

**AGENDA OF A REGULAR MEETING - NATIONAL CITY CITY COUNCIL/  
COMMUNITY DEVELOPMENT COMMISSION – HOUSING AUTHORITY OF  
THE CITY OF NATIONAL CITY**



**COUNCIL CHAMBERS  
CIVIC CENTER  
1243 NATIONAL CITY BOULEVARD  
NATIONAL CITY, CALIFORNIA  
TUESDAY, MAY 7, 2019 – 6:00 PM**

**ALEJANDRA SOTELO-SOLIS**  
*Mayor*

**RON MORRISON**  
*Vice Mayor*

**JERRY CANO**  
*Councilmember*

**GONZALO QUINTERO**  
*Councilmember*

**MONA RIOS**  
*Councilmember*

*1243 National City Blvd.  
National City, CA 91950  
619-336-4240*

*Meeting agendas and  
minutes available on web*

**WWW.NATIONALCITYCA.GOV**

**ORDER OF BUSINESS:** Public sessions of all Regular Meetings of the City Council / Community Development Commission - Housing Authority (hereafter referred to as Elected Body) begin at 6:00 p.m. on the first and third Tuesday of each month. Public Hearings begin at 6:00 p.m. unless otherwise noted. Closed Meetings begin in Open Session at 5:00 p.m. or such other time as noted, and after announcing closed session items, convenes into a Closed Meeting. If a workshop is scheduled, the subject and time of the workshop will appear on the agenda. The Mayor and Council members also sit as the Chairperson and Members of the Board of the Community Development Commission (CDC).

**REPORTS:** All open session agenda items and reports as well as all documents and writings distributed to the Elected Body less than 72 hours prior to the meeting, are available for review at the entry to the Council Chambers. Regular Meetings of the Elected Body are webcast and archived on the City's website **[www.nationalcityca.gov](http://www.nationalcityca.gov)**.

**PUBLIC COMMENTS:** Prior to the Business portion of the agenda, the Elected Body will receive public comments regarding any matters within the jurisdiction of the City and/or the Community Development Commission. Members of the public may also address any item on the agenda at the time the item is considered by the Elected Body. Persons who wish to address the Elected Body are requested to fill out a "Request to Speak" form available at the entrance to the City Council Chambers, and turn in the completed form to the City Clerk. The Mayor or Chairperson will separately call for testimony of those persons who have turned in a "Request to Speak" form. If you wish to speak, please step to the podium at the appropriate time and state your name and address (optional) for the record. The time limit established for public testimony is three minutes per speaker unless a different time limit is announced. Speakers are encouraged to be brief. The Mayor or Chairperson may limit the length of comments due to the number of persons wishing to speak or if comments become repetitious or unrelated.

**WRITTEN AGENDA:** With limited exceptions, the Elected Body may take action only upon items appearing on the written agenda. Items not appearing on the agenda must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature, and the need to take action on such items arose after the agenda was posted.

**CONSENT CALENDAR:** Consent calendar items involve matters which are of a routine or noncontroversial nature. All consent items are

adopted by approval of a single motion by the City Council. Prior to such approval, any item may be removed from the consent portion of the agenda and separately considered upon request of a Councilmember, a staff member, or a member of the public.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk's Office at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

*Spanish audio interpretation is provided during Elected Body Meetings. Audio headphones are available in the lobby at the beginning of the meeting.*

*Audio interpretación en español se proporciona durante sesiones del Consejo Municipal. Los audífonos están disponibles en el pasillo al principio de la junta.*

*Spanish to English interpretation services are available to members of the public who wish to speak to the City Council during the meeting. "Request to Speak" forms requesting interpretation must be filed within the first two hours of the meeting.*

*Español a los servicios de interpretación Inglés de audio está disponibles para los miembros del público que desean hablar con el Ayuntamiento durante del Consejo Municipal. "Solicitud para hablar de" formas solicitud de interpretación deben ser presentadas dentro de las dos primeras horas del Consejo Municipal.*

**COUNCIL REQUESTS THAT ALL CELL PHONES AND PAGERS BE TURNED OFF DURING CITY COUNCIL MEETINGS.**

**OPEN TO THE PUBLIC**

**A. CITY COUNCIL**

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**PUBLIC COMMENTS (THREE-MINUTE TIME LIMIT)**

**PROCLAMATIONS AND CERTIFICATES**

1. [National City Proclaims May as Drowning Prevention and Water Safety Month](#)
2. [National City Proclaims May as Asian Pacific Islander Heritage Month](#)
3. [National City Celebrates Chicano Federation's 50th Anniversary](#)
4. [National City Celebrates SMART Sheet Metal Workers Local 206 100th Anniversary](#)

**AWARDS AND RECOGNITIONS**

**PRESENTATIONS**

5. [Presentation on Las Palmas Pool Operations by EXOS. \(Community Services\)](#)
6. [Recap of Community Service Day held on Saturday, April 27, 2019 at El Toyon Park and Kimball Park. \(Community Services\)](#)

**INTERVIEWS / APPOINTMENTS**

7. [Interviews and Appointments: Various Boards & Commissions. \(City Clerk\)](#)

**CONSENT CALENDAR**

8. [Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances considered at this meeting and providing that such Ordinances shall be introduced and/or adopted after a reading of the title only. \(City Clerk\)](#)

9. [Approval of the Minutes of the Special Meetings of the City Council of the City of National City of January 29, 2019, February 5, 2019, and April 11, 2019. \(City Clerk\)](#)
10. [Resolution of the City Council of the City of National City approving and authorizing the Mayor to sign the First Amendment to the Agreement by and between the City of National City and Fire Prevention Services, Inc. for weed and litter abatement services. \(Fire\)](#)
11. [Resolution of the City Council of the City of National City approving and authorizing 1\) the Mayor to execute the Standard Assurances for the FY18 State Homeland Security Grant Program and 2\) the establishment of Reimbursable Grants City-Wide Fund appropriations and corresponding revenue budgets each in amounts totaling \\$51,048 for FY18 State Homeland Security Grant Program funds for a reimbursable grant purchase of equipment for the Police and Fire Departments. \(Fire\)](#)
12. [Resolution of the City Council of the City of National City approving the Mayor to execute an Agreement between the City of San Diego Office of Homeland Security and the City of National City, and authorizing the establishment of an appropriation and corresponding revenue budget in the amount of \\$32,432 from the FY18 Urban Area Security Initiative \(UASI\) Grant Funds for the reimbursable grant purchase of equipment, planning, and training for the Police and Fire Departments. \(Fire\)](#)
13. [Resolution of the City Council of the City of National City approving the Memorandum of Understanding \(MOU\) between the City and the National City Firefighters' Association \(NCFFA\). \(Human Resources\)](#)
14. [Resolution of the City Council of the City of National City authorizing the acceptance of an additional \\$20,000 in the Regional Realignment Response Group \(R3G\) grant funds from the San Diego Sheriff's Department to off-set overtime cost for the fiscal year. \(Police\)](#)
15. [Resolution of the City Council of the City of National City initiating proceedings for the levy and collection of assessments for Landscape Maintenance District No. 1 \(Mile of Cars\) for Fiscal Year 2019/20. \(Planning\)](#)
16. [Resolution of the City Council of the City of National City approving the Engineer's Report for Landscape Maintenance District No. 1 \(Mile of Cars\) for Fiscal Year 2019/20. \(Planning\)](#)
17. [Resolution of the City Council of the City of National City declaring its intention to conduct a public hearing on June 4, 2019 and to levy and collect assessments for Landscape Maintenance District No. 1 \(Mile of Cars\) for Fiscal Year 2019/20. \(Planning\)](#)



18. [Warrant Register #40 for the period of 03/27/19 through 04/02/19 in the amount of \\$1,851,893.06. \(Finance\)](#)
19. [Warrant Register #41 for the period of 04/03/19 through 04/09/19 in the amount of \\$1,343,219.94. \(Finance\)](#)

#### **PUBLIC HEARINGS: ORDINANCES AND RESOLUTIONS**

20. [Public Hearing 2 of 2 and Adoption of a Resolution of the City of National City adopting the U.S. Department of Housing and Urban Development Fiscal Year 2020 Annual Action Plan funded by Community Development Block Grant \(CDBG\) Program Fiscal Year 2020 entitlement funds, CDBG program income, funds remaining from completed CDBG projects, HOME Investment Partnerships \(HOME\) Program Year 2020 entitlement funds, HOME program income, and HOME Fiscal Year 2019 Community Housing Development Organization funds. \(Housing & Economic Development\)](#)
21. [Public Hearing and Adoption of a Resolution of the City Council of the City of National City of a policy on small cells equipment which delegates authority to the City Manager to negotiate a license agreement with the concurrence of the City Attorney. \(City Attorney\)](#)
22. [Public Hearing and Adoption of an Ordinance of the City Council of the City of National City amending section 18.30.220 of the National City Municipal Code for the regulation of small wireless facilities and other infrastructure deployment. \(City Attorney\)](#)

#### **NON CONSENT RESOLUTIONS**

23. [Resolution of the City Council of the City of National City approving the establishment of an Engineering Grants Fund appropriation of \\$644,672 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Educational Park Extension Project. \(Engineering/Public Works\)](#)
24. [Resolution of the City Council of the City of National City approving the establishment of an Engineering Grants Fund appropriation of \\$1,151,265 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Park Project. \(Engineering/Public Works\)](#)
25. [Resolution of the City Council of the City of National City approving an agreement by and between the City of National City and The Altum Group for professional services with a not-to-exceed amount of \\$70,000 to](#)

[implement the amortization of nonconforming uses within the Westside Specific Plan. \(Planning\)](#)

26. [Resolution of the City Council of the City of National City authorizing the City Manager to execute an agreement with San Diego Metropolitan Transit System to license and regulate for-hire vehicles operating in the City of National City at no cost to the City. \(Finance\)](#)

## **NEW BUSINESS**

### **B. COMMUNITY DEVELOPMENT COMMISSION - HOUSING AUTHORITY**

#### **CONSENT RESOLUTIONS - HOUSING AUTHORITY**

#### **PUBLIC HEARINGS: RESOLUTIONS - HOUSING AUTHORITY**

#### **NON CONSENT RESOLUTIONS - HOUSING AUTHORITY**

#### **NEW BUSINESS - HOUSING AUTHORITY**

### **C. REPORTS**

#### **STAFF REPORTS**

#### **MAYOR AND CITY COUNCIL**

#### **CLOSED SESSION REPORT**

#### **ADJOURNMENT**

Regular Meeting of the City Council and Community Development Commission - Housing Authority of the City of National City - Tuesday - May 21, 2019 - 6:00 p.m. - Council Chambers - National City, California.

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#### **CITY COUNCIL SUMMER LEGISLATIVE RECESS**

July 2, 2019 - City Council Meeting - Dispensed With  
July 16, 2019 - City Council Meeting - Dispensed With

The following page(s) contain the backup material for Agenda Item: [National City Proclaims May as Drowning Prevention and Water Safety Month](#)  
Please scroll down to view the backup material.

**Item # \_\_\_\_**  
**05/07/19**

**National City Proclaims May as  
Drowning Prevention and Water Safety Month**

**Proclamation Forthcoming**

The following page(s) contain the backup material for Agenda Item: [National City Proclaims May as Asian Pacific Islander Heritage Month](#)  
Please scroll down to view the backup material.

Item # \_\_\_\_  
05/07/19

**National City Proclaims May as  
Asian Pacific Islander Heritage Month**

**Proclamation Forthcoming**

The following page(s) contain the backup material for Agenda Item: [National City Celebrates Chicano Federation's 50th Anniversary](#)  
Please scroll down to view the backup material.

Item # \_\_\_\_  
05/07/19

**National City Celebrates Chicano Federation's 50<sup>th</sup> Anniversary**

**Proclamation Forthcoming**



The following page(s) contain the backup material for Agenda Item: [National City Celebrates SMART Sheet Metal Workers Local 206 100th Anniversary](#)  
Please scroll down to view the backup material.

Item # \_\_\_\_  
05/07/19

**National City Celebrates SMART Sheet Metal Workers  
Local 206 100<sup>th</sup> Anniversary**

**Proclamation Forthcoming**

The following page(s) contain the backup material for Agenda Item: [Presentation on Las Palmas Pool Operations by EXOS. \(Community Services\)](#)  
Please scroll down to view the backup material.

**Item # \_\_\_\_\_**  
**5/7/19**

**Presentation on Las Palmas Pool Operations by EXOS.  
(Community Services)**

The following page(s) contain the backup material for Agenda Item: [Recap of Community Service Day held on Saturday, April 27, 2019 at El Toyon Park and Kimball Park. \(Community Services\)](#)

Please scroll down to view the backup material.

**Item # \_\_\_\_\_**

**5/7/19**

**Recap of Community Service Day held on Saturday, April 27, 2019  
at El Toyon Park and Kimball Park.  
(Community Services)**

The following page(s) contain the backup material for Agenda Item: [Interviews and Appointments: Various Boards & Commissions. \(City Clerk\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Interviews and Appointments: Various Boards & Commissions. (City Clerk)

**PREPARED BY:** Michael R. Dalla / Cheryl Newell |

**DEPARTMENT:** City Clerk

**PHONE:** 619-336-4226 |

**APPROVED BY:** \_\_\_\_\_



**EXPLANATION:**

See attached.

**FINANCIAL STATEMENT:**

**APPROVED:** \_\_\_\_\_ Finance

**ACCOUNT NO.** |

**APPROVED:** \_\_\_\_\_ MIS

**ENVIRONMENTAL REVIEW:**

**ORDINANCE:** INTRODUCTION:  FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Interview and appoint as desired.

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

Explanation  
Applications |



**BOARDS & COMMISSIONS – CURRENT VACANCIES AND EXPIRED TERMS**  
**May 7, 2019**

**LIBRARY BOARD OF TRUSTEES (Appointing Authority: Mayor, subject to confirmation by City Council)**

There is one (1) unexpired term on the Library Board and three (3) applicants (**H. Bradley Bang, Cheryl Howrey-Colmenaro, and Christina Griffin-Jones**).

<u>Name</u>	<u>Interviewed</u>
H. Bradley Bang	Yes
Cheryl Howrey-Colmenaro	Yes
Christina Griffin-Jones	Yes <b>(Also applied for Planning &amp; Art)</b>

**PUBLIC ART COMMITTEE (Appointing Authority: Mayor, subject to confirmation by City Council)**

There is one (1) expired term (**Manuel Cavada**) and one (1) vacancy on the Public Art Committee. There are three (3) applicants (**Christina Griffin-Jones, Meliha Montenegro, and Charles Reilly**). **Manuel Cavada** has expressed a desire to be reappointed. **Mr. Reilly**, who represents the City on the Port Public Art Committee, has expressed a desire to serve on National City’s Public Art Committee and regularly attends the Public Art Committee meetings.

<u>Name</u>	<u>Interviewed</u>
Christina Griffin-Jones	Yes <b>(Also applied for Planning &amp; Library)</b>
Meliha Montenegro	Yes
Charles Reilly	Yes

**COMMUNITY AND POLICE RELATIONS COMMISSION (Appointing Authority: Mayor, subject to confirmation by City Council)**

There is one (1) expiring term (**Zachary Gomez**) and two (2) vacancies on the CPRC. **Mr. Gomez** was appointed 8 months ago. Per City Council Policy #107, he may be re-appointed to a full term without considering other candidates. There are five (5) applicants (**Stephen DelaCruz, Marianne Delatorre, Robert Angel, Nicanora Montenegro, and Coyote Moon**) for the two (2) vacant positions. One (1) additional applicant submitted an incomplete application.

**Note:** A maximum of two (2) non-residents may be appointed to the CPRC. Currently, there is one (1) non-resident position available for consideration.

<u>Name</u>	<u>Interviewed</u>
Zachary Gomez	Incumbent <b>(Also on PRSCAB)</b>
<b>Stephen DelaCruz</b>	<b>No (Also applied for Planning &amp; Veterans)</b>
<b>Marianne Delatorre</b>	<b>No</b>
Robert Angel	Yes
Nicanora Montenegro	Yes
Coyote Moon	Yes <b>(Currently serving on Traffic Safety)</b>

**BOARDS & COMMISSIONS – CURRENT VACANCIES AND EXPIRED TERMS**  
**May 7, 2019**

**PLANNING COMMISSION (Appointing Authority: City Council)**

There is one (1) expiring term (**Ditas Yamane**) and one (1) vacancy (**Gonzalo Quintero**) on the Planning Commission. **Ms. Yamane** has indicated a desire to be re-appointed. There are seven (7) applicants (**Stephen DelaCruz, Luis Natividad, Frank Scott, Chris Butcher, Cheryl Howrey Colmenaro, Sherry Gogue, and Daniel Perez**).

<u>Name</u>	<u>Interviewed</u>
Ditas Yamane	Incumbent
<b>Stephen DelaCruz</b>	<b>No (Also applied for CPRC &amp; Veterans)</b>
<b>Luis Natividad</b>	<b>No</b>
<b>Frank Scott</b>	<b>No</b>
Chris Butcher	Yes <b>(Appointed to PRSCAB 11-20-18)</b>
Cheryl Howrey Colmenaro	Yes
Sherry Gogue	Yes <b>(Appointed to Library 12-04-18)</b>
Daniel Perez	Yes

**VETERANS & MILITARY FAMILIES (Appointing Authority: Mayor, subject to confirmation by City Council)**

There is one (1) vacancy on the Veterans & Military Families Committee and there are three (3) applicants (**Harold Aranda, Stephen DelaCruz, and Sherry Gogue**).

<u>Name</u>	<u>Interviewed</u>
<b>Harold Aranda</b>	<b>No</b>
<b>Stephen DelaCruz</b>	<b>No (Also applied for Planning &amp; CPRC)</b>
Sherry Gogue	Yes <b>(Appointed to Library on 12-04-18; also applied for Planning Commission)</b>

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- X Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
Planning Commission
Public Art Committee\*
Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: ROBERT V. ANGEL E-Mail: BODYGUARD12453@HOTMAIL.COM

Home Address: 1121 APT. F., D. AVE., NATIONAL CITY, CA Tel. No.: 619 292 4474

Business Affiliation: N/A Title: -

Business Address: - Tel. No.: -

Length of Residence in National City: 10 YRS San Diego County: - California: -

Educational Background: BS IN COMMERCE, MAJOR IN MANAGEMENT

Occupational Experience: SECURITY OFFICER (GUARD), SOCIAL WORKER BROADCAST JOURNALIST, CITY COUNCIL EXECUTIVE

Professional or Technical Organization Memberships: BCBC, PMAP, ASSISTANT YOUTH MOVEMENT BSP - SCOUT MOVEMENT

Civic or Community Experience, Membership, or Previous Public Service Appointments: PUBLIC INFORMATION AND CIVIC ACTION GROUP (PICAG)

Experience or Special Knowledge Pertaining to Area of Interest: SECURITY OFFICER, SOCIAL WORKER

Have you ever been convicted of a felony crime? No: Yes: misdemeanor crime? No: Yes: If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

Date: 03/04/2019 Signature: [Handwritten Signature]

RECEIVED CITY CLERK 2019 MAR -5 P 3:10 CITY OF NATIONAL CITY

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

**Supplemental Application:**  
**National City Community and Police Relations Commission**

The National City Community and Police Relations Commission serves as an independent, unbiased and impartial office that is readily available to the public. It is an organization for the improvement of police and community relations and the facilitation of disputes whenever possible. It provides a forum for citizens to voice their concerns, comment about police conduct, practices and policies and improves communication between citizens and the National City Police Department

The National City Community and Police Relations Commission is empowered to receive and review complaints regarding National City Police Department Personnel for alleged misconduct, and to recommend appropriate changes of Police Department policies and procedures toward the goals of safeguarding the rights of persons and promoting higher standards of competency, efficiency and justice in the provision of community policing services.

Applicants must be completely forthright and truthful during the application process. Applicants may be disqualified in the background process as a result of dishonesty and/or purposely omitting information regarding one's criminal history. Given the complexity of this Commission and its duties, it is necessary to pass a criminal background check prior to appointment by City Council and/or swearing in as Commissioner. The Human Resources department will contact you to schedule the criminal background process when, and if appropriate. It is important to note that you fill out this application completely and honestly to the best of your abilities. Failure to disclose your criminal history may result in disqualification. If a conviction has been expunged disclosure is not required.

Applicant Name: ROBERT ANGEL

Have you ever been convicted of a felony crime: No:  Yes:   
Have you been convicted of a misdemeanor: No:  Yes:

If any convictions were expunged disclosure is not required.

Please feel free to provide an explanation or information regarding yes answers to the above two questions.

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There may be circumstances that could disqualify an applicant from the background process beyond the listed crimes below. Each incident is evaluated in terms of the circumstances and facts surrounding its occurrence and its degree of relevance to the position.

**\*\*Disqualifying criteria for Community and Police Relations Commissioner are listed on the back of this form.**

RECEIVED  
CITY CLERK  
2019 MAR -5 P 3:41  
CITY OF NATIONAL CITY

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
Planning Commission
Public Art Committee\*
Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: Harold Aranda E-Mail: Pool Playerx@yahoo

Home Address: 1535 E. Playa Blvd. #416 91950 Tel. No.: 619-931-0574

Business Affiliation: Civilian Title:

Business Address: Tel. No.:

Length of Residence in National City: 26 San Diego County: 26 California:

Educational Background: Some college, Grad. Surovator 1960 Hotel/motel TRADE SCHOOL, Auditor BACK OFFICE LAW.

Occupational Experience: HUD/sec 8 Committee (1 yr) Community Volunteer.

Professional or Technical Organization Memberships: AMERICAN Legion (20 yrs) Loyal order of Eagles (20 yrs)

Civic or Community Experience, Membership, or Previous Public Service Appointments: C.P.R.C., Traffic Safety C.E.R.T. Panel to Elect Chief Gonzales

Experience or Special Knowledge Pertaining to Area of Interest: Veteran Served Prior on H.U.D./sec 8 Panel (1 yr)

Have you ever been convicted of a felony crime? No: Yes: misdemeanor crime? No: Yes: If any convictions were expunged disclosure is not required.

Date: 4-3-19 Signature: Harold A. Aranda

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

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Applicant Name: Harold A. Aranda

Have you ever been convicted of a felony crime: No:  Yes:   
Have you been convicted of a misdemeanor: No:  Yes:

If any convictions were expunged disclosure is not required.

Please feel free to provide an explanation or information regarding yes answers to the above two questions.

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There may be circumstances that could disqualify an applicant from the background process beyond the listed crimes below. Each incident is evaluated in terms of the circumstances and facts surrounding its occurrence and its degree of relevance to the position.

***\*\*Disqualifying criteria for Community and Police Relations Commissioner are listed on the back of this form.***

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
Planning Commission
Public Art Committee\*
Traffic Safety Committee

- Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: H. Bradley Bang E-Mail: bradley.bang@gmail.com

Home Address: 10 E. 5th St. NC Tel. No.: 618-254-0687

Business Affiliation: None Title:

Business Address: Tel. No.:

Length of Residence in National City: 4 years San Diego County: 40 years California: 51 years

Educational Background: MA in Education, Educational Technology - SDSU 1989; Multiple Subject Teaching Credential - National University 1997; BS Radio+TV - SDSU 1984

Occupational Experience: 20 years Computer Prep/Classroom Teacher @ Euclid, Perkins + Hamilton ES. 13 years Media Production Specialist @ O'Farrell + Lincoln HS

Professional or Technical Organization Memberships: Former member of IICS - International Interactive Communication Society + NSPI - National Society of Performance + Instruction

Civic or Community Experience, Membership, or Previous Public Service Appointments:

Experience or Special Knowledge Pertaining to Area of Interest: As the Media Specialist at my schools I use to coordinate with the Library on special events, presentations and equipment

Have you ever been convicted of a felony crime? No: X Yes: misdemeanor crime? No: X Yes: If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

Date: 3/18/2019

Signature: H. Bradley Bang

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

RECEIVED CITY CLERK 2019 MAR 18 PM 4:27 CITY OF NATIONAL CITY

**H. Bradley Bang  
10 East 5<sup>th</sup> Street  
National City, CA 91950**

## **Employment**

2002 – 2017	Computer Lab Prep Teacher at Euclid Elementary School, SDSUSD
2000 - 2002	Classroom Teacher at Perkins Elementary School, SDUSD
1999 – 2000	Computer Lab Resource Teacher at Hamilton Elementary, SDUSD
1998 - 1999	Computer Lab Prep Teacher at Perkins Elementary, SDUSD
1990 – 1997	Media Production Specialist at O’Farrell Community School
1989 – 1990	Instructional Designer for Courseware Andersen Consulting
1983 – 1989	Media Technician at Lincoln High School

For the last 15 years I have been a Prep Teacher at Euclid Elementary School. My duties primarily consisted of teaching computer skills to students from Kindergarten to 5<sup>th</sup> Grade. This included, various computer instructional programs such as Raz Kids, Learning Upgrade and Achieve 3000. I also did a lot of writing using Microsoft Word and Microsoft Excel. I provided preparation time for our classrooms teachers. I was responsible for publishing a prep schedule for our school and informing teachers and administration about schedule changes. In addition, I did many workshops for teachers on Email, educational websites, and maintaining computer equipment. I also served our school as chair on the Technology Committee and as Chair for the Site Governance Team. Finally, the last few years I have served as the SDEA Site Representative for our school.

## **Education**

1997 Received Multiple Subject Teaching Credential – National University  
1989 Received MA in Educational Technology – SDSU  
1984 Received BS in Television and Film Production – SDSU

## **Special Interest**

Educate for the Future – Advocate for public education and programs to promote equity.  
Environmental Caucus for the Labor Council – Support legislation/programs for the environment.  
Alliance of Californians for Community Empowerment – Support statewide/neighborhood issues.  
Residential Leadership Academy – Develop plans to create positive change in our community.



CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
Planning Commission
Public Art Committee\*
Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: CHRIS BUTCHER E-Mail: CBUTCHER2800@GMAIL.COM

Home Address: 667 PARADISE WAY Tel. No.: 949-310-0990

Business Affiliation: CLOUD NOW LLC Title: PRESIDENT

Business Address: 667 PARADISE WAY Tel. No.: 949-310-0990

Length of Residence in National City: 6 San Diego County: 35 California: 50

Educational Background: MARIAN CATHOLIC HIGH SCHOOL 1980-1984, SAN DIEGO STATE UNIVERSITY 1984-1989 NATIONAL UNIVERSITY 1991-1994

Occupational Experience: HIGH SCHOOL TEACHER 1991-2000 AT HOOVER HIGH & IRVINE HIGH SCHOOLS, TELECOMMUNICATIONS CONSULTING AND SALES FROM 2000-CURRENT

Professional or Technical Organization Memberships: HIGH SCHOOL SECONDARY SCHOOL TEACHING CREDENTIAL (EXPIRED), FORTINET NETWORK SECURITY EXPERT 2018

Civic or Community Experience, Membership, or Previous Public Service Appointments: ORANGE, IRVINE AND NATIONAL CITY CHAMBER OF COMMERCE 2000-2006. BOARD OF DIRECTOR AT NATIONAL CITY CHAMBER OF COMMERCE 2016-2017.

Experience or Special Knowledge Pertaining to Area of Interest: 2017 NATIONAL CITY CHAMBER VOLUNTEER OF THE YEAR & 2017 AMBASSADOR OF THE YEAR. CURRENTLY ON BOARD OF THE NATIONAL CITY POLICE & FIRE FOUNDATION. EXTENSIVE VOLUNTEER AND LEADERSHIP EXPERIENCE.

Have you ever been convicted of a felony crime? No: [checked] Yes: misdemeanor crime? No: [checked] Yes: If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

Date: 02/28/2019 Signature: [Handwritten Signature]

Please feel free to provide additional information or letters of endorsement

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City

This documents is filed as a public document Revised March 2017

RECEIVED CITY CLERK 2019 FEB 28 4:00:39 PM NATIONAL CITY

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
- Library Board of Trustees
- Parks, Recreation & Senior Citizens Advisory Board
- Veterans & Military Families Advisory Committee\*
- Civil Service Committee
- Planning Commission
- Public Art Committee\*
- Traffic Safety Committee

➤ Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.

➤ Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: STEPHEN DELACRUZ E-Mail: SDELACRUZ@OTISPTA@yahoo

Home Address: 2142 F AVE #203 Tel. No. 619 731 2097

Business Affiliation: N/A Title: \_\_\_\_\_

Business Address: \_\_\_\_\_ Tel. No.: \_\_\_\_\_

Length of Residence in National City: 11 years San Diego County: 25 California: 46

Educational Background: High school diploma, 2 years junior college

Occupational Experience: CIVILIAN CONTRACTOR (NAVY) 20 yrs

Professional or Technical Organization Memberships: N/A

Civic or Community Experience, Membership, or Previous Public Service Appointments: 12 yrs NATIONAL school DISTRICT, 6 yrs SWEETWATER school DISTRICT

Experience or Special Knowledge Pertaining to Area of Interest: 10 year BASEBALL coach  
Community schools volunteer 12 years

Have you ever been convicted of a felony crime? No:  Yes: \_\_\_ misdemeanor crime? No:  Yes: \_\_\_  
If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

Date: 3/12/19 Signature: [Signature]

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

RECEIVED  
 CITY CLERK  
 2019 MAR 12 P 3:33  
 CITY OF NATIONAL CITY

**Supplemental Application:**  
**National City Community and Police Relations Commission**

The National City Community and Police Relations Commission serves as an independent, unbiased and impartial office that is readily available to the public. It is an organization for the improvement of police and community relations and the facilitation of disputes whenever possible. It provides a forum for citizens to voice their concerns, comment about police conduct, practices and policies and improves communication between citizens and the National City Police Department

The National City Community and Police Relations Commission is empowered to receive and review complaints regarding National City Police Department Personnel for alleged misconduct, and to recommend appropriate changes of Police Department policies and procedures toward the goals of safeguarding the rights of persons and promoting higher standards of competency, efficiency and justice in the provision of community policing services.

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Applicant Name: STEPHEN DELACRUZ

Have you ever been convicted of a felony crime: No:  Yes:   
Have you been convicted of a misdemeanor: No:  Yes:

If any convictions were expunged disclosure is not required.

Please feel free to provide an explanation or information regarding yes answers to the above two questions.

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There may be circumstances that could disqualify an applicant from the background process beyond the listed crimes below. Each incident is evaluated in terms of the circumstances and facts surrounding its occurrence and its degree of relevance to the position.

***\*\*Disqualifying criteria for Community and Police Relations Commissioner are listed on the back of this form.***

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
Planning Commission
Public Art Committee\*
Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: Marianne Delatorre E-Mail: mdelatorre96@gmail.com

Home Address: 510 South T Ave National City, CA 91950 Tel. No.: 6198490609

Business Affiliation: Title:

Business Address: Tel. No.:

Length of Residence in National City: 10 San Diego County: 15 California: 17

Educational Background: B.A. in Political Science / B.A in Ethnic studies

Occupational Experience: student, field organizer, college mentor at UCSD Early Academic Outreach Program, social justice educator at UCSD cross-cultural center

Professional or Technical Organization Memberships:

Civic or Community Experience, Membership, or Previous Public Service Appointments: UCSD cross-cultural center, college mentor at local high schools, Silayan Filipina National Federation of Fil-Am Associations
Experience or Special Knowledge Pertaining to Area of Interest: Have done multiple bill analyses on police accountability legislation and procedures

Have you ever been convicted of a felony crime? No: X Yes: misdemeanor crime? No: Yes: If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

Date: 04/02/19 Signature: [Handwritten Signature]

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

**Supplemental Application:**  
**National City Community and Police Relations Commission**

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Applicant Name: Marianne Delatorre

Have you ever been convicted of a felony crime: No:  Yes:   
Have you been convicted of a misdemeanor: No:  Yes:

If any convictions were expunged disclosure is not required.

Please feel free to provide an explanation or information regarding yes answers to the above two questions.

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There may be circumstances that could disqualify an applicant from the background process beyond the listed crimes below. Each incident is evaluated in terms of the circumstances and facts surrounding its occurrence and its degree of relevance to the position.

***\*\*Disqualifying criteria for Community and Police Relations Commissioner are listed on the back of this form.***

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
Planning Commission
Public Art Committee\*
Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: Sherry Gogue E-Mail: Sherrygogue619@gmail.com

Home Address: 3611 E 8th St NC CA 91950 Tel. No.: 619 743 6505

Business Affiliation: Farmers Ins Agency Title: Owner/Agent

Business Address: 9628 Camino Real #A, S.V. CA 91977 Tel. No.: 619-337-0721

Length of Residence in National City: 16 yrs San Diego County: 35 California: 35

Educational Background: High School, Finance Certificate, Insurance Licensed

Occupational Experience: Finance + Insurance Certified + Licensed

Professional or Technical Organization Memberships:

Civic or Community Experience, Membership, or Previous Public Service Appointments: N.C. Library Board, Las Palmar LL + NCGSI Boards, Special Olympics Coach, Adams Way CEO

Experience or Special Knowledge Pertaining to Area of Interest:

Have you ever been convicted of a felony crime? No: X Yes: misdemeanor crime? No: X Yes: If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding your answers to the above two questions.

Date: 3/13/19

Signature: Sherry Gogue

RECEIVED CITY CLERK 2019 MAR 13 9:24 AM CITY OF NATIONAL CITY

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
- Library Board of Trustees *2nd choice*
- Parks, Recreation & Senior Citizens Advisory Board
- Veterans & Military Families Advisory Committee\*
- Civil Service Committee
- Planning Commission *1st choice*
- Public Art Committee\* *3rd choice*
- Traffic Safety Committee

➤ Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.

➤ Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: CHRISTINA GRIFFIN-JONES E-Mail: christina.g.griffin@gmail.com

Home Address: 2604 Melrose St. National City 91950 Tel. No.: 619-484-1918

Business Affiliation: ENGAGE SAN DIEGO Title: ORGANIZER

Business Address: 3909 Centre St. SD 92103 Tel. No.: \_\_\_\_\_

Length of Residence in National City: 2 yrs San Diego County: 21 yrs California: 31 yrs

Educational Background: Bachelors in Political Science from Howard University

Occupational Experience: Over 10 years of experience organizing my community in National City, Bono Logan and Encanto

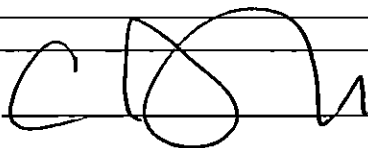
Professional or Technical Organization Memberships: Member of UNITE HERE local 30 and 1, UDW, KKKKK 3930, A-Philip Randolph Institute, March for Black Women San Diego

Civic or Community Experience, Membership, or Previous Public Service Appointments:

I have been president of A-Philip Randolph Institute SD chapter, I am the vice chair of Espinoza Murante

Experience or Special Knowledge Pertaining to Area of Interest: SD Board - I am a Black woman who has experienced housing insecurity and challenges to

Have you ever been convicted of a felony crime? No:  Yes: \_\_\_ misdemeanor crime? No:  Yes: \_\_\_  
 If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

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

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

Pursuant to the California Public Records Act, information on this form may be released to the public upon request.

*unity to get involved and represent my community's interests to build a better community in this position.*

Revised: February 2019

**CITY OF NATIONAL CITY  
APPLICATION FOR APPOINTMENT  
TO CITY BOARDS, COMMISSIONS, AND COMMITTEES**

- Community & Police Relations Commission\* (CPRC)
- Library Board of Trustees
- Parks, Recreation & Senior Citizens Advisory Board
- Veterans & Military Families Advisory Committee\*

- Civil Service Committee
- Planning Commission
- Public Art Committee\*
- Traffic Safety Committee

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2019 MAR 21 A 10:16  
CITY OF NATIONAL CITY

➤ Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.

➤ Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: Cheryl Howrey Colmenero Cheryl Colmenero eb: ma: 0

Home Address: 305 J Ave NE 91950 Tel. No.: 619 792 8089

Business Affiliation: \_\_\_\_\_ Title: \_\_\_\_\_

Business Address: \_\_\_\_\_ Tel. No.: \_\_\_\_\_

Length of Residence in National City: 56 yrs San Diego County: 56 yrs California: 56 yrs

Educational Background: High School Graduate  
Dec-14 1975

Occupational Experience: many titles in many years. Retired now.

Professional or Technical Organization Memberships: work & community have always been important in family.

Civic or Community Experience, Membership, or Previous Public Service Appointments: nc. traffic safety committee

Experience or Special Knowledge Pertaining to Area of Interest: Chained traffic safety many years. served 10 plus years

Have you ever been convicted of a felony crime? No:  Yes: \_\_\_ Misdemeanor crime? No:  Yes: \_\_\_  
If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

Date: 3-12-2019 Signature: Cheryl Howrey Colmenero

Please feel free to provide additional information or letters of endorsement.

**Return completed form to:**  
Office of the City Clerk, 1243 National City Blvd.  
National City, CA 91950

Thank you for your interest in serving the City of National City.

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CITY CLERK  
2019 MAR 21 A 10:17  
CITY OF NATIONAL CITY



CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
Planning Commission
Public Art Committee\*
Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: Meliha Joy Montenegro E-Mail: melijatalent@gmail.com

Home Address: 513 Drew View Lane, San Diego CA 92113 Tel. No.: 619-869-2861

Business Affiliation: Melija Talent Development Center Title: Head Instructor/Owner

Business Address: 3400 E. 8th St, Suite 209, National City CA 91950 Tel. No.: 619-869-2861

Length of Residence in National City: 1 yr. San Diego County: 16 yrs California: 17 yrs.

Educational Background: College Level - Diploma in Computer Studies, High School - St. Scholastica's Academy, Grade School - St. Scholastica's Academy

Occupational Experience: Muralist/Painter, Art/Singing/Music Dance Instructor 2001 - PRESENT

Professional or Technical Organization Memberships: FIL-AM YOUTH FOUNDATION

Civic or Community Experience, Membership, or Previous Public Service Appointments: VP OF FIL-AM YOUTH FOUNDATION, DIRECTOR OF LITTLE MISS MABUHAY, MISS FIESTA FILIPINIANA 2012

Experience or Special Knowledge Pertaining to Area of Interest: I HAVE A WIDE AND BROAD EXPERIENCE IN THE FIELD OF MUSIC AND ARTS. I AM A VISUAL, RECORDING & PERFORMANCE ARTIST.

Have you ever been convicted of a felony crime? No: Yes: misdemeanor crime? No: Yes: If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

Date: 4/2/19 Signature: [Handwritten Signature]

Please feel free to provide additional information or letters of endorsement. Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

CITY OF NATIONAL CITY RECEIVED CITY CLERK 2019 APR - 2 P 2:01

April 2, 2019

To the City Council:

I would like to recommend Ms. Meliha Joy Montenegro, Visual, Performance and Recording Artist as a member of the Public Art Committee. I have known her since 2002. Her studio Melija Talent Development Center located in National City has been participating in our community events yearly since then. I had appointed her to be in charge of the kids' arts and crafts programs several times. Her music, singing and dance students regularly perform in the community several times a year especially in National City. In 2016, her Drawing and Painting Students had an exhibit at Chula Vista Mall in cooperation with Filipino Press during the holiday season.

I have constantly endorsed her and her studio many many times throughout the years. I believe that she will be a valuable member of the Public Art Committee of National City.

I am currently out of town but for any questions, please feel free to call me at (619) 755-0755.

Sincerely,  
Susan De Los Santos  
Filipino Press  
Owner/Publisher

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
Planning Commission
Public Art Committee\*
Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: NICANORA MONTENEGRUE-Mail: nicca768@yahoo.com

Home Address: 513 DREW VIEW LANE 92113 Tel. No.: (615) 316-7966

Business Affiliation: UDW Title: District Chair

Business Address: 4855 Seminoe Drive, SD 92115 Tel. No.: 1(800) 621-5016

Length of Residence in National City: - San Diego County: 16 California: 16

Educational Background: Master of Science in Social-Industrial Psychology (w/others), A.B. in Psychology (Philippines)

Occupational Experience: Conducting training programs, community organizing, grassroots education

Professional or Technical Organization Memberships: APALA (Asia Pacific American Labor Alliance), United Domestic Workers of America (UDW)

Civic or Community Experience, Membership, or Previous Public Service Appointments: Alliance San Diego, UDW, FAADD (Filipino American Association for Developmental Disabilities)

Experience or Special Knowledge Pertaining to Area of Interest: Beer Traffic Violator School Instructor, Civic engagement activities

Have you ever been convicted of a felony crime? No: Yes: misdemeanor crime? No: Yes: If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

Date: 04-02-2019 Signature: [Handwritten Signature]

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

CITY OF NATIONAL CITY
RECEIVED BY CITY CLERK
2019 APR -2 P 2:01

**Supplemental Application:**  
**National City Community and Police Relations Commission**

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Applicant Name: NICANORA MONTEMEORO

Have you ever been convicted of a felony crime: No:  Yes:   
Have you been convicted of a misdemeanor: No:  Yes:

If any convictions were expunged disclosure is not required.

Please feel free to provide an explanation or information regarding yes answers to the above two questions.

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***\*\*Disqualifying criteria for Community and Police Relations Commissioner are listed on the back of this form.***

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

RECEIVED CITY CLERK

- Community & Police Relations Commission\* (CPRC)
- Library Board of Trustees
- Parks, Recreation & Senior Citizens Advisory Board
- Veterans & Military Families Advisory Committee\*
- Civil Service Committee
- Planning Commission
- Public Art Committee
- Traffic Safety Committee

➤ Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.

➤ Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: Coyote Moon E-Mail: coyotemoon@gmail.com

Home Address: 2219 E. 11th St, N.C. Tel. No.: 619.540.5473

Business Affiliation: n/a Title: \_\_\_\_\_

Business Address: \_\_\_\_\_ Tel. No.: \_\_\_\_\_

Length of Residence in National City: 4 yr + 16 San Diego County: 64 California: 04

Educational Background: B.A. Information Systems  
AA Motorcycle Mechanics

Occupational Experience: Portfolio Manager, Power trader and scheduler,  
Power Plant Supervisor,

Professional or Technical Organization Memberships: \_\_\_\_\_

Civic or Community Experience, Membership, or Previous Public Service Appointments:  
Traffic Safety Committee

Experience or Special Knowledge Pertaining to Area of Interest: Stakeholder and  
family members in Law Enforcement and

Have you ever been convicted of a felony crime? No:  Yes: \_\_\_ misdemeanor crime? No:  Yes: \_\_\_  
If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

RECEIVED

Date: Apr 16, 2019 Signature: [Signature] Office of the City Clerk  
City of National City

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

Pursuant to the California Public Records Act, information on this form may be released to the public upon request.

Revised: February 2019

APR 16 2019

Office of the City Clerk  
City of National City

**Supplemental Application:**  
**National City Community and Police Relations Commission**

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Applicant Name:     Coyote Moon    

Have you ever been convicted of a felony crime: No:  Yes:   
Have you been convicted of a misdemeanor: No:  Yes:

If any convictions were expunged disclosure is not required.

Please feel free to provide an explanation or information regarding yes answers to the above two questions.

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***\*\*Disqualifying criteria for Community and Police Relations Commissioner are listed on the back of this form.***

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
[X] Planning Commission
Public Art Committee\*
Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: LUIS NATIVIDAD E-Mail: myteca@sbcglobal.net

Home Address: 1412 MEADOW DR Tel. No.: 481-0099 (419)

Business Affiliation: Title:

Business Address: Tel. No.:

Length of Residence in National City: 6.5 San Diego County: Same California: Same

Educational Background: AA: Southwestern College

Occupational Experience: 10 years as Natl. City Council, 17 years assistant to San Diego Councilperson

Professional or Technical Organization Memberships: Advisor to Council member in San Diego regarding all issues in all departments

Civic or Community Experience, Membership, or Previous Public Service Appointments: Involvement Starting the Food Bank, NARC Project, San Diego & San Ysidro Clinic

Experience or Special Knowledge Pertaining to Area of Interest: Councilman for 10 years and 17 in San Diego Council

Have you ever been convicted of a felony crime? No: [X] Yes: misdemeanor crime? No: [X] Yes: If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding answers to the above two questions.

Date: 3/2/19 Signature: Luis Natividad

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.

CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
Library Board of Trustees
Parks, Recreation & Senior Citizens Advisory Board
Veterans & Military Families Advisory Committee\*
Civil Service Committee
[X] Planning Commission
Public Art Committee\*
Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.
Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: Daniel Perez E-Mail: danielperetzSD@gmail.com

Home Address: 1605 J Ave Tel. No.: 619 988 0149

Business Affiliation: Title:

Business Address: Tel. No.:

Length of Residence in National City: 7 yrs San Diego County: 37 yrs California: 37 yrs

Educational Background: B.S. Business Administration / Finance

Occupational Experience: Financial Analyst Sr, Realtor, Mortgage Loan Originator

Professional or Technical Organization Memberships: PSAC, CAE, NAR, NCHS, Rotary

Civic or Community Experience, Membership, or Previous Public Service Appointments:

Experience or Special Knowledge Pertaining to Area of Interest:

Have you ever been convicted of a felony crime? No Yes: misdemeanor crime? No Yes:
If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding your answers to the above two questions.

Date: 3-13-2019 Signature: [Handwritten Signature]

RECEIVED CITY CLERK 2019 MAR 13 A 11:58 CITY OF NATIONAL CITY

Please feel free to provide additional information or letters of endorsement

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City.



CITY OF NATIONAL CITY

APPLICATION FOR APPOINTMENT

TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

- Community & Police Relations Commission\* (CPRC)
- Library Board of Trustees
- Parks, Recreation & Senior Citizens Advisory Board
- Veterans & Military Families Advisory Committee\*
- Civil Service Committee
- Planning Commission
- Public Art Committee\*
- Traffic Safety Committee

Applicants must be residents of the City of National City except for those marked by an \* and all applicants must be U.S. Citizens.

Applicants for the Community and Police Relations Commission must pass a criminal background check prior to appointment.

Name: Frank Scott E-Mail: sfrank3551@live.com

Home Address: 905 Bucky Lane Tel. No.: 6197081327

Business Affiliation: N/A Title: \_\_\_\_\_

Business Address: \_\_\_\_\_ Tel. No.: \_\_\_\_\_

Length of Residence in National City: 52 yrs San Diego County: \_\_\_\_\_ California: \_\_\_\_\_

Educational Background: SAN DIEGO STATE UNIVERSITY, San Diego, CA

BA Social Work

Occupational Experience: Job Developer / Employment Specialist

Professional or Technical Organization Memberships: \_\_\_\_\_

Civic or Community Experience, Membership, or Previous Public Service Appointments: \_\_\_\_\_

Rotary International

Experience or Special Knowledge Pertaining to Area of Interest: \_\_\_\_\_

Life long resident of National City

Have you ever been convicted of a felony crime? No:  Yes:  misdemeanor crime? No:  Yes:   
If any convictions were expunged disclosure is not required. Convictions are not necessarily disqualifying. Please feel free to provide an explanation or information regarding yes answers to the above two questions.

Date: April 2, 2019 Signature: Frank Scott

Please feel free to provide additional information or letters of endorsement.

Return completed form to: Office of the City Clerk, 1243 National City Blvd., National City, CA 91950

Thank you for your interest in serving the City of National City

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CITY OF NATIONAL CITY

The following page(s) contain the backup material for Agenda Item: [Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances considered at this meeting and providing that such Ordinances shall be introduced and/or adopted after a reading of the title only. \(City Clerk\)](#)

Please scroll down to view the backup material.

Item # \_\_\_\_  
05/07/19

**MOTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL  
CITY APPROVING THE WAIVING OF THE READING OF THE  
TEXT OF THE ORDINANCES CONSIDERED AT THIS MEETING  
AND PROVIDING THAT SUCH ORDINANCES SHALL BE  
INTRODUCED AND/OR ADOPTED AFTER A READING  
OF THE TITLE ONLY.**

(City Clerk)

The following page(s) contain the backup material for Agenda Item: [Approval of the Minutes of the Special Meetings of the City Council of the City of National City of January 29, 2019, February 5, 2019, and April 11, 2019. \(City Clerk\)](#)

Please scroll down to view the backup material.

Item # \_\_\_\_  
05/07/19

**APPROVAL OF THE MINUTES OF THE SPECIAL MEETINGS  
OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
OF JANUARY 29, 2019, FEBRUARY 5, 2019, AND  
APRIL 11, 2019.**

(City Clerk)

**DRAFT      DRAFT      DRAFT**  
**MINUTES OF THE SPECIAL MEETING OF THE  
CITY COUNCIL OF THE CITY OF NATIONAL CITY**

**January 29, 2019**

The Special Meeting of the City Council of the City of National City was called to order at 6:02 p.m. by Mayor / Chairwoman Alejandra Sotelo-Solis.

**ROLL CALL**

Council Members present: Cano, Morrison, Rios, Sotelo-Solis.

Administrative Officials present: Dalla, Deese, Morris-Jones, Mosley, Raulston, Williams.

**PLEDGE OF ALLEGIANCE TO THE FLAG BY MAYOR SOTELO-SOLIS**

**STAFF REPORT**

City Attorney Angil Morris-Jones advised that the City Council has two courses of action available to fill the current vacancy on the City Council for a term ending December 2020: 1) appoint an eligible applicant or citizen to the vacant seat before February 15, 2019; or 2) hold a special election on November 5, 2019. Attorney Morris-Jones provided new information that the Registrar of Voters has declared a moratorium on elections and, as a result, will not be participating in any elections until 2020. Therefore, a special election to fill the vacancy would have to be conducted solely by the City at an estimated cost range of \$850,000 to \$1.2 million.

**CITY COUNCIL VACANCY**

Mayor Sotelo-Solis reported that eleven (11) individuals submitted the required paperwork which has been verified and determined to be sufficient for them to participate in the interview process. Mayor Sotelo-Solis then outlined the interview protocol that would be followed. All applicants were taken to a secure location outside of the City Council Chambers. Each applicant was called forward by a random draw of names and each was asked the same series of questions from a list compiled from written questions previously submitted by City Council members.

**CITY COUNCIL VACANCY INTERVIEWS (102-15-2)**

The following applicants were interviewed in the order listed:

- Daniel Perez
- Robert (Dukie) Valderrama
- R. Mitchel Beauchamp
- Stephen DeLaCruz
- Ditas Delossantos Yamane
- David Hernandez
- Richard Shigley
- Jose Rodruquez
- Sherry Gogue
- Gonzalo Quintero
- Javier Alvarado

## **RECESS**

A five-minute recess was called at 8:10 p.m.

The meeting reconvened and was called to order at 8:16 p.m. All Members were present.

## **PUBLIC COMMENTS**

The following individuals spoke in support of Sherry Gogue: Ruben Hernandez, Thomas Lynch, Ashley Barajas,

The following individuals spoke in support of Jose Rodriguez: Gretchen Johnson, Victor Torres, Fernanda Flores, Richard Cuevas, Paola Martinez-Montez, and Bradley Bang.

The following individuals spoke in support of Ditas Yamane: William Sendt, Faye Marie Sipe, Aurora Cudal, Rita Andrews, Cynthia Suero-Gabler, Femi Coopey, Jacob Veritas, Jenny Torres, Myrna Reyes, Florfina Arce, William Petume, and Ellen (spoke on behalf of Audy Decastro, Philippine Honorary Council of San Diego).

Lydia Loristo spoke in opposition to Ditas Yamane.

Sunshine Horton, El Cajon, read words of encouragement.

The following individuals spoke in support of Robert (Dukie) Valderrama: Daniel Smith, Eddie Perez, Augie Bareno and Gloria-Jean Nieto.

## **BALLOT SELECTION PROCESS**

Ballots were distributed. Mayor Sotelo-Solis provided instruction on the ballot process to be followed. Each Councilmember was asked to vote for two (2) applicants. Any applicant that received two (2) votes would advance to the second round unless a majority vote is reached.

City Clerk Michael Dalla tallied the votes and announced the following results: Gonzalo Quintero received two votes (from Members Cano and Morrison); Ditas Yamane received 2 votes (from Members Cano and Morrison); Dukie Valderrama received 2 votes (from Members Rios and Sotelo-Solis); and Jose Rodriguez received 2 votes (from Members Rios and Sotelo-Solis).

Since no applicant received a majority, Mayor Sotelo-Solis asked that each Councilmember cast one (1) vote for one of the four (4) applicants who received two (2) votes in the first round of voting.

As a point of clarification, Member Morrison asked if only those who received two votes would be eligible moving forward and all others are ineligible? Mayor Sotelo-Solis responded that only those who received two votes would be eligible.

City Clerk Dalla tallied the votes and announced the following results: Ditas Yamane received 2 votes (from Members Cano and Morrison); Dukie Valderrama received 2 votes (from Members Rios and Sotelo-Solis).

**BALLOT SELECTION PROCESS (cont.)**

Mayor Sotelo-Solis asked Councilmembers to cast one (1) vote each for one of the two (2) finalists.

City Clerk Dalla tallied the votes and announced that there was no change. Ditas Yamane and Dukie Valderrama both received 2 votes each.

Mayor Sotelo-Solis stated that since there was no decision reached, the appointment process would be taken up for discussion and consideration at the next Regular Meeting on February 5, 2019.

City Attorney Angil Morris-Jones confirmed that the item will continue and be on the Regular Meeting agenda on February 5<sup>th</sup>.

**ADJOURNMENT**

Motion by Morrison, seconded by Rios, to adjourn the meeting to the next Regular Meeting of the City Council and Community Development Commission – Housing Authority of the City of National City - Tuesday, February 5, 2019 - 6:00 p.m. - Council Chambers - National City, California. Carried by unanimous vote.

Next Regular City Council Meeting: Tuesday, February 5, 2019, 6:00 p.m., City Council Chambers, Civic Center – National City, California.

The meeting adjourned at 9:23 p.m.

\_\_\_\_\_  
City Clerk

The foregoing minutes were approved at the Adjourned Regular Meeting of May 7, 2019.

\_\_\_\_\_  
Mayor



**DRAFT      DRAFT      DRAFT**  
**MINUTES OF THE SPECIAL MEETING OF THE  
CITY COUNCIL OF THE CITY OF NATIONAL CITY**

**February 5, 2019**

The Special Meeting of the City Council of the City of National City was called to order at 5:01 p.m. by Mayor / Chairwoman Alejandra Sotelo-Solis.

**ROLL CALL**

Council / Board members present: Cano, Morrison, Rios, Sotelo-Solis.  
Administrative Officials present: Dalla, Deese, Morris-Jones, Raulston, Vergara.

**PUBLIC COMMENTS - None**

Members retired into Closed Session at 5:03 p.m.

**CLOSED SESSION**

1. Conference with Legal Counsel – Pending Litigation  
Existing Litigation under Government Code Section 54956.9(d)(1)  
*Elizabeth Lopez v. City of National City, et al.*  
SDSC Case No. 37-2018-00056986-CU-OR-CTL
2. Conference with Legal Counsel – Pending Litigation  
Existing Litigation under Government Code Section 54956.9(d)(1)  
*Carlsbad Police Officers Association, et al., v. City of Carlsbad, et al.*  
SDSC Case No. 37-2019-00005450-CU-PO-CTL
3. Conference with Legal Counsel – Potential Litigation: One case  
Potential Litigation Pursuant to Government Code Section 54956.9(e)(1)

**ADJOURNMENT**

Next Regular City Council Meeting: Tuesday, February 5, 2019 - 6:00 p.m., City Council Chambers, Civic Center – National City, California.

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City Clerk

The foregoing minutes were approved at the Regular Meeting of May 7, 2019.

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Mayor

**DRAFT      DRAFT      DRAFT**  
**MINUTES OF THE SPECIAL MEETING OF THE  
CITY COUNCIL OF THE CITY OF NATIONAL CITY**

**April 11, 2019**

The Special Meeting of the City Council of the City of National City was called to order at 6:03 p.m. by Mayor / Chairwoman Alejandra Sotelo-Solis.

**ROLL CALL**

Council / Board members present: Cano, Morrison, Rios, Sotelo-Solis.

Council / Board members absent: Quintero.

Administrative Officials present: Dalla, Manganiello, Morris-Jones, Raulston.

**CITY COUNCIL**

**OPEN SESSION**

**PUBLIC COMMENTS** – None.

Members retired into Closed Session at 6:03 p.m.

**CLOSED SESSION**

1. Personnel Matter – Government Code Section 54957(b)(1)  
Public Employee Position – City Manager Selection Process

**ADJOURNMENT**

Next Regular City Council Meeting: Tuesday, April 16, 2019 - 6:00 p.m., City Council Chambers, Civic Center – National City, California.

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City Clerk

The foregoing minutes were approved at the Regular Meeting of May 7, 2019.

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Mayor

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving and authorizing the Mayor to sign the First Amendment to the Agreement by and between the City of National City and Fire Prevention Services, Inc. for weed and litter abatement services. \(Fire\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Resolution of the City Council of the City of National City approving and authorizing the Mayor to sign the First Amendment to the Agreement by and between the City of National City and Fire Prevention Services, Inc. for weed and litter abatement services. (Fire)

**PREPARED BY:** Frank Parra

**DEPARTMENT:** Fire

**PHONE:** 619-336-4551

**APPROVED BY:** 

**EXPLANATION:**

On May 19, 2015, the City Council adopted Resolution No. 2015-74 to enter into an Agreement with Fire Prevention Services, Inc. to provide weed and litter abatement services to the City for 4 years, from May 19, 2015 through May 18, 2019. On March 18, 2014, the City had issued a Request for Proposals #GS1314-1 seeking proposals from experienced contractors interested in providing weed and litter abatement services. Fire Prevention Services, Inc. was determined to be the sole responsive, responsible bidder, and qualified by experience and ability to perform the services desired by the City. The Fire Department would like to extend the current Agreement for a period of 1-year from May 19, 2019 through May 18, 2020. This will allow a Request for Proposal to be processed for weed and litter abatement services.

**FINANCIAL STATEMENT:**

**APPROVED:**  Finance

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ MIS

Fire Prevention Services, Inc. is reimbursed by property owners whose property has been abated, and not by the City.

**ENVIRONMENTAL REVIEW:**

|

**ORDINANCE:** INTRODUCTION:  FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Staff recommends approving and authorizing the Mayor to sign the First Amendment to the Agreement by and between the City of National City and Fire Prevention Services, Inc. for weed and litter abatement services.

**BOARD / COMMISSION RECOMMENDATION:**

|

**ATTACHMENTS:**

First Amendment to the Agreement by and between the City of National City and Fire Prevention Services, Inc. Resolution

**FIRST AMENDMENT TO THE AGREEMENT  
BY AND BETWEEN  
THE CITY OF NATIONAL CITY  
AND  
FIRE PREVENTION SERVICES, INC.**

THIS FIRST AMENDMENT TO THE AGREEMENT is entered into this 7th day of May, 2019, by and between the City of National City, a municipal corporation (“CITY”), and the Fire Prevention Services, Inc., a California corporation (“CONTRACTOR”).

**R E C I T A L S**

WHEREAS, on May 19, 2015, the CITY and CONTRACTOR entered into an Agreement entitled “Agreement by and between the City of National City and Fire Prevention Services, Inc.”; and

WHEREAS, the term of the Agreement was effective as of May 19, 2015 through May 18, 2019, four (4) years after its inception; and

WHEREAS, the CITY and CONTRACTOR desire to extend the term of the Agreement for one (1) year, from May 19, 2019 to May 18, 2020; and

NOW, THEREFORE, in consideration of the mutual benefit to be derived therefrom, the CITY and CONTRACTOR agree as follows:

1. The term of the Agreement is extended for an additional one (1) year from May 19, 2019 to May 18, 2020.
2. The parties further agree that with the foregoing exception, each and every term and provision of the Agreement by and between the CITY and CONTRACTOR, dated May 19, 2015, shall remain in full force and effect.

*[Continued on Page 2]*

IN WITNESS WHEREOF, this First Amendment is executed by the City of National City and Fire Prevention Services, Inc.

**CITY OF NATIONAL CITY**

**FIRE PREVENTION SERVICES, INC.**

By: \_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

By: \_\_\_\_\_  
Kenny Osborn, President

By: \_\_\_\_\_  
Theresa Osborn, Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Angil P. Morris Jones  
City Attorney

RESOLUTION NO. 2019 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE FIRST AMENDMENT TO THE AGREEMENT BY AND BETWEEN THE CITY OF NATIONAL CITY AND FIRE PREVENTION SERVICES, INC. FOR WEED AND LITTER ABATEMENT SERVICES

WHEREAS, National City Municipal Code Section 9.12.020 declares weeds growing or located upon streets, sidewalks, or private property to be a public nuisance; and

WHEREAS, on March 18, 2014, the Fire Department issued Requests for Proposals No. GS13114-1 to contractors interested in providing weed and litter abatement services; and

WHEREAS, Fire Prevention Services, Inc., was determined to be the sole responsive, responsible bidder; and

WHEREAS, on May 19, 2015, the City Council adopted Resolution No. 2015-74 to enter into an Agreement with Fire Prevention Services, Inc. to provide weed and litter abatement services to the City for 4 years, from May 19, 2015 through May 18, 2019; and

WHEREAS, the Fire Department would like to extend the current Agreement for a period of 1-year from May 19, 2019 through May 18, 2020, which will allow a Request for Proposal to be processed for weed and litter abatement services.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the Mayor to execute the First Amendment to the Agreement between the City of National City and Fire Prevention Services, Inc., to provide weed and litter abatement services from May 19, 2019 through May 18, 2020. Said Agreement will be on file in the office of the City Clerk.

PASSED and ADOPTED this 7th day of May, 2019

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving and authorizing 1\) the Mayor to execute the Standard Assurances for the FY18 State Homeland Security Grant Program and 2\) the establishment of Reimbursable Grants City-Wide Fund appropriations and corresponding revenue budgets each in amounts totaling \\$51,048 for FY18 State Homeland Security Grant Program funds for a reimbursable grant purchase of equipment for the Police and Fire Departments. \(Fire\)](#)

Please scroll down to view the backup material.



**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Resolution of the City Council of the City of National City approving and authorizing 1) the Mayor to execute the Standard Assurances for the FY18 State Homeland Security Grant Program and 2) the establishment of Reimbursable Grants City-Wide Fund appropriations and corresponding revenue budgets each in amounts totaling \$51,048 for FY18 State Homeland Security Grant Program funds for a reimbursable grant purchase of equipment for the Police and Fire Departments. (Fire)

**PREPARED BY:** Frank Parra

**DEPARTMENT:** Fire

**PHONE:** 619-336-4551

**APPROVED BY:** 

**EXPLANATION:**

The FY18 State Homeland Security Grant Program was designed to supplement the purchase of equipment, training, exercises, and planning for Police and Fire personnel. The San Diego County Office of Emergency Services coordinates the requests for equipment, training, exercises, and planning. In order to receive grant funds, National City must authorize the submission of the Standard Assurances for the FY18 State Homeland Security Grant Program. National City's allocation was \$50,219 and Lincoln Acres was \$829 for a grand total of \$51,048 for equipment. The equipment funds will be divided evenly between the City's Police and Fire Department.

This grant program requires the City to incur expenses, and then apply for reimbursement. In order to be eligible for reimbursement, the Police and Fire Departments must purchase and/or receive the items prior to the May 31, 2020 deadline. Staff recommends the utilization of \$51,048 of City funds for equipment for the Police and Fire Department, and to request reimbursement for such expenses from the San Diego County Office of Emergency Services.

**FINANCIAL STATEMENT:**

**APPROVED:**  Finance

**ACCOUNT NO.** 282-411-950-355-0000 \$25,524.00  
282-412-950-355-0000 \$25,524.00

**APPROVED:** \_\_\_\_\_ MIS

No City match required.

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, not subject to environmental review. |

**ORDINANCE:**  **INTRODUCTION:**  **FINAL ADOPTION:**

**STAFF RECOMMENDATION:**

Adopt Resolution.

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

California Governor's Office of Emergency Services FY2018 Standard Assurances  
FY18 SHSG Approved Allocation  
Resolution



**Standard Assurances  
For All Cal OES Federal Grant Programs**

**As the duly authorized representative of the Applicant, I hereby certify** that the Applicant has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay any non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application, within prescribed timelines.

**I further acknowledge that the Applicant is responsible for reviewing and adhering to all requirements within the:**

- (a) Applicable Federal Regulations (see below);
- (b) Federal Program Notice of Funding Opportunity (NOFO);
- (c) California Supplement to the NOFO; and
- (d) Federal and State Grant Program Guidelines.

**Federal Regulations**

Government cost principles, uniform administrative requirements, and audit requirements for federal grant programs are set forth in Title 2, Part 200 of the Code of Federal Regulations (C.F.R.). Updates are issued by the Office of Management and Budget (OMB) and can be found at <http://www.whitehouse.gov/omb/>.

**Significant state and federal grant award requirements (some of which appear in the documents listed above) are set forth below. The Applicant hereby agrees to comply with the following:**

**1. Proof of Authority**

The Applicant will obtain written authorization from the city council, governing board, or authorized body in support of this project. This written authorization must specify that the Applicant and the city council, governing board, or authorized body agree:

- (a) To provide all matching funds required for the grant project and that any cash match will be appropriated as required;
- (b) Any liability arising out of the performance of this agreement shall be the responsibility of the Applicant and the city council, governing board, or authorized body;
- (c) Grant funds shall not be used to supplant expenditures controlled by the city council, governing board, or authorized body, and
- (d) The official executing this agreement is, in fact, authorized to do so.

This Proof of Authority must be maintained on file and readily available upon request.

## 2. Period of Performance

The Applicant will initiate work after approval of the award and complete all work within the period of performance specified in the grant.

## 3. Lobbying and Political Activities

As required by Section 1352, Title 31 of the United States Code (U.S.C.), for persons entering into a contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan, the Applicant certifies that:

- (a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The Applicant will also comply with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and §§ 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

Finally, the Applicant agrees that federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation or policy without the express written approval from the California Governor's Office of Emergency Services (Cal OES) or the federal awarding agency.

## 4. Debarment and Suspension

As required by Executive Orders 12549 and 12689, and 2 C.F.R. § 200.213 and codified in 2 C.F.R. Part 180, Debarment and Suspension, the Applicant will provide protection against waste, fraud, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the federal government. The Applicant certifies that it and its principals, subgrantees, recipients or subrecipients:



- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transaction (federal, state, or local) terminated for cause or default.

Where the Applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

#### **5. Non-Discrimination and Equal Employment Opportunity**

The Applicant will comply with all federal statutes relating to non-discrimination. These include, but are not limited to, the following:

- (a) Title VI of the Civil Rights Act of 1964 (Public Law (P.L.) 88-352 and 42 U.S.C. § 2000d et. seq.) which prohibits discrimination on the basis of race, color, or national origin and requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services;
- (b) Title IX of the Education Amendments of 1972, (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex in any federally funded educational program or activity;
- (c) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794), which prohibits discrimination against those with disabilities or access and functional needs;
- (d) Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability and requires buildings and structures be accessible to those with disabilities and access and functional needs (42 U.S.C. §§ 12101-12213);
- (e) Age Discrimination Act of 1975, (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
- (f) Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd—2), relating to confidentiality of patient records regarding substance abuse treatment;
- (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), relating to nondiscrimination in the sale, rental or financing of housing as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)— be designed and constructed with certain accessible features (See 24 C.F.R. § 100.201);

- (h) Executive Order 11246, which prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identification or national origin;
- (i) Executive Order 11375, which bans discrimination on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin in hiring and employment in both the United States federal workforce and on the part of government contractors;
- (j) California Public Contract Code § 10295.3, which prohibits discrimination based on domestic partnerships and those in same sex marriages;
- (k) DHS policy to ensure the equal treatment of faith-based organizations, under which all applicants and recipients must comply with equal treatment policies and requirements contained in 6 C.F.R. Part 19;
- (l) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
- (m) The requirements of any other nondiscrimination statute(s) which may apply to the application.

In addition to the items listed in (a) through (m), the Applicant will comply with California's Fair Employment and Housing Act (FEHA). FEHA prohibits harassment and discrimination in employment because of ancestry, familial status, race, color, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, genetic information, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave (California Government Code §§12940, 12945, 12945.2), military and veteran status, and/or retaliation for protesting illegal discrimination related to one of these categories, or for reporting patient abuse in tax supported institutions.

## 6. Drug-Free Workplace

As required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), the Applicant certifies that it will maintain a drug-free workplace and a drug-free awareness program as outlined in the Act.

## 7. Environmental Standards

The Applicant will comply with state and federal environmental standards, which may be prescribed pursuant to the following, as applicable:

- (a) California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000- 21177), to include coordination with the city or county planning agency;
- (b) CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, §§ 15000- 15387);
- (c) Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
- (d) Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;

- (e) Institution of environmental quality control measures under the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190); the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; and Executive Order 12898 which focuses on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities;
- (f) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- (g) Executive Order 11514 which sets forth national environmental standards;
- (h) Executive Order 11738 instituted to assure that each federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each federal agency empowered to extend federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act Executive Order 11990 which requires preservation of wetlands;
- (i) The Safe Drinking Water Act of 1974, (P.L. 93-523);
- (j) The Endangered Species Act of 1973, (P.L. 93-205);
- (k) Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
- (l) Conformity of Federal Actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.);
- (m) Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

The Applicant shall not be: 1) in violation of any order or resolution promulgated by the State Air Resources Board or an air pollution district; 2) subject to a cease and desist order pursuant to § 13301 of the California Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) determined to be in violation of federal law relating to air or water pollution.

## 8. Audits

For subrecipients expending \$750,000 or more in federal grant funds annually, the Applicant will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and Title 2 of the Code of Federal Regulations, Part 200, Subpart F Audit Requirements.

## 9. Access to Records

In accordance with 2 C.F.R. § 200.336, the Applicant will give the awarding agency, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award. The Applicant will require any subrecipients, contractors, successors, transferees and assignees to acknowledge and agree to comply with this provision.

## 10. Conflict of Interest

The Applicant will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

## 11. Financial Management

### False Claims for Payment

The Applicant will comply with 31 U.S.C §§ 3729-3733 which sets forth that no subgrantee, recipient, or subrecipient shall submit a false claim for payment, reimbursement or advance.

## 12. Reporting - Accountability

The Applicant agrees to comply with applicable provisions of the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282), specifically (a) the reporting of subawards obligating \$25,000 or more in federal funds and (b) executive compensation data for first-tier subawards. This includes the provisions of FFATA, which includes requirements for executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. Part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 C.F.R. Part 170 Reporting Subaward and Executive Compensation Information.

## 13. Whistleblower Protections

The Applicant also must comply with statutory requirements for whistleblower protections at 10 U.S.C. § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. § 4304 and § 4310.

## 14. Human Trafficking

The Applicant will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from: (1) engaging in trafficking in persons during the period of time that the award is in effect; (2) procuring a commercial sex act during the period of time that the award is in effect; or (3) using forced labor in the performance of the award or subawards under the award.

## 15. Labor Standards

The Applicant will comply with the following federal labor standards:

- (a) The Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), as applicable, and the Copeland Act (40 U.S.C. § 3145 and 18 U.S.C. § 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction contracts or subcontracts, and
- (b) The Federal Fair Labor Standards Act (29 U.S.C. § 201 et al.) as they apply to employees of institutes of higher learning (IHE), hospitals and other non-profit organizations.

## 16. Worker's Compensation

The Applicant must comply with provisions which require every employer to be insured to protect workers who may be injured on the job at all times during the performance of the work of this Agreement, as per the workers compensation laws set forth in California Labor Code §§ 3700 et seq.

## 17. Property-Related

If applicable to the type of project funded by this federal award, the Applicant will:

- (a) Comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchase;
- (b) Comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires subrecipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
- (c) Assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §469a-1 et seq.); and
- (d) Comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831 and 24 CFR Part 35) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

## 18. Certifications Applicable Only to Federally-Funded Construction Projects

For all construction projects, the Applicant will:

- (a) Not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project;
- (b) Comply with the requirements of the awarding agency with regard to the drafting, review and approval of construction plans and specifications; and
- (c) Provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.



**19. Use of Cellular Device While Driving is Prohibited**

Applicants are required to comply with California Vehicle Code sections 23123 and 23123.5. These laws prohibit driving motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication. Drivers are also prohibited from the use of a wireless telephone without hands-free listening and talking, unless to make an emergency call to 911, law enforcement, or similar services.

**20. California Public Records Act and Freedom of Information Act**

The Applicant acknowledges that all information submitted in the course of applying for funding under this program, or provided in the course of an entity’s grant management activities that are under Federal control, is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the California Public Records Act, California Government Code section 6250 et seq. The Applicant should consider these laws and consult its own State and local laws and regulations regarding the release of information when reporting sensitive matters in the grant application, needs assessment, and strategic planning process.

**HOMELAND SECURITY GRANT PROGRAM - PROGRAM SPECIFIC ASSURANCES / CERTIFICATIONS**

**21. Reporting Accusations and Findings of Discrimination**

If during the past three years the recipient has been accused of discrimination on any basis the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS Financial Assistance Office and the DHS Office for Civil Rights and Civil Liberties (CRCL) by e-mail at [CRCL@hq.dhs.gov](mailto:CRCL@hq.dhs.gov) or by mail at U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, Building 410, Mail Stop #0190, Washington, D.C. 20528.

In the courts or administrative agencies make a finding of discrimination on grounds of race, color, national origin (including LEP), sex, age, disability, religion, or familial status against the recipient, or the recipients settle a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Financial Assistance Office and the CRCL by e-mail or mail at the addresses listed above.

The United States has the right to seek judicial enforcement of these obligations.

**22. Acknowledgment of Federal Funding from DHS**

All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

**23. Activities Conducted Abroad**

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

**24. Best Practices for Collection and Use of Personally Identifiable Information (PII)**

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. All recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template a useful resource respectively.

**25. Copyright**

All recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

**26. Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

**27. Energy Policy and Conservation Act**

All recipients must comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

**28. Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129.

**29. Fly America Act of 1974**

All recipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

**30. Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, all Applicants must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. § 2225a.

### **31. Non-supplanting Requirement**

All recipients who receive federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

### **32. Patents and Intellectual Property Rights**

Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

### **33. SAFECOM**

All recipients who receive federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

### **34. Terrorist Financing**

All recipients must comply with Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

### **35. Reporting of Matters Related to Recipient Integrity and Performance**

If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

### **36. USA Patriot Act of 2001**

All recipients must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.

### **37. Use of DHS Seal, Logo, and Flags**

All recipients must obtain permission from their DHS Financial Assistance Office, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

**IMPORTANT**

The purpose of the assurance is to obtain federal and state financial assistance, including any and all federal and state grants, loans, reimbursement, contracts, etc. The Applicant recognizes and agrees that state financial assistance will be extended based on the representations made in this assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, etc. Failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.

All appropriate documentation, as outlined above, must be maintained on file by the Applicant and available for Cal OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grant or termination of the grant or both and the subrecipient may be ineligible for award of any future grants if the Cal OES determines that any of the following has occurred: (1) the recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

All of the language contained within this document must be included in the award documents for all subawards at all tiers. All recipients are bound by the Department of Homeland Security Standard Terms and Conditions 2018, Version 8.1, hereby incorporated by reference, which can be found at: <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

**The undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the Applicant.**

Subrecipient: City of National City

Signature of Authorized Agent: \_\_\_\_\_

Printed Name of Authorized Agent: Alejandra Sotelo-Solis

Title: Mayor Date: May 7, 2019

**FY 2018 STATE HOMELAND SECURITY PROGRAM (SHSP) GRANT ALLOCATION PROPOSAL**

JURISDICTION	FY2017 - ALLOCATION			FY2018 - PROPOSAL					
	LE - 25% of FY17 Allocation	Non-LE Allocation	TOTAL	Sworn LE Personnel Figures (2016)	LE - 25% of FY17 Allocation	Non-LE Population (2016)	Non-LE Allocation	TOTAL	% Change from FY2017 to FY2018
CARLSBAD	16,643	65,619	82,262	112	16,835	113,725	64,997	81,832	-0.52%
CHULA VISTA	32,681	147,286	179,967	222	33,369	267,917	146,343	179,712	-0.14%
CORONADO	6,203	18,543	24,746	44	6,614	24,543	17,948	24,562	-0.74%
DEL MAR	-	7,294	7,294	-	-	4,297	7,267	7,267	-0.37%
EL CAJON	18,459	59,933	78,392	122	18,338	102,803	59,235	77,573	-1.04%
ENCINITAS	-	38,242	38,242	-	-	62,288	37,861	37,861	-1.00%
ESCONDIDO	23,149	85,926	109,075	156	23,448	151,492	84,921	108,369	-0.65%
ESCONDIDO RINCON DEL DIABLO	-	8,259	8,259	-	-	15,442	8,147	8,147	-1.36%
IMPERIAL BEACH	-	19,726	19,726	-	-	27,510	19,513	19,513	-1.08%
LA MESA	10,288	37,197	47,485	68	10,221	60,286	36,804	47,025	-0.97%
LEMON GROVE	-	19,284	19,284	-	-	26,795	19,136	19,136	-0.77%
NATIONAL CITY	13,012	37,619	50,631	86	12,927	61,210	37,292	50,219	-0.81%
NATIONAL CITY - LINCOLN ACRES	-	841	841	-	-	1,571	829	829	-1.43%
OCEANSIDE	31,471	99,446	130,917	219	32,918	176,461	98,093	131,011	0.07%
POWAY	-	31,894	31,894	-	-	50,253	31,511	31,511	-1.20%
SAN DIEGO	281,572	-	281,572	1,861	279,729	-	-	279,729	-0.65%
SAN MARCOS	-	55,079	55,079	-	-	94,042	54,613	54,613	-0.85%
SAN MARCOS FPD	-	7,767	7,767	-	-	14,521	7,661	7,661	-1.36%
SANTEE	-	35,466	35,466	-	-	57,100	35,124	35,124	-0.96%
SOLANA BEACH	-	12,243	12,243	-	-	13,527	12,136	12,136	-0.87%
VISTA	-	58,086	58,086	-	-	101,797	58,704	58,704	1.06%
VISTA FPD	-	11,713	11,713	-	-	21,898	11,552	11,552	-1.37%
<b>TOTAL CITIES</b>	<b>433,478</b>	<b>857,463</b>	<b>1,290,941</b>	<b>2,890</b>	<b>434,399</b>	<b>1,449,478</b>	<b>849,687</b>	<b>1,284,086</b>	<b>-0.53%</b>
<b>FIRE DISTRICTS/OTHER</b>									
ALPINE FPD	-	13,176	13,176	-	-	15,658	13,261	13,261	0.65%
DEER SPRINGS FPD	-	11,607	11,607	-	-	12,737	11,720	11,720	0.97%
JULIAN-CUYAMACA FPD	-	7,236	7,236	-	-	4,081	7,153	7,153	-1.15%
LAKESIDE FPD	-	38,382	38,382	-	-	62,684	38,069	38,069	-0.82%
NORTH COUNTY FPD	-	32,520	32,520	-	-	51,397	32,115	32,115	-1.25%
PORT OF SAN DIEGO	18,459	-	18,459	133	19,991	-	-	19,991	8.30%
RANCHO SANTA FE FPD	-	22,377	22,377	-	-	34,031	22,953	22,953	2.57%
SAN MIGUEL FPD	-	71,826	71,826	-	-	125,300	71,103	71,103	-1.01%
VALLEY CENTER FPD	-	13,988	13,988	-	-	16,628	13,772	13,772	-1.54%
<b>TOTAL FIRE DISTRICTS/OTHER</b>	<b>18,459</b>	<b>211,112</b>	<b>229,571</b>	<b>133</b>	<b>19,991</b>	<b>322,516</b>	<b>210,146</b>	<b>230,137</b>	<b>0.25%</b>
<b>2-1-1 SAN DIEGO CONTRACT</b>		<b>70,000</b>	<b>70,000</b>				<b>70,000</b>	<b>70,000</b>	<b>0.00%</b>
<b>COUNTY DEPTS</b>									
UDC SHARE	-	102,357	102,357	-	-	-	102,357	102,357	0.00%
M&A (5%)	-	169,430	169,430	-	-	-	169,430	169,430	0.00%
HHSA-EMS	-	80,000	80,000	-	-	-	80,000	80,000	0.00%
OES, HHSA-EMS	-	1,056,405	1,056,405	-	-	-	1,059,833	1,059,833	0.32%
SHERIFF	389,903	-	389,903	2,613	392,764	-	-	392,764	0.73%
<b>TOTAL COUNTY DEPTS</b>	<b>389,903</b>	<b>1,408,192</b>	<b>1,798,095</b>	<b>2,613</b>	<b>392,764</b>	<b>-</b>	<b>1,411,620</b>	<b>1,804,384</b>	<b>0.35%</b>
<b>TOTAL ALLOCATIONS</b>	<b>841,840</b>	<b>2,546,767</b>	<b>3,388,607</b>	<b>5,636</b>	<b>847,154</b>	<b>1,771,994</b>	<b>2,541,453</b>	<b>3,388,607</b>	<b>0.00%</b>

**Notes:**

\*Personnel Cap: Each jurisdiction's allocation has a personnel cap of 50%.

\*San Diego Sheriff includes: Unincorporated San Diego County and the contracted cities of Del Mar, Encinitas, Imperial Beach, Lemon Grove, Poway, San Marcos, Santee, Solana Beach and Vista.

RESOLUTION NO. 2019 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE STANDARD ASSURANCES FOR THE FY18 STATE HOMELAND SECURITY GRANT PROGRAM AND THE ESTABLISHMENT OF REIMBURSABLE GRANTS CITY-WIDE FUND APPROPRIATIONS AND CORRESPONDING REVENUE BUDGETS EACH IN AMOUNTS TOTALING \$51,048 FOR FY18 STATE HOMELAND SECURITY GRANT PROGRAM FUNDS FOR A REIMBURSABLE GRANT PURCHASE OF EQUIPMENT FOR THE POLICE AND FIRE DEPARTMENTS

WHEREAS, the FY18 State Homeland Security Grant Program was designed to supplement the purchase of equipment, training, exercises, and planning for Police and Fire personnel; and

WHEREAS, the San Diego County Office of Emergency Services coordinates the requests for equipment, training, exercises, and planning and, in order to receive grant funds, National City must authorize the submission of the Standard Assurances for the FY18 State Homeland Security Grant Program; and

WHEREAS, National City's allocation for equipment totaled \$50,219 and Lincoln Acres allocation totaled \$829, for a grand total of \$51,048 which will be divided evenly between the City's Police and Fire Departments; and

WHEREAS, in order to be eligible for reimbursement, the FY18 State Homeland Security Grant Program requires the City to first incur expenses, and then apply for reimbursement the Police and Fire Departments must purchase the equipment before May 31, 2020; and

WHEREAS, staff recommends dividing the \$51,048 of City funds evenly between the City's Police and Fire Departments and that each department request reimbursement from the San Diego County Office of Emergency Services for the purchase of equipment using such funds.

NOW, THEREFORE, BE IT RESOLVED that the Mayor is authorized to sign the Standard Assurances for the FY 18 State Homeland Security Grant Program; and

BE IT FURTHER RESOLVED that a Reimbursable Grants City-Wide Fund appropriations, and corresponding revenue budgets, be established each in amounts totaling \$51,048 for FY18 State Homeland Security Grant Program funds; and

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BE IT FURTHER RESOLVED that the City Council authorizes the Mayor to divide the \$51,048 of City funds evenly between the City's Police and Fire Departments and further authorizes that each department request reimbursement from the San Diego County Office of Emergency Services for purchase of equipment using such City funds.

PASSED and ADOPTED this 7th day of May, 2019

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones, City Attorney  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving the Mayor to execute an Agreement between the City of San Diego Office of Homeland Security and the City of National City, and authorizing the establishment of an appropriation and corresponding revenue budget in the amount of \\$32,432 from the FY18 Urban Area Security Initiative \(UASI\) Grant Funds for the reimbursable grant purchase of equipment, planning, and training for the Police and Fire Departments. \(Fire\)](#)

Please scroll down to view the backup material.



**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Resolution of the City Council of the City of National City approving the Mayor to execute an Agreement between the City of San Diego Office of Homeland Security and the City of National City, and authorizing the establishment of an appropriation and corresponding revenue budget in the amount of \$32,432 from the FY18 Urban Area Security Initiative (UASI) Grant Funds for the reimbursable grant purchase of equipment, planning, and training for the Police and Fire Departments. (Fire)

**PREPARED BY:** Frank Parra

**DEPARTMENT:** Fire

**PHONE:** (619) 336-4551

**APPROVED BY:** 

**EXPLANATION:**

This Agreement documents the roles, responsibilities, and expectations at the local, state, and federal levels and ensures that the City of National City, as a participant in the program, agrees to meet state and federal requirements. The UASI grant provides funding for equipment, planning, and training needed to respond to natural or man-made disasters or terrorism incidents that may occur in the San Diego urban area. This grant program requires the City to incur expenses for equipment, planning, and training for police and fire personnel, and then apply for reimbursement. This Agreement requires subrecipient indemnification and as such needs Council approval.

This request authorizes the establishment of an appropriation and corresponding revenue budget in the amount of \$32,432 from the FY18 Urban Area Security Initiative (UASI) Grant Funds. The appropriation will be used to purchase \$8,555 in equipment, \$10,000 will go toward planning, and \$13,877 for training for the Fire and Police Departments.

**FINANCIAL STATEMENT:**

**APPROVED:**  Finance

**ACCOUNT NO.**

**APPROVED:**  MIS

Expenditure Account: 282-411-951-518-0000 Equipment - \$8,555; 282-411-951-226-0000 Training - \$6,938.50, 282-412-951-226-0000 Training - \$6,938.50; 282-412-951-306-0000 Computer Equipment - \$10,000  
Revenue Account: 282-11951-3498 - \$15,493.50 & 282-12951-3498 - \$16,938.50. No City match required.

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, not subject to environmental review.

**ORDINANCE:**  **INTRODUCTION:**  **FINAL ADOPTION:**

**STAFF RECOMMENDATION:**

Approve the Resolution.

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

1. Agreement between the City of San Diego Office of Homeland Security and the City of National City for the distribution of FY18 Urban Area Security Initiative (UASI) grant funds
2. Resolution

**AGREEMENT BETWEEN THE CITY OF  
SAN DIEGO OFFICE OF HOMELAND SECURITY AND THE  
CITY OF NATIONAL CITY  
FOR THE DISTRIBUTION OF FY 2018 UASI GRANT FUNDS**

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THIS AGREEMENT is made this day of May 7th, **2019** in the City and County of San Diego, State of California, by and between the CITY OF NATIONAL CITY ("SUBRECIPIENT") and the CITY OF SAN DIEGO, a municipal corporation ("San Diego" or "City"), in its capacity as fiscal agent for the Approval Authority, as defined below, acting by and through the San Diego Office of Homeland Security ("OHS").

***RECITALS***

WHEREAS, The United States Department of Homeland Security ("DHS") designated San Diego as an eligible high risk urban area through an analysis of relative risk of terrorism, the San Diego Urban Area ("SDUA") was established for the purpose of application for and allocation and distribution of federal Urban Areas Security Initiative ("UASI") program grant funds; and

WHEREAS, The Urban Area Working Group ("UAWG"), a collaborative subcommittee established by the San Diego County Unified Disaster Council, was established as the Approval Authority for the SDUA, to provide overall governance of the homeland security grant program across the SDUA, to coordinate development and implementation of all UASI program initiatives, and to ensure compliance with all UASI program requirements; and

WHEREAS, The City of San Diego Office of Homeland Security ("SD OHS"), as the "core city" for the SDUA, will serve as the chair and the UASI Grant Administrator, and SD OHS Executive Director is responsible for implementing and managing the policy and program decisions of the Approval Authority, directing the work of the UASI Management Team personnel, and performing other duties as determined and directed by the Approval Authority, and

WHEREAS, San Diego has been designated as the grantee for UASI funds granted by the DHS through the California Office of Emergency Services ("Cal OES") to the SDUA, with responsibility to establish procedures and execute subgrant agreements for the distribution of UASI program grant funds to jurisdictions selected by the Approval Authority to receive grant funding; and

WHEREAS, San Diego has been designated to serve as the fiscal agent for the Approval Authority, and to establish procedures and provide all financial services for distribution of UASI program grant funds within the SDUA; and

WHEREAS, Pursuant to grant allocation decisions by the Approval Authority, the UASI Management Team has asked San Diego to distribute a portion of the regional UASI grant funds to SUBRECIPIENT on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

## ARTICLE 1 DEFINITIONS

1.1 **Specific Terms.** Unless the context requires otherwise, the following capitalized terms (whether singular or plural) shall have the meanings set forth below:

(a) “**ADA**” shall mean the Americans with Disabilities Act (including all rules and regulations there under) and all other applicable federal, state and local disability rights legislation, as the same may be amended, modified or supplemented from time to time.

(b) “**Authorized Expenditures**” shall mean expenditures for those purposes identified and budgeted in the SUBRECIPIENT Award Letter (Appendix A) and/or approved modification.

(c) “**Event of Default**” shall have the meaning set forth in Section 7.1.

(d) “**Fiscal Quarter**” shall mean each period of three calendar months commencing on July 1, October 1, January 1, and April 1, respectively.

(e) “**Grant Funds**” shall mean any and all funds allocated or disbursed to SUBRECIPIENT **DUNS#: 0724940730000** under this Agreement. This Agreement shall specifically cover funds allocated or disbursed from Cal OES Grant No. 2018-0054, Cal OES ID No. 073-66000, CFDA No. 97.067, per Cal OES award notice dated October 1, 2018.

(f) “**Grant Plan**” shall mean the plans, performances, events, exhibitions, acquisitions or other activities or matter, and the budget and requirements, described in the approved Financial Management Forms Workbook (FMFW). If SUBRECIPIENT requests any modification to the Grant Plan, SUBRECIPIENT shall submit a written request to the SD OHS Executive Director with the following information: Scope of change requested, reason for change, proposed plan for change, summary of approved and requested modifications to the Grant Plan, and any necessary approvals in support of change (e.g., EHP).

(g) “**Indemnified Parties**” shall mean: (i) San Diego, including all commissions, departments including OHS, agencies, and other subdivisions of San Diego; (ii) San Diego’s elected officials, directors, officers, employees, agents, successors, and assigns; and (iii) all persons or entities acting on behalf of the foregoing.

(h) “**Losses**” shall mean any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, judgments, fees, expenses and costs of whatsoever kind and nature (including legal fees and expenses and costs of investigation, of prosecuting or defending any Loss described above) whether or not such Loss be founded or unfounded, of whatsoever kind and nature.

(i) “**Reimbursement Request**” shall have the meaning set forth in Section 3.10(a).

(ii) “**Simplified Acquisition Threshold**” means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods.

(j) “**UASI Management Team**” shall mean The City of San Diego Office of Homeland Security Executive Director, Program Manager, Program Coordinator, as well as project, grant, and administrative staff. The Executive Director appoints members to the Management Team to implement the policies of the UAWG.

(k) **“Pass-through entity”** shall mean a non-Federal entity that provides a sub award to a subrecipient to carry out part of a Federal Program.

1.2 **Additional Terms.** The terms “as directed,” “as required” or “as permitted” and similar terms shall refer to the direction, requirement, or permission of City. The terms “sufficient,” “necessary” or “proper” and similar terms shall mean sufficient, necessary or proper in the sole judgment of City. The terms “approval,” “acceptable” or “satisfactory” or similar terms shall mean approved by, or acceptable or satisfactory to, City. The terms “include,” “included” or “including” and similar terms shall be deemed to be followed by the words “without limitation.” The use of the term “subcontractor,” “successor” or “assign” herein refers only to a subcontractor, successor or assign expressly permitted under Article 8.

1.3 **References to this Agreement.** References to this Agreement include: (a) any and all appendices, exhibits, schedules, and attachments hereto; (b) any and all statutes, ordinances, regulations or other documents expressly incorporated by reference herein; and (c) any and all amendments, modifications or supplements hereto made in accordance with Section 10.2. References to articles, sections, subsections or appendices refer to articles, sections or subsections of or appendices to this Agreement, unless otherwise expressly stated. Terms such as “hereunder,” “herein” or “hereto” refer to this Agreement as a whole.

1.4 **Reference to laws.** Any reference in this Agreement to a federal or state statute, regulation, executive order, requirement, policy, guide, guideline, information bulletin, or instruction shall mean that statute, regulation, executive order, requirement, policy, guide, guideline, information bulletin, or instruction as is currently in effect and as may be amended, modified or supplemented from time to time.

## **ARTICLE 2 ALLOCATION AND CERTIFICATION OF GRANT FUNDS; LIMITATIONS ON SAN DIEGO’S OBLIGATIONS**

2.1 **Risk of Non-Allocation of Grant Funds.** This Agreement is subject to all federal and state grant requirements and guidelines, including DHS and Cal OES requirements, guidelines, information bulletins, and instructions, the decision-making of the Cal OES and the Approval Authority, the terms and conditions of the grant award; the approved application, and to the extent applicable the budget and fiscal provisions of the San Diego City Charter. The Approval Authority shall have no obligation to allocate or direct disbursement of funds for this Agreement in lieu of allocations for new or other agreements. SUBRECIPIENT acknowledges and agrees that grant decisions are subject to the discretion of the Cal OES and Approval Authority. Further, SUBRECIPIENT acknowledges and agrees that the City shall have no obligation to disburse grant funds to SUBRECIPIENT until City and SUBRECIPIENT have fully and finally executed this Agreement. SUBRECIPIENT acknowledges and agrees that if it takes any action, informal or formal, to appropriate, encumber or expend Grant Funds before final allocation decisions by Cal OES and the Approval Authority, and before this Agreement is fully and finally executed, it assumes all risk of possible non-allocation or non-reimbursement of funds, and such acknowledgement and agreement is part of the consideration of this Agreement.

2.2 **Certification of Controller; Guaranteed Maximum Costs.** No funds shall be available under this Agreement without prior written authorization certified by the San Diego Chief Financial Officer as set forth in Section 39 of the City of San Diego City Charter:

“No contract, agreement, or other obligation for the expenditure of public funds shall be entered into by any officer of the City and no such contract shall be valid unless the Chief Financial Officer shall certify in writing that there has been made an appropriation to cover the expenditure and that there remains a sufficient balance to meet the demand thereof.”

**ARTICLE 3**  
**PERFORMANCE OF THE AGREEMENT**

3.1 **Duration of Term.** The term of this Agreement shall commence on **OCTOBER 1, 2018** and shall end at 11:59 p.m. San Diego time on **APRIL 30, 2021**.

3.2 **Maximum Amount of Funds.** In no event shall the amount of Grant Funds disbursed hereunder exceed the amount awarded under the SUBRECIPIENT Award letter (Appendix A), Training and Exercise Participation Award Letter and/or approved modification. The City will not automatically transfer Grant Funds to SUBRECIPIENT upon execution of this Agreement. SUBRECIPIENT must submit a Reimbursement Request under Section 3.10 of this Agreement, approved by the UASI Management Team and City, before the City will disburse Grant Funds to SUBRECIPIENT.

3.3 **Use of Funds.**

(a) **General Requirements.** SUBRECIPIENT shall use the Grant Funds received under this Agreement for the purposes and in the amounts set forth in the Grant Plan. SUBRECIPIENT shall not use or expend Grant Funds for any other purpose, including but not limited to, for matching funds for other federal grants/cooperative agreements, lobbying or intervention in federal regulatory or adjudicatory proceedings, or to sue the federal government or any other government entity. SUBRECIPIENT shall not permit any federal employee to receive Grant Funds.

(b) **Modification of Grant Plan.** Under Sections 1.1(f) and 10.2 of this Agreement, SUBRECIPIENT may submit a written request to modify the Grant Plan. SUBRECIPIENT shall not appropriate, encumber or expend any additional or reallocated Grant Funds pursuant to such a request for modification until the SD OHS Executive Director or designee has provided written approval for the request. In addition, if the modification request requires approval from the Approval Authority and/or Cal OES, as determined by the SD OHS Executive Director, SUBRECIPIENT shall not appropriate, encumber or expend any additional or reallocated Grant Funds pursuant to the modification request without approval from the Approval Authority and/or Cal OES.

(c) **No Supplanting.** SUBRECIPIENT shall use Grant Funds to supplement existing funds, and not replace (supplant) funds that have been appropriated for the same purpose.

(d) **Obligations.** SUBRECIPIENT must expend Grant Funds in a timely manner consistent with the grant milestones, guidance and assurances; and make satisfactory progress toward the goals, objectives, milestones and deliverables in this Agreement.

(e) **Subawards.** SUBRECIPIENT is not an authorized pass-through entity and is not authorized to make any subawards of Grant Funds.

3.4 **Grant Assurances; Other Requirements; Cooperation with Monitoring.**

(a) SUBRECIPIENT shall comply with all Grant Assurances included in Appendix B, attached hereto and incorporated by reference as though fully set forth herein.

(b) In addition to complying with all Grant Assurances, SUBRECIPIENT shall comply with all applicable statutes, regulations, executive orders, requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; the approved application, and any conditions imposed by Cal OES or the Approval Authority. SUBRECIPIENT shall require and ensure that all contractors and other entities receiving Grant Funds from SUBRECIPIENT comply with all applicable statutes, regulations, executive orders,

requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; the approved application, and any conditions imposed by Cal OES or the Approval Authority.

(c) SUBRECIPIENT shall promptly comply with all standards, specifications and formats of San Diego and the UASI Management Team, as they may from time to time exist, related to evaluation, planning and monitoring of the Grant Plan and compliance with this Agreement. SUBRECIPIENT shall cooperate in good faith with San Diego and the UASI Management Team in any evaluation, inspection, planning or monitoring activities conducted or authorized by DHS, Cal OES, San Diego or the UASI Management Team. For ensuring compliance with non-supplanting requirements, upon request by City or the UASI Management Team, SUBRECIPIENT shall supply documentation certifying that a reduction of non-federal resources occurred for reasons other than the receipt or expected receipt of Grant Funds.

**3.5 Administrative, Programmatic and Financial Management Requirements.** SUBRECIPIENT shall establish and maintain administrative, programmatic and financial management systems and records in accordance with federal and State of California requirements. This provision requires, at a minimum, that SUBRECIPIENT comply with the following non-exclusive list of regulations commonly applicable to DHS grants, as applicable to this Agreement and the Grant Plan:

- (a) Administrative Requirements:
  - 1. 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (formerly 44 CFR Part 13, OMB Circulars A-21, A-87, A-89, A-102, A-110, A-122, and A-133).
- (b) Cost Principles:
  - 1. 2 CFR Part 200, Subpart E - *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (formerly 44 CFR Part 13, OMB Circulars A-21, A-87, A-89, A-102, A-110, A-122, and A-133);
  - 2. Federal Acquisition Regulations (FAR), Part 31.2 *Contract Principles and Procedures, Contracts with Commercial Organizations*.
- (c) Audit Requirements:
  - 1. 2 CFR Part 200 Subpart F - *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (formerly 44 CFR Part 13, OMB Circulars A-21, A-87, A-89, A-102, A-110, A-122, and A-133).

**3.6 Technology Requirements.**

(a) National Information Exchange Model ("NIEM"). SUBRECIPIENT shall use the latest NIEM specifications and guidelines regarding the use of Extensible Markup Language ("XML") for all awards of Grant Funds.

(b) Geospatial Guidance. SUBRECIPIENT is encouraged to use Geospatial technologies, which can capture, store, analyze, transmit and/or display location-based information (i.e., information linked to a latitude and longitude), and to align any geospatial activities with the guidance available on the Federal Emergency Management Agency ("FEMA") website.

(c) Criminal Intelligence Systems Operating Policies. Any information technology system funded or supported by Grant Funds shall comply with 28 CFR Part 23, *Criminal Intelligence Systems Operating Policies*, if applicable.



(d) SUBRECIPIENT is encouraged to use the DHS guidance in *Best Practices for Government Use of CCTV: Implementing the Fair Information Practice Principles*, if Grant Funds are used to purchase or install closed circuit television (CCTV) systems or to support operational CCTV systems.

### 3.7 **Procurement Requirements.**

(a) General Requirements. SUBRECIPIENT shall follow its own procurement requirements as long as those requirements comply with all applicable federal and State of California statutes, regulations, requirements, policies, guides, guidelines and instructions, including the most recent restrictions in Executive Order 13809 on purchases of specified controlled equipment.

(b) Contract Provisions. All contracts made by the SUBRECIPIENT using Grant Funds must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contract Under Federal Awards). 2C.F.R. § 200.326.

(b) Specific Purchases. If SUBRECIPIENT is using Grant Funds to purchase interoperable communication equipment, SUBRECIPIENT shall consult DHS's SAFECOM's coordinated grant guidance, which outlines standards and equipment information to enhance interoperable communication. If SUBRECIPIENT is using Grant Funds to acquire critical emergency supplies, prior to expending any Grant Funds, SUBRECIPIENT shall submit to the UASI Management Team for approval by Cal OES a viable inventory management plan, an effective distribution strategy, sustainment costs for such an effort, and logistics expertise to avoid situations where funds are wasted because supplies are rendered ineffective due to lack of planning.

(c) Bond Requirement. SUBRECIPIENT shall obtain a performance bond for any equipment items over the simplified acquisition threshold (2C.F.R. § 200.88) or any vehicle, aircraft or watercraft financed with Grant Funds.

(d) Non-Competitive Procurement Requirements. UASI Management Team prior approval is required for any procurement made without advertisement or a competitive process or single response to a request for proposal/bid, regardless of dollar amount, this includes sole source procurements. SUBRECIPIENT shall submit a Non-Competitive Procurement Authorization request to the UASI Management Team for approval prior to expending any grant funds. Additionally, SUBRECIPIENT shall submit a Non-Competitive Procurement Request to the UASI Management Team for CalOES approval for any non-competitive procurement over the simplified acquisition threshold (2C.F.R. § 200.88).

(e) Federal Schedules. SUBRECIPIENT shall submit a Federal Schedule Procurement Authorization request to the UASI Management Team for approval to procure using the Federal supply schedule, prior to expending any grant funds.

### 3.8 **Contractor Requirements.**

(a) SUBRECIPIENT shall ensure and independently verify that any contractor or other entity receiving Grant Funds from SUBRECIPIENT is not debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs, under Executive Orders 12549 and 12689, as implemented at 2 CFR Part 3000. SUBRECIPIENT shall obtain documentation of eligibility before disbursing Grant Funds to any contractor or other entity. SUBRECIPIENT shall maintain documentary proof of this verification in its files. SUBRECIPIENT shall establish procedures for the effective use of the "Excluded Parties List System," to assure that it does not provide Grant Funds to excluded parties. SUBRECIPIENT shall also establish procedures to provide for effective use and/or dissemination of the

list to assure that its contractors, at any tier do not make awards in violation of the non-procurement debarment and suspension common rule.

(b) SUBRECIPIENT shall ensure that any contractor or other entity receiving Grant Funds from SUBRECIPIENT complies with the requirements of 44 CFR Part 18, *New Restrictions on Lobbying*; and

(c) SUBRECIPIENT shall ensure that any contractor or other entity receiving Grant Funds from SUBRECIPIENT complies with the requirements of 2 CFR Part 3001, *Requirements for Drug-Free Workplace (Financial Assistance)*.

### 3.9 **Monitoring Grant Performance.**

(a) City and the UASI Management Team are both authorized to perform periodic monitoring reviews of SUBRECIPIENT's performance under this Agreement, to ensure that the Grant Plan goals, objectives, performance requirements, timelines, milestone completion, budgets and other criteria are being met. Programmatic monitoring may include the Regional Federal Preparedness Coordinators, or other federal or state personnel, when appropriate. Monitoring may involve a combination of desk-based reviews and on-site monitoring visits, inspection of records, and verifications of grant activities. These reviews will involve a review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. The reviews may include, but are not limited to:

1. Evaluating eligibility of expenditures;
2. Comparing actual grant activities to those approved by the Approval Authority and specified in the Grant Plan;
3. Ensuring that any advances have been deposited in an interest bearing account and disbursed in accordance with applicable guidelines; and
4. Confirming compliance with: Grant Assurances; information provided on performance reports and payment requests; and needs and threat assessments and strategies.

(b) SUBRECIPIENT is responsible for monitoring and auditing the grant activities of any contractor or other entity receiving Grant Funds through or from SUBRECIPIENT. This requirement includes but is not limited to mandatory on-site verification visits.

(c) If after any monitoring review, the DHS or Cal OES makes findings that require a Corrective Action Plan by SUBRECIPIENT, the City shall place a hold on all Reimbursement Requests from SUBRECIPIENT until the findings are resolved.

3.10 **Disbursement Procedures.** San Diego shall disburse Grant Funds to SUBRECIPIENT as follows:

(a) SUBRECIPIENT shall submit to the UASI Management Team, in the manner specified for notices pursuant to Article 9, a document ("Reimbursement Request") substantially in the form attached as Appendix C, attached hereto and incorporated by reference as though fully set forth herein. The UASI Management Team shall serve as the primary contact for SUBRECIPIENT regarding any Reimbursement Request.

(b) The UASI Management Team will review all Reimbursement Requests for compliance with this Agreement and all applicable guidelines and requirements. The UASI Management Team will



return to SUBRECIPIENT any Reimbursement Request that is submitted and not approved by the UASI Management Team, with a brief statement of the reason for the rejection of the Reimbursement Request.

(d) If a rejection relates only to a portion of the expenditures itemized in any Reimbursement Request, City shall have no obligation to disburse any Grant Funds for any other expenditures itemized in such Reimbursement Request unless and until SUBRECIPIENT submits a Reimbursement Request that is in all respects acceptable to the UASI Management Team.

(e) If SUBRECIPIENT is not in compliance with any provision of this Agreement, City may withhold disbursement of Grant Funds until SUBRECIPIENT has taken corrective action and currently complies with all terms and conditions of the Agreement.

3.11 **Disallowance.** SUBRECIPIENT agrees that if it claims or receives reimbursement from City for an expenditure that is later disallowed by the State of California or the federal government, SUBRECIPIENT shall promptly refund the disallowed amount to City upon City's written request. At its option, City may offset all or any portion of the disallowed amount against any other payment due to SUBRECIPIENT hereunder or under any other Agreement with SUBRECIPIENT. Any such offset with respect to a portion of the disallowed amount shall not release SUBRECIPIENT from SUBRECIPIENT's obligation hereunder to refund the remainder of the disallowed amount.

3.12 **Sustainability.** Grant Funded programs that contain continuing personnel and operating expenses, over and above planning and implementation costs, must be sustained once the Grant Funding ends. If Equipment is purchased with grant funds the equipment must be sustained through the useful life of equipment. By executing this Agreement, SUBRECIPIENT acknowledges its responsibility and agrees to sustain continuing programs beyond the Grant Funding period. SUBRECIPIENT acknowledges and agrees that this sustainability requirement is a material term of the Agreement.

3.13 **EHP Requirements.**

(a) Grant Funded projects must comply with the federal Environmental and Historic Preservation ("EHP") program. SUBRECIPIENT shall not initiate any project with the potential to impact environmental or historic properties or resources until Cal OES and FEMA have completed EHP reviews and approved the project. Examples of projects that may impact EHP resources include: communications towers, physical security enhancements, new construction, and modifications to buildings, structures and objects that are 50 years old or greater. SUBRECIPIENT shall notify the UASI Management Team of any project that may require an EHP review. SUBRECIPIENT agrees to provide detailed project information to FEMA, Cal OES and/or the UASI Management Team, to cooperate fully in the review, and to prepare any documents requested for the review. SUBRECIPIENT shall comply with all conditions placed on the project as the result of the EHP review, and implement any treatment or mitigation measures deemed necessary to address potential adverse impacts. With prior approval of the UASI Management Team, SUBRECIPIENT may use Grant Funds toward the costs of preparing documents and/or implementing treatment or mitigation measures. Any change to the approved project scope of work will require re-evaluation for compliance with EHP requirements. If ground disturbing activities occur during project implementation, SUBRECIPIENT shall notify the UASI Management Team and ensure monitoring of ground disturbance. If any potential archeological resources are discovered, SUBRECIPIENT shall immediately cease construction in that area and notify the UASI Management Team, which will notify the appropriate State Historic Preservation Office. If SUBRECIPIENT is using Grant Funds for a communication tower project, SUBRECIPIENT shall complete its Federal Communication Commission ("FCC") EHP process before preparing its Cal OES/FEMA EHP materials, and shall include the FCC EHP materials in the Cal OES/FEMA submission.

(b) Any construction or other project that SUBRECIPIENT initiates without the necessary EHP review and approval will not be eligible for reimbursement. Failure of SUBRECIPIENT to meet federal, State, and local EHP requirements, obtain applicable permits, or comply with any conditions that may be placed on the project as the result of FEMA's and/or Cal OES's EHP review will result in the denial of Reimbursement Requests.

3.14 **National Energy Conservation Policy and Energy Policy Acts.** SUBRECIPIENT shall comply with the following requirements:

(a) Grant Funds may not be used in contravention of the Federal buildings performance and reporting requirements of Executive Order 13123, part 3 of Title V of the National Energy Conservation Policy Act (42 USC §8251 et seq.), or Subtitle A of Title I of the Energy Policy Act of 2005; and

(b) Grant Funds may not be used in contravention of Section 303 of the Energy Policy Act of 1992 (42 USC §13212).

3.15 **Royalty-Free License.** SUBRECIPIENT understands and agrees that FEMA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and authorize others to use, for federal government purposes: (a) the copyright in any work developed using Grant Funds; and (b) any rights of copyright that SUBRECIPIENT purchases or acquires using Grant Funds. SUBRECIPIENT shall consult with the UASI Management Team and FEMA regarding the allocation of any patent rights that arise from, or are purchased with, Grant Funds.

3.16 **Publication Statements.** SUBRECIPIENT shall ensure that all publications created or developed under this Agreement prominently contain the following statement: "This document was prepared under a grant from the Federal Emergency Management Agencies Grant Programs Directorate (FEMA/GPD) within the US Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA/GPD or the US Department of Homeland Security."

3.17 **Performance Period.** SUBRECIPIENT shall ensure that hard copies of all reimbursement requests and supporting documentation will be submitted to the UASI Management Team postmarked no later than the Reimbursement Claim Due Date identified in the Subrecipient Award Letter (Attachment A). Extension requests may be granted based on extenuating circumstances beyond the control of the subrecipient and must be made via the Performance Period Extension Request Form (Appendix D). Requests must contain specific and compelling justifications as to why an extension is required and must be submitted 30 days prior to the current deadline.

#### **ARTICLE 4 REPORTING REQUIREMENTS; AUDITS**

4.1 **Regular Reports.** SUBRECIPIENT shall provide, in a prompt and timely manner, financial, operational and other reports, as requested by the UASI Management Team, in form and substance satisfactory to the UASI Management Team. Such reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages, to the maximum extent possible.

4.2 **Notification of Defaults or Changes in Circumstances.** SUBRECIPIENT shall notify the UASI Management Team and City immediately of (a) any Event of Default or event that, with the passage of time, would constitute an Event of Default; (b) any change of circumstances that would cause any of the representations or warranties contained in Article 5 to be false or misleading at any time during the term of this Agreement; and (c) any change of circumstances or events that would cause SUBRECIPIENT to be out of compliance with the Grant Assurances in Appendix B.

4.3 **Books and Records.** SUBRECIPIENT shall establish and maintain accurate files and records of all aspects of the Grant Plan and the matters funded in whole or in part with Grant Funds. Without limiting the scope of the foregoing, SUBRECIPIENT shall establish and maintain accurate financial books and accounting records relating to Authorized Expenditures and to Grant Funds received and expended under this Agreement, together with all invoices, documents, payrolls, time records and other data related to the matters covered by this Agreement, whether funded in whole or in part with Grant Funds. SUBRECIPIENT shall maintain all of the files, records, books, invoices, documents, payrolls and other data required to be maintained under this Section in a readily accessible location and condition for a period of not less than three (3) years after expiration of this Agreement or until any final audit by Cal OES has been fully completed, whichever is later.

4.4 **Inspection and Audit.** SUBRECIPIENT shall make available to the UASI Management Team, and to UASI Management Team and City employees and authorized representatives, during regular business hours, all of the files, records, books, invoices, documents, payrolls and other data required to be established and maintained by SUBRECIPIENT under Section 4.3, and allow access and the right to examine those items. SUBRECIPIENT shall permit the UASI Management Team and City, and UASI Management Team and City employees and authorized representatives, to inspect, audit, examine and make excerpts and transcripts from any of the foregoing. The rights of the UASI Management Team and City pursuant to this Section shall remain in effect so long as SUBRECIPIENT has the obligation to maintain such files, records, books, invoices, documents, payrolls and other data under this Article 4. The DHS, the Comptroller General of the United States or designee, and Cal OES shall have the same inspection and audit rights as the City and UASI Management Team. SUBRECIPIENT shall cooperate with any federal or state audit.

4.5 **Audit Report.** If the amount specified in Section 3.2 of this agreement is \$750,000 or more, SUBRECIPIENT shall submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with GAO's *Government Auditing Standards*, and 2 CFR Part 200 Subpart F - *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. SUBRECIPIENT shall submit its audit report to the UASI Management Team no later than six months after the end of SUBRECIPIENT's fiscal year.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

SUBRECIPIENT represents and warrants each of the following as of the date of this Agreement and at all times throughout the term of this Agreement:

5.1 **No Misstatements.** No document furnished or to be furnished by SUBRECIPIENT to the UASI Management Team in connection with this Agreement, any Reimbursement Request or any other document relating to any of the foregoing, contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

5.2 **Eligibility to Receive Federal Funds.** By executing this Agreement, SUBRECIPIENT certifies that it is eligible to receive federal funds, and specifically certifies as follows:

(a) SUBRECIPIENT is not suspended, debarred or otherwise excluded from participation in federal assistance programs, as required by Executive Order 12549 and 12689, "Debarment and Suspension" and implemented at 2 CFR Part 3000.

(b) SUBRECIPIENT complies with 31 U.S.C. §1352, *Limitation on use of appropriated funds to influence federal contracting and financial transactions*, as implemented at 44 CFR Part 18 and 6 CFR Part 9.

(c) SUBRECIPIENT complies with the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. §701 et seq., as implemented in 2 CFR Part 3001, and will continue to provide a drug-free workplace as required under that Act and implementing regulations.

(d) SUBRECIPIENT is not delinquent in the repayment of any federal debt. See OMB Circular A-129.

SUBRECIPIENT acknowledges that these certifications of eligibility to receive federal funds are material terms of the Agreement.

5.3 **NIMS Compliance.** To be eligible to receive Grant Funds, SUBRECIPIENT must meet National Incident Management System ("NIMS") compliance requirements. By executing this Agreement, SUBRECIPIENT certifies that it is in full NIMS compliance. SUBRECIPIENT acknowledges that this certification is a material term of the Agreement.

## **ARTICLE 6 INDEMNIFICATION AND GENERAL LIABILITY**

6.1 **Indemnification.** SUBRECIPIENT shall indemnify, protect, defend and hold harmless each of the Indemnified Parties from and against any and all Losses arising from, in connection with or caused by SUBRECIPIENT's performance of this Agreement, including, but not limited to, the following: (a) a material breach of this Agreement by SUBRECIPIENT; (b) a material breach of any representation or warranty of SUBRECIPIENT contained in this Agreement; (c) any personal injury or death caused, directly or indirectly, by any act or omission of SUBRECIPIENT or its employees or agents; (d) any loss of or damage to property caused, directly or indirectly, by any act or omission of SUBRECIPIENT or its employees or agents; (e) the use, misuse or failure of any equipment or facility used by SUBRECIPIENT, or by any of its employees or agents, regardless of whether such equipment or facility is furnished, rented or loaned to SUBRECIPIENT by an Indemnified Party; (f) any tax, fee, assessment or other charge for which SUBRECIPIENT is responsible under Section 10.4; or (g) any infringement of patent rights, copyright, trade secret or any other proprietary right or trademark of any person or entity in consequence of the use by any Indemnified Party of any goods or services furnished by SUBRECIPIENT or its employees or agents to such Indemnified Party in connection with this Agreement. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and San Diego's costs of investigating any claims against San Diego.

6.2 **Duty to Defend; Notice of Loss.** SUBRECIPIENT acknowledges and agrees that its obligation to defend the Indemnified Parties under Section 6.1: (a) is an immediate obligation, independent of its other obligations hereunder; (b) applies to any Loss which actually or potentially falls within the scope of Section 6.1, regardless of whether the allegations asserted in connection with such Loss are or may be groundless, false or fraudulent; and (c) arises at the time the Loss is tendered to SUBRECIPIENT by the Indemnified Party and continues at all times thereafter. The Indemnified Party shall give SUBRECIPIENT prompt notice of any Loss under Section 6.1 and SUBRECIPIENT shall have the right to defend, settle and compromise any such Loss; provided, however, that the Indemnified Party shall have the right to retain its own counsel at the expense of SUBRECIPIENT if representation of such Indemnified Party by the counsel retained by SUBRECIPIENT would be inappropriate due to conflicts of interest between such Indemnified Party and SUBRECIPIENT. An Indemnified Party's failure to notify SUBRECIPIENT promptly of any Loss shall not relieve SUBRECIPIENT of any liability to such Indemnified Party pursuant to Section 6.1, unless such failure materially impairs SUBRECIPIENT's

ability to defend such Loss. SUBRECIPIENT shall seek the Indemnified Party's prior written consent to settle or compromise any Loss if SUBRECIPIENT contends that such Indemnified Party shares in liability with respect thereto.

6.3 **Incidental and Consequential Damages.** Losses covered under this Article 6 shall include any and all incidental and consequential damages resulting in whole or in part from SUBRECIPIENT's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that any Indemnified Party may have under applicable law with respect to such damages.

6.4 **LIMITATION ON LIABILITY OF SAN DIEGO.** CITY'S OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AGGREGATE AMOUNT OF GRANT FUNDS ACTUALLY DISBURSED HEREUNDER. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS AGREEMENT OR ANY OTHER DOCUMENT OR COMMUNICATION RELATING TO THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE GRANT FUNDS, THE GRANT PLAN OR ANY ACTIVITIES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

## ARTICLE 7

### EVENTS OF DEFAULT AND REMEDIES; TERMINATION FOR CONVENIENCE

7.1 **Events of Default.** The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Agreement:

(a) **False Statement.** Any statement, representation, certification or warranty contained in this Agreement, in any Reimbursement Request, or in any other document submitted to the UASI Management Team or to City under this Agreement is found by the UASI Management Team or by City to be false or misleading.

(b) **Failure to Perform Other Covenants.** SUBRECIPIENT fails to perform or breaches any provision or covenant of this Agreement to be performed or observed by SUBRECIPIENT as and when performance or observance is due and such failure or breach continues for a period of ten (10) days after the date on which such performance or observance is due.

(c) **Failure to Comply with Applicable Laws.** SUBRECIPIENT fails to perform or breaches any of the terms or provisions of Article 12.

(d) **Voluntary Insolvency.** SUBRECIPIENT(i) is generally not paying its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of SUBRECIPIENT or of any substantial part of SUBRECIPIENT's property or (v) takes action for the purpose of any of the foregoing.

(e) **Involuntary Insolvency.** Without consent by SUBRECIPIENT, a court or government authority enters an order, and such order is not vacated within ten (10) days, (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to SUBRECIPIENT or with respect to any substantial part of SUBRECIPIENT's property, (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation

or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (iii) ordering the dissolution, winding-up or liquidation of SUBRECIPIENT.

7.2 **Remedies upon Event of Default.** Upon and during the continuance of an Event of Default, City may do any of the following, individually or in combination with any other remedy:

(a) **Termination.** City may terminate this Agreement by giving a written termination notice to SUBRECIPIENT and, on the date specified in such notice, this Agreement shall terminate and all rights of SUBRECIPIENT hereunder shall be extinguished. In the event of such termination, City will pay SUBRECIPIENT for Authorized Expenditures in any Reimbursement Request that was submitted and approved by the UASI Management Team and by City prior to the date of termination specified in such notice.

(b) **Withholding of Grant Funds.** City may withhold all or any portion of Grant Funds not yet disbursed hereunder, regardless of whether SUBRECIPIENT has previously submitted a Reimbursement Request or whether the UASI Management Team and/or City has approved the disbursement of the Grant Funds requested in any Reimbursement Request. Any Grant Funds withheld pursuant to this Section and subsequently disbursed to SUBRECIPIENT after cure of applicable Events of Default shall be disbursed without interest.

(c) **Return of Grant Funds.** City may demand the immediate return of any previously disbursed Grant Funds that have been claimed or expended by SUBRECIPIENT in breach of the terms of this Agreement, together with interest thereon from the date of disbursement at the maximum rate permitted under applicable law.

7.3 **Termination for Convenience.**

(a) City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving SUBRECIPIENT written notice of termination. The notice shall specify the date on which termination shall become effective.

(b) Upon receipt of the notice, SUBRECIPIENT shall commence and perform, with diligence, all actions necessary on the part of SUBRECIPIENT to effect the termination of this Agreement on the date specified by City and to minimize the liability of SUBRECIPIENT and City to third parties as a result of termination. All such actions shall be subject to the prior approval of the UASI Management Team.

(c) Within 30 days after the specified termination date, SUBRECIPIENT shall submit to the UASI Management Team an invoice for all Authorized Expenses incurred through the termination date. For Authorized Expenses incurred after receipt of the notice of termination, City will only reimburse SUBRECIPIENT if the Authorized Expenses received prior approval from the UASI Management Team as specified in subparagraph (b).

(d) In no event shall City be liable for costs incurred by SUBRECIPIENT or any of its contractors after the termination date specified by City.

(e) City's payment obligation under this Section shall survive termination of this Agreement.

7.4 **Remedies Nonexclusive.** Each of the remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The remedies contained herein are in addition to all other remedies available to City at

law or in equity by statute or otherwise and the exercise of any such remedy shall not preclude or in any way be deemed to waive any other remedy.

## **ARTICLE 8 ASSIGNMENTS**

8.1 **No Assignment by SUBRECIPIENT.** SUBRECIPIENT shall not, either directly or indirectly, assign, transfer, hypothecate, subcontract or delegate all or any portion of this Agreement or any rights, duties or obligations of SUBRECIPIENT hereunder without the prior written consent of the UASI Management Team. This Agreement shall not, nor shall any interest herein, be assignable as to the interest of SUBRECIPIENT involuntarily or by operation of law without the prior written consent of City. A change of ownership or control of SUBRECIPIENT or a sale or transfer of substantially all of the assets of SUBRECIPIENT shall be deemed an assignment for purposes of this Agreement.

8.2 **Agreement Made in Violation of this Article.** Any agreement made in violation of Section 8.1 shall confer no rights on any person or entity and shall automatically be null and void.

8.3 **SUBRECIPIENT Retains Responsibility.** SUBRECIPIENT shall in all events remain liable for the performance by any contractor, or assignee of all of the covenants, terms and conditions in this Agreement.

## **ARTICLE 9 NOTICES AND OTHER COMMUNICATIONS**

9.1 **Requirements.** Unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications hereunder shall be in writing, shall be addressed to the person and address set forth below and shall be (a) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (b) hand delivered or (c) sent via facsimile (if a facsimile number is provided below):

If to City of San Diego Office of Homeland Security UASI Management Team:

San Diego Office of Homeland Security  
9601 Ridgehaven Court, MS 1101C  
San Diego, CA 92123  
Attn: Katherine Jackson, Program Manager  
Facsimile No.: (619) 533-6786

If to SUBRECIPIENT:

National City Fire Department  
343 E. 16th Street  
National City, CA 91950  
Attn: Walter Amedee  
Facsimile No.: (619) 336-4572

9.2 **Effective Date.** All communications sent in accordance with Section 9.1 shall become effective on the date of receipt. Such date of receipt shall be determined by: (a) if mailed, the return receipt, completed by the U.S. postal service; (b) if sent via hand delivery, a receipt executed by a duly authorized agent of the party to whom the notice was sent; or (c) if sent via facsimile, the date of telephonic confirmation of receipt by a duly authorized agent of the party to whom the notice was sent or, if such

confirmation is not reasonably practicable, the date indicated in the facsimile machine transmission report of the party giving such notice.

9.3 **Change of Address.** From time to time any party hereto may designate a new address or recipient for notice for purposes of this Article 9 by written notice to the other party and the UASI Management Team.

## **ARTICLE 10 MISCELLANEOUS**

10.1 **No Waiver.** No waiver by San Diego of any default or breach of this Agreement shall be implied from any failure by the UASI Management Team or San Diego to take action on account of such default if such default persists or is repeated. No express waiver by San Diego shall affect any default other than the default specified in the waiver and shall be operative only for the time and to the extent therein stated. Waivers by San Diego of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by the UASI Management Team of any action requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

10.2 **Modification.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement; provided, however, that the Executive Director or designee may establish alternate procedures for modification of the Grant Plan.

10.3 **Governing Law; Venue.** The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws principles. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Diego.

10.4 **SUBRECIPIENT to Pay All Taxes.** SUBRECIPIENT shall pay to the appropriate governmental authority, as and when due, any and all taxes, fees, assessments or other governmental charges, including possessory interest taxes and California sales and use taxes, levied upon or in connection with this Agreement, the Grant Plan, the Grant Funds or any of the activities contemplated by this Agreement.

10.5 **Headings.** All article and section headings and captions contained in this Agreement are for reference only and shall not be considered in construing this Agreement.

10.6 **Entire Agreement.** This Agreement sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. The following Appendices are attached to and a part of this Agreement:

- Appendix A, SUBRECIPIENT Award Letter
- Appendix B, Grant Assurances
- Appendix C, Form of Reimbursement Request
- Appendix D, Performance Period Extension Request

10.7 **Certified Resolution of Signatory Authority.** Upon request of San Diego, SUBRECIPIENT shall deliver to San Diego a copy of the corporate resolution(s) authorizing the execution, delivery and performance of this Agreement, certified as true, accurate and complete by the appropriate authorized representative of SUBRECIPIENT.



10.8 **Severability.** Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

10.9 **Successors; No Third-Party Beneficiaries.** Subject to the terms of Article 8, the terms of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity (other than the parties hereto and their respective successors and assigns and, in the case of Article 6, the Indemnified Parties) any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

10.10 **Survival of Terms.** The obligations of SUBRECIPIENT and the terms of the following provisions of this Agreement shall survive and continue following expiration or termination of this Agreement: Sections 4.3 and 4.4, Article 6, this Article 10, and the Grant Assurances of Appendix B.

10.11 **Further Assurances.** From and after the date of this Agreement, SUBRECIPIENT agrees to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the transactions contemplated by this Agreement and to carry out the purpose of this Agreement in accordance with this Agreement.

10.12 **Disclosure of Subawards and Executive Compensation.** Pursuant to the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282) as amended by Section 6202(a) of the Government Funding Transparency Act of 2008 (P.L. 110-252), full disclosure to the public of entities or organizations receiving federal funds is now required. As defined by the Office of Management and Budget (OMB), all new Federal awards of \$25,000 or more as of October 1, 2010, are subject to FFATA reporting requirements. The Transparency Act definition of "Federal awards" includes not only prime awards for grantees, cooperators, and contractors, but also awards to sub-recipients. If applicable, SUBRECIPIENT must provide the following information on SUBRECIPIENT letterhead within 30 days of receipt of this Agreement.

1. The Total compensation and names of the top five executives if:
  - a) 80% or more of annual gross revenues are from Federal awards (contracts, sub-contracts and Federal financial assistance), and \$25,000,000 or more in annual gross revenues from Federal awards; and,
  - b) Compensation information is not already available through reporting to the Securities and Exchange Commission.

10.13 **Cooperation with UASI Programs and Activities.**

(a) Subject to reasonable terms and conditions, SUBRECIPIENT agrees to participate in UASI-sponsored exercises, and to make available equipment acquired with Grant Funds for use as part of such exercises.

(b) To the extent permitted by law, SUBRECIPIENT agrees to share with the Approval Authority informational work products (such as plans, reports, data, etc.) created or acquired using Grant Funds.

(c) To appropriately recognize the regional collaborative nature of grant funded planning projects, all groups, individuals and jurisdictions who contributed to and/or participated in the planning process shall be properly and clearly acknowledged in the final deliverable.

## **ARTICLE 11 INSURANCE**

11.1 **Types and Amounts of Coverage.** Without limiting SUBRECIPIENT's liability pursuant to Article 6 of this Agreement, SUBRECIPIENT shall maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(a) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(b) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(c) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

11.2 **Additional Requirements for General and Automobile Coverage.** Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(a) Name as Additional Insured the City and County of San Diego, its Officers, Agents, and Employees.

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

11.3 **Additional Requirements Regarding Workers' Compensation.** Regarding Workers' Compensation, SUBRECIPIENT hereby agrees to waive subrogation which any insurer of SUBRECIPIENT may acquire from SUBRECIPIENT by virtue of the payment of any loss. SUBRECIPIENT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the SUBRECIPIENT, its employees, agents and subcontractors.

11.4 **Additional Requirements for All Policies.** All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in Article 9, Notices and Other Communications.

11.5 **Required Post-Expiration Coverage.** Should any of the required insurance be provided under a claims-made form, SUBRECIPIENT shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

11.6 **General Annual Aggregate Limit/Inclusion of Claims Investigation or Legal Defense Costs.** Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

11.7 **Lapse in Insurance.** Should any required insurance lapse during the term of this Agreement, requests for reimbursement originating after such lapse may not be processed, in the City's sole discretion, until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

11.8 **Evidence of Insurance.** Before commencing any operations or expending any Grant Funds under this Agreement, SUBRECIPIENT shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

11.9 **Effect of Approval.** Approval of the insurance by City shall not relieve or decrease the liability of SUBRECIPIENT hereunder.

11.10 **Insurance for Subcontractors and Evidence of this Insurance.** If a subcontractor will be used to complete any portion of this Agreement, SUBRECIPIENT shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Diego, its officers, agents and employees and the SUBRECIPIENT as additional insureds.

11.11 **Authority to Self-Insure.** Nothing in this Agreement shall preclude SUBRECIPIENT from self-insuring all or part of the insurance requirement in this Article. However, SUBRECIPIENT shall provide proof of self-insurance, in a form acceptable to San Diego, in the amounts of each line of self-insurance.

## **ARTICLE 12 COMPLIANCE**

12.1 **Nondiscrimination.** In the performance of this Agreement, SUBRECIPIENT agrees not to discriminate against any employee, San Diego employee working with SUBRECIPIENT, applicant for employment with SUBRECIPIENT, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

12.2 **Conflict of Interest.** Through its execution of this Agreement, SUBRECIPIENT acknowledges that it is familiar with the provisions of Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify City if it becomes aware of any such fact during the term of this Agreement. SUBRECIPIENT agrees that it will promptly notify City in writing of all violations of State or Federal criminal law involving fraud, bribery, or gratuities affecting or involving the use of Grant Funds.

12.3 **Compliance with ADA**. SUBRECIPIENT acknowledges that, pursuant to the ADA, programs, services and other activities provided by a public entity to the public, whether directly or through a grantee or contractor, must be accessible to the disabled public. SUBRECIPIENT shall not discriminate against any person protected under the ADA in connection with all or any portion of the Grant Plan and shall comply at all times with the provisions of the ADA.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first specified herein.

CITY OF SAN DIEGO:

CITY OF NATIONAL CITY:

By:

By:

\_\_\_\_\_  
KATHERINE JACKSON  
PROGRAM MANAGER  
OFFICE OF HOMELAND SECURITY

\_\_\_\_\_  
ALEJANDRA SOTELO-SOLIS  
MAYOR

Federal Tax ID #: 95-6000749

**Approved as to Form:**

Mara W. Elliott  
City Attorney

By: \_\_\_\_\_  
Deputy City Attorney



February 26, 2019

Alejandra Sotelo-Solis  
 Mayor  
 City of National City  
 1243 National City Blvd  
 National City, CA 91950

**SUBJECT: NOTIFICATION OF SUBRECIPIENT AWARD APPROVAL**  
 FY 2018 Homeland Security Grant Program  
 Grant# 2018-0054 Cal OES ID# 073-66000  
 Sub-recipient Performance Period: September 1, 2018, to May 31, 2021

Sub-recipient: City of National City

The San Diego Office of Homeland Security (SD OHS) has approved your FY18 Urban Area Security Initiative (UASI) award.

Activities:	Amount:	Reimbursement Claim Due Date:
<b>All Projects</b>	<b>\$32,432</b>	
Project 002 – Situation Awareness Applications	\$10,000	May 31, 2020
Project 010 – Tactical Robots	\$8,555	May 31, 2020
Project 021 – Regional Training - Participation	\$13,877	May 31, 2020

During the application process, the Regional Technology Partnership (RTP) vetted and the Urban Area Working Group (UAWG) approved your project(s). Throughout the grant cycle, SD OHS will use performance milestones set in the HSGP application as indicators of performance and this information may be used in assessing future competitive grant applications. All activities funded with this award must be completed within the sub-recipient performance period.

You are required to comply with all applicable federal, state, and local environmental and historic preservation (EHP) requirements. Additionally, Aviation/Watercraft requests, projects requiring EHP review, federal schedule and sole source procurement requests, regardless of dollar amount, require prior approval from OHS and the California Governor’s Office of Emergency Services (Cal OES). Sub-recipients must obtain written approval for these activities prior to incurring any costs, in order to be reimbursed for any related costs under this grant. Sub-recipients are also required to obtain a performance bond prior to the purchase of any equipment item over \$250,000, including any aviation or watercraft financed with homeland security dollars. Performance bonds must be submitted to your UASI Program Representative no later than the time of reimbursement.

Following acceptance of this award, you must sign and return the SD OHS Memorandum of

Appendix A - Subrecipient Award Letter

City of National City  
February 26, 2019  
Page 2

Understanding (MOU) as well as the Cal OES grant assurances. Once your completed MOU and Grant Assurances are signed and received in our office, you may request reimbursement of eligible grant expenditures.

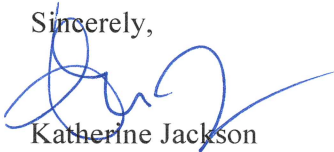
Your agency must coordinate with SD OHS to prepare and submit quarterly projections and milestone reporting via email so that SD OHS can comply with the semi-annual BSIR reporting for the duration of the grant period or until you complete all activities and the grant is formally closed. Failure to submit required reports could result in grant reduction, suspension, or termination.

This grant is subject to all provisions of 2 CFR Part 200. Any funds received in excess of current needs, approved amounts, or those found owed as a result of a final review or audit, must be refunded to SD OHS within 30 days upon receipt of an invoice from SD OHS.

Your dated signature is required on this letter. Please sign and return the original to your UASI Program Representative at 1200 3rd Ave Ste. 1700, San Diego, CA 92101 within 20 days of receipt and keep a copy for your files.

For further assistance, please feel free to contact your SD OHS UASI Program Representative at (619) 533-6760.

Sincerely,



Katherine Jackson  
Program Manager  
City of San Diego Office of Homeland Security



Alejandra Sotelo-Solis  
Mayor, City of National City

4/11/19  
Date

## Appendix B-- Grant Assurances

Name of Jurisdiction: City of National City  
Name of Authorized Agent: Alejandra Sotelo-Solis Address: 1243 National City Blvd.  
City: National City State: California Zip Code: 91950  
Telephone Number: (619) 336-4283  
Fax Number: (619) 336-4239 E-Mail Address: asotelosolis@nationalcityca.gov

**As the duly authorized representative of the Applicant, I hereby certify** that the Applicant has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay any non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application, within prescribed timelines.

**I further acknowledge that the Applicant is responsible for reviewing and adhering to all requirements within the:**

- (a) Applicable Federal Regulations (see below);
- (b) Federal Program Notice of Funding Opportunity (NOFO);
- (c) California Supplement to the NOFO; and
- (d) Federal and State Grant Program Guidelines.

### **Federal Regulations**

Government cost principles, uniform administrative requirements, and audit requirements for federal grant programs are set forth in Title 2, Part 200 of the Code of Federal Regulations (C.F.R.). Updates are issued by the Office of Management and Budget (OMB) and can be found at <http://www.whitehouse.gov/omb/>.

**Significant state and federal grant award requirements (some of which appear in the documents listed above) are set forth below. The Applicant hereby agrees to comply with the following:**

### **1. Proof of Authority**

The Applicant will obtain written authorization from the city council, governing board, or authorized body in support of this project. This written authorization must specify that the Applicant and the city council, governing board, or authorized body agree:

- (a) To provide all matching funds required for the grant project and that any cash match will be appropriated as required;
- (b) Any liability arising out of the performance of this agreement shall be the responsibility of the Applicant and the city council, governing board, or authorized body;
- (c) Grant funds shall not be used to supplant expenditures controlled by the city council, governing board, or authorized body, and
- (d) The official executing this agreement is, in fact, authorized to do so.

This Proof of Authority must be maintained on file and readily available upon request.



## 2. Period of Performance

The Applicant will initiate work after approval of the award and complete all work within the period of performance specified in the grant.

## 3. Lobbying and Political Activities

As required by Section 1352, Title 31 of the United States Code (U.S.C.), for persons entering into a contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan, the Applicant certifies that:

- (a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The Applicant will also comply with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and §§ 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

Finally, the Applicant agrees that federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation or policy without the express written approval from the California Governor's Office of Emergency Services (Cal OES) or the federal awarding agency.

## 4. Debarment and Suspension

As required by Executive Orders 12549 and 12689, and 2 C.F.R. § 200.213 and codified in 2 C.F.R. Part 180, Debarment and Suspension, the Applicant will provide protection against waste, fraud, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the federal government. The Applicant certifies that it and its principals, subgrantees, recipients or subrecipients:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or

- local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application had one or more public transaction (federal, state, or local) terminated for cause or default.

Where the Applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

### **5. Non-Discrimination and Equal Employment Opportunity**

The Applicant will comply with all federal statutes relating to non-discrimination. These include, but are not limited to, the following:

- (a) Title VI of the Civil Rights Act of 1964 (Public Law (P.L.) 88-352 and 42 U.S.C. § 2000d et. seq.) which prohibits discrimination on the basis of race, color, or national origin and requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services;
- (b) Title IX of the Education Amendments of 1972, (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex in any federally funded educational program or activity;
- (c) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794), which prohibits discrimination against those with disabilities or access and functional needs;
- (d) Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability and requires buildings and structures be accessible to those with disabilities and access and functional needs (42 U.S.C. §§ 12101-12213);
- (e) Age Discrimination Act of 1975, (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
- (f) Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd—2), relating to confidentiality of patient records regarding substance abuse treatment;
- (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), relating to nondiscrimination in the sale, rental or financing of housing as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (See 24 C.F.R. § 100.201);
- (h) Executive Order 11246, which prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identification or national origin;
- (i) Executive Order 11375, which bans discrimination on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin in hiring and employment in both the United States federal workforce and on the part of government contractors;
- (j) California Public Contract Code § 10295.3, which prohibits discrimination based on domestic partnerships and those in same sex marriages;

- (k) DHS policy to ensure the equal treatment of faith-based organizations, under which all applicants and recipients must comply with equal treatment policies and requirements contained in 6 C.F.R. Part 19;
- (l) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
- (m) The requirements of any other nondiscrimination statute(s) which may apply to the application.

In addition to the items listed in (a) through (m), the Applicant will comply with California's Fair Employment and Housing Act (FEHA). FEHA prohibits harassment and discrimination in employment because of ancestry, familial status, race, color, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, genetic information, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave (California Government Code §§12940, 12945, 12945.2), military and veteran status, and/or retaliation for protesting illegal discrimination related to one of these categories, or for reporting patient abuse in tax supported institutions.

#### **6. Drug-Free Workplace**

As required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), the Applicant certifies that it will maintain a drug-free workplace and a drug-free awareness program as outlined in the Act.

#### **7. Environmental Standards**

The Applicant will comply with state and federal environmental standards, which may be prescribed pursuant to the following, as applicable:

- (a) California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000- 21177), to include coordination with the city or county planning agency;
- (b) CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, §§ 15000- 15387);
- (c) Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
- (d) Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;
- (e) Institution of environmental quality control measures under the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190); the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; and Executive Order 12898 which focuses on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities;
- (f) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- (g) Executive Order 11514 which sets forth national environmental standards;
- (h) Executive Order 11738 instituted to assure that each federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each federal agency empowered to extend federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective

enforcement of the Clean Air Act and the Federal Water Pollution Control Act Executive Order 11990 which requires preservation of wetlands;

- (i) The Safe Drinking Water Act of 1974, (P.L. 93-523);
- (j) The Endangered Species Act of 1973, (P.L. 93-205);
- (k) Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
- (l) Conformity of Federal Actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.);
- (m) Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

The Applicant shall not be: 1) in violation of any order or resolution promulgated by the State Air Resources Board or an air pollution district; 2) subject to a cease and desist order pursuant to § 13301 of the California Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) determined to be in violation of federal law relating to air or water pollution.

#### **8. Audits**

For subrecipients expending \$750,000 or more in federal grant funds annually, the Applicant will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and Title 2 of the Code of Federal Regulations, Part 200, Subpart F Audit Requirements.

#### **9. Access to Records**

In accordance with 2 C.F.R. § 200.336, the Applicant will give the awarding agency, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award. The Applicant will require any subrecipients, contractors, successors, transferees and assignees to acknowledge and agree to comply with this provision.

#### **10. Conflict of Interest**

The Applicant will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

#### **11. Financial Management False Claims for Payment**

The Applicant will comply with 31 U.S.C §§ 3729-3733 which sets forth that no subgrantee, recipient, or subrecipient shall submit a false claim for payment, reimbursement or advance.

#### **12. Reporting - Accountability**

The Applicant agrees to comply with applicable provisions of the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282), specifically (a) the reporting of subawards obligating \$25,000 or more in federal funds and (b) executive compensation data for first-tier subawards. This includes the provisions of FFATA, which includes requirements for executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. Part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 C.F.R. Part 170 Reporting Subaward and Executive Compensation Information.

### **13. Whistleblower Protections**

The Applicant also must comply with statutory requirements for whistleblower protections at 10 U.S.C. § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. § 4304 and § 4310.

### **14. Human Trafficking**

The Applicant will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from: (1) engaging in trafficking in persons during the period of time that the award is in effect; (2) procuring a commercial sex act during the period of time that the award is in effect; or (3) using forced labor in the performance of the award or subawards under the award.

### **15. Labor Standards**

The Applicant will comply with the following federal labor standards:

- (a) The Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), as applicable, and the Copeland Act (40 U.S.C. § 3145 and 18 U.S.C. § 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction contracts or subcontracts, and
- (b) The Federal Fair Labor Standards Act (29 U.S.C. § 201 et al.) as they apply to employees of institutes of higher learning (IHE), hospitals and other non-profit organizations.

### **16. Worker's Compensation**

The Applicant must comply with provisions which require every employer to be insured to protect workers who may be injured on the job at all times during the performance of the work of this Agreement, as per the workers compensation laws set forth in California Labor Code §§ 3700 et seq.

### **17. Property-Related**

If applicable to the type of project funded by this federal award, the Applicant will:

- (a) Comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchase;
- (b) Comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires subrecipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
- (c) Assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §469a-1 et seq.); and
- (d) Comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831 and 24 CFR Part 35) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

## **18. Certifications Applicable Only to Federally-Funded Construction Projects**

For all construction projects, the Applicant will:

- (a) Not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project;
- (b) Comply with the requirements of the awarding agency with regard to the drafting, review and approval of construction plans and specifications; and
- (c) Provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

## **19. Use of Cellular Device While Driving is Prohibited**

Applicants are required to comply with California Vehicle Code sections 23123 and 23123.5. These laws prohibit driving motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication. Drivers are also prohibited from the use of a wireless telephone without hands-free listening and talking, unless to make an emergency call to 911, law enforcement, or similar services.

## **20. California Public Records Act and Freedom of Information Act**

The Applicant acknowledges that all information submitted in the course of applying for funding under this program, or provided in the course of an entity's grant management activities that are under Federal control, is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the California Public Records Act, California Government Code section 6250 et seq. The Applicant should consider these laws and consult its own State and local laws and regulations regarding the release of information when reporting sensitive matters in the grant application, needs assessment, and strategic planning process.

### **HOMELAND SECURITY GRANT PROGRAM - PROGRAM SPECIFIC ASSURANCES / CERTIFICATIONS 21. Reporting Accusations and Findings of Discrimination**

If during the past three years the recipient has been accused of discrimination on any basis the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS Financial Assistance Office and the DHS Office for Civil Rights and Civil Liberties (CRCL) by e-mail at [CRCL@hq.dhs.gov](mailto:CRCL@hq.dhs.gov) or by mail at U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, Building 410, Mail Stop #0190, Washington, D.C. 20528.

In the courts or administrative agencies make a finding of discrimination on grounds of race, color, national origin (including LEP), sex, age, disability, religion, or familial status against the recipient, or the recipients settle a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Financial Assistance Office and the CRCL by e-mail or mail at the addresses listed above.

The United States has the right to seek judicial enforcement of these obligations.

**22. Acknowledgment of Federal Funding from DHS**

All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

**23. Activities Conducted Abroad**

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

**24. Best Practices for Collection and Use of Personally Identifiable Information (PII)**

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. All recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template a useful resource respectively.

**25. Copyright**

All recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

**26. Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

**27. Energy Policy and Conservation Act**

All recipients must comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

**28. Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129.

**29. Fly America Act of 1974**

All recipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines

issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

**30. Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, all Applicants must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. § 2225a.

**31. Non-supplanting Requirement**

All recipients who receive federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

**32. Patents and Intellectual Property Rights**

Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

**33. SAFECOM**

All recipients who receive federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

**34. Terrorist Financing**

All recipients must comply with Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

**35. Reporting of Matters Related to Recipient Integrity and Performance**

If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

**36. USA Patriot Act of 2001**

All recipients must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.

**37. Use of DHS Seal, Logo, and Flags**

All recipients must obtain permission from their DHS Financial Assistance Office, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.



**IMPORTANT**

The purpose of the assurance is to obtain federal and state financial assistance, including any and all federal and state grants, loans, reimbursement, contracts, etc. The Applicant recognizes and agrees that state financial assistance will be extended based on the representations made in this assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, etc. Failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.

All appropriate documentation, as outlined above, must be maintained on file by the Applicant and available for Cal OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grant or termination of the grant or both and the subrecipient may be ineligible for award of any future grants if the Cal OES determines that any of the following has occurred: (1) the recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

All of the language contained within this document must be included in the award documents for all subawards at all tiers. All recipients are bound by the Department of Homeland Security Standard Terms and Conditions 2018, Version 8.1, hereby incorporated by reference, which can be found at: <https://www.dhs.gov/publication/fy15-dhs-standardterms-and-conditions>.

**The undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the Applicant.**

Applicant: City of National City

Signature of Authorized Agent: \_\_\_\_\_

Printed Name of Authorized Agent: Alejandra Sotelo-Solis

Title: Mayor Date: May 7, 2019

**City of San Diego Office of Homeland Security  
FY18 Urban Area Security Grant**

Grant: FY18 UASI Grant #2018-0054  
CalOES #073-66000 CFDA #97.067

**Supporting Information for Cash Request**

**Cash Request # \_\_\_: Requesting reimbursement in the amount of \$----- DUNS # \_\_\_\_\_**

Under Penalty of Perjury I certify that:

- The total amount of funds requested pursuant to this Reimbursement Request will be used to reimburse SUBRECIPIENT for Authorized Expenditures, which expenditures are set forth on the attached Cover Sheet, to which are attached true and correct copies of all required documentation of such expenditures.
  - After giving effect to the disbursement requested pursuant to this Reimbursement Request, the Funds disbursed as of the date of this disbursement will not exceed the maximum amount set forth in Appendix A of this agreement for specific projects and programs.
  - The representations, warranties and certifications made in the Agreement are true and correct in all material respects as if made on the date hereof, and SUBRECIPIENT is in compliance with all Grant Assurances in Appendix B of the Agreement. Furthermore, by signing this report, SUBRECIPIENT certifies to the best of their knowledge and belief that the report is true, complete and accurate and expenditures, disbursements, and cash receipts are for the purpose and objectives set forth in the terms and conditions of the federal award. SUBRECIPIENT is aware that any false, fictitious or fraudulent information or the omission of any material fact, may subject SUBRECIPIENT to criminal civil or administrative penalties for fraud, false statements, false claims or otherwise.
  - No Event of Default has occurred and is continuing.
  - The undersigned is an officer of SUBRECIPIENT authorized to execute this Reimbursement Request on behalf of SUBRECIPIENT.
- **This claim is for costs incurred within the grant performance period**

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

Phone Number: \_\_\_\_\_

Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Fax Number: \_\_\_\_\_

**Remittance Address (Address  
check will be mailed to)**



Signature \_\_\_\_\_

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

Mail Reimbursement Requests to:

City of San Diego Office of Homeland Security  
Grants Management Section  
1200 Third Ave, Suite 1700  
Mail Station 501B  
San Diego, CA 92101

**Cover Sheet (Invoice)**  
**Office of Homeland Security**  
**FY 18 Urban Area Security Initiative Grant Program**  
**Award # 2018-0054**  
**CalOES ID #073-66000 CFDA #97.067**

**Reimbursement Request (Invoice) # \_\_\_\_\_**

*Mail Reimbursement Request to:* **DATE:** \_\_\_\_\_

City of San Diego **AGENCY:** \_\_\_\_\_

Office of Homeland Security

ATTN: Grants Management Section **DUNS Number:** \_\_\_\_\_

1200 Third Ave, Suite 1700

Mail Station 501B

San Diego, CA 92101

**Expenditure Period:** \_\_\_\_\_

<b>Maximum Amount of Funds Specified in Subrecipient Award Letter:</b>	

Type of Expenditure	Reimbursements Requested this Request	Total Reimbursements Requested to Date (incl. this request)
Equipment		
Training		
Planning		
Organization		
Exercise		
<b>Total</b>	\$ -	\$ -

For questions regarding this reimbursement request contact

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Phone**

\_\_\_\_\_  
**Email**

\_\_\_\_\_  
**Remittance Address (Address check will be mailed to)**







Appendix C - Form of Reimbursement Request  
REIMBURSEMENT REQUEST

Per Diem Expenses for (Employee Name)														
Date														Total
Breakfast														-
Lunch														-
Dinner														-
Snack														-
Tips														-
Total Meals	-	-	-	-	-	-	-	-	-	-	-	-	-	-
GSA Per Diem Meals & Inc Exp. Max														-
<b>Reimbursable Meal Amount</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hotel														-
GSA Per Diem Lodging (excluding taxes & fee)														-
<b>Reimbursable Lodging w taxes Amount</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Airfare														-
Mileage														-
Parking														-
Registration														-
Taxi														-
<b>Total Reimbursable for</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total Reimbursable for</b>													-	

Per Diem Expenses for (Employee Name)														
Date														Total
Breakfast														-
Lunch														-
Dinner														-
Snack														-
Tips														-
Total Meals	-	-	-	-	-	-	-	-	-	-	-	-	-	-
GSA Per Diem Meals & Inc Exp. Max														-
<b>Reimbursable Meal Amount</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hotel														-
GSA Per Diem Lodging (excluding taxes & fee)														-
<b>Reimbursable Lodging w taxes Amount</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Airfare														-
Mileage														-
Parking														-
Registration														-
Taxi														-
<b>Total Reimbursable for</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total Reimbursable for</b>													-	

**APPENDIX D – PERFORMANCE PERIOD EXTENSION REQUEST**

City of San Diego Office of Homeland Security

**PERFORMANCE PERIOD EXTENSION REQUEST**

Subrecipient Name: \_\_\_\_\_

UASI FY: \_\_\_\_\_

Project:

Project Title:

Total Amount Allocated:

Amount Expended:

Original Performance Period Deadline:

Requested New Performance Period Deadline (final reimbursement claim due on this date):

1. Describe the details of the project:
  
2. What is the current status of the project?
  
3. Please provide a timeline as to how you will meet the new requested date:
  
4. How have you analyzed your errors in the initial timeline? What are the reasons why the project is late?
  
5. How have you improved your planning and project management process to avoid future delays if this request is granted? What plans and documentation do you have in place to guarantee the requested deadline will be met?
  
6. List and describe all equipment with costs and AEL #s:

Equipment & Description	Cost	AEL number
<b>PROJECT A:</b>		
<b>TOTAL</b>		
<b>PROJECT B:</b>		
<b>TOTAL</b>		



**APPENDIX D – PERFORMANCE PERIOD EXTENSION REQUEST**

<b>PROJECT D:</b>		
<b>TOTAL</b>		
<b>PROJECT E:</b>		
<b>TOTAL</b>		
<b>PROJECT G:</b>		
<b>TOTAL</b>		
<b>All Investments TOTAL</b>		

RESOLUTION NO. 2019 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF SAN DIEGO OFFICE OF HOMELAND SECURITY AND THE CITY OF NATIONAL CITY AND AUTHORIZING THE ESTABLISHMENT OF AN APPROPRIATION AND CORRESPONDING REVENUE BUDGET IN THE AMOUNT OF \$32,432 FROM THE FY18 URBAN AREA SECURITY INITIATIVE (UASI) GRANT FUNDS FOR THE REIMBURSABLE GRANT PURCHASE OF EQUIPMENT, PLANNING, AND TRAINING FOR THE POLICE AND FIRE DEPARTMENTS

WHEREAS, the United States Department of Homeland Security (DHS) designated the City of San Diego as an eligible high-risk urban area through an analysis of relative risk of terrorism; and

WHEREAS, the San Diego Urban Area (SDUA) was established for the purpose of application for and allocation and distribution of federal Urban Areas Security Initiative (UASI) program grant funds; and

WHEREAS, the UASI grant provides funding for equipment, planning, and training needed to respond to natural or man-made disasters or terrorism incidents that may occur in the San Diego urban area; and

WHEREAS, the San Diego County Unified Disaster Council established a collaborative subcommittee called the Urban Area Working Group (UAWG); and

WHEREAS, the UAWG was established as the “Approval Authority” for the SDUA and was also established to (1) provide overall governance of the homeland security grant program across the SDUA; (2) coordinate development and implementation of all UASI program initiatives; and (3) to ensure compliance with all UASI program requirements; and

WHEREAS, pursuant to grant allocation decisions by the UAWG, the UASI Management Team asked the City of San Diego to distribute a portion of the regional UASI grant funds to sub-recipients, such as the City of National City; and

WHEREAS, the Distribution of FY 2018 UASI Grant Funds Agreement ensures the roles, responsibilities, and expectations at the local, state, and federal levels, and ensures that the City of National City, as a grant program participant, agrees to meet state and federal requirements; and

WHEREAS, the appropriation will be divided as follows: \$8,555 for the purchase of equipment; \$10,000 for planning; and \$13,877 towards training for the National City Fire and Police Departments; for a total appropriation and corresponding revenue budget in the amount of \$32,432 from the FY18 Urban Area Security Initiative (UASI) grant fund.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the Mayor to execute an agreement with the City of San Diego Office of Homeland Security for the Distribution of FY 2018 UASI Grant Funds; and

BE IT FURTHER RESOLVED that the City Council authorizes the establishment of an appropriation and corresponding revenue budget in the amount of \$32,432 from the FY18 Urban Area Security Initiative (UASI) grant funds for the reimbursable grant purchase of equipment, planning, and training for the National City Police and Fire Departments; and

Resolution 2019 –  
Page Two

BE IT FURTHER RESOLVED that the City Council authorizes the division of the \$32,432 in UASI grant funds as follows: \$8,555 for the purchase of equipment; \$10,000 for planning; and \$13,877 towards training for the National City Fire and Police Departments.

PASSED and ADOPTED this 7th day of May, 2019

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones, City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving the Memorandum of Understanding \(MOU\) between the City and the National City Firefighters' Association \(NCFFA\) \(Human Resources\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Resolution of the City Council of the City of National City Approving the Memorandum of Understanding (MOU) between the City and the National City Firefighters' Association (NCFFA).

**PREPARED BY:** Robert J. Meteau Jr.

**DEPARTMENT:** Human Resources

**PHONE:** 336-4308

**APPROVED BY:** 

**EXPLANATION:**

The labor agreement between the City of National City and the National City Firefighters' Association (NCFFA) expired June 30, 2018. City representatives began meeting and conferring in good faith with NCFFA representatives in March 2018, for the purpose of negotiating a successor agreement. On April 2, 2019 the NCFFA membership voted to ratify the terms of a two (2) year agreement, retroactive to June 30, 2018 as set forth by the negotiating teams. A complete summary of the terms of the agreement is attached.

**FINANCIAL STATEMENT:**

**APPROVED:**  Finance

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ MIS

Fiscal Impact:

FY 19 - \$126,000

FY 20 - \$248,000; Total term of agreement - \$374,000.

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, is not subject to environmental review.

**ORDINANCE:** INTRODUCTION:  FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Adopt the resolution approving the terms of a two (2) year agreement reached between the City National of City negotiating team and the City of National City Firefighters' Association (NCFFA).

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

Summary of Package Tentative Agreement Between City and NCFFA  
NCFFA Memorandum of Understanding  
Resolution

**CITY OF NATIONAL CITY / NATIONAL CITY FIREFIGHTERS' ASSOCIATION  
2018 MOU NEGOTIATIONS  
Package Tentative Agreement on 3/19/19**

**Article 3 – Uniform Allowance:** Modify last paragraph to state, “Employees on probation may purchase a “Class A” uniform from the City’s supplier. Upon successful completion of probation, the permanent employee will be eligible for reimbursement, up to the City cost for “Class A” uniforms. The monetary value of Class A uniforms is \$857~~573~~.00 as of January, 201~~9~~<sup>6</sup>. The Ceity acknowledges this cost may rise in the future. Reimbursement and the reported amount of reimbursement will be the actual cost of the uniform.”

**Article 5, Section 4 – Fire Suppression Holiday Work Schedule:** Change bullet point 3 from “2nd Sunday in April” to ‘Easter’”

**Article 5, Section 5:** Modify to state, “In lieu of holiday time off, represented employees shall receive 11.1 hours of base salary for each 28 day work period. ~~However, those suppression personnel temporarily assigned to a 40-hour work schedule shall not work on fixed holidays observed by Fire Management and that time off will be charged against their vacation accrual.”~~

**Article 7 – Annual Vacation Leave:** Delete current Article 7, Section 3, as follows: “~~Fire Suppression Employees who volunteer to remain on a 40-hour assignment for more than 12 months shall accrue the same vacation as the permanent 40-hour assignment (see above).~~”

**Article 7, Section 5 – Maximum Vacation Accumulation**

An eligible employee may accumulate vacation to a maximum of ~~3.025~~ time-s an employee's annual accrual. Vacation accrual will discontinue upon reaching the maximum until the employee reduces vacation accumulation. The maximum allowable accruals are as follows:

~~432360~~ hours for all 56-hour safety employees with less than five (5) year’s service.; ~~309257~~ hours for permanent 40-hour safety employees with less than five (5) year’s service.

~~576480~~ hours for all 56-hour safety employees with five (5) to fifteen (15) year’s service; ~~412342~~ hours for permanent 40-hour safety employees with five (5) to fifteen (15) year’s service.

~~721600~~ hours for all 56-hour safety employees with fifteen (15) plus year’s service; ~~515428~~ hours for permanent 40-hour safety employees with fifteen (15) plus year’s service.

**Article 14 – Forty-Hour Assignment Pay:** Add the following sentence to the end of Article 14, “Employees in a modified duty status due to a work related injury may continue to work a 24-

hour shift schedule and thus not receive 40-hour assignment differential pay if the Department concludes, in its discretion, the Department can accommodate the work restriction with the employee working a shift schedule."

**Article 21 – PERS:** Modify Section 2(A)2. and Section 2(B)2. to state, "Each unit member shall pay the full member contribution to CalPERS equal to nine percent (9%) of the compensation paid the member for service rendered. Effective the first full pay period in July 2018, each unit employee shall contribute 1.0% toward the employer PERS rate for a total of 10.0% overall contributed toward their pensions. Effective the first full pay period in July 2019, each unit employee shall contribute an additional 2.0% for a total of 3.0% toward the employer PERS rate, and a total of 12.0% overall contributed toward their pensions."

**Article 11, Section 2 – Sick Leave Earning and Accumulation:**

"1. 56-hour Fire Suppression personnel of the Fire Department shall earn 5.54 hours of sick leave for each full pay cycle of employment. permanent 40-hour employees shall earn 3.69 hours of sick leave per pay cycle.

2. Accumulated Sick Leave: Each permanent or probationary 56-hour employee covered by this Memorandum shall, ~~on June 30, 1980,~~ be eligible to accumulate sick leave up to a maximum of ~~1,200720~~ hours, (herein "accumulative sick leave"). sick leave accrual will be credited on the last day of each pay period up to the ~~1,200720~~-hour maximum limitation. Permanent 40-hour employees may accumulate up to ~~857544~~ hours.

3. Upon reaching the maximum accumulated sick leave (~~1,200720~~ hours), accrual will discontinue and will resume only after the employee falls below ~~1,200720~~ hours. Accrual will resume on the last day of the pay period in which the employee's balance falls below the ~~1,200720~~-hour level. Said accrual will occur at the established rate as defined in paragraph (1) above."

**Article 18 – Employee and Dependent Health & Dental Insurance:**

**"Section 1**

As a benefit to full-time employees covered by this Memorandum of Understanding, the City will provide a group health insurance and a group dental insurance program. The benefits and limitations of the programs are to be designed cooperatively by the Employees' Association, the Insurance Carriers and the City. The Association and City agree to select and implement health insurance programs that meet the requirements of the Health Maintenance Act of 1973.

In the event the cost of insurances selected by the employee exceeds the contribution by the City, the employee must pay the excess amount.

## Section 2 ~~Cash~~ Back and Cash-in-Lieu

An employee must select coverage for health and dental insurance to be eligible for cash-in-lieu. If coverage selected costs less than the contribution by the City, the difference shall be paid to the employee in the form of money to a maximum of \$100/month. Effective the first full pay period following City Council approval of this 2018-2020 MOU, an employee that opts out of City health and attests to alternative family health coverage shall receive a taxable payment of \$150 per month. Effective the first full pay period in July 2019, an employee that opts out of City health and attests to alternative family health coverage shall receive a taxable payment of \$200 per month.

## Section 3 ~~Medical & Dental Benefits~~

As of January 31, 2019~~Effective February 1, 2011~~, the City ~~shall~~ contributes the following amounts for health and dental benefits:

### CITY'S CONTRIBUTION IF ELECT THE KAISER HIGH DEDUCTIBLE HEALTH PLAN (Kaiser HDHP)

<u>Employee Only</u>	<u>\$457.56/month</u>
<u>Employee +1</u>	<u>\$736.80/month</u>
<u>Employee +2 or more</u>	<u>\$1,029.81/month</u>

### CITY'S CONTRIBUTION FOR ALL PLANS OTHER THAN KAISER HIGH DEDUCTIBLE HEALTH PLAN (Kaiser HDHP):

<u>Employee Only</u>	<u>\$527.41/month</u>
<u>Employee +1</u>	<u>\$876.54/month</u>
<u>Employee +2 or more</u>	<u>\$1,227.43/month</u>

<del>Employee only</del>	<del>\$457.56 per month</del>
<del>Employee and one dependent</del>	<del>\$736.80 per month</del>
<del>Employee plus 2 or more dependents</del>	<del>\$1,029.81 per month</del>

Effective the first full pay period following City Council adoption of this 2018-2020 MOU, the City will contribute the same amount regardless of what health plan an employee chooses equal to the amounts contributed to the non-high deductible plans. Also, effective the first full pay period following City Council adoption of this 2018-2020 MOU, the City will contribute \$50 per month more than the City would be otherwise obligated to contribute under the cost sharing



methodology described in the next paragraph. Effective the first full pay period in July 2019, the City will contribute an additional/further \$50/month.

Effective February 1, 2012, and in eEach following health plan year (currently February through the following January), the City's new contribution obligation shall be the City's monthly contribution amounts from the prior health plan year plus 50% of any increase in the applicable Kaiser health plan rate and least costly dental rate.

During the term of this MOU, in the event that HealthNet withdraws or is eliminated as an insurer for the City under this provision and/or significant changes to coverage occur, immediately upon receipt of said notice and/or at its earliest opportunity, the City shall meet and confer with the Association on the issue of insurance benefits to adjust for such withdrawal/elimination of HealthNet. Options within this meet and confer to deal with the withdrawal/elimination of HealthNet include, but are not limited to, selection of an alternate insurance provider, increases in City contributions towards health care, opt out options for employees with proof of alternate insurance together with an opt out contribution, etc.

.. ."

## Article 22 – Wage

### **Section 1 Total Compensation**

The City of National City strives whenever fiscally prudent to provide fire suppression personnel with total compensation comparable to the average of the 18 City Fire Departments in the County of San Diego.

Total compensation surveys for bargaining unit members shall be performed according to the following criteria:

(A) Benchmark classifications for the total compensation survey shall be: Firefighter; Engineer; Captain; and Battalion Chief.

(B) Agencies to be surveyed for determining total compensation shall be: Carlsbad; Chula Vista; Coronado; Del Mar; El Cajon; Encinitas; Escondido; Imperial Beach; La Mesa; Lemon Grove; National City; Oceanside; Poway; San Diego; San Marcos; Santee; Solana Beach; and Vista.

(C) Compensation items to be surveyed and included for each classification shall be: Employee Salary (top step); Medical contributions; Uniform Pay; Retirement contribution (EPMC paid by employer); Education Incentive; Paramedic Pay (for Firefighter classification only); and EMT Pay (for the Fire Captain, Engineer, and Battalion Chief classifications only).

### **Section 2 Salary Increases**

Effective the first full pay period in July 2018, all employees shall receive a 3.0% wage increase. Effective the first full pay period in July 2019, all employees shall receive a further 3.0% wage increase.

The language set forth in the remainder of Section 2 below describes the process the City and FFA agreed upon to determine salary increases in 2015, 2016 and 2017. That language is retained below as a historical record of the methodology used in those three years but, as described in the prior paragraph, is not being used to determine salary adjustments during this 2018-2020 MOU.

#### Year 1 (2015)

At the City's expense, the City will conduct and complete a total compensation survey of all bargaining unit classifications, according to the criteria for conducting total compensation surveys stated in Section 1, above. The total compensation survey shall be based on compensation data from comparable agencies in effect on December 1, 2015. Comparable agency compensation adjustments approved which are implemented after December 1, 2015 shall not be considered in the survey. The City will give NCCFA the opportunity to verify the underlying data used in the compensation survey before the survey is finalized. After the total compensation survey is completed and the results of the survey are provided to NCCFA, the parties will meet to mutually agree no later than January 11, 2016 on the single subject of implementing the results of the total compensation survey and will consider the following factors, including but not limited to:

- Determine the appropriate wage increases for NCCFA classifications which are below average market
- Recruitment and retention challenges of any particular classifications(s)
- The extent the classification is below market average

The total amount of funds available for compensation increases for below market bargaining unit classifications will be equal to 4% of base salary for all employees represented by NCCFA and the total amount available shall be used in its entirety for increases to base salary for below market bargaining unit classifications. Any increases shall be effective the first full pay period following Council approval of this MOU or the first full pay period of December 2015 whichever is earlier.

#### Year 2 (2016)

At the City's expense, the City will conduct and complete a total compensation survey of all bargaining unit classifications, according to the criteria for conducting total compensation surveys stated in Section 1, above. The total compensation survey shall be based on compensation data of comparable agencies in effect on July 1, 2016. Comparable agency compensation adjustments approved after July 1, 2016 but retroactive to or before July 1, 2016 shall not be considered in the survey. The City will give NCCFA the opportunity to

verify the underlying data used in the compensation survey before the survey is finalized. After the total compensation survey is completed and the results of the survey are provided to NCCFA, the parties will meet to mutually agree no later than June 1, 2016 on the single subject of implementing the results of the total compensation survey and will consider the following factors, including but not limited to:

- Determine the appropriate wage increases for NCCFA classifications which are below average market
- Recruitment and retention challenges of any particular classifications(s)
- The extent the classification is below market average

The total amount of funds available for compensation increases for below market bargaining unit classifications will be equal to 4% of total compensation (Total compensation defined as: annual salary, bilingual pay, uniform pay, EMT pay, Paramedic Pay, Holiday Pay, Residency Pay, Workers Compensation, CalPERS, and Medicare effective July 2016) for all employees represented by NCCFA and the total amount available shall be used in its entirety for increases to base salaries for below market bargaining unit classifications. Any increases shall be effective the first full pay period in August 2016 or the first full pay period following reaching agreement, whichever is later.

### Year 3 [\(2017\)](#)

At the City's expense, the City will conduct and complete a total compensation survey of all bargaining unit classifications, according to the criteria for conducting total compensation surveys stated in Section 1, above. The total compensation survey shall be based on compensation data from comparable agencies in effect on July 1, 2017. Comparable agency compensation adjustments approved which are implemented after July 1, 2017 shall not be considered in the survey. The City will give NCCFA the opportunity to verify the underlying data used in the compensation survey before the survey is finalized. After the total compensation survey is completed and the results of the survey are provided to NCCFA, the parties will meet to mutually agree no later than June 1, 2017 on the single subject of implementing the results of the total compensation survey and will consider the following factors, including but not limited to:

- Determine the appropriate wage increases for NCCFA classifications which are below average market
- Recruitment and retention challenges of any particular classifications(s)
- The extent the classification is below market average

The total amount of funds available for compensation increases for below market bargaining unit classifications will be equal to 3% of base salary for all employees represented by NCCFA and the total amount available shall be used in its entirety for increases to base salary for below market bargaining unit classifications. Any increases shall be effective the first full pay period in August 2017 or the first full pay period following reaching agreement, whichever is later.

**Article 22, Section 3 – Bilingual Pay:** Those represented employees who can demonstrate competency in the Spanish or Tagalog languages as verified by the Personnel Department shall receive ~~an additional 2.0%~~ incentive pay to the hourly base salaries. Effective the first full pay period following City Council approval of this 2018-2020 MOU, represented employees who can demonstrate competency in the Spanish or Tagalog languages as verified by the Human Resources Department shall receive 4.0% incentive pay to the hourly base salaries.-

**Article 25, Section 2 – Educational Expenses Reimbursement Plan:**

"The Educational Expenses Reimbursement Plan is available to employees who wish to improve their work performance through furthering their education. The plan provides reimbursement for up to ~~\$2,000~~1,500 per employee, per fiscal year with a maximum pool of training funds per fiscal year of \$20,000 for FFA represented employees, and is open to all employees who meet the following criteria:

- (A) Successful completion of probation.
- (B) A proposed course of instruction related to the employee's employment with the City. The City Manager or his designee has the final authority on determining whether a course is job related. Request must be submitted in writing on appropriate department form according to established procedures.
- (C) The reimbursement may be used to cover the costs of tuition, registration, travel expenses and books.
- (D) If a letter grade is given, the course must be passed with a grade of "C" or better. If taken on pass/fail basis, employee must pass course(s) taken. If no grade or pass/fail is given, then reimbursement shall be given upon presentation of successful completion of training.
- (E) The employee must show written documentation of the expenditures being claimed for reimbursement.

(F) While the general maximum reimbursement per employee per fiscal year is \$2,000 (see above), in the last month of the fiscal year, employees who have completed approved courses exceeding the \$2,000 per employee limit shall be eligible for additional reimbursement if the \$20,000 for that fiscal year

has not all been used. Reimbursement payments beyond \$2,000 per employee shall be made in equal amounts to requesting employees, but may not exceed \$3,000 per employee for courses completed in that fiscal year.

Reimbursement under this Plan will be made upon completion of the above requirements and paid from the fund for the fiscal year in which the course is paid by the employee.”

**Article 26, Section 6:** ~~“Minimum daily staffing shall not be less than eleven (11) personnel comprised of two (2) engine companies, one (1) truck company and one (1) Battalion Chief. During the term of the MOU, the parties agree to meet and confer over the concept of a one-year pilot program increasing the minimum daily staffing by two additional personnel, which increase may be, but not necessarily limited to, a two personnel squad. Should both sides mutually agree to move forward with the concept, the scope of duties and responsibilities for the two additional personnel, it will be implemented for one year as a pilot program. During the one year pilot program, m~~Minimum daily staffing shall be no less than thirteen (13) personnel comprised of two (2) engine companies, one (1) truck, one (1) Battalion Chief and either one (1) two-personnel squad or additional personnel to other equipment.—~~The parties may extend the pilot program by mutual agreement. Upon conclusion of the one year pilot program, minimum daily shall not be less than eleven (11) personnel comprised of two (2) engine companies, one (1) truck company and one (1) Battalion Chief.”~~

**Article 28 – Terms of Provisions:** “The provisions of this Memorandum of Understanding shall be effective and binding from July 1, ~~2018~~~~2015~~ through June 30, ~~2020~~~~2018~~.”

**Articles 28 and 29:** Re-number articles 28 and 29 to place at the end of the MOU

### **Article 32 – Association Bank:**

~~The City and FFA agree to establish a mechanism for FFA members to donate paid leave into a bank to be utilized by FFA members to conduct association business.~~

#### **Section 1 Leave Bank**

The intent of this article is to provide National City employees representing the National City Firefighters’ Association (FFA) with a leave bank that can be utilized when conducting business benefitting the local association and its members such as but not limited to attending meetings and conferences on behalf of the association and/or its member(s).

The cumulative Association Leave Bank maximum accrual is 360 hours per fiscal year.

1. Should the Association Leave Bank reach 360 hours in any fiscal year, additional donations shall not be accepted until the start of the next fiscal year up to a maximum of 360 hours.
2. The initial Association Leave Bank will be established by the City immediately following City Council approval. The maximum accrual for the first fiscal year of the Association Leave Bank will be prorated based upon the date of City Council approval.
3. The City shall not contribute leave time to the Association Leave Bank

## Section 2 Voluntary Donations

1. Hours shall be donated to the Association Leave Bank on a voluntary basis by FFA represented employees using a prescribed donation form.
2. Employees may donate vacation, sick or compensatory time credits.
3. Donations must be for a minimum of four (4) hours for each type of time transferred and in whole (one) hour increments thereafter.
4. Donating employees must have a minimum vacation balance of 112 hours after donation.
5. Sick leave donations will be credited at a rate of 50% (ex: a donation of four (4) hours will be credited to the Association Leave Bank as two (2) hours).
6. Sick leave donations will be counted against the donor's annual sick leave usage for purposes of Article 11, Section 12, Sick Leave Incentive Pay, at 50% of the number of hours donated (a donation of ten (10) hours will be counted as five (5) hours used for Article 11, Section 12 only.
7. Donating employees forfeit any right or claim to leave credits once they are donated.
8. Leave will be transferred on an hour-for-hour basis, regardless of the salary of the employees involved.

## Section 3 Use of the Leave Bank

Hours donated to the Association Leave Bank may be used by members of the FFA:

1. In lieu of or in conjunction with the employees own leave balances when conducting association business during the employee's scheduled work shift(s).
2. Determining which association activities are qualifying and which employees are eligible to utilize the Association Leave Bank is done at the discretion of the FFA Executive Board.

3. Requests for leave must be reviewed and are subject to approval by the department head or designee consistent with department policy.

4. Employees using donated leave shall record the use in Telestaff with the date of usage and the number of hours used.

5. It is the responsibility of FFA to monitor the hours available for use in the leave bank.

#### Section 4 Administration

1. Upon receipt of a donation form, the Finance Department will review to ensure that the employee(s) meet the eligibility requirements and that the leave bank has not reached its maximum accrual for the fiscal year.

2. If all eligibility criteria are met, the Finance Department will transfer the donated leave to the Association Leave Bank.

If any part of the eligibility criteria is not met, the donation form will be returned to the donating employee without being processed.

**Article 33 – Post-Retirement Healthcare Trust (New Article):** “The City and FFA will contract with a company to provide a post-retirement healthcare trust for represented employees contingent on the FFA specifying a provider acceptable to the City and with the agreement of FFA that there will be no financial cost or obligation to the City. All FFA represented employees will contribute \$100/month to the post-retirement healthcare trust via payroll deductions effective the first full pay period after the trust is established. The City shall have no administrative responsibilities or liabilities related to this benefit, other than processing of payroll deductions.

The FFA shall hold the City harmless for the City's actions related to this Article, and indemnify the City against any liability the city may incur as a result of this Article, including but not limited to allowing the FFA to participate in a post-retirement healthcare trust and/or the City's processing of payroll deductions as set forth in this Article.

”

**All other proposals not addressed in this package tentative agreement withdrawn.**

CITY OF NATIONAL CITY



**MEMORANDUM  
OF  
UNDERSTANDING**

BETWEEN

CITY OF NATIONAL CITY  
CALIFORNIA

and

NATIONAL CITY  
FIREFIGHTERS' ASSOCIATION

AGREEMENT PERIOD

JULY 1, ~~2018~~2015 – JUNE 30, ~~2020~~2018



**MEMORANDUM OF UNDERSTANDING CONCERNING WAGES AND OTHER TERMS AND  
CONDITIONS OF EMPLOYMENT BETWEEN THE CITY OF NATIONAL CITY AND THE  
NATIONAL CITY FIREFIGHTERS' ASSOCIATION  
FOR THE FOLLOWING PERIOD OF TIME:  
JULY 1, 2018 – JUNE 30, 2020**

The representatives of the City Manager of the City of National City, for and on behalf of the City Council of the City of National City, have met and conferred with the representatives of the National City Firefighters' Association, an organization representing employees of the City of National City, in accordance with the provisions of Section 3500 et. Seq., of the Government Code of the State of California, and;

As a result of meeting and conferring in good faith with said Group, agreement has been reached on the following terms and conditions of employment as applied to those employees who are members of and represented by the Association; and the Memorandum of Understanding concerning said agreed terms and conditions of employment has been approved by the City Council of the City of National City on May 7, 2019, by Resolution No. 2019-\_\_\_\_.

**For the CITY:**

\_\_\_\_\_  
**LESLIE DEESE**  
City Manager

\_\_\_\_\_  
**EDWARD KREISBERG**  
Chief Negotiator

\_\_\_\_\_  
**ROBERT J. METEAU**  
Director of Human Resources

\_\_\_\_\_  
**LILIA MUÑOZ**  
Human Resources Analyst

\_\_\_\_\_  
**ROBERT HERNANDEZ**  
Battalion Chief

\_\_\_\_\_  
**MARK ROBERTS**  
Director of Finance

**For the NCFFA:**

\_\_\_\_\_  
**STUART ADAMS**  
Chief Negotiator

\_\_\_\_\_  
**JAMES STILES**  
NCFFA Representative

\_\_\_\_\_  
**MARK BEVERIDGE**  
NCFFA Representative

\_\_\_\_\_  
**JEREMY DAY**  
NCFFA Representative

\_\_\_\_\_  
**CHRISTOPHER DURON**  
NCFFA Representative

\_\_\_\_\_  
**KEVIN HAMEL**  
NCFFA Representative

\_\_\_\_\_  
**DEREK JONES**  
NCFFA Representative

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## ARTICLE 1 – RECOGNITION/IMPLEMENTATION

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### Section 1 Recognition

The National City Firefighters' Association is the exclusive representative of probationary and career employees in the following classes:

- ➔ Firefighter
- ➔ Fire Engineer
- ➔ Fire Captain
- ➔ Battalion Chief
- ➔ Deputy Fire Marshal

### Section 2 Implementation

This Memorandum constitutes a mutual recommendation to be jointly submitted to the City Council of National City. It is agreed that this Memorandum shall not be binding upon the parties either in whole or in part unless and until:

- a) The City Council acts, by majority vote, to formally approve and adopt said Memorandum.
- b) The City Council acts to appropriate the necessary funds required to implement the provisions of this Memorandum that require funding.
- c) The City Council acts in a timely manner to make the necessary changes in ordinances, resolutions, rules, policies and procedures to implement and conform to this Agreement.

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## ARTICLE 2 – WORK WEEK

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The City agrees to cooperate with the Firefighters' Local 2744 to retain the fifty-six (56) hour work week for Fire Suppression personnel, and the forty (40) hour work week for Staff personnel. The City agrees to meet and confer with the Firefighter's Local 2744 prior to making adjustments to the twenty-four (24) hour duty shift.

- (A) **Fire Suppression** - Fifty-six (56) hours shall constitute the normal work week for personnel assigned to this division. The normal shift length for personnel assigned to this division shall be twenty-four (24) hours. The normal shift change shall occur at 0800 (8:00 a.m.). Sunday routine shall be as follows: The hours from 0800 to 1300 hours shall be regular operations. After 1300 hours shall be considered stand by time and operations personnel are not expected to perform work of a non-emergency nature.
- (B) **Forty Hour Assignment** - Forty (40) hours shall constitute the normal work week for personnel temporarily assigned to the operations, prevention or administration divisions. The normal work day for personnel assigned to this division shall be eight (8) hours, and begin at 0800 (8:00 a.m.) daily. Such assignment shall not exceed twelve (12) months, except for those positions designed and filled as permanent 40-hour assignments or with the consent of the temporarily assigned employee and approval of the Chief.
- (C) **9/80 Assignment** - Employees on a forty hour assignment are eligible to participate in the "Alternative 9/80 Work Schedule" if approved by the Fire Chief or designee. The parties agree that 9/80 alternative work schedule will continue to be monitored and the City retains the right to discontinue the 9/80 schedule so long as the City provides the employee and FFA with thirty (30) days advance notice and provides FFA with a reasonable opportunity to meet and confer on the change.

The standard work schedule for an employee on 9/80 work schedule shall be nine (9) hour days four days per calendar week plus one eight (8) hour Friday once every two calendar weeks. The work week is a 168 hour (i.e. seven 24-hour periods) commencing at the mid-point of the employee's 8-hour Friday. Due to this work week, and to ensure the 9/80 schedule does not impact overtime, an employee working his regular 9/80 work schedule shall not be entitled to overtime.

Leave time (including admin, vacation and sick) will continue to be accrued at the same rate, but will be taken in accordance with however many hours of work are missed.

Holidays and floating holidays falling on a employee's 9-hour day will continue to be compensated at a rate of eight (8) hours of the employee's regular rate of pay and employees will have the option of using accrued leave time (vacation, floater, admin or comp time) for the additional hour. When a holiday falls on an employee's Friday off, the day will be accrued as a floater to be taken at a later date. These floaters must be used prior to the end o the fiscal year in which the floater was earned. The use of the floater is subject to supervisor approval like other requests to use leave time. If workload and staffing issues, as determined by the supervisors, create a situation in which a holiday leave floater cannot be used by the end of this fiscal year, the holiday leave floater can be carried over to the next fiscal year.

- (D) **4/10 Assignment** - Employees on a forty (40) hour assignment are eligible to participate in the “Alternative 4/10 work schedule”, subject to approval of the Fire Chief.
- (E) **Assignment Allotment** - For the term of the alternative 9/80 and 4/10 work schedule, suppression personnel temporarily assigned to a forty hour workweek shall be entitled up to an additional 14 hours of vacation during the calendar year for temporary assignment. The additional hours will be pro-rated (i.e., not eligible for hours on holidays already passed), and may be rescinded if unused upon return to a 56 hr schedule.
- (F) **Permanent Employees** - shall be entitled up to 26 hours of allotment time during the calendar year to offset holiday time off requirements. This time will be pro-rated based on assignment, 9/80 or 4/10 workweeks.

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## ARTICLE 3 – UNIFORM ALLOWANCE

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Safety equipment prescribed by OSHA or the City, including turnouts, rubber boots, gloves, helmets, leather boots and pants, will be provided by the City.

In addition, the City will provide \$750 annually for each employee covered by this agreement to be applied toward the purchase and maintenance of the shirt, belt, utility jacket and non-safety trousers prescribed by department. The uniform allowance will be included in the first full pay period in July as part of the applicable payroll check. Uniform allowance shall be reported to CalPERS periodically as earned.

All safety equipment prescribed by OSHA and the City provided pursuant to this article will be considered property of the City and may not be worn by the employee while off-duty, except for travel to and from work.

In addition to the above, the City shall provide each newly hired employee an additional \$200 to assist them in making an initial purchase of required uniforms.

Upon successful completion of probation the City will provide each employee one “Class A” dress uniform, consisting of the following:

- Jacket
- One pair of pants
- Shirt
- Shoes
- Tie
- Hat
- Collar device
- Badge holder
- Belt
- Applicable piping

Employees on probation may purchase a “Class A” uniform from the City’s supplier. Upon successful completion of probation, the permanent employee will be eligible for reimbursement, up to the City’s cost for “Class A” uniforms. The monetary value of Class A uniforms is \$~~857573~~.00 as of January, 201~~96~~. The City acknowledges this cost may rise in the future. Reimbursement and the reported amount of reimbursement will be for the actual cost of the uniform.



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## ARTICLE 4 – ACTING ASSIGNMENTS

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### Section 1

Employees may be temporarily assigned to a higher classification when temporary vacancies caused by factors including but not limited to illness, vacations and separations prohibit the department from achieving the staffing levels prescribed under Article 26, Company-Level Staffing.

In such cases of absences, the department shall make reasonable effort to find and utilize department personnel of the same rank. When personnel of the same rank are unavailable or such use is impractical as determined by the department director, acting appointments may be made as allowed under Civil Service Rule 407.5. When vacancies are the result of employee separation, the department will make every effort to backfill the position as quickly as possible and in a manner consistent with City Policy and Civil Service Rules.

### Section 2      **Eligibility**

Fire Department personnel may be eligible to assume acting assignments under the following conditions:

1. The employee is on an active eligible list promulgated by the Human Resources Department for the classification to be filled.
2. In the absence of an active eligible list:
  - a) The employee was on the most recently expired eligible list for the classification to be filled.
  - b) The individual has been certified by the department as meeting requirements of the position to be filled.

### Section 3      **Compensation**

1. Acting assignments shall be compensated at a rate of 5% above the base salary of the employee assuming the acting assignment.
2. Acting assignments continuing beyond six months, calculated cumulatively in a fiscal year, shall be compensated at 10% above base pay effective at six months and one day for the remaining duration of any acting assignment within that fiscal year.
3. Compensation for acting assignments shall reset to 5% above the base salary of the employee assuming acting assignment after the start of new fiscal year (any employee in an active acting assignment that continues into the new fiscal year shall not be reset to 5% until there is a break in acting exceeding 30 days).
4. An employee assuming an acting assignment of two classifications or higher, shall be compensated at 10% above base pay, or one step above the employee's current pay step, whichever is greater, for the duration of the acting assignment.

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## ARTICLE 5 – HOLIDAYS

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### Section 1

Eligible suppression personnel temporarily assigned to a forty (40) hour work week shall be entitled to the following fixed holidays with pay if they occur during such assignment:

1. New Year's Day
2. Easter Sunday
3. Memorial Day
4. Independence Day
5. Labor Day
6. Thanksgiving Day
7. Christmas Day

Personnel permanently assigned to a 40 hour/week shall be entitled to the same fixed holidays with pay as Fire Management personnel.

1. New Year's Day - January 1<sup>st</sup>
2. Martin Luther King - 3<sup>rd</sup> Monday in January
3. Cesar Chavez Birthday - March 31<sup>st</sup>
4. Memorial Day - Last Monday in May
5. Independence Day - July 4<sup>th</sup>
6. Labor Day - 1<sup>st</sup> Monday in September
7. Thanksgiving Day - 4<sup>th</sup> Thursday in November
8. Day after Thanksgiving
9. Christmas Eve Day - December 24<sup>th</sup>
10. Christmas Day - December 25<sup>th</sup>

Also each employee permanently assigned to 40 hour/week shall be credited with four (4) floating holidays at the start of each fiscal year and pro-rated according to date of hire for new employees.

1. Lincoln's Birthday - February
2. Washington's Birthday - 3<sup>rd</sup> Monday in February
3. Columbus Day - 2<sup>nd</sup> Monday in October
4. Veterans' Day - November 11<sup>th</sup>

### Section 2 Appointed and Religious Holidays

With Council approval, every day appointed by the President of the United States or by the Governor of California for a Public fast, thanksgiving or holiday, with the exception of Good Friday, shall be honored as an additional Holiday. Employees may request time off to attend religious or other religious activities on Good Friday or on other recognized religious holidays during the year; such time off shall be charged to the employees' annually accumulated leave or compensating time off. If the employee has no accumulated annual leave or compensating time off, such time off shall be without pay.

### Section 3 Holidays Occurring On Normal Work Day, During Sick Leave or Annual Leave or On a Weekend - 40 Hour/Week Assignment

In the event an employee is required to work on a holiday, which holiday falls on the employee's regular day off, hourly compensation shall be based on the overtime rate. If a holiday falls on the employee's regular day off and the employee is not required to work such employee shall be granted equivalent compensatory time off as approved by the department head.

When an employee is absent on annual leave, sick leave or compensating time off, a holiday immediately preceding, immediately following or wholly within such leave period shall be recorded as holiday and not as a day of leave.

If a holiday falls on Saturday, the preceding Friday will be observed as a holiday. If the holiday falls on Sunday, the next following Monday will be observed as a holiday.

#### **Section 4 Fire Suppression Holiday Work Schedule**

The normal workday on holidays for employees assigned to Suppression (56-hour week) shall consist of daily morning routine, answering emergency calls and the performance of assigned supervisory duties. For purposes of this section, the following days shall be modified workdays:

1. New Year's Day – January 1<sup>st</sup>
2. Memorial Day – 4<sup>th</sup> Monday in May
3. ~~2<sup>nd</sup> Sunday in April~~ Easter Sunday
4. Independence Day – July 4<sup>th</sup>
5. Labor Day – 1<sup>st</sup> Monday in September
6. Thanksgiving Day – 4<sup>th</sup> Thursday in November
7. Christmas Day – December 25<sup>th</sup>

The Fire Chief shall designate that the holiday work schedule be followed on days appointed by the President of the United States or by the Governor of California for a public fast, thanksgiving or holiday and approved by Council.

The provisions of the other sections of this article do not apply to observance of the Fire Suppression holiday work schedule.

#### **Section 5**

In lieu of holiday time off, represented employees shall receive 11.1 hours of base salary for each 28 day work period. ~~However, those suppression personnel temporarily assigned to a 40 hour work schedule shall not work on fixed holidays observed by Fire Management and that time off will be charged against their vacation accrual.~~

#### **Section 6**

Forty (40) hour employees on a 40 hour schedule shall accrue vacation as per Article 7 of the MOU.

Employees working a 9/80 schedule are entitled to one (1) additional hour of vacation to be utilized and reported on each holiday taken.

Employees working a 4/10 schedule are entitled to two (2) additional hours of vacation to be utilized and reported on each holiday taken.

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## ARTICLE 6 – LEAVE ELIGIBILITY AND PROCEDURE

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### **Section 1      Leave Categories**

Eligible employees shall be entitled to holidays and annual vacation, and shall be allowed sick, injury, emergency and Family Care Leave of absences as provided in this MOU. (See Article 9)

### **Section 2      Request for Leave**

All requests for leaves of absence, whether with or without pay, shall be submitted in advance and consistent with current Department policy and practice, and, except as provided in the case of Compulsory Leave, Court Leave and Special Meetings, must meet the approval of the appointing authority.

### **Section 3      Leave Approval**

Except in the case of sick, emergency or military leave, the time during which any leave of absence shall be taken by an employee shall be designated by the appointing authority, and the request for such leave, shall be entered into Telestaff.

### **Section 4      Leave of Absence - Commencement and Termination**

Each leave of absence shall be granted for a specific period of time and a specific cause, and if such cause shall cease to exist prior to the expiration of the period for which the leave is granted, such leave shall thereafter be invalid.

### **Section 5      Leave of Absence - Failure to Report**

Leaves of absence shall be indicated on the Telestaff roster and submitted to the Director of Finance for checking and certification. Failure of an employee to report at the expiration of leave shall separate the employee from City service and shall be considered, in effect a resignation; provided, however, an appointing authority may cancel such separation if circumstances warrant such cancellation (as determined by the appointing authority).

### **Section 6**

Leaves of absence must contain a time for termination of the leave and the reason for granting the leave. A copy of a written order granting a leave of absence must be filed with the appointing authority and the Personnel Department. No post-dated leave of any kind may be granted to any employee in the classified service.

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## ARTICLE 7 – ANNUAL VACATION LEAVE

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### Section 1

All employees shall be entitled to annual vacation leave with pay.

### Section 2 Accrual Rates

All personnel shall be governed by the following vacation accrual rates per pay periods of service:

Pay Cycles	Fire Suppression Personnel	40-Hour Assignment TEMPORARY	40-Hour Assignment PERMANENT
0 - 130 pay cycles	5.54 hrs. p/pay cycle	3.96 hrs. p/pay cycle	3.08 hrs. p/pay cycle
131 - 390 pay cycles	7.39 hrs. p/ pay cycle	5.28 hrs. p/pay cycle	4.62 hrs. p/pay cycle
390+ pay cycles	9.24 hrs. p/ pay cycle	6.6 hrs. p/pay cycle	6.15 hrs. p/pay cycle

### Section 3 — 40-hour Assignment

~~Fire Suppression Employees who volunteer to remain on a 40-hour assignment for more than 12 months shall accrue the same vacation as the permanent 40-hour assignment (see above).~~

### Section 34 Vacation Usage

Vacation schedules shall be arranged by the department head with particular regard to the needs of the City, and as far as possible, with the wishes of the employee.

1. Vacation authorized by the department director or designee shall not be deemed payable until the employee's eligibility is verified by the Finance Department.
2. Each employee may use any accrued vacation in accordance with the Department's Standard Operating Procedures Manual.
3. An eligible employee may take earned vacation in any increment of four (4) hours or more with the approval of the department head or his/her designee.

### Section 45 Maximum Vacation Accumulation

An eligible employee may accumulate vacation to a maximum of ~~3.025~~ an employee's annual accrual. Vacation accrual will discontinue upon reaching the maximum until the employee reduces vacation accumulation. The maximum allowable accruals are as follows:

**Section 5** — ~~Maximum Vacation Accumulation (continued)~~

~~432360~~ hours for all 56-hour safety employees with less than five (5) year's service.  
~~309257~~ hours for permanent 40-hour safety employees with less than five (5) year's service.

~~576480~~ hours for all 56-hour safety employees with five (5) to fifteen (15) year's service.  
~~412342~~ hours for permanent 40-hour safety employees with five (5) to fifteen (15) year's service.

~~721600~~ hours for all 56-hour safety employees with fifteen (15) plus year's service.  
~~515428~~ hours for permanent 40-hour safety employees with fifteen (15) plus year's service.

**Section 56**      **Vacation Selection and Coverage**

Vacation selection and coverage shall be as provided in accordance with current Departmental Policy 206 as written and effective July 1, 2015.

**Section 67**      **Terminal Vacation Leave**

Upon termination of employment for any cause, an eligible employee shall be entitled to base salary in lieu for the number of accumulated vacation hours credited to the employee's account under the provisions of this section. All vacation granted upon completion of an employee's last day of work shall be a lump sum payment termed "terminal vacation pay" and shall be paid at their annual average rate of base salary.

**Section 78**

Upon notice of opportunity from the Fire Chief, requests to sellback accrued vacation may be submitted for approval by the Fire Chief.

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## ARTICLE 8 – MILITARY LEAVE

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In addition to the leaves of absence provided in this Article, City officers or employees who are also members of the armed services or militia or organized reserves of this State or National shall be entitled to the leaves of absence and the employment rights and privileges provided by the Military and Veterans' Code of the State of California.

1. The term "military service" as used herein shall signify service on active duty with any branch of service above mentioned, as well as training or education under the supervision of the United States preliminary to induction into the military service.
2. The terms "active service" or "active duty" shall include the period during which such officer or employee while in military service is absent from duty on account of sickness, wounds, leave or other lawful cause.
3. No employee serving under a permanent appointment in the Classified Service shall be subjected by any person directly or indirectly by reason of his absence on military leave to any loss or diminution of vacation, holiday, insurance, pension, retirement or other privilege or benefit now offered or conferred by law, or be prejudiced by reason of such leave with reference to promotion, continuance in office or employment, re-appointment or re-employment.
4. When military leave is granted to an employee in the Classified Service pursuant to this section, the position held by such employee shall be filled temporarily only during the employee's absence, except in the event of the employee's death while on leave, and said employee shall be entitled to be restored to such position, or to a position of like seniority, status and pay, upon return from such leave, provided the employee is still mentally and physically qualified to perform the duties of such position, and provided said employee makes application for re-employment within ninety (90) days after being relieved from such military service.
5. During absence on military leave, any employee in the Classified Service who has been employed continuously by the City for a period of not less than one (1) year prior to the date upon which such absence begins, shall receive his regular salary for a period not to exceed thirty (30) calendar days in any one fiscal year.

All services of said employee in the recognized military service shall be counted as employment with the City.

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## ARTICLE 9 – FAMILY CARE LEAVE

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Refer to Citywide Council Policy on Family Leave Policy.



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## ARTICLE 10 – COURT LEAVE

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An employee who is required by subpoena or court order to serve as a juror, or as a witness who is not a party to a court action, shall be granted leave for such purpose upon presentation of proof of said employee's required attendance to the appointing authority and the Personnel Director. The employee shall receive full pay for the time served on court duty during scheduled working hours, provided the money received as a juror or witness on regular duty days is deposited with the Finance Department for credit to the proper fund. Employees shall be reimbursed for witness fees for all incidental expenses incurred, including parking, pursuant to such appearance while on regular duty days. It is the employee's responsibility to notify the department operations officer no later than the beginning of the next work shift that he has received a summons for jury duty or subpoena.

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## ARTICLE 11 – SICK LEAVE WITH PAY

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The intent of this Article is to provide a continuity of full salary to those employees who are unable, because of illness or injury, to perform the duties of their positions or who would expose fellow workers or the public to contagious disease and are thereby forced to be absent from employment, and to provide necessary time off from work for unexpected medical and dental care, subject administrative regulations designed to prevent malingering or abuse of these privileges.

### Section 1 Sick Leave Definition

Sick leave is the necessary absence from duty of an employee because of:

- A. Diagnosis, care, or treatment of the employee’s existing health condition or preventive care for an employee; or
- B. The serious disability of the employee while on a scheduled vacation.
- C. The absence of an employee for authorized medical or dental care.
- D. Diagnosis, care, or treatment of an existing health condition of, or preventive care for an employee’s family member. For the purposes of using sick leave under this policy only, “family member” shall mean an employee’s parent, child, spouse, registered domestic partner, parent-in-law, sibling, grandchild or grandparent. The care of a family member meeting the requirements of Federal Family Medical Leave Act or California Family Rights Act.
- E. The death of an immediate family member.

In addition, an employee who is a victim of domestic violence, sexual assault, or stalking may use accrued paid sick leave under this policy for the following reasons:

- 1. To obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or the victim’s child;
- 2. To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking;
- 3. To obtain services from a domestic violence shelter, program, or rape crisis center;
- 4. To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking;
- 5. To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

## Section 2 Sick Leave Earning and Accumulation

1. 56-hour Fire Suppression personnel of the Fire Department shall earn 5.54 hours of sick leave for each full pay cycle of employment. Permanent 40-hour employees shall earn 3.69 hours of sick leave per pay cycle.
2. **Accumulated Sick Leave:** Each permanent or probationary 56-hour employee covered by this Memorandum shall, ~~on June 30, 1980,~~ be eligible to accumulate sick leave up to a maximum of ~~1,200720~~ hours, (herein called "accumulative sick leave"). Sick leave accrual will be credited on the last day of each pay period up to the ~~1,200720~~-hour maximum limitation. Permanent 40-hour employees may accumulate up to ~~857514~~ hours.
3. Upon reaching the maximum accumulated sick leave (~~1,200720~~ hours), accrual will discontinue and will resume only after the employee's balance falls below ~~1,200720~~ hours. Accrual will resume on the last day of the pay period in which the employee's balance falls below the ~~1,200720~~-hour level. Said accrual will occur at the established rate as defined in paragraph (1) above.

## Section 3 Sick Leave Usage

Employees using sick leave pursuant to this Article for non-work related illness or injury which has a sixty (60) consecutive day duration shall, upon the sixty-first (61<sup>st</sup>) consecutive day of illness, utilize provisions of Article 20 herein, Long Term Disability Insurance.

## Section 4 Limitation on Time Chargeable to Sick Leave

1. No person shall be entitled to sick leave with pay while absent from duty on account of any of the following causes:
  - a) Disability arising from any sickness or injury purposely self-inflicted or caused by any willful misconduct.
  - b) Sickness or disability sustained while on leave of absence other than his/her regular vacation.
  - c) No paid sick leave shall be granted in excess of the employee's sick leave credit.
  - d) An employee may be granted sick leave with pay only for injury, illness or exposure to contagious disease that incapacitates the employee for work.
2. Absence that is chargeable to sick leave in accordance with this shall be charged in an amount not smaller than one (1) hour for the first hour of absence; thereafter, in increments of not less than fifteen (15) minutes.

## Section 5 Sick Leave Compensation

1. In order to receive compensation while on sick leave, the employee must follow applicable Department staffing procedures.
2. Notification shall be made prior to or not later than the beginning of the work day/shift in the employee's respective department.

## Section 5 Sick Leave Compensation (continued)

3. The department head may waive the above requirements if, in his opinion, an emergency or other exceptional circumstances so warrants.
4. Computation of sick leave shall not include regular days off or holidays, provided these are not in conflict with the established schedule within each department.

### **Section 6 Physician's Statement Required**

1. When absence is for more than three (3) consecutive working days, the department head may require the employee to furnish a certificate or statement from a regular licensed and practicing physician, at the employee's own expense, whose license will be honored by the County Health Officer, indicating the nature and duration of the employee's incapacity, or other adequate evidence if the employee was not examined by a physician. The appointing authority may require evidence of incapacity in cases of short periods of absence.
2. The department head is responsible for sick leave during the first three days before the filing of a physician's certificate is required. This responsibility may be implemented by a visitation or any other reasonable method deemed necessary by the department head. Sick leave with pay shall be authorized by the department head subject to verification of the employee's eligibility by the Personnel Director.
3. When absence is for more than five (5) working days in a two (2) week period or there is in the judgment of the department head a questionable usage of sick leave over a number of pay periods, the department head may require the employee to submit to an examination at City expense by a physician designated or approved by the City Manager. The department head shall be entitled to a written report from the examining physician indicating the specific nature and duration of the employee's illness or incapacity.

### **Section 7 Separation from City Service**

All eligibility from sick leave with pay shall be canceled upon separation of the employee from City service, provided that if such separation is by lay-off, his accumulated eligibility may be restored to him in whole or in part by the Civil Service Commission upon re-employment.

### **Section 8 Illness During Vacation**

An employee who becomes incapacitated due to illness or injury while on paid vacation may substitute sick leave credits for vacation provided the employee's request for sick leave substitution is accompanied by a doctor's statement.

### **Section 9 Holidays during Sick Leave**

For 40-hour permanently and temporarily assigned employees, paid fixed holidays immediately preceding, immediately following or wholly within the period for which sick leave is granted shall not be regarded as part of such period of sick leave.

### **Section 10 Sick Leave Reporting for Payroll Purposes**

Reports of absences of employees must be made to the City Manager at the same time the department head files his payroll report. The department head who fails to report the absence of an employee from duty and thus enables the employee to receive pay in excess of the amount to which he is legally entitled shall be held liable for the amount illegally paid.

### **Section 11 Evidence of Cause of Absence**

In all cases of absence because of sickness or injury of the employee or illness or death in the employee's family, the employee may be required to furnish to the appointing authority satisfactory evidence substantiating the facts justifying such leave. Failure to furnish such evidence upon request shall be sufficient reason for denying the leave of absence with pay.

**Section 12 Sick Leave Incentive Pay**

- (A) **56 Hour Work Week** - Sworn members of the Fire Department working on a twenty-four (24) hour shift basis using forty-eight (48) hours of sick leave or less may convert fifty percent (50%) of their remaining yearly sick leave at annual base salary. Remaining yearly sick leave not converted to pay shall be carried over and accumulated for use when needed.

Pay shall be computed based on the following schedule and all computations shall be rounded to the nearest whole hour:

Remaining Annual Sick Leave Accrual at End of Fiscal Year	Hours that may be converted at annual base salary
<b>56 HOUR WORK WEEK</b>	<b>56 HOUR WORK WEEK</b>
144 Hours	72 Hours
132 Hours	66 Hours
120 Hours	60 Hours
108 Hours	54 Hours
96 Hours	48 Hours
Less than 96 Hours	No Payoff

- (B) **40 Hour Work Week** - Sworn members of the Fire Department working other than a twenty-four (24) hour shift schedule earn sick leave at the rate of 3.69 hours per full pay period of service. Persons in this work assignment, using thirty-two (32) hours or less, during the fiscal year, may convert fifty percent (50%) their remaining yearly sick leave at annual base salary. Remaining yearly sick leave not converted to pay shall be carried over and accumulated for use when needed.

Pay shall be computed based on the following schedule, and all computations shall be rounded to the nearest whole hour:

Remaining Annual Sick Leave Accrual at End of Fiscal Year	Hours that may be converted at annual base salary
<b>40 HOUR WORK WEEK</b>	<b>40 HOUR WORK WEEK</b>
96 Hours	48 Hours
88 Hours	44 Hours
80 Hours	40 Hours
72 Hours	36 Hours
64 Hours	32 Hours
Less than 64 Hours	No Payoff

**Section 12 Sick Leave Incentive Pay (continued)**

- (C) Except as provided in (D) below, sick leave hours converted shall be subtracted from the employee's accumulative sick leave balance. The remaining sick leave hours shall be carried over accumulated per Section 2 (3) herein.
- (D) An employee who has the maximum accumulation of sick leave at the beginning of the previous fiscal year (July 1<sup>st</sup>) and who used no sick leave during the year, shall not have the amount of sick leave for which compensation is received under the sick leave incentive program deducted from the employee's accumulative yearly sick leave balance and shall remain at the maximum accumulation.
- (E) The City will make the full sick leave incentive payment in the paycheck for the first full pay period in August. Pay will be computed based on the employee's salary step on June 30 of the preceding fiscal year.
- (F) Payment will be made to an employee hired during the fiscal year on a prorated basis provided he is on the payroll June 30. Permanent employees who terminate or retire during the fiscal year will be compensated on a prorated basis subject to their formal separation or retirement date.

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## ARTICLE 12 – COMPENSATION PLAN

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### Section 1 Salary Advancement

The Compensation Plan of the City of National City has the following Characteristics:

1. The salary range for Firefighter consists of seven (7) steps, “A” through “G”; the ranges for other classifications consist of five (5) steps each ("A" through "E").
2. The increase from one step to the next step on each range is as indicated in the Salary Schedule.

Salary advancement for each employee shall not be automatic, but shall depend upon the increased value of an employee to the City, as reflected by the recommendations of the employee's supervisor and department head, and all other pertinent evidence. The success of the Compensation Plan depends upon incentives that will encourage employees to put forth increasing efforts as they advance through the salary steps of the salary range.

### Section 2 Salary Steps

The steps of the range shall be interpreted and applied as follows: the second, third, fourth, fifth, sixth and seventh salary steps are merit and seniority adjustments to encourage an employee to continue to improve his work:

- (A) The first base salary step (as shown in the schedule for base salary) is the minimum rate and will normally be the hiring rate. Appointment may be made to other than the normal entering salary step upon the recommendation of the department head and upon the approval of the City Manager, when it is decided that such action is in the best interests of the City.
- (B) The second salary step: When 13 full pay cycles are completed after hire into a permanent position, the employee is eligible for consideration for this salary advancement. This salary advancement shall be made only after a satisfactory performance evaluation and the Fire Chief recommends the advancement subject to approval by the City Manager.
- (C) The third salary step: When 13 full pay cycles are completed at the 2<sup>nd</sup> step in a permanent position, the employee is eligible for consideration for this salary advancement. This salary advancement shall be made only after a satisfactory performance evaluation and the Fire Chief recommends the advancement subject to approval by the City Manager.
- (D) The fourth salary step: When 13 full pay cycles are completed at the 3<sup>rd</sup> step in a permanent position, the employee is eligible for consideration for this salary advancement. This salary advancement shall be made only after a satisfactory performance evaluation and the Fire Chief recommends the advancement subject to approval by the City Manager.

**Section 2 — Salary Steps (continued)**

- (E) The fifth salary step: Twenty-six (26) full pay cycles of satisfactory service at the fourth step normally shall make an employee eligible for consideration of this advancement. This salary advancement shall be made only after satisfactory performance evaluation and if recommended by the department head subject to approval by the City Manager.
- (F) The sixth salary step: Twenty-six (26) full pay cycles of satisfactory service at the fifth step normally shall make an employee eligible for consideration of this advancement. This salary advancement shall be made only after satisfactory performance evaluation and if recommended by the department head subject to approval by the City Manager.
- (G) The seventh salary step: Twenty-six (26) full pay cycles of satisfactory service at the sixth step normally shall make an employee eligible for consideration of this advancement. This salary advancement shall be made only after satisfactory performance evaluation and if recommended by the department head subject to approval by the City Manager.

All rates shown, and conditions set forth herein, are in full payment for service rendered and are intended to cover full payment for the number of hours now regularly worked in each class. Each promotion shall carry with it advancement to the promotional step that is equal to but not less than 5% above the employee's current base rate of pay. Promotions may be made at a higher step with the concurrence of the department director, the City Manager and the Human Resources Director.

The provisions of this Article are based upon the schedules adopted by the City Council.



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## ARTICLE 13 – “Y” RATE

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Step "Y" of the salary range for any class is hereby defined as any rate of pay in excess of Step "E" of the range for the class. An employee shall be paid at Step "Y" solely under one of the following two (2) conditions:

1. Upon the reduction of the maximum salary rate for a class, an employee having other than provisional status who immediately prior to such time was paid at a higher rate for such class than the new maximum rate shall, in the absence of any contrary orders by the City Council for economy reasons, continue to be paid at the former rate.
2. Any employee who is reclassified from a class in which said employee has acquired permanent status to a class with a lower maximum rate of pay may, at the discretion of the City Manager, continue to receive the same rate of pay or may have said salary reduced.

In the event of an increase in the salary rate applicable to a class, regardless of the method by which such increase is accomplished, any employee who immediately prior thereto has been paid at Step "Y" shall receive no increase unless the increased salary for employees at Step "E" for the class exceeds the salary already being paid to said employee in which case the employee shall be paid at Step "E".

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## ARTICLE 14 – FORTY-HOUR ASSIGNMENT PAY

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Those employees classified as:

1. Firefighter (excluding new trainees in the fire academy); or
2. Fire Engineer; or
3. Fire Captain; or
4. Battalion Chief

And temporarily assigned to a forty (40) hour assignment, shall receive a ten percent (10%) pay differential for the duration of said assignment. The assignment pay is intended for Fire Department mission-related objectives and assignments; not to compensate light duty personnel for the loss of overtime pay. Employees in a modified duty status due to a work related injury may continue to work a 24-hour shift schedule and thus not receive 40-hour assignment differential pay if the Department concludes, in its discretion, the Department can accommodate the work restriction with the employee working a shift schedule.

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## ARTICLE 15 – REVISION OF THE COMPENSATION PLAN

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In the absence of any contrary orders by the City Council for reasons of economy, the following method shall be observed in determining the step at which each employee shall be paid beginning the effective date of a change of the maximum salary for said employees' class or position:

1. If the maximum salary is raised, the step at which the employee will be paid shall not be affected thereby.
2. If the maximum salary is lowered, the employee should be paid at the rate in the new range, which is the same as the rate to which he was paid in the former range. If the maximum rate of the new range is lower than the employee's salary in the former range the employee may, pursuant to Article 14, be paid at the "Y" rate.

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## ARTICLE 16 – OVERTIME

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1. The smallest unit of time credited as overtime shall be one-quarter hour.
2. Overtime worked that is less than one-quarter hour shall be rounded-off to the nearest quarter hour each pay period.
3. The City of National City has elected a 28-day work period for fire suppression employees under the 7K exemptions contained in the Fair Labor Standards Act to coincide with the City's regular pay periods. Effective with the first pay period after ratification and approval of this MOU by the City Council, time worked outside of an employee's regularly scheduled shift shall be compensated at an employee's overtime rate. Authorized paid leave (including but not limited to vacation leave, administrative, compensatory leave and sick leave) will be counted as time worked for purposes of calculating overtime.
4. Employees may be credited with compensating time for overtime worked, upon prior request of the employee and approval of the Fire Chief, up to a maximum of 480 hours. Time off shall be requested and must be approved at least seven (7) days prior to the requested date of absence.
5. An employee may use compensating time in advance of accruing it with the Fire Chief's approval, providing that any negative balance is owed to the City at separation or retirement.
6. The City may not force use of compensatory time off or vacation in order to avoid overtime payment.
7. The maximum consecutive hours worked by any employee shall be based on the follow criteria:
  - a) Strike team – as needed
  - b) For unplanned absences such as sick leave, 4850 and unexpected vacancies, time worked shall not exceed 96 hours consecutive except with prior approval of the Chief of the department
  - c) For known or planned absences such as shift exchanges or vacation relief, time worked shall not exceed more than 96 hours except with prior approval of the Chief of the department.

Authorization shall be received prior to working a greater than 96 hours consecutive period by the Chief of the Department or by his/her designee. The City and the FFA recognize that safety is of the utmost importance and mutually agree to put safety first, but also understand that staffing shortages may require forced holdovers in certain circumstances. Force holdovers shall not force represented employees to work beyond 72 hours except in extreme staffing shortages (i.e. strike teams, natural disasters, etc.)

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## ARTICLE 17 – LONGEVITY PAY

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In addition to other compensation paid for the services of employees, longevity pay for continuous and uninterrupted service shall be applied as follows: continued at same level for those employees receiving longevity pay as of June 30, 1984. No employees not receiving longevity pay as of that date will be eligible to receive it in the future; no employee currently receiving it will be eligible for increase in longevity pay.

Current levels of longevity pay are:

- (a) After five (5) years of continuous and uninterrupted service the sum of \$10.00 per month;
- (b) After ten (10) years of continuous and uninterrupted service the sum payment of \$15.00 per month;
- (c) After fifteen (15) years of continuous and uninterrupted service the sum payment of \$20.00 per month;
- (d) After twenty (20) years of continuous and uninterrupted service the sum payment of \$25.00 per month;
- (e) After twenty-five (25) years of continuous and uninterrupted service the sum payment \$30.00 per month, which shall be the maximum payable.

Vacations, sick leave, military leave and absence authorized by the Fire Chief of National City shall not be considered as interruption of service.

In the event an officer or employee ceases to be employed by National City for a reason other than military service or lay-off, all rights to longevity pay shall be forfeited and expire, and if said officer or employee is subsequently re-employed by the City, said employee or officer shall not be entitled to any longevity pay by reason of any prior employment.

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## ARTICLE 18 – EMPLOYEE AND DEPENDENT HEALTH & DENTAL INSURANCE

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### Section 1

As a benefit to full-time employees covered by this Memorandum of Understanding, the City will provide a group health insurance and a group dental insurance program. The benefits and limitations of the programs are to be designed cooperatively by the Employees' Association, the Insurance Carriers and the City. The Association and City agree to select and implement health insurance programs that meet the requirements of the Health Maintenance Act of 1973.

In the event the cost of insurances selected by the employee exceeds the contribution by the City, the employee must pay the excess amount.

### Section 2 Cash Back and Cash-in-Lieu

An employee must select coverage for health and dental insurance to be eligible for cash-in-lieu. If coverage selected costs less than the contribution by the City, the difference shall be paid to the employee in the form of money to a maximum of \$100/month. Effective the first full pay period following City Council approval of this 2018-2020 MOU, an employee that opts out of City health and attests to alternative family health coverage shall receive a taxable payment of \$150 per month. Effective the first full pay period in July 2019, an employee that opts out of City health and attests to alternative family health coverage shall receive a taxable payment of \$200 per month.

### Section 3 Medical & Dental Benefits

As of January 31, 2019~~Effective February 1, 2011~~, the City ~~shall~~ contributes the following amounts for health and dental benefits:

CITY'S CONTRIBUTION IF ELECT THE KAISER HIGH DEDUCTIBLE HEALTH PLAN (Kaiser HDHP)

<u>Employee Only</u>	<u>\$457.56/month</u>
<u>Employee +1</u>	<u>\$736.80/month</u>
<u>Employee +2 or more</u>	<u>\$1,029.81/month</u>

CITY'S CONTRIBUTION FOR ALL PLANS OTHER THAN KAISER HIGH DEDUCTIBLE HEALTH PLAN (Kaiser HDHP):

<u>Employee Only</u>	<u>\$527.41/month</u>
<u>Employee +1</u>	<u>\$876.54/month</u>
<u>Employee +2 or more</u>	<u>\$1,227.43/month</u>

<u>Employee only</u>	<u>\$457.56 per month</u>
<u>Employee and one dependent</u>	<u>\$736.80 per month</u>
<u>Employee plus 2 or more dependents</u>	<u>\$1,029.81 per month</u>

Effective the first full pay period following City Council adoption of this 2018-2020 MOU, the City will contribute the same amount regardless of what health plan an employee chooses equal to the amounts contributed to the non-high deductible plans. Also, effective the first full pay period following City Council adoption of this 2018-2020 MOU, the City will contribute \$50 per month more than the City would be otherwise obligated to contribute under the cost sharing methodology described in the next paragraph. Effective the first full pay period in July 2019, the City will contribute an additional/further \$50/month.

~~Effective February 1, 2012, and in each following~~ health plan year (currently February through the following January), the City's new contribution obligation shall be the City's monthly contribution amounts from the prior health plan year plus 50% of any increase in the applicable Kaiser health plan rate and least costly dental rate.

During the term of this MOU, in the event that HealthNet withdraws or is eliminated as an insurer for the City under this provision and/or significant changes to coverage occur, immediately upon receipt of said notice and/or at its earliest opportunity, the City shall meet and confer with the Association on the issue of insurance benefits to adjust for such withdrawal/elimination of HealthNet. Options within this meet and confer to deal with the withdrawal/elimination of HealthNet include, but are not limited to, selection of an alternate insurance provider, increases in City contributions towards health care, opt out options for employees with proof of alternate insurance together with an opt out contribution, etc.

#### **Section 4      Retiree Health Benefit**

Employees covered by this MOU, who retire from the City of National City with at least 20 full years of service with the National City Fire Department, shall receive a monthly contribution towards their medical premium as follows:

- a. For employees who retire after July 1, 2002 and before July 1, 2011: \$5/month for each year of service with National City Fire Department.

#### **Section 4      Retiree Health Benefit (continued)**

- b. For employees who retire on or between July 1, 2011 and June 30, 2014: \$10/month for each year of service with National City Fire Department.
- c. For employees who retire on or after July 1, 2014: \$20/month for each year of service with National City Fire Department.

This contribution shall continue until reaching age 65. A qualifying retiree may receive these contributions even if not enrolled in a City health plan, so long as the retiree annually provides the City with written proof (e.g. a copy of health insurance invoice and payment) that the retiree is using the contributions to pay for health premiums and understands that the retiree is solely responsible for any taxes that might be due as a result of the City's contributions.

Terminal vacation pay and/or sick leave payment upon retirement or PERS adding unused sick leave accruals toward retirement credit shall not be included in the calculation of 20 full years of service. If the City increases this benefit for the Police Officers' Association, that increase shall also apply to the Firefighters' Association, but not to former members of the FFA already retired at the time the increase is made, unless the increase for the POA applies to its former members already retired at the time the increase is implemented.

Retirees eligible for this benefit are responsible for paying the Health Insurance Premium and the City will forward this benefit amount on a monthly basis directly to the Retiree. This benefit will be canceled upon

non-payment of premium or otherwise becoming ineligible. The Retiree is also responsible for notification to the City of address change and health coverage from another source.



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## ARTICLE 19 – EMPLOYEE LIFE INSURANCE

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As a benefit to full-time employees covered by this Memorandum of Understanding, the City will provide a group life insurance program. The benefits and limitations of the Life Insurance Program are to be designed cooperatively by the Employees' Association, Insurance Carrier and the City. The City will provide \$50,000 Life Insurance with Accidental Death and Dismemberment as a City paid benefit. In the event the cost of providing Employee Life Insurance exceeds the established City contribution, employee must pay the excess amount.

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## ARTICLE 20 – LONG TERM DISABILITY INSURANCE

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It is the intent of this article to provide an income protection plan to firefighter employees who are unable to work because of non-work related injury, illness or disability.

- (A) The Firefighters' Association, at its option, may change insurance carriers and/or plan benefits for its group Long Term Disability (LTD) Program no more than once in any twelve (12) month period upon proper notice to the City's Labor Relations Representative.
- (B) The City shall pay \$33.90 per month to each represented firefighter employee in the form of a taxable pay type and shall deduct the monthly premium and pay the insurance carrier directly. Any excess of City contribution over the premium cost shall be available to the employee as cash-in-lieu.
- (C) The City shall continue to make health, dental and life insurance contributions to represented employees in accordance with Article 18 and 19 of this MOU for the duration of the disability or twelve (12) consecutive months whichever is less, unless this benefit is extended by the Fire Chief and the City Manager.
- (D) The disabled employee shall use accumulated sick leave during the waiting period for the benefit to be effective and thereafter on leave without pay status. The City shall be notified as to the effective date of benefit by the responsible party.

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## ARTICLE 21 – PUBLIC EMPLOYEES’ RETIREMENT SYSTEM

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This article has been updated as of January, 2016 with the intent of accurately describing the tiered retire system and the optional retirement benefits available to represented employees. It is not intended to add, delete or otherwise modify benefits previously mutually agreed to by the City and NCCFA.

### Section 1 City’s Contract with CalPERS

Consistent with the Government Code of the State of California, employees are local safety members of the Public Employees' Retirement System and are entitled to retirement benefits as indicated in the contract between the Board of Administration of California Public Employees Retirement System (CalPERS) and the City Council and in accordance with the Public Employees’ Retirement Law and related regulations.

### Section 2 Retirement Benefits

#### (A) Tier One: 3.0% at 50 Retirement Plan – Unit Members Hired On or Before July 1, 2011

This subsection A (including subsections) shall apply to bargaining unit members hired on or before July 1, 2011.

##### 1. 3.0% at 50 Retirement Plan

The 3.0% at 50 retirement plan will be available to eligible bargaining unit members covered by subsection A.

##### 2. Required Unit Member Contribution

Each unit member shall pay the full member contribution to CalPERS equal to nine percent (9%) of the compensation paid to the member for service rendered. Effective the first full pay period in July 2018, each unit employee shall contribute 1.0% toward the employer PERS rate for a total of 10.0% overall contributed toward their pensions. Effective the first full pay period in July 2019, each unit employee shall contribute an additional 2.0% for a total of 3.0% toward the employer PERS rate, and a total of 12.0% overall contributed toward their pensions. These payments of the 1% and 2% herein shall be in accordance with California Government Code section 20516 (f). In addition, the payments shall be made on a pre-tax basis pursuant to IRS code section 414 (h) (2).

##### 3. Final Compensation

For the purposes of determining a retirement benefit, final compensation for bargaining unit members covered by subsection A shall mean the highest twelve (12) consecutive month period.

#### (B) Tier Two: 3.0% at 55 Retirement Plan – Unit Members Hired After July 1, 2011 But Before January 1, 2013, and Classic Members as Determined by CalPERS

This subsection B (including its subsections) shall apply to bargaining unit members hired after July 1, 2011 but before January 1, 2013. In addition, this subsection B (including its subsections)

shall apply to bargaining unit members hired on or after January 1, 2013, who are qualified for pension reciprocity as stated in Government Code Section 7522.02(c) and related CalPERS reciprocity requirements (“Classic Members”).

1. 3.0% at 55 Retirement Plan

The 3.0% at 55 retirement plan will be available to eligible bargaining unit members covered by subsection B.

**Section 2 — Retirement Benefits (continued)**

2. Required Unit Member Contribution

Each unit member shall pay the full member contribution to CalPERS equal to nine percent (9%) of the compensation paid the member for service rendered. Effective the first full pay period in July 2018, each unit employee shall contribute 1.0% toward the employer PERS rate for a total of 10.0% overall contributed toward their pensions. Effective the first full pay period in July 2019, each unit employee shall contribute an additional 2.0% for a total of 3.0% toward the employer PERS rate, and a total of 12.0% overall contributed toward their pensions. These payments of the 1% and 2% herein shall be in accordance with California Government Code section 20516 (f). In addition, the payments shall be made on a pre-tax basis pursuant to IRS code section 414 (h) (2).

3. Final Compensation

For the purposes of determining a retirement benefit, final compensation for bargaining unit members covered by subsection B shall mean the highest twelve (12) consecutive month period.

(C) Tier Three: 2.7% at 57 Retirement Plan - Unit Members Hired On or After January 1, 2013

This subsection C (including its subsections) shall apply to bargaining unit members who were hired on or after January 1, 2013, and who do not qualify for pension reciprocity as stated in Government Code Section 7522.02(c).

1. 2.7% at 57 Retirement Plan

As required by Government Code Section 7522.25, the 2.7% at 57 retirement plan will be available to eligible bargaining unit members covered by subsection C.

2. Required Unit Member Contribution

As required by Government Code Section 7522.30, bargaining unit members covered by subsection C shall pay, through payroll deductions, fifty percent (50%) of normal costs.

3. Final Compensation

As required by Government Code Section 7522.32, for the purposes of determining a retirement benefit, final compensation for bargaining unit members covered by subsection C shall mean the highest annual average pensionable compensation earned during thirty-six (36) consecutive months of service.

### **Section 3      Optional Retirement Benefits**

The City shall provide bargaining unit members with those optional benefits which it has elected to provide in its contract with CalPERS and in accordance with the Public Employees Retirement Law.

The list of optional benefits, as provided in the City's Safety Plan Annual Valuation Report prepared by CalPERS, and as stated in the City's contract with CalPERS is provided as an attachment. Some or all of the listed benefits may not be available to Tier Three members.

The above provision is subject to the terms and conditions of the City's contract with CalPERS, and any applicable local, state or federal law.

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## ARTICLE 22 – SALARIES

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### Section 1 Total Compensation

The City of National City strives whenever fiscally prudent to provide fire suppression personnel with total compensation comparable to the average of the 18 City Fire Departments in the County of San Diego.

Total compensation surveys for bargaining unit members shall be performed according to the following criteria:

- (A) Benchmark classifications for the total compensation survey shall be: Firefighter; Engineer; Captain; and Battalion Chief.
- (B) Agencies to be surveyed for determining total compensation shall be: Carlsbad; Chula Vista; Coronado; Del Mar; El Cajon; Encinitas; Escondido; Imperial Beach; La Mesa; Lemon Grove; National City; Oceanside; Poway; San Diego; San Marcos; Santee; Solana Beach; and Vista.
- (C) Compensation items to be surveyed and included for each classification shall be: Employee Salary (top step); Medical contributions; Uniform Pay; Retirement contribution (EPMC paid by employer); Education Incentive; Paramedic Pay (for Firefighter classification only); and EMT Pay (for the Fire Captain, Engineer, and Battalion Chief classifications only).

### Section 2 Salary Increases

Effective the first full pay period in July 2018, all employees shall receive a 3.0% wage increase. Effective the first full pay period in July 2019, all employees shall receive a further 3.0% wage increase.

The language set forth in the remainder of Section 2 below describes the process the City and FFA agreed upon to determine salary increases in 2015, 2016 and 2017. That language is retained below as a historical record of the methodology used in those three years but, as described in the prior paragraph, is not being used to determine salary adjustments during this 2018-2020 MOU.

#### Year 1 (2015)

At the City's expense, the City will conduct and complete a total compensation survey of all bargaining unit classifications, according to the criteria for conducting total compensation surveys stated in Section 1, above. The total compensation survey shall be based on compensation data from comparable agencies in effect on December 1, 2015. Comparable agency compensation adjustments approved which are implemented after December 1, 2015 shall not be considered in the survey. The City will give NCFFA the opportunity to verify the underlying data used in the compensation survey before the survey is finalized. After the total compensation survey is completed and the results of the survey are provided to NCFFA, the parties will meet to mutually agree no later than January 11, 2016 on the single subject of implementing the results of the total compensation survey and will consider the following factors, including but not limited to:

- Determine the appropriate wage increases for NCFFA classifications which are below average market
- Recruitment and retention challenges of any particular classifications(s)
- The extent the classification is below market average

The total amount of funds available for compensation increases for below market bargaining unit classifications will be equal to 4% of base salary for all employees represented by NCFFA and the total amount available shall be used in its entirety for increases to base salary for below market bargaining unit classifications. Any increases shall be effective the first full pay period following Council approval of this MOU or the first full pay period of December 2015 whichever is earlier.

## **Section 2 — Salary Increases (continued)**

### **Year 2 (2016)**

At the City's expense, the City will conduct and complete a total compensation survey of all bargaining unit classifications, according to the criteria for conducting total compensation surveys stated in Section 1, above. The total compensation survey shall be based on compensation data of comparable agencies in effect on July 1, 2016. Comparable agency compensation adjustments approved after July 1, 2016 but retroactive to or before July 1, 2016 shall not be considered in the survey. The City will give NCFFA the opportunity to verify the underlying data used in the compensation survey before the survey is finalized. After the total compensation survey is completed and the results of the survey are provided to NCFFA, the parties will meet to mutually agree no later than June 1, 2016 on the single subject of implementing the results of the total compensation survey and will consider the following factors, including but not limited to:

- Determine the appropriate wage increases for NCFFA classifications which are below average market
- Recruitment and retention challenges of any particular classifications(s)
- The extent the classification is below market average

The total amount of funds available for compensation increases for below market bargaining unit classifications will be equal to 4% of total compensation (Total compensation defined as: annual salary, bilingual pay, uniform pay, EMT pay, Paramedic Pay, Holiday Pay, Residency Pay, Workers Compensation, CalPERS, and Medicare effective July 2016) for all employees represented by NCFFA and the total amount available shall be used in its entirety for increases to base salaries for below market bargaining unit classifications. Any increases shall be effective the first full pay period in August 2016 or the first full pay period following reaching agreement, whichever is later.

### **Year 3 (2017)**

At the City's expense, the City will conduct and complete a total compensation survey of all bargaining unit classifications, according to the criteria for conducting total compensation surveys stated in Section 1, above. The total compensation survey shall be based on compensation data from comparable agencies in effect on July 1, 2017. Comparable agency compensation adjustments approved which are implemented after July 1, 2017 shall not be considered in the survey. The City will give NCFFA the opportunity to verify the underlying data used in the compensation survey before the survey is finalized. After the total compensation survey is completed and the results of the survey are provided to NCFFA, the parties will meet to mutually agree no later than June 1, 2017 on the single subject of implementing the results of the total compensation survey and will consider the following factors, including but not limited to:

- Determine the appropriate wage increases for NCFFA classifications which are below average market
- Recruitment and retention challenges of any particular classifications(s)
- The extent the classification is below market average

The total amount of funds available for compensation increases for below market bargaining unit classifications will be equal to 3% of base salary for all employees represented by NCFFA and the total amount available shall be used in its entirety for increases to base salary for below market bargaining unit classifications. Any increases shall be effective the first full pay period in August 2017 or the first full pay period following reaching agreement, whichever is later.

### **Section 3      Bilingual Pay**

Those represented employees who can demonstrate competency in the Spanish or Tagalog languages as verified by the Personnel Department shall receive ~~an additional 2.0%~~ incentive pay to the hourly base salaries. Effective the first full pay period following City Council approval of this 2018-2020 MOU, represented employees who can demonstrate competency in the Spanish or Tagalog languages as verified by the Human Resources ~~Personnel~~ Department shall receive 4.0% incentive pay to the hourly base salaries.

### **Section 4      Residency Incentive Pay**

Those represented employees who can show actual residency within the City limits of National City shall receive an additional 2% incentive pay to their hourly base salaries for as long as they remain residents of National City.



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## ARTICLE 23 – CALL BACK AND STANDBY/ON-CALL

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1. All employees covered by the terms of the Agreement who are called back to work from off-duty and arrive at station for duty shall be paid for not less than two (2) hours at one and one-half (1½) times the base salary rate. Immediate call back will receive one (1) additional hour of travel time.
2. Off-duty personnel may be required by the Fire Chief to remain on standby/on-call status and shall receive one-half (.5) hour of base salary for each four (4) hours of required standby time.

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## ARTICLE 24 – SHIFT EXCHANGES

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The City agrees that employees shall have the right to exchange, subject to prior approval of the Chief or his authorized designee, duty shifts when the changes do not interfere with the operation of the Fire Department. The Association agrees that shift exchanges shall in no way become subject to overtime pay.

1. The Chief's authorized designee may be one shift Captain from the requesting individual and one shift Captain from the receiving man involved in the shift exchange. The Chief may change his designee at any time.
2. Shift exchanges may be for a minimum of one (1) hour to a maximum of twenty-four (24) hours for any one request.
3. Refer to Article 16 Overtime for consecutive hours worked criteria.
4. Working in excess of twenty-four (24) hours will not be cause for denial.

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## ARTICLE 25 – TRAINING

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### Section 1 Training

EMT Training – The City agrees to provide all training and re-certification for represented employees to maintain County of San Diego EMT certification. EMT training will be provided on City time (during regularly scheduled work hours).

Fire Investigation Training – Up to \$500 annually will be provided to employees assigned to Fire Investigation for specialized training in fire investigation that is considered necessary by the Fire Marshal and approved by the Fire Chief.

### Section 2

The Educational Expenses Reimbursement Plan is available to employees who wish to improve their work performance through furthering their education. The plan provides reimbursement for up to ~~\$2,000~~<sup>\$2,500</sup> per employee, per fiscal year with a maximum pool of training funds per fiscal year of \$20,000 for FFA represented employees, and is open to all employees who meet the following criteria:

- (A) Successful completion of probation.
- (B) A proposed course of instruction related to the employee’s employment with the City. The City Manager or his designee has the final authority on determining whether a course is job related. Request must be submitted in writing on appropriate department form according to established procedures.
- (C) The reimbursement may be used to cover the costs of tuition, registration, travel expenses and books.
- (D) If a letter grade is given, the course must be passed with a grade of “C” or better. If taken on pass/fail basis, employee must pass course(s) taken. If no grade or pass/fail is given, then reimbursement shall be given upon presentation of successful completion of training.
- (E) The employee must show written documentation of the expenditures being claimed for reimbursement.
- (F) While the general maximum reimbursement per employee per fiscal year is \$2,000 (see above), in the last month of the fiscal year, employees who have completed approved courses exceeding the \$2,000 per employee limit shall be ~~eligible~~<sup>additional</sup> for additional reimbursement if the \$2,000 for that fiscal year has not all been used. Reimbursement payments beyond \$2,000 per employee shall be made in equal amounts to requesting employees, but may not exceed \$3,000 per employee for courses completed in that fiscal year.

Reimbursement under this Plan will be made upon completion of the above requirements and paid from the fund for the fiscal year in which the course is paid by the employee.

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## ARTICLE 26 – COMPANY-LEVEL STAFFING

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### Section 1

Each of the two (2) engine companies shall be staffed with a minimum of three (3) Personnel in the following manner: one (1) rated Fire Captain, one (1) rated Fire Engineer and one (1) rated Firefighter. Engine companies shall be staffed to perform engine company operations.

### Section 2

Each Truck Company shall be staffed with a minimum of four (4) Personnel in the following manner: one (1) rated Fire Captain, one (1) rated Fire Engineer and two (2) rated Firefighters, except as provided in Section 3 below. The Truck Company shall be staffed to perform truck company operations.

### Section 3

The City shall be obligated to staff each company with rated personnel at all times. Circumstances in which non-rated personnel are used shall be governed by Article 4, Out-of-Class Pay. Inability to provide rated personnel may be permitted in circumstances out of the Department's control, such as sick leave, special leave, off the job-incurred injury, or illness, on the job-incurred injury or illness or natural disasters.

### Section 4

In the event a Battalion Chief is on vacation, an attempt must be made to fill the vacancy with a rated Battalion Chief. In the event a Captain is on vacation, an attempt must be made to fill the vacancy with a rated Captain. In the event an Engineer is on vacation, an attempt must be made to fill the vacancy with a rated Engineer.

### Section 5

Refer to Overtime article 16 for consecutive hours worked criteria.

### Section 6

~~Minimum daily staffing shall not be less than eleven (11) personnel comprised of two (2) engine companies, one (1) truck company and one (1) Battalion Chief. During the term of the MOU, the parties agree to meet and confer over the concept of a one year pilot program increasing the minimum daily staffing by two additional personnel, which increase may be, but not necessarily limited to, a two personnel squad. Should both sides mutually agree to move forward with the concept, the scope of duties and responsibilities for the two additional personnel, it will be implemented for one year as a pilot program. During the one year pilot program, m~~Minimum daily staffing shall be no less than thirteen (13) personnel comprised of two (2) engine companies, one (1) truck, one (1) Battalion Chief and either one (1) two-personnel squad or additional personnel to other equipment. ~~The parties may extend the pilot program by mutual agreement. Upon conclusion of the one year pilot program, minimum daily shall not be less than eleven (11) personnel comprised of two (2) engine companies, one (1) truck company and one (1) Battalion Chief.~~

### Section 7

The City is committed to enhancing service levels and evaluating the impact of constant manning for the betterment of its residents and the NCCFA who serve them.

### Section 8

Each Command Vehicle will be staffed with one (1) rated fire Battalion Chief.

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## ARTICLE 27 – MANAGEMENT RIGHTS

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Except--and only to the extent--that specific provision of this Agreement expressly provides otherwise, it is hereby mutually agreed that the City has and will continue to retain, regardless of the frequency of exercise, rights to operate and manage its affairs in each and every respect. The rights reserved to the sole discretion of the City shall include, but not be limited to the right:

to determine the mission of its constituent departments, commissions, boards; set standards of service; determine the procedures and standards of selection for employment and promotions; direct its employees; establish and enforce dress standards; determine the methods and means to relieve its employees from duty because of lack of work or other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content and intent of job classifications; determine methods of financing; determine style and/or types of City-issued wearing apparel, equipment or technology to be used; determine and/or change the facilities, methods technology, means, organizational structure and size and composition of the work force and allocate and assign work by which the City operations are to be conducted; determine and change the number of locations, relocations and types of operations, processes and materials to be used in carrying out all City functions including the right to contract for or subcontract any work or operations of the City; to assign work to and schedule employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments upon reasonable notice; establish and modify productivity and performance programs and standards; suspend, demote, reprimand, withhold salary increases and benefits, or otherwise discipline employees for legal cause; establish reasonable employee performance standards including, but not limited to, quality, and quantity; standards; and to require compliance therewith; take all necessary actions to carry out its mission in emergencies; and exercise control and discretion over its organization and the technology of performing its work.

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## ARTICLE 28 — TERMS OF PROVISIONS

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~~The provisions of this Memorandum of Understanding shall be effective and binding from July 1, 2015 through June 30, 2018.~~

~~This MOU is subject to all future and current applicable Federal or State and Local laws and regulations.~~

~~If any part or provision of this MOU is in conflict with such applicable provisions of Federal or State laws or regulations, or is otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part or provision shall be suspended and superseded by such applicable law or regulations, and the remainder of the MOU shall not be affected. The Association will be duly notified of any such judicial or legislative action invalidating any section of this Agreement, and the Employees' Association and/or the City shall have right to meet and confer within thirty (30) days concerning said section. This MOU shall supersede all past agreements and City or department rules and ordinances that are in conflict with or are addressed by this MOU.~~

~~In addition, the City and the Association may mutually agree in writing to meet and confer on any subject within the scope of representation.~~

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## ARTICLE 29 – DEFINITIONS

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~~**BASE SALARY**— Shall mean, for 56-hour personnel, the hourly rate derived by dividing the annual salary as developed by the Finance Department on their published salary schedule by the average number of scheduled work hours (2912) hours. For 40-hour personnel, the hourly salary derived by dividing the annual salary by 2080 hours. The annual salary does not include overtime, special or incentive pays or cash-outs.~~

~~**COMPENSATION PLAN**— Shall mean the official schedule of pay approved by the City Council assigning one or more rates of pay to each class title.~~

~~**COMPENSATORY LEAVE**— Shall mean time off from work in lieu of monetary payment for overtime worked.~~

~~**CONTINUOUS SERVICE**— Shall mean employment in the City service uninterrupted by separation, and applies to the time a person has been employed on a permanent basis, or to the continuation of employment from temporary to a permanent appointment, without any break in service.~~

~~**DEMOTION**— Shall mean the appointment of an employee holding a position in one class to a position in another class having a lower maximum salary rate, or to a lower step within the same.~~

~~**DEPARTMENT**— Shall mean an administrative branch including a group of employees under the immediate charge of a chief executive officer of a department of the City government, which latter officer shall be known as the department head.~~

~~**EMPLOYEE**— Shall mean a person who is legally an incumbent of a position in the Classified Service or who is on authorized leave of absence from such a position with the right to return to his position. Employee shall include OFFICER.~~

~~**IMMEDIATE FAMILY**— Immediate family shall include the husband, wife, domestic partner (as defined by and registered with the California Secretary of State), mother and father of husband and wife and domestic partner, son, daughter, brother and sister of the employee, or any relative by blood or marriage or domestic partnership residing in the same household.~~

~~**INTERIM APPOINTMENT**— Shall mean a short-term appointment made from an eligible list.~~

~~**LAY-OFF**— Shall mean the involuntary, non-disciplinary separation of an employee from a position resulting from lack of work, lack of funds or abolishment of a position.~~

~~**LEAVE**— Shall mean an approved type of absence from work as provided for by these rules.~~

~~**NORMAL WORK DAY**— Shall mean operations personnel are not expected to work on projects of a non-emergency nature after 1700 hours. If an individual elects to work on a project or other administrative assignment after 1700 hours he shall do so of his own free choosing. No coercion, harassment or persuasion shall be placed on any individual either by the fire department administration or by the labor body.~~

~~**PAY CYCLE**— Two-week period for pay purposes.~~

~~**PAY DAY**—Day on which pay is given for previous pay cycle.~~

~~**PAY PERIOD**—28 day period for purposes of overtime.~~

~~**PERMANENT EMPLOYEE**—Shall mean an employee who has been appointed to a permanent position. A permanent employee may be serving a probationary period.~~

~~**PERMANENT POSITION**—Shall mean a specific office or classification, whether occupied or vacant, carrying responsibilities and calling for the performance of certain duties by one individual. This position shall be included in the Classified Service and may be either on a part time or full time basis.~~

~~**PERMANENT STATUS**—Shall mean the satisfactory completion of one (1) year of probationary service and continuing permanent appointment.~~

~~**DIRECTOR OF PERSONNEL**—Shall mean the City Manager or the person appointed by the City Manager to act as Secretary to the Civil Commission, to administer the activities of the Personnel Department and to exercise general supervision over the employment policy of the City subject to the direction of the Commission.~~

~~**POSITION**—Shall mean any specific officer or classification whether occupied or vacant, carrying certain responsibilities and calling for the performance of certain duties by one individual, either on a part time or full time basis.~~

~~**PROBATIONARY PERIOD**—Shall mean the working test period during which an employee is required to demonstrate his fitness by the actual performance of the duties and responsibilities of his position and during which time he may be terminated without right of appeal to the Civil Service Commission.~~

~~**PROBATIONARY STATUS**—Shall mean service in a permanent position prior to completion of the prescribed period of probationary service.~~

~~**PROBATIONER**—Shall be an employee in the Classified Service who is serving a probationary period.~~

~~**PROVISIONAL APPOINTMENT**—Shall mean the temporary appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in the class in the absence of available eligible; any non permanent appointment, other than seasonal, part time or emergency appointment, which is not made from a re-employment list or an eligible list.~~

~~**SALARY RANGE**—Shall mean one or more, but commonly five (5) specific pay rates having a percentage relationship to one another, assigned to a class of positions as the compensation for the class.~~

~~**SALARY RATE**—Shall mean a specific dollar amount, expressed as an annual rate, a monthly rate, a semi-monthly rate, a bi-weekly rate or an hourly rate, as shown in the compensation plan of the City.~~

~~**SALARY STEP**—Shall mean the location of a rate within a salary range, as identified by a letter of the alphabet.~~



~~**TELESTAFF**— Shall mean the department recognized staffing and payroll computer software program.~~

~~**TEMPORARY ASSIGNMENT**— Assignment of personnel to a 40 hour workweek in a position that is not designated as a permanent 40 hour assignment.~~

~~**TEMPORARY EMPLOYEE**— Shall mean an employee appointed to a position of a non permanent nature on provisional basis.~~

~~**WORK DAY**— Shall mean an eight (8) hour period as a normal work period.~~

~~**WORK SHIFT**— Shall mean twenty four (24) hour period as normal work.~~

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## ARTICLE 2830 – EMPLOYEE GRIEVANCE PROCEDURE

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### Section 1 Purpose

The purpose and objectives of this Grievance Procedure of the City of National City are:

- (A) To promote improved employer-employee relations by establishing grievance procedures on matters within the scope of a Memorandum of Understanding between the City and a recognized employee association for which appeal or hearing is not provided by other regulations.
- (B) To assure fair and equitable treatment of all employees and promote harmonious relations among employees, supervisors and management.
- (C) To encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure to handle grievances throughout the several supervisory levels where necessary.
- (D) To provide that appeals shall be conducted as informally as possible.
- (E) To resolve grievances as quickly as possible and correct, if possible, the cause of grievances, thereby reducing the number of grievances and future similar complaints.

This grievance procedure is applicable to all employees in positions within a bargaining unit represented by an employee association. This procedure does not supersede the grievance or other appeal procedures in the Civil Service Rules of the City.

### Section 2 Identification of Participants

For the purpose of this grievance procedure, the following definitions shall apply:

- (A) **Association**: The employee organization recognized by the City to represent employees in the grievant bargaining unit.
- (B) **City**: The City of National City.
- (C) **City Manager**: The City Manager or his designee.
- (D) **Department**: A major organizational unit of the City.
- (E) **Department Head or Head of a Department**: The chief executive officer of a department.
- (F) **Employee or City Employee**: A member of a bargaining unit either at the time of initiation of the grievance or within seven (7) calendar days prior to initiation of the grievance.
- (G) **Employee Representative**: An individual who appears on behalf of the employee.

## Section 2 — Identification of Participants (continued)

- (H) **Grievance**: A complaint of an employee, or a group of employees or the Association on behalf of its membership as a whole, arising out of the application or interpretation of existing provisions of an MOU.
- (I) **Immediate Supervisor**: The individual who normally assigns reviews or directs the work of an employee.
- (J) **Management**: (1) Any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to the chief executive officer and department heads; (2), Any employee having authority to exercise independent judgment to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward or discipline other employees, or having the responsibility to direct them or to adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
- (K) **Memorandum of Understanding (MOU)**: A written agreement between an employee organization and the City, which is a result of the meet and confer process.
- (L) **Director of Personnel**: The Director of Personnel or his designee.
- (M) **Second Level Supervisor**: The individual to whom an immediate supervisor normally reports.

## Section 3 Scope of Grievance Procedure

- (A) To be reviewable under this procedure, a grievance must:
  - 1. Concern matters or incidents that have occurred; and
  - 2. Result from an act or omission by management which is alleged to be a violation of a specific provision of a current Memorandum of Understanding; and
  - 3. Arise out of a specific situation, act or acts complained of as being unfair which result in specified inequity or damage to the employee(s).
- (B) A grievance is not reviewable under this procedure if either it is a matter which would require the modification of the MOU or a policy established by the City Council or by law. Also, a grievance is not reviewable under this procedure if it is reviewable under some other administrative or Civil Service procedure such as:
  - 1. Applications for changes in title, job classification or salary;
  - 2. Appeals from formal disciplinary proceedings;
  - 3. Appeals arising out of Civil Service examinations;
  - 4. Appeals from work performance evaluations.

### Section 3 — Scope of Grievance Procedure (continued)

- (C) A complaint may not be considered under this procedure if a grievance has been filed on the same matter under the Civil Service Grievance Procedure (Rule IX).

### Section 4 Special Provisions of the Grievance Procedure

- (A) **Procedure for Presentation**: In presenting a grievance the employee shall follow the sequence and the procedure outlined in Section 5 of this Procedure.
- (B) **Prompt Presentation**: The employee shall discuss the grievance with the immediate supervisor promptly after the act or omission of management causing the grievance.
- (C) **Submittal of Grievance**: The written grievance shall be submitted on a form prescribed by the Director of Personnel for this purpose. At each level, the form must be completed fully, signed by the grievant and hand delivered or sent by U.S. mail to the designated reviewer's office with a copy being sent to the Personnel Office, also within the specified time limits.
- (D) **Statement of Grievance**: The grievance must contain a statement of:
1. The specific situation, act or acts complained of as being unfair; and
  2. The specific provision(s) of the MOU which has been violated; and
  3. The inequity or damage suffered by the employee; and
  4. The relief sought; and
  5. The representative of the grievant (if applicable).
- (E) **Employee Representative**: The employee may choose someone to provide representation at any step in the procedure. No person hearing a grievance need recognize more than one representative for any employee at any one time.
- (F) **Handled During Working Hours**: Whenever possible, grievance hearings and meetings with reviewers will be conducted during the regularly scheduled working hours of the parties involved.
- (G) **Extension of Time**: The time limit within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.
- (H) **Consolidation of Grievances**: If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances may be handled by management as a single grievance.

#### Section 4 — Special Provisions of the Grievance Procedure (continued)

- (I) **Settlement:** A grievance shall be considered settled and not subject to further consideration or re-filing if any of the following conditions exist:
1. The grievant indicates in writing that the grievance is withdrawn.
  2. The specific remedy requested on the grievance form is granted.
  3. The grievant does not submit the grievance to the next higher level of review with the normal time limits or extended time limits obtained in writing by mutual agreement.
- (J) **Rejection:** A grievance may be rejected for consideration at any time during the grievance review process for any of the following reasons:
1. The grievant does not meet the definition of "employee" indicated in Section 2.
  2. The subject of the grievance is outside the scope of the procedure as indicated in Section 3.
  3. The grievant does not comply with any of the requirements of Sections 4 or 5.
- (K) **Representation:** The grievant may elect to be represented by the Association or any other person or to represent himself/herself. If the grievant elects to not be represented by the Association, the Association shall be given a copy of the grievance and its resolution.
- (L) **Deletion of Step(s):** By mutual written consent of the department head and the grievant, any one or more of the first three (3) steps of the procedure may be omitted in consideration of a specific grievance when it is felt that this is in the best interests of an equitable and expeditious resolution of the grievance.
- (M) **Reprisals:** The grievance procedure is considered an integral part of the employee-employer relation policy of the City. As such, it is intended to assure a grievant and his/her representative the right to present the grievance without fear of disciplinary action or reprisal of any kind by his/her supervisor or other agents of the City provided he/she observes the provisions of the grievance procedure.

#### Section 5 Grievance Procedure Steps

An employee submitting a grievance shall follow the following procedure:

- STEP I **Immediate Supervisor:** The employee shall discuss the grievance with the immediate supervisor within 20 calendar days of the alleged act or omission of management causing the grievance. Within seven (7) calendar days the supervisor shall give a decision to the employee verbally.

Section 5 — Grievance Procedure Steps (continued)

STEP II **Department Head:** If the employee and supervisor cannot reach an agreement as to a solution of the grievance or the employee has not received a decision within the time limit, the employee may within seven (7) calendar days present the grievance in writing to the department head. The department head shall hear the grievance and give a written decision to the employee within fourteen (14) calendar days.

STEP III **Hearing:**

(a) **Grievance to Director of Personnel:** If the grievant and the department head cannot reach an agreement as to a solution of the grievance or the employee has not receive a written decision within the time limit, the grievant may within fourteen (14) calendar days present the grievance in writing to the Director of Personnel.

(b) **Selection of Board Members:** Subject to Section 6 of this Article, within seven (7) calendar days of receiving the grievance at this level, the Director of Personnel shall meet with the grievant and/or the grievant's representative to select two members of a grievance hearing board. The grievant and/or representative shall select one member; the Director of Personnel shall select another member.

The two board members shall select a third member to serve as Chairperson. The board members may be any persons who are not directly involved in the incidents of the grievance or in the line of supervision over the grievant either at the time of the hearing or at the time the incidents referred to in the grievance occurred. Any person nominated to be the chairperson shall be subject to disqualification and the action of the Board cancelled if it can be shown that he/she had direct interest in the resolution of the grievance.

(c) **Hearing Procedures:**

1. The board members shall be given prior access to the grievance form, all written responses and all supportive material attached thereto.
2. The board shall provide written announcement of the location, date and time of the hearing to each side.
3. The hearing may be public or closed as requested by the grievant.
4. The manager who is the subject of the grievance shall be represented by the Director of Personnel or other person designated by him/her.
5. Each side shall have the opportunity to present written and oral evidence. Witnesses shall be under oath.
6. The board shall rule on the admissibility of evidence. Legal rules of evidence shall not apply.

Section 5 — Grievance Procedure Steps (continued)

7. Each side shall receive a copy of the written evidence and have the opportunity to question the witnesses of the other side.
8. The parties shall have the right to record hearings by audio recorders or, by mutual agreement, by court reporter.
9. The board members, if City employees, are entitled to carry out all activities connected with the hearing, including preparation for the hearing and preparation of report on City work time.
10. Consistent with the above requirements, the board may establish such additional procedures, as it deems necessary to carry out its responsibilities.

(d) **Board Report:**

1. The board shall submit a written report of its findings to the City Manager with copies to the grievant, the appropriate department head and the Director of Personnel.
2. The report shall contain only the following:
  - (a) Recommendation on each specific remedy requested on the grievance form.
  - (b) Findings of fact about the alleged violation(s) by management.
  - (c) The date, time and location of the hearing, the names of witnesses and a copy of all pertinent documents.
3. The board may recommend that no remedy be granted, that the remedy sought be granted or that an alternate remedy be granted. In order to grant some remedy to the grievant, it must be shown to the satisfaction of the board that such remedy is justified by a preponderance of evidence is consistent with the relevant MOU and the grievant met the requirements of the grievance procedure.
4. There shall be only one report from the board.
5. The discussions of the board members are confidential. All copies of materials and working papers of the board members shall be maintained by the Chairperson of the Board for 90 days after the decision of the City Manager is disseminated and then destroyed as soon as practical thereafter.
6. Necessary clerical support for the board shall be made available by the Office of the City Manager.

## Section 5 — Grievance Procedure Steps (continued)

- (e) **City Manager's Response:** The City Manager shall provide written response to both parties and the members of the board on the resolution of the grievance. If the City Manager disagrees with any recommendation of the Board, his written response shall indicate strong and compelling reason(s) for that disagreement. Basis for disagreement may be any one or more of the following:
1. The Board substantially deviated from the hearing procedures.
  2. The recommendation is in excess of the remedy sought on the initial grievance submittal.
  3. The recommendation is inconsistent with the MOU.
  4. The recommendation is inconsistent with the facts as stated in the grievance form and/or the written information provided by the Board.

**The decision of the City Manager shall be final and not subject to further appeal except for such appeals to the Courts and State or Federal compliance agencies as provided by law.**

## Section 6 Interpretation and Application

The Director of Personnel is responsible for the interpretation and application of this grievance procedure. In the event of disagreement with the Director of Personnel's actions or interpretations, the final authority will be the City Manager. The City Manager's determinations on the application and interpretation of the grievance procedure are final and not subject to further appeal or grievance.

## Section 7 Implementation

If the City later grants binding arbitration as the final step for grievance resolution to the Police Officers' Association, that procedure shall be incorporated into this Article and applied to the members of the Firefighters' Association.



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## ARTICLE ~~2931~~ – PARAMEDIC ASSESSMENT COMPANY

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### Section 1 Definition

A Paramedic Assessment Company consists of a fire apparatus with advanced life support capability (ALS) staffed by a Fire Captain, Fire Engineer and Firefighters. Paramedics (EMT-P) on the assessment company shall carry out duties as defined by the appropriate San Diego County and State of California Emergency Medical Services (EMS) agencies.

### Section 2 Funding

Costs of the Paramedic Assessment Company program are paid from reimbursements for services provided by the Fire Department to the City's Ambulance Transportation Services Program. Costs are to include licensing, continuing education, supplies, compensation and any other costs directly attributed to the program.

### Section 3 Components of the Program

- 1) Eligibility for Training: An employee must receive prior City approval to participate in the paramedic training and certification program, and the City retains sole discretion to approve or deny an employee's participation in paramedic training. Additionally, employees will be eligible for Paramedic training-only upon successful completion of their probationary period with the City of National City.
- 2) Lateral or new hires: Lateral or new hires with current Paramedic certification will be eligible for Paramedic duty after completion of department approved certification process with the City of National City.
- 3) Promotions: EMT-P licensing shall not be considered grounds to disqualify nor restrict employees from pursuing promotional opportunities within the Department.

Required length of service:

Employees entering the program agree to maintain their EMT-P status for a four year (4) period. After this four (4) year period, an EMT-P may end participation in the program only if qualified EMT-P replacement is available and by submitting a written resignation from the program ninety (90) days prior. In the case of simultaneous resignation requests, resignation will be based on seniority. Upon resignation, EMT-P compensation and reimbursements shall end.

Reimbursement to the City:

Employees who gain EMT-P certification as a function of their employment with the City have an obligation to provide EMT-P services to the City for a period of four (4) years from the time they receive EMT-P certification. Employees, who voluntarily resign from City employment before four (4) years, will be obligated to reimburse the City for all costs associated with EMT-P training. Extenuating circumstances that require an individual to leave the program or leave City employment prior to completing his or her four (4) year commitment may be considered on a case-by-case basis before assessing the reimbursement costs.

**Section 4      Paramedic Specialty Compensation & EMT Compensation - Paramedic Assessment Company**

Upon licensing and for as long as they remain in the Paramedic program, employees holding the EMT-P license shall receive an additional 15% incentive pay to their hourly base salaries for as long as the employee maintains current EMT-P certification.

EMT-P employees shall be compensated at the rate of one and a half (1½) times for continuing education outside of regular work hours. This compensation will not exceed the minimum forty (40) hours of continuing education required by the State every two years to maintain EMT-P status.

EMT Compensation - Paramedic Assessment Company:

EMT employees who are not EMT-P's shall receive an additional 1½% incentive pay to their current wage step hourly base salaries.

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## ARTICLE 302 – DEFERRED COMPENSATION

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FFA employees shall have the option to enroll in either the ICMA or the Nationwide plan but not both. The City will not agree to any enhancements to the Nationwide plan that would jeopardize the tax exempt status of the City's current plan with the IRS.

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## ARTICLE 313 – CATASTROPHIC LEAVE

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Bargaining unit members are eligible to use catastrophic leave under the City's catastrophic leave policy and must meet all eligibility requirements under that policy, except that bargaining unit members may retain 96 hours of sick leave and 96 hours of vacation leave in their leave balances.

Both banks must be exhausted or be projected by Human Resources staff to reach to a maximum of 96 hours during the anticipated term of absence in order to be eligible for a catastrophic leave bank.

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## ARTICLE 324 – ASSOCIATION BANK

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~~The City and FFA agree to establish a mechanism for FFA members to donate paid leave into a bank to be utilized by FFA members to conduct association business.~~

### Section 1      Leave Bank

~~The intent of this article is to provide National City employees representing the National City Firefighters' Association (FFA) with a leave bank that can be utilized when conducting business benefitting the local association and its members such as but not limited to attending meetings and conferences on behalf of the association and/or its member(s).~~

~~The cumulative Association Leave Bank maximum accrual is 360 hours per fiscal year.~~

- ~~1.      Should the Association Leave Bank reach 360 hours in any fiscal year, additional donations shall not be accepted until the start of the next fiscal year up to a maximum of 360 hours.~~
- ~~2.      The initial Association Leave Bank will be established by the City immediately following City Council approval. The maximum accrual for the first fiscal year of the Association Leave Bank will be prorated based upon the date of City Council approval.~~
- ~~3.      The City shall not contribute leave time to the Association Leave Bank~~

### Section 2      Voluntary Donations

- ~~1.      Hours shall be donated to the Association Leave Bank on a voluntary basis by FFA represented employees using a prescribed donation form.~~
- ~~2.      Employees may donate vacation, sick or compensatory time credits.~~
- ~~3.      Donations must be for a minimum of four (4) hours for each type of time transferred and in whole (one) hour increments thereafter.~~
- ~~4.      Donating employees must have a minimum vacation balance of 112 hours after donation.~~
- ~~5.      Sick leave donations will be credited at a rate of 50% (ex: a donation of four (4) hours will be credited to the Association Leave Bank as two (2) hours).~~
- ~~6.      Sick leave donations will be counted against the donor's annual sick leave usage for purposes of Article 11, Section 12, Sick Leave Incentive Pay, at 50% of the number of hours donated (a donation of ten (10) hours will be counted as five (5) hours used for Article 11, Section 12 only.~~
- ~~7.      Donating employees forfeit any right or claim to leave credits once they are donated.~~
- ~~8.      Leave will be transferred on an hour-for-hour basis, regardless of the salary of the employees involved.~~

### Section 3      Use of the Leave Bank

~~Hours donated to the Association Leave Bank may be used by members of the FFA:~~

1. In lieu of or in conjunction with the employees own leave balances when conducting association business during the employee's scheduled work shift(s).
2. Determining which association activities are qualifying and which employees are eligible to utilize the Association Leave Bank is done at the discretion of the FFA Executive Board.
3. Requests for leave must be reviewed and are subject to approval by the department head or designee consistent with department policy.
4. Employees using donated leave shall record the use in Telestaff with the date of usage and the number of hours used.
5. It is the responsibility of FFA to monitor the hours available for use in the leave bank.

#### **Section 4 Administration**

1. Upon receipt of a donation form, the Finance Department will review to ensure that the employee(s) meet the eligibility requirements and that the leave bank has not reached its maximum accrual for the fiscal year.
2. If all eligibility criteria are met, the Finance Department will transfer the donated leave to the Association Leave Bank.  
If any part of the eligibility criteria is not met, the donation form will be returned to the donating employee without being processed.

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## ARTICLE 33 – POST-RETIREMENT HEALTHCARE TRUST

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The City and FFA will contract with a company to provide a post-retirement healthcare trust for represented employees contingent on the FFA specifying a provider acceptable to the City and with the agreement of FFA that there will be no financial cost or obligation to the City. All FFA represented employees will contribute \$100/month to the post-retirement healthcare ~~plant~~trust via payroll deductions effective the first full pay period after the trust is established. The City shall have no administrative responsibilities or liabilities related to this benefit, other than processing of payroll deductions.

The FFA shall hold the City harmless for the City's actions related to this Article, and indemnify the City against any liability the city may incur as a result of this Article, including but not limited to allowing the FFA to participate in a post-retirement healthcare ~~plant~~trust and/or the City's processing of payroll deductions as set forth in this Article.

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## ARTICLE 34 – TERMS OF PROVISIONS

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The provisions of this Memorandum of Understanding shall be effective and binding from July 1, 2018 through June 30, 2020.

This MOU is subject to all future and current applicable Federal or State and Local laws and regulations.

If any part or provision of this MOU is in conflict with such applicable provisions of Federal or State laws or regulations, or is otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part or provision shall be suspended and superseded by such applicable law or regulations, and the remainder of the MOU shall not be affected. The Association will be duly notified of any such judicial or legislative action invalidating any section of this Agreement, and the Employees' Association and/or the City shall have right to meet and confer within thirty (30) days concerning said section. This MOU shall supersede all past agreements and City or department rules and ordinances that are in conflict with or are addressed by this MOU.

In addition, the City and the Association may mutually agree in writing to meet and confer on any subject within the scope of representation.



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## ARTICLE 35 - DEFINITIONS

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**BASE SALARY** – Shall mean, for 56-hour personnel, the hourly rate derived by dividing the annual salary as developed by the Finance Department on their published salary schedule by the average number of scheduled work hours (2912) hours. For 40-hour personnel, the hourly salary derived by dividing the annual salary by 2080 hours. The annual salary does not include overtime, special or incentive pays or cash-outs.

**COMPENSATION PLAN** – Shall mean the official schedule of pay approved by the City Council assigning one or more rates of pay to each class title.

**COMPENSATORY LEAVE** – Shall mean time off from work in lieu of monetary payment for overtime worked.

**CONTINUOUS SERVICE** – Shall mean employment in the City service uninterrupted by separation, and applies to the time a person has been employed on a permanent basis, or to the continuation of employment from temporary to a permanent appointment, without any break in service.

**DEMOTION** – Shall mean the appointment of an employee holding a position in one class to a position in another class having a lower maximum salary rate, or to a lower step within the same.

**DEPARTMENT** – Shall mean an administrative branch including a group of employees under the immediate charge of a chief executive officer of a department of the City government, which latter officer shall be known as the department head.

**EMPLOYEE** – Shall mean a person who is legally an incumbent of a position in the Classified Service or who is on authorized leave of absence from such a position with the right to return to his position. Employee shall include OFFICER.

**IMMEDIATE FAMILY** – Immediate family shall include the husband, wife, domestic partner (as defined by and registered with the California Secretary of State), mother and father of husband and wife and domestic partner, son, daughter, brother and sister of the employee, or any relative by blood or marriage or domestic partnership residing in the same household.

**INTERIM APPOINTMENT** – Shall mean a short-term appointment made from an eligible list.

**LAY-OFF** – Shall mean the involuntary, non-disciplinary separation of an employee from a position resulting from lack of work, lack of funds or abolishment of a position.

**LEAVE** – Shall mean an approved type of absence from work as provided for by these rules.

**NORMAL WORK DAY** – Shall mean operations personnel are not expected to work on projects of a non-emergency nature after 1700 hours. If an individual elects to work on a project or other administrative assignment after 1700 hours he shall do so of his own free choosing. No coercion, harassment or persuasion shall be placed on any individual either by the fire department administration or by the labor body.

**PAY CYCLE** – Two-week period for pay purposes.

**PAY DAY** – Day on which pay is given for previous pay cycle.

**PAY PERIOD** – 28-day period for purposes of overtime.

**PERMANENT EMPLOYEE** – Shall mean an employee who has been appointed to a permanent position. A permanent employee may be serving a probationary period.

**PERMANENT POSITION** – Shall mean a specific office or classification, whether occupied or vacant, carrying responsibilities and calling for the performance of certain duties by one individual. This position shall be included in the Classified Service and may be either on a part-time or full-time basis.

**PERMANENT STATUS** – Shall mean the satisfactory completion of one (1) year of probationary service and continuing permanent appointment.

**DIRECTOR OF PERSONNEL** – Shall mean the City Manager or the person appointed by the City Manager to act as Secretary to the Civil Commission, to administer the activities of the Personnel Department and to exercise general supervision over the employment policy of the City subject to the direction of the Commission.

**POSITION** – Shall mean any specific officer or classification whether occupied or vacant, carrying certain responsibilities and calling for the performance of certain duties by one individual, either on a part-time or full-time basis.

**PROBATIONARY PERIOD** – Shall mean the working test period during which an employee is required to demonstrate his fitness by the actual performance of the duties and responsibilities of his position and during which time he may be terminated without right of appeal to the Civil Service Commission.

**PROBATIONARY STATUS** – Shall mean service in a permanent position prior to completion of the prescribed period of probationary service.

**PROBATIONER** – Shall be an employee in the Classified Service who is serving a probationary period.

**PROVISIONAL APPOINTMENT** – Shall mean the temporary appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in the class in the absence of available eligible; any non-permanent appointment, other than seasonal, part-time or emergency appointment, which is not made from a re-employment list or an eligible list.

**SALARY RANGE** - Shall mean one or more, but commonly five (5) specific pay rates having a percentage relationship to one another, assigned to a class of positions as the compensation for the class.

**SALARY RATE** – Shall mean a specific dollar amount, expressed as an annual rate, a monthly rate, a semi-monthly rate, a bi-weekly rate or an hourly rate, as shown in the compensation plan of the City.

**SALARY STEP** – Shall mean the location of a rate within a salary range, as identified by a letter of the alphabet.

**TELESTAFF** – Shall mean the department recognized staffing and payroll computer software program.

**TEMPORARY ASSIGNMENT** – Assignment of personnel to a 40-hour workweek in a position that is not designated as a permanent 40-hour assignment.

**TEMPORARY EMPLOYEE** – Shall mean an employee appointed to a position of a non-permanent nature on provisional basis.

**WORK DAY** – Shall mean an eight (8) hour period as a normal work period.

**WORK SHIFT** – Shall mean twenty-four (24) hour period as normal work.

RESOLUTION NO. 2019 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE  
CITY AND THE NATIONAL CITY FIREFIGHTERS' ASSOCIATION (NCFFA)

WHEREAS, the labor agreement between the City of National City and the National City Firefighters' Association ("NCFFA") expired June 30, 2018; and

WHEREAS, in March, 2018, City representatives and representatives of the NCFFA began meeting and conferring in good faith for the purpose of negotiating a successor agreement; and

WHEREAS, said meet and confer was conducted pursuant to California Government Code Section 3500, et seq.; and

WHEREAS, on April 2, 2019, the NCFFA membership voted to ratify the terms of a two (2) year agreement, retroactive to June 30, 2018, as set forth by the negotiating teams.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. The City Manager is hereby authorized to execute a Memorandum of Understanding (MOU) between the City of National City and the National City Firefighters' Association for a two (2) year agreement, retroactive to June 30, 2018. Said Memorandum of Understanding shall be on file in the Office of the City Clerk, and reference is made thereto for all particulars contained therein.

Section 2. The City Manager is hereby directed to reflect the compensation plan as set forth in the subject MOU in the final budget for Fiscal Year 2019-2020.

PASSED and ADOPTED this 7th day of May, 2019

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the acceptance of an additional \\$20,000 in the Regional Realignment Response Group \(R3G\) grant funds from the San Diego Sheriff's Department to off-set overtime cost for the fiscal year. \(Police\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** 05/07/2019

**AGENDA ITEM NO.:**

**ITEM TITLE:**

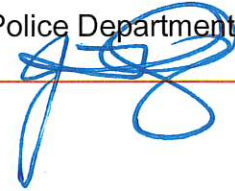
Resolution of the City Council of the City of National City authorizing the acceptance of an additional \$20,000.00 in R3G grant funds from the San Diego Sheriff's Department to off-set overtime cost for the fiscal year.

**PREPARED BY:** Wade Walters, Sergeant

**PHONE:** 619-336-4544

**DEPARTMENT:** Police Department

**APPROVED BY:** \_\_\_\_\_



**EXPLANATION:**

Refer to Attachment

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**

[Revenue Account Name] - 290-11647-3463  
[Expenditure Account Name] - 290-411-647-1\*

*\*No net financial impact. Revenues off-set expenses.*

**APPROVED:** \_\_\_\_\_



**FINANCE**

**APPROVED:** \_\_\_\_\_

**MIS**

(Other State Grants / Personnel \$20,000.00)

**ENVIRONMENTAL REVIEW:**

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION

**STAFF RECOMMENDATION:**

Approve Resolution

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

Prior A200, Staff Report, Resolution, and MOU

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

MEETING DATE: April 17, 2018

AGENDA ITEM NO. |

ITEM TITLE:

Resolution of the City Council of the City of National City 1) authorizing the Chief of Police to enter into a Memorandum of Agreement with the County of San Diego (San Diego Sheriff's Department and Probation Department) and municipal law enforcement agencies throughout the County for program support of the Regional Realignment Response Group (R3) for the program period retroactive from July 1, 2017 to June 30, 2022, and 2) authorizing the acceptance of the grant funds & the establishment of an appropriation and corresponding revenue budget for the R3 grant in the amount of \$45,000.

PREPARED BY: Manuel Rodriguez, Chief of Police

DEPARTMENT: Police

PHONE: Ext. 4511

APPROVED BY: Manuel Rodriguez Digitally signed by Manuel Rodriguez  
DN: cn=Manuel Rodriguez, o=City of National City, ou=City of National City, email=manuel.rodriguez@nationalcity.org, c=US

EXPLANATION:

Refer to Attachment.

FINANCIAL STATEMENT:

APPROVED: Mark Palumbo Finance

ACCOUNT NO.

APPROVED: \_\_\_\_\_ MIS

Revenue: 290-11647-3463

(Other State Grants) \$45,000

Expense: 290-411-647-1\*

(Personnel) \$45,000

No net financial impact. Revenues off-set expenses.

ENVIRONMENTAL REVIEW:

ORDINANCE: INTRODUCTION:  FINAL ADOPTION:

STAFF RECOMMENDATION:

Approve Resolution.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

Staff Report  
MOU



## **NATIONAL CITY POLICE DEPARTMENT**

### **STAFF REPORT**

**DATE:** April 3, 2018

**SUBJECT:** Resolution of the City Council of the City of National City authorizing the Chief of Police to enter into the Memorandum of Agreement with the County of San Diego (San Diego Sheriff's Department and Probation Department) and municipal law enforcement agencies throughout the County, for program support of the Regional Realignment Response Group (R3)

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### **SUMMARY**

It is recommended the City Council approve the Resolution of the City Council of the City of National City to authorize the Chief of Police to enter into the Memorandum of Agreement with the County of San Diego and municipal law enforcement agencies for program support of the Regional Realignment Group (R3). The agreement period is July 1, 2017 to June 30, 2022 resulting in reimbursement of \$45,000 to the City of National City.

### **BACKGROUND**

The National City Council passed and adopted the original Memorandum of Agreement on January 21, 2014 (Resolution No. 2014-03) authorizing the Chief of Police to enter into a Memorandum of Agreement with the County of San Diego (San Diego Sheriff's Department and Probation Department) and municipal law enforcement agencies throughout the County for program support of the Regional Realignment Response Group (R3). The National City Police Department received grant funds in the amount of \$31,539 in 2014 from the Community Corrections Partnership (R3) to support R3 and its primary goal of public safety.

The National City Council passed and adopted the original Memorandum of Agreement on September 6, 2016 (Resolution No. 2016-03) authorizing the Chief of Police to enter into a Memorandum of Agreement with the County of San Diego (San Diego Sheriff's Department and Probation Department) and municipal law enforcement agencies throughout the County for program support of the Regional Realignment Response Group (R3). The National City Police Department was allocated and received grant funds in the amount of \$45,000





and the total expense has not been finished to support R3 and its primary goal of public safety.

### CURRENT AGREEMENT

The Memorandum of Agreement is in effect from July 1, 2017 through June 30, 2022 with the County of San Diego (San Diego Sheriff's Department and Probation Department) for the Regional Realignment (AB109) Group. As part of this agreement, the National City Police Department will continue to receive grant funding in an amount to be determined but estimated at \$45,000. The funds shall be used to support R3 and its primary goal of public safety by developing and implementing targeted, proactive, intelligence-based approach to control and counteract the risks associated with realigned offenders and Post Release Community Supervision Offenders, released into San Diego County.

### IMPACT

None, Revenue to the City in the amount of \$45,000.

**AGREEMENT FOR THE  
REGIONAL REALIGNMENT RESPONSE (R3) PROGRAM**

**1. PARTIES TO THE AGREEMENT**

This Agreement is between the COUNTY OF SAN DIEGO ("COUNTY"), the CITY OF CARLSBAD, the CITY OF CHULA VISTA, the CITY OF CORONADO, the CITY OF EL CAJON, the CITY OF ESCONDIDO, the CITY OF LA MESA, the CITY OF NATIONAL CITY, the CITY OF OCEANSIDE, the CITY OF SAN DIEGO (collectively the "CITIES"), collectively the "PARTIES", for program support of the Regional Realignment Response ("R3").

**1.1 Party Departments or Agencies Participating in the Agreement**

1.1.1 For the COUNTY, participating agencies are the Sheriff's Department ("SHERIFF") and the Probation Department ("PROBATION").

1.1.2 For the CITIES, participating agencies are their respective police departments.

The services and obligations of PARTIES and their participating agencies are set forth herein.

**2. RECITALS**

2.1 WHEREAS, in April 2011, Governor Edmund G. Brown, Jr. signed Assembly Bill (AB) 109 to help California stop the costly, ineffective, and unsafe revolving door of lower-level offenders and parole violators cycling in and out of state prisons. This legislation gives local law enforcement the right and the ability to manage offenders in smarter and cost-effective ways; and

2.2 WHEREAS, in December 2013, COUNTY through SHERIFF implemented the Regional Realignment Response (R3) program in response to the passage of AB 109 and received funds from the State of California Local Revenue Fund 2011, Community Corrections Subaccount and continues to receive funds annually to continue the R3 program; and

2.3 WHEREAS, in March 2014, PARTIES executed the Agreement for the 2013 Regional Realignment Response (R3) for the initial term of December 31, 2013 through December 31, 2014; and

2.4 WHEREAS, in January 2015, PARTIES executed Amendment No.1 where Paragraph 3.1 provides that "(t)he term of this Agreement shall be December 31, 2013 and shall continue in effect through and terminate at midnight on December 31, 2015 subject to the termination provision in sections 3.2..."; and

- 2.5 WHEREAS, in May 2015, PARTIES executed Amendment No. 2 to increase each CITY'S allocation for personnel overtime; and
- 2.6 WHEREAS, in August 2015, PARTIES executed Amendment No. 3 to extend the Agreement from December 31, 2015 to June 30, 2016; and
- 2.7 WHEREAS, in October 2016, PARTIES executed the Agreement for the 2016 Regional Realignment Response (R3) for the initial term of July 1, 2016 through December 31, 2017; and
- 2.8 WHEREAS, in June 2016, the COUNTY and the CITY OF EL CAJON executed Amendment No. 4 to increase the CITY'S allocation for personnel overtime; and
- 2.9 WHEREAS, funds shall be used to support the R3 program and its primary goal of public safety by developing and implementing a targeted, proactive, intelligence-based approach to control and counteract the risks associated with realigned offenders (which include those sentenced pursuant to California Penal Codes 1170(h)(5)(A) PC and 1170(h)(5)(B) PC and Post Release Community Supervision Offenders) released into San Diego County.
- 2.10 WHEREAS, Government Code §55632 authorizes COUNTY through SHERIFF and PARTIES, to contract with SHERIFF for provision of joint law enforcement services.
- 2.10.1 WHEREAS, COUNTY has requested PARTIES assistance in performing R3 operations and will reimburse PARTIES for overtime-only expenses incurred collectively by PARTIES in R3 program operations not to exceed \$1,000,000 during the term of the Agreement.
- 2.11 WHEREAS, PARTIES desire to enter into an agreement with provisions concerning the nature and extent of R3 collaboration, services rendered, and compensation.
- 2.12 WHEREAS, COUNTY, by action of the Board of Supervisors Minute Order No. 3 dated June 28, 2016, approved and authorized the SHERIFF to enter into expenditure contracts related to the R3 program and to reimburse overtime expenses incurred collectively by PARTIES performing R3 program Operations in fiscal year 2016 and subsequent years.
- 2.13 PARTIES agree to maintain documentation as required in paragraph 7.3 Method of Payment, supporting all expenditures reimbursed from R3 program funds, for a period of five years, with five years beginning the day after the end of the project period, e.g., if the end of the project period is June 30, 2018, five years begins July 1, 2018 and ends June 30, 2023.

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NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, PARTIES jointly intend that COUNTY through SHERIFF will reimburse, and PARTIES will provide, a level of R3 services, as set forth in this Agreement.

### **3. PURPOSE AND INTENT**

The purpose of this Agreement is to satisfy the R3's goal of ensuring public safety in the post AB 109 environment by the continued development and implementation of a targeted, proactive, intelligence-based approach to control and counteract the risks associated with a population of offenders placed under the responsibility of the county.

### **4. SCOPE OF SERVICES**

#### **4.1 Method of Service Delivery**

SHERIFF will maintain the R3 program funding and will be administratively responsible for coordination of PARTIES' obligations and reimbursement to PARTIES' under this Agreement.

#### **4.2 Overview of Basic Services**

PARTIES will provide R3 operations ("Operations") in their designated areas of jurisdiction and/or in coordination with other R3 PARTIES in order to counteract the risks associated with realigned offenders released into San Diego County.

##### **4.2.1 Framework of Operations**

The Regional Realignment Response Group (R3G), consisting of designated coordinators from each PARTY, as outlined in paragraph 6.2.3, will oversee R3 Operations and will meet every six (6) months to discuss and plan Operations.

##### **4.2.2 Regional Sub-Group**

Regional Sub-Groups (RSGs) are created for the Northern, Central, and Southern areas of the County. The RSGs are responsible for planning and coordinating allied or regional Operations involving two or more PARTIES. The RSGs are composed of the following:

**NORTHERN:** A police lieutenant from the cities of Escondido, Carlsbad, and Oceanside, a lieutenant from SHERIFF, and a supervising probation officer from PROBATION.

**CENTRAL:** A police lieutenant from the cities of San Diego, El Cajon, and La Mesa, a lieutenant from SHERIFF, and a supervising probation officer from PROBATION.

**SOUTHERN:** A police lieutenant from the cities of San Diego, National City, and Chula Vista, a lieutenant from SHERIFF, a commander from the city of Coronado, and a supervising probation officer from PROBATION.

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**5. TERM OF AGREEMENT**

**5.1 Initial Term**

This Agreement shall be effective July 1, 2017 and shall continue in effect through and terminate at midnight on June 30, 2022, or until terminated pursuant to sections 5.2, subject to availability of funds, and 5.3 below.

**5.2 Option to Extend**

COUNTY shall have the option to renew this Agreement for successive one year increments beyond June 30, 2022. Renewal or extension of the Agreement beyond June 30, 2022 shall be subject to available funding.

**5.3 Termination**

Subject to the applicable provisions of state law, each PARTY may terminate its participation in this Agreement upon ninety (90) days minimum written notice to the other PARTIES. Lack of funding may also result in termination of this agreement pursuant to section 10.13.

**6. STANDARDS OF SERVICE: OBLIGATIONS OF THE PARTIES**

**6.1 Anticipated Outcome**

The anticipated outcome of the R3 Operations, provided by PARTIES under this Agreement, is increased law enforcement presence in each respective PARTY's designated area of jurisdiction in order to counteract the risks associated with realigned offenders released into San Diego County. The anticipated outcome will be reached by achieving the goals and accomplishing the missions set forth below by the PARTIES.

**6.1.1** PARTIES will provide enhanced enforcement by increasing patrol presence in areas where realigned offenders reside, jurisdictions where they are released, and areas they are known to frequent. This patrol presence will include 4th waiver searches, probation compliance checks, directed patrol, and coordinated multi-agency sweeps. In addition, PARTIES will utilize their unique investigatory areas of expertise in Operations.

**6.1.2** Increase intelligence/information sharing among PARTIES, including but not limited to the following activities:

(a) Utilize Criminal Intelligence Analysts, dedicated to the R3 program, located at the San Diego Law Enforcement Coordination Center (SD-LECC). The SD-LECC will serve as the centralized clearinghouse for information and documentation of realigned offender post-release packets.

(b) Conduct meetings every six (6) months with a minimum of one (1) representative from each PARTY.

(c) Increase information sharing during Operations.

- 6.1.3 Prior to R3 Operations, an Operations Plan must be approved by the R3 designated coordinators. The Operations Plan shall be submitted by the operations coordinator via email to R3@sdsheriff.org at least seventy-two (72) hours prior to the Operation.
- 6.1.4 At the conclusion of each R3 Operation, participating PARTY shall complete a Daily Activity Report (DAR). The DAR will be submitted to the PARTY'S designated coordinator.
- 6.1.5 The designated coordinator shall email the following to R3@sdsheriff.org:
- (a) A completed OVERALL Operation Statistics form
  - (b) All completed DAR forms received from personnel
  - (c) A completed Operation Roster which includes all personnel assigned to the Operation and sign in and sign out times.

## **6.2 Personnel Qualifications and Assignment**

### **6.2.1 Qualifications**

Each PARTY shall ensure that personnel assigned to perform Operations pursuant to this Agreement meet the minimum qualification for their specific classification.

### **6.2.2 Management, Direction and Supervision**

The hiring, firing, management, direction, and supervision of each PARTY'S personnel, the standards of performance, the discipline of each PARTY'S personnel, and all other matters incident to the performance of such services, shall be performed by and be the responsibility of each PARTY in each PARTY'S sole but reasonable judgment and in accord with the provisions of applicable labor agreements. Each PARTY shall be the appointing authority for all its personnel provided to the R3 program by this Agreement. PARTIES shall have no liability for any direct payment of salary, wages, indemnity, or other compensation or benefit to any other PARTY'S personnel engaged in performing this Agreement.

### **6.2.3 Designated Coordinators**

SHERIFF shall select and designate a coordinator who shall manage and direct the R3 program. Each other PARTY shall select and designate a coordinator under this Agreement. The designated coordinators for each PARTY shall represent their agency on the R3 outlined in Section 4.2, perform the activities outlined in Section 6.1.5 and implement, as needed, appropriate procedures governing the performance of all requirements under this Agreement and shall be responsible for meeting and conferring in good faith in order to address any disputes which may arise concerning implementation of this Agreement.

**6.2.4 Staffing for Basic Services**

PARTIES shall ensure that adequate numbers of their qualified respective personnel are provided to R3 program Operations at all times during the term of this Agreement to meet the Basic Services, Scope of Services, and Standards of Service commitments set forth herein.

**6.2.5 Equipment and Supplies**

Each PARTY will supply its own personnel with all supplies and/or prescribed safety gear, body armor, and/or standard issue equipment necessary to perform R3 program Operations under this agreement.

**7. COST OF SERVICES/CONSIDERATION**

**7.1 General**

As full consideration for the satisfactory performance and completion by PARTIES of Operations set forth in this Agreement, COUNTY through SHERIFF shall reimburse PARTIES for personnel assigned to perform R3 program Operations on the basis of claims and submittals as set forth hereunder. Such payments by COUNTY through SHERIFF are dependent on the continued availability of funds from the State of California Local Revenue Fund, Community Corrections Subaccount.

**7.2 Personnel Costs/Rate of Compensation**

During the term of this Agreement, COUNTY through SHERIFF shall reimburse PARTIES for overtime worked by personnel assigned to perform R3 program Operations based upon available funding and the actual costs incurred by PARTIES to provide Operations under this Agreement.

**7.3 Method of Payment**

PARTIES shall submit correct and complete reimbursement forms, labor reports, and timesheets, as documentation that represents amounts due under this Agreement to SHERIFF no later than the final business day of the subsequent month from the month being claimed. All requests for reimbursement shall be sent to:

San Diego County Sheriff's Department  
O-41 Grants Unit (R3)  
P. O. Box 939062  
San Diego, CA 92193-9062

**7.3.1** Reimbursement forms, labor reports, and timesheets must have the signature of PARTY's designated coordinator or his or her designee, certifying that the invoice, labor reports, and timesheets are true and correct.

**7.3.2** PARTIES shall provide payroll records for every person whose costs are reimbursable under this Agreement, to include, at a minimum, the person's name, classification, duty position, task, regular hourly rate, overtime-hourly rate, overtime hours worked, date overtime worked, and fringe benefit rate and cost. PARTIES shall make available to SHERIFF for inspection, upon request,

all payroll records and any other records that relate to the Basic Services provided under this Agreement.

- 7.3.3 Within sixty (60) business days upon receipt of valid invoice and complete documentation, SHERIFF will reimburse PARTIES for the Basic Services agreed to.
- 7.3.4 Each PARTY is responsible for tracking the claims submitted by their agency to ensure their total claim does not exceed the allocation for their agency.

**8. INDEMNIFICATION - WORKERS COMPENSATION, EMPLOYMENT AND CLAIMS AND LIABILITY ISSUES**

- 8.1 The COUNTY shall fully indemnify and hold harmless non-County PARTIES and their respective officers, employees, and agents, from any claims, losses, fines, expenses (including attorneys' fees and court costs and/or arbitration costs), costs, damages or liabilities arising from or related to (1) any workers' compensation claim or demand or other workers' compensation proceeding arising from or related to, or claimed to arise from or relate to, employment which is brought by an employee of the COUNTY or any contract labor provider retained by the COUNTY, or (2) any claim, demand, suit, or other proceeding arising from or related to, or claimed to arise from or relate to, the status of employment (including without limitation, compensation, demotion, promotion, discipline, termination, hiring, work assignment, transfer, disability, leave or other such matters) which is brought by an employee of the COUNTY or any contract labor provider retained by the COUNTY.
- 8.2 Each non-County PARTY shall fully indemnify and hold harmless the COUNTY, its officers, employees, and agents, from any claims, losses, fines, expenses (including attorneys' fees and court costs or arbitration costs), costs, damages or liabilities arising from or related to (1) any workers' compensation claim or demand or other workers' compensation proceeding arising from or related to, or claimed to arise from or relate to, employment which is brought by an employee of that respective agency or any contract labor provider retained by that respective agency, or (2) any claim, demand, suit, or other proceeding arising from or related to, or claimed to arise from or relate to, the status of employment (including without limitation, compensation, demotion, promotion, discipline, termination, hiring, work assignment, transfer, disability, leave or other such matters) which is brought by an employee of that respective agency or any contract labor provider retained by that respective agency.
- 8.3 Each non-County PARTY shall fully indemnify and hold harmless the other non-County PARTIES, its officers, employees, and agents, from any claims, losses, fines, expenses (including attorneys' fees and court costs or arbitration costs), costs, damages or liabilities arising from or related to (1) any workers' compensation claim or demand or other workers' compensation proceeding arising from or related to, or claimed to arise from or relate to, employment which is brought by an employee of that respective agency or any contract labor provider retained by non-County party, or (2) any claim,



demand, suit, or other proceeding arising from or related to, or claimed to arise from or relate to, the status of employment (including without limitation, compensation, demotion, promotion, discipline, termination, hiring, work assignment, transfer, disability, leave or other such matters) which is brought by an employee of that respective law enforcement agency or any contract labor provider retained by the law enforcement agency.

## **9. INDEMNIFICATION RELATED TO ACTS OR OMISSIONS; NEGLIGENCE**

### **9.1 Claims Arising From Sole Acts or Omissions of a PARTY**

Each PARTY to this Agreement hereby agrees to defend and indemnify the other PARTIES to this Agreement, their agents, officers, and employees, from any claim, action, or proceeding against the other PARTIES, arising solely out of its own acts or omissions in the performance of this Agreement. At each PARTY's sole discretion, each PARTY may participate at its own expense in the defense of any claim, action, or proceeding, but such participation shall not relieve any PARTY of any obligation imposed by this Agreement. PARTIES shall notify each other promptly of any claim, action, or proceeding and cooperate fully in the defense.

### **9.2 Claims Arising From Concurrent Acts or Omissions**

The PARTIES hereby agree to defend themselves from any claim, action, or proceeding arising out of the concurrent acts or omissions of the PARTIES. In such cases, PARTIES agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph 9.4 below.

### **9.3 Joint Defense**

Notwithstanding paragraph 9.2 above, in cases where PARTIES agree in writing to a joint defense, PARTIES may appoint joint defense counsel to defend the claim, action, or proceeding arising out of the concurrent acts or omissions of PARTIES. Joint defense counsel shall be selected by mutual agreement of PARTIES. PARTIES agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as provided in section 9.4 below. PARTIES further agree that no PARTY may bind the others to a settlement agreement without the written consent of the others.

### **9.4 Reimbursement and/or Reallocation**

Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, PARTIES may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with such comparative fault.

## **10. GENERAL PROVISIONS**

### **10.1 Independent Contractor Status**

**10.1.1** In the performance of services under this Agreement, COUNTY and CITIES acknowledge and agree that COUNTY and its respective officers, agents and/or employees shall be deemed independent contractors and not officers,

agents or employees of CITIES; CITIES and their respective officers, agents and/or employees shall be deemed independent contractors and not officers, agents or employees of COUNTY. All such personnel provided by COUNTY under this Agreement are under the direct and exclusive supervision, daily direction, and control of COUNTY and COUNTY assumes full responsibility for the actions of such personnel in the performance of services hereunder; all such personnel provided by CITIES under this Agreement are under the direct and exclusive supervision, daily direction, and control of their respective agencies and each agency assumes full responsibility for the actions of such personnel in the performance of services hereunder.

**10.1.2** COUNTY and CITIES acknowledge and agree that COUNTY does not control the manner and means of performing the work of CITIES' officers, agents or employees who perform R3 program Operations, nor does COUNTY have the right to hire or fire such officers, agents or employees. CITIES do not control the manner and means of performing the work of COUNTY officers, agents or employees who perform R3 program Operations, nor do CITIES have the right to hire or fire such officers, agents or employees.

**10.1.3** COUNTY has no authority of any kind to bind CITIES, and CITIES have no authority to bind COUNTY in any respect whatsoever, nor shall COUNTY act or attempt to act, or represent itself directly or by implication as an agent of CITIES, or in any manner assume or create or attempt to assume or create any obligation on behalf of or in the name of CITIES. CITIES shall not act or attempt to act, or represent themselves directly or by implication as an agent of COUNTY, or in any manner assume or create or attempt to assume or create any obligation on behalf of or in the name of COUNTY.

**10.2 Notices**

Any notice, request, demand, or other communication required or permitted hereunder shall be in writing and may be personally delivered or given as of the date of mailing by depositing such notice in the United States mail, first-class postage prepaid and addressed as follows or, to such other place as each party may designate by subsequent written notice to each other:

To COUNTY and SHERIFF:

Sheriff  
San Diego County Sheriff's Department  
P. O. Box 939062  
San Diego, CA 92193

Chief Probation Officer  
Probation Department  
9444 Balboa Avenue, Ste. 500  
San Diego, CA 92123

#  
#  
#  
#

To non-County PARTIES:

Chief of Police  
Carlsbad Police Department  
2560 Orion Way  
Carlsbad, CA 92010

Chief of Police  
Chula Vista Police Department  
315 Fourth Avenue  
Chula Vista, CA 91910

Chief of Police  
Coronado Police Department  
700 Orange Avenue  
Coronado, CA 92118

Chief of Police  
El Cajon Police Department  
100 Civic Center Way  
El Cajon, CA 92020

Chief of Police  
Escondido Police Department  
1163 North Centre City Parkway  
Escondido, CA 92026

Chief of Police  
La Mesa Police Department  
8085 University Avenue  
La Mesa, CA 91942

Chief of Police  
National City Department  
1200 National City Boulevard  
National City, CA 91950

Chief of Police  
Oceanside Police Department  
3855 Mission Avenue  
Oceanside, CA 92058

Chief of Police  
San Diego Police Department  
1401 Broadway  
San Diego, CA 92101

A notice shall be effective on the date of personal delivery if personally delivered before 5:00p.m. on a business day or otherwise on the first business day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or on the first business day following delivery to the applicable overnight courier, if sent by overnight courier for next business day delivery and otherwise when actually received.

**10.3 Amendment**

This Agreement may be modified or amended only by a written document signed by the COUNTY through SHERIFF and the affected PARTY or PARTIES, and no oral understanding or agreement shall be binding on any PARTY or PARTIES.

**10.4 Entire Agreement**

This Agreement constitutes the complete and exclusive statement of agreement between the COUNTY and non-County PARTIES with respect to the subject matter hereto. As such, all prior written and oral understandings are superseded in total by this Agreement.

#  
#

**10.5 Construction**

This Agreement will be deemed to have been made and shall be construed, interpreted, governed, and enforced pursuant to and in accordance with the laws of the State of California. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand, or limit the terms of the Agreement and shall not be construed against any one PARTY.

**10.6 Waiver**

A waiver by COUNTY or non-County PARTIES of a breach of any of the covenants to be performed by COUNTY or non-County PARTIES shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, or conditions of this Agreement. In addition, the failure of any party to insist upon strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by COUNTY or non-County PARTIES of either performance or payment shall not be considered a waiver of PARTY's preceding breach of this Agreement.

**10.7 Authority to Enter Agreement**

COUNTY and non-County PARTIES have all requisite power and authority to conduct their respective business and to execute, deliver, and perform the Agreement. Each PARTY warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective PARTY.

**10.8 Cooperation**

COUNTY through SHERIFF and non-County PARTIES will cooperate in good faith to implement this Agreement.

**10.9 Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. COUNTY through SHERIFF will provide each non-County PARTY with a copy of this Agreement once fully executed.

**10.10 Severability**

This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any Court or other legal authority, or is agreed upon by the PARTIES, to be in conflict with any law or regulation, then the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of this Agreement to any PARTY is lost, then the Agreement may be terminated at the option of the affected PARTY, with the notice as required in this Agreement. In all other cases, the remainder of this Agreement shall be severable and shall continue in full force and effect.

#

**10.11 Representation**

Each PARTIES' Chief, or their respective designee, shall represent their agency in all discussions pertaining to this Agreement. SHERIFF, or his or her designee, shall represent SHERIFF in all discussions pertaining to this Agreement.

**10.12 Dispute Resolution Concerning Services and Payment**

In the event of any dispute concerning services and payment arising from this Agreement, the SHERIFF, or his or her designee, and PARTIES' Chief of Police, or his or her respective designee, will meet and confer within ten (10) business days after receiving notice of the dispute to resolve the dispute.

**10.13 Termination of Funding**

In the event that funding for reimbursement of costs related to R3 program Operations is terminated, this Agreement in its entirety shall be considered null and void and PARTIES shall no longer be required to provide R3 program Operations as described herein. In such event, COUNTY through SHERIFF shall notify all PARTIES in writing and all PARTIES shall meet immediately, and if agreed upon by the PARTIES, mutually develop and implement within a reasonable time frame, a transition plan for the provision of R3 program Operations through alternate means.

**10.14 Obligation**

This Agreement shall be binding upon the successors of the PARTIES.

**10.15 California Law**

This Agreement is executed and delivered within the State of California and the rights and obligations of the PARTIES hereto shall be construed and enforced in accordance with, and governed by the laws of the State of California.

IN WITNESS WHEREOF, the PARTIES hereto approve and agree to the terms of this Agreement, such Agreement being effective July 1, 2017 and executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**COUNTY OF SAN DIEGO  
SHERIFF'S DEPARTMENT**

\_\_\_\_\_  
William D. Gore  
Sheriff

**CARLSBAD POLICE DEPARTMENT**

\_\_\_\_\_  
Neil Gallucci  
Chief

**COUNTY OF SAN DIEGO  
PROBATION DEPARTMENT**

\_\_\_\_\_  
Adolfo Gonzales  
Chief

**CHULA VISTA POLICE DEPARTMENT**

\_\_\_\_\_  
Roxana Kennedy  
Chief

#



RESOLUTION NO. 2018 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE CHIEF OF POLICE TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE COUNTY OF SAN DIEGO (SAN DIEGO SHERIFF'S DEPARTMENT AND PROBATION DEPARTMENT) AND MUNICIPAL LAW ENFORCEMENT AGENCIES THROUGHOUT THE COUNTY FOR PROGRAM SUPPORT OF THE REGIONAL REALIGNMENT RESPONSE GROUP (R3), FOR THE PROGRAM PERIOD RETROACTIVE FROM JULY 1, 2017 TO JUNE 30, 2022, AND AUTHORIZING THE ACCEPTANCE OF THE GRANT FUNDS, AND THE ESTABLISHMENT OF AN APPROPRIATION AND CORRESPONDING REVENUE BUDGET FOR THE R3 GRANT IN THE AMOUNT OF \$45,000

WHEREAS, as part of the State of California Realignment (AB 109), San Diego County, through the Sheriff's Department, requested funds from the Community Corrections Partnership ("CCP") to create a Regional Realignment Response Group ("R3"); and

WHEREAS, on January 21, 2014, the City Council adopted Resolution No. 2014-03, entering into a Memorandum of Understanding with the County of San Diego for program support of R3; and

WHEREAS, R3 currently consists of the County of San Diego Sheriff's Department and Probation Department (together referred to as "County") and the cities of Carlsbad, Chula Vista, Coronado, El Cajon, Escondido, La Mesa, and National City (the "Parties"); and

WHEREAS, San Diego County, through the Sheriff's Department, received funds from the State of California Local Revenue 2011, Community Corrections Subaccount to continue the R3 program retroactive from July 1, 2017 through June 30, 2022; and

WHEREAS, the funds shall be used to support R3 and its primary goal of public safety by developing and implementing a targeted, proactive, intelligence-based approach to control and counteract the risks associated with realigned offenders and Post Release Community Supervision Offenders released into San Diego County; and

WHEREAS, as part of this Agreement, the National City Police Department is expected to receive approximately \$45,000 to conduct compliance and enforcement operations of violators.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes the Chief of Police to execute the Memorandum of Agreement with the County of San Diego (San Diego Sheriff's Department and Probation Department) to continue program support of the Regional Realignment Response Group (R3).

BE IT FURTHER RESOLVED that the City Council authorizes the acceptance of grant funds in the approximate amount of \$45,000 to continue R3's primary goal of public safety to develop and implement a targeted, proactive, intelligence-based approach to control and counteract the risks associated with realigned offenders and Post Release Community Supervision Offenders released into San Diego County retroactive from July 1, 2017 through June 30, 2022.

Resolution No. 2018 –  
Page Two

BE IT FURTHER RESOLVED that the City Council hereby authorizes the establishment of an appropriation and corresponding revenue budget for the R3 Grant in the amount of \$45,000.

PASSED and ADOPTED this 17th day of April, 2018.

ATTEST:

\_\_\_\_\_  
Ron Morrison, Mayor

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney



RESOLUTION NO. 2019 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE ACCEPTANCE OF AN ADDITIONAL \$20,000 IN THE REGIONAL REALIGNMENT RESPONSE GROUP (R3G) GRANT FUNDS FROM THE SAN DIEGO SHERIFF'S DEPARTMENT TO OFF-SET OVERTIME COST FOR THE FISCAL YEAR

WHEREAS, as part of the State of California Realignment (AB 109), San Diego County, through the Sherriff's Department, requested funds from the Community Corrections Partnership ("CCP") to create a Regional Realignment Response Group ("R3G"); and

WHEREAS, the funds shall be used to support R3G and its primary goal of public safety by developing and implementing a targeted, proactive, intelligence-based approach to control and counteract the risks associated with realigned offenders and Post Release Community Supervision Offenders released into San Diego County; and

WHEREAS, on January 21, 2014, the City Council adopted Resolution No. 2014-03, entering into a Memorandum of Understanding with the County of San Diego in the amount of \$31,539 for program support of R3G and its primary goal of public safety; and

WHEREAS, San Diego County, through the Sherriff's Department, received funds from the State of California Local Revenue 2011, Community Corrections Subaccount to continue the R3G program from July 1, 2016 through December 31, 2017; and

WHEREAS, on September 6, 2016, the City Council adopted Resolution No. 2016-03, authorizing the Chief of Police to enter into a Memorandum of Understanding with the County of San Diego and municipal law enforcement agencies throughout the County for program support of R3G in the amount of \$ 45,000 for program support of R3G and its primary goal of public safety; and

WHEREAS, staff is requesting City Council authorize the Chief of Police to enter into the Memorandum of Agreement with the County of San Diego and Municipal law enforcement agencies for program support of the R3G for agreement period July 1, 2017 to June 30, 2022 resulting in a reimbursement of \$45,000 to the City of National City.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the acceptance of an additional \$20,000 in the Regional Realignment Response Group (R3G) grant funds from the San Diego Sheriff's Department to off-set overtime cost for the fiscal year.

PASSED and ADOPTED this 7th day of May, 2019

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones, City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City initiating proceedings for the levy and collection of assessments for Landscape Maintenance District No. 1 \(Mile of Cars\) for Fiscal Year 2019/20. \(Planning\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Resolution of the City Council of the City of National City initiating proceedings for the levy and collection of assessments for Landscape Maintenance District No. 1 (Mile of Cars) for Fiscal Year 2019/20.

**PREPARED BY:** Raymond Pe, Principal Planner

**DEPARTMENT:** Planning

**PHONE:** 336-4421

**APPROVED BY:** 

**EXPLANATION:**

The City formed the Mile of Cars Landscape Maintenance District No. 1 in 1995 to provide for the maintenance, operations, and servicing of certain improvements in the District, including landscaping, signage, and lighting. Each year, the City Council considers the adoption of resolutions to allow the District to continue operating with funding through a special tax levy on properties within the District.

The resolution would initiate proceedings for the District for Fiscal Year 2019/20. The Mile of Cars Association has approved the scope of work, the proposed assessment, and the District budget based on the Engineer's Report, an annual report that identifies the assessment to be levied and the work program to be conducted by the Mile of Cars Landscape Maintenance District. There are no changes or additions to the maintained improvements for the coming fiscal year. The proposed total assessment of \$151,223.17 is an increase of approximately 2.32 percent above the prior year total assessment. The City's consultant and City administrative costs are paid from the District's assessment funds.

**FINANCIAL STATEMENT:** Not applicable.

**APPROVED:** \_\_\_\_\_ **Finance**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

This action is not subject to the California Environmental Quality Act since it is not a project as defined in the California Code of Regulations, Section 15378.

**ORDINANCE:** INTRODUCTION:

**FINAL ADOPTION:**

**STAFF RECOMMENDATION:**

Adopt the resolution to initiate proceedings.

**BOARD / COMMISSION RECOMMENDATION:**

Not applicable.

**ATTACHMENTS:**

1. Resolution.

RESOLUTION NO. 2019 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS  
FOR LANDSCAPE MAINTENANCE DISTRICT NO. 1 (MILE OF CARS)  
FOR FISCAL YEAR 2019/20

WHEREAS, the City Council previously completed its proceedings in accordance with and pursuant to the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the "Act") to establish the City's Landscape Maintenance District No. 1 (Mile of Cars) (the "Assessment District"); and

WHEREAS, the City has retained a consultant for the purpose of assisting with the annual levy of the Assessment District, and to prepare and file an Annual Report.

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED by the City Council of the City of National City, as follows:

1. Annual Report: The consultant has prepared and filed with the City Clerk the Engineer's Report concerning the levy and collection of assessments within the Assessment District for the fiscal year commencing July 1, 2019 and ending June 30, 2020.
2. New Improvements or Changes to Existing Improvements: There are no changes to existing improvements nor are there any items being added to the list of improvements previously approved at the formation of the Assessment District.

PASSED AND ADOPTED this 7<sup>th</sup> day of May, 2019.

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil Morris-Jones, City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving the Engineer's Report for Landscape Maintenance District No. 1 \(Mile of Cars\) for Fiscal Year 2019/20. \(Planning\)](#)

Please scroll down to view the backup material.



**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Resolution of the City Council of the City of National City approving the Engineer's Report for Landscape Maintenance District No. 1 (Mile of Cars) for Fiscal Year 2019/20.

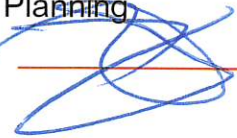
**PREPARED BY:** Raymond Pe, Principal Planner



**DEPARTMENT:** Planning

**PHONE:** 336-4421 |

**APPROVED BY:** \_\_\_\_\_



**EXPLANATION:**

The City formed the Mile of Cars Landscape Maintenance District No. 1 in 1995 to provide for the maintenance, operations, and servicing of certain improvements in the District, including landscaping, signage, and lighting. Each year, the City Council considers the adoption of resolutions to allow the District to continue operating with funding through a special tax levy on properties within the District.

The resolution would approve the Engineer's Report, an annual report that identifies the assessment to be levied and the work program to be conducted by the Mile of Cars Landscape Maintenance District. The Mile of Cars Association has approved the scope of work, the proposed assessment, and the District budget. There are no changes or additions to the maintained improvements for the coming fiscal year. The proposed total assessment of \$151,223.17 is an increase of approximately 2.32 percent above the prior year total assessment. The City's consultant and City administrative costs are paid from the District's assessment funds.

**FINANCIAL STATEMENT:** Not applicable.

**APPROVED:** \_\_\_\_\_ **Finance**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

This action is not subject to the California Environmental Quality Act since it is not a project as defined in the California Code of Regulations, Section 15378.

**ORDINANCE:**  **INTRODUCTION:**  **FINAL ADOPTION:**

**STAFF RECOMMENDATION:**

Adopt the resolution approving the Engineer's Report. |

**BOARD / COMMISSION RECOMMENDATION:**

Not applicable.

**ATTACHMENTS:**

1. Resolution.
2. Engineer's Report.

# CITY OF NATIONAL CITY

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*Fiscal Year 2019/20 Engineer's Report For:*

## **Landscape Maintenance District No. 1 (Mile of Cars)**

**May 2019**

Prepared by:



Corporate Headquarters  
32605 Temecula Parkway, Suite 100  
Temecula, CA 92592  
Toll free: 800-676-3546

# **CITY OF NATIONAL CITY LANDSCAPE MAINTENANCE DISTRICT NO. 1 (MILE OF CARS)**

**1243 National City Boulevard  
National City, CA 91950  
Phone - (619) 336-4241  
Fax - (619) 336-4239**

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## **CITY COUNCIL**

Alejandra Sotelo-Solis, Mayor

Ron Morrison, Vice Mayor

Jerry Cano, Councilmember

Gonzalo Quintero, Councilmember

Mona Rios, Councilmember

## **CITY STAFF**

Stephen Manganiello, Acting City Manager

Brad Raulston, Deputy City Manager

Raymond Pe, Principal Planner

## **DISTRICT STAFF**

Leslie Larranaga-Britt, Executive Director

## **NBS**

Pablo Perez, Project Director

John Egan, Assessment Engineer

Manuel R. Kauss, Financial & GIS Analyst



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# 1. ENGINEER'S LETTER

**WHEREAS**, the City Council of the City of National City (the "City"), State of California, directed NBS to prepare and file a report presenting plans and specifications describing the general nature, location and extent of the improvements to be maintained, an estimate of the costs of the maintenance, operations and servicing of the improvements for the City's Landscape Maintenance District No. 1 (Mile of Cars) (the "District") for Fiscal Year 2019/20. The report includes a diagram for the District, showing the area and properties proposed to be assessed, an assessment of the estimated costs of the maintenance, operations and servicing the improvements, and the net amount upon all assessable lots and/or parcels within the District in proportion to the special benefit received and

**WHEREAS**, the assessment for each parcel is in compliance with the Proposition 218 Omnibus Implementation Act and Section 4 of Article XIII D of the California Constitution. The Fiscal Year 2019/20 assessment is not proposed to increase by more than the 10% annual increase approved at formation of the District over the Fiscal Year 2018/19 maximum assessment.

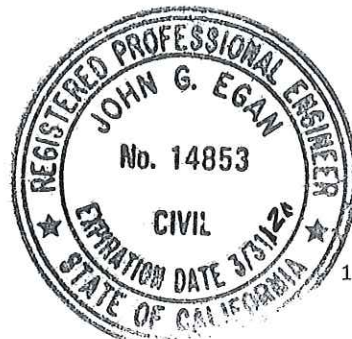
**NOW THEREFORE**, only special benefits are assessed and any general benefits have been separated from the special benefits for purposes of this report. The following assessment is made to cover the portion of the estimated costs of maintenance, operation and servicing of said improvements to be paid by the assessable real property within the District in proportion to the special benefit received:

Summary of Assessment	Fiscal Year 2019/20 Amounts
Annual Budget	\$165,130.40
(Less) General Benefit Contribution by City	(13,907.23)
(Less) Rounding Adjustment <sup>(1)</sup>	(0.41)
<b>Annual Assessment</b>	<b>\$151,222.76</b>

*(1) Adjustment made to select parcels since amounts placed on the tax roll must be rounded down to even cents.*

I, the undersigned, respectfully submit the enclosed Engineer's Report and, to the best of my knowledge, information and belief, the assessments herein have been prepared and computed in accordance with the assessment methodology adopted and approved by the City Council at the time of District formation.

  
 John Egan, Assessment Engineer



## 2. OVERVIEW

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### 2.1 Introduction

The City formed the District in 1995 to provide maintenance services to benefit certain parcels in the City. The levies are made pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highway Code (the “Act”).

The City designated the Mile of Cars Association as the entity that maintains and administers the improvements and services funded by the District. The Engineer’s Report (the “Report”) describes the District and the annual assessment per parcel for Fiscal Year 2019/20, which is based on the historical and estimated costs to maintain the improvements and provide the services that benefit parcels within the District.

The word “parcel,” for the purposes of this Report, refers to an individual property assigned its own Assessor’s Parcel Number by the San Diego County Assessor’s Office. The San Diego County Auditor-Controller uses Assessor’s Parcel Numbers and specific Fund Numbers to identify on the tax roll, properties assessed for special district benefit assessments.

Following consideration of public comments at a noticed public hearing, and following review of the Report, the City Council may confirm the Report as submitted, and may order the levy and collection of assessments for Fiscal Year 2019/20. If approved, the assessment information shall be submitted to the County Auditor-Controller, and included on the property tax roll for each benefiting parcel for Fiscal Year 2019/20.

### 2.2 Description of the District Boundaries

The District’s improvements are generally located along National City Boulevard and bounded by 18th Street to the north and 33rd Street and State Route 54 (SR 54) to the south.

### 2.3 Description of Improvements

A general description of the improvements to be maintained under these proceedings is described as follows, but, shall not be limited to:

1. Median Improvements
  - Landscape planting and irrigation
  - Colored concrete hardscape
  - Lighting system
  - Graphic panels, banners and signage
  - Painted crosswalks
  - Identification sign at 23rd Street and McKinley Avenue

## 2. Frontage Improvements

- ▮ Improvements to parkways on both sides of National City Boulevard between 18th Street and 33rd Street
- ▮ Landscape planting and irrigation
- ▮ Colored concrete sidewalks and mow curbs
- ▮ Street furniture

### 2.4 Description of Maintenance

The maintenance of the improvements shall include the furnishing of services and materials for the ordinary and usual maintenance and servicing of the improvements, including but shall not be limited to:

#### 1. General Plant Maintenance

- ▮ Mowing, trimming, pruning and weeding
- ▮ Watering, including water usage
- ▮ Fertilizing
- ▮ Plant replacement
- ▮ Periodic skinning of palm trees

#### 2. Maintenance of Irrigation System

- ▮ Adjustment of timers
- ▮ Repair/replacement of worn-out, stolen or malfunctioning equipment

#### 3. Periodic restriping of decorative crosswalks

#### 4. Periodic repainting of metal benches and trash receptacles

#### 5. Periodic repainting and repair of light poles, graphic panels, signage and other miscellaneous equipment

#### 6. Maintenance of electrical system

- ▮ Bulb replacement
- ▮ Repair/replacement of worn out or malfunctioning equipment
- ▮ Electrical energy charges

#### 7. Litter removal

#### 8. Trash pick-up

#### 9. Other repairs of damage caused by vandalism and/or traffic accidents

### 3. ESTIMATE OF COSTS

#### 3.1 District Budget

The cost of servicing, maintaining, repairing and replacing the improvements as described in the Description of Maintenance are summarized in the table below. Estimated expenditures are shown along with the incidental expenses to be funded by the District.

The following table summarizes the components that make up the Fiscal Year 2019/20 estimate of costs for the District:

Description	Median Improvements	Frontage Improvements	Total
<b><u>Maintenance Costs</u></b>			
1. Lawn planting care	\$0.00	\$42,678.29	\$42,678.29
2. Median planting care	21,863.06	0.00	21,863.06
3. Palm tree maintenance	5,982.50	5,982.50	11,965.00
4. Water usage	13,836.67	13,836.67	27,673.34
5. Refurbishment of graphic panels	20,000.00	0.00	20,000.00
6. General maintenance of electrical system/lights	3,046.11	0.00	3,046.11
7. Electrical usage	15,000.00	0.00	15,000.00
8. Refurbishment of decorative crosswalks	250.00	250.00	500.00
9. Reserves	<u>250.00</u>	<u>250.00</u>	<u>500.00</u>
<b>Total Cost of Annual Maintenance:</b>	<b>\$80,228.34</b>	<b>\$62,997.46</b>	<b>\$143,225.80</b>
<b><u>Incidental Expenses</u></b>			
A. Administration	\$3,000.00	\$3,000.00	\$6,000.00
B. Other contractual obligations <sup>(1)</sup>	4,950.00	4,950.00	9,900.00
C. Engineering	0.00	0.00	0.00
D. City expenses	2,750.00	2,750.00	5,500.00
E. Consultant fees	250.00	250.00	500.00
F. County collection fees	<u>2.30</u>	<u>2.30</u>	<u>4.60</u>
<b>Total Incidentals:</b>	<b>\$10,952.30</b>	<b>\$10,952.30</b>	<b>\$21,904.60</b>
<b>Total Estimated Annual Cost:</b>	<b>\$91,180.64</b>	<b>\$73,949.76</b>	<b>\$165,130.40</b>
<b>(Less) General Benefit Contribution<sup>(2)</sup>:</b>	<b><u>(\$7,679.20)</u></b>	<b><u>(\$6,228.03)</u></b>	<b><u>(\$13,907.23)</u></b>
<b>TOTAL ANNUAL ASSESSMENT<sup>(3)</sup>:</b>	<b>\$83,501.44</b>	<b>\$67,721.73</b>	<b>\$151,223.17</b>

(1) Includes legal, accounting and advertising.

(2) General benefit contribution will be funded from other sources and is not being paid from annual assessments.

(3) Does not include installment rounding of (\$0.41).

#### 3.2 Reserves

The City may establish and collect reserve funds for the District in order to pay for the maintenance and servicing of the improvements prior to December 10 of the fiscal year, or whenever the City expects to receive its apportionment of special assessments and tax collections from the County, whichever is later.

The fund may be allowed to accumulate in anticipation of any unforeseen expenses not included in the yearly maintenance costs.

The following table details the current and projected reserve balances:

<b>Reserve Balance 12/31/2018</b>	<b>Reserve Collection/Reduction FY 2019/20</b>	<b>Reserve 6/30/2020 Projection</b>
\$54,883.00	\$500.00	\$55,383.00

## 4. ASSESSMENT DIAGRAM

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The Assessment Diagram sets forth (a) the exterior boundaries of the District and (b) the lines of each lot or parcel of land within the District. The Assessment Diagram further identifies each lot or parcel by a distinctive number or letter. For a detailed description of the lines and dimensions of any lot or parcel, reference is made to the County Assessor's Map applicable for the next fiscal year, which map shall govern for all details concerning the lines and dimensions of such lots or parcels. The following pages provide a copy of the Amended Assessment Diagram for the District.

AMENDED ASSESSMENT DIAGRAM OF  
LANDSCAPE MAINTENANCE DISTRICT NO. 1 (MILE OF CARS)  
CITY OF NATIONAL CITY  
COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF NATIONAL CITY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1996.

CITY CLERK  
CITY OF NATIONAL CITY  
STATE OF CALIFORNIA

RECORDED IN THE OFFICE OF THE SUPERINTENDENT OF STREETS OF THE CITY OF NATIONAL CITY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1996.

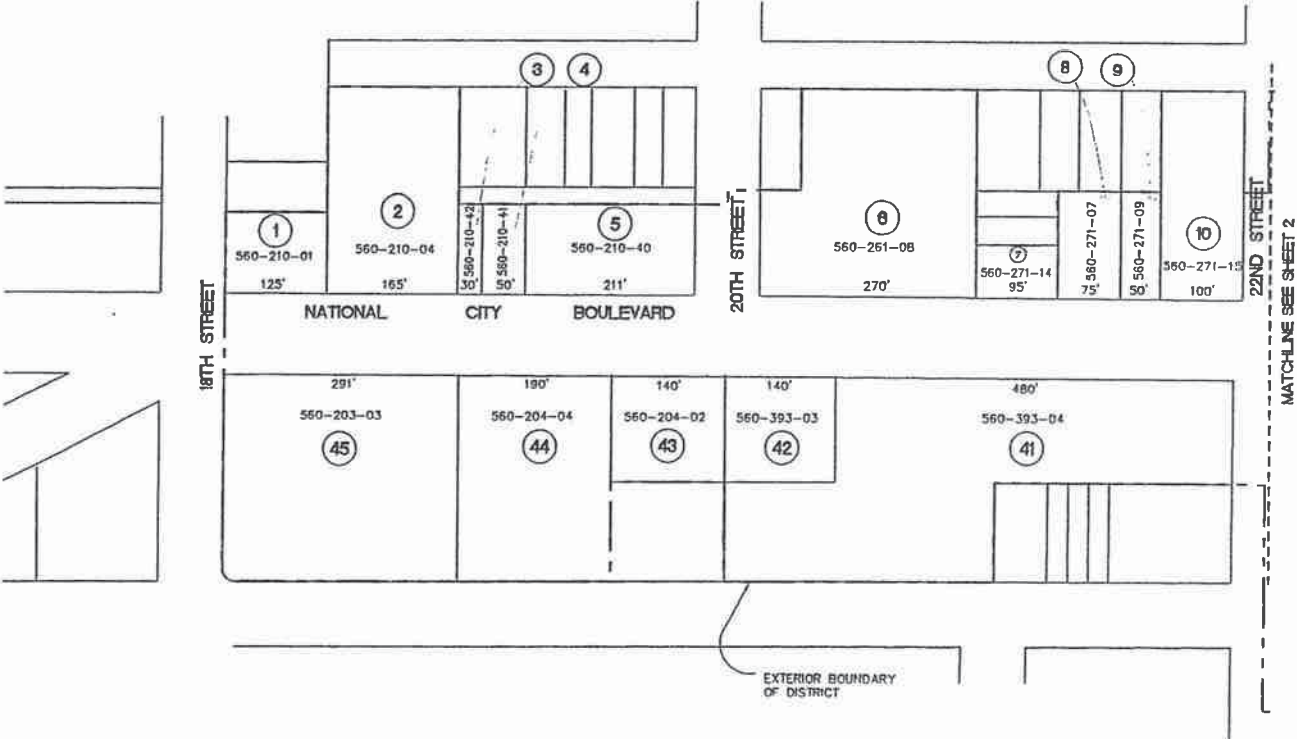
SUPERINTENDENT OF STREETS  
CITY OF NATIONAL CITY  
STATE OF CALIFORNIA

AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL ON THE LOTS, PIECES, AND PARCELS OF LAND SHOWN ON THIS ASSESSMENT DIAGRAM. SAID ASSESSMENT WAS LEVIED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 1996; SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL WERE RECORDED IN THE OFFICE OF THE SUPERINTENDENT OF STREETS OF SAID CITY ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 1996. REFERENCE IS MADE TO THE ASSESSMENT ROLL RECORDED IN THE OFFICE OF THE SUPERINTENDENT OF STREETS FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND SHOWN ON THIS ASSESSMENT DIAGRAM.

CITY CLERK  
CITY OF NATIONAL CITY  
STATE OF CALIFORNIA

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1996, AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN BOOK \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN DIEGO, CALIFORNIA.

COUNTY RECORDER  
COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA



REVISED 8-1-96  
REVISED 6-11-97  
REVISED 6-19-02  
REVISED 6-09-03  
REVISED 5-26-04



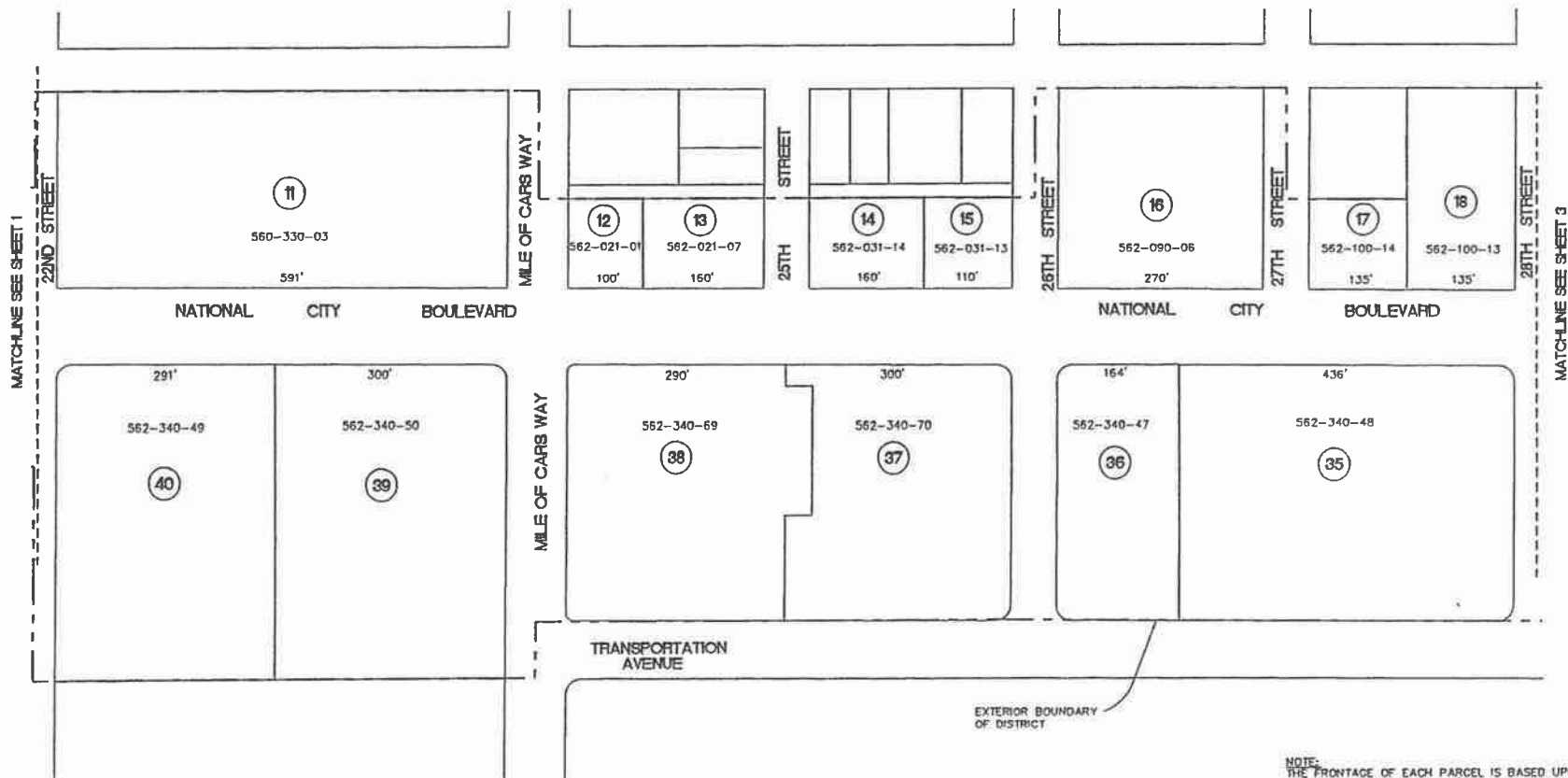
NOTE:  
THE FRONTAGE OF EACH PARCEL IS BASED UPON CURRENT COUNTY ASSESSOR'S MAPS AND SHOWN HEREDON TO THE NEAREST FOOT. REFER TO ASSESSOR'S PARCEL MAPS FOR PROPERTY DIMENSIONS NOT SHOWN.

**NASLAND ENGINEERING**  
CIVIL ENGINEERING • SURVEYING • LAND PLANNING  
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AMENDED ASSESSMENT DIAGRAM OF  
LANDSCAPE MAINTENANCE DISTRICT NO. 1 (MILE OF CARS)

CITY OF NATIONAL CITY  
COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA



NOTE:  
THE FRONTAGE OF EACH PARCEL IS BASED UPON  
CURRENT COUNTY ASSESSOR'S MAPS AND SHOWN  
HEREON TO THE NEAREST FOOT. REFER TO ASSESSOR'S  
PARCEL MAPS FOR PROPERTY DIMENSIONS NOT SHOWN.

REVISED 8-1-96  
REVISED 6-11-97  
REVISED 6-19-02  
REVISED 6-09-03  
REVISED 5-26-04



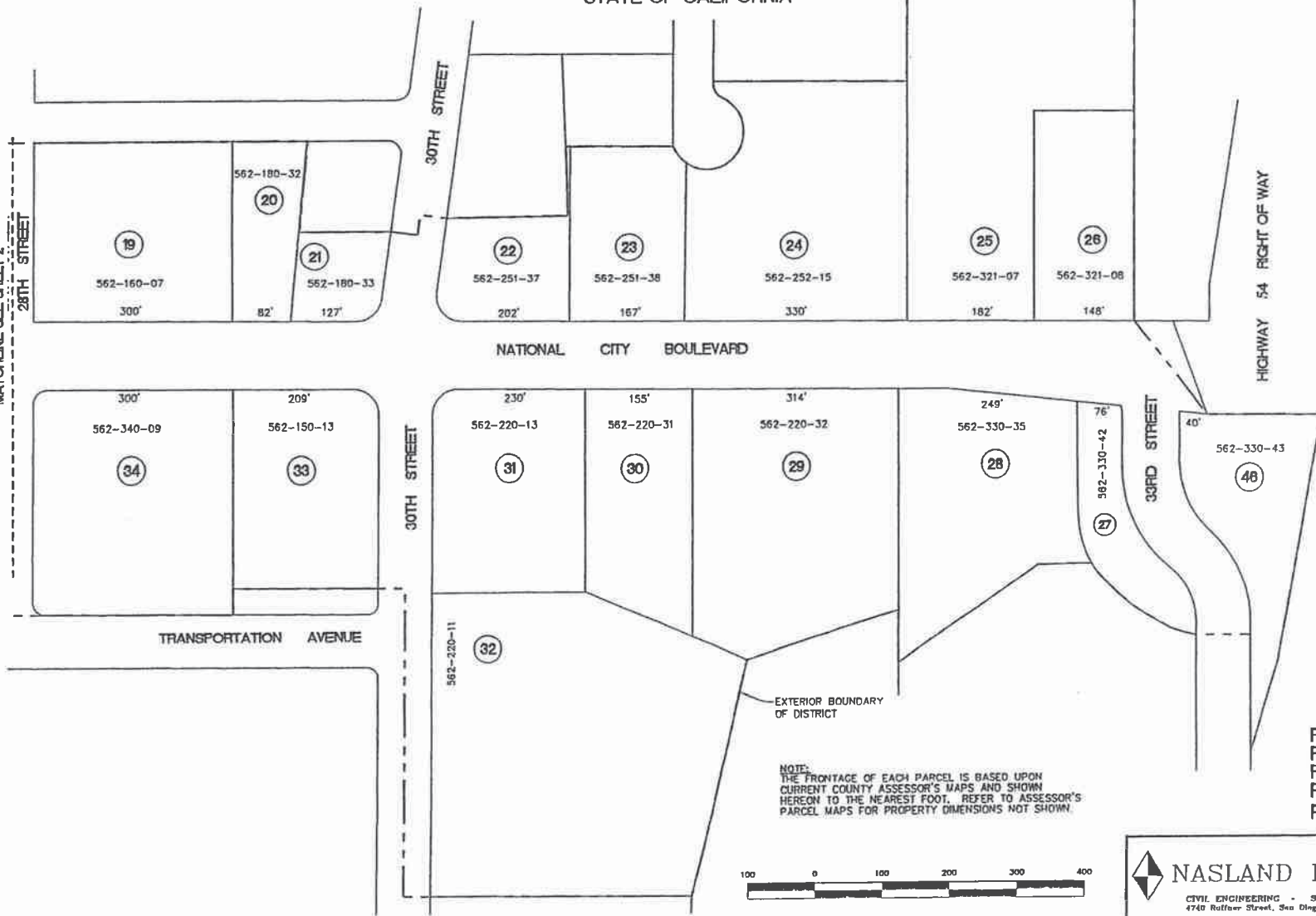
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### AMENDED ASSESSMENT DIAGRAM OF LANDSCAPE MAINTENANCE DISTRICT NO. 1 (MILE OF CARS)

CITY OF NATIONAL CITY  
COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA



MATCHLINE SEE SHEET 2  
28TH STREET



REVISED 8-1-96  
REVISED 6-11-97  
REVISED 6-19-02  
REVISED 6-09-03  
REVISED 5-26-04

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## 5. ASSESSMENTS

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The actual assessments for Fiscal Year 2019/20, apportioned to each parcel as shown on the latest equalized roll at the County Assessor’s office, are listed and submitted at the end of this section. The description of each lot or parcel is part of the records of the County Assessor of the County of San Diego and such records are, by reference, made part of this Report.

### 5.1 Method of Apportionment

The law requires and the statutes provide that assessments, as levied pursuant to the provisions of the Act, must be based on the benefit that the properties receive from the improvements to be maintained. The statute does not specify the method or formula that should be used in any special assessment district proceedings. The responsibility rests with the Assessment Engineer, who is appointed for the purpose of making an analysis of the facts and determining the correct apportionment of the assessment obligation.

#### 5.1.1 IDENTIFY THE BENEFIT

First, it is necessary to identify the benefit that the improvements to be maintained will render to the properties within the boundaries of the District. The improvements significantly improve the visual appearance of the streetscape, making the Mile of Cars a more enjoyable and desirable location for customers. The special signage and lighting provide a unifying theme, benefiting all of the properties within the District.

The District’s improvements and services provide benefits to both those properties within the District boundaries and to the community. The benefit conferred to property within the District will be referred to as an “aesthetic benefit.” The aesthetic benefit provided by the district improvements and services are supported by the City’s General Plan (the “Plan”) and the Citywide Goals and Policies regarding Land Use and Community Character for its districts. The Plan states a desire to, “have the community character integrated and to ensure that physical forms, patterns, and aesthetic features advance the City’s desire for a higher quality of life.” The aesthetic benefits provided by the improvements and services support the following City policies outlined in the Plan:

- ▮ Policy LU-5.3: Recognize the diverse needs of the City’s business districts through the development of policies, design guidelines, and implementation measures specific to the unique requirements of each district.
- ▮ Policy LU-5.4: Allow for adaptive reuse of vacant car dealerships and the establishment of new compatible uses along the Mile of Cars.
- ▮ Policy LU-5.9: Encourage members of the business community to participate in implementing actions to improve business districts.
- ▮ Policy LU-5.10: Assist the business community in evaluating the City’s marketing and development potential and in identifying development strategies that are beneficial to the public and private sectors.
- ▮ Policy LU-9.1: Design developments along mixed-use and “community corridors” for the comfort and enjoyment of pedestrians and bicyclists. This includes features such as street trees, placing buildings close to the street, de-emphasizing parking lots and garages, limited driveway cuts,

traffic-calming features, clearly defined street crossings, adequate lighting, and street furnishings where appropriate.

- ▮ Policy LU-9.4: Encourage an overall high-quality streetscape design, where feasible, that promotes narrow roadways, bike lanes; on-street parking, minimal curb cuts; enhanced crosswalks; appropriate sidewalk widths, landscaped medians and parkways; street trees, planters, and wells; street lighting; street furniture; way finding; enhanced paving; public art; and other features that contribute to the desired character for the City, where appropriate.
- ▮ Policy LU-11.2: Identify gateways at major entrances to the City using such features as buildings, street trees, welcome signs, decorative lighting, archways, and other design techniques to announce the gateway.
- ▮ Policy LU-11.4: Recognize, maintain, and enhance the character and identity of residential neighborhoods and business districts.
- ▮ Policy LU-11.7: Encourage residential and businesses to clean and maintain their properties and public spaces to further a sense of ownership and community pride.
- ▮ Policy LU-11.8: Require the sensitive placement, screening, and/or treatment of utility meters, boxes, valves, vaults, switches, plumbing, wiring, fences, etc. to eliminate or minimize the aesthetic impact to the neighborhood.
- ▮ Policy LU-11.9: Encourage the improvement of existing signage to help promote a more attractive street scene in business districts.

The Plan states these policies are important because a positive community image and quality community design instills a sense of pride and well-being in the community. The aesthetic benefit attained as a result of the services and improvements provided by the District is detailed below.

### 5.1.2 AESTHETIC BENEFIT

The aesthetic benefit relates to an improvement in the District's visual appearance as a result of the District improvements and services. The beautification of property within the District can best be described as the ability for the property within the District to develop and operate at the property's highest and best use. Properties within the District receive the following aesthetic benefits as a result of the District's improvements and services:

- ▮ Uniform and up-to-date streetscape and median and frontage improvements create cohesion throughout the District from 18th Street to SR 54. This District cohesion enhances the experience for all stakeholders.
- ▮ The improvements and services enhance the community identity of the Mile of Cars area, which will lead to a stronger and healthier street corridor. The image of the Mile of Cars area is improved by maintaining the median and frontage improvements.
- ▮ The District revitalizes and beautifies the Mile of Cars area. This revitalization encourages new business development and existing business retention and expansion which overall reduces vacancies and increases lease rates for property, more specifically, the auto dealerships located within the District.
- ▮ The streetscape improvements encourage an increase in activity throughout the District. The Mile of Cars area becomes more pedestrian-friendly, thus improving activity for residents and businesses alike.

- iv Upgraded median and frontage amenities provided by the District enhance the appearance, desirability, and experience of the properties directly fronting the improvements provided throughout the District.

The streetscape improvements add aesthetic value to property adjacent to the improvements, but the improvements also make the property appear more stable and prosperous. The aesthetic benefit received by properties within the District assists each property in developing and operating at its highest and best use.

### 5.1.3 SEPARATION OF GENERAL BENEFIT

Section 4 of Article XIID of the California Constitution provides that once a local agency which proposes to impose assessments on property has identified those parcels that will have special benefits conferred upon them and upon which an assessment will be imposed, the local agency must then “separate the general benefits from the special benefits conferred,” and only the special benefits can be included in the amount of the assessments imposed.

General benefit is an overall and similar benefit to the public at large resulting from the improvements and services to be provided. The District improvements and maintenance services, which are more fully presented in Section 2 of this Report, will be provided within the District boundaries only. There will be no improvements or maintenance services provided by the District outside of the District boundaries.

The District provides aesthetic benefits to the properties within the District. However, it is recognized that the District also provides a level of benefit to some property and businesses within close proximity to the District, as well as visitors and individuals passing through the District. Vehicular and pedestrian traffic from property within and outside of the District, as well as individuals passing through the Mile of Cars area will be able to enjoy the improvements and maintenance services. Therefore, it is necessary to quantify the general benefits created as a result of the District improvements and services.

### 5.1.4 QUANTIFICATION OF GENERAL BENEFIT

As previously mentioned, general benefit is an overall and similar benefit to the public at large resulting from the improvements and services which are funded by the assessment revenue. The District improvements and maintenance services will be provided within the District boundaries only. There will be no improvements or maintenance services provided by the District outside of the District boundaries.

General benefits accrue to individuals “walking through” the District and to vehicles “passing through” the District. Individuals walking through the District are typically people who live in close proximity and whose origin or destination neither begins with nor ends at a parcel within the District. Any walking that begins with or ends at a parcel within the District are considered part of the special benefit for those parcels within the boundaries of the District.

Vehicles passing through the District are those vehicles whose origin or destination neither begins with nor ends at a parcel within the District. Any vehicle trips that begin with or end at a parcel within the District are considered part of the special benefit for those parcels within the boundaries of the District. For the purposes of this analysis, it was determined that the general benefit quantification should be focused on vehicle trips passing through the District because National City Boulevard is a major thoroughfare which connects and provides access to SR 54.

To quantify and separate the amount of general benefit received by the general population as a result of the improvements and services provided by the assessment revenue, it has been determined that general benefits accrue mainly to vehicles “passing through” the District. Meaning, any vehicle using the City’s streets that lie within the boundaries of the District that is coming or going to a parcel within the District ultimately is not part of the “general public” benefitting from the proposed improvements and services. Accordingly, the separation of general benefits from special benefits will be measured by that estimated portion of vehicle trips “passing through” the District.

In order to determine the estimated portion of the vehicle trips “passing through” the District, trip generation data was collected for each parcel within the boundaries of the District using San Diego County assigned land use codes and property characteristics. Each land use code was categorized and located in the ITE Trip Generation Manuals – 2nd Edition. Using the property characteristics and data gathered from the ITE Trip Generation Manuals, the estimated amount of Average Daily Trips (ADT) was calculated for each parcel within the boundaries of the District. The ADT were then added together for each parcel within the boundaries of the District to arrive at a total amount of vehicle trips generated by the District, which equaled 13,385 ADT.

The total average vehicle trips were then compared to the average vehicle trip generation data detailed in the City of National City Comprehensive Land Use Update (Transportation and Circulation) for the streets running through the District, which equaled 14,825 ADT. The comparison concluded that 90.29% of all vehicle trips passing through the District were coming or going to a parcel within the boundaries of the District, hence 90.29% of all vehicle trips passing through the District are designated as benefiting from the special benefits provided by the District. As a result, 9.71% of all vehicle trips passing through the District are general in nature and hence, do not receive any special benefit from the District.

Therefore, 9.71% of the benefits of the services are considered general benefit. Accordingly, 90.29% of the benefit from the improvements and services are considered to provide special benefit to the properties within the District and thus are subject to the assessment.

#### **5.1.5 APPORTIONMENT OF COSTS**

In further making the analysis, it is necessary that the property owners receive a special and direct benefit distinguished from that of the general public. In this case, an in-depth analysis was performed and several factors are being used in the final method and spread of assessment.

All of the improvements are intended to be of direct benefit to properties within the District. These improvements require significantly more maintenance than normally provided by the City. It is therefore appropriate that the properties receiving the benefit be assessed for the additional cost.

Lineal frontage was assigned as the assessment variable by the original assessment engineer because all of the special aesthetic benefits received by properties within the District from the improvements and services provided, using revenues from the annual assessment levy, can be quantified best by identifying the lineal frontage of the property along National City Boulevard. Lineal frontage is a tangible property characteristic that clearly ties the aesthetic benefits received by parcels within the District to the amount of frontage of each property, which is where the aesthetic benefit is to be received and realized.

The improvements and maintenance services being provided to and enjoyed by the parcels within the District provide an aesthetic benefit not provided to any parcels outside of the District boundaries. The



annual assessment is based upon a parcel's lineal frontage unless otherwise identified by the original assessment engineer, as previously approved by property owners at the formation of the District.

There are generally two categories of improvements to be maintained by the District – the median improvements and the frontage improvements. The median improvements benefit all properties within the District. The improvements to the parkway (referred to herein as Frontage Improvements) benefit those properties which they abut. The specific method of spreading the assessment is described below:

#### **5.1.6 MEDIAN IMPROVEMENTS**

1. The total cost for maintenance of the Median Improvements is apportioned to all parcels in the District and is based on the frontage of each parcel along National City Boulevard.
2. Parcel 32 (APN 562-220-11) does not have frontage on National City Boulevard, but receives some benefit from median improvements and maintenance services benefiting properties within the boundaries of the District. As a result, the original assessment engineer determined that the parcel received a lower level of benefit and therefore assigned 100 frontage feet of benefit to the parcel.

#### **5.1.7 FRONTAGE IMPROVEMENTS**

1. The total cost for maintenance of the Frontage Improvements is apportioned to all parcels in the District and is based on the frontage of each parcel along National City Boulevard.
2. Parcel 32 (APN 562-220-11) does not have frontage on National City Boulevard. As such, Parcel 32 receives no benefit from the frontage improvements.
3. The frontage of each parcel is determined from current Assessor's maps for the County of San Diego, State of California. All frontage dimensions have been rounded to the nearest foot.

### **5.2 Maximum Annual Assessment Rates**

The maximum annual assessment to be levied on all properties within the District in any fiscal year shall be subject to an annual escalation of up to 10% based upon actual and anticipated expenditures.

The following table shows the historical maximum annual assessment rates.

Fiscal Year	Percentage Increase	Maximum Frontage Rate Per Frontage Foot	Maximum Median Rate Per Frontage Foot	Total Maximum Rate Per Frontage Foot <sup>(1)</sup>	Total Actual Rate Per Frontage Foot <sup>(1)</sup>	Actual Percentage Increase
1996/97	N/A	\$3.29	\$6.43	\$9.72	\$9.72	N/A
1997/98	10%	3.62	7.07	10.69	10.69	16.56%
1998/99	10%	3.98	7.78	11.76	11.09	-2.12%
1999/00	10%	4.38	8.56	12.94	11.07	-0.18%
2000/01	10%	4.82	9.41	14.23	11.51	3.97%
2001/02	10%	5.30	10.35	15.66	10.52	-8.60%
2002/03	10%	5.83	11.39	17.22	11.03	4.85%
2003/04	10%	6.41	12.53	18.95	11.25	1.99%
2004/05	10%	7.05	13.78	20.84	11.56	2.76%
2005/06	10%	7.76	15.16	22.93	11.68	1.04%
2006/07	10%	8.54	16.68	25.22	12.37	5.91%
2007/08	10%	9.39	18.35	27.74	13.72	10.91%
2008/09	10%	10.33	20.18	30.52	14.79	7.80%
2009/10	10%	11.36	22.20	33.57	16.19	9.47%
2010/11	10%	12.50	24.42	36.93	16.87	4.20%
2011/12	10%	13.75	26.86	40.62	15.75	-6.64%
2012/13	10%	15.12	29.55	44.68	15.80	0.32%
2013/14	10%	16.64	32.51	49.15	15.49	-1.96%
2014/15	10%	18.30	35.76	54.07	15.15	-2.19%
2015/16	10%	20.13	39.33	59.46	15.11	-0.26%
2016/17	10%	22.15	43.27	65.42	15.86	4.96%
2017/18	10%	24.36	47.60	71.96	15.69	-1.07%
2018/19	10%	26.80	52.36	79.16	16.38	4.40%
2019/20	10%	29.48	57.59	87.07	16.77	2.32%

(1) Rates are truncated.

The annual assessment shall not exceed the maximum assessment, unless the appropriate Proposition 218 proceedings are conducted by the City to authorize an increase beyond the maximum assessment amount. The actual combined annual assessment rate for Fiscal Year 2019/20 is \$16.77, which represents a 2.32% increase from Fiscal Year 2018/19.

### 5.3 Assessment Roll

The proposed Fiscal Year 2019/20 District assessment roll is listed on the following page.



**City of National City**  
**Landscape Maintenance District No. 1 (Mile of Cars)**  
**Assessment Roll**  
**Fiscal Year 2019/20**

APN	Owner	Frontage (Feet)	Levy	Misc Adjs	Total
560-203-03-00	FUENTES FRANK SEPARATE PROPERTY TRUST 08-13-96	291	\$4,878.73	(0.01)	\$4,878.72
560-204-02-00	CAPPS DIANE L & BALL 1998 TRUST	140	2,347.15	(0.01)	2,347.14
560-204-04-00	BALL JOHN D II	190	3,185.43	(0.01)	3,185.42
560-210-01-00	HATTON RONNIE & HATTON PAM	125	2,095.67	(0.01)	2,095.66
560-210-04-00	LTC PROPERTIES L L C	165	2,766.29	(0.01)	2,766.28
560-210-40-00	BALL JOHN D & BALL 1998 TRUST	211	3,537.50	0.00	3,537.50
560-210-41-00	BALL JOHN D & BALL 1998 TRUST	50	838.27	(0.01)	838.26
560-210-42-00	LTC PROPERTIES L L C	30	502.96	0.00	502.96
560-261-08-00	BALL JOHN D & BALL 1998 TRUST	270	4,526.66	0.00	4,526.66
560-271-07-00	BALL JOHN D & BALL 1998 TRUST	75	1,257.40	0.00	1,257.40
560-271-09-00	BALL AUTOMOTIVE GROUP	50	838.27	(0.01)	838.26
560-271-14-00	BALL JOHN D & BALL 1998 TRUST	95	1,592.71	(0.01)	1,592.70
560-271-15-00	BALL JOHN D & BALL 1998 TRUST	100	1,676.54	0.00	1,676.54
560-330-03-00	S K R B L P	591	9,908.36	0.00	9,908.36
560-393-03-00	PNJ PROPERTIES L L C	140	2,347.15	(0.01)	2,347.14
560-393-04-00	FALK PROPERTIES N C L L C	480	8,047.40	0.00	8,047.40
562-021-01-00	POLAKOFF GARY & DIANE 2401 TRUST	100	1,676.54	0.00	1,676.54
562-021-07-00	DIAZ LUIS J & MARIA G 2004 FAMILY TRUST 01-28-04	160	2,682.46	0.00	2,682.46
562-031-13-00	BALL JOHN II	110	1,844.19	(0.01)	1,844.18
562-031-14-00	BALL JOHN II	160	2,682.46	0.00	2,682.46
562-090-06-00	WEBSTER GEORGE H SECOND LIVING NON-MARITAL TRUST	270	4,526.66	0.00	4,526.66
562-100-13-00	BALL JOHN D II	135	2,263.33	(0.01)	2,263.32
562-100-14-00	WEBSTER GEORGE H SECOND LIVING NON-MARITAL TRUST	135	2,263.33	(0.01)	2,263.32
562-150-13-00	GEN 3 PROPERTIES ONE L L C	209	3,503.97	(0.01)	3,503.96
562-160-07-00	GEN3 PROPERTIES TWO LLC	300	5,029.62	0.00	5,029.62
562-180-32-00	GEN3 PROPERTIES TWO LLC	82	1,374.76	0.00	1,374.76
562-180-33-00	GEN3 PROPERTIES TWO LLC	127	2,129.20	0.00	2,129.20
562-220-11-00	MAG 100 30TH STREET LLC	100	921.14	0.00	921.14
562-220-13-00	MCCUNE MOTORS <LF> MCCREDIE TOD C TRUST 03-28-96 (55	230	3,856.04	0.00	3,856.04
562-220-31-00	MCCUNE MOTORS <LF> MCCREDIE TOD C TRUST 03-28-96 (55	155	2,598.64	0.00	2,598.64
562-220-32-00	FRANK REAL PROPERTIES II LP	314	5,264.34	0.00	5,264.34
562-251-37-00	C V VENTURES L L C	202	3,386.61	(0.01)	3,386.60
562-251-38-00	C V VENTURES L L C	167	2,799.82	0.00	2,799.82
562-252-16-00	ERM FAMILY TRUST 11-19-91 & ERM RUDOLPH F JR	330	5,532.59	(0.01)	5,532.58
562-321-07-00	S O C PROPERTIES L L C	182	3,051.30	0.00	3,051.30
562-321-08-00	CITY OF NATIONAL CITY	148	2,481.28	0.00	2,481.28
562-330-43-00	54/NATIONAL SELF STORAGE L L C	40	670.61	(0.01)	670.60
562-330-47-00	NATIONAL CITY BLVD STORAGE LLC	192	3,218.96	0.00	3,218.96
562-330-48-00	NATIONAL CITY BLVD STORAGE LLC	133	2,229.80	0.00	2,229.80
562-340-09-00	WESTCOTT REVOCABLE TRUST 10-28-14 & PARADISE DEBRA J	300	5,029.62	0.00	5,029.62
562-340-47-00	MOSSY IMPORTS L L C	164	2,749.52	0.00	2,749.52
562-340-48-00	MOSSY IMPORTS L L C	436	7,309.72	0.00	7,309.72
562-340-49-00	ESCONDIDO DEVELOPMENT PROPERTIES L L C	291	4,878.73	(0.01)	4,878.72
562-340-50-00	PERRY MOTORS/PROPERTIES OF NATIONAL CITY L L C	300	5,029.62	0.00	5,029.62
562-340-69-00	FELICE REAL PROPERTIES I L P	290	4,861.97	(0.01)	4,861.96
562-340-70-00	FELICE REAL PROPERTIES I L P	300	5,029.62	0.00	5,029.62
<b>46 Accounts</b>			<b>\$151,222.94</b>	<b>(\$0.18)</b>	<b>\$151,222.76</b>

RESOLUTION NO. 2019 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
APPROVING THE ENGINEER'S REPORT FOR  
LANDSCAPE MAINTENANCE DISTRICT NO. 1 (MILE OF CARS)  
FOR FISCAL YEAR 2019/20

WHEREAS, the City Council previously completed its proceedings in accordance with and pursuant to the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the "Act") to establish the City's Landscape Maintenance District No. 1 (Mile of Cars) (the "Assessment District"); and

WHEREAS, the City has retained a consultant for the purpose of assisting with the annual levy of the Assessment District, and to prepare and file the annual Engineer's Report; and

WHEREAS, such Engineer's Report has been prepared and filed with the City Clerk.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby approves the Engineer's Report concerning the levy of assessments for the fiscal year commencing July 1, 2019 and ending June 30, 2020.

PASSED and ADOPTED this 7<sup>th</sup> day of May, 2019.

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil Morris-Jones, City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City declaring its intention to conduct a public hearing on June 4, 2019 and to levy and collect assessments for Landscape Maintenance District No. 1 \(Mile of Cars\) for Fiscal Year 2019/20. \(Planning\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Resolution of the City Council of the City of National City declaring its intention to conduct a public hearing on June 4, 2019 and to levy and collect assessments for Landscape Maintenance District No. 1 (Mile of Cars) for Fiscal Year 2019/20.

**PREPARED BY:** Raymond Pe, Principal Planner



**DEPARTMENT:** Planning

**PHONE:** 336-4421

**APPROVED BY:** 

**EXPLANATION:**

The City formed the Mile of Cars Landscape Maintenance District No. 1 in 1995 to provide for the maintenance, operations, and servicing of certain improvements in the District, including landscaping, signage, and lighting. Each year, the City Council considers the adoption of resolutions to allow the District to continue operating with funding through a special tax levy on properties within the District.

The resolution would declare the City's intention to conduct a public hearing and to levy and collect assessments on behalf of the District for Fiscal Year 2019/20 based on the Engineer's Report, an annual report that identifies the assessment to be levied and the work program to be conducted by the Mile of Cars Landscape Maintenance District. The Mile of Cars Association has approved the scope of work, the proposed assessment, and the District budget. There are no changes or additions to the maintained improvements for the coming fiscal year. The proposed total assessment of \$151,223.17 is an increase of approximately 2.32 percent above the prior year total assessment. The City's consultant and City administrative costs are paid from the District's assessment funds.

**FINANCIAL STATEMENT:** Not applicable.

**APPROVED:** \_\_\_\_\_ **Finance**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

This action is not subject to the California Environmental Quality Act since it is not a project as defined in the California Code of Regulations, Section 15378.

**ORDINANCE:** **INTRODUCTION:**

**FINAL ADOPTION:**

**STAFF RECOMMENDATION:**

Adopt the resolution declaring intent to conduct a public hearing and to levy and collect assessments.

**BOARD / COMMISSION RECOMMENDATION:**

Not applicable.

**ATTACHMENTS:**

1. Resolution.

RESOLUTION NO. 2019 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
DECLARING ITS INTENTION TO CONDUCT A PUBLIC HEARING  
ON JUNE 4, 2019, AND TO LEVY AND COLLECT ASSESSMENTS  
FOR LANDSCAPE MAINTENANCE DISTRICT NO. 1 (MILE OF CARS)  
FOR FISCAL YEAR 2019/20

WHEREAS, the City Council previously completed its proceedings in accordance with and pursuant to the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the "Act") to establish the City's Landscape Maintenance District No. 1 (Mile of Cars) (the "Assessment District"); and

WHEREAS, the City has retained a consultant for the purpose of assisting with the annual levy of the Assessment District, and to prepare and file the annual Engineer's Report.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the City Council, as follows:

1. Intention: The Council hereby declares its intention to levy and collect assessments within the Assessment District to pay the costs of the Improvements for the fiscal year commencing July 1, 2019 and ending June 30, 2020. The Council finds that the public's best interest requires such action.
2. Improvements: The Improvements include, but are not limited to: landscape planting and irrigation, colored hardscape, lighting systems, graphic panels, banners and signage, painted crosswalks, and street furniture. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous, and satisfactory condition.
3. Assessment District Boundaries: The boundaries of the Assessment District are as shown by the assessment diagram filed in the offices of the City Clerk, which map is made a part hereof by reference.
4. Annual Report: Reference is made to the Engineer's Report prepared by the consultant, on file with the Clerk, for a full and detailed description of the improvements, the boundaries of the Assessment District, and the proposed assessments upon assessable lots and parcels of land within the Assessment District.
5. Notice of Public Hearing: The Council hereby declares its intention to conduct a Public Hearing concerning the levy of assessments in accordance with Section 22629 of the Act. All objections to the assessment, if any, will be considered by the Council. The Public Hearing will be held on June 4, 2019 at 6:00 pm or as soon thereafter as is feasible in the Council Chambers located at 1243 National City Blvd, National City, CA 91950. The Council further orders the Clerk to publish notice of this resolution in accordance with Section 22626 of the Act.

///  
///  
///

6. Increase of Assessment: The maximum assessment is not proposed to increase from the previous year above that previously approved by the property owners (as "increased assessment" is defined in Section 54954.6 of the Government Code).

PASSED and ADOPTED this 7<sup>th</sup> day of May, 2019.

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Alejandra Sotelo-Solis, Mayor

ATTEST:

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Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

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Angil Morris-Jones, City Attorney

The following page(s) contain the backup material for Agenda Item: [Warrant Register #40 for the period of 03/27/19 through 04/02/19 in the amount of \\$1,851,893.06.](#)  
[\(Finance\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.:**

**ITEM TITLE:**

Warrant Register #40 for the period of 03/27/19 through 04/02/19 in the amount of \$1,851,893.06.  
(Finance)

**PREPARED BY:** Karla Apalategui, Accounting Assistant

**DEPARTMENT:** Finance

**PHONE:** 619-336-4572

**APPROVED BY:** 

**EXPLANATION:**

Per Government Section Code 37208, attached are the warrants issued for the period of 03/27/19 through 04/02/19. Consistent with Department of Finance's practice, listed below are all payments above \$50,000.

<u>Vendor</u>	<u>Check/Wire</u>	<u>Amount</u>	<u>Explanation</u>
Mile of Cars Association	341575	67,392.78	FY 2019 Apportionment #4, 5 & 6
Project Professionals Corp	341594	179,130.82	Paradise Creek Park III–Project Mgr
Whillock Contracting	341627	486,655.12	Paradise Creek Park Site Improvment

**FINANCIAL STATEMENT:**

**APPROVED:**  **FINANCE**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **MIS**

Warrant total \$1,851,893.06.

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, not subject to environmental review.

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION

**STAFF RECOMMENDATION:**

Ratify warrants totaling \$1,851,893.06

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

Warrant Register # 40





**WARRANT REGISTER # 40**  
**4/2/2019**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
24 HOUR ELEVATOR INC	ELEVATOR SERVICE AND REPAIR 02/11/19	341501	4/2/19	2,191.29
ACEDO, I	RETIREE HEALTH BENEFITS APR 2019	341502	4/2/19	160.00
ALPHA PROJECT FOR THE HOMELESS	ALPHA PROJ FOR OUTREACH SVCS - JAN 2019	341503	4/2/19	10,000.00
ANDERSON, E	RETIREE HEALTH BENEFITS APR 2019	341504	4/2/19	110.00
ASSI SECURITY INC	INSTALL MAGLOCKS TO REP EXIST CRASHBARS	341505	4/2/19	2,987.00
AT&T	AT&T SVCS MAR 13 THRU APR 12, 2019	341506	4/2/19	454.96
ATLAS TREE SERVICE	W 21ST STREET TREE REMOVAL	341507	4/2/19	5,770.00
BEARD, L	RETIREE HEALTH BENEFITS APR 2019	341508	4/2/19	70.00
BECK, L	RETIREE HEALTH BENEFITS APR 2019	341509	4/2/19	140.00
BISHOP, R	RETIREE HEALTH BENEFITS APR 2019	341510	4/2/19	110.00
BOB MURRAY & ASSOCIATES	CLERICAL SUPPORT - CITY MANAGER	341511	4/2/19	1,621.34
BOEGLER, C	RETIREE HEALTH BENEFITS APR 2019	341512	4/2/19	260.00
BULL, P	RETIREE HEALTH BENEFITS APR 2019	341513	4/2/19	580.00
CAMEON, C	RETIREE HEALTH BENEFITS APR 2019	341514	4/2/19	400.00
CANON SOLUTIONS AMERICA INC.	PLOTWAVE 345 PRINTER MAINT MAR 2019	341515	4/2/19	55.00
CARRILLO, R	RETIREE HEALTH BENEFITS APR 2019	341516	4/2/19	290.00
CITY OF NATIONAL CITY	PETTY CASH REPLMT DEC 2018 - FEB 2019	341517	4/2/19	644.41
CLEAR WATER TECHNOLOGIES LLC	MONTHLY WATER TREATMENT FOR MAR 2019	341518	4/2/19	1,160.00
COLE, L	RETIREE HEALTH BENEFITS APR 2019	341519	4/2/19	165.00
COLLINSON, C	RETIREE HEALTH BENEFITS APR 2019	341520	4/2/19	420.00
CONDON, D	RETIREE HEALTH BENEFITS APR 2019	341521	4/2/19	280.00
CORDERO, E	RETIREE HEALTH BENEFITS APR 2019	341522	4/2/19	520.00
CORPUZ, T	RETIREE HEALTH BENEFITS APR 2019	341523	4/2/19	140.00
COUNTY OF SAN DIEGO	CNTY OF SD SHARE PRKG CIT REV JAN 2019	341524	4/2/19	10,860.00
COUNTY OF SAN DIEGO	CNTY OF SD SHARE PRKG CIT REV DEC 2018	341525	4/2/19	7,646.50
COUNTYWIDE MECHANICAL SYSTEMS	PREVENTATIVE MAINTENANCE - DEC 2018	341526	4/2/19	42,603.00
COX COMMUNICATIONS	COX TV SVC MAR 21 THRU APR 20, 2019	341527	4/2/19	174.00
DANESHFAR, Z	RETIREE HEALTH BENEFITS APR 2019	341528	4/2/19	250.00
DESROCHERS, P	RETIREE HEALTH BENEFITS APR 2019	341529	4/2/19	110.00
DI CERCHIO, A	RETIREE HEALTH BENEFITS APR 2019	341530	4/2/19	70.00
DIAZ, M	RETIREE HEALTH BENEFITS APR 2019	341531	4/2/19	680.00
DILLARD, S	RETIREE HEALTH BENEFITS APR 2019	341532	4/2/19	480.00
DISCOUNT SCHOOL SUPPLY	TINY TOTS CLASSROOM SUPPLIES - COMM SVCS	341533	4/2/19	496.24
DREDGE, J	RETIREE HEALTH BENEFITS APR 2019	341534	4/2/19	250.00
EISER III, G	RETIREE HEALTH BENEFITS APR 2019	341535	4/2/19	250.00
ENSAFE INC	NATLCT REMEDIATION PARADISE PH3-CA	341536	4/2/19	35,095.84
ETZLER, J	RETIREE HEALTH BENEFITS APR 2019	341537	4/2/19	460.00
EXOS COMMUNITY SERVICES LLC	SERVICES AND MGMT FEES FOR DEC 2018	341538	4/2/19	41,179.62
FABINSKI, D	RETIREE HEALTH BENEFITS APR 2019	341539	4/2/19	220.00
FERGUSON ENTERPRISES 1350	MOP 45723 PLUMBING SUPPLIES - PW	341540	4/2/19	617.03
FERNANDEZ, R	RETIREE HEALTH BENEFITS APR 2019	341541	4/2/19	270.00
FIFIELD, K	RETIREE HEALTH BENEFITS APR 2019	341542	4/2/19	540.00
GAFFNEY, M	RETIREE HEALTH BENEFITS APR 2019	341543	4/2/19	700.00
GARCIA, MARISA	REFUND OF VIOLATION DISMISSED	341544	4/2/19	60.00
GAUT, A	RETIREE HEALTH BENEFITS APR 2019	341545	4/2/19	700.00
GELSKEY, K	RETIREE HEALTH BENEFITS APR 2019	341546	4/2/19	115.00
GEOSYNTEC CONSULTANTS INC	835 BAY MARINA CLOSURE FEB 2019	341547	4/2/19	1,577.50



**WARRANT REGISTER # 40  
4/2/2019**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
GIBBS JR, R	RETIREE HEALTH BENEFITS APR 2019	341548	4/2/19	120.00
GONZALES, M	RETIREE HEALTH BENEFITS APR 2019	341549	4/2/19	480.00
GRAINGER	MOP 65179 GENERAL SUPPLIES - PW	341550	4/2/19	783.83
HANSON, E	RETIREE HEALTH BENEFITS APR 2019	341551	4/2/19	135.00
HARLAN, M	RETIREE HEALTH BENEFITS APR 2019	341552	4/2/19	500.00
HAUG, S	RETIREE HEALTH BENEFITS APR 2019	341553	4/2/19	120.00
HERNANDEZ, M	RETIREE HEALTH BENEFITS APR 2019	341554	4/2/19	600.00
HERNANDEZ, R	RETIREE HEALTH BENEFITS APR 2019	341555	4/2/19	400.00
HINDERLITER DE LLAMAS	CONTRACT SVCS - SALES TAX 1ST QUARTER	341556	4/2/19	6,120.64
HODGES, B	RETIREE HEALTH BENEFITS APR 2019	341557	4/2/19	200.00
HOME DEPOT CREDIT SERVICES	MAINTENANCE SUPPLIES FOR PW	341558	4/2/19	723.11
IBARRA, J	RETIREE HEALTH BENEFITS APR 2019	341559	4/2/19	780.00
JAMES, R	RETIREE HEALTH BENEFITS APR 2019	341560	4/2/19	140.00
JUNIEL, R	RETIREE HEALTH BENEFITS APR 2019	341561	4/2/19	50.00
KIMBLE, R	RETIREE HEALTH BENEFITS APR 2019	341562	4/2/19	300.00
KLOS, K	RETIREE HEALTH BENEFITS APR 2019	341563	4/2/19	480.00
LANDA, A	RETIREE HEALTH BENEFITS APR 2019	341564	4/2/19	155.00
LASER SAVER INC	MOP 45725 TONER CARTRIDGES - CITY CLERK	341565	4/2/19	190.20
LEACH, D	RETIREE HEALTH BENEFITS APR 2019	341566	4/2/19	600.00
LIMFUECO, M	RETIREE HEALTH BENEFITS APR 2019	341567	4/2/19	160.00
MASON'S SAW	MOP 45729 LANDSCAPE SUPPLIES - PW	341568	4/2/19	321.87
MATIENZO, M	RETIREE HEALTH BENEFITS APR 2019	341569	4/2/19	100.00
MC CABE, T	RETIREE HEALTH BENEFITS APR 2019	341570	4/2/19	280.00
MCDANIEL, P	RETIREE HEALTH BENEFITS APR 2019	341571	4/2/19	290.00
MEDINA, R	RETIREE HEALTH BENEFITS APR 2019	341572	4/2/19	105.00
MENDOZA, G	RETIREE HEALTH BENEFITS APR 2019	341573	4/2/19	290.00
MEYERS NAVE	LABOR RELATIONS AND NEG SVCS MAR 19, 2019	341574	4/2/19	20,079.26
MILE OF CARS ASSOCIATION	FY 2019 APPORTIONMENT NUMBER 4, 5 & 6	341575	4/2/19	67,392.78
MINER, D	RETIREE HEALTH BENEFITS APR 2019	341576	4/2/19	580.00
MORRISON, R	RETIREE HEALTH BENEFITS APR 2019	341577	4/2/19	520.00
NAPA AUTO PARTS	MOP 45735 EQUIPMENT PARTS - PW	341578	4/2/19	73.15
NATIONAL CITY CAR WASH	MOP 42454 CAR WASH SVCS FEB 2019 - PW	341579	4/2/19	160.00
NATIONAL CITY TROPHY	MOP 66556 OFFICE SUPPLIES - PW	341580	4/2/19	256.43
NOTEWARE, D	RETIREE HEALTH BENEFITS APR 2019	341581	4/2/19	120.00
NV5 INC	SEWER MP REVIEW AND CAPITAL IMP PROGRAM	341582	4/2/19	525.00
OFFICE SOLUTIONS BUSINESS	FURNITURE FOR CASA DE SALUD - COMM SVCS	341583	4/2/19	2,671.99
OFFICE TEAM	TEMP SERVICES WEEK ENDING 3/15/19 - CMO	341584	4/2/19	1,872.00
OLIVARES, G	RETIREE HEALTH BENEFITS APR 2019	341585	4/2/19	280.00
OLIVERIA, H	RETIREE HEALTH BENEFITS APR 2019	341586	4/2/19	360.00
O'REILLY AUTO PARTS	MOP 75877 AUTO SUPPLIES - PW	341587	4/2/19	167.85
PAUU JR, P	RETIREE HEALTH BENEFITS APR 2019	341588	4/2/19	340.00
PEASE JR, D	RETIREE HEALTH BENEFITS APR 2019	341589	4/2/19	140.00
PERRY FORD	R&M CITY VEHICLE - BRAKE CONTROLLER	341590	4/2/19	125.00
PETERS, S	RETIREE HEALTH BENEFITS APR 2019	341591	4/2/19	290.00
PORTILLO CONCRETE INC	ALLEY SEWER REPAIRS MAR 2019	341592	4/2/19	28,800.65
POST, R	RETIREE HEALTH BENEFITS APR 2019	341593	4/2/19	280.00
PROJECT PROFESSIONALS CORP	PARADISE CREEK PARK III - PROJECT MGR	341594	4/2/19	179,130.82



**WARRANT REGISTER # 40  
4/2/2019**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
PRO-TECH INDUSTRIES	9470 RUBBERIZED COATING 200Z CAN	341595	4/2/19	269.58
PRUDENTIAL OVERALL SUPPLY	MOP 45742 LAUNDRY SERVICES - PW	341596	4/2/19	460.09
RANDALL LAMB ASSOCIATES INC	ECM COMMISSIONING JAN 14, THRU FEB 10, 2019	341597	4/2/19	7,510.00
RAY, S	RETIREE HEALTH BENEFITS APR 2019	341598	4/2/19	190.00
REYES, MARIA DEL CARMEN	REFUND FOR OVERPAYMENT CITATION	341599	4/2/19	35.00
ROARK, L	RETIREE HEALTH BENEFITS APR 2019	341600	4/2/19	135.00
RUIZ, J	RETIREE HEALTH BENEFITS APR 2019	341601	4/2/19	310.00
SAM'S ALIGNMENT	WHEEL ALIGNMENT SERVICE	341602	4/2/19	40.00
SANCHEZ, L	RETIREE HEALTH BENEFITS APR 2019	341603	4/2/19	330.00
SCST INC	CITYWIDE TRAFFIC SIGNAL & ADA IMPROV T&I	341604	4/2/19	456.50
SDG&E	GAS AND ELECTRIC UTILITIES – PW	341605	4/2/19	27,151.92
SERVATIUS, J	RETIREE HEALTH BENEFITS APR 2019	341606	4/2/19	340.00
SHORT, C	RETIREE HEALTH BENEFITS APR 2019	341607	4/2/19	300.00
SITEONE LANDSCAPE SUPPLY LLC	MOP 69277 LANDSCAPE SUPPLIES - PW	341608	4/2/19	23.17
SKILLPATH SEMINARS	OVERWHELMED SEMINAR MAY 03, 2019	341609	4/2/19	199.00
SMITH, J	RETIREE HEALTH BENEFITS APR 2019	341610	4/2/19	320.00
SOUTHERN CALIF TRUCK STOP	MOP 45758 GENERAL AUTO SUPPLIES - PW	341611	4/2/19	113.32
SOUTHWEST SIGNAL SERVICE	MONTHLY MAINTENANCE – FEBRUARY 2019	341612	4/2/19	28,100.04
STAPLES BUSINESS ADVANTAGE	MOP 45704 OFFICE SUPPLIES - FINANCE	341613	4/2/19	1,553.54
STEWART, W	RETIREE HEALTH BENEFITS APR 2019	341614	4/2/19	200.00
STRASEN, W	RETIREE HEALTH BENEFITS APR 2019	341615	4/2/19	135.00
SUPERIOR READY MIX CONCRETE LP	CLASS II BASE FEB 19, 2019	341616	4/2/19	639.44
SWEETWATER AUTHORITY	FACILITIES DIVISION WATER UTILITIES	341617	4/2/19	6,104.72
THE ABBEY CATERING	EMPLOYEE BREAKFAST CATERING 02/26/19	341618	4/2/19	598.13
THE SHERWIN WILLIAMS CO	MOP 77816 PAINT SUPPLIES – PW	341619	4/2/19	40.49
TIPTON, B	RETIREE HEALTH BENEFITS APR 2019	341620	4/2/19	250.00
UNITED ROTARY BRUSH CORP	STREET SWEEPER REPAIRS AND MAINT	341621	4/2/19	305.22
VERRY, L	RETIREE HEALTH BENEFITS APR 2019	341622	4/2/19	280.00
VILLAGOMEZ, J	RETIREE HEALTH BENEFITS APR 2019	341623	4/2/19	480.00
VULCAN MATERIALS COMPANY	ENVIRONMENTAL FEE - AGG & ASPHALT	341624	4/2/19	386.72
WESTFLEX INDUSTRIAL	MOP 63850 GENERAL SUPPLIES - PW	341625	4/2/19	93.16
WETMORES	MOP 80331 AUTO SUPPLIES - PW	341626	4/2/19	43.39
WHILLOCK CONTRACTING	PARADISE CREEK PARK SITE IMPROVEMENT	341627	4/2/19	486,655.12
WHITE, J	RETIREE HEALTH BENEFITS APR 2019	341628	4/2/19	230.00
WILLY'S ELECTRONIC SUPPLY	MOP 45763 ELECTRONIC SUPPLIES - MIS	341629	4/2/19	740.13
Z A P MANUFACTURING INC	GREEN EC FILM - WHITE H I P / PW	341630	4/2/19	1,114.88

**A/P Total 1,058,656.87**

**SECTION 8 HAPS**

**Start Date**  
3/27/2019

**End Date**  
4/1/2019

**793,236.19**

**GRAND TOTAL**

**\$ 1,851,893.06**

**Certification**

IN ACCORDANCE WITH SECTION 37202, 37208, 372059 OF THE GOVERNMENT CODE, WE HEREBY CERTIFY TO THE ACCURACY OF THE DEMANDS LISTED ABOVE AND TO THE AVAILABILITY OF FUNDS FOR THE PAYMENT THEREOF AND FURTHER THAT THE ABOVE CLAIMS AND DEMANDS HAVE BEEN AUDITED AS REQUIRED BY LAW.

*Mark Roberts*

MARK ROBERTS, DIRECTOR OF FINANCE

STEPHEN MANGANIELLO,  
ACTING CITY MANAGER

**FINANCE COMMITTEE**

ALEJANDRA SOTELO-SOLIS, MAYOR-CHAIRWOMAN

RONALD J. MORRISON, VICE-MAYOR

JERRY CANO, COUNCILMEMBER

GONZALO QUINTERO, COUNCILMEMBER

MONA RIOS, COUNCILMEMBER

I HEREBY CERTIFY THAT THE FOREGOING CLAIMS AND DEMANDS WERE APPROVED AND THE CITY TREASURER IS AUTHORIZED TO ISSUE SAID WARRANTS IN PAYMENT THEREOF BY THE CITY COUNCIL ON THE 7<sup>TH</sup> OF MAY 2019.

AYES \_\_\_\_\_

NAYS \_\_\_\_\_

ABSENT \_\_\_\_\_

The following page(s) contain the backup material for Agenda Item: [Warrant Register #41 for the period of 04/03/19 through 04/09/19 in the amount of \\$1,343,219.94.](#)  
[\(Finance\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.:**

**ITEM TITLE:**

Warrant Register #41 for the period of 04/03/19 through 04/09/19 in the amount of \$1,343,219.94.  
(Finance)

**PREPARED BY:** Karla Apalategui, Accounting Assistant

**DEPARTMENT:** Finance

**PHONE:** 619-336-4572

**APPROVED BY:** 

**EXPLANATION:**

Per Government Section Code 37208, attached are the warrants issued for the period of 04/03/19 through 04/09/19. Consistent with Department of Finance's practice, listed below are all payments above \$50,000.

<u>Vendor</u>	<u>Check/Wire</u>	<u>Amount</u>	<u>Explanation</u>
Folsom Lake Ford	341631	117,061.88	2019 Ford Explorer / Police

**FINANCIAL STATEMENT:**

**APPROVED:**  **FINANCE**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **MIS**

Warrant total \$1,343,219.94.

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, not subject to environmental review.

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION

**STAFF RECOMMENDATION:**

Ratify warrants totaling \$1,343,219.94

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

Warrant Register # 41



**WARRANT REGISTER # 41  
4/9/2019**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
FOLSOM LAKE FORD	2019 FORD EXPLORER / POLICE	341631	4/9/19	117,061.88
GROSSMAN PSYCHOLOGICAL	EVALUATIONS - PD	341632	4/9/19	4,550.00
RELY ENVIRONMENTAL	HAZARDOUS WASTE - ENG/PW	341633	4/9/19	25,026.65
ACEVEDO, M	TRAINING ADV LDG TC INTR/ ACEVEDO	341634	4/9/19	842.08
AETNA BEHAVIORAL HEALTH	EMPLOYEE ASSISTANCE PROGRAM - APRIL	341635	4/9/19	1,081.16
ALPHA PROJECT FOR THE HOMELESS	ALPHA PROJECT OUTREACH SVS/ NSD	341636	4/9/19	16,561.64
ANDREWS, J	TRAINING ADV LDG TC INV INTR/ANDREWS	341638	4/9/19	660.40
AT&T	AT&T SBC ANNUAL PHONE SERVICE / FEB	341639	4/9/19	2,286.60
BOOT WORLD	MOP 64096 SAFETY WEARING APPAREL - PW	341640	4/9/19	242.43
CALIFORNIA ELECTRIC SUPPLY	MOP 45698 GENERAL AUTO SUPPLIES - PW	341641	4/9/19	1,113.06
CALIFORNIA PUBLIC	CPPA MEMBERSHIP / NSD	341642	4/9/19	135.00
CLF WAREHOUSE INC	MOP 80331 AUTO SUPPLIES - PW	341643	4/9/19	621.79
CONCENTRA MEDICAL CENTERS	DOT EXAM / HR	341644	4/9/19	96.00
COUNTY OF SAN DIEGO	NEXTGEN REGIONAL COMMUNICATIONS SYSTEM	341645	4/9/19	8,686.06
COX COMMUNICATIONS	COX DATA VIDEO SERVICES - APRIL	341646	4/9/19	129.95
CROWDER SUPPLY CO INC	COBRA COMBINATION BREAKER / PW	341647	4/9/19	5,400.00
CYNTHIA TITGEN CONSULTING INC	WORKERS' COMPENSATION CONSULTING - MARCH	341648	4/9/19	1,696.25
DANIELS TIRE SERVICE	11R225/TIRES MARATHON RSA TL / PW	341649	4/9/19	3,600.82
DEPARTMENT OF MOTOR VEHICLES	DMV VEHICLE CODE BOOKS/ NSD	341650	4/9/19	76.77
D-MAX ENGINEERING	T&A#90282 SDG&E 49-16	341651	4/9/19	2,014.90
FIELDS, M	REIMB - PURCHASED SUPPLIES FOR OFFICE	341652	4/9/19	471.30
GRAINGER	MOP 65179 GENERAL SUPPLIES - PW	341653	4/9/19	1,042.56
HANSEN, D	REIMB: DAN HANSEN DISPATCH MOP / PD	341654	4/9/19	230.81
LEFORT'S SMALL ENGINE REPAIR	MOP 80702 EQUIPMENT SUPPLIES - PW	341655	4/9/19	816.35
LIFETIME PRODUCTS INC	CHAIR AND CART SET FOR CAMACHO	341656	4/9/19	1,413.74
LOZANO, M	TRAINING ADV LDG TC INV / LOZANO	341657	4/9/19	660.40
MENDOZA III, S	MEDIC FEE REIMBURSEMENT	341658	4/9/19	102.50
NATIONAL CITY TROPHY	MOP 66556 OFFICE SUPPLIES - PW	341659	4/9/19	40.78
O'REILLY AUTO PARTS	MOP 75877 AUTO SUPPLIES - PW	341660	4/9/19	84.08
PACIFIC TELEMAGEMENT SERVICE	PACIFIC TELEMAGEMENT SERVICES - APRIL	341661	4/9/19	78.00
PARTS AUTHORITY METRO LLC	MOP 75943 AUTO SUPPLIES - PW	341662	4/9/19	162.72
PRUDENTIAL OVERALL SUPPLY	MOP 45742 LAUNDRY SERVICES - PW	341663	4/9/19	451.50
RED TRUCK FIRE & SAFETY CO	CITYWIDE, ON-SITE FIRE EXTINGUISHER SVCS	341664	4/9/19	15,684.75
RIVERSIDE COUNTY SHERIFF DEPT	TRAINING TUITION DISPATCH/ JONES / PD	341665	4/9/19	29.00
SAINZ, J	PARKING REIMBURSEMENT	341666	4/9/19	40.00
SAN DIEGO COUNTY ASSESSOR	COUNTY RECORDS / NSD	341667	4/9/19	31.15
SAN DIEGO MIRAMAR COLLEGE	TRAINING TUITION ROT 2 STUDENTS / PD	341668	4/9/19	46.00
SAN DIEGO MIRAMAR COLLEGE	TRAINING TUITION ROT / 2 STUDENTS /PD	341669	4/9/19	46.00
SDG&E	GAS AND ELECTRIC UTILITIES - PW	341670	4/9/19	28,424.95
SHARP ELECTRONICS CORPORATION	MAINTENANCE 20 SHARP COPIERS FOR MARCH	341671	4/9/19	2,005.65
SHOEMAKER, M	MEDIC FEE REIMBURSEMENT	341672	4/9/19	102.50
SILVA, L	MEDIC FEE REIMBURSEMENT	341673	4/9/19	102.51
SITEONE LANDSCAPE SUPPLY LLC	MOP 69277 LANDSCAPE SUPPLIES - PW	341674	4/9/19	370.78
SOUTHERN CALIF TRUCK STOP	MOP 45758 GENERAL AUTO SUPPLIES - PW	341675	4/9/19	155.83
STAPLES BUSINESS ADVANTAGE	MOP 45704. OFFICE SUPPLIES / MAYOR'S OFFICE	341676	4/9/19	200.11
SUPERIOR READY MIX	COLD MIX ASPHALTS & TACK OIL / PW	341677	4/9/19	275.30



**WARRANT REGISTER # 41  
4/9/2019**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
SWEETWATER AUTHORITY	WATER SERVICES FOR FACILITIES FY 2019	341678	4/9/19	48.05
THE STAR NEWS	AD FOR TNT AUCTION / FINANCE	341679	4/9/19	51.25
TOPECO PRODUCTS	MOP 63849 EQUIPMENT SUPPLIES – PW	341680	4/9/19	47.10
U S BANK	MONTHLY CREDIT CARD STATEMENT - MARCH	341681	4/9/19	1,251.66
UNDERGROUND SERVICE ALERT	UNDERGROUND SERVICE ALERT FOR FY 2019	341682	4/9/19	244.30
VARIDESK LLC	SIT STAND DESKS FOR ADMIN	341683	4/9/19	6,366.77
VERIZON WIRELESS	VERIZON CELLULAR SERVICES FOR MARCH	341684	4/9/19	12,845.10
WETMORES	MOP 80333 AUTO SUPPLIES - PW	341685	4/9/19	72.88
WILLY'S ELECTRONIC SUPPLY	MOP 45763 ELECTRIC SUPPLIES - PW	341686	4/9/19	137.83
			<b>A/P Total</b>	<b>266,017.65</b>

**PAYROLL**

<u>Pay period</u>	<u>Start Date</u>	<u>End Date</u>	<u>Check Date</u>	
8	3/26/2019	4/8/2019	4/17/2019	1,077,202.29

**GRAND TOTAL** \$1,343,219.94



**Certification**

IN ACCORDANCE WITH SECTION 37202, 37208, 372059 OF THE GOVERNMENT CODE, WE HEREBY CERTIFY TO THE ACCURACY OF THE DEMANDS LISTED ABOVE AND TO THE AVAILABILITY OF FUNDS FOR THE PAYMENT THEREOF AND FURTHER THAT THE ABOVE CLAIMS AND DEMANDS HAVE BEEN AUDITED AS REQUIRED BY LAW.

*Mark Roberts*

MARK ROBERTS, DIRECTOR OF FINANCE

STEPHEN MANGANIELLO,  
ACTING CITY MANAGER

**FINANCE COMMITTEE**

ALEJANDRA SOTELO-SOLIS, MAYOR-CHAIRWOMAN

RONALD J. MORRISON, VICE-MAYOR

JERRY CANO, COUNCILMEMBER

GONZALO QUINTERO, COUNCILMEMBER

MONA RIOS, COUNCILMEMBER

I HEREBY CERTIFY THAT THE FOREGOING CLAIMS AND DEMANDS WERE APPROVED AND THE CITY TREASURER IS AUTHORIZED TO ISSUE SAID WARRANTS IN PAYMENT THEREOF BY THE CITY COUNCIL ON THE 7<sup>TH</sup> OF MAY 2019.

AYES \_\_\_\_\_

NAYS \_\_\_\_\_

ABSENT \_\_\_\_\_

The following page(s) contain the backup material for Agenda Item: [Public Hearing 2 of 2 and Adoption of a Resolution of the City of National City adopting the U.S. Department of Housing and Urban Development Fiscal Year 2020 Annual Action Plan funded by Community Development Block Grant \(CDBG\) Program Fiscal Year 2020 entitlement funds, CDBG program income, funds remaining from completed CDBG projects, HOME Investment Partnerships \(HOME\) Program Year 2020 entitlement funds, HOME program income, and HOME Fiscal Year 2019 Community Housing Development Organization funds. \(Housing & Economic Development\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.**

**ITEM TITLE:**

Public Hearing 2 of 2 and adoption of a Resolution of the City of National City adopting the U.S. Department of Housing and Urban Development Fiscal Year 2020 Annual Action Plan funded by Community Development Block Grant ("CDBG") Program Fiscal Year 2020 entitlement funds, CDBG program income, funds remaining from completed CDBG projects, HOME Investment Partnerships ("HOME") Program Fiscal Year 2020 entitlement funds, HOME program income, and HOME Fiscal Year 2019 Community Housing Development Organization funds.

**PREPARED BY:** Angelita Palma, Comm. Dev. Specialist II

**DEPARTMENT:** Housing & Economic Dev. Dept.

**PHONE:** (619) 336-4219

**APPROVED BY:** 

**EXPLANATION:**

In accordance with the federal regulations at 24 CFR, Part 91, the City of National City (City) is required to prepare and submit an Annual Action Plan for its Housing and Community Development Entitlement Programs funded by the U.S. Department of Housing and Urban Development (HUD). The Fifth-Year Action Plan for FY 2020 outlines how the City intends to spend \$792,620.00 in federal Community Development Block Grant (CDBG) and \$327,586.00 in federal HOME Investment Partnerships (HOME) Program entitlement funds. In addition to the funding sources noted above, the City will reprogram \$26,803.29 in CDBG program income and \$23,540.67 remaining from previously completed projects as well as reprogram \$131,729.28 in HOME program income received, and program \$52,172.55 in Community Housing Development (CHDO) funds from FY 2019.

The second Public Hearing will be conducted at the regularly scheduled City Council meeting on May 7, 2019 to review public comments, received during a 30-day public review period from March 29, 2019 through April 28, 2019, on the draft FY 2020 Annual Action Plan; and to provide interested persons and community groups with one last opportunity to share their thoughts regarding the Plan and the CDBG and HOME Program activities being proposed for FY 2020. After all public comments have been considered at the Public Hearing on May 7, 2019, the City Council will adopt the Fifth-Year Action Plan activities for submission to HUD before May 17, 2019.

**FINANCIAL STATEMENT:**

**APPROVED:**  Finance

**ACCOUNT NO.**

**APPROVED:** MIS

The City will receive an estimated \$792,620.00 in CDBG and \$327,586.00 in HOME Program funds for FY 2020. In addition, the City will reprogram to FY 2020 \$26,803.29 in program income and \$23,540.67 of CDBG funds from completed projects. The City will also reprogram to FY 2020 \$131,729.28 in HOME program income received and program HOME CHDO funds from FY 2019.

**ENVIRONMENTAL REVIEW:**

Not applicable to this report.

**ORDINANCE:** INTRODUCTION:  FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Conduct the Public Hearing and adopt the resolution.

**BOARD / COMMISSION RECOMMENDATION:**

Not applicable to this report.

**ATTACHMENTS:**

Attachment No. 1: FY 2020 Action Plan Activities

Attachment No. 2: 30-Day Public Comment Period and Final Public Hearing Notice

**FY 2019-2020 City of National City  
Community Development Block Grant and HOME Investment Partnerships Program  
Action Plan Funding**

CDBG Entitlement (Estimated):	\$792,620.00	HOME Entitlement (Estimated):	\$327,586.00
CDBG Program Income FY 2018:	\$26,803.29	HOME Program Income FY 2018:	\$131,729.28
CDBG Reallocation:	\$23,540.67	HOME CHDO Funds FY 2019:	\$52,172.55
<b>Total CDBG funds available:</b>	<b>\$842,963.96</b>	<b>Total HOME funds available:</b>	<b>\$511,487.83</b>
#	Applicant Name	Program Name	Amount
<b>Community Development Block Grant (CDBG) Program</b>			
<b>Public Service Funds Available: \$118,893.00</b>			
1	Community Services Department	Casa de Salud Youth Afterschool Program	\$ 48,818.00
2	National City Public Library	Literacy Services Program	\$ 50,610.00
3	Police Department (Sponsoring South Bay Community Services)	NCPD Support Service: Domestic Violence Response Team	\$ 19,465.00
Public Service Total:			\$ 118,893.00
<b>Non-Public Services Funds Available: \$565,546.96</b>			
4	Housing & Economic Development	Housing Inspection Program	\$ 53,664.46
5	Fire Department	Fire Station 34 Section 108 Loan Payment FY 2018 - 2019	\$ 511,882.50
Non-Public Service Total:			\$ 565,546.96
<b>Planning and Administration Funds Available: \$158,524.00</b>			
6	Housing & Economic Development	CDBG Program Administration	\$ 123,024.00
7	Housing & Economic Development (Sponsoring CSA San Diego County)	Fair Housing and Tenant-Landlord Education	\$ 35,500.00
Planning & Admin Total:			\$ 158,524.00
CDBG Total:			\$ 842,963.96
<b>HOME Investment Partnerships (HOME) Program</b>			
<b>Project Funds Available: \$465,556.30</b>			
8	Housing & Economic Development (Sponsoring South Bay Community Services)	Tenant Based Rental Assistance	\$ 364,245.85
9	Housing & Economic Development (Sponsoring Habitat for Humanity)	San Diego Habitat for Humanity Homeownership Project at 405-419 W. 18th St., National City	\$ 101,310.45
Total:			\$ 465,556.30
<b>Planning &amp; Administration Funds Available: \$46,460.94 (Estimated)</b>			
10	Housing & Economic Development	HOME Program Administration	\$ 45,931.53
HOME Total:			\$ 511,487.83



**PUBLIC NOTICE**  
**CITY OF NATIONAL CITY**

**30 DAY PUBLIC REVIEW PERIOD AND FINAL PUBLIC HEARING  
FOR THE DRAFT FY 2019-2020 ANNUAL ACTION PLAN**

Notice is hereby given by the City of National City that the draft Annual Action Plan for Fiscal Year (FY) 2019-2020 has been prepared. The Annual Action Plan outlines how the City plans to spend an estimated \$867,882.98 in Community Development Block Grant (CDBG) funds and \$444,764.58 in HOME Investment Partnerships (HOME) Program funds on activities that address the community development and housing needs of the City. In accordance with the federal regulations at 24 CFR, Part 91, the City of National City is required to prepare and submit an Annual Action Plan for its Housing and Community Development Programs to the U.S. Department of Housing and Urban Development (HUD).

In order to obtain the views of residents, public agencies, and other interested parties, the City of National City has placed a copy of the draft Annual Action Plan goals and activities for FY 2019-2020 at the Office of the City Clerk located on the first floor of City Hall, 1243 National City Blvd., National City, CA 91950 during normal hours of operation beginning March 29, 2019. The document will also be available on the City's website at [www.nationalcityca.gov/cdbg-home](http://www.nationalcityca.gov/cdbg-home) and the office of Housing & Economic Development. The information will be available for public review for 30 days. Public comment on the draft Annual Action Plan for FY 2019-2020 can be directed by mail to the City of National City Housing & Economic Development Division, 1243 National City Blvd., National City, CA 91950, by email to [apalma@nationalcityca.gov](mailto:apalma@nationalcityca.gov) or by fax to (619) 336-4292.

Notice is hereby also given that the City of National City will hold the final public hearing on Tuesday, May 7, 2019 at 6:00 p.m. at City Council Chambers, on the second floor of City Hall, to review written comments and obtain final testimony on the proposed use of funds for FY 2019-2020. The final FY 2019-2020 Annual Action Plan will be submitted to HUD for review and acceptance on or before May 17, 2019.

For more information regarding this process, please contact Angelita Palma in the office of Housing & Economic Development at (619) 336-4219. Hearing impaired persons please use the CAL Relay Service Number 711. City facilities are wheelchair accessible. Please contact the Office of the City Clerk at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. Para que le interpreten la información en español, llame al (619) 336-4391.

Leslie Deese, City Manager  
City of National City  
Published in the San Diego Union Tribune  
Thursday, March 28, 2019



RESOLUTION NO. 2019 –

RESOLUTION OF THE CITY OF NATIONAL CITY ADOPTING THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FISCAL YEAR 2020 ANNUAL ACTION PLAN FUNDED BY COMMUNITY DEVELOPMENT BLOCK GRANT (“CDBG”) PROGRAM FISCAL YEAR 2020 ENTITLEMENT FUNDS, CDBG PROGRAM INCOME, FUNDS REMAINING FROM COMPLETED CDBG PROJECTS, HOME INVESTMENT PARTNERSHIPS (“HOME”) PROGRAM FISCAL YEAR 2020 ENTITLEMENT FUNDS, HOME PROGRAM INCOME, AND HOME FISCAL YEAR 2019 COMMUNITY HOUSING DEVELOPMENT ORGANIZATION FUNDS.

WHEREAS, as an entitlement community, the City of National City administers the Community Development Block Grant (“CDBG”) and the Home Investment Partnerships Act (“HOME”) Program for the Federal Government under the United States Department of Housing and Urban Development (“HUD”); and

WHEREAS, in accordance with the federal regulations at 24 CFR, Part 91, the City is required to prepare and submit an Annual Action Plan for Housing and Community Development Programs funded by CDBG and HOME; and

WHEREAS, HUD requires that all CDBG and HOME Program entitlement communities, such as the City of National City, hold at least two public hearings and a 30-day public comment period to solicit input on the Fiscal Year 2020 Annual Action Plan; and

WHEREAS, the City Council conducted a duly advertised public hearings on March 19, 2019 and May 7, 2019, to receive input from the public; and

WHEREAS, the 30-day comment period for the FY 2020 Annual Action Plan ran from March 28, 2019 to April 28, 2019; and

WHEREAS, the City will incorporate public comments received into the final submission of said Plans by May 17, 2019; and

WHEREAS, HUD has notified the City of its FY 2020 entitlement allocation in the amount of \$792,620.00 for CDBG and \$327,586.00 for the HOME Program that will be appropriated to the FY 2020 Annual Action Plan activities, hereto attached as Exhibit “A”; and

WHEREAS, staff has identified and verified the availability of \$23,540.67 in CDBG funds remaining from previous year projects that have been completed to supplement the funding of activities in Fiscal Year 2020 Annual Action Plan as listed on the attached Exhibit “A”; and

WHEREAS, staff has also identified and verified program income from 2018 received from the CDBG Program in the amount of \$26,803.29 and \$131,729.28 for the HOME Program to further supplement the funding of activities in the Fiscal Year 2020 Annual Action Plan as listed in the attached Exhibit “A”.

WHEREAS, staff has also identified and verified HOME Program CHDO funds in the amount of \$52,172.55 to supplement the funding of activities in the Fiscal Year 2020 Annual Action Plan as listed in the attached Exhibit “A”.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes FY 2020 HUD entitlement funds in the amount of \$792,620.00 for CDBG and \$327,586.00 for the HOME Program to be appropriated to FY 2020 Annual Action Plan activities, as set forth in Exhibit “A”; and

BE IT FURTHER RESOLVED that the City Council of the City of National City hereby authorizes the reallocation of \$23,540.67 in CDBG funds remaining from completed projects to supplement the funding of activities specified in the Fiscal Year 2020 Annual Action Plan, as set forth in Exhibit “A”.

BE IT FURTHER RESOLVED that the City Council of the City of National City hereby authorizes the allocation of \$26,803.29 in CDBG Program income and \$131,729.28 in HOME Program income from Fiscal Year 2018 to supplement the funding of activities specified in the Fiscal Year 2020 Annual Action Plan, as set forth in Exhibit “A”.

BE IT FURTHER RESOLVED that the City Council of the City of National City hereby authorizes HOME Program CHDO funds from Fiscal Year 2019 to be programmed in the amount of \$52,172.55 to supplement the funding of activities in the Fiscal Year 2020 Annual Action Plan as listed in the attached Exhibit “A”.

BE IT FURTHER RESOLVED that the City Council of the City of National City authorizes the submission of the Fiscal Year 2020 Annual Action Plan for the expenditure of said funds to the U.S. Department of Housing and Urban Development.

BE IT FURTHER RESOLVED that City Manager is hereby authorized to execute the final submission of the Fiscal Year 2020 Annual Action Plan, certifications, and agreements required by HUD for the full implementation of the activities funded under said Plan.

PASSED and ADOPTED this 7th day of May, 2019.

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

**FY 2019-2020 City of National City  
Community Development Block Grant and HOME Investment Partnerships Program  
Action Plan Funding**

CDBG Entitlement:	\$792,620.00	HOME Entitlement:	\$327,586.00
CDBG Program Income FY 2018:	\$26,803.29	HOME Program Income FY 2018:	\$131,729.28
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<b>Public Service Funds Available: \$118,893.00</b>			
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6	Housing & Economic Development	CDBG Program Administration	\$ 123,024.00
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Planning & Admin Total:			\$ 158,524.00
CDBG Total:			\$ 842,963.96
<b>HOME Investment Partnerships (HOME) Program</b>			
<b>Project Funds Available: \$465,556.30</b>			
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Total:			\$ 465,556.30
<b>Planning &amp; Administration Funds Available: \$46,460.94 (Estimated)</b>			
10	Housing & Economic Development	HOME Program Administration	\$ 45,931.53
HOME Total:			\$ 511,487.83



The following page(s) contain the backup material for Agenda Item: [Public Hearing and Adoption of a Resolution of the City Council of the City of National City of a policy on small cells equipment which delegates authority to the City Manager to negotiate a license agreement with the concurrence of the City Attorney. \(City Attorney\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:** Public Hearing and Adoption of a Resolution of the City Council of the City of National City of Proposed Policy on small cells equipment which authorizes and delegates Authority to the City Manager, or designee, to Negotiate and Execute a License Agreement with the Concurrence of the City Attorney.

**PREPARED BY:** Roberto M. Contreras

**DEPARTMENT:** City Attorney

**PHONE:** Ext. 4412

**APPROVED BY:** 

**EXPLANATION:**

Please see attached staff report.

**FINANCIAL STATEMENT:**

**APPROVED:** \_\_\_\_\_ **Finance**

**ACCOUNT NO.** |

**APPROVED:** \_\_\_\_\_ **MIS**

N/A

**ENVIRONMENTAL REVIEW:**

N/A

**ORDINANCE:** INTRODUCTION:  FINAL ADOPTION:

**STAFF RECOMMENDATION:**

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

- 1) Staff Report
- 2) City Council Policy on Small Wireless Facilities and other Infrastructure Deployment within the Public Right-of Way.
- 3) Template Pole License Agreement
- 4) Resolution



## **OFFICE OF THE CITY ATTORNEY**

### **Staff Report**

DATE: May 7, 2019

TO: Mayor and City Councilmembers

From: Roberto M. Contreras, Deputy City Attorney

Subject: Public Hearing and Resolution of the City Council of the City of National City of Proposed Policy on small cells equipment which authorizes and delegates the Authority to the City Manager, or designee, to Negotiate and Execute a License Agreement with the Concurrence of the City Attorney.

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#### Staff Recommendation

Staff recommends that the City Council hold a Public Hearing and accompanying Resolution that adopts a National City Policy regulating small wireless facilities and other infrastructure deployments in the public rights-of-way, and delegates and authorizes the City Manager, or designee, with the concurrence of the City Attorney, to negotiate and execute pole license agreements in accordance with the proposed Policy.

#### History

The Federal Communications Commission (FCC) adopted new preemptive regulations applicable to all small wireless facilities whether located on a City-owned pole or not. As a result, staff prepared proposed regulations that would be applicable to all small wireless facilities in the public rights-of-way. The FCC's new regulations will become fully effective on April 15, 2019. A town hall meeting on small facilities was held on March 12, 2019 where the proposed Policy regulations were considered by community and industry stakeholders. At the March 25, 2019, Planning Commission Meeting staff provided a presentation which included the proposed Policy as part of the Ordinance Amendment before them for consideration. Staff introduced the proposed Policy, and accompanying Resolution to adopt the Policy, to the City Council on April 16, 2019.

### Overview

California Public Utilities Code § 7901 grants certain telephone corporations a so called “statewide franchise” to deploy facilities along public roads or highways to the extent the deployment would not incommode the public use of the right-of-way. On April 4, 2019, the California Supreme Court reaffirmed that § 7901 preserves local discretion to regulate the aesthetics of these deployments.

Several wireless providers have recently expressed interest in locating “small wireless facilities” on City-owned poles. These poles, along with other utility poles, can serve as an antenna support structure to provide advanced wireless services. However, given that § 7901 grants providers the right to occupy the right-of-way for their facilities, foreclosing the opportunity to license City-owned poles would increase the likelihood that wireless providers would be entitled to install new standalone poles to provide services. In order to preserve the City’s aesthetics and mitigate the impact of new vertical obstructions in the rights-of-way, staff recommends that the City Council authorize the City Manager, or designee, to negotiate and execute pole license agreements on City-owned poles with the concurrence of the City Attorney. Staff now presents the proposed standardized pole license agreement to the City Council at this May 7, 2019 meeting.

Over the past several years, changes in federal and state law have significantly affected the City’s authority to regulate such wireless facilities. These changes include stricter timeframes and limitations on application reviews, new regulatory classifications for collocations and modifications to existing facilities, and even automatic approvals under certain circumstances.

Rulemaking proceedings at the Federal Communications Commission (FCC) on September 27, 2018 largely reduced cities’ authority to regulate small wireless facilities (or “small cells”). For example, the September 27th Order established presumptively reasonable annual license fees cities could charge at \$270 per installation, per year, reduced discretion regarding aesthetic and design requirements, and created new, shorter deadlines for approving applications to deploy small cells in the right of way.

These new FCC regulations are applicable to all small wireless facilities whether such facilities are located on a City-owned pole or not. As a result, staff recommends that the City adopt new regulations for all small wireless facilities in the public rights-of-way in addition to the recommended authorization to enter license agreements for attachments to City-owned poles.

May 7, 2019  
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Staff supports a more streamlined process for small wireless facilities that is established by the adoption of a Policy that set the standards for regulating small wireless facilities and other infrastructure deployments in National City public rights-of-way and delegates and authorizes the City Manager, or designee, with the concurrence of the City Attorney, to negotiate and execute pole license agreements in accordance with the proposed Policy.

<b>CITY OF NATIONAL CITY</b>	<b>POLICY NO.</b> <span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 40px; height: 15px;"></span>
<b>adopted:</b> May 7, 2019	
<b>City Council Policy on Small Wireless Facilities and Other Infrastructure Deployments within the Public Rights-of-Way</b>	

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## SECTION 1. BACKGROUND AND INTRODUCTION

In 1996, Congress adopted the Telecommunications Act to balance the national interest in advanced communications services and infrastructure with legitimate local government authority to enforce zoning and other regulations to manage infrastructure deployments on private property and in the public rights-of-way. Under section 704, which applies to personal wireless service facilities (*i.e.*, cell sites), local governments retain all their traditional zoning authority subject to specifically enumerated limitations.<sup>1</sup> Section 253 preempts local regulations that prohibit or effectively prohibit telecommunication services (*i.e.*, common carrier services) except competitively neutral and nondiscriminatory regulations to manage the public rights-of-way and require fair and reasonable compensation.

Communication technologies have significantly changed since 1996. Whereas cell sites were traditionally deployed on tall towers and rooftops over low frequency bands that travel long distances, cell sites are increasingly installed on streetlights and utility infrastructure on new frequency bands that travel shorter distances. According to the Federal Communications Commission (“FCC”) and the wireless industry, these so-called “small wireless facilities” or “small cells” are essential to the next technological evolution. The industry currently estimates that each national carrier will need to deploy between 30 and 60 small cells, connected by approximately 8 miles of fiber optic cable, per square mile.

On September 27, 2018, the FCC adopted a *Declaratory Ruling and Third Report and Order*, FCC 18-133 (the “*Small Cell Order*”), in connection with two informal rulemaking proceedings entitled *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, and *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84. In general, the *Small Cell Order*: (1) restricts the fees and other compensation state and local governments may receive from applicants; (2) requires all aesthetic regulations to be reasonable, no more burdensome than those applied to other infrastructure deployments, objective and published in advance; (3) mandates that local officials negotiate access agreements, review permit applications and conduct any appeals within significantly shorter timeframes; and (4) creates new evidentiary presumptions that make it more difficult for local governments to defend themselves if an action or failure to act is challenged in court. The regulations adopted in the *Small Cell Order* significantly curtail the local authority over wireless and wireline communication facilities reserved to State and local governments under sections 253 and 704 in the Telecommunications Act.

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<sup>1</sup> Local zoning regulations cannot prohibit or effectively prohibit personal wireless services, unreasonably discriminate among functionally equivalent services or regulate based on environmental impacts from radiofrequency (“RF”) emissions. In addition, local decisions must be made within a reasonable time and any denial requires a written decision based on substantial evidence in the written record.

## SECTION 2. PURPOSE AND INTENT

- (a) The City of National City intends this policy to establish reasonable, uniform and comprehensive standards and procedures for small wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City's territorial boundaries, consistent with and to the extent permitted under federal and California state law. The standards and procedures contained in this policy are intended to, and should be applied to, protect and promote public health, safety and welfare, and balance the benefits that flow from robust, advanced wireless services with the City's local values, which include without limitation the aesthetic character of the City, its neighborhoods and community. This policy is also intended to reflect and promote the community interest by (1) ensuring that the balance between public and private interests is maintained; (2) protecting the City's visual character from potential adverse impacts and/or visual blight created or exacerbated by small wireless facilities and related communications infrastructure; (3) protecting and preserving the City's environmental resources; (4) protecting and preserving the City's public rights-of-way and municipal infrastructure located within the City's public rights-of-way; and (5) promoting access to high-quality, advanced wireless services for the City's residents, businesses and visitors.
- (b) This policy is intended to establish clear procedures for application intake and completeness review. The City Council finds that chronically incomplete applications significantly contribute to unreasonable delay and create barriers to infrastructure deployment. Chronically incomplete applications unfairly prejudice other applicants who may be prepared to submit complete applications for infrastructure in the same or substantially the same location. Chronically incomplete applications also unfairly prejudice the City's ability to act on such applications within the "presumptively reasonable" timeframes established by the FCC. The provisions in this policy afford applicants and City staff opportunities for direct, real-time communication about completeness issues to mitigate incomplete applications prior to submittal. The provisions in this policy also encourage applicants to timely respond to incomplete notices.
- (c) This policy is intended to establish regulations, standards and guidelines for all infrastructure deployments unless specifically prohibited by applicable law. The City Council recognizes that different infrastructure deployments may be managed through other mechanisms, such as franchise or license agreements. Although such deployments may be exempt from the "ROW use permit" established in this policy, the City Council intends that the City official or department that administers such deployment shall apply the same regulations, standards and guidelines to the permit or other approval issued in connection with a request for authorization under such franchise, license or other agreement. The City Council also recognizes that different infrastructure deployments may have different impacts on the public rights-of-way that require different



regulations, standards or guidelines to protect public health, safety and welfare. However, to the extent that different regulations, standards or guidelines are applied to small wireless facilities or other infrastructure deployments, the City Council intends that one set be no more burdensome than the other when viewed under the totality of the circumstances.

- (d) This policy is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent personal wireless services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or California state law; (6) impose any unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to preempt any applicable federal or California law.

### **SECTION 3. DEFINITIONS**

The definitions in this section 3 be applicable to the terms, phrases and words this policy. Undefined terms, phrases or words will have the meanings assigned to them in 47 U.S.C. § 151 or, if not defined therein, will have the meaning assigned to them in Municipal Code or, if not defined in either therein, will have their ordinary meanings. If any definition assigned to any term, phrase or word in this section 3 conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.

**“accessory equipment”** means equipment other than antennas used in connection with a small wireless facility or other infrastructure deployment. The term includes **“transmission equipment”** as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended or superseded.

**“antenna”** means the same as defined by the FCC in 47 C.F.R. § 1.6002(b), as may be amended or superseded.

**“arterial road”** means a road designed to feed through-traffic to freeways, multi-lane highways and interstates, provide access to adjacent land uses – mostly at intersections – and feature traffic control measures. The term **“arterial road”** as used in this policy is defined in the Circulation Element of the National City General Plan.

**“batched application”** means more than one application submitted at the same time.

**“collector road”** means a road designed to provide access to adjacent land uses and feed local traffic to arterials. The term “collector road” as used in this policy includes collectors and residential collectors as defined in the Circulation Element of the National City General Plan.

**“collocation”** means the same as defined by the FCC in 47 C.F.R. § 1.6002(g), as may be amended or superseded.

**“CPUC”** means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.

**“decorative pole”** means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.

**“City Engineer”** means the City Engineer or the City Engineer’s designee.

**“FCC”** means the Federal Communications Commission or its duly appointed successor agency.

**“FCC Shot Clock”** means the presumptively reasonable time frame, accounting for any tolling or extension, within which the City generally must act on a request for authorization in connection with a personal wireless service facility, as such time frame is defined by the FCC and as may be amended or superseded.

**“local road”** means a road with low speeds and high accessibility to adjacent land uses that generally feed into collector roads and are not intended for through traffic. The term “local road” as used in this policy is defined in the Circulation Element of the National City General Plan.

**“ministerial permit”** means any City-issued non-discretionary permit required to commence or complete any construction or other activity subject to the City’s jurisdiction. Ministerial permits may include, without limitation, any building permit, construction permit, electrical permit, encroachment permit, excavation permit, traffic control permit and/or any similar over-the-counter approval issued by the City’s departments.

**“OTARD”** means an “over-the-air reception device” and includes all antennas and antenna supports covered by 47 C.F.R. § 1.4000(a)(1), as may be amended or superseded.

**“personal wireless services”** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.

**“personal wireless service facilities”** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.

**“persons entitled to notice”** means the record owners and legal occupants of all properties within 300 feet from the proposed project site and any other person who requests notice consistent with National City Municipal Code § 18.15.050.C.2. Notice to the legal occupants shall be deemed given when sent to the property’s physical address.

**“RF”** means radio frequency or electromagnetic waves.

**“Section 6409”** means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended or superseded.

**“shot clock days”** means calendar days counted toward the presumptively reasonable time under the applicable FCC Shot Clock. The term “shot clock days” does not include any calendar days on which the FCC Shot Clock is tolled. As an illustration and not a limitation, if an applicant applies on February 1, receives a valid incomplete notice on February 5 and then resubmits on February 20, only four “shot clock days” have elapsed because the time between the incomplete notice and resubmittal are not counted.

**“small wireless facility”** means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded.

**“support structure”** means a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended or superseded.

**“technically infeasible”** means a circumstance in which compliance with a specific requirement within this policy is physically impossible and not merely more difficult or expensive than a noncompliant alternative.

**“underground district”** means any area in the City within which overhead wires, cables, cabinets and associated overhead equipment, appurtenances and other improvements are either (1) prohibited by ordinance, resolution or other applicable law; (2) scheduled to be relocated underground within 18 months from the time an application is submitted; or (3) primarily located underground at the time an application is submitted.

#### **SECTION 4. APPLICABILITY**

- (a) **Small Wireless Facilities.** Except as expressly provided otherwise, the provisions in this policy shall be applicable to all existing small wireless facilities and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy small wireless facilities within the public rights-of-way within the City’s jurisdictional and territorial boundaries.

- (b) **Other Infrastructure Deployments.** To the extent that other infrastructure deployments, including without limitation any deployments that require approval pursuant to Municipal Code chapter 13.12, involve the same or substantially similar structures, apparatus, antennas, equipment, fixtures, cabinets, cables or improvements, the departments and/or officials responsible to review and approve or deny requests for authorization in connection with such other infrastructure deployment shall apply the provisions in this policy unless specifically prohibited by applicable law.

## SECTION 5. REQUIRED PERMITS AND APPROVALS

- (a) **ROW Use Permit.** A “ROW use permit”, subject to the City Engineer’s review and approval in accordance with this policy, shall be required for all small wireless facilities and other infrastructure deployments located in whole or in part within the public rights-of-way.
- (b) **Exemptions.** Notwithstanding anything in this policy to the contrary, a ROW use permit shall not be required for:
  - (1) wireless facilities or other infrastructure deployments owned and operated by the City for its use;
  - (2) OTARD facilities;
  - (3) requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409 will be subject to the current FCC rules and regulations “eligible facilities requests” as defined by FCC and as may be amended or superseded; or
  - (4) wireless facilities or other infrastructure deployments covered by a valid franchise, pole license or other encroachment agreement between the applicant and the City.
- (c) **Other Permits and Approvals.** In addition to a ROW use permit, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any ministerial permits and/or other approvals issued by other City departments or divisions. All applications for ministerial permits submitted in connection with a proposed small wireless facility or other infrastructure deployment must contain a valid ROW use permit issued by the City for the proposed facility. Any application for any ministerial permit(s) submitted without such ROW use permit may be denied without prejudice. Any ROW use permit granted under this policy shall remain subject to all lawful conditions and/or legal requirements associated with such other permits or approvals. Furthermore, and to avoid potential confusion, an exemption from the ROW use permit requirement

under section 5(b) does not exempt the same wireless facilities or other infrastructure deployments from any other permits or approvals, which includes without limitation any ministerial permits from the City.

## SECTION 6. APPLICATION AND REVIEW PROCEDURES

- (a) **Application Requirements for Small Wireless Facilities.** In addition to any other publicly-stated requirements, all ROW use permit applications for small wireless facilities must include the following information and materials:
- (1) **Application Form.** The applicant shall submit a complete, duly executed ROW use permit application on the then-current form prepared by the City Engineer.
  - (2) **Application Fee.** The applicant shall submit the applicable ROW use permit application fee established by City Council resolution. Batched applications must include the applicable ROW use permit application fee for each small wireless facility in the batch. If no ROW use permit application fee has been established, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to reimburse the City for its reasonable costs incurred in connection with the application within 10 days after the City issues a written demand for reimbursement.
  - (3) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions; (ii) identify all potential support structures within 350 feet from the proposed project site and call out such structures' overall height above ground level; (iii) depict the applicant's preliminary plan for electric and data backhaul utilities, which shall include the anticipated locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.
  - (4) **Site Survey.** For any small wireless facility, the applicant shall submit a survey prepared, signed and stamped by a licensed or registered engineer.

The survey must identify and depict all existing boundaries, encroachments and other structures within 75 feet from the proposed project site and any new improvements, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping features.

- (5) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed small wireless facility in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the small wireless facility from a vantage point approximately 50 feet from the proposed support structure or location. The photo simulations and vicinity map shall be incorporated into the construction plans submitted with the application.
- (6) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed facility qualifies as a “small wireless facility” as defined by the FCC in 47 C.F.R. § 1.6002(l). A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met—bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include (i) whether and why the proposed support is a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a ROW use permit as provided in section 8(b).
- (7) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed small wireless facility, both individually and cumulatively with all other emitters in the vicinity (if any), will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the City Engineer. The RF report must include the actual frequency and power levels (in watts effective radiated power) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each

such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

- (8) **Structural Analysis.** The applicant shall submit a report prepared and certified by an engineer (or other qualified personnel acceptable to the City) that evaluates whether the underlying pole or support structure has the structural integrity to support all the proposed equipment and attachments. At a minimum, the analysis must be consistent with all applicable requirements in CPUC General Order 95 (including, but not limited to, load and pole overturning calculations), the National Electric Safety Code, and any safety and construction standards required by the utility.
- (9) **Public Notices.** The applicant shall include with the application a list that identifies all persons entitled to notice (as defined in this policy) together with three preaddressed envelopes with correct postage for each person entitled to notice.
- (10) **Regulatory Authorization.** The applicant shall submit evidence of the applicant's regulatory status under federal and California law to provide the services and construct the small wireless facility proposed in the application.
- (11) **Pole License Agreement.** For any small wireless facility proposed to be installed on any structure owned or controlled by the City and located within the public rights-of-way, the applicant shall submit an executed Pole License Agreement on a form prepared by the City that states the terms and conditions for such non-exclusive use by the applicant. No changes shall be permitted to the City's Pole License Agreement except as may be indicated on the form itself. Any unpermitted changes to the City's Pole License Agreement shall be deemed a basis to deem the application incomplete. Refusal to accept the terms and conditions in the City's Pole License Agreement shall be an independently sufficient basis to deny the application.
- (12) **Title Report and Property Owner's Authorization.** For any small wireless facility proposed to be installed on a support structure in the public right-of-way, the applicant must submit a written authorization from the support structure owner(s) that authorizes the applicant to submit and accept a ROW use permit in connection with the subject structure.
- (13) **Acoustic Analysis.** The applicant shall submit an acoustic analysis prepared and certified by a licensed engineer for the proposed small wireless facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the City's noise regulations. The acoustic analysis must also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic

analysis, the applicant may submit evidence from the equipment manufacturer(s) that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable noise limits.

- (b) **Voluntary Presubmittal Conference.** The City strongly encourages, but does not require, applicants to schedule and attend a presubmittal conference with the City Engineer and other City staff. This voluntary, presubmittal conference does not cause the FCC Shot Clock to begin and is intended to streamline the review process through collaborative, informal discussion that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project and/or project site, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments implicated by the proposed project; and application completeness issues. Presubmittal conferences are especially encouraged when an applicant seeks to submit one or more batched applications so that the City Engineer may advise the applicant about any staffing or scheduling issues that may hinder the City's ability to meet the presumptively reasonable timeframes under the FCC Shot Clock. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications, plans, maps or other materials so that City staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable in their then-current form. The City Engineer will use reasonable efforts to provide the applicant with an appointment within approximately five working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the staff time and services rendered in the presubmittal conference. The City Engineer may grant a written waiver of the alternative location analysis when the applicant: (1) proposes to site the small wireless facility on an existing structure within an arterial street and not within a residential district, Morgan Square or Brick Row; and (2) participates in a voluntary presubmittal conference. Any waiver shall be limited to applications for the proposed small wireless facilities discussed at the presubmittal conference and described in the written waiver signed by the City Engineer, and shall not be applicable to any other applications for any other small wireless facilities.
- (c) **Submittal Appointments.** All applications must be submitted in person to the City at a pre-scheduled appointment with the City Engineer. Prospective applicants may generally submit one application per appointment, or up to five individual applications per appointment as a batch. Potential applicants may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants for any other development project as determined by the City Engineer. The City Engineer shall use reasonable efforts to offer an appointment within five working days after the City Engineer receives a written request from a potential applicant. Any purported application received



without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed, whether the City retains, returns or destroys the materials received.

- (d) **Incomplete Applications Deemed Withdrawn.** Any application governed under this policy shall be automatically deemed withdrawn by the applicant when the applicant fails to submit a substantive response to the City Engineer within 60 calendar days after the City Engineer deems the application incomplete by written notice. As used in this subsection (d), a “substantive response” must include, at a minimum, the complete materials identified as incomplete in the written incomplete notice.
- (e) **Additional Administrative Requirements and Regulations.** The City Council authorizes the City Engineer to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the City Engineer finds necessary, appropriate or useful for processing any application governed under this policy. The City Engineer further authorizes the City Engineer to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for appointments and/or submittals without appointments, as the City Engineer deems necessary or appropriate to organize, document and manage the application intake process. All such requirements, materials, rules and regulations must be in written form and publicly stated to provide all interested parties with prior notice.
- (f) **Independent Expert Review; Staff Augmentation.**
  - (1) **Authorization.** The City Council authorizes the City Engineer to, in his or her discretion, select and retain independent experts, consultants, contractors and other professionals (collectively “augmented staff”) with expertise in telecommunications satisfactory to the City Engineer in connection with any ROW use permit application(s).
  - (2) **Scope.** The City Engineer may request augmented staff review on any issue in connection with the ROW use permit application. Such issues may include, but are not limited to: (A) ROW use permit application completeness or accuracy; (B) planned compliance with applicable RF exposure standards; (C) whether technically feasible and potentially available alternative locations and designs exist; (D) the applicability, reliability and sufficiency of analyses or methodologies used by the applicant to reach conclusions about any issue within this scope; (E) compliance with the provisions in this policy; and (F) any other issue that requires expert or specialized knowledge identified by the City Engineer.
  - (3) **Deposit.** The applicant must pay for the cost of such review and for the augmented staff’s testimony in any hearing as requested by the City Engineer

and must provide a reasonable advance deposit of the estimated cost of such review with the City prior to the commencement of any work by the augmented staff. The applicant must provide an additional advance deposit to cover the augmented staff's testimony and expenses at any meeting where that testimony is requested by the City Engineer. Where the advance deposit(s) are insufficient to pay for the cost of such review and/or testimony, the City Engineer shall invoice the applicant for any and all additional, actual and reasonable costs incurred by the City in connection with the augmented staff that exceeds the initial amount from the fee. The applicant shall pay the invoice in full within ten calendar days after receipt of the invoice. No ROW use permit shall issue to an applicant where that applicant has not timely paid a required fee, provided any required deposit or paid any invoice as required in this policy.

## **SECTION 7. PUBLIC NOTICES**

- (a) **Application Submittal Notice.** Within approximately 10 calendar days after an application is received and prior to any approval, conditional approval or denial, the City shall mail public notice to all persons entitled to notice. The notice must contain: (1) a general project description, which must include the nature of the project, the project location and an accurate diagram or photo simulation; (2) the City's file number for the application; (3) the applicant's identification and contact information as provided on the application submitted to the City; (4) contact information for the City Engineer and a deadline for interested parties to submit written comments; (5) a statement that the City Engineer will act on the application without a public hearing but that any interested person or entity may appeal the City Engineer's decision directly to the City Council; and (6) if the application is for a small wireless facility, a general statement that the FCC requires the City to take final action on such applications within 60 days for collocations and 90 days for facilities on new support structures.
- (b) **Application Decision Notice.** Within five calendar days after the City Engineer acts on a ROW use permit application, the City Engineer shall provide written notice to the applicant and all persons entitled to notice. If the City Engineer denies an application (with or without prejudice) for a small wireless facility, the written notice must also contain the reasons for the denial.

## **SECTION 8. DECISIONS**

- (a) **Initial Administrative Decision.** Not less than 10 calendar days after the public notice required in section 7(a) is sent, and not more than 29 shot clock days after the application has been deemed complete, the City Engineer shall approve, conditionally approve or deny a complete and duly filed ROW use permit application without a public hearing.

- (b) **Required Findings for Approval.** The City Engineer may approve or conditionally approve a complete and duly filed application for a ROW use permit when the City Engineer finds:
- (1) the proposed project complies with all applicable design standards in this policy;
  - (2) the proposed project would be in the most preferred location within 350 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred location(s) within 350 feet would be technically infeasible;
  - (3) the proposed project would not be located on a prohibited support structure identified in this policy;
  - (4) the proposed project would be on the most preferred support structure within 350 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred support structure(s) within 350 feet would be technically infeasible;
  - (5) if the proposed project involves a wireless facility, the proposed project fits within the definition for a “small wireless facility” as defined by the FCC;
  - (6) if the proposed project involves a wireless facility, the applicant has demonstrated that the proposed project will be in planned compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions; and
  - (7) all public notices required for the application have been given.
- (c) **Conditional Approvals; Denials Without Prejudice.** Subject to any applicable federal or California laws, nothing in this policy is intended to limit the City Engineer’s ability to conditionally approve or deny without prejudice any ROW use permit application as may be necessary or appropriate to ensure compliance with this policy.
- (d) **Appeals.** Any interested person or entity may appeal the decision by the City Engineer to the City Council; provided, however, that appeals from an approval shall not be permitted when based solely on the environmental effects from radio frequency emissions that are compliant with applicable FCC regulations and guidelines. An appeal notice must be filed within seven calendar days after the date on the City Engineer’s decision notice. The notice must contain a short and plain statement about the basis for the appeal, which may be supplemented after the notice period has expired but before the appeal hearing. The City Council shall hear appeals *de novo* and issue the applicant a written decision within five

calendar days after the appeal hearing. If the City Council denies the application on appeal (whether by affirmation or reversal), the written notice shall contain the reasons for the decision.

## **SECTION 9. CONDITIONS OF APPROVAL**

- (a) **Standard Conditions.** Except as may be authorized in subsection (b), all ROW use permits issued under this policy shall be automatically subject to the conditions in this subsection (a).
- (1) **Permit Term.** This permit will automatically expire 10 years and one day from its issuance unless California Government Code § 65964(b) authorizes the City to establish a shorter term for public safety reasons. Any other permits or approvals issued in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.
  - (2) **Permit Renewal.** Not more than one year before this ROW use permit expires, the permittee may apply for permit renewal. The permittee must demonstrate that the subject small wireless facility or other infrastructure deployment complies with all the conditions of approval associated with this ROW use permit and all applicable provisions in the Municipal Code and this policy that exist at the time the decision to renew or not renew is rendered. The City Engineer may modify or amend the conditions on a case-by-case basis as may be necessary or appropriate to ensure compliance with the Municipal Code, this policy or other applicable law. Upon renewal, this ROW use permit will automatically expire 10 years and one day from its issuance.
  - (3) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small wireless facility or other infrastructure deployment approved or deemed-approved, the permittee shall provide the City Engineer with documentation reasonably acceptable to the City Engineer that the small wireless facility or other infrastructure deployment has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
  - (4) **Build-Out Period.** This ROW use permit will automatically expire 12 months from the approval date (the “build-out period”) unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved small wireless facility or other infrastructure deployment, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, support structure or the small wireless facility or other infrastructure

deployment and its use. If the permittee cannot obtain all other permits and approvals before build-out period expires, the City will not extend the build-out period but the permittee may resubmit a complete application, including all application fees, for the same or substantially similar project.

- (5) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved construction drawings and all conditions in this ROW use permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- (6) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“laws”) applicable to the permittee, the subject property, the small wireless facility or other infrastructure deployment or any use or activities in connection with the use authorized in this ROW use permit, which includes without limitation any laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee’s obligations to maintain compliance with all laws. No failure or omission by the City to timely notice, prompt or enforce compliance with any applicable provision in the Municipal Code, this policy any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee’s obligation to comply in all respects with all applicable provisions in the Municipal Code, this policy, any permit, any permit condition or any applicable law or regulation.
- (7) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee’s or its authorized personnel’s construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare an emergency within the City. The City

Engineer may issue a stop work order for any activities that violates this condition in whole or in part.

- (8) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the City's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the City's officers, officials, staff or other designees while any such inspection or emergency access occurs.
- (9) **Permittee's Contact Information.** Within 10 days from the final approval, the permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the small wireless facility or other infrastructure deployment, which includes without limitation such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times and promptly provide the City with updated contact information if either the responsible person or such person's contact information changes.
- (10) **Indemnification.** The permittee and, if applicable, the property owner upon which the small wireless facility or other infrastructure deployment is installed shall defend, indemnify and hold harmless the City, City Council and the City's boards, commissions, agents, officers, officials, employees and volunteers (collectively, the "indemnitees") from any and all (i) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the indemnitees to challenge, attack, seek to modify, set aside, void or annul the City's approval of this ROW use permit, and (ii) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', City Engineers', officers', employees', contractors', subcontractors', licensees' or customers' acts or omissions in connection with this ROW use permit or the small wireless facility or other infrastructure deployment. In the event the City becomes aware of any claims, the City will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly

acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this ROW use permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this ROW use permit.

- (11) **Performance Bond.** Before the City issues any permits required to commence construction in connection with this permit, the permittee shall post a performance bond from a surety and in a form acceptable to the City Engineer in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities or other infrastructure removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, the City Engineer shall take into consideration any information provided by the permittee regarding the cost to remove the small wireless facility or other infrastructure deployment to a standard compliant with applicable laws. The performance bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject wireless facility or other infrastructure deployment in accordance with this condition.
- (12) **Permit Revocation.** Any permit granted under this policy may be revoked in accordance with the provisions and procedures in this condition. The City Engineer may initiate revocation proceedings when the City Engineer has information that the facility may not be in compliance with all applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Before any public hearing to revoke a permit granted under this policy, the City Engineer must issue a written notice to the permittee that specifies (i) the facility; (ii) the violation(s) to be corrected; (iii) the timeframe in which the permittee must correct such violation(s); and (iv) that, in addition to all other rights and remedies the City may pursue, the City may initiate revocation proceedings for failure to correct such violation(s). A permit granted under this policy may be revoked only by the City Council after a duly notice public hearing. The City Council may revoke a permit when it finds substantial evidence in the written record to show that the facility is not in compliance with any applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Any decision by the City Council to revoke or not revoke a permit shall be final and not subject to any further appeals. Within five business days after the City Council adopts a resolution

to revoke a permit, the City Engineer shall provide the permittee with a written notice that specifies the revocation and the reasons for such revocation.

- (13) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the ROW use permit application, ROW use permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the ROW use permit (collectively, “records”). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the City’s regular files will control over any conflicts between such City-controlled copies or records and the permittee’s electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.
- (14) **Abandoned Facilities.** The small wireless facility or other infrastructure deployment authorized under this ROW use permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small wireless facility or other infrastructure deployment is abandoned or deemed abandoned, the permittee and/or property owner shall completely remove the small wireless facility or other infrastructure deployment and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Municipal Code. In the event that neither the permittee nor the property owner complies with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and property owner shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.
- (15) **Landscaping.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee’s direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and



- pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree. The permittee shall, at all times, be responsible to maintain any replacement landscape features.
- (16) **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee's request for authorization to construct, install and/or operate the wireless facility will cause the City to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility or other infrastructure deployment; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse City for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.
- (17) **Future Undergrounding Programs.** Notwithstanding any term remaining on any ROW use permit, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee's small wireless facility or other infrastructure deployment is located, the permittee must also underground its equipment, except the antennas and any approved electric meter, at approximately the same time. Accessory equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition. Small wireless facilities and other infrastructure deployments installed on wood utility poles that will be removed pursuant to the undergrounding program may be reinstalled on a streetlight that complies with the City's standards and specifications. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.
- (18) **Electric Meter Upgrades.** If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the

removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.

- (19) **Rearrangement and Relocation.** The permittee acknowledges that the City, in its sole discretion and at any time, may: (A) change any street grade, width or location; (B) add, remove or otherwise change any improvements in, on, under or along any street owned by the City or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (C) perform any other work deemed necessary, useful or desirable by the City (collectively, "City work"). The City reserves the rights to do any and all City work without any admission on its part that the City would not have such rights without the express reservation in this ROW use permit. If the City Engineer determines that any City work will require the permittee's small wireless facility located in the public rights-of-way to be rearranged and/or relocated, the permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the permittee's small wireless facility or other infrastructure deployment within a reasonable time after the City Engineer's notice, the City may (but will not be obligated to) cause the rearrangement or relocation to be performed at the permittee's sole cost and expense. The City may exercise its rights to rearrange or relocate the permittee's small wireless facility or other infrastructure deployment without prior notice to permittee when the City Engineer determines that the City work is immediately necessary to protect public health or safety. The permittee shall reimburse the City for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs.
- (20) **Truthful and Accurate Statements.** The permittee acknowledges that the City's approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee's behalf. In any matter before the City in connection with the ROW use permit or the small wireless facility or other infrastructure approved under the ROW use permit, neither the permittee nor any person authorized to act on permittee's behalf shall, in any written or oral statement, intentionally provide material factual information that is incorrect or misleading or intentionally omit any material information necessary to prevent any material factual statement from being incorrect or misleading.
- (b) **Modified Conditions.** The City Council authorizes the City Engineer to modify, add or remove conditions to any ROW use permit as the City Engineer deems necessary or appropriate to: (1) protect and/or promote the public health, safety and welfare; (2) tailor the standard conditions in subsection (a) to the particular facts and circumstances associated with the deployment; and/or (3) memorialize any changes to the proposed deployment need for compliance with the Municipal

Code, this policy, generally applicable health and safety requirements and/or any other applicable laws. To the extent required by applicable FCC regulations, the City Engineer shall take care to ensure that any different conditions applied to small wireless facilities are no more burdensome than those applied to other infrastructure deployments.

## **SECTION 10. LOCATION STANDARDS**

- (a) **Location Preferences.** To better assist applicants and decision-makers understand and respond to the community's aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. The most preferred locations are those on arterial streets, outside any residential district, Morgan Square or Brick Row. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that either (1) no more preferred locations or structures exist within 350 feet from the proposed site; or (2) any more preferred locations or structures within 350 feet from the proposed site would be technically infeasible as supported. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:
- (1) locations within commercial or industrial districts on or along arterial streets;
  - (2) locations within commercial or industrial districts on or along collector streets;
  - (3) locations within commercial or industrial districts on or along local streets;
  - (4) locations within residential districts on or along arterial streets;
  - (5) locations within residential districts on or along collector streets;
  - (6) locations within residential districts on or along local streets;
  - (7) locations within open space districts, including without limitation Morgan Square, on or along any street;
  - (8) locations along Brick Row;
  - (9) any location within 350 feet from an existing small wireless facility;
  - (10) any location within 350 feet from any structure approved for a residential use.
- (b) **Prohibited Support Structures.** Except when authorized as a pre-approved design pursuant to this policy, small cells shall not be permitted on the following support structures:

- (1) decorative poles;
  - (2) traffic signal poles, cabinets or related structures;
  - (3) new, nonreplacement wood poles;
  - (4) any utility pole scheduled for removal or relocation within 18 months from the time the City Engineer acts on the small cell application;
- (c) **Encroachments Over Private Property.** No small wireless facilities, other infrastructure deployments, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner's express written consent.
- (d) **No Interference with Other Uses.** Small wireless facilities and other infrastructure deployments and any associated antennas, accessory equipment or improvements shall not be located in any place or manner that would physically interfere with or impede access to any: (1) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (2) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop; (3) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (4) fire hydrant or water valve; (5) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; or (6) access to any fire escape.
- (e) **Replacement Pole Location.** All replacement poles must: (1) be located as close to the removed pole as possible; (2) be aligned with the other existing poles along the public rights-of-way; and (3) be compliant with all applicable standards and specifications by the City Engineer.
- (f) **Additional Placement Requirements.** In addition to all other requirements in this policy, small wireless facilities, other infrastructure deployments and all related equipment and improvements shall:
- (1) be placed as close as possible to the property line between two parcels that abut the public rights-of-way;
  - (2) not be placed directly in front of any door or window;
  - (3) not be placed within any sight distance triangles at any intersections;

- (4) be placed at least five feet away from any driveway or established pedestrian pathway between a residential structure and the public rights-of-way;
- (5) be placed at least 50 feet away from any driveways for police stations, fire stations or other emergency responder facilities.

## SECTION 11. DESIGN STANDARDS

- (a) **Finishes.** All exterior surfaces shall be painted, colored and/or wrapped in flat, nonreflective hues that match the underlying support structure or blend with the surrounding environment. All surfaces shall be treated with graffiti-resistant sealant. All finishes shall be subject to the City Engineer's prior approval.
- (b) **Noise.** Small cells and all associated antennas, accessory equipment and other improvements must comply with all applicable noise control standards and regulations in Title 12 of the Municipal Code, as either may be amended or superseded, and shall not exceed, either on an individual or cumulative basis, the noise limit in the applicable district.
- (c) **Lights.** All lights and light fixtures must be aimed and shielded so that their illumination effects are directed downwards and confined within the public rights-of-way in a manner consistent with any other standards and specifications by the City Engineer. All antennas, accessory equipment and other improvements with indicator or status lights must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas.
- (d) **Trees and Landscaping.** Small wireless facilities and other infrastructure deployments on or beneath the ground shall not be installed (in whole or in part) within any tree drip line. Small wireless facilities and other infrastructure deployments may not displace any existing tree or landscape features unless: (A) such displaced tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the City Engineer and (B) the applicant submits and adheres to a landscape maintenance plan. Only International Society of Arboriculture certified workers under a licensed arborist's supervision shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree unless approved by the City Engineer. The permittee shall, at all times, be responsible to maintain any replacement landscape features.
- (e) **Signs and Advertisements.** All small wireless facilities and other infrastructure deployments that involve RF transmitters must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Small wireless facilities and other infrastructure deployments may not bear any other signage or advertisements unless expressly approved by the City,

required by law or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.

- (f) **Site Security Measures.** Small wireless facilities and other infrastructure deployments may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. The City Engineer shall not approve any barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures. All exterior surfaces on small wireless facilities shall be constructed from or coated with graffiti-resistant materials.
- (g) **Compliance with Health and Safety Regulations.** All small wireless facilities and other infrastructure deployments shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, which includes without limitation all applicable regulations for human exposure to RF emissions and compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*).
- (h) **Antennas.** The provisions in this subsection (h) are generally applicable to all antennas.
  - (1) **Shrouding.** All antennas and associated cables, jumpers, wires, mounts, masts, brackets and other connectors and hardware must be installed within a single shroud or radome. For pole-top antennas, the shroud shall not exceed two times the median pole diameter and must taper down to pole. For side-arm antennas, the shroud must cover the cross arm and any cables, jumpers, wires or other connectors between the vertical riser and the antenna.
  - (2) **Antenna Volume.** Each individual antenna associated with a single small cell shall not exceed three cubic feet. The cumulative volume for all antennas on a single small cell shall not exceed: (A) three cubic feet in residential areas; or (B) six cubic feet in nonresidential areas.
  - (3) **Overall Height.** No antenna may extend more than five feet above the support structure, plus any minimum separation between the antenna and other pole attachments required by applicable health and safety regulations.
  - (4) **Horizontal Projection.** Side-mounted antennas, where permitted, shall not project: (A) more than 24 inches from the support structure; (B) over any roadway for vehicular travel; or (C) over any abutting private property. If applicable laws require a side-mounted antenna to project more than 24 inches from the support structure, the projection shall be no greater than required for compliance with such laws.

- (i) **Accessory Equipment Volume.** The cumulative volume for all accessory equipment for a single small wireless facility or other infrastructure deployment shall not exceed: (A) nine cubic feet in residential areas or (B) seventeen cubic feet in nonresidential areas. The volume limits in this subsection do not apply to any undergrounded accessory equipment.
  
- (j) **Undergrounded Accessory Equipment.**
  - (1) **Where Required.** Accessory equipment (other than any electric meter (where permitted) emergency disconnect switch) shall be placed underground when proposed in any (A) underground district or (B) any location where the City Engineer finds substantial evidence that the additional above-ground accessory equipment would incommode the public's uses in the public rights-of-way. Notwithstanding the preceding sentence, the City Engineer may grant an exception when the applicant demonstrates by clear and convincing evidence that compliance with this section would be technically infeasible.
  - (2) **Vaults.** All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk.
  
- (k) **Pole-Mounted Accessory Equipment.** The provisions in this subsection (k) are applicable to all pole-mounted accessory equipment in connection with small wireless facilities and other infrastructure deployments.
  - (1) **Preferred Concealment Techniques.** Applicants should propose to place any pole-mounted accessory equipment in the least conspicuous position under the circumstances presented by the proposed pole and location. Pole-mounted accessory equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations.
  - (2) **Minimum Vertical Clearance.** The lowest point on any pole-mounted accessory equipment shall be at least eight feet above ground level adjacent to the pole. If applicable laws require any pole-mounted accessory equipment component to be placed less than eight feet above ground level, the clearance from ground level shall be no less than required for compliance with such laws.
  - (3) **Horizontal Projection.** Pole-mounted accessory equipment shall not project:
    - (i) more than 24 inches from the pole surface;
    - (ii) over any roadway for vehicular travel; or
    - (iii) over any abutting private property.All pole-mounted accessory equipment shall be mounted flush to the pole surface. If applicable

laws preclude flush-mounted equipment, the separation gap between the pole and the accessory equipment shall be no greater than required for compliance with such laws and concealed by opaque material (such as cabinet “flaps” or “wings”).

- (4) **Orientation.** Unless placed behind a street sign or some other concealment that dictates the equipment orientation on the pole, all pole-mounted accessory equipment should be oriented away from prominent views. In general, the proper orientation will likely be toward the street to reduce the overall profile when viewed from the nearest abutting properties. If orientation toward the street is not feasible, then the proper orientation will most likely be away from oncoming traffic. If more than one orientation would be technically feasible, the City Engineer may select the most appropriate orientation.
- (l) **Ground-Mounted or Base-Mounted Accessory Equipment.** The provisions in this subsection (l) are applicable to all ground-mounted and base-mounted accessory equipment in connection with small wireless facilities and other infrastructure deployments.
    - (1) **Ground-Mounted Concealment.** On collector roads and local roads, the City prefers ground-mounted accessory equipment to be concealed as follows: (A) within a landscaped parkway, median or similar location, behind or among new/existing landscape features and painted or wrapped in flat natural colors to blend with the landscape features; and (B) if landscaping concealment is not technically feasible, disguised as other street furniture adjacent to the support structure, such as, for example, mailboxes, benches, trash cans and information kiosks. On arterial roads outside underground districts, proposed ground-mounted accessory equipment should be completely shrouded or placed in a cabinet substantially similar in appearance to existing ground-mounted accessory equipment cabinets.
    - (2) **Public Safety Visibility.** To promote and protect public health and safety and prevent potential hazards hidden behind large equipment cabinets, no individual ground-mounted accessory equipment cabinet may exceed 4.5 feet in height or 4.5 feet in width. Ground-mounted and base-mounted equipment cabinets shall not have any horizontal flat surfaces greater than 1.5 square inches to prevent litter or other objects left on such surfaces.
  - (m) **Utilities.** The provisions in this subsection (m) are applicable to all utilities and other related improvements that serve small wireless facilities and other infrastructure deployments.
    - (1) **Overhead Lines.** The City Engineer shall not approve any new overhead utility lines in underground districts. In areas with existing overhead lines, new communication lines shall be “overlashed” with existing communication lines



to the extent feasible. No new overhead utility lines shall be permitted to traverse any roadway used for vehicular transit.

- (2) **Vertical Cable Risers.** All cables, wires and other connectors must be routed through conduits within the pole or other support structure, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, such as with wood utility poles, applicants shall route them through a single external conduit or shroud that has been finished to match the underlying pole.
- (3) **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
- (4) **Electric Meters.** Small cells and other infrastructure deployments shall use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicants may install a shrouded smart meter. If the proposed project involves a ground-mounted equipment cabinet, an electric meter may be integrated with and recessed into the cabinet, but the City Engineer shall not approve a separate ground-mounted electric meter pedestal.
- (5) **Existing Conduit or Circuits.** To reduce unnecessary wear and tear on the public rights-of-way, applicants are encouraged to use existing conduits and/or electric circuits whenever available and technically feasible. Access to any conduit and/or electric circuits owned or exclusively controlled by the City shall require prior written consent by the City Engineer, which the City Engineer may withhold or condition in his or her sole and absolute discretion.

## SECTION 12. PREAPPROVED DESIGNS

- (a) **Purpose.** To expedite the review process and encourage collaborative designs among applicants and the City, the City Council authorizes the City Engineer to designate one or more preapproved designs for small wireless facilities and other infrastructure deployments. This section 12 sets out the process to establish or repeal a preapproved design and the expedited review procedures and findings applicable to these applications.
- (b) **Adoption.** The City Engineer may, in the City Engineer's discretion, establish a preapproved design when the Engineer finds that a proposed preapproved design substantially conforms to the design standards in this policy. The City Engineer shall post a public notice posted at the Public Works Department offices and with the City Clerk. The notice must generally describe the preapproved design, include a photograph or photo simulation and specify whether the preapproved design would be limited or restricted in any districts.

The preapproved design shall become effective 15 days from the notice required in this subsection. A decision by the City Engineer not to adopt a proposed preapproved design or the City Engineer's failure to act on a request for a proposed preapproved design is not appealable.

- (c) **Repeal.** The City Engineer may repeal any preapproved design by written notice posted at Public Works Department offices and with the City Clerk. The repeal shall be immediately effective. The City Engineer's repeal, refusal to repeal or failure to act on a request to repeal a preapproved design is not appealable.
- (d) **Modified Review Process.** In nonresidential districts, applications for a preapproved design shall not be subject to the notice requirements in section 7(a) or any potential appeals under section 8(d). In residential districts, applications for a preapproved design shall remain subject to the notice requirements in section 7 and any potential appeals under section 8(d).
- (e) **Modified Findings.** When an applicant submits a complete application for a preapproved design, the City Engineer shall presume that the findings for approval in sections 8(b)(1) and 8(b)(5) are satisfied and shall evaluate the application for compliance with the findings for approval in sections 8(b)(2), 8(b)(3), 8(b)(4), 8(b)(6) and 8(b)(7).
- (f) **Nondiscrimination.** Any applicant may propose to use any preapproved design whether the applicant initially requested that the City Engineer adopt such preapproved design or not. The City Engineer's decision to adopt a preapproved design expresses no preference or requirement that applicants use the specific vendor or manufacturer that fabricated the design depicted in the preapproved plans. Any other vendor or manufacturer that fabricates a facility to the standards and specifications in the preapproved design with like materials, finishes and overall quality shall be acceptable as a preapproved design.

# POLE LICENSE AGREEMENT

between

**CITY OF NATIONAL CITY, A CALIFORNIA MUNICIPAL CORPORATION**

and

**[INSERT LICENSEE NAME], A [INSERT CORPORATE FORM]**

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## POLE LICENSE AGREEMENT

This POLE LICENSE AGREEMENT (“License”) dated [insert] (the “Effective Date”) is between the CITY OF NATIONAL CITY, a California municipal corporation (the “City”) and [LICENSEE], a [insert licensee’s corporate form] (“Licensee”).

### BACKGROUND

- A. Section 253 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified as 47 U.S.C. § 253, preserves the City’s authority to control access to and use the rights-of-way within the City’s jurisdictional boundaries, and to require reasonable compensation for such use on a competitively-neutral and nondiscriminatory basis so long as such compensation is disclosed; and
- B. California Public Utilities Code §§ 7901 and 7901.1 authorizes telephone corporations to construct “telephone lines along and upon any public road or highway” within the City and “erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway” subject to the City’s reasonable time, place and manner control; and
- C. California Public Utilities Code § 5840 authorizes franchised cable service providers use the public rights-of-way to deliver cable services as defined by federal law; and
- D. On September 27, 2018, the Federal Communications Commission adopted a Declaratory Ruling and Third Report and Order (FCC 18-133) in the rulemaking proceeding entitled *Accelerating Wireless Broadband by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79 (the “Order”), which interpreted various provisions in the Telecommunications Act in a manner that, *inter alia*: (1) limited the compensation that state and local governments may receive from wireless communication and infrastructure providers for access to their public rights-of-way and government-owned infrastructure; (2) significantly curtailed state and local discretionary authority over wireless facility placement and design; and (3) imposed procedural regulations that require state and local governments to negotiate agreements such as this License and approve or deny associated permit applications within 60 or 90 days; and
- E. The City generally desires to license its vertical infrastructure to wireless communication providers on negotiated terms and conditions but finds that the Order’s provisions leave the City with no incentive or time to conduct such negotiations and, as a result, the City has adopted this License as a mandatory form agreement from which no substantive changes can be made by any licensee; and
- F. Licensee installs and maintains wireless communications facilities on existing vertical infrastructure in the public right-of-way; and



- G. Licensee warrants and represents to the City that Licensee has the authority under applicable Laws to install and maintain telephone lines within the State of California, which include wireless communications facilities, in the public right-of-way to provide wireless communications services; and
- H. The City owns as its personal property a substantial number of existing poles within the public right-of-way that are potentially suitable for installing wireless communications facilities within the City's jurisdiction and has a duty to derive appropriate value from the City's property assets for the public good; and
- I. Licensee desires to install, maintain and operate wireless communications facilities on the City's poles in the public right-of-way in a manner consistent with the City's regulatory authority and Licensee is willing to compensate the City for the right to use the City's poles for wireless communications purposes; and
- J. Consistent with California state law, the City intends this License to be applicable only to a City-owned pole, and does not intend this License to require any consideration as a precondition for any telephone corporation's access to the public rights-of-way permitted under California Public Utilities Code § 7901; and
- K. The City desires to authorize Licensee's access to an individual City-owned pole based on the terms and conditions set forth in this License, and pursuant to all the applicable permits issued by the City to protect public health and safety; and
- L. Consistent with federal and California state law, the City does not intend this License to grant Licensee any exclusive right to use or occupy the public rights-of-way within the City's territorial and/or jurisdictional boundaries, and Licensee expressly acknowledges that the City may in its sole discretion enter into similar or identical agreements with other entities, which include without limitation Licensee's competitors; and
- M. On May 7, 2019, the City Council of the City of National City adopted Resolution No. 2019-      , which delegated authority to the City Manager, with the concurrence of the City Attorney, to enter into license agreements with state-authorized telephone corporations or cable service providers for the purpose of deploying small wireless facilities on City-owned Vertical Infrastructure.

**NOW THEREFORE**, for good, valuable and sufficient consideration received and acknowledged by the City and Licensee, the City and Licensee agree as follows:

## **AGREEMENT**

### **1. DEFINITIONS**

**"Agent"** means a party's agent, employee, director, officer, contractor, subcontractor or representative in relation to this License.

**“Approved Plans”** means the detailed plans and equipment specifications, which include without limitation all equipment, mounts, hardware, utilities, cables, conduits, signage, concealment elements and other improvements proposed by Licensee and approved by the City for Licensee’s construction and/or installation work in connection with the License Area, as more particularly described in **Exhibit A-2** (Approved Plans) attached hereto and incorporated herein.

**“Broker”** means any licensed real estate broker or other person who could claim a right to a commission or “finder’s fee” in connection with the license(s) or other real estate rights contemplated or conveyed in this License.

**“City Attorney”** means the City Attorney of the City of National City, California.

**“City Property”** means any interest in real or personal property owned or controlled by the City, which includes without limitation any and all (1) land, air and water areas; (2) license interests, leasehold interests, possessory interests, easements, franchises and other appurtenant rights or interests; (3) public rights-of-way or public utility easements; and (4) physical improvements such as buildings, structures, infrastructure, utility and other facilities, and alterations, installations, fixtures, furnishings and additions to existing real property, personal property and improvements.

**“Claim”** means any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, whether direct or indirect.

**“CPUC”** means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or the CPUC’s duly appointed successor agency.

**“Environmental Laws”** means any Law in relation or connection to industrial hygiene, environmental conditions or Hazardous Materials (as defined in this License).

**“Equipment”** means antennas, radios and any associated utility or equipment box, and battery backup, transmitters, receivers, amplifiers, ancillary fiber-optic cables and/or wiring, and ancillary equipment used for radio communication (voice, data or otherwise) transmission and/or reception, which includes without limitation the means, devices and apparatus used to attach any Equipment to any licensed Vertical Infrastructure, and any ancillary equipment such as wiring, cabling, power feeds or an similar things, and any signage attached to such Equipment that may be approved by the City or required by Law.

**“FCC”** means the Federal Communications Commission or its duly appointed successor agency.

**“Hazardous Material”** means any material that, due to its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any local, regional, state or federal body with jurisdiction and responsibility for issuing Regulatory

Approvals in accordance with applicable Laws to pose a present or potential hazard to human health, welfare or safety, or to the environment. The term “Hazardous Material” as used in this Master License or any Site License will be broadly construed, and includes, without limitation, the following: (1) any material or substance defined as a “hazardous substance”, or “pollutant” or “contaminant” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (codified as 42 U.S.C. §§ 9601 *et seq.*) or California Health & Safety Code § 25316; (2) any “hazardous waste” listed California Health & Safety Code § 25140; or (3) any petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

“**Indemnified City Party**” or “**Indemnified City Parties**” means the City and its Agents, Invitees, elected and appointed officials and volunteers.

“**Investigate and Remediate**” means the undertaking of any activities to determine the nature and extent of Hazardous Material that may be located in, on, under or about the License Area or that has been, is being, or is in danger of being Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Material.

“**Invitee**” means the client, customer, invitee, guest, tenant, subtenant, licensee, assignee and/or sublicensee of a party in relation to the License Area.

“**Laws**” means all present and future statutes, ordinances, codes, orders, policies, regulations and implementing requirements and restrictions by federal, state, county and/or municipal authorities, whether foreseen or unforeseen, ordinary as well as extraordinary, as adopted or as amended at the time in question.

“**License Area**” means the same as that term is defined in Section 2.1 (License Area Defined).

“**License Fee**” means the annual fee for each licensed Vertical Infrastructure authorized under this License, as specified in **Schedule 1** (Annual License Fee).

“**Licensee’s Office**” means Licensee’s place(s) of business located at **[insert address(es)]** that contains all the records, in physical and/or electronic form, that Licensee is required to maintain under Section 27.

“**Licensee’s On-Call Representative**” means the person(s) assigned by Licensee to be on-call and available to the City regarding the operation of Licensee’s Equipment. Such person(s) shall be qualified and experienced in the operation of Equipment and shall be authorized to act on behalf of Licensee in any emergency in and in day-to-day operations of the Equipment.

“**NESC**” means the National Electrical Safety Code, as may be amended or superseded, published by the Institute of Electrical and Electronics Engineers.

“**OSHA**” means the Occupational Safety and Health Administration of the United States Department of Labor, or OSHA’s duly appointed successor agency.

“**Preliminary Plans**” mean the detailed plans and equipment specifications, which include without limitation all equipment, mounts, hardware, utilities, cables, conduits, signage, concealment elements and other improvements proposed by Licensee but not yet approved by the City in connection with the License Area.

“**Regulatory Approvals**” means all licenses, permits and other approvals necessary for Licensee to install, operate and maintain Equipment on the License Area.

“**Release**” when used with respect to Hazardous Material includes any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing on, under or about the License Area, other City Property or the environment.

“**RF**” means radio frequency or electromagnetic waves.

“**Streets**” mean any public right-of-way, street, alley, highway, sidewalk, curb, gutter, driveway, parkway or other public place primarily used or dedicated for vehicular transportation within the City’s territorial and/or jurisdictional boundaries and subject to the City’s management regulations. The term “Streets” does not encompass any private property, private utility easements, any public easements for pedestrian ingress and egress across private property or any other public easement not dedicated for use as a public road or highway.

“**Vertical Infrastructure**” means that certain pole or similar structure, subject to this License, owned or controlled by the City and located in the public rights-of-way or public utility easements and meant for, or used in whole or in part for, communications service, electric service, lighting, traffic control or similar functions.

## **2. LICENSE AREA**

### **2.1. License Area Defined**

The parties to this License define “**License Area**” to mean that certain space on the that certain Vertical Infrastructure and other City Property, which includes without limitation any conduits, chases, risers, trays, pipes, vaults, pull boxes, and hand holes, identified on the Approved Plans as occupied by the Equipment and licensed to Licensee, all as more particularly described and depicted in **Exhibit A-1** (License Area).

### **2.2. Limited Rights Created**

This License grants Licensee only a non-possessory, non-exclusive and revocable license to enter on to and use the License Area for the Permitted Use in accordance with

the terms and conditions in this License. Licensee expressly acknowledges and agrees that: (1) this License is not and shall not be deemed to be coupled with an interest; (2) the City retains legal possession and control over the Vertical Infrastructure for the City's municipal functions, which will be superior to Licensee's rights and interest in the Vertical Infrastructure, if any, at all times; (3) subject to the terms and conditions in this License, the City may terminate this License in whole or in part at any time; (4) except as specifically provided otherwise in this License, the City may enter into any agreement with third parties to use and/or occupy the Vertical Infrastructure and/or other City Property; and (5) this License does not create and will not be deemed to create any partnership or joint venture between the City and Licensee.

### **2.3. No Impediment to Municipal Functions**

Except as expressly provided otherwise in this License, this License shall not limit, alter or waive the City's absolute right to use the License Area, in whole or in part, as infrastructure established and maintained for the City's and the public's benefit.

### **2.4. License Area Condition**

Licensee expressly acknowledges and agrees to enter on to and use the License Area in its "**as-is and with all faults**" condition. The City makes no representations or warranties whatsoever, whether express or implied, as to the License Area's condition or suitability for Licensee's use. Licensee expressly acknowledges and agrees that neither the City nor its Agents have made, and the City expressly disclaims, any representations or warranties whatsoever, whether express or implied, with respect to the License Area's physical, structural or environmental condition, the License Area's present or future suitability for the Permitted Use or any other matter related to the License Area. This License shall not be deemed a warranty of title by the City.

### **2.5. Licensee's Due Diligence**

Licensee expressly represents and warrants to the City that Licensee has conducted a reasonably diligent and independent investigation, either for itself or through an Agent selected by Licensee, into the License Area's condition and suitability for Licensee's intended use, and that Licensee relies solely on its due diligence for such determination. Licensee further expressly represents and warrants to the City that Licensee's intended use is the Permitted Use as defined in this License. Any testing performed by Licensee or its Agents shall be subject to the provisions in Section 6.6 (Damage or Alterations to Other Property). In addition to any other conditions that the City may impose on such testing, Licensee shall have the obligation to repair any damage caused by such testing and to restore all affected areas to the condition that existed immediately prior to such testing.

### **2.6. Diminutions in Light, Air or Signal Transmission or Reception**

In the event that any existing or future structure diminishes any light, air or signal propagation, transmission or reception, whether erected by the City or not, Licensee shall not be entitled to any reduction in any License Fee, Regulatory Fees, Reimbursement Fees or any other sums payable to the City under this License, the City shall have no liability to Licensee whatsoever and such diminution will not affect this License or Licensee's obligations except as may be expressly provided in this License.

## **2.7. Certified Access Specialist Disclosure**

Pursuant to California Civil Code § 1938, as may be amended or superseded, and to the extent applicable to this License, the City expressly advises Licensee, and Licensee expressly acknowledges, that a Certified Access Specialist (as defined in California Civil Code § 55.53) has not inspected any License Area in whole or in part to determine whether it meets all applicable construction-related accessibility requirements.

## **3. USE OF LICENSE AREA**

### **3.1. Permitted Use**

Licensee may use the License Area solely to construct, install, operate and maintain Equipment for transmission and reception of wireless communications signals (the "**Permitted Use**") in compliance with all applicable Laws, which includes without limitation the National City Municipal Code and any conditions in any Regulatory Approvals and for no other use whatsoever without the City's prior written consent, which the City may withhold in its sole and absolute discretion for any or no reason.

### **3.2. Prohibition on Non-Small Wireless Facilities**

The City intends this License to cover only wireless facilities that (a) qualify as a "small wireless facility" as that term is defined by the FCC under 47 C.F.R. § 1.6002(*l*); and (b) have been approved by the City in accordance with all applicable provisions in the National City Municipal Code. Licensee expressly acknowledges and agrees that the Permitted Use under this License does not include the right to use any Vertical Infrastructure as a support structure for a "macro cell" or a traditional wireless tower or base station.

### **3.3. Prohibition on Nuisances**

Licensee shall not use the License Area in whole or in part in any unlawful manner or for any illegal purpose. In addition, Licensee shall not use the License Area in whole or in part in any manner that constitutes a nuisance as determined by the City in its reasonable discretion. Licensee shall take all precautions to eliminate any nuisances or hazards in connection with its uses and activities on or about the License Area.

### **3.4. Signs and Advertisements**

Licensee acknowledges and agrees that this License does not authorize Licensee to erect, post or maintain, or permit others to erect, post or maintain, any signs, notices, graphics or advertisements whatsoever on the License Area, except as may be specifically authorized under this License or as may be required for compliance with any Regulatory Approvals and applicable Laws.

#### 4. TERM

Unless earlier terminated in accordance with this License or as may be permitted under applicable Laws, the term under this License shall commence on the Effective Date and automatically expire ten (10) years from the Effective Date. Licensee may apply for a new license within not more than 30 days before this License expires or at any time after this License's expiration or earlier termination.

#### 5. FEES

##### 5.1. Annual License Fee

Licensee shall pay the first annual License Fee within 30 days from the Effective Date without any prior demand, deduction, setoff or counterclaim for any reason. Thereafter, Licensee shall pay the City the License Fee on the anniversary of the Effective Date throughout the Term without any prior demand, deduction, setoff or counterclaim for any reason. The License Fee shall be (a) reasonably approximate to the City's objectively reasonable costs consistent with applicable Laws; (b) in addition to any fees charged by the City in connection with any permit applications, permit issuance fees, inspection fees, fines, penalties or other fees charged by the City in connection with the Equipment and/or any related Regulatory Approvals (collectively, "**Regulatory Fees**"); and (c) in addition to any other cost-based reimbursements owed to the City by Licensee ("**Reimbursement Fees**"). **Schedule 1** attached to this License and incorporated by this reference specifies the License Fee payable by Licensee to the City in each year throughout the Term. Unless otherwise adjusted in accordance with this License, the License Fee shall automatically increase by 3% each year on the anniversary of the Effective Date.

##### 5.2. Fee Adjustments by City

At any time throughout the Term, the City shall have the option (but not the obligation) to adjust any License Fee, Regulatory Fees and Reimbursement Fees to reflect the City's reasonable costs incurred in connection with this License, any Regulatory Approvals issued or administered by the City in connection with this License or the Equipment or Licensee's acts or omissions on or about the License Area and/or the Streets. The City may exercise such option either by an ordinance approved and adopted by the City Council (a "**Fee Ordinance**") or by written notice to Licensee (the "**Adjustment Notice**"). If the adjustment concerns the annual License Fee, the City shall have the right to substitute a new **Schedule 1** to reflect such adjustment in either a Fee Ordinance or Adjustment Notice. Any adjustment by Fee Ordinance shall be effective at the same time such Fee Ordinance becomes effective. Any adjustment by Adjustment Notice shall be

immediately effective. Licensee shall have the right to appeal any Adjustment Notice to the City Council in the manner prescribed by the National City Municipal Code.

### **5.3. Late Fees**

In the event that Licensee fails to pay any License Fee or any other amount payable to the City on the date that such amounts are due and unpaid, such amounts will be subject to a late charge equal to five percent (5%) of unpaid amounts.

### **5.4. Default Interest**

Any License Fee, Regulatory Fees, Reimbursement Fees and all other amounts payable to the City other than late charges will bear interest at ten percent (10%) per annum from the due date when not paid within 10 days after due and payable to the City. Any sums received shall be first applied towards any interest, then to the late charge and lastly to the principal amount owed. Any interest or late charge payments will not alone excuse or cure any default by Licensee.

### **5.5. City's Right to Cost Reimbursement**

Notwithstanding anything in this License to the contrary, the City shall be entitled to recover from Licensee the reasonable cost to furnish, provide and/or perform any services in connection with this License and any Regulatory Approvals issued or administered by the City, which includes without limitation any costs incurred by City staff or the City's contractors, consultants and experts to review permit applications, issue permits or supervise or inspect any construction, installation or other work in connection with this License. Payments by Licensee for any License Fee, Regulatory Fees, and Reimbursement Fees in connection with this License or any related Regulatory Approvals issued or administered by the City shall not relieve Permittee's obligation to reimburse the City for any and all actual costs incurred by the City in the future. Licensee shall reimburse the City for all such costs within 10 business days after a written demand for reimbursement and reasonable documentation to support such costs. The provisions in this Section 5.5 shall survive this License's expiration, revocation or termination.

### **5.6. City's Right to Fair Market License Fees Reserved**

Licensee acknowledges that: (a) the City is compelled by applicable Laws, which includes without limitation the Order, to accept certain cost-based rates and compensation; (b) but for such Laws, the City would be entitled to condition its assent to any lease, license or other agreement for attachments to its Vertical Infrastructure (such as this License) on consideration that exceed the City's costs; and (c) but for such Laws, the City would not assent to all the terms and conditions in this License. Licensee further acknowledges that, in the event that the Order or other such laws described in this Section 5.6 are repealed, invalidated, no longer effective or otherwise not applicable to the City, the then-current License Fee shown in **Schedule 1** and the License Fee in all remaining years on the Term shall be automatically replaced by the amount(s) shown in **Schedule 2** (City's



Estimated Fair Market License Fees), attached hereto and incorporated herein. As an illustration, and not as a limitation, if the License Fee commenced in 2019 and the Order was invalidated in 2021, then the License Fee in 2021 would increase from \$286.44 to \$1,060.90, the License Fee in 2022 would be \$1,092.73 and so on until the License expired in 2029 or was earlier terminated in accordance with its terms.

#### **5.7. In Lieu Fee for Landscape Restoration and Maintenance**

If the installation, construction or other work on or about the License Area damages or destroys any landscape features that would require the Licensee to repair, replace and/or maintain any existing or new landscape features pursuant to the Municipal Code or other applicable City policies, either party may (but shall not be obligated to) enter into a written agreement with the Licensee to accept an in-lieu fee for the actual cost to repair, replace and/or maintain the existing and/or new landscape features on the Licensee's behalf. Such in-lieu fee(s) shall be established by the City Manager (or his or her designee) in consultation with the Licensee and shall be reasonably related to the actual cost of any such repair, replacement and/or maintenance necessitated by the damage or destruction caused by Licensee's installation, construction or other work.

### **6. CONSTRUCTION, INSTALLATION AND MODIFICATIONS**

#### **6.1. Regulatory Approvals**

Licensee shall not commence any installation, construction and other work on or about the License Area until and unless Licensee first obtains all necessary prior Regulatory Approvals, which includes without limitation any approvals required to provide the services offered by Licensee either to the public or Licensee's customers within the geographic area that encompasses the City's territorial and/or jurisdictional boundaries, and any required use permits, design review permits, encroachment permits, building permits, grading permits and electrical permits. After receiving a signed permit authorizing installation of any Equipment, but before any construction commences, Licensee must first request and complete a preconstruction meeting with the City Engineer (or his or her designee). Any installation, construction or other work performed by Licensee or its Agents or Invitees without such Regulatory Approvals will be a default under this License in addition to any other liabilities or penalties the City, in its regulatory capacity, may impose on Licensee for the same acts or omissions.

#### **6.2. Compliance with Approved Plans**

Upon the City's approval of a construction permit for Licensee's construction and/or installation work on the License Area, the Preliminary Plans shall be substituted for the Approved Plans. Licensee shall perform all installation, construction and other work in connection with the License Area (1) in accordance with the terms and conditions in this License; (2) at Licensee's sole cost and expense, and at no cost to the City; (3) in strict compliance with the Approved Plans; (4) in compliance with all applicable Laws, which includes without limitation all applicable provisions in the National City Municipal Code

and any conditions in any applicable Regulatory Approvals; (5) in a safe, diligent, skillful and workmanlike manner; and (6) to the City Engineer's (or his or her designee's) satisfaction. Licensee must notify the City Engineer (or his or her designee) twenty four (24) hours before any scheduled inspection. After any work at the License Area concludes, Licensee shall restore the License Area and any other City Property to the condition that existed immediately prior to the work commenced.

### **6.3. Changes or Corrections to Approved Plans**

At all times relevant to this License, Licensee shall have the obligation to correct any errors or omissions in the Preliminary Plans (or, once approved, the Approved Plans) and related Regulatory Approval(s). Licensee shall immediately send written notice to the City in the event that Licensee discovers any such defects. The Approved Plans and/or amendments to Approved Plans by the City will not release or excuse Licensee's obligations under this Section 6.3.

### **6.4. Licensee's Contractors and Subcontractors**

Licensee shall use only qualified and trained persons and appropriately licensed contractors for all installation, construction or other work performed on or about the License Area. At least five business days before any installation, construction or other work commences on or about the License Area, Licensee shall provide the City with: (a) a schedule with all activities to be performed in connection with the installation, construction or other work; and (b) a list with all the names, contractors' license numbers and contact information for all contractors or subcontractors who will perform the installation, construction or other work on the License Area.

### **6.5. Labor and Materials**

Licensee shall be responsible for all direct and indirect costs (labor, materials and overhead) in connection with designing, purchasing and installing all Equipment in accordance with the Approved Plans and all applicable Laws. Licensee shall also bear all costs to obtain and maintain all Regulatory Approvals required in connection with the installation, which includes without limitation all direct and indirect costs to comply with any approval conditions or mitigation measures that arise from Licensee's proposed installation. Licensee shall timely pay for all labor, materials, Equipment and all professional services related to the Permitted Use or furnished to the License Area at Licensee's direction or for Licensee's benefit. Licensee shall keep the License Area and all other City Property free from any and all mechanics', materialmen's and other liens and claims arising out of any work performed, materials furnished or obligations incurred by or for Licensee.

### **6.6. Damage or Alterations to Other Property**

Nothing in this License authorizes Licensee to use, occupy, remove, damage or in any manner alter any private personal or real property, wherever located, owned by the City

or any third parties. Licensee shall not remove, damage or in any manner alter any private personal or real property, wherever located, owned by the City or any third parties without prior written consent from property owner. The City may withhold and/or condition its consent to any request to alter any City Property in its sole and absolute discretion.

#### **6.7. Underground Service Alert**

Licensee warrants and represents to City that Licensee is presently a member in good standing with the Underground Service Alert of Southern California (“**DigAlert**”). Licensee shall maintain and keep current its membership in DigAlert throughout the Term. Prior to any excavation performed in the Streets, Licensee shall observe and perform all notice and other obligations required under applicable Laws, which includes, without limitation, California Government Code §§ 4216 *et seq.*, as may be amended or superseded.

#### **6.8. Damage and Repair to Subsurface Structures**

Any excavation performed in the Streets must be monitored by Licensee for any lateral movement, trench failures and other similar hazards. Licensee shall, at Licensee’s sole cost and expense, repair any damage (which includes without limitation any subsidence, cracking, erosion, collapse, weakening and/or any loss or reduction in lateral or subjacent support) to the Streets, any adjacent private property, any utility lines or systems (whether overhead or underground) and any sewer and/or water lines or systems resulting from or in connection with any excavation by Licensee or its Agents. All repair or restoration work performed pursuant to this Section 6.8 shall be performed under the City Engineer’s (or his or her designee’s) supervision and to the City Engineer’s (or his or her designee’s) satisfaction.

#### **6.9. Equipment Modifications**

If, after the initial construction, installation or other work is completed, Licensee proposes to modify existing Equipment or install new equipment on the existing License Area, and such proposal is different in any material way from the specifications or design configurations shown in the Approved Plans, then Licensee shall first obtain the City’s consent to modify this License to reflect the material difference, which the City shall approve or deny in accordance with applicable laws (if any). No modification to this License shall be required for any modification to an existing Equipment that (a) involves only substituted internal components; (b) will be in compliance with applicable Laws (such as radio-frequency emission standards); (c) does not result in any change to the Equipment’s external appearance, dimensions or weight; (d) and does not cause any interference with any municipal functions or equipment. In any case, Licensee’s modification shall be performed in compliance with all applicable provisions in this License, which includes, without limitation Licensee’s obligation to obtain and pay for all Regulatory Approvals required for the proposed modification.

#### **6.10. Post-Completion Inspections**

Within five days after Licensee completes any Equipment construction, installation or other work, Licensee shall provide the City with a written notice that confirms the precise locations and dates on which the Licensee completed the work. The City shall have the right to inspect Licensee's Equipment at any time after Licensee completes any construction, installation or other work in connection with this License. If the City discovers any defects or non-compliant conditions in connection with the Equipment, Licensee shall, at Licensee's sole cost and expense, correct any such defects and conditions within 15 days after written notice from the City. Licensee shall promptly reimburse the City for all costs incurred in connection with any inspections or re-inspections by the City. The City's final inspection will occur after: (1) all surface improvements have been restored; (2) all construction debris, excess materials, traffic control devices, and equipment have been removed; and (3) the site has been cleaned and rendered safe for pedestrian and vehicular traffic by the City Engineer (or his or her designee). Any work performed by Licensee without an inspection is subject to rejection and removal by the City in accordance with Section 26.

#### **6.11. As-Built Plans and Maps**

Within 30 days after the City issues a certificate of completion, Licensee shall file as-built plans and maps in a format specified by the City Engineer (or his or her designee). In addition to any format required by the City Engineer (or his or her designee), all as-built plans and maps shall include digital copies in a native format compatible with the City's document management, GIS and/or other digital information management systems. Licensee's as-built plans and maps must show the accurate location and dimensions for all Equipment. The City shall have the right to reject any as-built plans or maps for cause, in which case Licensee shall file revised as-built plans and/or maps within 30 days after notice from the City. The City shall have the right to incorporate the as-built plans for the then-current description of the License Area in **Exhibit A-1** and/or the then-current Approved Plans in **Exhibit A-2**.

#### **6.12. Title to Licensee's Equipment and Other Improvements**

Except as specifically provided otherwise in this License, all Equipment and other improvements installed, constructed or placed on or about the License Area by Licensee or its Agents or Invitees will be and remain at all times Licensee's (or Licensee's customer's) personal property. All structural improvements to any Vertical Infrastructure and any replacement Vertical Infrastructure, as approved by the City and shown in the Approved Plans, will become City Property and remain City Property should Licensee vacate or abandon such License Area, unless the City elects in a written notice to Licensee that it does not wish to take title to such structural improvements. Subject to Section 26 (Surrender of License Area), Licensee may remove its Equipment from the License Area at any time after 30 days' written notice to the City.

### **7. LICENSEE'S MAINTENANCE OBLIGATIONS**

### **7.1. General Maintenance and Repair Requirements**

Licensee shall maintain all Equipment installed on, under, over, in or about the License Area in good, safe and orderly condition at all times, and shall promptly repair any damage to any Equipment whenever repair or maintenance may be required, subject to any Regulatory Approvals if required for such maintenance work. All work performed by or for Licensee under this Section 7 shall be performed: (a) in accordance with the terms and conditions in this License; (b) at Licensee's sole cost and expense, and at no cost to the City; (c) by only qualified, trained, experienced and appropriately licensed contractors or Licensee's Agents or other personnel; (d) in a manner and with equipment and materials that will not interfere with or impair the City's municipal operations on or about the License Area; (e) in a safe, diligent, skillful and workmanlike manner; and (f) in compliance with all applicable Laws, which includes without limitation all applicable provisions in the National City Municipal Code and any conditions in any applicable Regulatory Approval(s).

### **7.2. Damage Reports to the City**

Licensee shall promptly notify the City if Licensee discovers damage or other alteration to the Streets, any City Property or any personal or real property owned by third parties for any reason and through any cause. Notices shall contain the following information to the extent available at the time Licensee sends the notice: (a) the location where the event occurred; (b) a statement to describe the damage or other alteration and the surrounding circumstances; (c) the names and contact information for any persons or entities involved in the matter, as well as the names and contact information for any potential witnesses to the damage or other alteration; and (d) any other pertinent information. Licensee will not be deemed to have assumed liability for any such damage or other alteration by giving such notice, unless such damage or other alteration was caused by or arose in connection with Licensee's or its Agent's or Invitee's act, omission, negligence or willful misconduct.

### **7.3. Licensee's Obligation to Make Repairs**

In the event that Licensee or its Agents or Invitees directly or indirectly caused such damage or other alterations, Licensee shall, at its sole cost and expense, repair such damage or other alteration and restore the affected property to the condition that existed immediately before the damage or other alteration occurred, reasonable wear and tear excepted. If Licensee fails or refuses to perform its obligations under this Section 7 within 15 calendar days after written notice from the City, the City may (but will not be obligated to) cause the repair and restoration to be performed at Licensee's sole cost and expense. The City may exercise its rights to perform Licensee's obligations under this Section 7 without prior notice to Licensee when the City Engineer determines that the repair and/or restoration is immediately necessary to protect public health or safety. Licensee shall reimburse the City for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs. In addition, Licensee shall indemnify, defend and hold any and all Indemnified City

Parties harmless from and against any Claims in connection with such performance by the City.

#### **7.4. Graffiti Abatement**

In addition to Licensee's other maintenance obligations under this License, Licensee shall remove any graffiti or other similar markings from the License Area and/or the Equipment deployed under this License promptly upon actual notice (but in no event later than 48 hours after notice from the City).

### **8. REARRANGEMENT AND RELOCATION**

#### **8.1. Rearrangement and Relocation for City Work**

Licensee acknowledges that the City, in its sole discretion and at any time, may: (1) change any street grade, width or location; (2) add, remove or otherwise change any improvements owned by the City or any other public agency located in, on, under or along any Street, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (3) perform any other work deemed necessary, useful or desirable by the City in connection with the City's municipal functions or otherwise reasonably related to a legitimate governmental interest by the City (collectively, "**City Work**"). The City reserves the rights to do any and all City Work without any admission on its part that the City would not have such rights without the express reservation in this License. In the event that the City Engineer determines that any City Work will require the Equipment to be rearranged and/or relocated Licensee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If Licensee fails or refuses to either permanently or temporarily rearrange and/or relocate the Equipment within a reasonable time after the City Engineer's notice, the City may (but will not be obligated to) cause the rearrangement or relocation to be performed at Licensee's sole cost and expense. The City will use reasonable efforts to provide Licensee with at least six months' prior notice, but the City may exercise its rights to rearrange or relocate the Equipment without prior notice to Licensee when the City Engineer determines that the City Work is immediately necessary to protect public health or safety. Licensee shall reimburse the City for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs. In addition, Licensee shall indemnify, defend and hold any and all Indemnified City Parties harmless from and against any Claims in connection with rearranging or relocating the Equipment, or turning on or off any water, oil, gas, electricity or other utility service in connection with the Equipment. Within 90 days after any Equipment have been rearranged or relocated, Licensee shall file as-built plans and maps with the City Engineer in the same manner and subject to the same requirements as provided in Section 6.11 (As-Built Plans and Maps).

#### **8.2. Rearrangement and Relocation to Accommodate Third Parties**

Licensee shall reasonably cooperate with and promptly respond to requests to rearrange or relocate the Equipment to accommodate third parties authorized to use the Streets (“**Third-Party Accommodations**”). All costs to perform any Third-Party Accommodations shall be borne by the person or entity to be accommodated; provided, however, that Licensee shall be solely responsible to collect any costs incurred by Licensee from such third party and the City shall have no liability to Licensee for any such costs. Prior to any Third-Party Accommodations performed by Licensee, Licensee shall be permitted to require (1) either a cash deposit, bond or other surety from the person or entity to be accommodated in a commercially reasonable form and in an amount reasonably estimated by Licensee to cover the costs associated with the proposed Third-Party Accommodations; and (2) a written agreement signed by the person or entity to be accommodated to indemnify, defend and hold Licensee and its Agents harmless from and against any and all Claims that arise in connection with the proposed Third-Party Accommodations, except to the extent any Claims are directly caused by Licensee’s or its Agent’s negligence or willful misconduct. Nothing in this License shall be construed to require Licensee to perform any Third-Party Accommodations that would materially reduce, impair or otherwise diminish Licensee’s Equipment or Licensee’s operations on the License Area. Within 90 days after any Third-Party Accommodations, Licensee shall file as-built plans and maps with the City Engineer in the same manner and subject to the same requirements as provided in Section 6.11 (As-Built Plans and Maps).

### **8.3. No Right to Rearrange or Relocate City Property**

Nothing in this License will be construed to require the City or authorize Licensee to change any street grade, width or location, or add, remove or otherwise change any improvements owned by the City or any other public agency located in, on, under or along the License Area or any Street, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications, for Licensee’s or any third party’s convenience or necessity.

## **9. COMPLIANCE WITH LAWS**

### **9.1. Compliance with CPUC General Orders**

In addition to Licensee’s obligation to maintain compliance with all other Laws, Licensee shall conduct all activities on the License Area in accordance with all applicable CPUC general orders, which includes without limitation CPUC General Order 95 and CPUC General Order 128 as those orders may be amended or superseded in the future, and all other rules, regulations and other requirements adopted or enacted by the CPUC.

### **9.2. Compliance with Building and Electrical Codes**

In addition to Licensee’s obligation to maintain compliance with all other Laws, Licensee shall conduct all activities on the License Area in accordance with the requirements in the

California Building Code and the California Electric Code as adopted by the City with any legally permitted amendments.

### **9.3. Compliance with FCC RF Exposure Standards**

Licensee's obligation to comply with all Laws includes all Laws related to maximum permissible exposure to RF emissions on or about the License Area, which includes all applicable FCC standards, whether such RF emissions or exposure results from the Equipment alone or from the cumulative effect of the Equipment added to all other sources on or near the License Area.

### **9.4. Compliance with Prevailing Wage Regulations**

The services to be provided under the License are or may be subject to prevailing wage rate payment as set forth in California Labor Code § 1771. Accordingly, to the extent that any such services are subject to the prevailing wage rate payment requirements, Licensee shall and shall cause its Agents to comply with all applicable California Labor Code requirements pertaining to "public works," including the payment of prevailing wages in connection with the services to be provided to the City hereunder (collectively, "**Prevailing Wage Policies**"). Licensee shall submit and allow the City to inspect, upon request by the City, Licensee's payroll records and other proof of compliance with the Prevailing Wage Policies consistent with the requirements in California Labor Code § 1776, as may be amended or superseded.

Licensee shall defend, indemnify and hold the City and Indemnified City Parties harmless from and against any and all present and future Claims, that arise from or in connection with Licensee's obligation to comply with Prevailing Wage Policies and all Laws with respect to the installation, construction or other work in connection with this License, which includes without limitation any and all Claims that may be made by Licensee's Agents or any other contractors, subcontractors or other third parties pursuant to California Labor Code §§ 1726 and 1781, as amended and added by California Senate Bill 966 (Alarcon), and as may be amended or superseded in the future.

Licensee hereby waives, releases and discharges forever the City and Indemnified City Parties from any and all present and future Claims that arise from or in connection with Licensee's obligation to comply with Prevailing Wage Policies and all Laws with respect to the installation, construction or other work in connection with this License. Licensee hereby acknowledges that Licensee is aware of and familiar with the provisions in California Civil Code § 1542 which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.



Licensee hereby waives and relinquishes all rights and benefits which it may have under California Civil Code § 1542, as such relates to this License. Licensee's obligations under this Section 9.4 will survive this License's expiration or earlier termination.

To the extent applicable, as provided in SB 854 (Stats. 2014, ch. 28): (a) no contractor or subcontractor may be qualified to bid on, be listed in a bid proposal, subject to the requirements California Public Contracts Code § 4104, or engage in the performance of any contract for public work, unless currently registered with DIR and qualified to perform public work pursuant to California Labor Code § 1725.5 (Cal. Lab. Code § 1771.1(a)); (b) no contractor or subcontractor may be awarded a public works contract unless registered with the DIR to perform public work pursuant to California Labor Code § 1725.5 (Cal. Lab. Code § 1771.1(b)); and (c) work performed on the project is subject to compliance monitoring and enforcement by DIR (Cal. Lab. Code § 1771.4).

## **10. PUBLIC WORKS' OPERATIONS**

### **10.1. City Access to License Area**

Except as specifically provided otherwise in this License, the City and its Agents have the absolute right to access any License Area, in whole or in part, at any time and with or without notice for any purpose related to its municipal functions. The City will not be liable in any manner whatsoever, and Licensee expressly waives any Claims for inconvenience, disturbance, lost business, nuisance or other damages that may arise from the City's or its Agents' access to the License Area, which includes, without limitation, any Equipment removed in an emergency or other exigent circumstances pursuant to Section 10.4, except to the extent that the damage is caused directly and exclusively from the City's or its Agent's sole active negligence or willful misconduct and not contributed to by Licensee's or its Agents' or Invitees' acts, omissions or negligence.

### **10.2. City's Maintenance, Repairs or Alterations to License Area**

The City may maintain, alter, add to, repair, remove from and/or improve the License Area as the City may, in its sole discretion, deem necessary or appropriate for its streetlighting operations and other municipal functions. The City shall not be obligated to maintain or repair the License Area, in whole or in part, solely for Licensee's benefit. Except as may be expressly provided otherwise in this License, neither any City work on the License Area nor any condition on any License Area will: (a) entitle Licensee to any damages; (b) excuse or reduce any obligation by Licensee to pay any Fees or perform any covenant under this License; or (c) constitute or be construed as a constructive eviction or termination from the License Area.

### **10.3. Notice to Licensee for Non-Emergency Maintenance or Repairs**

From time-to-time, the City may find it necessary or appropriate to perform work on the License Area that temporarily affects the Equipment or requires the Equipment to be temporarily powered down. In non-emergency circumstances, the City will use

reasonable efforts to: (a) make a good-faith effort to provide prior notice to Licensee's On-Call Representative; (b) allow Licensee's On-Call Representative to observe the City's work; and (c) avoid or minimize disrupt Licensee's ordinary operations on the License Area, taking into account any unforeseen exigencies that may threaten persons or property. The provisions in this Section 10.3 will not be construed to impede or delay the City's authority and ability to make changes to the License Areas necessary to maintain street light services, traffic control services, any municipal utility services (to the extent permissible under applicable Laws) or any other municipal functions carried out for the public's health, safety, welfare or benefit.

#### **10.4. Emergencies**

In emergencies, and unless expressly provided in applicable Laws, the City's work and operations will take precedence over Licensee's operations, which includes without limitation any Equipment operated on the License Area, and the City may access the License Area in whole or in part as the City deems necessary in its sole and absolute determination and in accordance with this Section 10.4, with or without notice to Licensee. When safe and practicable, as solely determined by the City, the City will notify Licensee of any emergency or other exigent circumstances that requires the City to remove or replace any City Property within the License Area and will allow Licensee to remove its Equipment before the City removes or replaces such City Property; provided, however, that the City will remove the Equipment from the License Area when in the City's sole determination it would: (a) be unsafe or not practicable to wait for Licensee to perform (or cause to be performed) the work; (b) result in significant delay; or (c) otherwise threaten or compromise public health, safety, welfare or public services. The City will remove any Equipment with reasonable care and store such Equipment for retrieval by Licensee. The City shall provide notice to Licensee as soon as reasonably practicable after such emergency and removal of any of Licensee's Equipment. Licensee shall have the right to reinstall such removed Equipment (or equivalent replacement Equipment) at Licensee's sole expense on the License Area and in accordance with the provisions in this License and all applicable Laws. Licensee expressly acknowledges that any act(s) taken by the City pursuant to this Section 10.4, which includes without limitation any Equipment removal or storage, will not be deemed to be a forcible or unlawful entry onto the License Area or any interference with Licensee's contractual privilege to use the License Area.

### **11. INTERFERENCE**

Licensee may not install, maintain or operate any Equipment in a manner that interferes with or impairs other communication (radio, telephone, cable television, data and/or other transmission or reception) or computer equipment lawfully used by the City and its Agents, which includes without limitation any first responders or other public safety personnel. Such interference will be a default by Licensee, and upon notice from the City, Licensee shall promptly eliminate such interference at no cost to the City. Licensee will be required to use its best efforts to remedy and cure such interference without any impairment to any City operations. If Licensee does not promptly cure such default, the parties acknowledge that continued interference may cause irreparable injury to the City

and, therefore, the City will have the right to bring an action against Licensee to, at the City's election, immediately enjoin such interference and/or to terminate this License. The parties acknowledge that the Licensee possesses technical expertise that puts Licensee in the best position to identify and mitigate interference sources, and Licensee shall be primarily responsible for identification and mitigation work. Notwithstanding the foregoing, the City and Licensee hereby agrees to comply with and enforce FCC guidelines and protocols with regard to third party interference.

## **12. LIENS**

Licensee shall keep the License Area free and clear from any and all liens or other impositions in connection with any work performed, material furnished or obligations incurred by or for Licensee. Licensee will inform all contractors and material suppliers that provide any work, service, equipment or material to Licensee in connection with the License Area that the License Area is public property not subject to any mechanics' liens or stop notices. In the event that any Licensee contractor or material supplier files any lien or imposition that attaches to the License Area, Licensee shall promptly (but in no case later than 30 days after discovery) cause such lien or imposition to be released. In the event that Licensee does not cause such lien or imposition to be released within the 30-day period, the City will have the right, but not the obligation, to cause such lien or imposition to be released in any manner the City deems proper, which includes without limitation payment to the lienholder, with or without notice to Licensee. Licensee shall reimburse the City for all costs and expenses incurred to cause such lien or imposition to be released (which includes without limitation reasonable attorneys' fees) within 10 days after Licensee receives a written demand from the City together with reasonable documentation to support such costs and expenses.

## **13. UTILITIES**

Licensee shall be responsible to secure its own utility services for its Permitted Use and shall not be permitted to "submeter" from any electrical service provided to the City on any License Area without the City's prior written consent, which the City may withhold in its sole and absolute discretion. Licensee shall timely pay when due all charges for all utilities furnished to its Equipment on the License Area. Any interconnection between the City's and Licensee's electrical facilities permitted by City shall be accomplished in compliance with all applicable Laws and all utility service providers' policies for such interconnection.

## **14. TAXES AND OTHER ASSESSMENTS**

Licensee agrees to pay when due (and prior to delinquency) any and all taxes, assessments, charges, excises and exactions whatsoever, including without limitation any possessory interest taxes, that arise from or in connection with Licensee's use within the License Area or Licensee's Equipment that may be imposed on Licensee under applicable Laws. Licensee shall not allow or suffer any lien for any taxes assessments, charges, excises or exactions whatsoever to be imposed on the License Area or

Licensee's Equipment. In the event that the City receives any tax or assessment notices on or in connection with the License Area or Licensee's Equipment, the City shall promptly (but in no event later than 30 calendar days after receipt) forward the same, together with reasonably sufficient written documentation that details any increases in the taxable or assessable amount attributable to Licensee's Equipment. Licensee understands and acknowledges that this License may create a possessory interest subject to taxation and that Licensee will be required to pay any such possessory interest taxes. Licensee further understands and acknowledges that any sublicense or assignment under this License and any options, extensions or renewals in connection with this License may constitute a change in ownership for taxation purposes and therefore result in a revaluation for any possessory interest created under this License.

## **15. INDEMNIFICATION**

### **15.1. Licensee's Indemnification Obligations**

Licensee, for itself and its successors and assigns, shall indemnify, defend and hold the Indemnified City Parties harmless from and against any and all Claims, incurred in connection with or arising in whole or in part from any act or omission by Licensee or its Agents, licensees, customers or invitees in connection with this License or any Equipment Permit, whether any negligence may be attributed to any Indemnified City Parties or not, whether any liability without fault is imposed or sought to be imposed on any Indemnified City Parties or not, but except to the extent that that such Claim is directly and exclusively caused by the City's sole gross negligence or willful misconduct. Licensee's obligations under this Section 15 includes, without limitation, all reasonable fees, costs and expenses for attorneys, consultants and experts, and the City's actual costs to investigate and defend against any Claim. Licensee expressly acknowledges and agrees that: (a) Licensee has an immediate and independent obligation to defend any Indemnified City Parties from any Claim that actually or potentially falls within this Section 15, even when the allegations in the Claim are or appear to be groundless, fraudulent or false; and (b) Licensee's obligations arise at the time any Indemnified City Parties tender a Claim to Licensee and continue until such Claim's final, non-appealable resolution. Licensee's obligations under this Section 15.1 shall survive this License's revocation, termination or expiration.

### **15.2. Licensee's Defense of the City**

In the event that any Claim is brought against any Indemnified City Parties in connection with any subject matter for which any Indemnified City Parties are indemnified by Licensee under this License, Licensee shall, upon written notice and at Licensee's sole cost and expense, resist and defend against such Claim with competent and experienced legal counsel reasonably acceptable to the City. The City shall not unreasonably withhold or delay its consent to legal counsel selected by Licensee; provided, however, that the City has the absolute right to reject any proposed legal counsel that: (a) has less than 10 years' direct experience representing public agencies in similar actions or proceedings as those brought against the Indemnified City Parties; (b) is not duly licensed to practice law

in the State of California by the State Bar of California; (c) has any past or pending disciplinary actions by any United States tribunal or state bar association; or (d) has any actual or potential conflicts of interest with any Indemnified City Parties who would be represented by such proposed legal counsel. Licensee shall not, without the City's written consent, enter into any compromise or settlement agreement on any Indemnified City Parties' behalf that: (x) admits any liability, culpability or fault whatsoever on any Indemnified City Parties' part; or (y) requires any Indemnified City Party to take or refrain from any action, which includes without limitation any change in the City's policies or any monetary payments. Nothing in this License shall be construed to limit or preclude any Indemnified City Parties or their respective legal counsel from cooperating with Licensee and/or participating in any judicial, administrative, alternative dispute resolution or other litigation or proceeding. Licensee's obligations under this Section 15.2 shall survive this License's revocation, termination or expiration.

## **16. INSURANCE**

Prior to any construction, installation or other work by Licensee or its contractors or subcontractors in, on, under or above the Streets, Licensee shall comply with all insurance requirements and other obligations contained in **Exhibit B** (Licensee's Insurance Obligations), attached hereto and incorporated herein, and shall provide the City with all required certificates, endorsements and other documentation. The City shall have the right to amend or replace the insurance requirements and other obligations contained in **Exhibit B** on 60 days' prior written notice to Licensee. Any noncompliance with any insurance requirements in this License by Licensee or its contractors or subcontractors shall be a material default by Licensee.

## **17. LIMITATIONS ON THE CITY'S LIABILITY**

### **17.1. General Limitations**

Licensee expressly acknowledges that the City is not responsible or liable to Licensee for any Claims that arise in connection with: (a) acts or omissions by persons or entities using the Streets or other areas adjoining, adjacent to or connected with any License Area; (b) any utility service interruption; (c) theft; (d) burst, stopped or leaking water, gas, sewer, steam or other pressurized pipes; (e) fires, floods, earthquakes or other force majeure; (f) any vehicular collision on or about the License Area or other City Property; (g) any costs or expenses incurred in connection with any relocation or rearrangement as provided in Section 8 (Rearrangement and Relocation); or (h) any costs or expenses incurred in connection with any removal or restoration as provided in this License; all except to the extent such events are caused directly and exclusively by the City's gross negligence or willful misconduct. Licensee, in perpetuity, expressly waives and releases all Claims it may now or in the future have against any Indemnified City Parties, whether known or unknown, whether foreseeable or unforeseeable, that arise in connection with the events described in this Section 17 as may be related to this License or locations on or about the License Area. In no event will Licensee or its Agents be personally liable to the City for any default, breach or any other nonperformance or unpaid sum by Licensee. The

provisions in this Section 17.1 shall survive this License's revocation, termination or expiration.

### **17.2. Consequential, Indirect or Punitive Damages**

Without limiting any indemnification obligation placed on Licensee or other waivers contained in this License, Licensee fully releases, waives and discharges forever any and all Claims against the City for consequential and incidental damages that may arise from or in connection with this License or Licensee's use on or about the License Area, which includes without limitation any lost profits related to any disruption to Equipment, any interference with uses or operations conducted by Licensee, from any cause whatsoever, and whether or not due to the active or passive negligence or willful misconduct by the City or any Indemnified City Parties, and covenants not to sue for such damages the City, the City's departments and all City agencies, officers, directors and employees, and all persons acting by, through or under them.

### **17.3. No Relocation Assistance**

This License shall not create any right in Licensee to receive any relocation assistance or payment for any reason under the California Relocation Assistance Law (California Government Code §§ 7260 *et seq.*), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. §§ 4601 *et seq.*), as either may be amended or superseded, or any similar Laws upon or after any termination. To the extent that any such Laws may apply, Licensee waives, releases and relinquishes forever any and all Claims that it may have against the City for any compensation from the City except as provided in Section 19 (Condemnation).

### **17.4. No Personal Liability for City Personnel**

In no event will any City board, agency, member, officer, employee or other Agent be personally liable to Licensee, its successors or assigns, for any default, breach, other nonperformance or sum unpaid sum by the City. The provisions in this Section 17.4 shall survive this License's revocation, termination or expiration.

## **18. CASUALTY**

### **18.1. City's Rights Upon a Casualty Event**

In the event the License Area in whole or in part becomes damaged due to any cause, the City will have no obligation whatsoever to repair or replace the damaged License Area. Within approximately 30 days after the date on which the City discovers damage or destruction to the License Area, the City will give Licensee notice of the City's decision whether to repair or replace the damaged License Area and its good-faith estimate of the amount of time the will need to complete the work. If the City cannot complete the work within 30 days after the date that the City specifies in its notice, or if the City elects not to do the work, then Licensee will have the right to terminate this License on 30 days' notice

to the City. If the City elects to remove, rather than repair or replace, the damaged or destroyed License Area, then this License will automatically terminate on the last day of the month in which the removal occurs. If the acts of third parties or an act of nature or other force-majeure circumstance outside the control of Licensee or its Agents or Invitees damages or destroys the License Area to such an extent that, in the City's reasonable determination, the Equipment on the License Area cannot be operated in a safe manner, the City may elect to terminate this License on 30 days' notice to Licensee and require Licensee to remove the Equipment from the damaged License Area before the termination date specified in the City's notice.

### **18.2. Licensee's Termination Rights Upon a Casualty Event**

In the event that the City terminates this License pursuant to Section 18.1 (City's Rights Upon a Casualty Event), the City will prioritize its review any request by Licensee for a substantially similar license on a different pole as a replacement for this License.

### **18.3. Statutory Waiver**

The parties understand, acknowledge and agree that this License fully governs their rights and obligations in the event that the License Area becomes damaged or destroyed, and, to the extent applicable, the City and Licensee each hereby waives and releases the provisions in California Civil Code §§ 1932(2) and 1933(4) or any similar Laws.

## **19. CONDEMNATION**

This License will automatically terminate as to the part taken or transferred on the date the permanent taking or transfer occurs. The City will be entitled to any award paid or made in connection with the taking or any sums paid in lieu of such taking. Licensee will have no Claim against the City for the value of any unexpired Term of this License or otherwise except that Licensee may claim any portion of the award that is specifically allocable to Licensee's loss or damage to Licensee's Equipment. The parties understand, acknowledge and agree that this Section 19 is intended to fully govern the parties' rights and obligations in the event of a permanent taking. Licensee and the City each hereby waives and releases any right to terminate this License in whole or in part under California Code of Civil Procedure §§ 1265.120 and 1265.130 and under any similar Laws to the extent applicable to this License.

## **20. ASSIGNMENTS AND OTHER TRANSFERS**

### **20.1. General Restriction**

Licensee shall have no right to assign or transfer any right, title or interest, in whole or in part, in, under or through this License without the City's prior written consent. The City shall not unreasonably withhold its consent to any proposed assignment; provided, however, that the parties acknowledge that the City may reasonably withhold its consent to any proposed assignment under the following circumstances: (1) the proposed

assignee lacks the necessary Regulatory Approvals to conduct the Permitted Use or perform all Licensee's obligations; (2) the City reasonably determines that the proposed assignee lacks the financial qualifications perform all Licensee's obligations; (3) Licensee refuses to reimburse the City for the reasonable and documented costs to consider the proposed assignment and/or the proposed assignee; and/or (4) at any time in which any Default by Licensee remains uncured.

## **20.2. Permitted Assignments**

Notwithstanding the preceding sentence, Licensee will be permitted to assign or otherwise transfer this License without the City's prior consent but with notice to the City, to: (a) an entity that acquires all or substantially all Licensee's assets in the market in which the City is located (as the "market area" is or may be defined by the FCC); (b) Licensee's parent; (c) an entity that acquires a controlling interest in Licensee by a change in stock ownership or partnership interest; or (d) an entity controlled by Licensee (each a "**Permitted Assignment**"). Notwithstanding anything in this License to the contrary, a Permitted Assignment will be subject to all the following conditions: (i) the Assignee may use the License Area only for the Permitted Use and for no other purpose whatsoever; (ii) the Assignee possesses all Regulatory Approvals necessary to lawfully install, operate, and maintain Equipment on the License Area; (iii) Licensee provides the City with notice 60 days before the effective date of such Permitted Assignment, stating the contact information for the proposed Assignee and providing financial information establishing that the proposed Assignee has the capital and fiscal qualifications greater than or equal to Licensee's as it existed on the Effective Date; (iv) Licensee is in good standing under this License; (v) the assignee shall covenant to perform all Licensee's obligations under this License and Licensee will be and remain liable jointly and severally with the assignee for all obligations to be performed by assignee; and (vi) within 30 calendar days after Licensee receives a written demand from the City, Licensee shall reimburse the City for all reasonable and documented costs incurred by the City in connection with the Permitted Assignment.

## **20.3. Effect of Assignment**

No assignment by Licensee, consent to assignment by the City, or Permitted Assignment will relieve or release Licensee from any obligation on its part under this License, unless expressly provided in a writing signed by the City. Any assignment that is not in compliance with this Section 20 will be void and be a material default by Licensee under this License without a requirement for notice and a right to cure. The City's receipt or acceptance of any License Fee, Regulatory Fees, Reimbursement Fees, or other payments from a proposed assignee or transferee will not be deemed to be the City's consent to such assignment.

## **21. DEFAULT**

### **21.1. Defaults and Cure Periods**



The parties agree that any failure to perform or observe any term, condition, obligation or other provision in this License shall be a default. For any monetary default, the defaulting party shall have 15 days after written notice from the non-defaulting party to perfect a cure. The defaulting party shall not be entitled to any additional time to cure a monetary default. For any non-monetary default, the defaulting party shall have 30 days after written notice from the non-defaulting party to perfect a cure; provided, however, that for any non-monetary default that cannot reasonably be cured within 30 days, the defaulting party shall have additional time as is reasonably necessary to perfect the cure if the defaulting party commences to cure the default within the first 30 days after notice and diligently pursues the cure to completion.

## **21.2. Licensee's Remedies**

Except as may be otherwise provided elsewhere in this License, Licensee's sole remedies for the City's uncured default will be (1) to terminate the License on 30 days' prior written notice; and (2) an action for damages subject to the provisions in Section 17 (Limitations on the City's Liability).

## **21.3. City's Remedies**

In addition to all other legal and equitable rights and remedies available to the City, the City will have the following remedies after an uncured default by Licensee:

### **21.3.1. License Continuation**

Without prejudice to its right to other remedies, the City may continue this License with the right to enforce all its rights and remedies, which includes without limitation the right to receive the License Fee and other sums as they may become due.

### **21.3.2. License Termination**

If the City determines, in its sole judgment, that Licensee's default materially impairs the City's ability to perform its municipal functions or threatens public health, safety or welfare, then the City may terminate this License on written notice to Licensee.

### **21.3.3. Default Fees**

In addition to all other rights and remedies available to the City, the City may require Licensee to pay an additional fee for any and all actual costs incurred by the City in connection with a default event to reimburse the City's administrative cost to enforce compliance with this License (each a "**Default Fee**"). Licensee shall pay the Default Fee within 10 days after the City's written demand for reimbursement and reasonable documentation to support such costs. If Licensee fails to timely pay the Default Fee or cure the underlying default within the applicable cure period, the City shall have the right (but not the obligation) to send Licensee a follow-up notice and demand for an additional Default Fee that will be due and payable within 10 days. Licensee's obligation to pay

Default Fees is separate and distinct from the underlying default. Default Fee payments shall not be deemed to cure the underlying default.

#### **21.4. Cumulative Remedies**

Except as otherwise provided in this License, all rights and remedies available to the City or Licensee are cumulative, and not a substitute for, any rights or remedies otherwise available to the City or Licensee.

### **22. TERMINATION**

This License may be terminated as follows: (1) by a non-defaulting party upon written notice if the defaulting party remains in default beyond any applicable cure period; (2) by the City upon written notice if Licensee attempts to assign or otherwise transfer this License in a manner that violates this License; or (3) by Licensee upon 60 days' prior written notice to the City for any or no reason. In addition, the City has the right to terminate this License on written notice to Licensee when the City determines, in the City's sole discretion, that Licensee's operations on or about the License Area adversely affect or threaten public health and safety, materially interfere with the City's municipal functions or require the City to maintain Vertical Infrastructure that the City no longer needs for its own purposes.

### **23. HAZARDOUS MATERIALS**

#### **23.1. Limitations on Hazardous Materials Use**

Licensee covenants and agrees that neither Licensee nor its Agents, clients, customers, invitees, guests, tenants, subtenants, licensees, assignees and/or sublicensees will cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated, disposed or Released in, on, under or about the License Area or any other City Property, in whole or part, or transported to or from any City Property in any manner that violates any Environmental Laws; provided, however, that Licensee may use Hazardous Materials in small quantities that are customarily used for routine operation, cleaning and maintenance and so long as all such Hazardous Materials are contained, handled and used in compliance with all Environmental Laws.

#### **23.2. Notice to the City After a Release**

Licensee shall immediately notify the City if and when Licensee learns or has reason to believe any Hazardous Material Release has occurred in, on, under or about the License Area or other City Property. Licensee will not be deemed to have assumed liability for any such Release by giving such notice, unless such Release was caused by or arose in connection with Licensee's or its Agent's, client's, customer's, invitee's, guest's, tenant's, subtenant's, licensee's, assignee's and/or sublicensee's acts, omissions or negligence.

### **23.3. Licensee's Hazardous Material Indemnification Obligations**

If Licensee breaches any obligations contained in this Section 23, or if any act, omission or negligence by Licensee or its Agents, clients, customers, invitees, guests, tenants, subtenants, licensees, assignees and/or sublicensees results in any contamination on or about the License Area or other City Property, or in a Hazardous Material Release from, on, about, in or beneath the License Areas or any other City Property, in whole or in part, or any Environmental Law violation, then Licensee, for itself and its successors and assigns, shall indemnify, defend and hold the City and any Indemnified City Parties harmless, from and against any and all Claims (including damages for decrease in value of the License Area or other City Property, the loss or restriction of the use of usable space in the License Area or other City Property and sums paid in settlement of Claims, attorneys' fees, consultants' fees, and experts' fees and related costs) that arises during or after the Term related to or in connection with such Release or violation; provided, however, Licensee shall not be liable for any Claims to the extent such Release or violation was caused directly and exclusively by the City's gross negligence or willful misconduct. Licensee's indemnification obligation includes all costs incurred in connection with any activities required to Investigate and Remediate any Hazardous Material brought or Released onto the License Area or other City Property by Licensee or its Agents, clients, customers, invitees, guests, tenants, subtenants, licensees, assignees and/or sublicensees, and to restore the License Area or other City Property to its condition prior to such introduction or Release, or to correct any Environmental Law violation. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City and the other Indemnified City Parties from any Claim that actually or potentially falls within this indemnity provision even if the allegations supporting the Claim are or may be groundless, fraudulent or false, and that said obligation arises at the time such Claim is tendered to Licensee by the Indemnified City Party and continues until the Claim is finally resolved. Without limiting the foregoing, if Licensee or any of its Agents, clients, customers, invitees, guests, tenants, subtenants, licensees, assignees and/or sublicensees causes any Hazardous Material Release on, about, in or beneath the License Area or other City Property, then in any such event Licensee shall, immediately, at no expense to any Indemnified City Party, take any and all necessary actions to return the License Area and/or other City Property, as applicable, to the condition existing prior to such Hazardous Materials Release on the License Area or other City Property or otherwise abate the Release in accordance with all Environmental Laws, except to the extent such Release was caused directly or exclusively by the City's gross negligence or willful misconduct. Licensee shall afford the City a full opportunity to participate in any discussions with regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise or proceeding that involves Hazardous Material Release covered under this Section 23.

### **24. RULES AND REGULATIONS**

At all times throughout the Term, Licensee shall faithfully comply with any and all reasonable rules, regulations and instructions that the City may from time-to-time

establish and/or amend with respect to the Permitted Use, the License Area or the Streets.

## **25. PERFORMANCE BOND**

Before the City issues any Regulatory Approval required to commence construction, installation or other work in connection with the Equipment, Licensee shall, at its sole cost and expense, post a performance bond from a surety and in a form acceptable to the City Engineer (or his or her designee) and the City Attorney in an amount reasonably necessary to cover the cost to remove the Equipment and all associated improvements and completely restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all the Equipment and all associated improvements, which includes, without limitation, all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the Equipment, plus the cost to completely restore any areas affected by the removal work to a condition that is neat, clean, safe and compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code § 65964(a), the City Engineer (or his or her designee) shall take into consideration any information provided by Licensee regarding the cost to remove the Equipment as provided in this Section 25. The performance bond shall expressly survive the Term to the extent required to completely remove the subject Equipment and restore the affected areas in accordance with this Section 25.

## **26. SURRENDER OF LICENSE AREA**

Within 30 days after a written demand from the City, Licensee shall, at Licensee's sole cost and expense, remove all Equipment and restore all affected areas to a condition compliant with all applicable Laws, in at least as good as the condition existed immediately before such Equipment were installed, reasonable wear and tear excepted, and to the City Engineer's (or his or her designee's) satisfaction. The City may, in its discretion, extend the 30-day period by written notice to Licensee. If Licensee fails to timely perform its removal and restoration obligations under this License, then: (a) Licensee shall remain responsible for all its obligations under this License and liable for all Claims that may arise in connection with the Equipment through and until such Equipment are completely removed and the affected areas are completely restored; (b) the City shall have the right (but not the obligation) to perform such obligations; (c) the City shall have the right to store, sell or destroy any Equipment, improvements, personal property or other things installed by Licensee in connection with this License; and (d) Licensee shall reimburse the City for all costs incurred by the City in connection with such removal and restoration work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs. Within 90 days after any Equipment have been removed, Licensee shall file as-built plans and maps with the City Engineer (or his or her designee) in the same manner and subject to the same requirements as provided in Section 6.11 (As-Built Plans and Maps).

## **27. INSPECTIONS AND REPORTS**

### **27.1. License Area Inspections**

At all reasonable times throughout the Term, the City Engineer (or his or her designee), shall have the right (but not the obligation) to: (a) inspect all the Equipment, all appurtenant structures and any other equipment or improvements in the Streets constructed, installed, laid, maintained or operated by Licensee; and (b) evaluate Licensee's compliance with this License and any permit or other authorization in connection with the Equipment. In the event that any such inspection or evaluation concludes that any Equipment were installed, operated or maintained without all Regulatory Approvals or more than five percent (5%) of the Equipment were not installed, operated or maintained in compliance with this License, any as-built plans or maps associated with the Equipment or any applicable Laws, then Licensee shall reimburse the City for the City's reasonable, actual and documented costs and expenses to conduct the inspection and/or evaluation, which includes without limitation any costs or expenses by any third-party inspectors or consultants.

### **27.2. Records Maintenance and Audits**

Licensee shall maintain throughout the Term (and for at least four years after this License expires or terminates) the following records in physical format at Licensee's Office and in an electronic format: (a) identification information and physical location (e.g., a physical address and/or GPS coordinates) for all Equipment within the City's territorial and/or jurisdictional boundaries; (b) a ledger or other similar document that contains the amount, payment date and reason for all sums paid to the City pursuant to this License; (c) true and correct copies of all as-built plans, maps and Regulatory Approvals in connection with the Equipment; (d) copies of all insurance policies, endorsements and other related documents required to be obtained and maintained under Section 16 (Insurance); and (e) all correspondence with the City in connection with any matter related to this License. To determine whether Licensee has fully and accurately paid all sums payable to the City under this License, if any, and to determine whether Licensee has complied with its other obligations, the City, or its designee, will have the right (but not the obligation) to inspect, audit and make copies of Licensee's records at Licensee's Office during regular business hours on 10 days' notice to Licensee.

### **27.3. Annual Capital Improvement Forecasts**

On or before January 1st in each year after the Effective Date, Licensee shall submit a written report to the City Engineer (or his or her designee) that contains: (a) a list of all permits issued by the City in connection with this License in the last calendar year; (b) a description of all construction authorized under such permits, which includes without limitation the total length of all communication lines, wires and cables; (c) the total length of all communication lines, wires and cables actually installed under such permits; and (d) a map that depicts the accurate location for all Equipment. In addition, on or before

January 1st in each year after the Effective Date, Licensee shall submit a projected capital improvement forecast for its operations within the City's territorial and jurisdictional boundaries. The capital improvement forecast must include anticipated schedules for all new Equipment and repairs, replacements and modifications to existing Equipment to the extent feasible and with sufficient detail to allow the City to coordinate its own public improvements and other capital improvement projects by third parties.

**28. MISCELLANEOUS PROVISIONS**

**28.1. Notices**

Except as may be specifically provided otherwise in this License, all notices, demands or other correspondence required to be given in connection with or pursuant to this License must be written and delivered through (i) an established national courier service that maintains delivery records and confirmations; (ii) hand delivery; or (iii) certified or registered U.S. Mail with prepaid postage and return receipt requested, and addressed as follows:

**TO CITY:** City of National City  
1243 National City Boulevard  
National City, CA 91950-4301  
Attn: City Manager

with copies to: City of National City  
1243 National City Boulevard  
National City, CA 91950-4301  
Attn: City Attorney

**TO LICENSEE:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with copies to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All notices, demands or other correspondence in connection with this License will be deemed to have been delivered: (a) two days after deposit if delivered by U.S. certified mail; (b) the date delivery is made by personal delivery or overnight delivery; or (c) the date an attempt to make delivery fails if a party changes its address without proper notice or refuses to accept delivery after an attempt. Any copies required to be given constitute an administrative step for the parties' convenience and not actual notice. The parties may change the notice addresses above from time-to-time through written notice to the addresses above or the then-current notice address.

## **28.2. Waivers**

No failure by either the City or Licensee to insist that the other strictly perform any obligation, term, covenant or condition under this License or to exercise any rights, powers or remedies in connection with the other party's failure to strictly perform such obligation, term, covenant or condition no matter how long the failure to insist on such performance or exercise such rights, powers or remedies, will be deemed to waive any default for non-performance. No behaviors, patterns or customs that may arise between the parties with respect to their performance required under this License will be deemed to waive any rights, powers or remedies the parties' may have to insist on strict performance. Neither Licensee's payment nor the City's or its Agents' acceptance of any License Fee or any other sums due to the City or its Agents under this License during any such default will be deemed to cure any such default, waive the City's right to demand material compliance with such obligation, term, covenant or condition or be deemed to be an accord and satisfaction for any Claim the City may have for further or additional sums. Any express waiver by either the City or Licensee in connection with any default or obligation to perform any provision, term, covenant or condition under this License will: (i) be limited to the specific default or performance for which the express waiver is granted; (ii) not be deemed to be a continuing waiver; and (iii) not affect any other default or performance no matter how similar or contemporaneous such other default or performance may be. The City's or Licensee's consent given in any specific instance in connection with or pursuant to this License will not relieve the City or Licensee from the obligation to secure the other's consent in any other or future specific instances, no matter how similar or contemporaneous the request for consent may be.

## **28.3. Integration; Amendments**

This License constitutes the entire agreement and understanding between the parties, and supersedes any and all prior agreements and understandings, whether written or oral, with respect to the subject matter covered in this License. This License and any default in connection with this License may not be orally changed, waived, discharged, altered, modified, amended or terminated. This License and any default in connection with this License may not be changed, waived, discharged, altered, modified, amended or terminated, except by a written instrument signed by both parties.

## **28.4. Interpretation**

The parties acknowledge and agree that the following interpretive rules will be applicable to this License:

### **28.4.1. General**

Whenever required by the context, the singular includes the plural and vice versa; the masculine gender includes the feminine or neuter genders and vice versa; and defined

terms encompass all their correlated forms (e.g., the definition for “indemnify” applies to “indemnity,” “indemnification,” etc.).

#### **28.4.2. Joint and Several Liability**

In the event that the City consents to enter into this License with more than one Licensee, which consent the City may withhold or condition in the City’s sole and absolute discretion, the obligations and liabilities imposed on Licensee under this License will be joint and several among the multiple Licensees to this License.

#### **28.4.3. Captions and Other Reference Material**

The section captions in this License and the table of contents have been included for the parties’ convenience and reference and neither the captions nor the table of contents in no way define or limit the scope or intent of any provision in this License.

#### **28.4.4. Time**

References in this License to “days” mean calendar days, unless specifically provided otherwise. A “business day” means a day other than a Saturday, Sunday or a bank or City holiday. If the last day in any period to give notice, reply to a notice or to undertake any other action occurs on a day that is not a business day, then the last day for giving notice, replying to the notice or undertaking any other action will be the next business day. Except as modified in this Section 28.4.4, time is of the essence with respect to all provisions in this License for which a definite time for performance is specified.

#### **28.4.5. Inclusive Words and/or Phrases**

Inclusive terms and/or phrases, which includes without limitation the terms and/or phrases “including,” “such as” or similar words or phrases that follow any general or specific term, phrase, statement or matter may not be construed to limit the term, phrase, statement or matter to the stated terms, statements or matters, or the listed items that follow the inclusive term or phrase, whether any non-limitation language or disclaimers, such as “including, but not limited to” and/or “including without limitation” are used or not. Rather, the stated term, phrase, statement or matter will be interpreted to refer to all other items or matters that could reasonably fall within such term, phrase, statement or matter given its broadest interpretation.

### **28.5. Successors and Assigns**

Except as may be expressly provided in this License, the conditions, covenants, promises and terms contained in this License will bind and inure to the benefit of the City and Licensee and their respective successors and assigns.

### **28.6. Brokers**



The parties represent to each other that neither has had any contact, dealings or communications with any Broker in connection with this License, whose commission, if any, would be paid pursuant to a separate written agreement between such Broker and such party with which such Broker contracted. In the event that any Broker perfects any claim or finder's fee based upon any such contact, dealings or communications, the party to such written contract with such Broker shall indemnify the other party from all Claims brought by such Broker. This Section 28.6 will survive this License's expiration or earlier termination.

### **28.7. Governing Law; Venue**

This License must be construed and enforced in accordance with the laws of the State of California, without regard to the principles of conflicts of law. This License is made, entered and will be performed in the City of 1243 National City Boulevard, County of San Diego, State of California. Any action concerning this License must be brought and heard in the California Superior Court for the County of San Diego.

### **28.8. Litigation Fees and Costs**

In the event the City or Licensee prevails in an action to enforce its rights under this License, the prevailing shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

### **28.9. Recording**

Licensee acknowledges and agrees that: (1) this License affects the City's personal property and therefore cannot be recorded in any official records; (2) Licensee shall not have the right to record this License, any memorandum or any short-form agreement in relation to this License; and (3) Licensee shall, at Licensee's sole cost and expense, remove any document or other instrument recorded against the City's title to any City Property promptly upon the City's request or demand. In the event that this License affects or is deemed to affect any real property owned by the City, Licensee may not record any document or instrument in connection with this License without the City's prior written consent, which the City may withhold in the City's sole and absolute discretion.

### **28.10. No Third-Party Beneficiaries**

This License is not intended to (and shall not be construed to) give any third party, which includes without limitation Licensee's customers or any other third-party beneficiaries, any right, title or interest in this License or the real or personal property(ies) that may be affected by the same.

### **28.11. Survival**

All terms, provisions, covenants, conditions and obligations in this License will survive this License's expiration or termination when, by their sense or context, such provisions,

covenants, conditions or obligations: (1) cannot be observed or performed until this License's expiration or earlier termination; (2) expressly so survive; or (3) reasonably should survive this License's expiration or earlier termination. Notwithstanding any other provision in this License, the parties' rights to enforce any and all indemnities, representations and warranties given or made to the other party under this License or any provision in this License will not be affected by this License's expiration or termination.

#### **28.12. Severability**

If any provision in this License or such provision's application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (1) such provision or its application to such person, entity or circumstance will be deemed severed from this License; (2) all other provisions in this License or their application to any person, entity or circumstance will not be affected; and (3) all other provisions in this License or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by Law, except to the extent that such enforcement would (a) be manifestly unreasonable or manifestly inequitable under all the circumstances or (b) undermine one or both parties' fundamental purpose in entering this License.

**[END OF AGREEMENT – SIGNATURES APPEAR ON NEXT PAGE]**

The City and Licensee executed this License as of the date last written below:

**THE CITY:**

City of National City,  
a California municipal corporation

By: \_\_\_\_\_

Its: City Manager

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

**LICENSEE:**

*[licensee name]*,  
a *[licensee's corporate form]*

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Angil Morris-Jones  
City Attorney

**ATTEST:**

By: \_\_\_\_\_  
Michael R. Dalla  
City Clerk

**[END OF SIGNATURES – EXHIBITS AND SCHEDULES APPEAR ON NEXT PAGE]**

**SCHEDULE 1**

**ANNUAL LICENSE FEE**

<b>YEAR OF TERM</b>	<b>YEAR</b>	<b>ANNUAL LICENSE FEE</b>
1	2019	\$270.00
2	2020	\$278.10
3	2021	\$286.44
4	2022	\$295.04
5	2023	\$303.89
6	2024	\$313.00
7	2025	\$322.39
8	2026	\$332.07
9	2027	\$342.03
10	2028	\$352.29

**SCHEDULE 2**

**CITY'S ESTIMATED FAIR MARKET LICENSE FEES**

<b>YEAR</b>	<b>ANNUAL LICENSE FEE</b>
2019	\$1,000.00
2020	\$1,030.00
2021	\$1,060.90
2022	\$1,092.73
2023	\$1,125.51
2024	\$1,159.27
2025	\$1,194.05
2026	\$1,229.87
2027	\$1,266.77
2028	\$1,304.77
2029	\$1,343.92
2030	\$1,384.23
2031	\$1,425.76
2032	\$1,468.53
2033	\$1,512.59
2034	\$1,557.97
2035	\$1,604.71
2036	\$1,652.85
2037	\$1,702.43
2038	\$1,753.51

**EXHIBIT A-1**

**LICENSE AREA**

(A site survey that depicts the location of the Vertical Infrastructure within the City and the location of the Licensee's attachments to such Vertical Infrastructure appears behind this coversheet. Pursuant to Section 6.11 of this License, the City shall have the right to substitute post-construction surveys and/or as-built drawings of the completed facility.)

## **EXHIBIT A-2**

### **APPROVED PLANS**

(Prior to the issuance of a construction permit, the Licensee shall tender its Preliminary Plans as this exhibit. After the City issues a construction permit, the Approved Plans shall be substituted in place of the Preliminary Plans in accordance with Section 6.2 of this License. Pursuant to Section 6.11 of this License, the City shall have the right to substitute post-construction surveys and/or as-built drawings of the completed facility in place of the Approved Plans.)

## **EXHIBIT B**

### **LICENSEE'S INSURANCE OBLIGATIONS**

#### **(a) Required Insurance Policies and Limits**

Licensee shall carry and keep in effect at all times during the Term, at Licensee's sole cost and expense, insurance policies with coverage and limits as stated below. The required limits may be met by a combination of primary and excess or umbrella insurance.

##### **(1) Commercial General Liability Insurance**

Licensee shall carry and maintain commercial general liability insurance (including premises operations; explosion, collapse and underground hazard; broad form property damage; products/completed operations; contractual liability; independent contractors; and personal injury) with a combined single limit for each occurrence of not less than Five Million Dollars (\$5,000,000) and an aggregate limit of not less than Ten Million Dollars (\$10,000,000).

##### **(2) Workers' Compensation Insurance**

Licensee shall carry and maintain workers' compensation insurance per California statutory limits with Employer's Liability Limits not less than One Million Dollars (\$1,000,000) per each accident or disease per employee.

##### **(3) Commercial Automobile Liability Insurance**

Licensee shall carry and maintain commercial automobile liability insurance, for owned, non-owned and hired autos, with a combined single limit for bodily injury and property damage of not less than Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.

##### **(4) "All Risk" Property Insurance**

Licensee shall carry and maintain property insurance coverage for perils usual to a standard "all risk" insurance policy that covers all Licensee's Equipment within the Streets, and with limits equal to the cumulative replacement value for all such Equipment.

#### **(b) Required Endorsements**

Commercial General Liability Insurance and Commercial Automotive Liability Insurance policies must contain the following endorsements: (1) name the City, its officers, agents, employees and volunteers as additional insureds; (2) that such policies are primary insurance to any other insurance available to the additional insureds with respect to any Claims that arise in connection with this License; (3) that such insurance applied



separately to each insured against whom a Claim is made or brought, except with respect to limits; (4) that such policies provide for the severability of interests and that an act or omission of one of the named insureds that would void or otherwise reduce coverage shall not void or otherwise reduce coverage as to any other named insured; and (5) that such policies shall afford coverage for all Claims based on acts, omissions, for bodily injury or property damage that occurred or arose (or the onset occurred or arose) in whole or in part during the policy period.

City's additional insured status shall (1) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of City, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of City, its employees, agents or independent contractors and (2) not exceed Licensee's indemnification obligation under this Agreement, if any.

All insurance policies required to be maintained by Licensee under this License shall be endorsed to provide written notice of cancellation for any reason, including without limitation intent not to renew or reduce coverage excluding non-payment of premium to both Licensee and the City. In the event that Licensee receives a notice of intent to cancel or notice of cancellation for any coverage required under this License, Licensee shall forward such notice to the City within one business day and promptly take action to prevent cancellation, reinstate cancelled coverage or obtain coverage from a different insurer qualified under Section (f) to this **Exhibit B**.

All insurance policies required to be maintained by Licensee under this License shall contain a standard separation of insureds provision. No insurance policies required to be maintained by Licensee under this License may contain any special limitations on the scope of protections to the City or any Indemnified City Party.

**(c) Claims-Made Policies**

In the event that any required insurance under this License is provided under a claims-made form, Licensee shall continuously maintain such coverage throughout the Term and, without lapse, for three years after this License expires or terminates, to the effect that, should any event during the Term give rise to a Claim brought after this License expires or terminates, such Claims will be covered under Licensee's claims-made policies. The provisions in this Section shall survive this License's expiration or termination.

**(d) General Aggregate Limit**

The general aggregate limit for any required insurance under this License must be double the per-occurrence or Claims limits specified in Section (a) to this **Exhibit B** when coverage includes a general annual aggregate limit or provides that Claims investigation or legal defense costs will be included in such general annual aggregate limit.

**(e) Certificates**

On or before the Effective Date, Licensee shall deliver to the City all insurance certificates and endorsements from Licensee's insurance providers in a form reasonably satisfactory to the City that evidences all the required coverages under this License. In addition, Licensee shall promptly deliver to the City all certificates and required endorsements after Licensee receives a request from the City.

**(f) Insurer Qualifications**

Licensee's insurance providers must be licensed to do business in California and must meet or exceed an A.M. Best's Key Rating A-VII or its equivalent. Any other insurance providers shall require the prior approval by the City's Risk Manager, which approval may be refused in the City's Risk Manager's sole discretion.

**(g) Waiver of Subrogation**

Licensee and Licensee's insurers each hereby waives any right of recovery against the City for any loss or damage sustained by Licensee with respect to the License Area, in whole or in part, the contents on, under, above or within the License Area or any operation therein, whether such loss is caused by the City's fault or negligence or not, and to the extent such loss or damage is covered by insurance obtained by Licensee under this License or is actually covered by insurance obtained by Licensee. Licensee agrees to cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies relating to the License Area, but the failure to obtain any such endorsement will not affect the waivers in this Section.

**(h) Prohibition Against Self-Insurance Alternatives**

Licensee shall not be permitted to meet its insurance obligations under this License through self-insurance without prior written consent from the City, which the City may withhold in its sole discretion for any or no reason. In the event that the City consents to allow Licensee to self-insure as an alternative insurance program, such consent will not be deemed: (1) an amendment or implied waiver to any other requirement in this License; (2) to extend to any assignee or successor to Licensee; or (3) to waive or lessen Licensee's obligation to comply with Section (i) to this **Exhibit B**.

**(i) Contractor's Bonds and Insurance**

Licensee shall ensure that any person or entity performing work or service on Licensee's behalf or for Licensee's benefit pursuant to this License within the Streets or on any City Property shall secure or provide all bonds and insurance required to be secured or provided by Licensee under this **Exhibit B**, and shall provide the City with evidence to show such bonds or insurance exist before the City issues any permits for such work. In the event that any applicable Law imposes any bonding or insurance requirements on Licensee's contactors or subcontractors that are more protective to the City's interests, such requirements shall control over the requirements in this **Exhibit B**.

**(j) City's Right to Terminate**

The City may elect, in its sole and absolute discretion, to terminate this License on written notice to Licensee if Licensee allows any required insurance coverage to lapse and does not reinstate the lapsed insurance coverage within three days after Licensee receives such written notice.

**(k) No Limitation on Licensee's Indemnification Obligations**

Licensee's insurance obligations under this **Exhibit B** in no way relieves, decreases or modifies Licensee's liability or Licensee's obligations to indemnify, protect and hold the City and any Indemnified City Parties harmless under any other provision in this License.

**(l) Contractor's Insurance is Primary**

The policies required by this **Exhibit B** shall constitute primary insurance as to the City, its officers, agents, employees and volunteers, so that any other policies held by the City shall not contribute to any loss under said insurance.

RESOLUTION NO. 2019 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF NATIONAL CITY ADOPTING A CITY COUNCIL POLICY  
REGULATING SMALL WIRELESS FACILITIES AND A  
DELEGATION OF AUTHORITY TO THE CITY MANAGER OR  
DESIGNEE TO NEGOTIATE AND EXECUTE POLE LICENSE  
AGREEMENTS WITH THE CONCURRENCE OF THE CITY  
ATTORNEY

WHEREAS, pursuant to the California Constitution, Article XI, section 7; California Government Code section 37100 and other applicable law, the City Council of the City of National City may make and enforce within its limits all local, police, sanitary and other ordinances, resolutions and other regulations not in conflict with general laws; and

WHEREAS, since the City last amended its regulations for wireless facilities in 2012, significant changes in federal laws that affect local authority over personal wireless service facilities and other related infrastructure deployments have occurred, which includes, without limitation, new regulations by the Federal Communications Commission ("FCC") that (1) prohibit temporary moratoria on telecommunications infrastructure deployment; (2) create a new regulatory classification for small wireless facilities; (3) alter existing "shot clock" regulations to require local public agencies to do more in less time; (4) establish a national standard for an effective prohibition that replaces the existing "significant gap" test adopted by the United States Court of Appeals for the Ninth Circuit; (5) provide that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition; (6) limits the compensation that state and local governments may receive for access to their public rights-of-way and government-owned infrastructure; and (7) eliminates the City's proprietary authority over City-owned infrastructure within the public rights-of-way. These new regulations will be fully effective on April 15, 2019; and

WHEREAS, City staff, with assistance from outside counsel specializing in telecommunications infrastructure regulations prepared this Resolution, which establishes reasonable, uniform and comprehensive standards and procedures for small wireless facilities and other infrastructure deployment, construction, installation, collocation, modification, operation, relocation and removal within the City of National City's territorial boundaries, consistent with and to the extent permitted under federal and California state law; and

WHEREAS, the City owns as its personal property a substantial number of existing poles within the public right-of-way that are potentially suitable for installing wireless communications facilities within the City's jurisdiction and intends to fully effectuate this Policy by authorizing the City Manager, with the concurrence of the City Attorney, to negotiate pole license agreements to authorize providers to access individual City-owned poles subject to all the applicable permits issued by the City to protect public health, safety and welfare; and

WHEREAS, on March 25, 2019, at a duly noticed public hearing, the Planning Commission considered a proposed amendment to § 18.30.220 together with proposed regulations for compliance with changes in the law, reviewed and considered the staff report, other written reports, public testimony and other information contained in the record; and

WHEREAS, on April 16, 2019 and May 7, 2019, the City Council held a duly noticed public meeting to consider this Policy Resolution, at which the City Council received, reviewed and considered the staff report, written and oral testimony from the public and other information in the record.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby determines and finds as follows:

1. **Findings.** The City Council finds that: (a) the facts set forth in the recitals in this Resolution are true and correct and incorporated by reference; (b) the recitals constitute findings in this matter and, together with the staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken in this Resolution; (c) the provisions in this Resolution are consistent with the General Plan, National City Municipal Code and applicable federal and state law; and (d) neither this Resolution will be detrimental to the public interest, health, safety, convenience or welfare.
2. **Policy Resolution.** The City Council approves and adopts this Policy Resolution, attached hereto entitled City Council Policy on Small Wireless Facilities and Other Infrastructure Deployments within the Public Right-of-Way marked as Exhibit “A” and by this reference incorporated herein as though set forth in-full.
3. **Pole License Agreements.** The City Council delegates the authority to the City Manager or designee, with the concurrence of the City Attorney, to negotiate with state-authorized telephone corporations or cable service providers to execute a license agreement regarding City-owned vertical infrastructure for the purpose of deploying small wireless facilities consistent with this Resolution.
4. **Environmental Review.** Pursuant to California Environmental Quality Act (“CEQA”) Guidelines § 15378 and California Public Resources Code § 21065, the City Council finds that this Resolution is not a “project” because its adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Even if this Resolution qualified as a “project” subject to CEQA, the City Council finds that, pursuant to CEQA Guidelines § 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment. This Resolution merely regulates the small wireless facilities and other infrastructure deployments. This Resolution does not directly or indirectly authorize or approve any actual changes in the physical environment. Applications for any new small wireless facility or other infrastructure deployment, or change to an existing small wireless facility or other infrastructure deployment, would be subject to additional environmental review on a case-by-case basis. Accordingly, the City Council finds that this Resolution is not subject to CEQA or, in the alternative, is exempt from CEQA under the general rule.
5. **Severability.** If any section, subsection, paragraph, sentence, clause, phrase or term (each a “Provision”) in this Resolution, or any Provision’s application to any person or circumstance, is held illegal, invalid or unconstitutional by a court of competent jurisdiction, all other Provisions not held illegal, invalid or unconstitutional, or such Provision’s application to other persons or circumstances, shall not be affected. The City Council declares that it would have passed this Resolution, and each Provision therein, whether any one or more Provisions be declared illegal, invalid or unconstitutional.

6. **Effective Date.** This Resolution will become immediately effective upon adoption by the City Council and will remain effective until amended, superseded or repealed by a separate resolution adopted by the City Council.
7. **Publication.** The City Clerk shall cause this Resolution and to be published in electronic form on the City of National City's website, in physical form for public inspection at City Hall and at least two other public places within the City of National City and in any other manner required by law.

PASSED and ADOPTED on this 7th day of May, 2019.

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones, City Attorney

The following page(s) contain the backup material for Agenda Item: [Public Hearing and Adoption of an Ordinance of the City Council of the City of National City amending section 18.30.220 of the National City Municipal Code for the regulation of small wireless facilities and other infrastructure deployment. \(City Attorney\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.** |

**ITEM TITLE:** Public Hearing and Adoption of an Ordinance of the City Council of the City of National City to amending section 18.30.220 of the National City Municipal Code for the regulation of small wireless facilities and other infrastructure deployment.

**PREPARED BY:** Roberto M. Contreras

**DEPARTMENT:** City Attorney

**PHONE:** Ext. 4412

**APPROVED BY:** 

**EXPLANATION:**

Please see attached staff report.

**FINANCIAL STATEMENT:**

**APPROVED:** \_\_\_\_\_ Finance

**ACCOUNT NO.** |

**APPROVED:** \_\_\_\_\_ MIS

N/A

**ENVIRONMENTAL REVIEW:**

N/A

**ORDINANCE:** INTRODUCTION:

FINAL ADOPTION:

**STAFF RECOMMENDATION:**

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

- 1) Staff Report
- 2) Ordinance





OFFICE OF NATIONAL CITY ATTORNEY

STAFF REPORT

DATE: May 7, 2019

TO: Mayor and City Councilmembers

FROM: Roberto M. Contreras, Deputy City Attorney

SUBJECT: Public Hearing and Adoption of an Ordinance of the City Council of the City of National City amending section 18.30.220 of the National City Municipal Code for the regulation of small wireless facilities and other infrastructure deployment

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Staff Recommendation

Staff recommends that the City Council introduce an ordinance to amend section 18.30.220 of the National City Municipal Code to regulate the City Council policy on the deployment of small wireless facilities and other infrastructure deployments in the public rights-of-way.

History

The City Council initiated an amendment on January 16, 2018 related to wireless communication facilities located in the City of National City's ("City") right-of-way. The amendment intended to exempt City-licensed facilities from the Conditional Use Permit (CUP) process and substitute a "license agreement" process where design and placement standards would be regulated. The Planning Commission held a public hearing on February 5, 2018 and recommended approval of the amendment to the City Council by a vote of five to two. At the following City Council meeting, based on public concerns, the Council voted unanimously to hold a community meeting at a later date to address potential concerns and process.

In the interim, the Federal Communications Commission (FCC) adopted new preemptive regulations applicable to all small wireless facilities whether located on a City-owned pole or not. As a result, staff prepared proposed regulations that would be applicable to all small wireless facilities in the public rights-of-way. The FCC's new regulations will become fully effective on April 15, 2019. A town hall meeting on small facilities was held on March

May 7, 2019

Page 2

12, 2019 where the proposed amendment and proposed regulations were considered by community and industry stakeholders. The Planning Commission similarly considered the proposed amendment and regulations on March 25, 2019 and recommended City Council approval. Staff introduced this Ordinance for a first reading at the April 16, 2019 City Council Meeting.

#### Overview

California Public Utilities Code § 7901 grants certain telephone corporations a so called "statewide franchise" to deploy facilities along public roads or highways to the extent the deployment would not incommode the public use of the right-of-way. On April 4, 2019, the California Supreme Court reaffirmed that § 7901 preserves local discretion to regulate the aesthetics of these deployments. Consistent with state law, Section 18.30.220 ("Telecommunications facilities") of the City's Municipal Code regulates the placement and use of wireless telecommunications facilities and antenna installation within the City. This section requires a CUP for all such facilities.

Several wireless providers have recently expressed interest in locating "small wireless facilities" on City-owned poles. These poles, along with other utility poles, can serve as an antenna support structure to provide advanced wireless services. However, given that § 7901 grants providers the right to occupy the right-of-way for their facilities, foreclosing the opportunity to license City-owned poles would increase the likelihood that wireless providers would be entitled to install new standalone poles to provide services.

Over the past several years, changes in federal and state law have significantly affected the City's authority to regulate such wireless facilities. These changes include stricter timeframes and limitations on application reviews, new regulatory classifications for collocations and modifications to existing facilities, and even automatic approvals under certain circumstances.

Rulemaking proceedings at the Federal Communications Commission (FCC) on September 27, 2018 largely reduced cities' authority to regulate small wireless facilities (or "small cells"). For example, the September 27th Order established presumptively reasonable annual license fees cities could charge at \$270 per installation, per year, reduced discretion regarding aesthetic and design requirements, and created new, shorter deadlines for approving applications to deploy small cells in the right of way.

These new FCC regulations are applicable to all small wireless facilities whether such facilities are located on a City-owned pole or not. As a result, staff recommends that the City adopt new regulations for all small wireless facilities in the public rights-of-way.

Staff supports a more streamlined process for small wireless facilities that does not require a CUP. The shorter timeframes for local review mandated by the FCC effectively preclude the City from completing the CUP process without risking exposure to litigation for a failure to act in a timely manner. For example, the new FCC timeframe to review an application for a wireless attachment to an existing structure, including the time for appeals, is 60 days. Providing a public hearing to decide the merits of a small cell application, or a public hearing on appeal, is incompatible with the new rules, as the City could not reliably complete the required CUP process in the allotted time.

As a substitute to the formal CUP process, the amendment will require an administrative approval and will include standard design and placement guidelines, application requirements and operation and maintenance conditions. These new regulations will also be more easily and quickly amended as the applicable laws and technology continue to change. Likewise, the new regulations can be quickly repealed if pending challenges to the FCC's rules are successful. Streamlining the process for facilities on all poles in the public rights-of-way would preserve the City's discretionary authority to the maximum extent permitted by law and allow the City to respond more quickly to future state or federal preemption.

#### Proposed Amendment

In order to exempt small wireless facilities from the current CUP process, and provide enforceable standards and procedures for application review, but still allow for design and placement review, staff suggests adding Section 18.30.220.(H) to the National City Municipal Code to read as follows:

- H. Notwithstanding any other provision of this section, all "small wireless facilities" as defined by the FCC in 47 C.F.R. § 1.6002(1), as may be amended or superseded, shall be subject to permits and other requirements as specified in City Council Policy No. **[to be determined]**, which is adopted and may be amended or repealed by a City Council resolution. If City Council Policy No. **[to be determined]** is repealed and not replaced, an application for a small wireless facility shall be processed pursuant to this section.

This change would allow for small wireless facilities and other infrastructure deployments to be located in the City right-of-way through a flexible policy document that can be amended to adapt to constantly evolving regulations and technology related to small wireless facilities. Moreover, the policy would provide for an administrative permitting procedure to comply with the federal timeframes for processing small wireless facility applications. Small wireless facilities located on City-owned infrastructure would still require a license agreement.

### Findings

There are generally two findings for approval of a Code Amendment, one related to General Plan consistency and one related to compliance with the California Environmental Quality Act (CEQA).

- The requested amendment is consistent with the General Plan, as Policy E-3.3 encourages access to wireless internet connections, computers, and other forms of communication technology. The small wireless facilities would provide the enhanced capacity internet/cellular data and standard cellphone services.
- Pursuant to California Public Resources Code § 21065 and the California Environmental Quality Act ("CEQA") Guidelines § 15378, this ordinance amendment is not a "project" because its adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Accordingly, this amendment is not subject to CEQA. Even if this amendment qualified as a "project" subject to CEQA, pursuant to CEQA Guidelines § 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment. This ordinance amendment merely amends the National City Municipal Code to authorize the City Council to regulate small wireless facilities and other infrastructure deployments. The amendment does not directly or indirectly authorize or approve any actual changes in the physical environment. Applications for any new small wireless facility or other infrastructure deployment, and/or change to an existing small wireless facility or other infrastructure deployment, would be subject to additional environmental review on a case-by-case basis.

Two additional findings are included as follows:

- Given the rapid and substantial changes in applicable law, the active and effective federal prohibition on reasonable moratorium ordinances to allow local public agencies to study these changes and develop appropriate responses and the significant adverse consequences for noncompliance with these changes in applicable law, the City Council finds that the proposed Amendment allows for greater flexibility and responsiveness to new federal and State laws in order to preserve the City's traditional authority to the maximum extent practicable.
- Recent changes in federal law effectively limit local governments from exercising full zoning controls over small wireless facilities and generally require that the regulations for small wireless facilities be no more burdensome than those applied to other infrastructure deployments. The proposed Amendment would comply with the recent changes in federal law by providing reasonable aesthetic regulations and a review and approval process for such facilities within the City that is consistent with the new, shorter timeframes to act on a permit application. The proposed Amendment would also instruct City officials to use the standards in the proposed Amendment as guidelines for other infrastructure deployments to the extent not specifically prohibited by applicable law.

### Summary

An amendment to the City's existing regulations for wireless facilities is necessary for compliance with new FCC rules. Staff believes that the proposed amendments to regulate small wireless facilities in the City right-of-way would preserve the City's discretionary authority to the maximum extent permitted by law and allow the City to respond more quickly to future state or federal preemption. Accordingly, staff recommends that the proposed amendment to the Land Use Code (LUC) be approved in order to achieve this goal.

### ATTACHMENTS

1. Ordinance Amending NCMC Section 18.30.220

ORDINANCE NO. 2019 -

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
NATIONAL CITY AMENDING SECTION 18.30.220 OF THE  
NATIONAL CITY MUNICIPAL CODE FOR THE  
REGULATION OF SMALL WIRELESS FACILITIES AND  
OTHER INFRASTRUCTURE DEPLOYMENTS

WHEREAS, pursuant to the California Constitution, Article XI, section 7; California Government Code section 37100 and other applicable law, the City Council may make and enforce within its limits all local, police, sanitary and other ordinances, resolutions and other regulations not in conflict with general laws.

WHEREAS, the City currently regulates all “wireless telecommunication facilities” under Municipal Code § 18.30.220, which requires a use permit and design review for all applications. The provisions in § 18.30.220 are generally applicable and do not distinguish between facilities on private property and those within the public rights-of-way.

WHEREAS, since the City Council last amended its regulations for wireless facilities, significant changes in federal laws that affect local authority over personal wireless service facilities and other related infrastructure deployments have occurred, including, but not limited to, the following:

- On August 2, 2018, the Federal Communications Commission (“FCC”) adopted a Third Report & Order and Declaratory Ruling in the rulemaking proceeding titled *Accelerating Wireline and Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, 33 FCC Rcd. 7705 (rel. Aug. 3, 2018) (the “August Order”), that formally prohibited express and *de facto* moratoria for all personal wireless services, telecommunications services and their related facilities under 47 U.S.C. § 253(a) and directed the Wireless Telecommunications Bureau and Wireline Competition Bureau to hear and resolve all complaints on an expedited basis; and
- On September 26, 2018, the FCC adopted a Declaratory Ruling and Third Report and Order in the same rulemaking proceeding, --- FCC Rcd. ---, FCC 18-133 (rel. Sep. 27, 2018) (the “September Order”), which, among many other things, creates a new regulatory classification for small wireless facilities, alters existing “shot clock” regulations to require local public agencies to do more in less time, establishes a national standard for an effective prohibition that replaces the existing “significant gap” test adopted by the United States Court of Appeals for the Ninth Circuit and provides that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition.

WHEREAS, in addition to the changes described above, local authority may be further impacted by other pending legislative, judicial and regulatory proceedings, including but not limited to:

- The “STREAMLINE Small Cell Deployment Act” (S. 3157) proposed by Senator John Thune that, among other things, would apply specifically to “small wireless facilities” and require local governments to review applications based on objective standards, shorten the shot clock timeframes, require all local undertakings to occur within the shot clock timeframes and provide a “deemed granted” remedy for failure to act within the applicable shot clock; and
- Further orders and/or declaratory rulings by the FCC from the same rulemaking proceeding as the August Order and September Order; and
- Multiple petitions for reconsideration and judicial review filed by state and local governments against the August Order and September Order, which could cause the rules in either order to change or be invalidated.

WHEREAS, given the rapid and substantial changes in applicable law, the active and effective federal prohibition on reasonable moratorium ordinances to allow local public agencies to study these changes and develop appropriate responses and the significant adverse consequences for noncompliance with these changes in applicable law, the City Council desires to amend § 18.30.220 to allow greater flexibility and responsiveness to new federal and State laws in order to preserve the City’s traditional authority to the maximum extent practicable (the “Amendment”).

WHEREAS, on March 25, 2019, the Planning Commission held a duly noticed public hearing on the Amendment, reviewed and considered the staff report, other written reports, public testimony and other information contained in the record, and recommended that the City Council adopt the Amendment;

WHEREAS, on April 16, 2019 and May 7, 2019, the City Council held a duly noticed public hearing on the proposed Amendment, reviewed and considered the staff report, other written reports, public testimony and other information contained in the record.

NOW, THEREFORE, the City Council of the City of National City hereby finds, determines and ordains as follows:

**SECTION 1. FINDINGS.**

The City Council finds that:

- A. The facts set forth in the recitals are true and correct and incorporated herein by this reference. The recitals constitute findings in this matter and, together with the

staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken in this Ordinance.

- B. This Ordinance is consistent with the General Plan, Municipal Code and applicable federal and state law.
- C. This Ordinance will not be detrimental to the public interest, health, safety, convenience or welfare.

## **SECTION 2. ENVIRONMENTAL REVIEW.**

Pursuant to California Public Resources Code § 21065 and the California Environmental Quality Act (“CEQA”) Guidelines § 15378, the City Council finds that this Ordinance is not a “project” because its adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Accordingly, this Ordinance is not subject to CEQA.

Even if this Ordinance qualified as a “project” subject to CEQA, the City Council finds that, pursuant to CEQA Guidelines § 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment. This Ordinance merely amends § 18.30.220 to authorize the City Council to regulate small wireless facilities and other infrastructure deployments. This Ordinance does not directly or indirectly authorize or approve any actual changes in the physical environment. Applications for any new small wireless facility or other infrastructure deployment, and/or change to an existing small wireless facility or other infrastructure deployment, would be subject to additional environmental review on a case-by-case basis. Accordingly, the City Council finds that this Ordinance would be exempt from CEQA under the general rule.

## **SECTION 3. AMENDMENT TO SECTION 18.30.220 OF THE NATIONAL CITY MUNICIPAL CODE.**

Section 18.30.220.H is added to the National City Municipal Code and shall read as follows:

- H. Notwithstanding any other provision of this section, all “small wireless facilities” as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, shall be subject to permits and other requirements as specified in City Council Policy No. \_\_\_\_\_, which is adopted and may be amended or repealed by a City Council resolution. If City Council Policy No. \_\_\_\_\_ is repealed and not replaced, an application for a small wireless facility shall be processed pursuant to this section.



**SECTION 4. CONFLICTS WITH PRIOR ORDINANCES.**

If the provisions in this Ordinance conflict in whole or in part with any other City regulation or ordinance adopted prior to the effective date, the provisions in this Ordinance will control.

**SECTION 5. SEVERABILITY.**

If any section, subsection, paragraph, sentence, clause, phrase or term (each a "Provision") in this Ordinance, or any Provision's application to any person or circumstance, is held illegal, invalid or unconstitutional by a court of competent jurisdiction, all other Provisions not held illegal, invalid or unconstitutional, or such Provision's application to other persons or circumstances, shall not be affected. The City Council declares that it would have passed this Ordinance, and each Provision therein, whether any one or more Provisions be declared illegal, invalid or unconstitutional.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall become effective 30 days after its passage and adoption.

**SECTION 7. PUBLICATION.**

No later than 15 days after its adoption, this Ordinance (or a summary) together with the names of each City Council members who voted for or against this Ordinance shall be published in the manner required by law.

PASSED and ADOPTED this 7th day of May, 2019.

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving the establishment of an Engineering Grants Fund appropriation of \\$644,672 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Educational Park Extension Project. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.:**

**ITEM TITLE:**

Resolution of the City Council of the City of National City approving the establishment of an Engineering Grants Fund appropriation of \$644,672 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Educational Park Extension Project.

**PREPARED BY:** Jose Lopez, Acting Principal Engineer

**PHONE:** 619-336-4312

**DEPARTMENT:** Engineering and Public Works

**APPROVED BY:** 

**EXPLANATION:**

See attached explanation.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**

Revenue Account: 296-06194-3463

Expenditure Account: 296-409-500-598-6194 (Paradise Creek Educational Park Extension) - \$644,672

Local Match:

Expenditure Account: 001-409-500-898-1596 (WI-TOD/Paradise Creek Park) - \$155,504

\$155,504 in local match will be funded through prior City Council appropriations.

**APPROVED:** 

**FINANCE**

**APPROVED:**

**MIS**

**ENVIRONMENTAL REVIEW:**

CEQA Notice of Categorical Exemption was filed with County Recorder's Office on April 15, 2019.

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION

**STAFF RECOMMENDATION:**

Adopt Resolution approving the establishment of an Engineering Grants Fund appropriations and corresponding revenue budget for the Paradise Creek Educational Park Extension Project funded through the California Department of Natural Resources Urban Greening Grant Program.

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

1. Explanation w/Exhibits
2. Resolution

## Explanation

The Urban Greening Grant Program funds projects that reduce greenhouse gas emissions by transforming the built environment into parks and green spaces that are more sustainable, enjoyable, and effective in creating healthy communities. Eligible projects use natural solutions to sequester carbon, reduce energy consumption, create more walking and biking trails, and improve air and water quality. The Grant Program is administered by the California Department of Natural Resources.

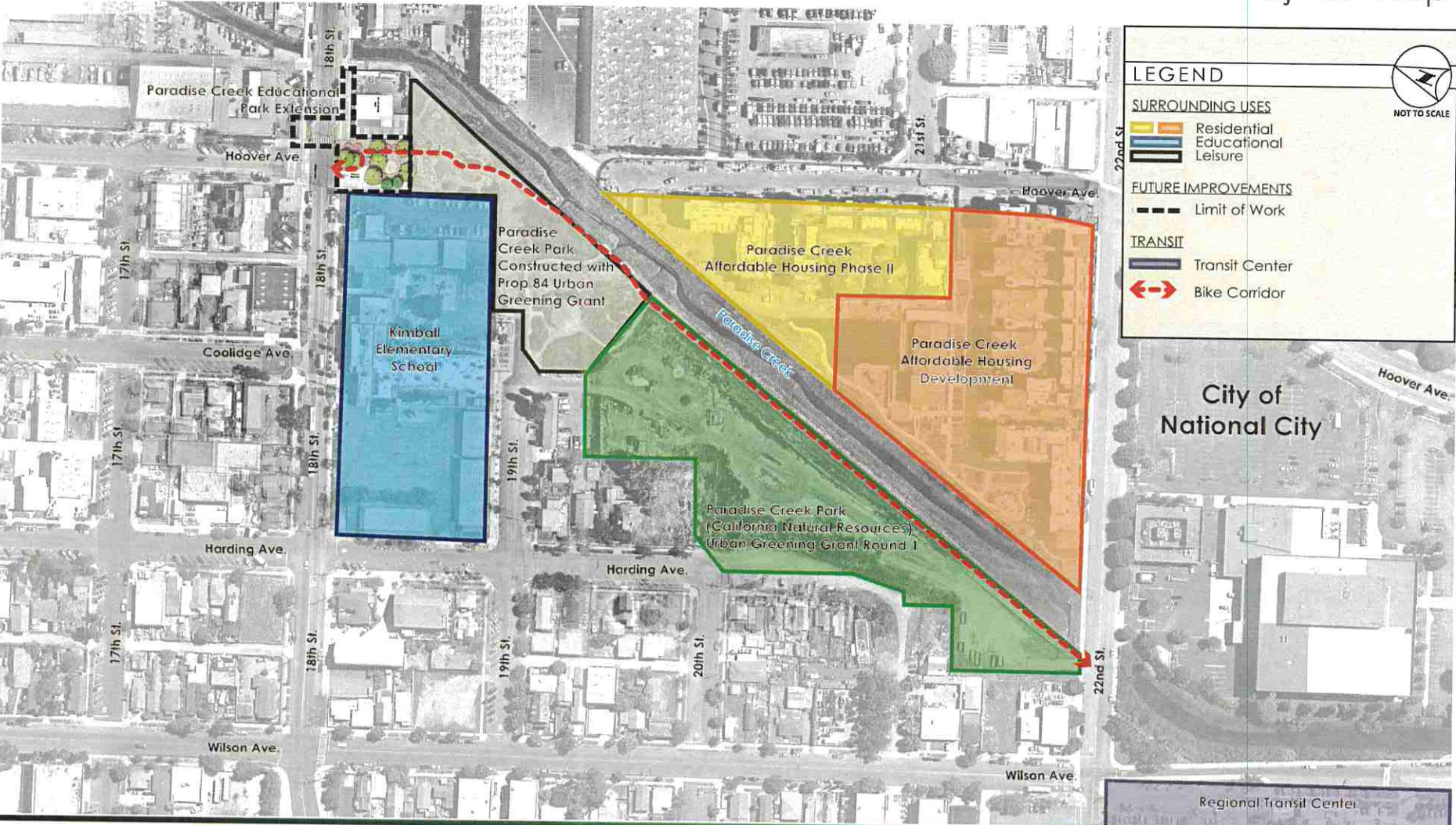
The Paradise Creek Educational Park Extension project involves the expansion of Paradise Creek Educational Park located behind Kimball Elementary School with access from Hoover Avenue and W. 19<sup>th</sup> Street. Improvements include removal of existing asphalt pavement and concrete sidewalk at the northern entrance to the park on Hoover Avenue and replacement with decomposed granite and permeable pavers for storm water infiltration; installation of new trees, native vegetation and additional storm water treatment / infiltration features; construction of a community gathering area; traffic calming and pedestrian enhancements such as pedestrian curb ramps for Americans with Disabilities Act (ADA) compliance, curb extensions, a high-visibility crosswalk, and pedestrian actuated flashing crosswalk signs at the intersection of W. 18<sup>th</sup> Street and Hoover Avenue; and new bicycle facilities.

On May 1, 2018, City Council adopted Resolution No. 2018-66 authorizing the filing of an application for Urban Greening Grant Program funds through the California Department of Natural Resources for National City's Paradise Creek Educational Park Extension project and authorizing the City Manager to execute the grant agreement with California Department of Natural Resources, if selected for grant award. In October 2018, staff was notified that National City had been awarded a \$644,672 Urban Greening Grant for the project. The City Manager subsequently executed Grant Agreement U29148-0 in April 2019.

Staff is requesting authorization to establish an Engineering Grants Fund appropriation of \$644,672 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Educational Park Extension Project. The required local match of \$155,504 will be funded through prior City Council appropriations.



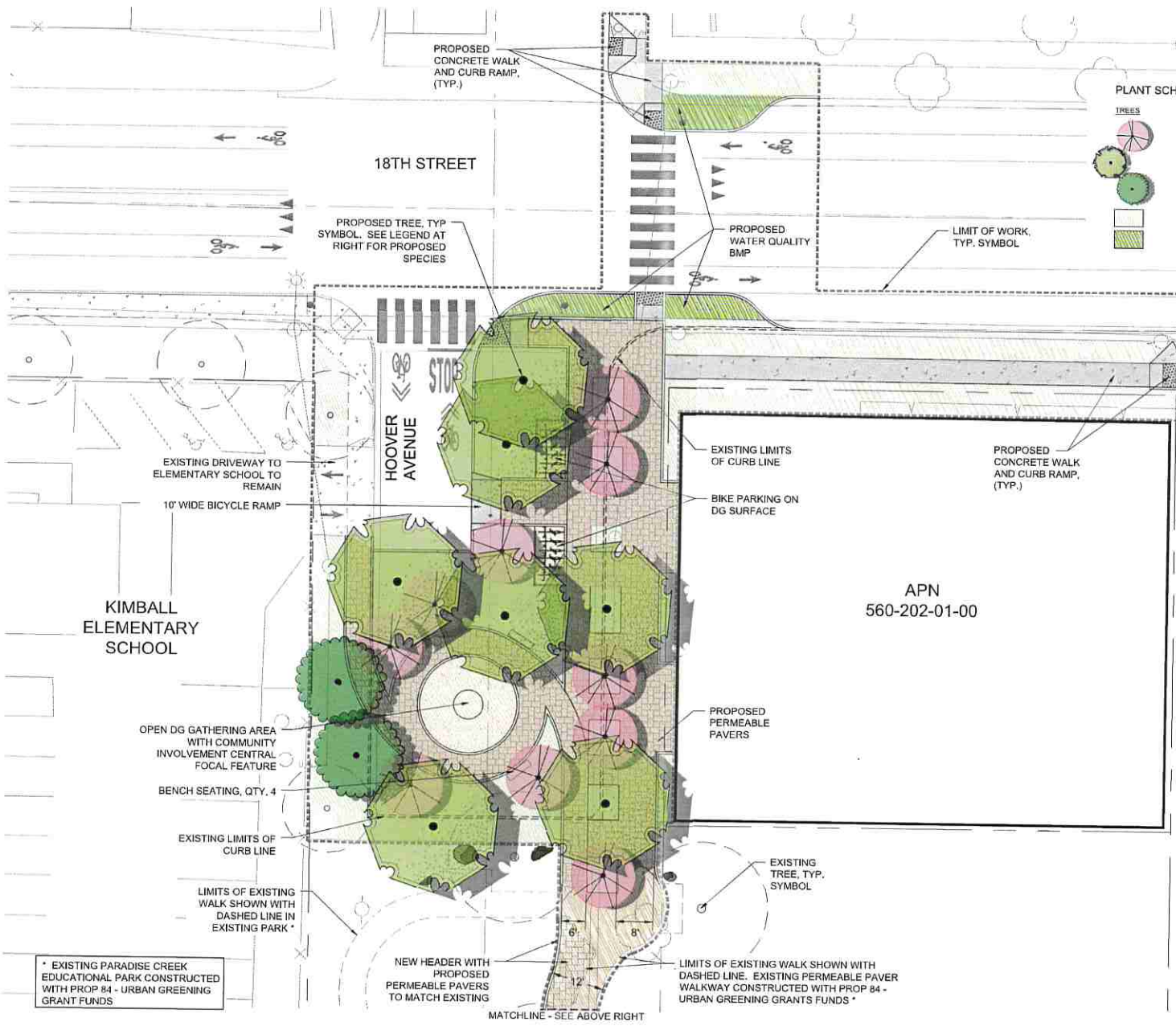
# Project Map



## Paradise Creek Educational Park Extension

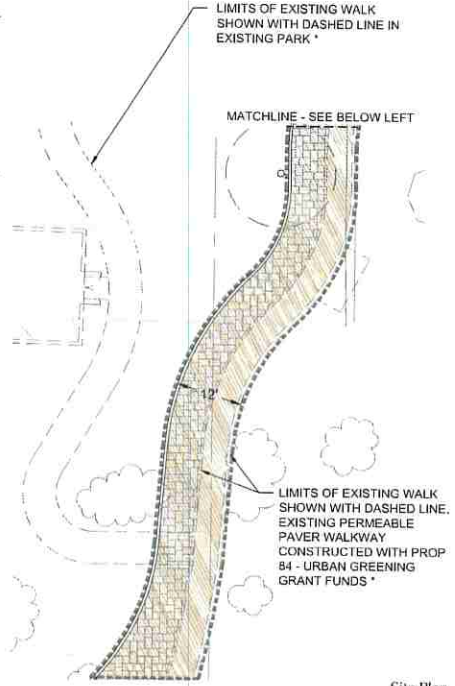


April 2018

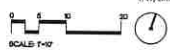


**PLANT SCHEDULE HOOVER**

TREES	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	CER EAS	CERCIS CANADENSIS	EASTERN REDBUD MULTI-TRUNK	15 GAL	10
	PLA SYC	PLATANUS RACEMOSA	CALIFORNIA SYCAMORE MULTI-TRUNK	15 GAL	7
	UMR CAL	UMBR. LILARIA CALIFORNICA	CALIFORNIA LAUREL	15 GAL	2
	NATIVE SHRUB AND GRASS PLANTINGS				
	BIOFILTRATION - NATIVE GRASS PLANTINGS				



Site Plan  
Paradise Creek Educational Park Extension  
18th Street & Hoover Avenue



\* EXISTING PARADISE CREEK EDUCATIONAL PARK CONSTRUCTED WITH PROP 84 - URBAN GREENING GRANTS FUNDS



RESOLUTION NO. 2019 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING THE ESTABLISHMENT OF AN ENGINEERING GRANTS FUND APPROPRIATION OF \$644,672 AND CORRESPONDING REVENUE BUDGET TO ALLOW FOR REIMBURSEMENT OF ELIGIBLE PROJECT EXPENDITURES THROUGH THE CALIFORNIA DEPARTMENT OF NATURAL RESOURCES URBAN GREENING GRANT PROGRAM FOR THE PARADISE CREEK EDUCATIONAL PARK EXTENSION PROJECT

WHEREAS, the Urban Greening Grant Program administered by the California Department of Natural Resources funds projects that reduce greenhouse gas emissions by transforming the built environment into parks and green spaces that are more sustainable, enjoyable, and effective in creating healthy communities; and

WHEREAS, the Paradise Creek Educational Park Extension project involves the expansion of Paradise Creek Educational Park located behind Kimball Elementary School with access from Hoover Avenue and W. 19<sup>th</sup> Street; and

WHEREAS, improvements include removal of existing asphalt pavement and concrete sidewalk at the northern entrance to the park on Hoover Avenue and replacement with decomposed granite and permeable pavers for storm water infiltration; installation of new trees, native vegetation and additional storm water treatment / infiltration features; construction of a community gathering area; traffic calming and pedestrian enhancements such as pedestrian curb ramps for Americans with Disabilities Act (ADA) compliance, curb extensions, a high-visibility crosswalk, and pedestrian actuated flashing crosswalk signs at the intersection of W. 18<sup>th</sup> Street and Hoover Avenue; and new bicycle facilities; and

WHEREAS, on May 1, 2018, City Council adopted Resolution No. 2018-66 authorizing the filing of an application for Urban Greening Grant Program funds through the California Department of Natural Resources for National City's Paradise Creek Educational Park Extension project and authorizing the City Manager to execute the grant agreement with California Department of Natural Resources, if selected for grant award; and

WHEREAS, in October 2018, staff was notified that National City had been awarded a \$644,672 Urban Greening Grant for the project and the City Manager subsequently executed Grant Agreement U29148-0 in April 2019; and

WHEREAS, staff is requesting authorization to establish an Engineering Grants Fund appropriation of \$644,672 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Educational Park Extension Project with the required local match of \$155,504 will be funded through prior City Council appropriations.

Resolution 2019 –  
Page Two

NOW, THEREFORE, BE IT RESOLVED that the City Council approves the establishment of an Engineering Grants Fund appropriation of \$644,672 and corresponding revenue budget for the Paradise Creek Educational Park Extension Project funded through the California Department of Natural Resources Urban Greening Grant Program.

PASSED and ADOPTED this 7th day of May, 2019

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney



The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving the establishment of an Engineering Grants Fund appropriation of \\$1,151,265 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Park Project. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.:**

**ITEM TITLE:**

Resolution of the City Council of the City of National City approving the establishment of an Engineering Grants Fund appropriation of \$1,151,265 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Park Project.

**PREPARED BY:** Jose Lopez, Acting Principal Engineer

**PHONE:** 619-336-4312

**DEPARTMENT:** Engineering and Public Works

**APPROVED BY:** 

**EXPLANATION:**

See attached explanation.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**

Revenue Account: 296-06195-3463

Expenditure Account: 296-409-500-598-6195 (Paradise Creek Educational Park Phase II) - \$1,151,265

Local Match:

Expenditure Account: 001-409-500-898-1596 (WI-TOD/Paradise Creek Park) - \$1,382,202

\$1,382,202 in local match will be funded through the Site Infrastructure Agreement with Paradise Creek II Housing Partners, L.P., "Phase II Developer" for the Westside Infill Transit Oriented Development (WI-TOD) Project.

**ENVIRONMENTAL REVIEW:**

An EIR for the park site was previously prepared for the Paradise Creek Affordable Housing Development. The Project is environmentally cleared through CEQA.

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION

**APPROVED:** 

**FINANCE**

**APPROVED:**

**MIS**

**STAFF RECOMMENDATION:**

Adopt Resolution approving the establishment of an Engineering Grants Fund appropriations and corresponding revenue budget for the Paradise Creek Park Project funded through the California Department of Natural Resources Urban Greening Grant Program.

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

1. Explanation w/Exhibit
2. Resolution

## Explanation

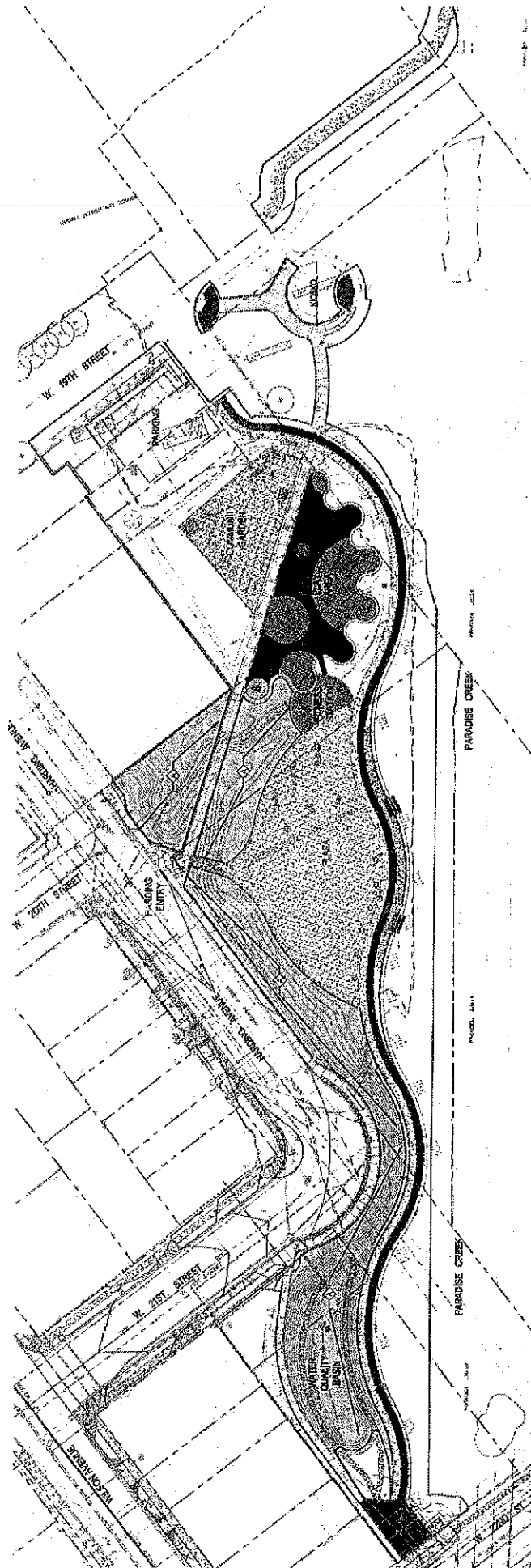
The Urban Greening Grant Program funds projects that reduce greenhouse gas emissions by transforming the built environment into parks and green spaces that are more sustainable, enjoyable, and effective in creating healthy communities. Eligible projects use natural solutions to sequester carbon, reduce energy consumption, create more walking and biking trails, and improve air and water quality. The Grant Program is administered by the California Department of Natural Resources.

The Paradise Creek Park Project will develop an approximately 4-acre Community Park with decomposed granite (DG) walking paths, educational and interpretive signage, trees, native vegetation, bioretention areas for storm water treatment, community garden, playground and passive recreational areas, and other amenities on the west side of Paradise Creek between W. 22nd Street and W. 19th Street.

On May 16, 2017, City Council adopted Resolution No. 2017-73 authorizing the filing of an application for Urban Greening Grant Program funds through the California Department of Natural Resources for National City's Paradise Creek Park Project and authorizing the City Manager to execute the grant agreement with California Department of Natural Resources, if selected for grant award. In November 2017, staff was notified that National City had been awarded a \$1,151,265 Urban Greening Grant for the project. The City Manager subsequently executed Grant Agreement U29121-0 in July 2018.

On October 16, 2018, City Council adopted Resolution No. 2018-182 awarding a contract for the construction of the Paradise Creek Park Site Remediation and Improvements Project. The Project began construction in December 2018, and will provide the site remediation, grading, and infrastructure improvements necessary to construct the new approximately 4-acre Paradise Creek Park.

Staff is requesting authorization to establish an Engineering Grants Fund appropriation of \$1,151,265 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Park Project. The required local match of \$1,382,202 will be funded through the Site Infrastructure Agreement with Paradise Creek II Housing Partners, L.P., "Phase II Developer" for the Westside Infill Transit Oriented Development (WI-TOD) Project



**SITE PLAN**  
SCALE: 1" = 40'

**KEY NOTES**  
 1. SEE EXISTING PLAN & ELEVATION  
 2. SEE IMPROVEMENT PLANS FOR WADING AREA AND  
 3. SEE ST.

RESOLUTION NO. 2019 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING THE ESTABLISHMENT OF AN ENGINEERING GRANTS FUND APPROPRIATION OF \$1,151,265 AND CORRESPONDING REVENUE BUDGET TO ALLOW FOR REIMBURSEMENT OF ELIGIBLE PROJECT EXPENDITURES THROUGH THE CALIFORNIA DEPARTMENT OF NATURAL RESOURCES URBAN GREENING GRANT PROGRAM FOR THE PARADISE CREEK PARK PROJECT

WHEREAS, the Urban Greening Grant Program administered by the California Department of Natural Resources funds projects that reduce greenhouse gas emissions by transforming the built environment into parks and green spaces that are more sustainable, enjoyable, and effective in creating healthy communities; and

WHEREAS, eligible projects use natural solutions to sequester carbon, reduce energy consumption, create more walking and biking trails, and improve air and water quality; and

WHEREAS, the Paradise Creek Park Project will develop an approximately 4-acre Community Park with decomposed granite (DG) walking paths, educational and interpretive signage, trees, native vegetation, bio retention areas for storm water treatment, community garden, playground and passive recreational areas, and other amenities on the west side of Paradise Creek between W. 22nd Street and W. 19th Street; and

WHEREAS, on May 16, 2017, City Council adopted Resolution No. 2017-73 authorizing the filing of an application for Urban Greening Grant Program funds through the California Department of Natural Resources for National City's Paradise Creek Park Project and authorizing the City Manager to execute the grant agreement with California Department of Natural Resources, if selected for grant award; and

WHEREAS, in November 2017, staff was notified that National City had been awarded a \$1,151,265 Urban Greening Grant for the project and the City Manager subsequently executed Grant Agreement U29121-0 in July 2018; and

WHEREAS, on October 16, 2018, City Council adopted Resolution No. 2018-182 awarding a contract for the construction of the Paradise Creek Park Site Remediation and Improvements Project; and

WHEREAS, staff is requesting authorization to establish an Engineering Grants Fund appropriation of \$1,151,265 and corresponding revenue budget to allow for reimbursement of eligible project expenditures through the California Department of Natural Resources Urban Greening Grant Program for the Paradise Creek Park Project with the required local match of \$1,382,202 funded through the Site Infrastructure Agreement with Paradise Creek II Housing Partners, L.P., "Phase II Developer" for the Westside Infill Transit Oriented Development (WI-TOD) Project.

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Resolution 2019 –  
Page Two

NOW, THEREFORE, BE IT RESOLVED that the City Council approves the establishment of an Engineering Grants Fund appropriation of \$1,151,265 and corresponding revenue budget for the Paradise Creek Park Project funded through the California Department of Natural Resources Urban Greening Grant Program.

PASSED and ADOPTED this 7th day of May, 2019

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving an agreement by and between the City of National City and The Altum Group for professional services with a not-to-exceed amount of \\$70,000 to implement the amortization of nonconforming uses within the Westside Specific Plan. \(Planning\)](#)

Please scroll down to view the backup material.



**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.:**

**ITEM TITLE:**

A Resolution of the City Council of the City of National City approving an agreement by and between the City of National City and The Altum Group for professional services with a not-to-exceed amount of \$70,000 to implement the amortization of nonconforming uses within the Westside Specific Plan. (Planning)

**PREPARED BY:** Raymundo Pe, Principal Planner  
**PHONE:** 619-336-4421

**DEPARTMENT:** Planning  
**APPROVED BY:** 

**EXPLANATION:**

On January 25, 2018, the City released a request for proposals for professional services to implement the amortization of nonconforming uses within the Westside Specific Plan area. The Altum Group was the only responding firm to submit a proposal by the deadline of March 12, 2018. Subsequent negotiations between the City and the Altum Group resulted in a revised scope and reduced cost to not exceed the City's budget. The consultant submitted a final revised proposal on March 25, 2019 with a total budget of \$69,107, including optional tasks. Staff is recommending approval of the agreement with a not-to-exceed amount of \$70,000.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.** 0001-409-000-650-9040

**APPROVED:** \_\_\_\_\_ **FINANCE**  
**APPROVED:** \_\_\_\_\_ **MIS**

Budgeted funds in the amount of \$50,000 are available for consultant services for amortization in the current FY18/19, and an amount of \$50,000 is proposed to be budgeted for the following FY19/20. The scope of services is anticipated to require seven months and will span the two fiscal years.

**ENVIRONMENTAL REVIEW:**

This activity is not a project as defined in Section 15378 of the California Code of Regulations; therefore, no further action is required under the California Environmental Quality Act.

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION  Not applicable.

**STAFF RECOMMENDATION:**

Adopt the resolution approving the agreement.

**BOARD / COMMISSION RECOMMENDATION:**

Not applicable.

**ATTACHMENTS:**

1. Background.
2. Agreement.
3. Resolution.



## BACKGROUND

In 2006, the City Council adopted an ordinance (Municipal Code Section 18.11.100.D) providing for the termination of nonconforming uses through amortization. Amortization periods allow for the property/business owner to recover their investment in the use/business. The City Council adopted the Westside Specific Plan in 2010 with new zoning that resulted in the creation of a number of nonconforming uses that had been established under previous zoning, i.e. many commercial and industrial uses that were previously allowed became nonconforming under the specific plan and new zones.

In 2011, the City Council approved a ranking process for nonconforming uses that was developed for the City by the United States Environmental Protection Agency. In 2012, the ranking process was used to create a list of nonconforming uses within the Westside Specific Plan. After public hearings in 2013, the Planning Commission recommended and the City Council approved amortization periods for two nonconforming uses. In 2015, the property and business owners of the two uses complied with the City Council orders to terminate the nonconforming uses.

In April of 2016, the City Council directed staff to proceed with an update of the ranking and to continue with the amortization of up to five nonconforming uses within the Westside Specific Plan. The City retained Tierra West Advisors, Inc. as the consultant; TWA had also been the consultant used for the previous completed amortization effort. A draft ranking was completed in November of 2016 and released in January of 2017 for a 60-day public review period.

In March of 2017, the City and TWA came into disagreement as to the acceptability of the work product completed and as to the remaining scope and budgeted costs under the agreement. The City and TWA were unable to reach agreement on the remaining tasks and deliverables during several months of discussions. In July of 2017, a notice of acceptability was served to TWA addressing and directing completion of the outstanding work tasks and deliverables. To date, TWA has not complied with the notice or the terms of the agreement and has been nonresponsive to the City's requests. Staff determined that working with TWA under the agreement was no longer feasible.

In January of 2018, the City released a request for proposals for consultant services to implement a renewed amortization effort. The Altum Group was the only responding firm, submitting a proposal in March of 2018; however, the proposal's preliminary budget exceeded the amount of City funds allocated for the program. The City and Altum Group subsequently conferred and negotiated a revised scope and budget that is acceptable to staff. The final revised proposal was submitted on March 25, 2019.

**AGREEMENT  
BY AND BETWEEN  
THE CITY OF NATIONAL CITY  
AND  
THE ALTUM GROUP**

THIS AGREEMENT is entered into on this 7th day of May 2019, by and between the CITY OF NATIONAL CITY, a municipal corporation (the "CITY"), and THE ALTUM GROUP, a California corporation (the "CONSULTANT").

**R E C I T A L S**

WHEREAS, the CITY desires to employ a CONSULTANT to provide professional services to implement the amortization of nonconforming uses within the Westside Specific Plan.

WHEREAS, the CITY has determined that the CONSULTANT is a multi-disciplinary consulting firm with expertise in planning, environmental, engineering, survey, and geographic information systems and is qualified by experience and ability to perform the services desired by the CITY, and the CONSULTANT is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The CITY agrees to engage the CONSULTANT, and the CONSULTANT agrees to perform the services set forth here in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services shall be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **EFFECTIVE DATE AND LENGTH OF AGREEMENT.** This Agreement will become effective on May 7, 2019. The duration of this Agreement is for a period of one year. Completion dates or time durations for specific portions of the project are set forth in Exhibit "A". This Agreement may be extended by mutual agreement upon the same terms and conditions for an additional one (1) year term. The Parties may exercise up to three one-year extensions. Any extension of this Agreement must be approved in writing by the City Manager.

3. **SCOPE OF SERVICES.** The CONSULTANT will perform those amortization-related services as set forth in the attached Exhibit "A". The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY.

The CONSULTANT shall appear at meetings specified in Exhibit "A" to keep staff and City Council advised of the progress on the project.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith



and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

4. **PROJECT COORDINATION AND SUPERVISION.** Raymundo Pe hereby is designated as the Project Coordinator for the CITY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. Chris D. Moore thereby is designated as the Project Director for the CONSULTANT.

5. **COMPENSATION AND PAYMENT.** The compensation for the CONSULTANT shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit "A" shall not exceed \$70,000. The compensation for the CONSULTANT'S work shall not exceed the rates set forth in Exhibit "A". Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice, provided that work is accomplished consistent with Exhibit "A", as determined by the CITY.

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY, and for furnishing of copies to the CITY, if requested.

6. **ACCEPTABILITY OF WORK.** The CITY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event the CONSULTANT and the CITY cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT in this Agreement, the CITY or the CONSULTANT shall give to the other written notice. Within ten (10) business days, the CONSULTANT and the CITY shall each prepare a report which supports their position and file the same with the other party. The CITY shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT.

7. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications, and other documents prepared by the CONSULTANT for this project, whether paper or electronic, shall become the property of the CITY for use with respect to this project, and shall be turned over to the CITY upon completion of the project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY, and CONSULTANT thereby expressly waives and disclaims any copyright in, and the right to reproduce, all written material, drawings, plans, specifications, or other work prepared under this Agreement, except upon the CITY'S prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.



The CONSULTANT agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium, or method utilize the CONSULTANT'S written work product for the CITY'S purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings, or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14, but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of Services of this project, unless otherwise mutually agreed.

8. **INDEPENDENT CONTRACTOR.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint venturers with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the CITY, and are not entitled to any of the rights, benefits, or privileges of the CITY'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT'S employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement nor any interest herein may be assigned by the CONSULTANT without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or SUBCONSULTANTS, as the CONSULTANT may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONSULTANT with its SUBCONSULTANT(S) shall require the SUBCONSULTANT(S) to adhere to the applicable terms of this Agreement.

9. **CONTROL.** Neither the CITY, nor its officers, agents, or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT'S employees, except as set forth in this Agreement. The CONSULTANT, or the CONSULTANT'S agents, servants, or employees are not in any manner agents, servants, or employees of the CITY. The CONSULTANT and its agents, servants, and employees are wholly independent from the CITY and CONSULTANT'S obligations to the CITY are solely prescribed by this Agreement.

10. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable state and federal statutes and regulations, and all applicable ordinances, rules, and regulations of the City of National City, whether now in force or subsequently enacted. The CONSULTANT and each of its SUBCONSULTANT(S), shall obtain and maintain a current City of National City business license prior to and during performance of any work pursuant to this Agreement.

11. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of



this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

12. **STANDARD OF CARE.**

A. The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT'S employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this Agreement, the CONSULTANT warrants to the CITY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT'S professional performance or the furnishing of materials or services relating thereto.

C. The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the CITY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this sub-section will render the CONSULTANT liable to the CITY for any increased costs that result from the CITY'S later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

13. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The CONSULTANT will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

14. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONSULTANT shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 14, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of



information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 15.

15. **INDEMNIFICATION AND HOLD HARMLESS.** The CONSULTANT agrees to defend, indemnify and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S performance or other obligations under this Agreement; provided, however, that this indemnification and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the CITY, its agents, officers, employees or volunteers. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense, and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term of this Agreement.

16. **EMPLOYEE PAYMENTS AND INDEMNIFICATION.**

16.1 **PERS Eligibility Indemnification.** If CONSULTANT'S employee(s) providing services under this Agreement claims, or is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS of the CITY, CONSULTANT shall indemnify, defend, and hold harmless CITY for the payment of any employer and employee contributions for PERS benefits on behalf of the employee as well as for payment of any penalties and interest on such contributions which would otherwise be the responsibility of the CITY.

CONSULTANT'S employees providing service under this Agreement shall not: (1) qualify for any compensation and benefit under PERS; (2) be entitled to any benefits under PERS; (3) enroll in PERS as an employee of CITY; (4) receive any employer contributions paid by CITY for PERS benefits; or (5) be entitled to any other PERS-related benefit that would accrue to a CITY employee. CONSULTANT'S employees hereby waive any claims to benefits or compensation described in this Section 16. This Section 16 applies to CONSULTANT notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary.



16.2 Limitation of CITY Liability. The payment made to CONSULTANT under this Agreement shall be the full and complete compensation to which CONSULTANT and CONSULTANT's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither CONSULTANT nor CONSULTANT's officers, employees, agents, and subcontractors are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to CITY employees. The CITY will not make any federal or state tax withholdings on behalf of CONSULTANT. The CITY shall not be required to pay any workers' compensation insurance on behalf of CONSULTANT.

16.3 Indemnification for Employee Payments. CONSULTANT agrees to defend and indemnify the CITY for any obligation, claim, suit, or demand for tax, retirement contribution including any contribution to PERS, social security, salary or wages, overtime payment, or workers' compensation payment which the CITY may be required to make on behalf of (1) CONSULTANT, (2) any employee of CONSULTANT, or (3) any employee of CONSULTANT construed to be an employee of the CITY, for work performed under this Agreement. This is a continuing obligation that survives the termination of this Agreement.

17. WORKERS' COMPENSATION. The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all amendments thereto; and all similar State or federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its officers, employees, and volunteers from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the CITY or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

18. INSURANCE. The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its SUBCONSULTANT(S), when applicable, to purchase and maintain throughout the term of this Agreement, the following insurance policies:

A.  If checked, **Professional Liability Insurance** (errors and omissions) with minimum limits of \$1,000,000 per occurrence.

B. **Automobile Insurance** covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include non-owned, scheduled, and hired vehicles. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided.

C. **Commercial General Liability Insurance**, with minimum limits of \$2,000,000 per occurrence and \$4,000,000 aggregate with a \$3,000,000 umbrella policy, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to this "project" or "location". The "project" or "location" should be noted with specificity on an endorsement that shall be incorporated into the policy.



D. **Workers' Compensation Insurance** in an amount sufficient to meet statutory requirements covering all of CONSULTANT'S employees and employers' liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the CITY. Said endorsement shall be provided prior to commencement of work under this Agreement.

If CONSULTANT has no employees subject to the California Workers' Compensation and Labor laws, CONSULTANT shall execute a Declaration to that effect. Said Declaration shall be provided to CONSULTANT by CITY.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, officials, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY's Risk Manager, at the address listed in subsection G below, of cancellation or material change.

F. If required insurance coverage is provided on a "claims made" rather than "occurrence" form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement. In addition, the "retro" date must be on or before the date of this Agreement.

G. The Certificate Holder for all policies of insurance required by this Section shall be:

City of National City  
c/o Risk Manager  
1243 National City Boulevard  
National City, CA 91950-4397

H. Insurance shall be written with only insurers authorized to conduct business in California that hold a current policy holder's alphabetic and financial size category rating of not less than A:VII according to the current Best's Key Rating Guide, or a company of equal financial stability that is approved by the CITY'S Risk Manager. In the event coverage is provided by non-admitted "surplus lines" carriers, they must be included on the most recent List of Approved Surplus Line Insurers ("LASLI") and otherwise meet rating requirements.

I. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY'S Risk Manager. If the CONSULTANT does not keep all of such insurance policies in full force and effect at all times during the terms of this Agreement, the CITY may elect to treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

J. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the CITY. CITY reserves the right to modify the insurance requirements of this Section 18, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. Should the CITY modify the insurance requirements to increase the CONSULTANT'S insurance coverage requirements, then the CITY shall compensate the CONSULTANT for the reasonable cost of the increased insurance coverage requirements.

K. If the CONSULTANT maintains broader coverage or higher limits (or both) than the minimum limits shown above, the CITY shall be entitled to the broader coverage



or higher limits (or both) maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

19. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney's fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney's fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorney's fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

20. **TERMINATION.**

A. This Agreement may be terminated with or without cause by the CITY. Termination without cause shall be effective only upon 60-day's written notice to the CONSULTANT. During said 60-day period the CONSULTANT shall perform all services in accordance with this Agreement.

B. This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement, misrepresentation by the CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONSULTANT as provided for herein.

D. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the CITY by the CONSULTANT'S breach, if any. Thereafter, ownership of said written material shall vest in the CITY all rights set forth in Section 7.

E. The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

21. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by

overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To CITY: Raymundo Pe  
Principal Planner  
Planning Department  
City of National City  
1243 National City Boulevard  
National City, CA 91950-4397

To CONSULTANT:

Chris D. Moore, AICP, ENV SP  
Planning & Environmental Planning Manager  
The Altum Group  
6265 Greenwich Drive, Suite 215  
San Diego, CA 92122

Doug Franklin, P.E.  
Vice President  
The Altum Group  
73-710 Fred Waring Drive, Suite 219  
Palm Desert, CA 92260

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

22. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS.** During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the City of National City. The CONSULTANT also agrees not to specify any product, treatment, process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONSULTANT shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The



CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the National City Conflict of Interest Code. Specifically, the CONSULTANT shall file a Statement of Economic Interests with the City Clerk of the City of National City in a timely manner on forms which the CONSULTANT shall obtain from the City Clerk.

The CONSULTANT shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Section 22 by the CONSULTANT.

23. **PREVAILING WAGES.** State prevailing wage rates may apply to work performed under this Agreement. State prevailing wages rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Consultant is solely responsible to determine if State prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.

24. **ADMINISTRATIVE PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state, or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes. To the extent any exhibits, schedules, or provisions thereof conflict or are inconsistent with the terms and conditions contained in this Agreement, the terms and conditions of this Agreement shall control.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

H. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California. The venue for any legal action arising under this Agreement shall be in either state or federal court in the County of San Diego, State of California.

I. *Audit.* If this Agreement exceeds ten-thousand dollars (\$10,000), the parties shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the Agreement, per Government Code Section 8546.7.

J. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

K. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

L. *Subcontractors or Subconsultants.* The CITY is engaging the services of the CONSULTANT identified in this Agreement. The CONSULTANT shall not subcontract any portion of the work, unless such subcontracting was part of the original proposal or is allowed by the CITY in writing. In the event any portion of the work under this Agreement is subcontracted, the subconsultant(s) shall be required to comply with and agree to, for the benefit of and in favor of the CITY, both the insurance provisions in Section 18 and the indemnification and hold harmless provision of Section 15 of this Agreement.

M. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

**CITY OF NATIONAL CITY**

**THE ALTUM GROUP, A CALIFORNIA CORPORATION**

*(Corporation – signatures of two corporate officers required)*

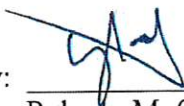
By: \_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

By: Michael A. Peroni  
(Name)  
MICHAEL A. PERONI  
(Print)

APPROVED AS TO FORM:

Angil P. Morris-Jones  
City Attorney

President  
(Title)

By:   
Roberto M. Contreras  
Deputy City Attorney

By: BO JO  
(Name)  
Doug Franklin  
(Print)  
Vice President  
(Title)



## Exhibit 'A'

Mr. Ray Pe, Principal Planner  
Amortization of Non-Conforming Uses - Westside Specific Plan Area  
City of National City, California  
March 25, 2019  
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## INTRODUCTION

**The Altum Group** (Altum) has responded to the Request for Proposal (RFP) by the City of National City (City) for assistance in the implementation of amortization of nonconforming land uses within the Westside Specific Plan Area. The purpose of the project is to identify up to five nonconforming properties that meet the criteria for amortization. Amortization of up to 5 properties would help the City in their effort to reestablish the Westside Specific Plan Area as a safe, healthy, and vibrant neighborhood. In response to this RFP, Altum has reviewed the Westside Specific Plan, the process for Amortization as established by the City in 2006 under Municipal Code Section 18.11.100(D), the process leading up to the 2013 hearing that led to two nonconforming uses being identified within the City, and the recently identified 150 properties associated with the current study. Additionally, Altum staff has discussed the project requirements with Ray Pe (National City – Principal Planner) and understands the need for evaluation of non-conforming properties within the Westside Specific Plan project area. This resulted in a reduction from 150 properties to 129 properties for review, within the Westside Specific Plan. Finally, Altum has revised this scope and fee proposal based upon further communication and guidance from Ray Pe, Principal Planner with the City. Altum has provided the following Scope of Services to address the City's needs for the project.

## SCOPE OF SERVICES

Altum proposes to complete Tasks 1 through 6 as detailed below. Also, if authorized by the City, Altum will complete Tasks 7 and 8 as optional tasks

### Task 1: Project Kick-Off Meeting and Project Management

Two Altum Staff members will attend a Project Kick-Off Meeting which will be held shortly following an executed contract and a notice to proceed. At the Kick-off meeting, we will discuss the scope of work and schedule to complete the work, as well as data needs, research methods, and communication protocols to be used during the project.

Altum's project manager will coordinate with City staff throughout the seven-month duration of the project. The project manager's coordination will include, contract administration, file management, QA/QC of deliverables, budget tracking, and invoicing. This also includes the development and preparation of a detailed project schedule.

#### Deliverables for this task will include:

- Meeting Agenda (MS Word and PDF)
- Kick-off Meeting Minutes (MS Word and PDF)
- Project Schedule – (MS Project and PDF)

### Task 2: Data Research

At the beginning of this task, Altum's project manager and one (1) staff member will attend one (1) working meeting of no more than two (2) hours with City staff to review data collection methods used during prior amortization studies. During this meeting, City staff will share details regarding sources and methods of data collection, which outside governmental agencies and third parties should be contacted, as well as City

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departments should be contacted for the purpose of data collection. City staff will provide an overview generally regarding how data was collected in previous amortization of non-conforming uses studies that have been conducted in the past.

After the working meeting (detailed above) has been completed, Altum will begin its research by developing a GIS database of all 129 identified properties (as provided by the City) in the Westside Specific Plan area by collecting the necessary GIS shapefiles and parcel data available from the City and from the San Diego Association of Governments (SANDAG). The parcel data will be supplemented by data that Altum will gather from the City, including business violations, code violations, impacts to public infrastructure, and improper use of business properties that impede the development of a safe and healthy living/working environment in the Westside Specific Plan area.

In addition, Altum will integrate data from outside governmental agencies, third parties, and City departments as agreed upon by the City and Altum during the kick-off meeting and the working meeting (detailed above). Altum will coordinate communications via telephone or email with outside governmental agencies, third parties and City departments for the request of status of permits, licenses (if any required) and violations (if any cases) for all subject properties (maximum of 129 properties) scheduled for research. Altum will conduct such telephone and email communication with a maximum of four (4) outside governmental agencies or third parties and a maximum of four (4) City departments (for a maximum of eight [8] entities that will be contacted). Should Altum be required to communicate with additional outside governmental agencies, third parties, or City departments (beyond the eight [8] entities), then Altum can provide such additional communication and coordination for an additional scope and fee. Outside governmental agency, third party, and City department information obtained by Altum will be incorporated into Altum's analysis of the maximum 129 identified properties.

The GIS database will be confined to the 129 properties previously identified. If it is determined that a selected property is no longer applicable as a non-conforming use, then that property will be removed from the selection list and, if requested by the City, replaced with another non-conforming candidate property.

Following development of the GIS database, Altum will use aerial imagery to review each Property in the Westside Specific Plan area to compare existing land use with current zoning, general plan land use designation, and specific plan land use designation, as well as the locations of applicable building permits, variances, code complaints, code violations, and court records. Properties where the existing use (as seen in the aerial imagery) does not match with zoning or general plan land uses will be identified and further reviewed regarding history of code violations, complaints, business licenses, and permit data. This effort will be followed up with preparation of a list and map of potential properties for field survey.

Altum will review existing and applicable documentation and regulations as provided by the City. Information to be reviewed includes the Municipal Code as applicable to the properties located in the Westside Specific Plan, the Westside Specific Plan, and accompanying development standards, any available previous research conducted for this amortization process by other firms (to be provided by the City), and the current City of National City General Plan. This information will provide the foundation for project analysis.



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### Deliverables for this task will include:

- GIS database – Shape files of properties in the Westside Specific Plan area with layers of data gathered from the City and other relevant agencies.
- Non-Conforming Uses List and Map – This list and map (in Digital Format) will be determined from analysis of imagery, zoning, permits and other data gathered from the City and other relevant agencies.

### Task 3: Field Surveys and Review

Altum will perform on-site surveys of the 129 Non-Conforming uses (as identified by the City) which will include photo documentation of the properties. Altum will then collect data and research information relating to business licenses, business violations, code violations, and the improper use of properties that impede the development of a safe and healthy living/working environment in the Westside Specific Plan area. Altum assumes the City will provide such data for Altum to use. Data collected will be used to assess and rank Non-Conforming uses based on the criteria identified in the 2011 EPA report, "NATIONAL CITY, CALIFORNIA, Recommendations for Ranking Properties with Non-Conforming Uses in the Westside Specific Plan Area."

Altum will recommend to the City up to ten (10) properties for amortization, followed by coordination with the Property Valuation Consultant to prepare amortization schedules for up to five (5) Non-Conforming uses based on the provisions of National City Municipal Code, Section 18.11.100(D) which outlines the Termination Procedure through Amortization.

Using the list of properties developed in Task 2, Altum will perform field surveys to confirm non-conforming uses and gather additional information for the identified properties in the Westside Specific Plan area that was not obtained in Task 2. Zoning verification, measurements, and photographs will be gathered to support the non-conforming ranking efforts. Following completion of the field surveys, two Altum staff will have one (1) teleconference call with the City to discuss the results.

### Deliverables for this task will include:

- Non-Conforming Properties List and Map - List and map of surveyed Non-Conforming properties and information gathered for each property within the Westside Specific Plan area.
- Teleconference - One (1) teleconference with City Staff to discuss results of the field survey.

### Task 4: Draft Ranking of Non-Conforming Uses

Using the results of Tasks 2 and 3 above, Altum will perform a draft ranking of non-conforming uses based on the criteria identified in the 2011 EPA report guidelines for ranking non-conforming uses. Following development of the draft rankings, Altum will provide the City with the draft rankings memorandum.

### Deliverables for this task will include:

- Draft Ranking Memorandum - Draft ranking list of up to 129 Non-Conforming properties with criteria used (MS Word and PDF).



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### Task 5: Final ranking of Non-Conforming uses

After City review of Draft Ranking Memorandum, Altum will have one (1) teleconference to coordinate with the City on preparation of the Final Ranking Memorandum. Altum will respond to one round of City comments on the Draft Ranking Memorandum and will prepare the Final Ranking Memorandum accordingly. This scope assumes that City staff will be responsible for any Public Hearing requirements as required by the City of National City and/or the State of California.

#### Deliverables for this task will include:

- Final Ranking Memorandum- Provision of a list of the identified Non-Conforming uses in the Westside Specific Plan area (MS Word and PD).

### Task 6: Amortization Schedule for Five Non-Conforming Properties

In this task, Altum will coordinate with the City and property valuation consultant to prepare amortization schedules for up to five (5) Non-Conforming uses based on the provisions of National City Municipal Code Section 18.11.100(D), Affirmative Termination by Amortization. Under this Task, Altum will set aside the availability for one (1) Team Member to attend a total of one (1) meeting with City Staff and Property Owners.

#### Deliverables for this task will include:

- Amortization Schedule for Five Non-Conforming Properties - Memorandum that outlines schedule for amortization for up to five (5) Non-Conforming use properties (MS Word and PDF).

## OPTIONAL TASKS

If authorized by the City, Altum will complete the following optional tasks for an additional fee (as detailed in the Fee Schedule section, Optional Task subsection below).

### Task 7: Presentation to Planning Commission (Optional Task)

For this optional task, Altum will have one (1) team member attend one (1) Planning Commission Hearing to support City staff. This scope assumes that City staff will be responsible for public notification of meetings and preparation of any staff reports and/or exhibits.

### Task 8: Presentation to City Council (Optional Task)

For this optional task, Altum will have one (1) team member attend one (1) City Council Hearing to support City staff. This scope assumes that City staff will be responsible for public notification of meetings and preparation of any staff reports and/or exhibits.

## PROPOSED SCHEDULE

The project is anticipated to take no longer than seven months to complete based on City approval for Tasks 1 through 6. Please see the attached schedule that provides further information for each task's estimated timing.

# Exhibit 'A'

Mr. Ray Pe, Principal Planner  
Amortization of Non-Conforming Uses - Westside Specific Plan Area  
City of National City, California  
March 25, 2019  
Page 5



## ASSUMPTIONS AND EXCLUSIONS

The following list is not intended to be all-inclusive. If there are items deemed incorrect or necessary for the successful completion of the project, please notify us so that we may amend the scope of services and associated fee.

1. The Project Analysis will involve a total of 129 candidate properties being considered for potential amortization, as provided by the City of National City for Altum to review;
2. All project services not specifically described herein will require a separate proposal and executed contract/amendment, prior to performing said additional services;
3. Access to the subject properties for field survey is clear, or the property owner(s)/business owner(s) will give authorization for personnel to access each property;
4. If it is determined in agreement between the City and Altum that a selected property is no longer applicable as a Non-Conforming use, then that property will be removed from the selection list and if available, replaced with another Non-Conforming candidate property within the Westside Specific Plan Area to be evaluated for amortization; and
5. Optional Tasks 7 and 8 to only be performed if the City determines that Altum staff presence is needed for one (1) Team member to attend one (1) Planning Commission hearing and/or at one (1) City Council held hearing. These Optional Tasks will require additional Scope and Fee.

## FEE SCHEDULE

The following summarizes Altum's Fees for Tasks 1 through 6 as described in our Scope of Services above. We have also included Tasks 7 and 8 as optional services, should the City be interested. All tasks are to be performed on a time and materials (T&M) basis. Please note Altum's Fee Schedule located in Appendix A.

### Services proposed for the Amortization of Non-Conforming Uses

TASK 1	Project Kick-Off Meeting and Project Management .....	\$ 4,394
TASK 2	Data Research.....	\$ 19,930
TASK 3	Field Surveys and Review .....	\$ 18,244
TASK 4	Draft Ranking of Non-Conforming Uses Memo .....	\$ 11,778
TASK 5	Final Ranking of Non-Conforming Uses Memo .....	\$ 3,286
TASK 6	Amortization Schedule for Five Non-Conforming Properties .....	\$ 1,425
	Direct Costs.....	\$ 6,800

**CONTRACT TOTAL      \$ 65,857**

### Optional Services

TASK 7	Presentation to Planning Commission .....	\$ 1,625
TASK 8	Presentation to City Council.....	\$ 1,625



**APPENDIX A**  
**Fee Schedule**  
City of National City  
March 25, 2019

DESCRIPTION	Position Title	Rate	Hours/\$	Total
<b>Task 1: Project kick-off/working Session</b>				
Chris Moore	Director	\$195	12	\$ 2,340.00
Rich Malacoff	Project Manager	\$152	7	\$ 1,064.00
Max Antono	Assistant Planner	\$90	11	\$ 990.00
				Total Task #1 \$ 4,394.00
<b>Task 2: Data research</b>				
Chris Moore	Director	\$195	14	\$ 2,730.00
Rich Malacoff	Project Manager	\$152	22	\$ 3,344.00
Taku Shiozaki	Planner	\$116	28	\$ 3,248.00
Doug Kinley	Planner	\$116	48	\$ 5,568.00
Max Antono	Assistant Planner	\$90	56	\$ 5,040.00
				Total Task #2 \$ 19,930.00
<b>Task 3: Field surveys and Review</b>				
Chris Moore	Director	\$195	10	\$ 1,950.00
Rich Malacoff	Project Manager	\$152	12	\$ 1,824.00
Taku Shiozaki	Planner	\$116	20	\$ 2,320.00
Max Antono	Assistant Planner	\$90	135	\$ 12,150.00
				Total Task #3 \$ 18,244.00
<b>Task 4: Draft ranking of nonconforming uses</b>				
Chris Moore	Director	\$195	12	\$ 2,340.00
Rich Malacoff	Project Manager	\$152	16	\$ 2,432.00
Doug Kinley	Planner	\$116	16	\$ 1,856.00
Taku Shiozaki	Planner	\$116	25	\$ 2,900.00
Max Antono	Assistant Planner	\$90	25	\$ 2,250.00
				Total Task #4 \$ 11,778.00
<b>Task 5: Final ranking of nonconforming uses.</b>				
Chris Moore	Director	\$195	6	\$ 1,170.00
Rich Malacoff	Project Manager	\$152	8	\$ 1,216.00
Max Antono	Assistant Planner	\$90	10	\$ 900.00
				Total Task #5 \$ 3,286.00
<b>Task 6: Meetings/Interviews with City and Valuation Property Consultant.</b>				
Chris Moore	Director	\$195	5	\$ 975.00
Max Antono	Assistant Planner	\$90	5	\$ 450.00
				Total Task #6 \$ 1,425.00
<b>Direct Costs.</b>				
				\$ 6,800.00
				Total \$ 6,800.00
<b>(Optional) Task 7: Presentation to Planning Commission.</b>				
Chris Moore	Director	\$195	5	\$ 975.00
Max Antono	Assistant Planner	\$90	5	\$ 450.00
Direct Costs				\$200
				Total Task #7 \$ 1,625.00
<b>(Optional) Task 8: Presentation to City Council.</b>				
Chris Moore	Director	\$195	5	\$ 975.00
Max Antono	Assistant Planner	\$90	5	\$ 450.00
Direct Costs				\$200
				Total Task #8 \$ 1,625.00
				\$ 65,857.00

2019

Months

City of National City  
 Schedule for Amortization of Non-Conforming Uses

Month 1

Month 2

Month 3

Month 4

Month 5

Month 6

Month 7

Task 1  
Project Kick-off

Task 2  
Data Research

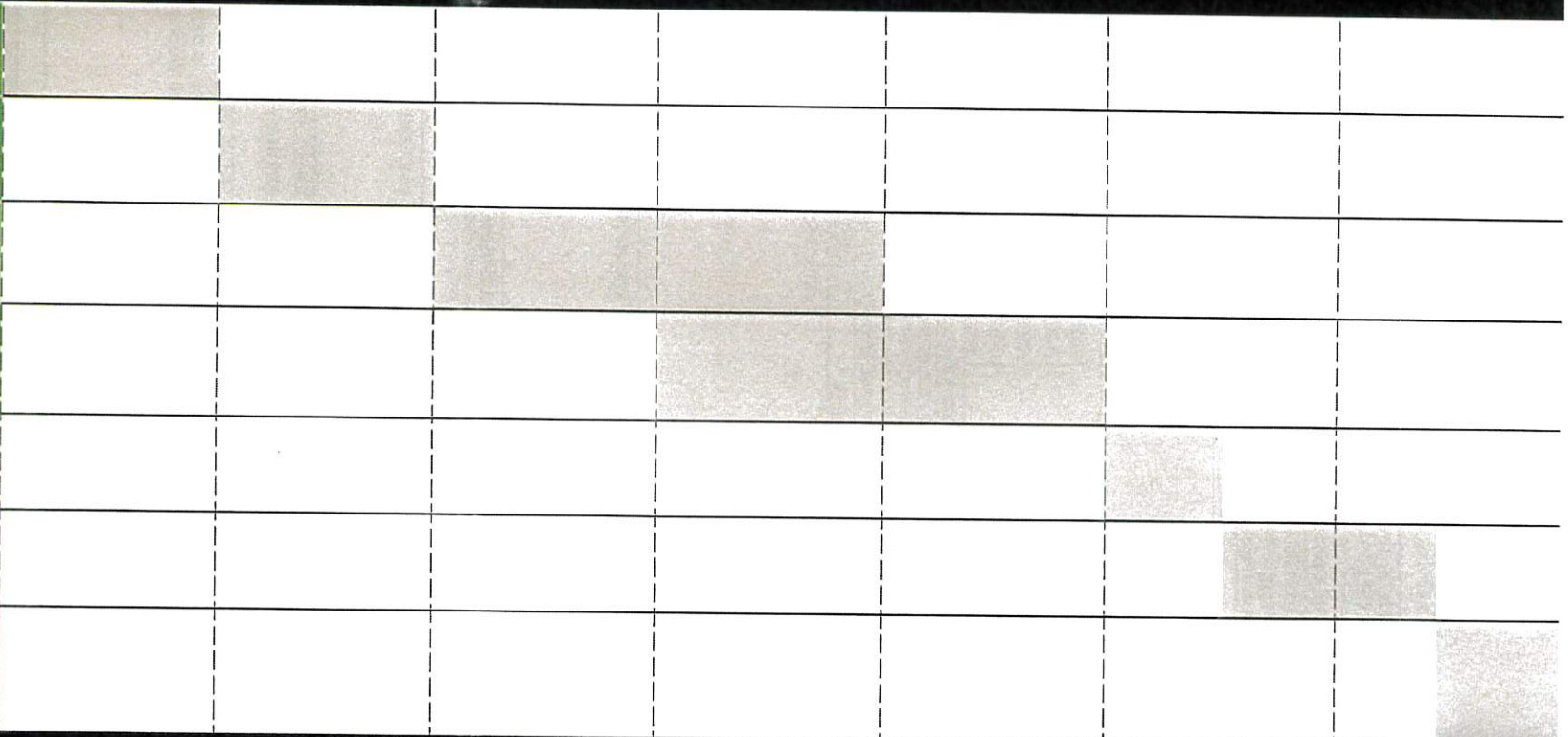
Task 3  
Field Surveys and Review

Task 4  
Draft Ranking of  
Non-Conforming Uses

Task 5  
Final Ranking of  
Non-Conforming Uses

Task 6  
Meetings with City and  
Property/Business Owners

Task 7  
Meeting Interviews with City  
and Property Valuation  
Consultant/Business Owners







# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
01/17/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER <b>Ascend Insurance Agency</b> 36917 Cook St. Ste 101 Palm Desert, CA 92211 License #: 0F44130	CONTACT NAME: <b>Ana Santos</b>	
	PHONE (A/C, No, Ext): (760)341-3477 FAX (A/C, No): (760)341-3476	
INSURED <b>The Altum Group</b> 73710 Fred Waring Dr, Ste 219 Palm Desert, CA 92260-2574	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: <b>Valley Forge Insurance Company</b>	<b>20508</b>
	INSURER B: <b>California Automobile Insurance Company</b>	<b>38342</b>
	INSURER C: <b>Continental Casualty Company</b>	<b>20443</b>
	INSURER D: <b>Wesco Insurance Company</b>	<b>25011</b>
	INSURER E: <b>Argonaut Insurance Company</b>	<b>19801</b>
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: 00000000-586831 REVISION NUMBER: 5

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

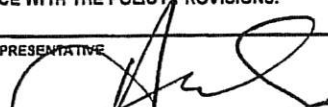
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Business Pers Prop  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y		B 4018212239	05/01/2018	05/01/2019	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 BPP Limit \$ 114,199
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		BA040000023543	09/01/2018	09/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			B 4018213150	05/01/2018	05/01/2019	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WWC3343560	05/07/2018	05/07/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Inland Marine			B 4018212239	05/01/2018	05/01/2019	Scheduled Limit 109,308
E	Professional Liab			121 AE 0001081-00	06/23/2018	06/23/2019	Per Occurrence Limit 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Certificate holder, The City of National City, its elected officials, officers, agents, and employees, is named as additional insured as it pertains to General Liability and Automobile Liability. Waiver of Subrogation Applies to the Worker Compensation Liability in favor of Certificate Holder.

ALL PROJECTS/LOCATIONS

### CERTIFICATE HOLDER

### CANCELLATION

<p>City of National City 1243 National City Boulevard National City, CA 91950</p>	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE</p>  <p>(ACS)</p>
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**ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS LIABILITY COVERAGE FORM**

**SCHEDULE**

<p><b>Name Of Person Or Organization:</b></p> <p>The City of National City, its elected officials, officers, agents, and employees</p>
<p>Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.</p>

It is understood and agreed that the section entitled **WHO IS AN INSURED** is amended with the addition of the following:

- A. The person or organization shown in the Schedule is an insured, but only with respect to such person or organization's liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - 1. In the performance of your ongoing operations; or
  - 2. In connection with premises owned by or rented to you.
- B. However, if coverage for the additional insured is required by written contract or written agreement, subject always to the terms and conditions of this policy, including the limits of insurance, we will not provide such additional insured with:
  - 1. coverage broader than required by such contract or agreement; or
  - 2. a higher limit of insurance than required by such contract or agreement.
- C. The coverage granted by this endorsement does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

00020003940182122393332





**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DESIGNATED INSURED FOR  
COVERED AUTOS LIABILITY COVERAGE**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

<b>Named Insured:</b> The Altum Group
<b>Endorsement Effective Date:</b> 01 / 17 / 2019

**SCHEDULE**

<b>Name Of Person(s) Or Organization(s):</b> The City of National City, its elected officials, officers, agents, and employees
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph A.1. of Section II – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph D.2. of Section I – Covered Autos Coverages of the Auto Dealers Coverage Form.

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA**

We have the right To recover our payments from anyone liable For an injury covered by this policy. We will Not enforce our right against the person Or organization named In the Schedule. (This agreement applies only To the extent that you perform work under a written contract that requires you To obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration Of your employees While engaged In the work described In the Schedule.

The additional premium For this endorsement shall be 2% Of the California workers' compensation premium otherwise due on such remuneration.

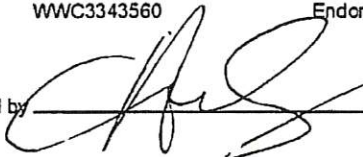
**Schedule**

Person or Organization	Job Description
Any person or organization as required by written contract.	

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective	5/7/2018	Policy No.	WWC3343560	Endorsement No.	0
Insured	THE ALTUM GROUP (A CORP)			Premium \$	21874
Insurance Company	Wesco Insurance Company				

Countersigned by \_\_\_\_\_





RESOLUTION NO. 2019 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING AN AGREEMENT BY AND BETWEEN THE CITY OF NATIONAL CITY AND THE ALTUM GROUP FOR PROFESSIONAL SERVICES WITH A NOT-TO-EXCEED AMOUNT OF \$70,000 TO IMPLEMENT THE AMORTIZATION OF NONCONFORMING USES WITHIN THE WESTSIDE SPECIFIC PLAN

WHEREAS, on January 25, 2018, the City released a request for proposals for professional services to implement the Amortization of Non-conforming Uses in the Westside Specific Plan Area (the "PROJECT"); and

WHEREAS, the Altum Group (the "CONSULTANT") was the only responding firm to submit a proposal by the deadline of March 12, 2018; and

WHEREAS, the CONSULTANT proposal preliminary budget exceeded the amount of City funds budgeted for the consultant services for the PROJECT; and

WHEREAS, the CITY and CONSULTANT met and conferred to revise the scope and cost to not exceed the CITY's budget; and

WHEREAS, the CONSULTANT submitted a final revised proposal on March 25, 2019 with a total budget of \$69,107, including optional tasks.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby approves an agreement by and between the City of National City and The Altum Group with a not to exceed amount of \$70,000. The agreement is on file in the Office of the City Clerk.

PASSED and ADOPTED this 7<sup>th</sup> day of May 2019.

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the City Manager to execute an agreement with San Diego Metropolitan Transit System to license and regulate for-hire vehicles operating in the City of National City at no cost to the City. \(Finance\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 7, 2019

**AGENDA ITEM NO.**

**ITEM TITLE:**

Resolution of the City Council of the City of National City authorizing the City Manager to execute an agreement with San Diego Metropolitan Transit System to license and regulate for-hire vehicles operating in the City of National City at no cost to the City.

**PREPARED BY:** Mark Roberts, Director of Finance

**DEPARTMENT:** Finance

**PHONE:** 619-336-4330

**APPROVED BY:** 

**EXPLANATION:**

At its regular meeting on March 21, 2017, the City Council of the City of National City approved an agreement with San Diego Metropolitan Transit System ("MTS") to license and regulate for-hire vehicles operating in the City of National City (the "City") through June 30, 2019. With this agenda item, staff requests approval of a new agreement with MTS to continue to license agreement and regulate for-hire vehicles operating in the City from July 1, 2019 through June 30, 2024.

**FINANCIAL STATEMENT:**

**APPROVED:**  Finance

**ACCOUNT NO.**  
NA

**APPROVED:** \_\_\_\_\_ MIS

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, not subject to environmental review.

**ORDINANCE:**    **INTRODUCTION:**     **FINAL ADOPTION:**

**STAFF RECOMMENDATION:**

Adopt the resolution, authorizing the Mayor to execute the agreement with San Diego Metropolitan Transit System.

**BOARD / COMMISSION RECOMMENDATION:**

NA

**ATTACHMENTS:**

1. MTS agreement
2. Resolution

**FIRST AMENDMENT TO AGREEMENT FOR  
ADMINISTRATION OF TAXICAB AND OTHER FOR-HIRE VEHICLE REGULATIONS  
BETWEEN  
SAN DIEGO METROPOLITAN TRANSIT SYSTEM  
AND  
CITY OF NATIONAL CITY**

---

THIS AGREEMENT is entered into by and between the City of National City, a municipal corporation, 1243 National City Boulevard, National City, CA (herein called "CITY"), and the San Diego Metropolitan Transit System, a public agency, 1255 Imperial Avenue, Suite 1000, San Diego, CA (herein called "MTS"), in view of the following recitals, which are a substantive part of this Agreement:

**RECITALS**

- A. MTS is authorized under Section 120266, Chapter 2, Division 11 of the California Public Utilities Code (PUC), to enter into contracts to regulate transportation services within a city in its area of jurisdiction and with the County of San Diego;
- B. CITY is within MTS's jurisdiction created January 1, 1976, under Section 120050, et seq., Chapter 2, Division 11 of the PUC;
- C. CITY regulated taxicab and other for-hire vehicles in accordance with the National City Municipal Code, Chapter 11.70;
- D. CITY desires that MTS regulate taxicabs and other for-hire vehicles and services such as charter vehicles, sight-seeing vehicles, nonemergency medical vehicles, and jitney vehicles pursuant to PUC Section 120266 and in accordance with MTS Ordinance No. 11, "An Ordinance Providing for the Licensing and Regulating of Transportation Services Within the City and County";
- E. CITY and MTS entered into an agreement for the period of March 21, 2017 through June 30, 2019; and
- F. CITY and MTS now desire to enter into an agreement to extend the period from July 1, 2019 through June 30, 2024.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, CITY and MTS agree as follows:

1. MTS will administer and enforce its taxicab and other for-hire vehicles Ordinance policies and regulations as in effect on July 1, 2019, and as thereafter from time to time amended by MTS, and thereby regulate such taxicab and other for-hire vehicles and transportation services rendered wholly within the CITY's corporate limits during the period of July 1, 2019 through July 31, 2024, pursuant to PUC Section 120266 and in accordance with MTS Ordinance No. 11.

2. MTS will collect and administer all such regulatory fees, fines, and forfeitures as now or hereafter provided by the MTS Taxicab and Other For-Hire Vehicles Ordinance No. 11 policies, and regulations.

3. The CITY Manager and MTS Chief Executive Officer may supplement this agreement by executing a Memorandum of Understanding relative to administrative and operating procedures of taxicab and other for-hire vehicles regulation and to provide for reimbursable staff and legal support services.

4. This Agreement shall be effective upon execution by the City and MTS and shall continue until written notice of termination. This Agreement may be terminated at any time by either party upon 180 days' written notice to the other party.

IN WITNESS THEREOF, this first amendment to the agreement is executed by the CITY acting by and through its City Manager pursuant to Council Resolution No. \_\_\_\_\_, and by MTS acting through its Chief Executive Officer.

Dated this 1<sup>st</sup> day of July, 2019

CITY OF NATIONAL CITY

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

\_\_\_\_\_  
Acting City Manager  
Stephen Manganiello

\_\_\_\_\_  
Paul C. Jablonski  
Chief Executive Officer

WE HEREBY APPROVE the form of the foregoing Agreement.

\_\_\_\_\_  
Angil Morris-Jones  
City Attorney

\_\_\_\_\_  
Office of the General Counsel

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

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

Attest: \_\_\_\_\_

RESOLUTION NO. 2019 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH SAN  
DIEGO METROPOLITAN TRANSIT SYSTEM TO LICENSE AND REGULATE FOR-  
HIRE VEHICLES OPERATING IN THE CITY OF NATIONAL CITY AT NO COST TO  
THE CITY

WHEREAS, on March 21, 2017, the City Council of the City of National City approved an agreement with San Diego Metropolitan Transit System (“MTS”) to license and regulate for-hire vehicles operating in the City of National City (the “City”) through June 30, 2019; and

WHEREAS, staff requests approval of a new agreement with MTS to continue to license and regulate for-hire vehicles operating in the City from July 1, 2019 through June 30, 2024.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the Mayor to execute an agreement with San Diego Metropolitan Transit System (“MTS”) to license and regulate for-hire vehicles operating in the City of National City from July 1, 2019 through June 30, 2024.

PASSED and ADOPTED this 7th day of May, 2019

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney