



CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, AUGUST 23, 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



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WEDNESDAY, AUGUST 23, 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, AUGUST 23, 2023

CLOSED SESSION

4:00 PM

CALL TO ORDER

1. Roll Call: C. Garcia, J. 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 LABOR NEGOTIATORS (Government Code § 54957.6)

- a. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: Police Officers' Association Sworn Personnel Bargaining Unit
- b. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: Police Officers' Association Non-Sworn Personnel Bargaining Unit
- c. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: Firefighters' Association Safety and Non-safety Bargaining Unit
- d. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: ECEA Unit (SUP)
- e. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: Maintenance and Operations Bargaining Unit (Teamsters Local 911 and ACE)

ADJOURNMENT



CITY *of* ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, AUGUST 23, 2023

REGULAR SESSION

5:00 PM Regular Session

Mobilehome Rent Review Board

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: C. Garcia, J. Garcia, Martinez, Morasco, White

PROCLAMATION

National Preparedness Month

CLOSED SESSION REPORT

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.

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, AUGUST 23, 2023

2. APPROVAL OF WARRANT REGISTER (COUNCIL) -

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

- 375872 – 376071 dated August 02, 2023

Staff Recommendation: Approval (Finance Department: Christina Holmes)

3. APPROVAL OF MINUTES: Regular Meeting of August 9, 2023

4. WAIVER OF READING OF ORDINANCES AND RESOLUTIONS –

5. APPROVAL OF AN ASSOCIATE MEMBER AGREEMENT WITH UNDERGROUND SERVICE ALERT OF CALIFORNIA

Request the City Council adopt Resolution No. 2023-97, authorizing the Mayor to execute an agreement with Underground Service Alert of Southern California.

Staff Recommendation: Approval (Public Works Department: Joe Goulart, Director of Public Works)

Presenter: Joe Goulart, Director of Public Works

a) Resolution No. 2023-97

6. APPROVE THE ADDITION OF TWO TEMPORARY (GRANT-FUNDED) PROJECT MANAGER POSITIONS TO THE FISCAL YEAR 23/24 OPERATING BUDGET AND THE ASSOCIATED BUDGET ADJUSTMENT

Request the City Council adopt Resolution No. 2023-107 authorizing the addition of two temporary (grant-funded) Project Manager positions to the Fiscal Year 23/24 Operating Budget and approve the associated budget adjustment for completion of time sensitive capital improvement projects.

Staff Recommendation: Approval (Development Services Department: Andrew Firestine, Director of Development Services and Julie Procopio, City Engineer)

Presenter: Julie Procopio, City Engineer

a) Resolution No. 2023-107



CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, AUGUST 23, 2023

7. \$107,296 CALIFORNIA LIBRARY LITERACY SERVICES ENGLISH AS A SECOND LANGUAGE GRANT

Request the City Council adopt Resolution No. 2023-110 authorizing the City Manager to receive grant funds of \$107,296 and execute, on behalf of the City, grant-related documents necessary for implementation of English as a Second Language services.

Staff Recommendation: Approval (Communications & Community Services Department: Joanna Axelrod, Deputy City Manager/Director of Communications)

Presenter: Dan Wood, Senior Librarian of Youth and Literacy Services

a) Resolution No. 2023-110

8. APPROVAL OF CALPERS INDUSTRIAL DISABILITY RETIREMENT FOR POLICE OFFICER THOMAS D. PUGH

Request the City Council adopt of Resolution No. 2023-23, approving the California Public Employees' Retirement System ("CalPERS") Industrial Disability Retirement for Police Officer Thomas D. Pugh.

Staff Recommendation: Approval (Human Resources Department: Jessica Perpetua, Director of Human Resources)

Presenter: Jessica Perpetua, Director of Human Resources

a) Resolution No. 2023-23

9. SECOND AMENDMENT TO CELL TOWER LEASE AGREEMENT WITH CELLCO PARTNERSHIP, DBA VERIZON WIRELESS

Request the City Council approve Resolution No. 2023-117, authoring the Mayor to execute a Second Amendment to the Lease Agreement with Cellco Partnership, dba Verizon Wireless, for continued use of the City owned property located at 1225 Hubbard Avenue, for a cellular tower and telecommunication equipment.

Staff Recommendation: Approval (City Manager Department: Jennifer Schoeneck, Deputy Director of Economic Development)

Presenter: Vince McCaw, Real Property Manager

a) Resolution No. 2023-117



CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, AUGUST 23, 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.)

10. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, RETAINING THE EXISTING SPEED LIMIT ON FOUR STREET SEGMENTS

Approved on August 9, 2023 with a vote of 5/0.

a) Ordinance No. 2023-09 (Second Reading and Adoption)

PUBLIC HEARING

11. SHORT-FORM RENT INCREASE APPLICATION FOR CAREFREE RANCH MOBILEHOME PARK (FILE NO. 0697-20-10330)

Request the Rent Review Board adopt Resolution No. RRB 2023-94, authorizing a rent increase for Carefree Ranch Mobilehome park.

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

Presenter: Holly Nelson, Housing & Neighborhood Services Manager

a) Resolution No. RRB 2023-94

CURRENT BUSINESS

12. HOUSING ACCELERATION PROGRAM GRANT APPLICATION

Request the City Council adopt Resolution No. 2023-112, authorizing the City to submit a San Diego Association of Governments ("SANDAG") Housing Acceleration Program ("HAP") grant application for the purposes of implementing the City's adopted housing element for the sixth cycle planning period.

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

Presenter: Veronica Morones, Principal Planner

a) Resolution No. 2023-112



CITY of ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, AUGUST 23, 2023

13. PUBLIC ART COMMISSION APPOINTMENTS

Request the City Council consider and vote on the Mayor's appointments to serve on the Public Art Commission: Terri Ryan and Juan Vargas.

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

Presenter: Mayor Dane White

WORKSHOP

14. TRANSPORTATION SAFETY UPDATE

Request the City Council receive a presentation and hold a workshop to discuss transportation safety.

Staff Recommendation: Receive and File (Development Services Department: Andrew Firestine and Police Department: Edward Varso)

Presenter: Edd Alberto, City Traffic Engineer

FUTURE AGENDA

15. 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

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CITY *of* ESCONDIDO

COUNCIL MEETING AGENDA

WEDNESDAY, AUGUST 23, 2023

ADJOURNMENT

UPCOMING MEETING SCHEDULE

Wednesday, September 13, 2023 4:00 & 5:00 PM Regular Meeting, *Council Chambers*
Wednesday, October 11, 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.



A F F I D A V I T S
O F
I T E M
P O S T I N G – N O N E



STAFF REPORT

August 23, 2023
File Number 0400-40

SUBJECT

APPROVAL OF WARRANT REGISTER

DEPARTMENT

Finance

RECOMMENDATION

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

375872 – 376071 dated August 02, 2023

Staff Recommendation: Approval (Finance Department: Christina Holmes)

FISCAL ANALYSIS

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

July 27 – August 02, 2023, is \$771,781.09

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

CLOSED SESSION
4:00 PM

CALL TO ORDER

- 1. Roll Call: C. Garcia, J. Garcia, Martinez, Morasco, White

ORAL COMMUNICATIONS

Angie Gonzalez – Requested permanent trash cans be placed along the Escondido Creek Trail.

CLOSED SESSION

- I. **CONFERENCE WITH LABOR NEGOTIATORS (Government Code § 54957.6)**
 - a. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: Police Officers' Association Sworn Personnel Bargaining Unit
 - b. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: Police Officers' Association Non-Sworn Personnel Bargaining Unit
 - c. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: Firefighters' Association Safety and Non-safety Bargaining Unit
 - d. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: ECEA Unit (SUP)
 - e. Agency Representative: Sean McGlynn, City Manager, or designee
Employee Organization: Maintenance and Operations Bargaining Unit (Teamsters Local 911 and ACE)



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

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

- a. *Thomas Pugh v. City of Escondido*
WCAB No: ADJ15407550; ADJ15407612
- b. *Ken Burris v. City of Escondido*
WCAB Nos: ADJ11194693; ADJ111235664, ADJ11235665
- c. *Randy Folds v. Jesus Veja, City of Escondido, et. al*
San Diego Superior Court Case No. 37-2022-00032605-CU-PA-NC
- d. *Building Industry Association of San Diego County v. City of Escondido*
San Diego Superior Court Case No. 37-2021-00008423-CU-MC-NC

ADJOURNMENT

Mayor White adjourned the meeting at 4:52 p.m.

MAYOR

CITY CLERK



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

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

Roll Call: C. Garcia, J. Garcia, Martinez, Morasco, White

CLOSED SESSION REPORT

- a. Thomas Pugh v. City of Escondido
WCAB No: ADJ15407550; ADJ15407612
Council voted 5-0 to approve a settlement in the amount of \$58,290

- b. Ken Burris v. City of Escondido
WCAB Nos: ADJ11194693; ADJ111235664, ADJ11235665
Council voted 5-0 to approve a settlement in the amount of \$297,000

ORAL COMMUNICATIONS

Angie Gonzalez – Requested that permanent trash cans be installed along the Escondido Creek Trail.

CONSENT CALENDAR

Motion: Morasco; Second: C. Garcia; Approved: 5-0.

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

2. APPROVAL OF WARRANT REGISTER (COUNCIL) -
Request the City Council approve the City Council and Housing Successor Agency warrant numbers:
 - 374999 – 375161 dated July 05, 2023



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

- 375162 – 375371 dated July 12, 2023
- 375372 – 375633 dated July 19, 2023

Staff Recommendation: Approval (Finance Department: Christina Holmes)

3. APPROVAL OF MINUTES: Special Meeting/Workshop of July 12, 2023 and Regular Meeting of July 19, 2023

4. WAIVER OF READING OF ORDINANCES AND RESOLUTIONS –

5. ESTABLISHING THE PROPERTY TAX RATE AND FIXED CHARGE ASSESSMENTS FOR GENERAL OBLIGATION BONDED INDEBTEDNESS

Request the City Council adopt Resolution No. 2023-93 to establish the property tax rate and fixed charge assessments for bonded indebtedness for Fiscal Year 2023/24. (File Number 0440-35)

Staff Recommendation: Approval (Finance Department: Christina Holmes, Director of Finance)

Presenter: Michelle Collett, Revenue Manager

a) Resolution No. 2023-93

6. SECOND AMENDMENT TO LEASE AGREEMENT WITH DAVE MCMAHON CONSTRUCTION, INC. AT 525 NORTH QUINCE STREET

Request the City Council approve Resolution No. 2023-98 authorizing the Mayor to execute a Second Amendment to Lease Agreement with McMahon Construction for the City owned property located at 525 North Quince Street. (File Number 0600-10; A-3104-1)

Staff Recommendation: Approval (City Manager Department: Jennifer Schoeneck, Deputy Director of Economic Development)

Presenter: Vincent McCaw, Real Property Manager

a) Resolution No. 2023-98

7. RETENTION OF EXISTING SPEED LIMITS

Request the City Council adopt Ordinance No. 2023-09 retaining the posted speed limits on three (3) street segments, portions of Mountain View Drive, Sheridan Avenue, and W. Citracado Parkway. (File Number 1020-05)

Staff Recommendation: Approval (Development Services Department: Andrew Firestine, Development Services Director and Julie Procopio, City Engineer)



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

Presenter: Edd Alberto, City Traffic Engineer

a) Ordinance 2023-09 (First Reading and Introduction)

8. AMENDING TRAFFIC SCHEDULE FOR STOP SIGNS

Request the City Council adopt Resolution No. 2023-89, amending the traffic schedule for stop signs to add a minor-street stop control at the intersection of Gretna Green Way and Canyon Road. (File Number 1050-20)

Staff Recommendation: Approval (Development Services Department: Andrew Firestine, Development Services Director and Julie Procopio, City Engineer)

Presenter: Edd Alberto, City Traffic Engineer

a) Resolution No. 2023-89

9. APPROVE CHANGE ORDER TO COMPLETE ADDITIONAL WORK FOR THE JUNIPER ELEMENTARY BIKE/PEDESTRIAN IMPROVEMENT PROJECT

Request the City Council adopt Resolution No. 2023-102 authorizing the City Manager to execute change orders to the construction contract in the amount of \$241,743.87 for the Juniper Elementary Bike/Pedestrian Improvement Project ("Project"). (File Number 0910-10)

Staff Recommendation: Approval (Development Services Department: Andrew Firestine, Director of Development Services and Julie Procopio, City Engineer)

Presenter: Jonathan Schauble, Principal Engineer

a) Resolution No. 2023-102

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.)

10. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, ADOPTING THE EAST VALLEY SPECIFIC PLAN, AND ADOPTING AN AMENDMENT TO THE CITYWIDE ZONING MAP TO CHANGE THE DESIGNATION OF ALL PROPERTIES WITHIN THE EAST VALLEY SPECIFIC PLAN AREA TO SPECIFIC PLAN (S-P)

Approved on July 19, 2023 with a vote of 5/0.

a) Ordinance No. 2023-10R (Second Reading and Adoption)



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

PUBLIC HEARING

11. ANNUAL ACTION PLAN FOR FISCAL YEAR 2023-2024 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (“HUD”) FUNDING FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (“CDBG”) AND HOME INVESTMENT PARTERNSHIP (“HOME”) PROGRAMS

Request the City Council adopt Resolution No. 2023-100, approving the CBDG and HOME Budgets for FY 2022-23, and adopt Resolution No. 2023-101, adopting the 2023-24 Action Plan for CBDG and HOME Budgets. (File Number 0870-11)

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

Presenters: Holly Nelson, LCSW, Housing & Neighborhood Services Manager and Rodrigo Carrasco, Management Analyst I

a) Resolution No. 2023-100

b) Resolution No. 2023-101

Judy Fitzgerald – Requested funding for the Alabaster Jar Project.

Rick Paul – Requested funding for the Alabaster Jar Project.

Nate Alcorn – Requested funding for the Alabaster Jar Project.

Susan Johnson – Requested funding for the Alabaster Jar Project.

Amanda Long – Requested funding for the Alabaster Jar Project.

Mary Brown – Requested funding for child care programs in Escondido.

Jim Rodriguez – Requested funding for child care programs in Escondido.

Pamela Jones – Requested funding for child care programs in Escondido.

Linda Davis – Requested funding for child care programs in Escondido.

Daniella Miller – Requested funding for child care programs in Escondido.

Christina Garcia – Requested funding for child care programs in Escondido.

David Williams – Requested funding for child care programs in Escondido.

Mary Johnson – Requested funding for child care programs in Escondido.



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

Lisa Brinig – Requested funding for Interfaith Community Services.

Monica Thornton – Requested funding for Interfaith Community Services.

Robert Costantino – Requested funding for Interfaith Community Services.

John Byers – Requested funding for Interfaith Community Services.

Filipa Rojas – Requested funding for Interfaith Community Services.

Meg Decker – Requested funding for Interfaith Community Services.

Matthew Roberts – Requested funding for Interfaith Community Services.

Amanda Roth – Requested funding for Interfaith Community Services.

Jan McDaniel – Requested funding for Interfaith Community Services.

Holly Herring – Requested funding for Interfaith Community Services.

Andrea Contreras – Requested funding for Interfaith Community Services.

Greg Anglea – Requested funding for Interfaith Community Services.

Kristen Simon – Expressed concern regarding homelessness in Escondido.

Motion: Morasco; Second: C. Garcia; Approved: 4-1 (Martinez – No)

CURRENT BUSINESS

12. SETTING SPECIAL TAX LEVY FOR COMMUNITY FACILITIES DISTRICT NO. 2020-1 (PUBLIC SERVICES)

Request the City Council adopt Resolution 2023-82, setting the Special Tax Levy for Community Facilities District No. 2020-1 (“Public Services CFD”) for Fiscal Year 2023/24. (File Number 0685-10)

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

Presenter: Andrew Firestine, Director of Development Services

a) Resolution No. 2023-82

Andrea Contreras – Expressed opposition to this item.



CITY of ESCONDIDO

COUNCIL MEETING MINUTES

Motion: Morasco; Second: C. Garcia; Approved: 4-0-1 (Morasco – Abstain)

FUTURE AGENDA

13. FUTURE AGENDA

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

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

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.

ADJOURNMENT

Mayor White adjourned the meeting at 6:42 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 agendaized in the Consent Calendar, as well as the full text of all ordinances agendaized 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

August 23, 2023

File Number 0600-10; A-3472

SUBJECT

APPROVAL OF AN ASSOCIATE MEMBER AGREEMENT WITH UNDERGROUND SERVICE ALERT OF CALIFORNIA

DEPARTMENT

Public Works

RECOMMENDATION

Request that the City Council adopt Resolution No. 2023-97, authorizing the Mayor to execute an Associate Member Agreement with Underground Service Alert of Southern California.

Staff Recommendation: Approval (Public Works: Joe Goulart, Director of Public Works)

Presenter: Joe Goulart, Director of Public Works

FISCAL ANALYSIS

Associate members will be assessed a fee of \$1.75 for each new notification received during the previous month.

PREVIOUS ACTION

On July 1, 1976, the City entered into the original Associate Party Agreement (“Agreement”) with the principal party, Underground Service Alert of Southern California, comprised of Pacific Telephone and Telegraph Company, General Telephone Company of California, Southern California Edison Company, and Southern California Gas Company,

On July 22, 1983, City Council passed, adopted, and approved Resolution No. 83-169 authorizing the Mayor and City Clerk to execute the Associate Party Agreement in order to remain in compliance with State code.

BACKGROUND

California Government Code Section 4216 requires that anyone who owns, operates, or maintains a subsurface installation be a member of a regional notification center. The inception of Underground Service Alert of Southern California in 1976 met and continues to meet the criteria outlined in the aforementioned code section.



CITY *of* ESCONDIDO

STAFF REPORT

The purpose of Underground Service Alert of Southern California, a nonprofit mutual benefit corporation, are:

Promoting public service and safety by eliminating costly damage to underground facilities, reducing lost production time due to damages, and compliance with the Federal Occupational Safety and Health Act of 1970;

Providing a centralized call system to expedite the location of underground installations prior to the start of excavation work or other work that may affect the subsurface;

Receiving reports from the public, contractors, utilities, and other excavators performing work affecting subsurface installations; and

Transmitting information received from such reports to all participating members with subsurface installations at proposed excavation locations cited.

Underground Service Alert of Southern California is asking all members to enter into updated agreements to incorporate added terms of service and privacy policies.

The California Underground Facilities Safe Excavation Board has created a regulation that all members of a regional notification center must have valid and current contact information per California Code of Regulation Title 19, Division 4 Section 4003. The inclusions in the updated Agreement meet this requirement.

RESOLUTIONS

- a. Resolution No. 2023-97
- b. Resolution No. 2023-97 Exhibit "A"

RESOLUTION NO. 2023-97

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE BOARD OF GOVERNORS OF "UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA" FOR AN "ASSOCIATE MEMBER AGREEMENT"

WHEREAS, California Government Code Section 4216 requires any agency that owns, operates, or maintains a subsurface installation to be a member of a regional notification center; and

WHEREAS, Underground Service Alert of Southern California ("USA/SC"), an existing nonprofit mutual benefit corporation, was organized for this purpose; and

WHEREAS, on July 1, 1976, the City of Escondido ("City") entered into the original Agreement with the principal party, then comprised of Pacific Telephone and Telegraph Company, General Telephone Company of California, Southern California Edison Company, and Southern California Gas Company, for subsurface installation notifications; and

WHEREAS, on July 1, 1983, the City entered into the Associate Party Agreement with USA/SC in compliance with Government Code Section 4216 and Federal Occupational Safety and Health Act of 1970; and

WHEREAS, on July 22, 1983, City Council passed, adopted, and approved Resolution No. 83-169 authorizing the Mayor and City Clerk to execute the Associate Party Agreement with the Board of Governors of USA/SC; and

WHEREAS, the California Underground Facilities Safe Excavation Board, in accordance with updated regulations, requires all members of a regional notification center to enter into new agreements for the inclusion of added terms of service, privacy policies, and contact information per California Code of Regulation Title 19, Division 4 Section 4003; and

WHEREAS, the City qualifies as an associate member per Article II Section 1 of USA/SC bylaws; and

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

1. That the above recitations are true.
2. That the Mayor is authorized to execute, on behalf of the City, an Associate Member Agreement with the Board of Governors of the Underground Service Alert of Southern California, which is attached and incorporated to this Resolution as Exhibit "A" – Associate Member Agreement.



Underground Service Alert

of Southern California™

March 2023

Dear Member:

When Underground Service Alert of Southern California (DigAlert) began in 1976, websites, social media and apps weren't invented and "privacy policies" and "terms of service" were not phrases used when our original agreements were signed. Many of our members have been with us long before the internet and the current communications technology we use today.

DigAlert is asking all members to sign new agreements as we have added terms of service/privacy policies as part of the agreement. California Government Code Section 4216 requires anyone who owns, operates, or maintains a subsurface installation be a member of a regional notification center.

Our Board of Directors have also updated our operating procedures to include DigAlert's Mission Statement, Beliefs & Principles and Strategic Plan. Those are attached.

The California Underground Facilities Safe Excavation Board (Underground Safety Board) has created a regulation that all members of a regional notification center must have valid and current contact information (California Code of Regulation Title 19, Division 4 Section 4003). To assist in this requirement, a form is included to update your information. When you have changes throughout the year visit <https://digalert.org/> under the Members Tab and Member Login to revise your data. If you have questions about login credentials, contact memberservices@digalert.org.

Please sign the agreement via DocuSign and we will send back a counter signed copy for your records. You must also fill out the information sheet to be able to complete the process.

After 46 years, DigAlert is steadfast in its continuing commitment to be your damage prevention partner.

If you have any questions, please contact us at 951-808-8100.

Sincerely,

Ann Diamond
President

ASSOCIATE MEMBER AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, _____, by and between the UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA (Hereinafter referred to as "USA/SC") and _____(Hereinafter referred to as "Associate Member").

WITNESSETH:

WHEREAS, USA/SC is a nonprofit mutual benefit corporation organized under the laws of the State of California which operates a regional notification center to facilitate notice to members with underground facilities of proposed excavation; and

WHEREAS, Associate Member desires to become a member of USA/SC and USA/SC desires to accept Associate Member as a member.

NOW, THEREFORE, the parties hereto agree as follows:

1. Associate Member has reviewed the USA/SC Articles of Incorporation, By-Laws and Operating Procedures and hereby accepts and agrees to be bound by the terms and conditions thereof as they currently exist, and as may be amended from time to time.

2. Associate Member agrees to pay dues and assessments as established by the USA/SC Board of Directors from time to time.

3. Associate Member acknowledges that its performance of Services under this Agreement may involve access to personal information of users of the USA/SC website and that such access is governed by the USA/SC Privacy Policy. Associate Member shall only use such personal information for purposes of performing Services under this Agreement in accordance with the USA/SC By-Laws and Operating Procedures.

4. This Agreement shall become effective on the day and year above first written and shall continue in effect until Associate Member's membership is terminated pursuant to Article II, Section 5 of the USA/SC By-Laws.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year above first written.

<p>_____ ASSOCIATE MEMBER</p> <p>BY _____</p> <p>TITLE _____</p>	<p>UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA</p> <p>BY _____</p> <p>TITLE _____</p>
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**UNDERGROUND SERVICE ALERT
OF
SOUTHERN CALIFORNIA**

**Articles of Incorporation
Bylaws
Operating Procedures**

INCORPORATED MAY 21, 1984

REVISED 10/2022

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Item 5.

**ARTICLES OF INCORPORATION
OF
UNDERGROUND SERVICE ALERT
OF SOUTHERN CALIFORNIA**

I

Underground Service Alert of Southern California, an existing unincorporated association, is being incorporated by the filing of these articles. The name of this corporation shall be UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA.

II

This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

III

The purposes of this corporation are:

- (1) promoting public service and safety, eliminating costly damage to underground facilities, reducing lost production time due to damages, promoting compliance with the Federal Occupational Safety and Health Act of 1970 and providing help in protecting the underground environment;
- (2) providing a centralized one number call system to expedite the location of underground installations, including but not limited to water, gas, electric, telephone, oil, fuel, and sewer lines, prior to the start of any excavation work or any other work that may affect the subsurface of the earth;
- (3) receiving reports from the public, contractors, utilities and all other excavators or other entities performing any other work that may affect the subsurface of the earth who call the centralized one number call system in advance of planned excavation or similar activity;
- (4) transmitting information received from such reports to all participating members who may have underground facilities at the location of the excavation or other activity or who are otherwise concerned with said activity; and
- (5) engaging in any lawful act or activity in which a corporation organized under the Nonprofit Mutual Benefit Corporation Law may engage.

IV

The name of this corporation's initial agent for service of process is CT Corporation System.

Dated: May 21, 1984

Marlene B. Jones, Incorporator

I hereby declare that I am the person who executed the foregoing Articles of Incorporation, which execution is my act and deed.

Marlene B. Jones, Incorporator

BYLAWS
of
UNDERGROUND
SERVICE ALERT OF
SOUTHERN CALIFORNIA
A California nonprofit
mutual benefit corporation

ARTICLE I OFFICES

Section 1. *Principal Office.* The corporation's principal office is fixed and located at such place as the Board of Directors (herein called the "Board") shall determine. The Board is granted full power and authority to change said principal office from one location to another.

Section 2. *Other Offices.* Branch or subordinate offices may be established at any time by the Board at any place or places.

ARTICLE II MEMBERSHIP

Section 1. *Classes.* There shall be two classes of members: Principal members and Associate members. Principal members of the corporation shall be those investor-owned entities who own or operate 2,000 or more miles of Underground Facilities in the area served by the corporation, as such area is determined by the Board from time to time. Each Principal member, who has not previously done so prior to incorporation, shall make a capital contribution equal to \$1.75 per mile of Underground Facilities owned or operated by the Principal member in the area served by the corporation at the time the contribution is made. Each person or entity having satisfied this requirement shall be entitled to one Principal membership. Associate members of the corporation shall be all other persons, firms, corporations, associations, and governmental or public entities or agencies who own or operate any Underground Facilities in the area served by the corporation, as such area is determined by the Board from time to time. Each person or entity having satisfied this requirement is entitled to one Associate membership.

For purposes of these Bylaws, Underground Facilities means underground pipes, pipelines, conduits, cables, ducts, wires, manholes, vaults, tanks, tunnels and any encasements to furnish or transport their services or materials.

Each member shall, on or before March 31 of each year, submit to the corporation in writing the number of miles of Underground Facilities owned or operated by the member in the area then served by the corporation as of December 31 of the prior year with substantiation acceptable to the Board. In the case of members who are governmental or public entities or agencies and who elect to exercise voting rights based on per capita population in the area served by that member, that member shall, on or before March 31 of each year submit to the corporation in writing, the total population in its area as of December 31 of the prior year based on the most recent census or other method acceptable to the Board. Two or more persons or entities may have indivisible interests in a single membership of any class, provided each of them meets the requirements of such class and provided all such persons or entities shall have the rights and responsibilities of a single member unless otherwise provided.

Members of each class shall have the right to vote, as set forth in Section 2 of this Article II, for the election of directors and on a disposition of substantially all of the assets of the corporation and on a merger and on a dissolution. Additionally, members of each class shall have all of the rights afforded members under the California Nonprofit Mutual Benefit Corporation Law.

In the event of dissolution of the corporation, the Principal members of record at the time a certificate evidencing the corporation's election to dissolve is filed with the

Attorney General or, if no such election is made, at the time an order for winding up and dissolution of the corporation is entered shall receive the assets of the corporation remaining after (a) return of those assets held upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur; (b) disposition of those assets held in a charitable trust in compliance with the provisions of any trust under which such assets are held; (c) payment, or adequate provision for payment, of all taxes, penalties, debts and liabilities; and, (d) other provisions required under applicable law. Such remaining assets shall be distributed pro rata among the Principal members in the ratio which their capital contributions bear to the total capital contributions made by all Principal members.

Nothing in this Section 1 shall be construed as limiting the right of the corporation to refer to persons or entities associated with it as "members" even though such persons or entities are neither Principal nor Associate members as defined above nor members, and no such reference shall constitute such person or entity a member, within the meaning of Section 5056 of the California Nonprofit Mutual Benefit Corporation Law or the foregoing provisions of this Section 1, unless such persons or entities shall have qualified for membership as set forth above. The corporation may admit, as Sustaining members, those persons, firms, corporations, associations or public agencies who share the concern and objectives of the corporation in protection of Underground Facilities. Sustaining members shall pay the fee established by the Board from time to time but shall not have the right to vote on any of the matters set forth in the fourth paragraph of this Section 1, and shall not be a member within the meaning of Section 5056.

Section 2. Voting Rights. Subject to the provisions of Section 7612 of the California Nonprofit Mutual Benefit Corporation Law and Sections 5, 13 and 16 of this Article II, each membership shall be entitled to one vote for each mile of Underground Facilities owned or operated by the member in the area then served by the corporation (or in the case of members who are governmental or public entities or agencies who have opted to exercise voting rights on per capita population, one vote for each 1000 of population in the area served by such member) on each matter submitted to a vote of the members except for the election of directors in which case each member shall have one vote for each director's position for which it is entitled to vote in the election of directors by class. The Principal members as a class shall elect a number of directors ("Principal members of the Board") equal to the number of Principal members but not to exceed 50% of the number of directors fixed by the Board within the limits authorized by Section 2 of this Article III of these Bylaws, with each Principal member having one vote for each director's position for which it is entitled to vote. The Associate members as a class shall elect a number of directors ("Associate members of the Board") equal to the number of Principal members but not to exceed 50% of the number of directors fixed by the Board within the limits authorized by Section 2 of Article III of these Bylaws, with each Associate member having one vote for each director's position for which it is entitled to vote. Members who are not in good standing, as set forth in Section 6 of this Article II, shall not be entitled to vote on any matter.

For the purpose of computing voting rights of members, Underground Facilities shall include facilities for carrying or transporting water, gas, oil, sewerage, waste water or other liquid or gaseous substances or electricity or telephone, telegraph or other

communication signals including the total trench miles but shall exclude services, service lines or lateral extensions.

Notwithstanding the foregoing in this section, the Principal and Associate members of the Board of Directors elected pursuant to this section by the Principal and Associate members may themselves elect up to three At-Large directors to sit on the Board of Directors. The At-Large directors shall be elected as set forth in Article II, Section 13.

Section 3. *Membership Dues.* Each member shall pay periodic dues and assessments based on the class of membership. Membership dues and assessments shall be in such amounts and at such times as shall be determined by the Board.

Section 4. *Transfer of Membership.* The Board may provide for the transfer of memberships, subject to such restrictions or limitations as the Board deems appropriate including transfer upon the death, dissolution, merger or reorganization of a member.

Section 5. *Termination of Membership.* The Board may terminate or suspend a membership or expel or suspend a member for nonpayment of fees, periodic dues or assessments or for conduct which the Board deems inimical to the best interests of the corporation, including, without limitation, violation of any provision of these Bylaws or the Corporation's Operating Procedures, as such procedures may be periodically amended, or failure to satisfy membership qualifications. The Board shall give the member who is the subject of the proposed action fifteen days' prior notice of the proposed expulsion, suspension or termination and the reasons therefore. The member may submit a written statement to the Board regarding the proposed action not less than five days before the effective date of the proposed expulsion, suspension or termination. Prior to the effective date of the proposed expulsion, suspension or termination, the Board shall review any such statement submitted and shall determine the mitigating effect, if any, of the information contained therein on the proposed expulsion, suspension or termination. A suspended member shall not be entitled to exercise any of the voting rights set forth in Section 2 of this Article II.

Section 6. *Good Standing.* Any member who shall be in arrears in the payment of any installment of fees, periodic dues or assessments more than 30 days after their due date shall not be in good standing and shall not be entitled to vote as a member.

Section 7. *Place of Meetings.* Meetings of members shall be held either at the principal office of the corporation or at any other place within or without the State of California which may be designated either by the Board or by the written consent of all persons entitled to vote thereat, given either before or after the meeting and filed with the Secretary.

Section 8. *Annual Meetings.* Annual meetings of members shall be held on such date and at such time as may be fixed by the Board. In any year in which directors are elected, the election shall be held at the annual meeting. Any other proper business may be transacted at the meeting.

Section 9. *Special Meetings.* Special meetings of members may be called at any time by the Board, the Chairman of the Board, the President or not less than five percent of the members. Upon request in writing to the Chairman of the Board, the

President, any Vice President or the Secretary by any person (other than the Board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the Board, not less than 35 nor more than 90 days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice.

Section 10. *Notice of Annual or Special Meetings.* Written notice of each annual or special meeting of members shall be given not less than 10 nor more than 90 days before the date of the meeting to each member entitled to notice thereof; provided, however, that if notice is given by mail, and the notice is not mailed by first class, registered, or certified mail, the notice shall be given not less than 20 days before the meeting. Such notice shall state the place, date and hour of the meeting and (a) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (b) in the case of the annual meeting, those matters which the Board, at the time of the mailing of the notice, intends to present for action by the members, but, subject to the provisions of applicable law, any proper matter may be presented at the meeting for such action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is sent to members.

Notice of a members' meeting shall be given either personally or by mail or by other means of written communication, addressed to a member at the address of such member appearing on the books of the corporation or given by the member to the corporation for the purpose of notice, or, if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mails, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient.

Section 11. *Quorum.* A majority of the total voting power of the members must be represented at any meeting of the members in person or by proxy in order to constitute a quorum at any meeting of members. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members, unless the vote of a greater number or voting by classes is required by law, by the Articles or by these Bylaws, except as provided in the following sentence. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

Section 12. *Adjourned Meetings and Notice Thereof.* Any members' meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the votes represented, but in the absence of a quorum (except as provided in Section 11 of this Article II) no other business may be transacted at such meeting. It shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted thereat, other than by

announcement at the meeting at which such adjournment is taken; provided, however, when any members' meeting is adjourned for more than 45 days or, if after adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given as in the case of the meeting as originally called, whether annual or special.

Section 13. *Voting.* The members entitled to notice of any meeting or to vote at any such meeting shall be only persons in whose name memberships stand on the records of the corporation on the record date for notice determined in accordance with Section 14 of this Article II.

Subject to the following sentence and to the provisions of Section 7615 of the California Nonprofit Mutual Benefit Corporation Law, every member entitled to vote at any election of directors may cumulate such member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is normally entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit. No member shall be entitled to cumulate votes for a candidate or candidates pursuant to the preceding sentence unless such candidate's name or candidate's names have been placed in nomination prior to the voting and the member has given notice prior to the voting at the meeting of the member's intention to cumulate the member's votes. If any one member has given such notice, all members may cumulate their votes for candidates in nomination.

Elections need not be by ballot; provided, however, that all elections for directors must be by ballot upon demand made by a member at the meeting and before the voting begins.

In any election of directors, the candidates receiving the highest number of votes are elected.

If a membership stands of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, voting trustees, persons entitled to vote under a voting agreement or otherwise, or if two or more persons (including proxy holders) have the same fiduciary relationship respecting the same membership, unless the Secretary of the corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect:

- (i) If only one votes, such act binds all; or
- (ii) If more than one vote, the act of the majority so voting binds all.

The three At-Large members of the Board of Directors shall not be elected pursuant to the foregoing procedure, but shall be elected by the Principal and Associate members of the Board of Directors elected by the Principal and Associate members, with each such Principal and Associate Board member entitled to cast one vote for each At-Large director position. Each At-Large director position shall be filled only upon an At-Large candidate receiving an absolute majority vote of the Principal and Associate members of the Board of Directors, not merely a majority of the Board's quorum.

Voting shall in all cases be subject to the provisions of Chapter 6 of the California Nonprofit Mutual Benefit Corporation Law.

Section 14. *Record Date.* The Board may fix, in advance, a record date for the determination of the members entitled to notice of any meeting of members. The record date so fixed shall be not more than 60 days nor less than 10 days prior to the date of the meeting. When a record date is so fixed, only members of record on that date are entitled to notice of the meeting for which the record date was fixed. A determination of members of record entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the Board fixes a new record date for the adjourned meeting. The Board shall fix a new record date if the meeting is adjourned for more than 45 days.

The Board may fix, in advance, a record date for the determination of members entitled to vote at a meeting of members or to cast written ballots or to exercise any rights in respect of any other lawful action. The record date so fixed shall be not more than 60 days before the date of the meeting or before the date on which the first written ballot is mailed or solicited or before such other action, as the case may be. A determination of members of record entitled to vote at a meeting shall apply to any adjournment of the meeting unless the Board fixes a new record date for the Adjourned Meeting.

If no record date is fixed by the Board, the record date for determining members entitled to notice of a meeting of members shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held. If no record date is fixed by the Board, members on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting of members or, in the case of an adjourned meeting, members on the day of the adjourned meeting who are otherwise eligible to vote are entitled to vote at the adjourned meeting of members. The record date for determining members for any purpose other than set forth in this Section 14 or Section 10 or 16 of this Article II shall be at the close of business on the day on which the Board adopts the resolution relating thereto, or the sixtieth day prior to the date of such other action, whichever is later.

Section 15. *Consent of Absentees.* The transactions of any meeting of members, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present, and if, either before or after the meeting, each of the persons entitled to vote not present signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by the California Nonprofit Mutual Benefit Corporation Law to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the

minutes thereof, except as provided in Section 7511(f) of the California Nonprofit Mutual Benefit Corporation Law.

Section 16. *Action Without Meeting.* Subject to Section 7513 of the California Nonprofit Mutual Benefit Corporation Law, any action except election of directors which, under any provision of the California Nonprofit Mutual Benefit Corporation Law, may be taken at any regular or special meeting of members, may be taken without a meeting if the written ballot of every member is solicited, if the required number of signed approvals in writing, setting forth the action so taken, is received, and if the number of ballots cast within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast. Unless a record date for voting purposes be fixed as provided in Section 14 of this Article II, the record date for determining members entitled to cast written ballots pursuant to this Section 16, when no prior action by the Board has been taken, shall be the day on which the first written ballot is mailed or solicited, whichever is first.

Section 17. *Proxies.* Every person entitled to vote a membership has the right to do so either in person or by one or more persons authorized by a written proxy executed by such member and filed with the Secretary. Any proxy duly executed is not revoked and continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto. Such revocation may be effected either (i) by a writing delivered to the Secretary of the Corporation stating that the proxy is revoked, (ii) by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or (iii) as to any meeting, by attendance at the meeting and voting in person by the person executing the proxy; provided, however, that no proxy shall be valid after the expiration of 11 months from the date of its execution unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date of execution.

Section 18. *Inspectors of Election.* In advance of any meeting of members, the Board may appoint inspectors of election to act at such meeting and any adjournment thereof. If inspectors of election be not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairman of any such meeting may, and on the request of any member or member's proxy shall, make such appointment at the meeting. The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more members or proxies, the majority of members represented in person or by proxy shall determine whether one or three inspectors are to be appointed.

The duties of such inspectors shall be as prescribed by Section 7614(b) of the California Nonprofit Mutual Benefit Corporation Law and shall include: determining the number of memberships outstanding and the voting power of each; determining the memberships represented at the meeting; determining the existence of a quorum; determining the authenticity, validity and effect of proxies; receiving votes, ballots or consents; hearing and determining all challenges and questions in any way arising in connection with the right to vote; counting and tabulating all votes or consents; determining when the polls shall close; determining the result; and doing such acts as may be proper to conduct the election or vote with fairness to all

members. If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all.

Section 19. *Conduct of Meeting.* The Chairman of the Board shall preside as chairman at all meetings of the members. The chairman shall conduct each such meeting in a businesslike and fair manner, but shall not be obligated to follow any technical, formal or parliamentary rules or principles of procedure. The chairman's rulings on procedural matters shall be conclusive and binding on all members, unless at the time of a ruling a request for a vote is made to the members entitled to vote and which are represented at the meeting, in which case the decision of a majority of such members shall be conclusive and binding on all members. Without limiting the generality of the foregoing, the chairman shall have all of the powers usually vested in the chairman of a meeting of members.

ARTICLE III DIRECTORS

Section 1. *Powers.* Subject to limitations of the Articles, of these Bylaws and of the California Nonprofit Mutual Benefit Corporation Law relating to action required to be approved by the members or by a majority of members, the activities and affairs of the corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate the management of the activities of the corporation to any person or persons, a management company or committees however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Board shall have the following powers in addition to the other powers enumerated in these Bylaws:

- (a) To select and remove all the other officers, agents and employees of the corporation, prescribe powers and duties for them as may not be inconsistent with law, the Articles or these Bylaws, fix their compensation and require from them security for faithful service.
- (b) To conduct, manage and control the affairs and activities of the corporation and to make such rules and regulations therefore not inconsistent with law, the Articles or these Bylaws, as they may deem best.
- (c) To adopt, make and use a corporate seal, and to prescribe the forms of certificates of membership, and to alter the form of such seal and of such certificates from time to time as they may deem best.
- (d) To authorize the issuance of memberships of the corporation from time to time, upon such terms and for such consideration as may be lawful.
- (e) To borrow money and incur indebtedness for the purposes of the corporation, and to cause to be executed and delivered therefore, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefore; provided that such power to borrow money and incur indebtedness shall be exercised only upon the affirmative vote of two-thirds (2/3) of the directors present at a duly held meeting with a quorum present.

Section 2. *Number of Directors.* The authorized number of directors shall be not less than ten (10) nor more than twenty-one (21) until changed by amendment of the Articles or by Bylaw duly adopted by the members. The exact number of directors shall be determined by either the Board or the members.

Section 3. *Qualifications of Directors.* Each director shall be either an officer, an employee, or a representative of a member and fifty percent (50%) of the directors shall be officers, employees, or representatives of Principal members and fifty percent (50%) shall be officers, employees, or representatives of Associate members.

Notwithstanding the foregoing in Article III, Section 3, up to three additional directors who are neither officers nor employees of Principal members may be elected as At-Large directors of the Board. To qualify for an election as an At-Large director, an individual must be generally recognized as having broad experience and knowledge in and of underground excavation activities, underground damage prevention activities or other related fields that lend furtherance to the goals, objectives and programs of Underground Service Alert of Southern California.

Section 4. *Election and Term of Office.* Directors shall be elected at each annual meeting of the members, but if any such annual meeting is not held or the directors are not elected thereat, the directors may be elected at any special meeting of members held for that purpose. Notwithstanding the foregoing, At-Large directors shall be elected by the Principal and Associate members of the Board of Directors at a Board meeting immediately following the annual meeting of the members and the organizational meeting of the Board at which time officers are elected, immediately after any special meeting as discussed herein above in Section 4 or at any later meeting of the Board. Each director shall serve until the next annual meeting of the members and until a successor has been elected and qualified.

Section 5. *Vacancies.* Any director may resign effective upon giving written notice to the Chairman of the Board, the President, the Secretary or the Board, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected before such time to take office when the resignation becomes effective.

Vacancies in the Board, except those existing as a result of a removal of a director by the members, may be filled by a majority of the remaining directors, although less than a quorum, or by a sole remaining director, and each director so elected shall hold office until the expiration of the term of the replaced director and until such replacement director's successor has been elected and qualified.

A vacancy or vacancies in the Board shall be deemed to exist in case of the death, resignation or removal of any director, or if the authorized number of directors be increased, or if the members fail, at any regular or special meeting of members at which any director or directors are elected, to elect the full authorized number of directors to be voted for at that meeting.

The Board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, convicted of a felony, or been found by a final order or judgment of any court to have breached any duty arising under Section 7238 of the California Nonprofit Mutual Benefit Corporation Law, or who no longer meets the qualifications set forth in Section 3 of this Article III. The Board may declare

vacant the office of a director for failure to attend two Board Meetings in any term. The members may elect a director or directors at any time to fill any vacancy or vacancies not filled by the directors.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of the director's term of office.

Vacancies in an At-Large position in the Board shall be filled only by election of an At-Large director by an absolute majority of the Principal and Associate members of the Board, not merely by a majority of the Board's quorum or a majority of the remaining members of the Board, should there be any vacancy or vacancies in the seats held by Principal or Associate members of the Board of Directors. At-Large directors shall not participate in filling any vacancy or vacancies in At-Large director positions.

Section 6. *Place of Meeting.* Regular or special meetings of the Board shall be held at any place within or without the State of California which has been designated from time to time by the Board. In the absence of such designation, regular meetings shall be held at the principal office of the corporation.

Section 7. *Regular Meetings.* Immediately following each annual meeting of members the Board shall hold a regular meeting for the purpose of organization, election of officers and the transaction of other business.

Other regular meetings of the Board shall be held without call or notice on such dates and at such times as may be fixed by the Board.

Section 8. *Special Meetings.* Special meetings of the Board for any purpose or purposes may be called at any time by the Chairman of the Board, the President, any Vice President, the Secretary or any two directors.

Special meetings of the Board shall be held upon four days' notice by first class mail or 48 hours' notice given personally or by telephone, telegraph, telex, electronic mail (email) or other similar means of communication. Any such notice shall be addressed or delivered to each director at such director's address as it is shown upon the records of the corporation or as may have been given to the corporation by the director for purposes of notice or, if such address is not shown on such records or is not readily ascertainable, at the place in which the meetings of the directors are regularly held.

Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mails, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the receiver.

Section 9. *Quorum.* Forty percent (40%) of the number of directors fixed by the Board within the limits authorized by Section 2 of this Article III shall constitute a quorum of the Board for the transaction of business, except to adjourn as provided in Section 11 of this Article III. Every act or decision done or made by a majority of the

directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board, unless a greater number be required by law, these Bylaws or by the Articles, except as provided in the next sentence. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 10. *Participation in Meetings by Conference Telephone.* Members of the Board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another.

Section 11. *Waiver of Notice.* Notice of a meeting need not be given to any director who signs a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

Section 12. *Adjournment.* A majority of the directors present, whether or not a quorum is present, may adjourn any directors' meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent directors if the time and place be fixed at the meeting adjourned, except as provided in the next sentence. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

Section 13. *Action without Meeting.* Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such consent or consents shall have the same effect as a unanimous vote of the Board and shall be filed with the minutes of the proceedings of the Board.

Section 14. *Rights of Inspection.* Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation.

Section 15. *Committees.* The Board may appoint one or more committees, each consisting of two or more directors, and delegate to such committees any of the authority of the Board except with respect to:

- (a) The approval of any action for which the California Nonprofit Mutual Benefit Corporation Law also requires approval of the members or approval of a majority of all members;
- (b) The filling of vacancies on the Board or in any committee;
- (c) The fixing of compensation of the directors for serving on the Board or on any committee;
- (d) The amendment or repeal of Bylaws or the adoption of new Bylaws;
- (e) The amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;

- (f) The appointment of other committees of the Board or the members thereof;
- (g) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected;
- (h) Except as provided in Section 7233 of the California Nonprofit Mutual Benefit Law, with respect to any assets held in charitable trust, the approval of any self-dealing transaction;
- (i) The contracting for or purchase of any items in an amount in excess of \$500 during any fiscal year; or
- (j) The incurrence of debt or liability in an amount in excess of \$500 during any fiscal year.

Any such committee must be created, and the members thereof appointed, by resolution adopted by a majority of the authorized number of directors then in office, provided a quorum is present, and any such committee may be designated an Executive Committee or by such other name as the Board shall specify. The Board may appoint, in the same manner, alternate members of any committee who may replace any absent member at any meeting of the committee. The Board shall have the power to prescribe the manner in which proceedings of any such committee shall be conducted. In the absence of any such prescription, such committee shall have the power to prescribe the manner in which its proceedings shall be conducted. Unless the Board or such committee shall otherwise provide, the regular and special meetings and other actions of any such committee shall be governed by the provisions of this Article III applicable to meetings and actions of the Board. Minutes shall be kept of each meeting of each committee.

Section 16. *Fees and Compensation.* Directors and members of committees shall not receive any compensation for their services.

ARTICLE IV OFFICERS

Section 1. *Officers.* The officers of the corporation shall be a Chairman of the Board, A Vice Chairman of the Board, a President, a Secretary, and a Treasurer. The corporation may also have, at the discretion of the Board, one or more Vice Presidents, a Manager, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be elected or appointed in accordance with the provision of Section 3 of this Article IV. Any number of offices may be held by the same person unless the Articles or these Bylaws provide otherwise.

Section 2. *Election.* The officers of the corporation, except such officers as may be elected or appointed in accordance with the provisions of Section 3 or Section 5 of this Article IV, shall be chosen annually by, and shall serve at the pleasure of, the Board, and shall hold their respective offices until their resignation, removal, or other disqualification from service, or until their respective successors shall be elected.

Section 3. *Subordinate Officers.* The Board may elect, and may empower the Chairman of the Board to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as the Board may from time to time determine.

Section 4. *Removal and Resignation.* Any officer may be removed, either with or without cause, by the Board at any time or, except in the case of an officer chosen by the Board, any officer upon whom such power of removal may be conferred by the Board. Any such removal shall be without prejudice to the rights, if any, of the officer under any contract of employment of the officer.

Any officer may resign at any time by giving written notice to the corporation, but without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. *Vacancies.* A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

Section 6. *Chairman of the Board.* The Chairman of the Board is the chief executive officer of the corporation and has, subject to the control of the Board, general supervision, direction and control of the business and officers of the corporation. The Chairman shall preside at all meetings of the members and at all meetings of the Board. The Chairman has the general powers and duties usually vested in the office of chief executive officer of a corporation and such other powers and duties as may be prescribed by the Board.

Section 7. *Vice Chairman.* The Vice Chairman of the Board will assume the duties of the Chairman of the Board in his absence.

Section 8. *President.* Subject to such powers as may be given by the Board to the Chairman of the Board, the President is responsible for the general management of the corporation and promotes membership in the corporation by owners and operators of Underground Facilities and others; promotes use of the one call system by all excavators; attends meetings of outside groups and/or makes presentations to interested parties; develops and implements advertising and promotional activities; recommends changes and improvements to the operating procedures of the corporation; directs activities of the Manager; performs other duties in the furtherance of the business of the corporation as directed by the Chairman.

Section 9. *Vice Presidents.* In the absence or disability of the President, the Vice Presidents, if any be appointed, in order of their rank as fixed by the Board or, if not ranked, the Vice President designated by the Board, shall perform all the duties of the President and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice Presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board.

Section 10. *Manager.* The Manager reports to the President and exercises full responsibility for the day-to-day operations of the one call system: Hires, trains and supervises office clerks, coordinates work assignment to maintain proper telephone coverage; develops and implements quality assurance programs, reviews findings with clerks, compiles quality indices for the group and for individuals; reviews and analyzes on a sampling basis the work performed to assure accuracy and

performance in accord with established procedures; develops written procedures for the tasks performed by clerks; receives and handles unusual or complex calls; assists the President as requested and performs such other duties as may be assigned from time to time; may perform duties of office clerk.

Section 11. *Secretary*. The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board may order, a book of minutes of all meetings of members, the Board and its committees, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Board and committee meetings, the number of members present or represented at members' meetings, and the proceedings thereof. The Secretary shall keep, or cause to be kept, at the principal office in the State of California the original or a copy of the corporation's Articles and Bylaws, as amended to date.

The Secretary shall give, or cause to be given, notice of all meetings of the members and of the Board and any committees thereof required by these Bylaws or by law to be given, shall keep the seal of the corporation in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 12. *Treasurer*. The Treasurer is the chief financial officer of the corporation and shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the corporation, and shall send or cause to be sent to the members of the corporation such financial statements and reports as are by law or these Bylaws required to be sent to them. The books of account shall at all times be open to inspection by any director. The Treasurer shall prepare or cause to be prepared monthly invoices, oversee accounts payable, and maintain such records as may be required.

The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the corporation with such depositaries as may be designated by the Board. The Treasurer shall disburse the funds of the corporation as may be ordered by the Board, shall render to the President and the directors, whenever they request it, an account of all transactions as Treasurer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board.

ARTICLE V OTHER PROVISIONS

Section 1. *Inspection of Corporate Records*. Subject to Sections 8330, 8331 and 8332 of the California Nonprofit Mutual Benefit Corporation Law, a member may do either or both of the following for a purpose reasonably related to such member's interest as a member:

- (i) Inspect and copy the record of all the members' names, addresses and voting rights, at reasonable times, upon five business days' prior written demand upon the corporation, which demand shall state the purpose for which the inspection rights are requested; or
- (ii) Obtain from the Secretary of the corporation, upon written demand and tender of a reasonable charge, a list of the names, addresses and voting rights of those members entitled to vote for the election of directors, as of the most recent record date for which it has been compiled or as of a date

specified by the member subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The Secretary shall make the membership list available on or before the later of ten business days after the demand is received or after the date specified therein as the date as of which the list is to be compiled.

The corporation may, within 10 business days after receiving a demand, as set forth above in paragraph (i) or (ii) of this Section 1, deliver to the person(s) making the demand a written offer of an alternative method of achieving the purpose identified in said demand without providing access to or a copy of the membership list. Any rejection of the corporation's offer shall be in writing and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand made pursuant to paragraph (i) or (ii) of this Section 1.

The accounting books and records and minutes of proceedings of the members and the Board and committees of the Board shall be open to inspection upon written demand on the corporation of any member at any reasonable time for a purpose reasonably related to such person's interests as a member.

Section 2. Inspection of Articles and Bylaws. The corporation shall keep in its principal office in the State of California the original or a copy of its Articles and of these Bylaws as amended to date, which shall be open to inspection by members at all reasonable times during office hours. If the corporation has no office in the State of California, it shall upon the written request of any member furnish to such member a copy of the Articles or Bylaws as amended to date.

Section 3. Endorsement of Documents; Contracts. Subject to the provisions of applicable law, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing and any assignment or endorsement thereof executed or entered into between the corporation and any other person, when signed by the Chairman of the Board, the President or any Vice President and the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer of the corporation shall be valid and binding on the corporation in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same. Any such instruments may be signed by any other person or persons and in such manner as from time to time shall be determined by the Board, and, unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or amount.

Section 4. Membership Certificates. The corporation shall not issue and shall be under no obligation to issue membership certificates.

Section 5. Representation of Shares of Other Corporations. The President or any other officer or officers authorized by the Board or the President are each authorized to vote, represent and exercise on behalf of the corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of the corporation. The authority herein granted may be exercised either by any such officer in person or by any other person authorized so to do by proxy or power of attorney duly executed by said officer.

Section 6. Construction and Definitions. Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the General

Provisions of the California Nonprofit Corporation Law and in the California Nonprofit Mutual Benefit Corporation Law shall govern the construction of these Bylaws.

Section 7. *Amendments.* These Bylaws may be amended or repealed by approval of the members or by the approval of the Board; provided, however, that members must approve any action that would: (a) materially and adversely affect the rights of members as to voting, dissolution, or redemption, or transfer of memberships; (b) increase or decrease the number of memberships authorized in total or for any class; (c) effect an exchange, reclassification or cancellation of all or any part of the memberships; (d) authorize a new class of membership; or, (e) specify or change a fixed number of directors or the maximum or minimum number of directors or change from a fixed to a variable number of directors or vice versa. The power of members to approve the repeal or amendment of Bylaws is subject to the further approval of the members of a class if such action would: (a) materially and adversely affect the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption, or transfer of memberships in a manner different than such action affects another class; (b) materially and adversely affect such class as to voting, dissolution, redemption, or, transfer of memberships by changing the rights, privileges, preferences, restrictions, or conditions of another class; (c) increase or decrease the number of memberships authorized for such class; (d) increase the number of memberships authorized for another class; (e) effect an exchange, reclassification or cancellation of all or part of the memberships of such class; or, (f) authorize a new class of memberships.

A Bylaw conferring some or all of the rights of a member of any class upon any person or entity who does not have the right to vote on any of the matters set forth in Section 1 of Article II may be adopted only by approval of the members.

ARTICLE VI INDEMNIFICATION

Section 1. *Definitions.* For the purposes of this Article VI, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Sections 4 or 5(c) of this Article VI.

Section 2. *Indemnification in Actions by Third Parties.* The corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection

with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 3. *Indemnification in Actions by or in the Right of the Corporation.* The corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation, or brought under Section 5233 of the California Non-profit Public Benefit Corporation Law or brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 3:

- (a) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;
- (b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or
- (c) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval, unless such action concerns assets held in charitable trust and is settled with the approval of the Attorney General.

Section 4. *Indemnification Against Expenses.* To the extent that an agent of the corporation has been successful on the merits in defense of any proceeding referred to in Sections 2 or 3 of this Article VI or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 5. *Required Determinations.* Except as provided in Section 4 of this Article VI any indemnification under this Article VI shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Sections 2 or 3 of this Article VI, by:

- (a) A majority vote of a quorum consisting of directors who are not parties to such proceeding;
- (b) Approval of the members, with the persons to be indemnified not being entitled to vote thereon; or
- (c) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

Section 6. *Advance of Expenses.* Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article VI.

Section 7. *Other Indemnification.* No provision made by the corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this Article VI. Nothing contained in this Article VI shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

Section 8. *Forms of Indemnification Not Permitted.* No indemnification or advance shall be made under this Article VI, except as provided in Sections 4 or 5(c), in any circumstances where it appears:

- (a) That it would be inconsistent with a provision of the Articles, these Bylaws, a resolution of the members or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 9. *Insurance.* The corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this Article VI.

Section 10. *Nonapplicability to Fiduciaries of Employee Benefit Plans.* This Article VI does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the corporation as defined in Section 1 of this Article VI. The corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207 of the California General Corporation Law.

ARTICLE VII EMERGENCY PROVISIONS

Section 1. *General.* The provisions of this Article VII shall be operative only during a national emergency declared by the President of the United States or the person performing the President's functions, or in the event of a nuclear, atomic or other attack on the United States or a disaster making it impossible or impracticable for the corporation to conduct its business without recourse to the provisions of this Article VII. Said provisions in such event shall override all other Bylaws of the corporation in conflict with any provisions of this Article VII, and shall remain operative so long as it remains impossible or impracticable to continue the business of the corporation otherwise, but thereafter shall be inoperative; provided that all actions taken in good faith pursuant to such provisions shall thereafter remain in full force and effect unless and until revoked by action taken pursuant to the provisions of the Bylaws other than those contained in this Article VII.

Section 2. *Unavailable Directors.* All directors of the corporation who are not available to perform their duties as directors by reason of physical or mental incapacity or for any other reason or who are unwilling to perform their duties or whose whereabouts are unknown shall automatically cease to be directors, with like effect as if such persons had resigned as directors, so long as such unavailability continues.

Section 3. *Authorized Number of Directors.* The authorized number of directors shall be the number of directors remaining after eliminating those who have ceased to be directors pursuant to Section 2.

Section 4. *Quorum.* The number of directors necessary to constitute a quorum shall be the number bearing the same proportional relationship to the number of directors remaining pursuant to Section 2 as the quorum established in Article III, Section 8 bears to the authorized number of directors set forth in Article III, Section 2.

Section 5. *Directors Becoming Available.* Any person who has ceased to be a director pursuant to the provisions of Section 2 and who thereafter becomes available to serve as a director shall automatically resume performing the duties and exercising the powers of a director unless the term of office of such person has expired in accordance with its original terms and a successor has been selected and qualified.

CERTIFICATE OF SECRETARY of
UNDERGROUND SERVICE ALERT
(a California nonprofit mutual
benefit corporation)

I hereby certify that I am the duly elected and acting Secretary of said corporation and that the foregoing Bylaws, comprising 19 pages, constitute the Bylaws of said corporation as duly adopted at a meeting of the Board of Directors thereof held on

Secretary

UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA OPERATING PROCEDURES

Mission Statement

The mission of Underground Service Alert of Southern California (DigAlert), as an independent non-profit mutual benefit corporation, is to ensure the safety of excavation workers and the general public by preventing damage to subsurface infrastructure through education, advocacy, and operation of an effective communications link between excavators and subsurface infrastructure owners/operators. To achieve this mission, DigAlert includes excavators, locators, engineers, and operators of subsurface infrastructure on its Board and welcomes all who have an interest in excavation safety to provide input on accomplishing this mission.

Beliefs and Principles

DigAlert is:

A professional, nonpartisan coordinator of excavation information providing a safe working environment for excavation workers by preventing damage to subsurface infrastructure.

The sole service organization utilizing state of the art electronic communications to link excavators and owners/operators of subsurface infrastructure.

The services of DigAlert are provided at no cost* to the excavators and may be accessed by most available electronic formats including internet, mobile and telephone.

Strategic Plan

DigAlert will:

Provide professional, responsive, nonpartisan quality service to both excavators and owners/operators of subsurface infrastructure.

Maximize the efficiency of its organization in the execution of its duties while promoting the "contact before you dig" process and California Government Code Section 4216.

*Additional elite services may be available for a marginal fee.

1. PURPOSE

1.01 The primary purpose of Underground Service Alert of Southern California ("DigAlert"), is to provide a regional notification system (the "Center") to expedite the location of underground facilities (as defined in DigAlert's Bylaws) prior to the start of any excavation work. For purposes of these Operating Procedures, the following definitions will apply:

- (a) "Excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives in any of the following ways: grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping, cable or pipe plowing and driving, or any other way.
- (b) "Excavator" means any person, firm, contractor or subcontractor, owner, operator, utility, association, corporation, partnership, business trust, public agency, or other entity that, with their own employees or equipment, performs any excavation.

1.02 The Center's major functions are:

- (a) To receive information from anyone who contacts the Center of any planned excavation work. The notifications received for this purpose are called "DigAlerts."
- (b) To transmit this information to all members who have notified DigAlert that they have underground facilities at the location of the excavation work or who are otherwise concerned with the excavation work. The member is then responsible for notifying the excavator pursuant to California Government Code section 4216 et seq.
- (c) To promote use of and membership in DigAlert.

2. OBJECTIVES

2.01 The Center is designed to encourage acceptance and active participation by all underground operators, government agencies and excavators. DigAlert's objectives are to:

- (a) Promote public safety
- (b) Eliminate costly damage to underground facilities;
- (c) Reduce lost production time due to damages;
- (d) Promote compliance with California Government Code Section 4216 et seq.;
- (e) Promote compliance with California Code of Regulations Title 19 Division 4;
- (f) Help protect our underground environment;
- (g) Promote membership in DigAlert;
- (h) Promote use of DigAlert Direct;
- (i) Promote involvement in the California Regional Common Ground Alliance (CARCGA) and
- (j) Encourage reporting of incident events via the CARCGA Virtual Private Damage Information Reporting Tool (DIRT).

3. RATE STRUCTURE

- 3.01 Each member will be assessed a fee in accordance with the applicable rates adopted by the Board of Directors from time to time. A copy of the rate schedule currently in effect is attached hereto as Exhibit I.
- 3.02 The fees collected through this rate structure will cover the operating costs of the Center.

4. CONTRACTOR

- 4.01 DigAlert may contract with a third party for the management of the Center under the ultimate direction of the Board of Directors.

5. COMMUNICATIONS

- 5.01 DigAlert will provide sufficient equipment and personnel to maintain efficient operation of the Center. Increases in costs incurred will be justified by management to the Board of Directors.
- 5.02 For liability purposes, all incoming DigAlert calls are recorded on electronic media. Said recordings are made in accordance with tariffs on file with the California Public Utilities Commission and local, state and federal law.
- 5.03 Each member is individually responsible for maintaining equipment capable of receiving DigAlert information.
- 5.04 Members utilizing a third party to receive their DigAlert notifications are responsible for ensuring that notifications are received and processed as if the member were receiving the notifications directly. Members, or their designated third party agents, who receive DigAlert information via electronic means (i.e.: email, WebTMS) are responsible for retrieving their notifications once delivered to their designated location.
- 5.05 Members who use the Center's Web Ticket Management System (WebTMS) will pay applicable charges as set forth in Exhibit II attached hereto. The Board of Directors may amend these charges from time to time.
- 5.06 Members will provide an electronic positive response through the Center for each ticket type received that requires a response. Methods to provide the response are listed under documentation on the DigAlert.org website.

6. CENTER OPERATIONS

- 6.01 The Center's business hours are from 6:00 a.m. to 7:00 p.m. Monday through Friday excluding holidays.
- 6.02 The Center is closed on state and federal holidays. If Christmas Eve & New Year's Eve fall on a Monday through Thursday, the Center will close at 3:00 p.m.
- 6.03 DigAlert shall provide the personnel necessary to carry out its business and shall employ a President, Manager, Customer Service Representatives and other Employees. The work schedule of the Manager, Customer Service Representatives and other Employees will be arranged to provide adequate personnel during business hours.
- 6.04 DigAlert will bill members in accordance with the rates established from time to time by the Board as follows:

- (a) DigAlert will determine, prepare and email a bill for each member in accordance with the approved rate structure. Alternate methods of receiving invoices may be approved by DigAlert on a case-by-case basis, members may not make alternate methods a requirement for payments to be processed. For purposes of accounting, books are kept of each month's billing by member name. Said books shall be kept in accordance with generally accepted accounting principles.
- (b) DigAlert will compile a monthly summary of the Center's operating costs in detail as well as the current month's billing. These reports will be submitted to the Board at the next scheduled board meeting.
- (c) Upon receipt of the monthly bill, each member will make payment by check made out to "Underground Service Alert." This check is to be sent to DigAlert at the Center's mailing address. Alternate methods of remittance must be approved by DigAlert prior to use.
- (d) DigAlert will credit the appropriate member's account when payments are received and will deposit the money in the DigAlert bank account. Chairman will review all financial practices.
- (e) Payments are due and payable upon receipt of each monthly bill. Payments not received within 45 days of the date of the bill, may be subject to a 5% penalty of the amount billed.
- (f) If payment is not received within 135 days of the date of the bill a certified letter will be sent to the member which shall indicate that the member is no longer in good standing and if payment is not received within 90 days they will be terminated.
- (g) Upon termination a complaint will be filed with the California Underground Facilities Safe Excavation Board that the entity is longer a member of Underground Service Alert of Southern California as required by California Government Code section 4216 et seq.
- (h) DigAlert will maintain records of all expenses associated with the Center operations. These records are subject to audit by the Board of Directors.
- (i) DigAlert will send out invoices on behalf of the California Underground Facilitates Safe Excavation Board pursuant to CCR Title 19 Division 4 Section 4011. Payment for these invoices will be made to Underground Service Alert of Southern California under the DigAlert EIN.
- (j) Certificate of Liability Insurance will be provided to those members that request it but will not include a worker's comp waiver of subrogation endorsement.

6.05 DigAlerts refer to notification of excavations as defined in 1.01 (a).

- (a) All DigAlerts called into 811 or a toll-free line will be recorded.
- (b) Each DigAlert will have a ticket number assigned to it, which will be given to each excavator for future reference.

- (c) Unless the excavation is necessary due to an emergency, all excavators not giving a legal excavation start date and time as defined in California Government Code section 4216 et seq. will be reminded of this requirement, and that the affected member(s) must have a minimum of 2 working days not including the date of notification in which to mark their lines. If the excavation is necessary due to an emergency, excavators will be given the definition of an emergency as stated in California Government Code section 4216 and notified that members responding may charge a locating fee if the job does not meet the statutory definition. All excavators not delineating their proposed excavation site will be informed that state law requires that the excavator shall delineate the area to be excavated before contacting the Center and if the area is not delineated the members may, at their discretion, chose not to locate and field mark until the area is delineated. In addition, the excavator will be advised that the DigAlert is active for 28 calendar days and that work continuing beyond that time requires a renewal of the DigAlert prior to expiration of the 28 day period. DigAlerts may be renewed online or by calling 811. The excavator will be advised that state law requires that excavation shall not begin until all members have responded. The excavator will also be notified that after they have initially marked, state law requires the excavator to notify DigAlert if the members' marks are no longer reasonably visible.
- (d) After all the necessary information (set forth on Exhibit V attached hereto) to complete the DigAlert has been given, Center personnel will tell the caller which member(s) will be notified. In the event that the information was provided online a list of the members to be notified will be displayed.

6.06 Locations

Each member is responsible for submitting to DigAlert shape files in NAD83 Datum or WSG84 Datum with a Coordinate Reference System of Latitude/Longitude. Shape files must contain valid data for their shape type – lines must contain at least 2 points; polygons must have at least 3 points, etc. DigAlert will annually send a report to each member to verify that all areas in which they have underground facilities are included in the Center's database.

6.07 Contact Information

Each member is responsible for submitting to DigAlert a list of contacts within their organization for issues related to billing, design requests, problems receiving DigAlerts, emergencies during working hours, emergencies after hours, no response – if the member hasn't responded to a DigAlert notification, requests for permission to utilize vacuum equipment and a main contact. These listings will be requested annually by the Center. Each member shall notify DigAlert of any changes, as they occur, with respect to the contact listing as required by CCR Title 19 Division 4 Section 4003. DigAlert will include this contact listing in the Center's database.

6.08 Transmission of DigAlert information

All DigAlert information will be dispatched by DigAlert to each affected member as soon as possible after receipt thereof. DigAlert shall use reasonable judgment in determining the sequential order in which such requests are to be transmitted.

- (a) Each member is responsible for immediately notifying the Center of any indecipherable message received from the Center, and/or any technical failure of equipment used by the member (or its designated agent) for purpose of receipt of DigAlert notifications from the Center of which it is or should be aware.
- (b) When trouble with or failure of, equipment used by a member to receive DigAlert notifications from the Center is discovered, the member (or its designated agent) will be responsible for reporting it to the appropriate personnel for repair.
- (c) Other provisions of these operating procedures notwithstanding, the Center shall use its best efforts to receive and transmit DigAlerts in the event of electrical power failure which precludes the recording and normal transmission of messages.
- (d) DigAlert will send to all members on a DigAlert any follow-up excavator requests for additional information, any notifications of work continuing, requests for re-marks or failure of any member(s) to respond.
- (e) DigAlerts received to report emergency work that must be done immediately, will be handled as an emergency type and transmitted as soon as possible.
- (f) Excavators reporting damage to underground lines DigAlert will send a damage/exposed DigAlert to members in the area of damage as well as the California Underground Facilities Safe Excavation Board. The Center will also provide the excavator with the emergency telephone number of any member(s) involved.

6.09 After Hours

All calls received by the Center after scheduled operating hours will be answered by a recording device attached to 811 or a toll-free number. A pre-recorded message will advise the caller of the Center's scheduled operating hours and direct them to call back or to visit www.DigAlert.org for more information. The message will also refer all emergency notifications to the affected member or non-member.

6.10 Archives

DigAlert shall maintain a file of all DigAlerts and recorded conversations for a period of **five** (5) years. At the end of **five** (5) years, DigAlert will destroy the above records unless otherwise requested in writing by any member. Upon receipt of a request, DigAlert will supply a copy of the information requested to the requesting member, at the member's expense, to be maintained by the member.

DigAlert shall archive the following:

- (a) Notifications received including time received and ticket number;
- (b) Notifications giving less than 48 hours' notice, including ticket number, excavator's company and length of notice in hours;
- (c) Messages transmitted, including ticket number involved;
- (d) Monthly summaries of the member transmissions, and notification distribution;

DigAlerts will be communicated by excavators to DigAlert by a toll free number, 811, via the DigAlert website, or via DigAlert applications. All notifications on DigAlert toll free lines or 811 will be recorded. Notification of DigAlerts will be transmitted to

members electronically, depending on the needs of each member and as agreed upon between the member and DigAlert. Recordings and computer copies will be retained by DigAlert for the use and benefit of members, DigAlert, and users of the regional notification system. Recorded conversations will be handled, recorded, played, and stored, by DigAlert only, or by such qualified operators as may be designated by the Chairman of the Board to maintain reliability and integrity of the recordings.

DigAlert will provide, upon written request, one copy of any DigAlert and if also requested a .wav format of the conversation. All revisions, through the date of incident or such date as requested, of the DigAlert ticket will be provided. For current fees for copies of DigAlerts see Exhibit III– Archive Record Fees.

6.11 Design Stage

Excavators not excavating within 14 calendar days can request “design stage” information either via the Centers website or from Center personnel. A list of members and their contact information, that has been provided by the member(s), with underground facilities in the proposed excavation area will be supplied. For current fees see Exhibit IV– Design Stage Fees.

6.12 Area of Continual Excavation Tickets (ACE)

Locations where excavation is part of the normal business activities of agricultural operations or flood control facilities are considered ACE tickets. Excavators can obtain an ACE ticket by notifying the Center at least two working days, not including the date of notification, up to six months from the date of notification. ACE tickets are valid for one year from date of issuance. An electronic reminder will be sent one month before expiration.

6.13 Electronic Positive Response

Members shall supply an electronic positive response through the center before the legal excavation start date and time. DigAlert will make those responses available to the excavator.

7. PUBLIC RELATIONS AND PUBLICITY

7.01 The Center will maintain a log of all presentations made involving the promotion of the DigAlert program. Arrangements may be made through the Safety Awareness Director for such presentations to be given to any interested groups.

7.02 Advertisement and promotional materials will designate "Underground Service Alert of Southern California" and/or DigAlert and should include the 811 logo.

7.03 To prevent duplication of effort and to maintain continuity of promotional items, all members are asked to submit to the Board of Directors at least one copy of any promotional materials used (including intracompany promotions), which were not processed through the Board of Directors.

7.04 A complete file of all promotional material will be kept by the Center.

7.05 Members will be encouraged to list 811 and www.DigAlert.org as the member’s “contact information” for purposes of notifying before excavating near their underground facilities in any directories in which the member’s company or agency appears.

- 7.06 The Center will encourage all members and excavators to report "incident events" via the California Regional Common Ground Alliance Virtual Private Damage Information Reporting Tool. The Center will post an annual report on www.DigAlert.org of the compiled statewide information regarding "incident events" provided by operators and excavators. For purposes of this section a "incident event" means the occurrence of excavator downtime, damages, near misses and violations.
- 7.07 Members may, on a voluntary basis, supply information to DigAlert regarding excavators that do not comply with California Government Code section 4216 et seq. The information supplied will include the excavator's name, address (including, city, state and zip code), and the date and location of the incident. DigAlert will send informational materials to those excavators regarding the requirements of California Government Code section 4216 et seq.

EXHIBIT I**Dues Schedule
Effective July 1, 2022**

- I. Associate members shall pay a fee of \$1.75 for each **new** DigAlert notification received during the previous month.
- II. Principal members shall pay a fee of \$1.75 for each **new** DigAlert notification received during the previous month. In addition, Principal members may be assessed from time to time an amount as determined by the Board to maintain the level of working capital necessary to insure financial stability. Such assessment shall be based on the ratio which the number of miles of underground facilities owned or operated by that member bears to the total miles owned or operated by all Principal members within the area served by the Corporation.
- III. New members with only 1 member code will be charged \$10 per month until a years' worth of transmissions data is obtained. All others will be under the schedule below:

Billed Member Codes	Rate
1 member code < 100 new transmissions a year	No Charge
1 – 5 member codes	\$10 per month
6 – 10 member codes	\$20 per month
11 – 15 member codes	\$30 per month
16 – 20 member codes	\$40 per month
More than 20 member codes	\$50 per month

EXHIBIT II**Web Ticket Management System (WebTMS) Charges
Effective July 1, 2022**

- I. Members who use DigAlert's WebTMS program shall pay a one-time set up fee of \$150.00.
- II. Rates are based on number of users and based on a monthly rate billed annually.
- | | |
|----------------|-------------------|
| Up to 5 users | \$30.00 per month |
| Up to 10 users | \$55.00 per month |
| Up to 15 users | \$80.00 per month |
| Up to 20 users | \$105 per month |
- III. Optional Program Add-Ons are based on a monthly rate billed annually.
- | | |
|--------------------|----------------|
| Ticket Attachments | \$25 per month |
|--------------------|----------------|

EXHIBIT III**Archive Record Fees
Effective January 1, 2014**

I.	Member		
	25 Requests in a month	Free	
	26+ Requests in a month	\$15.00 each addition request	
II.	Non Member		
	Each DigAlert Ticket	\$50	
	No DigAlert Ticket Provided	\$50 per each year requested	
	Copy of conversation	\$50 per location requested	

EXHIBIT IV**Design Stage Fees
Effective January 1, 2014**

I.	Member		
	DigAlert Personnel	\$25.00 up to 1 square mile	
	Web Design Subscription	Free	
II.	Non Member		
	DigAlert Personnel	\$50.00 up to 1 square mile	
	6 month Web Design Subscription	\$150.00	
	1 year Web Design Subscription	\$240.00	
	2 year Web Design Subscription	\$350.00	



Contact 811

2 Working Days Before You Dig

(Not Including the Date of Notification)

DigAlert No. _____

LOCATION REQUEST FORM

For faster service, prior to call fill out all non-italicized fields
For Single Or Multiple Addresses, Corner or Interseccion, and Work On the Street, Use DigAlert Direct
@ direct.digalert.org

Date & Time of call: _____ **Operator:** _____

Caller Type (select one):

- Contractor City Homeowner
 Member Other

Caller: _____

Language (select one):

- English Chinese Spanish
 Vietnamese Other _____

Company phone #: _____

Company name: _____

Address: _____

City: _____ State: _____ ZIP: _____

Office Email: _____

Email confirmations for this ticket and positive responses? Yes No

Cell Phone: _____

SMS confirmations for this ticket and positive responses? Yes No

Site Contact: _____ Phone _____

Email: _____

Email confirmations for this ticket and positive responses? Yes No

Cell Phone: _____

SMS confirmations for this ticket and positive responses? Yes No

Delineation Method (check all that apply):

- None Chalk Flags Flour Stakes Whiskers White Paint: Other

Type of work: _____

County: _____ City: _____

If more than 1 address or descriptive location: _____

Address: _____ Street: _____ Closest X/ST: _____

Latitude/Longitude: _____

Does excavation enter into the street or sidewalk: Yes No

Boring: Yes No Explosives: Yes No Vacuum: Yes No

Emergency: Yes No Pavement: Yes No

Work being done for: _____

Permit #: _____ Not Required Not Available Pending Blanket Unknown

Work Order / Job #: _____

Date & Time work is to begin: _____

Renew on or before date: _____

Member notified by USA: _____

ASSOCIATE MEMBER AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20__, by and between the UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA (Hereinafter referred to as "USA-SC") and _____(Hereinafter referred to as "Associate Member").

WITNESSETH:

WHEREAS, USA-SC is a nonprofit mutual benefit corporation organized under the laws of the State of California which operates a regional notification center to facilitate notice to members with underground facilities of proposed excavation; and

WHEREAS, Associate Member desires to become a member of USA-SC and -USA-SC desires to accept Associate Member as a member.

NOW, THEREFORE, the parties hereto agree as follows:

1. Associate Member has reviewed the USA-SC Articles of Incorporation, By-Laws and Operating Procedures and hereby accepts and agrees to be bound by the terms and conditions thereof as they currently exist, and as may be amended from time to time.

2. Associate Member agrees to pay dues and assessments as established by the USA-SC Board of Directors from time to time.

3. Associate Member acknowledges that its performance of Services under this Agreement may involve access to personal information of users of the USA-SC website and that such access is governed by the USA-SC Privacy Policy. Associate Member shall only use such personal information for purposes of performing Services under this Agreement in accordance with the USA-SC By-Laws and Operating Procedures.

4. This Agreement shall become effective on the day and year above first written and shall continue in effect until Associate Member's membership is terminated pursuant to Article II, Section 5 of the USA-SC By-Laws.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year above first written.

<p>_____ ASSOCIATE MEMBER</p> <p>BY _____</p> <p>TITLE _____</p>	<p>UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA</p> <p>BY _____</p> <p>TITLE _____</p>
--	--

Fill Out Completely - Member Code(s): _____

Item 5.

Main Contact (receives correspondence from USA/SC)

Company Name: _____

Contact Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

e-mail: _____

Check box if you want a copy of the minutes sent to you

Billing Contact (receives invoices from USA/SC) – EIN: _____

All invoices will be emailed – e-mail is required

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ e-mail: _____

Voting Rights – See page 4 of the Bylaws/Operating Procedures Booklet for an explanation

Mileage: _____ Population: _____

Choose either Mileage or Population (if Government Agency)

Engineering Contact (receives requests for pre-planning or design stage information from excavators who are NOT digging in the next 14 days)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

e-mail: _____

Emergency Contact (receives calls during working hours for damages)

Name: _____

Phone: _____

e-mail: _____



Information Sheet

Receiver Contact (able to assist if email is not delivering)

Name: _____

Phone: _____

e-mail: _____

After Hours Contact (receives calls after working hours for damages)

Name: _____

Phone: _____

e-mail: _____

Vacuum Contact (person to be contacted by excavator if anything other than a hand tool is going to be used to expose your line in conflict)

Name: _____

Phone: _____

e-mail: _____

No Response Contact (person to be contacted by excavator if lines have not been marked)

Name: _____

Phone: _____ Email: _____

Office Hours

Monday: _____ to _____

Tuesday: _____ to _____

Wednesday: _____ to _____

Thursday: _____ to _____

Friday: _____ to _____

State/Federal Agency

Is company a state or federal agency?

State Federal

Type of Lines

Check all that apply - **Select at Least One**

Cable TV

Electric

Fiber Optic

Fuel

Gas

Irrigation

Monitoring Wells

Oil

Reclaimed Water

Sewer

Storm Drain

Street Lights

Streets, Asphalt

Telephone

Traffic

Wastewater

Water

Other: _____
Describe Type of Line

Certificate Of Completion

Envelope Id: DBA05ADAB5E7445B98AAAA2976C2592B Status: Sent
 Subject: Underground Service Alert of Southern California Updated By-Laws/Agreement/Contact Information
 Source Envelope:
 Document Pages: 42 Signatures: 0 Envelope Originator:
 Certificate Pages: 5 Initials: 0 Underground Service Alert of Southern California
 AutoNav: Enabled 1379 Pico St #101
 Envelopeld Stamping: Enabled Corona, CA 92881
 Time Zone: (UTC-08:00) Pacific Time (US & Canada) docusign@digalert.org
 IP Address: 0.0.0.0

Record Tracking

Status: Original Holder: Underground Service Alert of Southern Location: DocuSign
 3/20/2023 7:00:13 AM California
 docusign@digalert.org

Signer Events

Signature	Timestamp
Elyse E. Dayrit edayrit@escondido.org Security Level: Email, Account Authentication (None)	Sent: 7/17/2023 10:23:15 AM Viewed: 7/17/2023 10:24:06 AM
Electronic Record and Signature Disclosure: Accepted: 7/17/2023 10:24:06 AM ID: e1722468-e5d9-4967-a62b-b9f8061dbf41	

Underground Service Alert of Southern California
 docusign@digalert.org
 Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events

Editor Delivery Events

Agent Delivery Events

Intermediary Delivery Events

Certified Delivery Events

Carbon Copy Events

Signature	Timestamp
Terry Delaney tdelaney@escondido.org Security Level: Email, Account Authentication (None)	Sent: 7/17/2023 10:23:17 AM Viewed: 7/17/2023 10:23:46 AM
COPIED	
Electronic Record and Signature Disclosure: Accepted: 7/13/2023 1:33:16 PM ID: 27f7533a-3bd4-4bf1-928e-e26cd1baaf9f	

Member Services
 memberservices@digalert.org
 Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Item 5.

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
--------------------------------	---------------	-------------------

Envelope Sent	Hashed/Encrypted	3/20/2023 7:00:16 AM
Envelope Updated	Security Checked	7/13/2023 1:25:22 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, DigAlert (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact DigAlert:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: docusign@digalert.org

To advise DigAlert of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at docusign@digalert.org and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from DigAlert

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to docusign@digalert.org and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with DigAlert

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to docusign@digalert.org and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify DigAlert as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by DigAlert during the course of your relationship with DigAlert.



STAFF REPORT

August 23, 2023
File Number 0480-70

SUBJECT

APPROVE THE ADDITION OF TWO TEMPORARY (GRANT-FUNDED) PROJECT MANAGER POSITIONS TO THE FY23/24 OPERATING BUDGET AND THE ASSOCIATED BUDGET ADJUSTMENT

DEPARTMENT

Development Services

RECOMMENDATION

Request that the City Council adopt Resolution No. 2023-107 authorizing the addition of two temporary (grant-funded) Project Manager positions to the FY23/24 Operating Budget and approve the associated budget adjustment for completion of time sensitive capital improvement projects.

Staff Recommendation: Approval (Development Services Department, Andrew Firestine, Director and Julie Procopio, City Engineer)

Presenter: Julie Procopio, City Engineer

FISCAL ANALYSIS

The estimated total cost of the two grant-funded positions is \$285,850 per year. Temporary project management is required through the end of 2026 to support completion of several grant-funded projects prior to the December 31, 2026 deadline for American Rescue Plan funding. The cost of project managers is fully offset through allocations to Capital Improvement Projects that are funded with grant and capital project funding.

BACKGROUND

As discussed during the May 24, 2023 Capital Improvement Project (CIP) Budget workshop, the City's CIP has doubled in size in the past four years from \$130-million in 2019 to \$304-million in 2023. At least 26 new projects have been added to the program that are predominantly funded with grant funds. Each grant carries with it a deadline for completion of the project. Based on the growth of the CIP, there is not adequate project management capacity to deliver the projects in the timeline required by the grants.

After evaluating alternatives, it has been determined that hiring project managers as City staff on a temporary basis is the most advantageous way to address management of a number of small capital projects, including several projects funded with American Rescue Plan funding. Hiring in-house staff members to perform this work makes training and supervision more efficient and facilitates multi-



CITY *of* ESCONDIDO

STAFF REPORT

departmental coordination that is necessary to deliver these CIP projects. In addition, it is more cost effective to hire in-house staff as consultant project management costs are double that of hiring in-house project managers (\$360,000 vs. \$143,000 per year).

In addition to these positions, consultant services have been recommended for management of specific projects that require special knowledge and expertise, such as the library modernization project. Consultant services are also anticipated to be needed to address short-term peak demands for construction inspection.

Staff recommends the addition of two temporary (grant-funded) Project Managers to the Engineering Operating budget for FY23/24. Staff further recommends approval of the associated budget adjustment in the amount of \$285,850.

RESOLUTIONS

- a. Resolution No. 2023-107

ATTACHMENTS

- a. Attachment "1" – Budget Adjustment

RESOLUTION NO. 2023-107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING THE ADDITION OF TWO GRANT-FUNDED PROJECT MANAGER POSITIONS TO THE FY23/24 OPERATING BUDGET AND THE ASSOCIATED BUDGET ADJUSTMENT.

WHEREAS, the adopted Capital Improvement Program has doubled in size over the past four years resulting in inadequate project management capacity to deliver Capital Improvement Program projects in the timelines required by associated grant funding; and

WHEREAS, the addition of two temporary (grant-funded) Project Manager positions are recommended to meet timelines required by associated grant funding.

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

1. That the above recitations are true.
2. That the City Council authorizes the addition of two temporary (grant-funded) Project Manager positions at an estimated cost of \$214,420 to the FY23/24 Operating Budget.



BUDGET ADJUSTMENT REQUEST

Department:	Development Services	<u>For Finance Use Only</u> BA # _____ Fiscal Year _____
Department Contact:	Julie Procopio	
City Council Meeting Date: <i>(attach staff report)</i>	August 23, 2023	

EXPLANATION OF REQUEST

Requesting authorization to add two temporary (Grant/Project Funded) Project Managers. Temporary project management is required through the end of 2026 to support completion of several grant-funded projects prior to the December 31, 2026 deadline for American Rescue Plan funding. The cost of project managers is fully offset through allocations to Capital Improvement Projects that are funded with grant and capital project funding.

BUDGET ADJUSTMENT INFORMATION

Project/Account Description	Account Number	Amount of Increase	Amount of Decrease
Regular Full-Time	5001-001-402	\$151,540	
Other Employee Overhead	5025-001-402	\$4,150	
PERS – Normal Cost	5026-001-402	\$17,500	
Medical Premiums	5027-001-402	\$27,700	
Workers Compensation	5028-001-402	\$5,670	
Flexible Benefits	5030-001-402	\$7,860	
Allocations Out-Capital Improvement Projects	5902-001-402	(\$214,420)	

APPROVALS

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DEPARTMENT HEAD	DATE	FINANCE	DATE



STAFF REPORT

August 23, 2023
File Number 0480-70

SUBJECT

\$107,296 CALIFORNIA LIBRARY LITERACY SERVICES ENGLISH AS A SECOND LANGUAGE GRANT

DEPARTMENT

Library

RECOMMENDATION

Request the City Council adopt Resolution No. 2023-110 authorizing the City Manager to receive grant funds of \$107,296 and execute, on behalf of the City, grant-related documents necessary for implementation of English as a Second Language services.

Staff Recommendation: Approval (Communications & Community Services: Joanna Axelrod, Deputy City Manager/Director of Communications)

Presenter: Dan Wood, Senior Librarian of Youth and Literacy Services

FISCAL ANALYSIS

There is no impact to the General Fund. This grant does not require any match and the services are performed by Library Systems & Services staff within the budgetary parameters of the grant.

PREVIOUS ACTION

On March 2, 2022, City Council approved Resolution 2022-30 authorizing the receipt of grant funds of \$52,000 necessary for implementation of English as a Second Language services.

BACKGROUND

The FY 2021-22 State budget included one-time California Library Literacy Services funding of \$15 million for English as a Second Language (“ESL”) Services. These funds will be allocated over a five-year period. This funding covers year 3 from July 1, 2023 to June 30, 2024. This funding is separate from the funding received in support of the Adult Literacy and Families for Literacy programs. Funding is used to sustain program operations including the purchase of ESL learning materials and supporting technology, part-time ESL staffing costs, and staff training. Programming focuses on small group instruction via ESL instructors, trained volunteer tutors with tailored learning instruction focused around learner goals, as well as in-person and virtual offerings to meet the community’s needs. This service, provided free to participants, helps to facilitate better verbal and written communication and language comprehension skills, engages with a wider portion of the community to educate them on the services and materials



CITY of ESCONDIDO

STAFF REPORT

offered by the library, and supports the achievement of learner goals which include but are not limited to the pursuit of higher education, registering to vote, passing college entrance exams, and earning higher-paid jobs. Between September 2022-July 31, 2023, the program served 53 ESL learners with more than 870 hours of instruction. New learners inquire and enroll on a rolling basis and since June 2023, 15 more learners have enrolled.

RESOLUTIONS

- a. Resolution No. 2023-110

ATTACHMENTS

- a. Attachment "1" – Budget Adjustment
- b. Attachment "2" – State Funded Grants Award Agreement

RESOLUTION NO. 2023-110

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE ACCEPTANCE OF CALIFORNIA LIBRARY LITERACY SERVICES ENGLISH AS A SECOND LANGUAGE GRANT FUNDS, AND THE EXECUTION, ON BEHALF OF THE CITY, OF GRANT-RELATED DOCUMENTS

WHEREAS, the Escondido Public Library is a current recipient of California Library Literacy Services grant funding; and

WHEREAS, in June 2021 the California Legislature approved one-time California Library Literacy Services funding of \$15 million for English as a Second Language Services. These funds will be allocated over a five-year period and the State Library has awarded Escondido Public Library \$107,296 in Year 3 funding; and

WHEREAS, the City of Escondido desires to strengthen the library's capacity to deliver high-quality English as a Second Language services; help adults develop confidence and skills in their verbal and written communication; and achieve personal goals such as the pursuit of higher education, and

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

1. That the above recitations are true.
2. That the City Council authorizes the City Manager to receive grant funds and execute, on behalf of the City, grant-related documents necessary for the completion of the aforementioned program.



BUDGET ADJUSTMENT REQUEST

Department:	Library	<u>For Finance Use Only</u> BA # _____ Fiscal Year _____
Department Contact:	Joanna Axelrod	
City Council Meeting Date: <i>(attach staff report)</i>	August 23, 2023	

EXPLANATION OF REQUEST

California Library Literacy Services English as a Second Language program FY2023/24 Grant Award from the California State Library – Year 3 of Funding

BUDGET ADJUSTMENT INFORMATION

Project/Account Description	Account Number	Amount of Increase	Amount of Decrease
Library ESL Grant -LSTA	449203-401	\$107,296	
Library Revenue	4119-401	107,296	

APPROVALS

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DEPARTMENT HEAD	DATE	FINANCE	DATE



30 May 2023

Dara Bradds
Escondido Public Library
239 S. Kalmia St.
Escondido, CA 92025

Dear Ms. Dara Bradds,

We're pleased to provide funds to support your English as a Second Language program and the important work that you, your staff, and your volunteers do for your community through the California Library Literacy Services program.

In 2021-2022, the state budget included one-time California Library Literacy Services funding at \$15 million for English as Second Language Services. These funds will be allocated over a five-year period. This award letter covers Year 3 of funding between July 1, 2023, and June 30, 2024.

Your total award for the 2023-2024 fiscal year beginning July 1, 2023, is:

- **Total Award: \$107,296**

Your funds must be fully expended by June 30, 2024, in accordance with your approved budget on file with the State Library. The budget listed in your award packet indicates your original grant request. Your library may have to submit a new budget for review and approval to reflect your 2023-2024 English as a Second Language Services award.

To ensure that program expenditures are consistent with the California Library Literacy Services allowable expenses, please review the [California Library Literacy Services Allowable and Unallowable Expenses](#) guidelines. If you have any questions about expenses or expending your award funds, please contact Allyson Jeffredo at Allyson.Jeffredo@library.ca.gov.

We strongly encourage your program staff to develop and maintain community partners to strengthen your program, attend regular regional library literacy network meetings, participate in your local Adult Education Consortium, and participate in library literacy training opportunities offered by the regional networks and the State Library to meet the [CLLS Mission, Values, and Program](#)




[Essentials](#). Additional California Library Literacy Services resources can also be found on the [California Library Literacy Services webpage](#).

The payment process begins when we receive your completed and signed budget modification form (if needed), claim form, certification form, and State Funded Grants Award Agreement and Certificate of Compliance (attached). All forms should be completed and signed through DocuSign to be processed for payment.

Our library literacy staff is available to assist you throughout the year. Please contact your Advisor Beverly Schwartzberg, beverly.schwartzberg@library.ca.gov, and your Grant Monitor Allyson Jeffredo, Allyson.Jeffredo@library.ca.gov, with any questions.

Thank you for your willingness to do so much for those in your community. Best wishes for a successful year.

Respectfully yours,

DocuSigned by:

BDA50981C41C416...

Greg Lucas
California State Librarian

Cc: Beverly Schwartzberg, beverly.schwartzberg@library.ca.gov
Allyson Jeffredo, allyson.jeffredo@library.ca.gov
Fiscal Office, stategrants.fiscal@library.ca.gov
Myrna Montano, myrna.montano@escondidolibrary.org
Dan Wood, Dan.Wood@escondidolibrary.org

Enc: Re: ESL21-3-12: Claim form, certification form, and State Funded Grants Award Agreement and Certificate of Compliance

THE BASICS – YOUR GRANT AWARD

The following provides basic information about your grant and managing your grant.

Award #:	ESL21-3-12
Library:	Escondido Public Library
Total Award Amount:	\$107,296

ESL GRANT REQUEST

Salary and Benefits	\$120,000
Contract Staff	\$19,000
Operations	\$8,000
Library Literacy Materials	\$14,000
Small Equipment	\$6,000
Equipment (\$5,000 or more per unit)	\$0
Subtotal	\$167,000
Indirect	\$3,000
Award Difference to be Adjusted (included in grant total below)	-\$62,704
Grant Total	\$107,296

Start Date:	Upon execution
End Date:	June 30, 2024
Please understand that it can take between eight to ten weeks following the receipt of an error free claim form before grant funds are delivered. If you have not received your payment after eight weeks, please contact your grant monitor.	

CONTACT

We want your project to be successful. Please work with the program staff listed below to implement your project:

Literacy Analyst:	Allyson Jeffredo
Phone Number:	(916) 603-6709
Email Address:	allyson.jeffredo@library.ca.gov
Library Programs Consultant:	Beverly Schwartzberg
Phone Number:	(916) 701-6880
Email Address:	beverly.schwartzberg@library.ca.gov

Escondido Public Library

PROJECT INFORMATION:

Invoice #: ESL21-3-12

Project Title: English as a Second Language Services

Grantee: Escondido Public Library

Funding Start Date: Upon execution

Term Completion: June 30, 2024

In Process

Escondido Public Library

Total Award: \$107,296

PAYMENT SCHEDULE:

Libraries receive 100% of their 2023-2024 English as a Second Language Services award upon receipt of the award letter.

Note: Libraries have 18 months to spend their 2023-2024 English as a Second Language Services award funds, from July 1, 2023, in which the funds are awarded until December 31, 2024.

	English as a Second Language Service Award
Final Payment	\$107,296
Total	\$107,296

In Process

REPORTING:

For the 2023-2024 program period, libraries will be required to submit a mid-year report and final report. Reminder emails will be sent out beginning six weeks before the required reports are due.

All required reporting materials will be located on the California State Library's website. The reporting schedule is detailed below.

Mid-Year Report	Due January 31, 2024
Final Report	Due September 30, 2024

Note: A budget modification form will be required for all budget changes regardless of amount. Modification forms may be submitted throughout the year but no later than May 31st.



STATE FUNDED GRANTS
AWARD AGREEMENT AND
CERTIFICATE OF COMPLIANCE



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PROJECT SUMMARY

AWARD AGREEMENT BETWEEN THE STATE LIBRARY and Escondido Public Library for the English as a Second Language Services project.

AWARD AGREEMENT NUMBER ESL21-3-12

This Award Agreement ("Agreement") is entered into on July 1, 2023 by and between the California State Library ("State Library") and Escondido Public Library, ("Grantee").

This Award Agreement pertains to Grantee's State-funded English as a Second Language Services project.

The Library Development Services Bureau ("LDS") of the State Library administers state and federal funds in the form of awards.

The Grantee was selected by the State Library to receive state grant funds in the amount of \$107,296 through the process adopted by the State Library in administering such grants.

The State Library and the Grantee, for the consideration and under the conditions hereinafter set forth in the Grant Agreement, agree as follows:



PROCEDURES and REQUIREMENTS

A. Term of the Agreement

The Grant term begins July 1, 2023, and ends June 30, 2024. The project's final expenditure date is December 31, 2024. If completion of the project occurs prior to the end of the grant period, this will be the end date of the term of this agreement. Grant eligible program expenditures may begin no earlier than the start date. The project's final encumbrance period ends on June 30, 2024, and all eligible program costs must be expended by December 31, 2024.

B. Scope of Work

1. Grantee agrees to perform all activities specifically identified in the Grantee's application and submitted to the State Library in response to the English as a Second Language Services project.
2. The following activities and deliverables to be performed by the Grantee include, but are not limited to the following:
 - Maintain and keep records of expenditures related to the grant that are consistent with Generally Acceptable Accounting Practices (GAAP).
 - Make financial records available to the State Library upon request.
 - Work with the State Library staff to assure that funds are disbursed in compliance with the purpose of the grant.
 - Prepare and submit required narrative and financial reports.
 - Procure equipment, and other supplies as needed for the project.
 - Issue contracts for services, personnel, and consultants as needed for the project.
 - If applicable, make payments for services, including for hours worked and travel reimbursements, to consultants and contractors.
 - Oversee the implementation of project activities.

C. Budget Detail

The State Library shall provide the Grantee funding for the expenses incurred in performing the Scope of Work and activities specified in the Grantee's application. The Grantee shall request the distribution of grant funding consistent with its proposal and

the budget worksheet that was included with the application. Under no circumstances shall payments exceed the total grant amount identified in this Agreement.

D. Narrative and Financial Reports

1. The Grantee shall be responsible for submission of interim and final **narrative and financial** reports on the progress and activities of the project, to the California State Library, using the sample report documents provided by the California State Library.
2. All the reports must be current, include all required sections and documents, and must be approved by the Grant Monitor before any payment request can be processed. Failure to comply with the specified reporting requirements may be considered a breach of this Agreement and result in the termination of the Agreement or rejection of the payment request and/or forfeiture by the Grantee of claims for costs incurred that might otherwise have been eligible for grant funding. Any problems or delays must be reported immediately to the Grant Monitor. The financial reports shall reflect the expenditures made by the Grantee under the Agreement and may be incorporated into the same reporting structure as the narrative reports.
3. The reports shall be submitted by the following dates:

Reporting Period	Report	Due Date
July – December	2023-2024 Mid-Year Report Due	January 31, 2024
January – Project End Date	2023-2024 Final Report Due	September 30, 2024

4. Failure to submit timely reports with the appropriate documentation by the due date may result in rejection of the payment request and/or forfeiture by the Grantee of claims for costs incurred that might otherwise have been eligible for grant funding.
5. The Grantee agrees to maintain records and supporting documentation pertaining to the performance of this grant, subject to possible audit for a minimum of five (5) years after final payment date or grant term end date, whichever is later. Please refer to Exhibit A, Terms and Conditions, for more information.

E. Claim Form and Payment

1. The California State Library shall provide the Grantee payment as outlined in the payment schedule only if all requirements for claiming the funds as outline in this document have been met, and only for those activities and costs specified in the approved award application.

2. The Grantee shall complete, sign, and submit Certification of Compliance form (Exhibit B) and the Financial Claim form (included in your award packet), to the California State Library within 14 days of receiving this award packet. These forms will be issued, signed, and submitted using the online signature and agreement platform, DocuSign, unless DocuSign is unallowable or inconsistent with practices and policies of the local jurisdiction. If the use of DocuSign is not acceptable to your organization, please contact your grant monitor regarding alternate options.
3. Any of the sums appearing under the categories in the approved budget may be adjusted with prior authorization from the California State Library Grant Monitor. This would be to increase the allotment with the understanding that there will be corresponding decreases in the other allotments so that the total amount paid by the California State Library to the Grantee under this Agreement shall not exceed the awarded amount, which shall be expended/encumbered during the grant period.
4. If the payment amount made by the California State Library exceeds the actual expenses incurred during the term of this Agreement, as reflected in the financial reports to be filed by the Grantee, the Grantee shall immediately refund the excess payment amount to the California State Library.
5. The Award payments will only be made to the Grantee. It is the Grantee's responsibility to pay all contractors and subcontractors for purchased goods and services.
6. The Final Payment of 10% will be withheld and retained by the California State Library until all conditions agreed upon in this Agreement, including submission and grant monitor approval of the interim and final narrative and financial reports, have been satisfied.
7. **Prompt Payment Clause**
The California State Library will make payments to the Grantee in accordance with the Prompt Payment Clause under Government Code, section 927, *et. seq.* The Grantee may typically expect payment within 45 days from the date a grant payment request is properly submitted and approved by the Grant Monitor.
8. **Budget Contingency Clause**
 - a. It is mutually agreed that if the Budget Act of the current fiscal year or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall no longer be in full force and effect. In this event, the California State Library shall have no liability to pay any funds whatsoever to the Grantee or to furnish any other considerations under this Agreement and the Grantee shall not be obligated to perform any provisions of this Agreement.

- b. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this Program, the California State Library shall have the option to either cancel this Agreement with no liability occurring to itself or offer an Agreement amendment to the Grantee to reflect the reduced amount.

In Process



EXHIBIT A: TERMS and CONDITIONS

1. **Accessibility:** The State is responsible for ensuring that public websites are accessible to both the general public and state employees, including persons with disabilities. Grantee shall assist the State in meeting its responsibility. Therefore, all project materials generated by state funded programs must meet the [California Accessibility Standards](#). Additionally all project materials designed, developed, and maintained shall be in compliance with the California Government Code, sections 7405 and 11135, and the Web Content Accessibility Guidelines 2.0, or a subsequent version, as published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria.

However, if for some reason project material is not generated to be in compliance to meet these standards, please still submit it to the State Library. When submitting the material make sure to note that the material is not accessible by including "NOT ACCESSIBLE" in the file name.

The California State Library reserves the right to post project materials to its website that are in compliance with these standards.

2. **Acknowledgment:** The State of California and the California State Library shall be acknowledged in all promotional materials and publications related to the English as a Second Language Services project.
 - a. Grant award recipients must ensure that the State of California receives full credit as the source of funds and that the California State Library, likewise, is acknowledged as the administrator.
 - b. Publications and information releases about the project must credit the State of California. An appropriate statement for a publication or project press release is:

"This [publication/project] was supported in whole or in part by funding provided by the State of California, administered by the California State Library."

Grantees must include the above statement in any publications, vehicle wraps, and promotional materials, including websites. If space is limited the State Library logo and the following shortened acknowledgement statement is acceptable:

"Funding provided by the State of California."

- c. This credit line on products of a project, such as materials, is important to foster support from the public, and state funding sources.
 - d. California State Library Logo: Use of the California State Library logo, which can be downloaded on the [California State Library website](#), is required on any publication, vehicle wrap, or promotional material along with the above statement(s).
 - e. Photo Documentation: Digital photos are a great way to document the happenings of your project. It is recommended that you use a photo release form when taking photos of the public. You may use your library's photo release form, or contact your grant monitor for the State Library's form.
3. Agency: In the performance of this Agreement the Grantee and its agents and employees shall act in an independent capacity and not as officers, employees or agents of the California State Library. The Grantee is solely responsible for all activities supported by the grant. Nothing in this Agreement creates a partnership, agency, joint venture, employment, or any other type of relationship between the parties. The Grantee shall not represent itself as an agent of the California State Library for any purpose, and has no authority to bind the State Library in any manner whatsoever.
 4. Amendment: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated into this Agreement is binding on any of the parties. This Agreement may be amended, modified or augmented by mutual consent of the parties, subject to the requirements and restrictions of this paragraph.
 5. Applicable law: The laws of the State of California shall govern all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder. The parties hereby waive any right to any other venue. The place where the Agreement is entered into and place where the obligation is incurred is Sacramento County, California.
 6. Assignment, Successors, and Assigns: The Grantee may not assign this Agreement or delegate its performance to any third-party person or entity, either in whole or in part, without the California State Library's prior written consent. The provisions of this Agreement shall be binding upon and inure to the benefit of the California State Library, the Grantee, and their respective successors and assigns.
 7. Audit and Records Access: The Grantee agrees that the California State Library, the Department of General Services, the State Auditor, or their designated representatives shall have the right to review, audit, inspect and copy any records and supporting documentation pertaining to the performance of this Agreement. The Grantee agrees to maintain such records for possible audit for a minimum of five (5) years after the final payment, or grant term end date,

whichever is later, unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later. The Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement.

Examples of audit documentation may include, but not limited to, competitive bids, grant amendments, if any, relating to the budget or work plan, copies of any agreements with contractors or subcontractors if utilized, expenditure ledger, payroll register entries, time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts and change orders, samples of items and materials developed with grant funds, invoices and/or cancelled checks.

8. Authorized Representative: Grantee and the California State Library mutually represent that their authorized representatives have the requisite legal authority to sign on their organization's behalf.
9. Communication: All communications from either party, including an interim check-in at any time during the grant term, shall be directed to the respective grant manager or representative of the California State Library or Grantee. For this purpose, the following contact information is provided below

Escondido Public Library
Dara Bradds
239 S. Kalmia St.
Escondido, CA 92025
Dara.Bradds@escondidolibrary.org
(760) 839-4329

California State Library
Allyson Jeffredo
900 N Street
Sacramento, CA 95814
allyson.jeffredo@library.ca.gov
916-603-6709

10. Confidentiality: Grantee will maintain as confidential any material it receives or produces that is marked **Confidential** or is inherently confidential or is protected by privilege. Grantee agrees to alert the State Library to this status in advance, and State Library agrees to maintain this status in conformity with the Public Records Act.
11. Contractor and Subcontractors: Nothing contained in this Grant Agreement or otherwise shall create any contractual relation between the State and any contractor or subcontractors, and no contract or subcontract shall relieve the Grantee of his or her responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to the State for the acts and omissions of its

contractors, subcontractors, volunteers, student interns and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its contractors and subcontractors is an independent obligation from the State's obligation to make payments to the Grantee. As a result, the State shall have no obligation to pay or to enforce the payment of any monies to any contractor or subcontractor.

12. Copyright: Grantee owns and retains titles to any copyrights or copyrightable material from any original works that it creates within the scope of this Agreement in accordance with the federal Copyright Act. (17 U.S.C. 101, *et seq.*) Grantee is responsible for obtaining any necessary licenses, permissions, releases or authorizations to use text, images, or other materials owned, copyrighted, or trademarked by third parties and for extending such licenses, permissions, releases, or authorizations to the California State Library pursuant to this section. Also, the California State Library may upload, post or transmit copyrighted material produced or purchased with grant funds on a California State Library website for public access and viewing.
13. Discharge of Grant Obligations: The Grantee's obligations under this Agreement shall be deemed discharged only upon acceptance of the final report by California State Library. If the Grantee is a non-profit entity, the Grantee's Board of Directors shall accept and certify as accurate the final report prior to its submission to California State Library.
14. Dispute Resolution: In the event of a dispute, Grantee will discuss the problem informally with the Grant Monitor. If unresolved, the Grantee shall file a written "Notice of Dispute" with the State Library Grant Monitor within ten (10) days of discovery of the problem. Within ten (10) days of receipt, the Grant Monitor shall meet with the Grantee for purposes of resolving the dispute. Any dispute arising under the terms of this Agreement which is not disposed of within a reasonable period of time, the Grantee may bring it to the attention of the State Librarian or the designated representative. The decision of the State Librarian or designated representative shall be final. Unless otherwise instructed by the Grant Monitor, the Grantee shall continue with its responsibilities under this Agreement during any dispute.
15. Drug-free Workplace: The Grantee certifies under penalty of perjury under the laws of California, that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, § 8350 *et seq.*) and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

- b. Establish a Drug-Free Awareness Program to inform employees about all of the following:
- 1) The dangers of drug abuse in the workplace.
 - 2) The Grantee's policy of maintaining a drug-free workplace;
 - 3) Any available counseling, rehabilitation and employee assistance programs.
 - 4) Penalties that may be imposed upon employees for drug abuse violations.
- c. Require that every employee who works on the Agreement will:
- 1) Receive a copy of the Grantee's drug-free workplace policy statement.
 - 2) Agrees to abide by the terms of the Grantee's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and grantee may be ineligible for award of any future state agreements if the California State Library determines that the grantee has made a false certification or violated the certification by failing to carry out the requirements as noted above.

16. Effectiveness of Agreement: This Agreement is of no force or effect until signed by both parties.
17. Entire Agreement: This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with all attachments hereto, contains the entire agreement of the parties.
18. Exclusive Agreement: This is the entire Agreement between the California State Library and Grantee.
19. Executive Order N-6-22-Russia Sanctions: The Grantee shall comply with Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate grant agreements with, and to refrain from entering any new grant agreements with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Grantee is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Grantee advance written notice of such termination, allowing Grantee at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.
20. Extension: The State Librarian or designee may extend the final deadline for good cause. The Grantee's request for an extension of the grant period must be

made in writing and received by the California State Library at least 30 days prior to the final deadline.

- 21. Failure to Perform:** The grant being utilized by the Grantee is to benefit the English as a Second Language Services project. If the Grant Monitor determines the Grantee has not complied with this Agreement, the Grantee may forfeit the right to reimbursement of any grant funds not already paid by the California State Library, including, but not limited to, the ten percent (10%) withhold.
- 22. Federal and State Taxes:** The State Library shall not:
- a. Withhold Federal Insurance Contributions Act (FICA) payments from Grantee's payments or make FICA payments on the Grantee's behalf; or
 - b. Make Federal or State unemployment insurance contributions on Grantee's behalf; or
 - c. Withhold Federal or State income taxes from Grantee's payments
- Grantee shall pay all taxes required on payments made under this Agreement including applicable income taxes and FICA.
- 23. Force Majeure:** Neither the California State Library nor the Grantee, its contractors, vendors, or subcontractors, if any, shall be responsible hereunder for any delay, default, or nonperformance of this Agreement, to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, flood, or other contingencies unforeseen by the California State Library or the Grantee, its contractors, vendors, or subcontractors, and beyond the reasonable control of such party.
- 24. Forfeit of Grant Funds and Repayment of Funds Improperly Expended:** If grant funds are not expended, or have not been expended, in accordance with this Agreement, the State Librarian or designee, at his or her sole discretion, may take appropriate action under this Agreement, at law or in equity, including requiring the Grantee to forfeit the unexpended portion of the grant funds, including, but not limited to, the ten percent (10%) withhold, and/or to repay to the California State Library any funds improperly expended.
- 25. Fringe Benefit Ineligibility:** Grantee agrees that neither the Grantee nor its employees and contract personnel are eligible to participate in any employee pension, health benefit, vacation pay, sick pay or other fringe benefit plan of the State of California or the State Library.
- 26. Generally Accepted Accounting Principles:** The Grantee is required to use Generally Accepted Accounting Principles in documenting all grant expenditures.

27. Grant Monitor: The Grant Monitor's responsibilities include monitoring grant progress, and reviewing and approving Grant Payment Requests and other documents delivered to the California State Library pursuant to this Agreement. The Grant Monitor may monitor Grantee performance to ensure Grantee expends grant funds appropriately and in a manner consistent with the terms and conditions contained herein. The Grant Monitor does not have the authority to approve any deviation from or revision to the Terms and Conditions (Exhibit A) or the Procedures and Requirements unless such authority is expressly stated in the Procedures and Requirements.
28. Grantee: the government or legal entity to which a grant is awarded and which is accountable to the California State Library for the use of the funds provided.
- a. The grantee will make reports to the State Librarian in such form and containing such information as may be required to ensure the proper used of funds consistent with the grantee's application and award agreement. The grantee will keep such records and afford such access as the California State Library may find necessary to assure the correctness and verification of such reports.
29. Grantee Accountability: The Grantee is ultimately responsible and accountable for the manner in which the grant funds are utilized and accounted for and the way the grant is administered, even if the Grantee has contracted with another organization, public or private, to administer or operate its grant program. In the event an audit should determine that grant funds are owed to the California State Library, the Grantee is responsible for repayment of the funds to the California State Library.
30. Grantee Funds: It is mutually agreed that the Grantee is responsible for furnishing funds beyond the grant award that may be necessary to complete the project.
31. Independent Action: Grantee reserves the right to fulfill its obligations under this Agreement in an independent manner, at any location and at any time within the agreed-upon timeline. Grantee's employees or contract personnel shall perform all services required by this Agreement, but their time need not be devoted solely to fulfilling obligations under this Agreement. Grantee shall furnish all equipment and materials used to meet its obligations, and complete the Project. The State Library shall not provide any personnel or other resources beyond the grant award, and is not required to provide training in connection with this Agreement.
32. Indemnification: Grantee agrees to indemnify, defend and save harmless the State of California, the California State Library and its officers, employees, and agents, from any and all claims, losses, and liabilities accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm

or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Grantee in the performance of this Agreement.

33. License to Use: The California State Library reserves a fully paid-up, royalty-free, nonexclusive, sub-licensable and irrevocable license to reproduce, publish, prepare derivative works, distribute or otherwise use, and to authorize third parties to use, any material received or maintained by Grantee in connection with this Agreement. This includes intellectual property, with or without third-party rights. All such usages will be for public library and State governmental purposes:

- a. The copyright in any work developed under this grant, sub-grant, or contract under this grant or sub-grant; and
- b. Any rights of copyright to which a Grantee, sub-grantee, or a contractor purchases ownership with grant support.

34. Limitation of Expenditure: Expenditure for all projects must conform to the grantee's approved budget and with applicable State laws and regulations. The total amount paid by the California State Library to the Grantee under this agreement shall not exceed \$107,296 and shall be expended/encumbered in the designated award period.

During the award period, the grantee may find that the awarded budget may need to be modified. Budget changes, requests for additional funds, or requests for reductions in award funding must be discussed with the assigned State Library Grant Monitor and a Grant Award Modification may be required to be submitted according to the instructions. Approval is by the State Librarian or their designee. Adjustments should be reported on the next financial report. Any adjustments in approved budgets must be documented and documentation retained in project accounts.

35. Lobbying: Grantee confirms that the grant funds will not be used for the purposes of lobbying or otherwise attempting to influence legislation, as those purposes are defined by the U.S. Internal Revenue Code of 1986.

36. Non-Discrimination Clause: During this grant period, the Grantee and the Grantee's contractors, and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status,

sex, age, sexual orientation, or military and veteran status. Grantee shall insure that the evaluation and treatment of contractors, employees and applicants for employment are free from such discrimination and harassment.

Additionally, Grantee, contractors, and subcontractors, if applicable, shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 *et seq.*), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 *et seq.*), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§ 11135-11139.5), and the regulations or standards adopted by the California State Library to implement such article.

Grantee shall permit access by representatives of the Department of Fair Employment and Housing and the California State Library upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or the California State Library shall require ascertaining compliance with this clause. Grantee, and its contractors, and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.) Grantee shall include the non-discrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under the Agreement.

37. Notices: All notices and other communications in connection with this Agreement shall be in writing, and shall be considered delivered as follows:

- a. **Electronic Mail (E-mail):** When sent by e-mail to the last e-mail address of the recipient known to the party giving notice. Notice is effective upon transmission.
- b. **DocuSign (e-signature platform):** When sent via DocuSign a notification will be sent to the last e-mail address of the recipient known to the party giving notice. Notice is effective upon transmission.
- c. **Grants Management System:** When sent via / uploaded to the California State Library's Grants Management System a notification will be sent to the last e-mail address of the recipient known to the party giving notice. Notice is effective upon transmission.
- d. **Personally:** When delivered personally to the recipient's physical address as stated in this Agreement.
- e. **U.S. Mail:** Five days after being deposited in the U.S. Mail, postage prepaid, and addressed to recipient's address as stated in this Agreement.

38. Order of Precedence: The performance of this Agreement shall be conducted in accordance with the Terms and Conditions, Procedures and Requirements,

Certificate of Compliance, Project Summary, Activities Timeline, and Budget, of this Agreement, or other combination of exhibits specified on the Grant Agreement Coversheet attached hereto (collectively referred to as "Terms"). Grantee's California State Library-approved Application (Grantee's Application) is hereby incorporated herein by this reference. In the event of conflict or inconsistency between the articles, exhibits, attachments, specifications or provisions that constitute this Agreement, the following order of precedence shall apply:

- a. Grant Agreement Coversheet and any Amendments thereto
- b. Terms and Conditions
- c. Procedures and Requirements
- d. Certificate of Compliance
- e. Project Summary
- f. Grantee's Application (including Budget and Activities Timeline)
- g. All other attachments hereto, including any that are incorporated by reference.

39. Payment:

- a. The approved Budget, if applicable, is attached hereto and incorporated herein by this reference and states the maximum amount of allowable costs for each of the tasks identified in the Project Summary and Activity Timeline included in the project application. California State Library shall provide funding to the Grantee for only the work and tasks specified in the Grantee's Application at only those costs specified in the Budget and incurred in the term of the Agreement.
- b. The Grantee shall carry out the work described in the Work Plan or in the Grantee's Application in accordance with the approved Budget and shall obtain the Grant Monitor's written approval of any changes or modifications to the Work Plan, approved project as described in the Grantee's Application, or the approved Budget prior to performing the changed work or incurring the changed cost. If the Grantee fails to obtain such prior written approval, the State Librarian or designee, at his or her sole discretion, may refuse to provide funds to pay for such work or costs.
- c. The Grantee shall request funds in accordance with the funding schedule included in this agreement.
- d. Ten percent (10%) will be withheld from the Payment Request (if applicable) and paid at the end of the grant term, when all reports and conditions stipulated in this Agreement have been satisfactorily

completed. Failure by the grantee to satisfactorily complete all reports and conditions stipulated in this Agreement may result in forfeiture of any such funds withheld.

- e. Lodgings, Meals and Incidentals: Grantee's eligible costs are limited to the amounts authorized in the [California State Administrative Manual](#) (see Exhibit C or contact the Grant Monitor for more information).
- f. Payment will be made only to the Grantee.
- g. Reimbursable expenses shall not be incurred unless and until the grantee receives a Notice to Proceed as described in the Procedures and Requirements.

40. Personal Jurisdiction: The Grantee consents to personal jurisdiction in the State of California for all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties. Native American Tribal grantees expressly waive tribal sovereign immunity as a defense to any and all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties.

41. Personnel Costs: Any personnel expenditures to be paid for with grant funds must be computed based on actual time spent on grant-related activities and on the actual salary or equivalent hourly wage the employee is paid for their regular job duties, including a proportionate share of any benefits to which the employee is entitled.

42. Pledge: This Agreement shall not be interpreted to create any pledge or any commitment by the State Library to make any other or further grants or contributions to Grantee, or any other person or entity in connection with the Project. It is mutually agreed that Grantee is responsible for furnishing funds beyond the grant award that may be necessary to complete outcomes or deliverables.

43. Privacy Protection: Both parties agree to protect the confidentiality of any non-public, personal information that may be contained in materials received or produced in connection with this Agreement, as required by Civil Code, section 1798, *et. seq.*

44. Prohibited Use: The expenditure under this program shall not be used to supplant Grantee efforts in other grant programs provided by the California State Library.

45. Public Records Act: Material maintained or used by the California State Library is considered "public record" under the Public Records Act (PRA) at Government Code, sections 6250, *et. seq.* This includes the Interim and Final reports, and any other written communications between the parties. Grantee agrees to ensure that all content contained in its written reports are appropriate for publication.

Said material, along with all other reports, documentation and data collected during the term of the Agreement, will be subject to disclosure unless it qualifies for exemption under the PRA in whole or in part. Grantee agrees to alert the State Library as to a basis for exemption, if any exists.

46. Publicity Obligations: Grantee will notify the State Library of any promotional materials or publications resulting from the grant no later than five (5) days in advance of distribution, whether they are print, film, electronic, or in any other format or medium. Copies of all promotional materials will be provided to the State Library. Grantee will acknowledge the State Library's support as noted above. Grantee agrees that the State Library may include information about this grant and its outcomes in its own annual reports, with specific reference to Grantee, and may distribute such information to third parties.
47. Records: Communications, grant related documents, data, original receipts, and invoices must be maintained by Grantee and shall be made available to the State Library upon request. Grantee agrees to maintain adequate grant program records and adequate financial records consistent with generally accepted accounting practices, and to retain all records for at least five (5) years after the end-of-term. The State Library may monitor or conduct an onsite evaluation of Grantee's operation to ensure compliance with this Agreement, with reasonable advance notice.
48. Reduction of Waste: In the performance of this Agreement, Grantee shall take all reasonable steps to ensure that materials purchased or utilized in the course of the project are not wasted. Steps should include, but not be limited to: the use of used, reusable, or recyclable products; discretion in the amount of materials used; alternatives to disposal of materials consumed; and the practice of other waste reduction measures where feasible and appropriate.
49. Reimbursement Limitations: Under no circumstances shall the Grantee seek reimbursement pursuant to this Agreement for a cost or activity that has been or will be paid for through another funding source. The Grantee shall not seek reimbursement for any costs used to meet cost sharing or matching requirements of any other California State Library funded program.
50. Reports and Claims: It is the responsibility of the grantee make the required reports and claims to the California State Library.
 - a. The grantee shall be responsible for submitting to the State Library Narrative Reports detailing progress and activities. The reports are due on the dates specified in the reporting schedule detailed in the Procedures and Requirements section.

- b. The grantee shall be responsible for submitting to the State Library Financial Reports reflecting grantee expenditure activity. The reports are due on the dates specified in the reporting schedule detailed in the Procedures and Requirements section.
- c. To obtain payment hereunder the grantee shall submit authorized claims provided by the State Library for that purpose, on each of the following mentioned dates for payment, and the California State Library agrees to reimburse the Library as soon thereafter as State fiscal procedures will permit.
- d. The final 10% of the grant award (if applicable) is payable only upon approval of all final reports and receipt of claim form. Failure to provide timely reports is a serious breach of an award recipient's administrative duty under the award.
- e. Payment will be provided to cover the expenditures incurred by the grantee for the project in the following manner:
 - o \$107,296 upon execution of the agreement and submission of claim by the grantee organization.

51. Self-Dealing and Arm's Length Transactions: All expenditures for which reimbursement pursuant to this Agreement is sought shall be the result of arm's-length transactions and not the result of, or motivated by, self-dealing on the part of the Grantee or any employee or agent of the Grantee. For purposes of this provision, "arm's-length transactions" are those in which both parties are on equal footing and fair market forces are at play, such as when multiple vendors are invited to compete for an entity's business and the entity chooses the lowest of the resulting bids. "Self-dealing" is involved where an individual or entity is obligated to act as a trustee or fiduciary, as when handling public funds, and chooses to act in a manner that will benefit the individual or entity, directly or indirectly, to the detriment of, and in conflict with, the public purpose for which all grant monies are to be expended.

52. Severability: If any part of this Agreement is found to be unlawful or unenforceable, such provisions will be voided and severed from this Agreement, but the remainder of the provisions in the Agreement will remain in full force and effect.

53. Site Visits: The Grantee shall allow the California State Library to access and conduct site visits, with reasonable notice, at which grant funds are expended and related work being performed at any time during the performance of the work and for up to ninety (90) days after completion of the work, or until all issues related to the grant project have been resolved. A site visit may include, but not

be limited to, monitoring the use of grant funds, provide technical assistance when needed, and to visit the State funded project.

54. Termination: The Agreement shall be subject to termination by the State Librarian or designee upon notice to the Grantee at least thirty (30) days prior to the effective date of termination. In the event this agreement is terminated, the Grantee shall deliver to the State Librarian copies of all reports, accounting, data, and materials prepared up to the date of termination. The State Librarian shall determine and pay the Grantee for necessary and appropriate expenditures and obligations up to the date of termination which have not been covered by prior installments previously paid to the Grantee. Upon such termination, the unused portion of the grant award must be returned to the California State Library within 45 days. If funding has been advanced to the Grantee, any unobligated balances, as determined by the State Librarian, shall be returned to the State Library within 45 days of the notice of termination.

55. Timeline: Time is of the essence to this Agreement. It is mutually agreed between the parties that the grant application and the timeline included therein are part of the Agreement.

56. Unused Funds: At the end-of-term Grantee agrees to return any unexpended or unaccounted for funds to the State Library, or to submit a written request for an extension of the grant period. Funds will be considered unexpended or unaccounted if they were: (1) not used for their intended purpose, or (2) used inconsistent with the terms of this Agreement.

Funds will also be considered unaccounted for, and must be returned, if the proposal outcomes or deliverables are materially incomplete by the end-of-term or earlier termination, as determined by the State Library in its sole discretion.

57. Waiver of Rights: California State Library shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by California State Library. No delay or omission on the part of California State Library in exercising any rights shall operate as a waiver of such right or any other right. A waiver by California State Library of a provision of this Agreement shall not prejudice or constitute a waiver of California State Library's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by California State Library, nor any course of dealing between California State Library and Grantee, shall constitute a waiver of any of California State Library's rights or of any of grantee's obligations as to any future transactions. Whenever the consent of California State Library is required under this Agreement, the granting of such consent by California State

Library in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of California State Library.

58. Work Products: Grantee shall provide California State Library with copies of all final products identified in the Work Plan and Application. Grantee shall also provide the State Library with copies of all public education and advertising material produced pursuant to this Agreement.

59. Worker's Compensation: The State of California will not provide Workers' Compensation insurance for Grantee or Grantee's employees or contract personnel. If Grantee hires employees to perform services required by this Agreement, Grantee shall provide Workers' Compensation insurance for them. The Grantee is aware of Labor Code Section 3700, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the Labor Code, and the Grantee agrees to comply with such provisions before commencing the performance of the work of this Agreement.



EXHIBIT B: CERTIFICATION of COMPLIANCE FORM

1. **AUTHORIZED REPRESENTATIVE:** I certify that the authorized representative named below is the legally designated representative of the Grantee for this Grant Agreement and project and is authorized to receive and expend funds in order to administer this grant program.
2. I certify that all information provided to the California State Library for review in association with this award is correct and complete to the best of my knowledge, and as the authorized representative of the Grantee, I commit to the conditions of this award, and I have the legal authority to do so.
3. I certify that any or all other participants or contractors in the grant program have agreed to the terms of the application/grant award and have entered into an agreement(s) concerning the final disposition of equipment, facilities, and materials purchased for this program from the funds awarded for the activities and services described in the attached, as approved and/or as amended in the application by the California State Librarian.
4. The authorized representative, on behalf of the Grantee, certifies that the Grantee will comply with all applicable requirements of State and Federal laws, regulations, and policies governing this program, to include the requirements listed below in this Certification of Compliance Form.
5. The authorized representative, on behalf of the Grantee, hereby certifies to the California State Library, for an award of funds in the amount \$107,296. This award will provide library services as set forth in the Project Application as approved and/or as amended by the California State Librarian.
6. **STATEMENT OF COMPLIANCE:** Grantee has, unless exempted, complied with the non-discrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102).
7. **DRUG-FREE WORKPLACE REQUIREMENTS:** Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;

- 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
- 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Grantee may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Grantee has made false certification or violated the certification by failing to carry out the requirements as noted above. (Gov. Code § 8350 *et. seq.*)

8. **CONFLICT OF INTEREST:** Grantee needs to be aware of the following provisions regarding current or former state employees. If Grantee has any questions on the status of any person rendering services or involved with the Agreement, the California State Library must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code § 10410):

- a. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest, and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code § 10411):

- a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

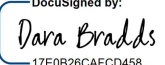
If Grantee violates any provisions of above paragraphs, such action by Grantee shall render this Agreement void. (Pub. Contract Code § 10420).

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code § 10430 (e)).

9. **LABOR CODE/WORKERS' COMPENSATION:** Grantee needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code § 3700).
10. **AMERICANS WITH DISABILITIES ACT:** Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 *et. seq.*)
11. **RESOLUTION:** A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
12. **PAYEE DATA RECORD FORM STD. 204:** This form must be completed by all Grantees that are not another state agency or other governmental entity.
13. **DRUG FREE WORKPLACE:**
 - a. Continue to provide a drug-free workplace by complying with the requirements in 2 C.F.R. part 3186 (Requirements for Drug-Free Workplace (Financial Assistance)). In particular, the recipient must comply with drug-free workplace requirements in subpart B of 2 C.F.R. part 3186, which adopts the Government-wide implementation (2 C.F.R. part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (P. L. 100-690, Title V, Subtitle D; 41 U.S.C. §§ 701-707).
 - b. This includes but is not limited to: making a good faith effort, on a continuing basis, to maintain a drug-free workplace; publishing a drug-free workplace statement; establishing a drug-free awareness program for the employees; taking actions concerning employees who are convicted of violating drug statutes in the workplace.
14. **ACCESSIBILITY:** The organization receiving this award, as listed in the certification section below, and all program staff, will ensure all project materials will meet California accessibility standards.
15. **NON-DISCRIMINATION:** The organization receiving this award, as listed in the certification section below, and all program staff, agree to comply with all California non-discrimination laws.

16. ACKNOWLEDGEMENT: The organization receiving this award, as listed in the certification section below, and all program staff, agree to comply with California State Library acknowledgement requirements.

Certification

ORGANIZATION	
Name: Escondido Public Library	Address (official and complete): 239 S. Kalmia St.
PROJECT COORDINATOR	
Name: Myrna Montano	
Email: Myrna.Montano@escondidolibrary.org	Phone: 7608394831
GRANTEE AUTHORIZED REPRESENTATIVE	
Name: Dara Bradds	Title: Director
Email: Dara.Bradds@escondidolibrary.org	Phone: 7608394329
Signature:  17E0B26CAFC0458...	Date: 7/24/2023



Authorized Representative Signature

ORGANIZATION	
Name: Escondido Public Library	Address (official and complete): 239 S. Kalmia St., Escondido, CA 92025
AUTHORIZED REPRESENTATIVE	
Signature: <small>DocuSigned by:</small> <i>Dara Bradds</i> <small>17E0B26CAFCD458...</small>	Date: 7/24/2023
Printed Name of Person Signing: Dara Bradds	Title: Director
STATE OF CALIFORNIA	
Agency Name: California State Library	Address: 900 N Street, Sacramento, CA 95814
Signature: <small>DocuSigned by:</small> <i>Greg Lucas</i> <small>BD450981C41C416...</small>	Date: 7/11/2023
Printed Name of Person Signing: Greg Lucas	Title: California State Librarian



EXHIBIT B: STATE REIMBURSABLE TRAVEL EXPENSES

Rates are subject to change per State of California, Department of Human Resources Please Check State of California, Department of Human Resources Website for updated expenses:

<http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>

Mileage: Rate subject to change	\$0.56 per mile – approved business/travel expense
Meals: Receipts are required	\$7.00 – Breakfast \$11.00 – Lunch \$23.00 – Dinner \$5.00 - Incidentals

Meals Note: Lunch can only be claimed if travel is more than 24 hours. Incidental charge may be claimed once for every 24-hour period and should cover incidental expenses, such as but not limited to, tip, baggage handling, etc.

Hotel: Receipts are required and MUST have a zero balance.	\$ 90.00 plus tax for all counties/cities not listed below \$ 95.00 plus tax for Napa, Riverside, and Sacramento Counties \$ 110.00 plus tax for Marin County \$ 120.00 plus tax for Los Angeles, Orange, and Ventura Counties, and Edwards AFB. Excluding the city of Santa Monica \$ 125.00 plus tax for Monterey and San Diego Counties \$ 140.00 plus tax for Alameda, San Mateo and Santa Clara Counties \$ 150.00 plus tax for the City of Santa Monica \$ 250.00 plus tax for San Francisco County Out of State: Prior authorization must be obtained, as well as three print-out hotel quotes. Actual receipt must be included with authorization and additional quotes.
--	---

Hotel Note: If the above approved reimbursable hotel rates cannot be secured, please contact your grant monitor to obtain an excess lodging form. This form must be approved prior to actual travel.

AIRLINE TICKETS: Itinerary and receipts are required	Actual reasonable fees pertaining to airline travel will be reimbursed. Business, First Class, or Early Bird Check-in fee is not an approved reimbursable expense.
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5 June 2023

RE: Contractor and Grantee Compliance with Economic Sanctions Imposed in Response to Russia's Actions in Ukraine

Dear Grantee,

You are receiving this notification because you currently have an active grant through the California State Library.

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (EO) regarding sanctions in response to Russian aggression in Ukraine. The EO is located at <https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf>.

The EO directs all agencies and departments that are subject to the Governor's authority to take certain immediate steps, including notifying all contractors and grantees of their obligations to comply with existing economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law.

This correspondence serves as a notice under the EO that as a contractor or grantee, compliance with the economic sanctions imposed in response to Russia's actions in Ukraine is required, including with respect to, but not limited to, the federal executive orders identified in the EO and the sanctions identified on the U.S. Department of the Treasury website (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>). Failure to comply may result in the termination of contracts or grants, as applicable.

Please note that for any agreements or grants valued at \$5 million or more, a separate notification will be sent outlining additional requirements specified under the EO.

Annly Roman
California State Library
900 N Street
Sacramento, CA 95814



Item 7.

California Library Literacy and English Acquisition Services
FINANCIAL CLAIM
PAYMENT IN FULL

Grant Award #: ESL21-3-12 **Date:** 7/24/2023

Invoice #: ESL21-3-12-01 **PO #:**

Payee Name: Escondido Public Library
(Legal name of authorized agency to receive, disburse and account for funds*)

Complete Address: 201 North Broadway, Escondido, CA 92025
Street Address, City, State, Zip Code (Warrant will be mailed to this address)

Amount Claimed: \$107,296 **Type of Payment:**
(Payable Upon Execution of Agreement) PROGRESS


Grantee Name: Escondido Public Library FINAL
(Name on Award Letter and Agreement) IN FULL

Project Title: English as a Second Language AUGMENT

For Period From: upon execution to end of grant period

CERTIFICATION

I hereby certify under penalty of perjury: that I am the duly authorized representative of the claimant herein; that this claim is in all respects true, correct and in accordance with law and the terms of the agreement; and that payment has not previously been received for the amount claimed herein.

By 
COC8E98A934247C...

(Signature of the Authorized Representative)

Christina Holmes

(Print Name)

Director of Finance

(Title)

*Legal payee name must match the payee's federal tax return. Warrant will be made payable to payee name. Payee discrepancies in name and/or address may cause delay in payment. If you need to change payee name and/or address, please contact Fiscal Services at stategrants.fiscal@library.ca.gov.

State of California, State Library Fiscal Office

ENY: 2021
PURCHASING AUTHORITY NUMBER: CSL-6120
COA: 5432000

ITEM NO: 6120-2131-0001, Chapter 240, Statutes of 2021
REPORTING STRUCTURE: 61202000
PROGRAM #: 5312

By _____ Date _____
(State Library Representative)

PAYEE DATA RECORD

Attachment "2"
(Required when receiving payment from the State of California in lieu of IRS W-9 or W-7)
STD 204 (Rev. 03/2021)

Item 7.

Section 1 – Payee Information

NAME (This is required. Do not leave this line blank. Must match the payee's federal tax return)

BUSINESS NAME, DBA NAME or DISREGARDED SINGLE MEMBER LLC NAME (If different from above)

MAILING ADDRESS (number, street, apt. or suite no.) (See instructions on Page 2)

CITY, STATE, ZIP CODE

E-MAIL ADDRESS

Section 2 – Entity Type

Check one (1) box only that matches the entity type of the Payee listed in Section 1 above. (See instructions on page 2)

SOLE PROPRIETOR / INDIVIDUAL

SINGLE MEMBER LLC *Disregarded Entity owned by an individual*

PARTNERSHIP

ESTATE OR TRUST

CORPORATION (see instructions on page 2)

MEDICAL (e.g., dentistry, chiropractic, etc.)

LEGAL (e.g., attorney services)

EXEMPT (e.g., nonprofit)

ALL OTHERS

Section 3 – Tax Identification Number

Enter your Tax Identification Number (TIN) in the appropriate box. The TIN must **match** the name given in Section 1 of this form. Do not provide more than one (1) TIN. The TIN is a 9-digit number. **Note:** Payment will not be processed without a TIN.

- For **Individuals**, enter SSN.
- If you are a **Resident Alien**, and you do not have and are not eligible to get an SSN, enter your ITIN.
- Grantor Trusts (such as a Revocable Living Trust while the grantors are alive) may not have a separate FEIN. Those trusts must enter the individual grantor's SSN.
- For **Sole Proprietor or Single Member LLC (disregarded entity)**, in which the **sole member is an individual**, enter SSN (ITIN if applicable) or FEIN (FTB prefers SSN).
- For **Single Member LLC (disregarded entity)**, in which the **sole member is a business entity**, enter the owner entity's FEIN. Do not use the disregarded entity's FEIN.
- For all other entities including LLC that is taxed as a corporation or partnership, estates/trusts (with FEINs), enter the entity's FEIN.

Social Security Number (SSN) or Individual Tax Identification Number (ITIN)

_____ - _____ - _____

OR

Federal Employer Identification Number (FEIN)

_____ - _____ - _____

Section 4 – Payee Residency Status (See instructions)

CALIFORNIA RESIDENT – Qualified to do business in California or maintains a permanent place of business in California.

CALIFORNIA NONRESIDENT – Payments to nonresidents for services may be subject to state income tax withholding.

No services performed in California

Copy of Franchise Tax Board waiver of state withholding is attached.

Section 5 – Certification

I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the state agency below.

NAME OF AUTHORIZED PAYEE REPRESENTATIVE

TITLE

E-MAIL ADDRESS

SIGNATURE

DATE

TELEPHONE (include area code)

Section 6 – Paying State Agency

Please return completed form to:

STATE AGENCY/DEPARTMENT OFFICE

Ca. State Library

UNIT/SECTION

Admin/Accounting

MAILING ADDRESS

900 N Street

FAX

TELEPHONE (include area code)

916-603-7157

CITY

Sacramento

STATE

CA

ZIP CODE

95814

E-MAIL ADDRESS

accounting@library.ca.gov

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PAYEE DATA RECORD

(Required when receiving payment from the State of California in lieu of IRS W-9 or W-7)
STD 204 (Rev. 03/2021)

Attachment "2"

Item 7.

GENERAL INSTRUCTIONS

Type or print the information on the Payee Data Record, STD 204 form. Sign, date, and return to the state agency/department office address shown in Section 6. Prompt return of this fully completed form will prevent delays when processing payments.

Information provided in this form will be used by California state agencies/departments to prepare Information Returns (Form 1099).

NOTE: Completion of this form is optional for Government entities, i.e. federal, state, local, and special districts.

A completed Payee Data Record, STD 204 form, is required for all payees (non-governmental entities or individuals) entering into a transaction that may lead to a payment from the state. Each state agency requires a completed, signed, and dated STD 204 on file; therefore, it is possible for you to receive this form from multiple state agencies with which you do business.

Payees who do not wish to complete the STD 204 may elect not to do business with the state. If the payee does not complete the STD 204 and the required payee data is not otherwise provided, payment may be reduced for federal and state backup withholding. Amounts reported on Information Returns (Form 1099) are in accordance with the Internal Revenue Code (IRC) and the California Revenue and Taxation Code (R&TC).

Section 1 – Payee Information

Name – Enter the name that appears on the payee's federal tax return. The name provided shall be the tax liable party and is subject to IRS TIN matching (when applicable).

- Sole Proprietor/Individual/Revocable Trusts – enter the name shown on your federal tax return.
- Single Member Limited Liability Companies (LLCs) that is disregarded as an entity separate from its owner for federal tax purposes - enter the name of the individual or business entity that is tax liable for the business in section 1. Enter the DBA, LLC name, trade, or fictitious name under Business Name.
- Note: for the State of California tax purposes, a Single Member LLC is not disregarded from its owner, even if they may be disregarded at the Federal level.
- Partnerships, Estates/Trusts, or Corporations – enter the entity name as shown on the entity's federal tax return. The name provided in Section 1 must match to the TIN provided in section 3. Enter any DBA, trade, or fictitious business names under Business Name.

Business Name – Enter the business name, DBA name, trade or fictitious name, or disregarded LLC name.

Mailing Address – The mailing address is the address where the payee will receive information returns. Use form STD 205, Payee Data Record Supplement to provide a remittance address if different from the mailing address for information returns, or make subsequent changes to the remittance address.

Section 2 – Entity Type

If the Payee in Section 1 is a(n)...	THEN Select the Box for...
Individual • Sole Proprietorship • Grantor (Revocable Living) Trust disregarded for federal tax purposes	Sole Proprietor/Individual
Limited Liability Company (LLC) owned by an individual and is disregarded for federal tax purposes	Single Member LLC-owned by an individual
Partnerships • Limited Liability Partnerships (LLP) • and, LLC treated as a Partnership	Partnerships
Estate • Trust (other than disregarded Grantor Trust)	Estate or Trust
Corporation that is medical in nature (e.g., medical and healthcare services, physician care, nursery care, dentistry, etc.) • LLC that is to be taxed like a Corporation and is medical in nature	Corporation-Medical
Corporation that is legal in nature (e.g., services of attorneys, arbitrators, notary publics involving legal or law related matters, etc.) • LLC that is to be taxed like a Corporation and is legal in nature	Corporation-Legal
Corporation that qualifies for an Exempt status, including 501(c) 3 and domestic non-profit corporations.	Corporation-Exempt
Corporation that does not meet the qualifications of any of the other corporation types listed above • LLC that is to be taxed as a Corporation and does not meet any of the other corporation types listed above	Corporation-All Other

Section 3 – Tax Identification Number

The State of California requires that all parties entering into business transactions that may lead to payment(s) from the state provide their Taxpayer Identification Number (TIN). The TIN is required by R&TC sections 18646 and 18661 to facilitate tax compliance enforcement activities and preparation of Form 1099 and other information returns as required by the IRC section 6109(a) and R&TC section 18662 and its regulations.

Section 4 – Payee Residency Status**Are you a California resident or nonresident?**

- A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.
- A partnership is considered a resident partnership if it has a permanent place of business in California.
- An estate is a resident if the decedent was a California resident at time of death.
- A trust is a resident if at least one trustee is a California resident.
 - For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.

For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:

Withholding Services and Compliance Section: 1-888-792-4900

E-mail address: wscs.gen@ftb.ca.gov

For hearing impaired with TDD, call: 1-800-822-6268

Website: www.ftb.ca.gov

Section 5 – Certification

Provide the name, title, email address, signature, and telephone number of individual completing this form and date completed. In the event that a SSN or ITIN is provided, the individual identified as the tax liable party must certify the form. Note: the signee may differ from the tax liable party in this situation if the signee can provide a power of attorney documented for the individual.

Section 6 – Paying State Agency

This section must be completed by the state agency/department requesting the STD 204.

Privacy Statement

Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, state, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it. It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and state law imposes noncompliance penalties of up to \$20,000. You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact that business.

All questions should be referred to the requesting state agency listed on the bottom front of this form.



STAFF REPORT

August 23, 2023
File Number 0170-57

SUBJECT

APPROVAL OF CALPERS INDUSTRIAL DISABILITY RETIREMENT FOR POLICE OFFICER THOMAS D. PUGH-

DEPARTMENT

Human Resources

RECOMMENDATION

Request the City Council adopt of Resolution No. 2023-23, approving the California Public Employees' Retirement System ("CalPERS") Industrial Disability Retirement for Police Officer Thomas D. Pugh.

Staff Recommendation: Approval (Human Resources: Jessica Perpetua, Director of Human Resources)

Presenter: Jessica Perpetua, Director of Human Resources

FISCAL ANALYSIS

None.

PREVIOUS ACTION

None.

BACKGROUND

Mr. Pugh filed for Industrial Disability Retirement on July 27, 2023, as a 38-year-old Police Officer. He has been employed by the City of Escondido since June 2013. The basis for Mr. Pugh's Industrial Disability Retirement application is confirmed by medical reports from Dr. Ramin Raiszadeh. Mr. Pugh's condition is orthopedic in nature (lumbar). Accordingly, Mr. Pugh is incapacitated within the meaning of the Public Employee's Retirement Law for performance of his usual and customary duties in the position of Police Officer.

Under state law, CalPERS requires the City Council to adopt a resolution stating that competent medical evidence supports the granting of an Industrial Disability Retirement. Based on medical evidence, staff recommends the City Council adopt Resolution No. 2023-23, approving the CalPERS Industrial Disability Retirement for Officer Thomas D. Pugh to be effective August 24, 2023.

RESOLUTIONS

- a. Resolution No. 2023-23

RESOLUTION NO. 2023-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ESCONDIDO, CALIFORNIA, APPROVING THE CALPERS
INDUSTRIAL DISABILITY RETIREMENT FOR POLICE
OFFICER THOMAS D. PUGH

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

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

WHEREAS, Thomas D. Pugh (“Employee”) filed an application with CalPERS on July 27, 2023, for an Industrial Disability Retirement due to an orthopedic injury of the lumbar; and

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

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

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

1. That the above recitations are true.

2. That the City Council does hereby find and determine that the Employee is incapacitated within the meaning of the California Public Employees' Retirement Law for performance of his duties in the position of Police Officer.

3. That the City Council certifies Resolution No. 2023-23 in accordance with Government Code Section § 21156, that this determination was made on the basis of competent medical opinion, and was not used as a substitute for the disciplinary process.

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

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

6. That the Employee's retirement date will be effective August 24, 2023, and his last day on paid status is August 23, 2023.

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

8. That the City will make monthly Advanced Disability Pension Payments of \$5,210.75, beginning September 1, 2023, until CalPERS begins making retirement payments. The City will also make a one-time advance disability payment of \$1,344.71, for the remaining eight days of August 2023. CalPERS will send the reimbursement check to: City of Escondido Workers' Compensation Department 201 N. Broadway Escondido, CA 92025.

9. That the primary disabling condition is an orthopedic injury to his lumbar, and arose out of and in the course of employment.

10. That there is competent medical opinion certifying the disabling condition to be permanent.

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



STAFF REPORT

August 23, 2023

File Number 0600-10; A-3461-1

SUBJECT

SECOND AMENDMENT TO CELL TOWER LEASE AGREEMENT WITH CELLCO PARTNERSHIP, DBA VERIZON WIRELESS

DEPARTMENT

City Manager; Economic Development

RECOMMENDATION

Request the City Council adopt Resolution No. 2023-117, authoring the Mayor to execute, on behalf of the City, a Second Amendment to the Lease Agreement with Cellco Partnership, dba Verizon Wireless, for continued use of the City owned property located at 1225 Hubbard Avenue, for a cellular tower and telecommunication equipment.

Staff Recommendation: Approval (City Manager Department: Jennifer Schoeneck, Deputy Director of Economic Development)

Presenter: Vince McCaw, Real Property Manager

FISCAL ANALYSIS

The City will receive annual revenue in the amount of \$52,204 which increases by three percent each year. In addition, Verizon Wireless intends to sublet a portion of the leased area and will pay fifty percent of the rental income collected from the sublease to the City.

PREVIOUS ACTION

The First Amendment to Lease Agreement, dated February 8, 2023, described and depicted certain fiber improvements and equipment that the Lessee was permitted to install at the Property.

BACKGROUND

The City of Escondido and Rincon Del Diablo Municipal Water District are collectively owners of the property generally known as 1225 Hubbard Avenue and each have an undivided one-half interest in the lease agreement that was entered into with Verizon Wireless LLC, dba Verizon Wireless, on March 24, 2011. The lease allowed for the installation of telecommunication facilities within the area specified, defined as the "Premises". The initial term of the agreement was for five years and is automatically renewed for two extension terms of five years each, unless notice of intention not to renew is provided to the City at least ninety days prior to expiration of the term. Thereafter, the term is automatically



CITY of ESCONDIDO

STAFF REPORT

renewed for two additional renewal terms of five years each, unless either party provides the other party with notice of its intention not to renew.

Fiber improvements and equipment was required on the Premises and a First Amendment to the Lease Agreement, dated February 8, 2023, was approved to allow for the improvements. The proposed Second Amendment to Lease Agreement will allow for the addition of approximately one hundred thirty square feet of land into the expanded lease area and the total rent payable under the lease shall be increased by \$250 per month. The total monthly rent increases by three percent each year, pursuant to the existing lease. In addition, Verizon Wireless intends to sublet a portion of the leased area and will pay fifty percent of the rental income collected from the sublease to the City. Any other subleases would require the City's prior written permission and would require payment of fifty percent of the rental income collected.

RESOLUTIONS

- a. Resolution No. 2023-117
- b. Resolution No. 2023-117, Exhibit "A" – Second Amendment to Lease Agreement

RESOLUTION NO. 2023-117

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY, A SECOND AMENDMENT TO CELL TOWER LEASE AGREEMENT WITH CELLCO PARTNERSHIP, DBA VERIZON WIRELESS, ON CITY OWNED PROPERTY LOCATED AT 1225 HUBBARD AVENUE

WHEREAS, certain real property, located at 1225 Hubbard Avenue and identified as assessor parcel number 227-430-25 and 227-430-06, is owned by the City of Escondido and Rincon Del Diablo Municipal Water District; and

WHEREAS, a portion of the property was leased to Verizon Wireless LLC, dba Verizon Wireless, on March 24, 2011, and the lease allowed for the installation of telecommunication facilities; and

WHEREAS, a First Amendment to Lease Agreement, dated February 8, 2023, was approved, which allowed for fiber optic line improvements and installation of equipment; and

WHEREAS, the City and CellCo Partnership, dba Verizon Wireless, desire to enter into a Second Amendment to Lease Agreement, which will allow for the addition of approximately one hundred thirty square feet of land into the expanded ground lease area and the total rent payable under the lease shall be increased by \$250 per month in the first year and receive fifty percent of the rental income collected from any sublease.

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

1. That the above recitations are true.

2. That the City Council authorizes the Mayor to execute a Second Amendment to Lease Agreement, on behalf of the City, substantially in the form as attached to this Resolution as Exhibit "A" and incorporated by this reference, and subject to final approval as to form by the City Attorney.

SECOND AMENDMENT TO LEASE AGREEMENT

(1225 Hubbard Avenue)

This Second Amendment to Lease Agreement (“Second Amendment”) is made and entered into as of this ____ day of _____, 2023 (“Effective Date”), by and between the City of Escondido, a California municipal corporation, as to an undivided one-half interest and Rincon Del Diablo Water District, a Municipal Water District, as to an undivided one-half interest (collectively “Owner”), and Cellco Partnership dba Verizon Wireless, a Delaware general partnership (“Verizon Wireless”). (Owner and Verizon Wireless are collectively referred to herein as the “Parties.”)

WHEREAS:

- A. Owner owns the real property described on Exhibit A attached hereto and by this reference made a part hereof (the “Parent Parcel”); and
- B. **WHEREAS**, Owner (or its predecessor-in-interest) and Verizon Wireless (or its predecessor-in-interest) entered into that certain Lease Agreement dated March 24, 2011 (the “*Lease*”), pursuant to which Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased, along with such portions of the Parent Parcel so affected, collectively, the “Leased Premises”), which Leased Premises are also described, designated, and/or depicted on Exhibit A attached hereto; and
- C. The Parties entered into a Lease Agreement dated March 24, 2011 (“Lease”) as amended by First Amendment to Lease Agreement dated February 8, 2023, for the lease of certain real property owned by Owner located at 1225 Hubbard Avenue, Escondido, California 92025, for the installation and maintenance of certain wireless communications equipment; and
- D. **WHEREAS**, Verizon Wireless has granted ATC Sequoia LLC (“American Tower”) a limited power of attorney (the “POA”) to, among other things, prepare, negotiate, execute, deliver, record, and/or file certain documents on behalf of Tenant, all as more particularly set forth in the POA; and
- E. The Parties desire to amend the Lease to expand the area of the lease and increase the rent payment, and to otherwise amend the terms of the Lease as expressly provided herein.

NOW, THEREFORE, in consideration of the above premises and the promises and covenants contained herein and in the Lease, it is mutually agreed by and between the Parties that the Lease shall be amended, modified, and supplemented, as follows:

1. Section 1.A of the Lease is amended to include an additional one hundred thirty and three-quarter (130.75) square feet of land (the "Expanded Lease Area"). The Expanded Lease Area is described, depicted, and/or designated on Exhibit B attached hereto and by this reference made a part hereof. Verizon Wireless may use the Expanded Lease Area in the same manner that it is permitted to use the Leased Premises.
2. Section 2 of the Lease is amended such that the total rent payable under the Lease, shall be increased by a sum of Two Hundred Fifty Dollars (\$250.00) per month. The Parties hereby acknowledge and agree that all applicable increases and escalations to the rent authorized pursuant to the Lease shall continue in full force and effect.
3. Pursuant to Section 5 (b) of the Lease, Owner hereby gives consent to Verizon Wireless to sublet the Expanded Lease Area to Dish Wireless, L.L.C., provided Verizon Wireless provides a written sublease agreement that includes all provisions required by the Lease and this First Amendment, and which will not become effective until Owner has signed its approval.
4. Pursuant to Section 5 (e) of the Lease, the Parties confirm that Verizon Wireless will pay to Owner fifty percent (50%) of the rental income collected from the sublease to Dish Wireless, L.L.C., and, as required by the Lease, any other subleases would require Owner's prior written consent and would also require payment of fifty percent (50%) of the rental income collected be paid to Owner.
5. Section 6 of the Lease is amended such that all notices to Verizon Wireless are to be sent to: Verizon Wireless, Attn.: Network Real Estate, 180 Washington Valley Road, Bedminster, NJ 07921; with copy to: American Tower, Attn.: Land Management, 10 Presidential Way, Woburn, MA 01801; with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
6. The Parties Agree to execute and record a Memorandum of Lease in the form of that attached hereto as Exhibit C.
7. All other terms and conditions of the Lease shall remain unchanged and in full force and effect. In the event there is a conflict between the Lease and this Amendment, this Amendment shall control.
8. This Second Amendment, and the Lease, together with any attachments thereto, constitute the entire understanding of the Parties, and there are no other terms or conditions, written or oral, controlling this matter.

9. This Second Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the Effective Date.

CITY OF ESCONDIDO, a California municipal corporation

Date: _____

By: _____
Dane White, Mayor

RINCON DEL DIABLO MUNICIPAL WATER DISTRICT, a municipal water district

Date: _____

By: _____

Clint Baze, General Manager

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, a Delaware general partnership

Date: _____

By: ATC Sequoia, LLC, a Delaware limited liability company,
Attorney-in-fact

By: _____

Richard Palermo, Senior Counsel

Approved as to Form:

Office of the City Attorney
Michael McGuinness, City Attorney

By: _____

EXHIBIT A

PARENT PARCEL

All that certain real property situated in the County of San Diego, State of California, described as follows:

Parcel A:

That portion of Lot 16, Block 162 of the Subdivision of the Rancho Rincon Del Diablo, in the City of Escondido, County of San Diego, State of California, according to map thereof No. 723, made by J.M. Graham, filed in the office of the County recorder of said County, August 13, 1892, described as follows:

Beginning at the Northeast corner of Lot 16, Block 162 of Resurvey of Part of the Rancho Rincon Del Diablo, according to map thereof No. 723, filed August 13, 1892 in San Diego County;

Thence along the Northerly line of said Lot 16 as follows:

South 88°23'15" West 660.00 feet to an angle point therein; South 77°06'58" West 720.07 feet to an angle point therein and South 25°36'28" West 249.94 feet to an angle point therein;

Thence leaving the Northerly line of said Lot 16, South 28°59'37" East 199.89 feet to the True Point of Beginning;

Thence South 56°42'18" West 41.59 feet;

Thence South 16°43'00" East 339.34 feet;

Thence North 76°02'04" East 364.00 feet to a point in the Westerly line of that land conveyed by deed to Glen A. and Estelene Morrow, and recorded March 30, 1959 as Document No. 61401 in Book 7574, Page 218 of Official Records of said County;

Thence along the Westerly line of said Morrow land North 16°43'20" West 384.48 feet to the most Westerly corner thereof;

Thence along the Northerly line of said Morrow land, North 64°13'45" East 82.11 feet to an angle point therein;

[EXHIBIT A CONTINUES ON FOLLOWING PAGES]

[EXHIBIT A CONT'D]

Thence continuing along the Northerly line of said Morrow land South 86°10'47" East 221.66 feet to the center line of that certain 120.00 foot easement for right-of-way purposes, granted to the United States of America, as described in Decree of Condemnation, recorded November 10, 1940 in Book 3381, Page 258 in the Official Records of said County;
Thence along the center line of said easement North 16°49'32" West 24.63 feet to the center line of that certain easement granted to the San Diego County Water Authority by deed recorded on Document No. 111970 in Book 3013, Page 354 of Official Records of said County;
Thence along said center line North 64°32'52" West 231.72 feet;
Thence South 56°42'18" West 459.66 feet to the True Point of Beginning.

Parcel B:

A strip of land 20.00 feet wide, the center line of said strip being described as follows:

Beginning at a point herein above described in Parcel "A" as Point "A";
Thence North 64°14'40" East 83.38 feet;
Thence South 83°38'20" East 117.00 feet to the beginning of a tangent curve concave to the Northwest having a central angle of 160°30' and a radius of 28.00 feet;
Thence Southeasterly, Easterly, Northeasterly, Northerly and Northwesterly along said curve, 78.44 feet to a point in the center line of the 20.00 foot road easement described in Agreement for access road way from Albert F. Hubbard, et ux, to San Diego County Water Authority, recorded November 10, 1948 as Document No. 111970 in Book 3013, Page 354 of Official Records;
Thence along said center line of road as follows;
North 64°26'45" West 150.00 feet more or less to an angle point therein; North 87°44'15" West 320.24 feet;
Thence South 49°26'45" West 159.12 feet and South 86°20'45" West 108.88 feet to a point in the unnamed street (known as Hubbard Avenue adjoining said Lot 16 on the North.

Excepting from said 20.00 foot strip that portion thereof lying within said Hubbard Avenue.

[EXHIBIT A CONTINUES ON FOLLOWING PAGE]

Second Amendment to Lease Agreement

[EXHIBIT A CONT'D]

Parcel C:

An easement for the construction, maintenance and repair of water lines and appurtenances over a strip of land 20.00 feet in width, the center line of which is described as follows:

Beginning at the Northeast corner of Lot 16, Block 162 of Resurvey of Part of the Rancho Rincon Del Diablo, according to map thereof No. 723, filed August 13, 1892 in San Diego County;

Thence along the Northerly line of said Lot 16 as follows:

South 88°23'15" West 660.00 feet to an angle point therein; South 77°06'58" West 720.07 feet to an angle point therein; and South 25°36'28" West 249.94 feet to an angle point therein, which is the True Point of Beginning; Thence leaving the Northerly line of said Lot 16, South 28°59'37" East 199.89 feet. The side lines of said easement shall be shortened or lengthened so as to terminate in the Northerly line of said Lot 16 and in the Northerly line of the above described Parcel "B".

Assessor's Parcel Number: **227-430-25-00**

LEASED PREMISES

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

A 0.015 ACRE AREA BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS RECORDED IN BOOK 1960, PAGE 857 IN THE PUBLIC RECORDS OFFICE OF SAN DIEGO COUNTY, CALIFORNIA, LYING IN LOT 16, BLOCK 162 OF THE SUBDIVISION OF THE RANCHO RINCON DEL DIABLO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE FROM A NAIL WITH WASHER FOUND ON THE NORTHEAST LINE OF SAID CERTAIN TRACT OF LAND, HAVING CALIFORNIA C6 STATE PLANE COORDINATES N:20000232.368 E:6308260.389; THENCE RUN S 49°16'35" W A DISTANCE OF 330.99 FEET TO A POINT; THENCE S 77°25'01" W A DISTANCE OF 8.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S 77°25'01" W A DISTANCE OF 37.50 FEET TO A POINT; THENCE N 12°34'59" W A DISTANCE OF 17.75 FEET TO A POINT; THENCE N 77°25'01" E A DISTANCE OF 37.50 FEET TO A POINT; THENCE S 12°34'59" E A DISTANCE OF 17.75 FEET TO THE POINT OF

BEGINNING. SAID ABOVE DESCRIBED AREA CONTAINS 0.015 ACRES OR 666 SQUARE FEET, MORE OR LESS.

AND ALSO

A 0.003 ACRE AREA BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS RECORDED IN BOOK 1960, PAGE 857 IN THE PUBLIC RECORDS OFFICE OF SAN DIEGO COUNTY, CALIFORNIA, LYING IN LOT 16, BLOCK 162 OF THE SUBDIVISION OF THE RANCHO RINCON DEL DIABLO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress, and utility purposes from the Leased Premises to and from a public right-of-way, including but not limited to the easement(s) described below:

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WIDTH AND LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE; THENCE N 77°25'01" E A DISTANCE OF 56.54 FEET TO A POINT; THENCE N 65°33'35" E A DISTANCE OF 30.73 FEET TO A POINT; THENCE N 48°04'42" E A DISTANCE OF 100.45 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET, AN ARC LENGTH OF 23.93 FEET AND A CHORD BEARING OF N 57°52'15" E FOR A CHORD DISTANCE OF 23.81 FEET TO A POINT; THENCE N 67°39'47" E A DISTANCE OF 68.16 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 54.14 FEET, AN ARC LENGTH OF 57.66 FEET AND A CHORD BEARING OF N 37°09'14" E FOR A CHORD DISTANCE OF 54.97 FEET TO A POINT; THENCE N 63°49'35" W A DISTANCE OF 201.98 FEET TO A POINT ON THE NORTHWEST LINE OF SAID CERTAIN TRACT OF LAND AND THE CENTERLINE OF A 20 FOOT ACCESS EASEMENT RECORDED IN SAID BOOK 1960, PAGE 857 AS TRACT 2, PARCEL A AND THE POINT OF ENDING. SAID ABOVE DESCRIBED AREA CONTAINS 0.248 ACRES OR 10,787 SQUARE FEET, MORE OR LESS.

[END OF EXHIBIT A]

EXHIBIT B

DESCRIPTION, DESIGNATION, AND/OR DEPICTION OF EXPANDED LEASE AREA

A 0.003 ACRE AREA BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS RECORDED IN BOOK 1960, PAGE 857 IN THE PUBLIC RECORDS OFFICE OF SAN DIEGO COUNTY, CALIFORNIA, LYING IN LOT 16, BLOCK 162 OF THE SUBDIVISION OF THE RANCHO RINCON DEL DIABLO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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AND ALSO

A 16 SQUARE FOOT AREA BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS RECORDED IN BOOK 1960, PAGE 857 IN THE PUBLIC RECORDS OFFICE OF SAN DIEGO COUNTY, CALIFORNIA, LYING IN LOT 16, BLOCK 162 OF THE SUBDIVISION OF THE RANCHO RINCON DEL DIABLO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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EXHIBIT C
MEMORANDUM OF LEASE

RECORDING REQUESTED BY, AND
WHEN RECORDED RETURN TO:

American Tower
10 Presidential Way
Woburn, MA 01801
Attn.: Land Management/Nicholas Mason,
Esq.
ATC Site No.: 411060
ATC Site Name: NORTH ASH - NORTH
ASH CA

This Space for Recorder's Use Only

APN 227-430-25 (por)
ATC Site No: 411060

MEMORANDUM OF LEASE AGREEMENT

This Memorandum of Lease Agreement (“Memorandum”) is dated _____, 2023, and is made by and between the City of Escondido, a California municipal corporation, as to an undivided one-half interest and Rincon Del Diablo Water District, a Municipal Water District, as to an undivided one-half interest (collectively “Owner”), and Cellco Partnership dba Verizon Wireless, a Delaware general partnership (“Lessee”), concerning the Owner’s real property located at 1225 Hubbard Avenue, and having assessor’s parcel number (APN) 227-430-25, as more particularly described in Exhibit A of this Memorandum, which is attached hereto and incorporated herein by this reference (“Premises”). (The Owner and Lessee each may be referred to herein as a “Party” and collectively as the “Parties.”)

For good and valuable consideration, the Owner has leased the Premises to Lessee subject to the terms and conditions contained within that certain Lease Agreement executed by the Parties dated _____, 20__ and incorporated herein by this reference (“Lease”), including without limitation provisions prohibiting assignment, subleasing, and encumbering any interest in the Lease without the prior written consent of the Owner, all as more specifically set forth in the Lease. That portion of the Premises leased by the Tenant is more particularly described under Exhibit A Cont., “Leased Premises.”

The term of the Lease is for 5 years, commencing on March 24, 2011 (“Effective Date”) and will be automatically renewed for two extensions of five years each, unless Lessee provides Owner with a notice of intention not to renew. Thereafter, the term of the Lease will be automatically renewed for two additional extension of five years each, unless either party provides the other with a notice of its intention not to renew. The final expiration of the Lease would be March 24, 2036.

In the event that the Lease has been terminated, the Owner shall have the unilateral right to record a Termination of this Memorandum which shall have the effect of terminating this Memorandum when recorded in the public record.

This Memorandum is not a complete summary of the Lease. Provisions in this Memorandum shall not be used in interpreting the Lease's provisions, and in the event of conflict between this Memorandum and the Lease, the Lease shall control.

This Memorandum 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.

IN WITNESS WHEREOF, the Parties below are authorized to act on behalf of their organizations, and have executed this Memorandum as of the Effective Date.

CITY OF ESCONDIDO

Date: _____
Dane White, Mayor

RINCON DEL DIABLO MUNICIPAL
WATER DISTRICT

Date: _____
Clint Baze, General Manager

CELLCO PARTNERSHIP, DBA VERIZON
WIRELESS
A DELAWARE GENERAL PARTNERSHIP

Date: _____

Print Name & Title

(ABOVE SIGNATURES MUST BE NOTARIZED; ACKNOWLEDGMENT PAGES FOLLOW)

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY
MICHAEL R. MCGUINNESS, City Attorney

BY: _____

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 _____]

On _____, before me,

_____, 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: _____ (Seal)

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 _____]

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upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

Signature: _____ (Seal)

Exhibit A

PARENT PARCEL

All that certain real property situated in the County of San Diego, State of California, described as follows:

Parcel A:

That portion of Lot 16, Block 162 of the Subdivision of the Rancho Rincon Del Diablo, in the City of Escondido, County of San Diego, State of California, according to map thereof No. 723, made by J.M. Graham, filed in the office of the County recorder of said County, August 13, 1892, described as follows:

Beginning at the Northeast corner of Lot 16, Block 162 of Resurvey of Part of the Rancho Rincon Del Diablo, according to map thereof No. 723, filed August 13, 1892 in San Diego County;

Thence along the Northerly line of said Lot 16 as follows:

South 88°23'15" West 660.00 feet to an angle point therein; South 77°06'58" West 720.07 feet to an angle point therein and South 25°36'28" West 249.94 feet to an angle point therein;

Thence leaving the Northerly line of said Lot 16, South 28°59'37" East 199.89 feet to the True Point of Beginning;

Thence South 56°42'18" West 41.59 feet;

Thence South 16°43'00" East 339.34 feet;

Thence North 76°02'04" East 364.00 feet to a point in the Westerly line of that land conveyed by deed to Glen A. and Estelene Morrow, and recorded March 30, 1959 as Document No. 61401 in Book 7574, Page 218 of Official Records of said County;

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Thence along the Northerly line of said Morrow land, North 64°13'45" East 82.11 feet to an angle point therein;

[EXHIBIT A CONTINUES ON FOLLOWING PAGES]

[EXHIBIT A CONT'D]

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Thence South 83°38'20" East 117.00 feet to the beginning of a tangent curve concave to the Northwest having a central angle of 160°30' and a radius of 28.00 feet;
Thence Southeasterly, Easterly, Northeasterly, Northerly and Northwesterly along said curve, 78.44 feet to a point in the center line of the 20.00 foot road easement described in Agreement for access road way from Albert F. Hubbard, et ux, to San Diego County Water Authority, recorded November 10, 1948 as Document No. 111970 in Book 3013, Page 354 of Official Records;
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Thence South 49°26'45" West 159.12 feet and South 86°20'45" West 108.88 feet to a point in the unnamed street (known as Hubbard Avenue adjoining said Lot 16 on the North.

Excepting from said 20.00 foot strip that portion thereof lying within said Hubbard Avenue.

[EXHIBIT A CONTINUES ON FOLLOWING PAGE]

Second Amendment to Lease Agreement

[EXHIBIT A CONT'D]

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Thence leaving the Northerly line of said Lot 16, South 28°59'37" East 199.89 feet. The side lines of said easement shall be shortened or lengthened so as to terminate in the Northerly line of said Lot 16 and in the Northerly line of the above described Parcel "B".

Assessor's Parcel Number: **227-430-25-00**

EXHIBIT A (cont.)

LEASED PREMISES

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

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The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress, and utility purposes from the Leased Premises to and from a public right-of-way, including but not limited to the easement(s) described below:

AN EASEMENT BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS RECORDED IN BOOK 1960, PAGE 857 IN THE PUBLIC RECORDS OFFICE OF SAN DIEGO COUNTY, CALIFORNIA, LYING IN LOT 16, BLOCK 162 OF THE SUBDIVISION OF THE RANCHO RINCON DEL DIABLO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE FROM A NAIL WITH WASHER FOUND ON THE NORTHEAST LINE OF SAID CERTAIN TRACT OF LAND, HAVING CALIFORNIA C6 STATE PLANE COORDINATES N:20000232.368 E:6308260.389; THENCE RUN S 49°16'35" W A DISTANCE OF 330.99 FEET TO A POINT; THENCE S 77°25'01" W A DISTANCE OF 8.50 FEET TO A POINT; THENCE CONTINUE S 77°25'01" W A DISTANCE OF 37.50 FEET TO A POINT; THENCE N 12°34'59" W A DISTANCE OF 17.75 FEET TO A POINT; THENCE N 77°25'01" E A DISTANCE OF 25.50 FEET TO A POINT; THENCE N 12°34'59" W A DISTANCE OF 12.49 FEET TO A POINT; THENCE S 77°25'01" W A DISTANCE OF 2.76 FEET TO A POINT; THENCE N 12°34'59" W A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING OF AN EASEMENT BEING 20 FEET IN WIDTH AND LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE; THENCE N 77°25'01" E A DISTANCE OF 56.54 FEET TO A POINT; THENCE N 65°33'35" E A DISTANCE OF 30.73 FEET TO A POINT; THENCE N 48°04'42" E A DISTANCE OF 100.45 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET, AN ARC LENGTH OF 23.93 FEET AND A CHORD BEARING OF N 57°52'15" E FOR A CHORD DISTANCE OF 23.81 FEET TO A POINT; THENCE N 67°39'47" E A DISTANCE OF 68.16 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 54.14 FEET, AN ARC LENGTH OF 57.66 FEET AND A CHORD BEARING OF N 37°09'14" E FOR A CHORD DISTANCE OF 54.97 FEET TO A POINT; THENCE N 63°49'35" W A DISTANCE OF 201.98 FEET TO A POINT ON THE NORTHWEST LINE OF SAID CERTAIN TRACT OF LAND AND THE CENTERLINE OF A 20 FOOT ACCESS EASEMENT RECORDED IN SAID BOOK 1960, PAGE 857 AS TRACT 2, PARCEL A AND THE POINT OF ENDING. SAID ABOVE DESCRIBED AREA CONTAINS 0.248 ACRES OR 10,787 SQUARE FEET, MORE OR LESS.

[END OF EXHIBIT A]

ORDINANCE NO. 2023-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ESCONDIDO, CALIFORNIA, RETAINING THE EXISTING
SPEED LIMIT ON FOUR STREET SEGMENTS

The City Council of the City of Escondido, California does ordain as follows:

SECTION 1. The City Council makes the following findings:

a) On October 8, 2021, the State of California approved Assembly Bill 43, which took effect January 1, 2022 and amends the California Vehicle Code as it relates to speed limits.

b) California Vehicle Code Section 40802 requires that enforcement of declared prima facie speed limits on a particular section of a highway or state highway be justified by an Engineering and Traffic Survey conducted no more than seven years prior to the date of the alleged violation. However, if a registered engineer evaluates the section of the highway and determines that no significant changes in roadway or traffic conditions have occurred including, but not limited to, changes in adjoining property or land use, roadway width, or traffic volume, then enforcement of a declared prima facie speed limit on a particular section of a highway or state highway may be justified by an Engineering and Traffic Survey conducted no more than 14 years prior to the date of the alleged violation.

c) California Vehicle Code section 22357 provides that whenever a local authority determines upon the basis of an engineering and traffic survey that a speed greater than 25 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any street other than a state highway otherwise subject to a prima facie limit of 25 miles per hour, the local authority may by ordinance determine and declare a prima facie speed limit of 30, 35, 40, 45, 50, 55, or 60 miles per hour or a maximum speed limit of 65 miles per hour, whichever is found most appropriate to facilitate

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



STAFF REPORT

August 23, 2023
File Number 0697-20

SUBJECT

SHORT-FORM RENT INCREASE APPLICATION FOR CAREFREE RANCH MOBILEHOME PARK (FILE NO. 0697-20-10330)

DEPARTMENT

Development Services; Housing & Neighborhood Services Division

RECOMMENDATION

Request the Rent Review Board adopt Resolution No. RRB 2023-94, authorizing a rent increase for Carefree Ranch Mobilehome park.

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

Presenter: Holly Nelson, Housing & Neighborhood Services Manager

FISCAL ANALYSIS

There is no funding stream budgeted to cover the operational and administrative expenses associated with short-form mobilehome applications. Staff time and resources were expended to review and process the application, evaluate the mobilehome park for code compliance violations and conduct public outreach with the affected park residents, park management and owners.

PREVIOUS ACTION

On June 8, 1988, the Escondido residents voted to approve Proposition K to enact Mobilehome Rent Control in the City of Escondido ("City"). Under Proposition K, if a park owner wants to increase the rent on a mobilehome rent control space, they must file an application with the City and obtain approval from the Mobilehome Park Rent Review Board ("Board"). This Board is an independent body comprised of the City of Escondido Councilmembers.

In 1997, the Board adopted changes to the Mobilehome Rent Review Board Guidelines to allow for the acceptance of a "short-form" application. The short-form is an abbreviated and less administrative burdensome application process for park owners and City staff. A park owner can request a rent increase based solely on the change in the San Diego Metropolitan Area's Consumer Price Index ("CPI"). The requested increase may not exceed ninety percent (90%) of the increase in CPI since the last application was granted by the Board, or 8% of the current rent, whichever is less, subject to a two-year limit. Park owners are allowed to apply one-year from the date the last application was submitted.



CITY of ESCONDIDO

STAFF REPORT

The last short-form mobilehome application was approved on August 10, 2022 (No. RRB 2022-103) by the Rent Review Board.

BACKGROUND

Carefree Ranch Park (“Park”) is an age-restricted park (55+) located at 211 North Citrus Avenue, Escondido, California 92027. Out of the 184 spaces located in the park, the park owner is requesting an increase for 55 rent-controlled spaces. The amenities available for the residents include a furnished clubhouse, guest house, pool, jacuzzi, restrooms and laundry facilities.

Carefree Ranch Mobilehome Park submitted a short-form application on May 30, 2023 (Attachment “1”). City staff reviewed the application and deemed the application to be complete on July 13, 2023. City staff mailed a letter on July 24, 2023, notifying the affected park residents of the application, proposed rent increase, upcoming residential meeting, and public hearing date (Attachment “2”).

PARK OWNER’S REQUEST:

The Park is requesting an increase of 90% of the change in CPI for the period of December 31, 2021, to December 31, 2022. Ninety percent of the change in the CPI is 6.56% for the period of consideration. The average monthly rent for the residents affected by this application is \$616.40. The average monthly increase requested for the 55 spaces is \$37.95 per space, per month.

RESIDENT MEETING AND COMMENTS:

Individual letters were mailed in both English and Spanish to each affected resident on July 24, 2023, notifying them of the application and the hearing date. The notice included information about a resident meeting scheduled at the park’s clubhouse on August 7, 2023 at 6 p.m.

Five residents were present at the meeting, but only three individuals were subject to rent control. The residents expressed general hardship concerns about the increase in CPI requested. Many shared they are on a fixed income and said this rent control increase would impact their ability to purchase gas and groceries. They said “everything is more expensive” and felt park management were “greedy for asking for that much of an increase.” Residents felt unsupported and distrustful of staff and the Rent Review Board for the continual increases. Residents also reported their utility bills for gas have recently increased. The gas company came out to the park to inspect the meters and they were underbilling residents. Many of the residents were hit with a large \$500 bill and are now on payment plans with the gas company. In response to the financial hardship concerns raised, the park manager, Jim Younce, provided information about the Park’s Rental Assistance Program and how to apply. (Attachment “3”).

City staff mailed out a second notice informing residents about the upcoming public hearing and how to provide public comment (Attachment “4”).



CITY of ESCONDIDO

STAFF REPORT

CODE COMPLIANCE INSPECTION:

Code Compliance conducted a lighting inspection on July 7 and completed their evaluation on August 8, 2023. An inspection of the lighting and common areas was conducted on August 7 and 8, 2023. Two general park violations were found for overgrown bushes and a discarded water heater (Attachment “5”). Code Compliance staff conducted a follow-up inspection on August 14, 2023 and all violations were corrected (Attachment “6”).

The Code Compliance Division received a Request for Investigation on August 11, 2023 for suspected violations related to the pool, cracks in the foundation, property fence and water damage to the exterior of the exercise room. Code Compliance received this information and conducted a third site inspection of the property. During their visit, they found one subsequent violation to repair and replace a small portion of the dry rot on the electrical storage room to prevent a hazard. Code Compliance staff asked Park Management to make this correction prior to the public hearing on August 23, 2023.

ADDITIONAL FACTORS AFFECTING THE APPLICATION:

The Carefree Ranch Mobilehome Park’s short-form application was available for review at the Carefree Ranch Office, Housing & Neighborhood Services Division’s counter at City Hall and the City’s website. City staff elected to post the application online on the Housing & Neighborhood’s website to promote transparency and remove potential barriers to access.

The application appears to meet all the eligibility criteria for submittal of a short-form rent increase.

In conformance with the Rent Review Board Guidelines, the decision of the Board will be finalized by adoption of the Resolution confirming the findings of the public hearing. The Notice of Determination will be mailed to the applicant and residents immediately upon adoption of the Resolution. Park owners and management must give a 90-day notice of any rent increase to affected residents upon the adoption of the Resolution.

RESOLUTION

1. Resolution No. RRB 2023-94

ATTACHMENTS

1. Carefree Ranch Park Short-Form Application
2. Resident Short-Form Letter Notification
3. Carefree Ranch’s Rental Assistance Program for the Needy Residents
4. Public Hearing Notice
5. Code Compliance Inspection
6. Code Compliance Letter Clearing Violations

RESOLUTION NO. RRB 2023-94

A RESOLUTION OF THE CITY COUNCIL/MOBILEHOME
RENT REVIEW BOARD OF THE CITY OF ESCONDIDO,
CALIFORNIA AUTHORIZING A RENT INCREASE FOR
CAREFREE RANCH MOBILEHOME PARK

(File Number: 0697-20-10330)

WHEREAS, Article V of Chapter 29 of the Escondido Municipal Code is a codification of the Escondido Mobilehome Rent Protection Ordinance ("Ordinance") and provides for mobilehome space rent regulation; and

WHEREAS, the City of Escondido Mobilehome Park Rental Review Board ("Board") is charged with the responsibility of considering applications for rent increases; and

WHEREAS, a short-form rent increase application pursuant to Section 12 of the Rent Review Board Guidelines was filed on May 30, 2023, ("Application") by Carefree Ranch Mobilehome Park, LLC ("Park"), the owner of the rental spaces in Carefree Ranch Mobilehome Park, located at 201 North Citrus in Escondido. City staff reviewed the application and deemed it complete on July 13, 2023; and

WHEREAS, this is the twenty-sixth (26th) rent increase application filed by the Park since the Ordinance became effective in 1988. The last rent increase was granted by Rent Review Board Resolution No. 2022-103 on August 10, 2022, for an increase of 5.714% percent, or approximately \$30.74 per space, per month, covering the time period of December 31, 2020 to December 30, 2021; and

WHEREAS, the Park requested a rent increase in the amount of 90% percent of the change in the Consumer Price Index ("CPI"), or 6.56%, for the period of December 31, 2021, through December 31, 2022. The Application average monthly rent for the 55 spaces was \$616.40, and the estimated increase averages to \$37.95 per space, per month; and

WHEREAS, on August 7 and 8, 2023, a Mobilehome Park Rent Review Code Compliance Inspection Report ("Inspection Report") was completed. The Inspection Report noted one violation for overgrown bushes encroaching on the roadway. Code Compliance completed a reinspection on August 14, 2023 and all violations were cleared; and

WHEREAS, on August 23, 2023, the Board held its public hearing. After an initial staff presentation, the Board invited testimony from Park ownership, residents of the Park, and other residents of the community at large; and

WHEREAS, after all present had been given an opportunity to speak, the hearing was closed. Following an opportunity for discussion among the Board members, and clarifying questions to the parties and staff, the Board voted to grant an average rent increase of \$37.95 per space, per month, for the 55 spaces.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California acting as the Mobilehome Rent Review Board as follows:

1. That the above recitations are true.
2. That the City Council/Mobile Rent Review Board finds that the Carefree Ranch Mobilehome short-form application increase is consistent with the Guidelines, and approves the rent increase Application submitted by Carefree Ranch Park, LLC.

Received
5/30/23
(H)

CITY OF ESCONDIDO
201 North Broadway
Escondido, CA 92025-2798
(760) 839-4562

SHORT-FORM APPLICATION FOR MOBILE HOME SPACE RENT INCREASE

Park Name Carefree Ranch Telephone 760-745-4851

Address 211 N. Citrus Ave Escondido, CA 92027

Owner Carefree Ranch LLC Telephone 949-722-1698

Address 301 E 17th St., Ste 208 Costa Mesa, CA 92627

Representative Bart Thomsen Telephone 949-722-1698

(If other than owner; all City correspondence will be addressed to this person)

Address _____

Site Manager Jim Younce Telephone 760-745-4851

Today's Date: 5/25/23

Date of last RRB increase 11/1/2022

Period covered by CPI request 12/31/21 - 12/31/22

Number of Spaces in Park 184

Spaces affected by proposed increase 55

Change in CPI during period 7.28 %

90% of change in CPI 6.56 %

Increase requested by Park 6.56 %

of In-Place Transfers as of 7/1/20 11 **

or since last Rent Increase Application (whichever is more recent)

Briefly describe the park. Include amenities and services provided without additional charge. Attach additional pages if more space is needed.

- Clubhouse
- Guest House
- Jacuzzi
- Laundry Room
- Pool

****Last rent increase application was deemed complete June 22, 2022**

(1)

Carefree Ranch

Item 11.

Carefree Ranch Rent Increase Application 2023

Space #	Resident(s) Name	Rent In		Current Rent	Percentage Increase	Requested		Requested New Rent
		April 2021	April 2022			Increase	New Rent	
2	Wayne Louth	\$440.47	\$447.20	\$472.75	6.56%	\$	31.01	\$503.76
6	Pamela Schulenberg	\$558.84	\$567.38	\$599.80	6.56%	\$	39.35	\$639.15
8	Judy Zirkle	\$521.10	\$529.06	\$559.29	6.56%	\$	36.69	\$595.98
11	Tom Burns	\$453.06	\$459.98	\$486.26	6.56%	\$	31.90	\$518.16
16	Esther Erro	\$440.47	\$447.20	\$472.75	6.56%	\$	31.01	\$503.76
22	Nancy Johnson	\$440.47	\$447.20	\$472.75	6.56%	\$	31.01	\$503.76
26	Jose Lopez	\$555.06	\$563.54	\$595.74	6.56%	\$	39.08	\$634.82
31	Michelle Johnson	\$558.84	\$567.38	\$599.80	6.56%	\$	39.35	\$639.15
33	Mae Moen	\$551.80	\$560.23	\$592.24	6.56%	\$	38.85	\$631.09
35	Robert McKeever	\$555.06	\$563.54	\$595.74	6.56%	\$	39.08	\$634.82
38	Bertha Schelden	\$427.95	\$483.02	\$510.62	6.56%	\$	33.50	\$544.12
39	Mary McGlasson	\$427.95	\$434.49	\$459.32	6.56%	\$	30.13	\$489.45
43	Dale Anderson	\$448.43	\$455.28	\$481.29	6.56%	\$	31.57	\$512.86
48	Graciela Alatraste	\$550.96	\$599.49	\$633.74	6.56%	\$	41.57	\$675.31
50	Rosario Divina Pallesco	\$548.69	\$597.22	\$631.35	6.56%	\$	41.42	\$672.77
51	Abigail Morales	\$427.95	\$434.49	\$459.32	6.56%	\$	30.13	\$489.45
57	Susan Mitchell	\$512.32	\$520.15	\$549.87	6.56%	\$	36.07	\$585.94
59	Eve Gonzales-Salazar	\$585.45	\$594.40	\$628.36	6.56%	\$	41.22	\$669.58
62	Daniel Dorlaque	\$585.45	\$594.40	\$628.36	6.56%	\$	41.22	\$669.58
109	Kenneth Daniel Smith	\$551.80	\$560.23	\$610.82	6.56%	\$	40.07	\$650.89
118	Veronica Andrews	\$431.07	\$437.66	\$462.67	6.56%	\$	30.35	\$493.02
121	Rebeca Gutierrez	\$618.35	\$627.80	\$678.39	6.56%	\$	44.50	\$722.89
122	Mikhail Kolobkov	\$625.00	\$625.00	\$625.00	6.56%	\$	41.00	\$666.00
123	Linda Willison	\$526.41	\$534.45	\$564.99	6.56%	\$	37.06	\$602.05
126	Maria Estrada	\$586.29	\$595.25	\$629.26	6.56%	\$	41.28	\$670.54
129	Rick Trafton	\$691.90	\$702.47	\$742.61	6.56%	\$	48.72	\$791.33
131	Rose Marie Ritchey	\$622.70	\$632.21	\$668.33	6.56%	\$	43.84	\$712.17

132	Alice Crocker	\$427.95	\$434.49	\$459.32	6.56%	\$	30.13	\$489.45
134	Javier Garcia	\$585.45	\$594.40	\$628.36	6.56%	\$	41.22	\$669.58
138	Kathleen Davis	\$604.20	\$613.43	\$648.48	6.56%	\$	42.54	\$691.02
139	Veronica Panem Saclayan	\$682.43	\$726.79	\$784.93	6.56%	\$	51.49	\$836.42
141	Irene Kelley	\$585.45	\$594.40	\$628.36	6.56%	\$	41.22	\$669.58
202	Adah Forbes	\$427.95	\$434.49	\$459.32	6.56%	\$	30.13	\$489.45
204	Donald Wilson	\$512.32	\$520.15	\$549.87	6.56%	\$	36.07	\$585.94
206	Toni Janean Nicholson	\$407.47	\$413.70	\$464.29	6.56%	\$	30.46	\$494.75
210	Maria Blasingame	\$427.95	\$434.49	\$459.32	6.56%	\$	30.13	\$489.45
211	Karen Sue Silva	\$655.29	\$665.30	\$718.52	6.56%	\$	47.13	\$765.65
214	Fernando Valdez	\$714.34	\$725.26	\$766.70	6.56%	\$	50.30	\$817.00
215	Jane Valdez	\$407.47	\$413.70	\$437.34	6.56%	\$	28.69	\$466.03
216	Leticia Heras Chavez	\$440.47	\$489.00	\$516.94	6.56%	\$	33.91	\$550.85
217	Amalia Rosales	\$602.93	\$612.14	\$647.12	6.56%	\$	42.45	\$689.57
218	Kimberlee Baker	\$407.47	\$413.70	\$437.34	6.56%	\$	28.69	\$466.03
235	Robert Fernandes	\$427.95	\$434.49	\$459.32	6.56%	\$	30.13	\$489.45
236	Janet Louise Lindsley	\$440.47	\$447.20	\$523.34	6.56%	\$	34.33	\$557.67
237	Ruth Jinks	\$526.41	\$534.45	\$564.99	6.56%	\$	37.06	\$602.05
243	Shirley Nelson	\$671.95	\$682.22	\$721.20	6.56%	\$	47.31	\$768.51
254	Ervin Nickerson	\$691.90	\$702.47	\$742.61	6.56%	\$	48.72	\$791.33
257	Kenneth LeRoy	\$465.64	\$472.75	\$499.76	6.56%	\$	32.78	\$532.54
260	Linda Alsbrook	\$465.64	\$472.75	\$499.76	6.56%	\$	32.78	\$532.54
262	Maggie OBrien	\$691.90	\$702.47	\$742.61	6.56%	\$	48.72	\$791.33
268	Dennis Todd	\$622.70	\$632.21	\$668.33	6.56%	\$	43.84	\$712.17
270	Sharon Adams	\$526.41	\$534.45	\$564.99	6.56%	\$	37.06	\$602.05
271	Paul Francis Robusto	\$622.70	\$632.21	\$682.79	6.56%	\$	44.79	\$727.58
278	Fay Marie Lee	\$622.70	\$632.21	\$668.33	6.56%	\$	43.84	\$712.17
279	Ellan Hayes	\$427.95	\$434.49	\$459.32	6.56%	\$	30.13	\$489.45

4

Carefree Ranch Item 11.

OWNER'S AFFIDAVIT

I (We,) _____

being duly sworn, depose and say that I (We) am (are) the owner(s) of said park involved in this request and that the foregoing statements or answers contained herein and the information submitted herewith are in all respects true and correct to the best of my (our) knowledge and belief. I (We) make the foregoing statement, the statements and answers contained herein and declare under penalty of perjury that the same are true and correct.

Signed: Katie Morris

Signature

Katie Morris

Park Owner/Type or print name

Authorized Agent

Signature

Representative/Type or print name

Mailing address: _____

5

DIRECTIONS:

Enter the information on all in-place transfer of a resident-owned mobilehomes in the park after July 1, 2020, or since the date of when the last rent increase application was deemed complete (whichever date is more recent). Please note the term "deemed complete" means when the Housing & Neighborhood Services staff deemed your previous application complete not when the Rent Review Board granted the increase. , "In-place transfer" means the transfer of the ownership of a mobilehome with the mobilehome remaining on the mobilehome lot following the transfer.

Final Space Rent - rent charged to the departing tenant for the final month of rent before the sale

Space Rent after Sale – rent paid by the new tenant for the first month after the sale

Park Average Space Rent - total amount of rent charged for all spaces in a mobilehome park occupied by a resident owned mobilehome, divided by the number of spaces in the park occupied by a resident owned mobilehome (calculated on the most recent annual rent control survey)

Use additional Sheets if necessary

Space #	Sale Date	Final Space Rent Before Sale (\$)	Space Rent After Sale (\$)	Park Average Space Rent	Current Lease Type (LT/RC)
119	7/22/22	696.34	725.00		LT Assumption
271	8/24/22	632.21	682.79	632.41	RC
242	10/3/22	750.47	825.00		LT Assumption
206	10/12/22	413.70	464.29	632.41	RC
115	11/1/22	726.54	750.00		LT Assumption
109	11/14/22	560.23	610.82	632.41	RC
121	11/18/22	627.80	678.39	632.41	RC
211	11/22/22	665.30	718.52	632.41	RC
127	1/18/23	648.57	725.00		LT Assumption
139	2/9/23	726.79	784.93	632.41	RC
236	3/17/23	472.75	523.34	632.41	RC
*Additional Notes					
*45	6/8/22	598.48	675.00		LT Assumption
*31	Name Change Only	Primary Passed	Made Secondary Homeowner Primary		RC
*43	Name Change Only	Primary Passed	Made Secondary Homeowner Primary		RC

6



Housing & Neighborhood Services Division
 201 North Broadway, Escondido, CA 92025
 Phone: 760-839-4841
www.escondido.org/housing-and-neighborhood-services

July 24, 2023

Re: Short-form Rent Increase Application Submitted by Carefree MHP

Dear Resident:

A **short-form application** for a rent increase for your Park has been received and determined to be complete.

This letter is to inform you about:

1) RESIDENT MEETING

- Date = Monday August 7th at 6pm
- Location = Park Clubhouse
- Purpose = To discuss the short-form hearing process, answer any questions, and select a resident representative.

2) RENT REVIEW BOARD HEARING

- Date = August 23th, at 5pm
- Location = City Council Chambers, 201 North Broadway, Escondido, CA 92025

3) HOW THIS MAY IMPACT YOU

- The park is requesting an **6.56%** increase
- Average Increase per space per month = \$37.95
- Average Rent for rent controlled spaces = \$616.40

4) WHERE TO RECEIVE MORE INFORMATION

- Attend the resident meeting on August 7th at 6pm
- The application is available on the city's website, at your park's office and at the Housing and Neighborhood Services Division counter at City Hall during normal business hours. Monday – Friday 8am-5pm.
- Contact Eric Bunge at (760) 839-4562 or ebunge@escondido.org

Sincerely,

Eric Bunge
 Housing Management Analyst



Housing & Neighborhood Services Division
201 North Broadway, Escondido, CA 92025
Phone: 760-839-4841
www.escondido.org/housing-and-neighborhood-services

20 de julio del 2023

Re: Solicitud Abreviada para un Aumento de Renta presentada por Carefree MHP

Estimado Residente:

Una **solicitud abreviada** para un aumento de rentas para su Parque ha sido revisada y determinada ser completa.

Esta carta es para infórmale de:

1) JUNTA DE RESIDENTES

- Fecha = lunes 7 de agosto a las 6pm
- Locación = Clubhouse de su parque
- Propósito = Para discutir el proceso de la audiencia de la solicitud abreviada, contestar cualquier pregunta y seleccionar un residente representante.

2) AUDIENCIA DE COMISIÓN DE EVALUADORES DE RENTA

- Fecha = 23 de agosto, a las 5pm
- Locación = En la Sala Consistorial del Municipio (City Council Chambers), 201 North Broadway, Escondido, CA 92025

3) COMO ESTO LE PUEDE AFECTAR A USTED

- El parque está solicitando un aumento de 6.56%
- Aumento promedio por espacio por mes = \$37.95
- Renta promedio para espacios de renta controlado = \$616.40

4) DONDE PUEDE RECIBIR MÁS INFORMATION

- Asistir la junta de residentes el 7 de agosto a las 6pm
- La solicitud está disponible en el sitio web de la ciudad, en la oficina de su parque y en el mostrador de la División de Vivienda y Servicios al Vecindario en el Ayuntamiento durante sus horas de oficina normal. Lunes – viernes 8am-5pm.
- Contacte a Eric Bunge al (760) 839-4562 o ebunge@escondido.org

Sinceramente,

Eric Bunge
Housing Management Analyst



Housing & Neighborhood Services Division
 201 North Broadway, Escondido, CA 92025
 Phone: 760-839-4841
www.escondido.org/housing-and-neighborhood-services

24 de julio del 2023

Re: Solicitud Abreviada para un Aumento de Renta presentada por Carefree MHP

Estimado Residente:

Una **solicitud abreviada** para un aumento de rentas para su Parque ha sido revisada y determinada ser completa.

Esta carta es para infórmale de:

1) JUNTA DE RESIDENTES

- Fecha = lunes 7 de agosto a las 6pm
- Locación = Clubhouse de su parque
- Propósito = Para discutir el proceso de la audiencia de la solicitud abreviada, contestar cualquier pregunta y seleccionar un residente representante.

2) AUDIENCIA DE COMISIÓN DE EVALUADORES DE RENTA

- Fecha = 23 de agosto, a las 5pm
- Locación = En la Sala Consistorial del Municipio (City Council Chambers), 201 North Broadway, Escondido, CA 92025

3) COMO ESTO LE PUEDE AFECTAR A USTED

- El parque está solicitando un aumento de 6.56%
- Aumento promedio por espacio por mes = \$37.95
- Renta promedia para espacios de renta controlado = \$616.40

4) DONDE PUEDE RECIBIR MÁS INFORMATION

- Asistir la junta de residentes el 7 de agosto a las 6pm
- La solicitud está disponible en el sitio web de la ciudad, en la oficina de su parque y en el mostrador de la División de Vivienda y Servicios al Vecindario en el Ayuntamiento durante sus horas de oficina normal. Lunes – viernes 8am-5pm.
- Contacte a Eric Bunge al (760) 839-4562 o ebunge@escondido.org

Sinceramente,

Eric Bunge
 Housing Management Analyst

CAREFREE RANCH MOBILEHOME PARK

Item 11.

April 12, 2018

Dear Resident,

We continue to learn that the waitlist to receive rental assistance through the City of Escondido's Section 8 Housing Choice Voucher is considerably long.

As a reminder, the park offers a private rent subsidy program. Our program is not a loan, any rental assistance given by the park owner is not required to be repaid. The program is provided voluntarily and for free by the park owner.

To apply for our rent assistance program, please contact the park manager. You will need to provide proof that you are currently on the waitlist for the city's Section 8 Housing Choice Voucher (you may apply to the waitlist online at any time), fill out an application, and provide proof of current income.

For more information about the rent assistance program or any other park matter, please contact the park office. You may also contact the corporate office directly at 949.642.0770.

Carefree Ranch Mobilehome Park

Rental Assistance Program for the Needy Resident

This program is offered to all needy residents who may be suffering economic hardships in their daily lives.

The program is available to any resident desiring to seek rental assistance. Such rental assistance consists of a partial credit to monthly rent. The approval for rent assistance will be made by management. This determination will be based on the submission of a confidential questionnaire. The application process and results will be a private matter between management and the resident.

There are certain requirements which apply to the rent assistance program. The policies for the rental assistance are as follows:

- * Re-qualification is required every 90 days.
- * Resident must be qualified and have applied for Section 8 Rental Assistance yet to be received
- * Current Income must be less than 80% of income at time of qualification and approval for tenancy
- * Resident in Compliance with Rules and Regulations
- * The application of the resident is required to be free of concealment and misrepresentations.
- * Rent Assistance terminates, on any of the following events:
 - (1) The sale or transfer of the mobilehome.
 - (2) Insolvency or bankruptcy.
 - (3) Incurring any additional lien against the mobilehome or any part thereof.
 - (4) Failure to maintain, repair, or care for the mobilehome.
 - (5) Comply with the rental agreement or rules and regulations, or the termination of tenancy in the park.
 - (6) If the mobilehome is subleased or if additional residents, guests, or borders take possession together with the tenant.
 - (7) At any time management deletes the program.

CAREFREE RANCH MOBILEHOME PARK

Item 11.

PAINT ASSISTANCE PROGRAM

The Carefree Ranch paint assistance program is designed to help low income residents perform essential maintenance to their home in keeping with park rules and regulations.

Carefree Ranch will reimburse a resident for the cost of paint for their home when certain conditions (detailed below) are met.

- Applying residents must have lived in their Carefree Ranch home for more than one year.
- The home must be in need of paint.
- The resident must apply for the assistance from the park manager and must provide proof of their current income. Resident's base rent must be higher than 33% of their monthly income. For example, a resident with a monthly space rent of \$525.00 and a household income of less than \$1590.00 per month would meet the financial qualification, a household earning more than \$1590.00 would not.
- Paint colors (even when re-painting with the same colors that are currently on the home) must be approved by the park office. The paint used must be of a decent quality and at a reasonable price approved by park management (for example, Behr exterior paint from Home Depot is an approvable paint).
- The assistance must be approved by the Costa Mesa business office before the painting takes place.
- Painting must be done in a professional manner (properly trimmed, no drips or bleed through). Painting can be done by the resident, family, friend or a professional whom the resident pays for this service. Carefree Ranch does not reimburse for labor, brushes or other materials.
- The park manager will take pictures of the resident's home when the application is submitted and again when the job is complete. The park will not reimburse the paint cost if the home is not properly painted and may require the resident to correct imperfections at resident's expense, per park rules.
- The resident must submit paint receipt(s) to the park manager once the home has been painted and park management has approved the quality of the work. We require that only the paint be on the receipt(s) submitted to the park and no other items.

An approved applicant with a properly painted home having submitted receipts to park management will receive a rent credit equal to the cost of the approved paint.

The Carefree Ranch paint assistance program is a courtesy extended to low income residents in good standing and not an obligation of management to anyone. Residency deficiencies such as a poor payment history, clean up issues or other rules violations may be cause for management to decline assistance.

Carefree Ranch Management



Housing & Neighborhood Services
201 North Broadway, Escondido, CA 92025
Phone: 760-839-4841

August 14, 2023

Park Management
211 N. Citrus Avenue
Escondido, CA 92027

RESIDENT NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Escondido, sitting as the Mobilehome Rent Review Board, will hold a public hearing to consider the following item:

A short-form rental increase application for Carefree Ranch

A copy of the application is available for review at <https://www.escondido.org/pending-applications>, Carefree Ranch Mobilehome Park Office or the Housing & Neighborhood Services Division at City Hall, 201 N. Broadway. A copy of the staff report will be available at the Housing counter five days prior to the hearing date.

A public hearing is scheduled for **August 23, 2023, at 5 p.m.** in the City Council Chambers, 201 N. Broadway, Escondido, CA 92025 to determine whether or not a rent increase will be granted for your park.

If you are protesting the short-form application, you should register in the foyer prior to the opening of the public hearing. The purpose of the hearing is for the Rent Review Board to obtain input from the owner and tenants about why an increase should or should not be granted. If you challenge the decision of the Board 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 Rent Review Board at or prior to the public hearing.

You may also submit your feedback to Holly Nelson at hnelson@escondido.org or call 760-839-4518 and this information will be included in the City Council presentation.

At the hearing, the Rent Review Board may make a determination about the rent increase or they may request additional information from the owner or tenants. If additional information is requested, a new hearing will be scheduled. If an increase is granted, the owner must notify you in writing of the amount of the increase at least (90) days before the increase goes into effect.

Sincerely,

Holly Nelson

Holly Nelson
Housing & Neighborhood Services Manager

14 de agosto del 2023

211 N. Citrus Avenue
Escondido, CA 92027

AVISO PARA RESIDENTES DE AUDIENCIA PÚBLICA

POR LA PRESENTE SE NOTIFICA que el Concejo Municipal de la Ciudad de Escondido, siendo la Comisión Evaluadora que Revisan las Rentas de Casas Móviles, tendrá una audiencia pública para considerar el siguiente punto:

La aplicación de aumento de renta para Carefree Ranch

Una copia de la aplicación está disponible para revisión en <https://www.escondido.org/pending-applications>, la oficina de Carefree Ranch Mobilehome Park o División de Vivienda y Servicios al Vecindario en el Ayuntamiento, 201 N. Broadway. Una copia del reporte del personal estará disponible en el mostrador de la División de Vivienda cinco días antes de la fecha de la audiencia.

Una audiencia pública está programada para el **23 de agosto del 2023 a las 5 p.m.** en la Sala Consistorial del Concejo Municipal, 201 N. Broadway, Escondido, CA 92025 para determinar si se otorgará o no un aumento de renta para su parque.

Si usted está protestando esta abreviada-aplicación, debe registrarse en el vestíbulo antes de que comience la audiencia pública. El propósito de la audiencia es que la Comisión Evaluadora que Revisa las Rentas obtenga información del propietario y los inquilinos sobre por qué se debe o no se debe otorgar un aumento. Si impugna la decisión de la Comisión Evaluadora ante la corte, puede quedar limitado a proponer solo aquellos asuntos que usted u otra persona haya propuesto en la audiencia pública descrita en este aviso, o en la correspondencia escrita entregada a la Comisión Evaluadora que Revisa las Rentas durante o antes de la audiencia pública.

También puede enviar sus comentarios a Holly Nelson a hnelson@escondido.org o llamar al 760-839-4518 y esta información se incluirá en la presentación al Concejo Municipal.

En la audiencia, la Comisión Evaluadora de Revisión de Rentas puede tomar una determinación sobre el aumento de renta o pueden solicitar información adicional del propietario y / o inquilinos antes de tomar una decisión. Si se solicita información adicional, se programará una nueva audiencia. Si se concede un aumento, el propietario debe notificarle por escrito de la cantidad del aumento al menos (90) días antes de que el aumento entre en vigencia.

Sinceramente,

Holly Nelson

Holly Nelson, Gerente de Vivienda y Servicios al Vecindario



DATE: August 8, 2023

TO: HONORABLE CHAIRMAN AND MEMBERS OF THE RENT CONTROL BOARD

FROM: ED BENNETT, CODE COMPLIANCE MANAGER 

SUBJECT: CAREFREE RANCH MOBILEHOME PARK RENT CONTROL

Carefree Ranch Mobilehome Park was inspected on August 8, 2023 with the lighting inspection conducted the prior evening. The code enforcement inspection is required as part of the mobile home park's rent control application process. There were two general park violation and no lighting violations found and noted in the attached inspection report.

The resident meeting was held August 7, 2023 and was attended by 5 residents, a park manager and two city employees. There were no code issues brought forth in the meeting.

Cc: Andrew Firestine, Director of Development Services
Holly Nelson, Manager of the Housing and Neighborhood Services Division



August 8, 2023

MOBILEHOME PARK RENT CONTROL
CODE ENFORCEMENT INSPECTION REPORT

Park Name: Carefree Ranch Mobile Home Park
211 N. Citrus Ave.
Escondido, CA. 92027

Park Owner: Carefree Ranch LLC
C/o Bart J. Thomsen Properties
PO Box 15274
Newport Beach, CA. 92659

Park Manager: Jim Younce **Phone:** (760) 207-9727

Inspection Date: 8/8/2023 **Inspector:** Stephen Jacobson

The following report is based on the inspection of the mobile home park conducted under provisions outlined in the California Code of Regulations, Title 25, Division I, Chapter 2 and the Escondido Zoning Code, Article 45. This inspection report only addresses health and safety issues that are related to areas for which maintenance, repair and operations is the responsibility of the owners and managers of the part K

General Violations:

1. There are overgrown tree branches encroaching into the roadway by space number one. 25 CCR 1608 Section J.
2. There is a discarded water heater by the door way to the storage room which is a hazard. 25 CCR 1120 Section C.

Carefree Ranch Mobile Home Park
August 8, 2023 Rent Control Inspection Report
Page 2

Areas of the park requiring illumination per 25 CCR 1108:

(Lighting Inspection conducted the evening of 8-7-2023)

1. No lighting violations were found.



Code Enforcement Division
201 North Broadway, Escondido, CA 92025
Phone: 760-839-4650 Fax: 760-432-6819

August 14, 2023

Carefree Ranch LLC
C/o Bart J. Thomsen
PO Box 15274
Newport Beach, CA. 92659

Jim Younce- Manager
Carefree Ranch Mobilehome Park
211 N Citrus Ave
Escondido, CA 92027

Dear Bart and Jim,

This "Notice" is to formally advise you that the violations noted in the rent control inspection report dated August 8, 2023 have been corrected.

We appreciate your cooperation during this process. Our mutual efforts are important in maintaining safe and healthy parks in our city. Please feel free to call me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ed Bennett". The signature is stylized and written over a light blue horizontal line.

Ed Bennett
Code Compliance Manager

CC: Andrew Firestine, Director of Development Services
Holly Nelson, Manager of the Housing and Neighborhood Services Division



STAFF REPORT

August 23, 2023
File Number 0430-20

SUBJECT

HOUSING ACCELERATION PROGRAM GRANT APPLICATION

DEPARTMENT

Development Services Department, Planning Division

RECOMMENDATION

Request the City Council adopt Resolution No. 2023-112, authorizing the City to submit a San Diego Association of Governments ("SANDAG") Housing Acceleration Program ("HAP") grant application for the purposes of implementing the City's adopted housing element for the sixth cycle planning period.

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

Presenter: Veronica Morones, Principal Planner

FISCAL ANALYSIS

Total expected cost to develop and administer (for up to 12-months post creation) the affordable housing trust fund program is \$250,000. The total funds requested under a completed HAP application would be \$225,000, which accounts for 90% of expected costs. The remaining 10%, or \$25,000, would be matched through anticipated staff time overseeing the chosen consultant to create the program.

Currently, no other budgetary sources exist for this program.

PREVIOUS ACTION

On March 22, 2023, the City Council adopted revisions to the City's adopted housing element for purposes of statutory compliance with the State Department of Housing and Community Development ("HCD"). On July 19, 2023, the City Council adopted the East Valley Specific Plan ("EVSP") to further the City's compliance with Housing Element Law.

BACKGROUND

The adopted housing element includes Program 3.4 which works to affirmatively further fair housing. The EVSP, which serves as the City's rezoning effort for the purposes of the Regional Housing Needs Assessment ("RHNA"), includes policy LU-2.8 which establishes the creation of an affordable housing trust



CITY of ESCONDIDO

STAFF REPORT

fund consistent with Program 3.4. The housing element outlines a target date for establishing an affordable housing trust fund of 18-months from EVSP adoption, which is January 2025.

In early 2023, HCD awarded SANDAG with Regional Early Action Planning (“REAP”) funding. REAP is a program that accelerates progress toward state housing goals. Through the HAP grant opportunity, SANDAG seeks to award funds to applicants consistent with REAP requirements, such as projects that accelerate infill development, affirmatively further fair housing, and reduce vehicle miles traveled.

The City’s affordable housing trust fund program is an eligible program under the HAP grant opportunity. The Development Services Department has prepared an application for the HAP grant opportunity in order to fund creation of the affordable housing trust fund and cover costs for a consultant to administer the program for up to the first 12-months of implementation, once created. As part of the application process, applicant must provide an approving resolution from their governing body in support of their HAP submittal. To be considered a complete application, the required resolution must include certain mandatory language. That mandatory language is included within the draft resolution.

The Development Services Department’s HAP application would cover the expected cost of retaining a consultant to create the administrative process for an affordable housing trust fund and then cover the cost of a part-time consultant to administer the program for up to 12-months. The creation of the affordable housing trust fund would entail program design, such as in-lieu fee, procedures for eligible expenditures with fund dollars, creation of program materials such as an application to request funds, and identify new funding opportunities that the City may be eligible for with an established AHTF. The created program would return to the City Council at a future time in its final form for an ultimate decision on whether to approve the created program. Approval of Resolution No. 2023-112 would authorize the City’s Development Services Department to submit the application for potential grant funding and subsequently accept and execute the award and grant agreement if awarded. The sample SANDAG Grant Agreement is provided under Attachment 1 for reference.

CONCLUSION

It is requested that City Council approve Resolution No. 2023-112, authorizing the Development Services Department to submit a completed application for the HAP grant, and authorize City staff to accept grant funds and execute the associated grant agreement in the event the City receives awarding.

RESOLUTIONS

- a. Resolution No. 2023-112

ATTACHMENTS

- b. Attachment “1” – Sample SANDAG Grant Agreement

RESOLUTION NO. 2023-112

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE CITY'S DEVELOPMENT SERVICES DEPARTMENT TO SUBMIT A SANDAG HOUSING ACCELERATION PROGRAM GRANT APPLICATION FOR THE PURPOSES OF IMPLEMENTING THE CITY'S ADOPTED HOUSING ELEMENT AND EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, up to \$16 million of the Regional Early Action Planning Grants of 2021 (REAP 2.0) allocated funding for San Diego Association of Governments ("SANDAG") from the California Department of Housing and Community Development ("HCD") is available to local jurisdictions through the Housing Acceleration Program ("HAP") Cycle 2 Call for Projects; and

WHEREAS, the City of Escondido ("City") wishes to receive REAP 2.0 grant funding from SANDAG; and

WHEREAS, the City certifies that it adopted a Climate Action Plan (CAP) in a public meeting on March 10, 2021 that includes measures to reduce greenhouse gas (GHG) emissions to 1990 levels by 2020 and achieves further reductions beyond 2020 consistent with adopted regional or local GHG emissions reduction targets.

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

1. That the City of Escondido is authorized to submit a grant application to SANDAG for the Housing Acceleration Grant Program's Planning Project for the Escondido Affordable Housing Trust Fund.

2. That if a grant award is made by SANDAG to fund the project, the City commits to providing the match amounts per project as listed in the grant application, which is \$25,000 of staff capacity for project management.

3. That if a grant award is made by SANDAG, the City Council authorizes staff to accept the grant funds, execute the grant agreement with no exceptions in substantially the same form as provided with the Call for Projects provided under Attachment "1" of the associated Staff Report, and complete the Project.

4. That the City understands and agrees to comply with all applicable REAP 2.0 requirements imposed by HCD.

5. That the City understands and agrees that SANDAG shall have no liability for costs that may arise associated with the Project, which are not included in the grant agreement including, but not limited to, costs stemming from claims, litigation, changes in law, or force majeure events.

**GRANT AGREEMENT BETWEEN
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS AND
[JURISDICTION NAME]
REGARDING [FULL PROJECT TITLE]**

**REGIONAL EARLY ACTION PROGRAM 2.0
HOUSING ACCELERATION GRANT PROGRAM – CYCLE 2**

SANDAG CONTRACT NO. [CMS NUMBER]

THIS GRANT AGREEMENT ("Agreement") is made and entered into effective as of the last signature date by and between the San Diego Association of Governments ("SANDAG") and [JURISDICTION NAME] ("Subgrantee"). This Agreement expires on **December 31, 2025**, unless amended in writing by mutual agreement of the parties.

The following recitals are a substantive part of this Agreement:

- A.** In January 2010, the SANDAG Board of Directors approved Board Policy No. 035: Competitive Grant Program Procedures, which is available in its updated version at <https://www.sandag.org/about/bylaws-and-policies>. This Agreement and the Subgrantee's performance are subject to Board Policy No. 035, which includes multiple "use it or lose it" provisions.
- B.** In 2019, the state legislature passed Assembly Bill 101, which created state grant fund programs to distribute one-time funding to regional entities to prioritize planning activities that accelerate housing production. Thereafter, the California Department of Housing and Community Development (HCD) established the Regional Early Action Planning grant program (REAP), which allocated \$6.8 million to SANDAG. Using these grant funds, SANDAG established a regional housing incentive program to collaborate on projects with a broader regional impact on housing.
- C.** REAP 2.0 was established as part of the 2021 California Comeback Plan under Assembly Bill 140, and HCD allocated SANDAG \$43 million. REAP 2.0 builds on the success of REAP 1.0 and expands the REAP program focus by addressing housing and climate goals in California through funding planning and capital activities related to the acceleration of housing production within infill areas that affirmatively further fair housing and reduce vehicle miles traveled.
- D.** On October 28, 2022, the SANDAG Board of Directors approved the program eligibility and evaluation criteria for the Housing Acceleration Program (HAP) Cycle 2 Call for Projects, including up to \$16 million in funding from REAP 2.0.
- E.** On May 7, 2023, SANDAG issued a call for projects from local jurisdictions in San Diego County who wish to apply for a portion of the HAP Cycle 2 funds for use on housing planning and capital improvement projects meeting certain criteria.
- F.** On [Month, Day, Year], the SANDAG Board of Directors approved a list of recommended HAP projects for this competitive grant cycle, and one of those projects is the subject of this Agreement (Project). The Project Scope of Work and Budget, and Project Schedule are included as Attachments A and B respectively.
- G.** The purpose of this Agreement is to establish the terms and conditions for SANDAG to provide Subgrantee with funding to implement the Project.

- H. Although SANDAG will be providing financial assistance to Subgrantee to support the Project, SANDAG will not take an active role or retain substantial control of the Project. Therefore, this Agreement is characterized as a funding agreement rather than a cooperative agreement.
- I. Subgrantee understands that REAP 2.0 funds were granted from HCD which have statutory requirements and an expenditure deadline of June 30, 2026. The SANDAG funding commitment to HAP Projects, including this Project, is subject to those statutory requirements and deadline, which may impact funding availability for this Project.

NOW, THEREFORE, it is agreed as follows:

I. GRANT AWARD

- A. The total amount payable by SANDAG to Subgrantee pursuant to this Agreement shall be the proportion of actual Project costs allocated to grant funding in the Project Budget (Attachment A) and shall not exceed the grant award of [dollar amount] (Fund Limit).
- B. It is agreed and understood that this Agreement Fund Limit is a ceiling and that SANDAG will only reimburse the allowable cost of services actually rendered as authorized by SANDAG at or below the Fund Limit.

II. PROJECT BUDGET

The Subgrantee and SANDAG have agreed to a Project Budget that is set forth in Attachment A. The Subgrantee and/or third-party contractor(s) will incur obligations to the Project only as authorized by the Project Budget. Subgrantee may, with prior written approval from the HAP Program Manager, reallocate funds between tasks in the Project Budget as long as all of the following conditions are met:

1. The funds to be reallocated do not exceed an aggregate amount of ten percent for any particular task in the Project Budget,
2. The reallocation does not negatively impact the benefits obtained from the Project, and
3. There is no increase to the Fund Limit or decrease to the matching funds.

Any other changes to the Project Budget require the issuance of an amendment to this Agreement.

III. MATCHING FUNDS

Subgrantee agrees to provide matching funds in an amount of [dollar amount] of the actual cost of the Project, estimated to be [number including two decimals (e.g., 15.00)] percent based on the Project Budget. If the actual cost of the Project exceeds the Project Budget, Subgrantee is responsible for 100 percent of the actual cost greater than the Project Budget.

A. Availability of Grant Funding

Except where expressly allowed in writing herein, credits for matching funds will be made or allowed only for work performed on and after the Notice to Proceed date and prior to the termination date of this Agreement, unless expressly permitted by SANDAG in writing.

B. Reduction of Matching Funds

The Subgrantee agrees that no reduction in the amount of matching funds may be made unless a reduction of the proportional share of the grant funding provided by SANDAG under this Agreement also is made.

C. Prompt Payment of Subgrantee's Share of Matching Funds

Subgrantee agrees to complete all actions necessary to provide its share of the Project costs at or before the time the matching funds are needed from Subgrantee to pay for Project costs. The Subgrantee agrees to provide not less than its cumulative required match amount of Project costs prior to invoicing SANDAG for reimbursement. Each of Subgrantee's invoices must include its matching fund contribution, along with supporting, descriptive and/or explanatory documentation for the matching funds provided.

IV. PROJECT MANAGER

Subgrantee's Project Manager is [Project Manager].

The HAP Program Manager is Tracy Ferchaw.

Project manager continuity and experience is deemed essential in Subgrantee's ability to carry out the Project in accordance with the terms of this Agreement. Should the Subgrantee change the Project Manager, it will provide written notice to the HAP Program Manager within 10 business days of the change, including contact information for the new Project Manager.

V. NOTICE

All notices required to be given, by either party to the other, shall be deemed fully given when made in writing and received by the parties at their respective addresses:

San Diego Association of Governments
Attention: Grants Program Manager
401 B Street, Suite 800
San Diego, CA 92101

Subgrantee:
[Jurisdiction Name]
Attention: [Project Manager]
[Address]
[City, CA, ZIP]

VI. PROJECT IMPLEMENTATION**A. General**

The Subgrantee agrees to carry out the Project as follows:

1. Project Description

Subgrantee agrees to perform the work as described in the Scope of Work included in Attachment A.

2. Subgrantee's Capacity

The Subgrantee agrees to maintain or acquire sufficient legal, financial, technical, and managerial capacity to: (a) plan, manage, and complete the Project as described in Attachment A and provide for the use of any Project property; (b) carry out any safety and security aspects of the Project; and (c) comply with the terms of the Agreement and all applicable laws, regulations, and policies pertaining to the Project and the Subgrantee,

including but not limited to the Pass-Through Provisions from REAP Agreement (Attachment C) and Board Policy No. 035.

3. Project Schedule

The Subgrantee agrees to complete the Project according to the Project Schedule included in Attachment B and in compliance with the Pass-Through Provisions from REAP Agreement (Attachment C) and Board Policy No. 035.

4. Project Implementation and Oversight Requirements

Subgrantee agrees to comply with the Performance Measures included in Attachment D.

5. Changes to Project Scope of Work

This Agreement was awarded to Subgrantee based on the application submitted by Subgrantee with the intention that the awarded funds would be used to implement the Project as described in the project application. Any substantive deviation from Subgrantee's Scope of Work during project implementation may require reevaluation or result in loss of funding. If Subgrantee knows or should have known that substantive changes to the Project will occur or have occurred, Subgrantee will immediately notify SANDAG in writing. SANDAG will then determine whether the Project is still consistent with the overall objectives of the grant program and whether the changes would have negatively affected the Project ranking during the competitive grant evaluation process. SANDAG reserves the right to have grant funding withheld from Subgrantee, or refunded to SANDAG, due to Subgrantee's failure to satisfactorily complete the Project or due to substantive changes to the Project not approved in advance by SANDAG.

B. Application of Laws

Should a federal or state law pre-empt or conflict with a local law, policy, or ordinance, the Subgrantee must comply with the federal or state law and implementing regulations. No provision of this Agreement requires the Subgrantee to observe or enforce compliance with any provision, perform any other act, or do any other task in contravention of federal, state, territorial, or local law, regulation, or ordinance. If compliance with any provision of this Agreement violates or would require the Subgrantee to violate any law, the Subgrantee agrees to notify SANDAG immediately in writing. Should this occur, SANDAG and the Subgrantee agree that they will make appropriate arrangements to proceed with or, if necessary, terminate the Project or affected portions thereof expeditiously.

C. Changes in Project Performance

The Subgrantee agrees to notify SANDAG immediately, in writing, of any change in local law, conditions (including its legal, financial, or technical capacity), or any other event, including a force majeure event, that may adversely affect the Subgrantee's ability to perform the Project in accordance with the terms of the Agreement and as required by Board Policy No. 035. The Subgrantee also agrees to notify SANDAG immediately, in writing, of any current or prospective major dispute, breach, default, or litigation that may adversely affect SANDAG's interests in the Project; and agrees to inform SANDAG, also in writing, before naming SANDAG as a party to litigation for any reason, in any forum. At a minimum, the Subgrantee agrees to send each notice to SANDAG required by this subsection to SANDAG's Grants Program Manager.

D. Compliance Information System (CIS)

If Subgrantee will utilize persons other than its own employees to carry out work, Subgrantee and all of its subgrantees, third party contractors, and/or subcontractors (hereinafter "subcontractors") shall report payment details using the SANDAG web-based CIS by the 15th of each month following receipt of payment by SANDAG. CIS allows SANDAG to monitor promptness of payment to subcontractors and will allow Subgrantee and its subcontractors to manage their own records, maintain accurate contract information, and report payment details online. CIS is mandatory for Subgrantee and subcontractors to use unless SANDAG instructs otherwise. After execution of this Agreement, Subgrantee will receive instructions on how to set up its account and enter required subcontractor data into CIS via an internet browser. Subgrantee must require each of its subcontractors to enter required payment information into CIS. Failure of Subgrantee or its subcontractors to enter required information and confirm payments on a timely basis will result in delay of payment by SANDAG to Subgrantee until Subgrantee has cured any defects or provided the missing information. Should Subgrantee fail to provide the required information, SANDAG shall have sole discretion regarding whether to withhold payment or terminate this Agreement.

E. Licenses and Permits

Subgrantee represents and warrants to SANDAG that Subgrantee and its subcontractors will have all necessary licenses, permits, qualifications and approvals of whatever nature that are required to legally practice its profession and/or perform services under this Agreement at all times during the term of this Agreement.

F. Registration with DIR and Prevailing Wage Requirements

All provisions of this section shall be passed through to any subcontractors performing work related to this Agreement. Failure of Subgrantee or its subcontractors to comply with any of these requirements will result in delay of payment by SANDAG to Subgrantee. Additional requirements pertaining to public works projects are included in Attachment E.

1. Payment of Prevailing Wages

Subgrantee acknowledges that any work that qualifies as a "public work" within the meaning of California Labor Code section 1720 shall cause Subgrantee and its subcontractors to comply with the provisions of California Labor Code sections 1775 et seq, which includes the payment of prevailing wages to all workers performing prevailing wage work.

2. Public Works Contractor Registration With DIR

If Subgrantee or its subcontractors will engage in the performance of a public work as defined by California Labor Code sections 1720 et seq. and will utilize persons who are not employees of a public entity, registration and payment of an annual registration fee to the DIR shall be required of each entity performing the work. This requirement applies to anyone affected by the public works statutes found in the California Labor Code, including but not limited to landscapers, fencers, surveyors, soil testers, dredgers, heavy equipment operators, and inspectors. Registration can be completed online at <https://www.dir.ca.gov/public-works/contractor-registration.html>.

3. Subcontract Requirements

If Subgrantee will award any subcontracts for the performance of a public work:

- a. Subgrantee will create a Project Registration Form (aka PWC-100 form) for each subcontract using the California Department of Industrial Relations (DIR) online database.

- b. Subgrantee will provide to SANDAG the name, DIR registration number, and contractor's license numbers of each subcontractor so SANDAG can verify, prior to Subgrantee's award of the subcontract for a public work, that the selected subcontractor is currently licensed and registered with the DIR. If SANDAG finds that the selected subcontractor is not licensed and registered with the DIR, SANDAG will promptly notify Subgrantee and Subgrantee will not be permitted to award the subcontract to the selected subcontractor.
 - c. Subgrantee shall notify SANDAG ten business days prior to the subcontractor performing the prevailing wage work so SANDAG can prepare for labor compliance monitoring.
 - d. If there are any changes to a subcontractor or lower-tier subcontractor, Subgrantee will advise SANDAG of these changes as soon as those changes are known to the Subgrantee.
4. Certified Payroll Reporting to DIR

Grantee and all subcontractors performing a public work pursuant to this Agreement shall use the DIR's Electronic Certified Payroll Reporting (eCPR) System, available at <https://efiling.dir.ca.gov/eCPR/pages/eCPROnlineForm.jsp>, to furnish certified payroll records to the California Labor Commissioner. Subgrantee and its subcontractors are required to utilize the eCPR system throughout the entire duration of the public work.

5. Certified Payroll Reporting to SANDAG

In addition to the eCPR system, Subgrantee and all subcontractors performing a public work shall utilize the SANDAG Labor Compliance Monitoring System (LCMS), available at <https://www.sandag.org/about/work-with-us/labor-compliance-monitoring-program> to furnish certified payroll records to SANDAG. If Subgrantee desires to utilize a different system to provide certified payroll records to SANDAG, it must request prior authorization and receive approval in writing from the Grants Program Manager. SANDAG will provide Subgrantee and any first-tier subcontractors a log-on identification and password to access the SANDAG LCMS system. Subgrantee will be required to enter all of its second-tier and lower subcontractors' information into LCMS on an ongoing basis. In addition, the SANDAG LCMS will allow Subgrantee to convert certified payroll records to the XML file format for upload to the DIR system.

6. Retention and Inspection of Payroll Records and Employment of Registered Apprentices

Subgrantee agrees to comply and cause any of its applicable subcontractors to comply with Labor Code section 1776 regarding retention and inspection of payroll records and noncompliance penalties, Labor Code section 1777.5 regarding employment of registered apprentices, and Labor Code section 1813 regarding forfeiture for violations of the maximum hours per day and per week provisions contained in the same chapter. In order to ensure compliance with the Labor Code, Subgrantee and its subcontractors shall be subject to site visits and spot-check audits by SANDAG. During these audits and inspections, SANDAG or its designee may request Subgrantee or subcontractor records, including but not limited to certified payroll, apprenticeship, and other ancillary records at any time during the term of the Agreement. If such an audit or site visit discloses that Subgrantee or a subcontractor has not kept complete and accurate records or complied with the requirements of the California Labor Code, the non-compliant entity performing the public work will be required to immediately stop work and DIR will be notified.

Additionally, if Subgrantee was provided an exception to utilizing the SANDAG LCMS, Subgrantee will be required to input and submit all applicable certified payrolls and accompanying documentation related to the Project, retroactive to the start of the Project, into the SANDAG LCMS.

G. Standard of Care

Subgrantee expressly warrants that the work to be performed pursuant to this Agreement shall be performed in accordance with the applicable standard of care. Where approval by SANDAG, its management, or other representative of SANDAG is indicated in the Scope of Work, it is understood to be conceptual approval only and does not relieve the Subgrantee of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Subgrantee or its subcontractors.

H. Third-Party Contracting

Although the Subgrantee may delegate any or almost all Project responsibilities to one or more third-party contractors, the Subgrantee agrees that it, rather than any third-party contractor, is ultimately responsible for compliance with all applicable laws, regulations, and this Agreement. The first invoice utilizing any third-party contractor shall be accompanied by evidence of compliance with the following requirements:

1. Competitive Procurement

Subgrantee shall not award contracts with a cumulative value over \$10,000 on the basis of a noncompetitive procurement for work to be performed under this Agreement without the prior written approval of SANDAG. Contracts awarded by Subgrantee, if intended as local match credit, must meet the requirements set forth in this Agreement regarding local match funds. Upon request by SANDAG, Subgrantee shall submit its Request for Proposals or bid solicitation documents to SANDAG staff for review and comment for consistency with the agreed upon Scope of Work with SANDAG and to ensure a competitive process was used.

If Subgrantee hires a third-party contractor to carry out work funded under this Agreement, Subgrantee shall: prepare an Independent Cost Estimate prior to soliciting proposals/bids; publicly advertise for competing proposals/bids for the work; for professional services, use cost as a significant evaluation factor in selecting the third-party contractor; document a record of negotiation establishing that the amount paid by Subgrantee for the work is fair and reasonable; and pass through the relevant obligations in this Agreement to the contractor.

2. Debarment

Subgrantee shall execute and cause its third-party contractors to execute debarment and suspension certificates stating they have not been disqualified from doing business with government entities. The documentation showing lack of debarment shall be obtained from the following two websites:

- Subgrantee will check the System for Award Management (SAM) at www.sam.gov to verify the prime contractor and all of its subcontractors are not currently debarred or suspended by the federal government.
- Entities in the United States are banned from doing business with companies with ownership based in countries such as Cuba, Sudan and China due to United States trade sanctions. A search on the US Treasury's Office of Foreign Assets Control (OFAC) website can ensure Subgrantee will not be doing business with a vendor that is subject to trade sanctions. This can be done at <https://sanctionssearch.ofac.treas.gov/>.

3. Flowdown

Subgrantee agrees to take appropriate measures necessary, including the execution of a subagreement, lease, third-party contract, or other, to ensure that all Project participants, including alternate payees or third-party contractors at any tier, comply with all applicable federal laws, regulations, policies affecting Project implementation and Agreement requirements. In addition, if an entity other than the Subgrantee is expected to fulfill any responsibilities typically performed by the Subgrantee, the Subgrantee agrees to assure that the entity carries out the Subgrantee's responsibilities as set forth in this Agreement, including but not limited to those in Attachment C.

4. No SANDAG Obligations to Third Parties

In connection with the Project, the Subgrantee agrees that SANDAG shall not be subject to any obligations or liabilities to any subcontractor, lessee, third party contractor at any tier or other person or entity that is not a party to the Agreement for the Project. Notwithstanding that SANDAG may have concurred in or approved any solicitation, subagreement, lease, alternate payee designation, or third-party contract at any tier, SANDAG has no obligations or liabilities to any entity other than the Subgrantee.

5. Equipment Purchases

Subgrantee shall maintain ownership of any equipment purchased using Agreement funding and shall use such equipment only for the purposes set forth in this Agreement. The parties agree to meet and confer in good faith to ensure the continued use of the equipment for the purposes intended, which may include reimbursement to SANDAG when the fair market value of the equipment at Project completion exceeds \$5,000. SANDAG and Subgrantee further agree that Subgrantee shall keep an inventory record for each piece of equipment purchased under this Agreement and maintain each piece of equipment in good operating order consistent with the purposes for which they were intended. SANDAG shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and proper maintenance of the equipment.

VII. ETHICS

A. Subgrantee Code of Conduct/Standards of Conduct

The Subgrantee agrees to maintain a written code of conduct or standards of conduct that shall govern the actions of its officers, employees, council or board members, or agents engaged in the award or administration of subagreements, leases, or third-party contracts supported with the grant funding. The Subgrantee agrees that its code of conduct or standards of conduct shall specify that its officers, employees, council or board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from any present or potential subcontractor, lessee, or third-party contractor at any tier or agent thereof. The Subgrantee may set de minimis rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. The Subgrantee agrees that its code of conduct or standards of conduct shall also prohibit its officers, employees, board members, or agents from using their respective positions in a manner that presents a real or apparent personal or organizational conflict of interest or personal gain. As permitted by state or local law or regulations, the Subgrantee agrees that its code of conduct or standards of conduct shall include penalties, sanctions, or other disciplinary actions for violations by its officers, employees, council or board members, or their agents, or its third-party contractors or subcontractors or their agents.

B. Personal Conflicts of Interest

The Subgrantee agrees that its code of conduct or standards of conduct shall prohibit the Subgrantee's employees, officers, council or board members, or agents from participating in the selection, award, or administration of any third-party contract or subagreement supported by the grant funding if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in a firm competing for award.

C. Organizational Conflicts of Interest

The Subgrantee agrees that its code of conduct or standards of conduct shall include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third-party contract or subagreement may, without some restrictions on future activities, result in an unfair competitive advantage to the third-party contractor or subcontractor or impair its objectivity in performing the contract work.

D. SANDAG Code of Conduct

SANDAG has established policies concerning potential conflicts of interest. These policies apply to Subgrantee. For all awards by SANDAG, any practices which might result in unlawful activity are prohibited including, but not limited to, rebates, kickbacks, or other unlawful considerations. SANDAG staff members are specifically prohibited from participating in the selection process when those staff have a close personal relationship, family relationship, or past (within the last 12 months), present, or potential business or employment relationship with a person or business entity seeking a contract with SANDAG. It is unlawful for any contract to be made by SANDAG if any individual Board member or staff has a prohibited financial interest in the contract. Staff also are prohibited from soliciting or accepting gratuities from any organization seeking funding from SANDAG. SANDAG's officers, employees, agents, and board members shall not solicit or accept gifts, gratuities, favors, or anything of monetary value from consultants, potential consultants, or parties to subagreements. By signing this Agreement, Subgrantee affirms that it has no knowledge of an ethical violation by SANDAG staff or Subgrantee. If Subgrantee has any reason to believe a conflict of interest exists with regard to the Agreement or the Project, it shall notify the SANDAG Office of General Counsel immediately.

E. Bonus or Commission

The Subgrantee affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its grant funding application for the Project.

F. False or Fraudulent Statements or Claims

The Subgrantee acknowledges and agrees that by executing the Agreement for the Project, the Subgrantee certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project, including, but not limited to, the Subgrantee's grant application, progress reports and invoices.

VIII. PAYMENTS**A. Method of Payment**

The method of payment for this Agreement will be based upon actual, substantiated, and allowable costs described herein.

B. Alternate Payee

If the Subgrantee designates a party as an Alternate Payee, Alternate Payee is authorized to submit payment requests directly to SANDAG to receive reimbursement for allowable Project costs. This does not alleviate Subgrantee from all obligations under this Grant Agreement.

C. Invoicing

Subgrantee or Alternate Payee is required to submit invoices quarterly. Invoices must be accompanied by a quarterly report (template to be provided by SANDAG). SANDAG will make payments for eligible amounts to Subgrantee or Alternate Payee as promptly as SANDAG fiscal procedures permit upon receipt of Subgrantee's or Alternate Payee's itemized signed invoice(s) and confirmation by the HAP Program Manager that Subgrantee is in compliance with the reporting and other requirements in this Agreement. SANDAG shall retain 10 percent from the amounts invoiced until satisfactory completion of the Project. SANDAG shall promptly pay retention amounts to Subgrantee or Alternate Payee following satisfactory completion of work, receipt of final invoice, and all required documentation.

D. Eligible Costs

The Subgrantee agrees that Project costs eligible for grant funding must comply with the following requirements, unless SANDAG determines otherwise in writing. To be eligible for reimbursement, Project costs must be:

1. Consistent with the Project Scope of Work, Schedule, and Project Budget, and other provisions of the Agreement.
2. Necessary in order to accomplish the Project.
3. Reasonable for the goods or services purchased.
4. Actual net costs to the Subgrantee (i.e., the price paid minus any refunds, rebates, or other items of value received by the Subgrantee that have the effect of reducing the cost actually incurred, excluding program income). Project generated revenue realized by the Subgrantee shall be used in support of the Project. Project generated revenue and expenditures, if any, shall be reported at the end of the Agreement period.
5. Incurred for work performed on or after the SANDAG Notice to Proceed date, and before the termination date, and also must have been paid for by the Subgrantee.
6. Satisfactorily documented with supporting documentation, which is to be submitted with each invoice. Copies of invoices are required for goods or services provided by third parties.
7. Treated consistently in accordance with generally accepted accounting principles and procedures for the Subgrantee and any third-party contractors and subcontractors, (see Section entitled "Accounting Records").
8. Eligible for grant funding as part of the grant program through which the funds were awarded.

E. Excluded Costs

In determining the amount of REAP funds SANDAG will provide for the Project, SANDAG will exclude:

1. Any Project cost incurred by the Subgrantee before the Effective Date of the Agreement or applicable Amendment thereto
2. Any cost that is not included in the Project Budget
3. Any cost for Project property or services received in connection with a subagreement, lease, third-party contract, or other arrangement that is required to be, but has not been, concurred in or approved in writing by SANDAG
4. Any cost ineligible for SANDAG participation as provided by applicable laws, regulations, or policies
5. Any cost incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (any indirect cost). Typical indirect costs include facilities and administration costs such as heat/air conditioning, lighting, payroll, and the entity's accounting system. Administrative costs such as clerical and support staff salaries also are most often treated as indirect costs.

The Subgrantee understands and agrees that payment to the Subgrantee for any Project cost does not constitute SANDAG's final decision about whether that cost is allowable and eligible for payment under the Project and does not constitute a waiver of any violation by the Subgrantee of the terms of this Agreement or Board Policy No. 035. The Subgrantee acknowledges that SANDAG will not make a final determination about the allowability and eligibility of any cost until the final payment has been made on the Project or the results of an audit of the Project requested by SANDAG has been completed, whichever occurs latest. If SANDAG determines that the Subgrantee is not entitled to receive any portion of the grant funding requested or paid, SANDAG will notify the Subgrantee in writing, stating its reasons. The Subgrantee agrees that Project closeout will not alter the Subgrantee's responsibility to return any funds due to SANDAG as a result of later refunds, corrections, performance deficiencies, or other similar actions; nor will Project closeout alter SANDAG's right to disallow costs and recover funds provided for the Project on the basis of a later audit or other review. Upon notification to the Subgrantee that specific amounts are owed to SANDAG, whether for excess payments of grant funding, disallowed costs, or funds recovered from third parties or elsewhere, the Subgrantee agrees to promptly remit to SANDAG the amounts owed, including applicable interest, penalties and administrative charges.

IX. ACCOUNTING, REPORTING, RECORD RETENTION, AND ACCESS

A. Project Accounts

The Subgrantee and/or Alternate Payee agree to establish and maintain for the Project either a separate set of accounts or separate accounts within the framework of an established accounting system that can be identified with the Project. The Subgrantee and/or Alternate Payee also agree to maintain documentation of all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents related in whole or in part to the Project so that they may be clearly identified, readily accessible, and available to SANDAG upon request and, to the extent feasible, kept separate from documents not related to the Project.

B. Reports

1. The Subgrantee agrees to submit to SANDAG all reports required by law and regulation, policy, this Agreement, or any other reports SANDAG may specify. SANDAG reserves the right to specify that records be submitted in particular formats. Subgrantee may be required to attend meetings of SANDAG staff and committees, including but not limited to the Regional Planning

Committee and the SANDAG Board of Directors, to report on its progress and respond to questions from Board Members or the public.

2. Subgrantee's performance shall be monitored for consistency with the Scope of Work. SANDAG will utilize Performance Measures (Attachment D) and the SANDAG Grant Monitoring Checklist provided by the HAP Program Manager, to document compliance with this Agreement. Subgrantee's performance will be measured against the Performance Measures during the term of this Agreement. If the Subgrantee does not comply with provisions in this Agreement or achieve minimum performance requirements, SANDAG will issue Subgrantee a written Notice to Complete a Recovery Plan (Notice). Subgrantee's Recovery Plan shall include a detailed description of how Subgrantee intends to come into compliance with the Agreement or Performance Measures. Subgrantee's Recovery Plan must include an implementation schedule that reflects compliance with the Agreement as referenced in the Notice, or achievement of its performance measure minimums within three months following the issue date of the Notice. Subgrantee must submit its Recovery Plan to the HAP Program Manager within 30 calendar days following the issue date of the Notice. If Subgrantee's performance is inconsistent with that proposed in its Recovery Plan, SANDAG in its sole discretion may terminate this Agreement.
3. Subgrantee must submit quarterly reports and invoices to SANDAG, detailing accomplishments in the quarter, anticipated progress next quarter, pending issues and actions toward resolution, and status of budget, schedule, and Performance Measure. Subgrantee will not be paid until all reports are completed and provided to SANDAG in the format SANDAG requires. Furthermore, the Subgrantee agrees to provide project milestone information (such as presentations to community groups, other agencies, and elected officials, groundbreaking, and ribbon-cuttings) to support media and communications efforts. Subgrantee needs to document and track in-kind contributions designated as matching funds as part of project management. Subgrantee must provide all deliverables identified in the Scope of Work.
4. Press materials shall be provided to SANDAG staff before they are distributed. SANDAG logo(s) should be included in press materials and other project collateral based on logo usage guidelines to be provided by SANDAG. Subgrantee agrees to provide project milestone information to support media and communications efforts.
5. Subgrantee is responsible for the following photo documentation:
 - Existing conditions photos (as applicable), which should illustrate the current conditions of the project site and demonstrate the need for improved facilities
 - Project milestone photos (such as workshops, presentations to community groups, other agencies, and elected officials)
 - Photos should be high resolution (at least 4 inches by 6 inches with a minimum of 300 pixels per inch) and be accompanied by captions with project descriptions, dates, locations, and the names of those featured, if appropriate. Subgrantees must obtain consent of all persons featured in photos (or that of a parent or guardian of persons under the age of 18) by using the SANDAG Photo and Testimonial Release form to be provided by SANDAG, or a similar release form developed by Subgrantee and agreed upon by SANDAG.

C. Record Retention

During the course of the Project and for three years thereafter from the date of transmission of the final invoice, the Subgrantee agrees to maintain, intact and readily accessible, all communications, data, documents, reports, records, contracts, and supporting materials relating to the Project, as

SANDAG may require. All communications and information provided to SANDAG become the property of SANDAG and public records, as such, may be subject to public review. Please see SANDAG's Board Policy No. 015: Records Management Policy, which is available at <https://www.sandag.org/about/bylaws-and-policies>, for information regarding the treatment of documents designated as confidential.

D. Meeting Records

Subgrantee shall provide SANDAG with agendas and meeting summaries for all community meetings. SANDAG staff may attend any meetings as appropriate.

E. Access to Records of Subgrantees and Subcontractors

The Subgrantee agrees to permit, and require its subcontractors to permit, SANDAG or its authorized representatives, upon request, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Subgrantee and its subcontractors pertaining to the Project.

X. PROJECT COMPLETION, AUDIT, SETTLEMENT, AND CLOSEOUT

A. Project Completion

Within 90 calendar days following Project completion or termination by SANDAG, or by February 28, 2026, whichever occurs first, the Subgrantee agrees to submit a final invoice of Project expenses and final reports, as applicable. All payments made to the Subgrantee shall be subject to review for compliance by SANDAG with the requirements of this Agreement and shall be subject to an audit upon completion of the Project.

B. Project Audit

The Subgrantee agrees to have financial, performance, and compliance audits performed as SANDAG may require. The Subgrantee agrees that Project closeout will not alter the Subgrantee's audit responsibilities. Audit costs are allowable Project costs.

C. Performance Audit

The Subgrantee agrees to cooperate with SANDAG with regard to any performance audit that is performed on the Project.

D. Project Closeout

Project closeout occurs when SANDAG notifies the Subgrantee that SANDAG has closed the Project, and, if applicable, either forwards the final grant funding payment and or acknowledges that the Subgrantee has remitted the proper refund. The Subgrantee agrees that Project closeout by SANDAG does not invalidate any continuing requirements imposed by the Agreement or any unmet requirements set forth in a written notification from SANDAG.

XI. TIMELY PROGRESS AND RIGHT OF SANDAG TO TERMINATE

A. Subgrantee shall make diligent and timely progress toward completion of the Project within the timelines set forth in the Project Schedule.

B. In the event Subgrantee encounters or anticipates difficulty in meeting the Project Schedule, the Subgrantee shall immediately notify the HAP Program Manager in writing, and shall provide pertinent details, including the reason(s) for the delay in performance and the date by which

Subgrantee expects to complete performance or delivery. This notification shall be informational in character only and receipt of it shall not be construed as a waiver by SANDAG of a project delivery schedule or date, or any rights or remedies provided by this Agreement, including Board Policy No. 035 requirements.

- C. Subgrantee agrees that SANDAG, at its sole discretion, may suspend or terminate all or any part of the grant funding if the Subgrantee fails to make reasonable progress on the Project and/or violates the terms of the Agreement or Board Policy No. 035, or if SANDAG determines that the purpose of the laws or policies authorizing the Project would not be adequately served by the continuation of grant funding for the Project.
- D. In general, termination of grant funding for the Project will not invalidate obligations properly incurred by the Subgrantee before the termination date to the extent those obligations cannot be canceled. If, however, SANDAG determines that the Subgrantee has willfully misused grant funding by failing to make adequate progress, or failing to comply with the terms of the Agreement, SANDAG reserves the right to require the Subgrantee to refund to SANDAG the entire amount of grant funding provided for the Project or any lesser amount as SANDAG may determine.
- E. Expiration of any Project time period established in the Project Schedule will not, by itself, automatically constitute an expiration or termination of the Agreement for the Project, however, Subgrantee must request and SANDAG may agree to amend the Agreement in writing if the Project Schedule will not be met. An amendment to the Project Schedule may be made at SANDAG's discretion if Subgrantee's request is consistent with the provisions of Board Policy No. 035 and the REAP 2.0 requirements.

XII. CIVIL RIGHTS

The Subgrantee agrees to comply with all applicable civil rights laws, regulations and policies and shall include the provisions of this section in each subagreement, lease, third-party contract or other legally binding document to perform work funded by this Agreement. Applicable civil rights laws, regulations and policies include, but are not limited to, the following:

A. Nondiscrimination

SANDAG implements its programs without regard to income level, disability, race, color, and national origin in compliance with the Americans with Disabilities Act and Title VI of the Civil Rights Act. Subgrantee shall prohibit discrimination on these grounds, notify the public of their rights under these laws, and utilize a process for addressing complaints of discrimination. Furthermore, Subgrantee shall make the procedures for filing a complaint available to members of the public and will keep a log of all such complaints. Subgrantee must notify SANDAG immediately if a complaint is lodged that relates to the Project or program funded by this grant. If Subgrantee receives a Title VI-related or ADA-related complaint, Subgrantee must notify SANDAG in writing within 72 hours of receiving the complaint so that SANDAG can determine whether it needs to carry out its own investigation.

B. Equal Employment Opportunity

During the performance of this Agreement, Subgrantee and all of its subcontractors, if any, shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family and medical care leave, denial of pregnancy disability leave, veteran status, or sexual orientation. Subgrantee and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Subgrantee and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code Section 12900, et seq.) and the

applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by this reference and are made a part hereof as if set forth in full. Subgrantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

XIII. DISPUTES AND VENUE

A. Choice of Law

This Agreement shall be interpreted in accordance with the laws of the State of California.

B. Dispute Resolution Process

In the event Subgrantee has a dispute with SANDAG during the performance of this Agreement, Subgrantee shall continue to perform unless SANDAG informs Subgrantee in writing to cease performance. The dispute resolution process for disputes arising under this Agreement shall be as follows:

1. Subgrantee shall submit a statement of the grounds for the dispute, including all pertinent dates, names of persons involved, and supporting documentation, to the HAP Program Manager. The HAP Program Manager and other appropriate SANDAG staff will review the documentation in a timely manner and reply to Subgrantee within 20 calendar days. Upon receipt of an adverse decision by SANDAG, Subgrantee may submit a request for reconsideration to SANDAG's Chief Executive Officer or designee. The request for reconsideration must be received within ten calendar days from the postmark date of SANDAG's reply. The Chief Executive Officer or designee will respond in writing to the request for reconsideration within ten working days.
2. If Subgrantee is dissatisfied with the results following exhaustion of the above dispute resolution procedures, Subgrantee shall make a written request to SANDAG for appeal to the SANDAG Regional Planning Committee. SANDAG shall respond to a request for mediation within 30 calendar days. The decision of the Regional Planning Committee shall be final.

C. Venue

If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Diego, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, litigation and collection expenses, witness fees, and court costs as determined by the court.

XIV. ASSIGNMENT

Subgrantee shall not assign, sublet, or transfer (whether by assignment or novation) this Agreement or any rights under or interest in this Agreement.

XV. INDEMNIFICATION AND HOLD HARMLESS

A. Generally

With regard to any claim, protest, or litigation arising from or related to the Subgrantee's performance in connection with or incidental to the Project or this Agreement, Subgrantee agrees to

defend, indemnify, protect, and hold SANDAG and its agents, officers, Board members, and employees harmless from and against any and all claims, including, but not limited to prevailing wage claims against the Project, asserted or established liability for damages or injuries to any person or property, including injury to the Subgrantee's or its subcontractors' employees, agents, or officers, which arise from or are connected with or are caused or claimed to be caused by the negligent, reckless, or willful acts or omissions of the Subgrantee and its subcontractors and their agents, officers, or employees, in performing the work or services herein, and all expenses of investigating and defending against same, including attorney fees and costs; provided, however, that the Subgrantee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of SANDAG, its Board of Directors, agents, officers, or employees.

B. Intellectual Property

Upon request by SANDAG, the Subgrantee agrees to indemnify, save, and hold harmless SANDAG and its Board of Directors, officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Subgrantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Subgrantee shall not be required to indemnify SANDAG for any such liability caused solely by the wrongful acts of SANDAG employees or agents.

XVI. INDEPENDENT CONTRACTOR

A. Status of Subgrantee

Subgrantee shall perform the services provided for within this Agreement as an independent contractor, and not as an employee of SANDAG. Subgrantee shall be under the control of SANDAG as to the result to be accomplished and not the means, and shall consult with SANDAG as provided for in the Scope of Work. The payments made to Subgrantee pursuant to this Agreement shall be the full and complete compensation to which Subgrantee is entitled. SANDAG shall not make any federal or state tax withholdings on behalf of Subgrantee. SANDAG shall not be required to pay any workers' compensation insurance on behalf of Subgrantee. Subgrantee agrees to indemnify SANDAG for any tax, retirement contribution, social security, overtime payment, or workers' compensation payment which SANDAG may be required to make on behalf of Subgrantee or any employee of Subgrantee for work done under this Agreement.

B. Actions on Behalf of SANDAG

Except as SANDAG may specify in writing, Subgrantee shall have no authority, express or implied, to act on behalf of SANDAG in any capacity whatsoever, as an agent or otherwise. Subgrantee shall have no authority, express or implied, to bind SANDAG or its members, agents, or employees, to any obligation whatsoever, unless expressly provided for in this Agreement.

XVII. SEVERABILITY AND INTEGRATION

If any provision of the Agreement is determined invalid, the remainder of that Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable laws or regulations.

This Agreement with its attachments and the resolution from Subgrantee's governing body submitted with its application, represents the entire understanding of SANDAG and Subgrantee as to those matters contained in it. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing, signed by SANDAG and the Subgrantee.

XVIII. SIGNATURES

The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

SAN DIEGO ASSOCIATION OF
GOVERNMENTS

[JURISDICTION NAME]

SUSAN HUNTINGTON
Director of Financial Planning, Budgets,
and Grants

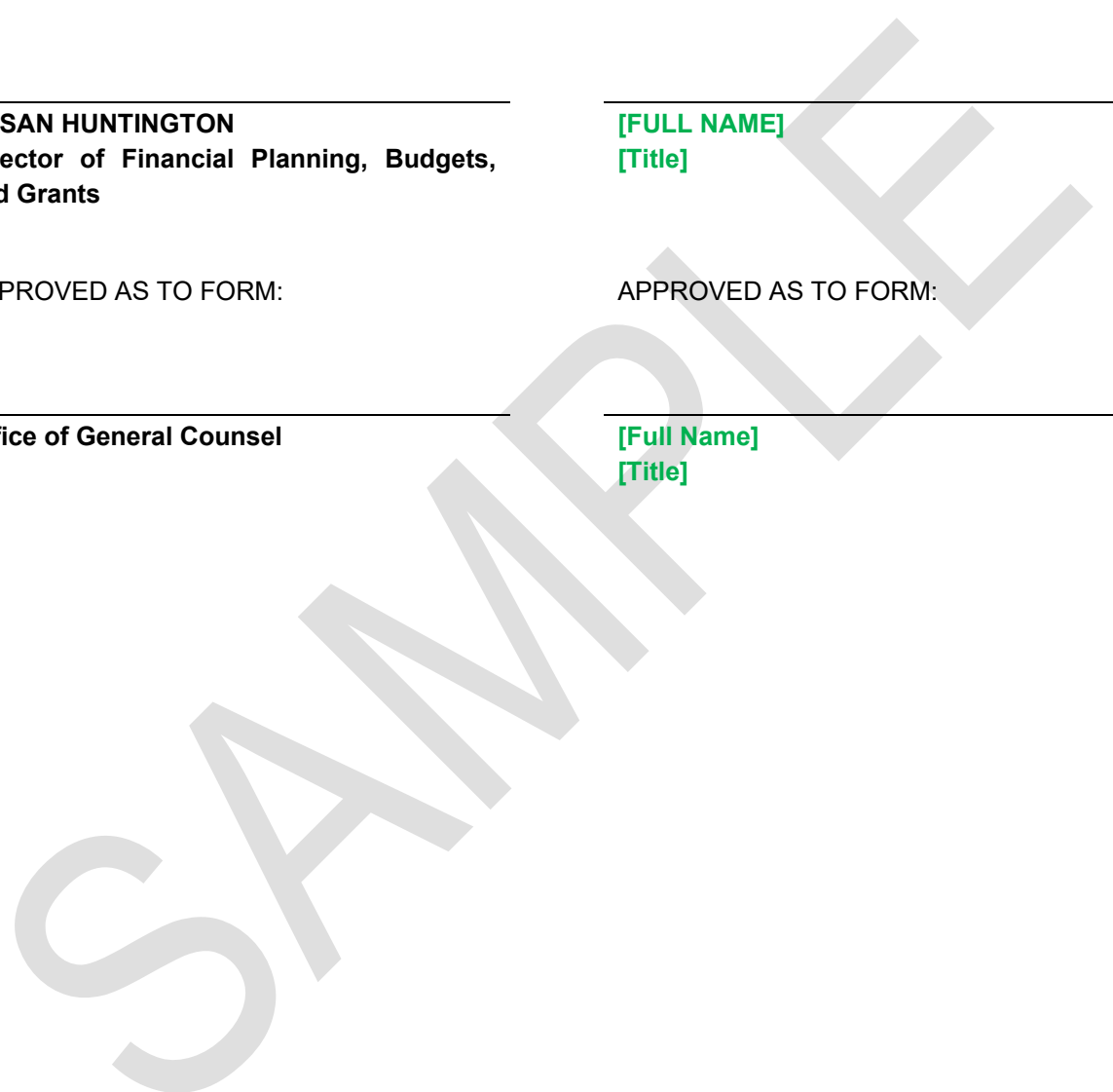
[FULL NAME]
[Title]

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Office of General Counsel

[Full Name]
[Title]



ATTACHMENT A
SCOPE OF WORK AND PROJECT BUDGET

(Insert final Scope and Project Budget from Excel file)

SAMPLE

**ATTACHMENT B
PROJECT SCHEDULE**

(Insert final Project Schedule from Excel file)

SAMPLE

ATTACHMENT C
PASS-THROUGH PROVISIONS FROM REAP AGREEMENT

The following pages are labeled as REAP2 Terms and Conditions and are a copy of Exhibit D to SANDAG's Agreement with HCD (HCD Agreement). The HCD Agreement requires compliance with the Local Government Planning Support Grant Program (Health & Safety Code §50515.06 et seq.) The REAP Terms and Conditions refer to SANDAG as Grantee. Section 9B of the document requires that if SANDAG enters into any contracts with subrecipients such as Subgrantee as a result of the HCD Agreement, such contract must contain all the provisions in the HCD Agreement.

SAMPLE

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EXHIBIT D - REAP2 TERMS AND CONDITIONS

1. Accounting and Records

- A. The Grantee, its employees, contractors, and subcontractors shall establish and maintain an accounting system and reports that properly accumulate incurred project costs by line. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for payment vouchers and invoices. Grantees may establish and maintain an accounting system and reports, as described above, on behalf of contractors and subcontractors.
- B. The Grantee must establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the budget and timeline. Separate bank accounts are not required. As appropriate, Grantees must establish separate ledgers for State General funds and other funds associated with proposed uses not provided by the REAP 2.0 Program.
- C. The Grantee shall maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing), and financial records of expenditures incurred during the course of the project in accordance with GAAP.
- D. The Grantee agrees that the Department or designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the Agreement.
- E. The Grantee agrees to maintain such records for a possible audit after the final payment for at least five years after all funds have been expended or returned to the State unless a longer period of records retention is stipulated. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.
- F. Contractors and subcontractors employed by the Grantee and paid with moneys under the terms of this Agreement shall be responsible for maintaining accounting records as specified above.

2. Invoicing

- A. Grant funds cannot be disbursed until the Agreement has been fully executed.
- B. The Grantee will be responsible for compiling and submitting all invoices and reporting documents.
- C. The Grantee must bill the Department based on clear deliverables outlined in the Agreement or budget timeline. Generally, approved and eligible costs incurred for work after execution of the Agreement and completed during the grant term will be reimbursable. However, eligible activities conducted prior to award will be

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reimbursable to July 1, 2021. Approved and eligible costs incurred prior to July 1, 2021, are ineligible.

- D. Grantees who received advance funds shall expend all such funds or demonstrate substantial progress prior to requesting additional advanced funding by submitting an updated project timeline and budget, including expenditure progress for their eligible projects from the application and any supporting documentation.
- E. Project invoices may be submitted to the Department by the Grantee on a quarterly basis or upon completion of a deliverable, subject to the Department's approval.
- F. The Department may consider advance payments or alternative arrangements to reimbursement and payment methods based on demonstrated need. The Department may consider factors such as available funds for eligible activities. Suballocations must request funds in increments, schedule for advance payments or other form approved by the Department, and report progress according to an implementation and expenditure timetable.
- G. Supporting documentation may include, but is not limited to, purchase orders, receipts, progress payments, subcontractor invoices, timecards, reports, or any other documentation as deemed necessary by the Department to support the reimbursement to the Grantee for expenditures incurred.
- H. Invoices must be accompanied by supporting documentation where appropriate. Invoices without supporting documentation will not be paid. The Department may withhold up to 10 percent of the grant until grant terms have been fulfilled, including all required reporting.

3. **Audits**

- A. At any time during the term of the Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the award. At the Department's request, the Grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. The Department has the right to review project documents and conduct audits during project implementation and over the project life.
- B. The Grantee agrees that the Department or the Department's designee shall have the right to review, obtain, and copy all records and supporting documentation pertaining to performance of this Agreement.
- C. The Grantee agrees to provide the Department, or the Department's designee, with any relevant information requested.
- D. The Grantee agrees to permit the Department or the Department's designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees who might reasonably have information related to such records and inspecting and copying such books, records, accounts, and other

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material that may be relevant to a matter under investigation for the purpose of determining compliance with statutes, REAP 2.0 Guidelines, and the Agreement.

- E. The Department may request additional information, as needed, to meet other applicable audit requirements.
 - F. The Department may monitor expenditures and activities of a Grantee or its designees, contractors or subcontractors, as the Department deems necessary, to ensure compliance with REAP requirements.
 - G. Grantees using federal or state transportation planning funds administered through the Overall Work Program (OWP) shall clearly identify the source of funds.
 - H. If there are audit findings, the Grantee must submit a detailed response acceptable to the Department for each audit finding within 90 days from the date of the audit finding report.
 - I. The Grantee agrees to maintain such records for possible audit after the final payment for at least five years after all funds have been expended or returned to the State unless a longer period of records retention is stipulated. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.
 - J. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, all records must be retained by the Grantee and its designees, contractors, and sub-contractors until completion of the action and resolution of all issues which arise from it. In any contract that it enters into in an amount exceeding \$10,000, the Grantee shall include the Department's right to audit the contractor's records and interview their employees.
 - K. The Grantee shall comply with and be aware of the requirements and penalties for violations of fraud and for obstruction of investigation as set forth in California Public Contracts Code Section 10115.10.
4. **Remedies and Non-performance**
- A. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by the Department's Housing Policy Development Manager, or the Manager's designee, who may consider any written or verbal evidence submitted by the Grantee. The decision of the Department's Housing Policy Development Manager or Designee shall be the Department's final decision regarding the dispute, not subject to appeal.
 - B. Neither the pendency of a dispute nor its consideration by the Department will excuse the Grantee from full and timely performance in accordance with the terms of this Agreement.

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- C. In the event that it is determined, at the sole discretion of the Department, that the Grantee is not meeting the terms and conditions of the Agreement, immediately upon receiving a written notice from the Department to stop work, the Grantee shall cease all work under the Agreement. The Department has the sole discretion to determine that the Grantee meets the terms and conditions after a stop work order, and to deliver a written notice to the Grantee to resume work under the Agreement.
- D. The Department has the right to terminate the Agreement at any time upon 30 days written notice. The notice shall specify the reason for early termination and may permit the Grantee or the Department to rectify any deficiency(ies) prior to the early termination date. The Grantee will submit any requested documents to the Department within 30 days of the early termination notice.
- E. The applicant must demonstrate a clear and significant nexus to REAP 2.0 Program goals and objectives and must carry out provisions to meet the Program goals and objectives and other requirements, including, but not limited to, adoption or completion of activities toward Policy Outcomes and implementation of eligible use activities funded through a suballocation process. Any lack of action or action inconsistent with REAP 2.0 requirements may result in review and could be subject to repayment of the grant.
- F. At any time, if the Department finds the Grantee included false information in the advance or final application or as part of the application review, the Department may require the repayment of funds.
- G. Grantees are responsible for suballocations meeting all REAP 2.0 requirements.
- H. Examples of a breach of this Agreement:
 - 1. Grantee's failure to comply with any term or condition of this Agreement.
 - 2. Use of, or permitting the use of, grant funds provided under this Agreement for any ineligible costs or for any activity not specified and approved under this Agreement.
 - 3. Any failure to comply with the deadlines set forth in this Agreement unless approved by the Program Manager in writing.
- I. The Department may, as it deems appropriate or necessary, require the repayment of funds from a Grantee, or pursue any other remedies available to it by law for failure to comply with all REAP 2.0 Program requirements.
- J. In addition to any other remedies that may be available to the Department in law or equity for breach of this Agreement, the Department may at its discretion, exercise a variety of remedies, including but not limited to:
 - 1. Revoke existing REAP 2.0 award(s) to the Grantee;

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2. Require the return of unexpended REAP 2.0 funds disbursed under this Agreement;
 3. Require repayment of REAP 2.0 Funds disbursed and expended under this Agreement;
 4. Seek a court order for specific performance of the obligation defaulted upon, or the appointment of a receiver to complete the obligations in accordance with the REAP 2.0 Program requirements; and
 5. Other remedies available at law, by and through this Agreement. All remedies available to the Department are cumulative and not exclusive.
 6. The Department may give written notice to the Grantee to cure the breach or violation within a period of not less than 15 days.
- K. The Grantee may be subject to amendment of this section as a result of subsequent applications and awards.
5. **Reporting**
- A. At any time during the term of the Agreement, the Department may request a performance report that demonstrates satisfaction of all requirements identified in the Agreement with emphasis on eligible activities, eligible uses, and expenditures according to timelines and budgets referenced in the Agreement.
 - B. Grantees shall submit a report, in the form and manner prescribed by the Department, to be made publicly available on its website, by April 1 of the year following the receipt of those funds, and annually thereafter until those funds are expended, that contains the following information:
 1. The status of the Proposed Uses and expenditures listed in the Grantee's advance and full applications for funding and progress of each Proposed Use toward all the objectives of the REAP 2.0 program as provided in the Guidelines and explained in the applications.
 2. An explanation and quantification, where appropriate, of the progress achieved toward all of the objectives of the REAP 2.0 program, barriers and solutions for each Proposed Use that is consistent with and incorporates the metrics in the full application, including, but not limited to:
 - i. Housing units accelerated,
 - ii. Reductions in Vehicle Miles Traveled Per Capita,
 - iii. Location of investment,
 - iv. Socioeconomic statistics about the impacted geography, and
 - v. Regional impact explanation

The report must identify whether Proposed Uses overlap with other programs that share the same objectives as REAP 2.0. The Grantee should also identify

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any measurement challenges that persist and highlight any administrative barriers that prevent it from obtaining the information it needs to perform better analysis of progress made achieving REAP 2.0 Objectives and make adjustments to the extent possible in subsequent reporting years.

3. All status and impact reports shall be categorized based on the eligible uses specified in Section 50515.08 of the Statute.
- C. Grantees shall post, make available, and update, as appropriate on its internet website, land use maps and Vehicle Miles Traveled generation maps produced in the development of its adopted SCS, as applicable.
- D. Grantees shall collaborate and share progress, templates, and best practices with the Department and fellow recipients in implementation of funds. To the greatest extent practicable, Grantees shall coordinate with other Eligible Entities in the development of applications, consider potential for joint activities, and seek to coordinate Housing and transportation planning across regions.
- E. Upon completion of all deliverables within the Agreement, the Grantee shall submit a close out report in a manner and form prescribed by the Department.
 1. Grantee may include a line item for advance payment or reimbursement, as part of its administrative costs, for its final report that is due by June 30, 2026. Funding requests for final reports must be submitted no later than March 31, 2026.

6. Indemnification

Neither the Department nor any officer, employee or designee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted by the Grantee, its officers, employees, agents, its contractors, its sub-recipients or its subcontractors under or in connection with any work, authority or jurisdiction conferred upon the Grantee under this Agreement, Guidelines or Statute. It is understood and agreed that the Grantee shall fully defend, indemnify and save harmless the Department and all of the Department's staff from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by the Grantee, its officers, employees, agents, contractors, sub-recipients, or subcontractors under this Agreement, Guidelines or Statute.

7. Waivers

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement, or to require at any time, performance by the Grantee of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

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8. **Relationship of Parties**

It is expressly understood that this Agreement is an agreement executed by and between two independent governmental entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of an independent party.

9. **Third Party Contracts**

- A. All state-government funded procurements must be conducted using a fair and competitive procurement process. The Grantee may use its own procurement procedures as long as the procedures comply with all City/County laws, rules and ordinances governing procurement, and all applicable provisions of California state law.
- B. Any contract entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement and shall be applicable to the Grantee's sub-recipients, contractors, and subcontractors. Copies of all agreements with sub-recipients, contractors, and subcontractors shall be submitted to the Department's program manager.
- C. The Department does not have a contractual relationship with the Grantee's sub-recipients, contractors, or subcontractors, and the Grantee shall be fully responsible for monitoring and enforcement of those agreements and all work performed thereunder.

10. **Compliance with State and Federal Laws, Rules, Guidelines and Regulations**

- A. The Grantee agrees to comply with all state and federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the grant, the Grantee, its contractors or subcontractors, and any other grant activity.
- B. During the performance of this Agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, ancestry, national origin, sex, gender, gender identity, gender expression, genetic information, age, disability, handicap, familial status, religion, or belief, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 USC 3601-20) and all implementing regulations, and the Age Discrimination Act of 1975 and all implementing regulations.
- C. The Grantee shall include the nondiscrimination and compliance provisions of this clause in all agreements with its sub-recipients, contractors, and subcontractors, and shall include a requirement in all agreements that each of them in turn include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts they enter into to perform work under the REAP 2.0 Program.

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- D. The Grantee shall, in the course of performing project work, fully comply with the applicable provisions of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
- E. The Grantee shall adopt and implement affirmative processes and procedures that provide information, outreach and promotion of opportunities in the REAP project to encourage participation of all persons regardless of race, color, national origin, sex, religion, familial status, or disability. This includes, but is not limited to, a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, as required by 24 CFR 92.351.

11. **Litigation**

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. The Grantee shall notify the Department immediately of any claim or legal action undertaken by or against it, which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or legal action consistent with the terms of this Agreement and the interests of the Department.

12. **Changes in Terms/Amendments**

- A. The Grantee may be subject to amendments to this section as a result of subsequent applications and awards.
- B. This Agreement may only be amended or modified by mutual written agreement of both parties.

13. **State-Owned Data**

A. Definitions

1. Work:

The work to be directly or indirectly produced by the Grantee, its employees, or by and of the Grantee's contractor's, subcontractor's and/or sub-recipient's employees under this Agreement.

2. Work Product:

All deliverables created or produced from Work under this Agreement including, but not limited to, all Work and deliverables conceived or made or, hereafter

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conceived or made, either solely or jointly with others during the term of this Agreement and during a period of six months after the termination thereof, which relates to the Work commissioned or performed under this Agreement, are considered Work Product. Work Product includes all deliverables, inventions, innovations, improvements, or other works of authorship Grantee and/or Grantee's contractor subcontractor and/or sub-recipient may conceive of or develop in the course of this Agreement, whether or not they are eligible for patent, copyright, trademark, trade secret or other legal protection.

B. Sharing of Work Product and Rights

All Work Product shall be shared with the Department and its partners for various purposes, including education, outreach, transparency and future learning.

14. Special Conditions

The State reserves the right to add any special conditions to this Agreement it deems necessary to assure that the policy and goals of the Program are achieved.

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ATTACHMENT D

PERFORMANCE MEASURES

Performance Measures Metrics to Be Provided in Final Progress Report

Below are examples that could be used, depending on the type of project funded through the HAP.

- Number of housing units produced during the grant term (total, type, affordable, and per acre)
- Number of housing units produced during the grant term that are affordable to lower income households
- Amount of time to approve housing permits at the end of the grant term.
- Amounts charged by Subgrantee to developers per unit of housing at the end of the grant term
- Number of improvements to the mix of land use types (multifamily, single-family, and non-residential) in jurisdiction
- Number of acres Subgrantee avoided converting from agricultural, natural, or working lands to land eligible for development
- Number of new or enhanced active transportation capital and infrastructure projects completed during the grant term
- Number of projects providing new or enhanced connectivity to the non-automotive transportation network during the grant term
- Number of improved neighborhood projects with safety features to promote active mobility completed during the grant term
- Number of new linkages to transit and/or pedestrian and bicycle infrastructure created during the grant term
- Number of new infrastructure services created in areas of concentrated poverty or similar areas during the grant term
- Number of new housing units created during the grant term in mobility hub areas identified in the 2021 Regional Plan
- Number of individual persons reached by Subgrantee using direct engagement with community stakeholders concerning the topics of affordable housing or sustainable development during the grant term
- Number of existing housing units available and affordable within jurisdiction
- Number of affordable housing units available for ownership or rent
- Number of housing units located on an infill site surrounded by urban uses such as shopping, restaurants, and jobs available to rent or own
- Number of housing units produced during the grant term (total, type, affordable, and per acre)
- Number of housing units produced during the grant term that are affordable to lower income households

ATTACHMENT E

PUBLIC WORKS REQUIREMENTS

Any subcontract entered into as a result of the Agreement, shall contain all the provisions of these Public Works Requirements. Use of the term "Contractor" herein shall refer to "Subgrantee and its subcontractors" as defined in the Agreement and use of the term "Contract" herein shall refer to the "Agreement".

7 1.01A LABOR CODE REQUIREMENTS

7 1.01A(1) HOURS OF LABOR

Eight (8) hours labor constitutes a legal day's work. The Contractor or any subcontractor under the Contractor shall forfeit, as a penalty to SANDAG, twenty five dollars (\$25) for each worker employed in the execution of the Contract by the respective Contractor or subcontractor for each calendar day during which that worker is required or permitted to work more than 8 hours in any one calendar day and forty (40) hours in any one calendar week in violation of the requirements of the Labor Code, and in particular, §§1810 - 1815, thereof, inclusive, except that work performed by employees of Contractors in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one half times the basic rate of pay, as provided in §1815 thereof.

7 1.01A(2) PREVAILING WAGE

The Contractor shall pay wage rates consistent with the State of California Labor Code and the California Department of Industrial Relations.

The wage rates determined by the Director of Industrial Relations can be found in the State Prevailing Wage Rates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, said published rate of wage shall be in effect for the life of this Contract. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the Department of Industrial Relations, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Contract in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Contract, each successive predetermined wage rate shall apply to this Contract on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Contract, such wage rate shall apply to the balance of the Contract.

Contractor and any subcontractor under Contractor shall comply with Labor Code §§1774 and 1775. Pursuant to Section 1775, the Contractor and any subcontractor under the Contractor shall forfeit to SANDAG a penalty of not more than two-hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under the Contract by the Contractor or by any subcontractor under the Contractor in violation of the requirements of the Labor Code and in particular, Labor Code §§ 1770 to 1780, inclusive. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Contractor or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor or subcontractor in meeting their respective prevailing wage obligations, or the willful failure by the Contractor or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor or subcontractor had knowledge of the obligations under the Labor Code. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each

worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor or subcontractor. If a worker employed by a subcontractor on a public works project is not paid the general prevailing per diem wages by the subcontractor, the prime contractor of the project is not liable for the penalties described above unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

- A. The contract executed between Contractor and the subcontractor for the performance of work on the Project shall include a copy of the requirements in §§1720.9, 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.
- B. Contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.
- C. Upon becoming aware of the subcontractor's failure to pay the specified prevailing rate of wages to the subcontractor's workers, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.
- D. Prior to making final payment to the subcontractor for work performed on the public works project, Contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to the subcontractor's employees on the public works project and any amounts due pursuant to Section 1813 of the Labor Code.

Pursuant to Section 1775 of the Labor Code, the Division of Labor Standards Enforcement shall notify a contractor on a public works project within fifteen (15) days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages. If the Division of Labor Standards Enforcement determines that employees of a subcontractor were not paid the general prevailing rate of per diem wages and if SANDAG did not retain sufficient money under the Contract to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, Contractor shall withhold an amount of moneys due the subcontractor sufficient to pay those employees the general prevailing rate of per diem wages if requested by the Division of Labor Standards Enforcement. Contractor shall pay any money retained from and owed to a subcontractor upon receipt of notification by the Division of Labor Standards Enforcement that the wage complaint has been resolved. If notice of the resolution of the wage complaint has not been received by the Contractor within 180 days of the filing of a valid notice of completion or acceptance of the public works project, whichever occurs later, Contractor shall pay all moneys retained from the subcontractor to SANDAG. These moneys shall be retained by SANDAG pending the final decision of an enforcement action.

Pursuant to the requirements in Labor Code §1773, SANDAG has obtained the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation, travel time and subsistence pay as provided for in Labor Code §1773.1, apprenticeship or other training programs authorized by Labor Code §3093, and similar purposes) applicable to the work to be done, for straight time, overtime, Saturday, Sunday and holiday work. The holiday wage rate listed shall be applicable to all holidays recognized in the collective bargaining agreement of the particular craft, classification or type of workmen concerned.

The general prevailing wage rates and any applicable changes to these wage rates are available at the California Department of Industrial Relations' website at: <http://www.dir.ca.gov>.

The wage rates determined by the Director of Industrial Relations for the project refer to expiration dates. Prevailing wage determinations with a single asterisk after the expiration date are in effect on the date of advertisement for bids and are good for the life of the Contract. Prevailing wage determinations with

double asterisks after the expiration date indicate that the wage rate to be paid for work performed after this date has been determined. If work is to extend past this date, the new rate shall be paid and incorporated in the Contract. The Contractor shall contact the Department of Industrial Relations as indicated in the wage rate determinations to obtain predetermined wage changes.

Pursuant to §1773.2 of the Labor Code, general prevailing wage rates shall be posted by the Contractor at a prominent place at the site of the Work.

Changes in general prevailing wage determinations that conform to Labor Code §1773.6 and Title 8 California Code of Regulations §16204 shall apply to the Project when issued by the Director of Industrial Relations at least ten (10) days prior to the date of the Notice to Contractors for the Project.

Pursuant to Labor Code §1720.9, "public works" shall include the hauling and delivery of ready-mixed concrete to carry out a public works contract for SANDAG.

7 1.01A(2)(A) TRAVEL AND SUBSISTENCE PAYMENTS

Contractor shall make travel and subsistence payments to each workman, needed to execute the work, in conformance with the requirements in Labor Code Section 1773.1.

7 1.01A(3)(A) PAYROLL RECORDS – LABOR CODE REQUIREMENTS

Attention is directed to the requirements in Labor Code §1776, a portion of which is quoted below. Regulations implementing Labor Code §1776 are located in §§16200 et seq. of Title 8, California Code of Regulations.

"(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, last 4 digits of social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1720.9, 1771, 1811, and 1815 of the Labor Code for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of

preparation by the contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in a manner so as to prevent disclosure of an individual's name, address and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated.

(f) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(g) The contractor or subcontractor shall have 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the ten (10) day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section."

The penalties specified in subdivision (h) of Labor Code Section 1776 for noncompliance with the requirements in Section 1776 may be deducted from any moneys due or which may become due to the Contractor.

A copy of all payrolls shall be uploaded weekly to the SANDAG Labor Compliance Monitoring System (LCMS) no later than ten calendar days after the payroll week end date. Payrolls shall contain the full name, address and Social Security number of each employee, the employee's correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. They shall also indicate apprentices and ratio of apprentices to journeymen. The employee's address and social security number must be entered on all payrolls. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or the employer's agent indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by the Contract. The "Statement of Compliance" shall be on forms furnished by SANDAG or on any form with identical wording. The Contractor shall be responsible to ensure submission of subcontractor payrolls in the LCMS and the Department of Industrial Relations (DIR) eCPR systems. In addition, the Contractor is responsible for maintaining physical copies of all (prime/subcontractor) payrolls for DIR auditing purposes.

Submitted certified payrolls for hauling and delivering ready-mix concrete must be accompanied by a written time record. The time record must include the following information and be uploaded to LCMS:

- Truck driver's full name
- Name and location of the batch plant
- Time the concrete was loaded

- Time the truck returned to the batch plant
- Truck driver's signature certifying under penalty of perjury that the information contained in it is true and correct.

7 1.01A(3)(B) PAYROLL RECORDS – ADDITIONAL REQUIREMENTS

The Contractor shall also maintain its records in conformance with the following:

A. The Contractor will be provided with all necessary forms from the SANDAG current labor compliance consultant. The Contractor shall submit weekly a copy of all payrolls to the SANDAG labor compliance consultant. The copy shall be accompanied by a statement signed by the employer or its agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor or the State of California Labor Code, and that the classifications set forth for each laborer or mechanic conform to the work which he or she performed. The Prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The Contractor shall make the records required under the labor standards clauses of the Contract available for inspection by authorized representatives of SANDAG and the Department of Labor and shall permit such representatives to interview employees during working hours on the job.

B. Contractor, and each subcontractor having contracts exceeding \$10,000, shall submit monthly a report of manpower utilization of the total work force for all work performed during the month. If Contractor or subcontractor does not perform work on the project during the month, a negative report shall be submitted. The reports shall be submitted by the 15th of the following month. Contractor shall be responsible for submission of reports of all subcontractors. If any required manpower utilization report is not received by the designated due date, SANDAG will retain 10 percent (10%) of the estimated value of the work during the month from the next monthly estimate, except that such retentions shall not exceed \$10,000, nor be less than \$1,000. Retentions for failure to submit manpower utilization reports will be additional to all other retentions provided for in this Contract. Retentions for failure to submit manpower utilization reports will be released for payment on the monthly estimate for partial payments next following the date that all the delinquent reports for which the retention was made are submitted.

C. The Contractor shall make its records available and is responsible for making its subcontractors' records available for inspection by authorized representatives of SANDAG or the state or federal government and shall permit such representatives to interview employees during working hours on the job.

7 1.01A(5) APPRENTICE REQUIREMENTS

A. Contractor and its subcontractors are required to meet the apprenticeship ratio of one hour of apprentice work for every five hours of journeyman work per Title 8 California Code of Regulations, §230.1 for its public works projects exceeding \$30,000, with the exception of design build projects, which have a higher ratio requirement that graduates from 20% to 60% between 2016 and 2020. California Labor Code §1777.5 requires all public works contractors and subcontractors to submit contract award information to applicable apprenticeship programs that can supply apprentices to the site of the public work, employ registered apprentices, and make training fund contributions to approved apprenticeship programs.

B. Contractor and its subcontractors shall comply with §§1777.5, 1777.6, and 1777.7 of the California Labor Code and Title 8, California Code of Regulations §200 et seq. To ensure compliance and complete understanding of the law regarding apprentices, and specifically the required ratio thereunder, each contractor or subcontractor should, where some question exists, contact the Division of Apprenticeship Standards, or one of its branch offices prior to commencement of work on this Contract. Responsibility for compliance with this Section lies with Contractor.

C. SANDAG encourages the employment and training of apprentices on public works contracts as may be permitted under local apprenticeship standards.

7 1.01A(7) WORKERS' COMPENSATION

Pursuant to the requirements in Labor Code §1860, the Contractor will be required to secure the payment of workers' compensation to the Contractor's employees in conformance with the requirements in Labor Code §3700.

7 1.01A(8) RECOVERY OF PENALTIES AND FORFEITURES

Attention is directed to Labor Code §§1730 to 1742, which calls for the Labor Commissioner to issue a civil wage and penalty assessment to Contractor or subcontractor or both if the Labor Commissioner determines after investigation that there has been a violation of the laws regulating public works contracts. Contractor or subcontractor may obtain review of a civil wage and penalty assessment by transmitting a written request for a hearing to the office of the Labor Commissioner that appears on the assessment within 60 days after service of the assessment.

7 1.01B CONTRACTOR'S LICENSING LAWS

Attention is directed to the provisions of Chapter 9 of Division 3 of the Business and Professions Code (commencing with §7000) concerning the licensing of contractors.

All Contractors and subcontractors shall be licensed in accordance with the laws and regulations of the State of California and with the requirements of this Contract and any Contractor or subcontractor not so licensed is subject to the penalties imposed by those laws. Contractor must also provide the license number for any subcontractor completing work in excess of one half of one percent of the total bid.



STAFF REPORT

August 23, 2023
File Number 0120-10

SUBJECT

PUBLIC ART COMMISSION APPOINTMENTS

DEPARTMENT

City Clerk's Office

RECOMMENDATION

Request the City Council consider and vote on the Mayor's appointments to serve on the Public Art Commission: Terri Ryan and Juan Vargas.

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

Presenter: Mayor Dane White

PREVIOUS ACTION

On April 12 and April 19, 2023 the City Council conducted interviews of candidates that applied to serve on the Public Art Commission.

BACKGROUND

These appointments will be for a term of two (2) years. In accordance with State law, the Mayor will nominate members for each Board or Commission and the City Council will vote to ratify those nominations.



STAFF REPORT

August 23, 2023
File Number 1050-45

SUBJECT

TRANSPORTATION SAFETY UPDATE

DEPARTMENT

Police Department & Development Services Department

RECOMMENDATION

It is requested that the City Council receive a presentation and hold a workshop to discuss transportation safety.

Staff Recommendation: Receive and File (Development Services/ Engineering, Edd Alberto), (Police Department/ Police Captain, Mark Petersen)

Presenter: Edd Alberto, City Traffic Engineer

BACKGROUND

A Transportation Safety Workshop with the City Council was held on November 17, 2021 with a presentation provided by the Chief of Police and City Engineer. The goal of the workshop was to provide background information on transportation safety, including City programs and projects designed to improve safety. At that meeting, the City Council requested an annual transportation safety update.

Programs

The City's approach to traffic safety is a multi-faceted, collaborative effort involving police, public works, engineering, schools, and other community partners. There are a number of programs that focus on improving the built environment to maximize transportation safety. These include the following:

I. Programs Designed to Evaluate, Prioritize and Complete Safety Improvements

- Traffic Management Projects List (TMPL): This program allows members of the public, community partners, and City staff to nominate traffic safety improvement projects for consideration and funding through the capital improvement program budget. Projects nominated for consideration are prioritized for funding by the Transportation and Community Safety Commission (TCSC) using adopted scoring criteria that considers collision history, measured roadway speeds, bike and pedestrian volumes, vehicular volumes, roadway geometrics, and solution effectiveness. In July of each year, between three and five of the highest priority projects are selected by the TCSC and completed during the fiscal year. Projects have included crosswalk improvements at high



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pedestrian areas, traffic calming projects, pedestrian countdown timers, and accessible pedestrian signals. The program has an annual budget of \$50,000.

- FY 2022-23 TMPL projects were evaluated and selected during the July 14, 2022 Transportation and Community Safety Commission meeting. Improvements around Hidden Valley Middle School, Felicita Elementary School, Felicita Avenue and Montview Drive, and Vista Avenue and McGearry Road were selected for funding. The improvements include high visibility crosswalks, signage, radar speed feedback signs, ADA curb ramps, and roadway restriping.
- FY 2023-24 TMPL projects were evaluated and selected during the April 13, 2023 Transportation and Community Safety Commission meeting. Improvements on Canyon Road for Classical Academy pedestrian safety, a high visibility crosswalk at the intersection of N Broadway and North Avenue for Reidy Creek School, radar speed feedback signs along Golden Circle, and LED curve warning signage on Khayyam Road were selected for funding this fiscal year.
- Traffic Signal Priority List (TSPL): Based on collision data, police department input, and requests from the public, locations warranting a new signal or the addition of protected left turns (green arrows) at existing signals are evaluated and prioritized using a data driven approach. The priority list for installation of protected left turns (green arrows) on existing signals is based on left turn collision rates, traffic speeds, and left turn volume. While these rankings guide the priority for use of the City funding, criteria for specific grant programs can enable construction at some locations more quickly than others. In April 2021, the City Council adopted the 2021 Traffic Signal Priority List. The tables below show the intersection rankings and status:

New Traffic Signal Rankings

Rank	Study Intersection	Status/Funding
1	Rock Springs Road / Lincoln Ave	Design/ Developer
2	Harding Street / Lincoln Ave	Not Yet Funded
3	Lomas Serenas Dr / Via Rancho Pkwy	Not Yet Funded

Protected Left Turn Signal Rankings

1	Bear Valley Pkwy / Mary Lane	Complete/ TransNet
2	Metcalf Street / Mission Ave	SS4A Grant Application
3	Quince Street / Washington Ave	SS4A Grant Application
4	Fig Street / East Valley Pkwy	SS4A Grant Application
5	Rose Street / Washington Ave	Design/SS4A Grant Application
6	Fig Street / Mission Avenue	SS4A Grant Application
7	Centre City Pkwy / Ninth Ave	SS4A Grant Application



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8	Rock Springs Road / Mission Ave	Design/ Developer
9	Juniper Street / Felicita Ave	Construction/ATP Grant
10	Escondido Boulevard /Grand Ave	SS4A Grant Application

- Washington Ave & Rose Street: Following the November 17, 2021 Transportation Safety Workshop, City Council prioritized the implementation of protected left-turns at Washington Ave and Rose St. The 2022/23 Capital Improvement Program budgeted funds for the design and construction of the traffic signal modification; the location is also included in the Safe Streets for All grant application that was submitted in September 2023. In November 2022 a consultant contract was approved for design. Through the design process, constraints due to several utility conflicts have been identified requiring an easement on private property. Real Property is in the process of acquiring this easement. Easement acquisition and preparation of the bid package is expected to be completed by the end of 2023 with bidding in early 2024. With the anticipated lead time on the signal equipment of 5-months, construction is anticipated to be completed by the end of 2024.
- Local Roadway Safety Plan (LRSP): The City Council approved the LRSP on May 25, 2022. The LRSP is a comprehensive, Citywide study that is a risk-based, data-driven, systemic approach to improving local roadways. The highest priority locations for future safety improvements are identified after considering all Citywide collision data over a five-year timeframe. The criteria for evaluation and prioritization are based on detailed criteria set by Caltrans that includes both the number and severity of collisions. Six projects have been identified to implement countermeasures at 25 of the top priority intersections. The LRSP is a requirement to apply for Highway Safety Improvement Program grant funding. In September 2022, City Council approved an amendment to the LRSP to include content in order to meet consistency with the requirements for Safe Streets for All federal funding.
- Stakeholder Feedback: In addition to the programs above, staff evaluates and responds to traffic safety related concerns from many sources, including the general public, school district staff and based on collision data. Staff logged over 130 service requests in FY 2022-23 and issued 27 work orders for the installation of parking signs, red curb, and corner sight obstructions. All service requests are responded to by staff via phone call or email. When concerns can't be resolved through education, staff will then conduct field investigations. The field investigations include observing driver behavior to substantiate the concerns of the stakeholder, collecting data such as speed or volume, and taking other field measurements. The service requests are discussed at weekly traffic staff team meetings to determine countermeasures and next steps. The resolution could include notifying the Police Department for enforcement, issuing work orders for traffic infrastructure maintenance or may result as a recommended project to be evaluated for



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prioritization of funding in one of the programs discussed above. Members of the public are encouraged to submit traffic safety concerns through the City's Report-It application.

II. Grant Programs Designed to Complete Safety Improvements

- Highway Safety Improvement Program (HSIP): This federal grant program is offered approximately every two years. Projects are prioritized for funding based on collision reduction benefits that exceed the cost of improvements by a factor of at least 10:1. The City has secured funding through this program for several projects in recent years. Staff submitted three grant applications for the last cycle in September 2022. The City was awarded one of the three applications to implement \$1.3M in traffic safety improvements at 12 intersections identified in LRSP Project #1. The improvements include upgrading traffic signal backplates, lenses, installing countdown pedestrian signal heads, and implementing lead pedestrian interval timing which provides pedestrians a head start into the crosswalks while the intersection remains all red for vehicles.
- Safe Streets for All (SS4A): This is a federal grant program established through the Bipartisan Infrastructure Law in 2022. The SS4A program supports the U.S. Department of Transportation goal of zero deaths and serious injuries on the nation's roadways. The City submitted an application in September 2022 requesting \$6M for adding left-turn phasing to 10 intersection and upgraded traffic signal and communications equipment. These improvements were identified as LRSP Project #2 & Project #3.
- Clean California: In 2022, the City was awarded Clean California State Beautification Program funding. The funds will be used to beautify a gateway into the City of Escondido. The project will include an Escondido monument sign that will be constructed in the CA-78 median just east of the Escondido Boulevard bridge. This monument will improve the aesthetics at the CA-78 entrance into the City and create a sense of arrival into this vibrant community. It also serves to inform drivers that they are exiting a freeway and transitioning to local roadways.
- Clean Mobility Options (CMO): In February 2023, the City was notified that it was awarded \$100,000 to fund a Community Transportation Needs Assessment (CTNA). The CTNA will gain community input to determine transportation challenges of its residents and develop a pilot mobility project. The completion of the CTNA will qualify the City to apply for a \$1.5M voucher to implement the pilot mobility project developed through the CTNA effort. This pilot project could include micro-transit or a community shuttle.

III. Education and Enforcement Programs Designed to Improve Safety

In addition to improving the built environment, traffic safety remains a police department priority. Traffic complaints and trending traffic issues are communicated to officers in daily briefings to help focus



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enforcement in the areas where they are needed most. In 2021, the department rolled out an electronic citation system that streamlines how citations are issued and processed. Finally, grant funds provided by the Office of Traffic Safety (OTS) are used to provide necessary funding and staffing support to further the police department's education and enforcement campaigns.

- OTS STEP Grant:** This grant funds a range of enforcement and education activities. Past grants have funded the purchase of a new DUI trailer, a new radar feedback/message trailer, preliminary alcohol screening devices (portable breathalyzers), and mobile printers for our electronic citation system. In addition, the grant fully funds one officer position that is dedicated to DUI enforcement. The FY2022-23 grant provided \$485,000 and has been used to cover expenses for one DUI enforcement officer. The grant also funded DUI checkpoints, DUI Saturation Patrols, Distracted Driving enforcement, Primary Collision Factor (PCF) details, Motorcycle Enforcement details, "Know Your Limits" education campaigns, and collaborative details with other county agencies.
- OTS Bicycle and Pedestrian Safety Educational Grant:** This grant is targeted toward education for children and older adults. Activities include the purchase of pedestrian safety equipment (reflective bands and reflective zipper pulls), bicycle safety equipment (headlights, tail lights and helmets) and educational materials. In addition, this grant funds costs for officers to go into the community and give safety presentations, including bicycle rodeos, bicycle and pedestrian safety presentations at schools and community organizations, bicycle safety courses, participation in Safe Routes to School meetings, and pedestrian safety presentations for older adults. The FY 2022-23 grant provided \$25,000 that has funded enforcement details aimed at bicycle and pedestrian safety in addition to the previously discussed education campaigns.
- Safe Routes to School Education:** The Juniper Elementary Safe Routes to Schools project includes an ATP grant funding component to conduct pedestrian safety and encouragement activities at three schools, including Juniper Elementary, Central Elementary, and Oak Hill Elementary. COMPACT will conduct mobility assessment workshops, walk/bike audits, driving audits and prepare education programs for each school at the start of the school year in the fall. Student-led outreach and encouragement campaigns as well as education for motorists will be conducted at each site.
- Public Information Campaign:** The Police Department issues press releases and social media posts on safe practices and crash prevention. The Police Department also conducts targeted enforcement, participates in safety fairs, and conducts pedestrian and bicycle safety presentations with youth and seniors in the City. As committed to during the November 2021



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workshop, the Escondido Police Department has developed a public information campaign designed to remind roadway users of the importance of safety.

The Escondido Police Department established the Go Slow in Esco campaign. In an effort to reduce traffic collisions and address concerns of traffic safety, the program was created to bring awareness to issues including speeding, running red lights, and other traffic violations. The campaign features collaborative efforts from the police department, community members, and law enforcement partners to always practice safe driving in and around the community.

The Police Department also fully participates in campaigns that bring high visibility and encourage safe practices to the community, including:

- National Walk to School Day
- National Teen Driver Safety Week
- National Distracted Driver Awareness Month
- National Motorcycle Safety Month
- National Bicycle Safety Month
- National Click It or Ticket Mobilization
- National Child Passenger Safety Week
- California Pedestrian Safety Month

During the fall of 2023, school traffic safety will be the main focus of the public information campaign.

The need to focus additional resources toward transportation safety was identified as a top City priority. OTS compares safety statistics for similar-sized cities. The most recent reported OTS rankings are from the year 2020.

The following table is a comparison in the City's change in rankings for 2018-2020

Category	2018 (59 Cities)	2019 (59 Cities)	2020 61 Cities
Fatal & Injury	9	11	8
Alcohol Involved	8	13	7
Ped Involved	12	33	15
Speed Related	15	16	24
DUI Arrests	48	50	60



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As shown in the table, while the City improved in several categories in 2019 from the previous year, these improvements did not continue for all categories in 2020. The City ranked 8th highest in Fatal & Injury collisions, 7th highest in Alcohol involved collisions, and 15th highest in pedestrian involved collisions in 2020. It should be noted that 2020 was the peak of COVID restrictions and there was a national trend showing an increase in unsafe driver behavior. One area of improvement was a reduction in speed-related collisions resulting in a reduction in the City's ranking from 15th highest to 24th highest. Staff's presentation will cover updated local efforts to address traffic safety trends and more recent data showing positive improvements in many areas.



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FUTURE AGENDA

8/30/2023 - NO MEETING

9/6/2023 - NO MEETING (LABOR DAY)

9/13/2023

CONSENT CALENDAR - (J. TENGER) FY 2022 ASSISTANCE TO FIREFIGHTERS GRANT (AFG) PROGRAM AWARD AND BUDGET ADJUSTMENT - Request the City Council Approve Resolution #23-105 to authorize the Escondido Fire Department to accept FY 2022 Assistance to Firefighters Grant (AFG) funds; authorize the Fire Chief or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. The Fire Department will receive \$104,992.72 from this award.

CONSENT CALENDAR - (J. PERPETUA) - 2024 HOLIDAY CALENDAR - It is requested that the City Council adopt Resolution No. 2023-116 authorizing which City offices should be closed on designated holidays for the calendar year 2024.

PUBLIC HEARING – (A. FIRESTINE) – PL23-0270 EXTENSION OF TIME FOR BEAR VALLEY PARKWAY DEVELOPMENT AGREEMENT - It is requested that the City Council approve an extension of time for Bear Valley Parkway development agreement

CURRENT BUSINESS - (A. FIRESTINE) - CDBG-CV HOMELESSNESS PREVENTION AND UTILITY ASSISTANCE SERVICES AGREEMENT - Request the City Council approve the CDBG-CV Homelessness Prevention and Utility Assistance Services Agreement.

9/20/2023 - NO MEETING (LEAGUE OF CA CITIES)