will require new drive-through uses, not already existing or deemed complete in the discretionary review process, to be subject to Planning Commission review.

Accessory Dwelling Unit (ADU) Requirements

Staff is receiving more applications for new ADUs, and in an effort to better inform the public of our requirements, minor revisions and clarification of requirements are proposed. The revisions to Article 70 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of the Escondido Zoning Code would bring our local requirements directly in line with state ADU law (Government Code sections 65852.2 and 65852.22). The most significant modification relates to how many and what type of ADUs can be constructed at existing multi-family developments. State law requires multi-family developments to either have one attached ADU or 25% of the units in a building, whichever is greater, converted from existing non-living space. State law also allows for two detached ADUs per lot. Pursuant to state law, multi-family property owners may either have attached ADUs or detached ADUs. A local jurisdiction must make provisions to allow multi-family property owners the option of either type of ADU, but the jurisdiction does not have to allow both concurrently. The Escondido Zoning Code will be modified to clarify that multi-family property owners may have one type of ADU or the other, but not both.

Density Bonus and Residential Incentives

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2021 Omnibus Zoning Code Update (PL21-0152)
Planning Commission Meeting
August 24, 2021

1. Clear up any confusion and potentially inaccurate interpretations of our local requirements as they relate to state law.
2. Simplify the language of Article 67 for comprehension of both the public and City staff.
3. Remove the density bonus report requirement in compliance with state law.

B. FISCAL ANALYSIS:

There will be no fiscal impact to the City of Escondido as a result of these amendments.

C. ENVIRONMENTAL STATUS:

There are a number of CEQA exemptions that are applicable to the 2021 Omnibus Zoning Code Update, all listed below. Additionally, some amendments are not considered to be a Project under CEQA, as defined in section 15378(b)(5) of the State CEQA Guidelines, including the update to the East Valley Parkway Specific Plan.

The following is a list of categorical or statutory exemptions under CEQA that apply to the various proposed changes, in addition to section 15378(b)(5):

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- The amendments that allow large family day care homes in the Old Escondido Neighborhood as a permitted principal use (Article 65) are statutorily exempt pursuant to CEQA Guidelines section 15274(a), which states that CEQA does not apply to the establishment or operation of a large family day care home providing in-home care for up to 14 children, as defined in section 1596.78 of the Health and Safety Code.
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- The amendments that relate to personal wireless facilities (Article 34), fences and walls (Article 56), and screening requirements (Article 56), are categorically exempt pursuant to CEQA Guidelines section 15303 (New Construction or Conversion of Small Structures).
- The amendments that relate to outdoor lighting (Article 35) are categorically exempt pursuant to CEQA Guidelines section 15311 (Accessory Structures).
- The amendments that relate to the applicability of minor conditional use permits vs. major conditional use permits for modifications to certain existing uses (Article 61) and the applicability of staff design review vs. planning commission design review for architectural or site modifications to certain existing uses (Article 61) are categorically exempt pursuant to CEQA Guidelines section 15301 (Existing Facilities).

2021 Omnibus Zoning Code Update (PL21-0152)

Planning Commission Meeting

August 24, 2021

- The amendments that relate to plot plan approval for parking lot changes that reduce the number of spaces (Article 61), design review for parking lot changes that do not reduce spaces (Article 64), and the relationship between freestanding signs and utility easements (Article 66) are categorically exempt pursuant to CEQA Guidelines section 15311 (Accessory Structures) for non-residential uses and section 15303 (New Construction or Conversion of Small Structures) for multifamily residential uses.
- The amendments that relate to CEQA thresholds, city responsibility for environmental review, and enhanced CEQA review for projects subject to congestion management program requirements (Article 47) are categorically exempt pursuant to CEQA Guidelines section 15308 (Actions by Regulatory Agencies for Protection of the Environment). These amendments are intended to bring this article into conformity with recent changes in state law related to traffic impact analysis and greenhouse gas analysis, and to clarify the City's responsibility in fulfilling CEQA obligations.

D. PUBLIC INPUT:

The 2021 Omnibus Zoning Code Update was noticed in accordance with Article 61, Division 6 of the Escondido Zoning Code. Due to the nature of an Omnibus Zoning Code Update, staff does not believe specific project-related outreach is necessary. As of the time the staff report was prepared, no public correspondence was received.

E. CONCLUSION AND RECOMMENDATION:

The Planning Division maintains a regular process and consistent schedule for maintaining the City's codes and regulations. These various amendments are combined into a single update to efficiently maintain the Zoning Code. The modifications are primarily minor in nature, addressing grammatical issues or other clarifications to better serve the public. Staff recommends that the Planning Commission recommend approval of the proposed changes to City Council by approving the attached Resolution 2021-08.

LEGEND:

Bold Text-Headers, no text change

~~**Bold Strikethrough**~~-Language removed

Bold Underline-Proposed language

ARTICLE 34. COMMUNICATION ANTENNAS

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

(a) City staff shall review plans for planning, siting, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and conformance with the wireless facilities guidelines.

After such review, staff may approve, conditionally approve, or deny the proposed facility, or refer it to the planning commission for approval, conditional approval, or denial. As a component of the project review, the applicant must include details regarding the ability to provide the necessary utilities (i.e., telco and power) and appropriate access to the site. All new utility service runs shall be placed underground.

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

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

(d) Residential and open space zones. Except as specified in section 33-706(b), Ppersonal wireless service facilities ~~in these zones located in residential and open space zones, and in the public right-of-way adjacent to them,~~ shall require a conditional use permit ~~issued by the planning commission~~ pursuant to Division 1 of Article 61. ~~in all residential and open space zones. Personal wireless service facilities located within the public right of way within or adjacent to residential zones or open space zones shall require the issuance of a conditional use permit.~~

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

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

P = Permitted subject to plot plan review.

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

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

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

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

P = Permitted subject to plot plan review.

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

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

ARTICLE 35. OUTDOOR LIGHTING

Sec. 33-711. Purpose and intent.

It is the purpose and intent of this article to minimize glare, light trespass, and artificial sky glow for the benefit of the citizens of the city and astronomical research at Palomar Observatory, and to promote lighting design that provides for public safety, utility, and productivity while conserving energy and resources by:

(a) Using outdoor light fixtures with good optical control to distribute the light in the most effective and efficient manner;

- (b) Using the minimum amount of light to meet the lighting criteria;
- (c) Using shielded outdoor light fixtures;
- (d) Using low-pressure sodium, narrow-spectrum amber light emitting diodes (LEDs,) or other equivalent energy efficient outdoor light fixtures with a correlated color temperature (CCT) of ~~three thousand~~ (3,000) Kelvin (K) or less;
- (e) Energizing outdoor light fixtures only when necessary, by means of automatic timing devices; and
- (f) Requiring that certain outdoor light fixtures and lamps be turned off between 11:00 p.m. and sunrise.

ARTICLE 35. OUTDOOR LIGHTING

Sec. 33-713. General requirements.

(a) Outdoor light fixtures installed after the effective date of this article* and thereafter maintained upon private commercial, industrial, ~~or~~ multifamily residential (over six ~~(6)~~ dwelling units), ~~and or~~ other nonresidential uses (~~including e.g.,~~ churches, day care, convalescent use, schools, ~~etc.~~) shall comply with the following:

(1) Only shielded low-pressure sodium, shielded narrow-spectrum amber LEDs, or other shielded energy efficient outdoor light fixtures with a CCT of ~~three thousand~~ (3,000) Kelvin or less shall be utilized except as listed under subsection (b) of this section and section 33-714 of this article;

(2) All light fixtures within ~~one hundred~~ (100) feet of any signalized intersection shall be shielded and/or directed in such a manner so that the lighting from such fixtures does not interfere with established traffic signals.

(b) Time controls. All outdoor light fixtures ~~which that~~ are not low-pressure sodium or narrow-spectrum amber LEDs, or do not have a CCT of ~~three thousand~~ (3,000) Kelvin or less, ~~and that are~~ installed and maintained after the effective date of this article* upon new private commercial, industrial, ~~or~~ multifamily residential (over six ~~(6)~~ dwelling units), ~~or developments and~~ other nonresidential uses (e.g., churches, day care, convalescent use, schools) shall be equipped with automatic timing devices so that such lighting is turned off between the hours of 11:00 p.m. and sunrise except when used for:

(1) Industrial and commercial uses where color rendition is required, such as in assembly, repair, and outdoor display areas, where such use continues after 11:00 p.m. but only for so long as such use continues in operation;

(2) Recreational uses that are in progress at 11:00 p.m. but only for so long as such uses continue;

(3) Signs and electronic displays and screens of business facilities ~~which that~~ are open to the public between the hours of 11:00 p.m. and sunrise but only for so long as the facility is open.

(c) In addition to the provisions of this article, all outdoor light fixtures shall be installed in conformity with all other applicable provisions of the Escondido Municipal Code, ~~this chapter~~, the California Building Code, the National Electrical Codes, the California Energy Code, and the California Green Building Standards Code.

(d) Standards for street lighting installed on public rights-of-way and private roads are found in the City of Escondido Engineering Design Standards and Standard Drawings.

(e) The types, locations, and controlling devices of outdoor light fixtures for multifamily **dwelling**s (six ~~(6)~~ units or less) and single-family homes shall minimize glare, light trespass, and artificial sky glow.

ARTICLE 35. OUTDOOR LIGHTING

Sec. 33-714. Exemptions.

(a) All outdoor light fixtures existing and legally installed prior to the effective date of this article* are exempt from the requirements of this article, unless work is proposed in any one ~~(1)~~ year period so as to replace ~~fifty (50) percent%~~ or more of the existing outdoor light fixtures or lamps, or to increase to the extent of ~~fifty (50) percent%~~ or more the number of outdoor light fixtures on the premises. In such a case, both the proposed and the existing outdoor light fixtures shall conform to the provisions of this article and **shall be** detailed on lighting plans prior to the issuance of applicable building permits.

(b) All outdoor light fixtures producing light directly by combustion of fossil fuels, such as kerosene lanterns or gas lamps, are exempt from the requirements of this article.

(c) All outdoor light fixtures on facilities or lands owned, operated, or controlled by the United States Government, the State of California, the County of San Diego, or **any** other public entity or public agency not subject to ordinances of this city are exempt from the requirements of this article. Voluntary compliance with the intent of ~~the~~ **this** article at those facilities is encouraged.

(d) Temporary uses and holiday lighting not exceeding ~~forty-five (45)~~ consecutive days during any one- ~~(1)~~ year period as determined by the ~~staff development committee~~ **Director of Community Development** are exempt from the requirements of this article.

(e) **Any shielded light fixture that produces 4,050 lumens or less is exempt from the requirements of this article. All shielded outdoor light fixtures and other types of lighting producing four thousand fifty (4,050) lumens or less are exempt from the requirements of this article.** Examples of lamp types of ~~four thousand fifty (4,050)~~ lumens and below generally include:

- (1) ~~Two hundred (200)~~ watt standard incandescent and less;
- (2) ~~One hundred fifty (150)~~ watt tungsten-halogen (quartz) and less;
- (3) ~~Seventy-five (75)~~ watt mercury vapor and less;
- (4) ~~Fifty (50)~~ watt high pressure sodium and less;
- (5) ~~Fifty (50)~~ watt metal halide and less;
- (6) ~~Forty (40)~~ watt fluorescent and less.

Note: Because lumen output determines this exemption instead of wattage, manufacturer's specifications with the lumen information must be included with proposals applicable under this article. (Zoning Code, Ch. 107, § 1072.30; Ord. No. 2014-20, § 4, 1-7-15)

ARTICLE 47. ENVIRONMENTAL QUALITY

DIVISION 1. REGULATIONS

Sec. 33-924. Coordination of CEQA, quality of life standards, and growth management provisions.

The purpose of this section is to ensure consistency between the Ccity's thresholds of environmental significance and the Public Facilities Master Plans ~~which that~~ implements the growth management element of the General Plan. The Ccity's General Plan contains quality of life standards that are to be considered in comprehensive planning efforts as well as individual project review. The degree to which a project, and the area in which it is located, conforms to the quality of life standards, is an issue in determining thresholds of significance. Notwithstanding the Ccity's goal of providing adequate infrastructure concurrent with development, the Public Facilities Master Plans acknowledges that ~~the~~ concurrent provision of infrastructure cannot be provided in all cases, particularly in the short term. Instead, only critical infrastructure deficiencies affect the timing of development. The following criteria are intended to clarify how facility deficiencies should affect the following CEQA determinations:

(a) Negative and mitigated negative declarations. In situations where the preparation of a negative declaration is otherwise appropriate, yet quality of life standard deficiencies are found to exist, a negative declaration may still be prepared under the following circumstances, as applicable:

(1) Facility deficiencies are of an interim nature in that a master plan has been adopted for the provision of the facilities, appropriate fees are charged to offset project impacts, or other measures are in place to address long-run impacts;

(2) The project does not in itself, or in conjunction with other pending and approved projects, cause the number of units outside specified fire and emergency response times to exceed ~~ten (10) percent~~ 10% of the total number of Ccity units;

(3) A project proposes ~~fewer less~~ than ~~two hundred (200)~~ units, and the cumulative total of reasonably anticipated projects does not exceed a total of ~~one thousand (1,000)~~ units where ~~such the~~ police service territory beat is experiencing, or is likely to experience, unacceptable service times;

~~(4) After mitigation, the project does not exceed SANTEC thresholds for intersections/segments with a service level of LOS E or F within certain specified areas of the Downtown Specific Planning Area, or LOS D, E or F elsewhere in the community.~~

(54) Adequate sewer, water, and drainage facilities for the area can be provided to the satisfaction of the Ccity Engineer in accordance with adopted master plans;

(65) After mitigation, the project does not individually generate air-quality impacts for fixed, mobile, or construction sources within the General Plan area by more than any of the following thresholds per day:

Pounds per Day Thresholds

Respiratory Particulate Matter (PM10)	Fine Particulate Matter (PM2.5)	Oxides of Nitrogen (NOx)	Oxides of Sulfur (SOx)	Carbon Monoxide (CO)	Lead and Lead Compounds	Volatile Organic Compounds (VOCs)
100	55	250	250	550	3.2*	75** 55***

* Not applicable to construction.

** Threshold for construction per SCAQMD CEQA Air Quality Handbook.

*** Threshold for operational per SCAQMD CEQA Air Quality Handbook.

(A) ~~Diesel s~~Standby generators in conformance with ~~Z~~zoning ~~C~~code section 33-1122 are exempt from the above requirement for daily emissions of oxides of nitrogen;

~~(76)~~ Greenhouse gas (GHG) emissions. In situations where a negative declaration is otherwise appropriate, the following incremental GHG emissions are generally not considered significant:

(A) Projects that do not generate more than ~~two thousand five hundred (2,500)~~ metric tons (MT) of carbon dioxide equivalent (CO₂e) ~~greenhouse gas (GHG) emissions~~ and that are consistent with the General Plan land use designation, or

(B) Projects generating more than ~~two thousand five hundred (2,500) MT of CO₂e~~ that are consistent with the General Plan land use designation, and that have achieved one hundred (100) points implementing reduction measures outlined in the Escondido Climate Action Plan (E-CAP) screening tables demonstrated consistency with the Climate Action Plan (CAP) through completion of the CAP Consistency Checklist, adopted by separate resolution, or

(C) Projects generating more than 500 MT of CO₂e that are consistent with the General Plan land use designation, and that cannot demonstrate consistency with the CAP through completion of the CAP Consistency Checklist due to unique land uses or circumstances for which no measures in the checklist would apply, but that can demonstrate consistency with the CAP through comparison to a numerical GHG threshold of 2.0 MT CO₂e per service population per year, or

(D) Projects that are not consistent with the General Plan land use designation and that will intensify generate greater GHG emissions than the allowable uses under the existing General Plan land use designation beyond the current designation generating more than ~~two thousand five hundred (2,500) MT of CO₂e~~ that demonstrate through a project-specific analysis quantifying GHG emissions that through mitigation and design features, the project reduces GHG emissions consistent with the E-CAP;

~~(87)~~ Noise impacts of ~~C~~irculation ~~E~~lement street widening. In situations where a negative declaration is otherwise appropriate, the following incremental noise increases are generally not considered significant:

(A) Short- or long-term increases, regardless of the extent, that do not result in noise increases in excess of ~~G~~eneral ~~P~~lan standards,

(B) Short- or long-term increases that result in a three ~~(3)~~ dBA or less incremental increase in noise beyond the ~~G~~eneral ~~P~~lan's noise standards;

~~(98)~~ Demolition or removal of historic resources. Demolition of ~~an~~ historic resource would be considered significant if:

(A) Structures are determined to be a unique or rare example of an architectural design, detail, historical type, or method of construction in the community representing an example of a master (a figure of generally recognized greatness in a field, or a known craftsman of consummate skill), possessing high artistic value; embodying the distinctive characteristics of a type, period, or method of construction referring to the way in which a property was conceived, designed or fabricated in past periods of history in Escondido; and containing enough of those characteristics to be considered a true representative of a particular type, period, or method of construction,

(B) Structures located within ~~an~~ historic district and the relationship with other structures in the vicinity contributes to the unique character and quality of the streetscape ~~and/or~~ district,

(C) Structures involving the site of a locally historic person (or event) whose activities were demonstrably important within the context of Escondido, ~~and is~~ generally restricted to those properties that illustrate (rather than commemorate) important achievements that are directly associated with the subject property and reflect the time period,

(D) Structures listed with, or eligible for listing with, the State Register or National Register,

(E) Pursuant to CEQA Guidelines sSection 15300.2(f) a categorical exemption shall not be used for a project ~~that~~which may cause a substantial adverse change in the significance of an historic resource because ~~since~~ a project that is ordinarily insignificant in its impact to the environment in a particularly sensitive environment may be significant.

(b) Environmental impact reports. Where deficiencies exist relative to the City's quality of life standards, and the extent of the deficiency exceeds the levels identified in subsection (a) of this section, an environmental impact report shall be prepared. (Ord. No. 95-2, § 1, 2-15-95; Ord. No. 2001-18, § 4, 7-25-01; Ord. No. 2002-10, § 5, 4-10-02; Ord. No. 2003-36, § 4, 12-3-03; Ord. No. 2013-12, § 4, 12-11-13)

(c) Level of service. While changes in level of service (LOS) at street intersections or segments may not be used to determine whether a project will cause traffic impacts for purposes of CEQA analysis, they may be used to determine if the project is consistent with the General Plan's Street Network Policy 7.3.

ARTICLE 47. ENVIRONMENTAL QUALITY

DIVISION 1. REGULATIONS

Sec. 33-925. City responsibility for environmental documentations and determinations.

(a) The City shall have responsibility and control over the form, scope, and content of all documents comprising the environmental assessment of a project. All reports, studies, or other documents prepared by or under the direction of an applicant, intended for inclusion in the environmental documents, shall be clearly identified as the project proponent's environmental assessment (PEA), and shall set forth in detail the assumptions and methodologies supporting any conclusions reached or upon which any recommendations may be based.

(b) The City, at its sole discretion, may decide to utilize the services of a private consulting firm to prepare or review all studies, reports, and other documents required or permitted by CEQA, the CEQA Guidelines, or other applicable laws or regulations, including those studies, reports, or other documents submitted by the project proponent or any other party. In all cases, the consultant shall enter into a contract with and shall be responsible directly to the City. All services shall be performed to the satisfaction of the Director of Community Development, or designee.

(c) All costs incurred in the preparation of a project's ~~the~~ environmental documents, including the cost of services performed under subsection (b) of this section, shall be borne by the project proponent.

ARTICLE 47. ENVIRONMENTAL QUALITY

DIVISION 1. REGULATIONS

Sec. 33-926. Enhanced CEQA review for projects subject to congestion management program requirements.

Unless otherwise exempt from state law, development proposals or other discretionary planning actions ~~that~~which are expected to generate either an equivalent of ~~two thousand four~~

~~hundred (2,400)~~ or more average daily trips (ADT) or ~~two hundred (200)~~ or more peak hour vehicle trips shall include as part of the enhanced CEQA review the following information:

(a) A traffic analysis to determine the project's impact on the regional transportation system. The regional transportation system includes all the state highway system (freeways and conventional state highways) and the regional arterial system identified in SANDAG's (San Diego Association of Governments) most recent regional transportation plan (RTP). The regional transportation system includes all of the designated congestion management program (CMP) system.

(b) The traffic analysis shall be made using the traffic model approved by SANDAG for congestion management program traffic analysis purposes. The traffic analysis shall also use SANDAG's most recent regional growth forecasts as the basic population and land use database.

(c) The traffic analysis ~~should~~ **shall** acknowledge that standard trip generation estimates may be overstated when a project is designated using transit-oriented development design principles. Trip generation reductions should be considered for factors such as focused development intensity within walking distance to a transit station, introduction of residential units into employment centers, aggressive transportation demand management programs, and site design and street layouts ~~that~~ **which** promote pedestrian activities.

(d) The project analysis shall include an estimate of the costs associated with mitigating the project's impacts to the regional transportation system. The estimates of any costs associated with the mitigation of interregional travel (both trips end outside the county) shall not be attributed to the project. Credit shall be provided to the project for public and private contributions to improvements to the regional transportation system. The ~~C~~**e**city shall be responsible for approving any such credit to be applied to a project. The credit may be in any manner approved by the ~~C~~**e**city, including **any one or combination of the following:** donated/dedicated right-of-way, interim or final construction, impact fee programs, ~~and/~~ or money contributions. Monetary contributions may include public transit, ride sharing, trip reduction program support, and air quality transportation control measure funding support.

(e) Notwithstanding any statement to the contrary within this section, a project's effect on automobile delay shall not constitute a significant environmental impact for purposes of CEQA, except as otherwise provided in CEQA Guidelines section 15064.3.

ARTICLE 55. GRADING AND EROSION CONTROL

Sec. 33-1055. Grading permit requirements.

(a) **Permits Required.** Except as exempted in section 33-1053 of this article, no person shall ~~do~~ **perform** any grading without first obtaining a grading permit from the city engineer and applicable state-issued stormwater discharge permits. A separate permit shall be required for each site, and may cover both excavations and fills.

(b) **Application.** The provisions of section 302(a) of the Uniform Building Code are applicable to grading, and in addition the application shall state the estimated quantities of work involved.

(c) **Plans and Specifications.** When required by the city engineer, each application for a grading permit shall be accompanied by two ~~(2)~~ sets of plans and specifications, and supporting

data consisting of a soil engineering report and engineering geology report. Additional sets of plans and specifications may be required by the city engineer.

(d) Information on Plans and Specifications. Plans shall be drawn to scale upon substantial paper, or cloth, and shall be of sufficient clarity to indicate the nature and extent of the work proposed, and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner, and the person by whom they were prepared.

The plans shall include the following information:

- (1) General vicinity of the proposed site;
- (2) Property limits and accurate contours of existing ground and details of terrain and area drainage;
- (3) Limiting dimensions, elevations, or finish contours to be achieved by the grading, and proposed drainage channels and related construction;
- (4) Detailed plans of all surface and subsurface drainage devices, including brow ditches, walls, cribbing, dams, protective fencing, and other protective devices to be constructed with, or as a part of, the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains;
- (5) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners **which that** are within ~~fifteen~~ (15) feet of the property or **which that** may be affected by the proposed grading operations;
- (6) Location and identification of any existing sensitive biological species, sensitive biological habitat, mature trees, or protected trees, pursuant to section 33-1068(c);
- (7) Letter of permission from property owner for any off-site grading;
- (8) For projects greater than five (5) acres, the ~~r~~Regional ~~w~~Water ~~g~~Quality ~~e~~Control ~~b~~Board's notice of intent file number.

(e) Soils Engineering Report. The soils engineering report required by subsection (c) of this section shall include data regarding the nature, distribution, and strength of existing soils; conclusions and recommendations for grading procedures; ~~and~~ design criteria for corrective measures, when necessary; and opinions and recommendations covering adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the city engineer shall be incorporated in the grading plans or specifications.

(f) Engineering Geology Report. The engineering geology report required by subsection (c) of this section shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the city engineer shall be incorporated in the grading plans or specifications.

(g) Issuance. The provisions of Section 303 of the Uniform Building Code are applicable to grading permits. The city engineer may require that grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.

(h) Provisions for Denial. A grading permit may be denied if the city engineer determines that:

(1) It is reasonably likely that the ultimate development of the land to be graded cannot occur without further grading requiring ~~planning commission~~ zoning administrator or director approval pursuant to the provisions of section 33-1066(c) of the criteria for grading design; or

(2) (A) There is no approved development plan or environmental clearance under CEQA for the property to be graded; and

(B) The proposed grading may substantially limit development alternatives for the property; and

(C) It is probable that development of the property will require discretionary approvals (such as, but not limited to, a tentative subdivision or parcel map, a conditional use permit, or a planned development approval) by the city; or

(3) The proposed grading is detrimental to the public health, safety, or welfare; or

(4) The proposed grading is not in conformance with the requirements of sections 33-1068 through 33-1069, clearing of land and vegetation protection.

(i) Appeals. The city engineer's denial of a grading permit pursuant to subsection (h) of this section may be appealed to the planning commission in accordance with the provisions of section 33-1303 et seq., of Article 61 of this chapter.

ARTICLE 55. GRADING AND EROSION CONTROL

Sec. 33-1066. Design criteria.

The criteria listed below are to be adhered to in the preparation of grading designs for private and public development projects. In addition, these criteria are intended to reflect and implement the goals and policies of the Escondido General Plan relating to the protection of the critical landforms and natural resources of the city. Proposed grading designs will be compared to these criteria and, therefore, project proponents are encouraged to meet with city staff to discuss development and grading concepts prior to submittal of formal permit applications.

(a) Sensitivity to surrounding areas. All graded areas shall be protected from wind and water erosion through acceptable measures as described in the city's stormwater management requirements. Interim erosion control plans shall be required, certified by the project engineer, and reviewed and approved by the ~~public works department~~ engineering services department. All grading designs must demonstrate visual sensitivity to surrounding properties and neighborhoods. Grading designs should have these characteristics:

(1) Extensive slope areas ~~which that~~ are easily visible from outside the development shall be avoided;

(2) Fill slopes shall not block views from surrounding properties;

(3) Cut slopes shall not adversely affect the safe operation of adjoining septic systems;

(4) Any significant grading feature ~~which that~~ may intrude into or disturb surrounding property shall be avoided.

(b) Slope heights. Slope heights ~~should~~ shall be limited to minimize impact on adjoining properties. The height of retaining walls incorporated in grading designs shall be included in calculating the overall slope height. Grading designers ~~should~~ shall strive to conform to the following criteria:

(1) Fill slopes within ~~fifty (50)~~ feet of the property line ~~should~~ shall be limited to five ~~(5)~~ feet in height. Fill slopes in this location between five ~~(5)~~ and ~~ten (10)~~ feet in height may be allowed, subject to the approval of the director;

(2) Fill slopes beyond ~~fifty (50)~~ feet from the property line ~~should~~ shall be limited to ~~twenty (20)~~ feet in height;

(3) Fill slopes adjacent to existing public and private streets ~~should~~ shall be limited to ~~ten (10)~~ feet in height;

(4) Cut slopes within ~~fifty (50)~~ feet of the property line ~~should~~ shall be limited to ~~twenty (20)~~ feet in height;

(c) Specific review by the ~~planning commission~~ zoning administrator for discretionary project applications or by the director for administrative project applications is required for the following slopes:

(1) Any fill slope within ~~fifty (50)~~ feet of the property line ~~which~~ that is in excess of ~~ten (10)~~ feet in height;

(2) Any fill slope beyond ~~fifty (50)~~ feet of the property line ~~which~~ that is in excess of ~~twenty (20)~~ feet in height;

(3) Any cut slope in excess of ~~twenty (20)~~ feet in height;

(4) Any cut slope steeper than ~~two to one (2:1)~~ that is determined by the director to impact adjacent properties.

(d) Requests for approval of slopes in subsection (c) above shall be included in the project description and identified on the project plans. A statement of justification for each slope shall also be included. For those slopes ~~which~~ that are proposed as part of an administrative request, fees for the legal notice and mailing list shall be submitted and a public notice of intended decision shall be issued pursuant to Article 61, Division 6, of this Chapter. For a discretionary project, no separate application or filing fee will be required. When judging such requests, the ~~planning commission~~ zoning administrator or the director shall consider:

(1) The criteria contained within section 33-1066;

(2) The stability of the slope;

(3) The impact of the slope on surrounding properties;

(4) The reason for the slope; and

(5) Whether reasonable alternatives to the proposed design are available.

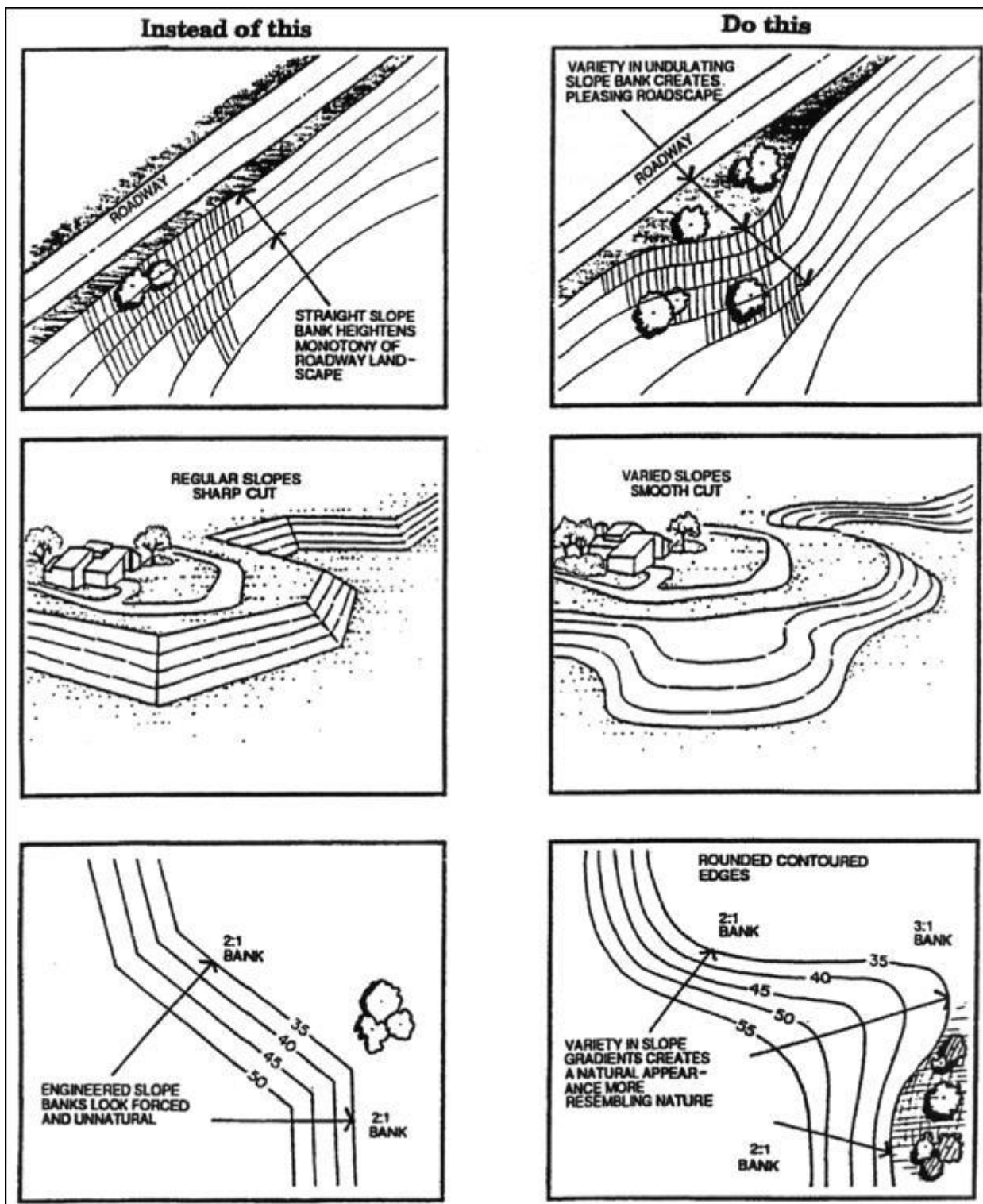
(e) Slope ratios. Grading designs should use a mix of different slope ratios—particularly where slope surfaces are easily visible from public streets. A mixture of ~~two to one (2:1), two and one half to one (2-1/2 2.5:1), three to one (3:1)~~, and flatter slope ratios should be used to provide variety throughout the development. Depending upon the recommendation of the soils engineer, steeper slopes to a maximum of ~~one and one half to one (1-1/2 1.5:1)~~ may be approved by the director for cut slopes of limited heights. Concurrent with development plan submittal, ~~some~~ reasonable justification (such as to avoid blasting rock or to preserve mature trees) ~~must~~ shall be given for any cut slope proposed to be steeper than ~~two to one (2:1)~~.

(f) Contoured grading. Slopes should be designed and constructed so as to conform to the natural contours of the landscape. Creative landforms using contoured grading should be utilized in all cases, except when such approach requires substantial increase in grading and slope heights, or is not deemed appropriate by the director. When utilized, contour grading should conform to the following guidelines:

(1) Grading should follow the natural topographic contours as much as possible (See figure 2);

(2) Manufactured slopes should be rounded and shaped to simulate the natural terrain (see ~~f~~Figure 2);

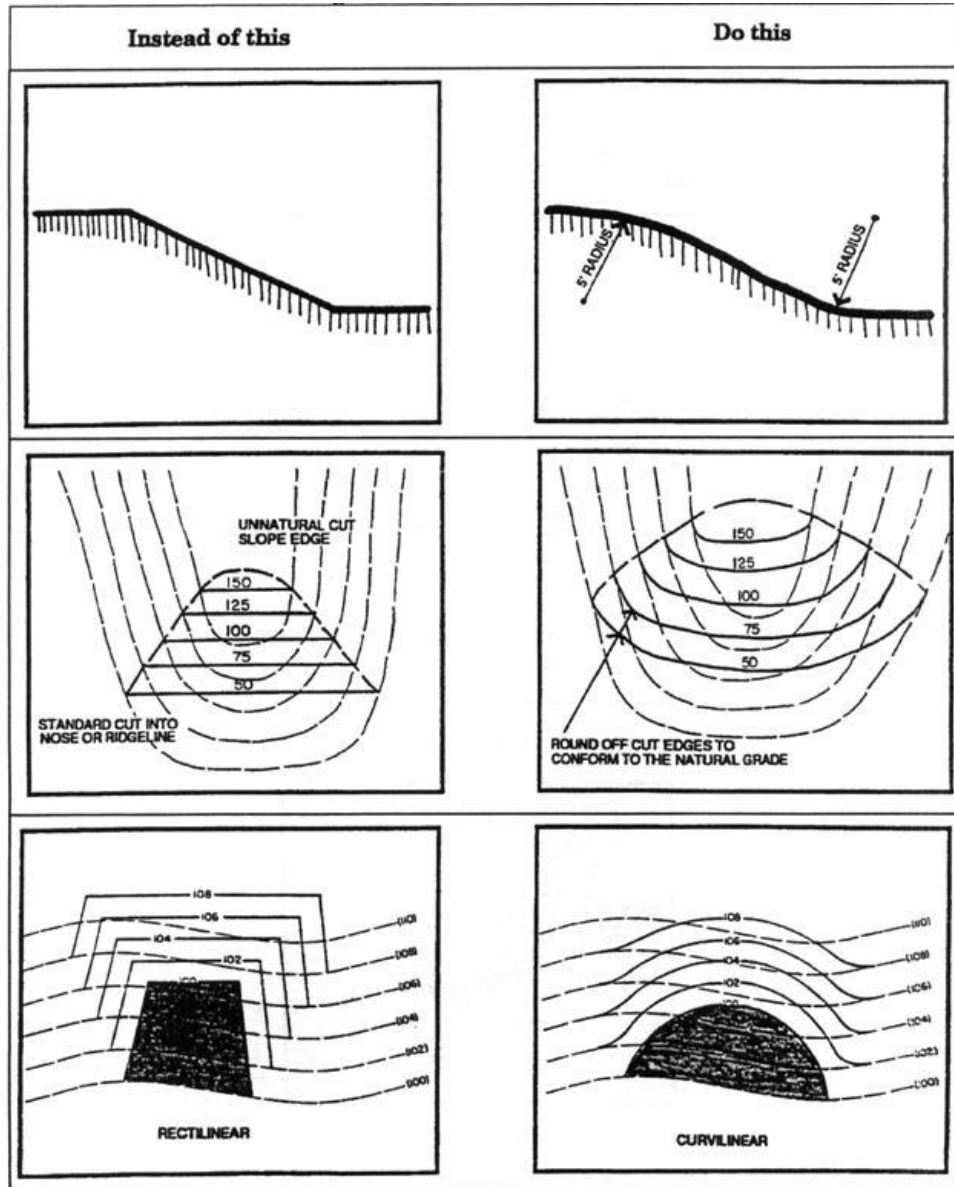
Figure 2: CONTOUR GRADING



(3) The toe and crest of any slope in excess of ~~ten (10)~~ five (5) feet in vertical height should be rounded with vertical curves of radii no less than five (5) feet, designed in proportion to the total height of the slope, when space and proper drainage requirements can be met with an approval by the city engineer (see ~~f~~Figure 3). The setbacks from such slope shall be determined as shown on ~~f~~Figure 1. When slopes cannot be rounded, vegetation shall be used to alleviate a sharp, angular appearance;

(4) Manufactured slopes ~~should~~ shall blend with naturally occurring slopes at a radius compatible with the existing natural terrain (see ~~f~~Figure 3);

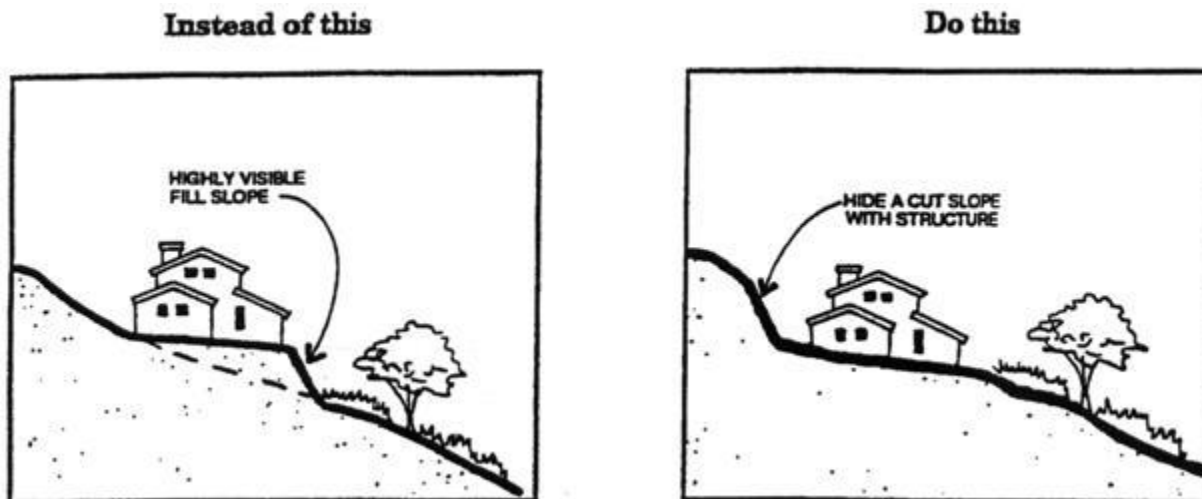
Figure 3: CONTOUR GRADING



(5) Manufactured slopes ~~should~~ shall be screened from view under or behind buildings or by intervening landscaping or natural topographic features. Where possible, grading

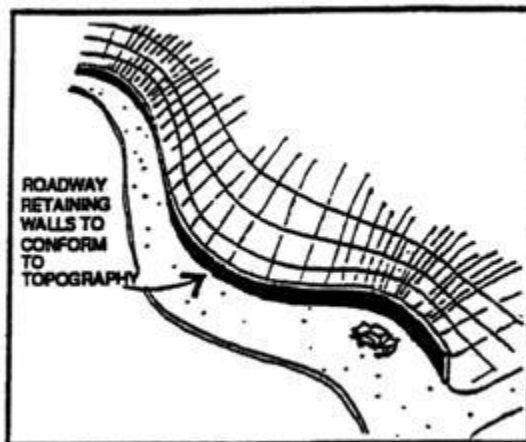
areas **should shall** be designed with manufactured slopes located on the uphill side of structures, thereby hiding the slope behind the structure (see **f**Figure 4);

Figure 4: SLOPE SCREENING



(6) Retaining walls **should shall** be designed with smooth, continuous lines that conform to the natural hillside profile to the extent possible (see **f**Figure 5).

Figure 5: RETAINING WALLS



(g) Preservation of natural and cultural features. Grading designs **should shall** be sensitive to natural topographic, cultural, or environmental features, as well as mature and protected trees, and sensitive biological species and habitat, pursuant to sections 33-1068 through 33-1069. The following features **should shall** be preserved in permanent open space easements, or such other means **which that** will assure their preservation:

- (1) Undisturbed steep slopes **greater than** (~~over thirty-five (35) percent%~~);
- (2) Riparian areas, mitigation areas, and areas with sensitive vegetation or habitat;
- (3) Unusual rock outcroppings;
- (4) Other unique or unusual geographic features;
- (5) Significant cultural or historical features.

(h) Public safety. More extreme grading measures may be approved if necessary to construct street systems conforming to minimum design standards or to provide reliable maintenance access to public utilities or drainage systems.

(i) Landscaping of manufactured slopes. All manufactured slopes shall be protected and landscaped to the satisfaction of the engineering and planning departments.

(1) High slopes (over ~~twenty~~ (20) feet) ~~should~~ **shall** be screened with appropriate landscaping, and efforts shall be made in the plotting of structures to screen slopes to the maximum extent possible.

(2) Drought-tolerant and native species ~~should~~ **shall** be utilized wherever possible to minimize water usage. Refer to the fire department's "Wildland/Urban Interface Standards" for planting requirements on slopes adjacent to high fire zone areas.

(j) Dissimilar land uses. Where dissimilar land uses are located adjacent to one another, grading ~~should~~ **shall** be designed so as to buffer or screen one use from the other. In this regard, the location, height, and extent of proposed grading ~~should~~ **shall** be compatible with adjacent uses, and screening measures ~~that including include~~ fences, walls, mounding, and extensive landscaping ~~should~~ **shall** be utilized wherever needed.

(k) Erosion and sediment control. A sound grading approach must include measures to contain sediment and prevent erosion. Such measures ~~should~~ **shall** be identified at the earliest possible point in the grading design process and thereafter implemented as soon as deemed necessary by the city engineer or inspector. Developers of projects ~~which that~~ propose grading shall prepare erosion and sediment control plans in conjunction with grading plans utilizing measures described in the city's stormwater management requirements. Containment of sediment and control of erosion is the responsibility of the property owner and developer.

(l) Hillside areas. The standards provided with this section are in addition to the provisions of the underlying land use district and to other applicable provisions of the Escondido Zoning Code.

(1) Minimum site standards. The following provisions shall apply to residential hillside areas, except that the city engineer may approve modifications to these requirements upon demonstration that any such proposed modifications represent a desirable integration of both ~~side site~~ and unit design, and excepting further that these requirements are not intended to require additional grading on existing lots or parcels. For the purposes of this section, "usable" is defined as having a gradient not exceeding that of the balance of the building pad, or ~~ten~~ (10) ~~percent~~%, whichever is the lesser.

(2) Within single-family districts, a usable rear yard of at least ~~fifteen~~ (15) feet from building to slope shall be provided. Within multiple-family districts, a usable rear yard of at least ~~ten~~ (10) feet from building to slope shall be provided. This requirement may be modified to the extent that (i) equal usable area is provided elsewhere on the lot other than within the required front yard, and (ii) it is demonstrated that the unit is designed to relate to the lot design;

(3) Within single-family districts where a ~~ten~~ (10)-foot side yard is required, at least five (5)-feet of ~~said the~~ side yard shall be usable as defined above;

(4) Retaining walls may not be used within required usable side or rear yards unless approved by the director. Retaining walls so used will be counted as part of the total permitted slope height.

(5) Grading on natural slopes of ~~twenty-five~~ (25) ~~percent~~% to ~~thirty-five~~ (35) ~~percent~~% ~~should~~ **shall** only be permitted for the construction and installation of roads, utilities, garage pads, and other limited pad grading ~~which that~~ can be shown to be sensitive to the existing terrain.

Proposed structures ~~should~~ **shall** be designed to conform to the terrain and ~~should~~ **shall** utilize pole, step, or other such foundation that requires only limited excavation or filling.

ARTICLE 55. GRADING AND EROSION CONTROL

Sec. 33-1067.F. Design guidelines for HRO district.

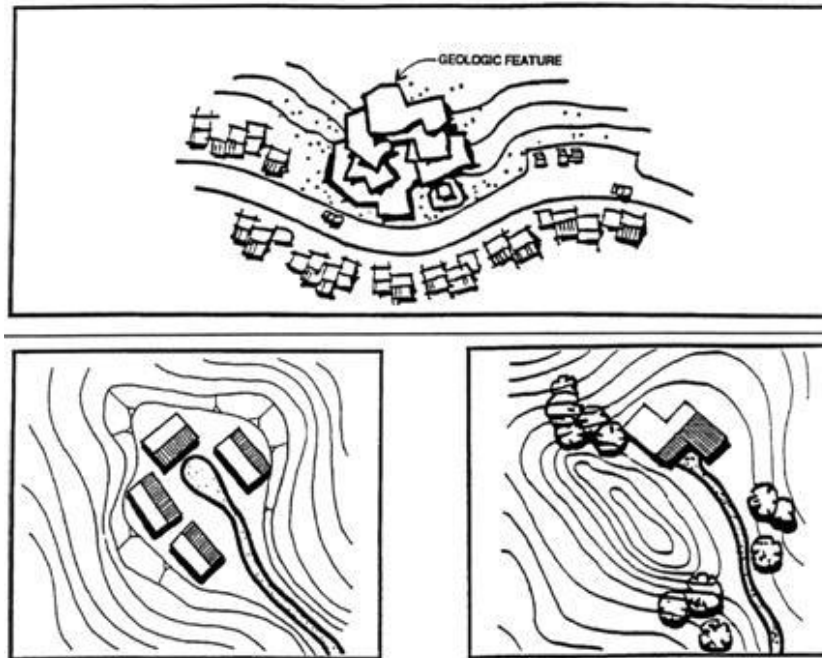
(a) Natural slopes ~~equal to or greater than between fifteen (15) percent% and but below twenty-five (25) percent%~~. In addition to other applicable provisions of this article, all development including grading on natural slopes ~~equal to or greater than between fifteen (15) percent% and but below twenty-five (25) percent%~~ **shall** be designed according to the following guidelines:

(1) All development ~~should~~ **shall** be sited to avoid potentially hazardous areas and environmentally sensitive areas as identified in the open space element of the general plan or as part of the environmental review, as well as to avoid dislocation of any unusual rock formations or any other unique or unusual geographic features (see ~~f~~Figure 6);

(2) Natural drainage courses ~~should~~ **shall** be preserved, enhanced, and incorporated as an integral part of the project design to the extent possible. Where required, drainage channels and brow ditches should follow the existing drainage patterns to the extent possible. ~~They~~ **Drainage channels and brow ditches shall** ~~should~~ be placed in inconspicuous locations and receive a naturalizing treatment including native rock, colored concrete, and landscaping, so that the structure appears as an integral part of the environment;

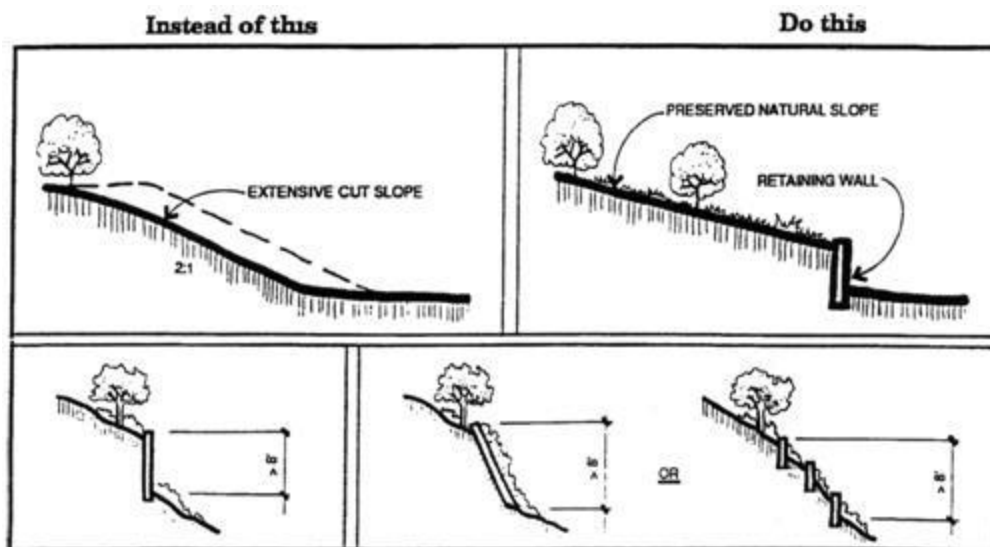
(3) Grading ~~should~~ **shall** be limited to the extent possible and designed to retain the shape of the natural landform (see ~~f~~Figure 6). Padded building sites are allowed, but site design and architecture techniques (such as custom foundations, split level designs, stacking and clustering) ~~should~~ **shall** be used to mitigate the need for large padded building areas. Grading must be designed to preserve natural features such as knolls or ridgelines. In no case ~~should~~ **may** the top of a prominent hilltop, knoll, or ridge be graded to create a large building pad;

Figure 6: SENSITIVE AREAS



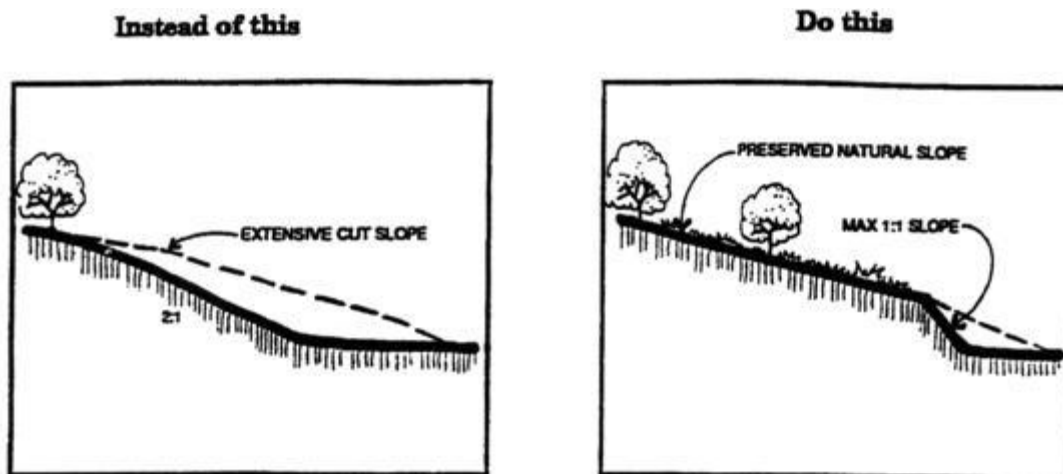
(4) The use of retaining walls, plantable walls, and terraced retaining structures is encouraged when such use can eliminate the need for extensive cut or fill slopes. Retaining walls **should shall** typically have a height of five (5)-feet or less. Plantable walls **should shall** be used instead of retaining walls above six (6)-feet in height. Terraced retaining structures **should shall** be considered on an individual lot basis when their use can avoid the need for extensive manufactured slopes and retaining walls (see Figure 7);

Figure 7: USE OF RETAINING WALLS



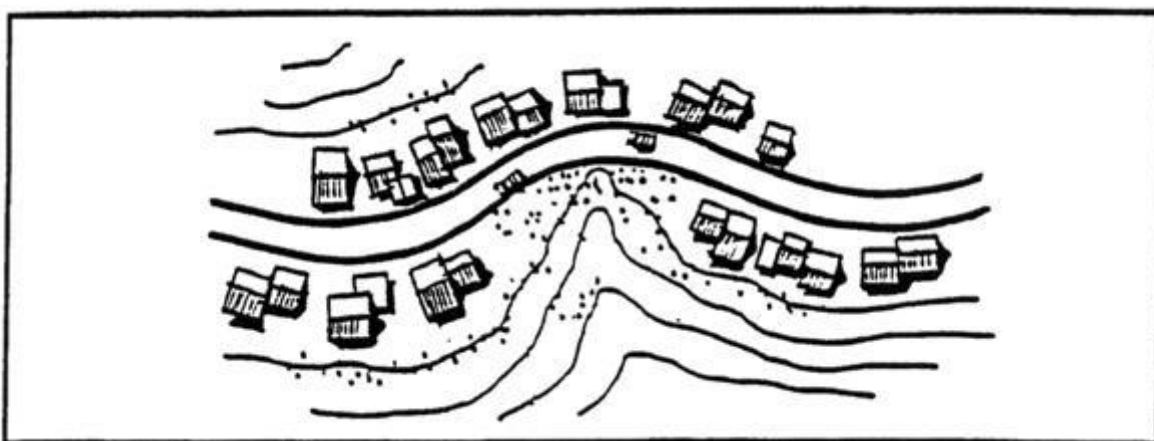
(5) Slopes steeper than ~~two to one~~ (2:1), appropriately designed by a geotechnical engineer, may be permitted subject to ~~planning commission~~ zoning administrator or director approval when such slopes preserve the significant environmental characteristics of the site or substantially reduce the need for extensive cut and fill slopes (see Figure 8);

Figure 8: CUT SLOPES



(6) All roads ~~should~~ shall comply with the design standards for rural roads;
(7) Circulation ~~should~~ shall be aligned to conform to the natural grades as much as possible within the limits of the City's street design standards (see ~~f~~Figure 9);

Figure 9: ROAD DESIGN

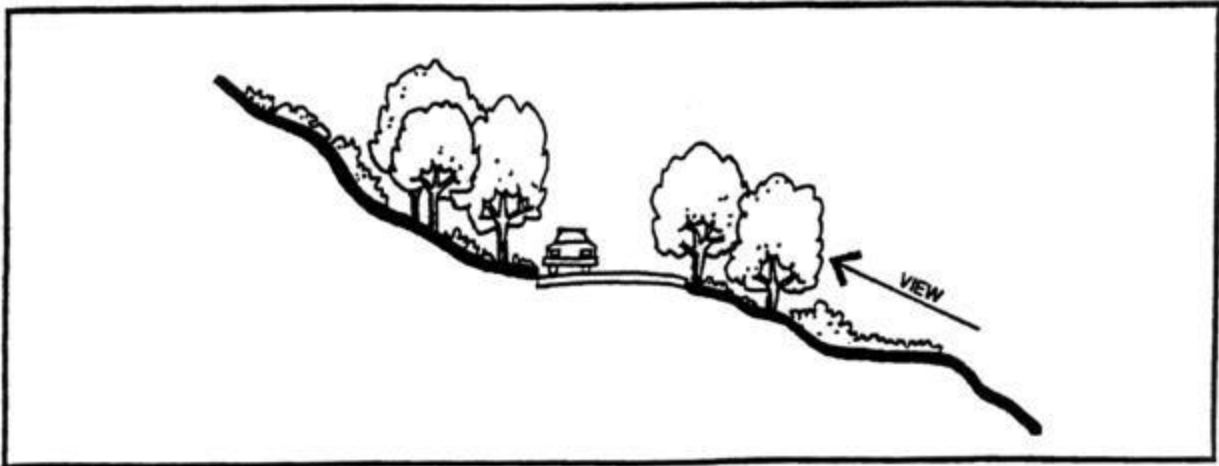


(8) Grading for the construction of access roads or drainageways shall be minimized so that the visual impacts associated with ~~said~~ such construction are mitigated to the greatest extent possible;

(9) Common drives in single-family developments ~~should~~ shall be considered if grading is reduced by their use;

(10) The construction of access roadways or driveways ~~should~~ shall be accompanied by sufficient berming and landscaping/erosion control so that visual impacts associated with ~~said~~ such construction are promptly mitigated (see ~~f~~Figure 10);

Figure 10: SCREENING IMPACTS



(11) Accessory buildings on sloping lots. If the city engineer determines that no hazard to pedestrian or vehicular traffic will be created, a garage or carport may be built to within five ~~(5)~~ feet of the street right-of-way line, if:

(A) The front half of the lot or building site slopes up or down from the established street grade at a slope of ~~twenty percent (20%)~~ or greater, and

(B) ~~To the extent the~~ If the elevation of the front half of the lot or building site is more than four ~~(4)~~ feet above established street grade, ~~Such-such~~ garage or carport may not extend across more than ~~fifty percent (50%)~~ of the street frontage of the lot or building site.

(b) Slopes ~~equal to or greater than between twenty-five percent (25%) but below and thirty-five percent (35%)~~. In addition to other applicable provisions of this article, all development including grading on natural slopes ~~equal to or greater than between twenty-five percent (25%) but below and thirty-five percent (35%)~~ should shall be designed according to the following guidelines:

(1) Grading should shall be utilized only for the construction and installation of roads, utilities, garage pads, and other limited pad grading ~~which-that~~ is shown to be sensitive to the existing terrain.

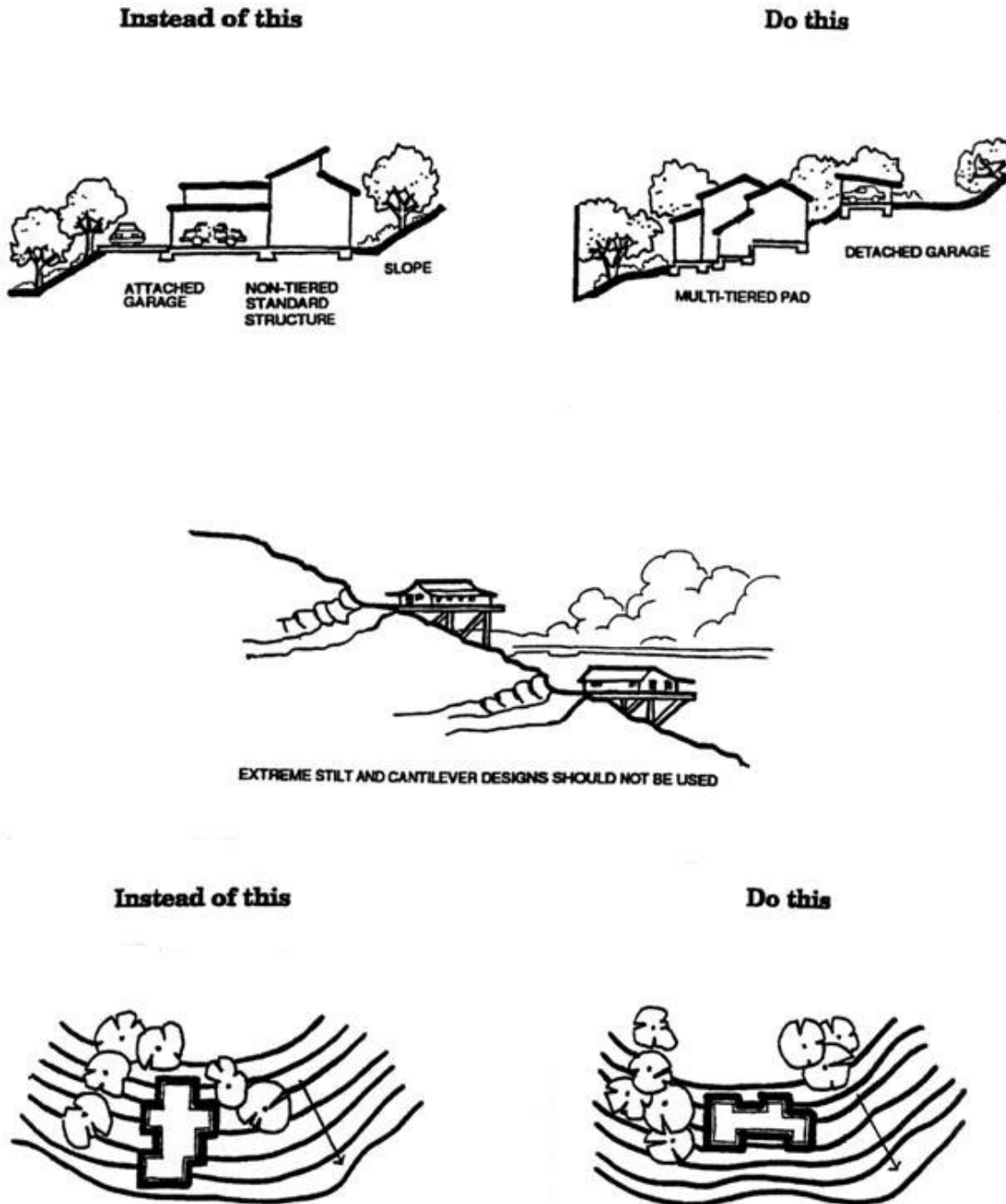
(2) Proposed structures should shall utilize split pads, stepped footings, and grade separations in order to conform to the natural terrain (see ~~f~~Figure 11). Detaching parts of a dwelling such as a garage, utilizing below grade rooms, and using roofs on lower levels for the deck space of upper levels should shall be considered. Other structural designs such as stilt or cantilevered foundations and earth-sheltered or earth-bermed buildings ~~that which~~ fit the structure to the natural contours and minimize grading, may be considered on a case-by-case basis. Deck construction with excessively high distances between the structure and grade should shall be avoided.

(3) **The rear** ~~Rear~~ yard **should shall** not exceed ~~twenty~~ (20) feet measured parallel to the slope if **such the rear** yard requires a grading exemption.

(4) Accessory structures, swimming pools, tennis courts, and similar uses **should shall** not be constructed if such construction requires a grading exemption.

(5) Single-level residential structures **should shall** be oriented such that the greatest horizontal dimension of the structure is parallel with, and not perpendicular to, the natural contour of the land (see ~~f~~Figure 11).

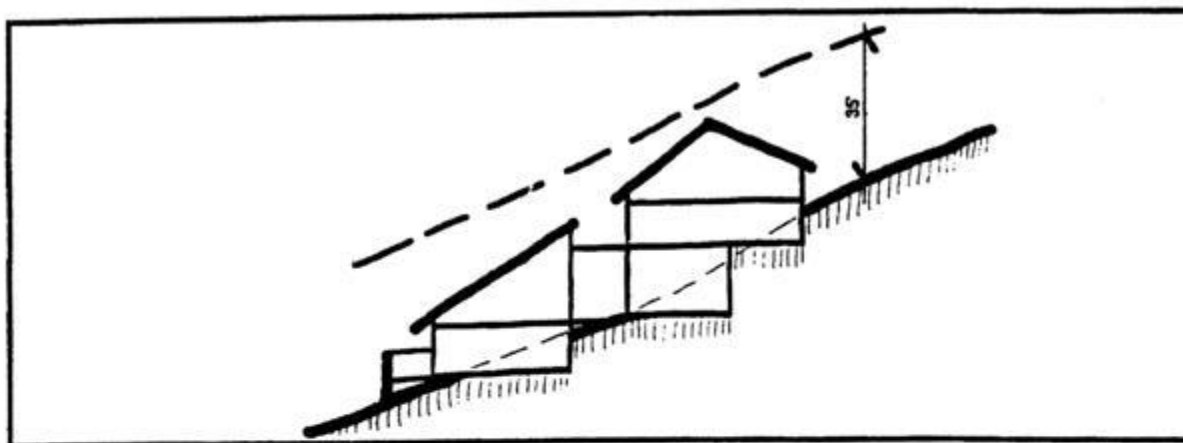
Figure 11: HOME & DESIGN LOCATION



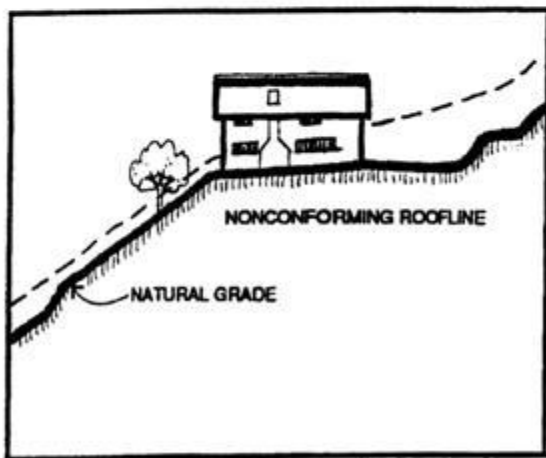
(6) Building height **should shall** be as permitted by the underlying zoning as measured from the natural grade at any point of the structure (see ~~f~~Figure 12).

(7) The slope of the roof **should shall** be oriented in the same direction as the natural slope, and in developments that include a number of individual buildings, variation **should shall** be provided to avoid monotony (see ~~f~~Figure 12).

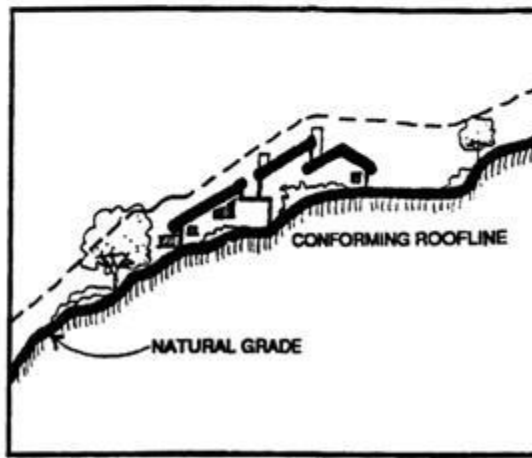
Figure 12: BUILDING HEIGHT/ROOF SLOPE



Instead of this



Do this



(8) Architectural treatment **should shall** be provided on all sides of the structure visible from adjacent properties, roadways, or public rights-of-way. Building materials and color schemes **should shall** blend with the natural landscape of earth tones for main and accessory structures, fences, and walls. Reflective materials or finishes **should shall** not be used.

(c) Slopes **equal to or greater than of thirty-five percent (35%) and over**. No development or grading **should shall** occur on slopes of ~~thirty-five (35) percent%~~ or greater, except as described in section 1067.A(b)(5).

(d) Intermediate Ridges. Development in proximity to intermediate ridgelines ~~should shall~~ be avoided to the extent possible. However, ~~in case that if~~ such development occurs, the following guidelines shall apply in addition to other applicable provisions of this article (see Figure 13 for reference):

(1) Only single-story structures or portions of multiple single-story-stepped structures designed to conform to the site shall be permitted to project above the ridgeline;

(2) The minimum width of the lot measured parallel to the protected ridge at the proposed building site ~~shall not be is not~~ less than ~~two hundred (200)~~ feet;

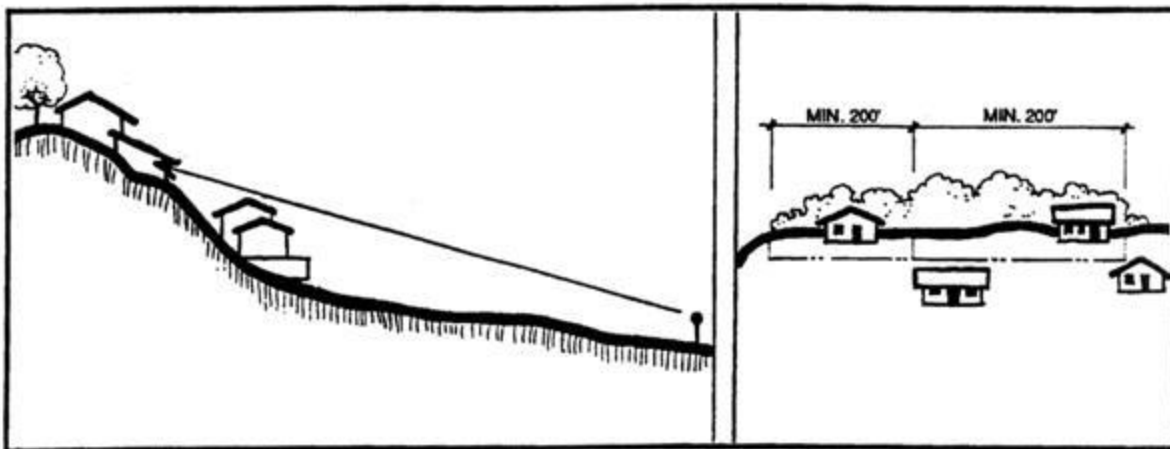
(3) Grading ~~should shall~~ conform to the natural terrain to the extent possible. Extensive manufactured slopes and retaining walls ~~should shall~~ be avoided.

In no case should the top of a ridge be graded to provide a large building pad;

(4) Any building or structure in proximity to an intermediate ridge ~~should shall~~ be located and designed to minimize its impact upon the ridgeline. Techniques such as use of subordinate or hidden location, split foundations adjusted to the slope, single-story structures, roofline following the slope, and colors and materials that blend with the natural environment ~~should shall~~ be used;

(5) Landscaping ~~should shall~~ be utilized to recreate the linear silhouette and to act as a backdrop for structures. Trees that grow to at least ~~one and one-half (1½)~~ times the height of the structure ~~should shall~~ be planted between buildings to eliminate the open gap and blend the rooflines into one ~~(1)~~ continuous silhouette.

Figure 13: SITE DISTANCE/LOT WIDTHS



(e) Skyline Ridges. Development in proximity to skyline ridges shall conform to the following standards (see Figure 14 for reference):

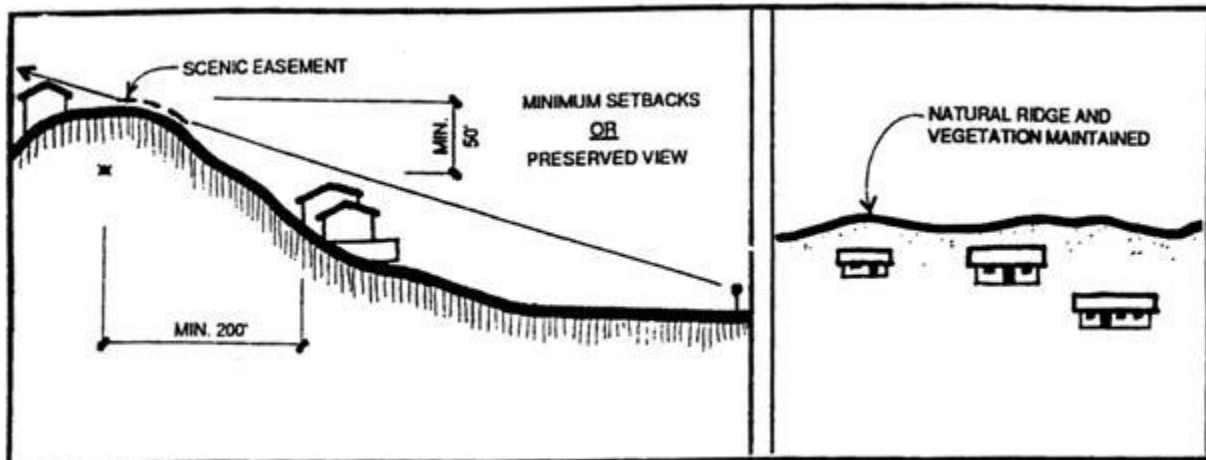
(1) The ridgelines' natural contour and vegetation ~~should shall~~ remain intact with development maintaining an undisturbed minimum setback of ~~two hundred (200)~~ feet measured horizontally from the center of the ridgeline on a topographic map, or ~~fifty (50)~~ feet measured vertically on a cross-section, whichever is more restrictive. Lesser setbacks may be authorized if it can be demonstrated that no structure or portion of a structure will obstruct the view of the ridge as seen from major points defined during the application process. Points of view to be used for the visual analysis shall generally be taken along major roads including Interstate 15, Del Dios Highway, Centre City Parkway, Bear Valley Parkway, North Broadway, El Norte Parkway, and Valley Parkway; and major public open space areas including Lake Hodges, Lake Wohlford, Lake

Dixon, and Kit Carson Park, as applicable to the proposed project. The exact points of view will be from the most critical points as determined by the combination of points from which the proposed development is most visible and points at which the highest public use occurs (e.g., playfields, picnic areas, ~~etc.~~). The distance of the viewpoints from the ridgeline shall generally be no more than five ~~(5)~~ miles and no less than one-half ~~(1/2)~~ of a mile. The sensitive viewshed areas and the exact points of view for each proposed project will be identified prior to the project submittal to the satisfaction of the director. The decision of the director will be appealable to the planning commission.

(2) The area along a skyline ridge ~~should shall~~ be dedicated to the city as a scenic easement not intended for public access in conjunction with any development ~~which that~~ may occur on the property. The owner ~~should shall~~ be responsible to retain, maintain, preserve, and protect the public views of these areas in their natural state without obstruction by structures. A scenic easement should not prohibit clearing of brush or planting of vegetation ~~which that~~ is necessary to reduce fire hazards.

(3) Development of one ~~(1)~~ single-family home on a lot legally created prior to adoption of the ordinance codified in this article will be exempt from the requirements of subsections (e)(1) and (e)(2) of this section. Such development will be subject to the requirements of section 33-1067.F(d).

Figure 14: SCENIC RIDGELINES



ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1080. Fences, walls and hedges.

(a) Single-family residential zones.

(1) Front and street side setbacks. Fences, walls, or hedges ~~not exceeding three (3) feet in height may be located anywhere on the lot or parcel~~ may not exceed three feet in height if constructed of materials that are less than 50% open, or 3 ½ feet in height if constructed of materials that are at least 50% open.

Fences, walls, or hedges ~~not exceeding~~ may not exceed six ~~(6)~~ feet in height ~~may be when~~ located anywhere on a lot or parcel of ~~ten (10)~~ acres or greater where horticulture specialties, orchards, or vineyards occur, pursuant to section 33-161 and subject to the design criteria under section 33-1081(b) ~~through (e)~~ and subject to the director's approval ~~by the director of community development.~~

~~Fences, walls or hedges not exceeding three and one-half (3 1/2) feet in height, if constructed of materials which are fifty (50) percent open, may be located anywhere on the lot or parcel.~~

~~Fences, walls or hedges not exceeding six (6) feet in height may be constructed at the setback lines for principal structures.~~

~~(2) Interior side and rear setbacks. Fences, walls, or hedges not exceeding six (6) feet in height may be located anywhere within the interior side and rear yard setbacks may not exceed six feet in height.~~

~~Fences, walls, or hedges not exceeding eight (8) feet in height may be located anywhere within the rear and the interior side setbacks when abutting a public facility, and/or multifamily, commercial and industrial zones pursuant to the design criteria under section 33-1081(a) and (b) subject to approval by the director of community development. (See Figure 33-1081.2) may not exceed eight feet in height when abutting a public facility or a multifamily, commercial, or industrial zone, pursuant to the design criteria under sections 33-1081(a) and 33-1081(b), subject to the director's approval. (See Figure 33-1081.2)~~

~~(3) Play fields. Fences up to fifteen (15) feet in height in conjunction with play fields associated with schools and youth organizations may be approved as conditional uses in specified residential zones subject to planning commission approval upon consideration of the design criteria under section 33-1081(f) and (g). Outside of setbacks. Fences, walls, or hedges may not exceed eight feet in height.~~

(b) Multi-family residential zones.

~~(1) Front and street side setbacks. Same as in section 33-1080(a)(1), except that fences, walls, or hedges not exceeding six (6) feet in height may be located anywhere within the street side and front yard setbacks pursuant to the design criteria under section 33-1081(a) through (e) subject to approval by the director of community development. (See Figure 33-1081.1) in front or street side setbacks may not exceed six feet in height, pursuant to the design criteria under section 33-1081(a)-(e), subject to the director's approval. (See Figure 33-1081.1)~~

~~(2) Interior side and rear setbacks. Same as in section 33-1080(a)(2), except that fences, walls, or hedges not exceeding eight (8) feet in height may be located anywhere within the rear and the interior side setbacks (except when adjacent to single family zones) pursuant to the design criteria under section 33-1081(a) through (e) subject to approval by the director of community development. (See Figure 33-1081.2) may not exceed eight feet in height, pursuant to the design criteria under section 33-1081(a)-(e), subject to the director's approval.~~

~~(3) Play fields. Fences up to fifteen (15) feet in height in conjunction with play fields associated with schools and youth organizations may be approved as conditional uses in specified residential zones subject to planning commission approval upon consideration of the design criteria under section 33-1081(f) and (g). Outside of setbacks. Fences, walls, or hedges may not exceed eight feet in height.~~

(c) Commercial/industrial zones.

~~(1) Front and street side setbacks. Same as in section 33-1080(a)(1), except that fences or walls not exceeding eight (8) feet in height may be constructed in any location allowed for principal structures.~~

Adequate sight distance pursuant to section 33-1081(b) shall be provided for all fences.

(2) Interior side and rear setbacks. ~~Fences or walls not exceeding eight (8) feet in height may be constructed in any location allowed for principal structures~~ Same as in section 33-1080(a)(2).

(3) ~~Play fields. Fences up to fifteen (15) feet in height in conjunction with play fields associated with schools and youth organizations may be approved as conditional uses in specified residential zones subject to planning commission approval upon consideration of the design criteria under section 33-1081(f) and (g)~~ Outside of setbacks. Fences, walls, or hedges may not exceed eight feet in height.

(d) Special fences.

(1) Play field fencing. Tennis court, badminton court, basketball court, football field, soccer field, volleyball court, and other similar athletic play area fencing, subject to the fencing design criteria specified in section 33-1081, shall not exceed a height of 15 feet and shall observe the setback of accessory structures within the zone. However, not less than a five-foot setback shall be provided to any property line.

(2) School fences. School common areas may be fenced to the street line; provided, that the fence is made of open wire construction and does not exceed 10 feet in height.

(3) Security fences. Fences or walls not to exceed eight feet in height may be located around commercial, industrial, or public facility uses in any location allowed for principal structures, when required for security purposes, screening, or containment of hazardous materials. In residential zones, fences or walls not exceeding eight feet in height may be located anywhere within the rear and the interior side setbacks when abutting a public facility or a multifamily, commercial, or industrial zone, pursuant to the design criteria under section 33-1081(a) and (b).

(4) Noise mitigation. Fences and walls that are required by a mitigation measure and designed and approved through a tentative subdivision map, tentative parcel map, or major design review with the planning commission for noise attenuation are exempt from the height restrictions.

(5) Guardrails. A guardrail or guards, as defined by the California Building Code, may extend above the maximum height of a fence or wall, but only to the minimum extent required for safety by the California Building Code.

(6) Trailer parks. The height of fences in trailer parks shall be regulated by section 29-30 of Chapter 29 (Trailer Coaches and Trailer Parks) and section 33-896 (Travel Trailer Parks).

(7) Swimming pools. The height of fences around swimming pools shall be regulated by section 33-1109 (Swimming Pools).

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1081. Fencing design criteria.

(a) Construction materials. Decorative open materials (constructed of at least ~~fifty (50)~~ **percent%** open materials), such as wrought iron, may be utilized for the entire height. Solid materials, such as masonry, wood, or similar opaque materials, may be utilized for a height up to three ~~(3)~~ feet within front and street side yards, and up to six ~~(6)~~ feet within interior side or rear yards. Open materials shall be utilized for the remaining portion of the fence height (see Figure 33-1081.1). Fences shall be constructed of materials and colors compatible with the existing or proposed development. Chain link over six ~~(6)~~ feet in height is not permitted in multifamily zones. Barbed wire (or any similar materials hazardous to the public) is not permitted in any residential zone, except as authorized pursuant to section 33-1081.

(b) Sight distance. Observance of sight distance areas shall be provided at street corners, driveways, alleys, or similar locations. No solid fence over three ~~(3)~~ feet in height shall be installed within the sight distance area necessary for clear view of oncoming vehicular and pedestrian traffic when waiting to proceed at a street corner or driveway. The sight distance at driveways shall be defined by a triangle formed connecting two points measured along each side of the driveway ~~ten (10)~~ feet from the street, and along the street ~~ten (10)~~ feet from the outermost point of the driveway return, as shown in Figure 33-1081.3. At non-signalized corners, the sight distance area is defined by the triangle formed by connecting two ~~(2)~~ points measured along each street frontage ~~twenty-five (25)~~ feet from the curb return in each direction, as shown in Figure 33-1081.4. No solid fence over ~~three (3)~~ feet in height above the curb grade nor other support structure (such as columns, posts, or pilasters) larger than ~~twelve (12)~~ inches in diameter may be installed in this sight distance area unless approved by the engineering department. Sight distance on classified roads should shall conform to the engineering department standards to the satisfaction of the city engineer.

(c) Accessibility. The design of the fence (including mechanical/electrical hardware such as knock boxes, and intercoms) shall include provisions for access by emergency service personnel pursuant to the Fire and Uniform Security Codes, maintenance and service personnel, and pedestrians. Maintenance and service shall include, but not be limited to, landscape maintenance, postal service and delivery vehicles, utilities, and trash collection. Access to guest parking spaces should shall be accommodated outside of the gate, rather than on the street. However, should if the required guest parking be is located inside the fence, a key pad entry system shall be provided for guest access.

(d) Security gates. Security gates across driveways or private streets shall be located so as to provide adequate vehicle stacking room on site, and to prevent stacking in the public right-of-way. Gates shall not open or swing into the public right-of-way. At least one ~~(1)~~ gate shall be remote-activated and operated without having to leave the car.

Automobiles which that turn in the driveway and cannot enter through the gate, must be able to turn around and exit in a forward manner onto the street. A turnaround area, escape lane, circular drive, or other method of egress shall be provided to the satisfaction of the planning division and the engineering department.

(e) Landscaping. In multifamily zones, fences along street frontages exceeding three and one-half ~~(3 1/2)~~ feet in height shall setback so that a five-~~(5)~~ foot landscape area with trees, groundcover, and irrigation is provided between the back of the sidewalk and the fence facing the street. Proposed fence locations shall be designed to accommodate existing mature landscaping to the extent feasible.

(f) Play field fence buffering. Provisions for buffering should shall incorporate heavy landscaping with tall plant materials to help offset the height of the fence.

(g) Play field fence construction. The fence should shall utilize a combination of decorative wood or masonry up to six-~~(6)~~ feet in height and chain link for the remaining nine-~~(9)~~ feet.

FENCE DESIGN EXAMPLES

(SEE SECTION 33-1081 FOR SPECIFIC CRITERIA)

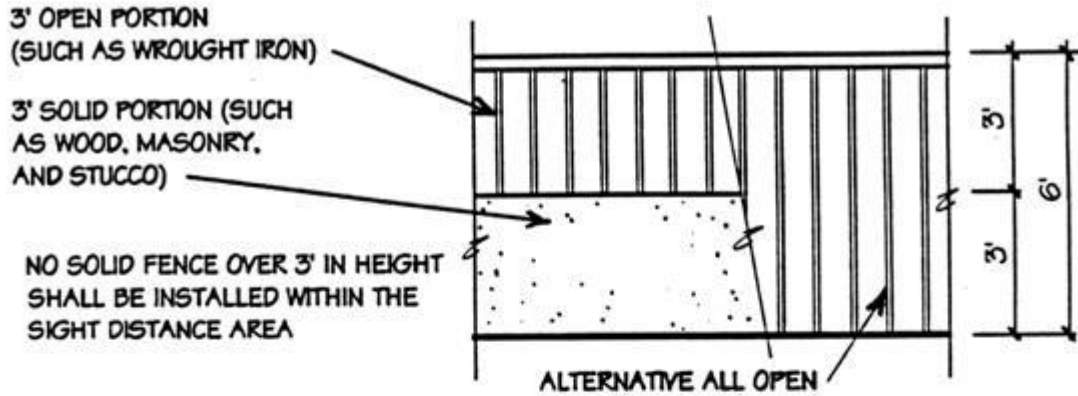


FIGURE 33-1081.1 — EXAMPLE OF 6' HIGH FENCE DESIGNS FOR FRONT AND STREET SIDE YARDS (EXCEPT IN SINGLE-FAMILY ZONES)

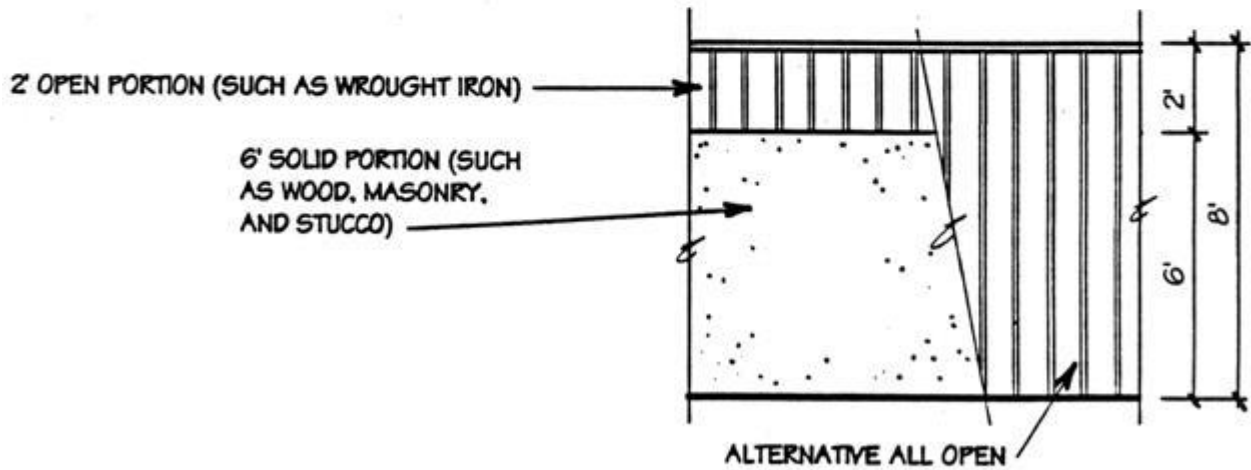


FIGURE 33-1081.2 — EXAMPLE OF 8' HIGH FENCE DESIGNS (SUBJECT TO SECTIONS 33-1080 AND 1081)

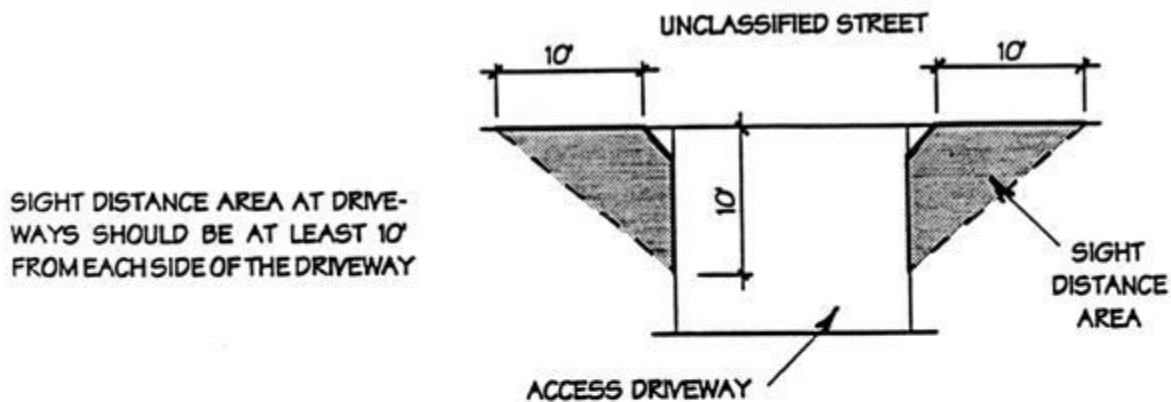
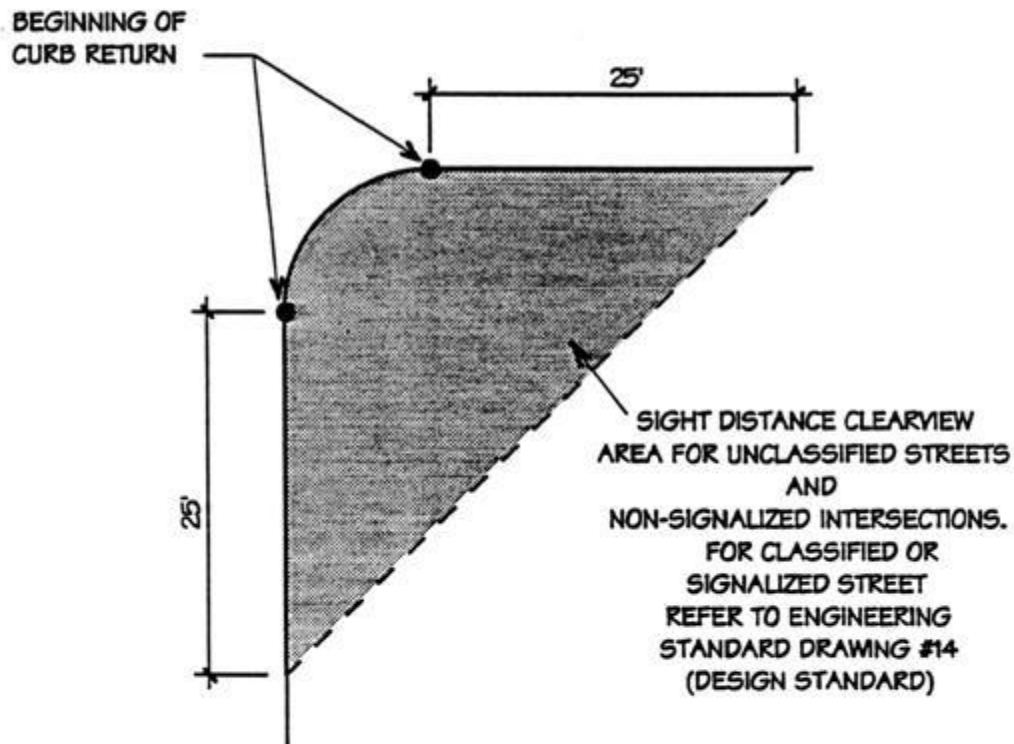


FIGURE 33-1081.3 — SIGHT DISTANCE AT DRIVEWAYS



• NO SOLID FENCE NOR HEDGES OVER 3' IN HEIGHT (ABOVE CURB GRADE) NOR OTHER SUPPORT STRUCTURES (COLUMNS, POSTS, OR PILASTERS) LARGER THAN 12" IN DIAMETER SHALL BE INSTALLED WITHIN THE SIGHT DISTANCE CLEARVIEW AREA.

FIGURE 33-1081.4 — SIGHT DISTANCE AT CORNERS (UNCLASSIFIED STREETS)

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1083. General fence and wall provisions.

~~(a) — Tennis courts. Tennis court fencing shall not exceed a height of fifteen (15) feet and shall observe the setback of accessory structures within the zone. However, not less than a five (5) foot setback shall be provided to any property line.~~

~~(ab) Materials. Fences or walls may be constructed of any suitable materials in a manner appropriate to its design. **Fences shall not contain electrification.** Barbed wire, **razor wire**, or **other similar hazardous materials fences with affixed sharp instruments are specifically not permitted in any residential zoning district, except that barbed wire is permitted in agricultural and residential estate zones being used for agriculture or animal husbandry.** shall be limited to agricultural and residential estate zones being used for agricultural or animal husbandry or in commercial or industrial zones. Barbed wire or similar material shall be placed to prevent a hazard or danger to the public.~~

~~(bc) Height measurements. The height measurement of a fence or wall may be measured from either side in a vertical line from the lowest point of contact with the ground directly adjacent to either side of the fence or wall (i.e., finished grade) to the highest point along the vertical line. The finished grade shall be that as shown on the approved grading plan. In cases where a retaining wall does not require the approval of a grading plan, the finished grade shall be as determined by the City Engineer. If a retaining wall is combined with a fence or wall, the retaining wall will not be included in the measurement of fence or wall height. Any combinations of retaining wall and fence or wall over eight (8) feet in height must provide a variation in design or materials between the retaining wall and the fence or wall. All components of a fence such as columns, posts or other elements shall be included in height measurements.~~

~~(1) Height and location requirements for fences or walls placed atop a wall.~~

~~(A) Freestanding walls. When a fence or wall is placed over a freestanding wall, the height of the freestanding wall shall be considered as part of the fence or wall for purposes of determining the overall height of the combined structure.~~

~~(B) Retaining or landscaping walls used to increase usable lot area.~~

~~(i) When a fence or wall is placed atop a retaining or landscaping wall, the height of the retaining or landscaping wall shall be considered as part of the fence or wall for purposes of determining the overall height of the combined structure. Within any required front or street side setback, there must be a horizontal separation of at least two feet between structures so the combined height of the fence and retaining wall structure does not exceed the provisions of Sections 33-1080 and 33-1081. When a minimum two-foot horizontal offset is provided, within which screening vegetation is provided to the satisfaction of the Director of Community Development, the wall/fence may not be considered one continuous structure for calculating wall/fence height. The horizontal separation shall be measured from the "back" face of the lower wall/fence to the "front" face of the higher wall/fence.~~

~~(ii) If a retaining or landscaping wall is combined with a fence or wall in an interior side or rear setback of any property, the retaining wall shall not be included in the measurement of fence or wall height. The height of the fence or wall shall be determined exclusive of the height of the retaining wall such that the top of the retaining wall is considered the finished grade. Only the portion of the fence or wall above finished grade shall be considered as part of the overall height of the fence or wall. Any combinations of retaining wall and fence or wall over eight feet in height must provide a variation in design~~

or materials between the retaining wall and the fence or wall. Landscaping shall be utilized to soften the appearance of the wall or fence above the retaining or landscaping wall.

(iii) If a fence, wall, or other structure in the nature of a fence is placed over a retaining or landscaping wall beyond the front, street side, interior side, or rear setback line, the height of the fence, wall, or other structure shall be measured separately from the retaining wall, subject to section 33-1080.

(2) All components of a fence, such as columns, posts, or other elements, shall be included in height measurements.

(cd) Construction and maintenance. All fences and walls shall be constructed of new or good used material and shall be kept in good repair and adequately maintained. Any dilapidated, dangerous, or unsightly fences or walls shall be removed or repaired.

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1085. Mechanical equipment and devices.

(a) Screening of mechanical equipment. The screening of roof-mounted, ground-mounted, or wall-mounted mechanical equipment and devices is required in all zoning districts at the time of new installation or replacement.

(1) Roof-mounted mechanical equipment and devices.

(A) Mechanical equipment, including but not limited to air conditioning, heating, tanks, ducts, elevator enclosures, cooling towers, or other similar equipment, shall be adequately screened from view from surrounding properties, adjacent public streets, and on-site parking areas. Screening shall be accomplished with mechanical roof wells recessed below the roof line, by solid and permanent roof-mounted screens, use of parapet walls, or building design integration and concealment by portions of the same building or other structure. Alternative methods for screening may include the consolidation and orientation of devices towards the center of the rooftop with enclosure and the use of neutral color surfaces or color paint matching. Chain link fencing with or without wooden/plastic slats is prohibited.

(B) Any under-roof or wall-mounted cables, raceway, conduit, or other device connection to support roof-mounted assemblies is subject to ~~subsection~~ **33-1085(a)(3)**.

(C) All roof appurtenances and screening devices shall be architecturally integrated with construction and appearance similar to and compatible with the building on which the equipment is placed to the satisfaction of the director ~~of community development~~.

(2) Ground-mounted mechanical equipment and devices.

(A) All ground-mounted mechanical equipment, including **but not limited to** heating and air conditioning units and swimming pool and spa pumps and filters, shall be completely screened from view from surrounding properties and adjacent public streets by a solid wall or fence or shall be enclosed within a building or electrical/service room. Depending on the location, height, and length of any wall or fence used for screening purposes, landscaping shall be used to the extent practicable to shield and obscure ~~said the~~ wall or fence. Alternative methods for screening equipment from the public right-of-way and adjacent properties may include the placement of ~~said~~ equipment in locations where buildings serve the purpose of screening or **any** other method approved by the director. Chain link fencing with or without wooden ~~or~~ plastic slats is prohibited.

(B) In locations where ground-mounted mechanical equipment is completely screened from surrounding properties and adjacent **to** public streets, but visible on-site, **the ground-mounted mechanical equipment** shall be surrounded by sight-obscuring landscaping, ~~enclosed equipment enclosure, and/or~~ painted with neutral colors that are compatible with structures and landscaping on the property.

(C) Screening shall be maintained in good condition at all times. Landscaping used as screening shall provide a dense, year-round screen.

(D) Structural, design, and/or landscaping plans for any required screening under the provisions of this section shall be approved by the director ~~of community development~~ and the building official.

(3) Wall-mounted mechanical devices.

(A) ~~Large w~~Wall-mounted mechanical and electrical equipment, ~~which~~that are ~~greater~~larger than ~~thirty-six (36)~~ inches in height or width shall be completely screened from the public right-of-way, adjacent properties, and on-site parking areas, or shall be enclosed within a building or electrical/service room.

(B) Minor wall-mounted utility mechanical and electrical equipment, such as small generators, utility meters, or junction boxes, ~~which~~that are ~~less than thirty-six (36)~~ inches in height and width or less, shall be screened to the maximum extent practicable through the use of building design integration and concealment, enclosure, or surface color paint matching and be screened by walls or fences or sight-obscuring landscaping. Chain link fencing with or without wooden/plastic slats is prohibited.

(4) General screening.

~~(CA)~~ All exterior wall-mounted cables, raceway, conduit, or other device connection to support any roof-mounted, ground-mounted, or wall-mounted mechanical devices, shall be painted to match the color of the building wall or surface on which they are mounted and shall be sited to minimize the appearance or be in a location that is reasonably compatible and in harmony with the architectural styling and detailing of the building. Additional wall and/or landscaping screening may be required to the satisfaction of the director ~~of community development~~.

~~(DB)~~ Structural, design, and/or landscaping plans for any required screening under the provisions of this section shall be approved by the director ~~of community development~~ and the building official.

~~(45)~~ Exceptions to screening requirements. Where it can be clearly demonstrated that the exterior mechanical equipment is not visible from any surrounding properties, adjacent public streets, and on-site parking areas, the director ~~of community development~~ may waive the screening requirements of this section. Furthermore, the following mechanical equipment and devices will be fully or partially exempt from the foregoing screening requirements of this section ~~(or may be allowed to implement partial screening measures as described in (D) below)~~, but may be regulated separately by some other local, state, or federal law:

(A) Electric vehicle charging support systems.

(B) Electric generating facilities, including solar photovoltaic systems.

(C) Communication facilities, including satellite antennas.

(D) Heavy industrial uses where the mechanical equipment itself is the main focus of the use, and the size or scale of the equipment prohibits full screening (such as concrete batching plants or certain other large-scale manufacturing uses). The director may require partial screening measures (such as solid fencing or landscape screening) as appropriate and on a case-by-case basis, to minimize the visual effects of the neighborhood to surrounding properties and adjacent streets.

ARTICLE 61. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. CONDITIONAL USE PERMITS

Sec. 33-1202. Application, fees, and procedures.

(a) Application and Fees. Application for a conditional use permit may be initiated by the property owner or agent of the property affected, the planning commission, or the city council. Application shall be made on forms provided by the city and shall be accompanied by the

appropriate fee. The application shall further be accompanied by such materials as required by the director.

(b) Procedures. The zoning administrator or planning commission shall consider the application, all relevant codes and regulations, the project's environmental status, necessary findings, the circumstances of the particular case, ~~as well as~~ **and** any other relevant evidence, and shall hold a public hearing before approving, conditionally approving, or denying the application. The zoning administrator may refer any minor conditional use permit application to the planning commission.

(c) Minor Conditional Use Permit. The zoning administrator shall give notice pursuant to Division 6 of this article and hold a hearing on the application. Minor conditional use permits include, but are not limited to, **the following**:

(1) Land uses specified as minor conditional uses in the land use matrix of the applicable zoning district, area plan, specific plan, or planned development;

(2) Requests where the conditional use to be permitted does not involve the construction of a new building or other substantial structural improvements on the property in question, provided the use does not involve the use of hazardous substances;

(3) Requests where the conditional use requiring the permit would make use of an existing building and does not involve substantial remodeling ~~thereof~~ **of the existing building** or the use of hazardous substances;

(4) Requests where the use requiring the permit is a temporary use that operates periodically on a regular basis and exceeds the time ~~and/or~~ area restrictions set forth in sections 33-1534(c)(1) and (2) of Article 73;

(5) Applications for additional animals over those permitted by section 33-1116 of Article 57, pursuant to ~~sub~~ section 33-1116(g);

(6) For uses in nonresidential zones requesting parking suitable for the proposed use or mix of uses, pursuant to section 33-764(b) of Article 39;

(7) Requests for businesses in the CN zone that are open for business before 7:00 a.m. ~~and/or~~ after 11:00 p.m., pursuant to section 33-337(d) ~~);~~;

(8) Requests involving a modification to an existing major conditional use permit (or a modification to a conditional use permit that was approved before the establishment of the minor conditional use permit process) that otherwise meets the criteria under sections 33-1202(c)(1)-(7).

ARTICLE 61. ADMINISTRATION AND ENFORCEMENT

DIVISION 8. PLOT PLANS

Sec. 33-1314. Definition and purpose.

(a) *Plot plans* shall mean a zoning instrument used primarily to review the location and site development of certain permitted land uses. The plot plan review process is required when any of the following are proposed in a multi-family, commercial, or industrial zone:

(1) A new building, structure, or addition.

(2) A new permitted use of land or existing structure that may require additional off-street parking.

(3) A modification of an existing development affecting the building area, parking **(when a reduction in parking spaces is proposed)**, outdoor uses, ~~and/or~~ on-site circulation. **Changes to parking areas that do not result in a reduction in parking spaces are exempt from Plot Plan review, but require design review, as provided in section 33-1355(b)(2).**

(4) As may otherwise be required by this chapter.

Plot plan review is not required for residential development created by a planned development or residential subdivision of single-family lots.

(b) *Minor plot plan* may include, but **shall** not be limited to, a change in use with no additional floor area, minor building additions, outdoor storage as an accessory use in the industrial zones, or other site plan changes affecting site circulation and parking, as determined by the director.

(c) *Major plot plan* may include, but **shall** not be limited to, new construction, reconstruction and additions of facilities permitted in the underlying zone, or other projects that exceed thresholds for a minor plot plan, as determined by the director. (Ord. No. 2017-03R, § 4, 3-22-17)

ARTICLE 64. DESIGN REVIEW

Sec. 33-1354. Jurisdiction.

The following commercial, industrial, multifamily residential, ~~projects~~ and other projects shall be subject to design review by the planning commission, **unless otherwise noted**:

(a) Planned development projects, condominium permits, and all **projects (besides non** single-family projects) requiring discretionary approval by the planning commission and involving new construction;

(b) Proposed development standards ~~and~~/or design guidelines for specific plans and overlay districts;

(c) Proposed signs as specified pursuant to Article 66, Sign Ordinance;

~~(d) Architectural or site modifications to industrial, commercial and multifamily residential developments that were approved through a public hearing;~~

~~(de) City-initiated projects ~~that~~which involve public facilities, **including but not limited to** such as libraries, major park structures, police stations, or fire stations, or major architectural or site modifications to existing public facilities, ~~etc.~~~~

ARTICLE 64. DESIGN REVIEW

Sec. 33-1355. Exemptions and exceptions.

(a) Exemptions. This article shall not apply to **the following**:

(1) Painting of existing buildings, unless required by an adopted specific plan, overlay district, other code section, or where color was part of a discretionary action;

(2) Repair and maintenance of existing buildings;

(3) Interior modifications;

(4) Single-family residences of four ~~(4)~~ or fewer lots, unless required by an adopted specific plan or overlay district, planned development, or other code section;

(5) Landscaping of single-family lots;

(6) Street improvement projects and below-ground public facilities constructed by the city as part of the capital improvement program.

(b) Exceptions. City staff shall review all other non-exempt projects for conformance with applicable design guidelines as noted below. Minor projects where the proposed work may have a significant effect on the surroundings may be agendized for review by the planning commission.

(1) Minor exterior changes in overlay zones;

(2) Minor exterior revisions to commercial, industrial, or multifamily residential projects, including, **but not limited to** parking lot changes **not involving a reduction in parking spaces**, minor accessory structures, additions of in-wall ATMs, trash enclosures, or additions of minor components for which there are previously approved guidelines, such as above-ground storage tanks, vapor recovery tanks, security gates/fencing, or outdoor dining areas of **three hundred(300)** square feet or less;

(3) Minor public facilities such as accessory park structures, pump stations, ADA improvements, and bicycle trails, ~~etc.~~;

(4) Production homes in subdivisions of five ~~(5)~~ lots or more;

(5) Proposed signs pursuant to Article 66, Sign Ordinance;

(6) Repainting of existing structures in any new color palette where building colors were part of a discretionary action.

(7) Minor architectural or site modifications to industrial, commercial, and multifamily residential developments that were approved through a public hearing, if the modifications are in substantial conformance with the original approval. Modifications found not to be in substantial conformance may be agendized for review before the decision-making body that approved the original development.

ARTICLE 65. OLD ESCONDIDO NEIGHBORHOOD

Sec. 33-1372. Permitted principal uses and structures.

The following principal uses and structures are permitted in the Old Escondido Neighborhood:

Use No.	Use Title
1111	Single-family dwellings, detached, including licensed residential care facilities for six (6) or fewer persons
6815	Small and large family day care centers homes as defined in section 33-8 of this code. (7—12 children)

ARTICLE 65. OLD ESCONDIDO NEIGHBORHOOD**Sec. 33-1374. Conditional uses.**

(a) The following uses are permitted anywhere within the neighborhood/district if a conditional use permit has first been issued and subject to the terms thereof.

Use No.	Use Title
1400	Mobilehome parks conforming to the provisions of this article
1591	Bed and breakfast facilities, conforming to Article 32 (except no signs shall be allowed, no variance to parking requirements granted and size shall be limited to four 4 rooms with no exception)
4710	Communications (excluding 4718—offices, 4712—relay towers, microwave or others)
4753	Satellite dish antennas pursuant to Article 34 of this chapter
4833	Water storage as part of a utility water system (uncovered)
6810	Nursery, primary and secondary education (use of existing buildings only)
6910	Religious activities
6941	Social clubs
6942	Fraternal associations and lodges
6944	Youth organizations subject to criteria of section 33-1105
6952	Civic associations

(b) The following conditional uses are permitted in existing buildings within the Old Escondido Neighborhood on the south side of Fifth Avenue between South Escondido Boulevard and Juniper.

Use No.	Use Title
6520	Legal services
6530	Engineering, architectural, and planning services
6591	Accounting, auditing, bookkeeping services, income tax services, notary public
6592	Interior decorating consulting services
6611	Building contractors (includes residential, commercial, and industrial) with no storage of vehicles, equipment, or materials, etc.

(c) No new structures shall be permitted for any conditional uses. All signs **must shall** conform to section 33-1379 of this article. Any use or structure permitted or conditionally permitted by this zone and involving hazardous materials is subject to the conditional use permit requirements of Article 30 of this chapter.

(d) The **zoning administrator or** planning commission shall evaluate all conditional use permits against the criteria set forth in Article 61 of the **his zoning code chapter**. In addition, those conditional use permits pursuant to section 33-1374(b) shall be subject to the following:

- (1) Hours of operation shall be from 7:~~00~~ a.m. to 11:~~00~~ p.m.
- (2) Adaptive reuse shall conform to design guidelines for historic resources. Every project for adaptive reuse will be subject to design review to assess appropriateness of the proposed use and any proposed changes in relation to the area, the building, and the site.

- (3) Parking for employees shall be provided on site at a ratio of one ~~(1)~~ parking space per ~~three hundred (300)~~ square feet of the office area. Curbside parking with a two-~~(2)~~ hour limit ~~will~~ shall be provided for customer parking. The city will provide parking stickers for residents.
- (4) Noise and lighting standards shall be the same as for residential areas.
- (5) Signs shall conform to section 33-1379 of this article.

ARTICLE 66. SIGN ORDINANCE

Sec. 33-1395. Sign standards—General.

All permanent freestanding signs shall not obstruct the vehicle sight distance area at the intersections and driveways to the satisfaction of the engineering department. **Freestanding signs shall not be placed within easements or over utility lines, except with the prior written approval of all easement holders. Any site plans submitted in conjunction with a sign permit application for a freestanding sign shall identify the location of easements or public or private utilities within 50 feet of the proposed sign location.** On sites where the existing street is not constructed to the full designated width, signs shall be located behind the ultimate property line unless otherwise approved by the planning division and the engineering department with an agreement for future removal or relocation. In addition, all permanent freestanding signs shall incorporate the numerical address, or range of addresses, of the parcel or commercial center at which the sign is located. The area of the address shall not be counted in the area of the signs. All illuminated signs shall be equipped with automatic timing devices so that the lighting is turned off between the hours of 11:~~00~~ p.m. and sunrise, unless exempt pursuant to Article ~~325~~, Outdoor Lighting.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1410. Purpose.

~~—The purpose of the ordinance codified in this article is to adopt an implementing mechanism that provides housing opportunities for lower-income households, and/or housing for seniors, transitional foster youth, disabled veterans, and/or homeless persons (hereinafter collectively referred to as target households) throughout the city as required by Government Code Section 65915-65918 (“State Density Bonus Law”). The article specifies how compliance with State Density Bonus Law will be implemented as required by Government Code Section 65915(a). If any portion of this article conflicts with State Density Bonus Law or other applicable state law, state law shall supersede this article. Any ambiguities shall be interpreted to be consistent with state law. (Ord. No. 92-19, § 1, 4-22-92; Ord. No. 94-38, § 1, 12-7-94; Ord. No. 2017-05, § 7, 5-24-17)~~

Sec. 33-1411. Definitions.

~~—The definitions found in State Density Bonus Law shall apply to the terms contained in this section and as used in this chapter, unless the context otherwise requires:~~

~~—Affordable housing costs are defined in Section 65915(c) of the Government Code.~~

~~—Child care facility means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing~~

~~requirements for the facility. "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.~~

~~— *Concession(s) or incentive(s)* is at least one (1) additional incentive, identified in section 33-1415 of this article as described in Section 65915(k).~~

~~— *Density bonus* is defined by the State of California Government Code Section 65915(f) and/or 65915.5.~~

~~— *Developer* means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals.~~

~~— *Development standard* includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.~~

~~— *Equivalent financial value* refers to the cost to the developer based on the land cost per dwelling unit. This is determined by the difference in the value of the land with and without the density bonus.~~

~~— *Feasibility or feasible* refers to whether a proposed project can provide affordable housing costs without concession(s) or incentive(s).~~

~~— *Household* includes all persons permanently living in the home, including those temporarily absent. Examples of temporary absence include absent members away at school, or on a visit, vacation, trip in connection with work, active duty in the armed service, or absence of a similar nature.~~

~~— *Housing costs for renters* includes rent and utilities except cable and telephone, and for owners includes mortgage (principal and interest), taxes, insurance, homeowners association fees and utilities except cable and telephone.~~

~~— *Housing developments or housing development project*, as used in this section, means a development project for five (5) or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling,~~

~~as defined in Government Code Section 65863.4(d), where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one (1) development application, but do not have to be based upon individual subdivision maps or parcels.~~

~~— *Low- and very low-income households* are households which fall within the income limits published by the Department of Housing and Community Development (HCD) pursuant to Health and Safety Code Sections 50079.5 and 50105, respectively, as they may be amended~~

~~from time to time. Very low-income and low-income households (hereinafter collectively referred to as lower income households) are currently defined as earning at or below eighty (80) percent of the area median income adjusted for household size. Very low-income households are currently defined as those earning at or below fifty (50) percent of the area median income adjusted for household size.~~

~~— *Maximum permitted density or allowable residential density* is the maximum allowable residential density under the applicable zoning ordinance and General Plan Land Use Element, applicable to the project, as of the date of the developer's application. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the General Plan Land Use Element, the General Plan density shall prevail. The maximum permitted density is the base density from which the density bonus is calculated.~~

~~— *Monthly gross income* means moneys derived from all sources except gifts to any household member, and income of minors.~~

~~— *Senior citizen housing development* means a housing development consistent with the California Fair Employment and Housing Act (Government Code Section 12900 et seq., including 12955.9 in particular), California Civil Code Sections 51.3 and 51.12; which has been designed to meet the physical and social needs of senior households and which otherwise qualifies as housing for older persons as that phrase is used in the Federal Fair Housing Amendments Act of 1988 (P.L. 100-430; 42 USC Section 3607) and implementing regulations, and as that phrase is used in California Civil Code Section 51.2. Senior citizen housing development also means a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.~~

~~— *Specific, adverse impact* means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.~~

~~— *Target households* for density bonus projects benefit very low-income, low-income, moderate-income, senior households, as well as transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the Federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Section 11301 et seq.).~~

~~— *Target units* are the restricted dwelling units established through the application of this article which are occupied by target households. (Ord. No. 92-19, § 1, 4-22-92; Ord. No. 94-38, § 1, 12-7-94; Ord. No. 2017-05, § 7, 5-24-17)~~

~~**Sec. 33-1412. Implementation.**~~

~~— (a) Any developer requesting a density bonus and any incentive(s), waiver(s), or parking reductions provided by State Density Bonus Law shall submit a density bonus report as described below. The density bonus report shall not exceed the reasonable documentation standards of state law. The requests contained in the density bonus report shall be processed concurrently with the planning application for the first permit required for the housing development and shall include the following information:~~

~~—(1) A summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.~~

~~—(2) A description of all dwelling units existing on the site in the five (5) year period preceding the date of submittal of the application and identification of any units rented in the five (5) year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units. If any dwelling units on the site were rented in the five (5) year period, but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.~~

~~—(3) A description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low- or low-income households in the five (5) year period preceding the date of submittal of the application.~~

~~—(4) If a density bonus is requested for a land donation, the density bonus report shall include: the location of the land to be dedicated; proof of site control; and information that each of the requirements included in Government Code Section 65915(g) can be met.~~

~~—(5) If a density bonus is requested under a joint commercial and housing partnership as described by State Density Bonus Law, the density bonus report shall include: the agreement between the commercial developer and the housing developer for a partnered, affordable housing project in compliance with Government Code Section 65915.7; and information that shows that all of the requirements included in Government Code Section 65915.7 can be met.~~

~~—(6) If a density bonus is requested and a developer proposes concessions or incentives pursuant to State Density Bonus Law, the density bonus report shall include: a summary table showing the usual development standard(s) and the requested development standard(s) or regulatory incentive(s); information to show that the request results in identifiable and actual costs reductions to provide affordable housing costs to target households; and information that shows that all of the requirements included in Government Code Section 65915(k) can be met.~~

~~—(7) If approval of a mixed use zoning is proposed, provide information that non-residential land uses will reduce the cost of the housing development, that the non-residential land uses are compatible with the housing development, and that mixed use zoning will provide for affordable rents or affordable sales prices.~~

~~—(8) If a density bonus application proposes waivers of development standards pursuant to State Density Bonus Law, the density bonus report shall include: a summary table showing the usual development standard(s) and the requested development standard(s); information that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by Government Code Section 65915; and information that shows all of the requirements included in Government Code Section 65915(e) can be met.~~

~~— (9) If a density bonus application proposes a parking reduction pursuant to State Density Bonus Law, a table showing parking required by the zoning regulations and parking proposed under Government Code Section 65915(p).~~

~~— (10) If a density bonus or incentive is requested for a child care facility pursuant to State Density Bonus Law, information that shows that all of the requirements included in Government Code Section 65915(h) can be met.~~

~~— (11) If a density bonus or incentive is requested for a condominium conversion, information that shows that all of the requirements included in Government Code Section 65915.5 can be met.~~

~~— (b) For projects proposing a density bonus:~~

~~— (1) The city shall grant, according to Government Code Section 65915, a density bonus and/or concession(s) or incentive(s), waiver(s) or reductions of development standards and parking ratios, or financially equivalent incentive(s) as required by State Density Bonus Law. Each housing development is entitled to only one (1) density bonus. If a housing development qualifies for more than one (1) density bonus based on the number of target units provided, or as otherwise granted under State Density Bonus Law, the developer shall select the category under which the density bonus is granted and may not combine bonus density calculations.~~

~~— (2) In order to qualify for this bonus, a housing development must consist of five (5) or more dwelling units, including mixed use developments, except those housing developments located within the South Centre City Specific Plan, may consist of three (3) dwelling units to qualify for this bonus. In determining the total number of units to be granted, a developer for a housing development must seek and agree to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this article, that will contain at least any one (1) of the following target households:~~

~~— (A) At least ten (10) percent of the total units allowed by the maximum permitted density at affordable housing costs for and occupied by low-income households; and/or~~

~~— (B) At least five (5) percent of the total units allowed by the maximum permitted density at affordable housing costs for and occupied by very low-income households; or~~

~~— (C) At least ten (10) percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase; or~~

~~— (D) At least ten (10) percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Section 11301 et seq.); or~~

~~— (E) Twenty (20) percent of the total units for lower income students in a student housing development that meets the following requirements:~~

~~— (i) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the~~

~~Accrediting Commission for Community and Junior Colleges. In order to be eligible, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the director that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this section is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.~~

~~—(ii) The applicable twenty (20) percent units will be used for lower income students. For purposes of this clause, "lower income students" means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in Section 69432.7(k) of the Education Code. The rent provided in the applicable units of the development for lower income students shall be calculated at thirty (30) percent of sixty-five (65) percent of the area median income for a single-room occupancy unit type.~~

~~—(F) One hundred (100) percent of the total units, exclusive of a manager's unit or units, are for lower income households, except that up to twenty (20) percent of the total units in the development may be for moderate-income households. The rent for at least twenty (20) percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code. The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.~~

~~—(G) The project proposes to convert apartments to a condominium project agrees to provide at least fifteen (15) percent of the total units of the proposed condominium project to very low-income households, or at least thirty-three (33) percent of the total units of the proposed condominium project to low-income households, at least thirty-three (33) percent of the total units for moderate-income as defined in Section 50093 of the Health and Safety Code; or~~

~~—(H) The project is a senior citizen housing development; or~~

~~—(I) The project donates at least one (1) acre of land to the city in compliance with Government Code Section 65915(g) and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing; or~~

~~—(J) The project is the result of a bona fide joint commercial and housing partnership, where the housing developer provides at least fifteen (15) percent of the total units for very low-income households or at least thirty (30) percent of the total units for low-income households.~~

~~—(3) To be eligible for a density bonus or residential incentives, the developer must sign a binding agreement with the city, which sets forth the conditions and guidelines to be met in the implementation of Density Bonus Law requirements and/or any other applicable requirements. The agreement will also establish specific compliance standards~~

~~and remedies available to the city upon failure by the developer to restrict units to target households for the prescribed time period.~~

~~— (A) All such agreement(s) shall be binding on the developers, their heirs, transferees, assigns, successors, administrators, executors and other representatives and recorded on the deed for the requisite time period.~~

~~— (B) The developer agrees not to sell, transfer or otherwise dispose of the project, or any portion thereof, without obtaining the prior written consent of the director of community development. Such consent shall be given upon receipt by the developer of reasonable evidence satisfactory to the director of community development that the purchaser, or other transferee, has assumed, in writing and in full, the city's requirements and obligations in the agreement. The consent of the director of community development shall not be unreasonably withheld or delayed.~~

~~— (4) The amount of the density bonus is set on a sliding scale, based upon the percentage of affordable units at each income level, in the threshold amounts shown in State Density Bonus Law.~~

~~— (5) All density calculations must be "rounded up," including the base density, the number of bonus units, and the number of affordable units required to be eligible for a density bonus.~~

Figure 33.1412.1. Density Bonus Calculation

Project Example

~~— The density bonus units are not included when determining the number of required target units relative to the total project units. When calculating the total number of units to be granted and required target units, each component of any density calculation, including base density and bonus density, fractions are always rounded up to the next whole number.~~

Maximum permitted density	18 du/ac
Property size	4 acres
Number of units at maximum permitted density	72 units
Units affordable to target households (20% for low-income HHs) [72 x .20 = 14.4]; round up	15 units
Density bonus units (@ 35%)	25.2 units; rounded up to 26 units
Total project units with 35% density bonus:	72 base units
	+ 26 density bonus units
	98 total units
	(83 units @ market rate, 15 units with restricted rents)

~~— (c) For projects not proposing a density bonus:~~

~~— (1) The city shall grant concessions or incentives as detailed in section 33-1415 of this article.~~

~~— (2) In order to qualify for the listed concessions or incentives, a housing development must consist of five (5) or more dwelling units, except those housing developments located within the South Centre City Specific Plan may consist of three (3) dwelling units to qualify for the concessions or incentives. All housing developers requesting incentives must meet the criteria listed in section 33-1412(b).~~

~~— (d) In accordance with Government Code Section 65915.7, the city shall grant a development bonus to a commercial development where the developer has entered into a contract with a housing developer to construct a housing project of any size where either thirty (30) percent of the units are designated for low-income households or fifteen (15) percent of the units are designated for very low-income households. (Government Code Section 65915.7.) The housing must either be part of the commercial development or within one-half (1/2) mile of a major transit stop. The affordable housing developer may also request a density bonus and all other incentives available under the Density Bonus Statute for the housing development. Under this provision, the city must approve the contract between the commercial developer and the housing developer, and the development bonus must be mutually agreed upon by the city and the commercial developer. (Ord. No. 92-19, § 1, 4-22-92; Ord. No. 94-38, § 1, 12-7-94; Ord. No. 2017-05, § 7, 5-24-17; Ord. No. 2019-10, § 7, 8-21-19; Ord. No. 2020-07, § 6, 5-6-20)~~

~~Sec. 33-1413. Preliminary application review procedure.~~

~~— (a) In order to apply for a density bonus or residential incentives, the developer shall first submit to the planning division a written proposal for a project.~~

~~— (b) The written proposal shall consist of density bonus report as described under section 33-1412(a) and adequate information to reliably estimate the project cost per unit of the proposed development. This shall include, but not be limited to, the project location; total number of units by bedroom size; standards for maximum qualifying household incomes; proposed market and restricted housing costs; party/process responsibility for certifying target household income; how vacancies for restricted units will be marketed and filled; number of units by bedroom size for each target household category; density increase requested and concessions/incentives, waivers, or financially equivalent incentives sought; and such other information as is required by the city.~~

~~— (c) The planning division within thirty (30) days of receipt of a written proposal, notify the developer in writing of the manner in which the city will comply with State Density Bonus Law and all other applicable local, state, and federal laws; and whether the preliminary application consists of all requisite submittal requirements and/or satisfies the intent of State Density Bonus Law. (Ord. No. 92-19, § 1, 4-22-92; Ord. No. 94-38, § 1, 12-7-94; Ord. No. 2017-05, § 7, 5-24-17)~~

Sec. 33-1414. Project application procedure.

~~— (a) Density Bonus Projects. After notification to the applicant regarding the city's determination on the preliminary application review and/or granting additional concessions or incentives, or waiver of development standard(s), the applicant may submit the development application, which shall be subject to a separate permit. The proposal shall be submitted in conjunction with a subdivision map, conditional use permit application, plot plan, or planned development application. All appropriate requirements shall be delivered to the planning division in order for the application to be deemed complete. Not later than thirty (30) calendar days after the city has received the planning application, the planning division shall notify the developer in writing whether the application is complete as required by Government Code Section 65943.~~

~~— At time of application, a notice shall be posted on the project site detailing a general description of the proposal in conformance with section 33-1300 of this chapter.~~

~~— (b) Non-Density Bonus Residential Incentive Projects. After notification to the applicant regarding the city's determination on the preliminary application review and/or granting additional concessions or incentives, or waiver of development standard(s), the applicant may submit the development application which shall be subject to a separate administrative permit including all necessary information and fees to notice all properties within a five hundred (500) foot radius of the project boundaries, as well as appropriate fees should the project be appealed. All appropriate submittal requirements shall be delivered to the planning division in order for the application to be deemed complete. Not later than thirty (30) calendar days after the city has received the planning application, the planning division shall notify the developer in writing whether the application is complete as required by Government Code Section 65943.~~

~~— At time of application, a notice shall be posted on the project site detailing a general description of the proposal in conformance with section 33-1300 of this chapter.~~

~~— (c) In conjunction with the project application, the developer shall agree to execute a density bonus or residential incentive agreement, in such form as shall be established by the director of community development.~~

~~— (d) The planning application shall be processed, reviewed, and considered in accordance with the Government Code Section 65940 et seq. All requests for density bonus, concessions or incentives, parking reductions, and/or waivers shall be considered and acted upon by the approval body with authority to approve the housing development, with right to appeal as described in Division 6 of Article 61.~~

~~— (1) The staff report presented to the decision-making body shall state whether the planning application conforms to the requirements of State Density Bonus Law.~~

~~— (2) The decision-making body shall grant the concession or incentive requested by the applicant unless it makes a written finding, based on substantial evidence, of any of the following:~~

~~— (A) The concession or incentive is not required to provide for affordable housing costs;~~

~~—(B) The concession or incentive would have a specific, adverse impact on the public health, safety or physical environment and that there is no feasible mitigation;~~

~~—(C) The concession or incentive would violate state or federal law; and/or~~

~~—(D) The concession or incentive would have an adverse impact on any real property listed in a local, state, or Federal Register of Historic Resources.~~

~~—(3) The decision-making body shall grant the waiver of development standard(s) requested by the applicant unless it makes a written finding, based on substantial evidence, of any of the following:~~

~~—(A) The waiver is not required to provide for affordable housing costs;~~

~~—(B) The waiver would have a specific, adverse impact on the public health, safety or physical environment and that there is no feasible mitigation;~~

~~—(C) The waiver would violate state or federal law; and/or~~

~~—(D) The waiver would have an adverse impact on any real property listed in a local, state, or Federal Register of Historic Resources.~~

~~—(e) Nothing in this section shall be construed to require the city to approve a proposal to convert apartments into condominiums. (Ord. No. 92-19, § 1, 4-22-92; Ord. No. 94-38, § 1, 12-7-94; Ord. No. 2017-05, § 7, 5-24-17; Ord. No. 2019-10, § 7, 8-21-19; Ord. No. 2020-07, § 6, 5-6-20)~~

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~~Sec. 33-1415. Concessions, incentives, equivalent financial incentives.~~

~~—(a) In addition to the density bonus, the city shall also provide one (1) or more “incentives” or “concessions” to each housing development project, which qualifies for a density bonus.~~

~~—(1) A concession or incentive is defined as a reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements; or approval of mixed use zoning; or other regulatory incentives or concessions which actually result in identifiable and financially sufficient cost reductions.~~

~~—(2) The number of required incentives or concessions is based on the percentage of affordable units in the housing development project:~~

~~—(A) One (1) incentive or concession for projects that include at least five (5) percent of the total units for very low-income households, or at least ten (10) percent for low-income households, or at least ten (10) percent for moderate-income households in a common interest development.~~

~~—(B) Two (2) incentives or concessions for projects that include at least ten (10) percent of the total units for very low-income households, at least twenty (20) percent for low-income households, or at least twenty (20) percent for moderate-income households in a common interest development.~~

~~—(C) Three (3) incentives or concessions for projects that include at least fifteen (15) percent of the total units for very low-income households, at least thirty (30) percent for~~

lower income households, or at least thirty (30) percent for moderate-income in a common interest development.

~~— (D) Four (4) incentives or concessions for projects meeting the criteria of section 33-1412(b)(2)(F). If the project is located within one-half mile of a major transit stop, as defined in Section 21155(b) of the Public Resources Code, the applicant shall also receive a height increase of up to three (3) additional stories, or thirty (33) feet.~~

~~— (E) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.~~

~~— (3) A concession or incentive shall also mean approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.~~

~~— (4) Nothing in this section shall be construed as to limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.~~

~~— (5) The granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.~~

~~— (b) The city shall grant the concession or incentive proposed by the developer unless it finds that the proposed concession or incentive is not required in order to achieve the required affordable housing costs or rents, or would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law.~~

~~— (c) A developer shall be ineligible for concessions or incentives when the housing development is proposed on any property that includes rental dwelling units that are, or if the units have been vacated or demolished in the five (5) year period preceding the application, subject to a recorded covenant, ordinance, or law that restricts rents to affordable levels or subject to any other form of rent or price control; or occupied by very low- or low-income households, unless the proposed housing development replaces those units and meeting the requirements of Government Code Section 65915(c)(3).~~

~~— (d) A development qualifying for a density bonus also receives two (2) additional forms of assistance, which the State Legislature has determined to have important benefits for a housing development project. The following additional forms of assistance do not count as an incentive or concession as described herein this section.~~

~~— (1) Waiver or Reduction of Development Standard(s). If any other development standard would physically prevent the project from being built by the developer at the permitted density and with the granted concessions or incentives permitted by State Density Bonus Law, the developer may propose to have those standards waived or reduced. The city is not required to waive or reduce development standards that that would cause a public health or safety problem, cause an environmental problem, harm a historical building, or would be contrary to law.~~

~~—(2) Parking Requirements. Upon the developer's request, the city or county may not require more than one (1) on-site parking space for studio and one-bedroom units, two (2) on-site parking spaces for two- and three-bedroom units, two and one-half (2-1/2) on-site parking spaces for units with four (4) or more bedrooms, and other on-site parking requirement reductions identified by Government Code Section 65915(k). On-site spaces may be provided through tandem or uncovered parking, but not on-street parking.~~

~~—(A) If a development includes the maximum percentage of low-income or very low-income units provided for in paragraphs (1) and (2) of Government Code Section 65915(f) and is located within one-half mile of a major transit stop, as defined in Public Resources Code Section 21155(b), and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, the city shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.~~

~~—(B) If a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:~~

~~—(i) If the development is located within one-half mile of a major transit stop, as defined Public Resources Code Section 21155(b), and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.~~

~~—(ii) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half (1/2) mile, to fixed bus route service that operates at least eight (8) times per day.~~

~~—(C) If a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, the city shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half (1/2) mile, to fixed bus route service that operates at least eight (8) times per day. (Ord. No. 2020-07, § 6, 5-6-20)~~

~~Sec. 33-1416. Requirements for participation.~~

~~—(a) In order for a developer to participate in the program and be eligible for the density bonus and additional concessions, incentives or financially equivalent incentives, or residential incentives, the following requirements must be met:~~

~~—(1) The developer/property owner shall restrict target units for the prescribed time period, the number of units by bedroom size which are designated for target households,~~

~~unless transferred through a land donation as described in this article. A unit shall be counted toward meeting this requirement if it is either vacant and held out for rent/sale at affordable housing costs to low- or moderate-income households or occupied by a senior household or other target household as defined by this article. Priority shall be given to target households that do not receive other housing subsidies.~~

~~— (A) The units described in this section shall be subject to a recorded affordability restriction of fifty-five (55) years.~~

~~— (B) The target units must be compatible in floor plan, furnishings and exterior design to non-target units. The exterior appearance, interior finishes, and resident amenities shall be comparable to the market-rate units in the same housing development. Further, the target units must be reasonably dispersed throughout the development.~~

~~— (C) If the development proposes a phased building plan, a proportionate share of target units shall be constructed in each phase. Otherwise, the city shall not issue building permits for more than fifty (50) percent of the market-rate units until it has issued building permits for all of the target units, and the city shall not approve any final inspections or certificates of occupancy for more than fifty (50) percent of the market rate units until it has issued certificates of occupancy for all of the affordable units.~~

~~— (D) The number of bedrooms shall at least equal the minimum number of bedrooms of the market-rate units. For non-senior projects involving five (5) to nine (9) units, or three (3) to nine (9) units in the South Centre City Specific Plan, exclusive of the target units, and which receive incentives in addition to the minimum required by State Density Bonus Law, all target units shall be two (2) bedrooms or larger in size.~~

~~— For non-senior projects involving ten (10) or more units (exclusive of the target units), and which receive incentives in addition to the minimum required by State Density Bonus Law, at least thirty-three (33) percent of the target units shall be three (3) bedrooms or larger, or a ratio deemed acceptable by the city upon administrative approval by the director of community development.~~

~~— (E) Rental Rates. For very low-income or low-income target units, the affordable housing cost to comply with the law is determined by a formula based on the household income levels and number of members in the household established by applicable state law.~~

~~— (F) Sales Price. Target units for sale must be affordable to very low-, low-, or moderate-income households, as defined by income limits established by the State Department of Housing and Community Development (HCD), pursuant to Health and Safety Code Sections 50079.5 and 50105, respectively, as they may be amended from time to time.~~

~~— (G) Prequalification. All target households must be prequalified by the developer or its designee prior to moving into a target unit by process mandated by city. The prequalification process for target households shall certify the income level of the prospective tenant household, and advise household of affordable housing costs, if applicable. These standards will be made available to the applicant by the city. The property owner shall not charge the applicant for the initial prequalification review. If, after performing the necessary verification, the tenant qualifies as very low-, low-, or moderate-income, the city shall issue a certificate to the applicant and the property owner verifying the income level and eligibility to rent or own the unit.~~

~~—(H) Reporting. Each May the developer or designee must provide the housing division, an accounting of the previous calendar year, including:~~

~~—(i) Total units occupied for any part of the previous year by bedroom size;~~

~~—(ii) Total units vacant for any part of the previous year by bedroom size;~~

~~—(iii) Total units occupied by target households by bedroom size; and~~

~~—(iv) For each very low-, low-, and moderate-income target unit, the total monthly housing costs (advertised or paid); or~~

~~—(v) Any other pertinent information deemed appropriate by the city upon approval of the project.~~

~~—(I) Increases in Tenant Income. Rental housing qualifies as affordable housing despite a temporary noncompliance with subsection (E) of this section, if the noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the city are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.~~

~~—(J) Default. Default by the property owner is unlawful and is a misdemeanor. Each unit shall be considered a separate violation. Such violation shall be punishable by a fine, not exceeding one thousand dollars (\$1,000.00), or by imprisonment in the County Jail for a period not exceeding six (6) months, or both. In addition, the city shall have the right to prohibit the property owner from leasing any non-target unit which becomes vacant until the owner remedies the default. Until the default is remedied, no such unit shall thereafter be rented until the property owner presents evidence to the housing division that the prospective tenant qualifies as a target household, as required. Additionally, the average monthly default units shown on the audit report for the previous year shall be added to the units to be set aside during the next succeeding reporting period, if applicable.~~

~~—(2) For planning applications using a density bonus to “replace” rental units that currently exist or existed in the past five (5) years, or have been vacated or demolished within the five (5) year period preceding the application, the city shall review the planning application in accordance with “replacement” requirements listed in Government Code Section 65915(c).~~

~~—(b) Where there is a direct financial contribution to a housing development pursuant to Government Code Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city shall assure continued availability for very low-, low-, or moderate-income units for thirty (30) years. When appropriate, the agreement provided for in Government Code Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.~~

~~—(c) When a developer submits a planning application for approval of a commercial development and has entered into an agreement for partnered housing described in Government Code Section 65915.7 to contribute affordable housing through a joint project or two (2) separate projects encompassing affordable housing, the city shall review the planning application in accordance with requirements listed in Government Code Section 65915.7 to determine the requirements for participation.~~

~~—(d) When a developer submits a planning application that provides child care are eligible for a separate density bonus equal to the size of the child care facility, the child~~

~~care facility must remain in operation for at least the length of the affordability covenants. A percentage of the child care spaces must also be made available to low- and moderate-income families. The city shall review the planning application in accordance with requirements listed in Government Code Section 65917.5 to determine the requirements for participation. (Ord. No. 92-19, § 1, 4-22-92; Ord. No. 94-38, § 1, 12-7-94; Ord. No. 2017-05, § 7, 5-24-17; Ord. No. 2019-10, § 7, 8-21-19)~~

~~Secs. 33-1417—33-1429. Reserved.~~

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1410. Purpose.

The purpose of this article is to specify how the City will implement State Density Bonus Law (Government Code sections 65915–65918) (“State Density Bonus Law”), as required by Government Code section 65915(a).

This article is intended to materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for very low income, lower income, and senior households, as well as transitional foster youth, disabled veterans, and homeless persons, throughout the City. It is intended that this article facilitate the development of affordable housing development projects and implement the goals, objectives, and policies of the City of Escondido General Plan Housing Element.

If any provision of this article conflicts with State Density Bonus Law or other applicable state law, such state law shall control. Any ambiguities shall be interpreted to be consistent with state law. Applicable state statutes should be consulted for amendments prior to applying the provisions in this article.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1411. Definitions.

The definitions found in State Density Bonus Law are incorporated herein by this reference as if fully set forth herein and shall apply to the terms used in this article, unless the context requires otherwise and as further clarified in this section:

A. “Affordable housing costs” shall have the same meaning as provided in Health and Safety Code section 50052.5.

B. “Child care facility” shall mean a facility installed, operated, and maintained for the nonresidential care of children as defined under applicable state licensing requirements

for the facility, including but not limited to an infant center, preschool, extended day care facility, and school-age child care center, but not including a family day care home.

C. "Density bonus" shall mean an increase over the otherwise maximum allowable gross residential density as of the date of the application by the applicant to the City, or, if elected by the applicant, a lesser percentage of density increase.

D. "Density bonus units" shall mean those residential units granted pursuant to the provisions of this article that exceed the otherwise maximum residential density or permitted floor area ratio (FAR) for the development site.

E. "Developer" shall mean any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City.

F. "Development standard" shall mean a site or construction condition or requirement that applies to a housing development pursuant to any ordinance, General Plan Element, Master or Specific Plan, or other City requirement, law, policy, resolution, or regulation.

G. "Housing development" shall mean one or more groups of projects for residential units that are the subject of one development application, consisting of the following:

1. The construction of five or more residential units (or three or more units if the housing development is located within the South Centre City Specific Plan);
2. A subdivision or common interest development (commonly known as condominiums) consisting of five or more residential units or unimproved lots; or
3. A project to either substantially rehabilitate and convert an existing commercial building to residential use, or substantially rehabilitate an existing two-family or multiple-family dwelling structure, where the result of rehabilitation would be a net increase in available residential units.

H. "In-lieu incentive" shall mean an incentive offered by the City that is of equivalent financial value based upon the land cost per dwelling unit, and that is offered in lieu of a density bonus.

I. "Incentives or concessions" shall mean such regulatory incentives and concessions as stipulated in Government Code section 65915(k), to include, but not be limited to, the reduction of site development standards or zoning code requirements, approval of mixed use zoning in conjunction with the housing project, or any other regulatory incentive that

would result in identifiable cost reductions to enable the provision of housing for the designated income group or qualifying residents.

J. "Maximum residential density" shall mean the maximum number of residential units permitted on the project site as defined in the zoning ordinance, or the applicable Specific Plan.

K. "Nonrestricted unit" shall mean any unit within the housing development that is not a target unit.

L. "Senior citizen housing" shall have the same meaning as currently defined by Sections 51.3 and 51.12 of the Civil Code and any subsequent amendments or revisions thereto.

M. "Target unit" shall mean a residential unit within a housing development that will be offered for rent or sale exclusively to, and that shall be affordable to, the designated income group or qualifying resident, as required by this article and State Density Bonus Law.

N. "Total units" shall mean the number of dwelling units in a housing development, excluding the dwelling units added by the density bonus.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1412. General applicability.

A. The provisions of this article shall apply to a housing development of at least five units (or at least three units if the housing development is located within the South Centre City Specific Plan) and where the developer seeks and agrees to construct housing units to be restricted for occupancy by very low, lower, or moderate income households; senior citizens; transitional foster youth, disabled veterans, or homeless persons; or students, as further described in this article.

B. *Fractional Units.* When calculating any component of a density calculation pursuant to this article, including calculating a density bonus or the required number of target units, any calculations resulting in fractional units shall be rounded up to the next whole number.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1413. Standard incentives for new residential construction.

A. The decision-making body shall grant one density bonus, as specified in subsection (B) of this section, and/or incentives or concessions, as set forth in section 33-1414, when a developer of a housing development of at least five units (or at least three units if the housing development is located within the South Centre City Specific Plan) seeks and

agrees to construct at least any one of the following. (The density bonus units shall not be included when determining the total number of target units in the housing development.)

1. *Low Income Households.* A minimum of 10% of the total units of the housing development as restricted and affordable to lower income households, as defined in Health and Safety Code section 50079.5.

2. *Very Low Income Households.* A minimum of 5% of the total units of the housing development as restricted and affordable to very low income households, as defined in Health and Safety Code section 50105.

3. *Senior Citizens.* A senior citizen housing development or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code.

4. *Moderate Income Households.* A minimum of 10% of the total units in a common interest development as restricted and affordable to moderate income households, as defined in Health and Safety Code section 50093, provided that all units in the development are offered to the public for purchase.

5. *Transitional Foster Youth, Disabled Veterans, Homeless Persons.* A minimum of 10% of the total units of the housing development as restricted for transitional foster youth, as defined in Education Code section 66025.9; disabled veterans, as defined in Government Code section 18541; or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. section 11301 et seq.).

6. *Students.* A minimum of 20% of the total units for lower income students in a student housing development that meets the following requirements:

(a) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full-time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the City that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(b) The applicable target units will be used for lower income students, which for purposes of this clause shall mean students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in Education Code section 64932.7(k)(1). The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, or by the California Student Aid Commission, that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government.

(c) The rent provided in the target units shall be calculated at 19.5% of the Area Median Income for a single-room occupancy unit type.

(d) The development will provide priority for the target units for lower income students experiencing homelessness. A homeless service provider, as defined in Health and Safety Code section 103577(e)(3), or institution of higher education that has knowledge of a person's homeless status, may verify a student's status as homeless for purposes of this subclause.

(e) For purposes of calculating a density bonus granted pursuant to this subsection, the term "unit" as used in this subsection shall mean one rental bed and its pro rata share of associated common area facilities. The units described in this subsection shall be subject to a recorded affordability restriction of 55 years.

7. 100% of the total units in the development, but exclusive of any manager's unit, are for lower income households, as defined by Health and Safety Code section 50079.5, except that up to 20% of the total units in the development may be for moderate income households, as defined in Health and Safety Code section 50053.

B. Density Bonus. When a developer seeks and agrees to construct a housing development meeting the criteria specified in subsection (A) of this section, the decision-making body shall grant a density bonus subject to the following:

1. The amount of density bonus to which a housing development is entitled shall vary. The density bonus may be increased according to the percentage of affordable housing units provided above the minimum percentages established in subsection (A) of this section, but shall not exceed 35%, except in accordance with subsection (D) of this section or as otherwise authorized by State Density Bonus Law.

(a) Low Income Households. For housing developments meeting the criteria of subsection (A)(1) of this section, the density bonus shall be calculated as follows:

Table A
Density Bonus for Housing Developments with Units Affordable to Low Income Households

<u>Percentage (%) of Low Income Units (Minimum 10% required)</u>	<u>Percentage (%) of Density Bonus to Be Granted (Additional 1.5% bonus for each 1% increase above the 10% minimum)</u>
<u>10</u>	<u>20</u>
<u>10</u>	<u>20</u>
<u>11</u>	<u>21.5</u>
<u>12</u>	<u>23</u>
<u>13</u>	<u>24.5</u>
<u>14</u>	<u>26</u>
<u>15</u>	<u>27.5</u>
<u>16</u>	<u>29</u>
<u>17</u>	<u>30.5</u>
<u>18</u>	<u>32</u>
<u>19</u>	<u>33.5</u>
<u>20</u>	<u>35</u>
<u>21</u>	<u>38.75</u>
<u>22</u>	<u>42.5</u>
<u>23</u>	<u>46.25</u>
<u>24</u>	<u>50</u>

b. Very Low Income Households. For housing developments meeting the criteria of subsection (A)(2) of this section, the density bonus shall be calculated as follows:

Table B

Density Bonus for Housing Developments with Units Affordable to Very Low Income Households

<u>Percentage (%) of Very Low Income Units (Minimum 5% required)</u>	<u>Percentage (%) of Density Bonus to Be Granted (Additional 2.5% bonus for each 1% increase above the 5% minimum)</u>
<u>5</u>	<u>20</u>
<u>6</u>	<u>22.5</u>
<u>7</u>	<u>25</u>
<u>8</u>	<u>27.5</u>
<u>9</u>	<u>30</u>
<u>10</u>	<u>32.5</u>
<u>11</u>	<u>35</u>
<u>12</u>	<u>38.75</u>
<u>13</u>	<u>42.5</u>
<u>14</u>	<u>46.25</u>
<u>15</u>	<u>50</u>

c. Senior Citizens. For housing developments meeting the criteria of subsection (A)(3) of this section, the density bonus shall be 20% of the number of senior housing units.

d. Moderate Income Households in a Common Interest Development. For housing developments meeting the criteria of subsection (A)(4) of this section, the density bonus shall be calculated as follows:

Table C
Density Bonus for Common Interest Developments with Units Affordable to
Moderate Income Households

<u>Percentage (%) of Moderate Income Units (Minimum 10% required)</u>	<u>Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)</u>
<u>10</u>	<u>5</u>
<u>11</u>	<u>6</u>
<u>12</u>	<u>7</u>
<u>13</u>	<u>8</u>
<u>14</u>	<u>9</u>
<u>15</u>	<u>10</u>
<u>16</u>	<u>11</u>
<u>17</u>	<u>12</u>
<u>18</u>	<u>13</u>
<u>19</u>	<u>14</u>
<u>20</u>	<u>15</u>
<u>21</u>	<u>16</u>
<u>22</u>	<u>17</u>
<u>23</u>	<u>18</u>

Attachment "2"

<u>Percentage (%) of Moderate Income Units (Minimum 10% required)</u>	<u>Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)</u>
<u>24</u>	<u>19</u>
<u>25</u>	<u>20</u>
<u>26</u>	<u>21</u>
<u>27</u>	<u>22</u>
<u>28</u>	<u>23</u>
<u>29</u>	<u>24</u>
<u>30</u>	<u>25</u>
<u>31</u>	<u>26</u>
<u>32</u>	<u>27</u>
<u>33</u>	<u>28</u>
<u>34</u>	<u>29</u>
<u>35</u>	<u>30</u>
<u>36</u>	<u>31</u>
<u>37</u>	<u>32</u>
<u>38</u>	<u>33</u>
<u>39</u>	<u>34</u>
<u>40</u>	<u>35</u>
<u>41</u>	<u>38.75</u>
<u>42</u>	<u>42.5</u>

<u>Percentage (%) of Moderate Income Units (Minimum 10% required)</u>	<u>Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)</u>
<u>43</u>	<u>46.25</u>
<u>44</u>	<u>50</u>

e. Transitional Foster Youth, Disabled Veterans, Homeless Persons. For housing developments meeting the criteria of subsection (A)(5) of this section, the density bonus shall be 20% of the number of the type of units giving rise to a density bonus under that subsection.

f. Students. For housing developments meeting the criteria of subsection (A)(6) of this section, the density bonus shall be 35% of the student housing units.

g. 100% Affordable Projects. For housing developments meeting the criteria of subsection (A)(7) of this section, the density bonus shall be 80% of the number of units for lower income households. If the housing development is located within 1/2 mile of a major transit stop, the City shall not impose any maximum controls on density.

C. Density Bonus in Excess of 35%. In cases where a developer requests a density bonus in excess of that which is specified in this section, the City Council may grant, at its discretion, the requested density bonus, subject to the following:

1. The project meets the requirements of this article and State Density Bonus Law.
2. The requested density increase, if granted, is an additional density bonus and shall be considered an incentive.
3. The City Council may require some portion of the additional density bonus units to be designated as target units, at its discretion.

D. Granting a Lower Density Bonus. A qualified developer for a density bonus and/or additional incentives and concessions pursuant to subsection (A) of this section may request and accept a lesser density bonus, including no increase in density, and shall still be entitled to those additional concessions or incentives as specified in 33-1415. No reduction will be allowed in the number of target units required.

E. Land Donation. When a developer for a tentative subdivision map, parcel map, or other housing development approval donates land to the City to provide a minimum of 10% of the total units for a future housing development, as provided for in this subsection, the developer shall be entitled to a density bonus for the entire development, as follows:

Table D
Density Bonus for Land Donation

<u>Percentage (%) of Very Low Income Units (Minimum 10% required)</u>	<u>Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)</u>
<u>10</u>	<u>15</u>
<u>11</u>	<u>16</u>
<u>12</u>	<u>17</u>
<u>13</u>	<u>18</u>
<u>14</u>	<u>19</u>
<u>15</u>	<u>20</u>
<u>16</u>	<u>21</u>
<u>17</u>	<u>22</u>
<u>18</u>	<u>23</u>
<u>19</u>	<u>24</u>
<u>20</u>	<u>25</u>
<u>21</u>	<u>26</u>
<u>22</u>	<u>27</u>
<u>23</u>	<u>28</u>

<u>Percentage (%) of Very Low Income Units (Minimum 10% required)</u>	<u>Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)</u>
<u>24</u>	<u>29</u>
<u>25</u>	<u>30</u>
<u>26</u>	<u>31</u>
<u>27</u>	<u>32</u>
<u>28</u>	<u>33</u>
<u>29</u>	<u>34</u>
<u>30</u>	<u>35</u>

1. Additional Density Bonus. The density bonus stated in Table D shall be in addition to any increase mandated by subsection (A) of this section. The maximum combined density bonus of the mandated and the additional increase shall not exceed 35%. A developer shall be eligible for the density bonus described in this subsection (E) only if all of the following conditions are met:

a. Date of Donations/Transfer. The land is donated and transferred to the City no later than the date of approval of the final subdivision map, parcel map, or housing development application.

b. Feasibility of Development. The developable acreage, development standards, zoning classification, and General Plan land use designation of the land being donated are sufficient to permit construction of the units affordable to very low income households in an amount not less than 10% of the number of residential units of the proposed development.

c. Size of Land. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate zoning classification and General Plan land use designation, and is or will be served by adequate public facilities and infrastructure.

d. *Discretionary Approvals.* No later than the date of approval of the final subdivision map, parcel map, or housing development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by California Government Code section 65583.2(i) if the design is not reviewed by the City prior to the time of transfer.

e. *Continued Affordability.* The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with section 33-1419, which shall be recorded on the property at the time of dedication.

f. *Transfer to Housing Developer.* The land is transferred to the City or to a housing developer approved by the City.

g. *Location of Land.* The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

h. *Financing.* A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development permit.

2. *Condition of Development.* Nothing in this subsection (E) shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1414. Alternative or additional incentives and concessions for housing developments.

A. When a developer requests a density bonus and/or incentives or concessions pursuant to section 33-1413, the decision-making body shall grant incentives or concessions, subject to the following:

1. *Number of Incentives/Concessions.*

a. The developer shall receive the following number of incentives or concession based upon the minimum percentage of total units to be restricted as target units:

Table E
Number of Incentives/Concessions

<u>Number of Incentives/Concessions</u>	<u>Percentage (%) of Target Units (Minimum required)</u>
<u>1 Incentive/Concession</u>	<u>5% for very low income households</u>
	<u>10% for lower income households</u>
	<u>10% for moderate income persons or families in a common interest development</u>
<u>2 Incentives/Concessions</u>	<u>10% for very low income households</u>
	<u>17% for lower income households</u>
	<u>20% for moderate income persons or families in a common interest development</u>
<u>3 Incentives/Concessions</u>	<u>15% for very low income households</u>
	<u>24% for lower income households</u>
	<u>30% for moderate income persons or families in a common interest development</u>

<u>Number of Incentives/Concessions</u>	<u>Percentage (%) of Target Units (Minimum required)</u>
<u>4 or more Incentives/Concessions</u>	<u>At the discretion of the decision-making authority</u>

2. Incentives/Concessions. An incentive or concession may include any of the following:

a. Development, Design, and Zoning Code Requirements. A reduction or waiver of site development standards, modification of zoning code, or architectural design requirements that exceed the minimum building standards approved by the California Building Standards, including, but not limited to, a reduction in minimum lot size, setback requirements, and/or in the ratio of vehicular parking spaces that would otherwise be required. Any waiver or reduction from the applicable development standards that is necessary to implement the density and incentives/concessions to which the developer is entitled under this subsection (A) shall not serve to reduce or increase the number of incentives/concessions.

b. Mixed Use Development. Approval of mixed use residential development in areas not permitted if: (i) commercial, office, industrial or other land uses will reduce the cost of the housing development; and (ii) the commercial, office, industrial or other land uses are compatible with the housing development and the existing or planned future development in the area where the project will be located.

c. Excess Density Bonus. A density bonus in excess of more than that which is specified in section 33-1413(B) and in compliance with section 33-1413(C).

d. Other. Other regulatory incentives or concessions proposed by the developer that result in identifiable, financially sufficient, and actual cost reductions that contributes to the economic feasibility of the project.

e. Financial Incentives. The City Council may, but is not required to, provide direct financial incentives, including direct financial aid in the form of a loan or grant, the provision of publicly owned land, or the waiver of fees or dedication requirements.

3. Nothing in this section shall be construed to require the City to grant a concession or incentive if the City finds that the proposed concession or incentive is not required to

achieve the required affordable housing costs or rents, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would otherwise be contrary to law.

4. A developer shall be ineligible for concessions or incentives when the housing development is proposed on any property that includes rental dwelling units that are—or if the units have been vacated or demolished, within the five-year period preceding the housing development application—subject to a recorded covenant, ordinance, or law that restricts rents to affordable levels or is subject to any other form of rent or price control, or occupied by very low households or low income households, unless the proposed housing development replaces those units and meets the requirements of Government Code section 65915(c)(3).

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1415. Condominium conversions.

A. *Income Requirements.* The decision-making body shall grant either a density bonus or in-lieu incentives of equivalent financial value, as set forth in section 33-1414, to a developer proposing to convert apartments to condominiums as otherwise in compliance with the Escondido Municipal Code, and who agrees to provide the following:

1. *Low or Moderate Income.* A minimum of 33% of the total units of the proposed condominium project as restricted and affordable to low or moderate income persons or families; or

2. *Low Income.* A minimum of 15% of the total units of the proposed condominium project as restricted and affordable to low income households.

B. *Density Bonus.* For housing development projects meeting the criteria of subsection (A) of this section, the density bonus shall be 25% over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

C. *Calculating the Target Units.* In determining the number of target units to be provided pursuant to the standards of this section, the number of apartment units within the existing structure or structures proposed for conversion shall be multiplied by the percentage of units to be offered exclusively to the designated income group, as required by subsection (A) of this section. The density bonus units shall not be included when determining the total number of target units required to qualify for a density bonus.

D. *Granting a Lower Density Bonus.* In cases where a density increase of less than 25% is requested, no reduction will be allowed in the number of target units required.

E. Other Incentives. For purposes of this section, “other incentives of equivalent financial value” shall not be construed to require the City to provide monetary compensation, but may include the waiver or reduction of requirements that might otherwise apply to the proposed condominium conversion project at the sole discretion of the decision-making body.

F. Ineligibility. A developer proposing to convert apartments to condominiums shall be ineligible for a density bonus or in-lieu incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or in-lieu incentives were previously provided under this article.

G. Affordable Housing Agreement as a Condition of Development. An affordable housing agreement for all condominium conversion proposals that request a density bonus or in-lieu incentives shall be processed concurrently with any other required project development application (e.g., tentative maps, parcel maps, design review, conditional use permits), and shall be made a condition of the discretionary permits, and execution of such agreement shall be required prior to the issuance by the City of a building permit for the development. The affordable housing agreement shall be consistent with section 33-1420.

H. No Requirement to Approve Conversion. Nothing in this section shall be construed to require that the City approve a proposal to convert apartments to condominiums.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1416. Housing with child care facilities.

A. When a developer proposes to construct a housing development that conforms to the requirements of section 33-1413(A), and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the following provisions shall apply:

1. Bonus or Incentive/Concession. The decision-making body shall grant either of the following:

a. Density Bonus. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility; or

b. Incentive/Concession. An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child care facility.

2. Conditions of Approval. The decision-making body shall require, as a condition of approval of the housing development, that the following occur:

a. Period of Operation for Child Care Facility. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the target units are required to remain affordable, pursuant to section 33-1418; and

b. Income Requirements. The percentage of children who are of very low, lower, or moderate income households shall be equal to or greater than the percentage of dwelling units that are required for very low, lower, or moderate income households pursuant to section 33-1413(A).

3. Findings to Deny Bonus or Incentive/Concession. Notwithstanding any requirement of this section, the decision-making body shall not be required to provide an additional density bonus, incentive, or concession for a child care facility if it finds, based on substantial evidence, that the community has an adequate number of child care facilities.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1417. Affordable and senior housing standards.

A. Concurrent Development. Target units shall be constructed concurrently with nonrestricted units unless both the City and the developer agree within the affordable housing agreement to an alternative schedule for development. If the development proposes a phased building plan, a proportionate share of target units shall be constructed in each phase. Otherwise, the City shall not issue building permits for more than 50% of the nonrestricted units until the City has issued building permits for all of the target units, and the City shall not approve any final inspections or issue any certificates of occupancy for more than 50% of the market rate units until the City has issued certificates of occupancy for all of the affordable units.

B. Location and Dispersal of Units. Target units and density bonus units shall be built on site (within the boundary of the proposed development) and when practical, be dispersed within the housing development.

C. Off-Site Alternative. Circumstances may arise in which the public interest would be served by allowing some or all of the designated target units to be produced and operated at a development site different from the site of the associated housing development, also known as an off-site alternative. Where the City and the applicant form such an agreement,

both the associated target and nonrestricted units of the housing development shall be considered a single housing development for the purposes of this article, and the applicant shall be subject to the same requirements of this article pertinent to the target units to be provided at an off-site alternative.

D. *Bedroom Unit Mix.* The housing development shall include a mix of target units (by number of bedrooms) in response to the affordable housing demand priorities of the City as may be identified within the City's Housing Element or consistent with the unit mix of nonrestricted units. The number of bedrooms in the target units shall at least equal the minimum number of bedrooms of the nonrestricted units. For non-senior projects involving five to nine units (or three to nine units if the project is located within the South Centre City Specific Plan), exclusive of the target units, and that receive incentives in addition to the minimum required by State Density Bonus Law, all target units shall have at least two bedrooms. For non-senior projects involving 10 or more units, exclusive of the target units, and that receive incentives in addition to the minimum required by State Density Bonus Law, at least 33% of the target units shall have at least three bedrooms, or a ratio deemed acceptable by the City.

E. *Compliance with Development Standards and Codes.* Housing development projects shall comply with all applicable development standards, except those that may be modified as an incentive or concession or will have the effect of physically precluding the construction of a development providing the target units at the densities or with the concessions or incentives permitted by section 33-1414, or as otherwise provided for in this article.

G. *Design Consistency.* The design and appearance of the target units shall be consistent or compatible with the design of the total housing development in terms of appearance, materials, and finished quality.

H. *Parking.* Upon the request of the developer, the parking ratio (inclusive of handicap and guest parking) for a housing development that conforms to the requirements of section 33-1413(A) shall not exceed the ratios specified in Table F. Such request and application of this parking ratio shall not be considered an incentive/concession pursuant to section 33-1414. If the developer does not request the parking ratios specified in Table F or the project does not conform to the requirements of section 33-1413(A), the parking standards of the applicable zone shall apply.

1. *Fractional Parking Spaces.* If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

2. Tandem and Uncovered Parking. For purposes of this section, a housing development may provide “on-site” parking through tandem parking or uncovered parking, but not through on-street parking.

3. Additional Parking Incentives/Concessions. The developer may request additional parking incentives or concessions beyond those provided in this section, as specified in section 33-1414.

Table F
Parking Ratio for Housing Development Projects

<u>Dwelling Unit Size</u>	<u>On-Site Parking Ratio (Inclusive of Handicapped and Guest Parking)</u>
<u>0 – 1 bedrooms</u>	<u>1 space per unit</u>
<u>2 – 3 bedrooms</u>	<u>2 spaces per unit</u>
<u>4 or more bedrooms</u>	<u>2.5 spaces per unit</u>

I. Waiver/Reduction of Development Standards. Any waiver or reduction from the applicable development standards shall be limited to those necessary to implement the density and incentives/concessions to which the developer is entitled under section 33-1413.

1. Adverse Impact. Nothing in this section shall be construed to require that the City waive or reduce development standards that would have an adverse impact upon the health, safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Adverse impact is defined in Section 65589.5(d)(2) of the California Government Code and any subsequent amendments and revisions thereto.

2. Historical Resources and Conflict with Law. Nothing in this section shall be construed to require that the City waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of

Historical Resources or to grant any waiver or reduction that would be contrary to state or federal law.

J. *Prequalification.* All households for target units must be prequalified by the developer prior to such households moving into a target unit by a process mandated by the City. The prequalification process for target households shall certify the income level of the prospective tenant household, and advise the household of affordable housing costs, if applicable. These standards will be made available to the applicant by the City. The property owner shall not charge the applicant for the initial prequalification review. If, after performing the necessary verification, the prospective tenant qualifies as a very low, low, or moderate income household, the City shall issue a certificate to the applicant and the property owner verifying the income level and eligibility to rent or own the unit.

K. *Reporting.* By May 31 of each calendar year, the developer shall provide the housing division an accounting of the previous calendar year, including the following:

1. Total units occupied for any part of the previous year by bedroom size;
2. Total units vacant for any part of the previous year by bedroom size;
3. Total units occupied by target households by bedroom size;
4. For each very low, low, or moderate income target unit, the total monthly housing costs advertised and/or paid; and
5. Any other pertinent information deemed appropriate by the City upon approval of the project.

L. *Enforcement.* Default by the property owner is unlawful and is a misdemeanor. Each applicable unit shall be considered a separate violation. Such violation shall be punishable by a fine, not exceeding \$1,000, or by imprisonment in the County Jail for a period not exceeding six months, or both. In addition, the City shall have the right to prohibit the property owner from leasing any non-restricted unit that becomes vacant until the owner remedies the default. Until the default is remedied, no such unit shall thereafter be rented until the property owner presents sufficient evidence to the housing division that the prospective tenant qualifies as a target household. Additionally, the average monthly default units shown on the audit report for the previous year shall be added to the units to be set aside during the next succeeding reporting period, if applicable.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1418. Affordability tenure.

A. *Lower and Very Low Income Housing.* All target units for lower and very low income households shall remain restricted and affordable to the designated group for a period not less than 55 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental financing subsidy program.

B. *Moderate Income.* All target units for moderate income persons or families shall be initially occupied by the designated group and offered at an allowable housing expense. The target units shall be subject to an equity sharing agreement, as set forth by State Density Bonus Law, unless in conflict with the requirements of another public funding source or law.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1419. Application requirements and review.

A. *Preliminary Application.* A developer proposing a housing development pursuant to this article may submit a voluntary preliminary application prior to the submittal of any formal request for approval. Developers are encouraged to schedule a preapplication conference with designated staff of the Community Development Department to discuss and identify potential application issues, including prospective incentives or concessions pursuant to section 33-1413.

B. *Application.* The developer shall submit an affordable housing application, which will be treated as part of any other required development application, requesting a density bonus and/or incentive(s) or concession(s), pursuant to this article. Pursuant to Government Code section 65915(a)(2), the applicant shall provide reasonable documentation to establish eligibility for a requested density bonus and/or incentive(s) or concession(s). The proposed housing development may require other project development application(s) (e.g., tentative map, parcel map, design review, and conditional use permits). Under such circumstances, the affordable housing application shall be processed concurrently.

C. *Approval of an Application.* When a project involves a request for a density bonus, incentive(s) or concession(s), or in-lieu incentives, the decision-making body shall make a written finding, as part of the approval of the development application required for the project or as part of the approval of the affordable housing agreement, that the project is consistent with the provisions of this article. The granting of an incentive/concession shall

not, in and of itself, require a General Plan amendment, zoning code amendment, or any other discretionary approval.

D. *Denial of Application.* In rejecting such development application, the decision-making body shall make written findings in compliance with Government Code Section 65589.5(b) and based upon substantial evidence in the record.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1420. Affordable housing agreement.

A. *Execution of Agreement.* Developers requesting a density bonus, incentive(s) or concession(s), or in-lieu incentives pursuant to this article shall demonstrate compliance with this article by executing an affordable housing agreement with the City in a form approved by the City Attorney.

B. *Recordation.* Following execution of the affordable housing agreement by all parties, the completed affordable housing agreement, with the approved site development plan, shall be recorded against the entire development, including nonrestricted lots/units; and the relevant terms and conditions therefrom filed and recorded as a deed restriction or regulatory agreement on those individual lots or units of a property that are designated for the location of target units. The approval shall take place prior to final map approval, and recordation shall occur concurrent with the final map recordation, or where a map is not being processed, prior to issuance of building permits for such parcels or units. The affordable housing agreement shall be binding to all future owners and successors in interest.

C. *Provisions.* The affordable housing agreement shall set forth the conditions and guidelines to be met in the implementation of this article and shall include, but not be limited to, the following:

1. *Number of Units.* The number of total residential units and the density bonus and target units approved for the housing development.

2. *Term of Affordability.* The number of years the occupancy and affordability restrictions for target units remain in place.

3. *Phasing Schedule.* A schedule of production and occupancy of target units.

4. *Incentives/Concessions.* A description of the incentive(s), concessions, or in-lieu incentives of equivalent financial value being provided by the City.

5. Operation and Maintenance. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, operating and maintaining target units for qualified tenants.

6. Ongoing Monitoring. Provisions requiring developers to demonstrate compliance with this article.

7. Initial Sale. Where applicable, tenure and conditions governing the initial sale of for-sale target units.

8. Remedies. A description of remedies for breach of the agreement by either party.

9. Other Provisions for Compliance. Other provisions as the City may require to ensure implementation and continued compliance with this article and the State Density Bonus Law.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1421. Agreement processing and administrative fee.

Over the minimum tenure of projects containing target units, the City will either directly or, via one or more third parties, provide for the preparation and/or review of all affordable housing agreements and recurring services associated with the administration and monitoring of such units. The City Council may establish an administrative fee to fully recover the costs associated with such administration and monitoring, the amount of which shall be established by ordinance of the City Council.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1422. Noticing and procedural requirements for expiring rental restrictions.

A. Tenant Notices of Expiring Affordability. The developer shall give notices consistent with California Government Code sections 65863.10 through 65863.13 in anticipation of the expiration of affordable housing restrictions to each affected tenant household.

B. Notices to Prospective and New Tenants. All prospective and new tenants to the housing development shall be provided at the time of their application for tenancy a copy of all notices issued per this section to existing tenants.

C. Notices to the City of Escondido and State. The developer shall provide a copy of all notices consistent with California Government Code Sections 65863.10 through 65863.13 in anticipation of the expiration of affordable housing restrictions to the City of Escondido

Community Development Department and the State Department of Housing and Community Development.

D. First Class Mailed Notices. All notices to affected tenants, the City of Escondido, and the State Department of Housing and Community Development shall be sent by first-class mail postage prepaid.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1423. Interpretation.

A. If any conflict exists between this article and any other land use ordinance, regulation, resolution, policy, or prior decision of the City, this article shall control all applicable land use applications that do not have final approval on the effective date of this article.

B. This article shall be interpreted liberally in favor of producing the maximum number of total housing units, pursuant to the intent and requirements of State Density Bonus Law.

ARTICLE 68. GROWTH MANAGEMENT ORDINANCE

Sec. 33-1430. Definitions.

Whenever the following terms are used in this chapter, they shall have the meaning established by this section unless from the context it is apparent that another meaning is intended:

Application~~**Application**~~ means any request for approval of a development permit subject to the provisions of this chapter, including, but not limited to, subdivisions, plot plans, specific plans, planned developments, planned unit approvals, condominium permits, and conditional use permits.

~~**Available facility capacity**~~**Available facility capacity** means the remaining facility capacity available to future development without creating critical infrastructure deficiencies requiring facility construction or expansion. It may be determined at either the project-specific or ~~**eCity-wWide**~~**City-wWide** level.

~~**Citywide facilities plan**~~**City-Wide Facilities Plan** means the plan prepared and approved by the city council that both identifies areas of critical infrastructure deficiencies and provides the analytical framework against which projects are evaluated for conformance with the city's quality of life standards, including drainage.

~~**Critical facilities**~~**Critical facilities** means those improvements that must either be constructed, or financially secured within a geographic area, before development may proceed. Areas with critical infrastructure deficiencies shall be identified by the planning commission and/or city council and be reflected in the ~~**eCity-wWide fFacilities pPlan**~~**City-wWide fFacilities pPlan**.

~~Development~~**Development** means any land use, building, or other alteration of land, and/or construction incidental to **such land use, building, or other alteration of land**, subject to this chapter.

~~Facilities~~**Facilities** means all land and improvements defined by the general plan's quality of life standards, including drainage.

~~Improvements~~**Improvements** include all measures necessary to achieve conformance with the general plan quality of life standards as determined by the ~~eCity-wWide fFacilities pPlan.~~ **(C.F.P.)**

~~Improvement threshold~~**Improvement threshold** means the point at which a project or group of projects exceeds the acceptable, available facility capacity and required concurrent construction of facilities.

~~Neighborhood~~**Neighborhood** means the specific geographic sub-areas as defined by Figure II-12 of the general plan, or as amended.

~~Nonresidential uses~~**Nonresidential uses** means those commercial or nonprofit uses **that which** are either permitted by right or by conditional use permit in residential zones, including, but not limited to, daycares, convalescent **homes**, church facilities, recreational facilities, parks, and other uses that are not residential in character.

~~Quality of life standards~~**Quality of life standards** means those service level standards identified by the general plan for traffic/transportation, schools, fire and police service, sewer and water service, parks and trails, and libraries.

~~Region of influence~~**Region of influence** means an area where a critical infrastructure deficiency exists, as specified in the ~~eCity-wWide fFacilities pPlan.~~

~~Tiers~~**Tiers** mean the general categories into which the ~~twenty-one (21)~~ general plan neighborhoods are grouped as identified by Figure VI-I of the general plan, or as may be amended.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

Sec. 33-1473. Occupancy limitations.

- (a) Allowed use.
 - (1) One attached or detached accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residence on a lot zoned for single-family or multifamily residential use.
 - (A) The accessory dwelling unit is either attached to, or located within, the proposed or existing main building or attached garages, storage areas, or similar use; or a detached accessory structure and located on the same lot as the proposed or existing single-family home.
 - (B) An accessory dwelling unit may be permitted on a lot where a junior accessory dwelling unit exists or is proposed.
 - (2) One junior accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residential use.
 - (A) The junior accessory dwelling unit is located within the proposed or existing main building or attached garages, storage areas, or similar use.

(B) A junior accessory dwelling unit may be permitted on a lot where an accessory dwelling unit exists or is proposed.

(3) Number of accessory dwelling units on legal lots with existing ~~or proposed~~ multifamily dwelling units:

(A) Shall be permitted to construct at least one accessory dwelling unit within ~~the portions of~~ existing multifamily dwelling structures and shall allow up to ~~twenty-five (25) percent%~~ of the ~~existing multifamily dwelling~~ units. **in each existing multifamily dwelling structure, in accordance with Government Code section 65852.2(e); or**

(B) Not more than two ~~(2)~~ accessory dwelling units are permitted that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling.

(C) For purposes of this article, "multifamily dwelling structure" or "multifamily dwelling" is defined as a structure with two or more attached dwellings on a single lot.

(b) Owner-occupied.

(1) The owner-occupancy requirement shall not be applied to any accessory dwelling unit.

(2) A junior accessory dwelling unit may be used as habitable space, only so long as either the remaining portion of the main dwelling unit, or the newly created junior accessory dwelling unit is occupied by the owner of record of the property, unless otherwise exempted by this section.

(A) Owner-occupancy for a junior accessory dwelling unit shall not be required if the owner is an agency, land trust, or housing organization.

(3) Deed restriction. The city shall require the recordation of a deed restriction if owner-occupancy is required pursuant to this section.

(A) Prior to issuance of a building permit, the property owner shall execute a deed restriction setting forth the owner-occupancy requirements, in a form and substance satisfactory to the director of community development and city attorney's office, which shall be recorded in the office of the county recorder. The covenant shall also include the following terms and limitations:

(i) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, and shall not be subdivided in any manner that would authorize such sale or ownership.

(ii) A statement that the deed restriction may be enforced against future purchasers and the restrictions shall be bindings upon any successor in ownership of the property.

(iii) The junior accessory dwelling unit shall be a legal unit, and may be used as habitable space, only so long as the owner of record of the property occupies the premises.

(iv) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section, and if applicable the occupancy limitations of the California Health and Safety Code ~~S~~**s**ection 17958.1.

(c) All local building and fire code requirements apply, as appropriate, to accessory dwelling units and junior accessory dwelling units.

(1) A certificate of occupancy shall not be issued for the accessory dwelling unit and/or junior accessory dwelling unit until the building official issues a certificate of occupancy for the main building.

(2) Prior to approval on properties with a private sewage system, approval by the County of San Diego Department of Environmental Health, or any successor agency, may be required.

(d) The accessory dwelling unit and/or junior accessory dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.

(e) The accessory dwelling unit and junior accessory dwelling unit may be rented separate from the primary residence, but only with a rental agreement and with terms greater than ~~thirty~~ (30) days.

(f) The accessory dwelling unit and/or junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the premises.

(1) The accessory dwelling unit and/or junior unit shall be deemed to be a legal unit and permit such accessory use of property, which use is specifically identified by the accessory use regulations for the underlying zone and per Government Code sections 65852.2 and 65852.22; and shall allow such other accessory uses which are necessarily and customarily associated with such principal residential use of the premises, except as otherwise provided by this subsection.

(A) An accessory dwelling unit and/or junior accessory dwelling unit shall be deemed an independent dwelling unit for the sole purpose of establishing a home occupation permit within the accessory dwelling unit and junior accessory dwelling unit, subject to the terms and limitations of Article 44. The limitations for home occupations shall be shared with the principal use and/or main building.

(B) No more than the quantities of animals specifically listed in Table 33-95(a) of Article 6 or section 33-1116 of Article 57 is permitted on the premises. The limitations for animal keeping and household pets shall be shared with the principal use and/or main building.

(C) For all other accessory use of property, the accessory dwelling units and/or junior accessory dwelling unit shall be controlled in the same manner as the principal use within each zone, and shall not expand or be conveyed separately from the primary use. When provided by these regulations, it shall be the responsibility of the director of community development to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, accessory dwelling unit, and/or junior accessory dwelling unit, based on the director's evaluation of the resemblance of the proposed accessory use and the relationship between the proposed accessory use and the principal use.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

Sec. 33-1474. Development standards.

(a) Accessory dwelling units shall be subject to all development standards of the zone in which the property is located, except as modified below. Notwithstanding, this section shall be interpreted liberally in favor of accessory dwelling unit construction. Furthermore, any property development standard provided herein that regulates the minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings shall permit at least an ~~eight hundred fifty (850)~~ square foot accessory dwelling unit to be constructed in compliance with all other local development standards and building code requirements.

(1) Number of bedrooms. There is no allowed limit on the number of bedrooms provided that the accessory dwelling unit and/or junior accessory dwelling unit complies with local building and fire code requirements.

(2) The accessory dwelling unit shall be provided with a separate exterior entry. The accessory dwelling unit shall not have direct, interior access into the main building.

(3) The accessory dwelling unit shall include separate bath/sanitation facilities and include a separate kitchen.

(4) Setbacks. **An attached or detached accessory dwelling unit, including a detached accessory unit that is attached to another accessory structure, shall be required to maintain minimum side and rear yard setbacks of at least four feet, and shall comply with front yard setbacks for the underlying zone. For attached accessory structures, whether attached to the primary unit or another detached accessory structure, the portion of the structure which does not include the habitable floor area of the accessory dwelling unit shall comply with setback requirements for the underlying zone. Attached and detached accessory dwelling units, other than those structures otherwise regulated within this section, may have a building height and setbacks as outlined for accessory residential structures of the underlying zone, except that a setback of no more than four (4) feet from the side and rear lot lines shall be required for a detached accessory dwelling unit.** Roof eaves and other architectural projections for accessory dwelling units shall comply with section 33-104.

~~(A) — An accessory dwelling unit proposed to be constructed above an existing detached garage shall have a minimum four (4) foot setback to side and rear property lines.~~

~~(AB)~~ No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. The accessory dwelling unit may include an expansion of not more than ~~one hundred fifty (150)~~ square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress, subject to the terms and limitations of this article.

(5) Maximum unit size. The maximum accessory dwelling unit size is determined by the size of the lot as provided in Table 33-1474. The living area of the accessory dwelling unit shall not exceed more than ~~fifty (50) percent%~~ of the existing or proposed living area of the primary residence.

(A) If authorized by the underlying zoning, an accessory dwelling unit may be attached to a guest house provided that the overall combined floor area of the combined building or structure does not exceed ~~seventy-five (75) percent%~~ of the main unit.

(B) When an accessory dwelling unit is attached to other accessory building(s) or structure(s), such as a garage, carport, or patio cover, the overall combined building area of the structure(s) shall not exceed the existing floor area of the main residence.

Table 33-1474

Lot size	Maximum Permitted Accessory Dwelling Unit Size	
	<i>1 bedroom or less</i>	<i>More than 1 bedroom</i>
Less than 20,000 square feet	850 square feet	1,000 square feet
20,000 square feet or more	1,000 square feet	1,000 square feet

(6) Minimum unit size. The minimum permitted size of an accessory dwelling unit shall be the size of an efficiency unit as defined by the California Health and Safety Code ~~S~~section 17958.1. The minimum unit size of the residential zone shall not apply to the accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.

(7) Height. Accessory dwelling units shall conform to the height limits of the zone, **except that an accessory dwelling unit 16 feet in height shall be allowed regardless of the applicable height limit.**

(8) Lot coverage. The combined area of all structures on a lot shall conform to the lot coverage limitation of the zone in which the property is located.

(b) Junior accessory dwelling units, as constructed within the existing or proposed single-family residence, shall be subject to all development standards of the zone in which the property is located, except as modified below.

(1) Number of bedrooms. There is no allowed limit on the number of bedrooms provided that the accessory dwelling unit and/or junior accessory dwelling unit complies with local building and fire code requirements.

(2) The junior accessory dwelling unit shall be provided with a separate exterior entry and may have direct, interior access into the main building.

(3) A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(4) The junior accessory dwelling unit shall include an efficiency kitchen.

(5) Maximum unit size. The maximum junior accessory dwelling unit size shall not exceed ~~five hundred (500)~~ square feet in total floor area and shall be contained entirely within an existing or proposed single-family residence and may include an expansion of not more than ~~one hundred fifty (150)~~ square feet beyond the same physical dimensions of the existing residence to accommodate ingress and egress.

(6) Minimum unit size. The minimum permitted size of a junior accessory dwelling unit shall be the size of an efficiency unit as defined by the California Health and Safety Code ~~S~~section 17958.1. The minimum unit size of the residential zone shall not apply to the junior accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.

(7) Except as provided herein, a junior accessory dwelling unit shall comply with all other zoning code standards, including, but not limited to, setbacks, building height, floor area ratio, and lot coverage.

(c) Parking requirements.

(1) Notwithstanding any other law, the city will not impose parking standards for an accessory dwelling unit or junior accessory dwelling unit.

(2) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, replacement parking is not required.

(d) Design of the unit.

(1) Access doors and entry for the accessory dwelling unit shall not be oriented to the nearest adjacent property line or create a second "front door" that is comparable to the main entrance.

(2) The accessory dwelling unit's color and materials must match those of the primary residence. The director shall review accessory dwelling unit applications to ensure the addition is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details. If the accessory dwelling unit is an addition to a site with known historic resources or has been determined to have historic value by the director, all improvements shall retain the historical and/or architectural value and significance of the landmark, historical building, or historical district as specified by section 33-1475. The improvements shall be compatible with and retain the texture and material of the primary building(s) and/or structure(s) or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the relationship of such features to similar features of other buildings within an historical district.

(e) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street.

(f) Fire sprinklers. Accessory dwelling units and junior accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

**Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1475. Other regulations.**

(a) Historic buildings.

(1) An accessory dwelling unit and/or junior accessory dwelling unit proposed for any lot that includes a building listed in the National Register of Historic Places, California Register of Historic Places, or the local historic inventory shall conform to the requirements for the historic structure.

(2) An accessory dwelling unit and/or junior accessory dwelling unit proposed for a property under a Mills Act Contract must comply with all Mills Act guidelines, including design conformance with the United States Secretary of the Interior Standards.

(3) An accessory dwelling unit and/or junior accessory dwelling unit proposed for any lot that includes a building listed in the National Register of Historic Places, California Register of Historic Places, or the local historic inventory are encouraged to comply with any historic preservation plans as may be approved by the city council. Notwithstanding the foregoing, if the city council acts to establish mandatory design standards for historically classified structures, the accessory dwelling unit and/or junior accessory dwelling unit shall conform to the mandatory standards.

(b) Guest house. An attached guest house may be converted to an accessory dwelling unit provided all provisions of this article and the building code and zoning code are met. A guest house and an accessory dwelling unit and/or a junior accessory dwelling unit may occur on the same lot provided ~~the lot is over twenty thousand (20,000) square feet in area and provided~~ the guest house does not contain kitchen facilities and is not rented. No more than one ~~(1)~~ accessory dwelling unit or no more than one ~~(1)~~ guest house ~~are~~**is** permitted on a lot. Nothing in this section shall be construed to prohibit the construction of an accessory dwelling unit and/or junior accessory dwelling unit in compliance with this article.

(c) The city may not require a new or separate utility connection for any ~~attached or detached~~ accessory dwelling units that ~~are not contained within the existing space of a single-family residence or accessory structure.~~ meets the criteria in Government Code section 65852.2(e)(1)(A). Accessory dwelling units and junior accessory dwelling units that do not meet the criteria in Government Code section 65852.2(e)(1)(A) may be required to obtain a new or separate utility connection.

**Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1476. Existing nonpermitted accessory units.**

This article shall apply to all accessory dwelling units or junior accessory dwelling units which exist on the date of passage of the ordinance. All units which do not have a permit, or cannot receive a permit, upon passage of the ordinance codified herein shall be considered in violation and shall be subject to code enforcement action.

(a) Existing nonconforming units. Accessory dwelling units or junior accessory dwelling units that exist as of the effective date of this section that have previously been legally established may

continue to operate as legal nonconforming units. Any unit that exists as of the effective date of this section, and has not previously been legally established, is considered an unlawful use, unless the director of community development determines that the unit meets the provisions of this section and a permit is approved and issued.

(1) Conversion of legally established structures. The conversion of legally established structures shall require that the unit meet the provisions of this code. Any legally established waivers or nonconformities that existed ~~on the effective date of this section~~ **when this section first went into effect** may continue, provided that in no manner shall such waiver or nonconformity be expanded.

(2) Administration and enforcement of any nonconforming building standard shall be conducted in accordance with California Health and Safety Code section 17980.12.

EAST VALLEY PARKWAY SPECIFIC PLAN
Section 4. Land Use

Table 4.1
 Permitted and Conditionally Permitted Principal Uses

Use	CG	CP	HP
Restaurants, cafes, delicatessens, and sandwich shops, etc. without alcoholic beverages			
<ul style="list-style-type: none"> Auto oriented drive-in, drive-through (Section 33-341*) 	P*<u>C</u>	—	—

ORDINANCE NO. 2021-10

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING THE 2021 OMNIBUS THAT
AMENDS VARIOUS ARTICLES OF THE
ESCONDIDO ZONING CODE.

WHEREAS, the City of Escondido Planning Division has conducted an annual review of the Escondido Zoning Code to determine if any revisions are necessary to reflect State mandated changes, to correct errors or inconsistencies, and to address land use considerations that have previously been overlooked; and

WHEREAS, Planning Division staff identified the need to amend Articles 34 (Communication Antennas), 35 (Outdoor Lighting), 47 (Environmental Quality), 55 (Grading and Erosion Control), 56 (Miscellaneous Development Standards), 61 (Administration and Enforcement), 64 (Design Review), 65 (Old Escondido Neighborhood), 66 (Sign Ordinance), 67 (Density Bonus and Residential Incentives), 68 (Growth Management Ordinance), and 70 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of the Escondido Zoning Code; and

WHEREAS, the Planning Commission of the City of Escondido, on August 24, 2021, held a public hearing to consider the Zoning Code Amendments and unanimously recommended approval of the items as provided in Exhibit "B"; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA") and the CEQA Guidelines (Title 14 of California Code of Regulations, Section 15000 et. seq.), the City is the Lead Agency for the Project, as the public agency with the principal responsibility for approving the proposed Project; and

WHEREAS, on October 13, 2021, the City Council of the City of Escondido did hold a duly noticed public hearing as prescribed by law. At said hearing, this City Council received and considered the reports and recommendations of the Planning Commission and City staff, and gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter. Evidence was submitted to and considered by the City Council, including, without limitation:

- a. Written information including plans, studies, written and graphical information, and other material, submitted as part of the Project;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated October 13, 2021, with its attachments as well as City staff's recommendation on the Project, which is incorporated herein as though fully set forth herein; and
- d. Additional information submitted during the public hearing.

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

SECTION 1. That the above recitations are true.

SECTION 2. That the proposed Zoning Code Amendments are statutorily or categorically exempt from further review pursuant to the CEQA and the State CEQA Guidelines by the following:

- A. A number of the amendments are not considered to be a Project under CEQA, as defined in section 15378(b)(5), and for those amendments no further environmental review is required; and

- B. The amendments that relate to accessory dwelling units (Article 70) are statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h). Under Public Resources Code section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Sections 65852.1 or 65852.2 of the Government Code (Accessory Dwelling Unit law). CEQA Guidelines section 15282(h) statutorily exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of sections 65852.1 and 65852.2 of the Government Code as set forth in section 21080.17 of the Public Resources Code; and
- C. The amendments that allow large family day care homes in the Old Escondido Neighborhood as a permitted principal use (Article 65) are statutorily exempt pursuant to CEQA Guidelines section 15274(a), which states that CEQA does not apply to the establishment or operation of a large family day care home providing in-home care for up to 14 children, as defined in section 1596.78 of the Health and Safety Code; and
- D. The amendments that relate to grading activities (Article 55) are categorically exempt pursuant to CEQA Guidelines section 15304 (Minor Alterations to Land); and
- E. The amendments that relate to personal wireless facilities (Article 34), fences and walls (Article 56), and screening requirements (Article 56), are categorically exempt pursuant to CEQA Guidelines section 15303 (New Construction or Conversion of Small Structures); and

- F. The amendments that relate to outdoor lighting (Article 35) are categorically exempt pursuant to CEQA Guidelines section 15311 (Accessory Structures); and
- G. The amendments that relate to the applicability of minor conditional use permits vs. major conditional use permits for modifications to certain existing uses (Article 61) and the applicability of staff design review vs. planning commission design review for architectural or site modifications to certain existing uses (Article 61) are categorically exempt pursuant to CEQA Guidelines section 15301 (Existing Facilities); and
- H. The amendments that relate to plot plan approval for parking lot changes that reduce the number of spaces (Article 61), design review for parking lot changes that do not reduce spaces (Article 64), and the relationship between freestanding signs and utility easements (Article 66) are categorically exempt pursuant to CEQA Guidelines section 15311 (Accessory Structures) for non-residential uses and section 15303 (New Construction or Conversion of Small Structures) for multifamily residential uses, and
- I. The amendments that relate to CEQA thresholds, city responsibility for environmental review, and enhanced CEQA review for projects subject to congestion management program requirements (Article 47) are categorically exempt pursuant to CEQA Guidelines section 15308 (Actions by Regulatory Agencies for Protection of the Environment). These amendments are intended to bring this article into conformity with recent changes in state law related to traffic impact analysis and greenhouse gas analysis, and to clarify the City's responsibility in fulfilling CEQA obligations.

SECTION 3. That the Project satisfies the requirements of state Planning and Zoning Law.

SECTION 4. That the proposed amendments to the Escondido Zoning Code are consistent with the Escondido General Plan and applicable Elements were reviewed as part of the amendment drafting process to ensure consistency.

SECTION 5. That, after consideration of all evidence presented, and studies and investigations made by the City Council and on its behalf, the City Council makes the substantive Findings of Fact and determinations attached hereto as Exhibit "A," relating to the information that has been considered.

SECTION 6. That, considering the Findings of Fact and applicable law, the City Council hereby approves said amendments, attached as Exhibit "B" and hereto and incorporated herein by this reference as though fully set forth herein.

SECTION 7. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 8. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

EXHIBIT "A"
PL21-0152
FACTORS TO BE CONSIDERED / FINDINGS OF FACT

Zoning Code Amendments Determinations:

1. Over the years, staff and members of the public have found certain sections of the Escondido Zoning Code are sometimes vague, unclear, or conflicting, which results in confusion and potential disagreement in Code interpretation. It is important that the City of Escondido review policies and procedures on an on-going basis to ensure our resident-focused government through transparent services and positive organizational culture.
2. The Planning Division maintains a regular process and schedule for maintaining the City's codes and regulations. A number of these issues that have been identified are being addressed as part of this clean-up effort, whereby all code amendments have been combined in a single batch, called an omnibus. Additional items to correct or improve the Zoning Code may be considered in the next annual omnibus code clean-up cycle.
3. In October 2019, the State adopted Assembly Bill (AB) 1763 and changed the state's Density Bonus Law (Government Code section 65915 et seq.), which imposed new state housing mandates on California cities regarding required density bonuses and incentives for housing developers. The proposed Zoning Code Amendment will ensure compliance with the state Density Bonus Law, which requires cities to adopt an implementing ordinance that provides affordable housing density bonuses and offers concessions and incentives for specified housing developments
4. In October 2019, AB 68, AB 881, and Senate Bill (SB) 13 reformed many aspects of the state accessory dwelling unit (ADU) law. As amended, California's accessory ADU Law (Government Code sections 65852.2 and 65852.22) establishes statewide standards for local regulations governing accessory dwelling unit development. The proposed Zoning Code Amendment will ensure compliance with the state ADU Law
5. This matter continues the City's long-standing commitment to affordable housing and the provision of incentives for the creation of this desired housing type and is integrated with the City's other existing regulations promoting affordable housing production.
6. Over the years staff has continued to update the various Zoning requirements to ensure they reflect current community goals and remain consistent with the goals and policies of the General Plan. These amendments are consistent with that ongoing staff effort.
7. The Planning Commission's recommendation is based on factors pursuant to Section 33-1263 of the Escondido Zoning Code.

8. The public health, safety, and welfare would not be adversely affected by the proposed batch of Zoning Code amendments because they correct internal inconsistencies, improve readability, update references to other code sections or regulatory documents, codify prior interpretations, and make the Code consistent with changing state or federal regulations. The proposed batch of Zoning Code amendments would be consistent with the objectives, policies, general land uses, and programs within the General Plan because, among other things, they address changes in state laws, correct errors, and improve existing regulations to eliminate uncertainty for staff, customers, and the public. This effort is not intended to be a comprehensive update to the local code or change land use densities or intensities.

9. The proposed Zoning Code amendments do not conflict with any specific plan.

ARTICLE 34. COMMUNICATION ANTENNAS
Sec. 33-706. Personal wireless service facilities—Land use approval.

(a) City staff shall review plans for planning, siting, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and conformance with the wireless facilities guidelines.

After such review, staff may approve, conditionally approve, or deny the proposed facility, or refer it to the planning commission for approval, conditional approval, or denial. As a component of the project review, the applicant must include details regarding the ability to provide the necessary utilities (i.e., telco and power) and appropriate access to the site. All new utility service runs shall be placed underground.

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

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

(d) Residential and open space zones. Except as specified in section 33-706(b), personal wireless service facilities located in residential and open space zones, and in the public right-of-way adjacent to them, shall require a conditional use permit pursuant to Division 1 of Article 61.

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

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

P = Permitted subject to plot plan review.
 C = Conditionally permitted subject to a conditional use permit (CUP).

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

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

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

P = Permitted subject to plot plan review.
 C = Conditionally permitted subject to a conditional use permit (CUP).

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

ARTICLE 35. OUTDOOR LIGHTING
 Sec. 33-711. Purpose and intent.

It is the purpose and intent of this article to minimize glare, light trespass, and artificial sky glow for the benefit of the citizens of the city and astronomical research at Palomar Observatory, and to promote lighting design that provides for public safety, utility, and productivity while conserving energy and resources by:

- (a) Using outdoor light fixtures with good optical control to distribute the light in the most effective and efficient manner;
- (b) Using the minimum amount of light to meet the lighting criteria;
- (c) Using shielded outdoor light fixtures;
- (d) Using low-pressure sodium, narrow-spectrum amber light emitting diodes (LEDs,) or other equivalent energy efficient outdoor light fixtures with a correlated color temperature (CCT) of 3,000 Kelvin (K) or less;

(e) Energizing outdoor light fixtures only when necessary, by means of automatic timing devices; and

(f) Requiring that certain outdoor light fixtures and lamps be turned off between 11 p.m. and sunrise.

ARTICLE 35. OUTDOOR LIGHTING

Sec. 33-713. General requirements.

(a) Outdoor light fixtures installed after the effective date of this article and thereafter maintained upon private commercial, industrial, multifamily residential (over six dwelling units), or other nonresidential uses (e.g., churches, day care, convalescent use, schools) shall comply with the following:

(1) Only shielded low-pressure sodium, shielded narrow-spectrum amber LEDs, or other shielded energy efficient outdoor light fixtures with a CCT of 3,000 Kelvin or less shall be utilized except as listed under subsection (b) of this section and section 33-714 of this article;

(2) All light fixtures within 100 feet of any signalized intersection shall be shielded and/or directed in such a manner so that the lighting from such fixtures does not interfere with established traffic signals.

(b) Time controls. All outdoor light fixtures that are not low-pressure sodium or narrow-spectrum amber LEDs, or do not have a CCT of 3,000 Kelvin or less, and that are installed and maintained after the effective date of this article upon new private commercial, industrial, multifamily residential (over six dwelling units), or other nonresidential uses (e.g., churches, day care, convalescent use, schools) shall be equipped with automatic timing devices so that such lighting is turned off between the hours of 11 p.m. and sunrise except when used for:

(1) Industrial and commercial uses where color rendition is required, such as in assembly, repair, and outdoor display areas, where such use continues after 11 p.m. but only for so long as such use continues in operation;

(2) Recreational uses that are in progress at 11 p.m. but only for so long as such uses continue;

(3) Signs and electronic displays and screens of business facilities that are open to the public between the hours of 11 p.m. and sunrise but only for so long as the facility is open.

(c) In addition to the provisions of this article, all outdoor light fixtures shall be installed in conformity with all other applicable provisions of the Escondido Municipal Code, the California Building Code, the National Electrical Code, the California Energy Code, and the California Green Building Standards Code.

(d) Standards for street lighting installed on public rights-of-way and private roads are found in the City of Escondido Engineering Design Standards and Standard Drawings.

(e) The types, locations, and controlling devices of outdoor light fixtures for multifamily dwellings (six units or less) and single-family homes shall minimize glare, light trespass, and artificial sky glow.

ARTICLE 35. OUTDOOR LIGHTING

Sec. 33-714. Exemptions.

(a) All outdoor light fixtures existing and legally installed prior to the effective date of this article are exempt from the requirements of this article, unless work is proposed in any one year period so as to replace 50% or more of the existing outdoor light fixtures or lamps, or to increase to the extent of 50% or more the number of outdoor light fixtures on the premises. In such a case, both the proposed and the existing outdoor light fixtures shall conform to the provisions of this article and shall be detailed on lighting plans prior to the issuance of applicable building permits.

(b) All outdoor light fixtures producing light directly by combustion of fossil fuels, such as kerosene lanterns or gas lamps, are exempt from the requirements of this article.

(c) All outdoor light fixtures on facilities or lands owned, operated, or controlled by the United States Government, the State of California, the County of San Diego, or any other public entity or public agency not subject to ordinances of this city are exempt from the requirements of this article. Voluntary compliance with the intent of this article at those facilities is encouraged.

(d) Temporary uses and holiday lighting not exceeding 45 consecutive days during any one-year period as determined by the Director of Community Development are exempt from the requirements of this article.

(e) Any shielded light fixture that produces 4,050 lumens or less is exempt from the requirements of this article. Examples of lamp types of 4,050 lumens and below generally include:

- (1) 200 watt standard incandescent and less;
- (2) 150 watt tungsten-halogen (quartz) and less;
- (3) 75 watt mercury vapor and less;
- (4) 50 watt high pressure sodium and less;
- (5) 50 watt metal halide and less;
- (6) 40 watt fluorescent and less.

Note: Because lumen output determines this exemption instead of wattage, manufacturer's specifications with the lumen information must be included with proposals applicable under this article. (Zoning Code, Ch. 107, § 1072.30; Ord. No. 2014-20, § 4, 1-7-15)

ARTICLE 47. ENVIRONMENTAL QUALITY

DIVISION 1. REGULATIONS

Sec. 33-924. Coordination of CEQA, quality of life standards, and growth management provisions.

The purpose of this section is to ensure consistency between the City's thresholds of environmental significance and the Public Facilities Master Plan that implements the growth management element of the General Plan. The City's General Plan contains quality of life standards that are to be considered in comprehensive planning efforts as well as individual project review. The degree to which a project, and the area in which it is located, conforms to the quality of life standards, is an issue in determining thresholds of significance. Notwithstanding the City's goal of providing adequate infrastructure concurrent with development, the Public Facilities Master Plan acknowledges that concurrent provision of infrastructure cannot be provided in all cases, particularly in the short term. Instead, only critical infrastructure deficiencies affect the timing of development. The following criteria are intended to clarify how facility deficiencies should affect the following CEQA determinations:

(a) Negative and mitigated negative declarations. In situations where the preparation of a negative declaration is otherwise appropriate, yet quality of life standard deficiencies are found to exist, a negative declaration may still be prepared under the following circumstances, as applicable:

(1) Facility deficiencies are of an interim nature in that a master plan has been adopted for the provision of the facilities, appropriate fees are charged to offset project impacts, or other measures are in place to address long-run impacts;

(2) The project does not in itself, or in conjunction with other pending and approved projects, cause the number of units outside specified fire and emergency response times to exceed 10% of the total number of City units;

(3) A project proposes fewer than 200 units, and the cumulative total of reasonably anticipated projects does not exceed a total of 1,000 units where the police service territory is experiencing, or is likely to experience, unacceptable service times;

(4) Adequate sewer, water, and drainage facilities for the area can be provided to the satisfaction of the City Engineer in accordance with adopted master plans;

(5) After mitigation, the project does not individually generate air-quality impacts for fixed, mobile, or construction sources within the General Plan area by more than any of the following thresholds per day:

Pounds per Day Thresholds

Respiratory Particulate Matter (PM10)	Fine Particulate Matter (PM2.5)	Oxides of Nitrogen (NOx)	Oxides of Sulfur (SOx)	Carbon Monoxide (CO)	Lead and Lead Compounds	Volatile Organic Compounds (VOCs)
100	55	250	250	550	3.2*	75** 55***

* Not applicable to construction.

** Threshold for construction per SCAQMD CEQA Air Quality Handbook.

*** Threshold for operational per SCAQMD CEQA Air Quality Handbook.

(A) Diesel standby generators in conformance with Zoning Code section 33-1122 are exempt from the above requirement for daily emissions of oxides of nitrogen;

(6) Greenhouse gas (GHG) emissions. In situations where a negative declaration is otherwise appropriate, the following incremental GHG emissions are generally not considered significant:

(A) Projects that do not generate more than 2,500 metric tons (MT) of carbon dioxide equivalent (CO₂e) GHG emissions and that are consistent with the General Plan, or

(B) Projects generating more than 2,500 MT of CO₂e that are consistent with the General Plan, and that have demonstrated consistency with the Climate Action Plan (CAP) through completion of the CAP Consistency Checklist, adopted by separate resolution, or

(C) Projects generating more than 500 MT of CO₂e that are consistent with the General Plan, and that cannot demonstrate consistency with the CAP through completion of the CAP Consistency Checklist due to unique land uses or circumstances for which no measures in the checklist would apply, but that can demonstrate consistency with the CAP through comparison to a numerical GHG threshold of 2.0 MT CO₂e per service population per year, or

(D) Projects that are not consistent with the General Plan and will generate greater GHG emissions than the allowable uses under the existing General Plan land use designation that demonstrate through a project-specific analysis quantifying GHG emissions that

through mitigation and design features, the project reduces GHG emissions consistent with the CAP;

(7) Noise impacts of Circulation Element street widening. In situations where a negative declaration is otherwise appropriate, the following incremental noise increases are generally not considered significant:

(A) Short- or long-term increases, regardless of the extent, that do not result in noise increases in excess of General Plan standards,

(B) Short- or long-term increases that result in a three dBA or less incremental increase in noise beyond the General Plan's noise standards;

(8) Demolition or removal of historic resources. Demolition of historic resource would be considered significant if:

(A) Structures are determined to be a unique or rare example of an architectural design, detail, historical type, or method of construction in the community representing an example of a master (a figure of generally recognized greatness in a field, or a known craftsman of consummate skill);, possessing high artistic value;; embodying the distinctive characteristics of a type, period, or method of construction referring to the way in which a property was conceived, designed or fabricated in past periods of history in Escondido; or containing enough of those characteristics to be considered a true representative of a particular type, period, or method of construction,

(B) Structures located within an historic district and the relationship with other structures in the vicinity contributes to the unique character and quality of the streetscape and/or district,

(C) Structures involving the site of a locally historic person (or event) whose activities were demonstrably important within the context of Escondido, and is generally restricted to those properties that illustrate (rather than commemorate) important achievements that are directly associated with the subject property and reflect the time period,

(D) Structures listed with, or eligible for listing with, the State Register or National Register,

(E) Pursuant to CEQA Guidelines section 15300.2(f) a categorical exemption shall not be used for a project that may cause a substantial adverse change in the significance of an historic resource because a project that is ordinarily insignificant in its impact to the environment in a particularly sensitive environment may be significant.

(b) Environmental impact reports. Where deficiencies exist relative to the City's quality of life standards, and the extent of the deficiency exceeds the levels identified in subsection (a) of this section, an environmental impact report shall be prepared. (Ord. No. 95-2, § 1, 2-15-95; Ord. No. 2001-18, § 4, 7-25-01; Ord. No. 2002-10, § 5, 4-10-02; Ord. No. 2003-36, § 4, 12-3-03; Ord. No. 2013-12, § 4, 12-11-13)

(c) Level of service. While changes in level of service (LOS) at street intersections or segments may not be used to determine whether a project will cause traffic impacts for purposes of CEQA analysis, they may be used to determine if the project is consistent with the General Plan's Street Network Policy 7.3.

ARTICLE 47. ENVIRONMENTAL QUALITY

DIVISION 1. REGULATIONS

Sec. 33-925. City responsibility for environmental documentations and determinations.

(a) The City shall have responsibility and control over the form, scope, and content of all documents comprising the environmental assessment of a project. All reports, studies, or other

documents prepared by or under the direction of an applicant, intended for inclusion in the environmental documents, shall be clearly identified as the project proponent's environmental assessment (PEA), and shall set forth in detail the assumptions and methodologies supporting any conclusions reached or upon which any recommendations may be based.

(b) The City, at its sole discretion, may decide to utilize the services of a private consulting firm to prepare or review all studies, reports, and other documents required or permitted by CEQA, the CEQA Guidelines, or other applicable laws or regulations, including those studies, reports, or other documents submitted by the project proponent or any other party. In all cases, the consultant shall enter into a contract with and shall be responsible directly to the City. All services shall be performed to the satisfaction of the Director of Community Development, or designee.

(c) All costs incurred in the preparation of a project's environmental documents, including the cost of services performed under subsection (b) of this section, shall be borne by the project proponent.

ARTICLE 47. ENVIRONMENTAL QUALITY

DIVISION 1. REGULATIONS

Sec. 33-926. Enhanced CEQA review for projects subject to congestion management program requirements.

Unless otherwise exempt from state law, development proposals or other discretionary planning actions that are expected to generate either an equivalent of 2,400 or more average daily trips (ADT) or 200 or more peak hour vehicle trips shall include as part of the enhanced CEQA review the following information:

(a) A traffic analysis to determine the project's impact on the regional transportation system. The regional transportation system includes all the state highway system (freeways and conventional state highways) and the regional arterial system identified in SANDAG's (San Diego Association of Governments) most recent regional transportation plan (RTP). The regional transportation system includes all of the designated congestion management program (CMP) system.

(b) The traffic analysis shall be made using the traffic model approved by SANDAG for congestion management program traffic analysis purposes. The traffic analysis shall also use SANDAG's most recent regional growth forecasts as the basic population and land use database.

(c) The traffic analysis shall acknowledge that standard trip generation estimates may be overstated when a project is designated using transit-oriented development design principles. Trip generation reductions should be considered for factors such as focused development intensity within walking distance to a transit station, introduction of residential units into employment centers, aggressive transportation demand management programs, and site design and street layouts that promote pedestrian activities.

(d) The project analysis shall include an estimate of the costs associated with mitigating the project's impacts to the regional transportation system. The estimates of any costs associated with the mitigation of interregional travel (both trips end outside the county) shall not be attributed to the project. Credit shall be provided to the project for public and private contributions to improvements to the regional transportation system. The City shall be responsible for approving any such credit to be applied to a project. The credit may be in any manner approved by the City,

including any one or combination of the following: donated/dedicated right-of-way, interim or final construction, impact fee programs, or money contributions. Monetary contributions may include public transit, ride sharing, trip reduction program support, and air quality transportation control measure funding support.

(e) Notwithstanding any statement to the contrary within this section, a project's effect on automobile delay shall not constitute a significant environmental impact for purposes of CEQA, except as otherwise provided in CEQA Guidelines section 15064.3.

ARTICLE 55. GRADING AND EROSION CONTROL

Sec. 33-1055. Grading permit requirements.

(a) **Permits Required.** Except as exempted in section 33-1053 of this article, no person shall perform any grading without first obtaining a grading permit from the city engineer and applicable state-issued stormwater discharge permits. A separate permit shall be required for each site, and may cover both excavations and fills.

(b) **Application.** The provisions of section 302(a) of the Uniform Building Code are applicable to grading, and in addition the application shall state the estimated quantities of work involved.

(c) **Plans and Specifications.** When required by the city engineer, each application for a grading permit shall be accompanied by two sets of plans and specifications, and supporting data consisting of a soil engineering report and engineering geology report. Additional sets of plans and specifications may be required by the city engineer.

(d) **Information on Plans and Specifications.** Plans shall be drawn to scale upon substantial paper, or cloth, and shall be of sufficient clarity to indicate the nature and extent of the work proposed, and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner, and the person by whom they were prepared.

The plans shall include the following information:

- (1) General vicinity of the proposed site;
- (2) Property limits and accurate contours of existing ground and details of terrain and area drainage;
- (3) Limiting dimensions, elevations, or finish contours to be achieved by the grading, and proposed drainage channels and related construction;
- (4) Detailed plans of all surface and subsurface drainage devices, including brow ditches, walls, cribbing, dams, protective fencing, and other protective devices to be constructed with, or as a part of, the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains;
- (5) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners that are within 15 feet of the property or that may be affected by the proposed grading operations;
- (6) Location and identification of any existing sensitive biological species, sensitive biological habitat, mature trees, or protected trees pursuant to section 33-1068(c);
- (7) Letter of permission from property owner for any off-site grading;
- (8) For projects greater than five acres, the Regional Water Quality Control Board's notice of intent file number.

(e) Soils Engineering Report. The soils engineering report required by subsection (c) of this section shall include data regarding the nature, distribution, and strength of existing soils; conclusions and recommendations for grading procedures; design criteria for corrective measures, when necessary; and opinions and recommendations covering adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the city engineer shall be incorporated in the grading plans or specifications.

(f) Engineering Geology Report. The engineering geology report required by subsection (c) of this section shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the city engineer shall be incorporated in the grading plans or specifications.

(g) Issuance. The provisions of Section 303 of the Uniform Building Code are applicable to grading permits. The city engineer may require that grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.

(h) Provisions for Denial. A grading permit may be denied if the city engineer determines that:

- (1) It is reasonably likely that the ultimate development of the land to be graded cannot occur without further grading requiring zoning administrator or director approval pursuant to the provisions of section 33-1066(c) of the criteria for grading design; or
- (2) (A) There is no approved development plan or environmental clearance under CEQA for the property to be graded; and
(B) The proposed grading may substantially limit development alternatives for the property; and
(C) It is probable that development of the property will require discretionary approvals (such as, but not limited to, a tentative subdivision or parcel map, a conditional use permit, or a planned development approval) by the city; or
- (3) The proposed grading is detrimental to the public health, safety, or welfare; or
- (4) The proposed grading is not in conformance with the requirements of sections 33-1068 through 33-1069, clearing of land and vegetation protection.

(i) Appeals. The city engineer's denial of a grading permit pursuant to subsection (h) of this section may be appealed to the planning commission in accordance with the provisions of section 33-1303 et seq., of Article 61 of this chapter.

ARTICLE 55. GRADING AND EROSION CONTROL

Sec. 33-1066. Design criteria.

The criteria listed below are to be adhered to in the preparation of grading designs for private and public development projects. In addition, these criteria are intended to reflect and implement the goals and policies of the Escondido General Plan relating to the protection of the critical landforms and natural resources of the city. Proposed grading designs will be compared to these criteria and, therefore, project proponents are encouraged to meet with city staff to discuss development and grading concepts prior to submittal of formal permit applications.

(a) Sensitivity to surrounding areas. All graded areas shall be protected from wind and water erosion through acceptable measures as described in the city's stormwater management

requirements. Interim erosion control plans shall be required, certified by the project engineer, and reviewed and approved by the engineering services department. All grading designs must demonstrate visual sensitivity to surrounding properties and neighborhoods. Grading designs should have these characteristics:

- (1) Extensive slope areas that are easily visible from outside the development shall be avoided;
- (2) Fill slopes shall not block views from surrounding properties;
- (3) Cut slopes shall not adversely affect the safe operation of adjoining septic systems;
- (4) Any significant grading feature that may intrude into or disturb surrounding property shall be avoided.

(b) Slope heights. Slope heights shall be limited to minimize impact on adjoining properties. The height of retaining walls incorporated in grading designs shall be included in calculating the overall slope height. Grading designers shall strive to conform to the following criteria:

- (1) Fill slopes within 50 feet of the property line shall be limited to five feet in height. Fill slopes in this location between five and 10 feet in height may be allowed, subject to the approval of the director;
- (2) Fill slopes beyond 50 feet from the property line shall be limited to 20 feet in height;
- (3) Fill slopes adjacent to existing public and private streets shall be limited to 10 feet in height;
- (4) Cut slopes within 50 feet of the property line shall be limited to 20 feet in height;

(c) Specific review by the zoning administrator for discretionary project applications or by the director for administrative project applications is required for the following slopes:

- (1) Any fill slope within 50 feet of the property line that is in excess of 10 feet in height;
- (2) Any fill slope beyond 50 feet of the property line that is in excess of 20 feet in height;
- (3) Any cut slope in excess of 20 feet in height;
- (4) Any cut slope steeper than 2:1 that is determined by the director to impact adjacent properties.

(d) Requests for approval of slopes in subsection (c) above shall be included in the project description and identified on the project plans. A statement of justification for each slope shall also be included. For those slopes that are proposed as part of an administrative request, fees for the legal notice and mailing list shall be submitted and a public notice of intended decision shall be issued pursuant to Article 61, Division 6, of this Chapter. For a discretionary project, no separate application or filing fee will be required. When judging such requests, the zoning administrator or the director shall consider:

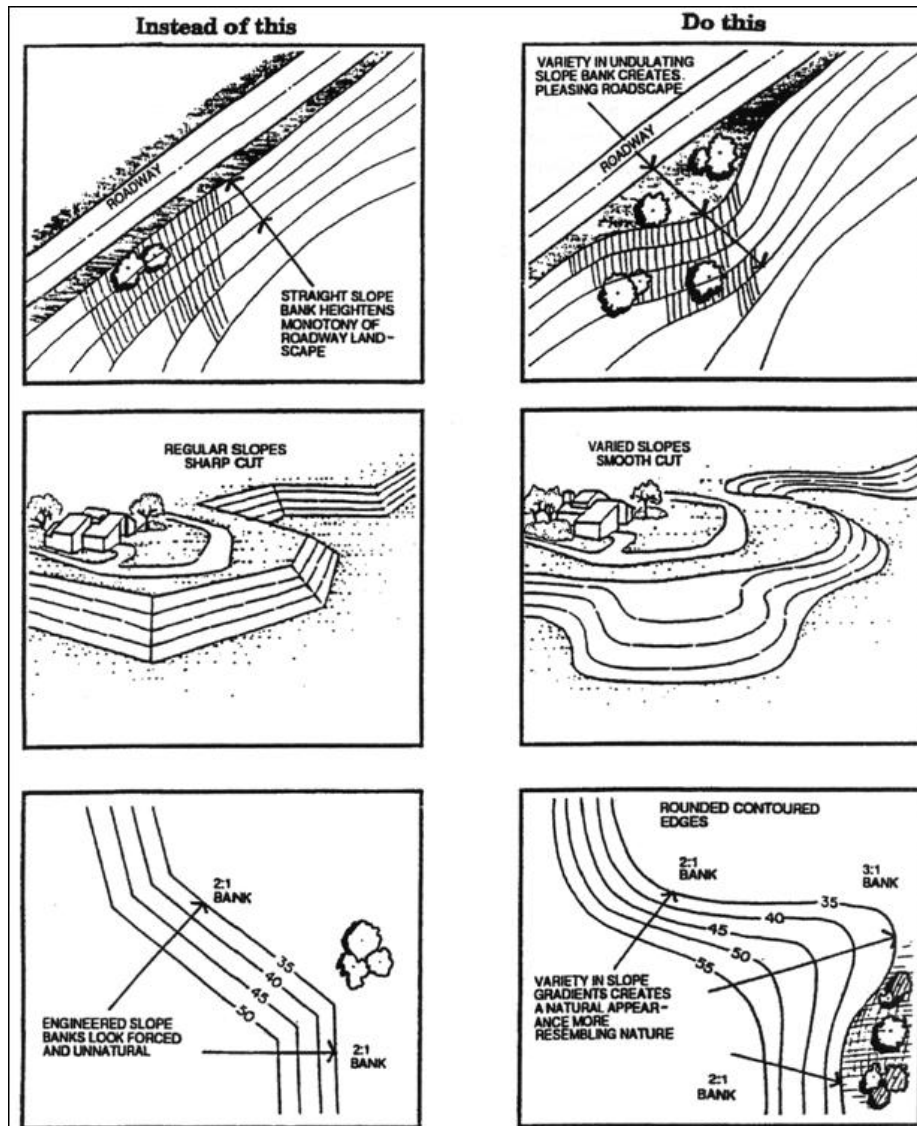
- (1) The criteria contained within section 33-1066;
- (2) The stability of the slope;
- (3) The impact of the slope on surrounding properties;
- (4) The reason for the slope; and
- (5) Whether reasonable alternatives to the proposed design are available.

(e) Slope ratios. Grading designs should use a mix of different slope ratios—particularly where slope surfaces are easily visible from public streets. A mixture of 2:1, 2.5:1, 3:1, and flatter slope ratios should be used to provide variety throughout the development. Depending upon the recommendation of the soils engineer, steeper slopes to a maximum of 1.5:1 may be approved by the director for cut slopes of limited heights. Concurrent with development plan submittal, reasonable justification (such as to avoid blasting rock or to preserve mature trees) shall be given for any cut slope proposed to be steeper than 2:1.

(f) Contoured grading. Slopes should be designed and constructed so as to conform to the natural contours of the landscape. Creative landforms using contoured grading should be utilized in all cases, except when such approach requires substantial increase in grading and slope heights, or is not deemed appropriate by the director. When utilized, contour grading should conform to the following guidelines:

- (1) Grading should follow the natural topographic contours as much as possible (See figure 2);
- (2) Manufactured slopes should be rounded and shaped to simulate the natural terrain (see Figure 2);

Figure 2: CONTOUR GRADING

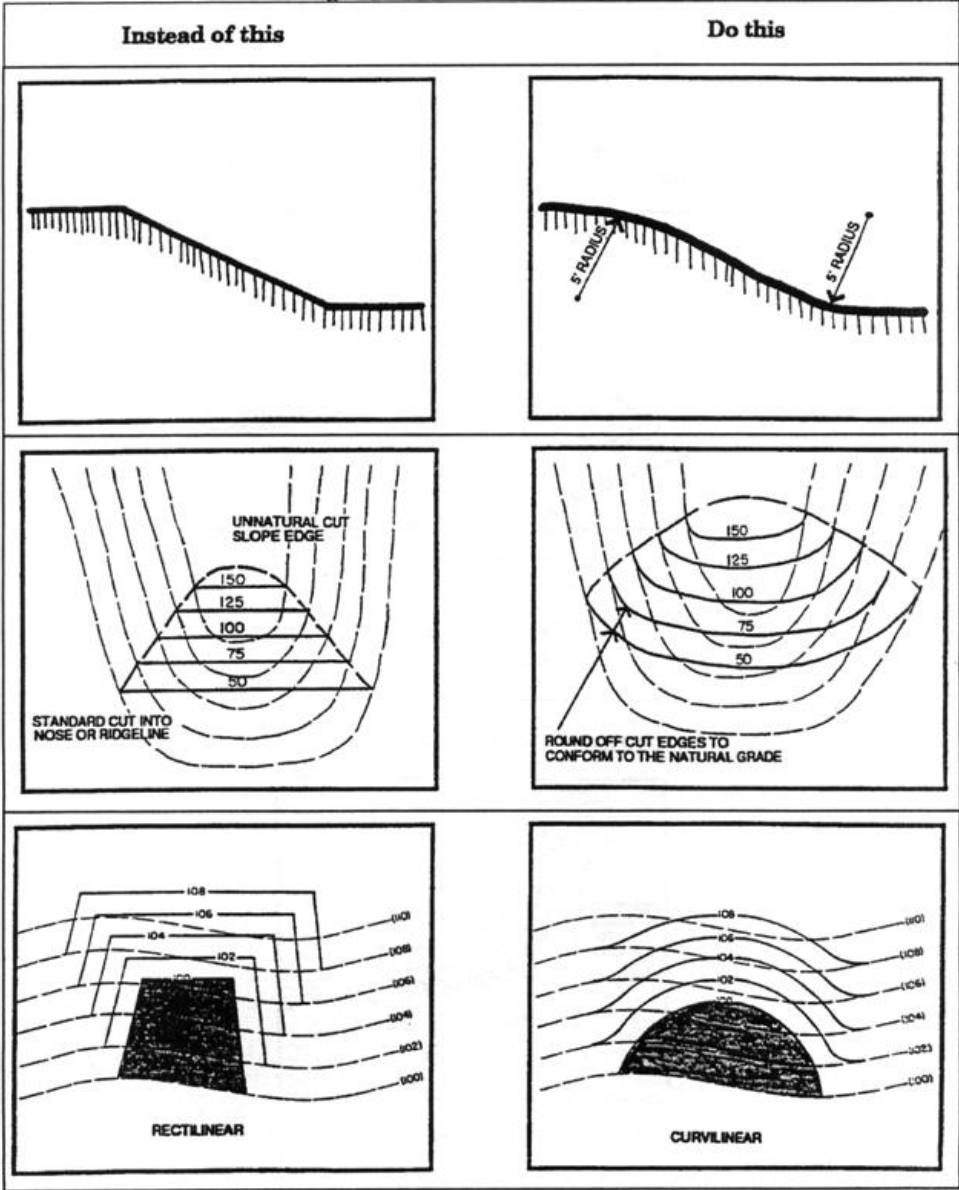


(3) The toe and crest of any slope in excess of 10 feet in vertical height should be rounded with vertical curves of radii no less than five feet, designed in proportion to the total height of the slope, when space and proper drainage requirements can be met with an approval by the

city engineer (see Figure 3). The setbacks from such slope shall be determined as shown on Figure 1. When slopes cannot be rounded, vegetation shall be used to alleviate a sharp, angular appearance;

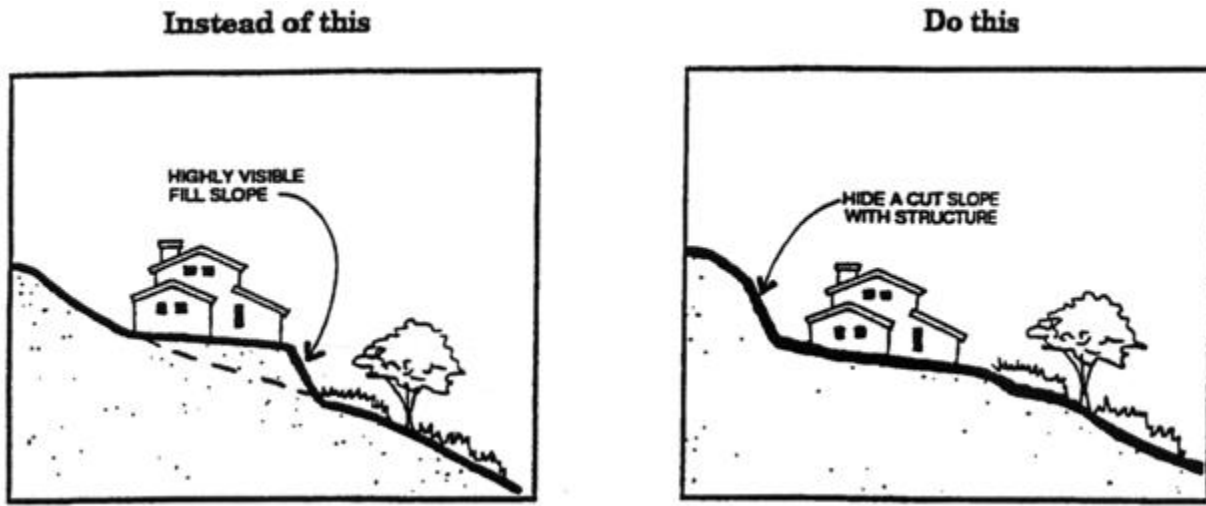
(4) Manufactured slopes shall blend with naturally occurring slopes at a radius compatible with the existing natural terrain (see Figure 3);

Figure 3: CONTOUR GRADING



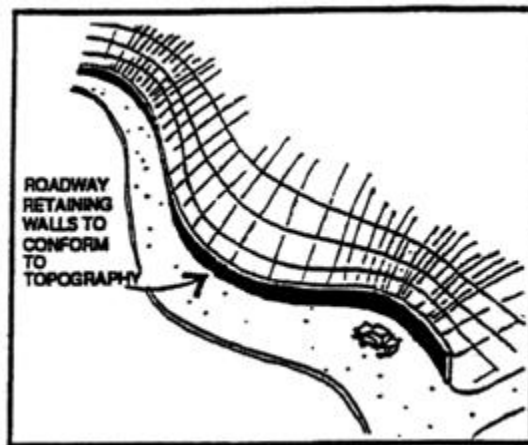
(5) Manufactured slopes shall be screened from view under or behind buildings or by intervening landscaping or natural topographic features. Where possible, grading areas shall be designed with manufactured slopes located on the uphill side of structures, thereby hiding the slope behind the structure (see Figure 4);

Figure 4: SLOPE SCREENING



(6) Retaining walls shall be designed with smooth, continuous lines that conform to the natural hillside profile to the extent possible (see Figure 5).

Figure 5: RETAINING WALLS



(g) Preservation of natural and cultural features. Grading designs shall be sensitive to natural topographic, cultural, or environmental features, as well as mature and protected trees, and sensitive biological species and habitat, pursuant to sections 33-1068 through 33-1069. The following features shall be preserved in permanent open space easements, or such other means that will assure their preservation:

- (1) Undisturbed steep slopes greater than (35%);
- (2) Riparian areas, mitigation areas, and areas with sensitive vegetation or habitat;
- (3) Unusual rock outcroppings;
- (4) Other unique or unusual geographic features;
- (5) Significant cultural or historical features.

(h) Public safety. More extreme grading measures may be approved if necessary to construct street systems conforming to minimum design standards or to provide reliable maintenance access to public utilities or drainage systems.

(i) Landscaping of manufactured slopes. All manufactured slopes shall be protected and landscaped to the satisfaction of the engineering and planning departments.

(1) High slopes (over 20 feet) shall be screened with appropriate landscaping, and efforts shall be made in the plotting of structures to screen slopes to the maximum extent possible.

(2) Drought-tolerant and native species shall be utilized wherever possible to minimize water usage. Refer to the fire department's "Wildland/Urban Interface Standards" for planting requirements on slopes adjacent to high fire zone areas.

(j) Dissimilar land uses. Where dissimilar land uses are located adjacent to one another, grading shall be designed so as to buffer or screen one use from the other. In this regard, the location, height, and extent of proposed grading shall be compatible with adjacent uses, and screening measures that include fences, walls, mounding, and extensive landscaping shall be utilized wherever needed.

(k) Erosion and sediment control. A sound grading approach must include measures to contain sediment and prevent erosion. Such measures shall be identified at the earliest possible point in the grading design process and thereafter implemented as soon as deemed necessary by the city engineer or inspector. Developers of projects that propose grading shall prepare erosion and sediment control plans in conjunction with grading plans utilizing measures described in the city's stormwater management requirements. Containment of sediment and control of erosion is the responsibility of the property owner and developer.

(l) Hillside areas. The standards provided with this section are in addition to the provisions of the underlying land use district and to other applicable provisions of the Escondido Zoning Code.

(1) Minimum site standards. The following provisions shall apply to residential hillside areas, except that the city engineer may approve modifications to these requirements upon demonstration that any such proposed modifications represent a desirable integration of both site and unit design, and excepting further that these requirements are not intended to require additional grading on existing lots or parcels. For the purposes of this section, "usable" is defined as having a gradient not exceeding that of the balance of the building pad, or 10%, whichever is the lesser.

(2) Within single-family districts, a usable rear yard of at least 15 feet from building to slope shall be provided. Within multiple-family districts, a usable rear yard of at least 10 feet from building to slope shall be provided. This requirement may be modified to the extent that (i) equal usable area is provided elsewhere on the lot other than within the required front yard, and (ii) it is demonstrated that the unit is designed to relate to the lot design;

(3) Within single-family districts where a 10-foot side yard is required, at least five feet of the side yard shall be usable as defined above;

(4) Retaining walls may not be used within required usable side or rear yards unless approved by the director. Retaining walls so used will be counted as part of the total permitted slope height.

(5) Grading on natural slopes of 25% to 35% shall only be permitted for the construction and installation of roads, utilities, garage pads, and other limited pad grading that can be shown to be sensitive to the existing terrain.

Proposed structures shall be designed to conform to the terrain and shall utilize pole, step, or other such foundation that requires only limited excavation or filling.

ARTICLE 55. GRADING AND EROSION CONTROL
Sec. 33-1067.F. Design guidelines for HRO district.

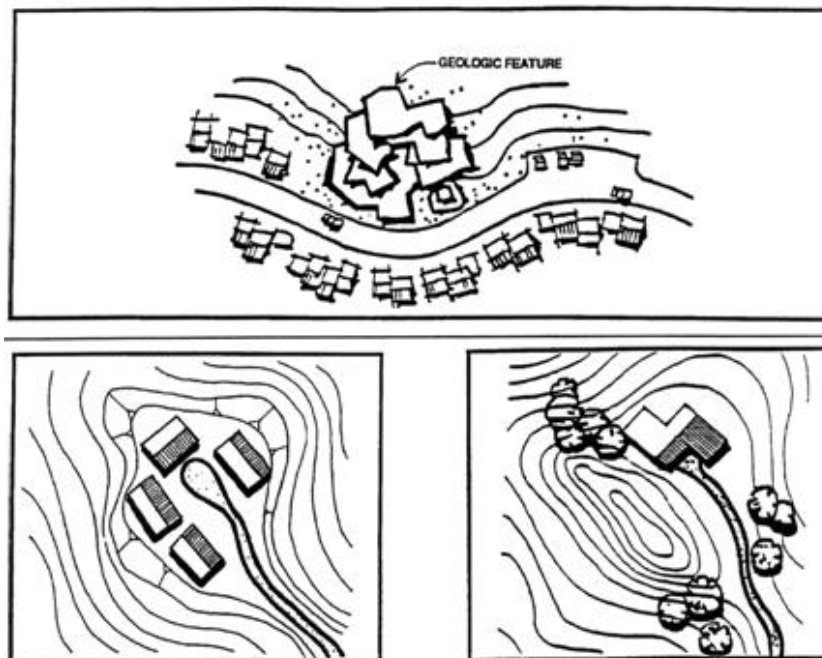
(a) Natural slopes equal to or greater than 15% but below 25%. In addition to other applicable provisions of this article, all development including grading on natural slopes equal to or greater than 15% but below 25% shall be designed according to the following guidelines:

(1) All development shall be sited to avoid potentially hazardous areas and environmentally sensitive areas as identified in the open space element of the general plan or as part of the environmental review, as well as to avoid dislocation of any unusual rock formations or any other unique or unusual geographic features (see Figure 6);

(2) Natural drainage courses shall be preserved, enhanced, and incorporated as an integral part of the project design to the extent possible. Where required, drainage channels and brow ditches shall follow the existing drainage patterns to the extent possible. Drainage channels and brow ditches shall be placed in inconspicuous locations and receive a naturalizing treatment including native rock, colored concrete, and landscaping, so that the structure appears as an integral part of the environment;

(3) Grading shall be limited to the extent possible and designed to retain the shape of the natural landform (see Figure 6). Padded building sites are allowed, but site design and architecture techniques (such as custom foundations, split level designs, stacking, and clustering) shall be used to mitigate the need for large padded building areas. Grading must be designed to preserve natural features such as knolls or ridgelines. In no case may the top of a prominent hilltop, knoll, or ridge be graded to create a large building pad;

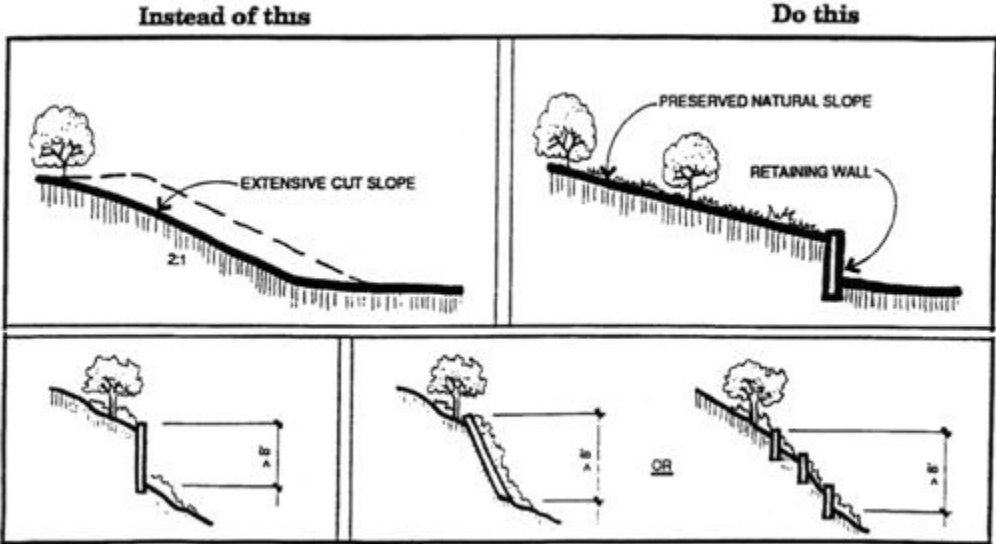
Figure 6: SENSITIVE AREAS



(4) The use of retaining walls, plantable walls, and terraced retaining structures is encouraged when such use can eliminate the need for extensive cut or fill slopes. Retaining walls shall typically have a height of five feet or less. Plantable walls shall be used instead of retaining walls above six feet in height. Terraced retaining structures shall be considered on an individual

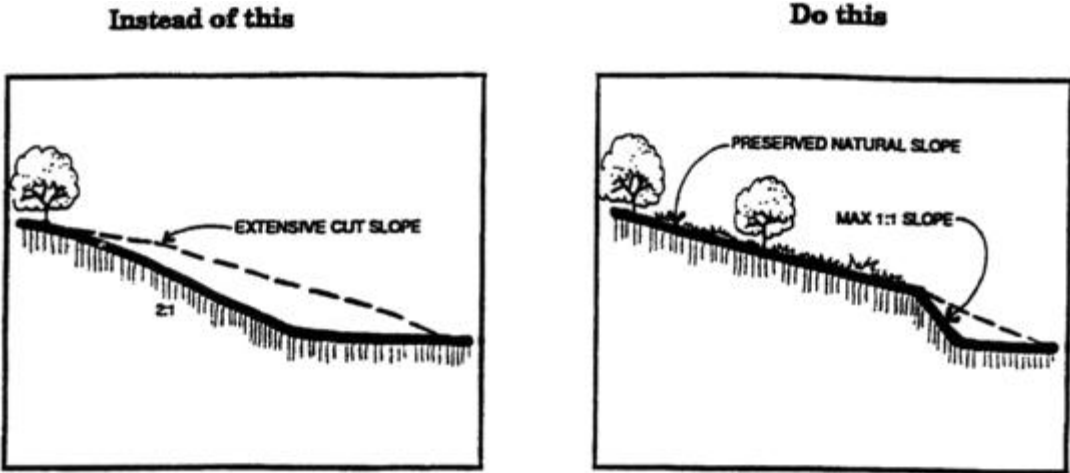
lot basis when their use can avoid the need for extensive manufactured slopes and retaining walls (see Figure 7);

Figure 7: USE OF RETAINING WALLS



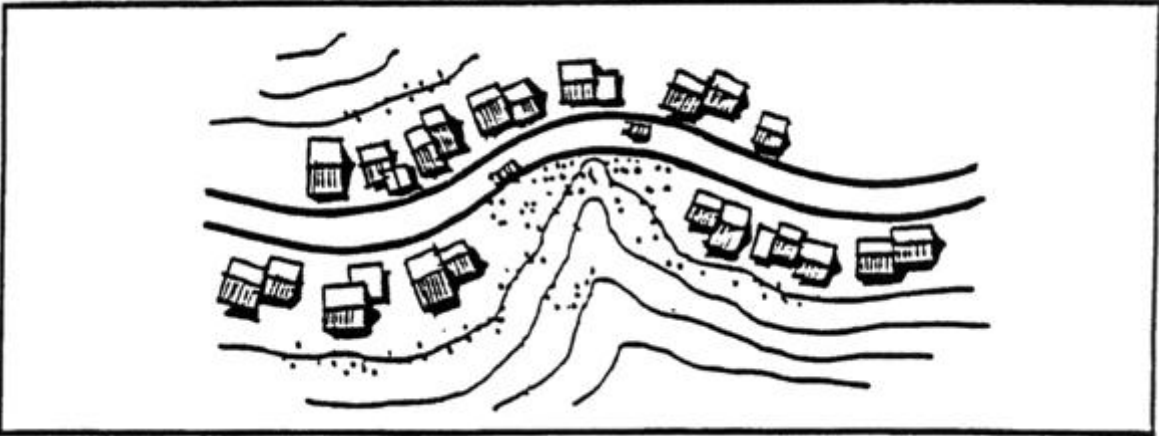
(5) Slopes steeper than 2:1, appropriately designed by a geotechnical engineer, may be permitted subject to zoning administrator or director approval when such slopes preserve the significant environmental characteristics of the site or substantially reduce the need for extensive cut and fill slopes (see Figure 8);

Figure 8: CUT SLOPES



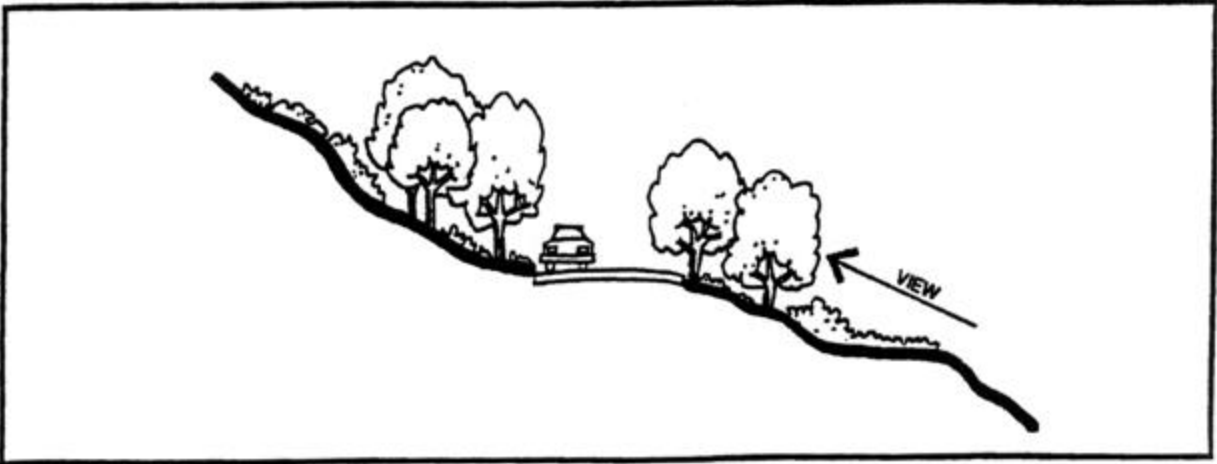
- (6) All roads shall comply with the design standards for rural roads;
- (7) Circulation shall be aligned to conform to the natural grades as much as possible within the limits of the City's street design standards (see Figure 9);

Figure 9: ROAD DESIGN



- (8) Grading for the construction of access roads or drainageways shall be minimized so that the visual impacts associated with such construction are mitigated to the greatest extent possible;
- (9) Common drives in single-family developments shall be considered if grading is reduced by their use;
- (10) The construction of access roadways or driveways shall be accompanied by sufficient berming and landscaping/erosion control so that visual impacts associated with such construction are promptly mitigated (see Figure 10);

Figure 10: SCREENING IMPACTS



(11) Accessory buildings on sloping lots. If the city engineer determines that no hazard to pedestrian or vehicular traffic will be created, a garage or carport may be built to within five feet of the street right-of-way line, if:

(A) The front half of the lot or building site slopes up or down from the established street grade at a slope of 20% or greater, and

(B) To the extent the elevation of the front half of the lot or building site is more than four feet above established street grade, such garage or carport may not extend across more than 50% of the street frontage of the lot or building site.

(b) Slopes equal to or greater than 25% but below 35%. In addition to other applicable provisions of this article, all development including grading on natural slopes equal to or greater than 25% but below 35% shall be designed according to the following guidelines:

(1) Grading shall be utilized only for the construction and installation of roads, utilities, garage pads, and other limited pad grading that is shown to be sensitive to the existing terrain.

(2) Proposed structures shall utilize split pads, stepped footings, and grade separations in order to conform to the natural terrain (see Figure 11). Detaching parts of a dwelling such as a garage, utilizing below grade rooms, and using roofs on lower levels for the deck space of upper levels shall be considered. Other structural designs such as stilt or cantilevered foundations and earth-sheltered or earth-bermed buildings that fit the structure to the natural contours and minimize grading may be considered on a case-by-case basis. Deck construction with excessively high distances between the structure and grade shall be avoided.

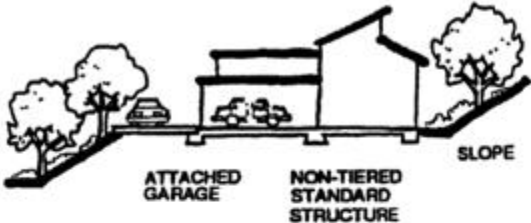
(3) The rear yard shall not exceed 20 feet measured parallel to the slope if the rear yard requires a grading exemption.

(4) Accessory structures, swimming pools, tennis courts, and similar uses shall not be constructed if such construction requires a grading exemption.

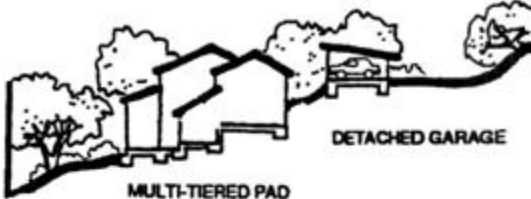
(5) Single-level residential structures shall be oriented such that the greatest horizontal dimension of the structure is parallel with, and not perpendicular to, the natural contour of the land (see Figure 11).

Figure 11: HOME & DESIGN LOCATION

Instead of this



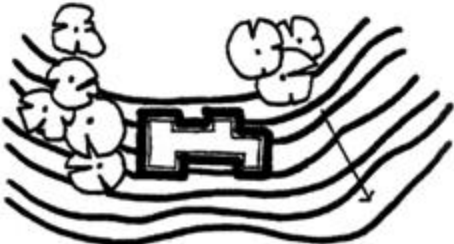
Do this



Instead of this



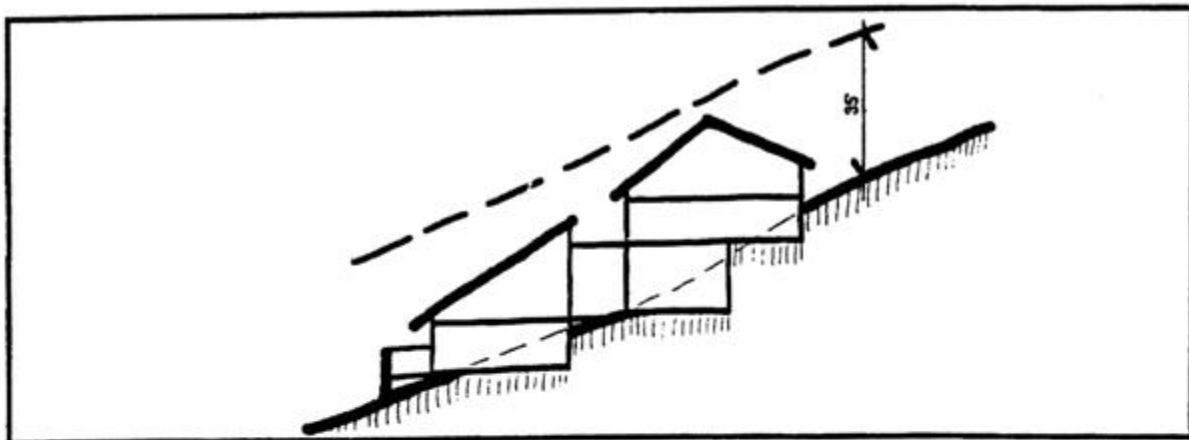
Do this



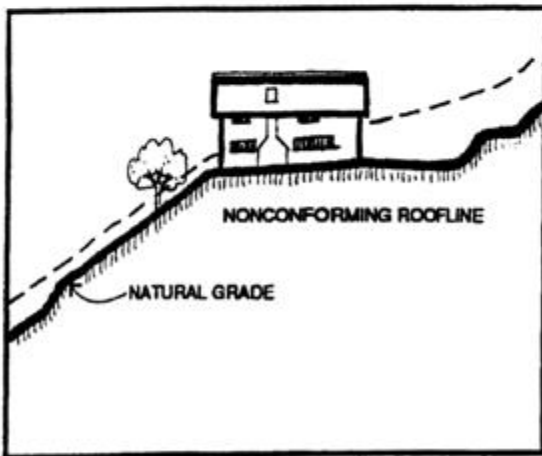
(6) Building height shall be as permitted by the underlying zoning as measured from the natural grade at any point of the structure (see Figure 12).

(7) The slope of the roof shall be oriented in the same direction as the natural slope, and in developments that include a number of individual buildings, variation shall be provided to avoid monotony (see Figure 12).

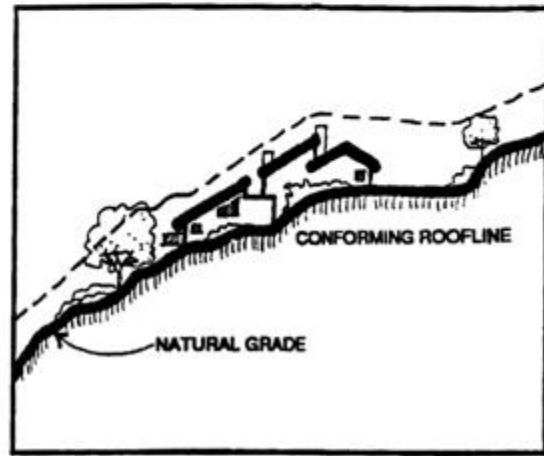
Figure 12: BUILDING HEIGHT/ROOF SLOPE



Instead of this



Do this



(8) Architectural treatment shall be provided on all sides of the structure visible from adjacent properties, roadways, or public rights-of-way. Building materials and color schemes shall blend with the natural landscape of earth tones for main and accessory structures, fences, and walls. Reflective materials or finishes shall not be used.

(c) Slopes equal to or greater than 35%. No development or grading shall occur on slopes of 35% or greater, except as described in section 1067.A(b)(5).

(d) Intermediate Ridges. Development in proximity to intermediate ridgelines shall be avoided to the extent possible. However, if such development occurs, the following guidelines shall apply in addition to other applicable provisions of this article (see Figure 13 for reference):

(1) Only single-story structures or portions of multiple single-story-stepped structures designed to conform to the site shall be permitted to project above the ridgeline;

(2) The minimum width of the lot measured parallel to the protected ridge at the proposed building site shall not be less than 200 feet;

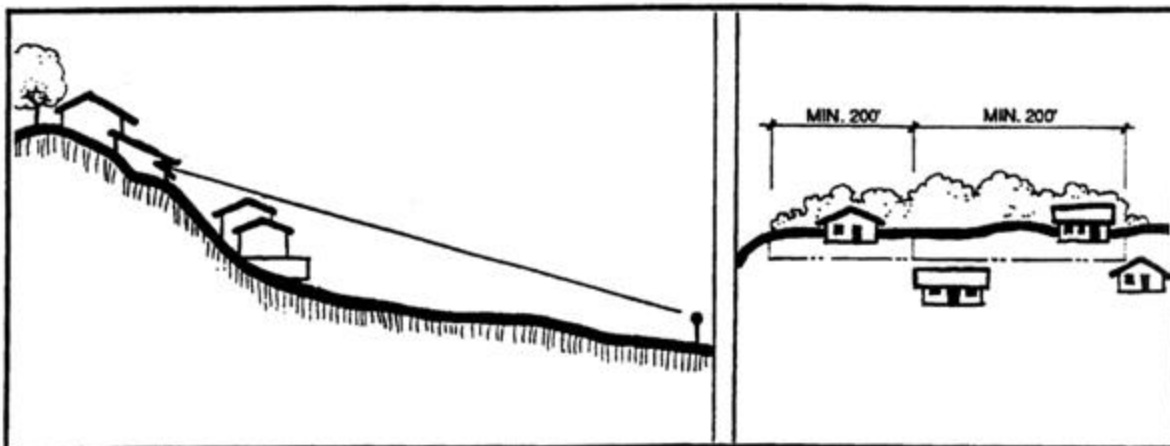
(3) Grading shall conform to the natural terrain to the extent possible. Extensive manufactured slopes and retaining walls shall be avoided.

In no case shall the top of a ridge be graded to provide a large building pad;

(4) Any building or structure in proximity to an intermediate ridge shall be located and designed to minimize its impact upon the ridgeline. Techniques such as use of subordinate or hidden location, split foundations adjusted to the slope, single-story structures, roofline following the slope, and colors and materials that blend with the natural environment shall be used;

(5) Landscaping shall be utilized to recreate the linear silhouette and to act as a backdrop for structures. Trees that grow to at least 1 1/2 times the height of the structure shall be planted between buildings to eliminate the open gap and blend the rooflines into one continuous silhouette.

Figure 13: SITE DISTANCE/LOT WIDTHS



(e) Skyline Ridges. Development in proximity to skyline ridges shall conform to the following standards (see Figure 14 for reference):

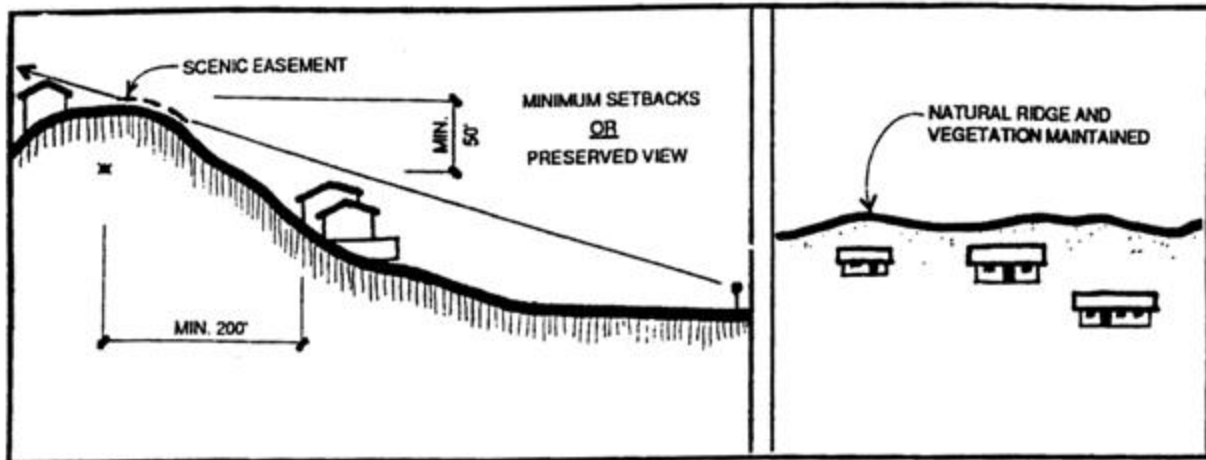
(1) The ridgelines' natural contour and vegetation shall remain intact with development maintaining an undisturbed minimum setback of 200 feet measured horizontally from the center of the ridgeline on a topographic map, or 50 feet measured vertically on a cross-section, whichever is more restrictive. Lesser setbacks may be authorized if it can be demonstrated that no structure or portion of a structure will obstruct the view of the ridge as seen from major points defined during the application process. Points of view to be used for the visual analysis shall generally be taken along major roads including Interstate 15, Del Dios Highway, Centre City Parkway, Bear Valley Parkway, North Broadway, El Norte Parkway, and Valley Parkway; and major public open space areas including Lake Hodges, Lake Wohlford, Lake Dixon, and Kit Carson Park, as applicable to the proposed project. The exact points of view will be from the most critical points as determined by the combination of points from which the proposed development

is most visible and points at which the highest public use occurs (e.g., playfields, picnic areas). The distance of the viewpoints from the ridgeline shall generally be no more than five miles and no less than one-half of a mile. The sensitive viewshed areas and the exact points of view for each proposed project will be identified prior to the project submittal to the satisfaction of the director. The decision of the director will be appealable to the planning commission.

(2) The area along a skyline ridge shall be dedicated to the city as a scenic easement not intended for public access in conjunction with any development that may occur on the property. The owner shall be responsible to retain, maintain, preserve, and protect the public views of these areas in their natural state without obstruction by structures. A scenic easement shall not prohibit clearing of brush or planting of vegetation that is necessary to reduce fire hazards.

(3) Development of one single-family home on a lot legally created prior to adoption of the ordinance codified in this article will be exempt from the requirements of subsections (e)(1) and (e)(2) of this section. Such development will be subject to the requirements of section 33-1067.F(d).

Figure 14: SCENIC RIDGELINES



ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1080. Fences, walls and hedges.

(a) Single-family residential zones.

(1) Front and street side setbacks. Fences, walls, or hedges may not exceed three feet in height if constructed of materials that are less than 50% open, or 3 1/2 feet in height if constructed of materials that are at least 50% open.

Fences, walls, or hedges may not exceed six feet in height when located anywhere on a lot or parcel of 10 acres or greater where horticulture specialties, orchards, or vineyards occur, pursuant to section 33-161 and subject to the design criteria under section 33-1081(b)-(e) and subject to the director's approval.

(2) Interior side and rear setbacks. Fences, walls, or hedges may not exceed six feet in height.

Fences, walls, or hedges may not exceed eight feet in height when abutting a public facility or a multifamily, commercial, or industrial zone, pursuant to the design criteria under sections 33-1081(a) and 33-1081(b), subject to the director's approval. (See Figure 33-1081.2)

(3) Outside of setbacks. Fences, walls, or hedges may not exceed eight feet in height.

(b) Multi-family residential zones.

(1) Front and street side setbacks. Same as in section 33-1080(a)(1), except that fences, walls, or hedges in front or street side setbacks may not exceed six feet in height, pursuant to the design criteria under section 33-1081(a)-(e), subject to the director's approval. (See Figure 33-1081.1)

(2) Interior side and rear setbacks. Same as in section 33-1080(a)(2), except that fences, walls, or hedges may not exceed eight feet in height, pursuant to the design criteria under section 33-1081(a)-(e), subject to the director's approval.

(3) Outside of setbacks. Fences, walls, or hedges may not exceed eight feet in height.

(c) Commercial/industrial zones.

(1) Front and street side setbacks. Same as in section 33-1080(a)(1).

Adequate sight distance pursuant to section 33-1081(b) shall be provided for all fences.

(2) Interior side and rear setbacks. Same as in section 33-1080(a)(2).

(3) Outside of setbacks. Fences, walls, or hedges may not exceed eight feet in height.

(d) Special fences.

(1) Play field fencing. Tennis court, badminton court, basketball court, football field, soccer field, volleyball court, and other similar athletic play area fencing, subject to the fencing design criteria specified in section 33-1081, shall not exceed a height of 15 feet and shall observe the setback of accessory structures within the zone. However, not less than a five-foot setback shall be provided to any property line.

(2) School fences. School common areas may be fenced to the street line; provided, that the fence is made of open wire construction and does not exceed 10 feet in height.

(3) Security fences. Fences or walls not to exceed eight feet in height may be located around commercial, industrial, or public facility uses in any location allowed for principal structures, when required for security purposes, screening, or containment of hazardous materials. In residential zones, fences or walls not exceeding eight feet in height may be located anywhere within the rear and the interior side setbacks when abutting a public facility or a multifamily, commercial, or industrial zone, pursuant to the design criteria under section 33-1081(a) and (b).

(4) Noise mitigation. Fences and walls that are required by a mitigation measure and designed and approved through a tentative subdivision map, tentative parcel map, or major design review with the planning commission for noise attenuation are exempt from the height restrictions.

5) Guardrails. A guardrail or guards, as defined by the California Building Code, may extend above the maximum height of a fence or wall, but only to the minimum extent required for safety by the California Building Code.

(6) Trailer parks. The height of fences in trailer parks shall be regulated by section 29-30 of Chapter 29 (Trailer Coaches and Trailer Parks) and section 33-896 (Travel Trailer Parks).

(7) Swimming pools. The height of fences around swimming pools shall be regulated by section 33-1109 (Swimming Pools).

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1081. Fencing design criteria.

(a) Construction materials. Decorative open materials (constructed of at least 50% open materials), such as wrought iron, may be utilized for the entire height. Solid materials, such as masonry, wood, or similar opaque materials, may be utilized for a height up to three feet within front and street side yards, and up to six feet within interior side or rear yards. Open materials shall be utilized for the remaining portion of the fence height (see Figure 33-1081.1). Fences shall be constructed of materials and colors compatible with the existing or proposed development. Chain link over six feet in height is not permitted in multifamily zones. Barbed wire (or any similar material hazardous to the public) is not permitted in any residential zone, except as authorized pursuant to section 33-1081.

(b) Sight distance. Observance of sight distance areas shall be provided at street corners, driveways, alleys, or similar locations. No solid fence over three feet in height shall be installed within the sight distance area necessary for clear view of oncoming vehicular and pedestrian traffic when waiting to proceed at a street corner or driveway. The sight distance at driveways shall be defined by a triangle formed connecting two points measured along each side of the driveway 10 feet from the street, and along the street 10 feet from the outermost point of the driveway return, as shown in Figure 33-1081.3. At non-signalized corners, the sight distance area is defined by the triangle formed by connecting two points measured along each street frontage 25 feet from the curb return in each direction, as shown in Figure 33-1081.4. No solid fence over 3 feet in height above the curb grade nor other support structure (such as columns, posts, or pilasters) larger than 12 inches in diameter may be installed in this sight distance area unless approved by the engineering department. Sight distance on classified roads shall conform to the engineering department standards to the satisfaction of the city engineer.

(c) Accessibility. The design of the fence (including mechanical/electrical hardware such as knock boxes and intercoms) shall include provisions for access by emergency service personnel pursuant to the Fire and Uniform Security Codes, maintenance and service personnel, and pedestrians. Maintenance and service shall include, but not be limited to, landscape maintenance, postal service and delivery vehicles, utilities, and trash collection. Access to guest parking spaces shall be accommodated outside of the gate, rather than on the street. However, if the required guest parking is located inside the fence, a key pad entry system shall be provided for guest access.

(d) Security gates. Security gates across driveways or private streets shall be located so as to provide adequate vehicle stacking room on site, and to prevent stacking in the public right-of-way. Gates shall not open or swing into the public right-of-way. At least one gate shall be remote-activated and operated without having to leave the car. Automobiles that turn in the driveway and cannot enter through the gate must be able to turn around and exit in a forward manner onto the street. A turnaround area, escape lane, circular drive, or other method of egress shall be provided to the satisfaction of the planning division and the engineering department.

(e) Landscaping. In multifamily zones, fences along street frontages exceeding three and one-half feet in height shall setback so that a five foot landscape area with trees, groundcover, and irrigation is provided between the back of the sidewalk and the fence facing the street. Proposed fence locations shall be designed to accommodate existing mature landscaping to the extent feasible.

- (f) Play field fence buffering. Provisions for buffering shall incorporate heavy landscaping with tall plant materials to help offset the height of the fence.
- (g) Play field fence construction. The fence shall utilize a combination of decorative wood or masonry up to six feet in height and chain link for the remaining nine feet.

FENCE DESIGN EXAMPLES

(SEE SECTION 33-1081 FOR SPECIFIC CRITERIA)

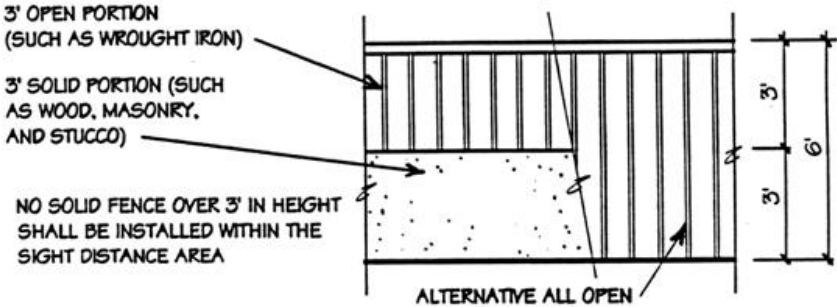


FIGURE 33-1081.1 — EXAMPLE OF 6' HIGH FENCE DESIGNS FOR FRONT AND STREET SIDE YARDS (EXCEPT IN SINGLE-FAMILY ZONES)

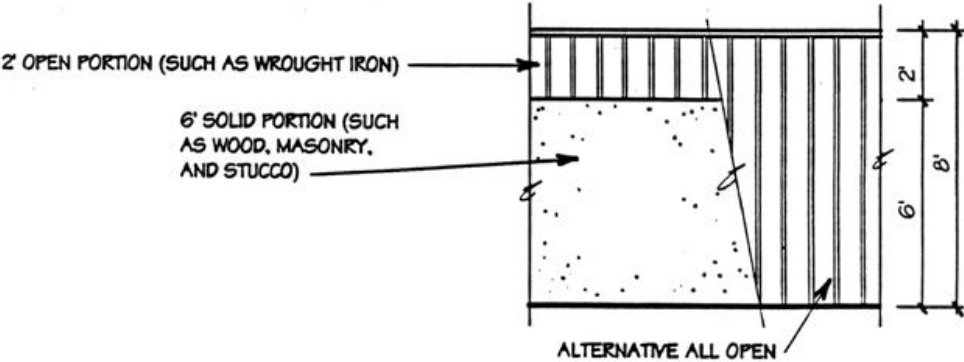


FIGURE 33-1081.2 — EXAMPLE OF 8' HIGH FENCE DESIGNS (SUBJECT TO SECTIONS 33-1080 AND 1081)

SIGHT DISTANCE AREA AT DRIVEWAYS SHOULD BE AT LEAST 10' FROM EACH SIDE OF THE DRIVEWAY

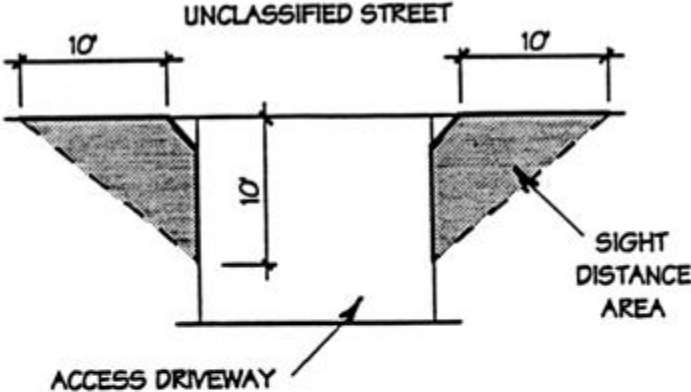
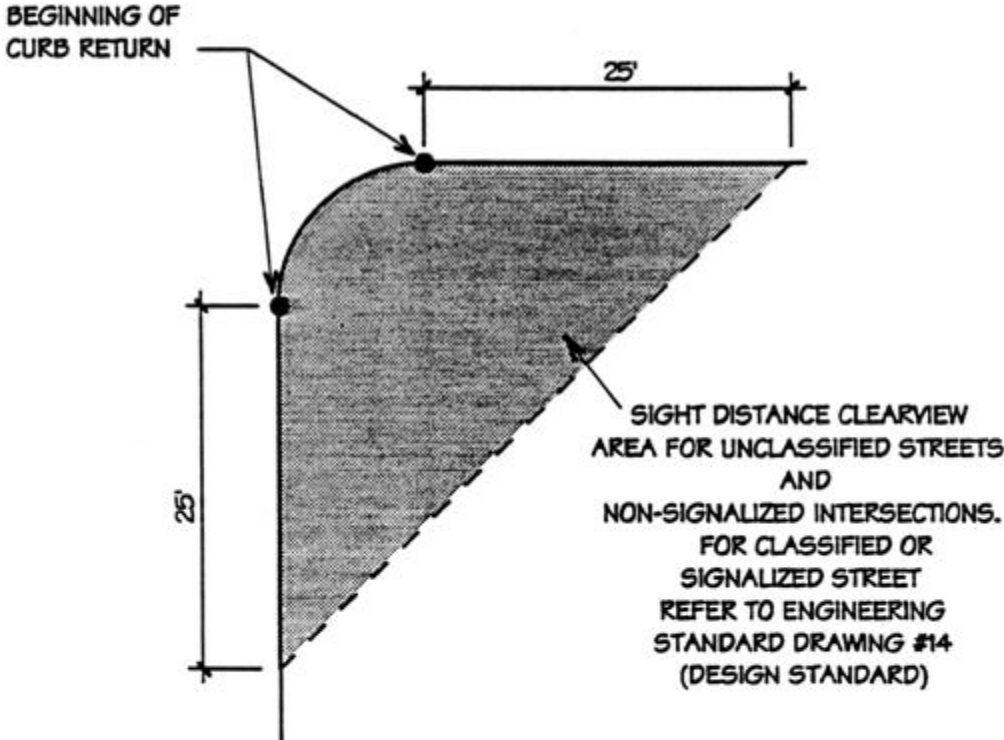


FIGURE 33-1081.3 — SIGHT DISTANCE AT DRIVEWAYS



• NO SOLID FENCE NOR HEDGES OVER 3' IN HEIGHT (ABOVE CURB GRADE) NOR OTHER SUPPORT STRUCTURES (COLUMNS, POSTS, OR PILASTERS) LARGER THAN 12" IN DIAMETER SHALL BE INSTALLED WITHIN THE SIGHT DISTANCE CLEARVIEW AREA.

FIGURE 33-1081.4 — SIGHT DISTANCE AT CORNERS (UNCLASSIFIED STREETS)

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1083. General fence and wall provisions.

(a) **Materials.** Fences or walls may be constructed of any suitable materials in a manner appropriate to its design. Fences shall not contain electrification. Barbed wire, razor wire, or other similar fences with affixed sharp instruments are specifically not permitted in any residential zoning district, except that barbed wire is permitted in agricultural and residential estate zones being used for agriculture or animal husbandry.

(b) **Height measurements.** The height measurement of a fence or wall may be measured from either side in a vertical line from the lowest point of contact with the ground directly adjacent to either side of the fence or wall (i.e., finished grade) to the highest point along the vertical line. The finished grade shall be that as shown on the approved grading plan. In cases where a retaining wall does not require the approval of a grading plan, the finished grade shall be as determined by the City Engineer.

(1) **Height and location requirements for fences or walls placed atop a wall.**

(A) **Freestanding walls.** When a fence or wall is placed over a freestanding wall, the height of the freestanding wall shall be considered as part of the fence or wall for purposes of determining the overall height of the combined structure.

(B) **Retaining or landscaping walls used to increase usable lot area.**

(i) When a fence or wall is placed atop a retaining or landscaping wall, the height of the retaining or landscaping wall shall be considered as part of the fence or wall for purposes of determining the overall height of the combined structure. Within any required front or street side setback, there must be a horizontal separation of at least two feet between structures so the combined height of the fence and retaining wall structure does not exceed the provisions of Sections 33-1080 and 33-1081. When a minimum two-foot horizontal offset is provided, within which screening vegetation is provided to the satisfaction of the Director of Community Development, the wall/fence may not be considered one continuous structure for calculating wall/fence height. The horizontal separation shall be measured from the "back" face of the lower wall/fence to the "front" face of the higher wall/fence.

(ii) If a retaining or landscaping wall is combined with a fence or wall in an interior side or rear setback of any property, the retaining wall shall not be included in the measurement of fence or wall height. The height of the fence or wall shall be determined exclusive of the height of the retaining wall such that the top of the retaining wall is considered the finished grade. Only the portion of the fence or wall above finished grade shall be considered as part of the overall height of the fence or wall. Any combinations of retaining wall and fence or wall over eight feet in height must provide a variation in design or materials between the retaining wall and the fence or wall. Landscaping shall be utilized to soften the appearance of the wall or fence above the retaining or landscaping wall.

(iii) If a fence, wall, or other structure in the nature of a fence is placed over a retaining or landscaping wall beyond the front, street side, interior side, or rear setback line, the height of the fence, wall, or other structure shall be measured separately from the retaining wall, subject to section 33-1080.

(2) **All components of a fence, such as columns, posts, or other elements, shall be included in height measurements.**

(c) **Construction and maintenance.** All fences and walls shall be constructed of new or good used material and shall be kept in good repair and adequately maintained. Any dilapidated, dangerous, or unsightly fences or walls shall be removed or repaired.

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1085. Mechanical equipment and devices.

(a) Screening of mechanical equipment. The screening of roof-mounted, ground-mounted, or wall-mounted mechanical equipment and devices is required in all zoning districts at the time of new installation or replacement.

(1) Roof-mounted mechanical equipment and devices.

(A) Mechanical equipment, including but not limited to air conditioning, heating, tanks, ducts, elevator enclosures, cooling towers, or other similar equipment, shall be adequately screened from view from surrounding properties, adjacent public streets, and on-site parking areas. Screening shall be accomplished with mechanical roof wells recessed below the roof line, by solid and permanent roof-mounted screens, use of parapet walls, or building design integration and concealment by portions of the same building or other structure. Alternative methods for screening may include the consolidation and orientation of devices towards the center of the rooftop with enclosure and the use of neutral color surfaces or color paint matching. Chain link fencing with or without wooden/plastic slats is prohibited.

(B) Any under-roof or wall-mounted cables, raceway, conduit, or other device connection to support roof-mounted assemblies is subject to section 33-1085(a)(3).

(C) All roof appurtenances and screening devices shall be architecturally integrated with construction and appearance similar to and compatible with the building on which the equipment is placed to the satisfaction of the director.

(2) Ground-mounted mechanical equipment and devices.

(A) All ground-mounted mechanical equipment, including but not limited to heating and air conditioning units and swimming pool and spa pumps and filters, shall be completely screened from view from surrounding properties and adjacent public streets by a solid wall or fence or shall be enclosed within a building or electrical/service room. Depending on the location, height, and length of any wall or fence used for screening purposes, landscaping shall be used to the extent practicable to shield and obscure the wall or fence. Alternative methods for screening equipment from the public right-of-way and adjacent properties may include the placement of equipment in locations where buildings serve the purpose of screening or any other method approved by the director. Chain link fencing with or without wooden or plastic slats is prohibited.

(B) In locations where ground-mounted mechanical equipment is completely screened from surrounding properties and adjacent to public streets, but visible on-site, the ground-mounted mechanical equipment shall be surrounded by sight-obscuring landscaping, enclosed, or painted with neutral colors that are compatible with structures and landscaping on the property.

(C) Screening shall be maintained in good condition at all times. Landscaping used as screening shall provide a dense, year-round screen.

(D) Structural, design, and ~~or~~ landscaping plans for any required screening under the provisions of this section shall be approved by the director and the building official.

(3) Wall-mounted mechanical devices.

(A) Wall-mounted mechanical and electrical equipment, that are larger than 36 inches in height or width shall be completely screened from the public right-of-way, adjacent properties, and on-site parking areas, or shall be enclosed within a building or electrical/service room.

(B) Minor wall-mounted mechanical and electrical equipment, such as small generators, utility meters, or junction boxes, that are 36 inches in height and width or less, shall be screened to the maximum extent practicable through the use of building design integration and concealment, enclosure, or surface color paint matching and be screened by walls or fences or sight-obscuring landscaping. Chain link fencing with or without wooden/plastic slats is prohibited.

(4) General screening.

(A) All exterior wall-mounted cables, raceway, conduit, or other device connection to support any roof-mounted, ground-mounted, or wall-mounted mechanical devices, shall be

painted to match the color of the building wall or surface on which they are mounted and shall be sited to minimize the appearance or be in a location that is reasonably compatible and in harmony with the architectural styling and detailing of the building. Additional wall or landscaping screening may be required to the satisfaction of the director.

(B) Structural, design, and/or landscaping plans for any required screening under the provisions of this section shall be approved by the director and the building official.

(5) Exceptions to screening requirements. Where it can be clearly demonstrated that the exterior mechanical equipment is not visible from any surrounding properties, adjacent public streets, and on-site parking areas, the director may waive the screening requirements of this section. Furthermore, the following mechanical equipment and devices will be fully or partially exempt from the foregoing screening requirements of this section, but may be regulated separately by some other local, state, or federal law:

(A) Electric vehicle charging support systems.

(B) Electric generating facilities, including solar photovoltaic systems.

(C) Communication facilities, including satellite antennas.

(D) Heavy industrial uses where the mechanical equipment itself is the main focus of the use, and the size or scale of the equipment prohibits full screening (such as concrete batching plants or certain other large-scale manufacturing uses). The director may require partial screening measures (such as solid fencing or landscape screening) as appropriate and on a case-by-case basis, to minimize the visual effects of the neighborhood to surrounding properties and adjacent streets.

ARTICLE 61. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. CONDITIONAL USE PERMITS

Sec. 33-1202. Application, fees, and procedures.

(a) Application and Fees. Application for a conditional use permit may be initiated by the property owner or agent of the property affected, the planning commission, or the city council. Application shall be made on forms provided by the city and shall be accompanied by the appropriate fee. The application shall further be accompanied by such materials as required by the director.

(b) Procedures. The zoning administrator or planning commission shall consider the application, all relevant codes and regulations, the project's environmental status, necessary findings, the circumstances of the particular case, and any other relevant evidence, and shall hold a public hearing before approving, conditionally approving, or denying the application. The zoning administrator may refer any minor conditional use permit application to the planning commission.

(c) Minor Conditional Use Permit. The zoning administrator shall give notice pursuant to Division 6 of this article and hold a hearing on the application. Minor conditional use permits include, but are not limited to, the following:

(1) Land uses specified as minor conditional uses in the land use matrix of the applicable zoning district, area plan, specific plan, or planned development;

(2) Requests where the conditional use to be permitted does not involve the construction of a new building or other substantial structural improvements on the property in question, provided the use does not involve the use of hazardous substances;

(3) Requests where the conditional use requiring the permit would make use of an existing building and does not involve substantial remodeling of the existing building or the use of hazardous substances;

- (4) Requests where the use requiring the permit is a temporary use that operates periodically on a regular basis and exceeds the time or area restrictions set forth in sections 33-1534(c)(1) and (2) of Article 73;
- (5) Applications for additional animals over those permitted by section 33-1116 of Article 57, pursuant to section 33-1116(g);
- (6) For uses in nonresidential zones requesting parking suitable for the proposed use or mix of uses, pursuant to section 33-764(b) of Article 39;
- (7) Requests for businesses in the CN zone that are open for business before 7 a.m. or after 11 p.m., pursuant to section 33-337(d);
- (8) Requests involving a modification to an existing major conditional use permit (or a modification to a conditional use permit that was approved before the establishment of the minor conditional use permit process) that otherwise meets the criteria under sections 33-1202(c)(1)-(7).

ARTICLE 61. ADMINISTRATION AND ENFORCEMENT

DIVISION 8. PLOT PLANS

Sec. 33-1314. Definition and purpose.

(a) *Plot plan* shall mean a zoning instrument used primarily to review the location and site development of certain permitted land uses. The plot plan review process is required when any of the following are proposed in a multi-family, commercial, or industrial zone:

- (1) A new building, structure, or addition.
- (2) A new permitted use of land or existing structure that may require additional off-street parking.
- (3) A modification of an existing development affecting the building area, parking (when a reduction in parking spaces is proposed), outdoor uses, or on-site circulation. Changes to parking areas that do not result in a reduction in parking spaces are exempt from Plot Plan review, but require design review, as provided in section 33-1355(b)(2).
- (4) As may otherwise be required by this chapter.

Plot plan review is not required for residential development created by a planned development or residential subdivision of single-family lots.

(b) *Minor plot plan* may include, but shall not be limited to, a change in use with no additional floor area, minor building additions, outdoor storage as an accessory use in the industrial zones, or other site plan changes affecting site circulation and parking, as determined by the director.

(c) *Major plot plan* may include, but shall not be limited to, new construction, reconstruction and additions of facilities permitted in the underlying zone, or other projects that exceed thresholds for a minor plot plan, as determined by the director. (Ord. No. 2017-03R, § 4, 3-22-17)

ARTICLE 64. DESIGN REVIEW

Sec. 33-1354. Jurisdiction.

The following commercial, industrial, multifamily residential, and other projects shall be subject to design review by the planning commission, unless otherwise noted:

- (a) Planned development projects, condominium permits, and all projects (besides single-family projects) requiring discretionary approval by the planning commission and involving new construction;

- (b) Proposed development standards or design guidelines for specific plans and overlay districts;
- (c) Proposed signs as specified pursuant to Article 66, Sign Ordinance;
- (d) City-initiated projects that involve public facilities, including but not limited to libraries, major park structures, police stations, or fire stations, or major architectural or site modifications to existing public facilities.

ARTICLE 64. DESIGN REVIEW

Sec. 33-1355. Exemptions and exceptions.

- (a) Exemptions. This article shall not apply to the following:
 - (1) Painting of existing buildings, unless required by an adopted specific plan, overlay district, other code section, or where color was part of a discretionary action;
 - (2) Repair and maintenance of existing buildings;
 - (3) Interior modifications;
 - (4) Single-family residences of four or fewer lots, unless required by an adopted specific plan or overlay district, planned development, or other code section;
 - (5) Landscaping of single-family lots;
 - (6) Street improvement projects and below-ground public facilities constructed by the city as part of the capital improvement program.
- (b) Exceptions. City staff shall review all other non-exempt projects for conformance with applicable design guidelines as noted below. Minor projects where the proposed work may have a significant effect on the surroundings may be agendaized for review by the planning commission.
 - (1) Minor exterior changes in overlay zones;
 - (2) Minor exterior revisions to commercial, industrial, or multifamily residential projects, including, but not limited to parking lot changes not involving a reduction in parking spaces, minor accessory structures, additions of in-wall ATMs, trash enclosures, or additions of minor components for which there are previously approved guidelines, such as above-ground storage tanks, vapor recovery tanks, security gates/fencing, or outdoor dining areas of 300 square feet or less;
 - (3) Minor public facilities such as accessory park structures, pump stations, ADA improvements, and bicycle trails;
 - (4) Production homes in subdivisions of five lots or more;
 - (5) Proposed signs pursuant to Article 66, Sign Ordinance;
 - (6) Repainting of existing structures in any new color palette where building colors were part of a discretionary action.
 - (7) Minor architectural or site modifications to industrial, commercial, and multifamily residential developments that were approved through a public hearing, if the modifications are in substantial conformance with the original approval. Modifications found not to be in substantial conformance may be agendaized for review before the decision-making body that approved the original development.

ARTICLE 65. OLD ESCONDIDO NEIGHBORHOOD
 Sec. 33-1372. Permitted principal uses and structures.

The following principal uses and structures are permitted in the Old Escondido Neighborhood:

Use No.	Use Title
1111	Single-family dwellings, detached, including licensed residential care facilities for six or fewer persons
6815	Small and large family day care homes as defined in section 33-8 of this code.

ARTICLE 65. OLD ESCONDIDO NEIGHBORHOOD
 Sec. 33-1374. Conditional uses.

(a) The following uses are permitted anywhere within the neighborhood/district if a conditional use permit has first been issued and subject to the terms thereof.

Use No.	Use Title
1400	Mobilehome parks conforming to the provisions of this article
1591	Bed and breakfast facilities, conforming to Article 32 (except no signs shall be allowed, no variance to parking requirements granted and size shall be limited to four rooms with no exception)
4710	Communications (excluding 4718—offices, 4712—relay towers, microwave or others)
4753	Satellite dish antennas pursuant to Article 34 of this chapter
4833	Water storage as part of a utility water system (uncovered)
6810	Nursery, primary and secondary education (use of existing buildings only)
6910	Religious activities
6941	Social clubs
6942	Fraternal associations and lodges
6944	Youth organizations subject to criteria of section 33-1105
6952	Civic associations

(b) The following conditional uses are permitted in existing buildings within the Old Escondido Neighborhood on the south side of Fifth Avenue between South Escondido Boulevard and Juniper.

Use No.	Use Title
6520	Legal services
6530	Engineering, architectural, and planning services
6591	Accounting, auditing, bookkeeping services, income tax services, notary public
6592	Interior decorating consulting services
6611	Building contractors (includes residential, commercial, and industrial) with no storage of vehicles, equipment, or materials

(c) No new structures shall be permitted for any conditional uses. All signs shall conform to section 33-1379 of this article. Any use or structure permitted or conditionally permitted by this zone and involving hazardous materials is subject to the conditional use permit requirements of Article 30 of this chapter.

(d) The zoning administrator or planning commission shall evaluate all conditional use permits against the criteria set forth in Article 61 of this chapter. In addition, those conditional use permits pursuant to section 33-1374(b) shall be subject to the following:

- (1) Hours of operation shall be from 7 a.m. to 11 p.m.
- (2) Adaptive reuse shall conform to design guidelines for historic resources. Every project for adaptive reuse will be subject to design review to assess appropriateness of the proposed use and any proposed changes in relation to the area, the building, and the site.
- (3) Parking for employees shall be provided on site at a ratio of one parking space per 300 square feet of the office area. Curbside parking with a two-hour limit shall be provided for customer parking. The city will provide parking stickers for residents.
- (4) Noise and lighting standards shall be the same as for residential areas.
- (5) Signs shall conform to section 33-1379 of this article.

ARTICLE 66. SIGN ORDINANCE

Sec. 33-1395. Sign standards—General.

All permanent freestanding signs shall not obstruct the vehicle sight distance area at the intersections and driveways to the satisfaction of the engineering department. Freestanding signs shall not be placed within easements or over utility lines, except with the prior written approval of all easement holders. Any site plans submitted in conjunction with a sign permit application for a freestanding sign shall identify the location of easements or public or private utilities within 50 feet of the proposed sign location. On sites where the existing street is not constructed to the full designated width, signs shall be located behind the ultimate property line unless otherwise approved by the planning division and the engineering department with an agreement for future removal or relocation. In addition, all permanent freestanding signs shall incorporate the numerical address, or range of addresses, of the parcel or commercial center at which the sign is located. The area of the address shall not be counted in the area of the signs. All illuminated signs shall be equipped with automatic timing devices so that the lighting is turned off between the hours of 11 p.m. and sunrise, unless exempt pursuant to Article 25, Outdoor Lighting.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1410. Purpose.

The purpose of this article is to specify how the City will implement State Density Bonus Law (Government Code sections 65915–65918) (“State Density Bonus Law”), as required by Government Code section 65915(a).

This article is intended to materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for very low income, lower income, and senior households, as well as transitional foster youth, disabled veterans, and homeless persons, throughout the City. It is intended that this article facilitate the development of affordable housing development projects and implement the goals, objectives, and policies of the City of Escondido General Plan Housing Element.

If any provision of this article conflicts with State Density Bonus Law or other applicable state law, such state law shall control. Any ambiguities shall be interpreted to be consistent with state law. Applicable state statutes should be consulted for amendments prior to applying the provisions in this article.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1411. Definitions.

The definitions found in State Density Bonus Law are incorporated herein by this reference as if fully set forth herein and shall apply to the terms used in this article, unless the context requires otherwise and as further clarified in this section:

A. "Affordable housing costs" shall have the same meaning as provided in Health and Safety Code section 50052.5.

B. "Child care facility" shall mean a facility installed, operated, and maintained for the nonresidential care of children as defined under applicable state licensing requirements for the facility, including but not limited to an infant center, preschool, extended day care facility, and school-age child care center, but not including a family day care home.

C. "Density bonus" shall mean an increase over the otherwise maximum allowable gross residential density as of the date of the application by the applicant to the City, or, if elected by the applicant, a lesser percentage of density increase.

D. "Density bonus units" shall mean those residential units granted pursuant to the provisions of this article that exceed the otherwise maximum residential density or permitted floor area ratio (FAR) for the development site.

E. "Developer" shall mean any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City.

F. "Development standard" shall mean a site or construction condition or requirement that applies to a housing development pursuant to any ordinance, General Plan Element, Master or Specific Plan, or other City requirement, law, policy, resolution, or regulation.

G. "Housing development" shall mean one or more groups of projects for residential units that are the subject of one development application, consisting of the following:

1. The construction of five or more residential units (or three or more units if the housing development is located within the South Centre City Specific Plan);
2. A subdivision or common interest development (commonly known as condominiums) consisting of five or more residential units or unimproved lots; or
3. A project to either substantially rehabilitate and convert an existing commercial building to residential use, or substantially rehabilitate an existing two-family or multiple-family dwelling structure, where the result of rehabilitation would be a net increase in available residential units.

H. "In-lieu incentive" shall mean an incentive offered by the City that is of equivalent financial value based upon the land cost per dwelling unit, and that is offered in lieu of a density bonus.

I. "Incentives or concessions" shall mean such regulatory incentives and concessions as stipulated in Government Code section 65915(k), to include, but not be limited to, the reduction of site development standards or zoning code requirements, approval of mixed use zoning in conjunction with the housing project, or any other regulatory incentive that would result in identifiable cost reductions to enable the provision of housing for the designated income group or qualifying residents.

J. "Maximum residential density" shall mean the maximum number of residential units permitted on the project site as defined in the zoning ordinance, or the applicable Specific Plan.

K. "Nonrestricted unit" shall mean any unit within the housing development that is not a target unit.

L. "Senior citizen housing" shall have the same meaning as currently defined by Sections 51.3 and 51.12 of the Civil Code and any subsequent amendments or revisions thereto.

M. "Target unit" shall mean a residential unit within a housing development that will be offered for rent or sale exclusively to, and that shall be affordable to, the designated income group or qualifying resident, as required by this article and State Density Bonus Law.

N. "Total units" shall mean the number of dwelling units in a housing development, excluding the dwelling units added by the density bonus.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1412. General applicability.

A. The provisions of this article shall apply to a housing development of at least five units (or at least three units if the housing development is located within the South Centre City Specific Plan) and where the developer seeks and agrees to construct housing units to be restricted for occupancy by very low, lower, or moderate income households; senior citizens; transitional foster youth, disabled veterans, or homeless persons; or students, as further described in this article.

B. *Fractional Units.* When calculating any component of a density calculation pursuant to this article, including calculating a density bonus or the required number of target units, any calculations resulting in fractional units shall be rounded up to the next whole number.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1413. Standard incentives for new residential construction.

A. The decision-making body shall grant one density bonus, as specified in subsection (B) of this section, and/or incentives or concessions, as set forth in section 33-1414, when a developer of a housing development of at least five units (or at least three units if the housing development is located within the South Centre City Specific Plan) seeks and agrees to construct at least any one of the following. (The density bonus units shall not be included when determining the total number of target units in the housing development.)

1. *Low Income Households.* A minimum of 10% of the total units of the housing development as restricted and affordable to lower income households, as defined in Health and Safety Code section 50079.5.

2. *Very Low Income Households.* A minimum of 5% of the total units of the housing development as restricted and affordable to very low income households, as defined in Health and Safety Code section 50105.
3. *Senior Citizens.* A senior citizen housing development or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code.
4. *Moderate Income Households.* A minimum of 10% of the total units in a common interest development as restricted and affordable to moderate income households, as defined in Health and Safety Code section 50093, provided that all units in the development are offered to the public for purchase.
5. *Transitional Foster Youth, Disabled Veterans, Homeless Persons.* A minimum of 10% of the total units of the housing development as restricted for transitional foster youth, as defined in Education Code section 66025.9; disabled veterans, as defined in Government Code section 18541; or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. section 11301 et seq.).
6. *Students.* A minimum of 20% of the total units for lower income students in a student housing development that meets the following requirements:
 - (a) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full-time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the City that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.
 - (b) The applicable target units will be used for lower income students, which for purposes of this clause shall mean students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in Education Code section 64932.7(k)(1). The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, or by the California Student Aid Commission, that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government.
 - (c) The rent provided in the target units shall be calculated at 19.5% of the Area Median Income for a single-room occupancy unit type.
 - (d) The development will provide priority for the target units for lower income students experiencing homelessness. A homeless service provider, as defined in Health and Safety Code section 103577(e)(3), or institution of higher education that has knowledge of a person's homeless status, may verify a student's status as homeless for purposes of this subclause.
 - (e) For purposes of calculating a density bonus granted pursuant to this subsection, the term "unit" as used in this subsection shall mean one rental bed and its pro rata share of associated common area facilities. The units described in this subsection shall be subject to a recorded affordability restriction of 55 years.

7. 100% of the total units in the development, but exclusive of any manager's unit, are for lower income households, as defined by Health and Safety Code section 50079.5, except that up to 20% of the total units in the development may be for moderate income households, as defined in Health and Safety Code section 50053.

B. *Density Bonus*. When a developer seeks and agrees to construct a housing development meeting the criteria specified in subsection (A) of this section, the decision-making body shall grant a density bonus subject to the following:

1. The amount of density bonus to which a housing development is entitled shall vary. The density bonus may be increased according to the percentage of affordable housing units provided above the minimum percentages established in subsection (A) of this section, but shall not exceed 35%, except in accordance with subsection (D) of this section or as otherwise authorized by State Density Bonus Law.

(a) *Low Income Households*. For housing developments meeting the criteria of subsection (A)(1) of this section, the density bonus shall be calculated as follows:

Table A
Density Bonus for Housing Developments with Units Affordable to Low Income Households

Percentage (%) of Low Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1.5% bonus for each 1% increase above the 10% minimum)
10	20
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32

Percentage (%) of Low Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1.5% bonus for each 1% increase above the 10% minimum)
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

b. *Very Low Income Households*. For housing developments meeting the criteria of subsection (A)(2) of this section, the density bonus shall be calculated as follows:

Table B

Density Bonus for Housing Developments with Units Affordable to Very Low Income Households

Percentage (%) of Very Low Income Units (Minimum 5% required)	Percentage (%) of Density Bonus to Be Granted (Additional 2.5% bonus for each 1% increase above the 5% minimum)
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

c. *Senior Citizens.* For housing developments meeting the criteria of subsection (A)(3) of this section, the density bonus shall be 20% of the number of senior housing units.

d. *Moderate Income Households in a Common Interest Development.* For housing developments meeting the criteria of subsection (A)(4) of this section, the density bonus shall be calculated as follows:

Table C
Density Bonus for Common Interest Developments with Units Affordable to Moderate
Income Households

Percentage (%) of Moderate Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21

Percentage (%) of Moderate Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

e. *Transitional Foster Youth, Disabled Veterans, Homeless Persons.* For housing developments meeting the criteria of subsection (A)(5) of this section, the density bonus shall be 20% of the number of the type of units giving rise to a density bonus under that subsection.

f. *Students*. For housing developments meeting the criteria of subsection (A)(6) of this section, the density bonus shall be 35% of the student housing units.

g. *100% Affordable Projects*. For housing developments meeting the criteria of subsection (A)(7) of this section, the density bonus shall be 80% of the number of units for lower income households. If the housing development is located within 1/2 mile of a major transit stop, the City shall not impose any maximum controls on density.

C. *Density Bonus in Excess of 35%*. In cases where a developer requests a density bonus in excess of that which is specified in this section, the City Council may grant, at its discretion, the requested density bonus, subject to the following:

1. The project meets the requirements of this article and State Density Bonus Law.
2. The requested density increase, if granted, is an additional density bonus and shall be considered an incentive.
3. The City Council may require some portion of the additional density bonus units to be designated as target units, at its discretion.

D. *Granting a Lower Density Bonus*. A qualified developer for a density bonus and/or additional incentives and concessions pursuant to subsection (A) of this section may request and accept a lesser density bonus, including no increase in density, and shall still be entitled to those additional concessions or incentives as specified in 33-1415. No reduction will be allowed in the number of target units required.

E. *Land Donation*. When a developer for a tentative subdivision map, parcel map, or other housing development approval donates land to the City to provide a minimum of 10% of the total units for a future housing development, as provided for in this subsection, the developer shall be entitled to a density bonus for the entire development, as follows:

Table D
Density Bonus for Land Donation

Percentage (%) of Very Low Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32

Percentage (%) of Very Low Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)
28	33
29	34
30	35

1. *Additional Density Bonus.* The density bonus stated in Table D shall be in addition to any increase mandated by subsection (A) of this section. The maximum combined density bonus of the mandated and the additional increase shall not exceed 35%. A developer shall be eligible for the density bonus described in this subsection (E) only if all of the following conditions are met:

- a. *Date of Donations/Transfer.* The land is donated and transferred to the City no later than the date of approval of the final subdivision map, parcel map, or housing development application.
- b. *Feasibility of Development.* The developable acreage, development standards, zoning classification, and General Plan land use designation of the land being donated are sufficient to permit construction of the units affordable to very low income households in an amount not less than 10% of the number of residential units of the proposed development.
- c. *Size of Land.* The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate zoning classification and General Plan land use designation, and is or will be served by adequate public facilities and infrastructure.
- d. *Discretionary Approvals.* No later than the date of approval of the final subdivision map, parcel map, or housing development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by California Government Code section 65583.2(i) if the design is not reviewed by the City prior to the time of transfer.

e. *Continued Affordability.* The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with section 33-1419, which shall be recorded on the property at the time of dedication.

f. *Transfer to Housing Developer.* The land is transferred to the City or to a housing developer approved by the City.

g. *Location of Land.* The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

h. *Financing.* A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development permit.

2. *Condition of Development.* Nothing in this subsection (E) shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1414. Alternative or additional incentives and concessions for housing developments.

A. When a developer requests a density bonus and/or incentives or concessions pursuant to section 33-1413, the decision-making body shall grant incentives or concessions, subject to the following:

1. *Number of Incentives/Concessions.*

a. The developer shall receive the following number of incentives or concession based upon the minimum percentage of total units to be restricted as target units:

Table E
 Number of Incentives/Concessions

Number of Incentives/ Concessions	Percentage (%) of Target Units (Minimum required)
1 Incentive/ Concession	5% for very low income households
	10% for lower income households
	10% for moderate income persons or families in a common interest development
2 Incentives/ Concessions	10% for very low income households
	17% for lower income households
	20% for moderate income persons or families in a common interest development
3 Incentives/ Concessions	15% for very low income households
	24% for lower income households
	30% for moderate income persons or families in a common interest development
4 or more	At the discretion of the

Number of Incentives/ Concessions	Percentage (%) of Target Units (Minimum required)
Incentives/ Concessions	decision-making authority

2. *Incentives/Concessions.* An incentive or concession may include any of the following:

a. *Development, Design, and Zoning Code Requirements.* A reduction or waiver of site development standards, modification of zoning code, or architectural design requirements that exceed the minimum building standards approved by the California Building Standards, including, but not limited to, a reduction in minimum lot size, setback requirements, and/or in the ratio of vehicular parking spaces that would otherwise be required. Any waiver or reduction from the applicable development standards that is necessary to implement the density and incentives/concessions to which the developer is entitled under this subsection (A) shall not serve to reduce or increase the number of incentives/concessions.

b. *Mixed Use Development.* Approval of mixed use residential development in areas not permitted if: (i) commercial, office, industrial or other land uses will reduce the cost of the housing development; and (ii) the commercial, office, industrial or other land uses are compatible with the housing development and the existing or planned future development in the area where the project will be located.

c. *Excess Density Bonus.* A density bonus in excess of more than that which is specified in section 33-1413(B) and in compliance with section 33-1413(C).

d. *Other.* Other regulatory incentives or concessions proposed by the developer that result in identifiable, financially sufficient, and actual cost reductions that contributes to the economic feasibility of the project.

e. *Financial Incentives.* The City Council may, but is not required to, provide direct financial incentives, including direct financial aid in the form of a loan or grant, the provision of publicly owned land, or the waiver of fees or dedication requirements.

3. Nothing in this section shall be construed to require the City to grant a concession or incentive if the City finds that the proposed concession or incentive is not required to achieve the required affordable housing costs or rents, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would otherwise be contrary to law.

4. A developer shall be ineligible for concessions or incentives when the housing development is proposed on any property that includes rental dwelling units that are—or if the units have been vacated or demolished, within the five-year period preceding the housing development application—subject to a recorded covenant, ordinance, or law that restricts rents to affordable levels or is subject to any other form of rent or price control, or occupied by very low households or low income households, unless the proposed housing development replaces those units and meets the requirements of Government Code section 65915(c)(3).

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1415. Condominium conversions.

A. *Income Requirements.* The decision-making body shall grant either a density bonus or in-lieu incentives of equivalent financial value, as set forth in section 33-1414, to a developer proposing to convert apartments to condominiums as otherwise in compliance with the Escondido Municipal Code, and who agrees to provide the following:

1. *Low or Moderate Income.* A minimum of 33% of the total units of the proposed condominium project as restricted and affordable to low or moderate income persons or families; or
2. *Low Income.* A minimum of 15% of the total units of the proposed condominium project as restricted and affordable to low income households.

B. *Density Bonus.* For housing development projects meeting the criteria of subsection (A) of this section, the density bonus shall be 25% over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

C. *Calculating the Target Units.* In determining the number of target units to be provided pursuant to the standards of this section, the number of apartment units within the existing structure or structures proposed for conversion shall be multiplied by the percentage of units to be offered exclusively to the designated income group, as required by subsection (A) of this section. The density bonus units shall not be included when determining the total number of target units required to qualify for a density bonus.

D. *Granting a Lower Density Bonus.* In cases where a density increase of less than 25% is requested, no reduction will be allowed in the number of target units required.

E. *Other Incentives.* For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require the City to provide monetary compensation, but may include the waiver or reduction of requirements that might otherwise apply to the proposed condominium conversion project at the sole discretion of the decision-making body.

F. *Ineligibility.* A developer proposing to convert apartments to condominiums shall be ineligible for a density bonus or in-lieu incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or in-lieu incentives were previously provided under this article.

G. *Affordable Housing Agreement as a Condition of Development.* An affordable housing agreement for all condominium conversion proposals that request a density bonus or in-lieu incentives shall be processed concurrently with any other required project development application (e.g., tentative maps, parcel maps, design review, conditional use permits), and shall be made a condition of the discretionary permits, and execution of such agreement shall be required prior to the issuance by the City of a building permit for the development. The affordable housing agreement shall be consistent with section 33-1420.

H. *No Requirement to Approve Conversion.* Nothing in this section shall be construed to require that the City approve a proposal to convert apartments to condominiums.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1416. Housing with child care facilities.

A. When a developer proposes to construct a housing development that conforms to the requirements of section 33-1413(A), and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the following provisions shall apply:

1. *Bonus or Incentive/Concession.* The decision-making body shall grant either of the following:

a. *Density Bonus.* An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility; or

b. *Incentive/Concession.* An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child care facility.

2. *Conditions of Approval.* The decision-making body shall require, as a condition of approval of the housing development, that the following occur:

a. *Period of Operation for Child Care Facility.* The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the target units are required to remain affordable, pursuant to section 33-1418; and

b. *Income Requirements.* The percentage of children who are of very low, lower, or moderate income households shall be equal to or greater than the percentage of dwelling units that are required for very low, lower, or moderate income households pursuant to section 33-1413(A).

3. *Findings to Deny Bonus or Incentive/Concession.* Notwithstanding any requirement of this section, the decision-making body shall not be required to provide an additional density bonus, incentive, or concession for a child care facility if it finds, based on substantial evidence, that the community has an adequate number of child care facilities.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1417. Affordable and senior housing standards.

A. *Concurrent Development.* Target units shall be constructed concurrently with nonrestricted units unless both the City and the developer agree within the affordable housing agreement to an alternative schedule for development. If the development proposes a phased building plan, a proportionate share of target units shall be constructed in each phase. Otherwise, the City shall not issue building permits for more than 50% of the nonrestricted units until the City has issued building permits for all of the target units, and the City shall not approve any final inspections or issue any certificates of occupancy for more than 50% of the market rate units until the City has issued certificates of occupancy for all of the affordable units.

B. *Location and Dispersal of Units.* Target units and density bonus units shall be built on site (within the boundary of the proposed development) and when practical, be dispersed within the housing development.

C. *Off-Site Alternative.* Circumstances may arise in which the public interest would be served by allowing some or all of the designated target units to be produced and operated at a development site different from the site of the associated housing development, also known as an off-site alternative. Where the City and the applicant form such an agreement, both the associated target and nonrestricted units of the housing development shall be considered a single housing development for the purposes of this article, and the applicant shall be subject to the same requirements of this article pertinent to the target units to be provided at an off-site alternative.

D. *Bedroom Unit Mix.* The housing development shall include a mix of target units (by number of bedrooms) in response to the affordable housing demand priorities of the City as may be identified within the City's Housing Element or consistent with the unit mix of nonrestricted units. The number of bedrooms in the target units shall at least equal the minimum number of bedrooms of the nonrestricted units. For non-senior projects involving five to nine units (or three to nine units if the project is located within the South Centre City Specific Plan), exclusive of the target units,

and that receive incentives in addition to the minimum required by State Density Bonus Law, all target units shall have at least two bedrooms. For non-senior projects involving 10 or more units, exclusive of the target units, and that receive incentives in addition to the minimum required by State Density Bonus Law, at least 33% of the target units shall have at least three bedrooms, or a ratio deemed acceptable by the City.

E. *Compliance with Development Standards and Codes.* Housing development projects shall comply with all applicable development standards, except those that may be modified as an incentive or concession or will have the effect of physically precluding the construction of a development providing the target units at the densities or with the concessions or incentives permitted by section 33-1414, or as otherwise provided for in this article.

G. *Design Consistency.* The design and appearance of the target units shall be consistent or compatible with the design of the total housing development in terms of appearance, materials, and finished quality.

H. *Parking.* Upon the request of the developer, the parking ratio (inclusive of handicap and guest parking) for a housing development that conforms to the requirements of section 33-1413(A) shall not exceed the ratios specified in Table F. Such request and application of this parking ratio shall not be considered an incentive/concession pursuant to section 33-1414. If the developer does not request the parking ratios specified in Table F or the project does not conform to the requirements of section 33-1413(A), the parking standards of the applicable zone shall apply.

1. *Fractional Parking Spaces.* If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.
2. *Tandem and Uncovered Parking.* For purposes of this section, a housing development may provide "on-site" parking through tandem parking or uncovered parking, but not through on-street parking.
3. *Additional Parking Incentives/Concessions.* The developer may request additional parking incentives or concessions beyond those provided in this section, as specified in section 33-1414.

Table F
Parking Ratio for Housing Development Projects

Dwelling Unit Size	On-Site Parking Ratio (Inclusive of Handicapped and Guest Parking)
0 – 1 bedrooms	1 space per unit
2 – 3 bedrooms	2 spaces per unit
4 or more bedrooms	2.5 spaces per unit

I. *Waiver/Reduction of Development Standards.* Any waiver or reduction from the applicable development standards shall be limited to those necessary to implement the density and incentives/concessions to which the developer is entitled under section 33-1413.

1. *Adverse Impact.* Nothing in this section shall be construed to require that the City waive or reduce development standards that would have an adverse impact upon the health, safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Adverse impact is defined in Section 65589.5(d)(2) of the California Government Code and any subsequent amendments and revisions thereto.
2. *Historical Resources and Conflict with Law.* Nothing in this section shall be construed to require that the City waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources or to grant any waiver or reduction that would be contrary to state or federal law.

J. *Prequalification.* All households for target units must be prequalified by the developer prior to such households moving into a target unit by a process mandated by the City. The prequalification process for target households shall certify the income level of the prospective tenant household, and advise the household of affordable housing costs, if applicable. These standards will be made available to the applicant by the City. The property owner shall not charge the applicant for the initial prequalification review. If, after performing the necessary verification, the prospective tenant qualifies as a very low, low, or moderate income household, the City shall issue a certificate to the applicant and the property owner verifying the income level and eligibility to rent or own the unit.

K. *Reporting.* By May 31 of each calendar year, the developer shall provide the housing division an accounting of the previous calendar year, including the following:

1. Total units occupied for any part of the previous year by bedroom size;
2. Total units vacant for any part of the previous year by bedroom size;
3. Total units occupied by target households by bedroom size;
4. For each very low, low, or moderate income target unit, the total monthly housing costs advertised and/or paid; and
5. Any other pertinent information deemed appropriate by the City upon approval of the project.

L. *Enforcement.* Default by the property owner is unlawful and is a misdemeanor. Each applicable unit shall be considered a separate violation. Such violation shall be punishable by a fine, not exceeding \$1,000, or by imprisonment in the County Jail for a period not exceeding six months, or both. In addition, the City shall have the right to prohibit the property owner from leasing any non-restricted unit that becomes vacant until the owner remedies the default. Until the default is remedied, no such unit shall thereafter be rented until the property owner presents sufficient evidence to the housing division that the prospective tenant qualifies as a target household. Additionally, the average monthly default units shown on the audit report for the previous year shall be added to the units to be set aside during the next succeeding reporting period, if applicable.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1418. Affordability tenure.

A. *Lower and Very Low Income Housing.* All target units for lower and very low income households shall remain restricted and affordable to the designated group for a period not less than 55 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental financing subsidy program.

B. *Moderate Income.* All target units for moderate income persons or families shall be initially occupied by the designated group and offered at an allowable housing expense. The target units shall be subject to an equity sharing agreement, as set forth by State Density Bonus Law, unless in conflict with the requirements of another public funding source or law.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1419. Application requirements and review.

A. *Preliminary Application.* A developer proposing a housing development pursuant to this article may submit a voluntary preliminary application prior to the submittal of any formal request for approval. Developers are encouraged to schedule a preapplication conference with designated staff of the Community Development Department to discuss and identify potential application issues, including prospective incentives or concessions pursuant to section 33-1413.

B. *Application.* The developer shall submit an affordable housing application, which will be treated as part of any other required development application, requesting a density bonus and/or incentive(s) or concession(s), pursuant to this article. Pursuant to Government Code section 65915(a)(2), the applicant shall provide reasonable documentation to establish eligibility for a requested density bonus and/or incentive(s) or concession(s). The proposed housing development may require other project development application(s) (e.g., tentative map, parcel map, design review, and conditional use permits). Under such circumstances, the affordable housing application shall be processed concurrently.

C. *Approval of an Application.* When a project involves a request for a density bonus, incentive(s) or concession(s), or in-lieu incentives, the decision-making body shall make a written finding, as part of the approval of the development application required for the project or as part of the approval of the affordable housing agreement, that the project is consistent with the provisions of this article. The granting of an incentive/concession shall not, in and of itself, require a General Plan amendment, zoning code amendment, or any other discretionary approval.

D. *Denial of Application.* In rejecting such development application, the decision-making body shall make written findings in compliance with Government Code Section 65589.5(b) and based upon substantial evidence in the record.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1420. Affordable housing agreement.

A. *Execution of Agreement.* Developers requesting a density bonus, incentive(s) or concession(s), or in-lieu incentives pursuant to this article shall demonstrate compliance with this article by executing an affordable housing agreement with the City in a form approved by the City Attorney.

B. *Recordation.* Following execution of the affordable housing agreement by all parties, the completed affordable housing agreement, with the approved site development plan, shall be

recorded against the entire development, including nonrestricted lots/units; and the relevant terms and conditions therefrom filed and recorded as a deed restriction or regulatory agreement on those individual lots or units of a property that are designated for the location of target units. The approval shall take place prior to final map approval, and recordation shall occur concurrent with the final map recordation, or where a map is not being processed, prior to issuance of building permits for such parcels or units. The affordable housing agreement shall be binding to all future owners and successors in interest.

C. *Provisions.* The affordable housing agreement shall set forth the conditions and guidelines to be met in the implementation of this article and shall include, but not be limited to, the following:

1. *Number of Units.* The number of total residential units and the density bonus and target units approved for the housing development.
2. *Term of Affordability.* The number of years the occupancy and affordability restrictions for target units remain in place.
3. *Phasing Schedule.* A schedule of production and occupancy of target units.
4. *Incentives/Concessions.* A description of the incentive(s), concessions, or in-lieu incentives of equivalent financial value being provided by the City.
5. *Operation and Maintenance.* The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, operating and maintaining target units for qualified tenants.
6. *Ongoing Monitoring.* Provisions requiring developers to demonstrate compliance with this article.
7. *Initial Sale.* Where applicable, tenure and conditions governing the initial sale of for-sale target units.
8. *Remedies.* A description of remedies for breach of the agreement by either party.
9. *Other Provisions for Compliance.* Other provisions as the City may require to ensure implementation and continued compliance with this article and the State Density Bonus Law.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1421. Agreement processing and administrative fee.

Over the minimum tenure of projects containing target units, the City will either directly or, via one or more third parties, provide for the preparation and/or review of all affordable housing agreements and recurring services associated with the administration and monitoring of such

units. The City Council may establish an administrative fee to fully recover the costs associated with such administration and monitoring, the amount of which shall be established by ordinance of the City Council.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1422. Noticing and procedural requirements for expiring rental restrictions.

A. *Tenant Notices of Expiring Affordability.* The developer shall give notices consistent with California Government Code sections 65863.10 through 65863.13 in anticipation of the expiration of affordable housing restrictions to each affected tenant household.

B. *Notices to Prospective and New Tenants.* All prospective and new tenants to the housing development shall be provided at the time of their application for tenancy a copy of all notices issued per this section to existing tenants.

C. *Notices to the City of Escondido and State.* The developer shall provide a copy of all notices consistent with California Government Code Sections 65863.10 through 65863.13 in anticipation of the expiration of affordable housing restrictions to the City of Escondido Community Development Department and the State Department of Housing and Community Development.

D. *First Class Mailed Notices.* All notices to affected tenants, the City of Escondido, and the State Department of Housing and Community Development shall be sent by first-class mail postage prepaid.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1423. Interpretation.

A. If any conflict exists between this article and any other land use ordinance, regulation, resolution, policy, or prior decision of the City, this article shall control all applicable land use applications that do not have final approval on the effective date of this article.

B. This article shall be interpreted liberally in favor of producing the maximum number of total housing units, pursuant to the intent and requirements of State Density Bonus Law.

ARTICLE 68. GROWTH MANAGEMENT ORDINANCE

Sec. 33-1430. Definitions.

Whenever the following terms are used in this chapter, they shall have the meaning established by this section unless from the context it is apparent that another meaning is intended:

Application means any request for approval of a development permit subject to the provisions of this chapter, including but not limited to subdivisions, plot plans, specific plans, planned developments, planned unit approvals, condominium permits, and conditional use permits.

Available facility capacity means the remaining facility capacity available to future development without creating critical infrastructure deficiencies requiring facility construction or expansion. It may be determined at either the project-specific or City-Wide level.

CityWide Facilities Plan means the plan prepared and approved by the city council that both identifies areas of critical infrastructure deficiencies and provides the analytical framework against which projects are evaluated for conformance with the city's quality of life standards, including drainage.

Critical facilities means those improvements that must either be constructed, or financially secured within a geographic area, before development may proceed. Areas with critical infrastructure deficiencies shall be identified by the planning commission and/or city council and be reflected in the City-Wide Facilities Plan.

Development means any land use, building, or other alteration of land, and construction incidental to such land use, building, or other alteration of land, subject to this chapter.

Facilities means all land and improvements defined by the general plan's quality of life standards, including drainage.

Improvements include all measures necessary to achieve conformance with the general plan quality of life standards as determined by the CityWide Facilities Plan.

Improvement threshold means the point at which a project or group of projects exceeds the acceptable, available facility capacity and required concurrent construction of facilities.

Neighborhood means the specific geographic sub-areas as defined by Figure II-12 of the general plan, or as amended.

Nonresidential uses means those commercial or nonprofit uses which are either permitted by right or by conditional use permit in residential zones, including, but not limited to, daycare, convalescent homes, church facilities, recreational facilities, parks, and other uses that are not residential in character.

Quality of life standards means those service level standards identified by the general plan for traffic/transportation, schools, fire and police service, sewer and water service, parks and trails, and libraries.

Region of influence means an area where a critical infrastructure deficiency exists, as specified in the CityWide Facilities Plan.

Tiers mean the general categories into which the 21 general plan neighborhoods are grouped as identified by Figure VI-I of the general plan, or as may be amended.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1473. Occupancy limitations.

(a) Allowed use.

(1) One attached or detached accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residence on a lot zoned for single-family or multifamily residential use.

(A) The accessory dwelling unit is either attached to, or located within, the proposed or existing main building or attached garages, storage areas, or similar use; or a detached accessory structure and located on the same lot as the proposed or existing single-family home.

(B) An accessory dwelling unit may be permitted on a lot where a junior accessory dwelling unit exists or is proposed.

(2) One junior accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residential use.

(A) The junior accessory dwelling unit is located within the proposed or existing main building or attached garages, storage areas, or similar use.

(B) A junior accessory dwelling unit may be permitted on a lot where an accessory dwelling unit exists or is proposed.

(3) Number of accessory dwelling units on legal lots with existing multifamily dwelling units:

(A) Shall be permitted to construct at least one accessory dwelling unit within existing multifamily dwelling structures and shall allow up to 25% of the units in each existing multifamily dwelling structure, in accordance with Government Code section 65852.2(e); or

(B) Not more than two accessory dwelling units are permitted that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling.

(C) For purposes of this article, "multifamily dwelling structure" or "multifamily dwelling" is defined as a structure with two or more attached dwellings on a single lot.

(b) Owner-occupied.

(1) The owner-occupancy requirement shall not be applied to any accessory dwelling unit.

(2) A junior accessory dwelling unit may be used as habitable space, only so long as either the remaining portion of the main dwelling unit, or the newly created junior accessory dwelling unit is occupied by the owner of record of the property, unless otherwise exempted by this section.

(A) Owner-occupancy for a junior accessory dwelling unit shall not be required if the owner is an agency, land trust, or housing organization.

(3) Deed restriction. The city shall require the recordation of a deed restriction if owner-occupancy is required pursuant to this section.

(A) Prior to issuance of a building permit, the property owner shall execute a deed restriction setting forth the owner-occupancy requirements, in a form and substance satisfactory to the director of community development and city attorney's office, which shall be recorded in the office of the county recorder. The covenant shall also include the following terms and limitations:

(i) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, and shall not be subdivided in any manner that would authorize such sale or ownership.

(ii) A statement that the deed restriction may be enforced against future purchasers and the restrictions shall be bindings upon any successor in ownership of the property.

(iii) The junior accessory dwelling unit shall be a legal unit, and may be used as habitable space, only so long as the owner of record of the property occupies the premises.

(iv) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section, and if applicable the occupancy limitations of the California Health and Safety Code section 17958.1.

(c) All local building and fire code requirements apply, as appropriate, to accessory dwelling units and junior accessory dwelling units.

(1) A certificate of occupancy shall not be issued for the accessory dwelling unit and/or junior accessory dwelling unit until the building official issues a certificate of occupancy for the main building.

(2) Prior to approval on properties with a private sewage system, approval by the County of San Diego Department of Environmental Health, or any successor agency, may be required.

(d) The accessory dwelling unit and/or junior accessory dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.

(e) The accessory dwelling unit and junior accessory dwelling unit may be rented separate from the primary residence, but only with a rental agreement and with terms greater than ~~thirty~~ (30) days.

(f) The accessory dwelling unit and/or junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the premises.

(1) The accessory dwelling unit and/or junior unit shall be deemed to be a legal unit and permit such accessory use of property, which use is specifically identified by the accessory use regulations for the underlying zone and per Government Code sections 65852.2 and 65852.22; and shall allow such other accessory uses which are necessarily and customarily associated with such principal residential use of the premises, except as otherwise provided by this subsection.

(A) An accessory dwelling unit and/or junior accessory dwelling unit shall be deemed an independent dwelling unit for the sole purpose of establishing a home occupation permit within the accessory dwelling unit and junior accessory dwelling unit, subject to the terms and limitations of Article 44. The limitations for home occupations shall be shared with the principal use and/or main building.

(B) No more than the quantities of animals specifically listed in Table 33-95(a) of Article 6 or section 33-1116 of Article 57 is permitted on the premises. The limitations for animal keeping and household pets shall be shared with the principal use and/or main building.

(C) For all other accessory use of property, the accessory dwelling units and/or junior accessory dwelling unit shall be controlled in the same manner as the principal use within each zone, and shall not expand or be conveyed separately from the primary use. When provided by these regulations, it shall be the responsibility of the director of community development to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, accessory dwelling unit, and/or junior accessory dwelling unit, based on the director's evaluation of the resemblance of the proposed accessory use and the relationship between the proposed accessory use and the principal use.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1474. Development standards.

(a) Accessory dwelling units shall be subject to all development standards of the zone in which the property is located, except as modified below. Notwithstanding, this section shall be interpreted liberally in favor of accessory dwelling unit construction. Furthermore, any property development standard provided herein that regulates the minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings shall permit at least an 850 square foot accessory dwelling unit to be constructed in compliance with all other local development standards and building code requirements.

(1) Number of bedrooms. There is no allowed limit on the number of bedrooms provided that the accessory dwelling unit and/or junior accessory dwelling unit complies with local building and fire code requirements.

(2) The accessory dwelling unit shall be provided with a separate exterior entry. The accessory dwelling unit shall not have direct, interior access into the main building.

(3) The accessory dwelling unit shall include separate bath/sanitation facilities and include a separate kitchen.

(4) Setbacks. An attached or detached accessory dwelling unit, including a detached accessory unit that is attached to another accessory structure, shall be required to maintain minimum side and rear yard setbacks of at least four feet, and shall comply with front yard setbacks for the underlying zone. For attached accessory structures, whether attached to the primary unit or another detached accessory structure, the portion of the structure which does not include the habitable floor area of the accessory dwelling unit shall comply with setback requirements for the underlying zone. Roof eaves and other architectural projections for accessory dwelling units shall comply with section 33-104.

(A) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. The accessory dwelling unit may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress, subject to the terms and limitations of this article.

(5) Maximum unit size. The maximum accessory dwelling unit size is determined by the size of the lot as provided in Table 33-1474. The living area of the accessory dwelling unit shall not exceed more than 50% of the existing or proposed living area of the primary residence.

(A) If authorized by the underlying zoning, an accessory dwelling unit may be attached to a guest house provided that the overall combined floor area of the combined building or structure does not exceed 75% of the main unit.

(B) When an accessory dwelling unit is attached to other accessory building(s) or structure(s), such as a garage, carport, or patio cover, the overall combined building area of the structure(s) shall not exceed the existing floor area of the main residence.

Table 33-1474

Lot size	Maximum Permitted Accessory Dwelling Unit Size	
	<i>1 bedroom or less</i>	<i>More than 1 bedroom</i>
Less than 20,000 square feet	850 square feet	1,000 square feet
20,000 square feet or more	1,000 square feet	1,000 square feet

(6) Minimum unit size. The minimum permitted size of an accessory dwelling unit shall be the size of an efficiency unit as defined by the California Health and Safety Code section 17958.1. The minimum unit size of the residential zone shall not apply to the accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.

(7) Height. Accessory dwelling units shall conform to the height limits of the zone, except that an accessory dwelling unit 16 feet in height shall be allowed regardless of the applicable height limit.

(8) Lot coverage. The combined area of all structures on a lot shall conform to the lot coverage limitation of the zone in which the property is located.

(b) Junior accessory dwelling units, as constructed within the existing or proposed single-family residence, shall be subject to all development standards of the zone in which the property is located, except as modified below.

(1) Number of bedrooms. There is no allowed limit on the number of bedrooms provided that the accessory dwelling unit and/or junior accessory dwelling unit complies with local building and fire code requirements.

(2) The junior accessory dwelling unit shall be provided with a separate exterior entry and may have direct, interior access into the main building.

(3) A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(4) The junior accessory dwelling unit shall include an efficiency kitchen.

(5) Maximum unit size. The maximum junior accessory dwelling unit size shall not exceed 500 square feet in total floor area and shall be contained entirely within an existing or proposed single-family residence and may include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing residence to accommodate ingress and egress.

(6) Minimum unit size. The minimum permitted size of a junior accessory dwelling unit shall be the size of an efficiency unit as defined by the California Health and Safety Code section 17958.1. The minimum unit size of the residential zone shall not apply to the junior accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.

(7) Except as provided herein, a junior accessory dwelling unit shall comply with all other zoning code standards, including, but not limited to, setbacks, building height, floor area ratio, and lot coverage.

(c) Parking requirements.

(1) Notwithstanding any other law, the city will not impose parking standards for an accessory dwelling unit or junior accessory dwelling unit.

(2) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, replacement parking is not required.

(d) Design of the unit.

(1) Access doors and entry for the accessory dwelling unit shall not be oriented to the nearest adjacent property line or create a second "front door" that is comparable to the main entrance.

(2) The accessory dwelling unit's color and materials must match those of the primary residence. The director shall review accessory dwelling unit applications to ensure the addition is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details. If the accessory dwelling unit is an addition to a site with known historic resources or has been determined to have historic value by the director, all improvements shall retain the historical and/or architectural value and significance of the landmark, historical building, or historical district as specified by section 33-1475. The improvements shall be compatible with and retain the texture and material of the primary building(s) and/or structure(s) or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the relationship of such features to similar features of other buildings within an historical district.

(e) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street.

(f) Fire sprinklers. Accessory dwelling units and junior accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1475. Other regulations.

(a) Historic buildings.

(1) An accessory dwelling unit and/or junior accessory dwelling unit proposed for any lot that includes a building listed in the National Register of Historic Places, California Register of Historic Places, or the local historic inventory shall conform to the requirements for the historic structure.

(2) An accessory dwelling unit and/or junior accessory dwelling unit proposed for a property under a Mills Act Contract must comply with all Mills Act guidelines, including design conformance with the United States Secretary of the Interior Standards.

(3) An accessory dwelling unit and/or junior accessory dwelling unit proposed for any lot that includes a building listed in the National Register of Historic Places, California Register of Historic Places, or the local historic inventory are encouraged to comply with any historic preservation plans as may be approved by the city council. Notwithstanding the foregoing, if the city council acts to establish mandatory design standards for historically classified structures, the accessory dwelling unit and/or junior accessory dwelling unit shall conform to the mandatory standards.

(b) Guest house. An attached guest house may be converted to an accessory dwelling unit provided all provisions of this article and the building code and zoning code are met. A guest house and an accessory dwelling unit and/or a junior accessory dwelling unit may occur on the same lot provided the guest house does not contain kitchen facilities and is not rented. No more than one-accessory dwelling unit or no more than one guest house is permitted on a lot. Nothing in this section shall be construed to prohibit the construction of an accessory dwelling unit and/or junior accessory dwelling unit in compliance with this article.

(c) The city may not require a new or separate utility connection for any accessory dwelling units that meets the criteria in Government Code section 65852.2(e)(1)(A). Accessory dwelling

units and junior accessory dwelling units that do not meet the criteria in Government Code section 65852.2(e)(1)(A) may be required to obtain a new or separate utility connection.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1476. Existing nonpermitted accessory units.

This article shall apply to all accessory dwelling units or junior accessory dwelling units which exist on the date of passage of the ordinance. All units which do not have a permit, or cannot receive a permit, upon passage of the ordinance codified herein shall be considered in violation and shall be subject to code enforcement action.

(a) Existing nonconforming units. Accessory dwelling units or junior accessory dwelling units that exist as of the effective date of this section that have previously been legally established may continue to operate as legal nonconforming units. Any unit that exists as of the effective date of this section, and has not previously been legally established, is considered an unlawful use, unless the director of community development determines that the unit meets the provisions of this section and a permit is approved and issued.

(1) Conversion of legally established structures. The conversion of legally established structures shall require that the unit meet the provisions of this code. Any legally established waivers or nonconformities that existed when this section first went into effect may continue, provided that in no manner shall such waiver or nonconformity be expanded.

(2) Administration and enforcement of any nonconforming building standard shall be conducted in accordance with California Health and Safety Code section 17980.12.

ORDINANCE NO. 2021-11

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING AN AMENDMENT TO TABLE 4.1
IN THE EAST VALLEY PARKWAY SPECIFIC
PLAN.

WHEREAS, the City of Escondido Planning Division has conducted an annual review of the Escondido Zoning Code to determine if any revisions are necessary to reflect State mandated changes, to correct errors or inconsistencies, and to address land use considerations that have previously been overlooked; and

WHEREAS, Planning Division staff identified the need to amend Table 4.1 of the East Valley Parkway Specific Plan; and

WHEREAS, the Planning Commission of the City of Escondido, on August 24, 2021, held a public hearing to consider the amendment to the East Valley Parkway Specific Plan and unanimously recommended approval of the item as provided in Exhibit “B”; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines (Title 14 of California Code of Regulations, Section 15000 et. seq.), the City is the Lead Agency for the Project, as the public agency with the principal responsibility for approving the proposed Project; and

WHEREAS, on October 13, 2021, the City Council of the City of Escondido did hold a duly noticed public hearing as prescribed by law. At said hearing, this City Council received and considered the reports and recommendations of the Planning Commission and City staff, and gave all persons full opportunity to be heard and to present evidence

and testimony respecting said matter. Evidence was submitted to and considered by the City Council, including, without limitation:

- a. Written information including plans, studies, written and graphical information, and other material, submitted as part of the Project;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated October 13, 2021, with its attachments as well as City staff's recommendation on the Project, which is incorporated herein as though fully set forth herein; and
- d. Additional information submitted during the public hearing.

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

SECTION 1. That the above recitations are true.

SECTION 2. That the proposed Specific Plan Amendment is statutorily exempt from further review pursuant to the California Environmental ("CEQA") and the State CEQA Guidelines Section 15378(b)(5), in that the amendment is not considered a project and will not have any potential environmental impacts, thus no further environmental review is required.

SECTION 3. That the Project satisfies the requirements of state Planning and Zoning Law.

SECTION 4. That the proposed amendments to the East Valley Parkway Specific Plan is consistent with the Escondido General Plan and applicable Elements were reviewed as part of the amendment drafting process to ensure consistency.

SECTION 5. That, after consideration of all evidence presented, and studies and investigations made by the City Council and on its behalf, the City Council makes the substantive Findings of Fact and determinations attached hereto as Exhibit "A," relating to the information that has been considered.

SECTION 6. That, considering the Findings of Fact and applicable law, the City Council hereby approves said amendments, attached as Exhibit "B" and hereto and incorporated herein by this reference as though fully set forth herein.

SECTION 7. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 8. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

EXHIBIT "A"
PL21-0152
FACTORS TO BE CONSIDERED / FINDINGS OF FACT

East Valley Parkway Specific Plan Amendment Determinations:

1. Over the years, staff and members of the public have found certain sections of the Escondido Zoning Code and the various Specific Plans are sometimes vague, unclear, or conflicting, which results in confusion and potential disagreement in Code interpretation. It is important that the City of Escondido review policies and procedures on an on-going basis to ensure our resident-focused government through transparent services and positive organizational culture.
2. The Planning Division maintains a regular process and schedule for maintaining the City's codes, regulations, and Specific Plans. The amendment to the East Valley Parkway Specific Plan was intended to be included in the previous amendments that were completed to the Specific Plan in 2019, but was not included in the final amendment that was brought forward for approval.
3. Over the years staff has continued to update the various Specific Plans throughout the community to ensure they reflect current community goals and remain consistent with the goals and policies of the General Plan. The minor amendment to the East Valley Parkway Specific Plan updates the review requirement for new drive-through uses within the Specific Plan area, so future development of this kind is giving the appropriate analysis to ensure that the use reflects the vision for the Specific Plan area. A larger East Valley Specific Plan update is nearing completion, and this amendment is consistent with those goals and provisions.
4. The Planning Commission's recommendation is based on factors pursuant to Section 33-1263 of the Escondido Zoning Code.
5. The public health, safety, and welfare would not be adversely affected by the proposed Specific Plan amendment because it is consistent with previous updates made to the East Valley Parkway Specific Plan and consistent with the long-term goals and policies for the Specific Plan area. This effort is not intended to be a comprehensive update to the Specific Plan or change land use densities or intensities.
6. The proposed Specific Plan amendment does not conflict with any Escondido Zoning Code requirements.

Exhibit "B"

EAST VALLEY PARKWAY SPECIFIC PLAN

Section 4. Land Use

Table 4.1 of the East Valley Parkway Specific Plan shall be amended to include the language provided below.

Table 4.1
Permitted and Conditionally Permitted Principal Uses

Use	CG	CP	HP
Restaurants, cafes, delicatessens, and sandwich shops without alcoholic beverages			
• Auto oriented drive-in, drive-through (Section 33-341*)	C	---	---

MOBILEHOME RENT REVIEW BOARD

Public Hearing Item No. 12

October 13, 2021

File No. 0697-20-10287

SUBJECT: Short-Form Rent Review Board Hearing for City-Owned Spaces at Escondido Views Mobilehome Park (File No. 0697-20-10287)

DEPARTMENT: Community Development Department, Housing & Neighborhood Services Division

RECOMMENDATION:

Consider the short-form rent increase application submitted by Carefree Ranch and if approved, adopt Rent Review Board Resolution No. RRB 2021-05.

BACKGROUND:

On June 8, 1988, the voters of the City of Escondido (“City”) approved an initiative Ordinance to enact Mobilehome Rent Control (Proposition K). Under Proposition K, if a park owner wants to increase rent, it must first obtain approval from the Mobilehome Park Rent Review Board. As prescribed by the Ordinance, the Escondido City Council sits as the Rent Review Board. To request an increase, the park owner must file an application with the City.

At a public hearing, eleven nonexclusive factors are considered: (1) changes in the Consumer Price Index (“CPI”); (2) the rent charged for comparable mobilehome spaces in Escondido; (3) the length of time since the last rent increase; (4) the cost of any capital improvements related to the spaces at issue; (5) changes in property taxes; (6) changes in any rent paid by the park owner for the land; (7) changes in utility charges; (8) changes in operating and maintenance expenses; (9) the need for repairs other than for ordinary wear and tear; (10) the amount and quality of services provided to the affected tenant; and (11) any lawful existing lease. (Escondido Municipal Code section 29-104(g)). Over time, this application became known as the “Long-form” application.

In 1997, the Board adopted changes to the Guidelines that allow for a “Short-form” application that focuses on the change in the CPI. As of June 24, 2020, a park owner may request up to 90% of the change in the CPI for a maximum of a two-year period in a short-form hearing. The Board must presume an increase up to 90% of the CPI is fair, just and reasonable, but may consider other factors found in Escondido Municipal Code section 29-104(g) to depart downward from that amount. Additionally, a short-form application must apply to 100% of all spaces in the park that are subject to rent control.

INTRODUCTION:

Escondido Views Mobile Home Park (“Park”), located at 2400 W. Valley Parkway contains 152 spaces. The City of Escondido (“City”), owner of four rental spaces in the Park, has filed a short-form rental increase application for the four rental spaces. The Board is asked to accept the staff report, hear public testimony, and make a determination concerning the request in accordance with

the Escondido Rent Protection Ordinance and the short-form procedures as outlined in the Rent Review Board Guidelines (Section 12). The application and the staff report have been made available to the Board for review and consideration prior to the hearing.

OWNERSHIP BACKGROUND:

In 1991, the City purchased Mountain Shadows to facilitate residents' efforts to establish the mobile home park as a resident-owned park. By late 1991 the conversion to an air space condominium structure was completed, the Homeowner's Association ("HOA") had been formed, and sales of lots to residents had begun. Although many residents had committed to purchasing their lot, the number of sales was less than expected, even when residents were offered State and City low-income housing loan assistance. The Housing Division continues in its responsibility for the management and sale of the remaining City-owned lots.

THE RENT INCREASE APPLICATION:

Unlike most other applications heard by the Board, the City makes this application as the owner of specific spaces, rather than as a Park owner. The HOA for the Park is not a party to the application. Common areas controlled by the HOA include a clubhouse with a kitchen and pool tables, a swimming pool and indoor and outdoor spas. The Park also has a children's playground and picnic area. The tenants of the City-owned rental spaces have full access to the community areas of the Park. A portion of the rent collected from the rental spaces goes to pay the HOA fees each month which is currently \$220.00.

The application meets the eligibility criteria for submittal of a short-form rent increase application.

RENT INCREASE REQUEST:

In accordance with the short-form policy guidelines, the City is requesting an increase of 90% of the change in the San Diego Consumer Price Index (CPI) for the period of June 30, 2019, to June 30, 2021. The average increase requested is \$21.74 per space, per month, which is a 4.871% increase. The current average monthly base rent of the four spaces subject to the application is \$424.80.

The last increase was granted in May 2018 for an average amount of \$14.77 per space, per month covering a 24-month period of consideration.

RESIDENT MEETING AND COMMENTS:

All residents affected by this request were invited to attend a meeting in their clubhouse on August 8 at 4:30 p.m. No residents attended and the meeting was cancelled. Staff has not received any phone calls or correspondence regarding the rent increase request.

CODE COMPLIANCE INSPECTION:

Due to the unique structure of the City's ownership of the individual spaces, the Code Compliance Division conducted an inspection for health and safety issues of only the spaces owned by the City. The inspections identified issues which are the responsibility of both the tenant and the City. Mobilehome owners may have received individual notices from the Code Compliance Division if they had violations for tenant-controlled issues such as maintenance issues. The inspection report identifying City-controlled issues of the City-owned spaces is attached as "Attachment 1." The City, as owner of the spaces, must clear any health and safety code violation which is within the purview of the City before any increase may be implemented.

ADDITIONAL FACTORS AFFECTING THE APPLICATION:

In conformance with the Rent Review Board Guidelines, the decision of the Board will be finalized by adoption of the Resolution confirming the findings of the Public Hearing. The Notice of Determination will be mailed to the applicant and residents immediately upon adoption of the Resolution. The 90-day notice of any rent increase granted may be sent to the residents upon the adoption of the Resolution.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Adam Finestone, Interim Director of Community Development
10/06/21 5:15 p.m.


ATTACHMENTS:

1. Attachment 1 - Code Inspection Report
2. Rent Review Board Resolution No. 2021-05



DATE: August 18, 2021

TO: HONORABLE CHAIRMAN AND MEMBERS OF THE RENT CONTROL BOARD

FROM: JAKE NYBERG, CODE COMPLIANCE MANAGER 

SUBJECT: ESCONDIDO VIEWS MHP RENT CONTROL INSPECTION

The four city owned spaces managed by city staff, in the “Escondido Views Mobile-home Park” were inspected on August 11, 2021. The inspections were conducted as a follow up to the City of Escondido filing a rent control application requesting a rent increase. There were 3 violations noted (Spaces 64, 129 & 135) of the 4 spaces inspected.

The resident meeting occurred on August 9, 2021. Two city staff members attended. No residents were able to attend.

There were no code enforcement cases opened during the past year on any of these city owned spaces

CC: Adam Finestone, Director of Community Development
Belinda Rojas, Rent Control Administrator
Kristina Owens, Associated Planner, Housing

RESOLUTION NO. RRB 2021-05

A RESOLUTION OF THE ESCONDIDO
MOBILEHOME RENT REVIEW BOARD
MAKING FINDINGS AND GRANTING A RENT
INCREASE FOR ESCONDIDO VIEWS
MOBILE HOME PARK

(File Number: 0697-20-10287)

WHEREAS, Article V of Chapter 29 of the Escondido Municipal Code is a codification of the Escondido Mobilehome Rent Protection Ordinance ("Ordinance") and provides for mobilehome space rent regulation; and

WHEREAS, the City of Escondido Mobilehome Park Rental Review Board ("Board") is charged with the responsibility of considering applications for rent increases; and

WHEREAS, a short-form rent increase application pursuant to Section 12 of the Rent Review Board Guidelines was filed on July 20, 2021, by the City of Escondido ("City"), the owner of the four rental spaces in the Escondido Views Mobile Home Park located at 2400 W. Valley Parkway in Escondido; and

WHEREAS, this is the eighteenth (18th) rent increase application filed since the Ordinance became effective in 1988. The last rent increase was granted by the Board in Rent Review Board Resolution No. 2018-03 on May 16, 2018, for approximately \$14.77 per space per month; and

WHEREAS, at the time of the current application, the average monthly space rent was \$424.80 for the four spaces affected by the rent increase request. The owner requested a rent increase in the amount of 90% of the change in the Consumer Price Index ("CPI") for the period June 30 2019, through June 30, 2021, in accordance with the

Rent Review Board short-form policy guidelines. The application estimated this amount to be an average of \$21.74 (4.871%) per space, per month; and

WHEREAS, a notice of the Rent Increase Application was sent to all affected homeowners. All parties were given notice of the time, date and place of the rent hearing before the Board; and

WHEREAS, on August 11, 2021, a Mobilehome Park Rent Review Code Enforcement Inspection Report ("Inspection Report") was completed. It noted Health and Safety Code violations in the Park; and

WHEREAS, on October 13, 2021, the Board held its public hearing and after an initial staff presentation, the Board invited testimony from the City, residents of the City spaces and other residents of the community at large; and

WHEREAS, after all present had been given an opportunity to speak, the hearing was closed. Following an opportunity for discussion among the Board members and clarifying questions to the parties and Staff, the Board voted to grant an average rent increase of \$21.74 per space, per month for the four spaces subject to rent control.

NOW, THEREFORE, BE IT RESOLVED by the Rent Review Board of the City of Escondido, as follows:

1. That the above recitations are true.
2. That the Board has heard and considered all of the reports and testimony presented, and has considered the facts as outlined in the Short-form Guidelines ("Guidelines").
3. That following the Guidelines, an increase based on 90% of the change in the CPI for San Diego County from June 30 2019, through June 30, 2021, would amount

to 4.871%, which averages \$21.74 per space, per month, for the four spaces that are subject to rent control.

4. That the Board concluded that an increase of 4.871%, an average of \$21.74 per space, per month, is consistent with the Guidelines and is a fair, just, and reasonable increase in light of the information presented by all parties.

5. That the increase may not be implemented until after the Health and Safety code violations noted in the Inspection Report have been corrected, signed off, and comply with the various state and local code sections as noted in the Inspection Report.

6. That the increase may be implemented upon the expiration of the required 90-day notice to the residents, which may be issued upon the adoption of this Resolution.

MOBILEHOME RENT REVIEW BOARD

Public Hearing Item No. 13

October 13, 2021

File No. 0697-20-10286

SUBJECT: Short-Form Rent Review Board Hearing for City-Owned Spaces at Mountain Shadows Mobilehome Park (File No. 0697-20-10286)

DEPARTMENT: Community Development Department, Housing & Neighborhood Services Division

RECOMMENDATION:

Consider the short-form rent increase application submitted by Carefree Ranch and if approved, adopt Rent Review Board Resolution No. RRB 2021-04.

BACKGROUND:

On June 8, 1988, the voters of the City of Escondido (“City”) approved an initiative Ordinance to enact Mobilehome Rent Control (Proposition K). Under Proposition K, if a park owner wants to increase rent, it must first obtain approval from the Mobilehome Park Rent Review Board. As prescribed by the Ordinance, the Escondido City Council sits as the Rent Review Board. To request an increase, the park owner must file an application with the City.

At a public hearing, eleven nonexclusive factors are considered: (1) changes in the Consumer Price Index (“CPI”); (2) the rent charged for comparable mobilehome spaces in Escondido; (3) the length of time since the last rent increase; (4) the cost of any capital improvements related to the spaces at issue; (5) changes in property taxes; (6) changes in any rent paid by the park owner for the land; (7) changes in utility charges; (8) changes in operating and maintenance expenses; (9) the need for repairs other than for ordinary wear and tear; (10) the amount and quality of services provided to the affected tenant; and (11) any lawful existing lease. (Escondido Municipal Code section 29-104(g)). Over time, this application became known as the “Long-form” application.

In 1997, the Board adopted changes to the Guidelines that allow for a “Short-form” application that focuses on the change in the CPI. As of June 24, 2020, a park owner may request up to 90% of the change in the CPI for a maximum of a two-year period in a short-form hearing. The Board must presume an increase up to 90% of the CPI is fair, just and reasonable, but may consider other factors found in Escondido Municipal Code section 29-104(g) to depart downward from that amount. Additionally, a short-form application must apply to 100% of all spaces in the park that are subject to rent control.

INTRODUCTION:

Mountain Shadows Mobile Home Park (“Park”), located at 1750-1751 W Citracado Parkway, contains 209 spaces. The City of Escondido (“City”), owner of 20 rental spaces in the Park, has filed a short-form rental increase application for the 20 rental spaces. The Board is asked to accept the staff report, hear public testimony, and make a determination concerning the request in accordance

with the Escondido Rent Protection Ordinance and the short-form procedures as outlined in the Rent Review Board Guidelines (Section 12). The application and the staff report have been made available to the Board for review and consideration prior to the hearing.

OWNERSHIP BACKGROUND:

In 1991, the City purchased Mountain Shadows to facilitate residents' efforts to establish the mobile home park as a resident-owned park. By late 1991 the conversion to an air space condominium structure was completed, the Homeowner's Association ("HOA") had been formed, and sales of lots to residents had begun. Although many residents had committed to purchasing their lot, the number of sales was less than expected, even when residents were offered State and City low-income housing loan assistance. The Housing Division continues in its responsibility for the management and sale of the remaining City-owned lots.

THE RENT INCREASE APPLICATION:

Unlike most other applications heard by the Board, the City makes this application as the owner of specific spaces, rather than as a Park owner. The HOA for the Park is not a party to the application. The common areas maintained by the HOA include a clubhouse with kitchen and game room, a swimming pool and a spa, basketball and tennis courts, two playgrounds, picnic areas, and laundry facility. The tenants of the City-owned rental spaces have full access to the community areas of the Park. A portion of the rent collected from the rental spaces goes to pay the HOA fees each month which are currently \$180.00.

The application meets the eligibility criteria for submittal of a short-form rent increase application.

RENT INCREASE REQUEST:

In accordance with the short-form policy guidelines, the City is requesting an increase of 90% of the change in the San Diego Consumer Price Index (CPI) for the period of June 30, 2019, to June 30, 2021. The average increase requested is \$17.59 per space, per month, which is a 4.871% increase. The current average monthly base rent of the 20 spaces subject to the application is \$361.09.

The last increase was granted in May 2018 for an average amount of \$12.50 per space, per month covering a 24-month period of consideration.

RESIDENT MEETING AND COMMENTS:

All residents affected by this request were invited to attend a meeting in their clubhouse on August 8 at 5:30 p.m. No residents attended and the meeting was cancelled. Staff has not received any phone calls or correspondence regarding the rent increase request.

CODE COMPLIANCE INSPECTION:

Due to the unique structure of the City's ownership of the individual spaces, the Code Compliance Division conducted an inspection for health and safety issues of only the spaces owned by the City. The inspections identified issues which are the responsibility of both the tenant and the City. Mobile home owners may have received individual notices from the Code Compliance Division if they had violations for tenant-controlled issues such as maintenance issues. The inspection report identifying City-controlled issues of the City-owned spaces is attached as "Attachment 1." The City, as owner of the spaces, must clear any health and safety code violation which is within the purview of the City before any increase may be implemented.

ADDITIONAL FACTORS AFFECTING THE APPLICATION:

In conformance with the Rent Review Board Guidelines, the decision of the Board will be finalized by adoption of the Resolution confirming the findings of the Public Hearing. The Notice of Determination will be mailed to the applicant and residents immediately upon adoption of the Resolution. The 90-day notice of any rent increase granted may be sent to the residents upon the adoption of the Resolution.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Adam Finestone, Interim Director of Community Development
10/06/21 5:15 p.m.


ATTACHMENTS:

1. Attachment 1 - Code Inspection Report
2. Rent Review Board Resolution No. 2021-04



DATE: August 17, 2021

TO: HONORABLE CHAIRMAN AND MEMBERS OF THE RENT CONTROL BOARD

FROM: JAKE NYBERG, CODE COMPLIANCE MANAGER 

SUBJECT: MOUNTAIN SHADOWS MHP RENT CONTROL INSPECTION

The twenty city owned spaces managed by city staff, in the “Mountain Shadows Mobile-home Park” were inspected on August 10, 2021. The inspections were conducted as a follow up to the City of Escondido filing a rent control application requesting a rent increase. There were 11 violations noted (Spaces 6, 35,50,54,98,106,133,160,165,198 & 205) of the 20 spaces inspected.

The resident meeting occurred on August 9, 2021. Two city staff members attended. No residents were able to attend.

There were no Code Enforcement cases opened during the past year on any of these city owned spaces

CC: Adam Finestone, Director of Community Development
Belinda Rojas, Rent Control Administrator
Kristina Owens, Associated Planner, Housing

RESOLUTION NO. RRB 2021-04

A RESOLUTION OF THE ESCONDIDO
MOBILEHOME RENT REVIEW BOARD
MAKING FINDINGS AND GRANTING A RENT
INCREASE FOR MOUNTAIN SHADOWS
MOBILEHOME PARK

(File No.: 0697-20-10286)

WHEREAS, Article V of Chapter 29 of the Escondido Municipal Code is a codification of the Escondido Mobilehome Rent Protection Ordinance ("Ordinance") and provides for mobilehome space rent regulation; and

WHEREAS, the City of Escondido Mobilehome Park Rental Review Board ("Board") is charged with the responsibility of considering applications for rent increases; and

WHEREAS, a short-form rent increase application pursuant to Section 12 of the Rent Review Board Guidelines was filed on July 20, 2021, by the City of Escondido ("City"), the owner of the 20 rental spaces in the Mountain Shadows Mobile Home Park ("Park") located at 1750-1751 W. Citracado Parkway in Escondido; and

WHEREAS, this is the seventeenth (17th) Application filed by the Park since the Ordinance became effective in 1988. The last short-form rent increase ("Increase") for 3.574%, or approximately \$12.50 per space, per month was granted by the board at a Rent Review Board Hearing held on May 23, 2018, and formally adopted by Rent Review Board Resolution 2018-04; and

WHEREAS, at the time of the current Application, the average monthly space rent was \$361.09 for the 20 spaces subject to rent control. The City of Escondido, as space

owner, requested a rent increase in the amount of 90% of the change in the Consumer Price Index (“CPI”) for the period of June 30, 2019, through June 30, 2021, in accordance with the Rent Review Board short-form policy guidelines. The Application estimated this amount to be an average of \$17.59 (4.871%) per space, per month; and

WHEREAS, a notice of the Park's Application was sent to all affected homeowners. All parties were given notice of the time, date and place of the rent hearing before the Board; and

WHEREAS, on August 10, 2021, a Mobilehome Park Rent Review Code Enforcement Inspection Report ("Inspection Report") was completed. It noted Health and Safety Code violations in the Park; and

WHEREAS, on October 13, 2021, the Board held its public hearing and after an initial staff presentation, the Board invited testimony from Park ownership, residents of the Park, and other residents of the community at large; and

WHEREAS, after all present had been given an opportunity to speak, the hearing was closed. Following an opportunity for discussion among the Board members and clarifying questions to the parties and Staff, the Board voted to grant an average rent increase of \$17.59 per space, per month for the 20 spaces that are subject to rent control.

NOW, THEREFORE, BE IT RESOLVED by the Rent Review Board of the City of Escondido, as follows:

1. That the above recitations are true.

2. That the Board has heard and considered all of the reports and testimony presented, and has considered the facts as outlined in the Short-form Guidelines (“Guidelines”).

3. That following the Guidelines, an increase based on 90% of the change in the CPI for San Diego County from June 30, 2019, through June 30, 2021, would amount to 4.871%, which averages \$17.59 per space, per month, for the 20 spaces that are subject to rent control.

4. That the Board concluded that an increase of \$17.59 per space, per month is consistent with the Guidelines and is fair, just, and a reasonable increase in light of the information presented by all parties.

5. That the increase may not be implemented until after the Health and Safety code violations noted in the Inspection Report have been corrected, signed off, and are in compliance with the various state and local code sections as noted in the Inspection Report.

6. That the increase may be implemented upon the expiration of the required 90-day notice to the residents, which may be issued upon the adoption of this Resolution.

CITY COUNCIL STAFF REPORT

Current Business Item No. 14

October 13, 2021

File No. 0600-10, A-3253

SUBJECT: San Pasqual Undergrounding Project: Bid Award, Consulting Agreements, and Budget Adjustment

DEPARTMENT: Utilities Department, Construction and Engineering Division

RECOMMENDATION:

It is requested that the City Council:

- 1) Adopt Resolution No. 2021-121, authorizing the Mayor to execute a Public Improvement Agreement in the amount of \$31,712,890 with Sukut Construction, LLC, the lowest responsive and responsible bidder, for construction of the San Pasqual Undergrounding Project ("Project"); and
- 2) Adopt Resolution No. 2021-122, authorizing the Mayor to execute a Second Amendment to the Consulting Agreement with Michael Baker International, Inc., in the amount of \$727,633, for engineering services during construction of the Project; and
- 3) Adopt Resolution No. 2021-123, authorizing the Mayor to execute a Consulting Agreement in the amount of \$2,165,993 with Arcadis U.S. Inc., for construction management services for the Project; and
- 4) Adopt Resolution No. 2021-162, authorizing the Mayor to execute a Mitigation and Monitoring Agreement with the San Pasqual Band of Mission Indians for Native American monitoring activities and the protection of Native American cultural resources during the Project construction; and
- 5) Approve a Budget Adjustment in the amount of \$28,000,000.

FISCAL ANALYSIS:

The total funding needed to complete all phases of the Project is \$50,000,000, as described in the FY 2020/21 through 2025/26 Capital Improvement Program. Funding sources for the Project include IBank Loan Funding and reimbursement from the Vista Irrigation District ("District"), which is responsible for 50% of the project costs. The adopted FY 2021/22 CIP budget included \$22,000,000 in CIP No. 701701. A budget adjustment in the amount of \$28,000,000 is needed to fully fund the entire project. The total cost of the items listed in the above recommendations totals approximately \$35,000,000. The additional budgeted funds will cover the cost of a future agreement for the abandonment of the canal section that is replaced by the pipeline project. Additionally, the budgeted funds will cover several public improvement agreements for construction, consulting agreements, construction water, staff time, and other low-dollar-value agreements for the Project that do not require Council approval.

PREVIOUS ACTION:

On June 3, 2009, the City Council adopted Resolution No. 2009-77, authorizing the Mayor and City Clerk to execute a consulting agreement with Black & Veatch Corporation in the amount of \$232,710.00, for engineering services to perform a study investigating the feasibility of undergrounding a portion of the Escondido Canal between Lake Henshaw and Lake Wohlford, within the San Pasqual Indian Reservation.

On November 2, 2016, the City Council adopted Resolution No. 2016-156, adopting the Environmental Assessment/Mitigated Negative Declaration for the San Pasqual Undergrounding Project (ENV 15-0016).

On June 13, 2018, the City Council adopted Resolution No. 2018-94, authorizing the Mayor and City Clerk to execute a consulting agreement with Michael Baker International, Inc. in the amount of \$1,563,297.50 for the design of the San Pasqual Undergrounding Project. On June 29, 2018, a First Amendment with Michael Baker International, Inc. was executed to add prevailing wage and Department of Industrial Relations language to the original consulting agreement. No cost was associated with the First Amendment.

On June 13, 2018, the City Council adopted Resolution No. 2018-95, authorizing the Mayor and City Clerk to execute a consulting agreement with Helix Environmental Planning, Inc. in the amount of \$100,000 for environmental consulting services.

On May 22, 2019, the City Council adopted Resolution No. 2019-79, authorizing a proposed Agreement among the City of Escondido, Vista Irrigation District, and the San Pasqual Band of Mission Indians for Conveyance of an Easement necessary for the San Pasqual Undergrounding Project.

On May 26, 2021, the City Council adopted Resolution No. 2021-71, authorizing the Deputy City Manager / Director of Utilities to submit an application to IBank requesting \$25 million in financing (the "Obligation") for the Project, declaring the City of Escondido's ("City's") intent to reimburse IBank, and approving certain related matters to the financing application.

On August 25, 2021, the City Council adopted Resolution No. 2021-120, authorizing Authorized Officers (as such term is defined in Section 3 of Resolution No. 2021-120) to execute, on behalf of the City, an Installment Sale Agreement (a type of Financing Agreement) with the California Infrastructure and Economic Development Bank ("IBank") for \$25 million in funding for the San Pasqual Undergrounding Project.

BACKGROUND:

In 1969, five local Indian Bands, and the United States on their behalf, sued the City and the District, claiming that the City's and the District's diversion of San Luis Rey River flows deprived the Bands of adequate water on their reservations located downstream of the Diversion Dam. After nearly five decades of litigation and negotiations, the parties approved the San Luis Rey Indian Water Rights

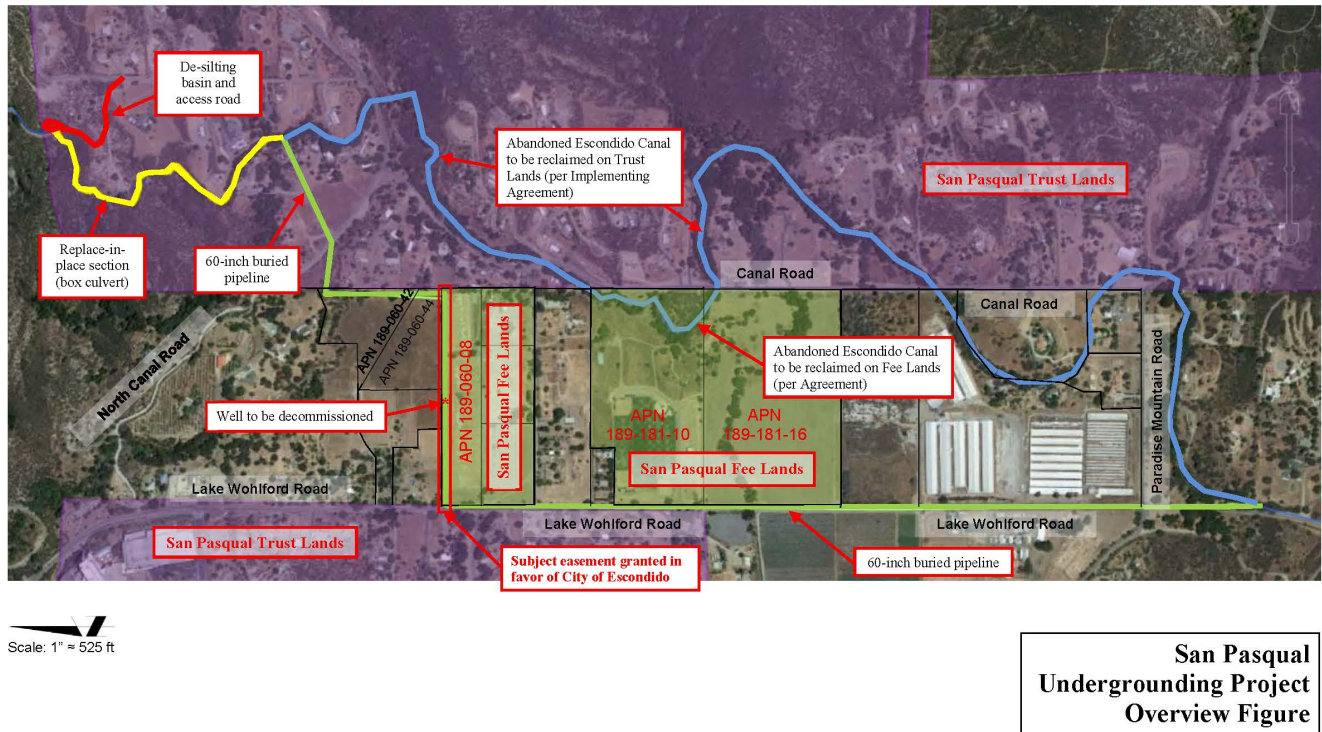
Settlement Agreement (“Settlement Agreement,” effective May 17, 2017). The parties to the agreement are the United States (acting through the Secretary of the Interior and the Attorney General of the United States); the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians; the San Luis Rey Indian Water Authority; the City; and the District. The Settlement Agreement stipulates that portions of the Escondido Canal that cross the San Pasqual Indian Reservation must be replaced with an underground pipeline. The undergrounding of the canal, known as the San Pasqual Undergrounding Project, must be completed within six years of the effective date of the Settlement (May 17, 2023). If the project is not completed within the six-year window, the City and the District must pay damages of \$1,000 per day to the San Pasqual Band until the Project is completed.

The Project will remove, relocate, and replace approximately 2.5 miles of the Escondido Canal that crosses the San Pasqual Indian Reservation. The overall project consists of four primary elements:

- (1) The construction of a new desilting basin and associated access road on the San Pasqual Indian Reservation along the existing Escondido Canal alignment where the canal first enters the northern edge of the Reservation.
- (2) The replacement of approximately one-half mile of existing canal with a shallowly buried 60-inch wide by 48-inch high precast concrete box culvert within the existing Escondido Canal right-of-way.
- (3) The replacement of approximately two miles of existing canal with a buried 60-inch pipeline within new alignments crossing the San Pasqual Indian Reservation, private lands, and public right-of-way in North Lake Wohlford Road. The downstream connection to the existing underground pipeline will be at a location south of Paradise Mountain Road near North Lake Wohlford Road. No pumping will be required to convey flows through the proposed underground pipeline.
- (4) The abandonment of approximately two miles of the existing Escondido Canal that will be dewatered when the proposed project is complete, and the rehabilitation of the land formerly occupied by the canal by means of partial demolition, grading, and reestablishment of drainage.

The proposed Project under consideration in this request includes the first three primary elements listed above. The fourth element for the abandonment and rehabilitation of about two miles of canal that will be decommissioned when the project is complete will be publicly bid as a separate project in early 2022.

The Overview Figure on the following page shows the locations of the new facilities and the existing canal alignment.



The Engineer's estimate for the Project was \$40,217,890.

Competitive bids were opened by the City Clerk on September 16, 2021, with the following results:

- | | | |
|----|---|--------------|
| 1) | Sukut Construction, LLC, Santa Ana, CA | \$31,712,890 |
| 2) | Ames Construction, Inc., Corona, CA | \$31,845,100 |
| 3) | Skanska USA Civil West California District, Inc., Riverside CA | \$32,600,000 |
| 4) | J.F. Shea Construction, Inc., Walnut, CA | \$35,040,000 |
| 5) | Steve P. Rados, Inc., Santa Ana, CA | \$35,955,000 |
| 6) | CCL Contracting, Inc., Escondido, CA | \$37,424,760 |
| 7) | Vido Artukovich & Son, Inc./Vidmar Inc. AJV, South El Monte, CA | \$38,728,900 |
| 8) | W.A. Rasic Construction Co., Inc., Long Beach, CA | \$40,815,000 |
| 9) | Kiewit Infrastructure West Co., Vancouver, WA | \$41,595,550 |

Staff has thoroughly reviewed the low bid submitted by Sukut Construction, LLC, and has determined that they are the lowest responsive and responsible bidder.

The Utilities Department recommends retaining Arcadis U.S., Inc., a third-party construction manager, to manage the Project under the supervision of City staff. Proposals were solicited from three firms

specializing in management of water pipeline construction. Arcadis U.S., Inc. was selected based on their extensive experience successfully managing similar complex construction projects. The contract for construction management services includes:

- full time construction inspections;
- construction project coordination with the City, the community, and the San Pasqual Band;
- conducting construction meetings;
- managing construction documentation and record keeping;
- reviewing contractor's monthly progress payment requests and confirm that percentages and quantities of work completed align with the amounts requested for payment;
- facilitation of partnering sessions;
- geotechnical support and special inspection services, such as welding and material testing;
- biological and archeological monitoring; and
- claim support.

The Utilities Department recommends retaining Michael Baker International, Inc. to provide engineering services during the construction phase of this project. As the designer of record, Michael Baker International, Inc. has the required technical knowledge and expertise to provide these engineering services for the Project. The contract for engineering services includes:

- responding to contractor requests for information (RFI's);
- responding to design clarifications;
- preparation of design revisions;
- attending project meetings and construction meetings;
- conducting site visits;
- reviewing and approving submittals;
- reviewing and evaluating change order requests;
- supporting project permit requirements; and
- preparing record drawings.

The adopted Environmental Assessment/Mitigated Negative Declaration for the Project requires that the City enter into a mitigation and monitoring agreement with a tribe that is traditionally and culturally affiliated with the Project location. The purpose of the agreement is to 1) formalize procedures for the treatment of Native American ancestral remains, items of cultural patrimony, ceremonial items, cultural resources, Traditional Cultural Landscapes that will be impacted by the Project; and 2) formalize procedures for Native American monitoring activities for the duration of the project. The San Pasqual Band of Mission Indians is traditionally and culturally affiliated with the Project location. Therefore, the Utilities Department recommends entering into a Mitigation and Monitoring Agreement with the San Pasqual Band of Mission Indians for all phases of the Project.

The Vista Irrigation District's Board of Directors reviewed the bid results and received an update on the project during their Board meeting on October 6, 2021. A letter from the District's General Manager expressing the Board's support is included as Attachment 2.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Christopher McKinney, Deputy City Manager/Director of Utilities

10/06/21 8:41 p.m.

Angela Morrow, Deputy Director of Utilities/Construction & Engineering

10/06/21 9:52 p.m.

ATTACHMENTS:

1. Attachment "1" Budget Adjustment
2. Attachment "2" Vista Irrigation District Letter
3. Resolution No. 2021-121
4. Resolution No. 2021-121 – Exhibit "A": Bid Award San Pasqual Undergrounding Project
5. Resolution No. 2021-122
6. Resolution No. 2021-122 – Exhibit "A": Engineering Services San Pasqual Undergrounding Project
7. Resolution No. 2021-123
8. Resolution No. 2021-123 – Exhibit "A": CM Services San Pasqual Undergrounding Project
9. Resolution No. 2021-162
10. Resolution No. 2021-162 – Exhibit "A": Mitigation and Monitoring Agreement San Pasqual Undergrounding Project



1391 Engineer Street • Vista, California 92081-8840
Phone (760) 597-3100 • Fax: (760) 598-8757
www.vidwater.org

Board of Directors

Patrick H. Sanchez, *President*
Paul E. Dorey
Jo MacKenzie
Marty Miller
Richard L. Vásquez

Administrative Staff

Brett L. Hodgkiss
General Manager
Lisa R. Soto
Board Secretary
David B. Cosgrove
General Counsel

October 6, 2021

Mr. Christopher McKinney
Deputy City Manager/Director of Utilities
City of Escondido
201 North Broadway
Escondido, CA 92025

Re: San Pasqual Undergrounding Project

Dear Mr. McKinney:

Vista Irrigation District's Board of Directors reviewed the results of the recent bid for the San Pasqual Undergrounding Project (SPUP) in their meeting today. The Board of Directors has asked me to convey the District's appreciation for the hard work and cooperation extended by City of Escondido (City) staff in executing the SPUP thus far. Additionally, the Board of Directors would like to assure the City that the District is prepared to participate fully in the SPUP in accordance with the San Luis Rey Indian Water Rights Implementing Agreement and related agreements.

The District values its partnership with the City and appreciates the spirit of collegiality and good will that has characterized that partnership. The District looks forward to working with the City on this very important project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brett Hodgkiss", is written over a printed name and title.

Brett Hodgkiss
General Manager

c: Angela Morrow, Deputy Director of Utilities/Construction and Engineering, City of Escondido
Don Smith, Director of Water Resources

RESOLUTION NO. 2021-121

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR TO EXECUTE,
ON BEHALF OF THE CITY, A PUBLIC
IMPROVEMENT AGREEMENT WITH SUKUT
CONSTRUCTION, LLC, FOR THE
CONSTRUCTION OF THE SAN PASQUAL
UNDERGROUNDING PROJECT

WHEREAS, the Escondido City Council authorized an invitation for bids for the construction of the San Pasqual Undergrounding Project (the "Project"); and

WHEREAS, the Project will remove, relocate, and replace approximately 2.5 miles of the Escondido Canal that crosses the San Pasqual Indian Reservation and consists of three major components: desilting basin, replace in-place box culvert, and pipeline; and

WHEREAS, the City of Escondido ("City") opened sealed bids for the Project on September 16, 2021; and

WHEREAS, City staff thoroughly reviewed the low bid submitted by Sukut Construction, LLC, and have determined that it is the lowest responsive and responsible bidder; and

WHEREAS, the Deputy City Manager / Director of Utilities has determined Sukut Construction, LLC, to be the lowest responsive and responsible bidder and recommends awarding the bid in the amount of \$31,712,890 to Sukut Construction, LLC; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to award this contract to Sukut Construction, LLC.

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

1. That the above recitations are true.
2. That the Mayor and City Council accepts the recommendation of the Deputy City Manager / Director of Utilities.
3. That the Mayor is authorized to execute, on behalf of the City, a Public Improvement Agreement with Sukut Construction, LLC. in substantially the same format as Exhibit "A" which is attached hereto and incorporated by this reference, 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: Sean McGlynn, City Manager
760-839-6290
("CITY")

And: SUKUT CONSTRUCTION, LLC
a California limited liability company
4010 W. Chandler Ave.
Santa Ana, CA 92704
Attn: Steve Yurosek, President & CEO
714-540-5351
("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 CITY's San Pasqual Undergrounding Project ("Project"), occurring on property located within the CITY and the San Pasqual Band of Mission Indian Reservation.

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 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 **\$31,712,890** ("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 48 hours from the CITY's notice to proceed. CONTRACTOR shall diligently perform and complete the Work with professional quality and technical accuracy within **400 calendar days** from the Notice to Proceed ("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 \$2,500 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) and IBank 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 CITY 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, and 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 signatories 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

SUKUT CONSTRUCTION, LLC

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.



Bond No.: _____
Premium: _____

FAITHFUL PERFORMANCE BOND

KNOW ALL BY THESE PRESENTS,

WHEREAS, The City Council of the City of Escondido, State of California, and Sukut Construction, LLC, a California limited liability company ("Principal"), have entered into that certain Public Improvement Agreement dated _____ ("Agreement," hereby referred to and made a part hereof), whereby Principal has agreed to install and complete certain designated public improvements associated with the San Pasqual Undergrounding Project.

WHEREAS, the Principal is required under the terms of the Agreement to furnish a bond for the faithful performance of the Agreement.

NOW, THEREFORE, we, the Principal and _____, a _____ organized and existing under the laws of the State of California and authorized to act as a surety in the State of California ("Surety"), are held and firmly bound unto the City of Escondido, a California municipal corporation ("City") in the penal sum of thirty one million seven hundred twelve thousand eight hundred ninety dollars and zero cents (\$31,712,890), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, firmly by these presents.

THE CONDITION of this obligation is such that if the Principal, or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and provisions in the Agreement and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents, and employees, as therein stipulated, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any manner affect its obligations on this bond, and the Surety hereby waives notice of any such change, extension of time, alteration, or addition to the terms of the Agreement or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, as of this _____ day of _____, 20__.

Name of Principal

By: _____
Signature of Person Signing on Behalf of Principal

Address of Principal

Name of Person Signing on Behalf of Principal

Title of Person Signing on Behalf of Principal

Name of Surety

By: _____
Signature of Person Signing on Behalf of Surety

Address of Surety

Name of Person Signing on Behalf of Surety

Title of Person Signing on Behalf of Surety

(ACKNOWLEDGMENTS OF EXECUTION BY PRINCIPALS AND SURETY MUST BE ATTACHED.)

APPROVED AS TO FORM:

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

BY: _____



Bond No.: _____
Premium: _____

LABOR AND MATERIALS BOND

KNOW ALL BY THESE PRESENTS,

WHEREAS, The City Council of the City of Escondido, State of California, and Sukut Construction, LLC, a California limited liability company ("Principal"), have entered into a that certain Public Improvement Agreement dated _____ ("Agreement," hereby referred to and made a part hereof), whereby Principal has agreed to install and complete certain designated public improvements associated with the San Pasqual Undergrounding Project.

WHEREAS, under the terms of the Agreement, the Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Escondido, a California municipal corporation ("City"), to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, the Principal and _____, a _____ organized and existing under the laws of the State of California and authorized to act as a surety in the State of California ("Surety"), are held firmly bound unto the City and all contractors, subcontractors, laborers, material suppliers, and other persons employed in the performance of the Agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the sum of thirty one million seven hundred twelve thousand eight hundred ninety dollars and zero cents (\$31,712,890), lawful money of the United States of America, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

If the condition of this bond is fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, as of this _____ day of _____, 20__.

Name of Principal

By: _____
Signature of Person Signing on Behalf of Principal

Address of Principal

Name of Person Signing on Behalf of Principal

Title of Person Signing on Behalf of Principal

Name of Surety

By: _____
Signature of Person Signing on Behalf of Surety

Address of Surety

Name of Person Signing on Behalf of Surety

Title of Person Signing on Behalf of Surety

(ACKNOWLEDGMENTS OF EXECUTION BY PRINCIPALS AND SURETY MUST BE ATTACHED.)

APPROVED AS TO FORM:

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

BY: _____

CITY OF ESCONDIDO BUSINESS LICENSE

In accordance with Municipal Code Section 16, the successful bidder is required to obtain a City of Escondido Business License prior to execution of contract.

The following information must be submitted to the City Clerk prior to execution of contract:

City of Escondido Business License No. _____

Expiration Date _____

Name of Licensee: Sukut Construction, LLC

WORKERS' COMPENSATION INSURANCE CERTIFICATE

If self-insured for Workers' Compensation, the Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, Sections 1860 and 1861, and I will comply with such provisions before commencing the performance of the work of the contract.

Date: _____

Signature

Name & Title (please print)

SAMPLE NOTICE

(Required Under General Conditions, Article 6.1.B)

TO THE PEOPLE ON THIS STREET:

WITHIN THE NEXT FEW DAYS, WORK WILL BE STARTED ON THE FOLLOWING PROJECT:

SAN PASQUAL UNDERGROUNDING PROJECT

The work may cause some inconvenience, but will be of permanent benefit.

We shall appreciate your cooperation in the following matters:

1. Please be alert when driving or walking in the construction area.
2. Tools, materials and equipment are attractive to children. For the safety of the children, please keep them away.
3. Please report all inconvenience to the jobsite superintendent, or to Randy Manns, City of Escondido - Utilities Construction Project Manager, 760-839-6290 Ext. 7031. The name and phone number of the contractor are given below.

This work is being performed for the City of Escondido by:

(Company Name)

(Superintendent Name)

(Phone Number)

We will endeavor to complete this work as rapidly as possible and with a minimum of inconvenience to you.

RESOLUTION NO. 2021-122

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY, A SECOND AMENDMENT TO THE CONSULTING AGREEMENT FOR DESIGN PROFESSIONALS WITH MICHAEL BAKER INTERNATIONAL, INC. FOR ENGINEERING SERVICES FOR THE SAN PASQUAL UNDERGROUNDING PROJECT

WHEREAS, the City of Escondido (“City”) desires to construct the San Pasqual Undergrounding Project (“Project”); and

WHEREAS, the Project will remove, relocate, and replace approximately 2.5 miles of the Escondido Canal that crosses the San Pasqual Indian Reservation and consists of three major components: desilting basin, replace in-place box culvert, and pipeline; and

WHEREAS, the City desires engineering services during construction of the Project; and

WHEREAS, Michael Baker International, Inc. prepared the design plans and specifications, and is the designer of record for the Project; and

WHEREAS, Michael Baker International, Inc. has the required technical knowledge and expertise to provide these engineering services during construction; and

WHEREAS, City staff have completed negotiations with Michael Baker International, Inc. and the Deputy City Manager / Director of Utilities recommends that the Second Amendment to the Consulting Agreement for Design Professionals (“Agreement”) be approved; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve said Agreement in an amount not to exceed \$727,633.

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 Deputy City Manager / Director of Utilities.
3. That the Mayor is authorized to execute, on behalf of the City, a Second Amendment to the Consulting Agreement with Michael Baker International, Inc. in substantially the same format as Exhibit "A" which is attached hereto and incorporated by this reference, subject to final approval as to form by the City Attorney.



CITY OF ESCONDIDO
SECOND AMENDMENT TO CONSULTING AGREEMENT

This Second Amendment to Consulting Agreement ("Second Amendment") 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: Angela Morrow
760-839-6290
("CITY")

And: Michael Baker International, Inc.
a Pennsylvania corporation
9755 Clairemont Mesa Blvd.
San Diego, CA 92124-1333
Attn: John H. Harris
858-614-5016
("CONSULTANT").

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

WHEREAS, the Parties entered into that certain Consulting Agreement dated July 9, 2018, which was subsequently amended by a First Amendment dated June 29, 2018 (collectively, the "Agreement"), wherein CITY retained CONSULTANT to provide design engineering services for two additional sections for the San Pasqual Undergrounding Project, as more specifically described in the Agreement; and

WHEREAS, the Parties desire to amend the Agreement to include additional services as described in "Attachment A" to this Second Amendment, which is attached hereto and incorporated herein by this reference.

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. The CONSULTANT shall furnish all of the Services described in "Attachment A" to this Second Amendment.

2. The CITY will compensate CONSULTANT in an additional amount not to exceed the sum of **\$727,633**, pursuant to the conditions contained in "Attachment A" to this Second Amendment.
3. All other terms of the Agreement not referenced in this Second Amendment shall remain unchanged and in full force and effect. In the event of a conflict between a provision of the Agreement and this Second Amendment, this Second Amendment shall prevail.
4. This Second Amendment and the Agreement, together with any attachments or other documents described or incorporated therein, if any, constitute the entire agreement and understanding of the Parties, and there are no other terms or conditions, written or oral, controlling this matter.
5. This Second Amendment may be executed on separate counterparts that, upon completion, may be assembled into and shall be construed as one document. Delivery of an executed signature page of this Second Amendment by electronic means, including an attachment to an email, shall be effective as delivery of an executed original.
6. Unless a different date is provided in this Second Amendment, the effective date of this Second Amendment shall be the latest date of execution set forth by the names of the signatories below.

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

CITY OF ESCONDIDO

Date: _____

Paul McNamara, Mayor

MICHAEL BAKER INTERNATIONAL, INC.

Date: _____

Signature

John H. Harris & 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.

ATTACHMENT "A"

Scope of Work

A. General

Michael Baker International, Inc., a Pennsylvania corporation ("Consultant"), will provide the City of Escondido, a California municipal corporation ("City"), with engineering support services during construction related to the City's San Pasqual Undergrounding Project ("Project").

B. Location

Consultant to provide services at various locations including the Project site. A map of the Project site is attached to this Scope of Work as Exhibit 1 and incorporated herein by this reference.

C. Services

Consultant shall provide the following services:

Task 1 – Project Meetings

Consultant will coordinate with the City and Project construction manager to review and develop the pre-construction meeting agenda for the Project and attend the pre-construction meeting for the Project.

Task 2 – Submittal Review

Consultant will review submittals for conformance to the Project contract plans and specifications. Task 2 assumes 100 submittals with 25 resubmittals and assumes five substitution requests.

Task 3 – Requests for Information ("RFI")

Consultant will review and respond to RFIs relating to questions that arise during the course of construction for the Project. Task 3 assumes 200 RFIs.

Task 4 – Evaluation of Change Orders

Consultant will perform design investigations, evaluate options, and make recommendations and assist in contract negotiation in support of preparation of final contract change orders. Consultant will submit draft documents to the City's construction manager and to the Project construction manager and attend one meeting to review the draft materials. Final change orders will be submitted to the City's construction manager and the Project construction manager. Task 4 assumes 10 change orders.

Task 5 – Preparation of Design Revision

Consultant will prepare revisions to the conformed drawings as requested by the Project construction manager and/or City to reflect approved changes, unforeseen site conditions and Project contractor-initiated modifications. Revised drawings will be submitted to the Project construction manager in PDF format. Task 5 assumes 10 revisions.

Task 6 – Construction Meetings

Consultant will attend construction meetings at the request of the Project construction manager and/or the City.

ATTACHMENT "A" Scope of Work

Task 7 – Site Visits

Consultant will perform site visits on an as-needed basis and will include an informal observation of the construction activities to confirm the Project is being constructed in general conformance to the contract documents and Project specifications.

Task 8 – Office Consultation

Consultant will provide office consultation for the duration of the construction phase to respond to email, voice and video calls from the Project construction manager, the City and the Project contractor.

Task 9 – Permitting Agency Coordination

Consultant will provide appropriate documentation, drawings or other requested data to the Project construction manager and/or City in support of any Project permit requirements.

Task 10 – Record Drawings

Consultant will update the original conformed drawings of the Project, based on one set of red-lined drawings received from the Project construction manager. Consultant will provide one, reproducible, set of Record Drawings and electronic media in accordance with the City guidelines.

D. Scheduling

Consultant to schedule specific dates of work in advance by contacting Stephanie Roman at 760-839-6290, ext. 7035, or sroman@escondido.org. Further instructions will be provided upon scheduling.

E. Contract Price and Payment Terms

The contract price of this Second Amendment shall not exceed **\$727,633**. The combined total contract price of the Agreement (\$1,563,297.50), the First Amendment (\$0), and this Second Amendment (\$727,633) shall not exceed \$2,290,930.50. The contract price of this Second Amendment includes all labor, materials, equipment, and transportation required to perform the work. Services will be billed as services are performed. Payment will be made after services have been performed and within 30 days of receipt of an invoice for those services.

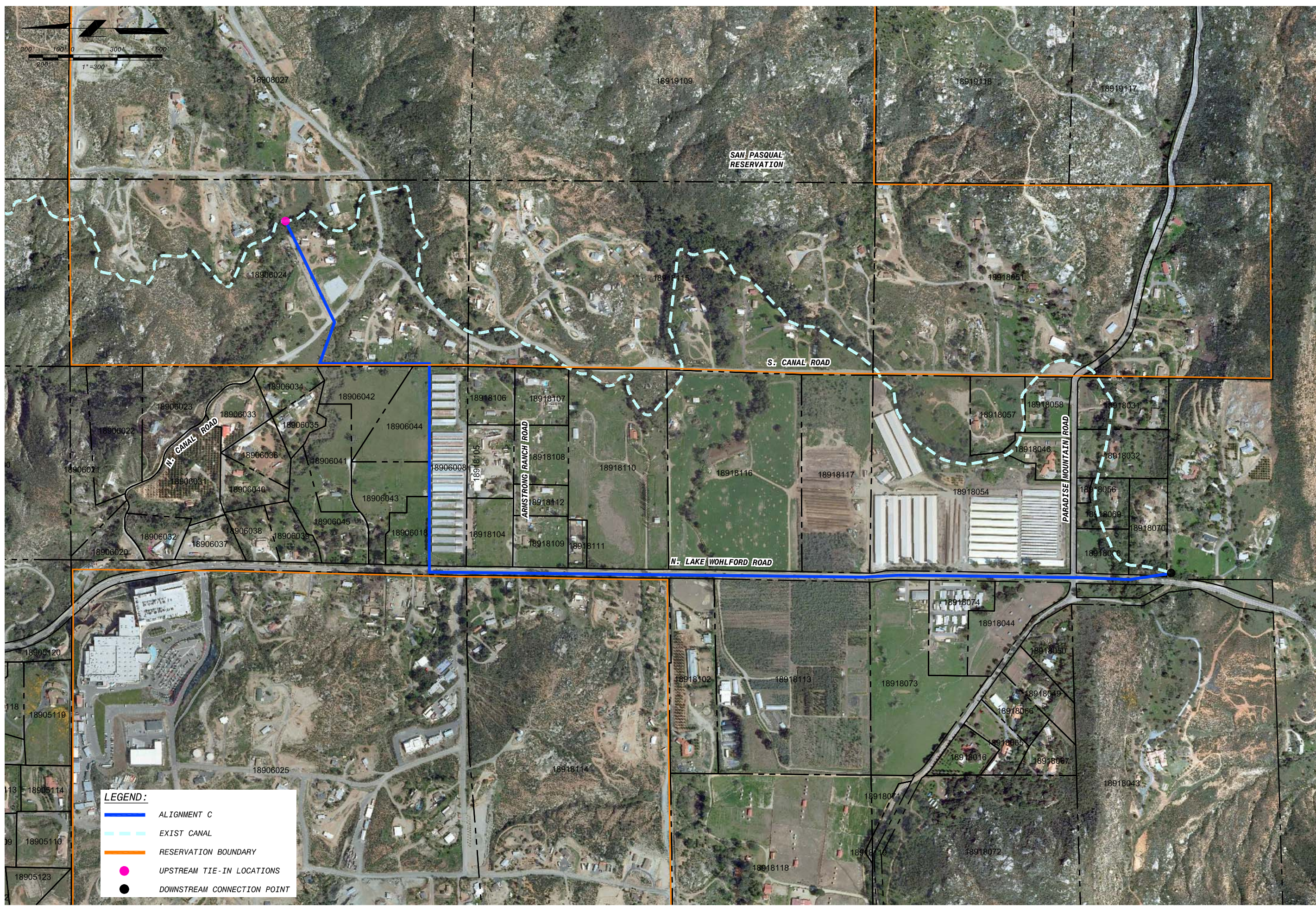
The hour and cost estimates described in Exhibit 2 to this Scope of Work, which is attached hereto and incorporated by reference, shall remain in effect throughout the term of this Second Amendment.

F. Term

The term of this Second Amendment shall be through the duration of the Project, commencing on the Effective Date of this Second Amendment.

G. Other

Consultant understands and acknowledges that the Project encompasses work within the San Pasqual Indian Reservation, County of San Diego right-of-way, and private properties. Strict guidelines are enforced and special permission is required prior to any contractor, subcontractor, consultant, or subconsultant entering the San Pasqual Indian Reservation on behalf of this Project.



LEGEND:

- ALIGNMENT C
- - - EXIST CANAL
- - - RESERVATION BOUNDARY
- UPSTREAM TIE-IN LOCATIONS
- DOWNSTREAM CONNECTION POINT

DATE	REVISIONS AND RECORD OF ISSUE	NO.	BY	CHK	APP
CYNET ID:	XREF1 ID:				
SAVED: LA128155_ 2/24/2010 2:27:57 PM	XREF2 ID:				
DWG VER #:	XREF3 ID:				
PLOTTED: LA128155_ 4/12/2010 12:10:52 PM	XREF4 ID:				
USER: LA128155	LSW:				

BLACK & VEATCH
Corporation
San Diego, California

ESCONDIDO CANAL UNDERGROUND
FEASIBILITY STUDY CITY OF ESCONDIDO/
VISTA IRRIGATION DISTRICT
PREFERRED ALIGNMENT C

DESIGNED:	PROJECT NO.
DETAILED:	165224
CHECKED:	FIG 1-2
APPROVED:	SHEET
DATE:	OF

F05000
06004

**CITY OF ESCONDIDO
SAN PASQUAL UNDERGROUNDING - PIPELINE PACKAGE**

CONSTRUCTION PHASE SUPPORT SERVICES - FEE PROPOSAL

July 26, 2021

Task No.	Task Description	Project Management		Civil					Admin.	Total (Hours)	Subtotal Fee	Direct Costs	Brown and Caldwell (Sub-Consultant) Fee	Aark Eng. (Sub-Consultant) Fee	Atlas (Geo-Technical Sub-Consultant) Fee (2)	TOTAL (1)	
		Principal	Project Manager	Task Leader	Project Engineer	Design Technican	Permit Specialist II	Permit Specialist I	2-man Survey								Admin. Assistant
	Billing Rate (\$/Hr) :	\$265	\$240	\$190	\$175	\$130	\$135	\$120	\$295	\$80							
	FEE SUMMARY																
	Construction Phase Support Services	\$ 4,240	\$ 101,280	\$ 58,520	\$ 142,450	\$ 52,000	\$ 7,020	\$ -	\$ 11,800	\$ 9,120		\$421,430	\$ 4,800	\$ 234,260	\$ 12,800	\$ 40,000	\$ 727,633
	DETAILED FEE BREAKDOWN																
	Construction Phase Support Services																
1	Pre-Construction Meetings (1)	0	6	0	6	0	0	0	0	2	14	\$ 2,650	\$ -	\$ 200	\$ 200	\$ 3,070	
2	Submittal and Shop Drawing Review	0	24	32	120	0	0	0	0	16	192	\$ 34,120	\$ -	\$ 35,500	\$ 2,000	\$ 73,495	
3	Response to RFI's	0	80	32	120	160	0	0	0	8	400	\$ 67,720	\$ -	\$ 34,680	\$ 1,800	\$ 106,024	
4	Evaluation of Change Orders	0	40	20	120	0	0	0	0	0	180	\$ 34,400	\$ -	\$ 19,000	\$ 1,000	\$ 55,400	
5	Preparation of Design Revisions	0	16	40	100	160	0	0	40	0	356	\$ 61,540	\$ -	\$ 23,000	\$ 2,000	\$ 87,790	
6	Construction Meetings	0	100	24	100	0	0	0	0	80	304	\$ 52,460	\$ 500	\$ 32,900	\$ 1,000	\$ 99,080	
7	Site Visits	0	40	40	40	0	4	0	0	0	124	\$ 24,740	\$ 3,000	\$ 27,000	\$ 1,000	\$ 67,790	
8	Office Consultation	16	100	80	160	0	8	0	0	0	364	\$ 72,520	\$ -	\$ 38,680	\$ 2,000	\$ 136,234	
9	Permitting Agency Coordination	0	4	40	24	0	40	0	0	8	116	\$ 18,800	\$ 1,000	\$ -	\$ -	\$ 19,850	
10	Preparation of Record Documents	0	12	0	24	80	0	0	0	0	116	\$ 17,480	\$ 300	\$ 18,300	\$ 1,800	\$ 38,900	
	TOTAL HOURS	16	422	308	814	400	52	0	40	114	2,166						
	TOTAL BASE FEE	\$4,240	\$101,280	\$58,520	\$142,450	\$52,000	\$7,020	\$0	\$11,800	\$9,120		\$386,430	\$ 4,800	\$ 229,260	\$ 12,800	\$ 40,000	\$ 687,633
	Additional Services											\$ 35,000		\$ 5,000		\$ 40,000	
	Total Fee																\$727,633

1) 5% mark-up included with subconsultant and direct costs
2) As-needed allowance

RESOLUTION NO. 2021-123

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR TO EXECUTE,
ON BEHALF OF THE CITY, A CONSULTING
AGREEMENT WITH ARCADIS U.S., INC. FOR
CONSTRUCTION MANAGEMENT SERVICES
FOR THE SAN PASQUAL
UNDERGROUNDING PROJECT

WHEREAS, the City of Escondido (“City”) desires to construct the San Pasqual Undergrounding Project (“Project”); and

WHEREAS, the Project will remove, relocate, and replace approximately 2.5 miles of the Escondido Canal that crosses the San Pasqual Indian Reservation and consists of three major components: desilting basin, replace in-place box culvert, and pipeline; and

WHEREAS, the City desires construction management services for the Project; and

WHEREAS, City staff solicited proposals from firms specializing in construction management of water projects; and

WHEREAS, City staff thoroughly evaluated the three proposals received and the proposal from Arcadis U.S., Inc. was determined to be the best value proposal; and

WHEREAS, Arcadis U.S., Inc. has the personnel, specialized services and expertise to manage the construction project; and

WHEREAS, City staff have completed negotiations with Arcadis U.S., Inc. for said construction management services and the Deputy City Manager / Director of Utilities recommends that the Consulting Agreement (“Agreement”) be approved; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve said Agreement in an amount not to exceed \$2,165,993.

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 Deputy City Manager / Director of Utilities.
3. That the Mayor is authorized to execute, on behalf of the City, a Consulting Agreement with Arcadis U.S., Inc. in substantially the same format as Exhibit "A" which is attached hereto and incorporated by this reference, subject to final approval as to form by the City Attorney.



CITY OF ESCONDIDO
CONSULTING AGREEMENT

This Consulting 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: Randy Manns
(760) 839-6290, ext. 7031
("CITY")

And: Arcadis U.S., Inc.
a Delaware corporation
9620 Chesapeake Drive, Suite 6
San Diego, CA 92123
Attn: Rick Farr
858-535-8539
("CONSULTANT").

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

WHEREAS, the CITY has determined that it is in the CITY's best interest to retain the professional services of a consultant to provide construction management services for the CITY's San Pasqual Undergrounding Project;

WHEREAS, CONSULTANT is considered competent to perform the necessary professional services for the CITY; and

WHEREAS, the CITY and CONSULTANT desire to enter into this Agreement for the performance of the Services 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. Description of Services. CONSULTANT shall furnish all of the Services described in the Scope of Work, which is attached to this Agreement as Attachment "A" and incorporated herein by this reference ("Services").
2. Compensation. In exchange for CONSULTANT's completion of the Services, the CITY shall pay,

and CONSULTANT shall accept in full, an amount not to exceed the sum of **\$2,165,993**. CONSULTANT shall be compensated only for performance of the Services described in this Agreement. No compensation shall be provided for any other work or services without the CITY's prior written consent. If this Agreement is amended at any time, additional compensation of CONSULTANT contained in any subsequent amendments shall not exceed a cumulative total of 25% of the maximum payment provided for in this Section 2, unless approved by resolution of the City Council.

3. Performance. CONSULTANT shall faithfully perform the Services in a proficient manner, to the satisfaction of the CITY, and in accord with the terms of this Agreement. CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports and other information furnished by CONSULTANT pursuant to this Agreement, except that CONSULTANT shall not be responsible for the accuracy of information supplied by the CITY.
4. Personnel. The performance of the Services by certain professionals is significant to the CITY. As such, CONSULTANT shall only assign the persons listed on Attachment "B", attached to this Agreement and incorporated herein by this reference ("Personnel List"), to perform the Services. CONSULTANT shall not add or remove persons from the Personnel List without the City's prior written consent. If CONSULTANT has not designated a person to perform a component of the Services, CONSULTANT shall not assign such component of the Services to a person without obtaining the City's prior written consent. CONSULTANT shall not subcontract any component of the Services without obtaining the City's prior written consent.
5. Termination. The Parties may mutually terminate this Agreement through a writing signed by both Parties. The CITY may terminate this Agreement for any reason upon providing CONSULTANT with 10 days' advance written notice. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of any notice of termination. If the CITY terminates this Agreement due to no fault or failure of performance by CONSULTANT, then CONSULTANT shall be compensated based on the work satisfactorily performed at the time of such termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to CONSULTANT for the full performance of the Services.
6. City Property. All original documents, drawings, electronic media, and other materials prepared by CONSULTANT pursuant to this Agreement immediately become the exclusive property of the CITY, and shall not be used by CONSULTANT for any other purpose without the CITY's prior written consent.
7. Insurance Requirements.
 - a. CONSULTANT 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 CONSULTANT, 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 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.
 - (2) *Automobile Liability*. ISO Form CA 00 01 covering any auto (Code 1), or if CONSULTANT 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 CITY and approved in writing by the CITY's Risk and Safety Division.

- (3) *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.
 - (4) *Professional Liability (Errors and Omissions).* Professional Liability (Errors and Omissions) appropriate to CONSULTANT's profession, with limits no less than \$2,000,000 per occurrence or claim and \$2,000,000 aggregate.
 - (5) If CONSULTANT 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 CONSULTANT.
- b. Each insurance policy required by this Agreement must be acceptable to the City Attorney and shall meet the following requirements:
- (1) *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-: FSC VII, or as approved by the CITY.
 - (2) *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 endorsement shall be at least as broad as ISO Form CA 20 01.
 - (3) *Primary Coverage.* CONSULTANT'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 CONSULTANT's insurance and shall not contribute with it.
 - (4) *Notice of Cancellation.* Each insurance policy shall provide that coverage shall not be canceled, except with prior written notice to the CITY.
 - (5) *Subcontractors.* If applicable, CONSULTANT shall require and verify that all subcontractors maintain insurance meeting all the requirements stated within this Agreement, and CONSULTANT shall ensure that the CITY (including its officials, officers, agents, employees, and volunteers) is an additional insured on any insurance required from a subcontractor.
 - (6) *Waiver of Subrogation.* CONSULTANT hereby grants to the CITY a waiver of any right to subrogation that any insurer of CONSULTANT may acquire against the CITY by virtue of the payment of any loss under such insurance. CONSULTANT 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 CONSULTANT, its agents, representatives, employees, and subcontractors.
 - (7) *Self-Insurance.* CONSULTANT 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. CONSULTANT shall only be permitted to utilize such self-insurance if, in the opinion of the CITY, CONSULTANT's (i) net worth and (ii) reserves for payment of claims of liability against CONSULTANT are sufficient to adequately compensate for the lack of

other insurance coverage required by this Agreement. CONSULTANT's utilization of self-insurance shall not in any way limit the liabilities assumed by CONSULTANT pursuant to this Agreement.

(8) *Self-Insured Retentions.* Self-insured retentions must be declared to and approved by the CITY.

- c. *Verification of Coverage.* At the time CONSULTANT executes this Agreement, CONSULTANT 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 in this Agreement, including the types and limits of insurance coverage CONSULTANT 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 CONSULTANT 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 CONSULTANT fails to comply with any such insurance requirements 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 CONSULTANT to stop work under this Agreement and/or withhold any payment that becomes due to CONSULTANT until CONSULTANT demonstrates compliance with the insurance requirements in this Agreement.

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

- a. CONSULTANT (including CONSULTANT'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 CONSULTANT's performance of the Services 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 CITY.
- b. CONSULTANT (including CONSULTANT'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 8 shall survive the termination of this Agreement.

9. Anti-Assignment Clause. Because the CITY has relied on the particular skills of CONSULTANT in entering into this Agreement, CONSULTANT shall not assign, delegate, subcontract, or otherwise transfer any duty or right under this Agreement, including as to any portion of the Services, without the CITY's prior written consent. Any purported assignment, delegation, subcontract, or other transfer made without the CITY's consent shall be void and ineffective. Unless CONSULTANT assigns this entire Agreement, including all rights and duties herein, to a third party with the CITY's prior written consent, CONSULTANT shall be the sole payee under this Agreement. Any and all payments made pursuant to the terms of this Agreement are otherwise not assignable.
10. 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.
11. Independent Contractor. CONSULTANT is an independent contractor, and no agency or employment relationship is created by the execution of this Agreement.
12. Amendment. This Agreement shall not be amended except in a writing signed by the CITY and CONSULTANT.
13. 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 CONSULTANT 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. Notice. Any statements, communications, or notices to be provided pursuant to this Agreement shall be sent to the attention of the persons indicated herein, and the CITY and CONSULTANT shall promptly provide the other Party with notice of any changes to such contact information.

20. Business License. CONSULTANT 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.
21. Compliance with Laws, Permits, and Licenses. CONSULTANT 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. CONSULTANT shall obtain any and all permits, licenses, and other authorizations necessary to perform the Services. 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 CONSULTANT to comply with this section.
22. Prevailing Wages. If applicable, pursuant to California Labor Code section 1770 et seq., CONSULTANT agrees that a prevailing rate and scale of wages, in accordance with applicable laws, shall be paid in performing this Agreement. CONSULTANT 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. The prevailing rate and scale to be paid shall be the same as the applicable "General Prevailing Wage Determination" approved by the Department of Industrial Relations as of the Effective Date of this Agreement, which are available online at <http://www.dir.ca.gov/oprl/dprevagedetermination.htm> and incorporated into this Agreement by this reference. 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 CONSULTANT to comply with this section.
23. Department of Industrial Relations Compliance. This public project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONSULTANT shall post all job site notices required by regulation. CONSULTANT, 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 CONSULTANT to comply with this section.
24. Immigration Reform and Control Act of 1986. CONSULTANT shall keep itself informed of and shall comply with the Immigration Reform and Control Act of 1986 ("IRCA"). CONSULTANT represents and warrants that all of its employees and the employees of any subcontractor retained by CONSULTANT who perform any of the Services under this Agreement, are and will be authorized to perform the Services in full compliance with the IRCA. CONSULTANT 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 Services. CONSULTANT agrees to comply with the IRCA before commencing any Services, and continuously throughout the performance of the Services 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 signatories 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

Arcadis U.S., Inc.

Date: _____

Signature

Name and 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.

ATTACHMENT "A"

Scope of Work

A. General

Arcadis U.S., Inc., a Delaware corporation ("Consultant"), will provide the City of Escondido, a California municipal corporation ("City"), with full-service construction management ("CM") services related to the City's San Pasqual Undergrounding project ("Project").

B. Location

Consultant to provide services at the Project site located along North Lake Wohlford Road, between Woods Valley Road and North Canal Road. See Exhibit 1, which is attached to this Scope of Work and incorporated herein by this reference, for the Project site map. The Project also encompasses work within the San Pasqual Reservation. See Section G for special conditions regarding Project access.

C. Services

Task 1 – Project Coordination

1. Assist the City with community outreach efforts;
2. Coordinate with San Pasqual Tribal staff and private property owners;
3. Provide a part-time staff member who is dedicated to performing document control tasks;
4. Coordinate with all independent consultants retained by the City for the Project, including: design engineer, labor compliance consultant, and any other consulting services required for the duration of the Project;
5. Coordinate all special inspections for the Project that are not required of the Project contractor (e.g. geotechnical and any special inspections that are included as part of CM services). All subcontracts for special inspections must include prevailing wage and labor compliance requirements. Consultant's services relating to special inspections for the Project are further detailed in Task 5 below;
6. Coordinate, review, observe, and document all equipment testing and start up, if applicable;
7. Coordinate with the City's Utilities Construction Management staff;
8. Coordinate with the City's Utilities Canal Division staff regarding major shutdowns, tie-ins, facility connections, and any applicable training;
9. Coordinate with the City and the Project contractor prior to any trees being trimmed or removed; and
10. Coordinate with the City, independent consultants, and all stakeholders to ensure good communications with the Project contractor and good record keeping practices.

Task 2 – Inspection

1. Monitor all Project permit conditions (e.g. County Sheriff's Department explosives permit, County of San Diego encroachment permit) and the respective expiration dates for each Project permit. Inform the City and Project contractor when non-compliance is observed as it relates to the Project permit requirements;
2. Monitor and ensure the Project contractor's compliance for all Project specifications and drawings requirements, the City's Standard Detail drawings, agency encroachment permits, and all other pertinent standards, requirements, and documents associated with the Project; and
3. Monitor Project contractor's schedule each week and inform the City of any construction conflicts and issues that could potentially affect the Critical Path Method ("CPM") or designated Project schedule method.

ATTACHMENT "A"

Scope of Work

Task 3 – Document Control and Record Keeping

1. Employ and conform to the City's Secure File Transfer Protocol ("SFTP") system, file management plan, and other City-provided forms to prepare, process, and file (in PDF format) all construction phase documents and records, ensuring complete Project records during the course of the Project and at Project completion.
2. Examples of document control and record keeping include, but are not limited to:
 - a. Preparation of written daily field reports for submittal to the City via the SFTP. Reports must include work performed, labor and equipment utilized, and a discussion of any work not conforming to the plans and specifications. The City will provide Consultant a written daily field report form within 30 days of the Effective Date;
 - b. In accordance with the General Conditions ("GC"), Consultant shall collect the Project contractor's daily reports. After collection, Consultant shall compare the Project contractor's daily reports to Consultant's daily inspection reports so any discrepancies can be addressed in a timely manner. Approved reports will be filed on the SFTP;
 - c. Daily photographic documentation of construction activities in digital, date-stamped format. Photo file sized shall conform to City file requirements. Photos shall be uploaded to the City SFTP on a daily or weekly basis;
 - d. Observe and record all major materials deliveries to the Project site to confirm compliance with the Project specifications and approved shop drawings;
 - e. Review and upload all special inspection reports and geotechnical reports provided by those firms contracted through Consultant pursuant to Task 1 and Task 5;
 - f. Review and upload to the SFTP all Project documents, reports, and correspondence, including shop drawings, submittals, requests for information ("RFI"), Storm Water Pollution Prevention Plan ("SWPPP") inspections reports, permit documents, environmental monitoring reports and training documentation, labor compliance monitoring reports and correspondence, community complaints and documentation of contact and resolution, geotechnical and materials testing reports, and special inspections;
 - g. During the Project's construction phase, review and update Project red line drawings and Project contractor red line drawings, and provide final reviews and approval of the Project contractor's red line drawings at Project completion. Submit final, Consultant-approved Project contractor red line drawings to the City Field Engineering Inspector;
 - h. Prepare quarterly CM reports, including detailed descriptions of work completed, schedule status, submittals status, RFI status, design revision status, progress payment and overall contract status, and Project photographs representing key construction activities. The quarterly reports will be prepared in a City-approved format including color copies of six or more digital photographs with captions of work performed. Electronic copies of the quarterly reports shall be accessible to the City via the City's SFTP site;
 - i. Ensure all necessary funding-related documents are collected and uploaded to the City's SFTP, including Disadvantaged Business Entrepreneur ("DBE") documentation and reporting, American Iron and Steel ("AIS") certifications, proper signage documentation, and copies of subcontracts. Funding specific requirements are noted in the Project construction contract documents and must be closely observed and followed;
 - j. Ensure all Project records meet the highest quality assurance/quality control standards. Questionable audit results can negatively impact the City's future funding opportunities. Most project documentation is considered public record and is potentially subject to a high-level of scrutiny.
3. The City will provide Consultant a CM manual, including a detailed file plan. The City does not object to Consultant using their own proprietary file management system; however, all documents produced in that file management system, as well as documents received from the Project contractor, must be saved as PDFs and filed on the City's SFTP site on a regular

ATTACHMENT "A"

Scope of Work

(daily or weekly) basis, so that the City's Utility Construction Management staff has access to all project related documents at all times.

Task 4 – Project Management

1. Ensure adherence to this Agreement, the Project contractor's contract documents, and the Project plans and specifications;
2. Attend a preliminary meeting with the City and labor compliance consultant to review Project documentation requirements;
3. Attend the pre-construction meeting and participate as the Project construction manager (after introductions by the Utilities Construction Project Manager);
4. Organize and facilitate a pre-construction partnering session with the Project contractor to discuss any potential design related issues, preliminary RFIs, or other items that might help expedite, ease, or promote a positive construction start;
5. Schedule and conduct weekly or bi-weekly progress meetings. Attendees for the meeting shall include the Project contractor, the City, and other stakeholders as necessary. Prepare and distribute draft meeting minutes, via email, in a timely manner. Distribute and file on the SFTP final meeting minutes in PDF;
6. Schedule and conduct any special meetings, as necessary. Prepare meeting minutes, similar to regular progress meetings as described in Task 4(5) above;
7. Manage, route, and track all submittals and RFIs, to the City's design engineer. Coordinate with the City's design engineer, as needed, on all change orders, field orders, and time and material requests;
8. At the City's request, provide professional opinions to the City relating to field construction issues, determining entitlement of compensation to the Project contractor for differing site conditions, change in scope items, negotiating all change order work, mitigating construction claims resolutions, and providing appropriate responses to the Project contractor regarding such issues, on behalf of the City;
9. Clearly document all details and calculations in written field orders and change orders, ensuring good results for future audits by various funding entities;
10. Ensure the Project contractor's adherence to Project schedule and notify all parties of issues that might impact the CPM;
11. Review the Project contractor's monthly progress payment estimates and confirm that percentages and quantities of work completed align with the amounts requested for payment. Provide a thorough review for accuracy and comparison with actual work completed. Meet with the City's Field Engineering Inspector to discuss the progress pay application and ensure that all check list items are complete, including labor compliance issues, prior to submittal to the City. Make appropriate recommendations to the City on payment issues;
12. Track preliminary notices forwarded by City staff, collect and file appropriate releases from contractor, and ensure all appropriate and necessary releases are on file upon Project completion;
13. Facilitate an intermediary Partnering Session, if deemed necessary during construction of the Project;
14. Conduct and coordinate preliminary and final walk-throughs for the punch lists, start up and testing, and closeout. Ensure all deliverables have been reviewed, approved, and delivered to the appropriate City staff, including Operation and Maintenance manuals and any other training documentation;
15. Provide claim support through final resolution. Mitigate existing issues and resolve all future issues at the lowest level possible to avoid claims; and
16. Submit detailed monthly CM services invoices, and include a Burn Rate spreadsheet with each invoice for budget tracking. A sample spreadsheet will be provided. Consultant payments will be held, or partially held, if records are not kept up-to-date on a monthly basis.

ATTACHMENT "A" Scope of Work

Task 5 – Subcontract Management – Special Inspection Services

1. Consultant to include and manage the following as part of the CM services:
 - a. Scheduling testing for geotechnical support and special inspection and monitoring services, as needed. Geotechnical support and special inspections services shall include, but are not limited to:
 - i. Certified Welding Inspector for occasional observation of welding work, review of Project contractor's welding inspection reports and testing procedures;
 - ii. Inspection of trench backfill and compaction testing during pipeline construction and site grading;
 - iii. Materials sampling and testing during installation of cast-in-place concrete for structures;
 - iv. Subgrade, aggregate base and asphaltic concrete in cases where the Project construction has caused damage to road surfaces, private driveways or other;
 - v. Laboratory testing of imported material, compaction testing of trench backfill, concrete cylinder testing, proctor test, and aggregate base conformance to Project specifications for asphalt and concrete;
 - vi. Submitting field reports and lab test reports to the CM; and
2. As part of the CM fee schedule, a line item allowance of \$70,000 has been added for geotechnical and special inspection services. This allowance is based on a time and materials basis, not to exceed \$70,000 without written authorization from the City.
3. Consultant is responsible for ensuring compliance with all prevailing wage laws and requirements for their firm and any subcontractors or subconsultants. Prevailing wage laws and requirements must be listed in all subcontracts. Consultant and all of their subcontractors and subconsultants are required to submit prevailing wage documentation to the City's labor compliance consultant for compliance monitoring for covered classifications.

Task 6 – Subcontract Management - Environmental Services

1. Consultant to include and manage cultural, biological and environmental monitoring and compliance, training, and reporting during the pre-construction and construction phase of the Project.
2. As part of the CM fee schedule, a line item allowance of \$584,433 has been added for biological and environmental services. This allowance is based on a time and materials basis, not to exceed \$584,433 without written authorization from the City.
3. Consultant is responsible for ensuring compliance with all prevailing wage laws and requirements for their firm and any subcontractors or subconsultants. Prevailing wage laws and requirements must be listed in all subcontracts. Consultant and all of their subcontractors and subconsultants are required to submit prevailing wage documentation to the City's labor compliance consultant for compliance monitoring for covered classifications.

D. Rates

The contract price shall not exceed **\$2,165,933**. Consultant shall submit monthly invoices to the City, and the City shall pay Consultant for invoiced services within 30 days of receipt of an invoice.

The following rates per task shall remain in effect throughout the term of this Agreement:

Task No.	Task Description	Total Cost
1	Coordination	\$244,480
2	Inspection	\$706,160
3	Document Control/Record Keeping	\$232,960
4	Project Management	\$312,960

ATTACHMENT "A" Scope of Work

5	Subcontract Management – Special Inspection Services	\$70,000
6	Subcontract Management - Environmental Services	\$584,433
Other	Other Direct Costs	\$15,000
	Total	\$2,165,993

Consultant's hourly rates for services are calculated on a "time and materials" basis in accordance with Exhibit 2 to this Scope of Work, which is attached hereto and incorporated by this reference, shall remain in effect throughout the term of this Agreement.

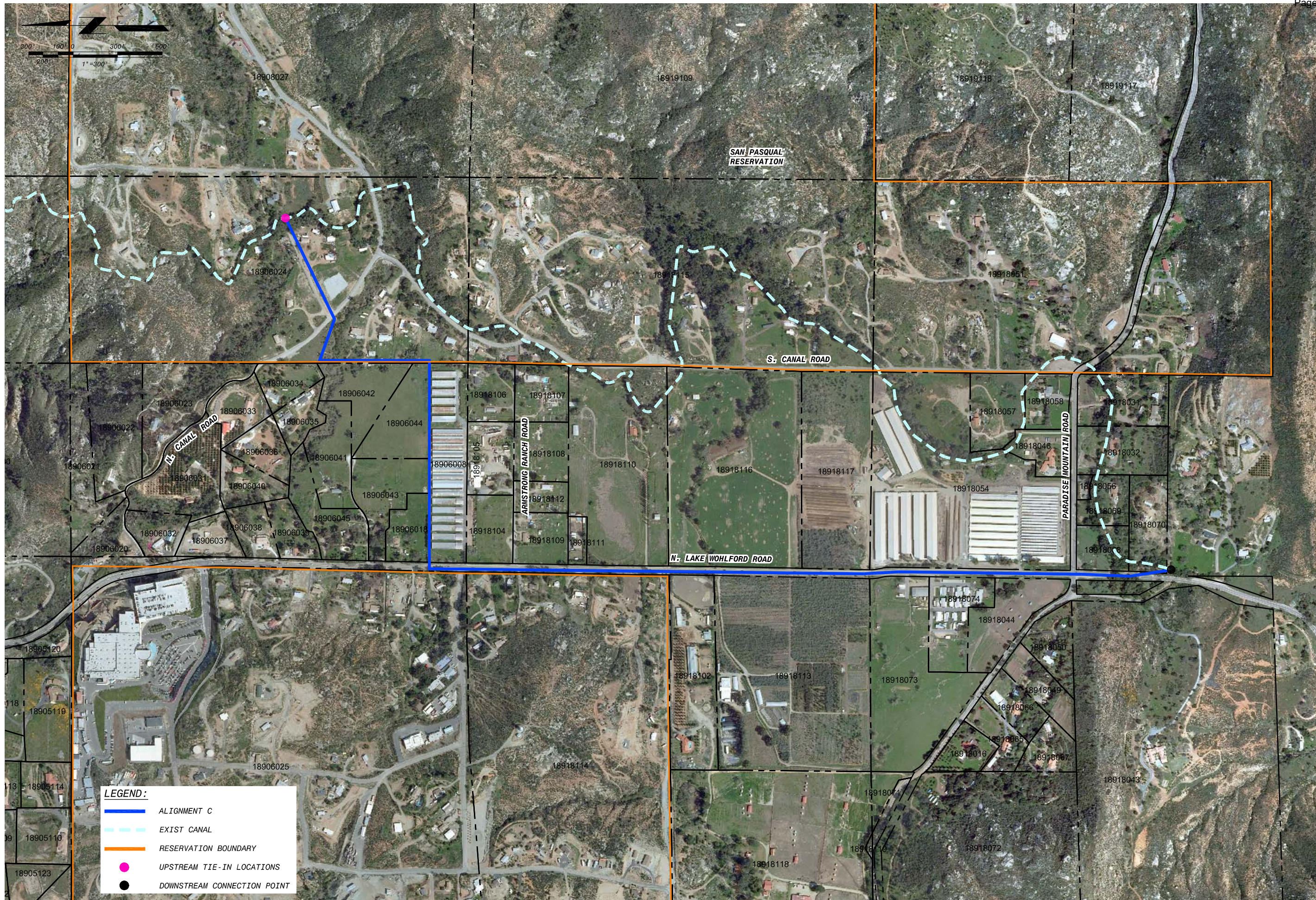
E. Term

The term of this Agreement shall be from the Effective Date of the Agreement through **August 31, 2023**.

Consultant acknowledges that the term of this Agreement may extend over multiple fiscal years, and that work and compensation under this Agreement is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. This Agreement may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. The City is not obligated to pay Consultant for any amounts not duly appropriated and authorized by City Council.

F. Other

Consultant understands and acknowledges that the Project encompasses work within the San Pasqual Reservation, County of San Diego right-of-way, and private properties. Strict guidelines are enforced and special permission is required prior to any contractor, subcontractor, consultant or subconsultant entering the San Pasqual Reservation on behalf of this Project.



LEGEND:

- ALIGNMENT C
- - - EXIST CANAL
- - - RESERVATION BOUNDARY
- UPSTREAM TIE-IN LOCATIONS
- DOWNSTREAM CONNECTION POINT

DATE	REVISIONS AND RECORD OF ISSUE	NO.	BY	CHK	APP

CYNET ID:	XREF1 ID:
SAVED: LA128155_ 2/24/2010 2:27:57 PM	XREF2 ID:
DWG VER #:	XREF3 ID:
PLOTTED: LA128155_ 4/12/2010 12:10:52 PM	XREF4 ID:
USER: LA128155	USER:



ESCONDIDO CANAL UNDERGROUND
FEASIBILITY STUDY CITY OF ESCONDIDO/
VISTA IRRIGATION DISTRICT
PREFERRED ALIGNMENT C

DESIGNED:	PROJECT NO.
DETAILED:	165224
CHECKED:	FIG 1-2
APPROVED:	SHEET OF
DATE:	

ATTACHMENT "B" Personnel List

Pursuant to Section 4 of the Agreement, CONSULTANT shall only assign performance of Services to persons listed below.

1. Rick Farr, Principal in Charge, richard.farr@arcadis.com, Arcadis U.S., Inc.;
2. Nariman Khomamizadeh, Construction Manager, nariman.khomamizadeh@arcadis.com, Arcadis U.S., Inc.;
3. Erik Anderson, Senior Construction Inspector, erik.anderson@arcadis.com, Arcadis U.S., Inc.;
4. Allen Day, Senior Construction Inspector, allen.day@arcadis.com, Arcadis U.S., Inc.; and
5. Annette Hollenbeck, Document Control, annette.hollenbeck@arcadis.com, Arcadis U.S., Inc.

CONSULTANT shall not add or remove persons from this Personnel List without the City's prior written consent. If CONSULTANT has not designated a person to perform a component of the Services, CONSULTANT shall not assign such component of the Services to a person without obtaining the City's prior written consent. CONSULTANT shall not subcontract any component of the Services without obtaining the City's prior written consent.

Acknowledged by:

Date: _____

Arcadis U.S., Inc.

RESOLUTION NO. 2021-162

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR TO EXECUTE,
ON BEHALF OF THE CITY, A MITIGATION
AND MONITORING AGREEMENT WITH THE
SAN PASQUAL BAND OF MISSION INDIANS
FOR THE SAN PASQUAL
UNDERGROUNDING PROJECT

WHEREAS, the City of Escondido (“City”) desires to construct the San Pasqual Undergrounding Project (“Project”); and

WHEREAS, the Project will remove, relocate, and replace approximately 2.5 miles of the Escondido Canal that crosses the San Pasqual Indian Reservation and consists of three major components: desilting basin, replace in-place box culvert, and pipeline; and

WHEREAS, the adopted Environmental Assessment/Mitigated Negative Declaration for the Project requires that the City enter into a mitigation and monitoring agreement with a tribe that is traditionally and culturally affiliated with the Project location; and

WHEREAS, the San Pasqual Band of Mission Indians is traditionally and culturally affiliated with the Project location; and

WHEREAS, the main purpose of a mitigation and monitoring agreement is for Native American monitoring activities and the protection of Native American cultural resources services; and

WHEREAS, City staff have completed negotiations with the San Pasqual Band of Mission Indians for said Mitigation and Monitoring Agreement and the Deputy City

Manager / Director of Utilities recommends that the Mitigation and Monitoring Agreement (“Agreement”) be entered into; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to enter into said Agreement.

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

1. That the above recitations are true.
2. That the Mayor and City Council accepts the recommendation of the Deputy City Manager / Director of Utilities.
3. That the Mayor is authorized to execute, on behalf of the City, a Mitigation and Monitoring Agreement with The San Pasqual Band of Mission Indians in substantially the same format as Exhibit “A” which is attached hereto and incorporated by this reference, subject to final approval as to form by the City Attorney.



SAN PASQUAL BAND OF MISSION INDIANS

SAN PASQUAL RESERVATION

Mitigation & Monitoring Agreement

San Pasqual Undergrounding Project SP-THPO-04

I. PARTIES

This Mitigation & Monitoring Agreement (“Agreement”) is made and entered into this ____ day of _____, 2021 (“Effective Date”), by and between the San Pasqual Band of Mission Indians, a Federally recognized Indian tribe (“San Pasqual Band”) and the City of Escondido, a California municipal corporation (the “Proponent”). (The San Pasqual Band and Proponent each may be referred to herein as a “Party” and collectively as the “Parties.”)

II. CONTACT INFORMATION

San Pasqual Band:

San Pasqual Band of Mission Indians
ATTN: Desiree Morales – Whitman
16400 Kumeyaay Way
Valley Center, CA 92082
760-644-7060
desireem@sanpasqualtribe.org

Proponent:

City of Escondido
Utilities Construction & Engineering
ATTN: Angela Morrow, P.E.
1521 S. Hale Avenue
Escondido, CA 92029
760-839-6290, ext. 7030
amorrow@escondido.org

III. SUBJECT MATTER

This Agreement concerns Proponent’s project known as the San Pasqual Undergrounding Project SP-THPO-04 (“Project”). The Project includes the construction of undergrounding of the Escondido Canal that crosses the San Pasqual Reservation

IV. PURPOSE

The purpose of this Agreement is to formalize procedures for the treatment of Native American ancestral remains, items of cultural patrimony, ceremonial items, cultural resources, Traditional Cultural Landscapes, or other items of cultural patrimony that will be impacted by the proposed Project.

This Agreement also formalizes procedures for Native American monitoring activities for the duration of the Project. This Agreement applies to all phases of Project development, including archaeological studies, investigations and data recovery, geological studies and investigation, excavation, grading, and any other ground-disturbing activity at the Project.

This Agreement is entered into in furtherance of protection of Native American cultural resources,

consistent with the California Environmental Quality Act ("CEQA"), and any applicable mitigation measures and/or conditions of approval.

V. CULTURAL AFFILIATION

The Parties agree that the Project area consists of land which has been traced to and traditionally occupied by the San Pasqual Band. Any Native American ancestral remains which are found in conjunction with the development of this Project shall be treated in accordance with SECTION IX of this Agreement. Any cultural resources found shall be treated in accordance with SECTION X of this Agreement. Nothing herein, however, shall be the basis for a claim of ownership of the real property, as distinguished from Native American ancestral remains and cultural resources.

VI. PROTECTION OF SITES AND PROJECT AREA

The Proponent agrees that grading, excavation, and other Project construction and ground disturbing activities will be planned in such a manner as to disturb as little of known significant sites as feasible, consistent with Project approvals. The Parties acknowledge that Project approvals include other interests such as public utilities, street alignment, and endangered and protected species protections that must be accommodated as well. Such planning would also include staging and storage of construction equipment in areas other than those within the boundaries of a significant site.

VII. MOST LIKELY DESCENDANT

In the event that Native American ancestral remains are found during development of this Project, it is understood by all Parties that the determination of Most Likely Descendant ("MLD") under California Public Resources Code section 5097.98 will be made by the Native American Heritage Commission ("NAHC"), upon notification on the discovery of ancestral remains of Native American origin at the Project site. Until that time, neither the San Pasqual Band nor the Proponent guarantees that the San Pasqual Band, or one of their members, will be so named.

The San Pasqual Band believes that, when and if such ancestral remains are discovered on the Project, given the location of the site and the history and pre-history of the area, the San Pasqual Tribal Chairman will be named MLD.

Should it be determined by the NAHC that a member of an Indian Tribe other than the San Pasqual Band of Mission Indians is the MLD, the provisions of this Agreement relating to the treatment of Native American Ancestral Remains shall be null and void in their entirety; however, in such an event, the monitoring provisions of Addendum 1 to this Agreement, which is fully severable, shall continue in full force and effect.

VIII. COORDINATION WITH THE COUNTY CORONER'S OFFICE

Per the final, approved environmental documents, the Proponent or Proponent's authorized designee shall immediately contact the County Coroner and the San Pasqual Band Lead Cultural Resources Monitor (if not already on the project site) if any ancestral remains are discovered

during any stage of the implementation of the Project.

All ground disturbing activities within a 25-foot radius of the remains shall be halted and no disturbance of the remains will occur until a final decision has been made as to disposition. The County Coroner will provide notification to the NAHC within 24 hours of determination, as required by California Public Resources Code section 5097.98(a).

IX. TREATMENT AND DISPOSITION OF ANCESTRAL REMAINS

The term "ancestral remains" encompasses more than human bones because the San Pasqual Band's traditions call for the ceremonial burning of ancestral remains and animals. Ashes, ancestral remains, and associated items of cultural patrimony, including but not limited to animal bones and other remnants from burning ceremonies found with ancestral remains, are to be treated in the same manner as human bones or human bone fragments that remain intact.

In the event Native American ancestral remains are found during development, and the San Pasqual Band, or a member of the San Pasqual Band, is determined to be the MLD, the following provisions shall apply:

1. The MLD shall complete its inspection and make recommendations or preferences for treatment within 48 hours of receiving notification from the NAHC.
2. The San Pasqual Band shall be allowed, pursuant to California Public Resources Code section 5097.98(a), to inspect the site of discovery and make prompt determinations as to the treatment and disposition of the Native American ancestral remains, associated items of cultural patrimony, and/or cultural resources.
3. Treatment and disposition shall be conducted with appropriate dignity. The Parties agree to discuss in good faith what constitutes "appropriate dignity."
4. Reburial of the remains shall comply with California Public Resources Code section 5097.98(a) and (b) and any other law, rule, or ordinance of any governing agency with jurisdiction over the Project area.

The Proponent acknowledges that, due to its beliefs, traditions, and customs, the San Pasqual Band's position is to not remove, unearth, disturb, construct over, or develop on any ancestral remains, including inhumations, cremations, and items of cultural patrimony. The Proponent agrees to avoid and preserve all ancestral remains associated with the Project, with an adequate buffer space, so such ancestral remains are not subject to any development or disturbance, in perpetuity.

X. TREATMENT OF CULTURAL RESOURCES OTHER THAN ANCESTRAL REMAINS

To the extent possible, treatment of cultural resources will reflect the traditional religious beliefs, customs, and practices of the San Pasqual Band.

The Proponent agrees to allow all cultural resources discovered at the Project to be returned to the San Pasqual Band for appropriate treatment, subject to limited archaeological cataloging as

described below. The cultural resources shall be returned to the San Pasqual Band for their care and disposition at their total discretion. The Proponent waives any and all claims to ownership of cultural resources in favor of the San Pasqual Band.

If temporary possession of cultural items by any entity or individual other than the San Pasqual Band (for example, a project archaeologist retained by the Proponent) is necessary, that entity or individual shall not possess those items for longer than is reasonably necessary. The Proponent's archaeologist shall maintain contact with the San Pasqual Band's designated representative regarding the status and progress of the cataloging of any cultural items found. The Proponent shall request its archaeologist to catalog all found items in a prompt manner and shall make provisions for a San Pasqual Band's representative to visit the laboratory to observe the cataloging if desired. All resources shall be returned, including those that were determined to be non-cultural, under provisions of this paragraph within 20 days of the completion of cataloging. The San Pasqual Band shall be provided with a copy of the draft Archaeological Report and list of cultural resources prepared for the Project and shall be afforded the opportunity to comment on such report before it is finalized.

The Proponent understands that it is the San Pasqual Band's policy to rebury cultural resources in the location where they were identified or, if that is not possible, in a location as close to the area as possible that will not be subject to further disturbance. The Proponent agrees to work with the San Pasqual Band to determine the best location for reburial prior to return of any resources by the project archaeologist.

XI. NON-DISCLOSURE OF LOCATION OF REBURIALS

It is understood by all Parties to this Agreement that unless otherwise required by law, the site of any reburial of Native American ancestral remains shall not be disclosed by the Proponent or by any third party under Proponent's direction or control, except as may be necessary for the future protection and maintenance of the successors in interest of that area. The County Coroner will be asked to withhold public disclosure of information related to such reburial pursuant to the specific exemption from the California Public Records Act set forth in California Government Code section 6254(r).

XII. WORK STATEMENT FOR NATIVE AMERICAN MONITORS

The description of work for San Pasqual Cultural Resource Monitors for archaeological or geological investigations, excavation, grading, and any other ground disturbing operations at the Project site is attached hereto as Addendum 1 and incorporated herein by reference. Addendum 1 refers to the monitoring crew, the authority of the monitoring crew, and provisions for compensation for the tribal Monitors.

XIII. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators, and assigns of the parties, including subsequent land owners and owners of the Project area, and to any person or entity obligated to comply with environmental and

cultural/archaeological protection laws applicable to the Project.

XIV. INDEMNIFICATION

Unless otherwise stated in this Agreement, the San Pasqual Band, including their officers, members, directors, council members, agents, employees, affiliates, successors, subsidiaries, assigns, and related organizations or entities, in no way agree to defend, hold harmless, indemnify, or guarantee in any way the City of Escondido, County of San Diego, or the Proponent from any and all claims, obligations, liabilities, damages, or actions arising out of, relating to, or connected with the Project.

Pursuant to this Agreement, the San Pasqual Band, through the Tribal Cultural Resource Monitoring Program, shall provide qualified Native American Monitors for the Project. Due to the potential for loss to the Proponent by the nature of the Native American Monitors' scope of employment, the San Pasqual Band (including its officers, members, directors, council members, agents, employees, affiliates, successors, subsidiaries, assigns, and related organizations or entities), shall indemnify, defend, and hold harmless the Proponent (including Proponent's 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 any negligent act, omission, or intentional misconduct of the Native American Monitor under this Agreement.

All terms and provisions within this SECTION XIV shall survive the termination of this Agreement.

XV. 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.

XVI. CONSIDERATION

In consideration of, and contingent upon the Proponent's compliance with requirements and promises contained in this Agreement, the San Pasqual Band on its own behalf and on behalf of its members, agree to forgo legal action, not arising out of this Agreement, which could impede the development of the Project.

XVII. NO PRECEDENT

This Agreement is unique to the San Pasqual Undergrounding Project SP-THPO-04 only and does not set precedent for other projects.

XVIII. MISCELLANEOUS

1. Term. This Agreement shall be effective and shall commence on the Effective Date and shall remain in effect until completion of the Project.

2. Amendment. This Agreement shall not be amended except in a writing signed by the San Pasqual Band and Proponent.

3. 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.

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

5. 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.

6. 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.

7. Advice of Counsel. The Parties hereby acknowledge that they have executed this Agreement after having the opportunity to consult with, and receive the advice of, their own counsel.


8. 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.

(SIGNATURE PAGE FOLLOWS)

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

SAN PASQUAL BAND OF MISSION INDIANS

Date: 9-29-2001



Stephen Cope, San Pasqual Chairman

CITY OF ESCONDIDO

Date: _____

Paul McNamara, Mayor

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY
MICHAEL R. MCGUINNESS, CITY ATTORNEY

BY:  _____

ADDENDUM 1

NATIVE AMERICAN MONITORING BY THE SAN PASQUAL BAND OF MISSION INDIANS TRIBAL MONITORING PROGRAM San Pasqual Undergrounding Project SP-THPO-04 ("Project")

I. CONDITIONS

Given the sensitivity of the Project to contain Cultural Resources, the Project Mitigation Measures and/or Conditions of Approval require the presence of San Pasqual Band Tribal Monitors ("Monitors") to observe all ground disturbing activities for the duration of the Project anticipated to commence on or about November 18, 2021.

Development of the Project includes the construction of underground facilities as required to transfer water from the above-ground Escondido Canal and remove the canal from the surface of Tribal Lands. In the event that cultural resources are identified during monitoring, the Monitors are empowered to temporarily stop or relocate these Project activities in the immediate area of a cultural resources find, allowing the Project activities to continue within the remainder of the Project. Should any stops or relocation of the Project activities by the Monitors be required, the Monitors shall (i) notify the onsite Project Superintendent; and (ii) shall not be for an excessive duration of time. However, the work in the stoppage area may not resume until the Native American Monitor has had the opportunity to review the find and discuss it with the Monitor Supervisor and/or Project Archaeologist. The Parties acknowledge that nothing in this Agreement lessens their obligations under the Public Resources Code.

The San Pasqual Band's Monitor Supervisor shall be invited to attend a pre-grading conference meeting to be held with the lead agency grading inspector, the construction manager or other representative(s) for the grading contractor, the Project archaeologist, and other contractors as appropriate. At the meeting, the Monitor Supervisor shall describe the purpose of tribal monitoring, describe any cultural resources that the operators should be aware of, outline the process for monitoring, and any other information that is appropriate to the Project. Tribal monitors will not monitor paleontological materials.

II. PROJECT CREW SIZE

The Parties to this Mitigation & Monitoring Agreement anticipate the need for a Tribal Monitoring crew consisting of one person. If, however, the scope of the work changes to require additional monitors (i.e., simultaneous grading in two different areas or discovery of a new cultural resource or archaeological site occurs) the Proponent will be responsible for compensation of more than two monitors. Any additional monitoring will be subject to the same terms and conditions, including compensation, as set forth herein.

If Native American ancestral remains are found, coordinating the reburial of those remains, items of cultural patrimony and tribal cultural resources will be conducted in accordance with Sections VIII and IX of this Agreement.

On behalf of the San Pasqual Band, Desiree Morales-Whitman, Monitor Supervisor, will act as contact point for the Proponent and will be responsible for assigning Monitors from the San Pasqual Band to the Project. The Tribe recognizes that dangerous conditions can exist on the work site, particularly during the grading and trenching operations, and Monitors shall be informed of these dangers. The San Pasqual Band possesses liability insurance for its Monitors.

III. COMPENSATION

The Proponent shall provide compensation to the San Pasqual Band at the rate of \$65 per hour plus mileage. The hourly rate of compensation paid to the Monitor shall be adjusted for inflation based on 2019 dollars. The adjustment, if any, shall be calculated in accordance with the United States Department of Labor Statistics, Revised Consumer Price Index. Hourly rate compensation adjustments shall be made only once per year. For purposes of rate compensation adjustment, a year commences on January 1st. A minimum four hour show up time in the amount of \$ 260 will be charged to the Proponent for unannounced work stoppages of Monitors which are not due to actions of the Band or of the Native American Monitors. The Proponent will also be billed time and a half for all holiday work and double time for work over eight and 40 hours per week. Mileage will be compensated at the Federal Mileage Rate.

IV. ACCOUNTING

The San Pasqual Band will invoice the Proponent on a monthly basis, on the 30th day of each month for all hours and miles accrued by the Monitors for the Project.

The invoice will be submitted to:

Angela Morrow, P.E.
Deputy Director of Utilities/ Construction and Engineering
City of Escondido
1521 S. Hale Ave.
Escondido, CA 92029
Phone: 760-839-6290
Email: amorrow@escondido.org

The Proponent agrees to remit payment in full to the below address within 30 days of receipt of the invoice. Should payment not be received after 60 days, a 2% increase will be added on to each additional monthly invoice.

Remit payment to:

San Pasqual Band of Mission Indians
16400 Kumeyaay Way
Valley Center, CA 92082

CITY COUNCIL STAFF REPORT

Current Business Item No. 15

October 13, 2021

File No. 0120-10

SUBJECT: Appointment of an Ad Hoc City Council Subcommittee to review the financial status of the City and consider the possibility of placing a Revenue Measure on the November 2022 General Election Ballot

DEPARTMENT: City Clerk's Office

RECOMMENDATION:

It is requested that the Mayor appoint an ad hoc subcommittee to review the financial status of the City and consider the possibility of placing a Revenue Measure on the November 2022 General Election Ballot.

BACKGROUND:

Over the past decade, the City of Escondido's ("City") revenues have not kept pace with the growing costs associated with providing municipal services and facilities. As a result, it is becoming increasingly challenging to maintain the quality of City Services such as crime prevention, 911 response, pothole repair, street and park maintenance, graffiti eradication, homelessness issues, and other core services.

The City has been proactive in reducing costs in a variety of ways. Measures include instituting pension reform, increasing employees' share of benefit packages, reducing the City's workforce by 126 full-time employees below pre-recession levels (while Escondido grew by 8,000 residents during this time), updating City fees, installing cost-saving technology, establishing a citywide Community Facilities District, deferring maintenance on projects, and more.

Even after instituting deep budget cuts and enhanced efficiencies, Escondido is still facing a structural deficit exceeding \$150+ million over the next 20 years. The cost-saving measures and maintaining a hard line on expenditures have allowed the City to adopt a balanced budget; however, to continue an appropriate level of service and address City priorities, the Fiscal Year 2021/22 budget uses one-time sources of funds from the Successor Agency Redevelopment Loan repayment and a transfer from the Section 115 Pension Trust Fund. Until revenue is increased on an ongoing and structural basis, the City must continue to rely on short-term, one-time resources to continue operations and avoid drastic cuts to City services.

During the development of the FY 2019/20 budget, the City Manager recommended evaluating a potential sales tax measure that would annually generate \$25 million to structurally increase revenues for maintaining essential city services. The City Council chose not to place the matter on the ballot in November 2020.

ANALYSIS:

Local jurisdictions can obtain voter approval for local transactions and use taxes (sales tax) at a general election. The City’s next scheduled municipal election is November 8, 2022. A general tax measure requires approval of 50 percent of voters, plus one. The measure requires approval by two-thirds of the City Council (four affirmative votes) to be placed on the November 8, 2022 ballot.

Within California, 291 of the state’s 482 cities (60 percent), and 36 of the state’s 58 counties (62 percent), have approved transaction and use taxes. San Diego County cities are depicted below:

<i>City</i>	<i>Total Sales Tax Rate</i>	<i>Local Rate</i>	<i>Election Date</i>	<i>Voter Approval</i>
Chula Vista	8.75%	1.0%	June 2018	52.56%
Del Mar	8.75%	1.0%	November 2016	67.30%
El Cajon	8.25%	0.5%	November 2008	51.77%
Imperial Beach	8.75%	1.0%	November 2020	70.22%
La Mesa	8.50%	0.75%	November 2008	55.51%
National City	8.75%	1.0%	June 2006	58.10%
Oceanside	8.25%	0.5%	November 2018	55.68%
Vista	8.25%	0.5%	November 2006	53.97%

Other Southern California cities with local sales taxes include Temecula (8.75%), Pasadena (10.25%) Long Beach (10.25%) Santa Barbara (8.75%).

The sales tax rate currently applied in the City of Escondido is 7.75 percent, which is the base rate for San Diego County. This includes a combined statewide rate of 7.25 percent and a San Diego county district tax of 0.50 percent for the TransNet program. Of the total 7.75 percent collected, Escondido receives only one percent. California Revenue and Taxation Code Section 7251.1 requires that the combined taxes in any county (above the statewide tax rate) cannot exceed two percent.

An ad hoc subcommittee of two members of the City Council may be formed to take a focused and comprehensive look at the budget and anticipated future budget deficit; solicit and gather community input; engage consultants as needed; and perform other meaningful review of whether the City should undertake placing a revenue measure on the November 2022 ballot. The subcommittee will then bring forward their recommendations based on that review for the full council to decide, with further input from the community, whether the matter should be put to the voters.

CONCLUSION AND NEXT STEPS:

Although the City has recently received some one-time federal monetary assistance through the American Rescue Plan program, due to the fact that the City is facing a projected long-term structural budget deficit that must still be resolved, Staff recommends that the Mayor appoint an ad hoc

Appointment of an Ad Hoc City Council Subcommittee re Financial Status and Revenue Measure
October 13, 2021
Page 3

subcommittee to review the financial status of the City and consider the possibility of placing a Revenue Measure on the November 2022 General Election Ballot.

APPROVED AND ACKNOWLEDGED ELECTRONICALLY BY:

Zack Beck, City Clerk

10/06/21 5:37 p.m.



FUTURE CITY COUNCIL AGENDA ITEMS

Updated October 7, 2021

*AGENDA ITEMS AND CITY COUNCIL MEETING DATES ARE SUBJECT TO CHANGE.
CHECK WITH THE CITY CLERK'S OFFICE AT (760) 839-4617*

October 20, 2021
Cancelled

October 27, 2021
5:00 p.m.

PRESENTATION	
	Helen Putnam Award
CONSENT CALENDAR	
	<p>Amendment No. 1 to the Escondido Joint Powers Financing Authority Agreement (C. Holmes)</p> <p><i>It is requested that the City Council adopt Resolution No. 2021-164, Resolution No. 2021-165, and Resolution No. 2021-166 approving Amendment No. 1 to the Joint Exercise of Powers Agreement of the Escondido Joint Powers Financing Authority.</i></p>
PUBLIC HEARINGS	
CURRENT BUSINESS	
	<p>Issuance of the 2021 Wastewater System Revenue Refunding Bonds – Financing Plan and Legal Documents (C. Holmes)</p> <p><i>It is requested that the City Council adopt Resolution No. 2021-128 and that the Escondido Joint Powers Financing Authority adopt Resolution No. EJPFA 2021-01 authorizing the issuance and sale of the 2021 Wastewater System Revenue Refunding Bonds to refund the Wastewater Revenue Bonds, Series 2012.</i></p>
	<p>Year-End Financial Report for Fiscal Year 2020-2021 (C. Holmes)</p> <p><i>Quarterly financial reports present written financial updates to City Council concerning certain funds of the City based on the most recent financial information available. These quarterly financial reports include budgetary information along with the actual resources received to date and the use of these resources in fulfilling each fund's financial plan. The report provides information for the General Fund, Reidy Creek Golf Course Operations, Water, and Wastewater Funds.</i></p>
	<p>Small Parcels – Surplus Land Act (J. Schoeneck)</p>

Middle Income Housing Project Proposals

(A. Finestone)

It is requested that the City Council adopt Resolutions No. 2021-151, 2021-152, and/or 2021-153 approving up to three unique Middle Income Housing Project Proposals to convert market rate housing to 30-year deed-restricted middle income housing. Each project would provide income and rent-restricted rental housing for households earning between 80% to 120% of the area median income.

Project Homekey Co-Applicant Grant Application

(R. Van De Hey)

It is requested that the City Council authorize the Deputy City Manager (Robert Van De Hey) or his designee to complete and submit an application to the Department of Housing and Community Development for the Homekey Program grant as a co-applicant with Interfaith Community Services, Inc. This is a statewide effort to sustain and rapidly expand housing for persons experiencing homelessness or at risk of homelessness, and who are, thereby, inherently impacted by or at increased risk for medical diseases or conditions due to the COVID-19 pandemic.

FUTURE AGENDA ITEMS



October 13, 2021

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>