



CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, FEBRUARY 08, 2023

4:00 PM - Closed Session (Parkview Conference Room)

5:00 PM - Regular Session

Escondido City Council Chambers, 201 North Broadway, Escondido, CA 92025

WELCOME TO YOUR CITY COUNCIL MEETING

We welcome your interest and involvement in the legislative process of Escondido. This agenda includes information about topics coming before the City Council and the action recommended by City staff.

MAYOR

Dane White

DEPUTY MAYOR

Joe Garcia (District 2)

COUNCILMEMBERS

Consuelo Martinez (District 1)

Christian Garcia (District 3)

Michael Morasco (District 4)

CITY MANAGER

Sean McGlynn

CITY ATTORNEY

Michael McGuinness

CITY CLERK

Zack Beck

HOW TO WATCH

The City of Escondido provides three ways to watch a City Council meeting:

In Person



201 N. Broadway

On TV



Cox Cable Channel 19 and U-verse Channel 99

Online



www.escondido.org



CITY of ESCONDIDO

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WEDNESDAY, FEBRUARY 08, 2023

HOW TO PARTICIPATE

The City of Escondido provides two ways to communicate with the City Council during a meeting:

In Person



Fill out Speaker Slip and Submit to City Clerk

In Writing



<https://escondido-ca.municodemeetings.com>

ASSISTANCE PROVIDED

If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 760-839-4869. Notification 48 hours prior to the meeting will enable the city to make reasonable arrangements to ensure accessibility. Listening devices are available for the hearing impaired – please see the City Clerk.





CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, FEBRUARY 08, 2023

CLOSED SESSION

4:00 PM

CALL TO ORDER

1. Roll Call: Garcia, Garcia, Martinez, Morasco, White

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

CLOSED SESSION

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

Property: 272 E. Via Rancho Pkwy, Escondido

City Negotiators: Sean McGlynn, City Manager, Michael McGuinness, City Attorney, or designees

Negotiating Parties: (i) Larry Green, L. Green Investment & Development, LLC; (ii) Kimberly Brewer, Unibail-Rodamco-Westfield; (iii) D. Scott Carr, Transformco; (iv) Maura Brancaccio, Costco Wholesale Corporation Under Negotiation: Terms of lease and REA

II. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION (Government Code § 54956(d)(1))

a. In re National Prescription Opiate Litigation

United States District Court, Northern District of Ohio, Eastern Div.

Case No. 1:17-MD-2804

b. *City of Escondido v. All Interested Persons in the Matter of the Issuance and Sale of Pension Obligation Bonds etc. (Validation Action)*

San Diego Superior Court Case No. 37-2022-00025425-CU-PT-NC

c. *Touchstone MF Fund I, LLC v. City of Escondido, et. al.*

San Diego Superior Court Case No. 37-2020-00020856-CU-BC-NC

ADJOURNMENT



CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, FEBRUARY 08, 2023

REGULAR SESSION

5:00 PM Regular Session

MOMENT OF REFLECTION

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FLAG SALUTE

The City Council conducts the Pledge of Allegiance at the beginning of every City Council meeting.

CALL TO ORDER

Ceremonial Swearing In: Christian Garcia, City Council District 3

Roll Call: Garcia, Garcia, Martinez, Morasco, White

PROCLAMATIONS

Black History Month

CLOSED SESSION REPORT

ORAL COMMUNICATIONS

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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) -



CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, FEBRUARY 08, 2023

2. APPROVAL OF WARRANT REGISTER (COUNCIL) -

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

- 370143 – 370365 dated January 18, 2023
- 370366 – 370571 dated January 25, 2023

Staff Recommendation: Approval (Finance Department: Christina Holmes)

3. APPROVAL OF MINUTES: Special Meetings of January 25, 2023 and January 30, 2023

4. WAIVER OF READING OF ORDINANCES AND RESOLUTIONS –

5. APPROVAL TO ANNEX PROPERTY TO CITYWIDE SERVICES COMMUNITY FACILITIES DISTRICT (CFD) 2020-1, ZONE 8

Request the City Council adopt Resolution No. 2023-15 annexing seven (7) projects containing 16 units into the Citywide Services CFD 2020-1. Each property owner has provided a signed form consenting to annexation as a streamlined method for offsetting the cost of ongoing municipal services.

Staff Recommendation: Approval (Development Services Department: Andrew Firestine, Director of Development Services)

Presenter: Andrew Firestine

a) Resolution No. 2023-15

6. AMENDMENT AND READOPTION OF CITY COUNCIL RULES AND PROCEDURES

Request the City Council adopt Resolution No. 2023-19, amending the City Council Rules of Procedure for City Council meetings and City Council Policies to change Section A.7 to allow for a council member motion and second before further consideration of an agenda item.

Staff Recommendation: Approval (City Attorney's Office: Michael R. McGuinness, City Attorney)

Presenter: Michael R. McGuinness

a) Resolution No. 2023-19



CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, FEBRUARY 08, 2023

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.)

7. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING A PREZONE TO PLANNED DEVELOPMENT-RESIDENTIAL AND MASTER AND PRECISE DEVELOPMENT PLAN FOR A 102-UNIT CONDOMINIUM DEVELOPMENT

Approved on January 11, 2023 with a vote of 4/0

a) Ordinance No. 2023-03 (Second Reading and Adoption)

PUBLIC HEARINGS

8. CONWAY RESIDENTIAL SUBDIVISION (CONTINUED)

Request the City Council adopt Resolution No. 2023-06, approving a Tentative Subdivision Map, Annexation/Reorganization, and Grading Exemption, for a 56-unit residential subdivision located at 916, 942, and 943 Stanley Avenue, and 2005 – 2175 Conway Drive (odd-numbered addresses only) (“Project”). The request also includes the adoption of a Final Mitigated Negative Declaration prepared for the Project pursuant to the California Environmental Quality Act.

Staff Recommendation: Approval (Development Services Department: Andrew Firestine, Director of Development Services)

Presenter: Adam Finestone, City Planner

a) Resolution No. 2023-06



CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, FEBRUARY 08, 2023

CURRENT BUSINESS

9. TRUNK SEWER REPLACEMENT PROJECT: BID AWARD, CONSULTING AGREEMENTS, AND BUDGET ADJUSTMENT

Request the City Council take the following actions: Adopt Resolution No. 2023-12, authorizing the Mayor to execute a Public Improvement Agreement in the amount of \$8,482,904.64 with Southland Paving, Inc., the lowest responsive and responsible bidder, for construction of the Trunk Sewer Replacement Project (“Project”); Adopt Resolution No. 2023-13, authorizing the Mayor to execute a Consulting Agreement in the amount of \$1,402,240 with Arcadis U.S., Inc. for construction management services for the Project; Adopt Resolution No. 2023-14, authorizing the City Manager to execute a Consulting Agreement in the amount of \$155,560 with Infrastructure Engineering Corporation for engineering services during construction of the Project; and approve a Budget Adjustment in the amount of \$9,400,000.

Staff Recommendation: Approval (Utilities Department: Christopher W. McKinney, Deputy City Manager/Director of Utilities)

Presenter: Angela Morrow, Deputy Director of Utilities/Construction and Engineering

- a) Resolution No. 2023-12
- b) Resolution No. 2023-13
- c) Resolution No. 2023-14

FUTURE AGENDA

10. FUTURE AGENDA

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

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

COUNCILMEMBERS 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.

ORAL COMMUNICATIONS



CITY *of* ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, FEBRUARY 08, 2023

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ADJOURNMENT

UPCOMING MEETING SCHEDULE

Wednesday, February 15, 2023 4:00 & 5:00 PM Regular Meeting, *Council Chambers*
Wednesday, March 08, 2023 4:00 & 5:00 PM Regular Meeting, *Council Chambers*

SUCCESSOR AGENCY

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



AFFIDAVITS
OF
ITEM
POSTING –

- **Public Hearing Notice – Master Plan and Precise Development Plan – PL22-0325/PL22-0326**



CITY OF ESCONDIDO
OFFICE OF THE CITY CLERK
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
760-839-4617

NOTICE OF PUBLIC HEARING

The Escondido City Council will hold a public hearing in the City Council Chambers, Escondido City Hall, 201 N. Broadway, Escondido, California at **5 p.m. on Wednesday, February 08, 2023**, to consider the item listed below:

MASTER PLAN AND PRECISE DEVELOPMENT PLAN - PL22-0325/PL22-0326

REQUEST: A request to reconsider a Master Plan and Precise Development Plan to facilitate the construction of a 1,023 square-foot drive-through coffee facility, along with associated on-site improvements including, but not limited to, dual drive-through lanes, trash enclosures, off-street parking, landscaping, and signage. The request has been made in order to incorporate a new condition of approval that would limit the height of project landscaping.

PROPERTY SIZE AND LOCATION: The approximately .46 acre site is located on the southwest side of Tanglewood Lane, adjacent to the Interstate 15, addressed at 1525 Tanglewood Lane (APN: 235-090-35-00)

ENVIRONMENTAL STATUS: The Project is categorically exempt pursuant to California Environmental Quality Act Guidelines sections 15303 (New Construction or Conversion of Small Structures) and 15332 (In-Fill Development Projects).

If you challenge this item in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

PLANNING COMMISSION ACTION: On November 8, 2022, the Planning Commission voted 5-1 to recommend approval. One commissioner was absent.

PREVIOUS CITY COUNCIL ACTION: On December 07, 2022, the City Council voted 3-1 to approve Ordinance No. 2022-24 (first reading and introduction). A second reading did not occur.

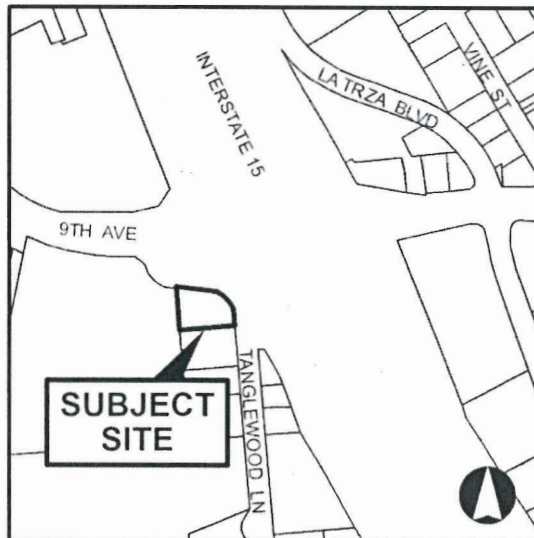
PUBLIC COMMENT: To submit comments in writing, please do so at the following link: <https://escondido-ca.municodemeetings.com/bc-citycouncil/webform/public-comment>. All comments received from the public will be made a part of the record of the meeting.

The City of Escondido remains committed to complying with the Americans with Disabilities Act (ADA). Qualified individuals with disabilities who wish to participate in City programs, services, or activities and who need accommodations are invited to present their requests to the City by filing out a Request for Accommodations Form or an Inclusion Support Request Form for Minors, or by calling 760-839-4643, preferably at least 72 hours in advance of the event or activity. Forms can be found on the City's website at: <https://www.escondido.org/americans-with-disabilities-act>.

The staff report will be available at the Escondido Planning Division, 201 N. Broadway, Escondido, CA 92025; and on the City's website at <https://escondido-ca.municodemeetings.com/> on or around Thursday, February 2, 2023.

For additional information, please contact Ivan Flores, Associate Planner, at 760-839-4529, or via email at iflores@escondido.org, and refer to Case No. PL22-0325/PL22-0326.

Zachary Beck, City Clerk
City of Escondido
January 23, 2023





STAFF REPORT

February 8, 2023
File Number 0400-40

SUBJECT

APPROVAL OF WARRANT REGISTER (COUNCIL)

DEPARTMENT

Finance

RECOMMENDATION

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

370143 – 370365 dated January 18, 2023

370366 – 370571 dated January 25, 2023

Staff Recommendation: Approval (Finance Department: Christina Holmes)

FISCAL ANALYSIS

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

January 12 – January 18, 2023, is \$4,573,800.40

January 19 – January 25, 2023, is \$13,576,086.99

BACKGROUND

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



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

SPECIAL MEETING

4:00 PM SPECIAL MEETING

January 25, 2023

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

The City Council conducts the Pledge of Allegiance at the beginning of every City Council meeting.

CALL TO ORDER

Roll Call: Garcia, Martinez, Morasco, White

RECOGNITION

Classical Academy High School’s Caiman Football Team (Won the Division 6 AA State Championship)

ORAL COMMUNICATIONS

Kevin Stevenson – Expressed opposition to Mayor White’s position at SANDAG.

CONSENT CALENDAR

Motion: Morasco; Second: Martinez; Approved: 4-0.

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



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

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

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

- 369824 – 369979 dated January 4, 2023
- 369980 – 370142 dated January 11, 2023

Staff Recommendation: Approval (Finance Department: Christina Holmes)

3. **APPROVAL OF MINUTES: Regular Meeting of January 11, 2023**

4. **WAIVER OF READING OF ORDINANCES AND RESOLUTIONS**

5. **NETWORK INFRASTRUCTURE PURCHASE**

Request the City Council adopt Resolution No. 2023-16, authorizing the Mayor to execute, on behalf of the City of Escondido (“City”), a Public Services Agreement with The Drala Project Inc., dba The [RE]DESIGN Group in the amount of \$788,049.05 for the purchase of equipment and installation services. (File Number 0600-10;A-3440)

Staff Recommendation: Approval (Information Systems Department: Rob Van De Hey, Chief Information Officer)

Presenter: Rob Van De Hey

a) Resolution No. 2023-16

6. **EMERGENCY DECLARATION FOR REPAIR OF THE SEWER PIPELINE IN CASA GRANDE MOBILE ESTATES AND LANDSLIDE AT LAKE WOHLFORD ROAD**

Request the City Council adopt Resolution No. 2023-17, declaring that pursuant to the terms of 22050 of the California Public Contract Code, the City Council affirms that it was appropriate for City of Escondido (“City”) staff to forego normal bidding procedures and to award contracts for emergency repairs of a sewer main section in Casa Grande Mobile Estates and landslide at Lake Wohlford Road. The resolution, which must be passed by four-fifths vote, also declares that public interest and necessity demand the immediate expenditure to safeguard life, health, or property. (File Number 0600-10;A-3441)

Staff Recommendation: Approval (Utilities Department: Christopher W. McKinney, Deputy City Manager/ Director of Utilities; Development Services Department: Andrew Firestine, Director of Development Services; Engineering Services: Julie Procopio, City Engineer)

Presenters: Angela Morrow, Deputy Director of Utilities Construction & Engineering, and Julie Procopio, City Engineer

a) Resolution No. 2023-17



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

CURRENT BUSINESS

7. CITY COUNCIL DISTRICT 3 VACANCY INTERVIEWS

Request the City Council conduct interviews of applicants to fill the City Council District 3 vacancy, discuss and consider applicant qualifications, and take action on the vacancy, including appointment of a City Council District 3 representative. (File Number 0610-70)

Staff Recommendation: None (City Clerk: Zack Beck)

Presenter: Zack Beck

James Cassidy – Requested a special election be held for District 3.

Georgine Tomasi – Requested the Council delay the appointment to a later date.

Chris Nava – Requested the Council delay the appointment to a later date.

Martha Tucker – Requested the Council delay the appointment to a later date.

Ana Marie Velasco – Requested the Council delay the appointment to a later date.

Lori Pfeiler – Requested the Council select a candidate that supports the development of housing.

Elias Velazquez – Requested a special election be held for District 3.

Ed Gallo – Requested the Council appoint a qualified candidate.

Chavez Harmes – Expressed support for Christian Garcia.

Delia Dominguez Cervantes – Expressed support for Christian Garcia.

Jagjivan S Kehal – Expressed support for Christian Garcia.

Jim Bowen – Requested a special election be held for District 3.

Joanne Tenney – Requested a special election be held for District 3.

John Williams – Requested a special election be held for District 3.

Karem Elhams – Requested a special election be held for District 3.



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COUNCIL MEETING MINUTES

Karen Anderson – Requested a special election be held for District 3.

Pam Albergo – Requested a special election be held for District 3.

Tom Albergo – Requested a special election be held for District 3.

Vihn An Lee – Requested a special election be held for District 3.

Motion to delay the appointment at the next meeting to January 30, 2023 at 4:00 p.m.: Garcia;
Second: Martinez; Failed: 2-2 (White, Morasaco – No)

Motion to appoint Christian Garcia: White; Second: Morasco; Failed: 2-1-1 (Martinez – No,
Garcia – Abstain)

Motion to delay the appointment at the next meeting to January 30, 2023 at 5:00 p.m.:
Morasco; Second: Martinez; Approved: 4-0

FUTURE AGENDA

8. **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)

COUNCILMEMBERS 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.

ORAL COMMUNICATIONS

Gloria Conejo – Expressed concern regarding the recent mudslides in Escondido.



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

ADJOURNMENT

Mayor White adjourned the meeting at 7:50 p.m.

MAYOR

CITY CLERK



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

SPECIAL MEETING

5:00 PM SPECIAL MEETING

January 30, 2023

MOMENT OF REFLECTION

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FLAG SALUTE

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CALL TO ORDER

Roll Call: Garcia, Martinez, Morasco, White

ORAL COMMUNICATIONS

None.

CURRENT BUSINESS

1. CITY COUNCIL DISTRICT 3 VACANCY APPOINTMENT

Request the City Council discuss and consider applicant qualifications, and take action on the vacancy, including appointment of a City Council District 3 representative. (File Number 0610-70)

Staff Recommendation: None (City Clerk: Zack Beck)

Presenter: Zack Beck

James Cassidy – Requested a Special Election.

Karen Marie Warner Spann – Requested a swift appointment to the District 3 vacancy.

Martha Tucker – Requested an appointment of a candidate that represents the majority party in District 3.



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COUNCIL MEETING MINUTES

Georgine Tomasi – Requested an appointment of an candidate that represents District 3.

Joanne Tenney – Requested a Special Election.

John Williams – Requested a Special Election.

Katharine Barba – Requested the Council appoint David Barber.

Pam Albergo – Requested a Special Election or that the Council appoint Virginia Segarra Bunnell or Christine Spencer.

Tom Albergo – Requested a Special Election of that the Council appoint Christine Spencer.

Derek Escobar – Requested the City Council appoint Christine Spencer.

Patricia Borchmann – Requested the City Council appoint David Barber, Juan Vargas or Karen Marie Warner Spann.

Motion to appoint Christian Garcia: Garcia; Second: White; Approved: 3-1 (Martinez – No)

FUTURE AGENDA

2. 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)

COUNCILMEMBERS 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.

ORAL COMMUNICATIONS

None.



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

ADJOURNMENT

Mayor White adjourned the meeting at 5:45 p.m.

MAYOR

CITY CLERK



STAFF REPORT

ITEM NO. 4

SUBJECT

WAIVER OF READING OF ORDINANCES AND RESOLUTIONS –

ANALYSIS

The City Council/RRB has adopted a policy that is sufficient to read the title of ordinances at the time of introduction and adoption, and that reading of the full text of ordinances and the full text and title of resolutions may be waived.

Approval of this consent calendar item allows the City Council/RRB to waive the reading of the full text and title of all resolutions agendized in the Consent Calendar, as well as the full text of all ordinances agendized in either the Introduction and Adoption of Ordinances or General Items sections. **This particular consent calendar item requires unanimous approval of the City Council/RRB.**

Upon approval of this item as part of the Consent Calendar, all resolutions included in the motion and second to approve the Consent Calendar shall be approved. Those resolutions removed from the Consent Calendar and considered under separate action may also be approved without the reading of the full text and title of the resolutions.

Also, upon the approval of this item, the Mayor will read the titles of all ordinances included in the Introduction and Adoption of Ordinances section. After reading of the ordinance titles, the City Council/RRB may introduce and/or adopt all the ordinances in one motion and second.

RECOMMENDATION

Staff recommends that the City Council/RRB approve the waiving of reading of the text of all ordinances and the text and title of all resolutions included in this agenda. Unanimous approval of the City Council/RRB is required.

Respectfully Submitted,

Zack Beck
City Clerk



STAFF REPORT

February 8, 2023
File Number 0580-20

SUBJECT

APPROVAL TO ANNEX PROPERTY TO CITYWIDE SERVICES COMMUNITY FACILITIES DISTRICT (CFD) 2020-1, ZONE 8

DEPARTMENT

Development Services

RECOMMENDATION

Request that the City Council adopt Resolution No. 2023-15 annexing seven (7) projects containing 16 units into the Citywide Services CFD 2020-1. Each property owner has provided a signed form consenting to annexation as a streamlined method for offsetting the cost of ongoing municipal services.

Staff Recommendation: Approval and File (Development Services, Andrew Firestine)

Presenter: Andrew Firestine, Director of Development Services

FISCAL ANALYSIS

Including the parcels proposed for annexation, the Citywide Services CFD will provide a convenient method for 31 projects totaling 769 units to offset the ongoing costs to provide municipal services. It is estimated that \$554,000.00 in annual costs are necessary to provide these residential units with future municipal services.

PREVIOUS ACTION

On June 12, 2019, the City Council directed staff to investigate all options to address the structural budget deficit to ensure the budget deficit does not grow as the City develops, including evaluating the feasibility of a Citywide Services CFD as a streamlined means for projects to offset their ongoing impact to the general fund.

On May 13, 2020, the City Council held a duly noticed public hearing and adopted Resolution No. 2020-44 (Resolution of Formation) establishing CFD 2020-1, the Citywide Services CFD.

On September 16, 2020, the City Council adopted Resolution No. 2020-115 annexing five projects with 66 units into CFD 2020-1 creating the second (2nd) zone of the Services CFD (Zone 2020-2).



CITY of ESCONDIDO

STAFF REPORT

On October 21, 2020, the City Council adopted Resolution No. 2020-147 annexing a 42-unit project located at 2608 S. Escondido Blvd. into CFD 2020-1 and creating the third (3rd) zone of the Services CFD (Zone 2020-03).

On November 18, 2020, the City Council adopted Resolution No. 2020-160 annexing two (2) projects containing 21 units into CFD 2020-1 creating the fourth (4th) zone of the Services CFD (Zone 2020-04).

On July 21, 2021, the City Council adopted Resolution No. 2021-77 approving the special tax rate for CFD 2020-1 (Public Services).

On September 15, 2021, the City Council adopted Resolution No. 2021-130 annexing three (3) projects containing 65 units into CFD 2020-1 creating the fifth (5th) zone of the Services CFD (Zone 2020-5).

On March 2, 2022, the City Council adopted Resolution No. 2022-14 annexing two (2) projects containing 44 units into CFD 2020-1 creating the sixth (6th) zone of the Services CFD (Zone 2020-6).

On December 7, 2022, the City Council adopted Resolution No. 2022-183 annexing one (1) project containing 32 units into CFD 2020-1 creating the seventh (7th) zone of the Services CFD (Zone 2020-7).

BACKGROUND

The goal of the Citywide Services CFD is to provide a streamlined way to make new development revenue neutral such that existing residents do not subsidize development. Annexing into the Services CFD, after approval by the City Council, is an efficient way to allow property owners to fund the costs of providing ongoing public services to their project and avoids widening of the structural budget deficit as a result of new development.

Zone 2020-8 will be the eighth (8th) zone of the Citywide Services CFD that is comprised of seven (7) projects totaling 16 units. The following projects have provided forms consenting to the annexation of the property into the Citywide Services CFD to offset the project’s ongoing cost of municipal services.

Zone 2020-8 Annexation Table Detailing Special Tax Rates Applicable for FY 2022/23:

Annexation Table Detailing Special Tax Rates Applicable for FY 2022/23:

Zone	Density (DU/Acre)	Location	Assessor Parcel No(s).	Unit	Annual Special Tax Per Unit*	Annual Special Tax Total
2020-8	Less than 5.5	1500 Gamble Lane	235-202-59	1 DU	\$575.19	\$575.19



CITY of ESCONDIDO

STAFF REPORT

2020-8	Less than 5.5	1123 Orange Blossom Way	224-143-50	1 DU	\$575.19	\$575.19
2020-8	Less than 5.5	2350 Miller Ave	238-110-35	5 DU	\$575.19	\$2,875.95
2020-8	Less than 5.5	1600 N. Broadway	227-180-27	6 DU	\$575.19	\$3,451.14
2020-8	Less than 5.5	1998 Rohn Road	236-335-53	1 DU	\$575.19	\$575.19
2020-8	Less than 5.5	633 Tulip Street	232-333-16	1 DU	\$575.19	\$575.19
2020-8	Less than 5.5	422 S. Spruce Street	233-111-16	1 DU	\$575.19	\$575.19

** For FY 2022/23 in accordance with the RMA for CFD 2020-1 (Services)*

Annual Levy: Prior to July 30th of each year, the special tax levy will be set by the City Council for all properties within CFD 2020-1. The maximum special tax rate for CFD 2020-1 will escalate at the maximum rate of inflation as determined by the Consumer Price Index (CPI) and at a minimum rate of 2% per year.

Staff has contacted each property owner to inform them that the annexation is scheduled for February 8, 2023 and that the City Council expects to evaluate potential changes to the services CFD that may result in a levy reduction; the property owners were encouraged to contact staff with any questions they may have on the annexation.

Staff is also in the process of contracting with a firm to perform a fiscal impact analysis for the services CFD in support of the direction received from City Council in November 2022. Staff intends to present the results of this analysis with the budget sub-committee before a full presentation to the City Council. The current timeline has not yet been determined, although it is staff's goal to complete the analysis and presentations to the budget sub-committee and the City Council in a timeframe that allows it to inform the annual special levy rate setting process for the services CFD in July 2023.

RESOLUTIONS

- a) Resolution No. 2023-15, Annexing Territory to CFD 2020-1 (Services), Zone 2020-8
- b) Exhibit A: Unanimous Approvals of Property Owners to Annex into CFD 2020-1
- c) Exhibit B: Notice of Special Tax Lien CFD 2020-1, Zone 2020-8
- d) Exhibit C: Boundary Map for CFD 2020-1, Zone 2020-8
- e) Exhibit D: Legal Descriptions



CITY *of* ESCONDIDO

STAFF REPORT

RESOLUTION NO. 2023-15

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2020-1 OF THE CITY OF ESCONDIDO (SERVICES), ANNEXING TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 2020-1 OF THE CITY OF ESCONDIDO (SERVICES), ZONE 8

WHEREAS, on April 8, 2020, the City Council (the “City Council”) of the City of Escondido adopted Resolution No. 2020-24 (the “Resolution of Intention”), declaring its intention to establish Community Facilities District No. 2020-1 of the City of Escondido (Services) (“Community Facilities District No. 2020-1” or the “District”) pursuant to the Mello-Roost Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the “Act”); and

WHEREAS, pursuant to Section 53339.3 of the Act, the Resolution of Intention included a description of the future annexation area of the District (the “Future Annexation Area”), wherein property owners may be annexed into the District only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed into the District; and

WHEREAS, the Resolution of Intention described (i) the services that may be provided by the District; (ii) the levy of special taxes pursuant to the rate and method of apportionment of the special tax, as set forth in Exhibit “B” attached to the Resolution of Intention (the “Rate and Method”); and (iii) the Future Annexation Area; and

WHEREAS, on May 13, 2020, after a duly noticed public hearing, the City Council adopted Resolution No. 2020-44 (the “Resolution of Formation”) establishing Community Facilities District No. 2020-1 and calling a special election therein to authorize (i) the levy of special taxes pursuant to the

Rate and Method, and (ii) the establishment of an appropriations limit for Community Facilities District No. 2020-1; and

WHEREAS, pursuant to a Unanimous Approval executed by Steven L. Salas on behalf of MFG GAMBLE LANE, LLC, a Delaware limited liability company, (“Owner 1”), dated April 19, 2022, attached hereto as Exhibit “A” (the “Owner 1 Unanimous Approval”), Owner 1 stated its intention to annex the territory described in Exhibit “C” and Exhibit “D” to the Owner 1 Unanimous Approval to the District (the “Owner 1 Annexation Territory”) with no further hearings or procedures required with respect to such annexation to the District; and

WHEREAS, pursuant to a Unanimous Approval executed by Robert S. Sadler and Beverly J. Sadler, (“Owner 2”), dated July 21, 2021, attached hereto as Exhibit “A” (the “Owner 2 Unanimous Approval”), Owner 2 stated its intention to annex the territory described in Exhibit “C” and Exhibit “D” to the Owner 2 Unanimous Approval to the District (the “Owner 2 Annexation Territory”) with no further hearings or procedures required with respect to such annexation to the District; and

WHEREAS, pursuant to a Unanimous Approval executed by Mark Marquez on behalf of HAMILTON DEVELOPMENT 5, LLC, a California limited liability company, (“Owner 3”), dated September 29, 2021, attached hereto as Exhibit “A” (the “Owner 3 Unanimous Approval”), Owner 3 stated its intention to annex the territory described in Exhibit “C” and Exhibit “D” to the Owner 3 Unanimous Approval to the District (the “Owner 3 Annexation Territory”) with no further hearings or procedures required with respect to such annexation to the District; and

WHEREAS, pursuant to a Unanimous Approval executed by Scot Sandstrom on behalf of NEW POINTE INVESTMENT 51, LLC, a California limited liability company, (“Owner 4”), dated May 4, 2022, attached hereto as Exhibit “A” (the “Owner 4 Unanimous Approval”), Owner 4 stated its intention to annex the territory described in Exhibit “C” and Exhibit “D” to the Owner 4 Unanimous Approval to the

District (the "Owner 4 Annexation Territory") with no further hearings or procedures required with respect to such annexation to the District; and

WHEREAS, pursuant to a Unanimous Approval executed by Stan Stark, ("Owner 5"), dated May 5, 2022 on behalf of Stan Stark and Kimberly Stark, attached hereto as Exhibit "A" (the "Owner 5 Unanimous Approval"), Owner 5 stated its intention to annex the territory described in Exhibit "C" and Exhibit "D" to the Owner 5 Unanimous Approval to the District (the "Owner 5 Annexation Territory") with no further hearings or procedures required with respect to such annexation to the District; and

WHEREAS, pursuant to a Unanimous Approval executed by Ryan Nestman on behalf of GASSER NESTMAN PROPERTIES, LLC, a Utah limited liability company, ("Owner 6"), dated January 4, 2022, attached hereto as Exhibit "A" (the "Owner 6 Unanimous Approval"), Owner 6 stated its intention to annex the territory described in Exhibit "C" and Exhibit "D" to the Owner 6 Unanimous Approval to the District (the "Owner 6 Annexation Territory") with no further hearings or procedures required with respect to such annexation to the District; and

WHEREAS, pursuant to a Unanimous Approval executed by Susana Velasco, ("Owner 7"), dated February 17, 2022, attached hereto as Exhibit "A" (the "Owner 7 Unanimous Approval"), Owner 7 stated its intention to annex the territory described in Exhibit "C" and Exhibit "D" to the Owner 7 Unanimous Approval to the District (the "Owner 7 Annexation Territory") with no further hearings or procedures required with respect to such annexation to the District; and

WHEREAS, the Annexation Territory is within the Future Annexation Area of the District; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the annexation of the Annexation Territory to the District.

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

1. That the above recitations are true.

2. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the District and the proposed annexation of the Annexation Territory to the District were valid and in conformity with the requirements of law, including the Act, and the annexation of the Annexation Territory to the District in accordance with the Unanimous Approval is hereby approved.

3. The map showing the original boundaries of the District designated as “Boundary Map of Community Facilities District No. 2020-1 (Services) City of Escondido, County of San Diego, State of California”, which map is on file in the office of the City Clerk and was recorded pursuant to Sections 3111 and 3113 of the Streets and Highways Code in the County Book of Maps of Assessment and Community Facilities Districts in the Assessor-County Clerk-Recorder’s office of the County of San Diego in Book No. 48 Page Nos. 79-80 on April 13, 2020, as Instrument No. 2020-7000088.

4. The City Council hereby authorizes a map showing the Annexation Territory to be annexed to the District and be made subject to taxation in the form attached hereto as Exhibit “B” be recorded pursuant to Sections 3111 and 3113 of the Streets and Highways Code in the County Book of Maps of Assessment and Community Facilities Districts in the Assessor-County Clerk-Recorder’s office of the County of San Diego.

5. The City Council hereby adopts the Rate and Method attached as Exhibit “B” to the Resolution of Intention as the applicable rate and method for the Annexation Territory. Except where funds are otherwise available, it is the intention of the City Council to levy the proposed special taxes at the rates within the Annexation Territory set forth in the Rate and Method on all non-exempt property within the Annexation Territory sufficient to pay for (i) the Services (as defined in the Rate and Method), and (ii) Incidental Expenses (as defined in the Rate and Method). The District expects to incur, and in certain cases has already incurred, Incidental Expenses in connection with the annexation of the

Annexation Territory to the District. The rate and method of apportionment of the special tax applicable to the Annexation Territory is described in detail in Exhibit "B" to the Resolution of Intention which is incorporated herein by this reference, and the City Council hereby finds that Exhibit "C" to the Resolution of Intention contains sufficient detail to allow each landowner within the Annexation Territory to estimate the maximum amount that may be levied against each parcel. The special tax is apportioned to each parcel on the foregoing bases pursuant to Section 53325.3 of the Act and such special tax is not on or based upon the ownership of real property.

6. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in the Annexation Territory and this lien shall continue in force and effect until the levy of the special tax by the District ceases in accordance with the Rate and Method.

7. Consistent with Section 53325.6 of the Act, the City Council finds and determines that the land within the Annexation Territory, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products is contiguous to other land within the Annexation Territory and will be benefited by the Services proposed to be provided within Community Facilities District No. 2020-1 and the Annexation Territory.

8. It is hereby further determined that there is no ad valorem property tax currently being levied on property within the Annexation Territory for the exclusive purpose of paying for the same services as are proposed to be provided by Community Facilities District No. 2020-1.

UNANIMOUS APPROVAL

**Community Facilities District No. 2020-1
of the City of Escondido (Services)**

APRIL 19, 20 22

Community Facilities District No. 2020-1
of the City of Escondido (Services)
201 North Broadway
Escondido, CA 92025
Attention: City Manager

The City of Escondido (the "City") has formed Community Facilities District No. 2020-1 of the City of Escondido (Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"). The purpose of the District is to finance (1) certain services caused by development within the District (collectively, the "Services") described in Attachment "B" to Resolution No. 2020-24 of the City Council of the City adopted April 8, 2020 (the "Resolution of Intention," attached hereto as Exhibit 2 and incorporated herein by this reference) and (2) "Incidental Expenses" as said term is defined in Attachment "C" to the Resolution of Intention (Rate and Method of Apportionment of Special Taxes).

The undersigned property Owner (the "Owner") hereby states and certifies under penalty of perjury as follows:

1. This Unanimous Approval is submitted by the Owner who is the record owner of fee title to the real property and improvements thereon as described in Exhibit 1, attached hereto and incorporated herein by this reference (collectively, the "Annexation Territory"). The Owner has provided the District valid and current evidence of its ownership of fee title to the Annexation Territory and possesses all legal authority necessary to execute this Unanimous Approval.
2. There are no registered voters residing within the Annexation Territory and have been none during the 90-day period preceding APRIL 19, 20 22.
3. This Unanimous Approval constitutes the unanimous approval of the Owners in favor of the following within the meaning of Sections 53329.6, 53339.2 and 53339.3 of the Act:
 - (a) Annexation. The annexation of the Annexation Territory to the District for the purpose of financing the Services and Incidental Expenses set forth in Attachment "B" to the Resolution of Intention (Exhibit 2 hereto).
 - (b) Special Tax. The levy of special taxes in the Annexation Territory to finance the Services and the Incidental Expenses in accordance with the Rate and Method of Apportionment of Special Taxes described within Attachment "C" to the Resolution of Intention (Exhibit 2 hereto) and this Unanimous Approval (the "Special Tax").
4. Pursuant to Section 53329.6 of the Act, this Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in this Section 3 for purposes of the California Constitution, including but not limited to Articles XIII A and XIII C.

5. The Owner hereby acknowledges that no further hearings or procedures are required with respect to the approval of the matters set forth in Section 3 above.

6. The Owner understands and hereby unanimously approves that the Special Tax is authorized to be levied on the Annexation Territory annexed to the District, and the lien is a continuing lien that shall secure each annual levy of the Special Taxes and that shall continue in force and effect until the Special Tax obligation is canceled in accordance with law or until the Special Tax ceases to be levied and a Notice of Cessation of Special Tax is recorded in accordance with Section 53330.5 of the Government Code.

7. The Owner hereby waives any and all requirements with respect to the approval of the matters set forth in this Unanimous Approval, including without limitation the preparation of an impartial analysis, arguments, or rebuttals concerning elections as provided for by Sections 9160 to 9167, inclusive, and Section 9190 of the Elections Code, and preparation of a tax rate statement as provided in Section 9401 of the Elections Code and any further notices of such approvals as may be required pursuant to the Elections Code or the Government Code. Having been fully advised with respect to the approval process set forth herein, the Owner waives compliance with any and all provisions of the Elections Code and Government Code, and with any other time limits or requirements pertaining to this Unanimous Approval.

8. The Owner hereby represents that compliance with any additional procedural requirements for the Unanimous Approval provided for herein, including the receipt of any arguments for or against such approval and impartial analyses and the time limitations that may apply in connection with scheduling, mailing, and publishing notices, are unnecessary in light of the fact that the undersigned has received sufficient information regarding the imposition of the Special Tax as set forth in Resolution No. 2020-44 of the City Council of the City adopted May 13, 2020 (the "Resolution of Formation") to allow it to properly complete this Unanimous Approval. The Owner further waives its right to make any protest or complaint or undertake any legal action challenging the validity of this Unanimous Approval and any proceedings taken in connection therewith or the levy of the Special Tax to finance the costs of the Services for the benefit of the Annexation Territory.

9. The Owner hereby authorizes the District to execute and cause to be recorded in the Office of the County Recorder of the County of San Diego a Notice of Special Tax Lien in accordance with Streets and Highways Code section 3117.5, which shall give notice that a lien to secure payment of the Special Tax is imposed by the District. The Owner further represents that there is no currently pending transfer of the Annexation Territory, or anticipated transfer of the Annexation Territory, that will affect the ability to record a Notice of Special Tax Lien or complete any other procedural steps described in this Unanimous Approval.

10. The Owner hereby warrants to the District that the presentation of this Unanimous Approval, any vote, consent, or waiver contained herein, and any other action mandated by the City for the annexation of the Annexation Territory to the District, shall not constitute or be construed as an event of default or delinquency under any existing or proposed financing document entered into or to be entered into by the Owner for the Annexation Territory, including without limitation any "due-on-encumbrance" clause under any existing security instrument secured by the Annexation Territory.

11. The Owner hereby agrees to comply with Section 53341.5 of the Government Code with respect to disclosures about the Special Tax to prospective purchasers of the Annexation Territory or any part of it.

12. The Owner hereby further agrees to execute any additional or supplemental agreements that may be reasonably required by the District to provide for any of the actions and conditions described in this Unanimous Approval.

13. The Owner hereby represents that (i) the signature page of this Unanimous Approval identifies all persons and entities holding title to the Annexation Territory, and (ii) no consent or approval of any third party is required for the Owner's execution of this Unanimous Approval except for any such consent or approval that the Owner has already obtained.

14. This Unanimous Approval shall be effective upon its execution and delivery.

I certify under the penalty of perjury under the laws of the State of California that the foregoing Unanimous Approval is true and correct; I have the authority to execute this Unanimous Approval as, or on behalf of, the Owner; and this Unanimous Approval is hereby executed this 19th day of APRIL 2022 in SAN DIEGO, California.



(signature)

Name: STEVEN L. SARAS

Title: MANAGER

(Above signature must be notarized; Acknowledgement page follows.)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA]

COUNTY OF San Diego]

On April 20, 2022, before me,
Marie Lucille Franz, a Notary Public, personally appeared
Steven L. Salas, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: Marie Lucille Franz (Seal)



EXHIBIT 1

ANNEXATION TERRITORY

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

Assessor's Parcel Nos: 235-202-59-00

UNANIMOUS APPROVAL

Community Facilities District No. 2020-1 of the City of Escondido (Services)

July 21, 2021

Community Facilities District No. 2020-1
of the City of Escondido (Services)
201 North Broadway
Escondido, CA 92025
Attention: City Manager

The City of Escondido (the "City") has formed Community Facilities District No. 2020-1 of the City of Escondido (Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"). The purpose of the District is to finance (1) certain services caused by development within the District (collectively, the "Services") described in Attachment "B" to Resolution No. 2020-24 of the City Council of the City adopted April 8, 2020 (the "Resolution of Intention," attached hereto as Exhibit 2 and incorporated herein by this reference) and (2) "Incidental Expenses" as said term is defined in Attachment "C" to the Resolution of Intention (Rate and Method of Apportionment of Special Taxes).

The undersigned property Owner (the "Owner") hereby states and certifies under penalty of perjury as follows:

1. This Unanimous Approval is submitted by the Owner who is the record owner of fee title to the real property and improvements thereon as described in Exhibit 1, attached hereto and incorporated herein by this reference (collectively, the "Annexation Territory"). The Owner has provided the District valid and current evidence of its ownership of fee title to the Annexation Territory and possesses all legal authority necessary to execute this Unanimous Approval.

2. There are no registered voters residing within the Annexation Territory and have been none during the 90-day period preceding July 21, 2021.

3. This Unanimous Approval constitutes the unanimous approval of the Owners in favor of the following within the meaning of Sections 53329.6, 53339.2 and 53339.3 of the Act:

(a) Annexation. The annexation of the Annexation Territory to the District for the purpose of financing the Services and Incidental Expenses set forth in Attachment "B" to the Resolution of Intention (Exhibit 2 hereto).

(b) Special Tax. The levy of special taxes in the Annexation Territory to finance the Services and the Incidental Expenses in accordance with the Rate and Method of Apportionment of Special Taxes described within Attachment "C" to the Resolution of Intention (Exhibit 2 hereto) and this Unanimous Approval (the "Special Tax").

4. Pursuant to Section 53329.6 of the Act, this Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in this Section 3 for purposes of the California Constitution, including but not limited to Articles XIII A and XIII C.

5. The Owner hereby acknowledges that no further hearings or procedures are required with respect to the approval of the matters set forth in Section 3 above.

6. The Owner understands and hereby unanimously approves that the Special Tax is authorized to be levied on the Annexation Territory annexed to the District, and the lien is a continuing lien that shall secure each annual levy of the Special Taxes and that shall continue in force and effect until the Special Tax obligation is canceled in accordance with law or until the Special Tax ceases to be levied and a Notice of Cessation of Special Tax is recorded in accordance with Section 53330.5 of the Government Code.

7. The Owner hereby waives any and all requirements with respect to the approval of the matters set forth in this Unanimous Approval, including without limitation the preparation of an impartial analysis, arguments, or rebuttals concerning elections as provided for by Sections 9160 to 9167, inclusive, and Section 9190 of the Elections Code, and preparation of a tax rate statement as provided in Section 9401 of the Elections Code and any further notices of such approvals as may be required pursuant to the Elections Code or the Government Code. Having been fully advised with respect to the approval process set forth herein, the Owner waives compliance with any and all provisions of the Elections Code and Government Code, and with any other time limits or requirements pertaining to this Unanimous Approval.

8. The Owner hereby represents that compliance with any additional procedural requirements for the Unanimous Approval provided for herein, including the receipt of any arguments for or against such approval and impartial analyses and the time limitations that may apply in connection with scheduling, mailing, and publishing notices, are unnecessary in light of the fact that the undersigned has received sufficient information regarding the imposition of the Special Tax as set forth in Resolution No. 2020-44 of the City Council of the City adopted May 13, 2020 (the "Resolution of Formation") to allow it to properly complete this Unanimous Approval. The Owner further waives its right to make any protest or complaint or undertake any legal action challenging the validity of this Unanimous Approval and any proceedings taken in connection therewith or the levy of the Special Tax to finance the costs of the Services for the benefit of the Annexation Territory.

9. The Owner hereby authorizes the District to execute and cause to be recorded in the Office of the County Recorder of the County of San Diego a Notice of Special Tax Lien in accordance with Streets and Highways Code section 3117.5, which shall give notice that a lien to secure payment of the Special Tax is imposed by the District. The Owner further represents that there is no currently pending transfer of the Annexation Territory, or anticipated transfer of the Annexation Territory, that will affect the ability to record a Notice of Special Tax Lien or complete any other procedural steps described in this Unanimous Approval.

10. The Owner hereby warrants to the District that the presentation of this Unanimous Approval, any vote, consent, or waiver contained herein, and any other action mandated by the City for the annexation of the Annexation Territory to the District, shall not constitute or be construed as an event of default or delinquency under any existing or proposed financing document entered into or to be entered into by the Owner for the Annexation Territory, including without limitation any "due-on-encumbrance" clause under any existing security instrument secured by the Annexation Territory.

11. The Owner hereby agrees to comply with Section 53341.5 of the Government Code with respect to disclosures about the Special Tax to prospective purchasers of the Annexation Territory or any part of it.

12. The Owner hereby further agrees to execute any additional or supplemental agreements that may be reasonably required by the District to provide for any of the actions and conditions described in this Unanimous Approval.

13. The Owner hereby represents that (i) the signature page of this Unanimous Approval identifies all persons and entities holding title to the Annexation Territory, and (ii) no consent or approval of any third party is required for the Owner's execution of this Unanimous Approval except for any such consent or approval that the Owner has already obtained.

14. This Unanimous Approval shall be effective upon its execution and delivery.

I certify under the penalty of perjury under the laws of the State of California that the foregoing Unanimous Approval is true and correct; I have the authority to execute this Unanimous Approval as, or on behalf of, the Owner; and this Unanimous Approval is hereby executed this 21 day of July 2021 in EScondido California.



(signature)

Name: Robert Sadler

Title: Trustee

(Above signature must be notarized; Acknowledgement page follows.)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA]

COUNTY OF San Diego]

On July 21st 2021, before me,
R ROSTAMIAN
Robert Sadler, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: R Rostamian (Seal)

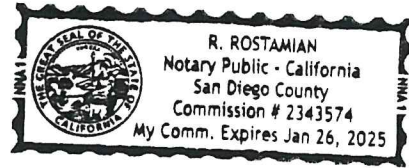


EXHIBIT 1

ANNEXATION TERRITORY

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

Assessor's Parcel Nos: 224-143-50

UNANIMOUS APPROVAL

**Community Facilities District No. 2020-1
of the City of Escondido (Services)**

September 29th, 2021

Community Facilities District No. 2020-1
of the City of Escondido (Services)
201 North Broadway
Escondido, CA 92025
Attention: City Manager

The City of Escondido (the "City") has formed Community Facilities District No. 2020-1 of the City of Escondido (Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"). The purpose of the District is to finance (1) certain services caused by development within the District (collectively, the "Services") described in Attachment "B" to Resolution No. 2020-24 of the City Council of the City adopted April 8, 2020 (the "Resolution of Intention," attached hereto as Exhibit 2 and incorporated herein by this reference) and (2) "Incidental Expenses" as said term is defined in Attachment "C" to the Resolution of Intention (Rate and Method of Apportionment of Special Taxes).

The undersigned property Owner (the "Owner") hereby states and certifies under penalty of perjury as follows:

1. This Unanimous Approval is submitted by the Owner who is the record owner of fee title to the real property and improvements thereon as described in Exhibit 1, attached hereto and incorporated herein by this reference (collectively, the "Annexation Territory"). The Owner has provided the District valid and current evidence of its ownership of fee title to the Annexation Territory and possesses all legal authority necessary to execute this Unanimous Approval.

2. There are no registered voters residing within the Annexation Territory and have been none during the 90-day period preceding September 29th, 2021.

3. This Unanimous Approval constitutes the unanimous approval of the Owners in favor of the following within the meaning of Sections 53329.6, 53339.2 and 53339.3 of the Act:

(a) Annexation. The annexation of the Annexation Territory to the District for the purpose of financing the Services and Incidental Expenses set forth in Attachment "B" to the Resolution of Intention (Exhibit 2 hereto).

(b) Special Tax. The levy of special taxes in the Annexation Territory to finance the Services and the Incidental Expenses in accordance with the Rate and Method of Apportionment of Special Taxes described within Attachment "C" to the Resolution of Intention (Exhibit 2 hereto) and this Unanimous Approval (the "Special Tax").

4. Pursuant to Section 53329.6 of the Act, this Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in this Section 3 for purposes of the California Constitution, including but not limited to Articles XIII A and XIII C.

5. The Owner hereby acknowledges that no further hearings or procedures are required with respect to the approval of the matters set forth in Section 3 above.

6. The Owner understands and hereby unanimously approves that the Special Tax is authorized to be levied on the Annexation Territory annexed to the District, and the lien is a continuing lien that shall secure each annual levy of the Special Taxes and that shall continue in force and effect until the Special Tax obligation is canceled in accordance with law or until the Special Tax ceases to be levied and a Notice of Cessation of Special Tax is recorded in accordance with Section 53330.5 of the Government Code.

7. The Owner hereby waives any and all requirements with respect to the approval of the matters set forth in this Unanimous Approval, including without limitation the preparation of an impartial analysis, arguments, or rebuttals concerning elections as provided for by Sections 9160 to 9167, inclusive, and Section 9190 of the Elections Code, and preparation of a tax rate statement as provided in Section 9401 of the Elections Code and any further notices of such approvals as may be required pursuant to the Elections Code or the Government Code. Having been fully advised with respect to the approval process set forth herein, the Owner waives compliance with any and all provisions of the Elections Code and Government Code, and with any other time limits or requirements pertaining to this Unanimous Approval.

8. The Owner hereby represents that compliance with any additional procedural requirements for the Unanimous Approval provided for herein, including the receipt of any arguments for or against such approval and impartial analyses and the time limitations that may apply in connection with scheduling, mailing, and publishing notices, are unnecessary in light of the fact that the undersigned has received sufficient information regarding the imposition of the Special Tax as set forth in Resolution No. 2020-44 of the City Council of the City adopted May 13, 2020 (the "Resolution of Formation") to allow it to properly complete this Unanimous Approval. The Owner further waives its right to make any protest or complaint or undertake any legal action challenging the validity of this Unanimous Approval and any proceedings taken in connection therewith or the levy of the Special Tax to finance the costs of the Services for the benefit of the Annexation Territory.

9. The Owner hereby authorizes the District to execute and cause to be recorded in the Office of the County Recorder of the County of San Diego a Notice of Special Tax Lien in accordance with Streets and Highways Code section 3117.5, which shall give notice that a lien to secure payment of the Special Tax is imposed by the District. The Owner further represents that there is no currently pending transfer of the Annexation Territory, or anticipated transfer of the Annexation Territory, that will affect the ability to record a Notice of Special Tax Lien or complete any other procedural steps described in this Unanimous Approval.

10. The Owner hereby warrants to the District that the presentation of this Unanimous Approval, any vote, consent, or waiver contained herein, and any other action mandated by the City for the annexation of the Annexation Territory to the District, shall not constitute or be construed as an event of default or delinquency under any existing or proposed financing document entered into or to be entered into by the Owner for the Annexation Territory, including without limitation any "due-on-encumbrance" clause under any existing security instrument secured by the Annexation Territory.

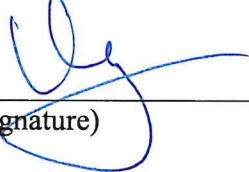
11. The Owner hereby agrees to comply with Section 53341.5 of the Government Code with respect to disclosures about the Special Tax to prospective purchasers of the Annexation Territory or any part of it.

12. The Owner hereby further agrees to execute any additional or supplemental agreements that may be reasonably required by the District to provide for any of the actions and conditions described in this Unanimous Approval.

13. The Owner hereby represents that (i) the signature page of this Unanimous Approval identifies all persons and entities holding title to the Annexation Territory, and (ii) no consent or approval of any third party is required for the Owner's execution of this Unanimous Approval except for any such consent or approval that the Owner has already obtained.

14. This Unanimous Approval shall be effective upon its execution and delivery.

I certify under the penalty of perjury under the laws of the State of California that the foregoing Unanimous Approval is true and correct; I have the authority to execute this Unanimous Approval as, or on behalf of, the Owner; and this Unanimous Approval is hereby executed this 29 day of September 2021 in San Diego, California.



(signature)

Name: MARK MAROUL

Title: MANAGING MEMBER - Hamilton Development S LLC - Marcor Ventures Inc

(Above signature must be notarized; Acknowledgement page follows.)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA]

COUNTY OF San Diego]

On September 29, 2021, before me,
Vicki S. Pellegrini, a Notary Public, personally appeared
Mark Marquez, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: Vicki S. Pellegrini (Seal)

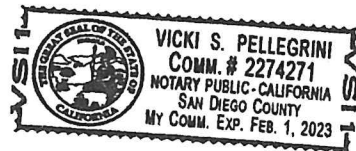


EXHIBIT 1

ANNEXATION TERRITORY

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

Assessor's Parcel Nos: 238-110-35-00

UNANIMOUS APPROVAL

**Community Facilities District No. 2020-1
of the City of Escondido (Services)**

MAY 4th, 20 22

Community Facilities District No. 2020-1
of the City of Escondido (Services)
201 North Broadway
Escondido, CA 92025
Attention: City Manager

The City of Escondido (the "City") has formed Community Facilities District No. 2020-1 of the City of Escondido (Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"). The purpose of the District is to finance (1) certain services caused by development within the District (collectively, the "Services") described in Attachment "B" to Resolution No. 2020-24 of the City Council of the City adopted April 8, 2020 (the "Resolution of Intention," attached hereto as Exhibit 2 and incorporated herein by this reference) and (2) "Incidental Expenses" as said term is defined in Attachment "C" to the Resolution of Intention (Rate and Method of Apportionment of Special Taxes).

The undersigned property Owner (the "Owner") hereby states and certifies under penalty of perjury as follows:

1. This Unanimous Approval is submitted by the Owner who is the record owner of fee title to the real property and improvements thereon as described in Exhibit 1, attached hereto and incorporated herein by this reference (collectively, the "Annexation Territory"). The Owner has provided the District valid and current evidence of its ownership of fee title to the Annexation Territory and possesses all legal authority necessary to execute this Unanimous Approval.

2. There are no registered voters residing within the Annexation Territory and have been none during the 90-day period preceding MAY 4th, 20 22

3. This Unanimous Approval constitutes the unanimous approval of the Owners in favor of the following within the meaning of Sections 53329.6, 53339.2 and 53339.3 of the Act:

(a) Annexation. The annexation of the Annexation Territory to the District for the purpose of financing the Services and Incidental Expenses set forth in Attachment "B" to the Resolution of Intention (Exhibit 2 hereto).

(b) Special Tax. The levy of special taxes in the Annexation Territory to finance the Services and the Incidental Expenses in accordance with the Rate and Method of Apportionment of Special Taxes described within Attachment "C" to the Resolution of Intention (Exhibit 2 hereto) and this Unanimous Approval (the "Special Tax").

4. Pursuant to Section 53329.6 of the Act, this Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in this Section 3 for purposes of the California Constitution, including but not limited to Articles XIII A and XIII C.

Unanimous Approval of Landowner to Annex into CFD No. 2020-1

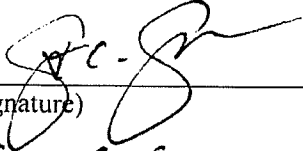
5. The Owner hereby acknowledges that no further hearings or procedures are required with respect to the approval of the matters set forth in Section 3 above.
6. The Owner understands and hereby unanimously approves that the Special Tax is authorized to be levied on the Annexation Territory annexed to the District, and the lien is a continuing lien that shall secure each annual levy of the Special Taxes and that shall continue in force and effect until the Special Tax obligation is canceled in accordance with law or until the Special Tax ceases to be levied and a Notice of Cessation of Special Tax is recorded in accordance with Section 53330.5 of the Government Code.
7. The Owner hereby waives any and all requirements with respect to the approval of the matters set forth in this Unanimous Approval, including without limitation the preparation of an impartial analysis, arguments, or rebuttals concerning elections as provided for by Sections 9160 to 9167, inclusive, and Section 9190 of the Elections Code, and preparation of a tax rate statement as provided in Section 9401 of the Elections Code and any further notices of such approvals as may be required pursuant to the Elections Code or the Government Code. Having been fully advised with respect to the approval process set forth herein, the Owner waives compliance with any and all provisions of the Elections Code and Government Code, and with any other time limits or requirements pertaining to this Unanimous Approval.
8. The Owner hereby represents that compliance with any additional procedural requirements for the Unanimous Approval provided for herein, including the receipt of any arguments for or against such approval and impartial analyses and the time limitations that may apply in connection with scheduling, mailing, and publishing notices, are unnecessary in light of the fact that the undersigned has received sufficient information regarding the imposition of the Special Tax as set forth in Resolution No. 2020-44 of the City Council of the City adopted May 13, 2020 (the "Resolution of Formation") to allow it to properly complete this Unanimous Approval. The Owner further waives its right to make any protest or complaint or undertake any legal action challenging the validity of this Unanimous Approval and any proceedings taken in connection therewith or the levy of the Special Tax to finance the costs of the Services for the benefit of the Annexation Territory.
9. The Owner hereby authorizes the District to execute and cause to be recorded in the Office of the County Recorder of the County of San Diego a Notice of Special Tax Lien in accordance with Streets and Highways Code section 3117.5, which shall give notice that a lien to secure payment of the Special Tax is imposed by the District. The Owner further represents that there is no currently pending transfer of the Annexation Territory, or anticipated transfer of the Annexation Territory, that will affect the ability to record a Notice of Special Tax Lien or complete any other procedural steps described in this Unanimous Approval.
10. The Owner hereby warrants to the District that the presentation of this Unanimous Approval, any vote, consent, or waiver contained herein, and any other action mandated by the City for the annexation of the Annexation Territory to the District, shall not constitute or be construed as an event of default or delinquency under any existing or proposed financing document entered into or to be entered into by the Owner for the Annexation Territory, including without limitation any "due-on-encumbrance" clause under any existing security instrument secured by the Annexation Territory.
11. The Owner hereby agrees to comply with Section 53341.5 of the Government Code with respect to disclosures about the Special Tax to prospective purchasers of the Annexation Territory or any part of it.

12. The Owner hereby further agrees to execute any additional or supplemental agreements that may be reasonably required by the District to provide for any of the actions and conditions described in this Unanimous Approval.

13. The Owner hereby represents that (i) the signature page of this Unanimous Approval identifies all persons and entities holding title to the Annexation Territory, and (ii) no consent or approval of any third party is required for the Owner's execution of this Unanimous Approval except for any such consent or approval that the Owner has already obtained.

14. This Unanimous Approval shall be effective upon its execution and delivery.

I certify under the penalty of perjury under the laws of the State of California that the foregoing Unanimous Approval is true and correct; I have the authority to execute this Unanimous Approval as, or on behalf of, the Owner; and this Unanimous Approval is hereby executed this 4TH day of MAY 20 22 in SAN DIEGO, California.



(signature)

Name: SCOT C. SANDSTROM

Title: PRESIDENT

(Above signature must be notarized; Acknowledgement page follows.)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA]

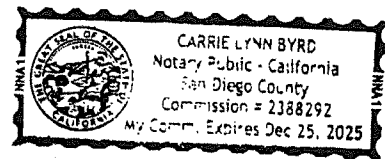
COUNTY OF San Diego]

On May 4, 2022, before me,
Carrie Lynn Byrd, a Notary Public, personally appeared
Scot Sandstrom, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: Carrie Lynn Byrd (Seal)



Unanimous Approval of Landowner to Annex into CFD No. 2020-1

EXHIBIT 1
ANNEXATION TERRITORY

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

Assessor's Parcel Nos: 227-180-27-00

Unanimous Approval of Landowner to Annex into CFD No. 2020-1

UNANIMOUS APPROVAL

**Community Facilities District No. 2020-1
of the City of Escondido (Services)**

05/05, 2022

Community Facilities District No. 2020-1
of the City of Escondido (Services)
201 North Broadway
Escondido, CA 92025
Attention: City Manager

The City of Escondido (the "City") has formed Community Facilities District No. 2020-1 of the City of Escondido (Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"). The purpose of the District is to finance (1) certain services caused by development within the District (collectively, the "Services") described in Attachment "B" to Resolution No. 2020-24 of the City Council of the City adopted April 8, 2020 (the "Resolution of Intention," attached hereto as Exhibit 2 and incorporated herein by this reference) and (2) "Incidental Expenses" as said term is defined in Attachment "C" to the Resolution of Intention (Rate and Method of Apportionment of Special Taxes).

The undersigned property Owner (the "Owner") hereby states and certifies under penalty of perjury as follows:

1. This Unanimous Approval is submitted by the Owner who is the record owner of fee title to the real property and improvements thereon as described in Exhibit 1, attached hereto and incorporated herein by this reference (collectively, the "Annexation Territory"). The Owner has provided the District valid and current evidence of its ownership of fee title to the Annexation Territory and possesses all legal authority necessary to execute this Unanimous Approval.

2. There are no registered voters residing within the Annexation Territory and have been none during the 90-day period preceding 05/05, 2022.

3. This Unanimous Approval constitutes the unanimous approval of the Owners in favor of the following within the meaning of Sections 53329.6, 53339.2 and 53339.3 of the Act:

(a) Annexation. The annexation of the Annexation Territory to the District for the purpose of financing the Services and Incidental Expenses set forth in Attachment "B" to the Resolution of Intention (Exhibit 2 hereto).

(b) Special Tax. The levy of special taxes in the Annexation Territory to finance the Services and the Incidental Expenses in accordance with the Rate and Method of Apportionment of Special Taxes described within Attachment "C" to the Resolution of Intention (Exhibit 2 hereto) and this Unanimous Approval (the "Special Tax").

4. Pursuant to Section 53329.6 of the Act, this Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in this Section 3 for purposes of the California Constitution, including but not limited to Articles XIII A and XIII C.

5. The Owner hereby acknowledges that no further hearings or procedures are required with respect to the approval of the matters set forth in Section 3 above.

6. The Owner understands and hereby unanimously approves that the Special Tax is authorized to be levied on the Annexation Territory annexed to the District, and the lien is a continuing lien that shall secure each annual levy of the Special Taxes and that shall continue in force and effect until the Special Tax obligation is canceled in accordance with law or until the Special Tax ceases to be levied and a Notice of Cessation of Special Tax is recorded in accordance with Section 53330.5 of the Government Code.

7. The Owner hereby waives any and all requirements with respect to the approval of the matters set forth in this Unanimous Approval, including without limitation the preparation of an impartial analysis, arguments, or rebuttals concerning elections as provided for by Sections 9160 to 9167, inclusive, and Section 9190 of the Elections Code, and preparation of a tax rate statement as provided in Section 9401 of the Elections Code and any further notices of such approvals as may be required pursuant to the Elections Code or the Government Code. Having been fully advised with respect to the approval process set forth herein, the Owner waives compliance with any and all provisions of the Elections Code and Government Code, and with any other time limits or requirements pertaining to this Unanimous Approval.

8. The Owner hereby represents that compliance with any additional procedural requirements for the Unanimous Approval provided for herein, including the receipt of any arguments for or against such approval and impartial analyses and the time limitations that may apply in connection with scheduling, mailing, and publishing notices, are unnecessary in light of the fact that the undersigned has received sufficient information regarding the imposition of the Special Tax as set forth in Resolution No. 2020-44 of the City Council of the City adopted May 13, 2020 (the "Resolution of Formation") to allow it to properly complete this Unanimous Approval. The Owner further waives its right to make any protest or complaint or undertake any legal action challenging the validity of this Unanimous Approval and any proceedings taken in connection therewith or the levy of the Special Tax to finance the costs of the Services for the benefit of the Annexation Territory.

9. The Owner hereby authorizes the District to execute and cause to be recorded in the Office of the County Recorder of the County of San Diego a Notice of Special Tax Lien in accordance with Streets and Highways Code section 3117.5, which shall give notice that a lien to secure payment of the Special Tax is imposed by the District. The Owner further represents that there is no currently pending transfer of the Annexation Territory, or anticipated transfer of the Annexation Territory, that will affect the ability to record a Notice of Special Tax Lien or complete any other procedural steps described in this Unanimous Approval.

10. The Owner hereby warrants to the District that the presentation of this Unanimous Approval, any vote, consent, or waiver contained herein, and any other action mandated by the City for the annexation of the Annexation Territory to the District, shall not constitute or be construed as an event of default or delinquency under any existing or proposed financing document entered into or to be entered into by the Owner for the Annexation Territory, including without limitation any "due-on-encumbrance" clause under any existing security instrument secured by the Annexation Territory.

11. The Owner hereby agrees to comply with Section 53341.5 of the Government Code with respect to disclosures about the Special Tax to prospective purchasers of the Annexation Territory or any part of it.

12. The Owner hereby further agrees to execute any additional or supplemental agreements that may be reasonably required by the District to provide for any of the actions and conditions described in this Unanimous Approval.


13. The Owner hereby represents that (i) the signature page of this Unanimous Approval identifies all persons and entities holding title to the Annexation Territory, and (ii) no consent or approval of any third party is required for the Owner's execution of this Unanimous Approval except for any such consent or approval that the Owner has already obtained.

14. This Unanimous Approval shall be effective upon its execution and delivery.

I certify under the penalty of perjury under the laws of the State of California that the foregoing Unanimous Approval is true and correct; I have the authority to execute this Unanimous Approval as, or on behalf of, the Owner; and this Unanimous Approval is hereby executed this 28 day of April 2022 in Escondido, California.



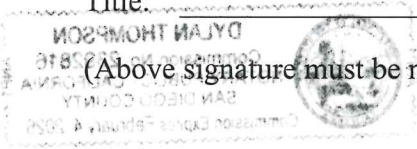
(signature)



Kimberly M. Stark

Name: Stanley Stole
Stanley Stole (SS)

Title: _____



(Above signature must be notarized; Acknowledgement page follows.)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA]

COUNTY OF San Diego]

On May 5th, 2022, before me,
Dylan Thompson, a Notary Public, personally appeared
Stanley stark and Kimberly stark, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: Dyh [Signature] (Seal)

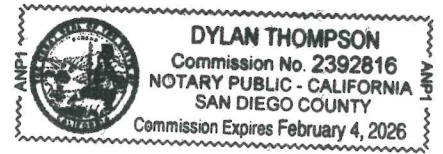


EXHIBIT 1
ANNEXATION TERRITORY

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

Assessor's Parcel Nos: 236 - 335 - 53 - 00

UNANIMOUS APPROVAL

**Community Facilities District No. 2020-1
of the City of Escondido (Services)**

JANUARY 4, 2022

Community Facilities District No. 2020-1
of the City of Escondido (Services)
201 North Broadway
Escondido, CA 92025
Attention: City Manager

The City of Escondido (the "City") has formed Community Facilities District No. 2020-1 of the City of Escondido (Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"). The purpose of the District is to finance (1) certain services caused by development within the District (collectively, the "Services") described in Attachment "B" to Resolution No. 2020-24 of the City Council of the City adopted April 8, 2020 (the "Resolution of Intention," attached hereto as Exhibit 2 and incorporated herein by this reference) and (2) "Incidental Expenses" as said term is defined in Attachment "C" to the Resolution of Intention (Rate and Method of Apportionment of Special Taxes).

The undersigned property Owner (the "Owner") hereby states and certifies under penalty of perjury as follows:

1. This Unanimous Approval is submitted by the Owner who is the record owner of fee title to the real property and improvements thereon as described in Exhibit 1, attached hereto and incorporated herein by this reference (collectively, the "Annexation Territory"). The Owner has provided the District valid and current evidence of its ownership of fee title to the Annexation Territory and possesses all legal authority necessary to execute this Unanimous Approval.
2. There are no registered voters residing within the Annexation Territory and have been none during the 90-day period preceding JANUARY 4, 2022.
3. This Unanimous Approval constitutes the unanimous approval of the Owners in favor of the following within the meaning of Sections 53329.6, 53339.2 and 53339.3 of the Act:
 - (a) Annexation. The annexation of the Annexation Territory to the District for the purpose of financing the Services and Incidental Expenses set forth in Attachment "B" to the Resolution of Intention (Exhibit 2 hereto).
 - (b) Special Tax. The levy of special taxes in the Annexation Territory to finance the Services and the Incidental Expenses in accordance with the Rate and Method of Apportionment of Special Taxes described within Attachment "C" to the Resolution of Intention (Exhibit 2 hereto) and this Unanimous Approval (the "Special Tax").
4. Pursuant to Section 53329.6 of the Act, this Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in this Section 3 for purposes of the California Constitution, including but not limited to Articles XIII A and XIII C.

5. The Owner hereby acknowledges that no further hearings or procedures are required with respect to the approval of the matters set forth in Section 3 above.

6. The Owner understands and hereby unanimously approves that the Special Tax is authorized to be levied on the Annexation Territory annexed to the District, and the lien is a continuing lien that shall secure each annual levy of the Special Taxes and that shall continue in force and effect until the Special Tax obligation is canceled in accordance with law or until the Special Tax ceases to be levied and a Notice of Cessation of Special Tax is recorded in accordance with Section 53330.5 of the Government Code.

7. The Owner hereby waives any and all requirements with respect to the approval of the matters set forth in this Unanimous Approval, including without limitation the preparation of an impartial analysis, arguments, or rebuttals concerning elections as provided for by Sections 9160 to 9167, inclusive, and Section 9190 of the Elections Code, and preparation of a tax rate statement as provided in Section 9401 of the Elections Code and any further notices of such approvals as may be required pursuant to the Elections Code or the Government Code. Having been fully advised with respect to the approval process set forth herein, the Owner waives compliance with any and all provisions of the Elections Code and Government Code, and with any other time limits or requirements pertaining to this Unanimous Approval.

8. The Owner hereby represents that compliance with any additional procedural requirements for the Unanimous Approval provided for herein, including the receipt of any arguments for or against such approval and impartial analyses and the time limitations that may apply in connection with scheduling, mailing, and publishing notices, are unnecessary in light of the fact that the undersigned has received sufficient information regarding the imposition of the Special Tax as set forth in Resolution No. 2020-44 of the City Council of the City adopted May 13, 2020 (the "Resolution of Formation") to allow it to properly complete this Unanimous Approval. The Owner further waives its right to make any protest or complaint or undertake any legal action challenging the validity of this Unanimous Approval and any proceedings taken in connection therewith or the levy of the Special Tax to finance the costs of the Services for the benefit of the Annexation Territory.

9. The Owner hereby authorizes the District to execute and cause to be recorded in the Office of the County Recorder of the County of San Diego a Notice of Special Tax Lien in accordance with Streets and Highways Code section 3117.5, which shall give notice that a lien to secure payment of the Special Tax is imposed by the District. The Owner further represents that there is no currently pending transfer of the Annexation Territory, or anticipated transfer of the Annexation Territory, that will affect the ability to record a Notice of Special Tax Lien or complete any other procedural steps described in this Unanimous Approval.

10. The Owner hereby warrants to the District that the presentation of this Unanimous Approval, any vote, consent, or waiver contained herein, and any other action mandated by the City for the annexation of the Annexation Territory to the District, shall not constitute or be construed as an event of default or delinquency under any existing or proposed financing document entered into or to be entered into by the Owner for the Annexation Territory, including without limitation any "due-on-encumbrance" clause under any existing security instrument secured by the Annexation Territory.


11. The Owner hereby agrees to comply with Section 53341.5 of the Government Code with respect to disclosures about the Special Tax to prospective purchasers of the Annexation Territory or any part of it.

12. The Owner hereby further agrees to execute any additional or supplemental agreements that may be reasonably required by the District to provide for any of the actions and conditions described in this Unanimous Approval.

13. The Owner hereby represents that (i) the signature page of this Unanimous Approval identifies all persons and entities holding title to the Annexation Territory, and (ii) no consent or approval of any third party is required for the Owner's execution of this Unanimous Approval except for any such consent or approval that the Owner has already obtained.

14. This Unanimous Approval shall be effective upon its execution and delivery.

I certify under the penalty of perjury under the laws of the State of California that the foregoing Unanimous Approval is true and correct; I have the authority to execute this Unanimous Approval as, or on behalf of, the Owner; and this Unanimous Approval is hereby executed this 4th day of JANUARY 2022 in SAN MARCOS, California.



(signature)

Name: GASSER NESTMAN PROPERTIES, LLC

Title: MEMBER

(Above signature must be notarized; Acknowledgement page follows.)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA]

COUNTY OF San Diego]

On January 4, 2022, before me,
Patricia Rosales, a Notary Public, personally appeared
Ryan T. Nestman, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: Patricia Rosales (Seal)



EXHIBIT 1

ANNEXATION TERRITORY

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

THAT PORTION OF LOT 15 BLOCK 306 OF RANCHO RINCON DEL DIABLO, IN THE CITY OF ESCONDIDO; COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 349 BY O. N. SANFORD, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, JULY 10, 1886, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF TULIP STREET WITH THE EASTERLY PROLONGATION OF THE DIVIDING LINE BETWEEN LOTS 14 AND 15 OF SAID BLOCK 306; THENCE WESTERLY ALONG SAID PROLONGATION AND ALONG THE DIVIDING LINE BETWEEN LOTS 14 AND 15 A DISTANCE OF 160.00 FEET; THENCE SOUTHERLY PARALLEL WITH THE WESTERLY LINE TULIP STREET A DISTANCE OF 300.00 FEET; THENCE EASTERLY PARALLEL WITH THE DIVIDING LINE BETWEEN LOTS 14 AND 15; A DISTANCE OF 160.00 FEET TO THE CENTER LINE OF TULIP STREET; THENCE NORTHERLY ALONG SAID CENTER LINE A DISTANCE OF 300.00 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THE NORTHWESTERLY 252.00 FEET.

APN: 232-333-16-00

UNANIMOUS APPROVAL

**Community Facilities District No. 2020-1
of the City of Escondido (Services)**

Feb. 17, 2022

Community Facilities District No. 2020-1
of the City of Escondido (Services)
201 North Broadway
Escondido, CA 92025
Attention: City Manager

The City of Escondido (the "City") has formed Community Facilities District No. 2020-1 of the City of Escondido (Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"). The purpose of the District is to finance (1) certain services caused by development within the District (collectively, the "Services") described in Attachment "B" to Resolution No. 2020-24 of the City Council of the City adopted April 8, 2020 (the "Resolution of Intention," attached hereto as Exhibit 2 and incorporated herein by this reference) and (2) "Incidental Expenses" as said term is defined in Attachment "C" to the Resolution of Intention (Rate and Method of Apportionment of Special Taxes).

The undersigned property Owner (the "Owner") hereby states and certifies under penalty of perjury as follows:

1. This Unanimous Approval is submitted by the Owner who is the record owner of fee title to the real property and improvements thereon as described in Exhibit 1, attached hereto and incorporated herein by this reference (collectively, the "Annexation Territory"). The Owner has provided the District valid and current evidence of its ownership of fee title to the Annexation Territory and possesses all legal authority necessary to execute this Unanimous Approval.

2. There are no registered voters residing within the Annexation Territory and have been none during the 90-day period preceding FEB 24, 2022

3. This Unanimous Approval constitutes the unanimous approval of the Owners in favor of the following within the meaning of Sections 53329.6, 53339.2 and 53339.3 of the Act:

(a) Annexation. The annexation of the Annexation Territory to the District for the purpose of financing the Services and Incidental Expenses set forth in Attachment "B" to the Resolution of Intention (Exhibit 2 hereto).

(b) Special Tax. The levy of special taxes in the Annexation Territory to finance the Services and the Incidental Expenses in accordance with the Rate and Method of Apportionment of Special Taxes described within Attachment "C" to the Resolution of Intention (Exhibit 2 hereto) and this Unanimous Approval (the "Special Tax").

4. Pursuant to Section 53329.6 of the Act, this Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in this Section 3 for purposes of the California Constitution, including but not limited to Articles XIII A and XIII C.

5. The Owner hereby acknowledges that no further hearings or procedures are required with respect to the approval of the matters set forth in Section 3 above.

6. The Owner understands and hereby unanimously approves that the Special Tax is authorized to be levied on the Annexation Territory annexed to the District, and the lien is a continuing lien that shall secure each annual levy of the Special Taxes and that shall continue in force and effect until the Special Tax obligation is canceled in accordance with law or until the Special Tax ceases to be levied and a Notice of Cessation of Special Tax is recorded in accordance with Section 53330.5 of the Government Code.

7. The Owner hereby waives any and all requirements with respect to the approval of the matters set forth in this Unanimous Approval, including without limitation the preparation of an impartial analysis, arguments, or rebuttals concerning elections as provided for by Sections 9160 to 9167, inclusive, and Section 9190 of the Elections Code, and preparation of a tax rate statement as provided in Section 9401 of the Elections Code and any further notices of such approvals as may be required pursuant to the Elections Code or the Government Code. Having been fully advised with respect to the approval process set forth herein, the Owner waives compliance with any and all provisions of the Elections Code and Government Code, and with any other time limits or requirements pertaining to this Unanimous Approval.

8. The Owner hereby represents that compliance with any additional procedural requirements for the Unanimous Approval provided for herein, including the receipt of any arguments for or against such approval and impartial analyses and the time limitations that may apply in connection with scheduling, mailing, and publishing notices, are unnecessary in light of the fact that the undersigned has received sufficient information regarding the imposition of the Special Tax as set forth in Resolution No. 2020-44 of the City Council of the City adopted May 13, 2020 (the "Resolution of Formation") to allow it to properly complete this Unanimous Approval. The Owner further waives its right to make any protest or complaint or undertake any legal action challenging the validity of this Unanimous Approval and any proceedings taken in connection therewith or the levy of the Special Tax to finance the costs of the Services for the benefit of the Annexation Territory.

9. The Owner hereby authorizes the District to execute and cause to be recorded in the Office of the County Recorder of the County of San Diego a Notice of Special Tax Lien in accordance with Streets and Highways Code section 3117.5, which shall give notice that a lien to secure payment of the Special Tax is imposed by the District. The Owner further represents that there is no currently pending transfer of the Annexation Territory, or anticipated transfer of the Annexation Territory, that will affect the ability to record a Notice of Special Tax Lien or complete any other procedural steps described in this Unanimous Approval.

10. The Owner hereby warrants to the District that the presentation of this Unanimous Approval, any vote, consent, or waiver contained herein, and any other action mandated by the City for the annexation of the Annexation Territory to the District, shall not constitute or be construed as an event of default or delinquency under any existing or proposed financing document entered into or to be entered into by the Owner for the Annexation Territory, including without limitation any "due-on-encumbrance" clause under any existing security instrument secured by the Annexation Territory.

11. The Owner hereby agrees to comply with Section 53341.5 of the Government Code with respect to disclosures about the Special Tax to prospective purchasers of the Annexation Territory or any part of it.

12. The Owner hereby further agrees to execute any additional or supplemental agreements that may be reasonably required by the District to provide for any of the actions and conditions described in this Unanimous Approval.

13. The Owner hereby represents that (i) the signature page of this Unanimous Approval identifies all persons and entities holding title to the Annexation Territory, and (ii) no consent or approval of any third party is required for the Owner's execution of this Unanimous Approval except for any such consent or approval that the Owner has already obtained.

14. This Unanimous Approval shall be effective upon its execution and delivery.

I certify under the penalty of perjury under the laws of the State of California that the foregoing Unanimous Approval is true and correct; I have the authority to execute this Unanimous Approval as, or on behalf of, the Owner; and this Unanimous Approval is hereby executed this 24 day of Feb 2022 in Escondido, California.

Susana Velasco
(signature)

Name: Susana Velasco

Title: owner

(Above signature must be notarized; Acknowledgement page follows.)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA]

COUNTY OF San Diego]

On February 24, 2022, before me,
Leonardo Aguilar, a Notary Public, personally appeared
Susana Velasco, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature:  (Seal)

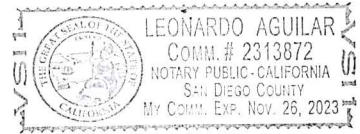


EXHIBIT 1

ANNEXATION TERRITORY

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

Assessor's Parcel Nos: 233-111-16-00

PRELIMINARY REPORT
YOUR REFERENCE:

EXHIBIT A
(Continued)

EASTERLY AND NORTHERLY OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA IN DEED
RECORDED SEPTEMBER 28, 1971 AS FILE NO. 220908, OF OFFICIAL RECORDS.

**Recording Requested By and
When Recorded Mail To:**

City of Escondido
201 North Broadway
Escondido, California 92025
Attn: Julie Procopio

This document is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

**NOTICE OF SPECIAL TAX LIEN
FOR COMMUNITY FACILITIES DISTRICT NO. 2020-1
OF THE CITY OF ESCONDIDO (SERVICES)
(ANNEXATION NO. 8)**

Pursuant to the requirements of Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code, the undersigned City Clerk of the City of Escondido (the "City"), acting on behalf of Community Facilities District No. 2020-1 of the City of Escondido (Services) (the "District"), State of California, hereby gives notice that a lien to secure payment of special taxes is hereby imposed by the City Council of the City of Escondido, San Diego County, State of California, sitting as the legislative body of the District (the "City Council"). The special taxes secured by this lien are authorized to be levied for the purpose of financing certain services, including (i) maintenance of parks, parkways, park lighting, sidewalks, signage, landscaping in public areas, easements or right of way and open space; (ii) flood and storm protection services; (iii) the operation of storm drainage systems; (iv) maintenance of streets and roadways, traffic signals and street lighting; (v) graffiti and debris removal from public improvements; (vi) public safety services including police, fire protection and fire suppression; and (vii) maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City of Escondido. In addition to payment of the cost and expense of the forgoing services, proceeds of the special tax may be expended to pay "Administrative Expenses" as said term is defined in the Rate and Method of Apportionment attached hereto as Appendix A (the "Rate and Method") and to establish an operating reserve for the costs of services as determined by the CFD Administrator (as defined in the Rate and Method).

The Assessor's Parcel Number and the ownership information described on Exhibit B hereto is referred to as "Annexation No. 8." The property within Annexation No. 8 has been newly-annexed to Zone 8 of the District, thereby necessitating the recordation of this notice of special tax. The lien of the special taxes for the District is a continuing lien which shall secure each annual levy of the special taxes within the District, including Annexation No. 8 therein. The special tax is not subject to prepayment.

The rate, method of apportionment and manner of collection of the authorized special tax is as set forth in the Rate and Method attached as Appendix A hereto and incorporated herein by this reference.

Notice is further given that upon the recording of this notice in the office of the County Recorder, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within Annexation No. 8 in accordance with Section 3115.5 of the Streets and Highway Code.

The names of the owners and the assessor's tax parcel numbers of the real property included within Annexation No. 8 and not exempt from the special tax are as set forth in Appendix B attached hereto and incorporated herein by this reference.

Reference is made to the boundary map of Annexation No. 8 recorded at Book No. ___ of Maps of Assessment and Community Facilities Districts at Page Nos. ____, in the office of the County Recorder for the County of San Diego, State of California, which map is now the final boundary map of Annexation No. 8 to the District.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the Michelle Collette, Revenue Manager, City of Escondido, 201 North Broadway, Escondido, California 92025, (760) 839-4334.

City Clerk of the City of Escondido, acting on behalf
of Community Facilities District No. 2020-1 of the
City of Escondido (Services)

Appendix A

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES COMMUNITY FACILITIES DISTRICT NO. 2020-1 (Services) CITY OF ESCONDIDO

A Special Tax (as hereinafter defined) shall be levied on all Assessor's Parcels within Community Facilities District No. 2020-1 ("CFD No. 2020-1") of the City of Escondido ("City") and collected each Fiscal Year commencing in Fiscal Year 2020-2021, in an amount determined by the City Council, through the application of this Rate and Method of Apportionment of Special Taxes as described below. All of the real property within the boundaries of CFD No. 2020-1, unless exempted by law or by the provisions hereof, shall be subject to the Special Tax for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre" or "Acreage" means the acreage of an Assessor's Parcel as shown on an Assessor's Parcel Map. If the acreage is not shown on an Assessor's Parcel Map, the acreage shown on the applicable Final Map, parcel map, condominium plan, or other recorded County map shall be used. If the acreage information supplied by these alternative sources is not available, or in conflict, the acreage used shall be determined by the CFD Administrator or a designee.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the formation, annexation and administration of CFD No. 2020-1, including but not limited to the following: (i) the costs of computing the Special Taxes and preparing and presenting to City Council the Special Tax collection schedules (whether by the City or designee thereof or both); (2) the costs of collecting the Special Taxes (whether by the County or otherwise); (3) the costs to the City, CFD No. 2020-1 or any designee thereof in responding to property owner and public inquiries regarding CFD No. 2020-1, including its Special Taxes; (4) the costs of the City, CFD No. 2020-1 or any designee related to an appeal of the Special Tax; (5) the costs of the City, CFD No. 2020-1 or any designee related to preparing required reporting obligations; (6) the City's annual administration fees and third party expenses; (7) the costs of City staff time and reasonable overhead relating to CFD No. 2020-1; and (8) amounts estimated or advanced by the City or CFD No. 2020-1 for any other administrative purposes of CFD No. 2020-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor" means the County Assessor.

“Assessor’s Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s parcel number located within the boundaries of CFD No. 2020-1.

“Assessor’s Parcel Map” means an official map of the Assessor of the County designating parcels by Assessor’s parcel number.

“Building Permit” means the first legal document issued by the City giving official permission for the construction of a building on an Assessor’s Parcel. For purposes of this definition and application of the Special Tax, “Building Permit” may or may not include any subsequent building permits issued or changed after the first issuance, as determined by the CFD Administrator.

“CFD Administrator” means the Finance Director or other official of the City responsible for determining the Special Tax Requirement, providing for the levy and collection of the Special Taxes and performing the other duties provided herein.

“CFD No. 2020-1” means Community Facilities District No. 2020-1 of the City of Escondido.

“City” means the City of Escondido, California.

“City Council” means the City Council of the City, acting as the Legislative Body of CFD No. 2020-1, or its designee.

“County” means the County of San Diego, California.

“Density” means the maximum number of dwelling units permitted per acre, including streets within the development, excluding all ultimate circulation element street rights-of-way, adjustments for floodways as defined by the Federal Emergency Management Agency (FEMA) or the City, slope categories, and other environmental factors as designated in each land use category and/or open space/ conservation element. All as further defined within the City’s General Plan adopted May 2012 per Resolution 2012-52, as amended from time-to-time. Density shall be determined by the CFD Administrator prior to annexation.

“Developed Property” means, for each Fiscal Year, all Taxable Property for which a Building Permit for new construction was issued prior to March 1st of the prior Fiscal Year.

“Dwelling Unit” or “DU” means, as defined in the City of Escondido Municipal Code 32.102 and amended from time to time, each residential unit, without regard to the square footage of the Dwelling Unit, including but not limited to an individual single-family detached Dwelling Unit, small lot single-family Dwelling Unit, townhome, condominium, apartment, or other such residential dwelling unit, including each separate living area within a half-plex, duplex, triplex, fourplex, or other residential structure that comprises an independent facility capable of conveyance or rental separate from the primary Dwelling Unit(s). Dwelling Unit does not include an attached or detached accessory dwelling unit, as defined in the Section 33-8 of the Escondido Zoning Code, as amended from time-to-time.

“Exempt Property” means all Assessor’s Parcels designated as being exempt from Special Taxes pursuant to Section D.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Index” means the Consumer Price Index as published by the United State Department of Labor, titled “CPI for All Urban Consumers.” Further defined with the Series Title, “All items in San Diego – Carlsbad, CA, all urban consumers, not seasonally adjusted”. If this Index is no longer available, an alternative comparable Index will be chosen by the CFD Administrator.

“Land Use Category” means any of the categories listed in Section C, Table 1 which resulted from the initial analysis of the impacts from new Dwelling Units for providing Services and Appendix A, as to the initial property within CFD No. 2020-1, which may be updated from time to time as annexations occur.

“Maximum Special Tax” means for each Assessor’s Parcel and each Fiscal Year, the Maximum Special Tax, determined in accordance with Section C, below, that may be levied on such Assessor’s Parcel in such Fiscal Year.

“Non-Residential Property” means all Assessor’s Parcels of Developed Property for which a Building Permit was issued for any type of non-residential use.

“Proportionately” means for Taxable Property, that the ratio of actual Special Tax levy to the Maximum Special Tax rate is equal for all applicable Assessor’s Parcels within the Zone.

“Rate and Method of Apportionment” means the “Rate and Method of Appointment of Special Taxes for Community Facilities District No. 2020-1 of the City of Escondido.”

“Residential Property” means all Assessor’s Parcels of Developed Property for which a Building Permit has been issued for purposes of constructing one or more Dwelling Units.

“Services” means services authorized to be funded by CFD No. 2020-1.

“Special Tax(es)” means the Special Tax authorized to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property within the boundaries of CFD No. 2020-1 in accordance with this Rate and Method of Apportionment.

“Special Tax Requirement” means, subject to the Maximum Special Tax, that amount to be collected in any Fiscal Year to pay for the Services as otherwise required to meet the needs of CFD No. 2020-1. The Special Tax Requirement include the costs for (1) the Services, and (2) Administrative Expenses, less (3) a credit for funds available to reduce the Special Tax levy, if any, as determined by the CFD Administrator.

“State” means the State of California.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2020-1 which are not exempt from the Special Tax pursuant to law or Section D below.

“Undeveloped Property” means, for each Fiscal Year, all Assessor’s Parcels, or portions thereof, of Taxable Property not classified as Developed Property.

“Zone” means a mutually exclusive geographic area or areas, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment. The initial Zone of CFD No. 2020-1 is identified as Zone 2020-1. Additional Zones may be created when property is annexed into CFD No. 2020-1.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2020-21, all property within CFD No. 2020-1 shall be classified as Taxable Property or Exempt Property. Each Assessor Parcel of Taxable Property shall be further classified as Developed Property or Undeveloped Property and shall be subject to Special Taxes in accordance with this Rate and Method of Apportionment determined pursuant to Section C below. Assessor’s Parcels of Taxable Developed Property shall further be classified into Land Use Categories.

C. MAXIMUM SPECIAL TAX

An Assessor’s Parcel may contain more than one Land Use Category. The Maximum Special Tax which may be levied on an Assessor’s Parcel shall be the sum of the Maximum Special Tax that can be imposed based on each Land Use Category applicable to such Assessor’s Parcel.

1. Developed Property

a. Maximum Special Tax

Each Fiscal Year, each Assessor’s Parcel of Developed Property shall be subject to the Maximum Special Tax. The Maximum Special Tax applicable for Developed Taxable Property within Zone 2020-1 was determined through the application of Table 1, and is as shown in Appendix A. Appendix A will be updated at the time of each annexation to reflect the Land Use Categories and applicable Maximum Special Taxes for each annexed Zone or by areas within each annexed Zone.

The Maximum Special Tax for Fiscal Year 2020-2021 applicable to an Assessor’s Parcel of Developed Property shall be determined using Table 1 below.

TABLE 1
 Maximum Special Tax Rates
 for Developed Residential Property per Dwelling Unit*
 Fiscal Year 2020-2021

Land Use Category	Density	Unit	Special Tax Per Unit
1	Less than 5.5 DU/Acre	DU	\$536.00
2	5.5 to less than 18 DU/Acre	DU	\$743.00
3	18.0 to less than 30 DU/Acre	DU	\$725.00
4	30 DU/Acre or Greater	DU	\$783.00

* The analysis performed to establish the Special Tax per DU shown above only considered the impacts from property within the current City boundary.

b. Escalation

Each July 1st, commencing July 1, 2021, the Maximum Special Taxes shall increase annually by the greater of the annual percentage change in the Index or two percent (2%) from the amount established in the prior Fiscal Year.

2. Undeveloped Property

No Special Tax shall be levied on Undeveloped Property.

D. EXEMPT PROPERTY

The CFD Administrator shall classify as Exempt Property within the boundaries of CFD No. 2020-1: (1) Any Assessor’s Parcel that is owned or irrevocably dedicated to the State of California, Federal or other local governments, including school districts, (2) Assessor’s Parcels which are owned by or irrevocably dedicated to a homeowners association, or (3) Assessor’s Parcels with other types of public uses determined by the CFD Administrator.

E. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2020-2021 and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement for such Fiscal Year and shall levy the Special Tax Proportionately on each Assessor’s Parcels of Developed Property up to 100% of the applicable Maximum Special Tax to satisfy the Special Tax Requirement.

F. PREPAYMENT OF SPECIAL TAX

No prepayments of the Special Tax are permitted.

G. APPEALS AND INTERPRETATIONS

Any property owner claiming that the amount or application of the Special Tax is not correct may file a written notice of appeal with the CFD Administrator. The written notice of appeal must be filed within the same Fiscal Year as having paid the first installment of the Special Tax that is disputed and the property owner must be current and remain current in the payment of all Special Tax levied on or before the payment date.

The CFD Administrator shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, and rule on the appeal. If the CFD Administrator's decision requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the property owner, an adjustment shall be made to the Annual Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s) and a refund, as described, shall be made representing the amount of the adjustment for only the most recent Fiscal Year. The CFD Administrator shall determine if funds are available to provide such refund or, if funds are not available in the sole discretion of the CFD Administrator to provide a cash refund, a credit to the levy of Special Tax in one or more subsequent Fiscal Years shall be made in the same amount. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal actions by such property owner.

The CFD Administrator may interpret this Rate and Method of Apportionment for purposes of clarifying ambiguity and make determinations relative to the amount of Administrative Expenses.

H. MANNER OF COLLECTION

The Special Tax will be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2020-1 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels as permitted by the Act.

I. TERM OF THE SPECIAL TAX

For each Fiscal Year, the Special Tax shall be levied in perpetuity as long as the Services are being provided.

J. FUTURE ANNEXATIONS

It is anticipated that additional properties will be annexed into CFD No. 2020-1 from time to time. For Land Use Categories not included in the initial boundaries of CFD No. 2020-1, a study and report describing the Services to be provided to such properties and the estimated

cost of such Services shall be provided to the City Council as the legislative body of the CFD No. 2020-1 in accordance with Section 53321.5 of the Mello-Roos Act. Based on this analysis, the property to be annexed, pursuant to California Government Code section 53339 et. seq. will be assigned an appropriate Maximum Special Tax rate for the Zone or areas within the Zone by Land Use Category as provided herein or as defined and detailed when annexed and included in Appendix A.

**FOR COMMUNITY FACILITIES DISTRICT NO. 2020-1
 OF THE CITY OF ESCONDIDO (SERVICES)
 (ANNEXATION NO. 8 ZONE 2020-8)**

MAXIMUM SPECIAL TAXES ASSIGNED

Maximum Special Tax Rates
 For Developed Residential Property per Dwelling Unit
 Fiscal Year 2022-2023

Zone	Land Use Category	Density	Assessor Parcel No(s).	Unit	Annual Special Tax Per Unit*	Annual Special Tax Total
2020-7	1	Less than 5.5 DU/Acre	235-202-59-00	1 DU	\$575.19	\$575.19
2020-7	1	Less than 5.5 DU/Acre	224-143-50-00	1 DU	\$575.19	\$575.19
2020-7	1	Less than 5.5 DU/Acre	238-110-35-00	5 DU	\$575.19	\$2,875.95
2020-7	1	Less than 5.5 DU/Acre	227-180-27-00	6 DU	\$575.19	\$3,451.14
2020-7	1	Less than 5.5 DU/Acre	236-335-53-00	1 DU	\$575.19	\$575.19
2020-7	1	Less than 5.5 DU/Acre	232-333-16-00	1 DU	\$575.19	\$575.19
2020-7	1	Less than 5.5 DU/Acre	233-111-16-00	1 DU	\$575.19	\$575.19

Increases in the Maximum Special Tax:

On each July 1, commencing July 1, 2022, the Maximum Special Tax shall be increased by the greater of the annual percentage change in the Index or 2%.

APPENDIX B

**NAME OF OWNER AND PROPERTY DESCRIPTION
(ANNEXATION NO. 8)**

Property Owner 1: MFG GAMBLE LANE, LLC, a Delaware limited liability company

Property Description: Assessor Parcel Number (as set forth in the County of San Diego Assessor's Fiscal Year 2022-23 Roll):

235-202-59-00

Property Owner 2: ROBERT S. SADLER and BEVERLY J. SADLER

Property Description: Assessor Parcel Number (as set forth in the County of San Diego Assessor's Fiscal Year 2022-23 Roll):

224-143-50-00

Property Owner 3: HAMILTON DEVELOPMENT 5, LLC, a California limited liability company

Property Description: Assessor Parcel Number (as set forth in the County of San Diego Assessor's Fiscal Year 2022-23 Roll):

238-110-35-00

Property Owner 4: NEW POINTE INVESTMENT 51, LLC, a California limited liability company

Property Description: Assessor Parcel Number (as set forth in the County of San Diego Assessor's Fiscal Year 2022-23 Roll):

227-180-27-00

Property Owner 5: STAN STARK and KIMBERLY M. STARK

Property Description: Assessor Parcel Number (as set forth in the County of San Diego Assessor's Fiscal Year 2022-23 Roll):

236-335-53-00

Property Owner 6: GASSER NESTMAN PROPERTIES, LLC, a Utah limited liability company

Property Description: Assessor Parcel Number (as set forth in the County of San Diego Assessor's Fiscal Year 2022-23 Roll):

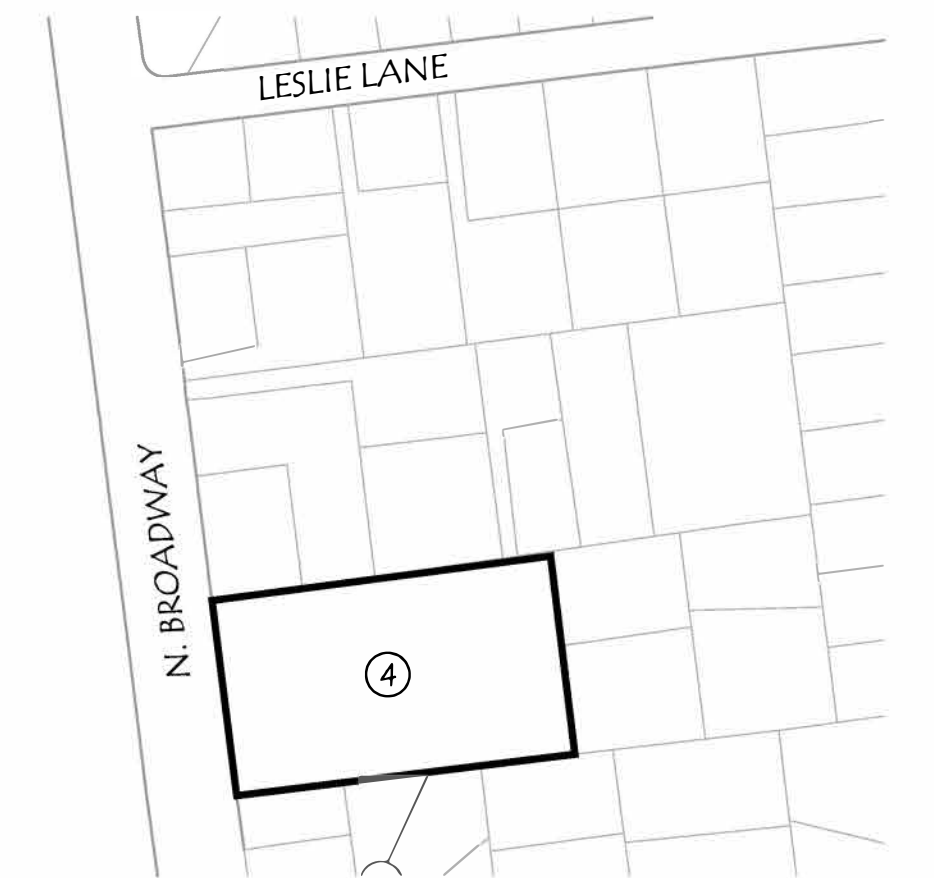
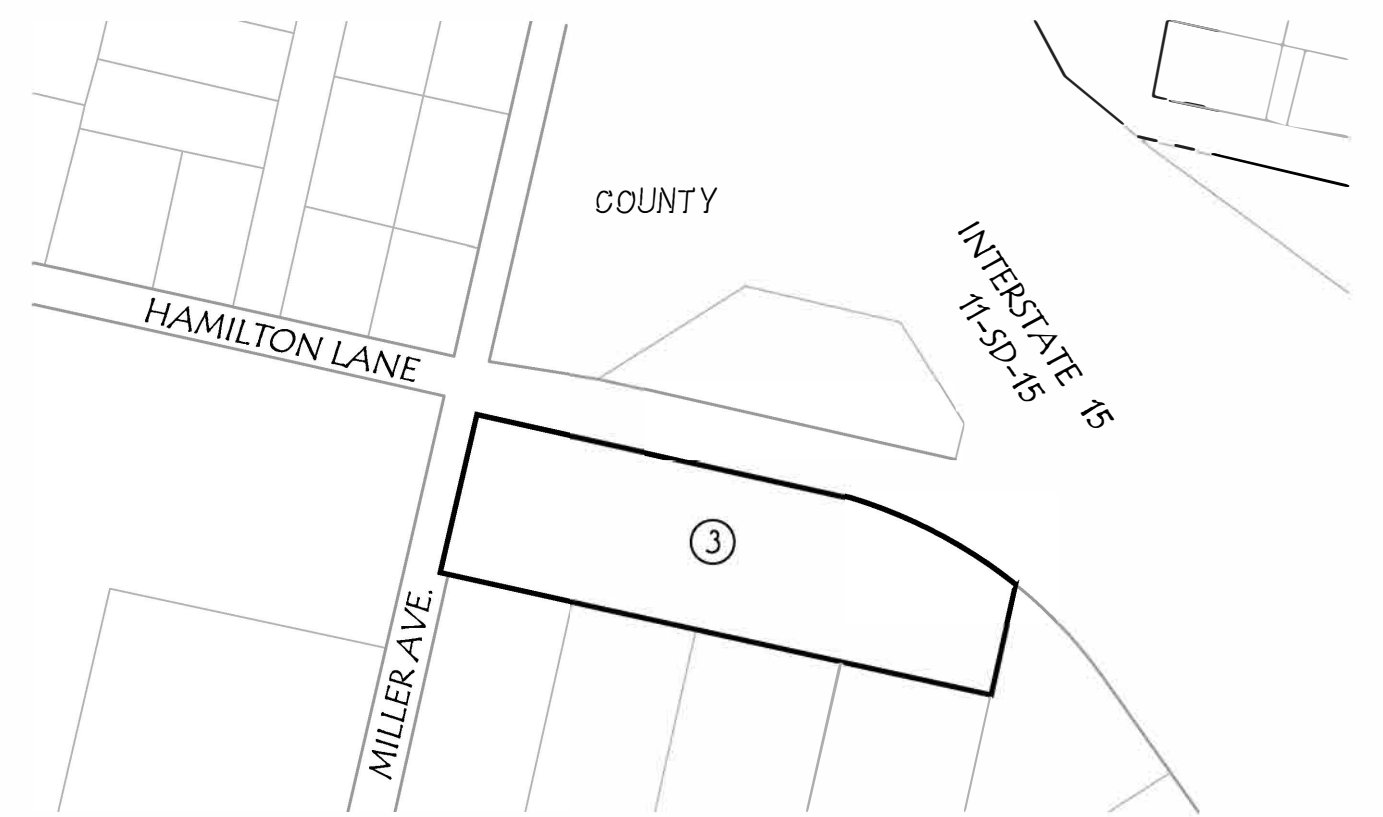
232-333-16-00

Property Owner 7: SUSANA VELASCO

Property Description: Assessor Parcel Number (as set forth in the County of San Diego Assessor's Fiscal Year 2022-23 Roll):

233-111-16-00

**BOUNDARY MAP OF
 COMMUNITY FACILITIES DISTRICT NO. 2020-1
 (SERVICES)
 ANNEXATION ZONE 2020-8
 OF THE CITY OF ESCONDIDO
 COUNTY OF SAN DIEGO
 STATE OF CALIFORNIA**



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF ESCONDIDO,
 THIS ____ DAY OF _____, 20____.

BY: _____
 CITY CLERK
 CITY OF ESCONDIDO
 STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE BOUNDARIES OF
 THE ANNEXATION OF ZONE 202____ TO COMMUNITY FACILITIES DISTRICT
 NO. 2020-1 OF THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE
 OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF
 ESCONDIDO AT A REGULAR MEETING THEREOF, HELD ON THE ____ DAY
 OF _____, 20____, BY ITS RESOLUTION NO. _____.

BY: _____
 CITY CLERK
 CITY OF ESCONDIDO
 STATE OF CALIFORNIA

FILED THIS ____ DAY OF _____, 20____, AT THE HOUR
 OF ____ O'CLOCK ____ M. AS DOCUMENT NO. _____ IN BOOK
 PAGE(S) _____ OF MAPS OF ASSESSMENTS AND COMMUNITY FACILITIES
 DISTRICTS IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY
 OF SAN DIEGO, CALIFORNIA.

BY: _____
 DEPUTY RECORDER
 COUNTY RECORDER, ERNEST J. DRONENBURG, JR.
 COUNTY OF SAN DIEGO
 STATE OF CALIFORNIA

LOT DESIGNATION		
LOT NO.	APN.	SHEET
①	235-202-59-00	1
②	224-143-50-00	1
③	238-110-35-00	1
④	227-180-27-00	1
⑤	236-335-53-00	2
⑥	232-333-16-00	2
⑦	233-111-16-00	2



201 N. Broadway
 Escondido, Ca. 92025

LEGEND

- ① LOT NUMBER
- ANNEXATION BOUNDARY
- CITY OF ESCONDIDO / COUNTY OF SAN DIEGO BOUNDARY LINE

SHEET	1 OF 2
DATE	FEBRUARY 2023
JOB NO.	CFD2020-8

BOUNDARY MAP OF
COMMUNITY FACILITIES DISTRICT NO. 2020-1
(SERVICES)
ANNEXATION ZONE 2020-8
OF THE CITY OF ESCONDIDO
COUNTY OF SAN DIEGO
STATE OF CALIFORNIA



LEGEND

- ① LOT NUMBER
- ANNEXATION BOUNDARY
- CITY OF ESCONDIDO / COUNTY OF SAN DIEGO BOUNDARY LINE

SHEET 2 OF 2
DATE FEBRUARY 2023
JOB NO. CFD2020-8

LEGAL DESCRIPTIONS FOR ASSESSOR PARCEL NUMBERS ANNEXING INTO COMMUNITY FACILITIES DISTRICT 2020-1

1500 GAMBLE LANE, ESCONDIDO CA 92029

PARCEL 1 OF PARCEL MAP NO. 9303, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO, OCTOBER 25, 1979.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES, LYING BELOW A DEPTH OF 500 FEET, WITHOUT THE RIGHT OF SURFACE ENTRY.

APN: 235-202-59-00

1123 ORANGE BLOSSOM WAY, ESCONDIDO CA 92026

PARCEL 1:

THAT CERTAIN "REMAINDER PARCEL (NOT A PART OF THIS SUBDIVISION)" SHOWN AND DELINEATED ON ESCONDIDO TRACT NO. 703-A, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 13555, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY OF SAN DIEGO, APRIL 2, 1998.

PARCEL 2:

AN EASEMENT AND RIGHT OF WAY FOR ROAD, SEWER, WATER, GAS, POWER AND TELEPHONE LINES AND APPURTENANCES THERETO OVER, UNDER, ALONG AND ACROSS THE SOUTHEASTERLY 20.00 FEET OF LOT 1 IN BLOCK 416 OF RANCHO RINCON DEL DIABLO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 723, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 13, 1892.

APN: 224-143-50-00

2350 MILLER ROAD, ESCONDIDO CA 92029

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE FOLLOWING LAND DESCRIBED PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED FEBRUARY 5, 2021 AS INSTRUMENT NO. 2021-0091283, OF OFFICIAL RECORDS:

THAT PORTION OF LOT THREE IN BLOCK TWENTY-FIVE OF HOMELAND ACRES ADDITION TO ESCONDIDO NO. 2, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1241, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MARCH 11, 1910, LYING SOUTH OF A LINE THAT IS PARALLEL WITH AND DISTANT TWO HUNDRED SIXTY-FOUR FEET SOUTHERLY FROM THE NORTHERLY LINE OF SAID LOT THREE, EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID LOT 3, NORTH 12° 01' EAST, 121.3 FEET FROM THE SOUTHWEST CORNER THEREOF;

THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 12° 01" EAST, 259.7 FEET;

THENCE SOUTH 77° 59' EAST, 258.2 FEET;

THENCE SOUTH 56° 51' WEST, 366.2 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

TOGETHER WITH THE NORTHERLY HALF OF THE UN-NAMED STREET ADJOINING SAID LOT 3 ON THE SOUTH AS VACATED BY THE COUNTY OF SAN DIEGO BY RESOLUTION RECORDED JUNE 3, 1981, AS INSTRUMENT NO. 81-172660, OF OFFICIAL RECORDS IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

EXCEPT THEREFROM THAT PORTION THEREOF CONVEYED TO THE STATE OF CALIFORNIA IN DEED RECORDED DECEMBER 3, 1970 AS FILE NO. 221136, OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID LOT 3;

THENCE (1) ALONG THE WESTERLY LINE OF SAID LOT 3, NORTH 12° 35' 46" EAST, 121.29 FEET TO THE NORTHWESTERLY LINE OF THAT LAND GRANTED TO C.G. BASSET AND SALLY S. BASSET PER DEED RECORDED MARCH 23, 1973 AS INSTRUMENT NO. 73-076918, OF OFFICIAL RECORDS;

THENCE (2) ALONG SAID NORTHWESTERLY LINE NORTH 57° 24' 50" EAST, 75.69 FEET TO THE TRUE POINT OF BEGINNING;

THENCE (3) LEAVING SAID NORTHWESTERLY LINE SOUTH 77° 24' 01" EAST, 387.45 FEET;

THENCE (4) ALONG A TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 458.00 FEET; THROUGH AN ANGLE OF 25° 45' 36", A DISTANCE OF 205.92 FEET TO THE EASTERLY LINE OF SAID LOT 3;

THENCE (5) ALONG SAID EASTERLY LINE NORTH 12° 37' 04" EAST, 251.93 FEET TO THE NORTHERLY LINE OF SAID BASSETT LAND;

THENCE (6) ALONG SAID NORTHERLY LINE NORTH 77° 26' 22" WEST, 196.96 FEET;

THENCE (7) LEAVING SAID NORTHERLY LINE SOUTH 31° 53' 10" EAST, 141.58 FEET;

THENCE (8) SOUTH 22° 48' 07" WEST, 46.00 FEET;

THENCE (9) NORTH 77° 24' 01" WEST, 421.08 FEET TO SAID NORTHWESTERLY LINE;

THENCE (10) ALONG SAID NORTHWESTERLY LINE SOUTH 57° 24' 50" WEST, 84.58 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM, ANY PORTIONS LYING NORTHERLY OF COURSES 3 AND 4 DESCRIBED ABOVE.

PARCEL C:

THAT PORTION OF LOT 3 IN BLOCK 25 OF HOMELAND ACRES ADDITION TO ESCONDIDO NO. 2, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1241, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MARCH 11, 1910, SAID PORTION HEREBY CONVEYED DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID LOT 3, DISTANT ALONG SAID WESTERLY LINE NORTH 12° 35' 46" EAST, 121.29 FEET FROM THE SOUTHWESTERLY CORNER OF SAID LOT 3;

THENCE ALONG THE FOLLOWING NUMBERED COURSES:

(1) NORTH 57° 24' 50" EAST, 75.69 FEET, TO THE SOUTHERLY RIGHT OF WAY LINE OF FRONTAGE ROAD "FA-L" OF STATE FREEWAY 11-SD-15 28.5, SAID FRONTAGE ROAD BEING 60.00 FEET IN WIDTH;

(2) ALONG THE SOUTHERLY RIGHT OF WAY LINE NORTH 77° 24' 01" WEST, 53.35 FEET, TO SAID WESTERLY LINE OF SAID LOT 3;

(3) ALONG LAST SAID LINE SOUTH 12° 35' 48" WEST, 53.69 FEET, TO THE POINT OF BEGINNING.

APN: 238-110-35-00

1600 N. BROADWAY, ESCONDIDO CA 92026

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ESCONDIDO IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

ALL THAT PORTION OF LOT 4 IN BLOCK 422 OF RANCHO RINCON DEL DIABLO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP NO. 723, MADE BY J. M. GRAHAM, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 13, 1892, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 4 IN BLOCK 422; RUNNING THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT 4, A DISTANCE OF 240 FEET; THENCE

EASTERLY AND PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 4, A DISTANCE OF 380 FEET; THENCE SOUTHERLY AND PARALLEL WITH THE WESTERLY LINE OF SAID LOT, A DISTANCE OF 240 FEET TO A POINT IN THE SOUTHERLY LINE OF LOT 4; THENCE WESTERLY ALONG SAID SOUTHERLY LINE, A DISTANCE OF 380 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR ROAD PURPOSES OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 4 IN BLOCK 422; THENCE RUNNING NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT 4, A DISTANCE OF 240 FEET, WHICH IS THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTHERLY ALONG SAID WESTERLY LINE A DISTANCE OF 15 FEET; THENCE EASTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 4 A DISTANCE OF 326 FEET; THENCE SOUTHERLY PARALLEL WITH THE WESTERLY LINE OF SAID LOT 4, A DISTANCE OF 15 FEET; THENCE WESTERLY PARALLEL WITH SAID SOUTHERLY LINE OF LOT 4, A DISTANCE OF 326 FEET TO THE TRUE POINT OF BEGINNING.

APN: 227-180-27-00

1998 ROHN ROAD, ESCONDIDO CA 92025

PARCEL 1 OF PARCEL MAP NO. 13588, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 12, 1984 AS FILE NO. 84-462999 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL OIL, GAS ASPHALTUM AND OTHER HYDROCARBON SUBSTANCES AND OTHER MINERALS, WITHIN OR UNDERLYING OR THAT MAY BE PRODUCED FROM SAID PROPERTY, TOGETHER WITH THE FULL RIGHT TO EXPLORE FOR, DEVELOP, DRILL, REMOVE AND RECOVER THE SAME FROM SAID PROPERTY AND THE RIGHT TO USE THAT PORTION OF THE SUBSURFACE OF SAID PROPERTY LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID PROPERTY FOR ALL PURPOSES PERTAINING TO INCIDENT TO THE FOREGOING BUT NOT INCLUDING WITHIN THIS EXCEPTION ANY RIGHT TO USE THE SURFACE OF SAID PROPERTY OR THAT PORTION OF THE SUBSURFACE THEREOF LYING ABOVE A DEPTH OF 500 FEET BELOW THE SURFACE FOR THE AFORESAID PURPOSES, AS RESERVED BY S. ALBERT MOLLE AND GLADYS MOLLE IN DEED RECORDED MARCH 3, 1972, AS INSTRUMENT NO. 52072, OFFICIAL RECORDS.

APN: 236-335-53-00

663 S. TULIP STREET, ESCONDIDO CA 92025

THAT PORTION OF LOT 15 BLOCK 306 OF RANCHO RINCON DEL DIABLO, IN THE CITY OF

ESCONDIDO; COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO.349 BY O. N. SANFORD, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, JULY 10, 1886, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF TULIP STREET WITH THE EASTERLY PROLONGATION OF THE DIVIDING LINE BETWEEN LOTS 14 AND 15 OF SAID BLOCK 306; THENCE WESTERLY ALONG SAID PROLONGATION AND ALONG THE DIVIDING LINE BETWEEN LOTS 14 AND 15 A DISTANCE OF 160.00 FEET; THENCE SOUTHERLY PARALLEL WITH THE WESTERLY LINE TULIP STREET A DISTANCE OF 300.00 FEET; THENCE EASTERLY PARALLEL WITH THE DIVIDING LINE BETWEEN LOTS 14 AND 15; A DISTANCE OF 160.00 FEET TO THE CENTER LINE OF TULIP STREET; THENCE NORTHERLY ALONG SAID CENTER LINE A DISTANCE OF 300.00 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THE NORTHWESTERLY 252.00 FEET.

APN: 232-333-16-00

422 S. SPRUCE STREET, ESCONDIDO CA 92025

LOT 1 IN BLOCK 108 OF ESCONDIDO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 336, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, JULY 10, 1886, EXCEPTING THEREFROM THE SOUTHERLY 70 FEET THEREOF.

APN: 233-11-16-00



STAFF REPORT

February 8, 2023
File Number 0610-90

SUBJECT

AMENDMENT AND READOPTION OF CITY COUNCIL RULES AND PROCEDURES

DEPARTMENT

City Attorney

RECOMMENDATION

Request the City Council adopt Resolution No. 2023-19, amending the City Council Rules of Procedure for City Council meetings and City Council Policies to change Section A.7 to allow for a council member motion and second before further consideration of an agenda item.

Staff Recommendation: Approval (Department Name: City Attorney)

Presenter: Michael R. McGuinness, City Attorney

FISCAL ANALYSIS

There is no anticipated fiscal impact resulting from this change to the Council Rules.

PREVIOUS ACTION

The Council Rules of Procedure for City Council Meetings and City Council Policies (“Rules of Procedure”) was last amended on September 29, 2021 with the adoption of Resolution No. 2021-156. The amendment modified and clarified the rules with regard to the ability of City Councilmembers to participate in the issuance of proclamations and certificates of recognition by less than the full City Council.

BACKGROUND

The City Council has had in place for many years a set of Rules of Procedure for council meetings and related policies governing the manner in which the City Council conducts its internal business and the relationship among the councilmembers on such matters as correspondence, proclamations and certificates of recognition, requests for agenda items, and council meeting conduct (“Rules of Procedure”). It has been amended, restated and readopted on several occasions. The City Council adopted these rules and amendments thereto pursuant to resolution.



CITY of ESCONDIDO

STAFF REPORT

Section A.7 of the current Rules of Procedure provide as follows:

Council Action on Agenda Matters.

Prior to the request for a motion and second by any Council member on an agenda matter, Council shall be allowed to hear any presentation by staff or member of the public, ask questions and discuss among themselves the matter to be decided. At the conclusion of the presentation, questions and discussion by Council members a request for a motion and second may be made and a roll call vote shall be taken. A motion that fails to obtain a second or a majority vote shall die.

On January 11, 2023, at the request of Mayor Dane White, the City Council discussed and considered an amendment to the Rules of Procedure to provide for the request for a motion and second from the council before undertaking discussion of the agenda item. The order of council discussion and the request for council action by way of motion is entirely up to the council and not controlled by the Brown Act or other state law. The City Council unanimously agreed to direct a change to the Rules of Procedure as requested.

Resolution No. 2023-19 amends Section A.7 to now provide that prior to any vote or discussion by the Council, City staff shall provide a presentation and/or answer questions, and thereafter, any councilmember shall call for a motion. If that motion is seconded, the matter may be debated and discussed before putting the motion to a vote of the Council. No other changes are made to the underlying Rules of Procedure.

RESOLUTIONS

- a. Resolution No. 2023-19 – Resolution Amending and Readopting Rules of Procedure for City Council Meetings and City Council Policies

ATTACHMENTS

- a. Attachment “1” – Redline of Resolution No. 2021-156 – City Council Rules and Procedures

RESOLUTION NO. 2023-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING AND READOPTING RULES OF PROCEDURE FOR CITY COUNCIL MEETINGS AND CITY COUNCIL POLICIES

WHEREAS, the City Council of the City of Escondido, State of California, has previously adopted resolutions which provide Rules of Order and Procedure for City Council meetings and certain written policies governing Council procedures, methods of operation and ethics which are amended from time to time; and

WHEREAS, the City Council wishes to re-adopt its Rules and Policies for the purpose of including certain amendments and clarifications.

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 following Rules shall govern the City Council:

Section A: Rules of Order and Procedure

- 1. Time of Regular Meetings.

Unless the City Council schedules otherwise or cancels a meeting, the City Council shall hold regular meetings at 4:00 p.m. commencing with closed session items and thereafter at 5:00 p.m. commencing with a public session on each of the first four (4) Wednesdays of each calendar month at the City Hall.

- 2. Matters Covered.

For the purpose of efficiently focusing only on matters affecting the City of Escondido, the Council should consider those resolutions, motions or matters which affect the conduct of the business of the City of Escondido or its corporate powers or duties as a municipal corporation, or such resolutions or motions supporting or

disapproving legislation or actions pending in the Legislature of the State of California, the Congress of the United States or before any officer or agency of said State or nation where such proposed legislation or action, if adopted, will affect the conduct of the municipal business or the powers and duties of the City of Escondido or its officers or employees as such.

3. Order of Business. Regular business of the Council at the 5:00 p.m. public session shall be taken up for consideration in substantially the following order, except as may be otherwise ordered by the Mayor or Council:

- a. Moment of Reflection
- b. Flag Salute
- c. Roll Call
- d. Closed Session Report
- e. Proclamations/Presentations
- f. Oral Communications (up to 15 minutes or as directed by the Mayor)
- g. Consent Calendar, including Affidavits of Publications, Mailing, Posting, Warrant Register & Minutes Approval
- h. Public Hearings
- i. Current Business Matters
- j. Future Agenda Items
- k. Council Members Subcommittee Reports
- l. Council Member Reports
- m. City Manager's Weekly Activity Report Highlights
- n. Oral Communications
- o. Adjournment

4. Consent Calendar Defined.

Those items on the Council agenda which are generally considered routine matter of business such as the approval of minutes, approval of the warrant register, Notices of Project Completion, Treasurer's Quarterly Investment Report, certain contract and grant

awards, resolutions setting hearings, final maps, and various leases and agreements are listed on the "Consent Calendar" and shall be adopted by one motion unless Council, staff or a member of the public requests specific items to be discussed and/or removed for separate action. Those items so approved under the heading "Consent Calendar" will appear in the Council minutes in their proper form, i.e., resolution accepting grant deed or easement, approval of minutes, award of bid, etc.

From time to time, the Council may schedule a "workshop" style meeting. Such workshops shall comply with all applicable noticing laws and shall be dedicated primarily to general information gathering and sharing, discussion and possible direction to staff. Final actions of the Council shall not take place at workshop sessions.

5. Oral Communications.

Time has been reserved near the beginning and end of each regular meeting agenda to provide an opportunity for members of the public to directly address the Council on items of interest to the public. The Mayor as the presiding officer may set a limit on the time at the beginning of the meeting devoted to oral communications and may at his or her discretion extend the time for a speaker or speaker representative to address the Council. Comments on an item already appearing on the agenda shall only be taken at the time reserved for discussion of that agenda item. No action will be taken by the Council on items discussed under Oral Communications, except to refer the matter to staff or schedule for future action.

6. Council Member Reports.

The Council Member Report agenda item provides members of the Council an opportunity to report matters of general interest to the public and their fellow Council Members. No actions, votes or further discussions shall occur on any such matter(s).

7. Council Action on Agenda Matters.

Prior to any vote or discussion by the Council on a matter to be decided on the agenda, City staff shall provide a presentation and/or answer questions, if requested, and thereafter, any Council member may seek recognition by the presiding officer and make a motion to adopt such item, and thereafter, the presiding officer shall determine if another Council member, including the presiding officer, seconds the motion. If the motion receives a second, the matter may be debated before putting the motion to a vote of the Council. A motion that fails to obtain a second or a majority vote shall die.

8. Manner of Addressing Council - Time Limit.

- a. Each person addressing the Council shall step up to the microphone, shall state their name and city of residence in an audible tone of voice for the record and, unless further time is granted by the presiding officer, shall limit their address to three (3) minutes. If significant numbers of persons desire to speak on a given item, the presiding officer has the discretion to limit speaking times and/or alter the sequence of hearing matters on the agenda. Longer time limits may be permitted for an applicant, appellant, or spokesperson for a larger group, at the discretion of the presiding officer.
- b. Whenever any group of persons wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and, in case additional matters are to be presented at the time by any other member of the said group, to limit the number of persons so addressing the Council so as to avoid unnecessary repetitions before the Council.

c. City staff presentations and responses to Council questions are not governed by this time limit.

9. Posting of Agenda.

At least 72 hours before a regular meeting, the City Clerk shall post a certified copy of the agenda specifying the time and location of the regular meeting in a place accessible so as to be available for review by members of the public.

10. Content of Agenda.

Under state law, the City Council is limited to consideration of items which are on a posted agenda. Items may be placed on an agenda by city staff, by the Mayor, or upon the request of an individual Council member in coordination with the City Manager. The City Manager shall be in charge of preparing the Council agenda and all items shall be coordinated with the City Manager. To the fullest extent practicable, any items placed on the agenda by the Mayor, any Council member or City staff should also be listed under "Future Agenda Items" as early as possible to assure the best possible advance notice of the nature of items and discussion which are upcoming.

11. Proclamations and Presentations.

The City of Escondido recognizes members of the public, groups, or other entities in different ways. Individual Councilmembers may request the preparation of a Certificate of Achievement, Acknowledgment, or Recognition (depending on the circumstances) to be presented in their individual capacity as a member of the City Council. Such certificates shall be prepared by the City Manager's office in a manner such as to preserve consistency in design and form of the City. Such certificates shall be requested directly from the City Manager's office, with ample advance notice to the City Manager's office to enable preparation and delivery. Each Council member requesting a certificate shall be solely responsible for providing the content and verifying the accuracy

of the document. Multiple Councilmembers may sign and present such certificates subject to coordination among themselves.

The Mayor and any Councilmember may also recommend the public acknowledgement of any member of the public, group, entity or matter of public interest through the issuance and presentation of a formal proclamation on behalf of the City of Escondido. Such recommendations shall be made in coordination with the City Manager's office. Upon approval by the Mayor, such proclamations shall then be prepared by the City Manager's office in a manner such as to preserve consistency in design and form of the City. Proclamations will normally be signed on behalf of the City by the Mayor. However, if some or all City Councilmembers also wish to sign a proclamation, and signatures can be obtained in a timely maner, proclamations may be signed by the full City Council or by those members wishing to sign the document. Proclamations shall normally be presented by the Mayor at the commencement of a meeting of the City Council, unless circumstances dictate the presentation of the proclamation elsewhere. Any disagreement with whether or not such a proclamation shall be issued shall be resolved by a majority vote of the City Council.

The Mayor or any Councilmember may request that a presentation to the City Council at a regular meeting be made by members of the public, other public entities, or other groups, on issues of interest to the City Council or members of the public. Such presentations shall be coordinated with the Mayor and the City Manager's office and shall be subject to scheduling in a manner that does not interfere with the need to conduct normal City business. Any disagreement with whether or not such a presentation is to be scheduled shall be resolved by a majority vote of the City Council.

12. Closing Time of Council Meetings.

No agenda item may be introduced after the hour of 10:00 p.m.; however, the meeting may be extended beyond 10:00 p.m. upon a majority vote of the Council members.

13. Processing of Motions.

- a. When a motion is made, it shall be stated clearly and concisely by its mover. After a motion is made and seconded, it may be stated by the presiding officer before debate. A motion may be withdrawn by the mover without consent of the Council members.
- b. The presiding officer shall at any time by majority consent of the Council members, permit a Council member to propose the reordering of agenda items.
- c. If a question contains two or more divisible propositions, the presiding officer may, and upon request of a Council member shall, divide the same.

14. Precedence of Motions.

- a. When a motion is before the Council, no motion shall be entertained except (precedence in order indicated):
 - (1) To adjourn
 - (2) To fix hour of adjournment
 - (3) To lay on the table
 - (4) For the previous question
 - (5) To postpone to a certain day
 - (6) To refer
 - (7) To amend
 - (8) To postpone indefinitely
- b. A motion to adjourn shall be in order any time, except as follows:

- (1) When repeated without intervening business or discussion
 - (2) When made as an interruption of a Council member while speaking
 - (3) When the previous question has been ordered
 - (4) While a vote is being taken
- c. A motion to adjourn "to another time" is debatable only as to the time to which the meeting is adjourned.
- d. A motion to table or lay on the table is not debatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" only by adding it to the agenda of the next regular meeting, to be discussed at the following regular meeting.
- e. A motion for previous question shall close debate on the main motion and shall be undebatable. The statement by a Council member of "question" does not accomplish the same purpose. If a motion fails, debate is reopened; if motion passes, then vote shall be taken on the main motion.
- f. A motion to amend shall be in order and is debatable only as to amendment. A motion to amend an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable and amendments are to be voted first, then the main motion is amended.
- g. A motion to postpone indefinitely shall be fully debatable and if the same is adopted, the principal motion shall be declared lost. A motion to

postpone to a definite time shall be amendable and debatable as to propriety of postponement and time set.

h. A motion to refer shall not be debatable except for the propriety of referring.

15. Administrative Mandamus.

Persons who are dissatisfied with a decision of the City Council may have the right to seek review of that decision by a court. In addition, the City has adopted Section 1094.6 of the Code of Civil Procedure which generally limits to ninety (90) days the time within which the decision of City boards and agencies may be judicially challenged.

16. Appeals; Continuances.

Any person appealing an action of a City Board or Commission or City Staff to the City Council has a right to two two-week postponements of the initial hearing scheduled on the appeal. After exhaustion of this right, the appeal shall be considered withdrawn. This procedure shall not limit the ability of the City Council to continue a hearing which has commenced to a subsequent meeting to receive additional public testimony or information from City Staff.

17. Reconsideration.

Any member of the Council, voting in the majority on any action of the Council, may at the same meeting, or at a subsequent time, request the Council reconsider an action. A reconsideration request made by a member of the Council voting in the minority shall not be allowed, except when made more than one (1) year after the date of the original action.

All requests for reconsideration of a Council action shall be provided to each Council member, and the City Manager in writing or via electronic mail, and the request shall be placed on the next available agenda. In the event an item to be reconsidered

requires public notice, it shall be calendared and noticed after Council determines when reconsideration shall occur.

18. Personal Privilege.

The right of any Council member to address the Council on a question of personal privilege shall be limited to cases in which his/her integrity, character or motives are questioned.

19. Council Conduct.

Each member of the Council shall act in a courteous and respectful manner to all members of the Council, including providing each member the full opportunity to ask questions, voice opinions and make statements without interruption during closed and open sessions of the Council.

20. Parliamentarian.

A majority vote of the Council shall generally control matters of procedure not addressed by this Resolution. The City Attorney shall decide all other questions of interpretations of these rules and any other questions of a parliamentary nature which may arise at a City Council meeting.

21. Voting and Non-Profit Entity Membership.

It shall be the policy of this Council that a council member who serves on the governing board of a private non-profit entity shall not participate in the discussion or voting process to determine whether or not that entity receives City funds. In the event the request of a non-profit entity with a council member on its governing board is part of a larger request involving several items, or is part of the budget process, a separate vote shall be taken to allow the necessary abstention.

22. Selection of Chairperson.

In the event that the Mayor and the Deputy Mayor are absent from a City Council meeting, the three remaining Council members present shall promptly determine which Council member will conduct and serve as the chairperson of the meeting.

23. Decorum and Security.

- a. While the City Council is in session, the Council members, staff, and members of the public are expected to act in a manner to preserve order and decorum for the meeting. No person shall engage in disorderly or disruptive behavior during the meeting. No person shall, either by conversation, applause, shouting, or any other conduct, interrupt or delay the proceedings.
- b. The City Manager, in coordination with the Mayor and/or Deputy Mayor, are authorized to and shall designate and post signs specifying those areas of the Chamber for the media wishing to record the meeting, areas for staff presentations, and areas which are restricted to City employees and elected officials.
- c. Signs, placards, posters, or similar objects which are larger than 8.5 by 11 inches and which disrupt the proceedings shall not be displayed during Council proceedings by members of the public.

Section B: City Council Policies.

1. Correspondence with Members of the City Council.

The purpose of this policy is to provide for a coordinated response to correspondence (i.e. letters, emails, and similar items) which is sent to the City generally, or in which the same correspondence is sent in identical fashion to all Council members. In such circumstances, the Council directs that the Mayor (or as appropriate the City Manager or City Attorney) shall answer such correspondence on behalf of the City, according to the procedure set forth below.

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Section C: City Council Ethics Policy.

1. Declaration of Policy.

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This Ethics Policy provides the following general guidelines and specific prohibitions to which elected Escondido City Officials must conform in pursuit of their assigned duties and responsibilities. This policy is in addition to all applicable provisions

of state law, including the Brown Act, the Political Reform Act and implementing regulations, and all other laws governing the conduct of elected officials.

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The City Council is authorized to provide direction to specifically identified negotiators in a legally constituted closed session on matters involving pending litigation, real estate negotiations, and labor negotiations. If the City Council in closed session provides such direction to its negotiators, all contact with the negotiating party or the party's representative, shall be limited to, and made by, those individuals designated to handle the negotiations.

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Any written or oral ex parte communication received by a member of the City Council in matters where all interested parties are entitled to an equal opportunity for a hearing shall be made a part of the record by the recipient.

6. Violations and Penalties.

Any violation of this Ethics Policy by a member of the City Council shall constitute official misconduct if determined by an affirmative vote of three members of the City Council in an open and public meeting. In addition to any criminal or civil penalties provided for by federal, state or other local law, any violation of this Ethics Policy shall constitute a cause for censure by City Council adoption of a Resolution of Censure.

RESOLUTION NO. 2021-156

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING AND READOPTING RULES OF PROCEDURE FOR CITY COUNCIL MEETINGS AND CITY COUNCIL POLICIES

WHEREAS, the City Council of the City of Escondido, State of California, has previously adopted resolutions which provide Rules of Order and Procedure for City Council meetings and certain written policies governing Council procedures, methods of operation and ethics which are amended from time to time; and

WHEREAS, the City Council wishes to re-adopt its Rules and Policies for the purpose of including certain amendments and clarifications.

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 following Rules shall govern the City Council:

Section A: Rules of Order and Procedure

- 1. Time of Regular Meetings.

Unless the City Council schedules otherwise or cancels a meeting, the City Council shall hold regular meetings at 4:00 p.m. commencing with closed session items and thereafter at 5:00 p.m. commencing with a public session on each of the first four (4) Wednesdays of each calendar month at the City Hall.

- 2. Matters Covered.

For the purpose of efficiently focusing only on matters affecting the City of Escondido, the Council should consider those resolutions, motions or matters which affect the conduct of the business of the City of Escondido or its corporate powers or duties as a municipal corporation, or such resolutions or motions supporting or

disapproving legislation or actions pending in the Legislature of the State of California, the Congress of the United States or before any officer or agency of said State or nation where such proposed legislation or action, if adopted, will affect the conduct of the municipal business or the powers and duties of the City of Escondido or its officers or employees as such.

3. Order of Business. Regular business of the Council at the 5:00 p.m. public session shall be taken up for consideration in substantially the following order, except as may be otherwise ordered by the Mayor or Council:

- a. Moment of Reflection
- b. Flag Salute
- c. Roll Call
- d. Closed Session Report
- e. Proclamations/Presentations
- f. Oral Communications (up to 15 minutes or as directed by the Mayor)
- g. Consent Calendar, including Affidavits of Publications, Mailing, Posting, Warrant Register & Minutes Approval
- h. Public Hearings
- i. Current Business Matters
- j. Future Agenda Items
- k. Council Members Subcommittee Reports
- l. Council Member Reports
- m. City Manager's Weekly Activity Report Highlights
- n. Oral Communications
- o. Adjournment

4. Consent Calendar Defined.

Those items on the Council agenda which are generally considered routine matter of business such as the approval of minutes, approval of the warrant register,

Notices of Project Completion, Treasurer's Quarterly Investment Report, certain contract and grant awards, resolutions setting hearings, final maps, and various leases and agreements are listed on the "Consent Calendar" and shall be adopted by one motion unless Council, staff or a member of the public requests specific items to be discussed and/or removed for separate action. Those items so approved under the heading "Consent Calendar" will appear in the Council minutes in their proper form, i.e., resolution accepting grant deed or easement, approval of minutes, award of bid, etc.

From time to time, the Council may schedule a "workshop" style meeting. Such workshops shall comply with all applicable noticing laws and shall be dedicated primarily to general information gathering and sharing, discussion and possible direction to staff. Final actions of the Council shall not take place at workshop sessions.

5. Oral Communications.

Time has been reserved near the beginning and end of each regular meeting agenda to provide an opportunity for members of the public to directly address the Council on items of interest to the public. The Mayor as the presiding officer may set a limit on the time at the beginning of the meeting devoted to oral communications and may at his or her discretion extend the time for a speaker or speaker representative to address the Council. Comments on an item already appearing on the agenda shall only be taken at the time reserved for discussion of that agenda item. No action will be taken by the Council on items discussed under Oral Communications, except to refer the matter to staff or schedule for future action.

6. Council Member Reports.

The Council Member Report agenda item provides members of the Council an opportunity to report matters of general interest to the public and their fellow Council Members. No actions, votes or further discussions shall occur on any such matter(s).

7. Council Action on Agenda Matters.

~~Prior to the request for a motion and second by any Council member on an agenda matter, Council shall be allowed to hear any presentation by staff or member of the public, ask questions and discuss among themselves the matter to be decided. At the conclusion of the presentation, questions and discussion by Council members a request for a motion and second may be made and a roll call vote shall be taken. Prior to any vote or discussion by the Council on a matter to be decided on the agenda, City staff shall provide a presentation and/or answer questions, if requested, and thereafter, any Council member may seek recognition by the presiding officer and make a motion to adopt such item, and thereafter, the presiding officer shall determine if another Council member, including the presiding officer, seconds the motion. If the motion receives a second, the matter may be debated before putting the motion to a vote of the Council.~~ A motion that fails to obtain a second or a majority vote shall die.

8. Manner of Addressing Council - Time Limit.

- a. Each person addressing the Council shall step up to the microphone, shall state their name and city of residence in an audible tone of voice for the record and, unless further time is granted by the presiding officer, shall limit their address to three (3) minutes. If significant numbers of persons desire to speak on a given item, the presiding officer has the discretion to limit speaking times and/or alter the sequence of hearing matters on the agenda. Longer time limits may be

permitted for an applicant, appellant, or spokesperson for a larger group, at the discretion of the presiding officer.

- b. Whenever any group of persons wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and, in case additional matters are to be presented at the time by any other member of the said group, to limit the number of persons so addressing the Council so as to avoid unnecessary repetitions before the Council.
- c. City staff presentations and responses to Council questions are not governed by this time limit.

9. Posting of Agenda.

At least 72 hours before a regular meeting, the City Clerk shall post a certified copy of the agenda specifying the time and location of the regular meeting in a place accessible so as to be available for review by members of the public.

10. Content of Agenda.

Under state law, the City Council is limited to consideration of items which are on a posted agenda. Items may be placed on an agenda by city staff, by the Mayor, or upon the request of an individual Council member in coordination with the City Manager. The City Manager shall be in charge of preparing the Council agenda and all items shall be coordinated with the City Manager. To the fullest extent practicable, any items placed on the agenda by the Mayor, any Council member or City staff should also be listed under "Future Agenda Items" as early as possible to assure the best possible advance notice of the nature of items and discussion which are upcoming.

11. Proclamations and Presentations.

The City of Escondido recognizes members of the public, groups, or other entities in different ways. Individual Councilmembers may request the preparation of a Certificate of Achievement, Acknowledgment, or Recognition (depending on the circumstances) to be presented in their individual capacity as a member of the City Council. Such certificates shall be prepared by the City Manager's office in a manner such as to preserve consistency in design and form of the City. Such certificates shall be requested directly from the City Manager's office, with ample advance notice to the City Manager's office to enable preparation and delivery. Each Council member requesting a certificate shall be solely responsible for providing the content and verifying the accuracy of the document. Multiple Councilmembers may sign and present such certificates subject to coordination among themselves.

The Mayor and any Councilmember may also recommend the public acknowledgement of any member of the public, group, entity or matter of public interest through the issuance and presentation of a formal proclamation on behalf of the City of Escondido. Such recommendations shall be made in coordination with the City Manager's office. Upon approval by the Mayor, such proclamations shall then be prepared by the City Manager's office in a manner such as to preserve consistency in design and form of the City. Proclamations will normally be signed on behalf of the City by the Mayor. However, if some or all City Councilmembers also wish to sign a proclamation, and signatures can be obtained in a timely maner, proclamations may be signed by the full City Council or by those members wishing to sign the document.

Proclamations shall normally be presented by the Mayor at the commencement of a meeting of the City Council, unless circumstances dictate the presentation of the proclamation elsewhere. Any disagreement with whether or not such a proclamation shall be issued shall be resolved by a majority vote of the City Council.

The Mayor or any Councilmember may request that a presentation to the City Council at a regular meeting be made by members of the public, other public entities, or other groups, on issues of interest to the City Council or members of the public. Such presentations shall be coordinated with the Mayor and the City Manager's office and shall be subject to scheduling in a manner that does not interfere with the need to conduct normal City business. Any disagreement with whether or not such a presentation is to be scheduled shall be resolved by a majority vote of the City Council.

12. Closing Time of Council Meetings.

No agenda item may be introduced after the hour of 10:00 p.m.; however, the meeting may be extended beyond 10:00 p.m. upon a majority vote of the Council members.

13. Processing of Motions.

- a. When a motion is made, it shall be stated clearly and concisely by its mover. After a motion is made and seconded, it may be stated by the presiding officer before debate. A motion may be withdrawn by the mover without consent of the Council members.
- b. The presiding officer shall at any time by majority consent of the Council members, permit a Council member to propose the reordering of agenda items.

- c. If a question contains two or more divisible propositions, the presiding officer may, and upon request of a Council member shall, divide the same.

14. Precedence of Motions.

- a. When a motion is before the Council, no motion shall be entertained except (precedence in order indicated):

- (1) To adjourn
- (2) To fix hour of adjournment
- (3) To lay on the table
- (4) For the previous question
- (5) To postpone to a certain day
- (6) To refer
- (7) To amend
- (8) To postpone indefinitely

- b. A motion to adjourn shall be in order any time, except as follows:

- (1) When repeated without intervening business or discussion
- (2) When made as an interruption of a Council member while speaking
- (3) When the previous question has been ordered
- (4) While a vote is being taken

- c. A motion to adjourn "to another time" is debatable only as to the time to which the meeting is adjourned.

- d. A motion to table or lay on the table is not debatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" only by adding it to the agenda of the next regular meeting, to be discussed at the following regular meeting.

- e. A motion for previous question shall close debate on the main motion and shall be undebatable. The statement by a Council member of "question" does not accomplish the same purpose. If a motion fails, debate is reopened; if motion passes, then vote shall be taken on the main motion.
- f. A motion to amend shall be in order and is debatable only as to amendment. A motion to amend an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable and amendments are to be voted first, then the main motion is amended.
- g. A motion to postpone indefinitely shall be fully debatable and if the same is adopted, the principal motion shall be declared lost. A motion to postpone to a definite time shall be amendable and debatable as to propriety of postponement and time set.
- h. A motion to refer shall not be debatable except for the propriety of referring.

15. Administrative Mandamus.

Persons who are dissatisfied with a decision of the City Council may have the right to seek review of that decision by a court. In addition, the City has adopted Section 1094.6 of the Code of Civil Procedure which generally limits to ninety (90) days the time within which the decision of City boards and agencies may be judicially challenged.

16. Appeals; Continuances.

Any person appealing an action of a City Board or Commission or City Staff to the City Council has a right to two two-week postponements of the initial hearing scheduled on the appeal. After exhaustion of this right, the appeal shall be considered withdrawn. This procedure shall not limit the ability of the City Council to continue a hearing which has commenced to a subsequent meeting to receive additional public testimony or information from City Staff.

17. Reconsideration.

Any member of the Council, voting in the majority on any action of the Council, may at the same meeting, or at a subsequent time, request the Council reconsider an action. A reconsideration request made by a member of the Council voting in the minority shall not be allowed, except when made more than one (1) year after the date of the original action.

All requests for reconsideration of a Council action shall be provided to each Council member, and the City Manager in writing or via electronic mail, and the request shall be placed on the next available agenda. In the event an item to be reconsidered requires public notice, it shall be calendared and noticed after Council determines when reconsideration shall occur.

18. Personal Privilege.

The right of any Council member to address the Council on a question of personal privilege shall be limited to cases in which his/her integrity, character or motives are questioned.

19. Council Conduct.

Each member of the Council shall act in a courteous and respectful manner to all members of the Council, including providing each member the full opportunity to ask

questions, voice opinions and make statements without interruption during closed and open sessions of the Council.

20. Parliamentarian.

A majority vote of the Council shall generally control matters of procedure not addressed by this Resolution. The City Attorney shall decide all other questions of interpretations of these rules and any other questions of a parliamentary nature which may arise at a City Council meeting.

21. Voting and Non-Profit Entity Membership.

It shall be the policy of this Council that a council member who serves on the governing board of a private non-profit entity shall not participate in the discussion or voting process to determine whether or not that entity receives City funds. In the event the request of a non-profit entity with a council member on its governing board is part of a larger request involving several items, or is part of the budget process, a separate vote shall be taken to allow the necessary abstention.

22. Selection of Chairperson.

In the event that the Mayor and the Deputy Mayor are absent from a City Council meeting, the three remaining Council members present shall promptly determine which Council member will conduct and serve as the chairperson of the meeting.

23. Decorum and Security.

- a. While the City Council is in session, the Council members, staff, and members of the public are expected to act in a manner to preserve order and decorum for the meeting. No person shall engage in disorderly or disruptive behavior during the meeting. No person shall, either by

conversation, applause, shouting, or any other conduct, interrupt or delay the proceedings.

- b. The City Manager, in coordination with the Mayor and/or Deputy Mayor, are authorized to and shall designate and post signs specifying those areas of the Chamber for the media wishing to record the meeting, areas for staff presentations, and areas which are restricted to City employees and elected officials.
- c. Signs, placards, posters, or similar objects which are larger than 8.5 by 11 inches and which disrupt the proceedings shall not be displayed during Council proceedings by members of the public.

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The purpose of this provision is to guarantee that all interested parties to any adjudicatory matter before the City Council have equal opportunity to express and represent their interests. Ex parte communications are those communications members of the City Council have with representatives of only one side of a matter outside the presence of other interested parties on a matter relevant to an adjudicatory

proceeding. A communication concerning only the status of a pending matter shall not be regarded as an ex parte communication.

Any written or oral ex parte communication received by a member of the City Council in matters where all interested parties are entitled to an equal opportunity for a hearing shall be made a part of the record by the recipient.

6. Violations and Penalties.

Any violation of this Ethics Policy by a member of the City Council shall constitute official misconduct if determined by an affirmative vote of three members of the City Council in an open and public meeting. In addition to any criminal or civil penalties provided for by federal, state or other local law, any violation of this Ethics Policy shall constitute a cause for censure by City Council adoption of a Resolution of Censure.

ORDINANCE NO. 2023-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING A PREZONE TO PLANNED DEVELOPMENT-RESIDENTIAL AND MASTER AND PRECISE DEVELOPMENT PLAN FOR A 102-UNIT CONDOMINIUM DEVELOPMENT

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

SECTION 1. The City Council makes the following findings:

- a) Hallmark Communities, Inc., ("Applicant") filed a land use development application (Planning Case Nos. PHG20-0032, PL20-0738, PL20-0739, PL21-0126, PL21-0127 and PL21-0128) constituting a request for an Annexation/Reorganization, Prezone to Planned Development-Residential (PD-R 14.6), General Plan Amendment from Suburban (S) to Urban III (U3), one-lot Tentative Subdivision Map, and a Planned Development Permit (Master and Precise Development Plan) for the development of 102 condominium units ("Project") on a 7.7 gross acre (6.98 net acre) site located at 2039, 2047, 2085 and 2089 N. Iris Lane (APNs 224-310-05-00, 224-310-06-00, 224-310-07-00, 224-310-08-00 and 224-310-20-00), as more particularly described in Exhibit "A," which is attached hereto and made a part hereof as though fully set forth herein ("Property"); and
- b) The Application was submitted to, and processed by, the Planning Division of the Development Services Department. The Applicant seeks approval of a Prezone designation of Planned Development-Residential (PD-R 14.6) on 7.7 acres, as shown on Exhibit "B," along with a Master and Precise Development Plan to construct a 102-unit condominium project, as shown on Exhibits "C" (Master Development Plan), and on file in the Planning Division, and incorporated herein as though fully set forth.
- c) The Planning Division of the Development Services Department completed its review and scheduled a public hearing regarding the application before the Planning Commission for December 13, 2022. Following the public hearing, the Planning Commission adopted Resolution No. 2022-14, which

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



STAFF REPORT

February 08, 2023
File Number 0800-10

SUBJECT

CONWAY RESIDENTIAL SUBDIVISION

DEPARTMENT

Development Services Department, Planning Division

STAFF RECOMMENDATION

Request the City Council adopt Resolution No. 2023-06, approving a Tentative Subdivision Map, Annexation/Reorganization, and Grading Exemption, for a 56-unit residential subdivision located at 916, 942, and 943 Stanley Avenue, and 2005 – 2175 Conway Drive (odd-numbered addresses only) (“Project”). The request also includes the adoption of a Final Mitigated Negative Declaration prepared for the Project pursuant to the California Environmental Quality Act.

Staff Recommendation: Approval (Development Services Department: Andrew Firestine)

Presenter: Adam Finestone, City Planner

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered the Project at its December 13, 2022, meeting, and the staff report has been included as Attachment “1.” Two members of the public submitted written correspondence to the Planning Commission ahead of or at that meeting (included in Attachment “2” to this report) and 14 members of the public spoke at the hearing: four (4) in favor, one (1) neutral, and nine (9) opposed. Commenters were generally related to land use compatibility, density, parking, and traffic generated by the Project. After deliberation, the Planning Commission voted 4 – 1 (Commissioner Paul voting no) to recommend approval of the Project.

FISCAL ANALYSIS

The Project is a private development project that will require the payment of development impact fees in effect at the time permits are requested. In addition, as part of the overall decision-making process to move forward with a proposed development project, it is important to evaluate the contributions and demands that development will place upon the City’s general fund and ability to provide ongoing public services. To avoid the need to subsidize new development, current City policy requires the developer of a private development project to establish a special funding mechanism to ensure that new development pays for itself.



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Community Facilities District (“CFD”) No. 2020-1, Citywide Services, was formed by the City Council on May 13, 2020 as a means by which a developer can offset its impacts to the provision of ongoing public services. The special tax that would be assessed on projects that opt to annex into the CFD is based upon the Fiscal Impact Analysis (FIA) that was prepared to support the creation of CFD No. 2020-01. While other means of offsetting general fund impacts are available, the benefit of entering CFD No. 2020-01 is that the annexation process is significantly streamlined, which saves staff time and costs to developers.

At the time of this writing, an applicant is required to fully offset potential impacts to the General Fund created by their project. This can be accomplished through either formation of a CFD, annexation into CFD No. 2020-01, or establishment of another lawful funding mechanism reasonably acceptable to the City (“Public Services Funding Agreement”). Should an applicant desire to utilize the streamlined process available through annexation into CFD No. 2020-01, they would be required to sign a Unanimous Consent to Annex, which serves as their authorization to annex. The Applicant declined to sign a Unanimous Consent to Annex at this time because they intend to sell the entitled Project to another developer. This would allow that developer an opportunity to decide whether they want to join citywide CFD No. 2020-1 or explore different options for the funding of ongoing public services. A Letter of Intent to Offset and Fund Ongoing Public Services has been provided by the applicant to this effect and is included as Attachment 3 to the Planning Commission staff report. Additionally, a condition of approval has been included as part of Exhibit “H” to draft City Council Resolution No. 2023-06 to reflect the requirement to establish a funding mechanism as described above prior to the recordation of the Final Map. (It should be noted, however, that the City Council has directed staff to look at the current policy and bring back recommendations that may modify this requirement.)

If the future developer opts to annex into CFD No. 2020-01, the Project would fall into Category 1. The maximum established levy for Category 1 is \$575.19 per unit for the tax year 2023/24, subject to annual adjustments which currently are based on the Consumer Price Index or 2%, whichever is greater. The City Council retains the discretionary authority to set the levy each year which could be set an amount less than the maximum levy. The costs for providing ongoing municipal services to the 56-unit Project is estimated at \$32,211. If annexation into CFD No. 2020-01 is the way by which the developer opts to provide the ongoing funding source, the affordable housing units would be included in the annexation; however, State law provides an exemption from CFDs for affordable housing owners that meet specific criteria (referred to as the welfare exemption) Should the developer opt to pursue a funding mechanism other than CFD No. 2020-01, such mechanism, including the assessment rate, would be subject to approval by City Council.

PROJECT DESCRIPTION

Escondido North, LLC (“Applicant”) submitted an application for a Tentative Subdivision Map, Grading Exemption, and Annexation for a 56-unit residential subdivision (Planning Case Nos. PL21-0269, PL21-0278, and PL22-0584). The subdivision would consist of 46 single-family lots, two of which would contain existing homes, and one multi-family lot that would accommodate ten (10) units (in the form of five



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duplexes) which would be deed-restricted as affordable housing units. The project includes a request for a density bonus which enables an increase in the otherwise allowable residential density in exchange for the provision of affordable housing units. One (1) of the lots included with the Project is currently in the County of San Diego and would be required to annex into the City of Escondido, subject to approval by the Local Agency Formation Commission.

A complete project description can be found on December 13, 2022, Planning Commission staff report (Attachment “1”).

LOCATION

The project site is comprised of seven parcels generally located on the west side of Conway Drive on both sides of Stanley Avenue, and north of Lehner Avenue. The property contains 13 dwelling units addressed as 916, 942, and 943 Stanley Avenue, and 2005 – 2175 Conway Drive (odd-numbered addresses only).

PREVIOUS ACTION

On April 6, 2022, the City Council authorized the intake and processing of the annexation request. That authorization does not commit the City Council to any future action on the Project.

On January 11, 2023, the City Council continued the item to the regularly scheduled meeting of February 8, 2023.

ANALYSIS

The Project is located within the Suburban (south of Stanley Avenue) and Estate II (north of Stanley Avenue) land use designations of the City’s General Plan and is zoned R-1-10 (single-family residential, 10,000 square foot minimum lot size) south of Stanley Avenue and RE-20 (estate residential, 20,000 square foot minimum lot size) north of Stanley Avenue. The parcel noted above subject to annexation is north of Stanley Avenue and was previously pre-zoned RE-20. The project proposes parcels which are smaller than those typically allowed in the subject zones and also includes duplex units which are not typically permitted in the subject zones. Because the project includes a density bonus request, the lot sizes and duplex units are permitted pursuant to the State Density Bonus Law and Article 67 of the Escondido Zoning Code. A complete analysis of the Project can be found in Attachment “1.”

ENVIRONMENTAL REVIEW

A Draft Initial Study/Mitigated Negative Declaration (“IS/MND”) was prepared for the Project, which identified potentially significant impacts in the areas of Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Hazards & Hazardous Materials, Noise, Transportation/Traffic, and Tribal Cultural Resource. However, mitigation measures were incorporated which would reduce the impacts to a less-than-significant level. The Draft IS/MND was released for a 20-day public review period on October



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28, 2022. Nine (9) comment letters were received which identified concerns in the areas of Density Bonus Law; traffic and circulation; interface between properties; displacement of bugs, wildlife, and rodents; associated grading activities, impacts, and construction noise; lack of architecture details or materials; street parking; demolition of existing homes; and land use allowances. Responses to those comments were prepared and have been incorporated into a Final IS/MND. The Final IS/MND has identified no new environmental impacts which have not been addressed through the aforementioned mitigation measures. The Final IS/MND has been included as Exhibit “E” to Resolution No. 2023-06.

CONCLUSION

The Project is a residential subdivision consisting of a total of 56 dwelling units on 46 lots. While the project site is zoned for single-family residential use at a lower density than proposed, the application includes a density bonus request to allow an increased density in exchange for the provision of affordable housing units, pursuant to the State Density Bonus law. As part of the request, the applicant has identified the need to construct multi-family dwelling units (duplexes) as an incentive to make the provision of 10 low-income units financially feasible and has also identified a number of waivers from development standards to accommodate the proposed subdivision. Because the Project must be reviewed and processed consistent with State Density Bonus Law, it is therefore consistent with the General Plan land use designation for the site, as well as other applicable General Plan goals and policies. Additionally, the provision of 10 affordable housing units will assist the City in meeting the housing goals established by the Regional Housing Needs Allocation.

Both the Planning Commission and City staff recommend the City Council approve the Project, including the adoption of the final Mitigated Negative Declaration prepared for it, and make an application to LAFCO for annexation/reorganization of a portion of the Project site.

RESOLUTIONS

- a. Resolution No. 2023-06
- b. Resolution No. 2023-06, Exhibits “A” through “H”

ATTACHMENTS

- a. Attachment “1” – December 13, 2022, Planning Commission staff report
- b. Attachment “2” – December 13, 2022, Planning Commission written correspondence
- c. Attachment “3” – January 11, 2023, City Council written correspondence

PLANNING COMMISSION

Agenda Item No.: G.1
Date: December 13, 2022

PROJECT NUMBER / NAME: PL21-0269 / Conway Residential Subdivision

REQUEST: A Tentative Subdivision Map and Grading Exemption for a 56-unit residential project. The project includes 47 residential lots comprised of 46 single-family lots, two of which have existing homes, and one multi-family lot which would accommodate five duplexes. An Annexation is also proposed for a 2.01 acre portion of project site that is currently in the County of San Diego. The request includes a density bonus and would provide 10 affordable housing units.

LOCATION: 916, 942, and 943 Stanley Avenue, and 2005 – 2175 Conway Drive (odd numbered addresses only)

APN / APNS: 224-141-23-00, 224-141-24-00; 224-141-25-00, 224-142-30-00, 224-142-31-00, 224-142-32-00, & 224-142-33-00

GENERAL PLAN / ZONING: S (Suburban), E2 (Estate II) / R-1-10 (Single Family Residential), RE-20 (Estate Residential)

APPLICANT: Escondido North, LLC

PRIMARY REPRESENTATIVE:
Dylan Bird & John Kaye (Argus Land Company, Inc.)

DISCRETIONARY ACTIONS REQUESTED: Tentative Subdivision Map, Grading Exemption and Annexation

PREVIOUS ACTIONS: The City Council authorized the intake and processing of the annexation request on April 6, 2022

PROJECT PLANNER: Adam Finestone, City Planner

CEQA RECOMMENDATION: Adoption of the Final Initial Study/Mitigated Negative Declaration

STAFF RECOMMENDATION: Approval

REQUESTED ACTION: Approve Planning Commission Resolution No. 2022-15

CITY COUNCIL HEARING REQUIRED: YES NO

REPORT APPROVALS:

- Andrew Firestine, Director of Development Services
- Adam Finestone, City Planner

PL21-0269
 Planning Commission Meeting
 December 13, 2022

A. BACKGROUND:

The project site totals 14.07 acres, including approximately 12.06 acres in the City of Escondido, and 2.01 acres in the County of San Diego that would have to be annexed into the City of Escondido. The property consists of seven parcels containing a total of 13 residential units, and is generally located west of Conway Drive on both sides of Stanley Avenue and north of Lehner Avenue, addressed as 916, 942, and 943 Stanley Avenue, and odd-numbered addresses between 2005 – 2175 on Conway Drive ("Property"), and is more particularly described in Exhibit "A" to draft Planning Commission Resolution 2022-15, which is attached to this staff report as Attachment 4. The area consists of existing suburban and semi-rural residential neighborhoods, as well as vacant land. Rincon Middle School is located southwest of the site.

The portion of the project site to the north of Stanley Avenue is zoned RE-20 (estate residential, 20,000 square foot minimum lot size) and has a General Plan land use designation of Estate II. The portion of the project site to the south of Stanley Avenue is zoned R-1-10 (single-family residential, 10,000 square foot minimum lot size) and has a General Plan land use designation of Suburban. The 2.01 acre parcel currently within the County of San Diego is on the north side of Stanley Avenue, east of Weiss Way, and was previously assigned a pre-zoning designation of RE-20, consistent with its Estate II General Plan land use designation. A location map, General Plan land use map and zoning map are included as Attachment 1 to this staff report.

B. SUMMARY OF REQUEST:

Escondido North, LLC ("Applicant") submitted an application for a Tentative Subdivision Map, Grading Exemption, and Annexation to subdivide the Property into 46 single-family residential lots and one multi-family lot ("Project"), as depicted on Exhibit "B" ("Plans") to Attachment 4. The single-family lots would accommodate 44 new single-family residences, with two existing single-family residences to remain, each being accommodated on its own lot. Lot sizes would range from 6,515 square feet to 14,071 square feet, with the two existing residences situated on 31,689 square foot and 12,384 square foot lots. The two existing residences currently occupy one 2.01 acre lot which is currently within the County of San Diego and would be required to annexation into the City of Escondido, subject to approval by the Local Agency Formation Commission ("LAFCO"). The 10 multi-family units would be in the form of five duplexes on one 31,368 square foot lot, and would be mapped for condominium ownership. Two lettered lots would also be provided for open space and stormwater detention basins.

Underlying zoning and General Plan land use designations for the Property would typically accommodate 40 dwelling units. However, Article 67 of the Escondido Zoning Code, and State Density Bonus law, allow an increase in residential density for projects that restrict a percentage of those base units as affordable housing units. In the case of the Project, restricting 10 units for affordable housing to low-income households (those making less than 80% of the area median income) would allow the Applicant to develop the Project as designed. The project is also entitled to up to three density bonus incentives/concessions, and can request other waivers to development standards that are necessary to accommodate the construction of the affordable units. In order to provide the required number of affordable housing units, the Applicant has proposed to construct five duplexes (10 units) which would be restricted for sale to low-income households. Additional information on the requested density bonus is provided in the Analysis section later in this staff report.

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The Property is on the west side of Conway Drive, running approximately 1,500 feet from Lehner Avenue to the south, to a point approximately 775 feet north of Stanley Avenue. The Property has approximately 500 feet of frontage on the north side of Stanley Avenue, and 380 feet on the south side. Frontage on Lehner Avenue is approximately 380 feet on the north side only. Conway Drive and Stanley Avenue are classified as Local Collector roadways in the Mobility and Infrastructure chapter of the Escondido General Plan, with Lehner Avenue being an unclassified residential street. All three roadways would be improved with curb, gutter and sidewalk along their frontages in conformance with the General Plan and City of Escondido design standards. Access onto the Property would be via new public roads on the north sides of Lehner and Stanley Avenues (Streets "F" and "H," respectively) for the new single-family lots, and a new private drive toward the north end of the Property along Conway Drive for the multi-family lot. Internal circulation would include the aforementioned streets, as well as an additional public street (Street "G"), all of which would terminate in cul-de-sacs. The two existing homes would continue to take access from Stanley Avenue.

Existing topography of the Property generally slopes downward to the northeast and southeast from a high point at the western Property boundary on Stanley Avenue. A natural draining course runs westerly along the northern boundary of the Property. Grading for the Project would include a combination of cut and fill slopes, and would require approximately 41,000 cubic yards of imported dirt. A Grading Exemption has been requested for a fill slopes up to approximately 17.5 feet in height (including a six foot retaining wall) along backyard of Lot 10, and for a cut-slope (approximately 20 feet high) with a grade exceeding 2:1 at the southwest corner of Lot 24, as shown on the Plans. Stormwater detention basins would be provided in the northwestern and southeastern corners of the Property and have been designed in accordance with City and regional standards.

As noted, the unincorporated 2.01 acre parcel would need to be annexed into the City of Escondido. Approval of the Project by the City of Escondido would authorize the applicant to make application to LAFCO for the annexation of this portion of the Property on behalf of the City. LAFCO is responsible for ensuring the logical expansion of jurisdictional boundaries, including ensuring that territory involved in annexation is physically contiguous to city boundaries and that the annexation configuration assures the efficient provision of municipal services.

C. SUPPLEMENTAL DETAILS OF REQUEST:

1.	Property Size:	Gross: 14.07 acres Net: 12.63 acres	
2.	Number of Lots:	<u>Existing</u> 7	<u>Proposed</u> 47
3.	Number of Units:	15	Single-family (new): 44 Single-family (existing): 2 <u>Multi-family (new): 10</u> Total 56

4.	Density:	4.43 units/acre (net)	
		<u>Required</u>	<u>Proposed*</u>
5.	Lot Size:	R-1-10: 10,000 sq. ft. (min) RE-20: 20,000 sq. ft. (min)	Single-family: 6,516 – 31,689 sq. ft. Multi-family: 31,368 sq. ft.
6.	Lot Coverage (max):	R-1-10: 40% RE-20: 30%	50%
7.	Setbacks – R-1-10 Zone (min):	Front: 15' to building 20' to garage Side: 5' / 10' Rear: 20'	Front: 10.5' to building 15' to garage Side: 5' Rear: 20'
8.	Setbacks – R-1-10 Zone (min):	Front: 25' Side: 10' Rear: 20'	Front: 10.5' to building 15' to garage Side: 5' Rear: 20'
9.	Floor Area Ratio:	0.5	0.6
10.	Height (max):	35'	35'
11.	Lot Width (min):	R-1-10: 80' RE-20: 100'	60'
12.	Parking:	2 covered spaces/unit	2 covered spaces/unit

* Deviations proposed as part of density bonus request

D. PROJECT ANALYSIS:

1. General Plan Conformance:

a) Land Use and Community Form:

The City's General Plan land-use designation for the project site is Suburban (S) south of Stanley Avenue and Estate II (E2) north of Stanley Avenue, allowing single-family residential development of up to 3.3 and 2.0 dwelling units per acre, respectively and is permitted within the Suburban land-use designation and up to 2.0 dwelling units per acre permitted within the Residential Estates (E2). Based on the size of the Property (14.07 acres), the underlying land-use designation would allow up to 40 units. The request to subdivide the Property site into 47 lots to accommodate 56 units with a resulting net density (excluding dedicated rights-of-way) of 4.43 dwelling units per acre is consistent with the similar land use density in the vicinity.

State Density Bonus law is codified in Government Code section 65915 – 65918 and specifically states, "granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment...zoning change, or other discretionary approval." As such, regardless of density, the Project is consistent with provisions of the General Plan as long as it complies with density bonus law and Article 67 of the Escondido Zoning Code.

b) Housing:

The City is taking steps to encourage, promote, and facilitate the development of housing consistent with policies 1.1 and 2.1 of the Housing Element of the General Plan, while accommodating the City's share of regional housing needs, consistent with Government Code section 65584. No Net Loss Law (Government Code section 65863) ensures development opportunities remain available throughout the planning period to accommodate a jurisdiction's Regional Housing Needs Allocation ("RHNA"), especially for lower- and moderate-income households. In general, jurisdictions cannot approve new housing at significantly lower densities or at different income categories than was projected in the Housing Element without making specific findings and identifying other sites that could accommodate these units and affordability levels "lost" as a result of the approval. The "no net loss" provisions apply when a site is included in the jurisdiction's Housing Element's inventory of sites and is either rezoned to a lower residential density or is approved at a lower residential density than shown in the Housing Element. (Gov't Code § 65863(b).)

Three of the seven parcels that make up the Project site are identified in the City's 6th Cycle Housing Element inventory of sites suitable for residential development, and contain nine dwelling units. The remaining four parcels have a total of six dwelling units, though those parcels are not identified in the inventory. All parcels in the Project site would be assumed to accommodate housing for above-moderate income households based on the type of development that typically occurs on properties with Estate II and Suburban General Plan land use designations. Because the provision of "no net loss" applies to housing located on any site listed in the City's Housing Element, the City is required to determine if this Project or a decision related to this Project would be subject to No Net Loss provisions and its remedies. Geographically, at least 31 of the new units, including the 10 affordable units, will be on the three suitable sites inventory parcels. Therefore, the Project would result in no net loss pursuant to the Government Code.

Therefore, the provisions of the Government Code related to no net loss are not applicable because the City would still have adequate capacity to provide housing in the amount and at the income levels identified in the Housing Element. In fact, the Project would provide housing at a significantly higher rate than that specified in the Element. Findings required by the Government Code have been included in Exhibit "D" to Attachment 4.

2. Zoning Conformance:

As noted, the project consists of the construction of single- and multi-family residential units, street improvements, stormwater basins, and common open space areas. While no zone change is proposed, lot sizes will be smaller than those otherwise required in the subject property's R-1-10 and RE-20 zones, pursuant to State Density Bonus law. Modifications to other development standards and zoning code requirements necessary to make the provision of affordable housing units feasible have been requested, as described below. Pursuant to Government Code section 65915(e)(1), a city may not "apply any development standard that will have the effect of physically

precluding the construction of a development...at the densities or with the concessions or incentives permitted” by Density Bonus law.

3. Density Bonus and Residential Incentives

Article 67 of the Escondido Zoning Code is intended to encourage and incentivize the production of housing affordable to all segments of the population, consistent with State Density Bonus law. At a high level, a density bonus project is permitted to build more units than would otherwise be permitted on a particular property in exchange for restricting a percentage of those units for moderate, low, or very-low income households. The increase in density is based on the percentage of units restricted and the income level at which they are restricted for. A density bonus project is also entitled to up to three incentives or concessions, which are defined in Government Code section 65915(k), in part, to include “[a] reduction in site development standards or a modification of zoning code requirements or architectural design requirements... that results in identifiable and actual cost reductions...” A density bonus project is allowed a maximum increase in density of 50% and a maximum of three incentives or concessions. Additionally, density bonus projects are entitled to waivers from development standards which would have the effect of physically precluding the construction of a density bonus project. For reference, Article 67 of the Escondido Zoning Code can be found at the following link: https://library.qcode.us/lib/escondido_ca/pub/municipal_code/item/chapter_33-article_67?view=all.

The Applicant has submitted a *Density Bonus Project Proposal* (“Proposal”) which outlines their request. It has been updated several times, most-recently on December 1, 2022, to address issues that have been identified through the entitlement process, and is included as Attachment 2 to this staff report. The Proposal includes a density bonus calculation which identifies the density that could be achieved on each parcel based on the General Plan land use designation, and how many density bonus units could be achieved on each lot as well as the number of affordable housing units that would be required. The numbers are then added up to determine the maximum yield derived from the Property, the number of affordable housing units that would be provided, and the number of bonus units. As shown in the Proposal, the Property could accommodate 40 dwelling units, and by reserving 10 of them (25%) as affordable units for low-income households (those making less than 80% of the area median income, adjusted for household size), the project could ultimately yield up to 18 bonus units. While this would allow the Applicant to provide up to 58 units, the Project only proposes 56 units, two of which are existing units.

It should be noted that the density bonus calculation provided by the Applicant was done in a different manner than has been the case on other density bonus projects in the City. While the Applicant determined the density bonus calculation separately for each parcel and then added up the total number of units, staff would typically add up the size of the parcels first, then determine the number of units which be attained. Certain provisions of Article 67 of the Escondido Zoning Code could lend credence to the Applicant’s methodology, including the requirement for any density calculations to be rounded up (Section 33-1412(b)), and the requirement that the Article be interpreted liberally in favor of producing the maximum number of total housing units (Section 33-1423(b)), both of which are consistent with State Density Bonus law.

The applicant has also requested one incentive or concession for the Project (although they are entitled to up to three). Specifically, they have requested the ability to construct duplex units in the RE zone instead of detached single-family residences. In addition, they have identified a series of waivers of development standards that would otherwise preclude the construction of the density bonus project as designed. These waivers include setback reductions, lot size reductions, increases in lot coverage and floor-area ratio, lot width reductions, modifications to street standards and alternative Fire Department turn-around, grading exemptions, and modifications to storm drain standards. Staff has reviewed the requested waivers and determined that they would not create an adverse impact upon the health, safety or the physical environment.

Density Bonus law requires that any rental unit occupied by a lower income household which is demolished in order to accommodate the new project be replaced and deed-restricted as part of the new project. In other words, any density bonus project must provide at least the same number of affordable housing units, at the same level of affordability, as currently exists. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.

The Property consists of 15 existing dwelling units. Two of those are to-remain, one is owner-occupied, and the remaining 12 are rental units. In Escondido, 78.2 percent of renter households are occupied by lower income renters. As such, 10 of the 12 rental units to be demolished can be assumed to be occupied by lower income renters. Because the Project would provide 10 affordable housing units, it meets the requirements of the relevant Density Bonus law provisions.

4. Annexation:

As noted previously, the Project includes seven existing parcels, one of which is currently in the County of San Diego. That lot is approximately 2.01 acres and contains two single-family residences. The homes on the lot are to remain, however the Project will create new property lines such that each home will be on its own lot. Combined, the two new lots will comprise 1.01 acres, with the remaining 1 acre being wrapped into the new subdivision and accessing from the proposed internal roads. Both existing homes would continue to be accessed directly from Stanley Avenue, and would be tied into the existing City sewer in that street as well.

As part of the annexation process, the Applicant surveyed other property owners in the nearby unincorporated County of San Diego to determine if they had any interest in annexing into the City along with the parcel that would be annexed as part of the project. Responses were received from three neighbors, with zero stating that they would be interested in joining the annexation request. Should the Project be approved by the City Council, annexation would be subject to approval by LAFCO prior to Final Map recordation. The City Council's approval would authorize the Applicant to submit an application for annexation to LAFCO on the City's behalf.

PL21-0269
 Planning Commission Meeting
 December 13, 2022

5. Site Design:

a) Subdivision Design, Access and Parking:

The Applicant proposes to subdivide the Property into 46 single-family residential lots ranging in size from 6,515 – 31,689 square feet (including the two lots that would each accommodate one existing single-family residence), and one 31,368 square foot multi-family residential lot to accommodate five duplexes. Twenty-one of the new residential lots would take access via a new public street on the north side of Lehner Avenue and 23 would take access from a new public street on the north side of Stanley Avenue, in a typical suburban setting. Within the portion of the subdivision north of Stanley Avenue, a short private driveway would “T” off of the primary road, and all on-site roads would terminate in cul-de-sacs. The two existing homes to remain would continue to take access from Stanley Avenue, and the five duplexes would be accessed via a private drive toward the north end of the Property from Conway Drive. A 12 foot wide private driveway would be provided at the northern Property boundary to provide access to a detention basin.

The Project would be required to dedicate eight feet of land on the north side of Lehner Avenue as public right-of-way. Required public right-of-way along all other Project frontages already exists, and all streets would be improved to their ultimate half-street width with curb, gutter and sidewalk on the Project-side of the streets, consistent with City standards.

Even though Density Bonus law would allow for a reduction in the number of required on-site parking spaces, the Project would provide two covered parking spaces for each unit in accordance with Article 39 (Off-Street Parking) of the Escondido Zoning Code. Additional parking would be available in the driveways for most of the single-family residences. On-street parking within the Project site would be allowed (both sides of streets “F” and “H,” and on one side of street “G”) except along cul-de-sacs, where parking would be prohibited in order to provide necessary turning radii for fire trucks. Parking would also be prohibited along the private drive providing access to the duplexes, which would terminate in a hammerhead to allow fire truck turn-around. A condition of approval would be applied to the project requiring driveways on the internal streets to be located in a manner to allow the greatest number of on-street parking spaces possible. Parking would also be permitted be on the external public streets (Conway Drive, and Stanley and Lehner Avenues).

b) Grading:

The existing high-point of the Property is at the western Project boundary on Stanley Avenue, with the Property generally sloping down to the northeast and southeast from that point. Grading would consist of a combination of cut and fill slopes to provide relatively flat pads for the new lots. The largest cut slope would be approximately 20 feet in height in the southwest corner of Lot 24, and the largest fill slope would be approximately 17.5 feet in height (including a six foot retaining wall) in the northwest corner of Lot 10.

Pursuant to Article 55 of the Escondido Zoning Code, grading exemptions are required for any fill slope within 50 feet of a property line that exceeds 10 feet in height and must include the height of any retaining wall in the calculation. The aforementioned fill slope in the northwest corner of Lot 10 meets these parameters, as does a fill slope (including retaining wall) in the northeast corner of the project site, adjacent to the access driveway to the detention basin. Grading exemptions are also required for any slopes greater than 2:1 which are determined by the Director to impact adjacent properties. The aforementioned fill slope at the southwest corner of Lot 24 may have such an impact so it is being included in the request as well.

The decision-making body is required to consider several factors when reviewing a requested grading exemptions, as follows: 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. The cited Escondido Zoning Code section (33-1066) can be found here: https://library.qcode.us/lib/escondido_ca/pub/municipal_code/item/chapter_33-article_55-sec_33_1066.

In this instance, because the City cannot require compliance with zoning or other development standards which would physically preclude the construction of the proposed density bonus project, the Applicant is entitled to the requested grading exemptions unless an adverse impact upon the health, safety or the physical environment would occur. Therefore, the only item of those listed above that must be considered is the stability of the slopes; all others would be waived as a result of the density bonus request.

6. Phasing of Development:

The Applicant has indicated to staff that they do not intend to construct the project themselves. Rather, they would sell the project for construction by a different entity. This is common for development projects due to areas of expertise, with some developers focusing on processing entitlements of land and others with more experience in actual construction.

As discussed in Attachment 2, the Applicant has stated that the affordable housing units would be developed by Habitat for Humanity, a non-profit organization with expertise in construction and management of affordable housing projects. Upon completion of construction, Habitat for Humanity would be responsible for identifying and qualifying prospective buyers of the affordable housing units. Deed restrictions would be placed on these units to ensure that future sales of the units are limited to low-income households for a period of 55 years. The restrictions would be included in an affordable housing agreement that would be recorded concurrently with the final map for the project.

Because the Project has requested an increase in allowable density pursuant to State Density Bonus Law and Article 67 of the Escondido Zoning Code, it is important to ensure that the affordable housing units be constructed in a timely manner. As a residential subdivision where the affordable units are anticipated to be constructed by a different developer than the market-rate units, assurances must be put in place to ensure that the City receives the benefits derived from

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the provision of affordable housing prior to construction of the market-rate units in a quantity which exceeds that which would otherwise be permitted on the Property. Development of the Property could yield up to 40 units absent the density bonus. Because two existing units would remain, 38 new units could be constructed. As such, conditions would be placed on approval of the Project that would require the issuance of certificates of occupancy for the affordable housing units prior to issuance of the building permit for the 39th market rate unit.

E. FISCAL ANALYSIS

The proposed Project is a private development project that will require the payment of fees in effect at the time permits are requested. As part of the overall decision-making process to move forward with a proposed development project, it is important to evaluate the contributions and demands that development will place upon a public agency's general fund and the city or county's ability to provide ongoing public services. To avoid the need for a city or county to subsidize new development, cities and counties can establish or require special funding mechanisms to ensure that new development pays for itself.

Community Facilities District ("CFD") No. 2020-1, Citywide Services, was formed by the City Council on May 13, 2020. The special tax that will be assessed on properties as a result of the development of new residential units is based upon the Fiscal Impact Analysis (FIA) that was prepared to support the creation of CFD No. 2020-01. Developers to whom these residential project entitlements are assigned are responsible to establish a funding mechanism to provide a source of funds for the on-going municipal services required for the project. The benefit of entering CFD No. 2020-01 is that the annexation process is significantly streamlined, which saves staff time and costs to developers.

At the time of this writing, an applicant is required to fully offset potential impacts to the General Fund created by their project. This can be accomplished through either formation of a CFD, annexation into CFD No. 2020-01, or establishment of another lawful funding mechanism reasonably acceptable to the City ("Public Services Funding Agreement"). Should an applicant desire to utilize the streamlined process available through annexation into CFD No. 2020-01, they would be required to sign a Letter of Intent ("LOI") to do so, which serves as their authorization to annex. The Applicant declined to sign an LOI because they intend to sell the entitled Project to another developer. This would allow that developer an opportunity to decide whether they want to join citywide CFD No. 2020-1 or explore different options for the funding of on-going public services. A Letter of Intent to Offset and Fund Ongoing Public Services has been provided by the applicant to this effect and is included with this staff report as Attachment 3. Additionally, a condition of approval has been included as part of Exhibit "E" to draft Planning Commission Resolution No. 2022-15 to reflect the requirement to establish a funding mechanism as described above prior to recordation of the Final Map. (It should be noted, however, that the City Council has directed staff to look at the current policy and bring back recommendations that may modify this requirement.)

If the future developer opts to annex into CFD No. 2020-01, the Project would fall into Category 1. The current rate for Category 1 is \$575.19 per unit through the end of this fiscal year (June 30, 2023), subject to annual adjustments which currently are based on the Consumer Price Index or 2%, whichever is greater. The total annual cost for the 56-unit Project would be approximately \$32,211. If annexation into CFD No. 2020-01 is the way by which the developer opts to provide the ongoing

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funding source, the affordable housing units would be included in the annexation, however they would be eligible for a welfare exemption from the Franchise Tax Board. Should the developer opt to pursue a funding mechanism other than CFD No. 2020-01, such mechanism, including the assessment rate, would be subject to approval by City Council.

F. ENVIRONMENTAL STATUS:

The California Environmental Quality Act (CEQA) applies to proposed projects initiated by, funded by, or requiring discretionary approvals from state or local government agencies. CEQA Guidelines Section 15367 states that a lead agency, in this case, the City of Escondido, is the agency that has the principal responsibility for carrying out or approving a project and is responsible for compliance with CEQA. As lead agency, the City must complete an environmental review to determine if implementation of the Project would result in significant adverse environmental impacts. In compliance with CEQA, an Initial Study ("IS") has been prepared to assist in making that determination. Based on the nature and scope of the Project and the evaluation contained in the IS environmental checklist, the City has concluded that a Mitigated Negative Declaration (MND) is the appropriate level of analysis for the Project.

As provided in CEQA Statute Section 21064.5, and stated in CEQA Guidelines section 15070, an MND can be prepared when "(a) the initial study shows that there is not substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or (b) the initial study identifies potentially significant effects, but (1) revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and (2) there is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment." The MND prepared for the Project identified potentially significant impacts in the areas of Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Hazards & Hazardous Materials, Noise, Transportation/Traffic, and Tribal Cultural Resource. However, through incorporation of mitigation measures, the impacts can be reduced to a less-than-significant level.

A Draft IS/MND was released for a 20-day public review period on October 28, 2022. Nine comment letters were received which identified concerns in the areas of Density Bonus Law; traffic and circulation; interface between properties; displacement of bugs, wildlife, and rodents; associated grading activities, impacts, and construction noise; lack of residential architecture details or materials; street parking; demolition of existing homes; and land use applications. Responses to those comments were prepared and have been incorporated into a Final IS/MND. The Final IS/MND has identified no new environmental impacts which have not been addressed through the aforementioned mitigation measures. The Final IS/MND has been included as Exhibit "F" to Planning Commission Resolution No. 2022-15.

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G. PUBLIC INPUT:

In addition to public notification provided when the Draft IS/MND was released for public review, notification of this public hearing was provided consistent with the requirements of both the Escondido Zoning Code and the State Law. Additionally, because the Project includes a request for annexation, surveys were provided to property owners in the surrounding unincorporated County of San Diego as described in the Annexation section above. Beyond those comments provided on the Draft IS/MND and “no” responses to the annexation survey staff has not received any correspondence from the public regarding the Project as of the publication of this report.

H. CONCLUSION AND RECOMMENDATION:

The Project proposes a residential subdivision that is compatible with the surrounding uses and makes efficient use of the Property. Additionally, the Project would include much-needed affordable housing and provide opportunities for home-ownership in a suburban setting where such housing is not typically available. The project is consistent with the provisions of Article 67 of the Escondido Zoning Code and State Density Bonus law.

Staff recommends that the Planning Commission adopt Resolution 2022-15, recommending City Council approval of the Tentative Subdivision Map, Grading Exemptions, and Annexation, based on the findings of fact and conditions of approval included as Exhibits “D” and “E,” respectively, to said Resolution, and adoption of the Mitigated Negative Declaration prepared for the Project included as Exhibit “F” to said Resolution.

ATTACHMENTS:

1. Location Map, General Plan Map, and Zoning Map
2. Density Bonus Project Proposal
3. Letter of Intent to Offset and Fund Public Services
4. ~~Planning Commission Resolution No. 2022-15 with Exhibits “A” through F”~~

Attachment 1
Location Map, General Plan, and Zoning Map



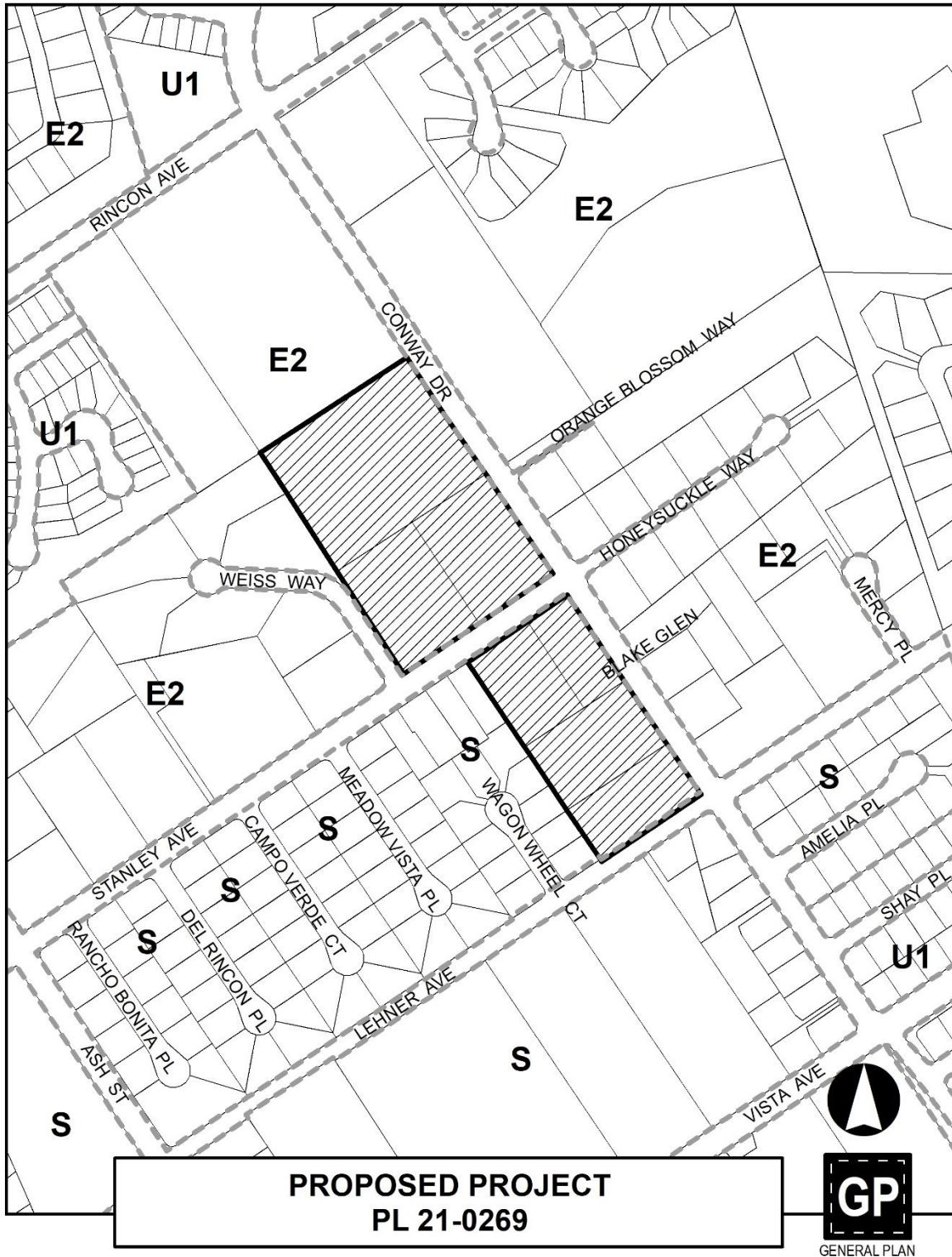
**PROPOSED PROJECT
PL 21-0269**



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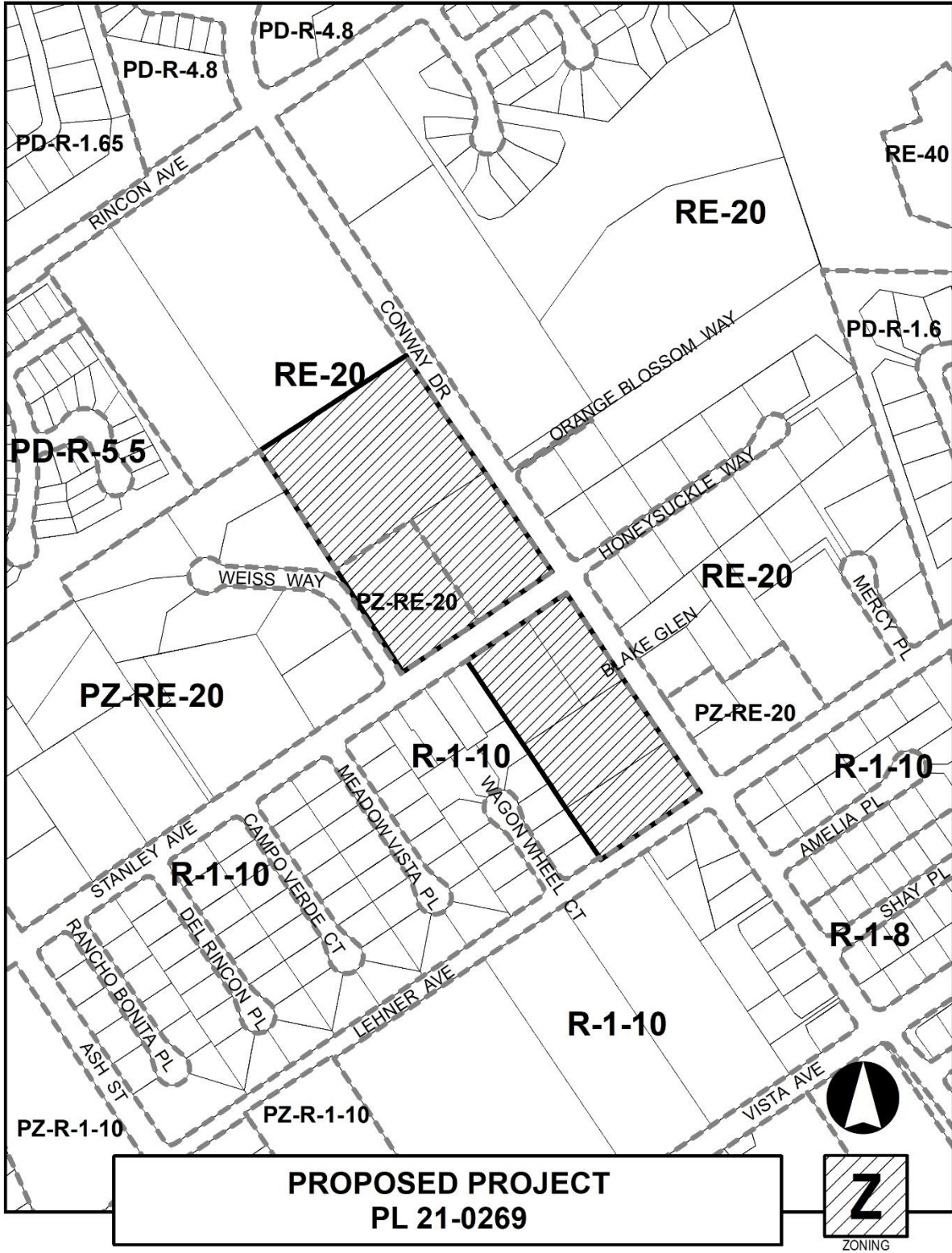
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Escondido North LLC

Density Bonus Project Proposal

Revised 12/1/22

Escondido North LLC is proposing the development of a density bonus project consisting of 54 new residential units, as well as 2 existing residential units that will remain. Forty-four of the new housing units are to be market-rate single-family homes and ten are to be affordable duplex units which will be restricted to “low-income” households. The site is currently comprised of seven parcels with APNs as shown in the table below, and lies northwest of the intersection of Conway Drive and Lehner Avenue, extending north of Stanley Avenue. The site is surrounded by new homes as well as older housing stock.

Pursuant to Escondido Municipal Code Sections 33-1412 and 33-1413, the applicant for a density bonus project shall submit a written proposal for the project including the information provided below. This document is intended to satisfy the requirements therein.

Housing costs and market pricing depend on market conditions, including mortgage rates. As such, pricing for the market-rate units would be determined at the time they come to market. By law, pricing for restricted units is based on the area median income and depends on the size of the household. For “low-income” units, housing costs cannot exceed 30% of 70% of the area median income for a family of a given size. The restricted pricing would be set accordingly, depending on those factors at the time they are available on the market.

Habitat for Humanity has expertise in the construction of affordable housing, as well as the identification and qualification of, and sale to, buyers of affordable housing. They would manage and control the construction and sale of the affordable units, and would be responsible for identifying and qualifying the buyers.

Density Bonus Calculations

The project parcels have two different General Plan designations as reflected in the table below. In addition to the information required (in bold), we have included additional information for clarity. Please note that given the number of affordable units, 18 Bonus DUs and 58 total DUs are allowed, but the project proposes only 16 Bonus and 56 total DUs.

<u>APN</u>	<u>Acres</u>	<u>GP DUs/Ac</u>	<u>GP DUs</u>	<u>Proposed Low Income Units</u>	<u>Low-Income DUs As Percent of GP</u>	<u>Density Bonus Permitted</u>	<u>Allowed Density Bonus DUs</u>	<u>Allowed Total DUs</u>	<u>Allowed DUs/Acre</u>
224-142-33	1.40	3.3	5	1	20%	35%	2	7	5.0
224-142-32	1.57	3.3	6	1	17%	29%	2	8	5.1
224-142-31	0.94	3.3	4	1	25%	50%	2	6	6.4
224-142-30	1.36	3.3	5	1	20%	35%	2	7	5.1
224-141-25	2.09	2.0	5	2	40%	50%	3	8	3.8
224-141-23	4.70	2.0	10	3	30%	50%	5	15	3.2
224-141-24	2.01	2.0	5	1	20%	35%	2	7	3.5
Totals:	14.1		40	10			18	58	4.1

There are currently 13 dwelling units on the property and there have been no other units on the property in the last five years. One dwelling unit is an owner-occupied 1,975 square-foot single-family home built in 1946. The other 12 dwelling units are multi-family rental units. Size of household and incomes of those units are not known. They were built between 1943 and 1995 and range between 725 and 2,688 square feet.

Title does not show any recorded covenant, ordinance, or law that has restricted rents on these parcels in the last five years.

This revision to the Density Bonus Project Proposal originally submitted by Escondido North LLC on June 1, 2021 and previously updated 9/2/21, 3/18/22, and 10/27/22 is a result of conversations with city staff and consultation with land use attorneys and the city attorney's office. Below are the updated proposed incentives and waivers based on those conversations. These incentives and waivers will help to provide much-needed housing, and in particular, affordable housing, to the city of Escondido.

Concession/Incentives

The proposed project provides 10 low income units of the General Plan-designated 40 units, or 25% low income units. Pursuant to Government Code section 65915(d)(2), a project that provides at least 24% of the units for lower income shall receive three concessions/incentives. However, at this time we propose only one concession/incentive which is for the construction of duplex product in the R-E zone. Cost savings include less dirt import, less paving, a smaller detention basin, as well as saving on architectural costs due to the use of existing plans, and construction savings due to the use of less windows and stucco.

Waivers

Pursuant to Government Code section 65915(e)(1), development standards may not be imposed that would preclude the construction of a project that is allowed under the density bonus law. The table below lists changes or waivers to development standards that, if not granted, would physically preclude the construction of the project as designed. All identified development standards below fall squarely under the definition of "development standards" in Government Code section 65915(o)(1) which includes "a site or construction condition... that applies to a residential development pursuant to any... [city] policy...."

<u>Waiver</u>	<u>Dev. Standard</u>	<u>Proposed</u>	<u>Justification</u>
Front Yard Setback	R-E zone: 25' R-1 zone: 15' with a garage facing the street required to be setback 20'	10.5' (with street-facing garage to be setback 15')	The existing standards would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard without making backyards unfeasibly small. Therefore, the existing setback development standard would need to be reduced in order for the project to be constructed as designed.

Interior Side Yard Setback	R-E zone: 10' R-1 zone: 5' on one side (and 10' on the other, unless abutting an alley)	5' on both sides	The existing standards would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard. The existing development standard would need to be reduced in order for the project to be constructed as designed.
Accessory Building Setback Requirements	Front, side, and rear setback requirements as stated in EMC Sec. 33-102	Any reference in EMC Sec. 33-102 to "underlying" zoning shall be interpreted as the main building's actual setback which may have been reduced given the setback waivers herein, or less if state law allows.	As the primary dwelling unit may have reduced setbacks, the ADU's setback would need to be reduced as well. The existing development standard would need to be reduced in order for the project to be constructed as designed.
Min. Lot Area	R-E zone: 20,000 SF R-1 zone: 10,000 SF	6,515 SF	The existing standards would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard. It would need to be reduced in order for the project to be constructed as designed.
Avg. Lot Width	R-E zone: 100' R-1 zone: 80'	60'	The existing standards would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard. It would need to be reduced in order for the project to be constructed as designed.
Lot Width @ Street	R-E zone: 20' R-1 zone: 35'	R-1 zone: 25'	The existing standards would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the R-1 standard. It would need to be reduced in order for the project to be constructed as designed.

<p>Max Lot Coverage for Primary & Accessory Structures</p>	<p>R-E zone: 30% R-1 zone: 40%</p>	<p>50%</p>	<p>The existing standards would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard when potential ADUs are considered. The standards would need to be increased to a percentage more appropriate for lots of the proposed size.</p>
<p>Max FAR</p>	<p>0.5</p>	<p>0.6</p>	<p>The existing standard would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard when potential ADUs are considered. The standard would need to be increased to a ratio more appropriate for lots of the proposed size.</p>
<p>Suburban Residential Road (for "G" Street)</p>	<p>48' ROW with 28' paved Gutter on both sides 6 parking spaces on each lot, min. Sidewalk on 1 side upon approval Parking plan showing 1.5 on-street spaces per unit</p>	<p>34' ROW with 28' paved No gutter on south side 4 parking spaces on each lot, min. Sidewalk on 1 side (hereby w/approval) No parking plan required</p>	<p>The existing standard would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard. It would need to be reduced in order for the project to be constructed as designed. Gutter is not needed on the south side as the project design does not drain water along that edge.</p>

<p>Grading Along Weiss Way</p>	<p>Possible required setback for accommodation of possible future widening of Weiss Way to the east.</p>	<p>Reduced setback if Grading Exemption is not possible (as discussed with staff) since Weiss Way can not be widened to the east.</p>	<p>As discussed with City staff and as demonstrated on the exhibit provided in the Jan. 24 letter and provided again concurrent with this updated Density Bonus Project Proposal (all as part of the 4th submittal), Weiss Way cannot be widened to the east due to the existing house that abuts it at 916 Stanley Ave. As discussed with City staff, if the designed grading along Weiss Way cannot be approved under a Grading Exemption, the existing standard would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard. It would need to be reduced in order for the project to be constructed as designed.</p>
<p>Lot 13 Access per Fire-5 Comment</p>	<p>Cul-de-sac instead of hammerhead</p>	<p>Hammerhead</p>	<p>Fire has indicated this should be changed from a hammerhead to a cul-de-sac, but the standard (defined here as a cul-de-sac) would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard. It would need to be waived in order for the project to be constructed as designed. Precedence for such is another Habitat for Humanity duplex project, TR 20-002, GP21-0003. As in that case, and per Fire's requirement, no parking will be provided on the hammerhead road.</p>

<p>Conway Storm Drain Location</p>	<p>Not to be located under sidewalk or parkway</p>	<p>Small portion to be located under ROW</p>	<p>Pursuant to Jan. 5 conference call with Engineering & Planning, site constraints dictate that to get the number of lots as designed, a small portion of the storm drain must lie under the parkway. To minimize the amount under the ROW, the project has been redesigned to bring the storm drain between lots 14 & 15, as close as possible to the historical poing of entry. The Conway Dr. low point does not coincide with the historical entry point so some length is needed to connect the two, and crossing the SDCWA pipeline 2 is to be avoided.</p>
<p>Conway Storm Drain Easement</p>	<p>20' wide</p>	<p>10' wide, with no drivable surface, no access to interior Street "H"</p>	<p>The existing standard would preclude construction of the project as designed. The project makes efficient use of the site which results in limited physical area to meet the standard. Therefore, the standard would need to be reduced in order for the project to be constructed as designed.</p>

We look forward to providing additional housing, including affordable housing, to the city of Escondido.

October 27, 2022

City of Escondido, Planning Department
ATTN: Mr. Greg Mattson, AICP
201 N Broadway
Escondido, CA 92025

:

Re: Letter of Intent to Offset and Fund Ongoing Public Services

Dear Mr. Mattson:

Escondido North LLC declines to sign the above-referenced letter of intent ("LOI") because we plan to sell the entitled property and do not know how the buyer will want to approach the options for funding mechanisms. It makes most sense to let the builder decide whether they want to join citywide CFD 2020-1 or explore different options for the funding of public services.

Thank you,

Escondido North LLC

By: Argus Flatiron Management LLC, its Manager

By: 
Dylan Bird, Manager



PLANNING COMMISSION

Agenda Item No.: G.1
Date: December 13, 2022

TO: Planning Commissioners

FROM: Planning Staff

SUBJECT: Conway Residential Subdivision - Modified Condition of Approval and Supplemental Project Information

I. Revised Condition of Approval

A prior memorandum sent to the Planning Commissioners by staff on December 12, 2022, identified a revision to a proposed condition of approval for the subject project. An additional revision to that condition (Housing and Neighborhood Services Condition No. 1 found on page 13 of Exhibit "E" to Planning Commission Resolution No. 2022-15) has been identified and is provided below. (The underlined text below reflects additional language based on the original condition of approval.)

The Project shall provide a minimum of 10 affordable dwelling units for low income households (those earning less than 80% of the Area Median Income for the San Diego-Carlsbad-San Marcos MSA). Prior to issuance of a building permit, the developer shall sign a binding affordable housing agreement with the City, which will set forth the conditions and guidelines to be met in the implementation of Density Bonus Law requirements and any other applicable requirements, and notes shall be added to the Final Map to this effect. It is anticipated that the affordable dwelling units will be for-sale units, however if they are rented, the affordable housing agreement shall require that the developer will be responsible for annual recertification of household income qualifications and compliance with rent limits. If the affordable dwelling units are rented, 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 (55 years for all target units as described in Government Code section 65915(c)). Income-qualified households will be monitored by the City of Escondido Housing and Neighborhood Services Division for the duration of the affordability period. Monitoring fees will be applied per the affordable housing agreement.

If the affordable dwelling units are for-sale units, the affordable housing agreement shall ensure that the units are either:

- a) Initially occupied by persons or families of low income (as defined in Section 50052.5 of the Health and Safety Code), are offered at an affordable housing cost (as defined in Section 50052.5 of the Health and Safety Code), and are subject to an equity sharing agreement in compliance with Government Code Section 65915(c)(2); or

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- b) Purchased by a qualified nonprofit housing corporation pursuant to a recorded contract that satisfies all of the requirements specified in Government Code Section 65915(c)(2).

II. Supplemental Project Information

Supplemental information has been provided by the project applicant related to the cost savings that are anticipated through construction of duplex units rather than detached single-family homes. Said information is presented below.

Escondido North LLC

Conway TSM - City of Escondido

Incentive Cost Savings to Build 10 Duplexes Instead of SFRs

Reduced Dirt Import	\$ 14,000	1,000 cu. yds. @ \$14/cu. yd.
Reduced Paving	\$ 10,500	30' shorter length for affordable drive & basin access road
Reduced Detention Basin Size	\$ 5,000	Less impervious area
Use of Existing Architecture	\$ 75,000	Re-use existing duplex plans
Elimination of 10 Exterior Walls	\$ 25,000	Eliminate stucco and windows
Total:	\$129,500	

As demonstrated above, the ability to build duplexes instead of single-family residences results in cost savings of \$129,500.

December 13, 2022

VIA E-MAIL

Honorable Chair and Commissioners
City of Escondido Planning Commission
210 N. Broadway
Escondido, CA 92025

Re: December 13, 2022 Planning Commission Agenda Item No. G.1
Conway Residential Subdivision (PL21-0269)

Dear Honorable Chair and Commissioners:

This office represents the residents of the single family home located at 2166 Weiss Way, which is directly adjacent to where the northern portion of the above-referenced proposed Conway Residential Subdivision (“Project”) would be developed. My clients are not the stereotypical “NIMBY” neighbors looking to stop any new development, but instead have always understood that a residential project will eventually be built on the Project site. However, my clients are opposed to physically and procedurally “jamming” a project through the City’s entitlement process – without complying with applicable law – that by the applicant’s own admission, has not been fully formed, and must insist on a full and complete analysis of all the Project’s potential impacts pursuant to the California Environmental Quality Act (“CEQA”).

The purpose of this letter is to urge the Planning Commission to recommend that the City Council deny approval of the Project because, for all the reasons set forth in this office’s extensive November 17, 2022 comment letter on the draft Initial Study and Mitigated Negative Declaration (“MND”) and herein, (1) the MND does not comply with the requirements of CEQA, (2) the Project does not comply with the letter or the spirit of state Density Bonus Law or the City’s own density bonus ordinance (Chapter 33, Article 67 of the Escondido Municipal Code), and (3) the Project is not consistent with the Project site’s General Plan land use designations or zoning districts. At a minimum, my clients respectfully request that the Planning Commission recommend that the City Council require the preparation of a full environmental impact report (“EIR”) before considering any approval of the Project. For ease of reference, my November 17, 2022 letter is attached hereto as **Exhibit A**, which makes a number of still valid comments that are not all repeated herein.

As an initial matter, the Final MND – which contains over one hundred pages of responses to comments and revisions to the Draft MND – was only recently released on December 8, 2022, giving the public *two business days* to review these responses and changes prior to the date of the Planning Commission’s hearing. Accordingly, my clients request that the Planning Commission

Honorable Chair and Commissioners
December 13, 2022
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continue the hearing on the Project to the next regular meeting to allow this office and the public at large adequate time to review and respond to the Final MND, and particularly, its responses to comments. As a result of the short timeframe, this letter does not necessarily contain comprehensive responses to many of the flaws in the Final MND, but instead focuses on several key issues.

I. The Project Does Not Comply with the Site’s General Plan Land Use Designation, Zoning or Density Bonus Law

A. Duplexes are Not Permitted Uses on the Site, and Density Bonus Law Does not Allow the City to Amend Permitted Uses without a General Plan or Zoning Code Amendments

There is no dispute that duplexes – along with all other multifamily residential uses – are not permitted uses on the Project site, either under its existing General Plan land use designations (Estate II & Suburban) or zoning districts (R-E and R-1). (*See*, Ex. A, p. 3.) Yet, the Project proposes 10 duplex units as its income restricted affordable units, while the remainder of the Project would be single family homes. My previous comment letter pointed out this issue, which was entirely unaddressed in the Draft MND.

In response, the Final MND asserts – for the first time – that Density Bonus Law allows the City to authorize a different *use* than otherwise permitted as a “zoning concession” pursuant to Government Code section 65915(k). (Final MND, p. 103.) This is in addition to the *ten* “waivers” from development standards that are already being requested by the applicant, which actually were discussed in the original IS/MND.

First, the standard for granting zoning concessions—which are numerically limited—is significantly different than the standard for granting waivers, which revolves around whether failure to grant the waiver would physically preclude development of the Project. Importantly, the concession must result in “identifiable and actual cost reductions.” (Government Code § 65915(d)(1)(A).) *These actual cost reductions have not been identified* even as part of the revised Final MND, and of course were not identified in the Draft MND, in which this purported concession was not discussed at all. At a minimum, the City must require the applicant to provide evidence that duplexes result in identifiable and actual cost reductions when compared to single family homes, and provide that information to the public as part of a recirculated Final MND or full EIR. Without this evidence of actual and identifiable cost reductions, the Project cannot be approved.

Second, even if the Project applicant identifies actual and identifiable cost reductions, allowing a use that is not a permitted use under either the General Plan or zoning code does not qualify for a zoning concession, which is defined as “[a] reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the

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minimum building standards . . . including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).” (Government Code § 65915(k)(1).) Simply put, nothing in the statute or case law supports the complete change of use as a concession, as compared to a reduction of zoning standards such as setbacks and design guidelines to allow the same type of use where it might otherwise not “fit” or would be cost prohibitive.

Finally, the assertions in the Final MND that the inclusion of a use type not permitted by the General Plan and zoning designations is not a CEQA impact is simply wrong. The proposed concession, along with the ten waivers, result in unique impacts when compared to otherwise permitted uses, and these impacts were not adequately analyzed in the MND. In particular, allowing a use not otherwise permitted is a significant land use impact that requires the preparation of a full EIR. In fact, the flawed discussion of land use issues infects the entire MND, and virtually all sections must be revised as part of an EIR – or at minimum, a recirculated MND – in order to comply with CEQA.

B. The Applicant has Artificially Inflated the Density Bonus by Calculating Bonuses per Parcel

The Project applicant has calculated the total density bonus for the Project by calculating the total potential bonus for each individual existing parcel, rounding each figure up, and then totaling all of those figures. While Density Bonus Law does require rounding up, it is done on a *project-wide* basis, with only one figure rounded up, rather than “compounding” the rounding parcel by parcel to artificially inflate the total bonus number. Page six of the City’s staff report notes that this is not how the density bonus amount is calculated for any other projects in the City.

This method of calculation is flawed not only because of the compounded rounding, but further, there are *no* affordable units planned on a number of the existing parcels, meaning that the density bonus for those parcels should be zero. Finally, if the Project were to be approved, none of the existing parcels would continue to exist, as the Project would be subdivided in 47 total lots, with all ten affordable units on one lot. There is no support – logical or legal – for calculating the bonus based on parcels that, if the Project is approved, would not even exist. Thus, the density bonus number should be recalculated on a project-wide basis, and the Project revised accordingly.

Taken together, the proposed concession to allow development of an otherwise prohibited use, ten separate and significant waivers from development standards, and extremely aggressive density bonus calculation, the Project applicant’s sole goal is not to develop a good Project or consider and mitigate all impacts, but instead to squeeze as many units as possible on the Project site to maximize return.

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C. The Project Fails to Provide Affordable Units that are of Similar Quality and Type to the Market Rate Units

This office's previous letter noted that the provision of 10 multifamily duplex units as the affordable units on one lot, with 46 single family homes on their own lots as the market rate units, violates the both state law and the City's own requirement that the affordable units must be of a similar caliber as the market rate units to qualify for a density bonus. (Escondido Municipal Code ("EMC") § 33-1417(f) ["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"].) This also violates other similar provisions of City's local density bonus ordinance, which states that affordable units should be dispersed throughout the housing development, not concentrated on one of 47 parcels, as proposed here. (EMC § 33-1417(b).)

The Final MND did not respond to this comment, referring to General Response 1, which did not address this point. (Final MND, p. 64.) Thus, the Project remains in violation of state law and the EMC, and the Final MND's responses to comments are legally inadequate.

II. The Project Description Remains Legally Inadequate under CEQA, and Further Demonstrates that the Project Does Not Qualify for the Requested Concession and Waivers

The Final MND's responses to this office's previous comments regarding the total lack of information regarding the proposed housing units – e.g., square footage, room count, height, elevations/aesthetic appearance, etc. – states that this information simply is not available at this stage, and is not required by CEQA, deferring all analysis to the design review stage. (Final MND, pp. 7-9, 65-66.) This is not a legally adequate response.

First, the Project applicant is required to make its best estimate regarding these details so that the Project's impacts can be analyzed (and mitigated) as accurately and completely as possible. (See, CEQA Guidelines § 15124; *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20 [while final designs are not necessarily required, the CEQA documents should at least include conceptual project designs].) The Final MND's assertions otherwise are simply wrong. Thus, the MND not only has an inadequate project description, but as described in this office's previous correspondence, its analysis of a number of impact categories are also legally deficient as a result.

Second, and perhaps more problematic, it cannot be true that *none* of these details are known, while at the same time, all ten of the applicant's requested waivers are necessary in order for the development of the Project to be physically possible. (See, EMC 33-1417(h) ["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

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incentives/concessions to which the developer is entitled under section 33-1413” (emph. added)]; *see also*, § 33-1414(E)(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***” (emph added)].)

If the size of the future units are not known – or even estimated – it is impossible for the City to adequately analyze if the waivers or concessions are actually necessary for the Project. Surely, waivers required to develop 1,000 square foot duplex units and 4,000 square foot single family homes would be different than 700 square foot duplex units and 2,000 square foot single family homes, yet the public and the City are left to guess where in this range (if it all) the proposed Project’s residential units would fall. Thus, the applicant appears to have requested waivers that may very well be more aggressive than actually required to not physically preclude development of the Project, which violates Density Bonus Law. Further, the City’s own density bonus ordinance requires the bedroom mix for the affordable units to be equal to the bedroom mix for the market rate units – if this is currently unknown, the City cannot approve a density bonus Project. (EMC § 33-1417(d).)

Finally, with respect to the newly proposed concession for duplexes, if *no* details about the proposed improvements are currently known, how can the Project applicant demonstrate that the concession would result in actual and identifiable cost reductions? The answer is they cannot.

III. The Project’s Impacts on Transportation and Traffic Remain Significant, and thus the City Must Require the Preparation of an EIR

The Final MND’s responses regarding the MND’s transportation/traffic analysis are also inadequate, and the imposed mitigation measures do nothing to ensure that the Project’s significant transportation impacts are actually reduced to a less than significant level. Specifically, while the MND admits that the Project-generated vehicle miles traveled (“VMT”) would exceed the applicable significant thresholds, it asserts that Mitigation Measure MM TRANS-1 would mitigate these impacts to a less than significant level by requiring the construction of four crosswalks and one new sidewalk. (Draft MND, pp. 82-84; Final MND, pp. 83-84.) The MND asserts these mitigation measures would reduce the VMT generated by the Project by 430. (*Id.*)

Simple logic demonstrates that there is no way these four crosswalks and a sidewalk would actually reduce VMT generated by the Project by 430 VMT (or at all), as there is nothing within reasonable walking distance that would replace even one vehicle trip by any future Project residents. In response to this office’s previous comment in this regard, the Final MND does not identify even one destination that these crosswalks and sidewalks would encourage future residents to walk to. (Final MND, pp. 83-84.) This information is not contained in the cited traffic impact analysis either, which instead assigns numerical values to the proposed mitigation measures based

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on a standardized formula, without regard to the actual facts on the ground, and what other uses actually exist near the Project site. (MND Appendix J [Transportation Impact Analysis, Escondido North LLC, prepared by Linscott, Law, & Greenspan, dated October 6, 2022], pp. 20-23.) The actual facts on the ground – and the very low likelihood any future Project residents would walk anywhere instead of driving – constitutes substantial evidence in support of a fair argument that the Project may result in significant impact relating to transportation/traffic, requiring the preparation of a full EIR.

Indeed, a reviewing court will not defer to the agency's determination that mitigation measures will work when their efficacy is not apparent and there is no evidence in the record showing they will be effective in remedying the identified environmental problem. (*King & Gardiner Farms, LLC v County of Kern* (2020) 45 Cal.App.5th 814, 866 [EIR discussion of mitigation measure that has uncertain effect must identify and explain the uncertainty in measure's effectiveness and the reasons for that uncertainty]; *Sierra Club v County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas (GHG) emissions would function as enforceable or effective mitigation measures]; *Gray v County of Madera* (2008) 167 CA4th 1099, 1116 [rejecting mitigation measures proposed to address project's adverse impacts on water levels in wells used by neighboring landowners because mitigation measures would force them to change the way they use water].) When the effectiveness of a mitigation measure is not apparent, the CEQA document must include facts and analysis supporting its characterization of the expected result. (*Sierra Club v County of Fresno* (2018) 6 Cal. 5th 502, 522.) Mitigation measures that are unrealistic and unlikely to be implemented create an illusory analysis and should not be relied upon. (*Cleveland Nat'l Forest Found. v San Diego Ass'n of Gov'ts* (2017) 17 Cal.App.5th 413, 433.)

IV. The Final MND Does Not Resolve Any of the Other Deficiencies Identified in this Office's Previous Letter

Finally, nothing in the Final MND's responses to this office's previous comments fully addresses those comments, and as a result, my clients stand by all of their previous assertions as set forth in **Exhibit A**. Many of these deficiencies – which are not repeated herein – can be potentially cured by requiring the preparation of the full EIR.

For all the foregoing reasons, on behalf of my client, I respectfully request that the Planning Commission recommend that the City Council (1) deny approval of the Project as inconsistent with state Density Bonus Law, the City's density bonus regulations, and planning and zoning law

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and (2) require the preparation of an EIR for the Project or any revised version thereof. I look forward to attending the public hearing later today, and will be available to answer any questions that the Commission may have.

Sincerely,



Kelsey E. Quist

KEQ:mrs
Enclosure

November 17, 2022

VIA E-MAIL & FIRST CLASS MAIL

Greg Mattson, Adjunct Planner
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Escondido, CA 92025

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Re: Conway Residential Subdivision Project - TTM SUB21-069
City File No. PL21-0269
Comment on Draft Initial Study/Mitigated Negative Declaration

Dear Mr. Mattson:

This office represents the residents of the single family home located at 2166 Weiss Way, which is directly adjacent to where the northern portion of the proposed Conway Residential Subdivision (“Project”) would be developed. My clients – who directly submitted a comment on the Project’s NOP, attached hereto as **Exhibit A** – have resided at their home since 1987, and their home is shown in the aerial picture below, directly west of the currently vacant portion of the Project site:





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While understanding the existence of the Housing Accountability Act (“HAA”), Density Bonus law, and other state law that encourages the development of housing, it is important to remember that none of these laws preempt or otherwise override the California Environmental Quality Act (“CEQA”). Instead, the ability to approve residential projects, such as the Project at issue here, is expressly contingent on full compliance with CEQA. My clients are not trying to stop development of the Project, but rightfully insist that any development is done right, including full compliance with CEQA, while being a good neighbor.

The Project, which takes advantage of state Density Bonus Law to significantly increase density beyond what is otherwise permitted by the Project site’s zoning (adding 16 extra units), as well as an incredible *thirteen waivers* from otherwise applicable development standards, proposes to cram 56 total residential units onto approximately 14 acres that are not designed to handle such an intense and dense development. The fact that so many waivers are required, standing alone, is substantial evidence of the significant impacts this completely out of character Project will have on the environment in general, and on surrounding properties in particular. The nearby rural infrastructure was simply not designed or built to handle the demand that will be generated by 56 new units in this area, yet the Mitigated Negative Declaration (“MND”) does not impose *any* mitigation measures requiring improvements to the existing infrastructure. The Project applicant is attempting to take advantage of state law to forcibly jam a square peg into a round hole, but still must comply with CEQA and mitigate its actual impacts.

As made plain by the aerial photograph embedded above and the annotated site photograph attached here as **Exhibit B**, the Project is not at all consistent with the charter of the relatively rural area at the edge of the northern portion of the City, and in fact, the Project includes a parcel in an unincorporated portion of San Diego County (“County”) that the City proposes to annex. The area around the Project site consists of large lot single family homes, narrow single lane roadways without sidewalks, open space, and small scale agricultural uses, including vineyards on my clients’ property (noted with a “C” on Ex. B), directly adjacent to the Project site. The rural nature of the area is also made clear on page 7 of the MND, which shows that the zoning for the Project site and surrounding areas is single family residential, residential estates, and the County’s rural residential zone. The City’s residential estate zoning “is established to provide a rural setting for family life in single-family *detached* dwellings. Provisions are made for the maintenance of limited agricultural pursuits as well as those uses necessary and incidental to single-family living.” (Escondido Municipal Code (“EMC”) § 33-90(b)(2) [emph. added].) Similarly, the City’s R-1 single family zone is “established to provide a suburban setting suitable for family life in single-family, *detached* dwellings.” (*Id.*, (b)(2) [emph. added].)



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I. The Proposed Project is Not Permitted under the Project Site's General Plan Land Use Designation or Zoning

Despite the fact that the Project site is located entirely in single family zones, where *detached* single family residences are the principally permitted use, the Project proposes 5 duplex structures (10 total condominium units) – which are attached two-family dwellings – that are *not permitted*, as clearly shown on the City's land use table (highlighting added):

Table 33-94

Permitted/Conditional Uses & Structures	R-A	R-E	R-1	R-T	R-2	R-3	R-4	R-5
Residential and Lodging								
Single-family dwellings <i>detached</i>	P	P	P		P	P ¹	P ¹	P ¹
Mobilehome on parcel alone, pursuant to section 33-111	P	P	P	P				
<i>Two-family and multiple-family dwellings</i>					P	P ¹	P ¹	P ¹
Mobilehome parks pursuant to Article 45 and Title 25. A minimum 400,000 sq. ft. in land area required			C	C	C			
Small lot developments pursuant to section 33-114					P	P ¹		
Transitional housing and supportive housing constructed as residential dwellings consistent with the underlying zone pursuant to section 33-8 of Article 1	P	P	P	P	P	P	P	P
Rooming house, boarding house, mini-dorms etc. with central kitchen, interior access to sleeping rooms					C	C	C	C
Bed and breakfast facilities, pursuant to Article 32	C#	C#	C		C	C	C	C
Senior housing	P	P	P	P	P	P	P	P

Likewise, the Project Site's Estate II General Plan land use designation "accommodates *detached* single-family homes on large lots" and "[s]paced single family development on relatively large lots," and the Suburban General Plan Land use designation "applies to areas that generally surround the urbanized core of the community and accommodates single family *detached* homes on relatively large lots." (General Plan Land Use and Community Form Element, pp. II-19 to -20 [emph. added].)

Thus, the Project – which includes ten attached duplex condominium units – requires a General Plan amendment and zoning change, which are two distinct legislative approvals that the Project requires by law, yet are not currently under consideration by the City. Density Bonus Law cannot be used to waive or change the permitted uses on a particular project site, and in fact, the MND completely fails to address any of these concerns, and does not list the allowance of attached condominium duplex units as a "waiver" from the otherwise applicable zoning standard (nor could it). Thus, the Project's proposed tentative tract map – the only discretionary entitlement analyzed by the MND and under consideration by the City (MND, p. 13) – *cannot be approved*, as the City cannot make the required findings that it would be consistent with the City's General Plan and applicable zoning. (See, EMC § 32.209.01.)



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Further, the MND's entire analysis is fatally flawed because it analyzes all of the Project's impacts under the incorrect assumption that the Project is consistent with the Project site's existing General Plan land use designation and zoning. As a result, the MND drastically underestimates the Project's potential impacts, which standing alone, is sufficient grounds to require the preparation of a full environmental impact report ("EIR"), as discussed in more detail herein. It also bears noting that because the Project is not consistent with its existing land use and zoning designations, the HAA does not apply.

Finally, Density Bonus law requires the affordable units to be substantially similar to the market rate units, but here, the Project proposes condominium duplexes units for all of the affordable units, and single family homes for all the market rate units. (*See*, MND, p. 10) In order to qualify for the requested density bonus, the Project must propose "like for like" units – *i.e.*, income restricted single family homes. This is not being done here, and further, there is no information to allow the reader to determine if the elevations, finishes and other details are similar in quality for the affordable units as the market rate units, as also required by law.

II. The City Should Require the Preparation of an EIR for the Project

As a result of the Project's inconsistency with its surroundings and a number of other factors set forth below – not least of which is the amount of traffic that will be generated when compared to the much less dense zoning this Project site has long been planned for, without requiring any roadway or other improvements – after a careful review of the proposed mitigated negative declaration ("MND"), it is clear that substantial evidence supports a fair argument that the Project may have a significant impact on the environment, and thus the City should require the preparation of a full environmental impact report ("EIR"). (*See, Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504-505.) "Significant environmental effect" is defined very broadly as "a substantial or potentially substantial adverse change in the environment." (Pub. Res. Code § 21068; 14 Cal. Code Regs. ("CEQA Guidelines") § 15382.)

Indeed, the EIR is the very heart of CEQA, and an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return." (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214, 1220; *see also, Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR also functions as a "document of accountability," intended to "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." (*Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.) The EIR process "protects not only the environment but also informed self-government." (*Pocket Protectors*, 124 Cal.App.4th at 927.)



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Under the “fair argument” standard, preparation of an EIR is required if any substantial evidence in the record indicates that a project *may* have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. (CEQA Guidelines § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Pocket Protectors*, 124 Cal.App.4th at 928.)

In sum, the MND fails to adequately analyze and mitigate all of the Project’s impacts to a less than significant level, and instead, there is a fair argument that the Project may in fact result in significant environmental impacts in a number of respects. As further discussed below, the MND is specifically deficient and does not comply with CEQA in all of the following respects, which individually and/or taken together, require the preparation of an EIR.

A. The Project Description is Inadequate

The MND is completely devoid of any details regarding the total proposed 56 residential units, other than an overview proposed tentative map showing lot and structure locations, a vague range of lots sizes, and the fact that 46 units will be single family homes, and 10 will be condominium units in 5 buildings. (MND, pp. 8-10.) Noticeably absent are any (1) proposed square footages of any units, (2) bedroom counts, (3) proposed height/stories, or (4) any proposed elevations, for either the single family or duplex units. As a result, the MND cannot accurately analyze the potential impacts of the Project – which cannot be based on lot count alone – and instead, these details are critical for a full and complete analysis of the Project’s impacts related to aesthetics, air quality, greenhouse gas emissions, noise, population/housing, and transportation/traffic, at a minimum. My clients are left wondering if a one-story 2,000 square foot home or a three-story 5,000 square foot home will be built next to their property. Further, there is no indication how high the ultimate grade will be, and considering the significant sloping near my clients’ property, there is no way to tell if the graded pad for the nearest residence will be 30+ feet higher than the existing grade, or 30+ feet lower. All of these questions must be answered for any meaningful analysis of the Project’s impacts to occur.

The MND’s project description is also not clear as to what income level the proposed affordable units will be restricted to, or how the continued affordability will be enforced (*e.g.*, an affordable housing agreement with the City, deed restriction, etc.), and whether the affordable units will be rented or sold. These details must be added to allow the public to verify that the density bonus was correctly calculated, and to also confirm that the Project even qualifies for a density bonus in the first place.



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Finally, the MND also fails to adequately explain why the Project would be physically precluded unless *thirteen* different waivers are granted, including *significant* departures from three different setback requirements, minimum lot area, average lot width, lot width along streets, maximum lot coverage, maximum floor area ratio ("FAR"), standards for suburban residential roads, reduced grading setbacks, hammerhead street termination, and storm drain locations and easement size. (MND, pp. 12-13.) Surely not all of these significant waivers are truly required for the Project to proceed, but instead are aimed at maximizing developer profit. Further, the MND fails to analyze the impacts all of these waivers will have on the surrounding community – particularly related to aesthetics, air quality, noise and traffic (including traffic hazards/safety from the drastically different standards for suburban residential roads) throughout the discussion of all of the various topics covered in environmental checklist/Appendix G. An EIR should be prepared to fully address the impacts of all these waivers, as again, nothing in the Density Bonus law allows this Project to circumvent any aspect of CEQA.

B. The MND Does Not Adequately Analyze the Project's Aesthetic Impacts, and Incorrectly Assumes the Project Complies with Applicable Zoning

The MND makes no effort to analyze its aesthetic impact from the point of view of my clients or any other neighboring properties, does not contain any photographs showing the current views when looking at the Project site from surrounding properties, nor does it contain any computer simulations/renderings that show what views of the Project site would look like following development. In fact, as mentioned above, the MND does not contain any renderings of the Project's proposed elevations at all, or otherwise indicate the elevation of the final graded pads. At a minimum, the MND should be revised to include these photographs/renderings and associated analysis to determine if there are potentially significant aesthetic impacts.

Instead of containing any meaningful actual analysis of how the Project will change existing conditions, the MND appears to imply that, simply because the Project site is "zoned residential," the Project would not have any aesthetic impacts on the surrounding environment. (MND, p. 7.) As mentioned above, the MND does not even state the proposed square footage or height of the residences along the edge of the Project Site (or anywhere), making any real analysis impossible. The MND's bare conclusion violates CEQA.

The MND goes on to state that the relevant threshold of significance is "whether the Proposed Project would conflict with applicable zoning and other regulations governing scenic quality," and concludes that because the Project complies with the City's residential estates and single family residential zones, its aesthetic impacts are less than significant. However, as explained above, the Project is not consistent with these zones, which allow *detached* single family homes; two-family attached duplexes are expressly *not permitted*. (EMC, Table 33-94.) Thus, under the City's own threshold of significance, the aesthetic impacts would be significant because



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the Project does, in fact, conflict with applicable zoning, and as a result, the City must require the preparation of an EIR.

Further, even if duplexes were allowed under the Project site's General Plan land use designation and zoning, the MND does not discuss or even identify the fact that the aesthetic impacts of this Project will be increased when compared with a typical residential development that actually complies with the letter of the applicable zoning requirements, as a result of the due to the 16 additional units, and the 13 waivers from otherwise applicable zoning standards. In particular, an EIR should be prepared to specifically analyze and impose mitigation measures relating to the Project's specific and unique aesthetic impacts that result from: (1) 16 extra units on the Project site; (2) proposed front and interior setbacks less than half of what is currently required; (3) less than half the minimum lot area otherwise required in this zone; (4) significantly reduced average lot widths; (5) increased lot coverage and maximum FAR; and (6) reduced setbacks during grading. The City should impose a condition of approval that requires high quality masonry walls around the entire edge of the Project Site, at least eight feet in height.

Additionally, the MND notes that the Project would remove 186 mature and protected trees, and as result, the Project applicant would be required to purchase replacement trees either on or offsite. (MND, p. 17 [citing MM BIO-3 and BIO-4.]) To be clear, *the purchase of offsite trees in no way mitigates or otherwise lessens the Project's impacts on aesthetics*. Thus, at a minimum, MM BIO-4 should be revised to require purchase and placement of replacement trees entirely *onsite*, or else this measure cannot be relied upon to mitigate the Project's impacts to a less than significant level. Further, and as discussed more herein relating to impacts on biological resources, the Project should entirely avoid disturbing the area at the northern end of the Project site containing a significant amount of mature trees and coast live oak woodland / riparian habitat, generally noted with an "A" on **Exhibit B**.

Finally, the MND inaccurately describes the potential impact of the Project's light pollution, particularly in the area adjacent to my clients' property, which is an empty field. Simply put, replacing the open space near my clients' property – which currently has no lighting – with streetlights, house lights, and headlights from approaching and departing vehicles will absolutely create a potentially significant impact.

C. The MND's Air Quality Analysis is Inadequate

The MND does not appear to analyze the air quality impacts of the Project's grading activities (approximately 59,200 cubic yards of cut and 99,600 cubic yards of fill), which in addition to all of the other construction activities, will create significant particulate matter emissions that will severely impact my clients, and likely damage or destroy the active grape vines on my clients' property. At a minimum, additional mitigation should be imposed to require increased setbacks from my clients' property during construction and grading activities.



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The MND also does not appear to quantify or consider emissions from the trucks that will be required to import 55,000 cubic yards of dirt to the Project site. The MND should be revised to include this analysis, or if it already does, revised to clearly show that emissions from both trucks serving the general construction of the Project and trucks importing fill materials were considered. Further, the MND does not list the equipment anticipated to be used during construction in order to allow the reader to understand what assumptions were made, and what type of equipment the MND assumed would be used at the same time. In sum, the MND presents bare emissions conclusions without any ability for the reader to understand the assumptions made to arrive at those conclusions, and therefore does not comply with CEQA.

Finally, given the presence of a number of sensitive receptors directly adjacent to the Project site – including my clients’ property (B & C, on Ex. B) – a health risk assessment must be conducted. Failure to do so creates the presumption of a fair argument that the Project may have a significant impact relating to health risks, particularly in light of the Project’s more dense development than anticipated under existing General Plan land use and zoning designations.

D. Substantial Evidence Supports a Fair Argument that the Project May Have a Significant Impact on Biological Resources, even after the Mitigation Imposed by the MND

The MND incorrectly states that the Swainson’s Hawk has a “low potential” to appear onsite – as shown in the photographs attached hereto as Exhibit C, the Swainson’s Hawk, along with an active nest, is actually currently present on the Project site, and has regularly existed for approximately 20 years. (*See*, MND, p. 20.) The area on the Project Site where this hawk and nest were identified is noted by an “A” on Exhibit B, on the northern portion of the Project Site. Clearly, the literature review upon which the MND’s biological resources section is based is not sufficient, and revised technical studies based on field surveys should be generated and included in an EIR prepared for the Project. Thus, the so-called “potential” impacts mentioned in the MND relating to raptors are *not* potential, but in fact actual (and significant) impacts. (*Id.*, p. 29.) None of the mitigation imposed will replace the habitat currently being used by the Swainson’s Hawk, with active nests present each year, personally observed by my clients. In light of the impacts on raptors and other significant impacts that would result from disturbing this high quality habitat, the City should require the Project applicant to entirely avoid disturbing this area.

The MND’s proposed *offsite* mitigation is not sufficient to mitigate impacts to the Project site’s actual confirmed raptor habitat or other significant impacts to non-native grasslands and trees to a less than significant level. (*See*, MM BIO-2.) At a minimum, the City should require at least a portion of this mitigation to occur onsite and preserve a portion of the Project site as open space/habitat, rather than using every single inch to squeeze 56 units onto 14 acres. MM BIO-2 does not even require mitigation to be anywhere near the Project site, which does nothing to help local raptors find suitable nearby foraging habitat, and thus likely to result in unmitigated



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significant impacts to those birds that we *know* are on the Project site. The same is true for the mitigation proposed for the valuable coast live oak woodland habitat in MM BIO-3, and mature and protected trees in MM BIO-4.

With respect to the jurisdictional delineation performed for the Project, the MND's analysis is also incorrect – the Project site drains into Reidy Creek, which in turn drains into Escondido Creek, and therefore, the Project site does in fact contain jurisdictional drainage features. Impacts to these wetlands must be analyzed in an EIR, and appropriate mitigation imposed.

While the MND sets forth the number of mature and protected trees, the reader/public is unable to understand which trees on the Project site were determined to be mature or protected. (MND, pp. 32-33.) Thus, the MND should be revised to include a map so that the decisions regarding which trees were determined to be mature and/or protected, and which were not, can be analyzed.

E. The MND Does Not Explore Opportunities to Incorporate Sources of Renewable Energy as Part of the Project

The MND does not adequately analyze the potential for the Project to incorporate sources of renewable energy, or explain what type of renewable energy features will be incorporated into the Project in any meaningful detail. (MND, pp. 38-39.) The failure to include this analysis violates CEQA. (*See, League to Save Lake Tahoe Mountain Area Preservation Foundation v. County of Placer* (2022) 75 Cal.App.5th 63.)

F. The MND Unlawfully Defers Mitigation Relating to Geology and Soils

The MND imposes two mitigation measures – MM GEO-1 and MM GEO-2 – that would purportedly reduce all impacts relating to geology and soils to a less than significant level. (MND, p. 43.) However, both of these mitigation measures unlawfully defer mitigation by vaguely referring to “recommendations” and require compliance with a yet to be prepared report, without any performance measures setting forth specifically what the report must contain. As written, it is clear that there is a fair argument that these measures will not reduce the Project's impacts on geology and soils to a less than significant level.

G. The MND's Analysis of Greenhouse Gas Emissions is Inadequate

The MND fails to actually quantify the Project's numerical greenhouse gas (“GHG”) emissions, depriving the reader and the public of the most basic information regarding such emissions. This makes accurate analysis of the Project's impacts from GHG emissions impossible, let alone imposition of appropriate mitigation measures to reduce all impacts to a less than significant level. (MND, pp. 45-47.) Instead, the MND relies entirely on qualitative analysis of



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the Project's implementation of various measures from the City's Climate Action Plan ("CAP"). However, since the Project's impacts are not adequately disclosed in the first instance, this qualitative analysis is virtually meaningless and does not comply with CEQA. Indeed, applicable caselaw clearly favors quantitative GHG emissions analysis, which again, is entirely absent here.

Further, the MND incorrectly states that "Step 1 of the CAP Checklist is land use consistency. The proposed Project has demonstrated consistency with the City's General Plan, Zoning Code, and Density Bonus statutes. Since land use consistency has been demonstrated, Step 2 of the CAP Checklist is applicable." However, as discussed above, the Project is actually *not* consistent with the City's General Plan or Zoning Code. Therefore, the City should require the preparation of a revised air quality/GHG technical report and an EIR to fully analyze the Project's impacts from GHG emissions, under the correct premise that the Project is not consistent with the Project site's existing land use designations/zoning.

H. The MND's Analysis of Hazards and Hazardous Materials is Inadequate

The MND recognizes that construction of the Project will involve the transport, use and disposal of hazardous materials, and that the older structures that will be demolished likely contain PCBs. (MND, p. 49.) However, the MND fails to mention, analyze or mitigate for any potential impacts on the adjacent sensitive receptors, such as my clients' directly adjacent residential home. An EIR containing this analysis regarding a potentially significant impact should be prepared.

The MND also completely fails to discuss and analyze fire evacuation routes and estimated evacuation times (MND, p. 52), which recent case law holds is required in order to comply with CEQA. (*Newtown Preservation Society, et al. v. County of El Dorado, et al.* (2021) 65 Cal.App.5th 771; *Sierra Watch v. County of Placer* (2021) 69 Cal.App.5th 1.) This is particularly true for the North San Diego County area, which is susceptible to wildfires, and for the Project at issue here, which crams 56 new residential units (and retains 2 existing units) onto 14 acres *without requiring any "capacity enhancing" improvements to existing roadways* to improve traffic or evacuation times. Clearly, substantial evidence supports a fair argument that the Project may result in a significant impact in this regard. The MND's wildfire section is legally deficient for this same reason. (MND, pp. 9-96.)

I. The MND's Land Use and Planning Section is Entirely Flawed, and Must be Completely Revised as Part of an EIR

As discussed in detail above, the Project is not consistent with its existing General Plan land use or zoning designations, and thus requires the approval of a General Plan amendment and zone change. The entire Land Use and Planning Section of the MND must therefore be rewritten. Given the significant impacts that would occur from proposing a Project not consistent with existing General Plan land use or zoning designations, it must be rewritten as part of an EIR.



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Further, even if the Project was consistent with existing zoning, the MND contains no meaningful analysis of the impacts that the 13 waivers would have on the surrounding development, other than to note they exist and conclude, without analysis, that the extra density and other extensive waivers would not result in any increased impacts than if the Project site was to be developed with market rate housing that complied with all applicable zoning regulations. (MND, pp. 60-62.) This analysis does not comply with CEQA's requirements because it fails to connect facts to conclusions, and further, the ultimate bare conclusion is contrary to common sense.

J. The MND's Analysis of Noise Impacts is Incomplete

The MND and associated acoustical analysis should be revised – as part of an EIR – to analyze peak noise, not average noise, which artificially understates the actual noise impacts on neighboring sensitive receptors. (*See*, MND, pp. 66-67.) The MND also does not detail what type of equipment the acoustical analysis assumed would be operated, and what activities would be occurring at the same time, making an evaluation of the accuracy of the underlying assumptions impossible.

K. The MND's Population and Housing, Public Services and Recreation Sections Incorrectly Conclude that Unplanned Growth Does Not Result in Any Significant Impacts

The MND recognizes that the Project would exceed the General Plan's projections for housing on the Project site, but nonetheless concludes that this is not a significant impact, with no mitigation required. (MND, pp. 72-79.) This is not accurate, and instead, there is at least a fair argument that the Project's increased growth beyond what has long been planned for the Project Site – and the Project's inconsistency with its existing General Plan land use and zoning designations – may result in a significant impact, requiring the preparation of an EIR.

Further, the MND does not include bedroom count, making a truly accurate estimate of the population the Project will add to the area impossible.

L. The Traffic Generated by the Project Will Result in a Significant Impact

The MND correctly notes that CEQA now requires a vehicle miles traveled ("VMT") analysis in place of the traditional level of service ("LOS") analysis. (MND, p. 80-81.) However, due to the fact that, as admitted in the MND, the City's General Plan includes LOS standards, LOS still must be analyzed as a CEQA impact, as inconsistency with the General Plan is considered an impact on the environment. The MND should be revised to include this analysis, which is entirely absent, despite the Project's traffic impact analysis studying the Project's impacts on LOS to some degree. Further, the MND does not impose *any* mitigation requiring roadway improvements as a



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result of the Project, which standing alone, appears to be substantial evidence sporting a fair argument that the Project's impacts may be significant.

Moving to the MND's VMT analysis, the City's initial conclusion that the Project requires an EIR as a result of its significant VMT impact was the correct one, and paper changes to the City's VMT policies do not impact actual physical effects on the environment. (*See*, MND, p. 1.) Additionally, the VMT generated by the Project – which by the MND's own admission, exceeds the relevant threshold of significance – appears to be based on an incorrect calculation which “nets out” the VMT generated by the 13 existing units, but then does not consider the 2 units that will remain on the Project site. (MND, p. 82.) While it is improper to artificially reduce impacts by “netting out” existing uses, and the analysis should be based on the full Project of 56 reinstall units, at a minimum, the analysis should include VMT generated by the 2 existing units, if it is going to take credit for “eliminating” the VMT generated by the 13 residences to be demolished. The MND's assumption of 3.21 residents per household when calculating the Project's VMT also likely significant underestimates the population of the proposed Project – indeed, my clients have personally observed that the existing four unit property on the Project site contains 21 parked cars. Finally, the MND does not indicate how it arrived at an assumption of 3.21 residents per household when it does not even describe the square footage or bedrooms count of the proposed units, which is *critical* information for accurately estimated the number of new residents.

Regarding the discussion of proposed mitigation, there is simply no way that the proposed mitigation measures – constructing four crosswalks and a new sidewalk – will result in a meaningful reduction of the Project's VMT such that its impacts are conclusively reduced to a less than significant level. (MND, pp. 83-84.) The Project site is in a relatively rural, large lot residential area at the edge of the City, also near open space and agricultural uses. *There is virtually nothing – aside from other residences – within walking distance of the Project site* to justify the conclusion that the proposed crosswalks would result in residents walking instead of driving. The MND does not identify any such amenities or where residents would be walking to, and in fact, the surrounding areas do not even have sidewalks. (*See*, Exhibit D.) MM TRANS-1 requires the applicant to build a “bridge to nowhere” that will not reduce the Project's actual impacts relating to VMT. Indeed, MM TRANS-1 relies entirely on *voluntary* measures that the future residents can (and likely will) simply choose not to use, and should be given no credit for any reduction in VMT. Thus, on this basis alone, the City must require the preparation of an EIR and a serious discussion of feasible *mandatory* mitigation measures.

With respect to hazards, the MND completely fails to discuss the proposed waiver for roadway standards, which *will* result in a hazardous condition. Specifically, the Project includes a request for waiver whereby at least one of the Project's “suburban residential road” (1) will be 14 feet narrower than required, (2) will contain a sidewalk and gutter only on one side, and (3) will not include a parking plan. Additionally, photographs showing the area where the 56 residential units will take access onto Stanley Avenue, as well as the nearby Conway Drive, are attached



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hereto as **Exhibit D**, showing narrow, rural roads that are not ready for the proposed increased traffic without requiring roadway improvements. These unsafe conditions would be created for the sole purpose of allowing the applicant to cram 56 total residential units onto 14 acres.

Further, the hills in both directions on both Stanley Avenue (where an access point will be located) and Conway Drive appear to create line of sight issues. (See, **Exhibit D**; see, also, Ex. B, [notes E, F, G & H].) A line of sight study should be conducted to ensure that all proposed access points are safe – on Stanley Avenue, Conway Drive and Lehner Avenue – and impose mitigation as appropriate. At present, the MND completely fails to analyze these potential impacts.

Thank you for the opportunity to comment on the MND for the proposed Project. As a directly adjacent neighbor, my clients are not opposed to new development, and have always understood that the Project site is slated for residential development. However, new development must be properly and fully analyzed in compliance with CEQA and all other applicable laws, and comply with the City's own land use documents and other regulations. Thus, my clients respectfully request that the City require the applicant to: (1) submit applications for a General Plan and zoning amendments, and (2) prepare a full EIR.

Please provide the undersigned with notices of all further action relating to the Project, including notices for the Planning Commission and City Council hearings where it may be considered.

Sincerely,

Kelsey E. Quist

KEQ:mrs

Enclosures

6 May 2022

Comments and Questions on Escondido North, LLC Project, Case # PL21—0269

Dr. Gregory Quist
Mrs. Cindy Quist
2166 Weiss Way, Escondido, CA 92026

Thank you for the opportunity to comment and submit questions/concerns on the above named Proposed Project.

We have lived at 2166 Weiss Way, a lot abutting the Proposed Project directly to the west, since 1987. An existing chain link fence line demarcates our mutual property line. Our lot relative to the proposed project is shown in Figure 1.

There are three general areas of concern and interest we would like to address:

1. Concerns about the project during development
2. Concerns about the project once it is completed
3. How the proposed project will change the existing landscape

1.0 Concerns about the project during the development

- 1.1 **Noise and hours of operation** – we understand a significant amount of grading is planned, generating a lot of noise directly next to our property, feet from our windows. We request the development strictly obeys both City and County ordinances regarding noise and operation times and days. This noise will generate a major nuisance and impact our quality of life during the development period, from grading to the completion of structure construction.
- 1.2 **Dust and air quality** – we expect that the grading will generate a significant amount of dust, particulate matter and debris that will drift onto our property. We don't know the potential chemical constituents of the grading detritus that could cause harm to our property and our respiratory health. We also have serious concerns about dust, flying debris and exhaust from the grading and construction equipment and how this will affect our active vineyard - and other producing fruit trees – both of which are literally feet from the property line. See Figure 2. In addition, we have a pool beyond the vineyard, and dust and debris will impact our pool, including the filter and motors, and all outdoor areas.
- 1.3 **Vegetation that transverses the 2166 Weiss Way property line chain link fence.** There is vegetation – trees and bushes - on both sides on the fence that demarks the property line between our property and the development. If the plan is for all vegetation in the project to be demolished, this will cause significant damage to the existing fence, as well as damage to the vegetation we have planted along our side of the property. See Figure 3. Is a fence proposed for the western side of the development along our property line? Will any existing trees or shrubs not be disturbed?
- 1.4 **Increased traffic and pedestrian safety risks.** During grading and development, there will be substantial large equipment activities on the roads around this development. These roads are intended and designed for low density housing and associated traffic. Young students walk along these roads all the time to and from Rincon Middle School, and this equipment

will create substantial noise and disruption along Stanley and Conway and disturb all the neighborhood in this area. Potential safety issues and hazards resulting from the construction of should be analyzed and mitigated. Have all the neighbors, and those affected by construction traffic on Conway been noticed about this project?

- 1.5 **Migration of pests from project property.** Our vineyard is susceptible to ground squirrels and gophers. We expect grading to force the existing fauna living on the site – gophers, squirrels, snakes, etc. – to our property.

We would like the City to impose obligations on the project to mitigate these impacts.

2.0 Concerns about the project after completion

- 2.1 **Water supply** - California is undergoing yet another severe drought, and the Governor has already declared a statewide drought emergency, expected to become worse, meaning the state and local agencies are unable to provide sufficient water to existing homes and businesses and cutbacks must occur. Yet this development – with 56 new dwellings where there currently are none - is being considered for approval, adding further stress to a system already unable to meet existing demands.
- 2.2 **Student and pedestrian safety** - There will be significantly increased traffic, posing a safety risk to students walking to Rincon School.
- 2.3 **Parking** - 56 new residences will be crammed into 14.1 acres in an area that currently is semi-rural. We would expect this could require additional parking for as much as – or maybe more than – 200 vehicles in this area. This parking could impact traffic and vehicle safety in the area. The County has already marked a section of Weiss Way for No Parking due to the dangers associated with cars parking on the road, and this development could overwhelm existing and planned streets and curbs with parked cars. The proposed project does not seem to fit within the character of the neighborhood or generally comply with applicable planning documents.
- 2.4 **Access for emergency vehicles** – the combination of high density development, parking, and hundreds of new vehicle trips per day could create a problem for access for emergency vehicles such as ambulances and fire apparatus.
- 2.5 **Water drainage** – grading and terracing of the property adjacent to 2166 Weiss Way will create problems with storm water drainage. How will this problem be addressed, to avoid run-off from slopes that current have no slope discontinuities to ones that will be terraced versus natural slopes?
- 2.6 **Security of adjacent and neighboring properties** – the addition of 56 high density dwellings adds to the probability of problems with security for adjacent and neighboring properties.
- 2.7 **Wastewater system** – if the wastewater from the new dwellings needs to be lifted up to the existing City of Escondido sewer system, it will require pumps. These pumps will create noise and the risk of failure, which could cause sewage spills in this area, where there is now an open field.
- 2.8 **Loss of privacy** – we have not seen elevations for roofs or windows overlooking adjacent and neighboring properties. The addition of these homes eliminates the current existing privacy and would likely negatively affect the resale value of these properties.



Figure 2a – Proximity of project line to active vineyard on 2166 Weiss Way



Figure 2b – Proximity of project line to active vineyard on 2166 Weiss Way



Figure 2c – Proximity of project line to fruit trees on 2166 Weiss Way



Figure 3a – Example of tree/shrub growth through the property line fence



Figure 3b – Example of tree/shrub growth through the property line fence



Figure 3c – Example of tree/shrub growth through the property line fence and proximity of sprinkler set to fence.



Figure 4a – Hawk resting on tree proposed for demolition, near nest in eucalyptus grove on project property.



Figure 4b – Location of long-time active hawk's nest in eucalyptus grove



Figure 4c – Close-up of long-term active hawk's nest





Location of Swainson's Hawk nest, on NW corner of proposed Conway Project. Note location of active vineyard adjacent to the proposed project site. See A and B on map



Close-up Swainson's Hawk nest, on NW corner of proposed Conway Project. See A on map.



Another view of Swainson's Hawk nest, on NW corner of proposed Conway Project. See A on map.



Swainson's Hawk, July 2022, on 2166 Weiss Way property, adjacent to proposed project. See C on map.



Conway Drive hill, looking south, immediately north of project boundary and proposed entrance/exit for 10 units. See E on map.



Conway Drive hill, looking north from the top of hill at approximate location of proposed entrance/exit to project. See F on map.



**Stanley Avenue blind spot, looking W.
See G on map.**

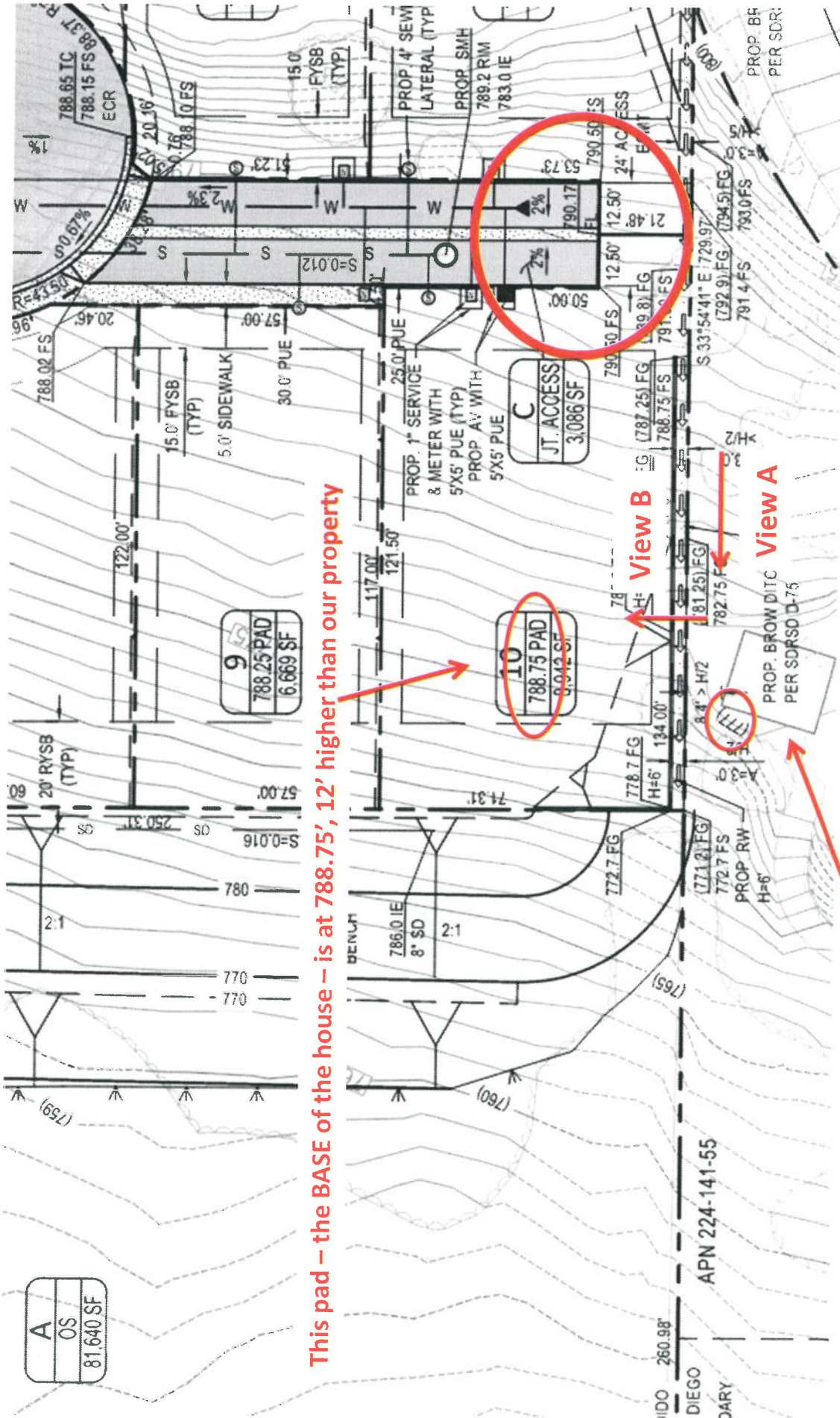


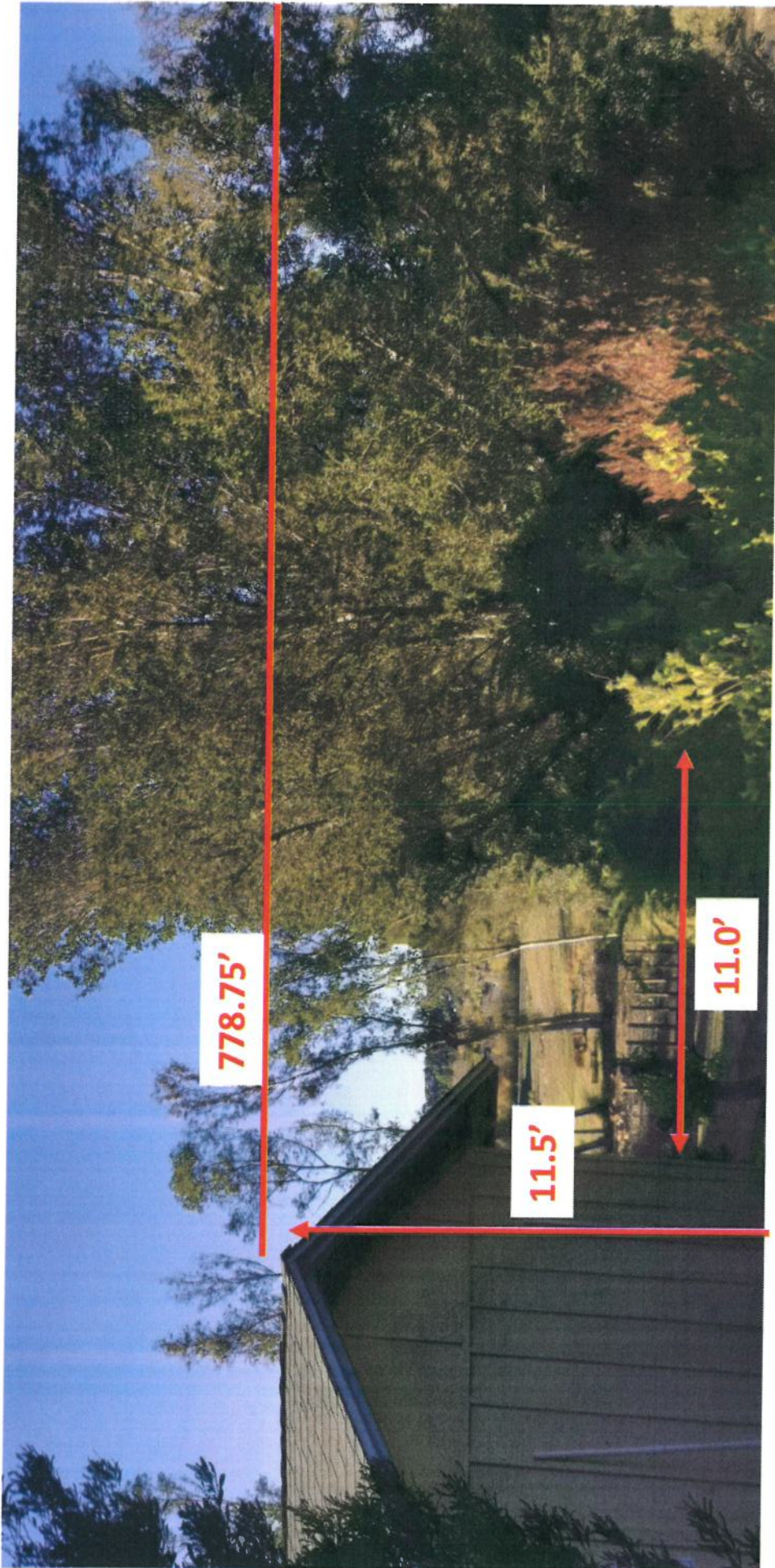
**Stanley Avenue blind spot, looking E.
See H on map.**

Density Bonus Calculation

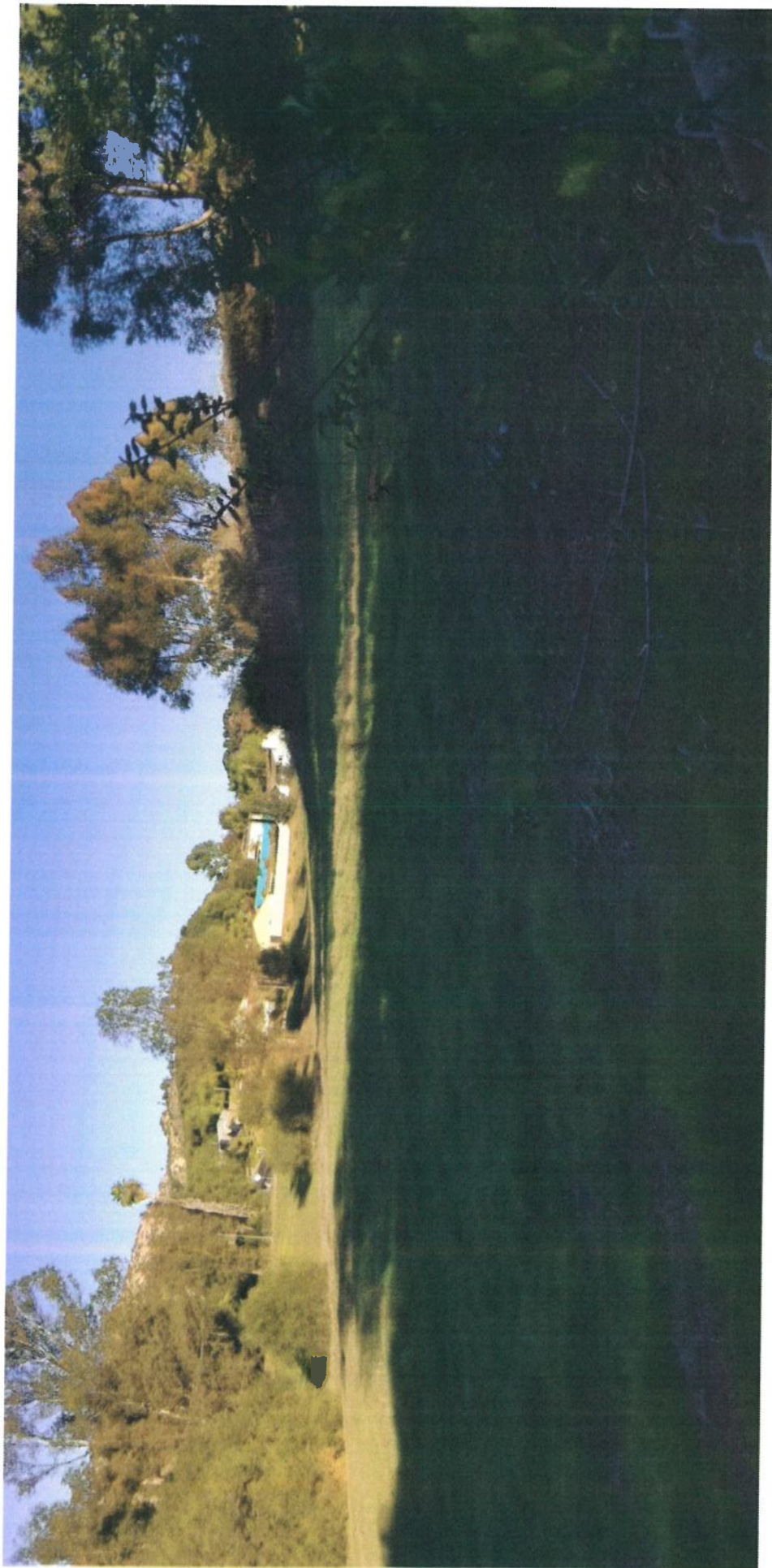
APN	Acres	GP DUs/Ac	GP DUs	Proposed Low Income Units	Low-Income DUs As Percent of GP	Density Bonus Permitted	Allowed Density Bonus DUs	Allowed Density Bonus DUs	Allowed Density Bonus DUs	Allowed Density Bonus DUs
224-142-33	1.40	3.3	5	1	20%	35%	2	2	7	5.0
224-142-32	1.57	3.3	6	1	17%	29%	2	2	8	5.1
224-142-31	0.94	3.3	4	1	25%	50%	2	2	6	6.4
224-142-30	1.36	3.3	5	1	20%	35%	2	2	7	5.1
224-141-25	2.09	2.0	5	2	40%	50%	3	3	8	3.8
224-141-23	4.70	2.0	10	3	30%	50%	5	5	15	3.2
224-141-24	2.01	2.0	5	1	20%	35%	2	2	7	3.5
Totals:	14.1		40	10			18	18	58	4.1

1. 224-141-24: Only 1.0 AC under development on this parcel
2. Total developed acres in Northern section (GP = 2 homes/AC) = 2.09 + 4.7 + 1 = 7.79
3. 7.79 * 2 = 15.58 = 16 units under General Plan
4. 50% low income units = 8 units (density bonus?)
5. 16 + 8 = 24 **NOT 33!**





VIEW A



VIEW B

January 10, 2023

VIA E-MAIL

Honorable Mayor and City Council
City of Escondido
210 N. Broadway
Escondido, CA 92025

Re: January 11, 2023 City Council Agenda Item No. 6
Conway Residential Subdivision (PL21-0269, PL21- 0278, and PL22-
0584) File Number 0800-10

Dear Honorable Mayor and City Councilmembers:

The purpose of this letter is to urge you to *deny approval* of the Conway Residential Subdivision (“Project”), or at the very least, *require the preparation of a full environmental impact report (“EIR”)* prior to any approval. There is no reason to rush the Project through the approval process (with the legally inadequate draft mitigated negative declaration (“MND”) only having been released in late October 2022, and the final version in mid-December), and there is every reason to ensure all of the Project’s impacts are fully understood.¹ Indeed, at this time, numerous critical details about the Project have not been provided, yet those details are required by law to justify the Project applicant’s request for *ten waivers* from otherwise applicable City development standards (including significant deviations from minimum lots sizes and maximum coverage/FAR), as well as one incentive/concession (an unprecedented request that the City allow an unpermitted use – multifamily duplexes – in the Project site’s exclusively single family General Plan land use designations and zoning).

This office represents the longtime residents of the single family home located at 2166 Weiss Way, which is directly adjacent to where the northern portion of the Project would be developed. My clients are not the stereotypical “NIMBY” neighbors looking to stop any new development, but instead have always understood that a residential project will eventually be built on the Project site, and further understand that the City’s hands are somewhat tied with respect to state law, such as Density Bonus law. However, my clients are opposed to physically and procedurally forcing a half-baked project through the City’s entitlement process without complying with applicable law – both state Density Bonus law and the California Environmental Quality Act (“CEQA”).

¹ The Final MND was only released on December 8, 2022, giving the public two business days to review these responses to comments on the Draft MND and other changes prior to the Planning Commission’s hearing. The City Council hearing was set in short order, just after the holidays, despite hours of comments from the public and Commissioners at that hearing.



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It sum, this Project should either be outright denied, or sent back to prepare a full EIR before it is considered, because: (1) the MND does not comply with the requirements of CEQA, and in particular, relies on incorrect facts to conclude that the Project's traffic/transportation impacts can be mitigated to a less than significant level, (2) the Project does not comply with state Density Bonus Law or the City's own density bonus ordinance (Chapter 33, Article 67 of the Escondido Municipal Code), and (3) the Project is not consistent with the Project site's General Plan land use designations or zoning districts. This letter focuses on certain critical details regarding the foregoing, without repeating the many details already set forth in our two previous letters to the City, which were attached to the City Council's staff report as Attachment "2" and Exhibit A thereto (November 17, 2022 comment letter on the Draft MND & December 13, 2022 letter to the Planning Commission), and incorporated herein by this reference rather than re-attached here.

Finally, it is important to note that when recommending approval of the project, the Planning Commission recommended imposing conditions of approval requiring at least an additional 15 foot setback from my client's property, and additional landscaping in the area to mitigate impacts relating to the large elevation change. At a bare minimum, we request any Project approval impose these recommended conditions.

I. The Lack Of Detail Regarding The Project Is Legally Fatal

The applicant has the burden to provide enough information to demonstrate that its Project complies with state Density Bonus law and CEQA. Yet, the MND has *no* information regarding what will actually be built if the Project is approved, and does not attempt to even estimate building square footages, heights, building footprints, room counts, potential elevation types, or any other details.

The Final MND's responses to this office's previous comments regarding the total lack of information regarding the proposed housing units state that this information simply is not available at this stage, and is not required by CEQA, deferring all analysis to the design review stage. (Final MND, pp. 7-9, 65-66.) When pressed at the Planning Commission hearing, the applicant admitted that none of this information has been determined, and would instead be up to whichever homebuilder buys the Project site following approval, as the applicant has no intention of actually developing the Project. Thus, the City and the public is left to evaluate only total lot/unit count, and little else. This is not a legally acceptable response, and is ultimately fatal to both (1) the City's ability to grant the request waivers or concessions because it is impossible to assess whether or not they are necessary to allow the development of the Project, and (2) the legal validity of the MND, which cannot possibly adequately analyze the Project's impacts with the current amount of available information.



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A. The Applicant Has Not Provided Sufficient Information To Support Its Request For Ten Waivers And One Concession

As mentioned above, the Project applicant has requested the City to grant ten waivers from existing development standards, and grant an incentive or concession in the form of allowing multifamily uses on the Project site, where they are not a permitted use. The ten waivers are not trivial, but instead request over 50% reductions in minimum lot sizes (decreasing 20,000 and 10,000 square foot minimums to 6,515 square feet) and setbacks, significant increases in allowable lot coverage and FAR, significant reductions of street and other infrastructure requirements, among other material deviations.

Pursuant to state Density Bonus law, the City may only grant waivers only if failure to do so would “physically preclude the construction” of the Project, as correctly stated in the City’s staff report. (Gov. Code Gov. Code § 65915(e)(1).) As further explained in the City’s own local density bonus regulations set forth in the Escondido Municipal Code (“EMC”), “[a]ny 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.” (EMC 33-1417(h) [emph. added].)

However, it is impossible to determine if any of the requested waivers are actually necessary to ensure that an otherwise applicable development standard would physically preclude the construction of the Project, as no one – not even the applicant – knows what will be constructed. In particular, the applicant has never answered, and we respectfully request that the City Council ask, the following questions:

- Why are significantly decreased setbacks necessary to avoid physically precluding the Project when building footprints and square footages are not known?
- Why are significantly increased lot coverage and FAR maximums necessary to avoid physically precluding the project when building footprints and square footage are not known?
- How was the precise 6,515 minimum lot size determined?

For many of the waivers, including the decreased setbacks and increased allowable lot coverage and FAR, the applicant’s Density Bonus Project Proposal (rev. 12/1) simply states “[t]he existing standards would preclude construction of the project as designed.” However, ***there is no project currently designed***, so this statement simply cannot be true or supported by substantial evidence in the record. Surely, waivers required to develop 1,000 square foot duplex units and 4,000 square foot single family homes would be different than waivers required for 700 square foot duplex units and 2,000 square foot single family homes; yet the public and the City



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are left to guess where in this range (if it all) the proposed Project's residential units would fall. Thus, at a minimum, the requested waivers must be rejected for the lack of the required factual/evidentiary support of the same.

With respect to the requested concession (allowing duplexes), it must result in "identifiable and actual cost reductions" to the Project in order to be granted. (Gov. Code § 65915(d)(1)(A).) The City's local density bonus regulations state that "***[n]othing 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.***" (EMC § 33-1414(E)(3), (emph added).) Considering that the applicant freely admits that they have no idea what type of homes will eventually be constructed, including size, elevations, finishes, etc., they likewise have no idea what construction would cost. Thus, they cannot provide legitimate "***identifiable and actual*** cost reductions" that utilizing duplexes instead of single family homes would provide. The purported cost reductions provided by the applicant (at the last minute, just prior to the Planning Commission hearing - no doubt in response to this office's previous correspondence) are not supported by any actual evidence, and it is not credible that these unsupported figures are somehow the ***only*** details about the Project that the applicant is able to provide. The applicant also did not submit any information supporting a showing that the proposed concession is "required to achieve the required affordable housing costs or rent," as required by the EMC. (EMC § 33-1414(E)(3).)

In sum, the applicant cannot have it both ways – they must either prepare an EIR that fully discloses the details of the proposed Project, or withdraw their waiver and concessions requests, which cannot be legally supported by the information currently in the administrative record.

B. The MND's Project Description Is Inadequate Under CEQA

The Project applicant is required to make its best estimate regarding these details so that the Project's impacts can be analyzed (and mitigated) as accurately and completely as possible. (See, CEQA Guidelines § 15124; *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20 [while final designs are not necessarily required, the CEQA documents should at least include conceptual project designs].) The MND does not provide these estimates, and in response to previous comments, the Final MND asserts that it is not required to do so. That assertion is not correct, and the MND's project description is inadequate, resulting in an incomplete and ultimately legally deficient analysis of the Project's potential impacts on the environment.

As discussed in more detail herein, the MND also lacks any detail regarding the truck trips required to import 55,000 cubic yards of dirt to the Project site, and in fact, does not



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quantify or disclose the amount of trips this would generate at all, let alone analyze the resulting potentially significant impacts on the environment. These details must be provided as part of a full EIR.

II. The MND Does Not Comply With CEQA, And Because Substantial Evidence Supports A Fair Argument That The Project May Result In Significant Impacts, The City Should Require The Preparation Of A Full EIR

The preparation of an EIR is required if any substantial evidence in the record indicates that a project *may* have a significant effect on the environment, even if contrary evidence exists. (CEQA Guidelines § 15064(f)(1); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR – which CEQA clearly prefers – rather than through issuance of negative declarations. (*Pocket Protectors*, 124 Cal.App.4th at 928.)

Indeed, the EIR is the very heart of CEQA, and an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214, 1220; *see also, Pocket Protectors*, 124 Cal.App.4th at 927.) The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” (*Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.) The EIR process “protects not only the environment but also informed self-government.” (*Pocket Protectors*, 124 Cal.App.4th at 927.) Here, in addition to substantial evidence supporting a fair argument that the Project will result in significant impacts, the MND is an inadequate informational document, and does not fully disclose the extent of the Project’s potential impacts, let alone fully analyze the same.

A. Substantial Evidence Supports A Fair Argument That The Project’s Traffic/Transportation Impacts May Be Significant

The Project’s transportation impacts – which all parties admit are significant without mitigation – require the preparation of an EIR because substantial evidence supports a fair argument that the proposed mitigation measures will not actually reduce this significant impact to a less than significant level. Indeed, in its April 2022 notice of preparation (“NOP”), the City initially concluded the Project may have a significant impact as a result of the VMT it will generate, and an EIR would be required, before reversing course. (*See, Draft MND*, p. 1.)

Specifically, while the MND admits that the Project-generated vehicle miles traveled (“VMT”) would exceed the applicable significance threshold by 423 VMT, it asserts that

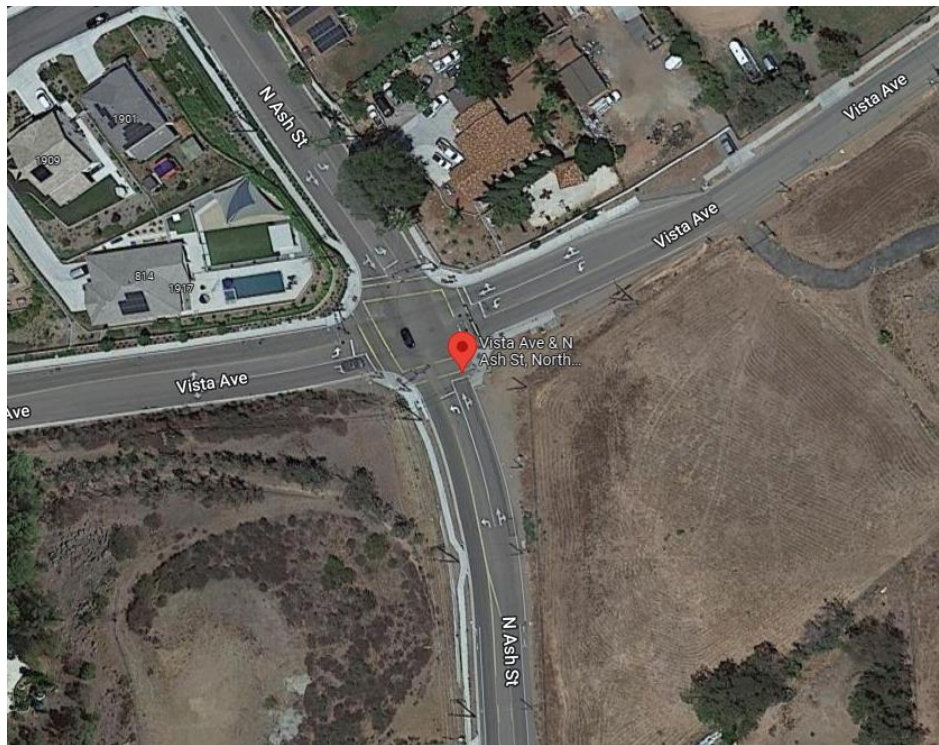


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Mitigation Measure MM TRANS-1 would mitigate these impacts to a less than significant level by requiring the construction of four crosswalks and one new sidewalk. (Draft MND, pp. 82-84; Final MND, pp. 83-84.) The MND asserts these mitigation measures would reduce the VMT generated by the Project by 430 VMT, just barely bringing VMT back under the City’s significance threshold. (*Id.*) However, as set forth below, a careful examination demonstrates that these mitigation measures will not be effective; the VMT impacts would remain significant. ***For this reason alone, CEQA requires the preparation of an EIR.***

MM TRANS-1 requires the construction of “new” crosswalks at the following four intersections:

1. N. Ash Street / Vista Avenue:



This location – which is approximately two miles from the Project site – ***already has crosswalks in all four directions***, clearly visible on the above aerial photograph. (See also, **Exhibit A**, which contains ground level photographs of this intersection taken by my client on January 7, 2023, and the other three discussed herein.) The Project cannot take credit for “new” crosswalks when they already exist – even if they are “upgraded” to higher visibility or accessibility – and therefore, the 120 VMT that the MND assumes would be reduced from installing crosswalks at this intersection must be added back to the Project’s total VMT, as the



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crosswalks are part of baseline / existing conditions. (Draft MND, p. 83.) Indeed, the City's own adopted VMT Guidelines state that "[s]pecial attention should be given to *ensuring that measures are not double-counted* through the transportation analysis process. For example, if a project identifies telecommuting as a reduction strategy, care should be taken to identify the level of telecommuting that has already been assumed as part of the travel demand model through coordination with SANDAG modeling staff or review of SANDAG model documentation available on SANDAG's website."² (Emph. added.) Here, assuming reductions to VMT would result from construction requiring improvements that already exist is exactly that – double counting.

Further, it is unclear what connection this intersection has to Project-granted vehicle trips, because it is not easily accessible to pedestrians traveling to or from the Project site, seeing that it is two miles away. Finally, this intersection is surrounded by only residential and vacant/open space uses, not destinations (i.e., commercial or other non-residential uses) where pedestrians would typically travel from their residences. Thus, as discussed further herein, even if the crosswalks did not already exist, a presumption that pedestrians in this area will walk instead of drive to a completely unknown destination is not based on any substantial evidence in the record.

2. N. Broadway / Rincon Avenue:



²<https://www.escondido.org/Data/Sites/1/media/Engineering/TIACRAIG/EscondidoTransportationImpactAnalysisGuidelines2021.pdf>, p. 23.



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This location – which is over a mile from the Project site – ***also already has crosswalks in all four directions.*** Thus, just as is the case for the N. Ash Street / Vista Avenue intersection discussed above, the Project cannot assume any reductions to its VMT based on improvements to this intersection, therefore adding back another 120 VMT to the Project’s total. (Draft MND, p. 83.) Indeed, it is unclear why the MND is taking “credit” for reducing 120 VMT for proposed improvements at each intersection, which this intersection has at least one high visibility crosswalk already. Clearly, the TIA and MND did properly take the actual existing conditions into account.

This intersection is also not within easy walking distance from the Project site, and surrounded by only residential and vacant/open space uses, rather than destinations where pedestrians would typically travel from their residences. Thus, a presumption that pedestrians in this area will walk instead of drive to a completely unknown destination is not based on any substantial evidence in the record.

3. Stanley Avenue / Conway Drive:



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This location is somewhat near to the Project site, and MM TRANS-1 would result in a crosswalk being added on one side. (Draft MND, p. 83.) However, it is still entirely unclear where any pedestrians would be traveling to or from, as this area is surrounded by only residential and vacant/open space uses, and thus there is no substantial evidence in the record supporting a reduction in Project VMT from crosswalk improvement to this intersection.

4. Lehner Avenue / Conway Drive:

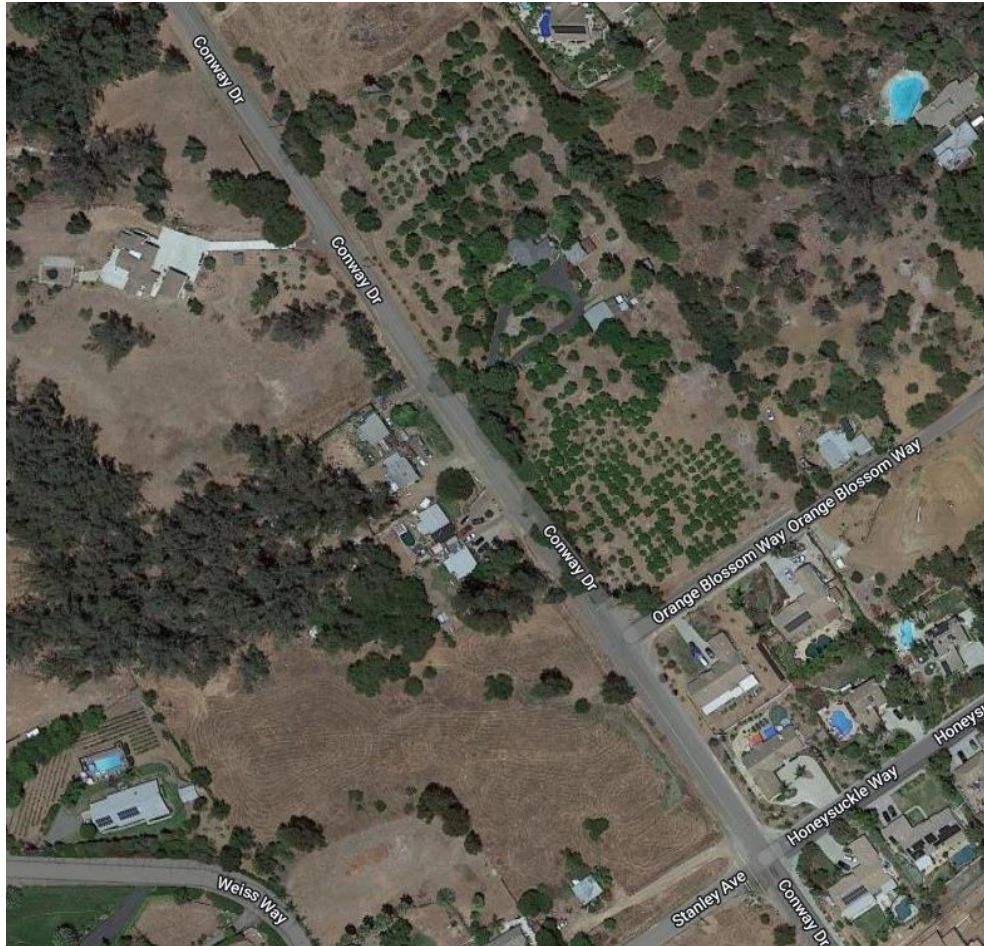


The final intersection is somewhat near to the Project site, and crosswalks would be added on two sides. (Draft MND, p. 84.) However, it is still entirely unclear where any pedestrians would be traveling to or from, as this area is surrounded by only residential and vacant/open space uses, and thus there is no substantial evidence in the record supporting a reduction in Project VMT from improvements to this intersection.



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Finally, the proposed new sidewalk would be constructed along the Project frontage on Conway drive (Appendix B, Figure 2-3), where a sidewalk already exists on the other side of Conway, at least for a portion of the distance:



Again, it is unclear where this sidewalk would take pedestrians in this rural area, and thus, there is no substantial evidence supporting a reduction in Project VMT from this proposed improvement.

In conclusion: At a minimum, the Project cannot take credit for VMT reductions at the first two intersections where four-way crosswalks already exist and therefore, any reductions to VMT are already occurring and are part of baseline conditions. As a result, at least 240 VMT must be added back to the Project’s mitigated VMT for a total of 2,358 VMT, which takes the Project’s VMT well over the City’s significance threshold of 2,125 VMT. (See, Draft MND, p 82.) ***For this reason alone, the City must require the preparation of an EIR.***



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Furthermore, even if all four of the above-discussed intersections did not already have crosswalks, simple logic demonstrates that there is no way adding crosswalks and a sidewalk would actually reduce *any* VMT generated by the Project, as there is nothing within reasonable walking distance that would replace even one vehicle trip. In response to this office’s previous comment in this regard, the Final MND did not identify any destinations that these crosswalks and sidewalks would encourage future residents to walk to. (Final MND, pp. 83-84.) Likewise, this information is not in the Project’s traffic impact analysis, which instead assigns numerical values to the proposed mitigation measures based solely on a standardized formula, without regard to the actual facts on the ground, and what other uses actually exist near the Project site. (MND Appendix J [Transportation Impact Analysis, Escondido North LLC, prepared by Linscott, Law, & Greenspan, dated October 6, 2022 (“TIA”)], pp. 20-23.) The actual facts on the ground – and the very low likelihood any future Project residents would walk anywhere instead of driving – constitutes substantial evidence in support of a fair argument that the Project may result in significant impact relating to transportation/traffic, again requiring the preparation of a full EIR.

Finally, the proposed mitigation has no enforcement mechanism, as it depends entirely on voluntary actions taken by individuals – which may or may not choose to walk instead of drive due to the existence of a crosswalk or sidewalk – rather than a legally enforceable measure that ensures impacts will be mitigated, as required by CEQA. ***Mitigation measures that are unrealistic and unlikely to be implemented create an illusory analysis and should not be relied upon.*** (*Cleveland Nat’l Forest Found. v. San Diego Ass’n of Gov’ts* (2017) 17 Cal.App.5th 413, 433.) A reviewing court will not defer to the agency’s determination that mitigation measures will work when their efficacy is not apparent and there is no evidence in the record showing they will be effective in remedying the identified environmental problem. (*Sierra Club v County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas (GHG) emissions would function as enforceable or effective mitigation measures]; *see also, King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 866; *Gray v County of Madera* (2008) 167 Cal.App.4th 1099, 1116.) When the effectiveness of a mitigation measure is not apparent, the CEQA document must include facts and analysis supporting its characterization of the expected result. (*Sierra Club v County of Fresno* (2018) 6 Cal. 5th 502, 522.) Substantial evidence supports a fair argument that the proposed VMT mitigation measures are not enforceable, and thus the Project may result in a significant impact on the environment.

B. The MND Does Not Disclose or Analyze the Impacts from the Truck Trips Required to Import 55,000 Cubic Yards of Dirt to the Project Site

The Draft MND states that “[t]he mass grading of the site requires approximately 59,200 cubic yards of cut and 99,600 cubic yards of fill,” and that for the purposes of analyzing impacts, the MND assumes the Project will require 55,000 cubic yards of imported dirt. (Draft MND, p. 8.) However, the MND makes no effort to quantify the number of truck trips that would be



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required to haul this dirt to the Project site in order to analyze both the associated air quality and transportation/traffic impacts of the same. Incredibly, the word “truck” does not appear anywhere in the Project’s TIA.

Most full size dump trucks have a capacity of between 10 and 16 cubic yards.³ Thus, even assuming the highest capacity of 16 cubic yards, importing this much dirt would result in approximately **6,875 one way truck trips**. The MND’s failure to analyze (or even disclose) this many truck trips directly adjacent to/surrounded by sensitive receptors (single family residences), on small, relatively rural roads, indicates that there is substantial evidence supporting a fair argument that these trips would result in significant air quality, greenhouse gas, noise, hazards and transportation/traffic impacts, *and* demonstrates that the MND fails as an informational document. Thus, these truck trips must be quantified, disclosed, analyzed and mitigated as part of the full EIR.

C. The MND Failed to Analyze Line-of-Sight for the Project’s Access

This office’s comment on the Draft MND expressed concern about the safety of the Project’s access points, and the fact that no line-of-sight analysis was done. In response, the Final MND asserted this analysis was done, citing Section 12 of the Project’s TIA. However, Section 12 in its entirety states the following:

12.0 PROJECT ACCESS

As described in Section 2.0, access to each Project sites are the following: F Lot The F Lot’s site access is proposed via one full access driveway along Lehner Avenue. H Lot The H Lot’s site access is proposed via two (2) full access driveway: along Conway Drive serving up to 10 multifamily attached units and along Stanley Avenue serving the single family detached units. These access will function adequately and dedicated left-turn lanes into the site are not necessary.

Clearly, no actual line-of-sight analysis was done, and this office’s previous comment provides substantial evidence of a fair argument that the Project may result in a significant impact in this regard. (See, November 17, 2022 letter, pages 12-13, Exhibit D thereto.)

³ *see*, [https://www.jdpower.com/cars/shopping-guides/how-many-cubic-yards-are-in-a-dump-truck#:~:text=Dump%20Truck%20Cubic%20Yardage%20%2D%20The,10%20and%2016%20cubic%20yard](https://www.jdpower.com/cars/shopping-guides/how-many-cubic-yards-are-in-a-dump-truck#:~:text=Dump%20Truck%20Cubic%20Yardage%20%2D%20The,10%20and%2016%20cubic%20yard;); <https://www.earthhaulers.com/how-much-dirt-can-a-dump-truck-carry/>; <https://www.lynhtruckcenter.com/how-much-can-a-dump-truck-carry/>



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D. The MND Does Not Properly Evaluate the Project's Potentially Significant Impacts Relating to Wildfire

The MND also completely fails to discuss and analyze fire evacuation routes and estimated evacuation times (MND, p. 52), which recent case law holds is required in order to comply with CEQA. (*Newtown Preservation Society, et al. v. County of El Dorado, et al.* (2021) 65 Cal.App.5th 771; *Sierra Watch v. County of Placer* (2021) 69 Cal.App.5th 1.) The MND similarly ignores guidance from the state Attorney General requiring the same, attached hereto as **Exhibit B** and available here: <https://oag.ca.gov/system/files/attachments/press-docs/Wildfire%20guidance%20final%20%283%29.pdf>.

This is particularly problematic here where the Project is being proposed in an area susceptible to wildfires, and for the Project at issue here, which crams 56 new residential units (and retains 2 existing units) onto 14 acres without requiring any “capacity enhancing” improvements to existing roadways to improve traffic or evacuation times. Clearly, substantial evidence supports a fair argument that the Project may result in a significant impact in this regard. The MND’s wildfire and hazards/hazardous materials sections are legally deficient for this same reason. (Draft MND, pp. 52-54, 95-96.)

This office made a similar comment on the Draft MND, but it was completely dismissed, and no information regarding evacuation times or anything else required by the above-cited case law and Attorney General guidance was provided. (Final MND, pp. 76-77.)

E. The MND Is Deficient In A Number Of Other Respects, Also Requiring The Preparation Of An EIR

Finally, this office stands by all of its previous assertions as set forth in its original November 17, 2022 letter comment on the Draft MND, none of which were cured by the Final MND’s cursory and legally inadequate response to comments. These assertions include that the MND’s air quality, biological resources, geological and soils, energy, hazards and hazardous materials, greenhouse gas, noise, housing, public services and recreation are all flawed for the detailed reasons set forth in previous correspondence, and ultimately indicate that the preparation of an EIR is required.



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III. The Project Does Not Comply With The Site’s General Plan Land Use Designation, Zoning Or Density Bonus Law For A Number Of Other Reasons

A. Duplexes Are Not Permitted Uses On The Site, And Density Bonus Law Does Not Allow The City To Amend Permitted Uses Without A General Plan Or Zoning Code Amendments

There is no dispute that duplexes – along with all other multifamily residential uses – are *not permitted uses on the Project site*, either under its existing General Plan land use designations (Estate II & Suburban) or zoning districts (R-E and R-1). Yet, the Project proposes 10 duplex units as its income restricted affordable units, while the remainder of the Project would be single family homes.

While this was not discussed at all in the Draft MND, the Final MND asserted – for the first time – that Density Bonus Law allows the City to authorize a different *use* than otherwise permitted as a “zoning concession” pursuant to Government Code section 65915(k). (Final MND, p. 103.) As discussed above, evidence of actual and identifiable cost reductions required to support this concession has not been provided to the City.

Even if the actual and identifiable cost reductions were properly identified, allowing a use that is not a permitted use under either the applicable General Plan land use designation or zoning district does not qualify for a concession, which is defined as “[a] reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards . . . including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).” (Government Code § 65915(k)(1).) ***Simply put, nothing in the state Density Bonus Law provides authority for allowing a complete change of a permissible use as a concession***, as compared to a reduction of zoning standards such as setbacks and design guidelines to allow the same type of use where it might otherwise not “fit” or would be cost prohibitive.

On a related note, the assertions in the Final MND that the inclusion of a use type not permitted by the General Plan and zoning designations is not a CEQA impact is simply wrong. The proposed concession, along with the ten waivers, result in unique impacts when compared to otherwise permitted uses, and these impacts were not adequately analyzed in the MND. In particular, allowing a use not otherwise permitted is a significant land use impact that requires the preparation of a full EIR, and this was not even discussed at all in the Draft MND. Further, the flawed discussion of land use issues infects the entire MND, and virtually all sections must be revised as part of an EIR – or at minimum, a recirculated MND – in order to comply with CEQA.



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B. The Project Fails To Provide Affordable Units That Are Of Similar Quality And Type To The Market Rate Units

As explained in this office’s previous letters, the provision of 10 multifamily duplex units as the affordable units on one lot, with 46 single family homes on their own lots as the market rate units, violates both state law and the City’s own requirement that the affordable units must be of a similar caliber as the market rate units to qualify for a density bonus. (EMC § 33-1417(f) [“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”].) This also violates other similar provisions of the EMC, which states that a density bonus project’s affordable units should be dispersed throughout the housing development, not concentrated on one of 47 parcels, as proposed here. (EMC § 33-1417(b).) The EMC also requires the bedroom mix for the affordable units to be equal to the bedroom mix for the market rate units – since this is currently unknown, the Project does not meet this requirement, either. (EMC § 33-1417(d).) Therefore, the City cannot approve the proposed density bonus Project.

C. The Applicant Has Artificially Inflated The Density Bonus By Calculating Bonuses Per Existing Parcel

The Project applicant has calculated the total density bonus for the Project by calculating the total potential bonus for each individual existing parcel, rounding each figure up, and then totaling all of those figures. While Density Bonus Law does require rounding up, it is done on a *project-wide* basis, with only one figure rounded up, rather than “compounding” the rounding parcel by parcel to artificially inflate the total bonus number. Page six of the City’s staff report to the Planning Commission noted that this is not how the density bonus amount is calculated for any other projects in the City.

This method of calculation is flawed not only because of the compounded rounding, but further, there are *no* affordable units planned on a number of the existing parcels, meaning that the density bonus for those parcels should be zero. Finally, if the Project were to be approved, none of the existing parcels would continue to exist, as the Project would be subdivided in 47 total lots, with all ten affordable units all on one lot. There is no support – logical or legal – for calculating the bonus based on parcels that, if the Project is approved, would not even exist. Thus, the density bonus number should be recalculated on a project-wide basis, and the Project revised accordingly. My client is directly submitting a PowerPoint presentation discussing some of these issues, and an excerpt of which is attached as Exhibit C.



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The Project's extremely aggressive density bonus calculation, proposed concession to allow development of an otherwise prohibited use, and ten separate and significant waivers from development standards all make clear that the Project applicant – who will be gone forever once the Project is approved, and will have no involvement in the Project – is solely interested in squeezing as many units as possible on the Project site to maximize return, and has little interest in developing a good project for the City or considering and mitigating all impacts in compliance with applicable law.

For all the foregoing reasons, my clients respectfully request that the City Council either (1) outright deny approval of the Project as inconsistent with state Density Bonus Law, the City's density bonus regulations, and the City's General Plan and zoning, or (2) deny approval of the MND, and instead require the preparation of a full EIR. I look forward to attending the City Council's public hearing (along with my clients and other neighbors), and will be available to answer any questions that the City Council may have.

Sincerely,

Kelsey E. Quist

Attachments: Exhibit A: Excerpt of MND and Street Level Photographs of Intersections Referenced in Transportation Mitigation Measures

Exhibit B: Attorney General Guidance: Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act

Exhibit C: Density Bonus Calculations

- 1 • N. Ash Street / Vista Avenue - install high visibility crosswalks and accessible pedestrian signals on all four legs. VMT reduction equates to 60 VMT per measure - total reduction for this intersection is 120 VMT.
- 2 • N. Broadway / Rincon Avenue - install high visibility crosswalks on the north, south and east legs, and install accessible pedestrian signals on all four legs. VMT reduction equates to 60 VMT per measures - total reduction for this intersection is 120 VMT.
- 3 • Stanley Avenue / Conway Drive - install high visibility crosswalks on the west leg and curb ramps on the northwest and southwest corner. VMT reduction equates to 15 VMT for the high visibility crosswalk and 8 VMT per curb ramp - total reduction for this intersection is 31 VMT.

← Crosswalks and signals are already on all 4 legs.

← Crosswalks and signals are already on all 4 legs.

- 4 • Lehner Avenue / Conway Drive - install high visibility crosswalks on the west and south legs, and curb ramps on the northwest corner. VMT reduction equates to 30 VMT for the high visibility crosswalks and 8 VMT for the curb ramp - total reduction for this intersection is 38 VMT.
- New sidewalk - approximately 1 mile of new sidewalk equates to 303 VMT reduction. The Proposed Project proposes to construct approximately 2,111 feet of new sidewalk along its project frontage. Total VMT reduction for this improvement is 121 VMT.

Implementation of the improvements outlined in MM TRANS-1, would reduce 430 VMT generated by the Proposed Project, which exceeds the 423 VMT over the threshold. Therefore, impacts would be mitigated to less than significant.

1

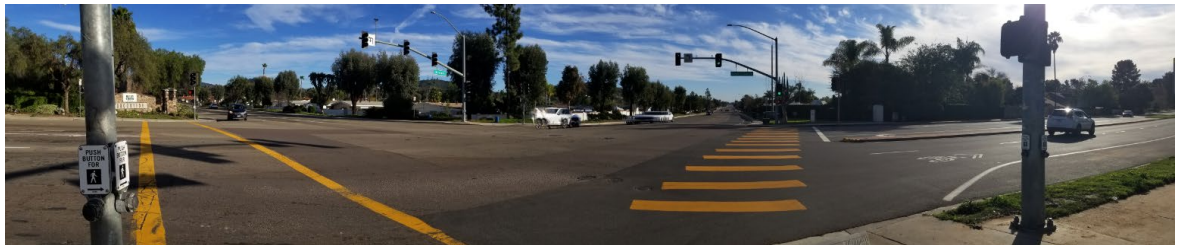


N. Ash – Vista
Intersection
Fully equipped with
sidewalks and signals



Broadway-Rincon
Intersection
Fully equipped with
sidewalks and signals

2





Crosswalk on west leg of Stanley- Conway

4



Crosswalk on south leg of intersection Lehner-Conway



Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act

I. Introduction

Wildfires are part of California's present, and with the effects of climate change, an increasing part of our future. Development in fire-prone areas increases the likelihood that more destructive fires will ignite, fire-fighting resources will be taxed, more habitat and people will be put in harm's way or displaced, and more structures will burn. It is therefore imperative that local jurisdictions making decisions to approve new developments carefully consider wildfire impacts as part of the environmental review process, plan where best to place new development, and mitigate wildfire impacts to the extent feasible.

This guidance is designed to help lead agencies¹ comply with the California Environmental Quality Act, Public Resources Code, section 21000 et seq. (CEQA), when considering whether to approve projects in wildfire-prone areas. These areas are often in the wildland-urban interface, generally defined as the area where the built environment meets or intermingles with the natural environment.² The California Department of Forestry and Fire Protection (CAL FIRE) has classified lands based on fire hazard, the highest being those classified as high or very high fire hazard severity zones. It has also identified areas where the State (as opposed to a local agency) has responsibility for fire-fighting.³ Particularly in these high-risk areas, but also throughout the

¹ Lead agencies are any public agencies with "principal responsibility for carrying out or approving a project which may have a significant effect upon the environment." (Pub. Resources Code, § 21067.)

² CAL FIRE has published an instructive map on the wildland-urban interface in California: https://frap.fire.ca.gov/media/10300/wui_19_ada.pdf. The wildland-urban interface is defined differently by different agencies for different purposes, but the most widely used definition for wildfire purposes include the intermix and interface areas mapped by Radeloff et al. 2005, 2018. See Volker C. Radeloff, et al., *Rapid Growth of the US Wildland-Urban Interface Raises Wildfire Risk*. PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES USA, 115(13):3314-3319 (2018), available at <https://www.pnas.org/doi/10.1073/pnas.1718850115>.

³ See <https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>. Note that areas mapped by CAL FIRE as high or very high fire hazard are not always coextensive with the wildland-urban interface. In addition, CAL FIRE's maps are currently in the process of being updated and lead agencies should consult with CAL

wildland-urban interface, wildfire risks must be considered during the environmental review process for individual development projects.

This guidance provides suggestions for how best to comply with CEQA when analyzing and mitigating a proposed project's impacts on wildfire ignition risk, emergency access, and evacuation.⁴ This guidance is aimed at proposed development projects, such as residential, recreational, or commercial developments.⁵ The extent to which it applies will inherently vary by project, based on project design and location. This document does not impose additional requirements on local governments or alter any applicable laws or regulations. Rather, it is intended to provide guidance on some of the issues, alternatives, and mitigation measures that should be considered during the environmental review process. This guidance is based on the Office of the Attorney General's experience reviewing, commenting on, and litigating CEQA documents for projects in high wildfire prone areas, and is intended to assist lead agencies with their planning and approval of future projects. The guidance reflects current requirements and conditions and may need to be updated as changes occur.

II. Background

Although wildfires are and have been an important natural process throughout California's history, recent changes in fire frequency, intensity, and location are posing increasing threats to the residents and environment of California. More acres of California have burned in the past decade than in the previous 90 years⁶ and eight of the State's ten largest fires since 1932 have occurred in the last decade.⁷ While lightning is a common cause of some of the State's largest

FIRE before relying on the classifications listed on this map. CAL FIRE's list of state responsibility areas (defined as areas where the State of California, as opposed to a local agency, is financially responsible for prevention and suppression of wildfires) can be found at: <https://calfire-forestry.maps.arcgis.com/apps/webappviewer/index.html?id=468717e399fa4238ad86861638765ce1>. Each county should have a map of the very high or high fire hazard severity zones in its jurisdiction, and they are also included on the CAL FIRE zone map: <https://egis.fire.ca.gov/FHSZ/>.

⁴ Readers who want to determine their legal obligations under CEQA should consult their own attorney for legal advice.

⁵ This guidance is not intended to apply to state and local agency fire management activities, such as prescribed burns, approval of vegetation management plans to reduce wildfire risk, and review of timber harvesting plans.

⁶ CAL FIRE, Top 20 Largest California Wildfires (Jan. 13, 2022), available at https://www.fire.ca.gov/media/4jandlhh/top20_acres.pdf. See also Hugh D. Safford et al., *The 2020 California Fire Season: A Year Like No Other, a Return to the Past or a Harbinger of the Future?* (Apr. 17, 2022) GLOBAL ECOLOGY AND BIOGEOGRAPHY, available at <https://onlinelibrary.wiley.com/doi/10.1111/geb.13498?af=R>.

⁷ Paul Rogers, *Map: 1 of Every 8 acres in California has Burned in the Last 10 Years. Here's Where the Biggest Fires Spread—and are Burning Now*, Mercury News (Sept. 29, 2021), available at <https://www.mercurynews.com/2021/09/29/top-10-california-wildfires-megafires-map/>. Notably, the large fires of late are not unprecedented in the State's history with similarly large fires occurring specifically during the 1920s. See Jon E. Keeley & Alexandra D. Syphard, *Large California Wildfires: 2020*

fires, in recent years, many of the State's most destructive fires have been caused by human activity, such as downed powerlines or electrical sources associated with residential development or industrial facilities.⁸

Wildfires can have dramatic, adverse ecological impacts. Frequent wildfires can result in habitat loss and fragmentation, shifts in vegetative compositions, reductions in small mammal populations, and accelerated loss of predatory species.⁹ Wildfire can also have adverse impacts on erosion and water quality. During active burning, ash and associated contaminants can enter water supplies. Later, after large burns, rainstorms can flush vast amounts of sediment from exposed soils into those same water supplies.¹⁰

Wildfires also have tragic consequences for California's residents. Since 2010, wildfires have killed nearly 150 people in California¹¹ and, since 2005, wildfires have destroyed over 97,000 structures,¹² requiring mass evacuations and exacerbating the State's already-pressing need for more housing. In addition, wildfire smoke is unhealthy to breathe and is a public health concern.¹³ Further, wildfire losses are not experienced equally. Lower-income households are more likely to lose all of their assets and less likely to have adequate insurance to cover their losses.¹⁴ Meanwhile, the costs of wildfire suppression and resiliency have become significant. In

Fires in Historical Context (Aug. 25, 2021) FIRE ECOLOGY, available at <https://fireecology.springeropen.com/articles/10.1186/s42408-021-00110-7>.

⁸ See CAL FIRE, Top 20 Largest California Wildfires (Jan. 13, 2022), available at https://www.fire.ca.gov/media/4jandlh/top20_acres.pdf; CalFire, Top 20 Most Destructive California Wildfires (Jan. 13, 2022), available at https://www.fire.ca.gov/media/t1rdhiz/top20_destruction.pdf.

⁹ See Alexandra D. Syphard, et al., *Human Influence on California Fire Regimes*. ECOLOGICAL APPLICATION 17:1388-1402 (2007).

¹⁰ United States Environmental Protection Agency, Wildfires: How do They Affect Our Water Supplies? (Aug. 13, 2019), available at <https://www.epa.gov/sciencematters/wildfires-how-do-they-affect-our-water-supplies#:~:text=Vegetation%20that%20holds%20soil%20in,%2C%20rivers%2C%20and%20downstream%20reservoirs>.

¹¹ CAL FIRE, Top Deadliest California Wildfires (Oct. 22, 2021), available at https://www.fire.ca.gov/media/lbfd0m2f/top20_deadliest.pdf.

¹² Headwaters Economics, Wildfires Destroy thousands of structures each year (Nov. 2020, updated Aug. 2022), available at <https://headwaterseconomics.org/natural-hazards/structures-destroyed-by-wildfire/>.

¹³ See Kurtis Alexander, *California Ranks Worst in Nation for Air Pollution Because of Wildfire Smoke*, S.F. Chronicle (June 23, 2022), available at <https://www.sfchronicle.com/bayarea/article/california-air-quality-17259687.php>. See also Lora Kolodny, *The West Coast Is Suffering from Some of the Worst Air in the World — These Apps Show How Bad it Is*, CNBC (Sept. 13, 2020), available at <https://www.cnbc.com/2020/09/12/air-quality-apps-purpleair-airnow-iqair-essential-in-western-us.html>; and California Air Resources Board, *Protecting Yourself from Wildfire Smoke*, available at <https://ww2.arb.ca.gov/protecting-yourself-wildfire-smoke>.

¹⁴ California Council on Science and Technology, *The Costs of Wildfire in California* (Oct. 2020), at p. 69, available at <https://ccst.us/reports/the-costs-of-wildfire-in-california/>.

2021, the State invested \$1.5 billion in wildfire resiliency efforts, and the 2022-2023 budget includes an additional \$1.2 billion to support wildfire and forest resilience.¹⁵ The changing nature of wildfires, under various metrics—frequency, area burned, adverse ecological impacts, the number of Californians displaced—is a worsening crisis that will unfortunately be part of California’s future.¹⁶

As of 2010, about one-third of California’s housing units were located within the wildland-urban interface.¹⁷ Residential developments in the wildland-urban interface and other wildfire prone areas can significantly increase the risks of wildfires and the risk to public safety for several reasons. First, introducing more people—via additional development—into a flammable landscape increases the likelihood of: (1) a wildfire igniting due to the increased presence of people; and (2) the ignition becoming a wildfire because of the placement of homes amongst the flammable vegetation.¹⁸ Second, building housing units in the wildland-urban interface puts more people in harm’s way.¹⁹ Wildfires, particularly those that impact developments in relatively remote locations, may impede the evacuation of communities and emergency access, making it more difficult to ensure public safety and to limit, control, or extinguish wildfires. Finally, fires in remote locations require significant fire-fighting resources and mobilization of fire-fighters from all over the State—putting a major strain on the State’s fire-fighters and the State’s budget. Put simply, bringing more people into or near flammable wildlands leads to more frequent, intense, destructive, costly, and dangerous wildfires.²⁰

¹⁵ Gavin Newsom, California State Budget (2022-2023), at p. 61, available at <https://www.ebudget.ca.gov/FullBudgetSummary.pdf>; California State Budget, Budget Addendum (2021-2022), at p. 3, available at <https://www.ebudget.ca.gov/BudgetAddendum.pdf>.

¹⁶ See California Council on Science and Technology, *The Costs of Wildfire in California* (Oct. 2020), at p. 17, available at <https://ccst.us/reports/the-costs-of-wildfire-in-california/>.

¹⁷ Community Wildfire Planning Center, *Land Use Planning Approaches in the Wildland-Urban Interface* (Feb. 2021), at p. 7, available at https://www.communitywildfire.org/wp-content/uploads/2021/02/CWPC_Land-Use-WUI-Report_Final_2021.pdf; see also Heather Anu Kramer, et al., *High Wildfire Damage in Interface Communities in California* (2019) INTERNATIONAL JOURNAL OF WILDLAND FIRE, available at https://www.fs.usda.gov/nrs/pubs/jrnl/2019/nrs_2019_kramer_001.pdf. At the current rate of growth and under current growth patterns, it is anticipated that an additional 645,000 housing units will be developed in areas designated by CAL FIRE as very high fire hazard severity zones by 2050. Next 10, *Rebuilding for a Resilient Recovery: Planning in California’s Wildland Urban Interface* (June 2021), at p. 9, available at <https://www.next10.org/publications/rebuilding-resilient>.

¹⁸ See Alexandra D. Syphard, *Why Are so Many Structures Burning in California?* (2020) *Fremontia*, 47(2), at p. 29; Volker C. Radeloff, et al., *Rapid Growth of the US Wildland-Urban Interface Raises Wildfire Risk*. PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES USA, 115(13):3314-3319 (2018).

¹⁹ See Heather Anu Kramer, et al., *High Wildfire Damage in Interface Communities in California* (2019) *International Journal of Wildland Fire*, available at https://www.fs.usda.gov/nrs/pubs/jrnl/2019/nrs_2019_kramer_001.pdf; Volker C. Radeloff, et al., *Rapid growth of the US wildland-Urban interface raises wildfire risk*. PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES USA, 115(13):3314-3319 (2018).

²⁰ See Michael L. Mann, et al., *Incorporating Anthropogenic Influences into Fire Probability Models: Effects of Human Activity and Climate Change on Fire Activity in California* (Apr. 28, 2016) PLOS ONE

III. Wildfire and Land Use Planning

While this guidance is focused on best practices to disclose, analyze, and mitigate wildfire impacts in compliance with CEQA, it is important to note that general planning also provides a critical opportunity for local jurisdictions to think proactively about how to accommodate their housing and development needs while reducing the risks of wildfire.²¹ In the last ten years, new legislation has passed requiring local jurisdictions to consider wildfire risks in their general planning processes.²² The Governor's Office of Planning and Research (OPR) recently published comprehensive guidance to help local agencies comply with these requirements.²³ We encourage local jurisdictions to consult this guidance and to thoughtfully plan for new development given the increasing risk of wildfires throughout the state.²⁴

11(4), available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0153589>; Alexandra D. Syphard, *Why Are so Many Structures Burning in California?* (2020) *FREMONTIA*, 47(2), at pp. 28-35, available at <https://pubs.er.usgs.gov/publication/70215982>; Alexandra D. Syphard, et al., *Land Use Planning and Wildfire: Development Policies Influence Future Probability of Housing Loss* (2013) *PLOS ONE*, available at <https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0071708&type=printable>; see also Final Statement of Reasons for Regulatory Action re Amendments to the State CEQA Guidelines OAL Notice File No. Z-2018-0116-12 ("Statement of Reasons"), at p. 87, available at https://resources.ca.gov/CNRALegacyFiles/ceqa/docs/2018_CEQA_Final_Statement_of%20Reasons_111218.pdf.

²¹ See Alexandra D. Syphard, *Why Are so Many Structures Burning in California?* (2020) *FREMONTIA*, 47(2), at p. 33, available at <https://pubs.er.usgs.gov/publication/70215982> [concluding that "the most effective strategy at reducing future structure loss would focus on reducing the extent of low-density housing via careful land planning decisions"].

²² See Sen Bill No. 1241 (2011-2012 Reg. Sess.), amending and/or adding Gov. Code, §§ 65302, subd. (g)(3), 65302.5, subd. (b), and 66474.02 [requiring local jurisdictions within state responsibility areas or very high fire hazard severity zones to address wildfire risk when updating their safety elements and to submit their draft updates to the State Board of Forestry and Fire Protection for review]; Sen. Bill No. 99 (2019-2020 Reg. Sess.), amending Gov. Code, § 65302, subd. (g)(5) [requiring updated safety elements to identify residential developments within hazard areas that do not have at least two evacuation routes]; Assem. Bill No. 747 (2019-2020 Reg. Sess.), adding Gov. Code, § 65302.15 [requiring local jurisdictions to update their safety element to address the capacity of evacuation routes under a range of various emergency scenarios]; Assem. Bill No. 1409 (2020-2021 Reg. Sess.), amending Gov. Code, § 65302.15 [requiring that safety elements identify locations where people can evacuate to].

²³ Governor's Office of Planning and Research, *Fire Hazard Planning Technical Advisory, 2022 Update* (Aug. 2022), available at https://opr.ca.gov/docs/20220817-Fire_Hazard_Planning_TA.pdf; and *Wildland-Urban Interface Planning Guide: Examples and Best Practices for California Communities* (Aug. 2022), available at https://opr.ca.gov/docs/20220817-Complete_WUI_Planning_Guide.pdf.

²⁴ Local jurisdictions that have complied with their general planning obligations, including incorporating wildfire and evacuation planning considerations into their general plans, may benefit from streamlined CEQA requirements at the project approval level. If a development project is consistent with an updated general plan and an environmental impact report (EIR) was prepared for that plan, the CEQA review for the project may be limited to the parcel-specific impacts of the project or impacts that new information,

IV. Analyzing and Mitigating Wildfire Risk Impacts Under CEQA

A. CEQA's requirements for analyzing wildfire risks

CEQA requires local jurisdictions considering development projects to prepare an environmental impact report (EIR) or a mitigated negative declaration²⁵ if the project may potentially have a significant impact on the environment and is not otherwise exempt from CEQA.²⁶ Under CEQA, local jurisdictions may act as lead agencies with responsibility for preparing the EIR (or other CEQA document), or as responsible agencies relying on an EIR prepared by a lead agency. CEQA provides a critical process for local jurisdictions to understand how new developments will exacerbate existing wildfire risks, allowing them to consider project design features, alternatives, and mitigation measures that provide for smarter development and the protection of existing communities.

The CEQA Guidelines²⁷ require that an EIR include a description of the physical environmental conditions in the vicinity of the project, at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced.²⁸ This “baseline” of existing environmental conditions is generally used to determine the significance of project-related impacts. In the EIR’s discussion of the existing environmental conditions, lead agencies should include information about open space areas and habitats within the project area that may be fire prone, as well as a discussion of fire history and fuels on the project site. Including a discussion of existing available water supplies for fire-fighting is also critical. Providing detail about existing environmental conditions at the project site that may exacerbate or minimize wildfire impacts will help ensure that the EIR fully considers the project’s impacts on wildfire risk.

The CEQA Guidelines require an analysis of “any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area affected,” including by locating development in wildfire risk areas.²⁹ The “environmental checklist form” in Appendix G of the CEQA Guidelines, Section XX, directs lead agencies to assess whether

arising since adoption of the general plan, shows will be more significant than described in the prior EIR. (Pub. Resources Code, § 21083.3; CEQA Guidelines, § 15193).

²⁵ Where “EIR” is used in this guidance it should also be considered to refer to a mitigated negative declaration.

²⁶ Pub. Resources Code, § 21067; CEQA Guidelines, §§ 15050 and 15367.

²⁷ The CEQA Guidelines are found at California Code of Regulations, title 14, section 15000, et seq.

²⁸ CEQA Guidelines, § 15125.

²⁹ CEQA Guidelines, § 15126.2.

projects located *in or near* state responsibility areas or lands classified as very high fire hazard severity zones,³⁰ would:

- a) Substantially impair an adopted emergency response plan or emergency evacuation plan;
- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire;
- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or
- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.³¹

In addition to the four questions above, Section IX(g) of the checklist broadly directs lead agencies to consider whether a project will “expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires.”³² In answering these questions, lead agencies must consider both on- and off-site impacts.³³

B. Analyzing a project’s impact on wildfire risks

Several variables should be considered in analyzing a project’s impact on wildfire risk, including:

- **Project Density:** Project density influences how likely a fire is to start or spread, and how likely it is that the development and its occupants will be in danger when a fire starts. Fire spread and structure loss is more likely to occur in low- to intermediate-density developments.³⁴ This is because there are more people present to ignite a fire (as compared to undeveloped land), and the development is not concentrated enough

³⁰ See footnote 1 for more information on state responsibility areas and very high fire hazard severity zones.

³¹ CEQA Guidelines, Appendix G, XX.

³² CEQA Guidelines, Appendix G, IX(g). This Guidance focuses on these key wildfire-related questions in Sections IX(g) and XX of the checklist, but in conducting environmental review, lead agencies must continue to thoroughly address the other questions identified in Section XX and the checklist more generally.

³³ CEQA Guidelines, § 15360 [defining the environment to be considered as “the area in which significant effects would occur either directly or indirectly as a result of the project”].

³⁴ Alexandra D. Syphard, *The Relative Influence of Climate and Housing Development on Current and Projected Future Fire Patterns and Structure Loss Across Three California Landscapes* (2019) GLOBAL ENVIRONMENTAL CHANGE; Alexandra D. Syphard, et al., *Housing Arrangement and Location Determine the Likelihood of Housing Loss Due to Wildfire* (Mar. 28, 2012) PLOS ONE, available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0033954>.

(as compared to high-density developments) to disrupt fire spread by removing or substantially fragmenting wildland vegetation.³⁵ “Isolated clusters of development and low housing density mean that homes are embedded within, and more exposed to, a matrix of wildland vegetation.”³⁶ Moreover, fire-fighters may have difficulty accessing more remote and disconnected developments.³⁷

- **Project Location in the Landscape:** Project placement in the landscape relative to fire history, topography and wind patterns also influences wildfire risk. Although wildfire ignitions are primarily human-caused in California, wildfire behavior is largely driven by topography, fuel, climatic conditions, and fire weather (such as low humidity and high winds). How a development project is planned within the landscape determines to what extent it will influence fire risk.³⁸ For example, if a project site is located in a wind corridor, above-ground power lines may become a source of ignition. Similarly, siting residential structures in rugged terrain or on the top of steep hills may increase the wildfire risk. By contrast, if a project site includes landscape features that could prevent or slow the spread of fire, such as a lake or an irrigated golf course, the development may be strategically located so as to capitalize on that feature as a natural fuel break.³⁹

³⁵ See generally Alexandra D. Syphard, et. al., *Multiple-Scale Relationships between Vegetation, the Wildland-Urban Interface, and Structure Loss to Wildfire in California* (Mar. 12, 2021) MDPI FIRE 2021.

³⁶ Max A. Moritz, et al., *Learning to Coexist with Wildfire* (2014) NATURE 515(7525), at p. 64; see also Alexandra D. Syphard, et. Al., *Multiple-Scale Relationships between Vegetation, the Wildland-Urban Interface, and Structure Loss to Wildfire in California* (March 12, 2021) MDPI FIRE 2021.

³⁷ See Alexandra D. Syphard, *Why Are so Many Structures Burning in California?* (2020) FREMONTIA, 47(2), at p. 31.

³⁸ See generally Max Moritz, et al., *Building to Coexist with Fire: Community Risk Reduction Measures for New Development in California* (Apr. 2020) University of California Agriculture and Natural Resources, Publication 8680, available at <https://escholarship.org/uc/item/6n12m6pn>; Alexandra D. Syphard, *Why Are so Many Structures Burning in California?* (2020) FREMONTIA, 47(2), at pp. 28-35, available at <https://pubs.er.usgs.gov/publication/70215982>.

³⁹ See Max Moritz, et al., *Building to Coexist with Fire: Community Risk Reduction Measures for New Development in California* (Apr. 2020) University of California Agriculture and Natural Resources, Publication 8680, at p. 10, available at <https://escholarship.org/uc/item/6n12m6pn>; see also Conservation Biology Institute, *Paradise Nature-Based Fire Resilience Project Final Report* (June 2020), available at https://d2k78bk4kdhbpr.cloudfront.net/media/reports/files/CBI_Paradise_Final_Report_for_Posting_Online.pdf [An examination of how siting and greenbelts may have protected homes during the Paradise fire]. Siting of a new fire-resistant development between wildlands and existing development may even serve as a protective barrier for the existing development. But there can still be some risk of ember spread if the new development succumbs to fire. See Alexandra D. Syphard, *Why Are so Many Structures Burning in California?* (2020) FREMONTIA, 47(2), at pp. 28-35, available at <https://pubs.er.usgs.gov/publication/70215982>; California Council on Science and Technology, *The Costs of Wildfire in California* (Oct. 2020), at p. 67, available at <https://ccst.us/reports/the-costs-of-wildfire-in-california/>.

- **Water Supply and Infrastructure:** As part of evaluating a project's wildfire risk impacts, an EIR should analyze the adequacy of water supplies and infrastructure to address fire-fighting within the project site.⁴⁰ This analysis should consider the potential loss of water pressure during a fire, which may decrease available water supply⁴¹ and the potential loss of power, which may eliminate the supply.⁴²

To understand how a project may exacerbate the risk of wildfire, an EIR should qualitatively assess these variables and also use fire modeling and other spatial and statistical analyses to quantify the risks to the extent feasible. Experts should utilize fire models to account for various siting and design elements, as well as a variety of different fire scenarios. The modeling should include scenarios for fires that start in, near, and far from the project site, as well as extreme weather conditions that exacerbate fire spread.

Lead agencies are encouraged to develop thresholds of significance that either identify an increase in wildfire risk as a significant impact or determine, based on substantial evidence, that some increase in the risk of wildfires is not considered a significant impact. Relevant factors should include the project's impact on ignition risk, the likelihood of fire spread, and the extent of exposure for existing and new residents based on various fire scenarios. Modeling the various scenarios enables local agencies to quantify increased wildfire risks resulting from a project adding more people to wildfire prone areas and to assess the risks according to the threshold of significance.

Some EIRs have concluded that the conversion of some wildland vegetation into paved development reduces or does not increase wildfire risk. This conclusion is contrary to existing evidence and the well-accepted understanding that the fundamental driver of increased wildfire risk is the introduction of people into a flammable landscape.⁴³ Accordingly, the conversion of vegetation into developed land does not obviate the need for lead agencies to carefully consider and model how the addition of development into wildfire prone areas contributes to the risk of wildfire.

⁴⁰ See Max Moritz, et al., *Building to Coexist with Fire: Community Risk Reduction Measures for New Development in California* (Apr. 2020) University of California Agriculture and Natural Resources, Publication 8680, at p. 19 and Appendix B, available at <https://escholarship.org/uc/item/6n12m6pn>.

⁴¹ See Max Moritz, et al., *Building to Coexist with Fire: Community Risk Reduction Measures for New Development in California* (Apr. 2020), at p. 19, University of California Agriculture and Natural Resources, Publication 8680, available at <https://escholarship.org/uc/item/6n12m6pn>.

⁴² See Alexandra D. Syphard, *Nexus Between Wildfire, Climate Change and Population Growth in California* (2020) *FREMTONIA*, 47(2), at p. 26.

⁴³ See Heather Anu Kramer, et al., *High Wildfire Damage in Interface Communities in California* (2019) *INTERNATIONAL JOURNAL OF WILDLAND FIRE*, available at https://www.fs.usda.gov/nrs/pubs/jrnl/2019/nrs_2019_kramer_001.pdf; see also Exhibit A to the Final Statement of Reasons for Regulatory Action re Amendments to the State CEQA Guidelines, OAL Notice File No. Z-2018-0116-12, at p. 212, available at https://resources.ca.gov/CNRALegacyFiles/ceqa/docs/2018_CEQA_ExA_FSOR.pdf.

C. Analyzing the project's impact on evacuation and emergency access

The addition of new development into high wildfire risk or adjacent areas may impact the evacuation of project residents, as well as the existing population (e.g., residents, workers, students, visitors, and possibly livestock) in the area and the ability of emergency responders to simultaneously access the area to fight wildfire. This can, in turn, impact the risk and extent of large-scale fire spread and community safety within and around the new development. The EIR should evaluate these impacts both during construction and over the life of the project. The required analysis is relative to a project's impacts and risks; e.g., a higher density infill project within an already developed area would likely not require the same level of analysis as a new low-density development within the wildland-urban interface and surrounded largely by open space.⁴⁴

For projects located in high wildfire risk areas that present an increased risk of ignition and/or evacuation impacts, evacuation modeling and planning should be considered and developed at the time of project review and approval—when there is greater flexibility to modify a project's design, density, siting, and configuration to address wildfire considerations—rather than deferred to a later stage of the development process. Lead agencies will be best-positioned to ensure proposed development projects facilitate emergency access and ease constraints on evacuation with this information in hand prior to project approval. The ultimate objective is to allow for informed decision-making that minimizes the environmental and public safety hazards associated with new developments that increase the risk of ignition and impede evacuation in high wildfire prone areas.

Evacuation modeling and analysis should include the following:

- Evaluation of the capacity of roadways to accommodate project and community evacuation and simultaneous emergency access.
- Assessment of the timing for evacuation.
- Identification of alternative plans for evacuation depending upon the location and dynamics of the emergency.
- Evaluation of the project's impacts on existing evacuation plans.
- Consideration of the adequacy of emergency access, including the project's proximity to existing fire services and the capacity of existing services.
- Traffic modeling to quantify travel times under various likely scenarios.

⁴⁴ See Max Moritz, et al., *Building to Coexist with Fire: Community Risk Reduction Measures for New Development in California* (Apr. 2020), University of California Agriculture and Natural Resources, Publication 8680, at p. 5, available at <https://escholarship.org/uc/item/6n12m6pn> [describing the benefits of infill development].

In considering these evacuation and emergency access impacts, lead agencies may use existing resources and analyses, but such resources and analyses should be augmented when necessary. For example, agencies should:

- Utilize information from the EIR's analysis of traffic/transportation impacts, but they should not limit themselves to that information, which may not reflect the impact of emergency conditions on travel times.
- Consult with local fire officials and ensure that assumptions and conclusions regarding evacuation risk are substantiated with sound facts. Emergency conditions may not allow for ideal evacuation scenarios—staggered, staged, or targeted evacuation in response to a wildfire may sometimes be possible, but human behavior is difficult to predict and wildfires can be erratic, unpredictable, and fast-moving.⁴⁵
- Consider impacts to existing evacuation plans, but recognize that, depending on the scope of an existing evacuation plan, additional analyses or project-specific plans may be needed. Community evacuation plans often identify roles and responsibilities for emergency personnel and evacuation routes, but do not necessarily consider the capacity of roadways, assess the timing for community evacuation, or identify alternative plans for evacuation depending upon the location and dynamics of the emergency.
- Avoid overreliance on community evacuation plans identifying shelter-in-place locations. Sheltering in place, particularly when considered at the community planning stage,⁴⁶ can serve as a valuable contingency, but it should not be relied upon in lieu of analyzing and mitigating a project's evacuation impacts.⁴⁷

Local jurisdictions are encouraged to develop thresholds of significance for evacuation times. These thresholds should reflect any existing planning objectives for evacuation, as well as

⁴⁵ See FEMA and U.S. Fire Administration, *Wildland Urban Interface: A Look at Issues and Resolutions* (June 2022), available at <https://www.usfa.fema.gov/downloads/pdf/publications/wui-issues-resolutions-report.pdf>.

⁴⁶ FEMA, *Planning Considerations: Evacuation and Shelter-in-Place* (July 2019), available at https://www.fema.gov/sites/default/files/2020-07/planning_-_considerations-evacuation-and-shelter-in-place.pdf. The distinction between temporary shelter-in-place locations and buildings designed or retrofitted for longer term shelter-in-place should also be considered. See Max Moritz, et al., *Building to Coexist with Fire: Community Risk Reduction Measures for New Development in California* (Apr. 2020) University of California Agriculture and Natural Resources, Publication 8680, at p. 17, available at <https://escholarship.org/uc/item/6n12m6pn> [discussing the difference between “safety zones”—areas with little flammable vegetations, such as golf courses—versus buildings that are designed to provide protection from heat and embers while the front of a fire passes, typically for a duration of at least 30-60 minutes].

⁴⁷ See Mejia, *Pepperdine University Defends ‘Shelter in Place’ Decision During Woolsey Fire*, Los Angeles Times (Nov. 13, 2018), available at <https://www.latimes.com/local/lanow/la-me-ln-pepperdine-shelter-20181113-story.html>; Chandler, *Am I Going to Stay in the Parking Lot . . . While the Fires Burn Around Me?*, Record Searchlight (Dec. 12, 2019), available at <https://www.redding.com/in-depth/news/2019/04/25/california-wildfire-shelter-place-plans-questioned-evacuation-preparation/3427075002/>.

informed expert analysis of safe and reasonable evacuation times given the existing and proposed development. Local jurisdictions should consider whether any increase in evacuation times for the local community would be a significant impact. A conclusion that an increase in evacuation times is a less than significant impact should be based on a threshold of significance that reflects community-wide goals and standards.

In establishing thresholds, local jurisdictions should consider referring to successful evacuations from prior emergencies within their community or similarly situated communities. The thresholds should include, but not be limited to, whether the project creates an inconsistency with: (1) an adopted emergency operations or evacuation plan; (2) a safety element that has been updated per the requirements in Government Code sections 65302(g)(5) and 65302.15 to integrate wildfire and evacuation concerns; or (3) recommendations developed by the California Board of Forestry and Fire Protection regarding the safety of subdivisions pursuant to Public Resources Code section 4290.5.

D. Mitigating wildfire risk, evacuation, and emergency access impacts

If a project presents significant increased wildfire risks and/or evacuation and access impacts, CEQA requires the lead agency to consider and adopt feasible alternatives and mitigation measures to avoid or reduce the project's impacts (or make a finding of overriding consideration).⁴⁸ Not all project design features or mitigation measures will achieve the same reduction in impacts for every project—the effects and effectiveness of measures will vary geographically and by project. An EIR that baldly concludes that certain project design features or mitigation measures will reduce or eliminate all potential wildfire risks, without first describing those risks, fails to fully analyze the project's impacts. Compressing the analysis of impacts and mitigation deprives decision makers of a full description of the project's adverse impacts and, therefore, fails to equip the decision makers with the necessary information to properly address the impacts by adopting project design features, mitigation measures, or alternatives. To avoid this error and provide for better project design, the project EIR should first analyze the increased wildfire risks and evacuation impacts, and then consider feasible mitigation and alternatives to avoid or reduce those impacts.

Set forth below are some examples of potential mitigation measures and design alternatives that may reduce wildfire risk impacts. This list is not exclusive and a lead agency's adoption of some or all of these mitigation measures for a particular project may not be sufficient to comply with CEQA's requirement to adopt all feasible mitigation measures.

- Increasing housing density and consolidated design, relying on higher density infill developments as much as possible.
- Avoidance and minimization of low-density exurban development patterns or leapfrog-type developments (i.e., those with undeveloped wildland between developed areas).

⁴⁸ Pub. Resources Code, § 21081.

- Decreasing the extent and amount of “edge,” or interface area, where development is adjacent to undeveloped wildlands.
- Creation of buffer zones and defensible space within and adjacent to the development, with particular attention to ensuring that vegetation will not touch structures or overhang roofs.⁴⁹ It is also important that legal obligations are structured so that defensible space measures are retained over time.⁵⁰
- Siting projects to maximize the role of low-flammability landscape features that may buffer the development from fire spread.
- Undergrounding power lines.
- Limiting development along steep slopes and amidst rugged terrain, so as to decrease exposure to rapid fire spread and increase accessibility for fire-fighting.
- Placement of development close to existing or planned ingress/egress and designated evacuation routes to efficiently evacuate the project population and the existing community population, consistent with evacuation plans, while simultaneously allowing emergency access.
- Placement of projects close to adequate emergency services.
- Construction of additional points of ingress and egress and modification of evacuation routes to minimize or avoid increasing evacuation times or emergency access response times.
- Fire hardening structures and homes—upgrading the building materials and installation techniques to increase the structure’s resistance to heat, flames, and embers—beyond what is required in applicable building codes, both for new structures and existing structures in proximity to the new development.
- Requiring fire-hardened communication to the project site including high-speed internet service.
- Enhanced communication to the project population about emergency evacuation plans and evacuation zones.
- Parking limitations to ensure access roads are not clogged with parked vehicles.
- On-site water supply/storage to augment ordinary supplies that may be lost during a wildfire.

In all situations, mitigation measures should be combined and tailored to the specifics of the project, the surrounding landscape, and nearby existing uses. In some contexts, the mitigation measure itself may have an adverse impact that should be evaluated in an EIR. In addition,

⁴⁹ Note, however, that defensible space around homes does not alone tend to account for structural survival. See Alexandra D. Syphard, *Why Are so Many Structures Burning in California?* (2020) *FREMONTIA*, 47(2), at p. 32, available at <https://pubs.er.usgs.gov/publication/70215982>; Alexandra D. Syphard et al., *The Role of Defensible Space for Residential Structure Protection During Wildfires* (Oct. 14, 2014) *INTERNATIONAL JOURNAL OF WILDLAND FIRE*, available at <http://dx.doi.org/10.1071/WF13158>.

⁵⁰ See Max Moritz, et al., *Building to Coexist with Fire: Community Risk Reduction Measures for New Development in California* (Apr. 2020), at p. 12, University of California Agriculture and Natural Resources, Publication 8680, available at <https://escholarship.org/uc/item/6n12m6pn>.

mitigation measures may not provide the same level of protection or mitigation in all scenarios.⁵¹ For example, home hardening has been shown to be an extremely effective measure for preventing structure loss during a wildfire. The California Building Code was updated in 2008 to require more advanced fire hardening and homes built to the revised standards were shown to be 40 percent less likely to be destroyed by a wildfire than similarly situated homes built prior to the update.⁵² However, home hardening by itself may not be an adequate mitigation measure in all situations. During the Camp Fire, which swept through Paradise in 2018, homes built before and after the 2008 Building Code update were destroyed at roughly equal rates.⁵³ Home hardening in conformance with the 2008 Building Code alone did not meaningfully effect survivability; rather, proximity to other destroyed structures, the extent of vegetative overstory, and defensive space around homes was more relevant to whether or not a home survived.⁵⁴ While home hardening may be a worthy measure, this highlights the importance of combining measures, with an awareness to overall landscape conditions, to maximize public safety and minimize wildfire-related losses. It also demonstrates that defensive measures can improve but do not guarantee survivability, which highlights the continued importance of planning for evacuation and emergency access.

VII. Conclusion

As climate change and housing pressure continue to impact the State's landscape, wildfire risks, and development needs, local agencies need to thoroughly evaluate where and how new development is planned and constructed. With careful forethought during the various planning processes and thoughtful environmental review at the individual project development stage, new development can be designed and positioned to minimize future wildfire risks, enhance fire resiliency of our communities, and protect the health and safety of California's residents and natural resources. While the applicable rules, requirements, and analytical tools to reduce wildfire risk are evolving, this guidance is intended to provide suggestions for how best to comply with CEQA when analyzing and mitigating the wildfire risks of development projects in the wildland-urban interface and other fire prone areas.

⁵¹ See Alexandra D. Syphard, et al., *Multiple-Scale Relationships between Vegetation, the Wildland-Urban Interface, and Structure Loss to Wildfire in California* (Mar. 12, 2021), at p. 13, MDPI FIRE 2021 [noting that "the most effective fire risk reduction approach will account for multiple factors at multiple scales and will incorporate simultaneous strategies"].

⁵² Patrick W Baylis, et al., *Mandated vs. Voluntary Adaptation to Natural Disasters: the Case of U.S. Wildfires* (Dec. 2021), National Bureau of Economic Research, available at <https://www.nber.org/papers/w29621>.

⁵³ Eric E. Knapp, et al., *Housing Arrangement and Vegetation Factors Associated with Single-Family Home Survival in the 2018 Camp Fire, California* (2021) FIRE ECOLOGY 17:25, available at <https://fireecology.springeropen.com/track/pdf/10.1186/s42408-021-00117-0.pdf> [37 percent of homes built between 1997 and 2008 survived, while 44 percent of homes built between 2008 and 2018 survived].

⁵⁴ Eric E. Knapp, et al., *Housing Arrangement and Vegetation Factors Associated with Single-Family Home Survival in the 2018 Camp Fire, California* (2021) FIRE ECOLOGY 17:25, available at <https://fireecology.springeropen.com/track/pdf/10.1186/s42408-021-00117-0.pdf>.

Density Bonus Calculation

APN	Acres	GP DUs/Ac	GP DUs	Income Units	As Percent of GP	Density Bonus Permitted	Allowed Density Bonus DUs	Allowed Density	Allowed Total DUs	Allowed DUs/Acre
224-142-33	1.40	3.3	5	1	20%	35%	2	2	7	5.0
224-142-32	1.57	3.3	6	1	17%	29%	2	2	8	5.1
224-142-31	0.94	3.3	4	1	25%	50%	2	2	6	6.4
224-142-30	1.36	3.3	5	1	20%	35%	2	2	7	5.1
224-141-25	2.09	2.0	5	2	40%	50%	3	3	8	3.8
224-141-23	4.70	2.0	10	3	30%	50%	5	5	15	3.2
224-141-24	2.01	2.0	5	1	20%	35%	2	2	7	3.5
Totals:	14.1		40	10			18	18	58	4.1

North Side of Development Correct Calculation

- Parcel # 224-141-24: Only 1.0 AC under development (not 2.01)
- Total developed acres in Northern section (GP = 2 homes/AC) = 2.09 + 4.7 + 1 = 7.79
- 7.79 * 2 = 15.58 = 16 homes under General Plan
- 50% low income units = 8 (50% maximum density bonus)
- 16 + 8 = 24 NOT 33 as shown on Tentative Map!**
- Developer's own (incorrect) calculations show only 30 structures allowed.**
- YET there are 33 structures on this Northern section**



From: [Mike](#)
To: [Adam Finestone](#)
Subject: [EXT] PL21-0269
Date: Wednesday, January 11, 2023 9:48:37 AM

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

[You don't often get email from think1950@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Hi Zachary

I'd like to submit input for the public meeting tonight on item number 6 of the Conway subdivision.
PL21-0269

We are homeowners near the north cross street, Rincon ave. and Conway Dr.
This cross street (Rincon Ave) does not have any Storm drains or public sidewalks. It's a very dangerous intersection due to many trees blocking the traffic intersection. I was in a car accident because of these overgrown trees which cause a visual liability.

Many local residents also use Rincon ave for walking because it's a flat (non sloped) road.
Please have the city or developer resurface the pavement all the way down Rincon ave. to Creek Hollow Place with sidewalks for public walking access and improve the pavement issues for road safety.
Vista Water will also need to improve their water flume where it is blocking road and sidewalk access on Rincon Ave.

Thank you
Mike Stephenson
1415 Rincon ave

RESOLUTION NO. 2023-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING A TENTATIVE SUBDIVISION MAP AND GRADING EXEMPTION FOR A 56-UNIT RESIDENTIAL SUBDIVISION LOCATED AT 916, 942, AND 943 STANLEY AVENUE, AND ODD-NUMBERED ADDRESSES BETWEEN 2005 – 2175 CONWAY DRIVE; AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE LOCAL AGENCY FORMATION COMMISSION FOR INITIATION OF PROCEEDINGS FOR THE ANNEXATION AND REORGANIZATION OF A 2.01 ACRE PARCEL LOCATED AT 916 STANLEY DRIVE; AND ADOPTING A MITIGATED NEGATIVE DECLARATION PREPARED FOR THE PROJECT

CASE NOS. PL21-0269, PL21-0278, PL22-0584

WHEREAS, Escondido North, LLC (“Applicant”) filed a land use development application, Planning Case Nos. PL21-0296, PL21-0277, and PL22-0584 (“Application”), constituting a request for a Tentative Subdivision Map and Grading Exemption for a 56-unit residential project. The project includes 47 residential lots comprised of 46 single-family lots, two of which have existing homes, and one multi-family lot which would accommodate five duplexes. An Annexation is also requested for a 2.01-acre portion of the project site that is currently in the County of San Diego. The request includes a density bonus and would provide 10 affordable housing units (“Project”). The Project site is located along Conway Drive on both sides of Stanley Avenue and north of Lehner Avenue, in the R-1-10 (single-family residential, 10,000 square foot minimum lot size) and RE-20 (estate residential) zones; and

WHEREAS, the Project site consists of seven parcels totaling 14.07 gross acres located at 916, 942, and 943 Stanley Avenue, and odd-numbered addresses between 2005 – 2175 Conway Drive (APNs 224-141-23-00, 224-141-24-00, 224-141-25-00, 224-142-30-00, 224-142-31-00, 224-142-32-00, and 224-142-33-00), and is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as though fully set forth herein (“Property”); and

WHEREAS, the portion of the Project site which is subject to annexation into the City of Escondido is located at 916 Stanley Avenue (APN 224-141-24-00), and is all that real property described in Exhibit "B" and depicted in Exhibit "C," both of which are attached hereto and made a part hereof by this reference as though fully set forth herein ("Annexation Property"); and

WHEREAS, the Application was submitted to, and processed by, the Planning Division of the Development Services Department in accordance with the rules and regulations of the Escondido Zoning Code and the applicable procedures and time limits specified by the Permit Streamlining Act (Government Code section 65920 et seq.) and the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"); and

WHEREAS, single-family residential development is a permitted use within the R-1-10 & RE-20 zones, subject to the approval of a Tentative Subdivision Map, in accordance with Chapter 32 of the Escondido Municipal Code and Article 6 of the Escondido Zoning Code; and

WHEREAS, the ability to construct multi-family residential units on the Property has been requested as a density bonus incentive; and

WHEREAS, the annexation/reorganization is consistent with the Sphere of Influence of the City of Escondido and affected districts; and

WHEREAS, the annexation of the Property into the City of Escondido would also include concurrent detachment from County Service Area ("CSA") No. 135 (San Diego Regional Communications System) and exclusion from the Rincon Del Diablo Improvement District "E;" and

WHEREAS, the City Council of the City of Escondido desires to initiate proceedings pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act, Division 3, commencing with Section 56000 of the California Government Code for the proposed annexation/reorganization; and

WHEREAS, pursuant to 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, the Planning Division studied the Application, performed necessary investigations, prepared a written report, and hereby recommends approval of the Project as depicted on the plan set shown in Exhibit "D," which is attached hereto and made a part hereof by this reference as though fully set forth herein; and

WHEREAS, a Draft Initial Study and Mitigated Negative Declaration ("IS/MND") was prepared, circulated, and notice was made of its availability for public review and comment during the period from October 28, 2022, to November 17, 2022; and

WHEREAS, during the 20-day public comment period of the Draft IS/MND, the City consulted with and requested comments from responsible and trustee agencies, other regulatory agencies, and others. The City subsequently analyzed and considered any and all comments received during this public review comment period and have determined that they did not contain any significant new information within the meaning of CEQA Guidelines; and

WHEREAS, a Final IS/MND, attached as Exhibit "E" and incorporated by this reference, was subsequently prepared, which is comprised of any and all public comment letters received during the public review period, responses to comments, corrections/additions to the Draft IS/MND, and revisions and additions to the appendices or other referenced documents; and

WHEREAS, in addition to the Final IS/MND, a Mitigation Monitoring Reporting Program (“MMRP”) has been prepared for the Project, attached as Exhibit “F” and incorporated herein by this reference, to ensure compliance with the required mitigation measures or project revisions during project implementation; and

WHEREAS, The Planning Commission of the City of Escondido held a duly noticed public hearing on December 13, 2022, as prescribed by law, at which interested persons were given the opportunity to appear and present their views with respect to the Application. Evidence was submitted to and considered by the Planning Commission, including written and oral testimony from City staff, interested parties, and the public. Following the public hearing the Planning Commission adopted Planning Commission Resolution No. 2022-15, which recommended that the City Council approve the Project; and

WHEREAS, the City Council of the City of Escondido held a duly noticed public hearing on February 8, 2023, as prescribed by law, at which time the City Council received and considered the reports and recommendation of the Planning Division and Planning Commission, and gave all person’s full opportunity to be heard and to present evidence and testimony regarding the Project. 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 by the Applicant;
- b) Oral testimony from City staff, interested parties, and the public;
- c) The City Council staff report, dated February 8, 2023, 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) The Planning Commission’s recommendation; and

- e) Additional information submitted during the public hearing; and

WHEREAS, the City Clerk, whose office is located at 201 North Broadway, Escondido CA 92025, is hereby designated as the custodian of the documents and other materials which constitute the record of proceedings upon which the City Council's decision is based, which documents and materials shall be available for public inspection and copying in accordance with the provisions of the California Public Records Act.

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

1. That the above recitations are true.
2. That the City Council has reviewed and considered the Final IS/MND prepared for the Project in conformance with CEQA, the staff report dated February 8, 2023, and testimony given at the public hearing, and makes the environmental determinations included with Findings of Fact attached as Exhibit "G" hereto and incorporated by this reference. The Final IS/MND adequately addresses all environmental issues associated with the Project, and the Project would not result in any significant impacts to the environment. Approval of this resolution includes the adoption of the Final IS/MND.
3. That the MMRP addresses mitigation for potential project-related impacts and the report will sufficiently mitigate and assign ongoing responsibility for carrying out mitigation responsibilities which are appropriate to address and mitigate project-related impacts.
4. That the Findings of Facts, attached as Exhibit "G" hereto and incorporated by this reference, were made by the City Council, and upon their consideration along with the staff reports, public testimony presented at the hearing, and all other oral and written evidence on this project, this City Council approves the Project, subject to the Conditions of Approval set forth in Exhibit "H" hereto and incorporated

by this reference. The City Council expressly declares that it would not have made this decision except upon and subject to each and all of said conditions, each and all of which shall run with the land and be binding upon the Applicant, the owner, and all subsequent owners of the Property, and all persons who use the Property for the use permitted hereby.

5. That this Tentative Subdivision Map shall be null and void unless a Final Map, conforming to the Tentative Subdivision Map and all required conditions, is filed within three (3) years of the effective date of this resolution, or unless an Extension of Time is granted pursuant to Section 66452.6 of the California Government Code.

6. That application and proposal is hereby made to the Local Agency Formation Commission of the County of San Diego for the annexation/reorganization described below. This proposal is made pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act, as amended, commencing with Section 56000 of the Government Code of the State of California. The Local Formation Commission of the County of San Diego is hereby requested to undertake proceedings for the annexation/reorganization proposed herein. The following changes of the organization are proposed:

a. Annexation of the subject territory to the City of Escondido as legally described and depicted in Exhibits "B" and "C."

b. Detachment of the subject territory from CSA No. 135 (San Diego Regional Communication Systems) and exclusion from the Rincon Del Diablo Improvement District "E."

7. That the City Council of the City of Escondido hereby requests the Local Agency Formation Commission to designate the City of Escondido as conducting agency, and that the City of Escondido be authorized to order the proposed annexation.

8. That the City Clerk of the City of Escondido is hereby authorized and directed to file a certified copy of this resolution with the applicable fees required by Section 54902.5 of the California Government Code to the executive officer of the Local Agency Formation Commission of San Diego County.

BE IT FURTHER RESOLVED that pursuant to Government Code Section 66020(d)(1):

1. NOTICE IS HEREBY GIVEN that the project is subject to certain fees described in the City of Escondido's Development Fee Inventory on file in the Development Services Department. The project is also subject to dedications, reservations, and exactions, as specified in the Conditions of Approval.

2. NOTICE IS FURTHER GIVEN that the 90-day period during which to protest the imposition of any fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020.

EXHIBIT "A"

LEGAL DESCRIPTION PL21-0269, PL21-0278, PL22-0584

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

Portion of Lot 4: (APN: 224-141-23-00)

ALL THAT PORTION OF LOT 4 IN BLOCK 415 OF THE RANCHO RINCON DEL DIABLO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 723, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, AUGUST 13, 1892. EXCEPTING THE SOUTHEASTERLY 350 FEET (MEASURED ALONG THE NORTHEASTERLY AND SOUTHWESTERLY LINES) OF SAID LOT 4.

Portion of Lot 4: (APN: 224-141-24-00)

ALL THAT PORTION OF LOT 4 IN BLOCK 415 OF THE RANCHO RINCON DEL DIABLO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 723, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, AUGUST 13, 1892, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 4; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT A DISTANCE OF 250.50 FEET; THENCE NORTHWESTERLY PARALLEL WITH THE SOUTHWESTERLY PARALLEL WITH THE NORTHEASTERLY LINE OF SAID LOT 4, 250.50 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 4; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE 350.00 FEET TO THE POINT OF BEGINNING.

Portion of Lot 4: (APN: 224-141-25-00)

ALL THAT PORTION OF LOT 4 IN THE BLOCK 415 OF THE RANCHO RINCON DEL DIABLO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 723, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, AUGUST 13, 1892, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF SAID LOT 4 DISTANT NORTHEASTERLY THEREON 250.50 FEET FROM THE MOST SOUTHERLY CORNER OF SAID LOT 4; THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY LINE 260.00 FEET, MORE OR LESS, TO THE SOUTHEASTERLY CORNER OF SAID LOT 4; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY LINE THEREOF 350.00 FEET; THENCE SOUTHWESTERLY PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT 4 A DISTANCE OF 260.00 FEET TO POINT IN A LINE DRAWN PARALLEL WITH AND DISTANT 250.50 FEET NORTHEASTERLY FROM THE SOUTHWESTERLY LINE OF SAID LOT 4, SAID 400.00 FEET BEING MEASURED ALONG THE SOUTHEASTERLY, LINE THEREOF; THENCE SOUTHEASTERLY ALONG SAID PARALLEL LINE 350.00 FEET TO THE POINT OF BEGINNING.

Portion of Lot H: (APN 224-142-30-00)

ALL THAT PORTION OF LOT H IN BLOCK 418 OF A RESUBDIVISION OF BLOCKS 418 AND 419, OF RANCHO RINCON DEL DIABLO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1520, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, JANUARY 21, 1913, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF SAID LOT H, DISTANT THEREON SOUTH 55° 36' 00" WEST, 138.00 FEET FROM THE MOST NORTHERLY CORNER THEREOF; THENCE SOUTH 55° 36' 00"

WEST ALONG SAID NORTHWESTERLY LINE 200.00 FEET, MORE OR LESS, TO THE MOST WESTERLY CORNER OF SAID LOT H; THENCE SOUTH 34° 24' 00" EAST ALONG THE SOUTHWESTERLY LINE THEREOF 296.00 FEET; THENCE NORTH 55° 36' 00" EAST, PARALLEL WITH THE NORTHWESTERLY LINE OF SAID LOT H, 200.00 FEET TO A LINE DRAWN PARALLEL WITH AND DISTANT 138.00 FEET SOUTHWESTERLY AT RIGHT ANGLES FROM THE NORTHEASTERLY LINE OF SAID LOT H; THENCE NORTH 34° 24' 00" WEST, ALONG SAID PARALLEL LINE 296.00 FEET TO THE POINT OF BEGINNING. APN: 224-142-30-00

Portion of Lot H: (APN: 224-142-31-00)

THE NORTHEASTERLY 138.00 FEET OF THE NORTHWESTERLY 296.00 FEET OF LOT H IN BLOCK 418 OF A RESUBDIVISION OF BLOCKS 418 AND 419 IN RANCHO RINCON DEL DIABLO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1520, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, JANUARY 21, 1913.

Portion of Lot H: (APN: 224-142-32-00)

THE SOUTHEASTERLY 202.00 FEET OF THE NORTHWESTERLY 498.00 OF LOT H IN BLOCK 418 OF A RESUBDIVISION OF BLOCKS 418 AND 419, RANCHO RINCON DEL DIABLO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1520, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, JANUARY 21, 1913.

Portion of Lot H: (APN: 224-142-33-00)

LOT H IN BLOCKS 418 AND 419 IN RANCHO RINCON DEL DIABLO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1520, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, JANUARY 21, 1913. EXCEPTING THEREFROM THE NORTHWESTERLY 498.00 FEET THEREOF.

EXHIBIT "B"

LEGAL DESCRIPTION OF ANNEXATION AREA PL21-0269, PL21-0278, PL22-0584

Real property in the unincorporated area of the County of San Diego, State of California, described as follows:

ALL THAT PORTION OF LOT 4 IN BLOCK 415 OF THE RANCHO RINCON DEL DIABLO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. [723](#), FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, AUGUST 13, 1892, DESCRIBED AS FOLLOWS:

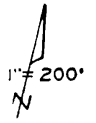
BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 4; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT A DISTANCE OF 250.50 FEET; THENCE NORTHWESTERLY PARALLEL WITH THE SOUTHWESTERLY PARALLEL WITH THE NORTHEASTERLY LINE OF SAID LOT 4, 250.50 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 4; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE 350.00 FEET TO THE POINT OF BEGINNING.

APN: 224-141-24-00

Item 8.

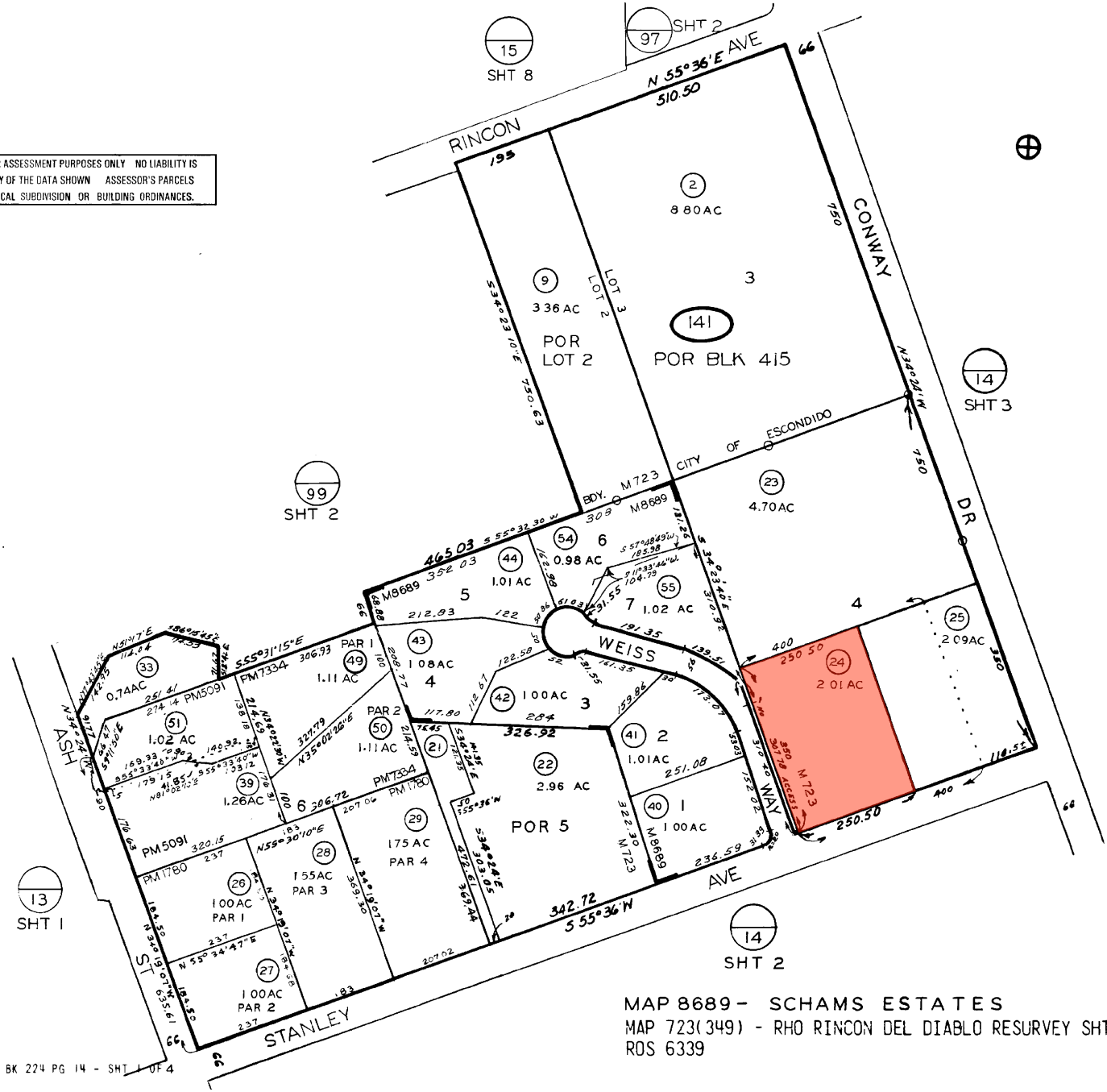
04

224-14
 SHT 1 OF 5



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

224-14



09/12/01 JAM ✓

CHANGES				
BLK	OLD	NEW	YR	CUT
	6	26-29	74	30.69 cc
	27, 28, 29, 30	30-33	77	16.91
	30	34-37	77	22.38
141	34, 35	38, 39	78	64.2
141	37	40-46	78	180
141	38	47, 48	78	34.57
141	36	49, 50	79	6.58
141	47, 48	51	79	6.59
141	45, 46	54, 55	80	134.4
	31, 32	99	91	2.8

EXHIBIT "C"

MAP 8689 - SCHAMS ESTATES
 MAP 723(349) - RHO RINCON DEL DIABLO RESURVEY SHT A
 ROS 6339

STATEMENT OF FACTS

THE PROPOSED MAP IS CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.

THE DESIGN OR IMPROVEMENT OF THE PROPOSED SUBDIVISION IS CONSISTENT WITH THE APPLICABLE GENERAL OR SPECIFIC PLANS.

THE SITE IS PHYSICALLY SUITABLE FOR THE TYPE OF DEVELOPMENT.

THE SITE IS PHYSICALLY SUITABLE FOR THE PROPOSED DENSITY OF DEVELOPMENT.

THE DESIGN OF THE SUBDIVISION, OR THE PROPOSED IMPROVEMENTS ARE NOT LIKELY TO CAUSE SUBSTANTIAL ENVIRONMENTAL DAMAGE OR SUBSTANTIALLY INJURE FISH OR WILDLIFE OR THEIR HABITAT.

THE DESIGN OF THE SUBDIVISION OR THE TYPE OF IMPROVEMENTS IS NOT LIKELY TO CAUSE SERIOUS PUBLIC HEALTH PROBLEMS.

THE DESIGN OF THE SUBDIVISION OR THE TYPE OF IMPROVEMENTS WILL NOT CONFLICT WITH EASEMENTS OR RECORD, OR EASEMENTS ESTABLISHED BY COURT JUDGEMENT, ACQUIRED BY THE PUBLIC AT LARGE, FOR ACCESS THROUGH OR USE OF, PROPERTY WITHIN THE PROPOSED SUBDIVISION. IN THIS CONNECTION, THE DIRECTOR OF PLANNING AND BUILDING MAY RECOMMEND APPROVAL OF A MAP IF HE FINDS THAT ALTERNATE EASEMENTS, OR ACCESS FOR USE, WILL BE PROVIDED, AND THAT THESE WILL BE SUBSTANTIALLY EQUIVALENT TO ONES PREVIOUSLY ACQUIRED BY THE PUBLIC.

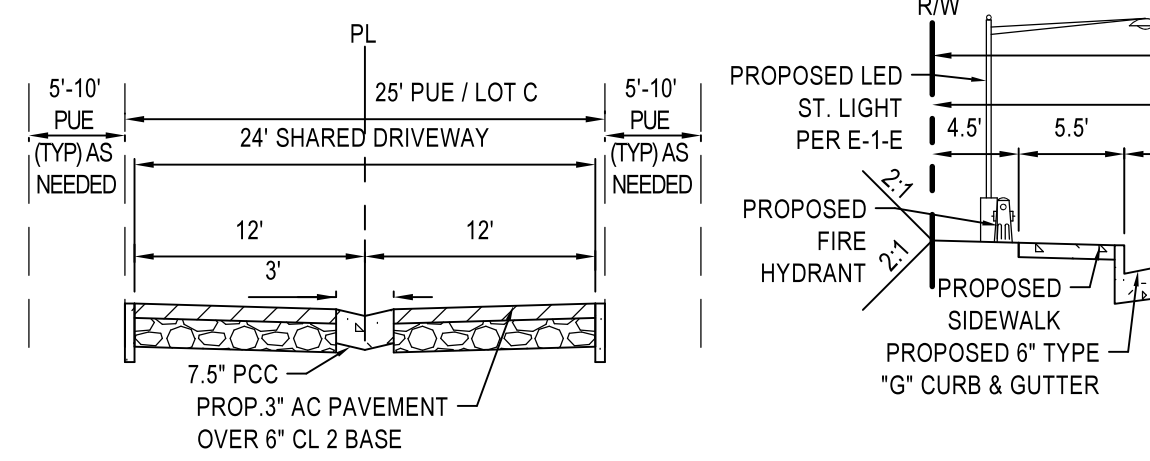
ALL REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT HAVE BEEN MET.

THE DESIGN OF THE SUBDIVISION HAS PROVIDED, TO THE EXTENT FEASIBLE, FOR FUTURE PASSIVE OR NATURAL HEATING OR COOLING OPPORTUNITIES IN THE SUBDIVISION. (NOTE: SPECIFIC EXAMPLES TO SUBSTANTIATE THIS FINDING MUST BE PROVIDED. EXAMPLES OF PASSIVE OR NATURAL OPPORTUNITIES IN SUBDIVISION DESIGN INCLUDE LOT SIZE OR CONFIGURATION, TO PERMIT ORIENTATION OF A STRUCTURE IN AN APPROPRIATE ALIGNMENT FOR SOUTHERN EXPOSURE, ETC.)

ALL OVERHEAD UTILITIES WITHIN THE SUBDIVISION BOUNDARY OR ALONG FRONTING STREETS SHALL BE RELOCATED UNDERGROUND IN ACCORDANCE WITH THE CITY'S SUBDIVISION ORDINANCE.

ANY PUE CONTAINING BOTH PUBLIC SEWER AND WATER MAINS SHALL BE 25' MINIMUM IN WIDTH WITH ADDITIONAL 5'X5' PUE AREAS FOR EACH WATER METER AND ARV, AND 10'X10' PUE AREAS FOR FIRE HYDRANTS, DDCAS.

PUBLIC STORM DRAIN TO BE SIZED TO ACCOMMODATE THE 100 YEAR STORM EVENT.

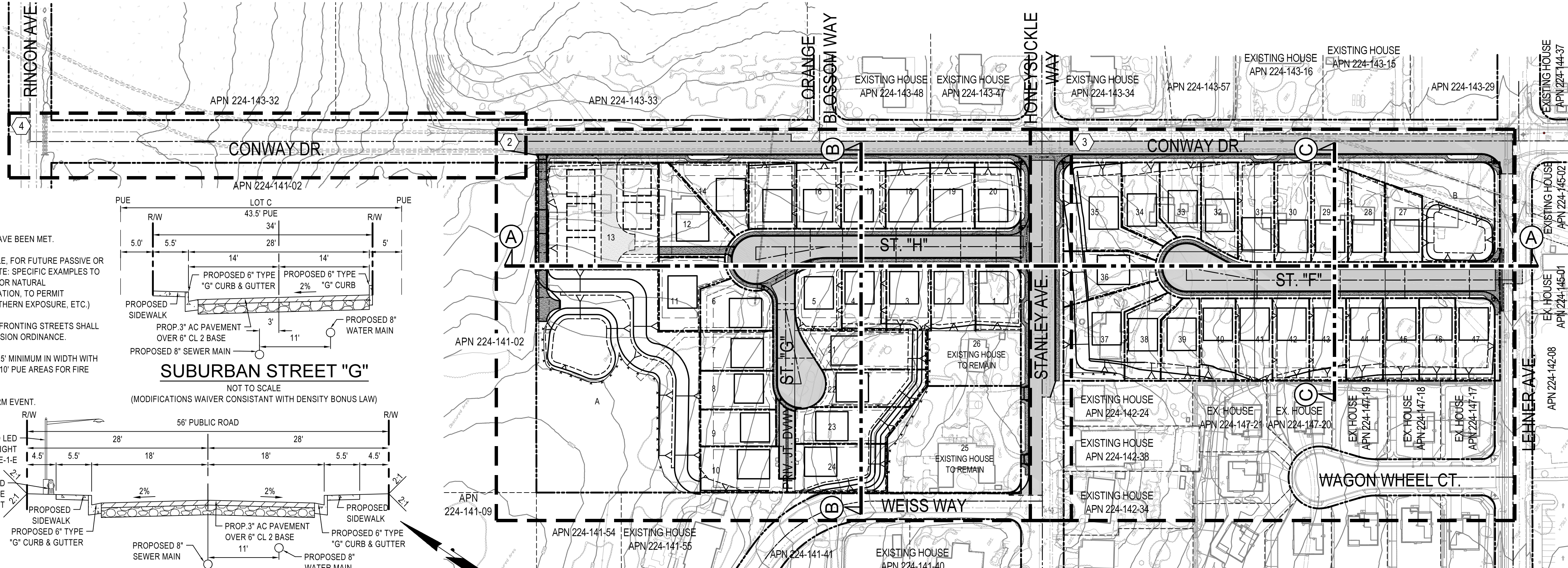


PRIVATE JOINT DRIVEWAY NOT TO SCALE

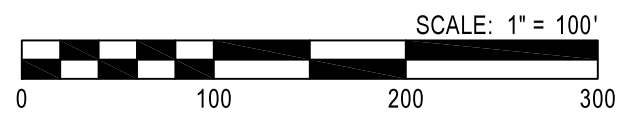
SUBURBAN STREET "G" NOT TO SCALE

STREET "F" AND "H" NOT TO SCALE

CITY OF ESCONDIDO TRACT NO. TENTATIVE SUBDIVISION MAP

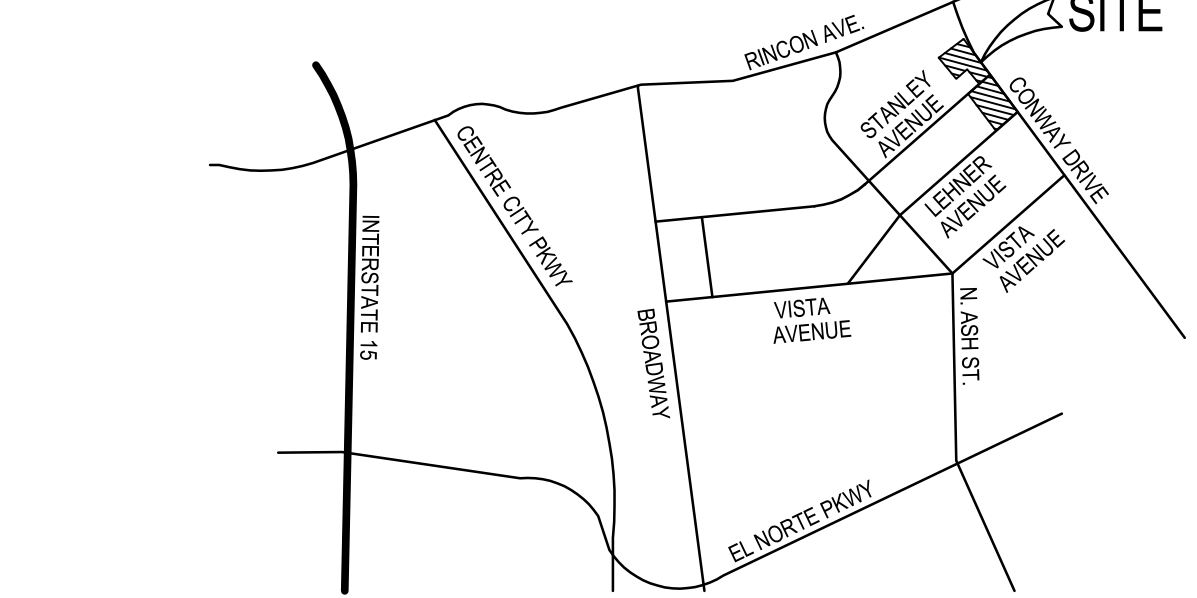


KEY MAP

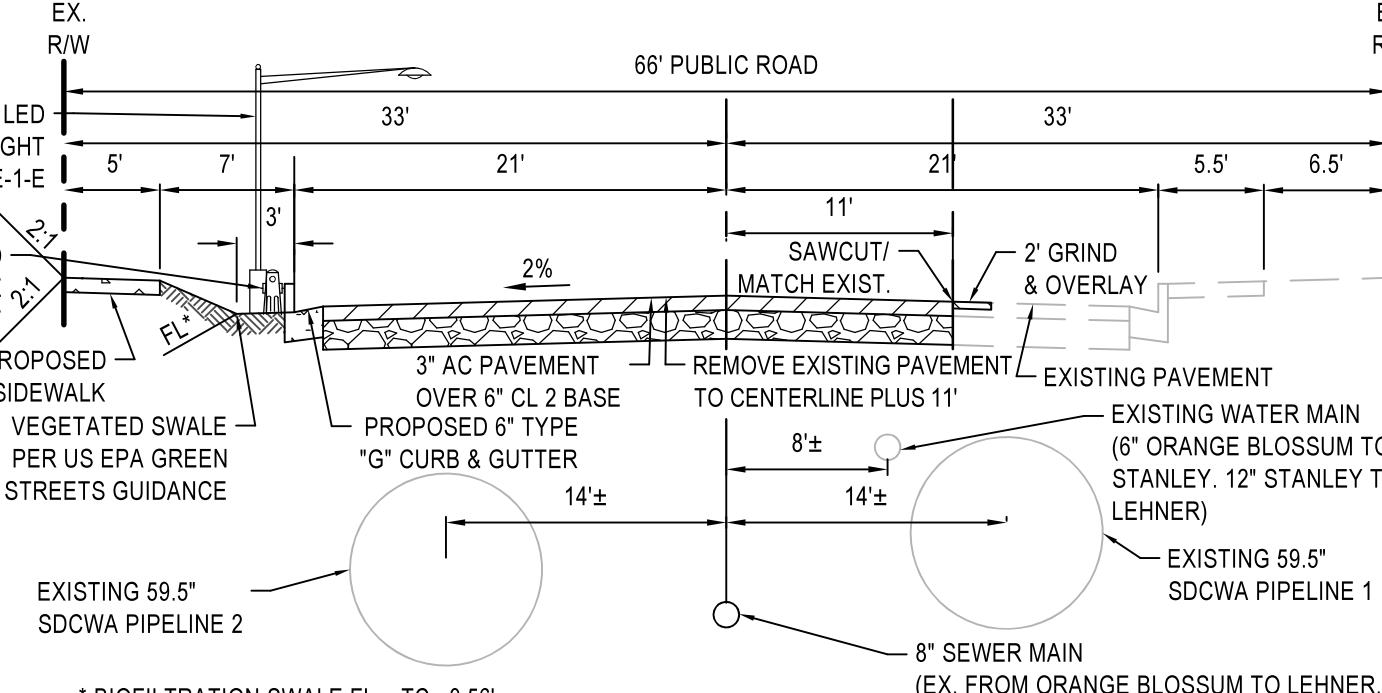


LEGEND

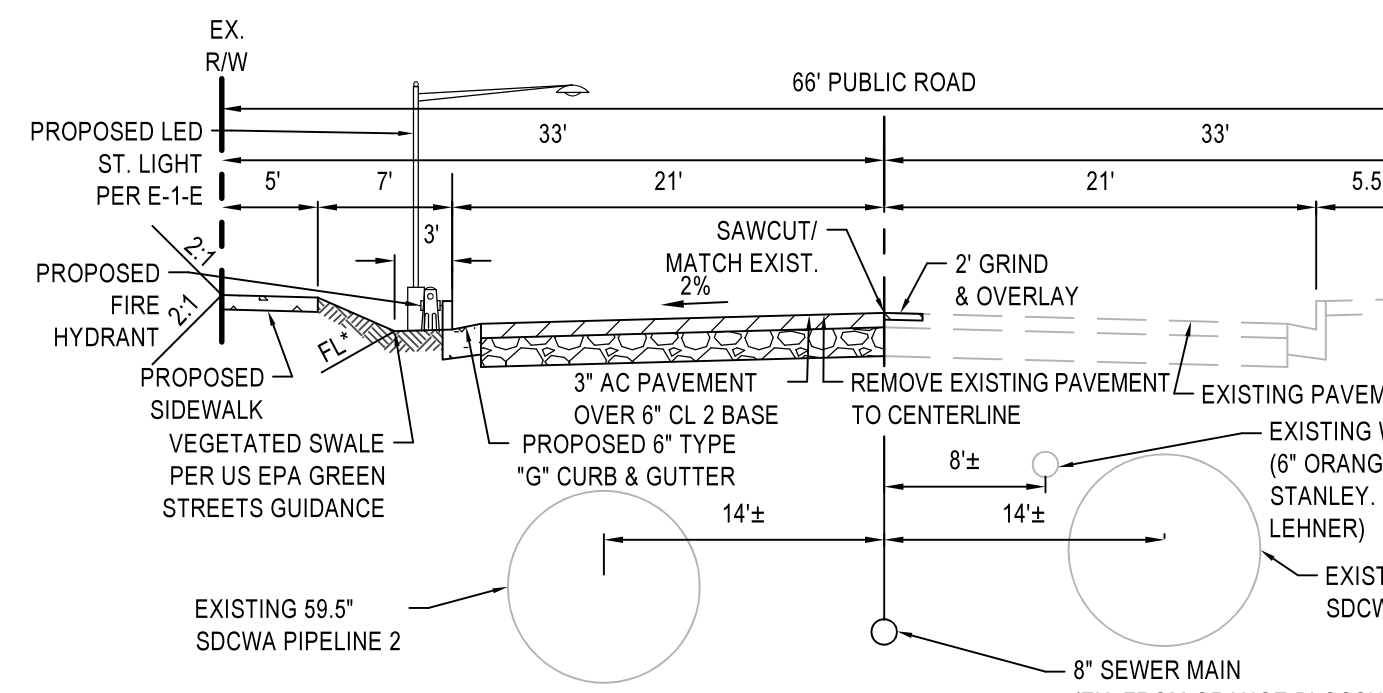
- EXISTING RW OR PL
PROPOSED UNIT LINE
SETBACK LINE
PROPOSED LOT NUMBER
PROPOSED PAD ELEVATION
PROPOSED LOT AREA
EXISTING CONTOURS
PROPOSED CONTOURS
PROPOSED SLOPE (1.5:1 MAX)
PROPOSED CUT/FILL LINE
EXISTING SEWER LINE
PROPOSED PUBLIC SEWER LINE
PROPOSED LATERAL (4" LAT. PER C.O.E. S-2-E)
PROPOSED PUBLIC SEWER MANHOLE (PER C.O.E. S-1-E)
PROPOSED CATCH BASIN
EXISTING STORM DRAIN DITCH
PROPOSED STORM DRAIN
EXISTING WATER LINE
PROPOSED WATER LINE
PROPOSED FIRE HYDRANT (PER C.O.E. W-3-E)
PROPOSED WATER SERVICE & BACKFLOW ASSEMBLY (PER C.O.E. W-1-E, W-10-E)
PROPOSED 4" BLOW-OFF ASSEMBLY (PER C.O.E. W-9-E)
PROPOSED 2" COMBINATION AIR VALVE (PER C.O.E. W-5-E)
PROPOSED GATE VALVE
PROPOSED THRUST BLOCK



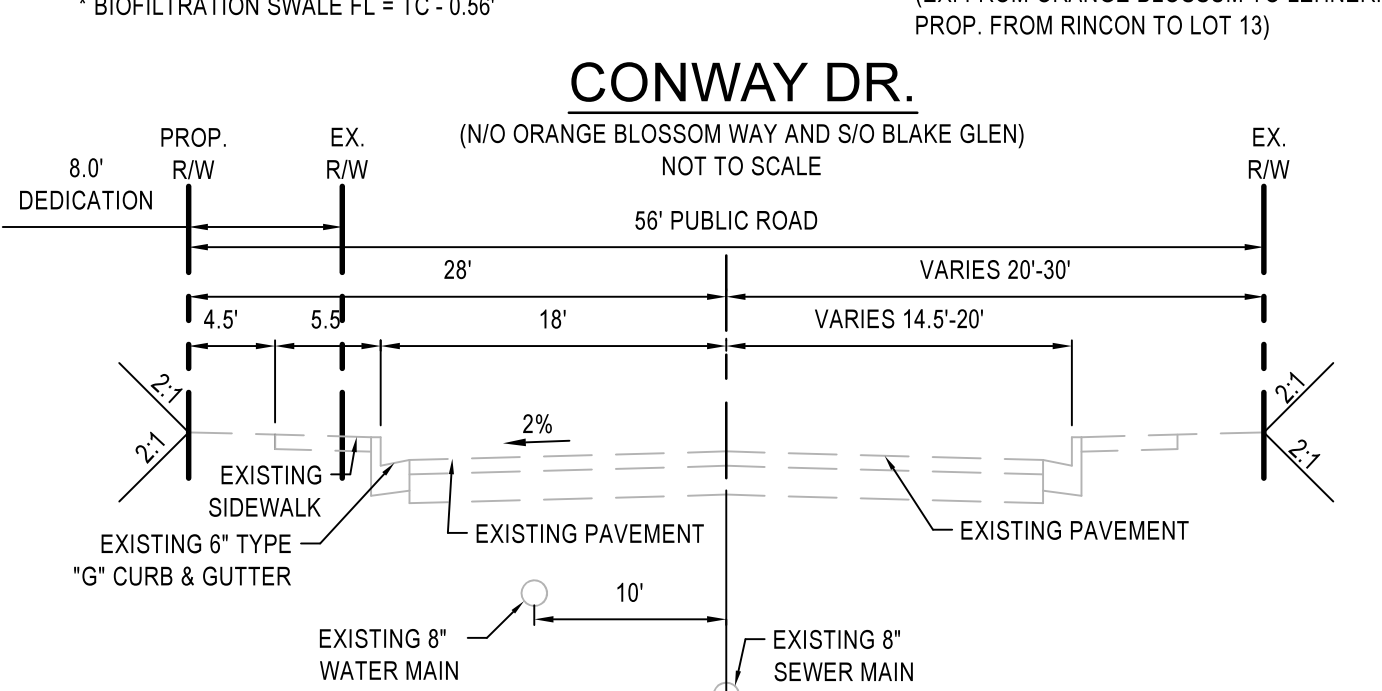
VICINITY MAP NOT TO SCALE



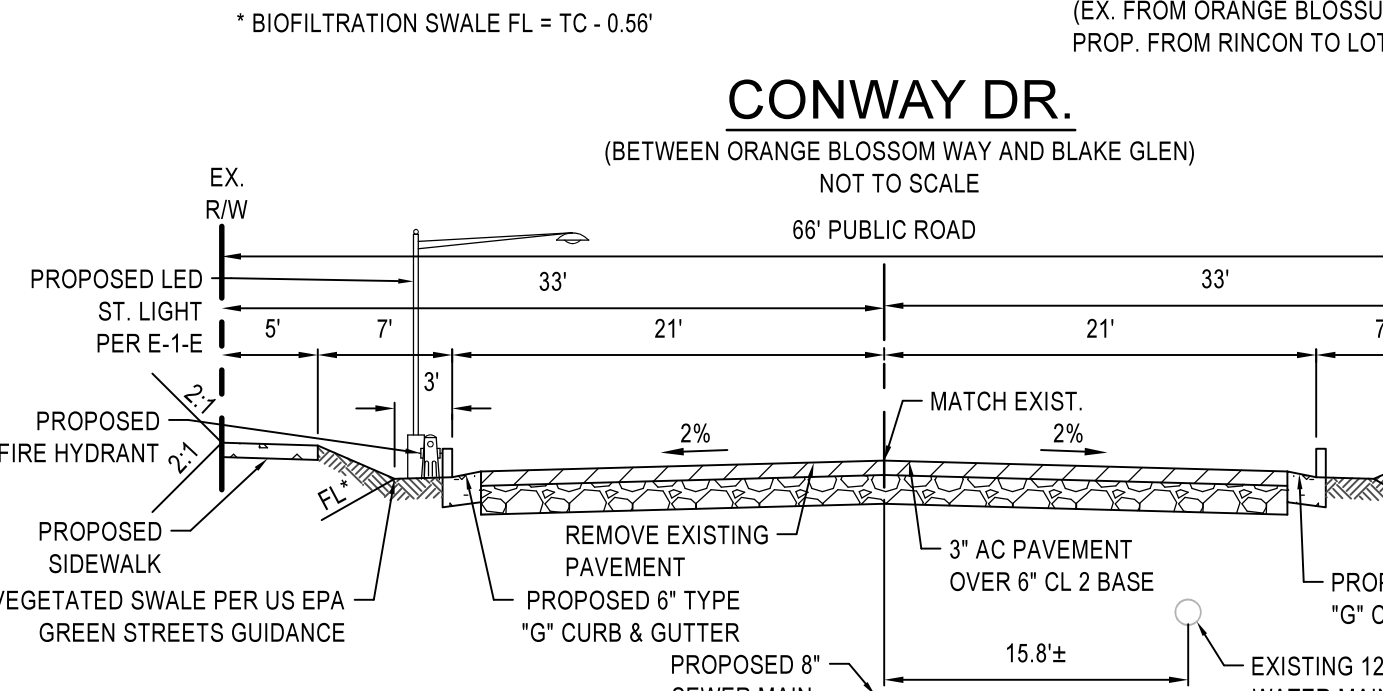
CONWAY DR. (N/O ORANGE BLOSSOM WAY AND S/O BLAKE GLEN) NOT TO SCALE



STANLEY AVE. (APN 224-142-24 TO CONWAY DR.) NOT TO SCALE



LEHNER AVE. (STREET "F" TO CONWAY DR.) NOT TO SCALE



STANLEY AVE. (WEISS WAY TO APN 224-142-24) NOT TO SCALE

PROPOSED DENSITY

Table with columns for Street Name, Gross Acreage, Density Calculation (APNs, DU/AC, Total DUs), and Units Allowed. Includes data for Street F (5.27 AC, 28 units allowed) and Street H (8.80 AC, 31 units allowed).

Table with columns for Street Name, Gross Acreage, Density Calculation (APNs, DU/AC, Total DUs), and Units Allowed. Includes data for Street F & H (59 units allowed) and Street H (31 units allowed).

OWNERS CERTIFICATE

WE HEREBY CERTIFY THAT WE ARE THE RECORD OWNERS OF THE PROPERTY SHOWN ON THE TENTATIVE SUBDIVISION MAP AND THAT SAID MAP SHOWS ALL OUR CONTIGUOUS OWNERSHIP IN WHICH WE HAVE ANY DEED OR TRUST INTEREST, WE UNDERSTAND THAT OUR PROPERTY IS CONSIDERED CONTIGUOUS EVEN IF IT IS SEPARATED BY ROADS, STREETS, UTILITY EASEMENTS, OR RAILROAD RIGHTS-OF-WAY.

OWNER: CONWAY STANLEY PROPERTIES, LLC
SUBDIVIDER: ESCONDIDO NORTH LLC
ENGINEER OF WORK: WILLIAM J. SUITER
ASSESSOR'S PARCEL NO.: 224-141-23-00, 224-141-25-00, 224-142-30-00, 224-142-31-00, 224-142-32-00, 224-142-33-00, AND 224-141-24-00

LEGAL DESCRIPTION: PORTIONS OF LOT H IN BLOCK 418 OF RESUBDIVISION OF BLOCKS 418 & 419, AND PORTIONS OF LOT 4 IN THE BLOCK 415, OF THE RANCHO RINCON DEL DIABLO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1920.

SITE ADDRESS: 0 CONWAY DR., 942 STANLEY AVE., 943 STANLEY AVE., 2045 CONWAY DR., 2019 CONWAY DR., 2005 CONWAY DR., AND 918 STANLEY AVE. ESCONDIDO, CA 92026

GENERAL NOTES: ALL STREETS ARE PUBLIC. GRADING AND IMPROVEMENTS SHALL BE IN ACCORDANCE WITH CITY OF ESCONDIDO STANDARDS. EASEMENTS OF RECORD NOT SHOWN HEREON SHALL BE HONORED, ABANDONED AND/OR RELOCATED TO THE SATISFACTION OF ALL INTERESTED PARTIES, AND PUBLIC UTILITY EASEMENT NECESSARY TO SERVE THIS PROJECT WILL BE COORDINATED WITH SERVING UTILITY COMPANIES.

PROPOSED SETBACKS: FRONT YARD 10.5' MIN, SIDE YARD 5.0' MIN, REAR YARD 10.0' MIN ADJ. TO ST. 20.0' MIN

ABREVIATIONS: DIAMETER, ACREAGE, APN, BLOW-OFF, CAV, CB, CL, CY, DWY, E, ESMT, EX, FF, FG, FH, FL, FS, FV, GV, H, INV, MAX, MIN, MH, PL, PROP, PUE, RW, RYSB, SD, SFM, SMH, SS, SYSB, TR, TYP, VCP, W, WM, FIRE HYDRANT, FLOW LINE, FINISHED SURFACE, FRONT YARD SETBACK, GRADE BREAK, GATE VALVE, HEIGHT, INVERT, MAXIMUM, MINIMUM, MANHOLE, PROPERTY LINE, PROPOSED, PUBLIC UTILITY EASEMENT, RIGHT OF WAY, RETAINING WALL, REAR YARD SETBACK, STORM DRAIN, SQUARE FEET, SEWER FORCED MAIN, SANITARY SEWER MANHOLE, SANITARY SEWER, SIDE YARD SETBACK, TREE, TOP-OF-WALL, TYPICAL, VITRIFIED CLAY PIPE, WATER, WITH, WATER METER

EARTHWORK: STREET "F" CUT: 32,900 CY, FILL: 13,500 CY, NET: 19,400 CY (EXPORT)

STREET "H" CUT: 26,300 CY, FILL: 86,100 CY, NET: 59,800 CY (IMPORT)

PROJECT NET: 40,400 CY (IMPORT)

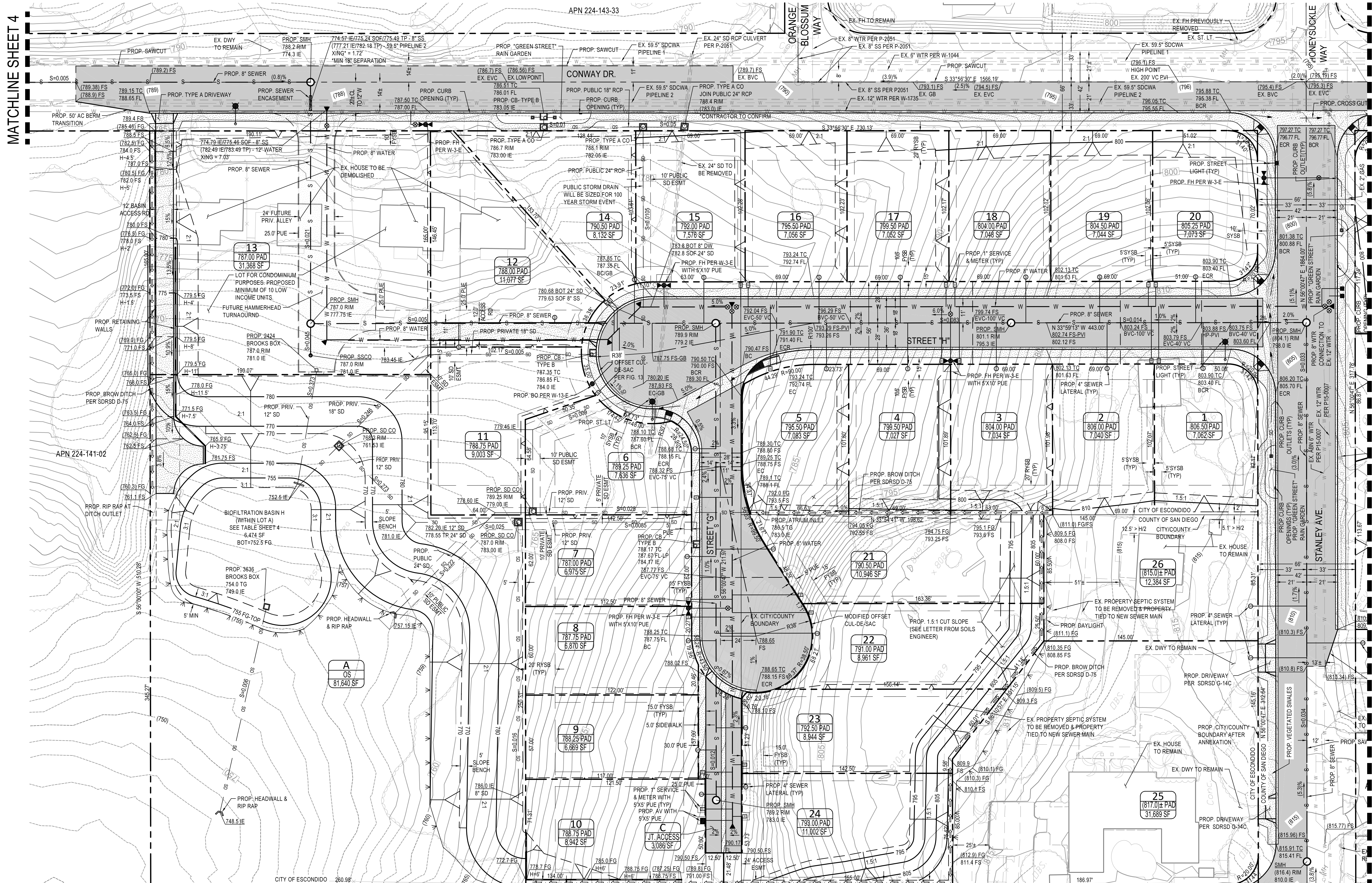
SHEET INDEX: 1 TENTATIVE SUBDIVISION MAP TITLE SHEET, 2-3 TENTATIVE SUBDIVISION MAP SHEETS, 4 TENTATIVE SUBDIVISION MAP SHEET & DETAILS, 5 MAP SECTIONS, 6 TENTATIVE SUBDIVISION MAP BUILDINGS PLOT

PASCO LARET SUITER & ASSOCIATES
San Diego | Solana Beach | Orange County
Phone 949.661.6695 | www.plsaengineering.com

CITY OF ESCONDIDO TRACT NO. TENTATIVE SUBDIVISION MAP

MATCHLINE SHEET 4

MATCHLINE SHEET 3

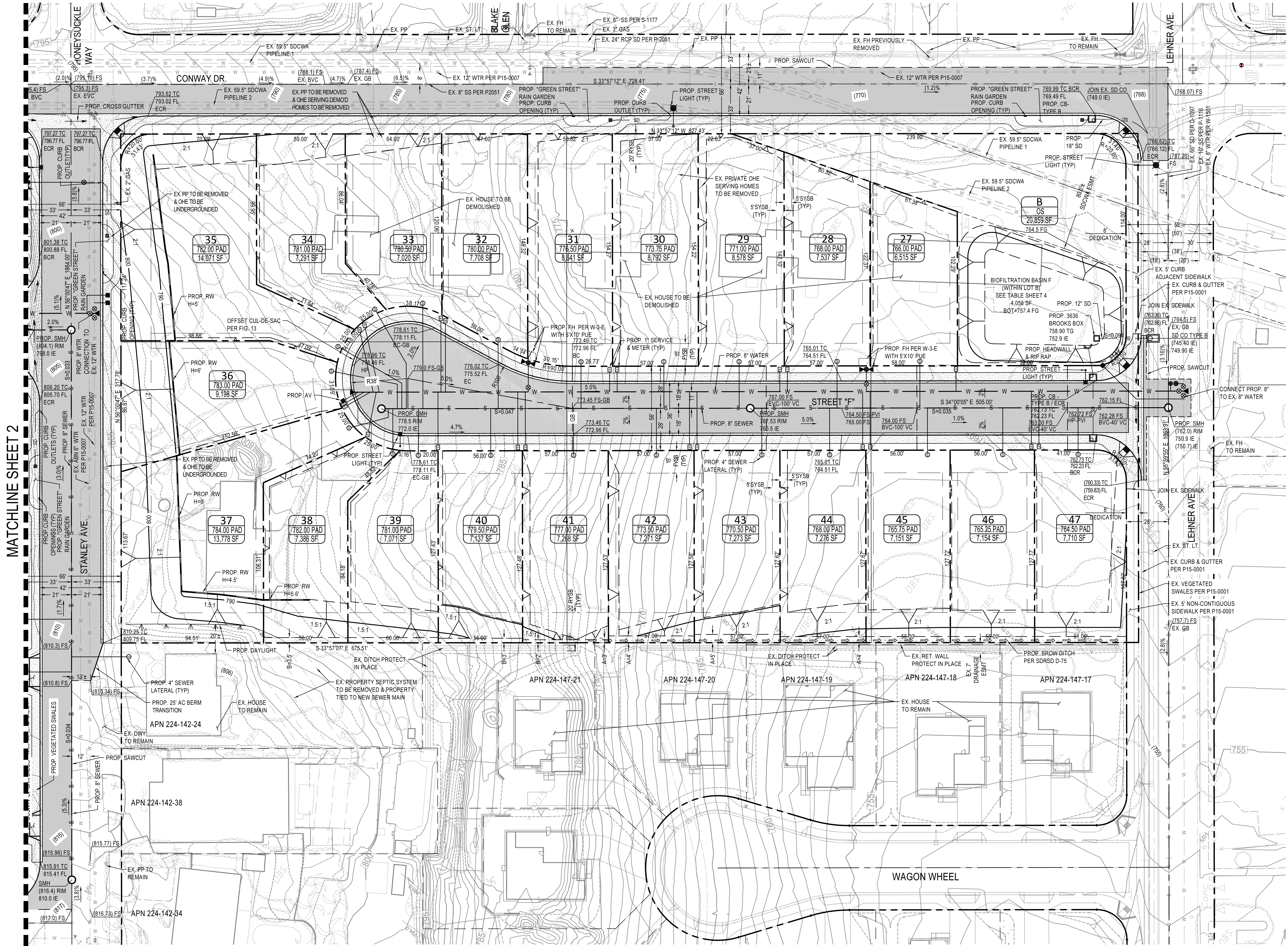


APN 224-141-02 APN 224-141-09 APN 224-141-54 APN 224-141-55

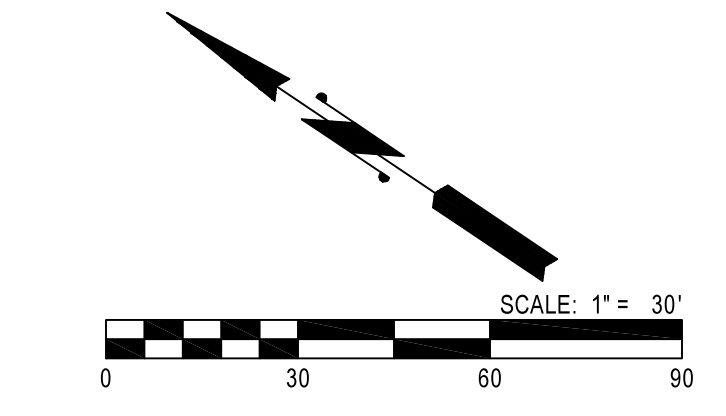
PASCO LARET SUITER & ASSOCIATES
 San Diego | Solana Beach | Orange County
 Phone 949.661.6695 | www.plsengineering.com

SAVE DATE: 05/09/22 ~ PLOT DATE: 05/12/22 ~ FILE NAME: J:\ACTIVE\0053\537 ESCO\DRAWING\DISCRETIONARY PLANS\F&H\3537-F-H-PTM.dwg

CITY OF ESCONDIDO TRACT NO. TENTATIVE SUBDIVISION MAP



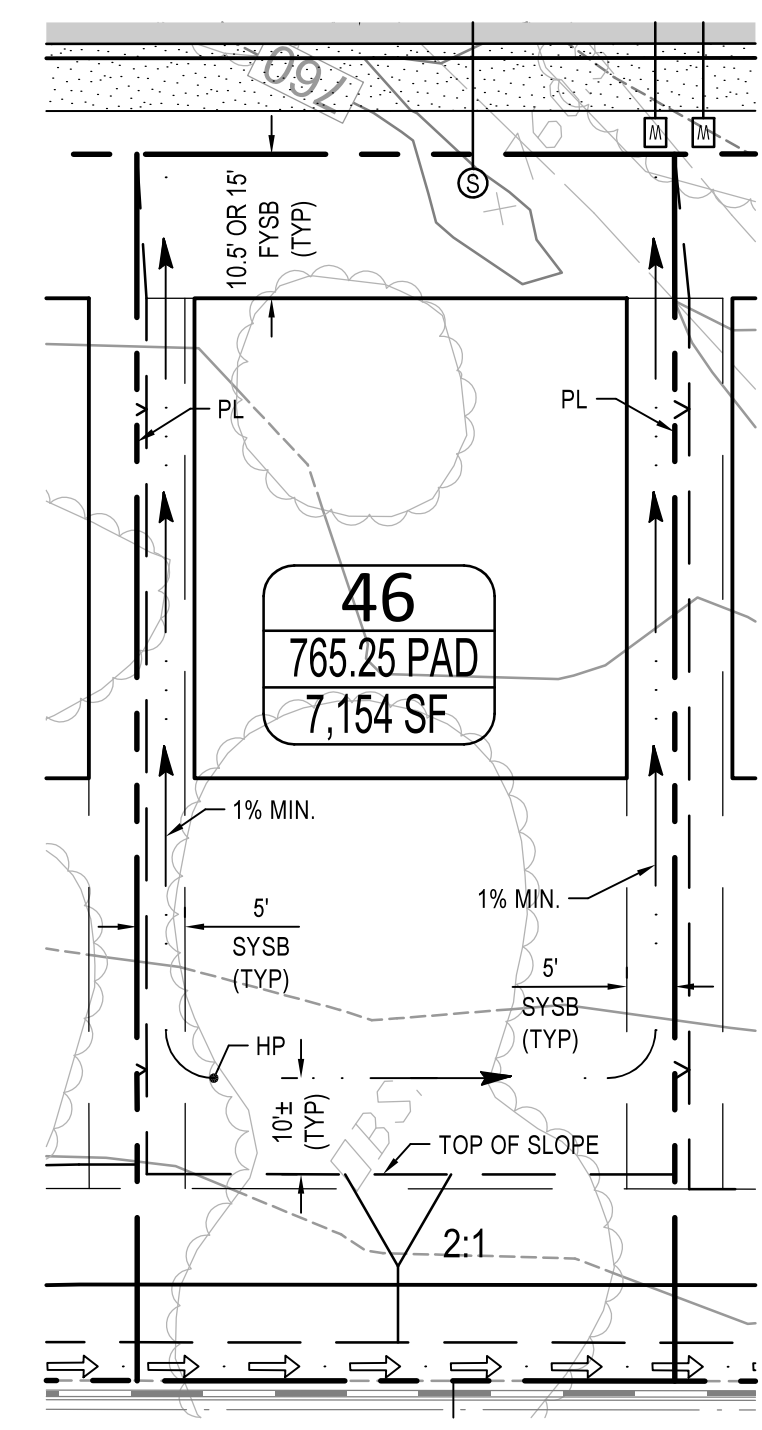
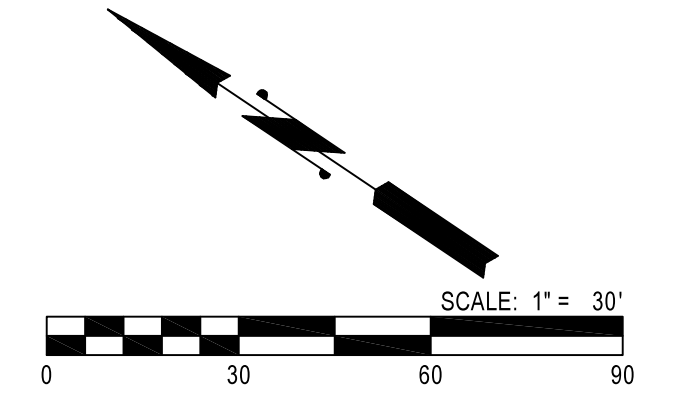
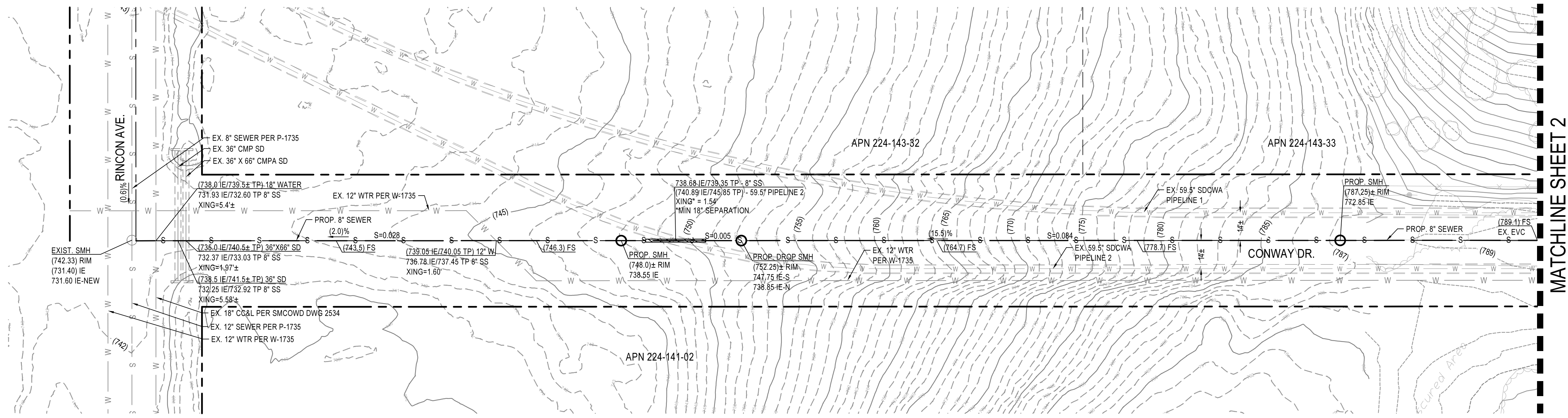
MATCHLINE SHEET 2



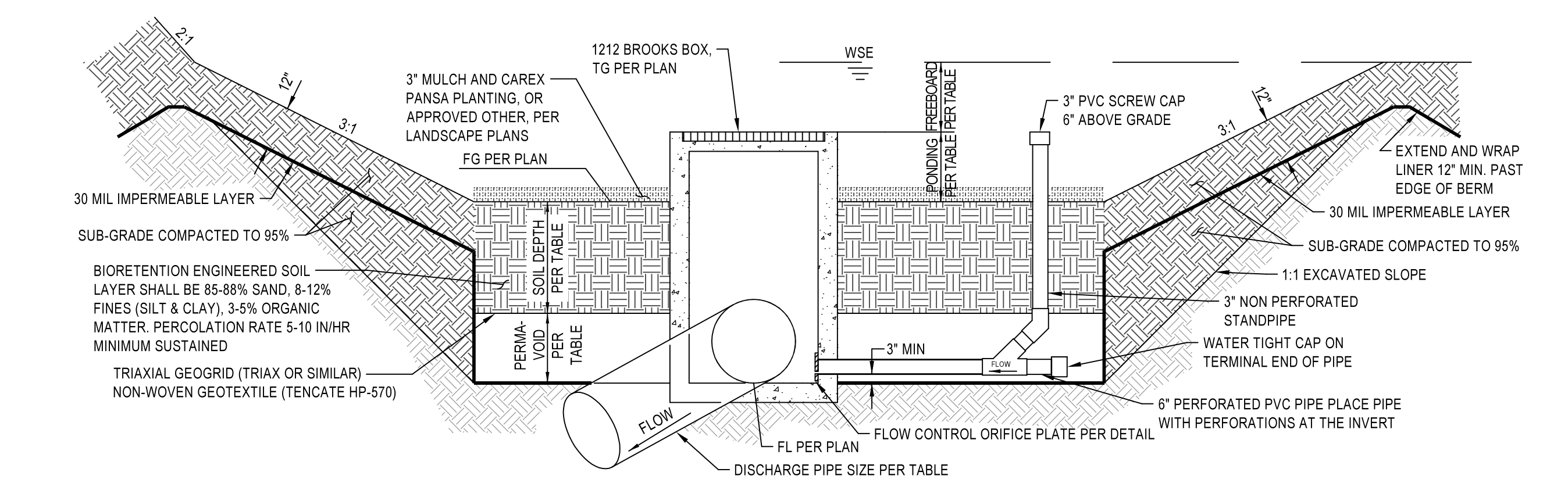
PASCO LARET SUITER & ASSOCIATES
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 Phone 949.661.6695 | www.plsengineering.com

SAVE DATE: 05/05/22 ~ PLOT DATE: 05/06/22 ~ FILE NAME: J:\ACTIVE_JOBS\3537 ESCO ASSEMBLY CIVIL DRAWING DISCRETIONARY PLANS\3537-F-PTM.dwg

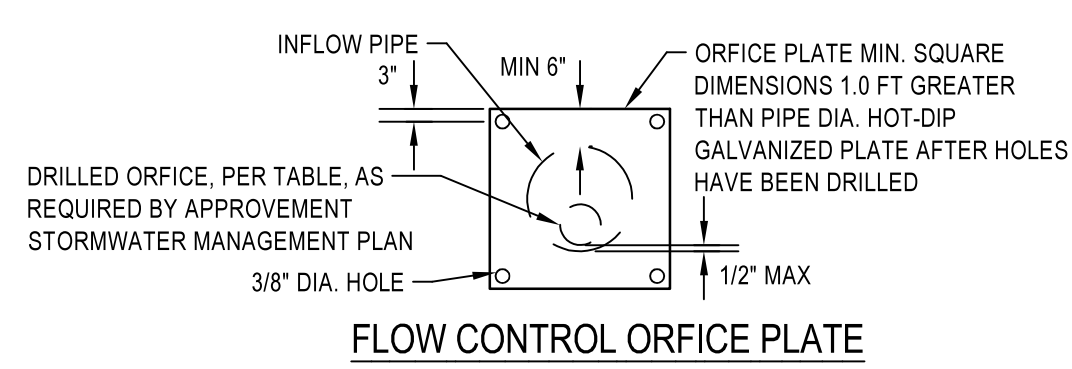
CITY OF ESCONDIDO TRACT NO. TENTATIVE SUBDIVISION MAP



TYPICAL LOT DRAINAGE
SCALE: NTS



***NOTE: BACKFILL FOR STORM DRAIN PIPES ENTERING OR EXITING BASIN SHOULD BE BACKFILLED WITH A 2-SACK MIX OF SLURRY



BIOFILTRATION BASIN TABLE							
BASIN NAME	ENGINEERED SOIL LAYER DEPTH	PERMAVOID LAYER DEPTH	PONDING DEPTH	FREEBOARD DEPTH	BROOKS BOX SIZE	DISCHARGE PIPE SIZE	ORIFICE DIA. SIZE
F	18 INCH	36 INCH	18 INCH	12 INCH	36X36	12 INCH	1.7 INCH
H	18 INCH	24 INCH	18 INCH	12 INCH	36X36	12 INCH	2 INCH

BIOFILTRATION BASIN DETAIL
SCALE: NTS

BIORETENTION SOIL MEDIA (BSM) PROPERTIES:

BSM SHOULD ACHIEVE A LONG-TERM, IN PLACE INFILTRATION RATE OF 5 IN/HR. BSM SHOULD HAVE AN APPROPRIATE AMOUNT OF ORGANIC MATERIAL TO SUPPORT PLANT GROWTH (E.G. LOAMY SAND MIXED THOROUGHLY WITH AN ORGANIC MATERIAL). THE BSM SHOULD BE A MIXTURE OF SAND, FINES, AND COMPOST. THE FOLLOWING COMPOSITION INCLUDES THE MEASUREMENTS FOR DETERMINING THE BSM BY VOLUME AND WEIGHT.

BSM COMPOSITION	SANDY LOAM		
	SAND	SILT	CLAY
VOLUME	65%	20%	15%
WEIGHT	75-80%	10%	3% MAX. 9% MAX*

*9% COMPOST BY WEIGHT RESULTS IN APPROXIMATELY 5% ORGANIC MATTER BY WEIGHT.

IN ADDITION, THE BSM SHOULD MEET THE FOLLOWING STANDARDS:

ORGANIC CONTENT (OC) 2-5%, PH BETWEEN 6.0-8.0, CARBON-NITROGEN RATIO BETWEEN 10:1-20:1, CATION EXCHANGE CAPACITY (CEC) > 5 MILLIEQUIVALENT (MEQ)/100 G SOIL.

SOIL MEDIA THAT IS BROUGHT TO THE SITE MUST MEET THE STANDARDS SET FORTH IN THE COUNTY OF SAN DIEGO BMP DESIGN MANUAL: APPENDIX F.3- BIOFILTRATION SOIL MEDIA COMPOSITION, TESTING, AND INSTALLATION (NOV 2018), ALSO CONTAINED IN THE COUNTY OF SAN DIEGO LOW IMPACT DEVELOPMENT HANDBOOK: APPENDIX G- BIORETENTION SOIL SPECIFICATION (JULY 2014, UNLESS SUPERSEDED BY MORE RECENT EDITION).

NUTRIENT SENSITIVE MEDIA DESIGN:

IN CASES WHERE THE BMP DISCHARGES TO RECEIVING WATERS WITH NUTRIENT IMPAIRMENTS OR NUTRIENT TMDLS, THE BSM SHOULD BE DESIGNED TO MINIMIZE THE EXPORT OF NUTRIENTS FROM THE MEDIA. HIGH LEVELS OF PHOSPHORUS IN THE MEDIA HAVE BEEN IDENTIFIED AS THE MAIN CAUSE OF BIOFILTRATION AREAS EXPORTING NUTRIENTS. ALL BSM SHOULD BE ANALYZED FOR BACKGROUND LEVELS OF NUTRIENTS. TOTAL PHOSPHORUS SHOULD NOT EXCEED 15 PPM. THE CARBON-NITROGEN RATIO OF BSM SHALL BE BETWEEN 15 AND 40 TO REDUCE THE POTENTIAL FOR NITRATE LEACHING. IN ADDITION TO ADHERING TO THE COUNTY MEDIA SPECIFICATIONS, THE GUIDELINES SET FORTH IN THE COUNTY OF SAN DIEGO BMP DESIGN MANUAL: APPENDIX E.20- BF-2 NUTRIENT SENSITIVE MEDIA DESIGN (NOV 2018) SHOULD BE FOLLOWED.

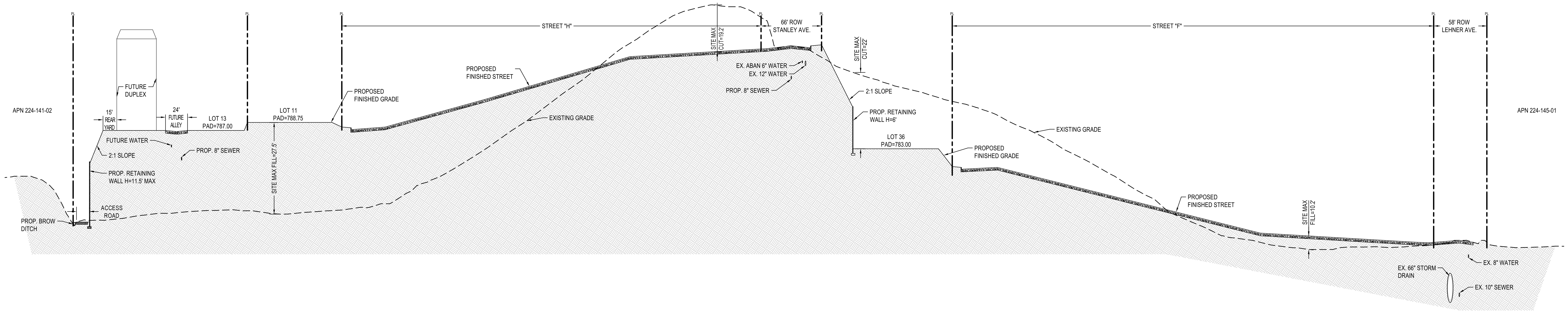
STRUCTURAL SOIL PROPERTIES:

ORGANIC CONTENT (OC) > 5 PERCENT, PH BETWEEN 6-8, CATION EXCHANGE CAPACITY (CEC) > 5 MILLIEQUIVALENT (MEQ)/100 G SOIL. INFILTRATION RATES OF 0.5 IN/HR OR GREATER. SOIL MEDIA MUST HAVE AN APPROPRIATE AMOUNT OF ORGANIC MATERIAL TO SUPPORT PLANT GROWTH (E.G. LOAMY SAND MIXED THOROUGHLY WITH AN ORGANIC MATERIAL). IF THE EXISTING SOILS MEET THE CRITERIA, IT CAN BE USED AS THE SOIL MEDIA. IF THE EXISTING SOILS DO NOT MEET THE CRITERIA, A SUBSTITUTE MEDIA MUST BE USED. SOIL MEDIA THAT IS BROUGHT TO THE SITE MUST MEET THE STANDARDS SET FORTH IN COUNTY OF SAN DIEGO BMP DESIGN MANUAL AS WELL AS THE FOLLOWING CRITERIA:

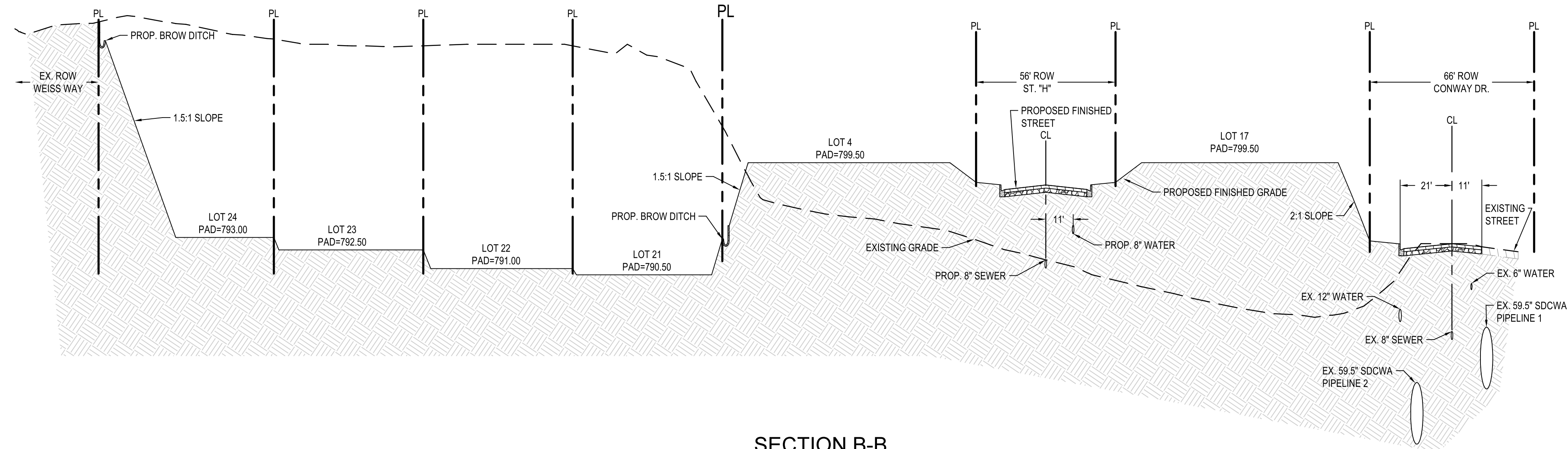
- SOIL MEDIA CONSISTS OF 85 PERCENT WASHED COURSE SAND, 10 PERCENT FINES (RANGE: 8-12 PERCENT; 8 PERCENT = 2 IN/HR INFILTRATION RATE, 12 PERCENT = 1 IN/HR INFILTRATION RATE), AND 5 PERCENT ORGANIC MATTER.
- THE SAND PORTION SHOULD CONSIST OF CONCRETE SAND (PASSING A ONE-QUARTER-INCH SIEVE). MORTAR SAND (PASSING A ONE-EIGHTH-INCH SIEVE) IS ACCEPTABLE AS LONG AS IT IS THOROUGHLY WASHED TO REMOVE THE FINES.
- FINES SHOULD PASS A # 270 (SCREEN SIZE) SIEVE.
- ORGANIC MATTER IS CONSIDERED AN ADDITIVE TO ASSIST VEGETATION IN INITIAL ESTABLISHMENT AND CONTRIBUTES TO SORPTION OF POLLUTANTS BUT GENERALLY SHOULD BE MINIMIZED (5 PERCENT). ORGANIC MATERIALS WILL OXIDIZE OVER TIME CAUSING AN INCREASE IN PONDING THAT COULD ADVERSELY AFFECT THE PERFORMANCE OF THE BIOFILTRATION AREA. ORGANIC MATERIAL SHOULD CONSIST OF AGED BARK FINES, OR SIMILAR ORGANIC MATERIAL. ORGANIC MATERIAL SHOULD NOT CONSIST OF MANURE OR ANIMAL COMPOST. STUDIES HAVE ALSO SHOWN NEWSPAPER MULCH TO BE AN ACCEPTABLE ADDITIVE (KIM ET AL. 2003; DAVIS 2007).
- HIGH LEVELS OF PHOSPHORUS IN THE MEDIA HAVE BEEN IDENTIFIED AS THE MAIN CAUSE OF BIOFILTRATION AREAS EXPORTING NUTRIENTS (HUNT AND LORD 2006). ALL STRUCTURAL SOIL SHOULD BE ANALYZED FOR BACKGROUND LEVELS OF NUTRIENTS. TOTAL PHOSPHORUS SHOULD NOT EXCEED 15 PPM.

SAVE DATE: 05/05/22 ~ PLOT DATE: 05/06/22 ~ FILE NAME: J:\ACTIVE\065\3537 ESCO ASSEMBLAGE\CIVIL\DRAWING\DISCRETIONARY PLANS\4-H\3537-F-F-PTM.dwg

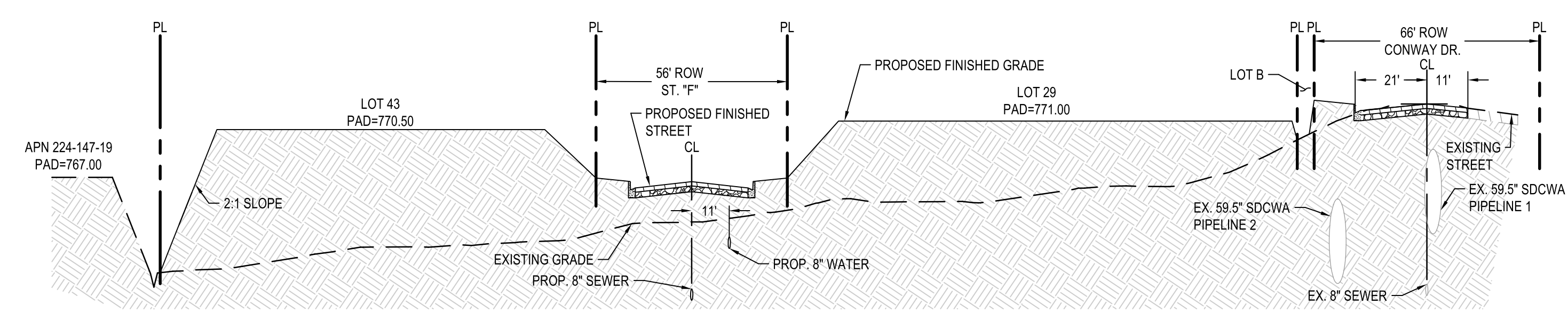
CITY OF ESCONDIDO TRACT NO. TENTATIVE SUBDIVISION MAP



SECTION A-A
HORIZ. SCALE: 1"=50'



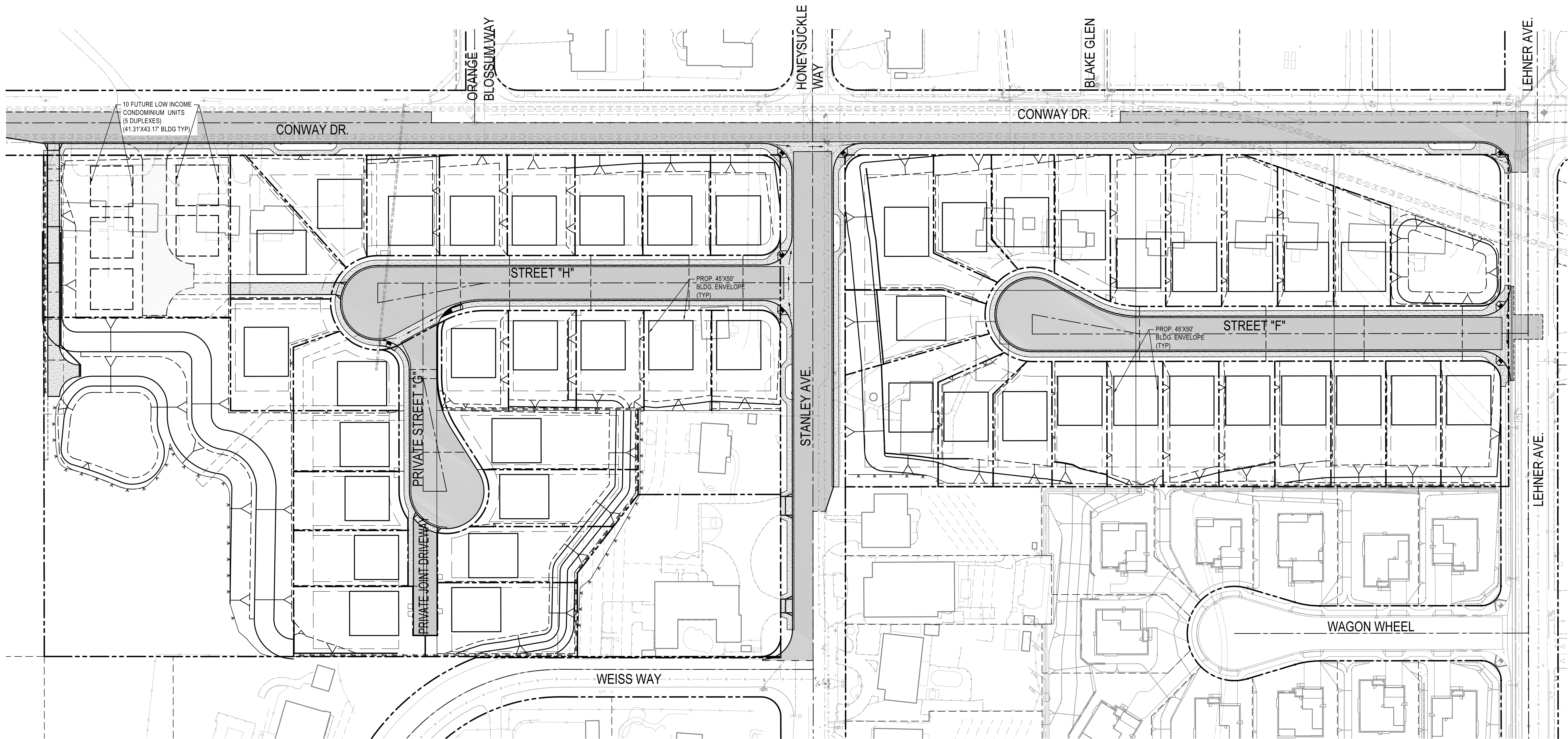
SECTION B-B
HORIZ. SCALE: 1"=50'



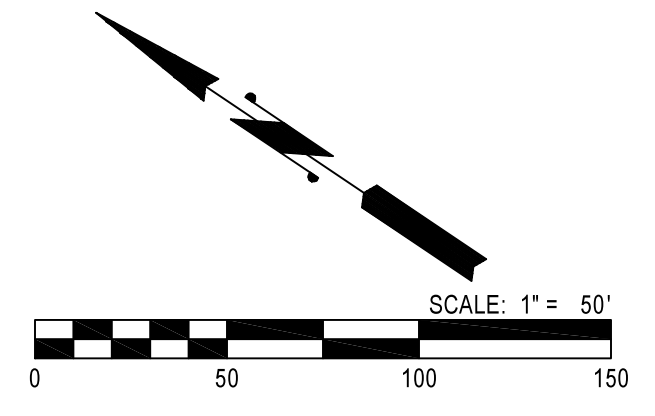
SECTION C-C
HORIZ. SCALE: 1"=50'

SAVE DATE: 05/05/22 ~ PLOT DATE: 05/05/22 ~ FILE NAME: J:\ACTIVE_JOBS\3537 ESCO ASSEMBLAGE\CIVIL\DRAWING\DISCRETIONARY PLANS\3537-F-H-PTM.dwg

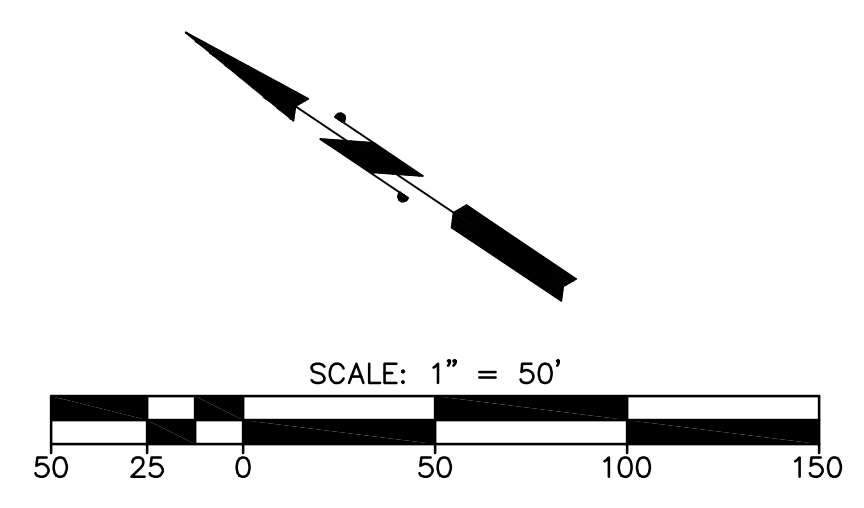
CITY OF ESCONDIDO TRACT NO. TENTATIVE SUBDIVISION MAP



TYPICAL BUILDING FOOTPRINTS



SAVE DATE: 12/06/22 -- PLOT DATE: 12/06/22 -- FILE NAME: J:\ACTIVE JOBS\5537 ESCO ASSEMBLAGE\CIVIL\DRAWINGS\DISCRETIONARY PLANS\F&H\SLOPE EXEMPTION EXHIBIT.dwg



PREPARED BY:
PASCO LARET SUITER
 & ASSOCIATES
 San Diego | Solana Beach | Orange County
 Phone 949.661.6695 | www.plsaengineering.com

ESCONDIDO, CA
STREET F & STREET H
GRADING EXEMPTION
SLOPE ANALYSIS

DATE: 12/06/2022

DRAWING:
 SHEET 1 OF 1

EXHIBIT "E"

FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

PL21-0269, PL21-0278, PL22-0584

Due to the number of pages of Exhibit "E," a link has been provided to review the document electronically on the City's website at:

<https://www.escondido.org/conway-drive-subdivision>

EXHIBIT F
MITIGATION MONITORING AND REPORTING PROGRAM
ENVIRONMENTAL DOCUMENT REFERENCE NUMBER (SCH 2022100635)

PROJECT NAME: Conway Residential Subdivision

PROJECT LOCATION: 916, 942, and 943 Stanley Avenue, and 2005 – 2175 Conway Drive (odd-numbered addresses only)
 Escondido, San Diego County, California 92026

PROJECT DESCRIPTION: The Proposed Project includes the construction of 44 new single-family detached residences, the construction of 10 new affordable attached duplex residences, retention of 2 existing single-family residences, 2 biofiltration basins, common open space areas, annexation to the City of 2.01 acres, and the demolition of 13 existing single-family residences on approximately 14.07 acres.

LEAD AGENCY: City of Escondido

CONTACT PERSON/ TELEPHONE NO.: Adam Finestone, City Planner

APPLICANT: Escondido North, LLC

CONTACT PERSON/ TELEPHONE NO.: Dylan Bird & John Kaye (Argus Land Company, Inc.) | (949) 233-4086

No.	Mitigation Measure	Time Frame for Implementation	Responsible Agency/Party	Verification of Compliance		
				Initials	Date	Remarks
Air Quality						
MM AQ-1	The Proposed Project shall utilize low emission "clean diesel" equipment with new or modified Tier 4 engines that include diesel oxidation catalysts, diesel particulate filters or Moyer Program retrofits that meet CARB best available control technology for all feasible off-road diesel powered construction equipment.	During all construction activities	Contractor			

Exhibit "F" - Mitigation Monitoring and Reporting Program

Biological Resources						
MM BIO-1	<p>Prior to ground disturbances that would impact potentially suitable nesting habitat for avian species, the project applicant shall adhere to the following:</p> <ol style="list-style-type: none"> 1. Vegetation removal activities shall be scheduled outside the nesting season (September 1 to February 14 for songbirds; September 1 to January 14 for raptors) to the extent feasible to avoid potential impacts to nesting birds and/or ground nesters. 2. Any construction activities that occur during typical nesting season (February 15 to August 31 for songbirds; January 15 to August 31 for raptors) will require that all suitable habitat, on-site and within 300-feet surrounding the site (as feasible), be thoroughly surveyed for the presence of nesting birds by a qualified biologist <u>within three days</u> before commencement ground disturbances. If active nests are identified, the biologist would establish buffers around the vegetation (500 feet for raptors and sensitive species, 200 feet for non-raptors/non-sensitive species). All work 	Prior to Grading/Ground disturbance	Project Biologist			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>within these buffers would be halted until the nesting effort is finished (i.e. the juveniles are surviving independent from the nest). The onsite biologist would review and verify compliance with these nesting boundaries and would verify the nesting effort has finished. Work can resume within these areas when no other active nests are found. Alternatively, a qualified biologist may determine that construction can be permitted within the buffer areas and would develop a monitoring plan to prevent any impacts while the nest continues to be active (eggs, chicks, etc.). Upon completion of the survey and any follow-up construction avoidance management, a report shall be prepared and submitted to City for mitigation monitoring compliance record keeping.</p>					
MM BIO-2	<p>Prior to issuance of the grading permit, the Project Applicant shall purchase 3.33-acres (0.5:1 ratio to the 6.65 acres of NNG impacts) of Non-Native Grasslands at the Daley Ranch Mitigation Bank or other City approved Mitigation Bank.</p>	<p>Prior to grading permit</p>	<p>Project Applicant</p>			
MM BIO-3	<p>Prior to issuance of the grading permit, the Project Applicant shall purchase 0.78-acres, (2:1 ratio to the 0.39-acres of Oak Woodland impacts) of Coast Live Oak Woodland at the Daley Ranch Mitigation Bank or other City approved Mitigation Bank.</p>	<p>Prior to grading permit</p>	<p>Project Applicant</p>			

Exhibit "F" - Mitigation Monitoring and Reporting Program

<p>MM BIO-4</p>	<p>The Project Applicant shall replace impacted mature trees at a minimum of 1:1 ratio, a total of 175 trees, unless other biologically equivalent or superior mitigation has been determined by the City. Trees may be replaced either on or off-site. The number, size, and species of replacement trees shall be determined on a case-by-case basis by the Development Services Director pursuant to Escondido Municipal Code Section 33-1069.</p> <p>The Project Applicant shall replace impacted protected trees at a minimum of 2:1 ratio, a total of 22 trees, unless other biologically equivalent or superior mitigation has been determined by the City. Protected trees may be replaced on or off-site. The size of the replaced protected trees shall be a minimum of 24-inch box or as determined by the Development Services Director and shall be replaced in-kind with the same species as impacted.</p> <p>To avoid double counting mitigation of oak trees since Mitigation Measure MM BIO-3 requires mitigation for coast live oak woodland habitat that includes individual oak trees subject to this mitigation measure, the number of oak trees associated with the purchase of oak woodland habitat (either actual or estimate) mitigation credits may also be used to satisfy the individual tree replacement mitigation requirement found in this Mitigation Measure MM BIO-4.</p>	<p>Prior to grading permit</p>	<p>Project Applicant</p>			
<p>Cultural Resources</p>						

Exhibit "F" - Mitigation Monitoring and Reporting Program

MM CUL-1	<p>If cultural resources (i.e., prehistoric sites, historic sites, and isolated artifacts) are discovered during grading or construction activities in the Project area, work shall be halted immediately within 50 feet of the discovery, the City Planning Department shall be notified, and a professional archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards in archaeology and/or history shall be retained to determine the significance of the discovery.</p> <p>The City shall consider mitigation recommendations presented by a professional archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards in archaeology and/or history for any unanticipated discoveries. The City and the Project applicant of the site where the discovery is made shall consult and agree on implementation of a measure or measures that the City deems feasible. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The Project applicant shall be required to implement any mitigation necessary for the protection of cultural resources.</p>	During Grading/Ground Disturbances	Archaeologist / City Planning Department			
MM CUL-2	If human remains are encountered during excavation activities, all work shall halt and the County Coroner shall be notified (California Public Resources Code §5097.98). The Coroner will determine whether the remains are of forensic interest. If the Coroner, with the aid of the County-approved Archaeologist,	During Construction	Project Archaeologist/ County Coroner			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>determines that the remains are prehistoric, s/he will contact the Native American Heritage Commission (NAHC). The NAHC shall be responsible for designating the most likely descendant (MLD), who will be responsible for the ultimate disposition of the remains, as required by Section 7050.5 of the California Health and Safety Code. The MLD shall make his/her recommendation within 48 hours of being granted access to the site. The MLD's recommendation shall be followed if feasible, and may include scientific removal and non-destructive analysis of the human remains and any items associated with Native American burials (California Health and Safety Code §7050.5). If the landowner rejects the MLD's recommendations, the landowner shall rebury the remains with appropriate dignity on the property in a location that will not be subject to further subsurface disturbance (California Public Resources Code §5097.98).</p>					
Geology and Soils						
MM GEO-1	<p>The Project Applicant shall implement the recommendations contained in the Updated Geotechnical Due-Diligence Assessment, Parcel H, Assessor Parcel Numbers (APN) 224-141-23-00 and 224-141-25-00, Northwest Corner of Stanley Avenue and Conway Drive, City of Escondido, San Diego County, California, dated April 7, 2021, and Geotechnical Due-Diligence Assessment, Parcel F, Assessor Parcel Numbers 224-142-30-00; -31-00; -32-00 and -33-00, Adjacent Northwest Corner of Lehner Avenue and Conway Drive, City of Escondido, San</p>	During Grading	Project Geologist/ Public Works Department			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	Diego County, California, dated April 15, 2021) to reduce geologic hazards during implementation of the Proposed Project. Included in the reports are site-specific recommendations involving such topics as, grading and earthwork, slope stability, retaining walls, seismic design, construction materials, geotechnical observation, and testing and plan reviews.					
MM GEO-2	Prior to the issuance of a grading permit, the Applicant shall prepare a final geotechnical report based on the final rough grading plans and the final geotechnical report shall incorporate all of the recommendations included in the preliminary geotechnical reports included in Appendices D and E. The geotechnical reports included in Appendices D and E have established that the site is geotechnically suitable for development and a final geotechnical report is required to ensure all construction-level geotechnical recommendations and design parameters are included on the final rough grading plans.	Prior to Grading Permit	Project Geologist/ Public Works Department			
Hazards and Hazardous Materials						
MM HAZ-1	Prior to the demolition of existing structures, a survey for asbestos containing materials (ACM), lead based paint (LBP), and polychlorinated biphenyl (PCBs) shall be conducted, and any such materials shall be removed and disposed of properly by qualified certified technicians in accordance with State regulations.	Prior to Demolition of Buildings	Project Applicant/ City Public Work			

Exhibit "F" - Mitigation Monitoring and Reporting Program

Noise						
MM NOI-1	<p>Construction Noise. Prior to issuance of construction permits, the City's Building Division shall verify that all construction plans include the following measures. The measures may include but are not limited to the following:</p> <ul style="list-style-type: none"> ▪ Staging areas should be placed as far as possible from sensitive receptors. ▪ Place stationary equipment in locations that will have a lesser noise impact on nearby sensitive receptors. ▪ Turn off equipment when not in use. ▪ Limit the use of enunciators or public address systems, except for emergency notifications. ▪ Equipment used in construction should be maintained in proper operating condition, and all loads should be properly secured to prevent rattling and banging. ▪ Schedule work to avoid simultaneous construction activities that both generate high noise levels. ▪ Use equipment with effective mufflers. ▪ Minimize the use of backup alarms. 	During Construction	Project Contractor/ City Public Works Department			
Transportation/Traffic						
MM TRANS-1	Prior to the issuance of the 34th certificate of occupancy for new construction on the Project site, the Applicant shall complete construction of all the following improvements to reduce VMT below the	Prior to the issuance of the 34th certificate of occupancy	Project Applicant/ City's Public			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>threshold of significance. Prior to beginning construction of the improvements, the Applicant shall submit construction plans to the City for review and approval and obtain all necessary permits, such as an encroachment permit, for construction of said improvements. The Applicant shall make the following improvements and receive VMT reduction credits:</p> <ul style="list-style-type: none"> • <u>N. Ash Street / Vista Avenue</u> - install high visibility crosswalks and accessible pedestrian signals on all four legs. VMT reduction equates to 60 VMT per measure - total reduction for this intersection is 120 VMT. • <u>N. Broadway / Rincon Avenue</u> - install high visibility crosswalks on the north, south and east legs, and install accessible pedestrian signals on all four legs. VMT reduction equates to 60 VMT per measures - total reduction for this intersection is 120 VMT. • <u>Stanley Avenue / Conway Drive</u> - install high visibility crosswalks on the west leg and curb ramps on the northwest and southwest corner. VMT reduction equates to 15 VMT for the high visibility crosswalk and 8 VMT per curb ramp - total reduction for this intersection is 31 VMT. • <u>Lehner Avenue / Conway Drive</u> - install high visibility crosswalks on the west and south legs, and curb ramps on the northwest corner. VMT reduction equates to 30 VMT for the high 		<p>Works Department</p>			
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Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>visibility crosswalks and 8 VMT for the curb ramp - total reduction for this intersection is 38 VMT.</p> <ul style="list-style-type: none"> • <u>New sidewalk</u> - approximately 1 mile of new sidewalk equates to 303 VMT reduction. The Proposed Project proposes to construct approximately 2,111 feet of new sidewalk along its project frontage. Total VMT reduction for this improvement is 121 VMT. 					
Tribal Cultural Resources						
MM TRC-1	<p>Prior to the issuance of a grading permit, the Applicant shall enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as a Pre-Excavation Agreement) with a tribe that is traditionally and culturally affiliated with the Project Location ("TCA Tribe"). The purposes of the agreement are (1) to provide the Applicant with clear expectations regarding tribal cultural resources, and (2) to formalize protocols and procedures between the Applicant/Owner and the TCA Tribe for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through a monitoring program in conjunction with the construction of the Project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground-disturbing activities. The agreement shall incorporate, at a minimum, the performance criteria and standards, protocols, and</p>	Prior to Grading Permit	Project Applicant/ Project Archaeologist/ Native American Monitor			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>procedures set forth in mitigation measures MM TRC-2 through MM TRC-10, and the following information:</p> <ul style="list-style-type: none"> • Parties entering into the agreement and contact information. • Responsibilities of the Property Owner or their representative, archaeological monitors, and tribal monitors. • Project grading and development scheduling, including determination of authority to adjust in the event of unexpected discovery, and terms of compensation for the monitors, including overtime and weekend rates, in addition to mileage reimbursement. • Requirements in the event of unanticipated discoveries, which shall address grading and grubbing requirements including controlled grading and controlled vegetation removal in areas of cultural sensitivity, analysis of identified cultural materials, and on-site storage of cultural materials. • Treatment of identified Native American cultural materials. • Treatment of Native American human remains and associated grave goods. • Confidentiality of cultural information including location and data. • Negotiation of disagreements should they arise. 					
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Exhibit "F" - Mitigation Monitoring and Reporting Program

	<ul style="list-style-type: none"> Regulations that apply to cultural resources that have been identified or may be identified during project construction. 					
MM TRC-2	<p>Prior to issuance of a grading permit, the Applicant shall provide written verification to the City that a qualified archaeologist and a Native American monitor associated with a TCA Tribe have been retained to implement the monitoring program. The archaeologist shall be responsible for coordinating with the Native American monitor. This verification shall be presented to the City in a letter from the Project archaeologist that confirms the selected Native American monitor is associated with a TCA Tribe. The City, prior to any pre-construction meeting, shall approve all persons involved in the monitoring program.</p>	Prior to Grading Permit	Project Applicant/ Project Archaeologist/ Native American Monitor			
MM TRC-3	<p>The qualified archaeologist and a Native American monitor shall attend all applicable pre-construction meetings with the General Contractor and/or associated subcontractors to explain and coordinate the requirements of the monitoring program.</p>	Prior to Grading	Project Applicant/ Native American Monitor			
MM TRC-4	<p>During the initial grubbing, site grading, excavation or disturbance of the ground surface (including both on- and off-site improvement areas), the qualified archaeologist and the Native American monitor shall be present full-time. If the full-time monitoring reveals that the top soil throughout the Project impact area (both on and off-site) has been previously removed during the development of the roads and buildings within the Project area, then a decrease of monitoring</p>	During Construction	Project Archaeologist/ Native American Monitor			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>to part-time monitoring or the termination of monitoring can be implemented, as deemed appropriate by the qualified archaeologist in consultation with the Native American monitor. The frequency of subsequent monitoring shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in California Public Resources Code Section 21074. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring considering these factors. Archaeological and Native American monitoring would be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits (i.e., soil conditions are comprised solely of fill or granitic bedrock).</p>					
MM TRC-5	<p>In the event that previously unidentified tribal cultural resources are discovered, all work must halt within a 100-foot radius of the discovery. The qualified archaeologist and the Native American monitor shall evaluate the significance of the find and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The qualified archaeologist and Native American Monitor shall consider the criteria identified by California Public Resources Code sections 21083.2(g) and 21074, and CEQA Guidelines sections 15064 and 15064.5(c) in determining the significance of a discovered resource. If the professional archaeologist and Native American monitor determine that the find does not</p>	During Grading	Project Applicant/ Project Archaeologist/ Native American Monitor			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>represent a culturally significant resource, work may resume immediately, and no agency notifications are required. Isolates and clearly non-significant deposits shall be documented in the field and collected, and monitored grading can immediately proceed. All unearthed archaeological resources or tribal cultural resources shall be collected, temporarily stored in a secure location, and repatriated for later reburial on the project site, pursuant to the terms of the Pre-Excavation Agreement.</p>					
<p>MM TRC-6</p>	<p>If the qualified archaeologist and Native American monitor determine that the find does represent a potentially significant tribal cultural resource, considering the criteria identified by California Public Resources Code sections 21083.2(g) and 21074, and CEQA Guidelines sections 15064 and 15064.5(c), the archaeologist shall immediately notify the City of said discovery. The qualified archaeologist, in consultation with the City, the consulting TCA Tribe(s), and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the tribal cultural resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the TCA Tribe(s) and be submitted to the City for review and approval. If the find is determined to be a Tribal Cultural Resource under CEQA, as defined in California Public Resources Code Section 21074(a) though (c), appropriate treatment measures would be implemented. Work may not resume within the no-work radius until the City, through consultation as set forth herein, determines either that: 1) the discovery does not constitute a Tribal Cultural Resource under</p>	<p>During Grading</p>	<p>Project Archaeologist/ Native American Monitor</p>			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>CEQA, as defined in California Public Resources Code Section 21074(a) through (c); or 2) the approved treatment and disposition measures have been completed.</p>					
<p>MM TRC-7</p>	<p>All sacred sites, significant tribal cultural resources, and unique archaeological resources encountered within the Project area shall be avoided and preserved as the preferred mitigation. The avoidance and preservation of the significant tribal cultural resource or unique archaeological resource must first be considered and evaluated in consultation with the TCA Tribe(s) as required by CEQA and in compliance with all relevant mitigation measures for the Project. If any significant tribal cultural resource or unique archaeological resource has been discovered and such avoidance or preservation measure has been deemed to be infeasible by the City's Director of Development Services Department (after a recommendation is provided by the qualified archaeologist, in consultation with the TCA Tribe(s), making a determination of infeasibility that takes into account the factors listed in California Public Resources Code sections 21061.1, 21081(a)(3), and CEQA Guidelines section 15091, and in accordance with all relevant mitigation measures for the Project), then culturally appropriate treatment of those resources, including but not limited to funding an ethnographic or ethnohistoric study of the resource(s), and/or developing a research design and data recovery program to mitigate impacts shall be prepared by the qualified archaeologist (using</p>	<p>During Grading</p>	<p>Project Archaeologist/ Native American Monitor</p>			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>professional archaeological methods), in consultation with the TCA Tribe and the Native American monitor, and shall be subject to approval by the City. No artifact sampling for analysis is allowed, unless requested and approved by the consulting TCA Tribe(s). Before construction activities are allowed to resume in the affected area, the research design and data recovery program activities must be concluded to the satisfaction of the City.</p>					
<p>MM TRC-8</p>	<p>As specified by California Health and Safety Code section 7050.5, if human remains are found on the Project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office. Determination of whether the remains are human shall be conducted on site and in situ where they were discovered by a forensic anthropologist, unless the forensic anthropologist and the Native American monitor agree to remove the remains to a temporary off-site location for examination. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Coroner has made the necessary findings as to origin and disposition. A temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as prescribed by law. If the Coroner determines the remains are</p>	<p>During Grading</p>	<p>Project Applicant/ Project Archaeologist/ Native American Monitor/ County Coroner</p>			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>Native American and not the result of a crime scene, the Coroner would notify the NAHC, which then will designate a Native American Most Likely Descendant (MLD) for the project (California Public Resources Code § 5097.98) for proper treatment and disposition in accordance with California Public Resources Code section 5097.98. The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the City does not agree with the recommendations of the MLD, the NAHC can mediate (California Public Resources Code § 5097.94). If no agreement is reached, the remains shall be kept in situ, or reburied in a secure location in close proximity to where they were found and where they will not be further disturbed (California Public Resources Code § 5097.98). Work may not resume within the no work radius until the lead agency, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction. The analysis of the remains shall only occur on site in the presence of the MLD, unless the forensic anthropologist and the MLD agree to remove the remains to an off-site location for examination.</p>					
MM TRC-9	<p>If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during any cataloging of those resources. Moreover, if the qualified archaeologist does not collect the cultural resources that are unearthed during the ground-disturbing activities, the Native American monitor may, at their discretion, collect said</p>	During Grading	Project Archaeologist/ Native American Monitor			

Exhibit "F" - Mitigation Monitoring and Reporting Program

	<p>resources for later reburial on the Project site or storage at a local curation facility. Any tribal cultural resources collected by the qualified archaeologist shall be repatriated to the TCA Tribe for reburial on the Project site. Should the TCA Tribe(s) decline the collection, the collection shall be curated at the San Diego Archaeological Center. All other resources determined by the qualified archaeologist, in consultation with the Native American monitor, to not be tribal cultural resources, shall be curated at the San Diego Archaeological Center.</p>					
<p>MM TRC-10</p>	<p>Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, that describes the results, analysis, and conclusions of the archaeological monitoring program and any data recovery program on the Project site, shall be submitted by the qualified archaeologist to the City. The Native American monitor shall be responsible for providing any notes or comments to the qualified archaeologist in a timely manner to be submitted with the report. The report will include California Department of Parks and Recreation Primary and Archaeological Site Forms for any newly discovered resources. A copy of the final report will be submitted to the South Coastal Information Center after approval by the City.</p>	<p>Post- Grading</p>	<p>Project Applicant/ Project Archaeologist/ Native American Monitor</p>			

EXHIBIT "G"
FINDINGS OF FACT
PL21-0269, PL21-0278, PL22-0586

Environmental Determination(s)

1. Pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et. seq.) ("CEQA"), and its implementing regulations (14 C.C.R. § 15000 et seq.) ("CEQA Guidelines"), the City of Escondido ("City") is the Lead Agency for the project ("Project"), as the public agency with the principal responsibility for approving the Project.
2. An Initial Study/Mitigated Negative Declaration ("IS/MND") for the Project was prepared, published, circulated and reviewed in accordance with the requirements of CEQA, the CEQA Guidelines, and the local environmental procedures. The decision-making body of the Lead Agency shall adopt the proposed IS/MND only if:
 - It finds on the basis of the whole record before it that there is no substantial evidence the project will have a significant effect on the environment, and
 - The IS/MND reflects the Lead Agency's independent judgment and analysis.
3. The Final IS/MND and Mitigation Monitoring and Reporting Plan ("MMRP"), collectively constitute the environmental documentation under and pursuant to CEQA, the CEQA Guidelines, and local environmental procedures relating to the project, and shall be referred to herein collectively as the "CEQA Documents."
4. The Planning Commission has received the material record supporting all of the CEQA documents for the project. The Planning Commission, finds the following:
 - The Final IS/MND reflects the City's independent judgment and analysis.
 - That there is no substantial evidence that the Project or any of its aspects could result in significant adverse impacts, or that cannot be fully mitigated. All previously identified impacts have been mitigated to less than a significant level.
 - The Planning Commission also finds that the mitigation measures listed in the MMRP will not cause any potentially significant effects.
 - The Final IS/MND has been completed in compliance with CEQA and it constitutes a complete, accurate, adequate and good faith effort at full disclosure under CEQA.
5. Mitigation measures are recommended to be incorporated as part of the adoption of the Mitigated Negative Declaration. The recommended approval of the Project also includes the adoption of the MMRP, attached hereto this Resolution.

6. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines section 15091(e), all documents and other materials which constitute the record of proceedings are located at the City of Escondido, City Hall. The City Clerk, whose office is located at 201 North Broadway, Escondido CA 92025, is hereby designated as the custodian of the documents and other materials which constitute the record of proceedings upon which the Planning Commission's decision is based, which documents and materials shall be available for public inspection and copying in accordance with the provisions of the California Public Records Act.

Tentative Subdivision Map Determination(s)

1. The location, design, and residential density of the proposed 47-lot residential subdivision is consistent with the goals and policies of the Escondido General Plan because residential development is permitted and encouraged within the Suburban and Estate II land-use designation. As a result of a concession requested pursuant to State Density Bonus Law and the Escondido Zoning Code, the inclusion of multi-family dwelling on property with an Estate II land use designation does not necessitate an amendment to the General Plan, nor does the increase in density beyond what would otherwise be allowed in the Suburban and Estate II General Plan land use designations. Further, the proposed map would be in conformance with goals and policies in the Housing Element of the General Plan which detail the need to plan for quality, managed, and sustainable growth, and provide a range of housing opportunities for all income groups and populations with special needs. The provision of 10 units for low-income households assists the City in meeting its affordable housing goals established by the Regional Housing Needs Assessment.
2. The proposed subdivision as designed encourages a compact, efficient residential form that promotes a variety of mobility forms, supports nearby commercial establishments and takes advantage of infrastructure improvements.
3. The Project site is physically suitable for the proposed density of development because the property is within the urban fringe area developed with a mixture of similar single-family residential subdivisions. The Suburban land use designation allows up to 3.3 dwelling units per acre and the Estate II land use designation allows up to 2.0 dwelling units per acre. While the subdivision would be developed at a net density of approximately 4.43 dwelling units per net acre, it is consistent with State Density Bonus Law and applicable provisions of the Escondido Zoning Code. Additionally, the subdivision has been designed to provide residential uses in a suburban setting, consistent with the surrounding area. Any deviations from zoning standards are consistent with State Density Bonus Law and the Escondido Zoning Code and are required to accommodate the affordable housing development.
4. The approval of the proposed Project would be based on sound principles of land use and is well integrated with its surroundings near similar residentially developed properties because adequate access, utilities, stormwater detention and landscaping would be provided, as

detailed in the staff report. The Project also would not be out of character for the area, which contains other suburban residential development. All vehicular traffic generated by the Project will be accommodated safely, enhanced with public improvements and without degrading the level of service on the adjoining streets or intersections.

5. The Project would not result in the destruction of desirable natural features, nor be visually obstructive or disharmonious with surrounding areas because the site is not located on a skyline or intermediate ridge. The proposed map has been designed to minimize impacts associated with grading, and findings required to allow exemptions from slope provisions of the Grading and Erosion Control Ordinance of the Escondido Zoning Code have been made.
6. The Project site is physically suitable for this proposed type of residential development and density of development. Approval of the Tentative Subdivision Map would not violate the requirements, goals, policies, or spirit of the General Plan. The site is suitable for this residential type of development and density as detail in the Planning Commission staff report dated December 13, 2022, and noted in the above sections.
7. The Project would be compatible with the surrounding uses because the subject site is within a suburban residential area developed with a variety of residential developments of varying density, lot sizes and design. All utilities will be installed underground, with water and sewer service provided by the City of Escondido. All vehicular traffic generated by the Project will be accommodated safely and without degrading the level of service on the adjoining streets or intersections. The proposed Project also would not result in a significant impact to biological or natural resources.
8. The design of the subdivision and the type of improvements are not likely to cause serious public health problems. The Project's proposed street alignments, grades and widths; drainage and sanitary facilities and utilities, including alignments and grades thereof; location and size of all required easements and rights-of-way; lot configuration; traffic and emergency access; and grading; were all reviewed for compliance with relevant City policies and codes. The Project would not cause substantial environmental damage, would avoid injury to fish or wildlife, or their habitat due to the site's location. In addition, the site does not contain any sensitive or protected biological or natural resources.
9. The design of the Tentative Subdivision Map and the type of improvements will not conflict with easements of record, or easements established through court judgments, or acquired by the population at large, for access through, or use of property within the proposed map because any existing easements and improvements will either be accommodated within the project design; be quitclaimed prior to recordation of the map; or alternate provisions provided.
10. The design of the Tentative Subdivision Map has provided, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision. The lot sizes and the subdivision configuration provide opportunities for passive/solar heating.

11. All permits and approvals applicable to the proposed map pursuant to the Escondido Zoning Code and the Conditions of Approval, included as Exhibit "E" to this resolution, will have been obtained prior to the recordation of the Final Map.
12. The proposed Tentative Subdivision Map and associated permits will not conflict with regional or local housing goals and the proposed Project would be in conformance with General Plan Housing Goals and Policies to expand the stock of all housing; increase homeownership; plan for quality managed and sustainable growth; and encourage a compact, efficient urban form that promotes transit, supports nearby commercial establishments and takes advantage of infrastructure improvements. The proposed Project would not diminish the Quality-of-Life Standards of the General Plan as the Project would not materially degrade the level of service on adjacent streets or public facilities, create excessive noise, and adequate on-site parking, circulation and public services will be provided to the site.
13. In consideration of the above, the Project meets all of the requirements of section 66474 of the California Government Code, and the proposed map meets all of the requirements or conditions imposed by the Subdivision Map Act and the Escondido Municipal Code, including the Escondido Zoning Code, as detailed in the staff reports, the Escondido General Plan, and above findings.

No Net Loss

1. The purpose of Government Code section 65863 ("No Net Loss Law"), is to ensure development opportunities remain available throughout the planning period to accommodate a jurisdiction's regional housing need allocation ("RHNA"), especially for lower- and moderate-income households. Jurisdictions also cannot approve new housing at significantly lower densities or at different income categories than was projected in the Housing Element without making specific findings and identifying other sites that could accommodate these units and affordability levels "lost" as a result of the approval.
2. The Project site contains seven parcels, three of which are identified in the Housing Element's suitable sites inventory. Those sites contain nine existing dwelling units and are capable of accommodating an additional six units. While the Project would demolish the nine existing units, as well as four additional units on parcels not identified in the suitable sites inventory, it would construct 54 new units for a net increase of 41 units. Geographically, at least 31 of the new units, including the 10 affordable units, will be on the three suitable sites inventory parcels. Therefore, the Project would result in no net loss pursuant to the Government Code.
3. The Project would assist the City in meeting its RHNA by providing more units than identified for the Project site in the suitable sites inventory, including 10 affordable housing units where none are identified.

Grading Exemption

1. The Project includes a request for a Grading Exemption for two fill slopes greater than 10 feet in height which are closer than 50 feet to a property line, as well as a cut-slope greater than 2:1 which has been determined by the Director to have a potential impact on adjacent properties. Because the Project includes a request for various waivers, as permitted by Density Bonus Law and the Escondido Zoning Code, the only finding that must be made is related to health and safety considerations due to slope stability. The preliminary geotechnical report prepared for the Project has indicated that the slopes do not pose a health and safety risk. Detailed plans and technical reports will be reviewed by the City as part of the grading plan submittal to ensure that the information contained in the preliminary geotechnical report is adequately incorporated into the final design, and all slopes would be landscaped in accordance with the zoning code.

Annexation Determinations:

1. The proposed annexation conforms to the annexation policies established in the Escondido General Plan Land Use and Community Form Element that are intended to guide development to meet present and future needs, achieve a vibrant community, and enhance the character of Escondido.
2. The one parcel proposed to be annexed into the City of Escondido is located within the Escondido Sphere of Influence and Escondido Planning Area.
3. The reorganization includes annexation to the City of Escondido and detachment from County Service Area No. 135 (Regional Communications). The parcels also will be excluded from the Rincon Municipal Water District, Improvement District "E" for fire services.
4. The City of Escondido will provide fire and emergency response to the proposed annexation territory. City sewer service would be available to the subject parcel. The City of Escondido Police Department, which already patrols the general area and works cooperatively with the San Diego County Sheriff, would assume responsibility for law enforcement. The annexation would not introduce new service providers to the area or become a departure from the existing pattern of service delivery in this portion of Escondido.
5. The proposed annexation will not conflict with any specific development plans for the properties. Development will be subject to the provisions of the Escondido General Plan and Zoning Code upon annexation.
6. The public health, safety and welfare will not be adversely affected by the proposed change because the parcel has already been pre-zoned as RE-20, consistent with its General Plan land use designation.

7. The requirements of the California Environmental Quality Act (CEQA) have been met because it was determined the Project will not have a significant effect on the environment because mitigation measures and project design features will avoid or reduce potential impacts to less than a significant level, as demonstrated in the Final IS/MND prepared for the project.

EXHIBIT "H"

CONDITIONS OF APPROVAL PL21-0269, PL21-0278, PL22-0584

This Project is conditionally approved as set forth on the application received by the City of Escondido on July 16, 2021, and the Project drawings consisting of Site Plans, Floor Plans, Sections, Architectural Elevations, Civil Sheets/Grading, Landscape Plans and Colored Elevations; all designated as approved on January 11, 2023, and shall not be altered without express authorization by the Development Service Department.

For the purpose of these conditions, the term "Applicant" shall also include the Project proponent, owner, permittee, or its successors in interest, as may be applicable.

A. General:

1. **Acceptance of Permit.** Should the Applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Applicant shall be deemed to constitute all of the following on behalf of the Applicant:
 - a. Acceptance of the Permit by the Applicant; and
 - b. Agreement by the Applicant to be bound by, to comply with, and to do all things required of or by the Applicant pursuant to all of the terms, provisions, and conditions of this Project Permit or other approval and the provisions of the Escondido Municipal Code or Zoning Code applicable to such Permit.
2. **Permit Expiration.** If the Permit was filed as or concurrent with a Tentative Map or Planned Development application, the Permit shall **expire 36 months** from the effective date of approval, unless additional time is granted pursuant to the Map Act or to the Escondido Municipal Code. If not filed as concurrent with a Tentative Map or Planned Development application, the Permit shall automatically expire after one year from the date of this approval, or the expiration date of any extension granted in accordance with the Escondido Municipal Code and Zoning Code.

The Permit shall be deemed expired if a building permit has not been obtained or work has been discontinued in the reliance of that building permit. If no building permits are required, the City may require a noticed hearing to be scheduled before the authorized agency to determine if there has been demonstrated a good faith intent to proceed, pursuant to and in accordance with the provision of this Permit.

3. **Certification.** The Director of Development Services, or his/her designee, is authorized and directed to make, or require the Applicant to make, all corrections and modifications to the Project drawings and any other relevant document comprising the Project in its entirety, as necessary to

make them internally consistent and in conformity with the final action on the Project. This includes amending the Project drawings as necessary to incorporate revisions made by the decision-making body and/or reflecting any modifications identified in these conditions of approval. Three copies of final Approved Plan set, shall be submitted to the Planning Division for certification. Said plans must be certified by the Planning Division prior to submittal of any post-entitlement permit, including grading, public improvement, landscape, or building plans for the Project.

4. Conformance to Approved Plans.

- a. The operation and/or use of the subject property shall be consistent with the Project Description and Details of Request, designated with the Approved Plan set.
- b. Nothing in this Permit shall authorize the Applicant to intensify the authorized activity beyond that which is specifically described in this Permit.
- c. Once a permit has been issued, the Applicant may request Permit modifications. "Minor" modifications may be granted if found by the Director of Development Services to be in substantial conformity with the Approved Plan set, including all exhibits and Permit conditions attached hereto. Modifications beyond the scope described in the Approved Plan set may require submittal of an amendment to the Permit and approval by the authorized agency.

5. Limitations on Use. Prior to any use of the Project site pursuant to this Permit, all Conditions of Approval contained herein shall be completed or secured to the satisfaction of the Development Services Department.

6. Certificate of Occupancy.

- a. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required, and any such change in occupancy must comply with all other applicable local and state laws.
- b. Prior to final occupancy, a Planning Final Inspection shall be completed to ensure that the property is in full compliance with the Permit terms and conditions. The findings of the inspection shall be documented on a form and content satisfactory to the Director of Development Services.

7. Availability of Permit Conditions.

- a. Prior to building/grading permit issuance, the Applicant shall cause a covenant regarding real property to be recorded that sets forth the terms and conditions of this Permit approval and shall be of a form and content satisfactory to the Director of Development Services.

- b. The Applicant shall make a copy of the terms conditions of this Permit readily available to any member of the public or City staff upon request. Said terms and conditions shall be printed on any construction plans that are submitted to the Building Division for plan check processing.

- 8. **Right to Entry.** The holder of this Permit shall make the premises available for inspection by City staff during construction or operating hours and allow the investigations of property necessary to ensure that minimum codes, regulations, local ordinances and safety requirements are properly followed. The Applicant shall provide such business records, licenses, and other materials necessary upon request to provide evidence of compliance with the conditions of approval, as well as federal, state, or laws.

- 9. **Compliance with Federal, State, and Local Laws.** Nothing in this Permit shall relieve the Applicant from complying with conditions, performance standards, and regulations generally imposed upon activities similar in nature to the activity authorized by this permit. (Permits from other agencies may be required as specified in the Permit's Details of Request.) This Permit does not relieve the Applicant of the obligation to comply with all applicable statutes, regulations, and procedures in effect at the time that any engineering permits or building permits are issued unless specifically waived herein.

No part of this Permit's approval shall be construed to permit a violation of any part of the Escondido Municipal or Zoning Code. During Project construction and after Project completion, the Applicant shall ensure the subject land use activities covered by this Permit is conducted in full compliance with all local and state laws.

- 10. **Fees.** The appropriate development fees and Citywide Facility fees shall be paid in accordance with the prevailing fee schedule in effect at the time of building permit issuance, to the satisfaction of the Director of Development Services. Through plan check processing, the Applicant shall pay development fees at the established rate. Such fees may include, but not be limited to: Permit and Plan Checking Fees, Water and Sewer Service Fees, School Fees, Traffic Mitigation Fees, Flood Control Mitigation Fees, Park Mitigation Fees, Fire Mitigation/Cost Recovery Fees, and other fees listed in the Fee Schedule, which may be amended. Arrangements to pay these fees shall be made prior to building permit issuance to the satisfaction of the Development Services Department.

Approval of this development project is conditioned upon payment of all applicable development fees and connection fees in the manner provided in Chapter 6 of the Escondido Municipal Code.

- 11. **Costs of Municipal Services.** In accordance with the General Plan, the Developer shall fund all on-going operational costs of providing municipal services required for the Project, the amount of such funding shall be in accordance with the special tax levy adopted annually by the City Council based on the project density, unless another amount is approved by the City Council at the time of Project approval. Such funding shall occur through either an agreement to form or annex into a Community Facilities District ("CFD") or the establishment of another lawful funding mechanism reasonably acceptable to the City ("Public Services Funding Agreement"). Projects that elect to

annex into the Services CFD shall submit consent forms prior to the first permit issuance if they have not done so already. The provisions of the Public Services Funding Agreement shall specify any terms and limitations necessary to implement the CFD or other funding mechanism to offset the impacts to public services associated with the project. The City Manager, or City Manager's designee, shall be authorized to approve and execute the Public Services Funding Agreement, and the Public Services Funding Agreement shall be finalized prior to the City's issuance of any permit for the Project.

12. Public Art Partnership Program. All requirements of the Public Art Partnership Program, Ordinance No. 86-70 shall be satisfied prior to any building permit issuance. The ordinance requires that a public art fee be added at the time of the building permit issuance for the purpose of participating in the City Public Art Program.

13. Clerk Recording.

- a. State Law (SB 1535), effective January 1, 2007, requires certain projects to pay fees for purposes of funding the California Department of Fish and Wildlife. If the Project is found to have a significant impact to wildlife resources and/or sensitive habitat, in accordance with State law, or if the Project was analyzed through a negative declaration or environmental impact report, the Applicant shall remit to the City of Escondido Planning Division, within two working days of the effective date of the adoption of the environmental document, a check payable to the "San Diego County Clerk," in the amount that is published by the County Clerk's Office. Failure to remit the required fees in full within the specified time noted above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation code. In addition, Section 21089(b) of the Public Resources Code, and Section 711.4(c) of the Fish and Game Code provide that no project shall be operative, vested, or final until all the required filing fees are paid. The County Clerk's Office filing fees for other environmental review documents are adjusted annually by the California Department of Fish and Wildlife. If the fee increase after the date of this approval, the Applicant shall be responsible for the increase.
- b. For more information on filing fees, please refer to the County Clerk's Office and/or the California Code of Regulations, Title 14, Section 753.5.

14. Legal Description Adequacy. The legal description attached to the application has been provided by the Applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.

15. Application Accuracy. The information contained in the application and all attached materials are assumed to be correct, true, and complete. The City of Escondido is relying on the accuracy of this information and Project-related representations in order to process this application. Any permits issued by the City may be rescinded if it is determined that the information and materials submitted are not true and correct. The Applicant may be liable for any costs associated with rescission of such permits.

16. Enforcement. If any of the terms, covenants, or conditions contained herein shall fail to occur or if they are, by their terms, to be implemented and maintained over time, the City of Escondido shall have the right to deny or withhold subsequent permit approvals or permit inspections that are derived from the application entitlements herein granted; issue stop work orders; pursue abatement orders, penalties, or other administrative remedies as set forth in state and local laws; or institute and prosecute litigation to compel compliance with such terms, covenants, or conditions or seek damages for their violation. The Applicant shall be notified in advance prior to any of the above actions being taken by the City and shall be given the opportunity to remedy any deficiencies identified by the City.

17. Indemnification, Hold Harmless, Duty to Defend.

- a. The Applicant shall indemnify, hold harmless, and defend (with counsel reasonably acceptable to the City) the City, its Councilmembers, Planning Commissioners, boards, commissions, departments, officials, officers, agents, employees, and volunteers (collectively, "Indemnified Parties") 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, at law or in 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 (i) any business, work, conduct, act, omission, or negligence of the Applicant or the owner of the Property (including the Applicant's or the owner of the Property's contractors, subcontractors, licensees, sublessees, invitees, agents, consultants, employees, or volunteers), or such activity of any other person that is permitted by the Applicant or owner of the Property, occurring in, on, about, or adjacent to the Property; (ii) any use of the Property, or any accident, injury, death, or damage to any person or property occurring in, on, or about the Property; or (iii) any default in the performance of any obligation of the Applicant or the owner of the Property to be performed pursuant to any condition of approval for the Project or agreement related to the Project, or any such claim, action, or proceeding brought thereon. Provided, however, that the Applicant shall have no obligation to indemnify, hold harmless, or defend the City as to any Claims that arise from the sole negligence or willful misconduct of the City. In the event any such Claims are brought against the City, the Applicant, upon receiving notice from the City, shall defend the same at its sole expense by counsel reasonably acceptable to the City and shall indemnify the City for any and all administrative and litigation costs incurred by the City itself, the costs for staff time expended, and reasonable attorney's fees (including the full reimbursement of any such fees incurred by the City's outside counsel, who may be selected by the City at its sole and absolute discretion and who may defend the City against any Claims in the manner the City deems to be in the best interests of the City).
- b. The Applicant further and separately agrees to and shall indemnify, hold harmless, and defend the City (including all Indemnified Parties) from and against any and all Claims

- brought by any third party to challenge the Project or its approval by the City, including but not limited to any Claims related to the Project's environmental determinations or environmental review documents, or any other action taken by the City regarding environmental clearance for the Project or any of the Project approvals. Such indemnification shall include the Applicant's payment for any and all administrative and litigation costs and expenses incurred by the City in defending against any such Claims, including payment for all administrative and litigation costs incurred by the City itself, the costs for staff time expended, and reasonable attorney's fees (including the full reimbursement of any such fees incurred by the City's outside counsel, who may be selected by the City at its sole and absolute discretion and who may defend the City against any Claims in the manner the City deems to be in the best interests of the City and the Project).
- c. The City, in its sole discretion and upon providing notice to the Applicant, may require the Applicant to deposit with the City an amount estimated to cover costs, expenses, and fees (including attorney's fees) required to be paid by the Applicant in relation to any Claims referenced herein, which shall be placed into a deposit account from which the City may draw as such costs, expenses, and fees are incurred. Within 14 days after receiving written notice from the City, the Applicant shall replenish the deposit account in the amount the City determines is necessary in the context of the further defense of such Claims. To the extent such deposit is required by the City, the amount of such deposit and related terms and obligations shall be expressed in a written Deposit Account Agreement, subject to the City Attorney's approval as to form. The City, in its sole and reasonable discretion, shall determine the amount of any initial deposits or subsequent deposits of funds, and the Applicant may provide documentation or information for the City to consider in making its determinations. Nothing within this subsection shall be construed as to relieve the Applicant's obligations to indemnify, hold harmless, or defend the City as otherwise stated herein.

B. Construction, Maintenance, and Operation Obligations:

1. **Code Requirements.** All construction shall comply with the applicable requirements of the Escondido Municipal Code, Escondido Zoning Code, California Building Code; and the requirements of the Planning Division, Engineering Services Department, Director of Development Services, Building Official, City Engineer, and the Fire Chief in carrying out the administration of said codes. Approval of this Permit request shall not waive compliance with any City regulations in effect at the time of Building Permit issuance unless specifically waived herein.

As a condition of receiving the land use approvals specified herein, Applicant shall maintain the property subject to the approvals in compliance with all applicable city codes governing the condition or appearance of property. In addition to compliance with such basic standards, the property subject to these approvals shall also be maintained free of trash, plant debris, weeds, and concrete (other than existing foundations and permanent structures). Any signs placed on the property advertising such property for sale or rent shall be in accordance with applicable laws,

and be kept clean, in like-new condition, and free from fading and graffiti at all times. This condition shall be applicable from the date the land use is approved. The failure to comply with this condition shall subject the approvals specified herein to revocation for failure to comply.

- 2. Agency License and Permitting.** In order to make certain on- or off-site improvements associated with the Approved Plan set, the Permit request may require review and clearance from other agencies. Nothing in these Conditions of Approval shall be construed as to waive compliance with other government agency regulations or to obtain permits from other agencies to make certain on- or off-site improvements prior to Final Map recordation, grading permit issuance, building permit issuance, or certificate of occupancy as required. This review may result in conditions determined by the reviewing agency.

At all times during the effective period of this Permit, the Applicant and any affiliated responsible party shall obtain and maintain in valid force and effect, each and every license and permit required by a governmental agency for the construction, maintenance, and operation of the authorized activity.

- 3. Utilities.** All new utilities and utility runs shall be underground, or fee payment in-lieu subject to the satisfaction of the City Engineer.
- 4. Signage.** All proposed signage associated with the Project must comply with Article 66 (Sign Ordinance) of the Escondido Zoning Code. Separate sign permits will be required for Project signage. All non-conforming signs shall be removed. The Applicant shall submit with any sign permit graphic/list of all signs to be removed and retained, along with any new signage proposed.
- 5. Noise.** All Project generated noise shall conform to the City's Noise Ordinance (Ordinance 90-08).
- 6. Lighting.** All exterior lighting shall conform to the requirements of Article 35 (Outdoor Lighting Ordinance) of the Escondido Zoning Code.
- 7. General Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping. The Applicant shall paint and re-paint all building exteriors, accessory equipment, and utility boxes servicing the Project, as necessary to maintain clean, safe, and efficient appearances.
- 8. Anti-Graffiti.** The Applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including all areas of the job site for when the Project is under construction.
- 9. Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, and garbage.

- 10. Roof, Wall, and Ground Level Equipment.** All mechanical equipment shall be screened and concealed from view in accordance with Section 33-1085 of the Escondido Zoning Code.
- 11. Trash Enclosures.** Appropriate trash enclosure(s) with roof or other approved trash system shall be approved by the Planning and Engineering Division. The property owner or management company shall be responsible for ensuring that enclosures are easily assessable for garbage and recyclables collection; and that the area is managed in a clean, safe, and efficient manner. Trash enclosure covers shall be closed when not in use. Trash enclosures shall be regularly emptied. There shall be the prompt removal of visible signs of overflow of garbage, smells emanating from enclosure, graffiti, pests, and vermin.
- 12. Staging Construction Areas.** All staging areas shall be conducted on the subject property, subject to approval of the Engineering Department. Off-site staging areas, if any, shall be approved through the issuance of an off-site staging area permit/agreement.
- 13. Disturbance Coordinator.** The Applicant shall designate and provide a point-of-contact whose responsibilities shall include overseeing the implementation of Project, compliance with Permit terms and conditions, and responding to neighborhood concerns.
- 14. Construction Waste Reduction, Disposal, and Recycling.** Applicant shall recycle or salvage for reuse a minimum of 65% of the non-hazardous construction and demolition waste for residential projects or portions thereof in accordance with either Section 4.408.2, 4.408.3, or 4.408.4 of the California Green Building Standards Code; and/or for non-residential projects or portions thereof in accordance with either Section 5.408.1.1, 5.408.1.2, or 5.408.1.3 of the California Green Building Standards Code. In order to ensure compliance with the waste diversion goals for all residential and non-residential construction projects, the Applicant must submit appropriate documentation as described in Section 4.408.5 of the California Green Building Standards Code for residential projects or portions thereof, or Section 5.408.1.4 for non-residential projects or portions thereof, demonstrating compliance with the California Green Building Standards Code sections cited above.
- 15. Construction Equipment Emissions.** Applicant shall incorporate measures that reduce construction and operational emissions. Prior to the City's issuance of the demolition and grading permits for the Project, the Applicant shall demonstrate to the satisfaction of the Planning Division that its construction contractor will use a construction fleet wherein all 50-horsepower or greater diesel-powered equipment is powered with California Air Resources Board ("CARB") certified Tier 4 Interim engines or equipment outfitted with CARB-verified diesel particulate filters. An exemption from this requirement may be granted if (i) the Applicant provides documentation demonstrating that equipment with Tier 4 Interim engines are not reasonably available, and (ii) functionally equivalent diesel PM emission totals can be achieved for the Project from other combinations of construction equipment. Before an exemption may be granted, the Applicant's construction contractor shall demonstrate to the satisfaction of the Director of Development Services that (i) at least two construction fleet owners/operators in San Diego County were contacted and those owners/operators confirmed Tier 4 Interim equipment could not be located within San Diego County during the desired construction schedule, and (ii) the proposed

replacement equipment has been evaluated using the California Emissions Estimator Model ("CalEEMod") or other industry standard emission estimation method, and documentation provided to the Planning Division confirms that necessary project-generated functional equivalencies in the diesel PM emissions level are achieved.

- 16. Phasing.** A phasing plan shall be submitted for all projects which include more than one building. The phasing plan shall identify the order in which all on- and off-site improvements will be installed, including triggers for improvements resulting from mitigation measures placed on the project through the environmental review process or required for General Plan conformance. The plan shall also identify the order in which structures will be built and occupied, the location of construction fencing at each phase of construction, and any other means necessary to prevent conflicts between construction traffic and users of the occupied buildings. The phasing plan shall be approved by the City Planner, Building Official, City Engineer and Fire Marshal prior to the issuance of a grading permit for the project. The phasing plan shall not be modified without written consent from the City of Escondido.

C. Parking and Loading/Unloading

1. Each residential unit shall be provided with two covered parking spaces.
2. Parking spaces provided by the Applicant, and any additional parking spaces provided above the required minimum amount, shall be dimensioned per City standards and be maintained in a clean, well-marked condition. The striping shall be drawn on the plans or a note shall be included indicating double-striping per City standards.
3. Parking for disabled persons (including "Van Accessible" spaces) and electric vehicle parking shall be provided in full compliance with the State Building Code.
4. No contractor or employee may store, or permit to be stored, a commercial or construction vehicle/truck; or personal vehicle, truck, or other personal property on public-right-of-way or other public property without permission of the City Engineer.
5. No parking shall be permitted on cul-de-sacs on Streets "F," "G," and "H," and parking shall only be permitted on one side of Street "G," as shown on the Project plans.
6. Driveways shall be placed in a manner that allows for the largest number of on-street parking spaces to be provided.

D. Landscaping

The property owner or owners' association assumes all responsibility for maintaining all on-site landscaping; any landscaping in the public right-of-way adjacent to the property, including potted plants; and any retaining and freestanding walls in a manner that satisfies the conditions contained herein.

1. Landscaped areas shall be maintained in a flourishing manner. Appropriate irrigation shall be provided for all landscape areas and be maintained in a fully operational condition.

2. All existing planting and planter areas, including areas within the public right-of-way, shall be repaired and landscaping brought into compliance with current standards. All dead plant material shall be removed and replaced by the property owner or management company.
3. If at the time of planning final inspection that it is determined that sufficient screening is not provided, the Applicant shall be required to provide additional landscaping improvements to the satisfaction of the Planning Division.
4. The landscaped areas shall be free of all foreign matter, weeds and plant material not approved as part of the landscape plan.
5. Failure to maintain landscaping and the site in general may result in the setting of a public hearing to revoke or modify the Permit approval.
6. **Landscaping Plans.** Applicant shall install all required improvements including retaining walls, stormwater improvements, right of way enhance and landscaping in substantial conformance to the planting and irrigation schedule as shown on the final Approved Plan set.
 - a. A final landscape and irrigation plan shall be submitted to the Planning Division for review and approval, if meeting any of the criteria listed under Section 33-1323 of the Zoning Code. Five copies of detailed landscape and irrigation plans shall be submitted to the Engineering Services Department with the second submittal of the grading plan. The initial submittal of the landscape plans shall include the required plan check fees, paid in accordance with the prevailing fee schedule in effect at the time of submittal. Details of Project fencing and walls, including materials and colors, shall be provided on the landscape plans. (Building permits may also be required.) The landscape and irrigation plans shall be reviewed and approved by the Planning Division and Engineering Services Department prior to issuance of grading permits, and shall be equivalent or superior to the conceptual landscape plans included as part of the Approved Plan set, to the satisfaction of the Planning Division. The required landscape (mixture of native, fire resistant & drought tolerant plants and trees) and irrigation plans(s) shall comply with the provisions, requirements and standards outlined in Article 62 (Landscape Standards) of the Escondido Zoning Code and the Fire Protection Plan (Undesirable Plant Materials List), except where stricter requirements are imposed by the State of California.
 - b. Screen fencing, retaining walls, stormwater basin improvements, and landscaping (i.e. planting and irrigation) is to be provided prior to final occupancy.
 - c. The installation of the landscaping and irrigation shall be inspected by the Project landscape architect upon completion. He/she shall complete a Certificate of Landscape Compliance certifying that the installation is in substantial compliance with the approved landscape and irrigation plans and City standards. The Applicant shall submit the Certificate of Compliance to the Planning Division and request a final inspection.

- d. Any new freestanding walls and/or retaining walls shall incorporate decorative materials or finishes, and shall be indicated on the landscaping plans. (Building permits may also be required.) All freestanding walls visible from points beyond the Project site shall be treated with a protective sealant coating to facilitate graffiti removal. The sealant shall be a type satisfactory to the Director of Development Services.
- e. New or retrofitted trash enclosures shall accommodate vertical climbing plants, vines with support trellis panels, clinging non-deciduous or fast growing shrubbery that will screen the enclosures wall surface. The Director of Development Services shall find that the proposed landscaping design, material, or method provides approximate equivalence to the specific requirements of this condition or is otherwise satisfactory and complies with the intent of these provisions.

E. Specific Planning Division Conditions

1. The Applicant shall be responsible for ensuring that all mitigation measures identified in the Mitigation Monitoring and Reporting Program, included as Exhibit "C" to this resolution, are implemented.
2. The Project shall be managed by a professional management company. A self-managed Home Owners Association ("HOA") shall not be allowed. This prohibition against a self-managed HOA must be reflected in the Project Covenants, Conditions, and Restrictions ("CC&Rs").
3. The Project will be required to obtain a Vegetation/Tree Removal Permit from the Planning Division for any removal not undertaken in conjunction with a grading permit.
4. The Project will be required to obtain a demolition permit for the existing structures, and shall comply with construction waste management requirements.
5. Prior to issuance of building permits, the Project will be subject to the design review by the Planning Commission for the single-family residences on Lots 1 – 12, 14 – 24, and 27 – 47.
6. Prior to issuance of a precise grading plan for Lot 13, the Applicant shall submit and obtain approval for Plot Plan application for the proposed duplexes on that lot.
7. The Project shall be consistent with the approved design waivers included in Attachment 2 to the Planning Commission staff report, dated December 13, 2022.
8. 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.
9. The market-rate developer shall provide assurances through inclusion of notes on the Final Map that the all affordable housing units are constructed prior to construction of market-rate units in a quantity which exceeds that which would otherwise be permitted on the Property, inclusive of the

two existing units to remain. Certificates of occupancy shall be issued for all of the affordable housing units prior to issuance of the building permit for the 39th market-rate unit.

10. The Applicant shall prepare a Vector Management Plan (VMP). The VMP shall include the following measures:
 - a. Trash and debris collection and removal shall occur continuously during all construction activities.
 - b. Temporary ponds or depressions shall be maintained by the routine removal of depressions, vegetation, sediment, trash, standing water and debris.
 - c. Application of standard BMPs in accordance with requirements of the City of Escondido.
 - d. The Applicant shall implement an active management plan to control mosquitos and vectors as described below:
 1. During the wet season (October through March) any biofiltration basins shall be visually inspected monthly by the Homeowner Association for the presence of vectors. If necessary, corrective measures shall be initiated, including more frequent inspections if vector issues are identified by the public and/or routine inspections.
 2. In the dry season (July through September) biofiltration basins shall be visually inspected weekly by the Homeowner Association for the presence of vectors, including more frequent inspections if vector issues are identified by the public and/or routine inspections.
 - e. Corrective Measures may include but not limited to:
 1. The removal of emergent vegetation (e.g., cattails, sedges, etc.).
 2. Emergent vegetation shall be controlled by hand labor, mechanical means or by frequent clear cutting, as the Proposed Project site is a recharge area for the groundwater aquifer.
 3. Vegetation clearing is intended to prevent habitat for mosquito larvae.
 4. Removal of the vegetation by hand shall be the preferred method in order to lessen the re-growth frequency and density.

F. Specific Building Division Conditions

1. Approval and subsequent development are subject to all conditions and requirements of the California Building Code and Building Division.

G. Housing and Neighborhood Services Conditions:

1. The Project shall provide a minimum of 10 affordable dwelling units for low income households (those earning less than 80% of the Area Median Income for the San Diego-Carlsbad-San Marcos MSA). Prior to issuance of a building permit, the developer shall sign a binding affordable housing agreement with the City, which will set forth the conditions and guidelines to be met in the implementation of Density Bonus Law requirements and any other applicable requirements, and notes shall be added to the Final Map to this effect. It is anticipated that the affordable dwelling units will be for-sale units, however if they are rented, the affordable housing agreement shall require that the developer will be responsible for annual recertification of household income qualifications and compliance with rent limits. If the affordable dwelling units are rented, 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 (55 years for all target units as described in Government Code section 65915(c)). Income-qualified households will be monitored by the City of Escondido Housing and Neighborhood Services Division for the duration of the affordability period. Monitoring fees will be applied per the affordable housing agreement.

If the affordable dwelling units are for-sale units, the affordable housing agreement shall ensure that the units are either:

- a. Initially occupied by persons or families of low income (as defined in Section 50052.5 of the Health and Safety Code), are offered at an affordable housing cost (as defined in Section 50052.5 of the Health and Safety Code), and are subject to an equity sharing agreement in compliance with Government Code Section 65915(c)(2); or
 - b. Purchased by a qualified nonprofit housing corporation pursuant to a recorded contract that satisfies all of the requirements specified in Government Code Section 65915(c)(2).
2. All affordability agreements shall run with the land and be binding on the applicant and its heirs, transferees, assigns, successors, administrators, executors, and other representatives, and recorded on the applicable property for the requisite period of time.

H. Specific Engineering Conditions of Approval

GENERAL

1. The applicant shall provide the City Engineer with a Subdivision Guarantee and Title Report covering all subject properties.
2. The location of all existing on-site and adjacent utilities and drainage facilities shall be determined by the Developer's engineer. If a conflict occurs with the proposed project or improvements, arrangements for relocation of the conflicting utilities/facilities shall be made with the owner of the utility/facility prior to approval of the Grading and Improvement plans, and Final Map. This utility/facility relocation work shall be completed prior to issuance of Building Permits.

3. As surety for the construction of required off-site and/or on-site improvements, bonds and agreements in a form acceptable to the City Attorney shall be posted by the developer with the City of Escondido prior to the approval of the Grading Plan or Final Map.
4. The Developer shall post securities in accordance with the City prepared Bond and Fee Letter based on a final Engineer's Estimate of Grading and Improvements Cost prepared by the project engineer. The Developer is required to provide a Cash Clean Up deposit for all grading, landscaping, private Improvements and onsite drainage improvements prior to approval of Grading Plans and issuance of Grading Permit. This Cash Clean Up Deposit amount shall be 10% of the total cost of the project private improvements, drainage and landscaping. The Developer is required to provide Performance (100% of total public improvement cost estimate), Labor and Material (50% of total public improvement cost estimate) and Guarantee and Warrantee (10 % of total public improvement cost estimate) bonds for all public improvements prior to approval of the Grading and Improvement Plans and issuance of Building Permits. All improvements shall be completed prior to issuance of a Certificate of Occupancy.
5. Improvement plans prepared by a Civil Engineer, required for all public street, utility, and storm drain improvements, and Grading/Private Improvement plans prepared by Civil Engineer, required for all grading, drainage and private onsite improvement design, shall be submitted for review through the virtual plan review portal as a single package containing all items on the Engineering Initial Submittal Checklists. Landscaping Plans shall be prepared by a Licensed Landscape Architect.
6. The Developer shall submit to the Planning Division a copy of the tentative map as presented to the Planning Commission and the City Council. The tentative map will be certified by the Planning Department that it is an accurate reproduction of the approved tentative map and must be uploaded with the first final engineering submittal to the Engineering Department.
7. This subdivision is contiguous to the facilities of the San Diego County Water Authority (SDCWA) and the SDCWA may be required to review and/or sign the improvement plans. It will be the responsibility of the developer to pay all SDCWA fees for plan checking and permit approval. All agency approvals shall be submitted to the City Engineer and verified prior to issuance of construction permits or map recordation.
8. No Building Permits shall be issued for any construction within this Subdivision until the Final Map is recorded and either:
 - a) All conditions of the Tentative Map have been fulfilled: or
 - b) Those conditions unfulfilled at the time of an application for Building Permits shall be secured and agreements executed in a form and manner satisfactory to the City Attorney and City Engineer.
9. If site conditions change adjacent to the proposed development prior to completion of the project, the developer will be responsible to modify his/her improvements to accommodate these

changes. The determination and extent of the modification shall be to the satisfaction of the City Engineer.

- 10.** All public improvements shall be constructed in a manner that does not damage existing public improvements. Any damage shall be determined by and corrected to the satisfaction of the City Engineer.

STREET IMPROVEMENTS and TRAFFIC

1. Public street and drainage improvements shall be constructed to City Standards as required by the Subdivision Ordinance to the satisfaction of the City Engineer prior to first occupancy. Specific details, including final street improvement widths, right-of-way widths, concrete curb and gutters, drainage, lighting, etc. shall be resolved to the satisfaction of the City Engineer.
2. Improvement plans prepared by a Civil Engineer are required for all public street and utility improvements.
3. Prior to first occupancy, the Developer shall construct street improvements, including but not limited to, concrete curb, gutter, street lights, street trees, paving and base on the following streets within and adjoining the project boundary:

STREET

CLASSIFICATION

Conway Drive	Local Collector (42' curb to curb)
Stanley Avenue	Local Collector (42' curb to curb)
Lehner Avenue	Residential Street (18' CL to curb)
Streets F and H	Residential Street (36' curb to curb)
Street G	Rural Residential (28' curb to curb)
Lots 9, 10, 23, 24 Access	Private Alley (25' wide)
Lot 13 (10 condo. units) Access	Private Alley (24' min. wide)

See appropriate typical sections in the current Escondido Design Standards for additional details.

4. Sidewalk construction shall be contiguous to the curb in accordance with current Escondido Design Standards. The sidewalk will be allowed to be noncontiguous in the segments designated and constructed as "Green Street" storm water treatment areas.
5. All cul-de-sacs shall have a 38' curb face radius and shall conform to the current City of Escondido Design Standards.
6. Driveway access to the 10 condominium units on Lot 13 shall be improved with alley-type driveway apron in accordance with Escondido Standard Drawing No. G-5-E with a minimum throat width of 24 feet.
7. To mitigate the project's Vehicle Miles Traveled (VMT) impacts, the Developer has identified and shall design and construct prior to first occupancy, the following mobility improvements at their sole expense:
 - Intersection of N. Ash Street and Vista Avenue: Install high visibility crosswalks and accessible pedestrian signals on all four legs.
 - Intersection of N. Broadway and Rincon Avenue: Install high visibility crosswalks on the north, south and east legs, and install accessible pedestrian signals on all four legs.
 - Intersection of Stanley Avenue and Conway Drive: Install high visibility crosswalks on the west leg and curb ramps on the northwest and southwest corner.

- Intersection of Lehner Avenue and Conway Drive: Install high visibility crosswalks on the west and south legs, and curb ramps on the northwest corner.

For these VMT mitigation improvements, the Developer shall submit separate traffic signal and signing and striping modification improvement plans prepared by a Traffic Engineer for review and approval by the City Engineer. Traffic signal modifications shall be per current City, Caltrans, and CaMUTCD Standards and shall include all necessary equipment, hardware, and software. The Developer's Traffic Engineer will also be responsible for all new timing plans and coordinating the traffic signal modification and signing and striping work with the Developer's contractor(s) and equipment suppliers and City staff.

8. The Developer's engineer shall prepare and submit for approval by the City Engineer a complete final Signing and Striping plan for all improved roadways including those within the adjacent school zone. The Developer will be responsible for removal of all existing and construction of all new signing and striping in compliance with the new CaMUTCD standards and to the satisfaction of the City Engineer.
9. The address of each dwelling unit shall either be painted on the curb or, where curbs are not available, posted in such a manner that the address is visible from the street. In both cases, the address shall be placed in a manner and location approved by the City Engineer and Fire Marshal.
10. The Developer will be required to provide a detailed "Detour and Traffic Control Plan", for all construction within existing rights-of-way, to the satisfaction of the City Engineer. This plan shall be approved prior the issuance of an Encroachment Permit for construction within the public right-of-way.
11. Construction in the public rights-of-ways may be restricted during school peak hours (typically 7:00 to 8:30 am and 2:00 to 3:30 pm), unless a traffic management plan that proposes no conflict between construction and school traffic is approved by the City Engineer prior to issuance of an Encroachment Permit.
12. The Developer may be responsible for additional overlay of Conway Drive, Lehner Avenue, and Stanley Avenue due to the many utility trenches necessary to serve this project. The determination of the extent of the overlay shall be to the satisfaction of the City Engineer.
13. Adequate horizontal sight distance shall be provided at all street intersections. Increased parkway widths, open space easements, and restrictions on landscaping shall be provided for adequate sight distance and subject to approval of the City Engineer.
14. The Developer is required to design, furnish and install LED street lighting per Escondido Standard Drawing E-1-E and in accordance with the City Design Standards and the requirements of the City Engineer.

15. Street lighting is required on all on-site private drives serving 3 or more lots or units. It shall be the responsibility of the Homeowner's Association to adequately maintain the street lighting system and such maintenance responsibility shall be clearly stated in the CC&Rs.

GRADING

1. A "Site Grading and Erosion Control Plan" prepared by a registered Civil Engineer shall be approved by the Engineering Department prior to issuance of building permits. The first submittal of the grading plan shall be accompanied by a copy of the preliminary soils and geotechnical report. The Soils Engineer will be required to indicate in the soils report that he/she has reviewed the grading design and found it to be in conformance with his/her recommendations.
2. Any proposed retaining walls not a part of the building foundations or stem walls shall be shown on and permitted as part of the site grading plan. Profiles and structural details shall be shown on the site grading plan and the Soils Engineer shall state on the plans that the proposed retaining wall design is in conformance with the recommendations and specifications as outlined in the Geotechnical report. Structural calculations shall be submitted for review by a Consulting Engineer for all walls not covered by Regional or City Standard Drawings. The Developer will be required to pay for all required third party structural engineering review of these structural calculations and details. Stem walls, foundation structures, or deepened footings that are to be constructed as part of a building structure will be permitted as part of the Building Department plan review and Building Permit process.
3. Erosion control, including riprap, interim slope planting, sandbags, or other erosion control measures shall be provided to control sediment and silt from the project. The Developer shall be responsible for maintaining all erosion control facilities throughout the project.
4. Slope setbacks shall be of sufficient width to allow for construction of all necessary screen walls fencers, and/or brow ditches.
5. Increased cut slope setbacks may be required along the project boundary to avoid disrupting any existing septic systems in the adjoining residential areas and may be required to avoid encountering ground water problems. Actual setbacks to be used will be based on recommendations of the soils engineer. The requirements of the San Diego County Health Department should be consulted in this regard. In lieu of these requirements, or if the County Health Department requirements cannot be met, the Developer must arrange to connect adjoining existing dwelling units, now on private septic systems, to the public sewer system. In this regard, the developer will be required to make necessary arrangements for all main extensions, easements, and payment of all connection and permit fees. Any dwellings in the unincorporated areas must have special approval of the City Council before being connected to the City sewer system. This requirement shall also apply to off-site road and utility improvements where existing septic systems are jeopardized as a result of these improvements.
6. It shall be the responsibility of the Developer to pay all plan check and inspection fees required by the San Diego County Health Department.

7. The Developer shall be responsible for the recycling of all excavated materials designated as Industrial Recyclables (soil, asphalt, sand, concrete, land clearing brush and rock) at a recycling center or other location(s) approved by the City Engineer.
8. A Construction General Permit is required from the State Water Resources Control Board for all storm water discharges associated with a construction activity where clearing, grading, and excavation results in a land disturbance of one or more acres.
9. All blasting operations performed in connection with the improvement of the project shall conform to the City of Escondido Blasting Operations Ordinance.
10. The Developer will be required to obtain permission from adjoining property owners for any off-site grading and slopes necessary to construct the project and/or the required improvements.
11. All lot lines shall be located at the top of slope unless otherwise approved by the City Engineer.
12. All private driveways and parking areas shall be paved with a minimum of 3" asphalt concrete over 6" of aggregate base or 7" Portland cement concrete over 6" aggregate base. All paved areas exceeding 15% slope or less than 1.0% shall be paved with Portland cement concrete.
13. All driveway grades shall conform to current Escondido Design Standards and Escondido Standard Drawings.

DRAINAGE

1. Final on-site and off-site storm drain improvements shall be determined to the satisfaction of the City Engineer and shall be based on a Drainage Study to be prepared by the Engineer of Work. The drainage study shall be in conformance with the City of Escondido Design Standards.
2. Lot drainage shall meet the requirements of current Escondido Design Standards and the City Engineer and shall include the construction of necessary brow ditches.
3. The project shall limit peak drainage flows to their pre-construction rates. Details and calculations for this retention and attenuation shall be submitted and approved as part of the Drainage Study submittal and review.
4. A Final Storm Water Quality Management Plan (SWQMP) in compliance with the City's latest adopted Storm Water Design Manual shall be prepared for all newly created or replaced onsite impervious areas, impervious frontage, and required offsite improvements. The SWQMP shall be submitted for approval with the final improvement and grading plans. The SWQMP shall include calculations for treatment, hydromodification, and storage volumes. The SWQMP shall include detailed maintenance requirements and responsibilities for all onsite conveyance, diversion, treatment, and bio-retention facilities. The SWQMP shall demonstrate how any

proposed proprietary best management practices meet bio-filtration treatment requirements in accordance with the City's Storm Water Design Manual.

5. All site drainage with emphasis on the roadway, parking and driveway areas shall be treated to remove expected contaminants using a high efficiency non-mechanical method of treatment. The City highly encourages the use of bio-retention basins as the primary method of storm water retention and treatment. The landscape plans will need to reflect these areas of storm water treatment.
6. The Developer will be required to have the current owner of the property sign, notarize, and record a Storm Water Control Facility Maintenance Agreement. A copy of this recorded Agreement will need to be included in the CC&Rs.
7. All on-site storm drains and stormwater treatment facilities are considered private. The responsibility for maintenance of these storm drains, storm water treatment facilities and any "Green Street" facilities constructed in the right-of-way to treat the street improvements required of project shall be that of the Homeowners Association (HOA). Provisions clearly dictating this responsibility shall be included in the approved Storm Water Quality Management Plan and ultimately in the recorded CC&Rs.
8. The Developer's engineer shall design and the Developer shall construct any permeable surfaces proposed for the project to the specifications of the County of San Diego Green Streets manual in effect at the time the grading permits are issued. All permeable surfaces within the project footprint that are subject to vehicular traffic shall be designed for H20 loading.
9. The Homeowner's Association shall perpetually maintain all permeable surfaces in accordance to the standards established by the County of San Diego Green Streets manual in effect at the time the grading permits are issued. City shall have the right to inspect all permeable surfaces as needed to ensure they function as designed. City shall have the right to require qualified third-party testing at the property owner's expense when surface failure is suspected. Contractor qualifications are outlined in the County of SD Green Streets manual. The Homeowners Association will be required to repair or reinstall the permeable surface for all failing surfaces to County of SD Green Streets manual standards in place at the time of the grading permit. In the event of failure to maintain the permeable pavers system that result in not functioning as designed, the project owner will be responsible to replace the pervious pavers system with an alternate method of storm water treatment system or will be required to transition the project to a priority storm water development project by complying with the applicable requirements, including development of a Storm Water Quality Management Plan and the installation of structural best management practices.

WATER SUPPLY

1. The Developer is required at their sole expense to design and construct looped 8-inch public water mains within the project. An 8-inch water main shall be designed and constructed to loop through the project beginning at the intersection of Lehner Avenue and proposed Street F and

shall extend north in proposed Street F and shall connect to the existing 12-inch water main in Stanley Avenue. An 8-inch water main shall also be designed and constructed to loop through the project beginning at the intersection of Stanley Avenue and proposed Street H and shall extend north in Street H and continue through Lot 13 and then with a 90 degree bend to the east connect to the existing 12-inch water main in Conway Drive. These 8-inch water mains shall be designed and constructed in accordance with the current City of Escondido Design Standards and Standard Drawings and to the satisfaction of the Utilities Engineer.

2. Fire hydrants together with an adequate water supply shall be installed at locations approved by the Fire Marshall. Fire hydrants shall connect to a minimum 8-inch water main.
3. The final locations and sizing of all required water mains, water services, fire hydrants, detector check assemblies, and other water appurtenances shall be designed and installed to the satisfaction of the Utilities Engineer and Fire Marshal.
4. Fire suppression and sprinkler systems beyond the Detector Check Valves are private and shall be designed and constructed per current Building, Plumbing, and Fire Code Standards, and per the requirements of the City Fire Marshal and City Building Official and shall be approved by a separate submittal to the Building Department. Although private and approved by separate plans and permit, all fire suppression lines shall be shown for reference and review on the various final engineering plan sets.
5. All on-site water lines and backflow prevention devices beyond the City water meter or DDCA shall be considered a private water system. The Homeowners Association shall be responsible for all maintenance of these water lines and appurtenances.
6. A 1-inch minimum water service, 1-inch water meter, and backflow prevention device shall be required for domestic water supply per City of Escondido Design Standards and Standard Drawings. Water meters and backflow prevention devices shall not be installed within a driveway apron or within paved private drive areas.
7. No trees or deep-rooted bushes shall be planted within 10-feet of any water mains.
8. There shall be no permanent structures located within the City's Public utility Easements.
9. All public water mains shall be located under asphalt or concrete pavement and not under curbs, gutters, medians or sidewalks.
10. Backflow prevention assemblies are private and should be located on private property. Backflow prevention assemblies shall be located directly behind the public water meter.
11. Any water services to be replaced, reconnected or relocated as a part of this project shall be replaced in entirety from the public water main to the public water meter to the satisfaction of the Utilities Engineer and Water Distribution Department.

12. Any fire hydrants to be replaced, reconnected or relocated as a part of this project shall be replaced in entirety from the public water main to the fire hydrant per the satisfaction of the Utilities Engineer and Water Distribution.
13. The Developer shall disconnect at the public main, all water services and fire hydrants laterals to be abandoned, to the satisfaction of the Utilities Engineer and Water Distribution Department.

SEWER

1. The Developer is required at their sole expense to design and construct onsite and offsite 8-inch public sewer mains. An offsite 8-inch sewer main shall be designed and constructed to connect to the existing 8-inch sewer manhole at the intersection of Rincon Avenue and Conway Drive and extend south in Conway Drive and enter the project at the Lot 13 driveway off Conway Drive. Additional offsite sewer main shall be designed and constructed in Stanley Avenue from the intersection of Stanley Avenue and proposed Street H westerly to the intersection of Stanley Avenue and Weiss Way. On-site sewer mains shall be designed and constructed through the project to connect the two above noted offsite sewer mains. All 8-inch sewer main shall be designed and constructed in accordance with the current City of Escondido Design Standards and Standard Drawings and to the satisfaction of the Utilities Engineer.
2. A private 4-inch minimum PVC sewer lateral with a standard clean-out within 18-inches of the Public Utility Easement or public right-of-way shall be designed and constructed for each single-family lot on the Improvement plans and shall be shown on the Grading plans. A private 6-inch minimum PVC sewer lateral for each multi-unit building on Lot 13 together with a standard clean-out within 18-inches of the Public Utility Easement or public right-of-way shall be designed and constructed on the Improvement plans and shown on the Grading plans. Sewer laterals less than 8-inches in diameter shall connect to the sewer main with a wye or Inserta-Tee. All sewer laterals shall be constructed per current City of Escondido Design Standards and Standard Drawings and per the current Uniform Plumbing Code for the portion outside of the public right-of-way or Public Utility Easement.
3. No trees or deep-rooted bushes shall be planted within 15-feet of any sewer main or within 10-feet of any sewer lateral. Sewer laterals shall be 5-feet horizontally clear from other utilities.
4. All sewer laterals shall be considered a private sewer system. The property owner and/or Homeowners Association shall be responsible for all maintenance of sewer laterals to the public sewer main.
5. All sewer mains, laterals, and appurtenances shall be designed and constructed per current City of Escondido Design Standards and Standard Drawings, and to the satisfaction of the Utilities Engineer.
6. The project design shall be such that all existing or new sewer manholes are accessible at all times by City's "Vactor" trucks for maintenance.

7. The Developer shall cap and plug at the public sewer main all sewer lines and laterals to be abandoned, to the satisfaction of the Utilities Engineer and the City Inspector.

LANDSCAPE

1. Project Landscaping and Irrigation plan(s) and Project Wall and Fencing Plan(s) shall be submitted to the Engineering Department with the second submittal of the grading plan for approval by the Planning, Engineering, and Fire Departments. The initial submittal of the landscape and fencing plans shall include the required Planning Division Review fees in effect at the time of the submittal.
2. The Developer shall install permanent landscaping and irrigation on cut and fill slopes within the project.
3. The Developer shall install permanent landscaping and irrigation along the project's Conway Drive, Stanley Avenue, and Lehner Avenue right-of-way frontages including the fill slopes facing Conway Drive on Lots 15-20.
4. The Developer shall install permanent landscaping and irrigation on the "below pad" fill slopes on Lots 42-47 that face the existing homes on Wagon Wheel Court. All fencing or walls associated with or on these lots shall be designed to prevent general public access to these slope and drainage facility areas while providing adequate controlled/gated access for the Homeowners Association to maintain these landscaped slopes and drainage facilities.
5. The Developer shall fully landscape with irrigation and install all required fencing and walls on Homeowners Association owned Lots A and B, as well as Lot 13 shall be subject to the same landscape and irrigation requirements.
6. All of the landscaping, irrigation, walls, and fencing identified in Landscape Conditions 3 through 5 above shall be maintained by the Homeowners Association. Language and exhibits clearly dictating the separation of maintenance responsibility between the Homeowners Association and individual property owners for all landscaping, irrigation, walls, and fences shall be included in the CC&Rs.

FINAL MAP - EASEMENTS AND DEDICATIONS

1. All easements, both private and public, existing and proposed, affecting subject property shall be shown and delineated on the Final Map and all project final engineering plans.
2. The Developer shall dedicate as public rights-of-way the following streets within the project to bring these streets to the indicated classification.

STREET	CLASSIFICATION
Streets F and H	Residential Street (56' R/W)
Street G	Rural Residential (34' R/W w/ 5' PUE beyond-both sides)

3. The Developer shall grant reciprocal private access easements (totaling 25' width) across Lots 9, 10, 23, 24 for the benefit of these 4 lots. These easement areas shall be plotted and identified on the Final Map and granted upon subsequent transfer of title.
4. The Developer shall dedicate to the public a 20-foot radius corner rounding at the following locations:
 - Northeast corner of Weiss Way and Stanley Avenue.
 - Northwest corner of Conway Drive and Stanley Avenue.
 - Southwest corner of Conway Drive and Stanley Avenue.
 - Northwest corner of Conway Drive and Lehner Avenue
5. Public Utility Easements shall be granted to the City of Escondido on the Final Map for any proposed public water and/or sewer mains proposed to cross private property including any Homeowner's Association property. In addition, Public Utility Easement areas not less than 5' x 5' shall be granted to the City for all fire hydrants, water meters and other public water appurtenance locations. The minimum public utility easement width shall be 20 feet for a single utility and 25' for areas with public sewer and water mains, or the full width of the private easement road, whichever is greater. A reduction in easement width will be allowed where the proposed public water main connects from the end of proposed Street F to the 12-inch water main in Stanley Avenue.
6. Public Storm Drain Easements shall be granted to the City of Escondido on the Final Map for any proposed public storm drains proposed to cross private property including any Homeowner's Association property. The minimum public storm drain easement width shall be 20 feet. A reduction in public storm drain easement width to no less than 15' will be allowed where a public storm drain traverses the side or rear yard of a private lot (Lots 6, 7, 15).
7. The Developer shall grant private drainage easements to the Homeowner's Association for all proposed drainage and stormwater pipes, ditches, and facilities to be owned and maintenance by the Homeowner's Association. The minimum width of these private drainage easements shall be 10 feet. This minimum width may be reduced to 5 feet with approval by the City Engineer and subject to adequate Homeowner's Association access language in the CC&Rs.
8. The Developer is responsible for making the arrangements to quitclaim all easements of record which conflict with the proposed project prior to issuance of Building Permits. If an easement of record contains an existing utility that must remain in service, proof of arrangements to quitclaim the easement once new utilities are constructed must be submitted to the City Engineer prior to approval of the Grading plans. Building permits will not be issued for structures in which construction will conflict with existing easements or utilities, nor will any securities be released until the existing easements are quitclaimed.

REPAYMENTS AND FEES

1. A water repayment of **\$17,231.00** per repayment file #137 for Assessor Parcel Nos. 224-141-23, 224-141-25, and 224-142-33 is due to the City of Escondido for existing water improvements that will serve this development.
2. A sewer repayment of **\$8,285.16** per repayment file #185 for Assessor Parcel No. 224-142-33 is due to the City of Escondido for existing sewer improvements that will serve this development.
3. A cash security deposit satisfactory to the City Engineer shall be posted to pay any costs incurred by the City for cleanup or damage caused by erosion of any type, related to project grading. Any moneys used by the City for cleanup or damage will be drawn from this security. The remaining portion of this cleanup security shall be released upon final acceptance of the grading for this project. The amount of the cash security shall be 10% of the total estimated cost of the grading work up to a maximum of **\$50,000**, unless a higher amount is deemed necessary by the City Engineer. The balance of the grading work shall be secured by performance bonds or such other security as may be approved by the City Engineer and City Attorney.
4. The developer shall be required to pay all development fees of the City then in effect at the time, and in such amounts as may prevail when building permits are issued.

CC&Rs

1. Copies of the CC&Rs with all exhibits shall be submitted to the Engineering Department and Planning Department for approval prior to approval of the Final Map. These City approved CC&Rs with all exhibits shall be executed and recorded with and immediately subsequent to the Final Map recordation.
2. The Developer shall make provisions in the CC&Rs for maintenance by the Homeowners' Association of all private roadways, driveways, parking areas, private utilities (including sewer and water), utility and basin access, all storm water treatment facilities and basins, drainage swales, private street lighting, private storm drains, any common open spaces, and all the landscaping, irrigation, walls, and fences identified in the Landscape Section of these Engineering Conditions of Approval. These provisions must be included, reviewed and approved by the Engineering and Planning Division prior to approval of the Final Map.
3. The CC&Rs must state that the Homeowners' Association assumes liability for damage and repair of City utilities in the event that damage is caused by an individual owner or the Homeowners' Association when repair or replacement of private utilities is done.
4. The CC&Rs must state that (if stamped concrete or pavers are used in the private street) the homeowners' association is responsible for replacing the stamped concrete or pavers in-kind if the City has to trench the street for repair or replacement of an existing utility.

5. The CC&Rs shall reference the recorded Storm Water Control Facility Maintenance Agreement and the approved Storm Water Quality Management Plan (SWQMP) for the project.
6. The CC&Rs must contain parking restriction provisions for proposed Street G, the private access drive serving Lots 9,10,23,24, and the private access and parking areas within Lot 13, and shall clearly state that the Homeowner's Association will be responsible to manage and enforce the parking restrictions in these areas.

UTILITY UNDERGROUNDING AND RELOCATION

1. All existing overhead utilities within the subdivision boundary or along fronting streets shall be relocated underground as required by the Subdivision Ordinance. The Developer may request a waiver of this condition by writing a letter to the City Engineer explaining his/her reasons for requesting the waiver. The Developer will be required to pay a waiver fee as adopted by City Council resolution.
2. The Developer shall sign a written agreement stating that he/she has made all such arrangements as may be necessary to coordinate and provide utility construction, relocation and undergrounding. All new utilities shall be constructed underground.

I. Specific Fire Department Conditions

1. Provide an adequate water supply, show location(s), size of connection and approved access shall be provided prior to combustibles being brought to the site.
2. All vegetation clearing as per the approved Fire Protection Report shall be completed prior to combustibles being brought to the site.
3. Minimum hydrant spacing of 500 feet is required.

J. Condition Added by the Planning Commission (December 13, 2022)

1. The sideyard setback on the west side of Lot 10 shall be increased to a minimum of 15 feet, and the slope along the western property line shall be provided with enhanced landscaping.



STAFF REPORT

February 8, 2023

File Number 0600-10; A-3441

SUBJECT

TRUNK SEWER REPLACEMENT PROJECT: BID AWARD, CONSULTING AGREEMENTS, AND BUDGET ADJUSTMENT

DEPARTMENT

Utilities Department, Construction and Engineering Division

RECOMMENDATION

Request the City Council take the following actions:

- 1) Adopt Resolution No. 2023-12, authorizing the Mayor to execute a Public Improvement Agreement in the amount of \$8,482,904.64 with Southland Paving, Inc., the lowest responsive and responsible bidder, for construction of the Trunk Sewer Replacement Project ("Project"); and
- 2) Adopt Resolution No. 2023-13, authorizing the Mayor to execute a Consulting Agreement in the amount of \$1,402,240 with Arcadis U.S., Inc. for construction management services for the Project; and
- 3) Adopt Resolution No. 2023-14, authorizing the City Manager to execute a Consulting Agreement in the amount of \$155,560 with Infrastructure Engineering Corporation for engineering services during construction of the Project; and
- 4) Approve a Budget Adjustment in the amount of \$9,400,000.

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

Presenter: Angela Morrow, Deputy Director of Utilities, Construction and Engineering

FISCAL ANALYSIS

The Project, Capital Improvement Project ("CIP") No. 801913, currently has funds available in the amount of \$5,630,187. A budget adjustment in the amount of \$9,400,000 is requested to fully fund the Project. The total budget for this CIP includes funding for the public improvement agreement for construction, public improvement agreement for construction related to the emergency project, consulting agreements, contingencies for the agreements, construction water, staff time, and other small low dollar value agreements for the Project that do not require Council approval. Any funds remaining after the Project is completed will be returned to the unallocated Wastewater Reserves.



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PREVIOUS ACTION

On June 5, 2019, the City Council adopted Resolution No. 2019-80, authorizing the Mayor and City Clerk to execute a consulting agreement with Infrastructure Engineering Corporation in the amount of \$298,630 for the design of the Trunk Sewer Replacement Project; and approved a budget adjustment in the amount of \$200,730.

On January 7, 2021, the City Manager approved a First Amendment to the Consulting Agreement with Infrastructure Engineering Corporation in the amount of \$51,458 for the design of the Trunk Sewer Replacement Project.

BACKGROUND

The City of Escondido's ("City") trunk sewer main is an integral part of the City's sewer infrastructure system. The pipeline was originally constructed in 1959, serving as the outfall that conveyed treated sewage from the City's wastewater treatment facility, which was previously located at the Public Works Yard. Once the Hale Avenue Resource Recovery Facility ("HARRF") was constructed, the outfall pipe was repurposed to serve as a trunk sewer main. The trunk sewer main consists of 24-inch and 27-inch reinforced concrete pipe, with short sections of asbestos cement pipe. The trunk sewer main currently conveys raw sewage from approximately 40 percent of the City to the HARRF. Extreme rain events over the past several years have further degraded the condition of the already aging pipeline and emergency action has been required to replace sections of the pipeline at imminent risk of failure.

The Project work will generally replace, upsize and realign approximately 5,000 linear feet of existing 24-inch, 27-inch and 39-inch diameter trunk sewer main via open trench construction with 30-inch and 36-inch diameter trunk sewer main; construct approximately 200 linear feet of 48-inch diameter casing with a 36-inch diameter sewer carrier pipe via trenchless construction; construct approximately 1,200 linear feet of 8-inch diameter sewer main; and construct approximately 100 linear feet of 24-inch diameter sewer main. The Project was originally intended to replace five remaining sections of the trunk sewer that have not been replaced as a part of past emergency projects. The segments are located between the HARRF and the intersection of Quince Street and Norlak Avenue and include:

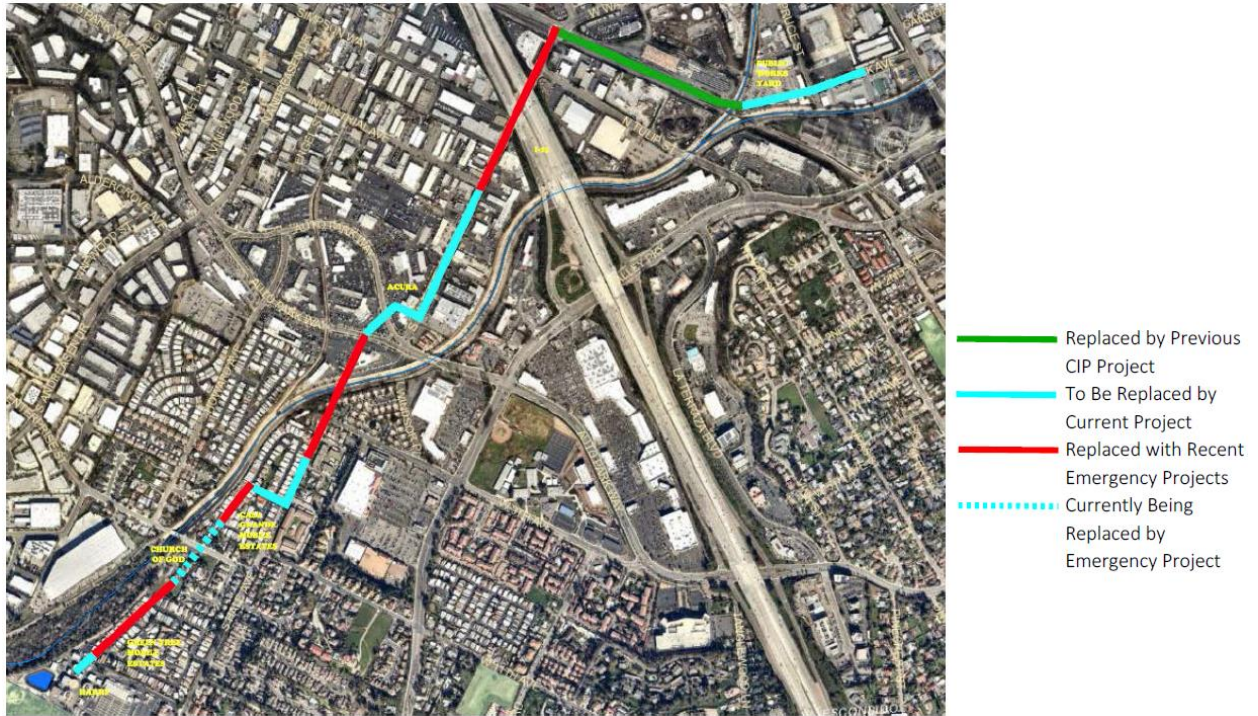
1. Section 1 - Approximately 1,100 linear feet ("LF") of pipeline in Norlak Avenue and through the existing Public Works Yard;
2. Section 2 - Approximately 2,300 LF of pipeline in North Hale Avenue between the intersection of North Hale Avenue & Industrial Avenue and South Auto Parkway;
3. Section 3 - Approximately 820 LF of pipeline in South Hale Avenue and within the Casa Grande Mobile Estates;
4. Section 4 - Approximately 700 LF of pipeline that runs from the Casa Grande Mobile Estates, across Harmony Grove Road, and within the Escondido Church of God property; and



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- 5. Section 5 - Approximately 90 LF of pipeline that runs from the Green Tree Mobile Estates to the connection point at the HARRF.



The Engineer’s estimate for the Project was \$8,575,712.

Competitive bids were opened by the City Clerk on January 12, 2023, with the following results:

1. Southland Paving, Inc., Escondido, CA	\$8,482,904.64
2. CCL Contracting, Inc., Escondido, CA	\$8,981,735.00
3. Griffith Company, Brea, CA	\$9,690,777.00
4. S.C. Valley Engineering, Inc., El Cajon, CA	\$10,375,885.00
5. MNR Construction, Inc., La Verne, CA	\$10,810,140.00
6. J.W. Fowler, Dallas, OR	\$11,413,810.00
7. Burtech Pipeline, Inc., Encinitas, CA	\$13,557,020.00

Staff has thoroughly reviewed the low bid submitted by Southland Paving, Inc. and has determined that they are the lowest responsive and responsible bidder.

As a result of recent substantial rain events, on January 16, 2023, portions of the existing 27-inch trunk sewer pipeline in Section 4 were compromised. On January 17, 2023, pursuant to Chapter 7 of the



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Escondido Municipal Code, the City Manager serving as the Director of Emergency Services, proclaimed a local emergency in order to take actions necessary to preserve life and property. Pursuant to the terms of Government Code §8558, the City Manager acted to forego normal bidding procedures and executed a Public Improvement Agreement with Southland Paving, Inc., to perform the emergency work.

Several components of the emergency project overlap with the Trunk Sewer Replacement Project. It is anticipated that a deductive change order will be issued once construction of the Project commences to account for the portions being done as a part of the emergency project.

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 wastewater pipeline construction. Arcadis U.S., Inc. was selected based on their extensive experience successfully managing similar wastewater main construction projects. The contract for construction management services includes:

- full time construction inspections;
- construction project coordination with the City, the community, and independent consultants;
- conducting construction meetings;
- managing construction documentation and record keeping;
- reviewing contractor’s monthly progress payment requests and confirming 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; and
- claim support.

The Utilities Department recommends retaining Infrastructure Engineering Corporation, Inc. to provide engineering services during the construction phase of this project. As the designer of record, Infrastructure Engineering Corporation 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 and changes;
- attending construction field meetings;
- reviewing and approving submittals and shop drawings;
- reviewing change order requests; and
- preparing record drawings.

RESOLUTIONS

- A. Resolution No. 2023-12
- B. Resolution No. 2023-12 – Exhibit “A”: Bid Award Trunk Sewer Replacement Project



CITY of ESCONDIDO

STAFF REPORT

- C. Resolution No. 2023-13
- D. Resolution No. 2023-13 - Exhibit "A": CM Services Trunk Sewer Replacement Project
- E. Resolution No. 2023-14
- F. Resolution No. 2023-14 - Exhibit "A": Engineering Services During Construction Trunk Sewer Replacement Project

ATTACHMENTS

- A. Attachment "1" – Budget Adjustment

RESOLUTION NO. 2023-12

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 SOUTHLAND PAVING, INC., FOR THE CONSTRUCTION OF THE TRUNK SEWER REPLACEMENT PROJECT

WHEREAS, the Escondido City Council authorized an invitation for bids for the construction of the Trunk Sewer Replacement Project (“Project”); and

WHEREAS, the Project work will generally replace, upsize and realign approximately 5,000 linear feet of existing 24-inch, 27-inch and 39-inch diameter trunk sewer main via open trench construction with 30-inch and 36-inch diameter trunk sewer main; construct approximately 200 linear feet of 48-inch diameter casing with a 36-inch diameter sewer carrier pipe via trenchless construction; construct approximately 1,200 linear feet of 8-inch diameter sewer main; construct approximately 100 linear feet of 24-inch diameter sewer main; and all other associated work; and

WHEREAS, the City of Escondido (“City”) opened sealed bids for the Project on January 12, 2023; and

WHEREAS, City Staff thoroughly reviewed the low bid submitted by Southland Paving, Inc., and have determined that it is the lowest responsive and responsible bidder; and

WHEREAS, the Deputy City Manager / Director of Utilities has determined Southland Paving, Inc., to be the lowest responsive and responsible bidder and recommends awarding the bid in the amount of \$8,482,904.64 to Southland Paving, Inc.; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to accept the recommendations of the Deputy City Manager/Director of Utilities and award this contract to Southland Paving, Inc.

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

1. That the above recitations are true.

2. That the Mayor and City Council accepts the recommendation of the Deputy City Manager / Director of Utilities.

3. That the Mayor is authorized to execute, on behalf of the City, a Public Improvement Agreement with Southland Paving, 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
PUBLIC IMPROVEMENT AGREEMENT

This Public Improvement Agreement (“Agreement”) is made and entered into as of this ____ day of _____, 2023 (“Effective Date”),

Between: CITY OF ESCONDIDO
a California municipal corporation
201 N. Broadway
Escondido, CA 92025
Attn: Stephanie Roman, P.E.
760-839-6290, ext. 7035
("CITY")

And: Southland Paving, Inc.
a California corporation
361 N. Hale Ave.
Escondido, CA 92029
Attn: Richard Fleck
760-747-6895
("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 Trunk Sewer Replacement Project (“Project”), occurring within public right-of-way or within public utility easements on properties generally located between the Hale Avenue Resource Recovery Facility (“HARRF”) and Quince Street over assessor’s parcel numbers (“APN”) 7723505242, 2350506500, 2323721900, 2323722000, 7723237658, 2325420700, 2325422700, 2325420300, and 2320905400 (“Property”), as further described herein.

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

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

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

2. Description and Performance of Work. CONTRACTOR shall furnish all work described in Project Documents, which is incorporated herein by this reference ("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 **\$8,482,904.64** ("Contract Price"). CONTRACTOR shall be compensated only for performance of the Work described in this Agreement. No compensation shall be provided for any other work or services without the CITY's prior written consent.
4. Term and Time of Performance. CONTRACTOR shall commence work within one week from the CITY's notice to proceed. CONTRACTOR shall diligently perform and complete the Work with professional quality and technical accuracy within **440 calendar days** following the CITY's 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 **\$1,500 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) If CONTRACTOR maintains broader coverage and/or higher limits than the minimums otherwise required by this Agreement, the CITY requires and shall be entitled to the broader coverage and/or the higher limits maintained by CONTRACTOR.
- b. Each insurance policy required by this Agreement must be acceptable to the City Attorney and shall meet the following requirements:
- (1) *Compliance with General Condition Requirements.* Insurance coverage shall comply with and meet all requirements set forth in Article 5.2 of General Conditions
 - (2) *Acceptability of Insurers.* Insurance coverage must be provided by an insurer authorized to conduct business in the state of California with a current A.M. Best's rating of no less than A-:VII, or as approved by the CITY.
 - (3) *Additional Insured Status.* Both the Commercial General Liability and the Automobile Liability policies must name the CITY (including its officials, officers, agents, employees, and volunteers) specifically as an additional insured under the policy on a separate endorsement page. The Commercial General Liability additional insured endorsement shall be at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of *both* CG 20 10, CG 20 26, CG 20 33, or CG 20 38, *and* CG 20 37 if a later edition is used. The Automobile Liability additional insured endorsement shall be at least as broad as ISO Form CA 20 01.
 - (4) *Primary Coverage.* CONTRACTOR's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 with respect to the CITY, its officials, officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officials, officers, agents, employees, or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.
 - (5) *Notice of Cancellation.* Each insurance policy shall provide that coverage shall not be canceled, except with prior written notice to the CITY.
 - (6) *Subcontractors.* If applicable, CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated within this Agreement, and CONTRACTOR shall ensure that the CITY (including its officials, officers, agents, employees, and volunteers) is an additional insured on any insurance required from a subcontractor.
 - (7) *Waiver of Subrogation.* CONTRACTOR hereby grants to the CITY a waiver of any right to subrogation that any insurer of CONTRACTOR may acquire against the CITY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this subsection shall apply regardless of whether or not the CITY has received a waiver of subrogation endorsement from the insurer. Any Workers' Compensation policy required

by this Agreement shall be endorsed with a waiver of subrogation in favor of the CITY for all work performed by the CONTRACTOR, its agents, representatives, employees and subcontractors.

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

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

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

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

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

f. *Compliance.* Failure to comply with any of the insurance requirements in this Agreement, including but not limited to a lapse in any required insurance coverage during the term of this Agreement, shall be a material breach of this Agreement. Compliance by CONTRACTOR with the requirement to carry insurance and furnish certificates, policies, Additional Insured Endorsement and Declarations Page evidencing the same shall not relieve the CONTRACTOR from liability assumed under any provision of this Agreement, including, without limitation, the obligation to defend and indemnify the 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, 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: _____

Dane White, Mayor

SOUTHLAND PAVING, INC.

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 Southland Paving, Inc., a California corporation ("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 Trunk Sewer Replacement 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 eight million four hundred eighty-two thousand nine hundred four dollars and sixty-four cents (\$8,482,904.64), 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 Southland Paving, Inc., a California corporation ("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 Trunk Sewer Replacement 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 eight million four hundred eighty-two thousand nine hundred four dollars and sixty-four cents (\$8,482,904.64), 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 Chapter 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 _____

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.

Southland Paving, Inc.

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:

TRUNK SEWER REPLACEMENT 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:

Southland Paving, Inc.

(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. 2023-13

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 TRUNK SEWER REPLACEMENT PROJECT

WHEREAS, the City of Escondido (“City”) desires to construct the Trunk Sewer Replacement Project (“Project”); and

WHEREAS, the Project work will generally replace, upsize and realign approximately 5,000 linear feet of existing 24-inch, 27-inch and 39-inch diameter trunk sewer main via open trench construction with 30-inch and 36-inch diameter trunk sewer main; construct approximately 200 linear feet of 48-inch diameter casing with a 36-inch diameter sewer carrier pipe via trenchless construction; construct approximately 1,200 linear feet of 8-inch diameter sewer main; construct approximately 100 linear feet of 24-inch diameter sewer main; and all other associated work; 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 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 accept the recommendations of the Deputy City Manager/Director of Utilities and approve said Agreement in an amount not to exceed \$1,402,240.

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 _____, 2023 ("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
530 B St., Suite 1000
San Diego, CA 92101
Attn: Richard Farr
858-278-2716
("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, document control and special inspection services for the Trunk Sewer 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 **\$1,402,240**. 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.
 - a. Each individual listed on Attachment "B" must file (i) a Statement of Economic Interests Form 700 ("Form 700") pursuant to the California Political Reform Act of 1974 within 30 days of commencing work pursuant to this Agreement and (ii) a "leaving office" Form 700 within 30 days of concluding work pursuant to this Agreement. If the term of this Agreement extends beyond one year, each individual listed on Attachment "B" must file a Form 700 on an annual basis for each subsequent term year on or before the first of April. The CITY may require each individual listed on Attachment "B" to assist the CITY in completing a Form 805 to identify consultants that make or participate in making governmental decisions and identify the consultants' disclosure requirements. The Clerk's Office will coordinate Form 700 and 805 completion on the CITY's behalf.
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 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/dprevwagedetermination.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: _____

Dane White, Mayor

Arcadis U.S., Inc.

Date: _____

Richard Farr, CCM,
Principal In Charge

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 Trunk Sewer Replacement Project ("Project").

B. Location

Consultant to provide CM services at various locations including the Project site generally located between the Hale Avenue Resource Recovery Facility, 1521 S. Hale Ave., Escondido, CA 92029 ("HARRF"), and the intersection of North Quince Street and Norlak Avenue, Escondido, CA 92029. See Exhibit 1, which is attached to this Scope of Work and incorporated herein by this reference, for the Project site map.

C. Services

Task 1 – Project Coordination

1. Assist the City with community outreach efforts;
2. Provide a part-time staff member who is dedicated to performing document control tasks;
3. 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;
4. 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;
5. Coordinate, review, observe, and document all equipment testing and start up, if applicable;
6. Coordinate with the City's Utilities Construction Management staff;
7. Coordinate with the City's HARRF staff regarding major shutdowns, tie-ins, facility connections, and any applicable training; and
8. Coordinate with the City, independent consultants (e.g. SWPPP Program Manager, environmental and cultural monitoring 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. City 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.

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 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 (daily or weekly) basis, so that the City's Utility Construction Management staff has access to all project related documents at all times. Consultant payments will be held, or partially held, if records are not kept up-to-date each month.

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.

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. Trenchless technology specialist, only if needed;
 - 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 \$80,000 has been added for geotechnical and special inspection services. This allowance is based on a time and materials basis, not to exceed \$80,000 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.

D. Scheduling

Consultant to schedule specific date for beginning of work in advance by contacting Randy Manns at 760-839-6290, ext. 7031, or rmanns@escondido.org. Further instructions will be provided upon scheduling.

E. Contract Price and Payment Terms

The contract price shall not exceed **\$1,402,240**. 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	\$236,800
2	Inspection	\$615,440
3	Document Control/Record Keeping	\$195,120
4	Project Management	\$274,880
5	Subcontract Management – Special Inspection Services	\$80,000
Other	Other Direct Costs (Describe)	\$0.00
	Total	\$1,402,240

F. Term

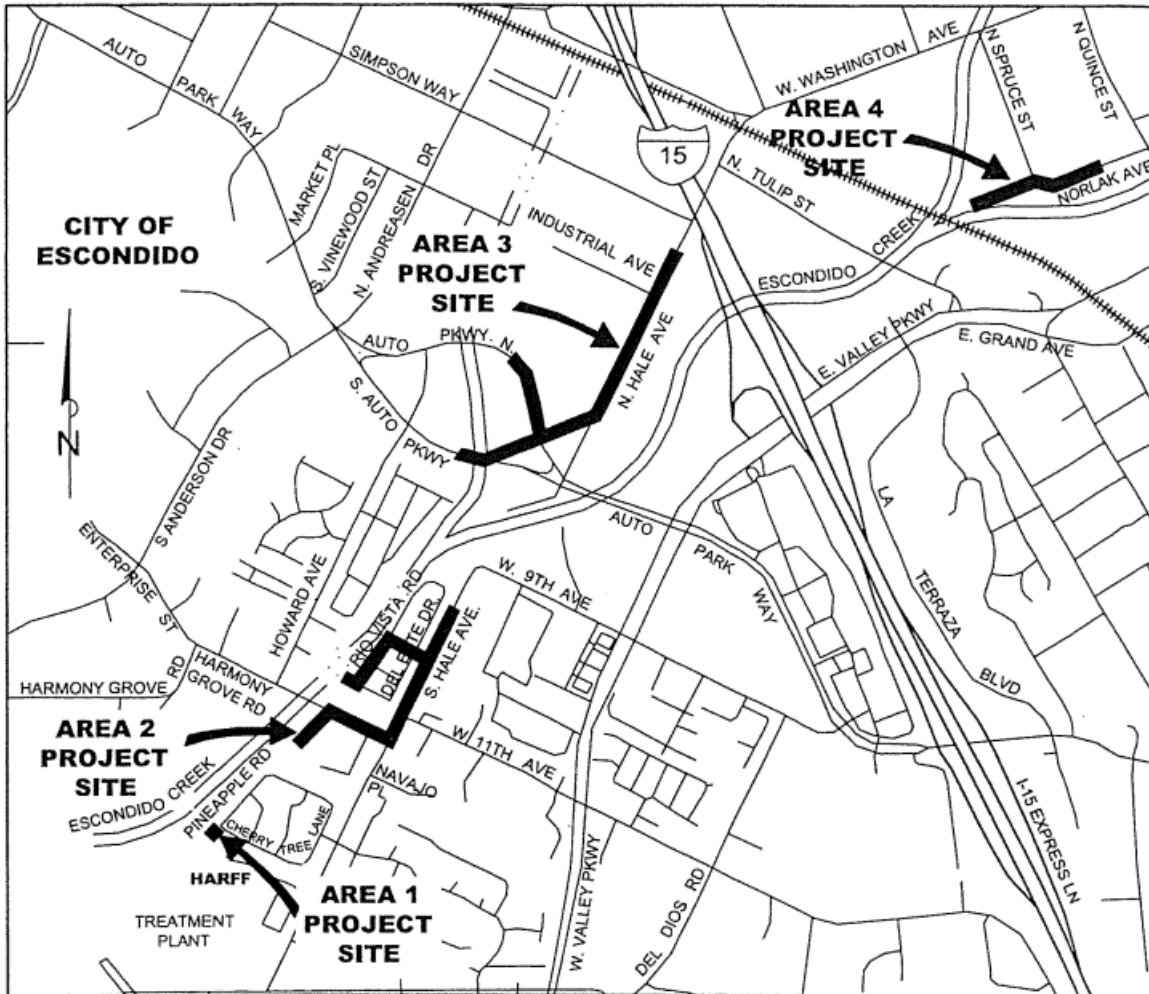
The term of this Agreement shall be **two years**, commencing the Effective Date of the Agreement.

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.

Item9.

Exhibit 1

Project Site Map



LOCATION MAP
N.T.C.

ATTACHMENT "B" Personnel List

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

1. Richard Farr, Principal in Charge/ Project Manager, 530 B Street, Suite 1000, San Diego, CA 92101, Arcadis U.S., Inc.;
2. Arnie Wingler, Construction Manager, 530 B Street, Suite 1000, San Diego, CA 92101, Arcadis U.S., Inc.;
3. Erik Anderson, Field Inspector (Daytime Construction), 530 B Street, Suite 1000, San Diego, CA 92101, Arcadis U.S., Inc.;
4. Allen Day, Field Inspector (Nighttime Construction), 530 B Street, Suite 1000, San Diego, CA 92101, Arcadis U.S., Inc.;
5. Annette Holenbeck, Document Control, Record Keeping Manager, Labor Compliance Specialist, 530 B Street, Suite 1000, San Diego, CA 92101, Arcadis U.S., Inc.;
6. Arthur Serata, Alternate Construction Manager, 530 B Street, Suite 1000, San Diego, CA 92101, Arcadis U.S., Inc.;
7. Lauren Jentzen, Alternate Construction Manager, 530 B Street, Suite 1000, San Diego, CA 92101, Arcadis U.S., Inc.;
8. Ron Seale, Alternate Field Inspector (Daytime Construction), 530 B Street, Suite 1000, San Diego, CA 92101, Arcadis U.S., Inc.;
9. Conrad Taylor, Alternate Inspector (Nighttime Construction) 530 B Street, Suite 1000, San Diego, CA 92101, Arcadis U.S., Inc.; and
10. Ninyo and Moore, Geotechnical and Special Inspection Services, 5710 Ruffin Rd, San Diego, CA 92123.

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: _____

Richard Farr, CCM, Principal In Charge
Project Manager
Arcadis U.S., Inc.

RESOLUTION NO. 2023-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY, A CONSULTING AGREEMENT WITH INFRASTRUCTURE ENGINEERING CORPORATION, FOR ENGINEERING DESIGN SERVICES DURING CONSTRUCTION FOR THE TRUNK SEWER REPLACEMENT PROJECT

WHEREAS, the City of Escondido (“City”) desires to construct the Trunk Sewer Replacement Project (“Project”); and

WHEREAS, the Project work will generally replace, upsize and realign approximately 5,000 linear feet of existing 24-inch, 27-inch and 39-inch diameter trunk sewer main via open trench construction with 30-inch and 36-inch diameter trunk sewer main; construct approximately 200 linear feet of 48-inch diameter casing with a 36-inch diameter sewer carrier pipe via trenchless construction; construct approximately 1,200 linear feet of 8-inch diameter sewer main; construct approximately 100 linear feet of 24-inch diameter sewer main; and all other associated work; and

WHEREAS, the City desires engineering services during construction for the Project; and

WHEREAS, Infrastructure Engineering Corporation has the personnel, specialized services and expertise to provide engineering services during construction of the Project; and

WHEREAS, City staff have completed negotiations with Infrastructure Engineering Corporation Inc. for said engineering services during construction 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 accept the recommendations of the Deputy City Manager/Director of Utilities and approve said Agreement in an amount not to exceed \$155,560.

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

1. That the above recitations are true.
2. That the Mayor and the City Council accepts the recommendation of the Deputy City Manager / Director of Utilities.
3. That the City Manager is authorized to execute, on behalf of the City, a Consulting Agreement with Infrastructure Engineering Corporation 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 _____, 2023 ("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: Infrastructure Engineering Corporation
a California corporation
14271 Danielson St.
Poway, CA 92064
Attn: Robert Weber
858-413-2400
("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 services during construction for the CITY's Trunk Sewer Replacement Project; and

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 **\$155,560**. 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.
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, and only to the extent such Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. Further, in no event shall the cost to defend charged to the CONSULTANT exceed the CONSULTANT's proportionate percentage of fault.
- 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/dprevwagedetermination.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.

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

CITY OF ESCONDIDO

Date: _____

Sean McGlynn, City Manager

Infrastructure Engineering Corporation

Date: _____

Robert S. Weber, President

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

Infrastructure Engineering Corporation, a California corporation ("Consultant") will provide the City of Escondido, a California municipal corporation ("City") with engineering support services during construction related to the City's Trunk Sewer Replacement Project ("Project").

B. Location

Consultant to provide engineering support services at various locations including the Project site generally located between the Hale Avenue Resource Recovery Facility, 1521 S. Hale Ave, Escondido, CA, 92029 ("HARRF") and the intersection of North Quince Street and Norlak Avenue, Escondido, CA 92029. See Exhibit 1, which is attached to this Scope of Work and incorporated herein by this reference, for the Project site map.

C. Services

Consultant shall provide the following services:

1. Project Management

Consultant will provide a project manager for administration of the contract including, but not limited to: scheduling, review, budget control, quality assurance/quality control, invoice preparation and coordination with the City for the duration of the Project.

2. Pre-Construction Meeting

Consultant will attend the pre-construction meeting to provide answers to questions that may arise regarding Project contract document requirements and coordinate with the City's construction management team. It is assumed that the City will facilitate the meeting.

3. Construction Progress Meetings

Consultant will attend monthly progress meetings via virtual platform such as Zoom or TEAMS with the City and Project construction manager. This task assumes fifteen, one-hour virtual progress meetings. It is assumed that the City will facilitate the meetings. If the City is planning to hold a required in-person progress meeting, Consultant will provide a local team member to attend in-person.

4. Requests for Information ("RFI")

Consultant will review and respond to Contractor's RFIs through the duration of the construction of the Project. This task assumes twenty RFIs total. Responses will be provided within 5 working days and in accordance with the Project Contract Documents.

5. Submittal Reviews

Consultant will review and respond to Contractor's submittals through duration of construction of the Project. This task assumes 33 total submittals as listed below. In addition, Consultant will: ensure Contractor submittals are in conformance with the Project Contract Documents; document the status of submittals via a Submittal Log; and provide the City with an updated log throughout the duration of the construction of the Project.

1. Preconstruction videos and photographs
2. Post construction videos and photographs
3. 84" diameter precast concrete manhole
4. 72" diameter precast concrete manhole
5. 60" diameter precast concrete manhole
6. Manhole coatings and linings
7. Cast-in-place concrete for sidewalks, cross gutters, driveways, curbs, gutters
8. Cast-in-place concrete for miscellaneous concrete, collars, existing manhole rehabilitation
9. Manhole lids and grade rings
10. Bore and jack design submittal
11. 48" diameter steel casing
12. 36" diameter trunk sewer pipe
13. 30" diameter trunk sewer pipe
14. 8" diameter mainline pipe
15. 4" diameter collector and sewer lateral pipe
16. Sewer cleanouts
17. Pipe couplings and adaptors
18. Traffic control plan
19. Signing and striping plan
20. CCTV inspections post-construction
21. Traffic loop materials
22. Asphalt concrete
23. Class 2 base
24. Backfill and bedding material
25. Utility potholes
26. Storm Water Pollution Prevention Plan
27. Sewer bypass plan
28. Sewer bypassing system (pumps, pips, etc.)
29. SDG&E utility support details
30. Sewer force main support details
31. Connections to the wet well details
32. Trench dewatering plan
33. Concrete masonry block wall materials

6. Design Changes or Field Ordered Changes

Consultant will perform design investigations, evaluate options and make recommendations as they relate to field order and/or design changes. If a change order is not warranted, Consultant will assist the City in preparation of a rejection letter. If a change order is warranted, Consultant will assist the City with evaluating the proposed costs and preparing a contract change order. This task assumes five design clarifications.

7. Record Drawings

Consultant will prepare a complete set of record drawings in accordance with the City's final drawings requirements within one month of completion of construction. Record drawings will be prepared based on field changes documented by the City, the City's construction management team, and the Project Contractor in addition to any changes resulting from RFI's, design clarifications, and contract change orders. Consultant will provide electronic files of the record drawings in PDF format and AutoCAD.

8. Assumptions

- a. This scope assumes Consultant will respond directly to the City's Construction Manager and not the Contractor.

- b. Consultant will review additional submittals that may not be listed herein.
- c. Should the City schedule more frequent construction progress meetings, Consultant will attend a maximum of one meeting a month.

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

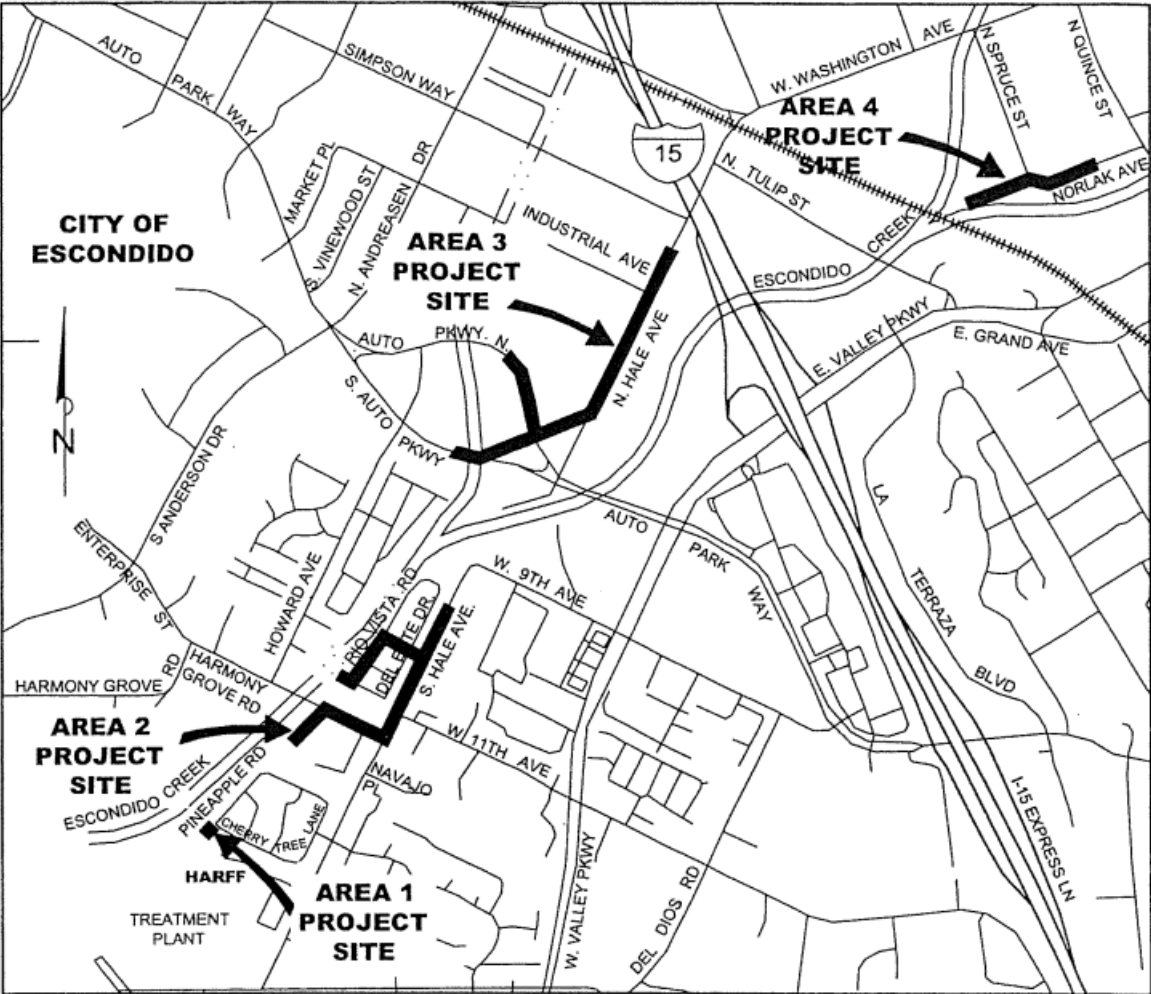
The contract price of this Agreement shall not exceed **\$155,560**. The contract price includes all labor, materials, equipment, and transportation required to perform the work. Services will be billed as services are performed. Consultant shall submit monthly invoices to the City, and the City shall pay Consultant for invoiced services within 30 days of receipt of an invoice for those services.

F. Term

The term of this Agreement shall be for the duration of construction of the Project, commencing on the Effective Date of the Agreement.

Exhibit 1

Project Site Map



LOCATION MAP
N.T.C.

ATTACHMENT "B"

Personnel List

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

1. Amy Czajkowski, PE, CCM, QSD/P, Senior Project Manager, Infrastructure Engineering Corporation ("IEC"), acajkowski@ardurra.com, IEC;
2. Scott Adamson, PE, Construction Manager, sadamson@ardurra.com, IEC;
3. Dolores Salgado, PE, Senior Project Manager, dsalgado@ardurra.com, IEC;
4. Dalia Mulato, Design Engineer, dmulato@ardurra.com, IEC;
5. Kari Clover, Accounting/HR Manager, kclover@ardurra.com, IEC;
6. Maria McGruder, Accounting, mmcgruder@ardurra.com, IEC;
7. Debi Pavan, Construction Administration, dpavan@ardurra.com, IEC; and
8. Jeff Moody, PE, Resident Engineer, jmoody@ardurra.com, IEC.

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: _____

Robert S. Weber, Operations Director, Southwest



BUDGET ADJUSTMENT REQUEST

Department:	Utilities	For Finance Use Only BA # _____ Fiscal Year _____
Department Contact:	Angela Morrow	
City Council Meeting Date: (attach staff report)	February 8, 2023	

EXPLANATION OF REQUEST

To fully fund the construction of the Trunk Sewer Replacement Project.

BUDGET ADJUSTMENT INFORMATION

Project/Account Description	Account Number	Amount of Increase	Amount of Decrease
Trunk Main/Norlak-HARRF	557-801913	\$9,400,000	
Unallocated Reserves	3050-558		\$4,400,000
Transfer Out-to Capital Projects Fund	5999-558	\$4,400,000	
Transfer In-from Operating Fund	4999-557	\$4,400,000	
Outfall Maintenance	557-800079		\$2,000,000
WWTP Major Maint Projects	557-800289		\$100,000
Lift Station Major Maintenance	557-800379		\$300,000
Lift Station #1 & Force Main	557-800699		\$400,000
Primary Building Upgrade	557-801101		\$450,000
Corporate Yard Improvements	557-801203		\$250,000
HARRF Collections/Maint Shop	557-801506		\$350,000
SL-Reidy Cr/CCP-Village Rd	557-804707		\$200,000

Digester Replacement	557-804901		\$300,000
Digester Cleaning	557-807503		\$200,000
Southwest Sewer Project	557-808810		\$450,000

APPROVALS

DocuSigned by: <i>Christopher W. McKinney</i> 2/2/23 BAD7E97808A445B...		DocuSigned by: <i>Christina Holmes</i> 2/2/23 C0C8E98A934247C...	
DEPARTMENT HEAD	DATE	FINANCE	DATE



CITY of ESCONDIDO

FUTURE AGENDA

2/15/2023

PRESENTATION - (C. CLEMENS) - LIBRARY BOARD OF TRUSTEES ANNUAL PRESENTATION

CONSENT CALENDAR - (R. VOGT/L. KORETKE) - ANNUAL STATE MANDATED INSPECTION COMPLIANCE REPORT - Request that City Council approve Resolution 2023-05 acknowledging the Fire Department's report of compliance with annual State mandated inspections.

CONSENT CALENDAR - (D. SHULTZ) - TREASURER'S INVESTMENT REPORT FOR THE QUARTER ENDED DECEMBER 31, 2022 - Request the City Council receive and file the Quarterly Investment Report for the quarter ended December 31, 2022.

PUBLIC HEARING - (A. FIRESTINE) - ANNUAL ZONING CODE OMNIBUS - Request the City Council approve a series of amendments to the Escondido Zoning Code to address changes in state laws, correct errors, and clarify or improve existing regulations.

PUBLIC HEARING - (A. FIRESTINE) - BUSINESS RECOVERY STRATEGY ORDINANCE - A series of amendments to the Escondido Zoning Code to retain

PUBLIC HEARING - (A. FIRESTINE) - NORTHEAST GATEWAY SUBDIVISION 65-UNIT SUBDIVISION AND SPECIFIC PLAN

CURRENT BUSINESS - (C. MCKINNEY/E. VARSO) - CITY RESPONSE TO THE IMPACTS OF HOMELESSNESS - Request the City Council accept \$736,066.68 from the County of San Diego to create a family shelter in Escondido and agree to the terms specified through the Regional Shelter Collaboration Agreement.

CURRENT BUSINESS - (H. NELSON, CHRISTOPHER W. MCKINNEY) - AUTHORIZATION AND ACCEPTANCE OF THE COUNTY OF SAN DIEGO'S CAPITAL EMERGENCY SOLUTIONS GRANT PROGRAM TO ADDRESS FAMILY HOMELESSNESS AND EXECUTE AN AGREEMENT WITH INTERFAITH COMMUNITY SERVICES - Request the City Council to accept \$736,066.68 from the County of San Diego to create a family shelter in Escondido and agree to the terms specified through the Regional Shelter Collaboration Agreement.

2/22/23 - NO MEETING (PRESIDENT'S DAY)

3/1/23 - NO MEETING