



CITY COUNCIL Agenda

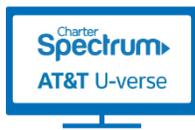
Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

July 28, 2020, 3 p.m.

Welcome to Your City Council Meeting

We welcome your interest and involvement in the city's legislative process. This agenda includes information about topics coming before the City Council and the action recommended by city staff. You can read about each topic in the staff reports, which are available on the city website and in the Office of the City Clerk. The City Clerk is also available to answer any questions you have about City Council meeting procedures.

How to watch



City cable channel

Charter Spectrum channel 24
AT&T U-verse channel 99.



City website

carlsbadca.gov/news/cityty.asp

Virtual meeting format

- Per California Executive Order N-29-20, and in the interest of public health and safety, we are temporarily taking actions to prevent and mitigate the effects of the COVID-19 pandemic by holding City Council and other public meetings online only.
- All public meetings will comply with public noticing requirements in the Brown Act and will be made accessible electronically to all members of the public seeking to observe and address the City Council.

How to participate

- **By phone:** Sign up at <https://www.carlsbadca.gov/cityhall/clerk/meetings/default.asp> by 2 p.m. the day of the meeting to provide comments live by phone. You will receive a confirmation email with instructions about how to call in.
- **In writing:** Email comments to clerk@carlsbadca.gov. Comments received by 2 p.m. the day of the meeting will be shared with the City Council prior to the meeting. When e-mailing comments, please identify in the subject line the agenda item to which your comments relate. All comments received will be included as part of the official record. **Written comments will not be read out loud.**
- These procedures shall remain in place during the period in which state or local health officials have imposed or recommended social distancing measures.

Reasonable accommodations

Persons with a disability may request an agenda packet in appropriate alternative formats as require by the Americans with Disabilities Act of 1990. Reasonable accommodations and auxiliary aids will be provided to effectively allow participation in the meeting. Please contact the City Manager's Office at 760-434-2821 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or manager@carlsbadca.gov by noon on the Monday before the meeting to make arrangements.

More information about City Council meeting procedures can be found at the end of this agenda and in the Carlsbad Municipal Code chapter 1.20. PLEASE NOTE: AS A RESULT OF THE WAIVERS IN EXECUTIVE ORDER N-29-20, THE BROWN ACT PERMITS FULL PARTICIPATION BY OFFICIALS IN MEETINGS THROUGH VIDEO OR AUDIO TELECONFERENCE.

The City Council also sits as the Carlsbad Municipal Water District Board, Public Financing Authority Board, Community Development Commission and Successor Agency to the Redevelopment Agency. When considering items presented to the Carlsbad Municipal Water District Board, each member receives an additional \$100 per meeting (max \$300/month). When considering items presented to the Community Development Commission each member receives an additional \$75 per meeting (max \$150/month).

CALL TO ORDER:

ROLL CALL:

ANNOUNCEMENT OF CONCURRENT MEETINGS: City Council is serving as the Carlsbad Municipal Water District Board of Directors on Consent Calendar Item No. 5.

INVOCATION:

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

Minutes of the Special Meeting held July 21, 2020

PRESENTATIONS: None.

PUBLIC REPORT OF ANY ACTION TAKEN IN CLOSED SESSION:

PUBLIC COMMENT: *In conformance with the Brown Act and California Executive Order No. N-29-20, a total of 15 minutes is provided so members of the public participate in the meeting by submitting comments as provided on the front page of this agenda. The City Council will receive comments as requested up to a total of 15 minutes. All other comments will trail until the end of the meeting. In conformance with the Brown Act, no Council action can occur on these items.*

CONSENT CALENDAR: *The items listed under Consent Calendar are considered routine and will be enacted by one motion as listed below. There will be no separate discussion on these items prior to the time the Council votes on the motion unless members of the Council, the City Manager, or the public request specific items be discussed and/or removed from the Consent Calendar for separate action.*

WAIVER OF ORDINANCE TEXT READING:

This is a motion to waive the reading of the text of all ordinances and resolutions at this meeting.

1. **APPROVAL OF THE PURCHASE OF THE OKTA SOFTWARE SUBSCRIPTION RENEWAL FROM CDW-G, LLC** – Adoption of a resolution authorizing the city manager or a designee to purchase the Okta Software Subscription renewal from CDW-G, LLC in an amount not to exceed \$381,135 for a three-year term ending Aug. 24, 2023. (Staff contact: Maria Callander, Administrative Services)
2. **LICENSE AGREEMENT WITH CROWN CASTLE TOWERS 06-2** – Adoption of a resolution authorizing the city manager to execute a license agreement with Crown Castle Towers 06-02 LLC to operate a wireless communication facility on city property (APN 208-010-38-00, 208-010-39-00, and 208-010-42-00); future Robertson Ranch Community Park site. (Staff contact: Curtis Jackson, Real Estate)
3. **AUTHORIZATION TO REQUEST BIDS FOR THE TAMARACK AVENUE AND VALLEY STREET PEDESTRIAN IMPROVEMENT PROJECT** – Adoption of a resolution approving the plans and specifications, appropriation of additional Gas Tax Funds in the amount of \$150,261, and authorizing the city clerk to advertise for bids for the Tamarack Avenue and Valley Street Pedestrian Improvement Project, Capital Improvement Program Project No. 6335. (Staff contact: John Kim, Public Works)

4. AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE NEW VILLAGE ARTS BUILDING ROOF AND EXTERIOR REFURBISHMENT PROJECT – Adoption of a resolution approving plans and specifications and authorizing the city clerk to advertise for bids for the New Village Arts Building Roof and Exterior Refurbishment Project, Capital Improvement Program Project No. 4739. (Staff contact John Maashoff, Public Works)
5. AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE VALVE REPLACEMENT PHASE II PROJECT – Adoption of a Carlsbad Municipal Water District (CMWD) resolution approving plans and specifications and authorizing the Secretary to the CMWD Board to advertise for bids for the Valve Replacement Phase II, Capital Improvement Program Project No. 5019-E. (Staff contact: Stephanie Harrison and Vicki Quiram, Public Works)
6. ACCEPTANCE OF THE AMERICANS WITH DISABILITIES ACT BEACH ACCESS FEASIBILITY STUDY – Adoption of a resolution accepting the Americans with Disabilities Act Beach Access Feasibility Study, including the corresponding concept plans, and directing staff to prepare a request for proposals to pursue the environmental review, agency permitting, engineering and construction documentation phases of the project. (Staff contact: Sheila Cobian, City Manager Department)
7. NOVEMBER 3, 2020 COUNCIL COMPENSATION BALLOT MEASURE – 1) Adoption of a resolution ordering the submission to the qualified electors of the City of Carlsbad a certain measure relating to City Council compensation on the general election to be held on Tuesday, November 3, 2020, requesting that the San Diego County Board of Supervisors place the measure on the ballot and provide consolidation services and appropriating the necessary funds; and
2) Adoption of a resolution setting priorities for filing written arguments regarding a city measure pertaining to City Council compensation and directing the city attorney to prepare an impartial analysis; and
3) Adoption of a resolution setting priorities for filing of rebuttal arguments regarding a city measure pertaining to City Council compensation that will be submitted at the November 3, 2020, general municipal election. (Staff contact: Faviola Medina, City Clerk Department)

ORDINANCES FOR INTRODUCTION: None.

ORDINANCES FOR ADOPTION: None.

PUBLIC HEARINGS:

8. PUBLIC HEARING TO FINALIZE THE 2020 WEED ABATEMENT COST REPORT – Adoption of a resolution accepting the 2020 Weed Abatement Cost Report and directing the city clerk to file a certified copy of the resolution with the San Diego County Assessor. (Staff contact: Randy Metz, Fire)

City Manager’s Recommendation: Take public input, close the public hearing and adopt the resolution.

9. AN AMENDMENT TO THE CARLSBAD CORPORATE PLAZA SPECIFIC PLAN PARKING STRUCTURE – 1) Introduction of an ordinance amending the Carlsbad Corporate Plaza Specific Plan (SP 23(H)) to remove the 6,000-square-foot limitation on medical office use for existing office buildings located at 6183-6185 Paseo del Norte within the Mello II segment of the city’s Local Coastal Program and Local Facilities Management Zone 3 (Case Name: Carlsbad Corporate Plaza Parking Structure; Case No.: Amend 2019-002); and

2) Adoption of a resolution approving Minor Site Development Plan and Coastal Development Permit to allow the construction of a 35,360-square-foot, two-level parking structure located over an existing parking lot serving existing office buildings located at 6183-6185 Paseo del Norte within the Mello II segment of the Local Coastal Program and Local Facilities Management Zone 3 (Case Name: Carlsbad Corporate Plaza Parking Structure; Case No.: SDP 2019-0003/CDP 2019-0005). (Staff contact: Esteban Danna, Community Development)

City Manager's Recommendation: Take public input, close the public hearing, Introduce the ordinance and adopt the resolution.

DEPARTMENTAL AND CITY MANAGER REPORTS:

10. COVID-19 ACTIONS AND EXPENDITURES REPORT – Receive a report on recent actions and expenditures related to the city's response to the COVID-19 pandemic and provide direction as appropriate. (Staff contact: Geoff Patnoe, City Manager Department)

City Manager's Recommendation: Receive the report and provide direction as appropriate.

11. ADMINISTRATIVE ENFORCEMENT OF THE FACIAL COVERING REQUIREMENTS OF STATE AND COUNTY PUBLIC HEALTH ORDERS – Adoption a resolution issuing an emergency order mandating face coverings for all persons within Carlsbad city limits in accordance with the most recent San Diego County Order of the health officer and emergency regulations and the most recent California Department of Public Health face covering guidance. (Staff contact: Allegra Frost, City Attorney Department)

City Manager's Recommendation: Adopt the resolution.

12. EMPOWER THE DIRECTOR OF EMERGENCY SERVICES TO TEMPORARILY SUSPEND OR MODIFY CERTAIN LAND DEVELOPMENT STANDARDS TO MITIGATE THE ECONOMIC EFFECTS OF THE COVID-19 PANDEMIC STATE OF EMERGENCY ON LOCAL BUSINESSES – Adoption of a resolution empowering the Director of Emergency Services to temporarily suspend or modify certain land development standards to mitigate the economic effects of the COVID-19 pandemic state of emergency on local business. (Staff contact: Jeff Murphy, Community Development)

City Manager's Recommendation: Adopt the resolution.

13. ANALYSIS AND OPTIONS ON PHYSICAL CHANGES TO COLLEGE BOULEVARD, FROM CARLSBAD VILLAGE DRIVE TO CANNON – 1) Receive the presentation regarding options on roadway safety and physical changes to College Boulevard, from Carlsbad Village Drive to Cannon Road; and 2) Adoption of a resolution approving implementation of up to 11 speed feedback signs on College Boulevard, North of Cannon Road. (Staff contact: John Kim and Tom Frank, Public Works)

City Manager's Recommendation: Receive the presentation and adopt the resolution.

14. CLEAN ENERGY ALLIANCE LOAN TERMS – 1) Provide feedback on the proposed terms of a potential loan to fund the Clean Energy Alliance's community choice aggregation program launch; and 2) Consider the following options to direct staff to either:

- a. Return to the City Council with a proposed loan agreement based on the terms discussed and agreed on by the City Council to obtain the council's final approval authorizing the city manager to execute the loan agreement and appropriate the funds

- b. Adopt a resolution appropriating \$4,450,000 from the city’s unassigned General Fund reserve and authorizing the city manager to negotiate terms, within the City Council’s agreed upon parameters, and execute a loan agreement with the Clean Energy Alliance
- c. Take no further action on the matter. (Staff contact: Ryan Green, Administrative Services Department and Jason Haber, City Manager Department)

City Manager’s Recommendation: Consider options and provide staff with feedback.

15. TRAFFIC & MOBILITY COMMISSION APPOINTMENTS – Adoption of resolutions appointing two members to the Traffic & Mobility Commission. (Staff contact: Tammy McMinn, City Clerk Department)

City Manager’s Recommendation: Adopt the resolutions.

COUNCIL COMMENTARY AND REQUESTS FOR CONSIDERATION OF MATTERS:

City Council Regional Assignments (Revised 4/7/20)

**Matt Hall
Mayor** North County Mayors and Managers
City/School Committee
Chamber of Commerce Liaison (primary)
Clean Energy Alliance JPA (alternate)
San Diego County Water Authority
San Diego Regional Economic Development Corporation Board of Directors

**Keith Blackburn
Mayor Pro Tem** Buena Vista Lagoon JPC
Encina Wastewater Authority/JAC Board of Directors
North County Dispatch Joint Powers Authority
Chamber of Commerce Liaison (alternate)
SANDAG (1st alternate)
North County Transit District (alternate)

**Priya Bhat-Patel
Council Member – District 3** SANDAG (2nd alternate)
North County Transit District (primary)
City/School Committee
League of California Cities – SD Division
Encina Wastewater Authority/JAC Board of Directors (alternate)

**Cori Schumacher
Council Member – District 1** SANDAG (primary)
Buena Vista Lagoon JPC
Clean Energy Alliance JPA (primary)
Encina Wastewater Authority/JAC Board of Directors
North County Dispatch Joint Powers Authority (alternate)

**Vacant – At-Large
Council Member**

PUBLIC COMMENT: Continuation of the Public Comments

This portion of the agenda is set aside for continuation of public comments, if necessary, due to exceeding the total time allotted in the first public comments section. In conformance with the Brown Act, no Council action can occur on these items.

ANNOUNCEMENTS:

This section of the Agenda is designated for announcements to advise the community regarding events that Members of the City Council have been invited to, and may participate in.

CITY MANAGER COMMENTS:

CITY ATTORNEY COMMENTS:

ADJOURNMENT:

This section of the Agenda is designated for announcements to advise the community regarding events that Members of the City Council have been invited to, and may participate in.

In accordance with Carlsbad Municipal Code (CMC) Section 20.20.20, notice is hereby given that the City Engineer has reviewed and, immediately following this City Council Meeting of July 28, 2020 will approve the following final map:

Carlsbad Tract CT 2018-0006, located generally at 570-580 Laguna Drive.

Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- 1) The map substantially conforms to the approved tentative map, and approved alterations thereof and any conditions of approval imposed with said tentative map.
- 2) The map complies with the provisions of the Subdivision map Act and any local ordinances applicable at the time of approval of the tentative map.
- 3) The map is technically correct.

Said map will be finalized and recorded, unless an interested party files a valid appeal of the City Engineer's action to City Council no later than 10 calendar days from the date of the City Engineer's action. The appeal shall specifically state the reason(s) for the appeal; see CMC Section 20.20.165 and 21.54.150.

If you have any question about the map approval findings or need additional information about the map or your appeal rights, please feel free to contact the City Clerk's Office at (760) 434-2808.

City Council Meeting Procedures (*continued from page 1*)

Written Materials

Written materials related to the agenda that are submitted to the City Council after the agenda packet has been published will be available for review prior to the meeting during normal business hours at the City Clerk's office, 1200 Carlsbad Village Drive and on the city website. To review these materials during the meeting, please see the City Clerk

Visual Materials

Visual materials, such as pictures, charts, maps or slides, are allowed for comments on agenda items, not general public comment. Please contact the City Manager's Office at 760-434-2820 or manager@carlsbadca.gov to make arrangements in advance. All materials must be received by the City Manager's Office no later than noon the day before the meeting. The time spent presenting visual materials is included in the maximum time limit provided to speakers. All materials exhibited to the City Council during the meeting are part of the public record. **Please note that video presentations are not allowed.**

Decorum

All participants are expected to conduct themselves with mutual respect. Loud, boisterous and unruly behavior can interfere with the ability of the City Council to conduct the people's business. That's why it is illegal to disrupt a City Council meeting. Following a warning from the presiding officer, those engaging in disruptive behavior are subject to law enforcement action.

City Council Agenda

The City Council follows a regular order of business that is specified in the Carlsbad Municipal Code. The City Council may only make decisions about topics listed on the agenda.

Presentations

The City Council often recognizes individuals and groups for achievements and contributions to the community. Well-wishers often fill the chamber during presentations to show their support and perhaps get a photo. If you don't see an open seat when you arrive, there will likely be one once the presentations are over.

Consent Items

Consent items are considered routine and may be enacted together by one motion and vote. Any City Council member may remove or "pull" an item from the "consent calendar" for a separate vote. Members of the public may pull an item from the consent calendar by requesting to speak about that item. A speaker request form must be submitted to the clerk prior to the start of the consent portion of the agenda.

Public Comment

Members of the public may speak on any city related item that does not appear on the agenda. State law prohibits the City Council from taking action on items not listed on the agenda. Comments requiring follow up will be referred to staff and, if appropriate, considered at a future City Council meeting. Members of the public are also welcome to provide comments on agenda items during the portions of the meeting when those items are being discussed. In both cases, a request to speak form must be submitted to the clerk in advance of that portion of the meeting beginning.

Public Hearing

Certain actions by the City Council require a "public hearing," which is a time within the regular meeting that has been set aside and noticed according to different rules.

Departmental Reports

This part of the agenda is for items that are not considered routine and do not require a public hearing. These items are usually presented to the City Council by city staff and can be informational in nature or require action. The staff report about each item indicates the purpose of the item and whether or not action is requested.

Other Reports

At the end of each meeting, City Council members and the city manager, city attorney and city clerk are given an opportunity to share information. This usually includes reports about recent meetings, regional issues, and recent or upcoming meetings and events.

City Council Actions

Resolution

A resolution is an official statement of City Council policy that directs administrative or legal action or embodies a public City Council statement. A resolution may be introduced and adopted at the same meeting. Once adopted, it remains City Council policy until changed by subsequent City Council resolution.

Ordinance

Ordinances are city laws contained in the Carlsbad Municipal Code. Enacting a new city law or changing an existing one is a two-step process. First, the ordinance is "introduced" by city staff to the City Council. If the City Council votes in favor of the introduction, the ordinance will be placed on a subsequent City Council meeting agenda for "adoption." If the City Council votes to adopt the ordinance, it will usually go into effect 30 days later.

Motion

A motion is used to propose City Council direction related to an item on the agenda. Any City Council member may make a motion. A motion must receive a "second" from another City Council member to be eligible for a City Council vote.



CITY COUNCIL
Special Meeting

Minutes

July 21, 2020, 2:15 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

CALL TO ORDER: 2:15 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

PUBLIC COMMENT ON AGENDA ITEM: None.

CLOSED SESSION:

City Attorney Celia Brewer read the Council into Closed Session.

Council adjourned into Closed Session at 2:15 p.m. pursuant to the following:

1. **CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION**

That the City Council, by motion, authorize a closed session regarding existing litigation in the matter of:

Borunda, Richard v. City of Carlsbad, Case No. 37-2019-00040306-CU-PO-NC, pursuant to Government Code Section 54956.9(d)(1).

Council Action: No reportable action.

ADJOURNMENT:

By proper motion, the Special Meeting of July 21, 2020 was adjourned at 2:19 p.m.

Tamara R. McMinn, CPMC, CMC
Senior Deputy City Clerk



CITY COUNCIL Staff Report

Meeting Date: July 28, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Maria Callander, IT Director
Maria.Callander@carlsbadca.gov or 760-602-2454

Subject: Approval of the Purchase of the Okta Software Subscription Renewal from CDW-G, LLC

Recommended Action

Adopt a resolution authorizing the city manager or a designee to purchase the Okta software subscription renewal from CDW-G, LLC, in an amount not to exceed \$381,135 for a three-year term ending Aug. 24, 2023.

Executive Summary

The city purchases an Okta software subscription for identity management, single sign-on and advanced authentication for its software systems from CDW-G, LLC. The subscription lasts for three years, with payments made annually in the amount of \$127,045, for a total of \$381,135.

In keeping with Carlsbad Municipal Code Section 3.28.060(D)(5) relating to the procurement of professional services and services, the City Council's approval is required because the subscription renewal will cost more than \$100,000 per agreement year.

Discussion

Okta's identity and access management software is a subscription service used to secure and manage staff user access to many applications, including Office 365, the basic tools used by city staff; SumTotal, the city's timecard system; and the GovQA public record compliance platform.

The service provides three key elements:

- Identity management. This means that as employees, volunteers or contractors are granted access to city systems, this platform manages and automates many of the necessary functions to provide user accounts.
- Single sign-on functionality for users. This prevents the need to remember different passwords and also provides better security by disabling access when users leave the organization.
- Multifactor authentication. This provides an additional layer of security by requiring additional authenticators other than a password. An example of this would be a onetime code sent to a mobile device and entered into a computer.

The current Okta subscription is set to expire on August 23, 2020. The previous subscription was below the annual cost threshold for City Council approval. Over the course of the last year, the city has added additional features and capacity to Okta, to the point the annual cost for the

subscription will be over \$100,000 and requires City Council approval under Carlsbad Municipal Code Section 3.28.060(D)(5), as noted above.

CDW-G is the current reseller through which the city purchases the Okta subscription. The renewal of the Okta software subscription from CDW-G represents the best value to the city by purchasing through a cooperative purchasing agreement, in compliance with Carlsbad Municipal Code, Chapter 3.28.100 - Cooperative Purchasing. CDW-G is an authorized reseller and provides products and technology services under the National Intergovernmental Purchasing Alliance Technology Solutions #2018011-01 contract.

The cost of this purchase was quoted from the National Intergovernmental Purchasing Alliance Technology Solutions #2018011-01 contract. The alliance is a cooperative purchasing program for government agencies. Carlsbad Municipal Code Section 3.28.100, Cooperative Purchasing, gives the city purchasing officer the authority to join with other public or quasi-public agencies in cooperative purchasing plans or programs for the purchase of goods or services when determined by the purchasing officer to be in the city's best interest. The purchasing officer may buy directly from a vendor at a price established by another public agency when the other agency has made its purchase in a competitive manner.

Fiscal Analysis

The annual cost of the Okta software subscription with CDW-G is not to exceed \$127,045, with a total three-year term not to exceed \$381,135. The term would end on Aug. 24, 2023. Funding for the first annual payment is included in the fiscal year 2020-21 Information Technology Department's operating budget. Future years' funding will be requested during the appropriate fiscal year's budget process.

	<u>fy 2020-21</u>	<u>fy 2021-22</u>	<u>fy 2022-23</u>	<u>Total</u>
Annual subscription	\$127,045	\$127,045	\$127,045	\$381,135

Next Steps

Execute the necessary documents to purchase the Okta software subscription renewal from CDW-G.

Environmental Evaluation (CEQA)

This action does not constitute a "project" within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AUTHORIZING THE CITY MANAGER OR A DESIGNEE TO PURCHASE THE OKTA SOFTWARE SUBSCRIPTION RENEWAL FROM CDW-G, LLC IN AN AMOUNT NOT TO EXCEED \$381,135 FOR A THREE-YEAR TERM ENDING AUG. 24, 2023

WHEREAS, the City of Carlsbad uses a number of Okta security products and services, which it currently purchases under the Okta Master Subscription Agreement (Attachment A); and

WHEREAS, the City of Carlsbad desires to renew the Subscription for a three-year term ending August 24, 2023; and

WHEREAS, CDW-G, LLC is an authorized Okta reseller and provides products and technology services under the National IPA Technology Solutions contract #2018011-01; and

WHEREAS, CDW-G, LLC, has provided a quote (Attachment B) of \$381,135, or \$127,045 per year, for a three-year renewal of the Subscription; and

WHEREAS, under Carlsbad Municipal Code Section 3.28.100, Cooperative Purchasing, the Purchasing Officer has the authority to join with other public agencies for the purchase of goods or services when it is in the best interest of the City; and

WHEREAS, the Purchasing Officer has reviewed the quote for the three-year renewal of the Subscription and determined purchasing the Subscription renewal from CDW-G, LLC is in the best interest of the City (Attachment C); and

WHEREAS, the budget to procure the first year's payment of the Subscription renewal is available in the Information Technology Department's fiscal year 2020-21 Operating Budget; and

WHEREAS, the funding for the Subscription's future years will be considered on an annual basis in the Information Technology Department's annual budget requests.

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

1. That the above recitations are true and correct.
2. That the city manager or a designee is authorized to purchase the Subscription renewal from CDW-G, LLC, in an amount not to exceed \$381,135 for a three-year term ending August 24, 2023, and to execute all required documents necessary

for the purchase.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)



OKTA, INC.
MASTER SUBSCRIPTION AGREEMENT
For Customers Purchasing Through a Reseller

This Okta, Inc. Master Subscription Agreement (“Agreement”) is made and entered into as of October 27, 2017 (the “Effective Date”) by and between Okta, Inc. (“Okta”), a Delaware corporation with its offices at 301 Brannan Street, Suite 100, San Francisco, CA 94107 and City of Carlsbad CA (“Customer”) with offices at 1635 Faraday Avenue, Carlsbad, CA, 92008. Customer and Okta hereby agree as follows:

1. Definitions.

- 1.1. “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the Customer entity signing this Agreement. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
- 1.2. “Free Trial Service” means any Okta service or functionality that may be made available by Okta to Customer to try at Customer’s option, at no additional charge, and which is clearly designated as “beta,” “trial,” “non-GA,” “pilot,” “developer preview,” “non-production,” “free trial,” “evaluation,” or by a similar designation.
- 1.3. “Customer Data” means all electronic data submitted by or on behalf of Customer to the Service.
- 1.4. “Documentation” means Okta’s user guides and other end user documentation for the Service available on the online help feature of the Service, as may be updated by Okta from time to time including without limitation the materials available at www.okta.com.
- 1.5. “Non-Okta Application” means a web-based, offline, mobile, or other software application functionality that is provided by Customer or a third party and interoperates with a Service.
- 1.6. “Professional Services” means implementation and configuration services provided by Okta in connection with the Service, as described more fully in a Statement of Work. Professional Services shall not include the Service.
- 1.7. “Reseller Order Form” means an ordering document pursuant to which Customer shall place orders to Reseller for the Service, Training Services, Support Services, and/or Professional Services purchased, to be provided by Okta under this Agreement. Each Reseller Order Form shall include the Service ordered, capacity licensed (i.e. the number of Users, log-ins, etc.), pricing, bill to, sold to, and the Term. Reseller Order Forms shall be subject solely to and incorporate by reference the terms of this Agreement.
- 1.8. “Reseller” means the authorized Okta reseller identified on the Order Form.
- 1.9. “Service” means the products and services purchased by Customer and provided by Okta, as specified on a Reseller Order Form. “Service” excludes the Professional Services, Free Trial Service, and Non-Okta Applications.
- 1.10. “Statement of Work” means a document that describes certain Professional Services purchased by Customer under this Agreement. Each Statement of Work shall incorporate this Agreement by reference.
- 1.11. “Support Services” means the support services provided by Okta in accordance with Okta’s then-current support policy and as identified on a Reseller Order Form. In the event that the level of support is not identified in the Reseller Order Form, Customer shall receive a “basic” level of support that is included in the Service.
- 1.12. “Training Services” means the education and training services provided by Okta as described more fully in an applicable Reseller Order Form.
- 1.13. “Term” has the meaning set forth in Section 11.1.
- 1.14. “Users” means individuals who are authorized by Customer to use the Service, for whom a subscription to the Service has been procured. Users may include, for example, Customer’s and Customer’s Affiliates’ employees, consultants, clients, external users, contractors, agents, and third parties with which Customer does business.



00000277.0

2. Free Trials, Service, Professional Services, and Training Services.

2.1. Free Trials. If Customer registers for a Free Trial Service on Okta's website, Okta will make such Free Trial Service available to Customer on a trial basis, free of charge, until the earlier of (a) the end of the free trial period for which Customer registered to use the applicable Free Trial Service(s), or (b) the start date of any Service subscription purchased by you for such Service(s). Notwithstanding anything to the contrary in this Agreement, during the free trial, the Free Trial Service is provided "as-is" without any representation or warranty.

2.2. Okta's Obligations. Okta shall make the Service available to Customer pursuant to this Agreement and all Reseller Order Forms during the Term, and grants to Customer, through the Reseller, a limited, non-sublicensable, non-exclusive, non-transferable right during the Term to allow its Users to access and use the Service in accordance with the Documentation, solely for Customer's business purposes. Customer agrees that its purchase of the Service or the Professional Services is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Okta with respect to future functionality or features.

2.3. Customer's Obligations. Customer is responsible for all activities conducted under its and its Users' logins on the Service. Customer shall use the Service in compliance with applicable law and shall not: (i) copy, rent, sell, lease, distribute, pledge, assign, or otherwise transfer, or encumber rights to the Service, or any part thereof, or make it available to anyone other than its Users; (ii) send or store in the Service any personal health data, credit card data, personal financial data or other such sensitive data which may be, without limitation, subject to the Health Insurance Portability and Accountability Act, Gramm-Leach-Bliley Act, or the Payment Card Industry Data Security Standards; (iii) send or store infringing or unlawful material in connection with the Service; (iv) send or store viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs to the Service; (v) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Service or the data contained therein; (vi) modify, copy or create derivative works based on the Service, or any portion thereof; (vii) access the Service for the purpose of building a competitive product or service or copying its features or user interface; or (viii) delete, alter, add to or fail to reproduce in and on the Service the name of Okta and any copyright or other notices appearing in or on the Service or which may be required by Okta at any time.

Any use of the Service in breach of this Agreement, Documentation or Order Forms, by Customer or Users that in Okta's judgment threatens the security, integrity or availability of the Service, may result in Okta's immediate suspension of the Service; however, Okta will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to such suspension.

2.4. Professional Services; Training Services. Customer and Okta may, through the Reseller, enter into Statements of Work that describe the specific Professional Services to be performed by Okta. Okta shall provide any Training Services in accordance with Okta's then-current Training Services terms. If applicable, while on Customer premises for Professional Services or Training Services, Okta personnel shall comply with reasonable Customer rules and regulations regarding safety, security, and conduct made known to Okta, and will at Customer's request promptly remove from the project any Okta personnel not following such rules and regulations.

2.5. Customer Affiliates. Customer Affiliates may purchase and use Service subscription and Professional Services subject to the terms of this Agreement by executing Reseller Order Forms or Statements of Work hereunder that incorporate by reference the terms of this Agreement, and in each such case, all references in this Agreement to Customer shall be deemed to refer to such Customer Affiliate for purposes of such Order Form or Statements of Work.

3. Security, and Support.

3.1. Security. Okta shall: (i) maintain appropriate administrative, physical, and technical safeguards to protect the security and integrity of the Service and the Customer Data; (ii) protect the confidentiality of the Customer Data; and (iii) access and use the Customer Data solely to perform its obligations in accordance with the terms of this Agreement, and as otherwise expressly permitted in this Agreement ("Security Program"). Such Security Program will conform with the Okta security protocols which are further described in Okta's most recently completed Service Organization Control 2 (SOC 2) audit reports or other similar independent third party annual audit report ("Audit Report"). Upon Customer's request, Okta shall provide Customer with a copy of Okta's then-current Audit Report. In no event during the Term shall Okta materially diminish the protections provided by the controls set forth in Okta then-current Audit Report.

3.2. Support Services. During the Term, Okta shall provide Support Services to Customer in accordance with Okta's then-current Okta support policy, and as identified in an Order Form. In the event that the level of support is not identified in the Order Form, Customer shall receive a "basic" level of support that is included in the Service at no additional cost.

4. Confidentiality. Each party ("Recipient") may, during the course of its provision and use of the Service or provision of Professional Services hereunder, receive, have access to, and acquire knowledge from discussions with the other party ("Discloser") which may not be



0000277.0

accessible or known to the general public, such as technical and business information concerning hardware, software, designs, specifications, techniques, processes, procedures, research, development, projects, products or services, business plans or opportunities, business strategies, finances, costs, vendors, penetration test results and other security information; defect and support information and metrics; and first and third party audit reports and attestations (“Confidential Information”). Confidential Information shall not include, and shall cease to include, as applicable, information or materials that (a) were generally known to the public on the Effective Date; (b) become generally known to the public after the Effective Date, other than as a result of the act or omission of the Recipient; (c) were rightfully known to the Recipient prior to its receipt thereof from the Discloser; (d) are or were disclosed by the Discloser generally without restriction on disclosure; (e) the Recipient lawfully received from a third party without that third party’s breach of agreement or obligation of trust; or (f) are independently developed by the Recipient as shown by documents and other competent evidence in the Recipient’s possession. The Recipient shall not: (i) use any Confidential Information of the Discloser for any purpose outside the scope of this Agreement, except with the Discloser’s prior written permission, or (ii) disclose or make the Discloser’s Confidential Information available to any party, except those of its employees, contractors, and agents that have signed an agreement containing disclosure and use provisions substantially similar to those set forth herein and have a “need to know” in order to carry out the purpose of this Agreement. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event shall either party exercise less than reasonable care in protecting such Confidential Information. If the Recipient is compelled by law to disclose Confidential Information of the Discloser, it shall provide the Discloser with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party’s cost, if the other party wishes to contest the disclosure. The obligations set forth in Section 3.1 and not this Section 4 apply to Customer Data.

5. Ownership, Feedback, and Aggregated Data.

5.1. Customer Data. As between Okta and Customer, Customer owns its Customer Data. Customer grants to Okta, its Affiliates and applicable contractors a worldwide, limited-term license to host, copy, transmit and display Customer Data, as reasonably necessary for Okta to provide the Service in accordance with this Agreement. Subject to the limited licenses granted herein, Okta acquires no right, title or interest from Customer or Customer’s licensors under this Agreement in or to any Customer Data. Customer shall be responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired Customer Data.

5.2. Okta Ownership of the Service. Except for the rights expressly granted under this Agreement, Okta and its licensors retain all right, title, and interest in and to the Service, Documentation, the Professional Services, the Training Services materials, including all related intellectual property rights inherent therein. If Customer purchases Professional Services, Okta grants to Customer a worldwide, non-exclusive, non-transferable, non-sublicensable right to use the Professional Services solely for Customer’s use with the Service. No rights are granted to Customer hereunder other than as expressly set forth in this Agreement.

5.3. Feedback. Okta shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Service any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or its Users relating to the features, functionality or operation of the Service, the Professional Services, or the Training Services (“Feedback”). Okta shall have no obligation to use Feedback, and Customer shall have no obligation to provide Feedback.

5.4. Statistical Usage Data. Okta owns the statistical usage data derived from the operation of the Service, including data regarding web applications utilized in connection with the Service, configurations, log data, and the performance results for the Service (“Usage Data”). Nothing herein shall be construed as prohibiting Okta from utilizing the Usage Data to optimize and improve the Service or otherwise operate Okta’s business; provided that if Okta provides Usage Data to third parties, such Usage Data shall be de-identified and presented in the aggregate so that it will not disclose the identity of Customer or any User(s) to any third party.

6. Fees and Expenses.

6.1. Fees. Customer shall pay the fees set forth in the applicable Reseller Order Form (“Fees”) to Reseller in accordance with the terms and conditions set forth in the applicable Reseller Order Form. All fees are based on access rights acquired and not actual usage. All Fees are due and payable by Customer to its Reseller and are nonrefundable by Okta to Customer unless expressly noted hereunder. All Fees are due and payable by Customer to its Reseller and are nonrefundable by Okta to Customer unless otherwise expressly noted under. Any disputes related to the Fees or invoicing shall be handled directly between Customer and the Reseller.

6.2. Expenses. Unless otherwise specified in the applicable Statement of Work, upon invoice from Okta, Customer will reimburse Okta for all pre-approved, reasonable expenses incurred by Okta while performing the Professional Services, including without limitation, transportation services, lodging, and meal and out-of-pocket expenses related to the provision of the Professional Services. Okta will include reasonably detailed documentation of all such expenses with each related invoice.



00000277.0

7. Warranties and Disclaimer.

7.1. Warranties.

a) Service. Okta warrants that during the Term: (i) the Service shall perform materially in accordance with the applicable Documentation, (ii) Okta shall make commercially reasonable efforts to make the Service available to Customer 24 hours a day, 7 days a week, every day of each year (except for any unavailability caused by a Force Majeure event); (iii) Okta will employ then-current, industry-standard measures to test the Service to detect and remediate viruses, Trojan horses, worms, logic bombs, or other harmful code or programs designed to negatively impact the operation or performance of the Service, and (iv) it owns or otherwise has sufficient rights in the Service to grant to Customer the rights to use the Service granted herein. As Customer's exclusive remedy and Okta's entire liability for a breach of the warranties set forth in this Section 7.1(a), Okta shall use commercially reasonable efforts to correct the non-conforming Service at no additional charge to Customer, and in the event Okta fails to successfully correct the Service within a reasonable time of receipt of written notice from Customer detailing the breach, then Customer shall be entitled to terminate the applicable Service and receive an immediate refund of any prepaid, unused Fees for the non-conforming Service. The remedies set forth in this subsection shall be Customer's sole remedy and Okta's sole liability for breach of these warranties. The warranties set forth in this Section shall apply only if the applicable Service has been utilized in accordance with the Documentation, this Agreement and applicable law.

b) Professional Services. Okta warrants that the Professional Services will be performed in a good and workmanlike manner consistent with applicable industry standards. As Customer's sole and exclusive remedy and Okta's entire liability for any breach of the foregoing warranty, Okta will, at its sole option and expense, promptly re-perform any Professional Services that fail to meet this limited warranty or refund to Customer the fees paid for the non-conforming Professional Services.

7.2. Disclaimer. EXCEPT FOR ANY EXPRESS WARRANTIES SET FORTH UNDER SECTION 7.1, OKTA AND ITS SUPPLIERS HEREBY DISCLAIM ALL (AND HAVE NOT AUTHORIZED ANYONE TO MAKE ANY) WARRANTIES RELATING TO THE SERVICE, PROFESSIONAL SERVICES OR OTHER SUBJECT MATTER OF THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TITLE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE PARTIES ARE NOT RELYING AND HAVE NOT RELIED ON ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER REGARDING THE SUBJECT MATTER OF THIS AGREEMENT, EXPRESS OR IMPLIED, EXCEPT FOR THE WARRANTIES SET FORTH UNDER SECTION 7.1. OKTA MAKES NO WARRANTY REGARDING ANY NON-OKTA APPLICATION WITH WHICH THE SERVICE MAY INTEROPERATE.

8. Limitation of Liability.

8.1. EXCEPT FOR INTENTIONAL OR RECKLESS ACTS, NEITHER PARTY (OR OKTA'S THIRD PARTY LICENSORS') SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY (A) FOR ERROR OR INTERRUPTION OF USE, LOSS OR INACCURACY OR CORRUPTION OF DATA, (B) FOR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES, RIGHTS, OR TECHNOLOGY, (C) FOR ANY LOST PROFITS OR REVENUES, OR (D) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. INTENTIONAL AND RECKLESS ACTS ARE SPECIFICALLY EXEMPTED FROM THIS LIMITATION OF LIABILITY.

8.2. EXCEPT FOR INTENTIONAL OR RECKLESS ACTS, THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SERVICE GIVING RISE TO THE LIABILITY IN THE TWELVE-MONTH PERIOD PRECEDING THE FIRST INCIDENT OUT WHICH THE LIABILITY AROSE. EXCEPT FOR INTENTIONAL OR RECKLESS ACTS, THE FOREGOING LIMITATION SHALL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT CUSTOMER'S AND CUSTOMER'S AFFILIATES' PAYMENT OBLIGATIONS UNDER THE 'FEES' SECTION ABOVE.

9. Indemnification.

9.1. Okta Indemnification Obligation. Subject to Section 9.3, Okta will defend Customer from any and all claims, demands, suits or proceedings brought against Customer by a third party alleging that the Service, as provided by Okta to Customer under this Agreement infringe any patent, copyright, or trademark or misappropriate any trade secret of any third party (each, an "Infringement Claim"). Okta will indemnify Customer for all damages, costs, reasonable attorneys' fees finally awarded by a court of competent jurisdiction, or paid to a third party in



00000277.0

accordance with a settlement agreement signed by Okta, in connection with an Infringement Claim. In the event of any such Infringement Claim, Okta may, at its option: (i) obtain the right to permit Customer to continue using the Service, (ii) modify or replace the relevant portion(s) of the Service with a non-infringing alternative having substantially equivalent performance within a reasonable period of time, or (iii) terminate this Agreement as to the infringing Service and refund to Customer any prepaid, unused Fees for such infringing Service hereunder. Notwithstanding the foregoing, Okta will have no liability for any Infringement Claim of any kind to the extent that it results from: (1) modifications to the Service made by a party other than Okta, (2) the combination of the Service with other products, processes or technologies (where the infringement would have been avoided but for such combination), or (3) Customer's use of the Service other than in accordance with the Documentation and this Agreement. The indemnification obligations set forth in this Section 9.1 are Okta's sole and exclusive obligations, and Customer's sole and exclusive remedies, with respect to infringement or misappropriation of third party intellectual property rights of any kind.

9.2. Customer Indemnification Obligation. Subject to Section 9.3, Customer will defend Okta from any and all claims, demands, suits or proceedings brought against Okta by a third party alleging a violation of a third party's rights arising from Customer's provision of the Customer Data. Customer will indemnify Okta for all damages, costs, reasonable attorneys' fees finally awarded by a court of competent jurisdiction, or paid to a third party in accordance with a settlement agreement signed by Customer.

9.3. Indemnity Requirements. The party seeking indemnity under this Section 9 ("Indemnitee") must give the other party ("Indemnitor") the following: (a) prompt written notice of any claim for which the Indemnitee intends to seek indemnity, (b) all cooperation and assistance reasonably requested by the Indemnitor in the defense of the claim, at the Indemnitor's sole expense, and (c) sole control over the defense and settlement of the claim, provided that the Indemnitee may participate in the defense of the claim at its sole expense.

10. Customer Mention. Okta may, upon Customer's prior written consent, use Customer's name to identify Customer as an Okta customer of the Service, including on Okta's public website. Okta agrees that any such use shall be subject to Okta complying with any written guidelines that Customer may deliver to Okta regarding the use of its name and shall not be deemed Customer's endorsement of the Service.

11. Term, Termination, and Effect of Termination.

11.1. Term. The term of this Agreement commences on the Effective Date and continues until the stated term in all Reseller Order Forms have expired or have otherwise been terminated. Subscriptions to the Service commence on the date, and are for a period, as set forth in the applicable Reseller Order Form ("Term"). Upon expiration of the Term, unless otherwise stated on an applicable Reseller Order Form, the Service will automatically renew for additional terms equal in duration to the initial Term (each a "Renewal Term"), unless and until either party gives the other notice of non-renewal at least thirty (30) days prior to the end of the then-current Term or Renewal Term.

11.2. Termination. Either party may terminate this Agreement by written notice to the other party in the event that (i) such other party materially breaches this Agreement and does not cure such breach within thirty (30) days of such notice, or (ii) immediately in the event the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Upon any termination for cause by Customer pursuant to this Section 11.2, Okta will refund Customer a pro-rata portion of any prepaid Fees that cover the remainder of the applicable Reseller Order Form Term or Renewal Term after the effective date of termination and a pro-rata portion of any prepaid Professional Services Fees that cover Professional Services that have not been delivered as of the effective date of termination.

11.3. Retrieval of Customer Data. Upon request by Customer made prior to the effective date of termination of this Agreement, Okta will make available to Customer, at no cost, for a maximum of thirty (30) days following the end of the Term for download a file of Customer Data (other than personal confidential information such as, but not limited to, User passwords may not be included except in hash format) in comma separated value (.csv) format. After such 30-day period, Okta shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, be entitled to delete all Customer Data by deletion of Customer's unique instance of the Service; provided, however, that Okta will not be required to remove copies of the Customer Data from its backup media and servers until such time as the backup copies are scheduled to be deleted in the normal course of business; provided further that in all cases Okta will continue to protect the Customer Data in accordance with this Agreement. Additionally, during the Term, Customer may extract Customer Data from the Service using Okta's standard web services.

11.4. Effect of Termination. Upon termination of this Agreement for any reason, all rights and subscriptions granted to Customer including all Order Forms will immediately terminate and Customer will cease using the Service (except as otherwise permitted under Section 11.3 ("Retrieval of Customer Data")) and Okta Confidential Information. Termination for any reason other than termination for cause by Customer pursuant to Section 11.2(i) shall not relieve Customer of the obligation to pay all future amounts due under all Order Forms. The sections titled "Definitions," "Confidentiality," "Ownership; Aggregated Data," "Fees, Expenses and Taxes," "Warranty Disclaimer," "Limitation of Liability," "Indemnification," "Term, Termination, and Effect of Termination," and "General" shall survive any termination or expiration of this Agreement.



00000277.0

12. General

12.1. Assignment. Neither the rights nor the obligations arising under this Agreement are assignable or transferable by Customer or Okta without the other party's prior written consent which shall not be unreasonably withheld or delayed, and any such attempted assignment or transfer shall be void and without effect. Notwithstanding the foregoing, either party may freely assign this Agreement in its entirety (including all Reseller Order Forms), upon notice and without the consent of the other party, to its successor in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided that all fees owed and due have been paid.

12.2. Controlling Law, Attorneys' Fees and Severability. This Agreement and any disputes arising out of or related hereto shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods. With respect to all disputes arising out of or related to this Agreement, the parties consent to exclusive jurisdiction and venue in the state and Federal courts located in San Diego, California. In any action to enforce this Agreement the prevailing party will be entitled to costs and attorneys' fees. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

12.3. Notices. All legal notices hereunder shall be in writing and given upon (i) personal delivery, in which case notice shall be deemed given on the day of such hand delivery, or (ii) by overnight courier, in which case notice shall be deemed given one (1) business day after deposit with a recognized courier for U.S. deliveries (or three (3) business days for international deliveries).

12.4. Force Majeure. If the performance of this Agreement or any obligation hereunder (other than obligations of payment) is prevented or restricted by reasons beyond the reasonable control of a party including but not limited to computer related attacks, hacking, or acts of terrorism (a "Force Majeure Event"), the party so affected shall be excused from such performance and liability to the extent of such prevention or restriction.

12.5. Equitable Relief. Due to the unique nature of the parties' Confidential Information disclosed hereunder, there can be no adequate remedy at law for a party's breach of its obligations hereunder, and any such breach may result in irreparable harm to the non-breaching party. Therefore, upon any such breach or threat thereof, to the extent allowed by law, the party alleging breach shall be entitled to seek injunctive and other appropriate equitable relief in addition to any other remedies available to it, without the requirement of posting a bond.

12.6. Independent Contractors. The parties shall be independent contractors under this Agreement, and nothing herein shall constitute either party as the employer, employee, agent, or representative of the other party, or both parties as joint venturers or partners for any purpose. There are no third-party beneficiaries under this Agreement.

12.7. Export Compliance. Each party represents that it is not named on any U.S. government list of persons or entities with which U.S. persons are prohibited from transacting, nor owned or controlled by or acting on behalf of any such persons or entities, and Customer will not access or use the Service in any manner that would cause any party to violate any U.S. or international embargo, export control law, or prohibition.

12.8. Government End User. If Customer is a U.S. government entity or if this Agreement otherwise becomes subject to the Federal Acquisition Regulations (FAR), Customer acknowledges that elements of the Service constitute software and documentation and are provided as "Commercial Items" as defined in 48 C.F.R. 2.101 and are being licensed to U.S. government User as commercial computer software subject to restricted rights described in 48 C.F.R. 2.101, 12.211 and 12.212. If acquired by or on behalf of any agency within the Department of Defense ("DOD"), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of the Agreement as specified in 48 C.F.R. 227.7202-3 of the DOD FAR Supplement ("DFARS") and its successors. This U.S. Government End User Section 12.8 is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses government rights in computer software or technical data.

12.9. Anti-Corruption. Customer agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Okta employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Customer learns of any violation of the above restriction, Customer will use reasonable efforts to promptly notify Okta.

12.10. Entire Agreement. This Agreement together with the Reseller Order Form(s) constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all prior or contemporaneous written or oral agreements existing between the parties hereto, including any non-disclosure agreement(s), and related to the subject matter hereof are expressly canceled. The parties agree that any term or condition stated in Customer's purchase order or in any other of Customer's order documentation (excluding Reseller Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Reseller Order Form, (2) this Agreement, and (3) the Documentation. No modification, amendment or waiver of any provision of this Agreement will

Rev 032017

8/22/2017 13:55:01

Page 6

July 28, 2020

Item #1

Page 10 of 19



0000277.0

be effective unless in writing and signed by both parties hereto. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision.

Authorization

The Parties hereto have executed this Agreement by their respective authorized signatories.

CUSTOMER AUTHORIZATION

Accepted By:

Print Name:

NICHOLAS J. LOURIAN

Title:

CIO

Date Signed:

20170824

OKTA AUTHORIZATION

Digitally Signed by:

Jake Randall

Accepted By:

E421EABDA73D4E1...

Print Name

Jake Randall

Title:

VP, Business Operations

Date Signed:

8/24/2017

APPROVED AS TO FORM

Celia A. Brewer, City Attorney

By:

**Asst/Deputy City Attorney
City of Carlsbad, CA**



QUOTE CONFIRMATION

DEAR JOE STEPHENSON,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.



ACCOUNT MANAGER NOTES: pricing is 35% off MSRP

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
LLJG600	5/29/2020	OKTA YEAR 1	6387665	\$127,045.00

IMPORTANT - PLEASE READ

Special Instructions: PRICING IS GOOD UNTIL 8-31-2020

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
OKTA ADV LIFECYCLE MGMT Mfg. Part#: P000403 Electronic distribution - NO MEDIA IT Products - Advanced Lifecycle Management Okta - P000403 Start Date: 08/25/2020 End Date: 08/24/2021 pricing is 35% off MSRP Contract: National IPA Technology Solutions (2018011-01)	1500	5475258	\$37.75	\$56,625.00
OKTA ENT IT MFA FACTORS Mfg. Part#: P000131 Electronic distribution - NO MEDIA IT Products - MFA, Users per Month Okta - P000131 Start Date: 08/25/2020 End Date: 08/24/2021 pricing is 35% off MSRP Contract: National IPA Technology Solutions (2018011-01)	1500	4758092	\$16.50	\$24,750.00
OKTA ENT IT SINGLE SIGNON Mfg. Part#: P000052 Electronic distribution - NO MEDIA IT Products - Single Sign-On, Users per Month Okta - P000052 Start Date: 08/25/2020 End Date: 08/24/2021 pricing is 35% off MSRP Contract: National IPA Technology Solutions (2018011-01)	1500	4773666	\$12.95	\$19,425.00
OKTA ENT IT UNIV DIR Mfg. Part#: P000055 Electronic distribution - NO MEDIA IT Products - Universal Directory, Users per Month Okta - P000055 Start Date: 08/25/2020	1500	4773667	\$7.50	\$11,250.00

QUOTE DETAILS (CONT.)

End Date: 08/24/2021
 pricing is 35% off MSRP
 Contract: National IPA Technology Solutions (2018011-01)

[Okta Success Package Premier - technical support \(renewal\) - 1 year](#) 1 4773669 \$14,995.00 \$14,995.00

Mfg. Part#: P000103
 UNSPSC: 81112201
 Electronic distribution - NO MEDIA
 Support - Premier Success Package
 Okta - P000103
 Start Date: 08/25/2020
 End Date: 08/24/2021
 pricing is 35% off MSRP
 Contract: National IPA Technology Solutions (2018011-01)

[Okta Preview Sandbox - subscription license - 1 license](#) 1 4808511 \$0.00 \$0.00

Mfg. Part#: P000009
 Electronic distribution - NO MEDIA
 Sandbox - Preview Sandbox
 Okta - P000009
 Start Date: 08/25/2020
 End Date: 08/24/2021
 pricing is 35% off MSRP
 Contract: National IPA Technology Solutions (2018011-01)

PURCHASER BILLING INFO		SUBTOTAL	\$127,045.00
Billing Address: CITY OF CARLSBAD ACCOUNTS PAYABLE 1635 FARADAY AVE CARLSBAD, CA 92008-7314 Phone: (760) 602-2400 Payment Terms: Net 30 Days-Govt State/Local		SHIPPING	\$0.00
		SALES TAX	\$0.00
		GRAND TOTAL	\$127,045.00
		DELIVER TO	
Shipping Address: CITY OF CARLSBAD JOE STEPHENSON 1635 FARADAY AVE CARLSBAD, CA 92008-7314 Phone: (760) 602-2400 Shipping Method: ELECTRONIC DISTRIBUTION		CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	

Need Assistance? CDW•G SALES CONTACT INFORMATION



Jeff Butchko

(877) 853-0557

jeffbut@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdwg.com/content/terms-conditions/product-sales.aspx>
 For more information, contact a CDW account manager

© 2020 CDW•G LLC, 200 N. Milwaukee Avenue, Vernon Hills, IL 60061 | 800.808.4239

QUOTE CONFIRMATION



DEAR JOE STEPHENSON,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.



ACCOUNT MANAGER NOTES: pricing is 35% off MSRP

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
LLJG664	5/29/2020	OKTA YEAR 2	6387665	\$127,045.00

IMPORTANT - PLEASE READ
Special Instructions: PRICING IS GOOD UNTIL 8 31 2021

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
OKTA ADV LIFECYCLE MGMT Mfg. Part#: P000403 Electronic distribution - NO MEDIA IT Products - Advanced Lifecycle Management Okta - P000403 Start Date: 08/25/2021 End Date: 08/24/2022 pricing is 35% off MSRP Contract: National IPA Technology Solutions (2018011-01)	1500	5475258	\$37.75	\$56,625.00
OKTA ENT IT MFA FACTORS Mfg. Part#: P000131 Electronic distribution - NO MEDIA IT Products - MFA, Users per Month Okta - P000131 Start Date: 08/25/2021 End Date: 08/24/2022 pricing is 35% off MSRP Contract: National IPA Technology Solutions (2018011-01)	1500	4758092	\$16.50	\$24,750.00
OKTA ENT IT SINGLE SIGNON Mfg. Part#: P000052 Electronic distribution - NO MEDIA IT Products - Single Sign-On, Users per Month Okta - P000052 Start Date: 08/25/2021 End Date: 08/24/2022 pricing is 35% off MSRP Contract: National IPA Technology Solutions (2018011-01)	1500	4773666	\$12.95	\$19,425.00
OKTA ENT IT UNIV DIR Mfg. Part#: P000055 Electronic distribution - NO MEDIA IT Products - Universal Directory, Users per Month Okta - P000055 Start Date: 08/25/2021	1500	4773667	\$7.50	\$11,250.00

QUOTE DETAILS (CONT.)

End Date: 08/24/2022
 pricing is 35% off MSRP
 Contract: National IPA Technology Solutions (2018011-01)

Okta Success Package Premier - technical support (renewal) - 1 year 1 4773669 \$14,995.00 \$14,995.00

Mfg. Part#: P000103
 UNSPSC: 81112201
 Electronic distribution - NO MEDIA
 Support - Premier Success Package
 Okta - P000103
 Start Date: 08/25/2021
 End Date: 08/24/2022
 pricing is 35% off MSRP
 Contract: National IPA Technology Solutions (2018011-01)

Okta Preview Sandbox - subscription license - 1 license 1 4808511 \$0.00 \$0.00

Mfg. Part#: P000009
 Electronic distribution - NO MEDIA
 Sandbox - Preview Sandbox
 Okta - P000009
 Start Date: 08/25/2021
 End Date: 08/24/2022
 pricing is 35% off MSRP
 Contract: National IPA Technology Solutions (2018011-01)

PURCHASER BILLING INFO		SUBTOTAL	\$127,045.00
Billing Address: CITY OF CARLSBAD ACCOUNTS PAYABLE 1635 FARADAY AVE CARLSBAD, CA 92008-7314 Phone: (760) 602-2400 Payment Terms: Net 30 Days-Govt State/Local		SHIPPING	\$0.00
		SALES TAX	\$0.00
		GRAND TOTAL	\$127,045.00
		DELIVER TO	
Shipping Address: CITY OF CARLSBAD JOE STEPHENSON 1635 FARADAY AVE CARLSBAD, CA 92008-7314 Phone: (760) 602-2400 Shipping Method: ELECTRONIC DISTRIBUTION		CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	

Need Assistance? CDW•G SALES CONTACT INFORMATION



Jeff Butchko

(877) 853-0557

jeffbut@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdw.com/content/terms-conditions/product-sales.aspx>
 For more information, contact a CDW account manager

© 2020 CDW•G LLC, 200 N. Milwaukee Avenue, Vernon Hills, IL 60061 | 800.808.4239

QUOTE CONFIRMATION



DEAR JOE STEPHENSON,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.



ACCOUNT MANAGER NOTES: pricing is 35% off MSRP

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
LLJG718	5/29/2020	OKTA YEAR 3	6387665	\$127,045.00

IMPORTANT - PLEASE READ
Special Instructions: PRICING IS GOOD UNTIL 8-31-2022

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
OKTA ADV LIFECYCLE MGMT Mfg. Part#: P000403 Electronic distribution - NO MEDIA IT Products - Advanced Lifecycle Management Okta - P000403 Start Date: 08/25/2022 End Date: 08/24/2023 pricing is 35% off MSRP Contract: National IPA Technology Solutions (2018011-01)	1500	5475258	\$37.75	\$56,625.00
OKTA ENT IT MFA FACTORS Mfg. Part#: P000131 Electronic distribution - NO MEDIA IT Products - MFA, Users per Month Okta - P000131 Start Date: 08/25/2022 End Date: 08/24/2023 pricing is 35% off MSRP Contract: National IPA Technology Solutions (2018011-01)	1500	4758092	\$16.50	\$24,750.00
OKTA ENT IT SINGLE SIGNON Mfg. Part#: P000052 Electronic distribution - NO MEDIA IT Products - Single Sign-On, Users per Month Okta - P000052 Start Date: 08/25/2022 End Date: 08/24/2023 pricing is 35% off MSRP Contract: National IPA Technology Solutions (2018011-01)	1500	4773666	\$12.95	\$19,425.00
OKTA ENT IT UNIV DIR Mfg. Part#: P000055 Electronic distribution - NO MEDIA IT Products - Universal Directory, Users per Month Okta - P000055 Start Date: 08/25/2022	1500	4773667	\$7.50	\$11,250.00

QUOTE DETAILS (CONT.)

End Date: 08/24/2023
 pricing is 35% off MSRP
 Contract: National IPA Technology Solutions (2018011-01)

Okta Success Package Premier - technical support (renewal) - 1 year	1	4773669	\$14,995.00	\$14,995.00
-------------------------------------------------------------------------------------	---	---------	-------------	-------------

Mfg. Part#: P000103
 UNSPSC: 81112201
 Electronic distribution - NO MEDIA
 Support - Premier Success Package
 Okta - P000103
 Start Date: 08/25/2022
 End Date: 08/24/2023
 pricing is 35% off MSRP
 Contract: National IPA Technology Solutions (2018011-01)

Okta Preview Sandbox - subscription license - 1 license	1	4808511	\$0.00	\$0.00
-------------------------------------------------------------------------	---	---------	--------	--------

Mfg. Part#: P000009
 Electronic distribution - NO MEDIA
 Sandbox - Preview Sandbox
 Okta - P000009
 Start Date: 08/25/2022
 End Date: 08/24/2023
 pricing is 35% off MSRP
 Contract: National IPA Technology Solutions (2018011-01)

PURCHASER BILLING INFO	SUBTOTAL	\$127,045.00
Billing Address: CITY OF CARLSBAD ACCOUNTS PAYABLE 1635 FARADAY AVE CARLSBAD, CA 92008-7314 Phone: (760) 602-2400 Payment Terms: Net 30 Days-Govt State/Local	SHIPPING	\$0.00
	SALES TAX	\$0.00
	GRAND TOTAL	\$127,045.00
	DELIVER TO Shipping Address: CITY OF CARLSBAD JOE STEPHENSON 1635 FARADAY AVE CARLSBAD, CA 92008-7314 Phone: (760) 602-2400 Shipping Method: ELECTRONIC DISTRIBUTION	
Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515		

Need Assistance? CDW•G SALES CONTACT INFORMATION



Jeff Butchko

(877) 853-0557

jeffbut@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdw.com/content/terms-conditions/product-sales.aspx>
 For more information, contact a CDW account manager

© 2020 CDW•G LLC, 200 N. Milwaukee Avenue, Vernon Hills, IL 60061 | 800.808.4239



Memorandum

May 28, 2020

To: Cheryl Gerhardt, Purchasing Officer
From: Joe Stephenson, IT Operations Manager
Via: Maria Callander, IT Director *MC*
Re: Approve the cooperative use of the National IPA Technology Solutions #2018011-01 contract with CDW-G, LLC.

Dear Cheryl,

The IT Department would like to cooperatively use National IPA Technology Solutions #2018011-01 contract with CDW-G, LLC to provide for the purchase of the Okta Software Subscription ending August 24, 2023.

This request is in the best interest of the City of Carlsbad as the city purchased this subscription in prior years from CDW-G. Further, the service is now a critical component for securing numerous IT systems. Several applications cannot function without this service.

Okta maintains contracts with customers through preferred resellers and having a consolidated contract ensures the most effective support for city systems.

CDW-G is a full-service vendor that provides for the procurement of software, hardware, licenses, support, maintenance and professional services for many of the IT Department's needs.

As per 3.28.100 Cooperative purchasing. The purchasing officer shall have the authority to join with other public or quasi-public agencies in cooperative purchasing plans or programs for the purchase of goods and/or services by contract, arrangement or agreement as allowed by law and as determined by the purchasing officer to be in the city's best interest. The purchasing officer may buy directly from a vendor at a price established by another public agency when the other agency has made their purchase in a competitive manner. (Ord. CS-002 § 2, 2008)

Gerhardt
May. 28, 2020
Page 2

Thank you for your consideration. Please let me know if I can answer any further questions.

JS:bg

Approval

Cheryl Gerhardt

Cheryl Gerhardt, Purchasing Officer

CC: Maria Callander, IT Department Director
Cindie McMahon, Assistant City Attorney
Brent Gerber, Senior Management Analyst
Shea Sainz, Senior Contract Administrator



CITY COUNCIL
Staff Report

Meeting Date July 28, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Curtis M. Jackson, Real Estate Manager
 curtis.jackson@carlsbadca.gov, 760-434-2836
Subject License Agreement with Crown Castle Towers 06-2 to Operate a Wireless Communication Facility on City Property at the Future Robertson Ranch Community Park Site

Recommended Action

Adopt a resolution authorizing the city manager to execute a temporary license agreement with Crown Castle Towers 06-02 LLC to operate a wireless communication facility on the site where the Robertson Ranch Community Park is to be built.

Executive Summary

Crown Castle provides wireless communication infrastructure for digital communication networks. It has three wireless communication facilities on a property that is to be developed and will lose its access to that location. The company has asked the city for permission to temporarily place these facilities on the city's future Robertson Ranch Community Park site for a period of three years, with three one-year extension options. The City Council is being asked to approve the license agreement and grant authority to the city manager to take all actions necessary to implement the license agreement.

Discussion

Crown Castle is licensed by the Federal Communications Commission to provide communications infrastructure for digital networks. It has three wireless communication facility towers on the Marjah Acres property on the west side of El Camino Real, just south of Kelly Drive. The owners of that property have applied to develop the land. Once that construction begins, Crown Castle will no longer be able to operate its facilities on the site.

The city owns a property on Trailblazer Way adjacent to the northeast corner of Cannon Road and El Camino Real, which is less than a mile away. It is undeveloped and vacant, though it is the site of the proposed Robertson Ranch Park. Crown Castle has asked to move its three wireless communications towers onto this property so that it can maintain cellular coverage in the Robertson Ranch area and adjacent neighborhoods.

Robertson Ranch Park may be developed within the next three to six years, contingent on City Council direction. If it is, Crown Castle would seek the city's approval to permanently locate its wireless facilities within the park. Crown Castle cannot permanently locate its facilities on the property now because the future park has not been designed.

Crown Castle’s temporary facilities include a 75-foot-tall monopole telecommunications tower and an equipment building. The tower and equipment building will accommodate all three wireless communication facilities.

The Planning Commission granted approval of a conditional use permit for Crown Castle to place its facilities at this location on June 3, 2020. This agreement is for an initial term of three years with three extension options of one year each and shall become effective upon the City Council’s approval of the agreement.

Fiscal Analysis

Under this agreement, the city will receive annual revenue starting at \$60,780, or \$5,065 per month, subject to a three percent increase per year as detailed in the below rent schedule. The rent received will be deposited into the city’s General Fund. The city shall also receive two non-refundable park improvement fees totaling \$50,000, \$10,000 to cover the cost of reviewing the agreement, and \$40,000 upon its commencement. These fees are intended to increase the park improvement budget for the future Robertson Ranch Community Park and will be deposited into the Public Facilities Fee Fund.

Period (years)	Minimum annual rent
1	\$60,780
2	\$62,603
3	\$64,482
4	\$66,416
5	\$68,408
6	\$70,460

Staff anticipates the total minimum revenue generated from the agreement to be \$393,149 over six years.

Next Steps

Upon execution of the license agreement and the issuance of any required building permits, the city will begin collecting rent at the negotiated rate. Crown Castle is currently working to obtain its building permit or permits to construct the facilities.

Environmental Evaluation (CEQA)

The proposed action is exempt from the California Environmental Quality Act under State CEQA guidelines 15301 – Existing Facilities. Section 15301 exempts the leasing of property involving negligible or no expansion of use beyond that existing at the time of the agency’s determination.

Exhibits

1. Resolution

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT WITH CROWN CASTLE TOWERS 06-02 LLC TO OPERATE A WIRELESS COMMUNICATION FACILITY ON CITY PROPERTY (APN 208-010-38-00, 208-010-39-00, AND 208-010-42-00; FUTURE ROBERTSON RANCH COMMUNITY PARK SITE)

WHEREAS, city staff has negotiated a license agreement (Agreement) with Crown Castle Towers 06-2 LLC (Crown Castle), to locate wireless telecommunication facilities on city property located at APN: 208-010-38, 39, and 42 (Property); and

WHEREAS, Crown Castle has obtained approval of a Conditional Use Permit (CUP 2019-0179) (Planning Commission Resolution No. 7370) on June 3, 2020 to locate its facilities on the Property; and

WHEREAS, the term of the Agreement is three years, with three one-year extension options; and

WHEREAS, the city will receive two non-refundable park improvement fees totaling \$50,000 (\$10,000 to cover the cost of reviewing the Agreement, and \$40,000 upon commencement of the Agreement), which will be deposited into the Public Facilities Fee Fund; and

WHEREAS, the Agreement will generate \$60,780 in revenue for the city over the first year of the agreement and will increase three percent each year thereafter.

NOW, THEREFORE, BE IT RESOLVED by the City of Carlsbad, California, as follows that:

1. The above recitations are true and correct.
2. That the Agreement, which is attached hereto as Attachment A, is approved as to form, and the City Manager is hereby authorized and directed to execute the Agreement.
3. That the city manager, or his designee, is hereby authorized to take all actions necessary to implement the license agreement with Crown Castle, that are consistent with and in full

compliance with the terms and conditions expressed in the aforementioned Agreement, including any Agreement extensions, and to the satisfaction of the City Attorney, including any amendment to the Agreement.

4. The City Planner has determined that the proposed action is exempt from the California Environmental Quality Act under State CEQA guidelines 15301 – Existing Facilities. Section 15301 exempts the leasing of property involving negligible or no expansion of use beyond that existing at the time of the agency’s determination.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ____ day of ____ 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

ATTEST:

BARBARA ENGLESON, City Clerk
(SEAL)

TEMPORARY COMMUNICATIONS SITE LICENSE AGREEMENT

between

THE CITY OF CARLSBAD

and

CROWN CASTLE TOWERS 06-2 LLC

EFFECTIVE DATE: _____

TABLE OF CONTENTS

BACKGROUND	1
AGREEMENT	2
1. DEFINITIONS.....	2
2. LICENSE AREA	5
2.1. Grant and Scope	5
2.2. License Area Condition	5
2.3. Certified Access Specialist Disclosure.....	6
2.4. Right to Record.....	6
3. USE	6
3.1. Permitted Use; Equipment.....	6
3.2. Prohibited Uses	6
3.3. Access.....	6
3.3.1. Licensee Access	6
3.3.2. Entry and Inspection	7
3.4. Utilities.....	7
3.5. Tests and Surveys.....	7
3.6. Modifications; Alterations.....	8
3.7. Equipment Removal; Replacements; Routine Maintenance.....	8
3.8. Construction and Installation Activities	8
3.8.1. Structural Review	8
3.8.2. Performance Standards	9
3.8.3. Licensee's Contractors.....	9
3.8.4. Labor and Material Costs	9
3.8.5. Coordination; Supervision	9
3.8.6. Staging Area	9
3.8.7. As-Built Site Plans.....	10
3.9. Mineral and Water Rights	10
3.9.1. General	10
3.9.2. Mineral Rights	10
3.9.3. Notice and Relocation	11
4. TERM	12
4.1. Initial Term; Renewal Term(s)	12

- 4.2. Holdover Term..... 12
- 4.3. Right of First License..... 13
- 5. LICENSE FEE; OTHER PAYMENTS TO THE DISTRICT 13
 - 5.1. Base License Fee..... 13
 - 5.2. Annual Adjustments..... 14
 - 5.4. Late Charges 14
 - 5.5. Interest 14
 - 5.6. Park Improvement Fees 14
 - 5.7. Flat Fee Based Revenue Share 14
 - 5.8. Access Route Repair..... 15
 - 5.9. Payment Procedures 15
- 6. GOVERNMENTAL APPROVALS..... 16
 - 6.1. Proprietary Capacity Acknowledgment..... 16
 - 6.2. Permits and Other Governmental Approvals 16
- 7. MAINTENANCE 16
 - 7.1. Licensee’s Maintenance Obligations 16
 - 7.2. City’s Maintenance Obligations 17
- 8. INTERFERENCE..... 17
 - 8.1. Licensee’s Interference Obligations..... 17
 - 8.2. City’s Interference Obligations..... 17
 - 8.3. City’s Governmental Communications..... 18
- 9. TAXES..... 18
 - 9.1. Title to Licensee’s Equipment and Improvements 18
 - 9.2. Taxes..... 18
 - 9.3. Licensee’s Tax and Assessment Obligations 19
 - 9.4. Licensee’s Right to Contest Taxes or Assessments..... 19
- 10. LIENS 19
- 11. INDEMNIFICATION..... 20
 - 11.1. Licensee’s General Indemnification Obligations 20
 - 11.2. Licensee’s Indemnification for Personnel Injuries..... 20
 - 11.3. Licensee’s Defense of the City 20
- 12. ENVIRONMENTAL PROVISIONS 21
 - 12.1. Licensee’s General Environmental Obligations 21
 - 12.2. Hazardous Substances 21

12.3.	Licensee's Response to Hazardous Substance Release	21
12.4.	Self Help.....	22
12.5.	Licensee's Environmental Indemnification Obligations.....	22
12.6.	Licensee's Liability for Hazardous Substance Release	23
13.	INSURANCE	23
13.1.	Licensee's Insurance Obligations	23
13.1.1.	Required Endorsements	23
13.1.2.	Claims-Made Policies.....	24
13.1.3.	General Aggregate Limit	24
13.1.4.	Insurer Qualifications	24
13.1.5.	Certificates; Effective Dates	24
13.1.6.	Self-Insurance	25
13.2.	No Limitation on Indemnification Obligations.....	25
13.3.	City's Termination Right	25
14.	ASSIGNMENT; SUBLICENSE	25
14.1.	Assignment.....	25
14.2.	Sublicense (Collocation).....	26
14.3.	Continuing Obligation (Novation).....	26
15.	DEFAULT; REMEDIES	26
15.1.	Defaults and Cure Periods	26
15.2.	Sums Paid During Default	26
15.3.	No Consequential Damages.....	26
15.4.	No Personal Liability for City Officials, Employees or Agents.....	27
15.5.	Cumulative Remedies	27
16.	TERMINATION.....	27
16.1.	Grounds for Termination.....	27
16.2.	Early Termination Fee	28
17.	REMOVAL AND RESTORATION.....	28
18.	CONDEMNATION	28
18.1.	Permanent Takings.....	28
18.1.1.	Termination and Award.....	28
18.1.2.	No Statutory Right to Terminate.....	29
18.2.	Temporary Takings.....	29
19.	DESTRUCTION.....	29

20.	NOTICES	29
21.	BANKRUPTCY	30
22.	SECURITY DEPOSIT	31
22.1.	Amount	31
22.2.	Application or Use	31
23.	MISCELLANEOUS	32
23.1.	Interpretation; Construction	32
23.2.	Unenforceability; Severability	32
23.3.	Time for Performance; Force Majeure	33
23.4.	Integration; Entire Agreement	33
23.5.	Successors and Assigns	33
23.6.	Amendments or Modifications	33
23.7.	Waivers	33
23.8.	Governing Law; Venue; Attorneys' Fees	33
23.9.	Government Claims Act	34
23.10.	Public Records Act Disclosure	34
23.11.	Estoppels	34
23.12.	Brokers	35
23.13.	Survival	35
23.14.	Submission for Inspection; No Offer	35
23.15.	Execution; Counterparts	35

EXHIBIT A: Legal Description of the Property

EXHIBIT B: Depiction of License Area, Access Route, Utilities Route, Equipment and Other Improvements

EXHIBIT C: As-Built Survey

TEMPORARY COMMUNICATIONS SITE LICENSE AGREEMENT

This Temporary Communications Site License Agreement (this “**License**”) dated _____, 2019 (the “**Effective Date**”) is between the City of Carlsbad, a municipal corporation of the State of California, (the “**City**”) and Crown Castle Towers 06-2 LLC, a Delaware limited liability company, (the “**Licensee**”).

BACKGROUND

- A. **WHEREAS**, the City, in its proprietary capacity as a California municipal corporation, owns or controls that certain real property commonly known as the future Robertson Ranch Community Park site in the City of Carlsbad, County of San Diego, State of California (APNs: 208-010-38-00, 208-010-39-00, and 208-010-42-00) (the “**Property**”), as legally described in **Exhibit A** attached hereto and incorporated herein;
- B. **WHEREAS**, Licensee constructs, installs, owns, operates and maintains wireless communication facilities as its primary business;
- C. **WHEREAS**, Licensee desires to license from the City certain ground space on the Property (the “**License Area**”) for the Permitted Use (as defined in Section 3.1 (Permitted Use; Equipment) in this License), together with additional non-exclusive space for access and utilities, all as more particularly described and depicted in **Exhibit B** attached hereto and incorporated herein, subject to modification as set forth in Section 3.6;
- D. **WHEREAS**, the City, in its proprietary capacity as a California municipal corporation, desires to license to Licensee the License Area for the Permitted Use on the terms and conditions in this License.

NOW, THEREFORE, for good, valuable and sufficient consideration received and acknowledged, the City and Licensee agree as follows:

AGREEMENT

1. DEFINITIONS

"Access Route" means the non-exclusive license for physical ingress and egress over the Property from Trailblazer Way to the License Area in the location shown on Exhibit B, as may be amended by Exhibit C.

"Affiliate" means any person or entity, corporate or otherwise, that directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under Common Control with Licensee.

"Agent" means any agent, employee, officer, official, contractor, subcontractor and/or representative of a party to this License in relation to the License Area.

"Approved Plans" means the particular locations and configurations of the Equipment permitted under this License as shown in Exhibit B, as may be amended by Exhibit C.

"Assignment" means as follows: (a) a merger, acquisition, or other transfer of a controlling interest in Licensee, voluntarily or by operation of Law; (b) Licensee's sale, assignment, encumbrance, pledge, or other transfer of any part of its interest in or rights with respect to the License Area; and (c) any action by Licensee to permit any portion of the License Area to be occupied by anyone other than itself, including a sublicense.

"Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.*, as may be amended or superseded.

"Best Management Practices" means all those environmental or operational standards or guidelines for common and accepted practices appropriate for the business that Licensee and its Agents or Invitees engage in on the Property and/or such guidelines as have been articulated by pertinent trade associations, professional associations or regulatory agencies.

"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 contemplated herein.

"Claim" means any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, whether direct or indirect.

"Common Control" means, for purposes related to Affiliate(s) in Section 14 (Assignment; Sublicense), two entities that are both controlled by the same third entity.

"Control" means, for purposes related to Affiliate(s) in Section 14 (Assignment; Sublicense), as follows: the right and power, directly or indirectly, to direct or cause the direction of the management and policies of a person or business entity, corporation or otherwise, through ownership or voting securities, by contract or otherwise.

"Court" means San Diego County Superior Court.

"Environmental Costs" means any and all damages, fines, costs and fees that arise from: (i) any violation of or material noncompliance with any applicable Environmental Laws; (ii) any violation of or material noncompliance with any environmental provision in this License; (iii) immediate response, remediation and restoration actions; (iv) governmental oversight and participation; (v) actual fees and costs for project managers, attorneys, legal assistants, engineers, consultants, accountants and experts, whether employed with the damaged party or not; (vi) any diminution in value, loss or restriction on use of the Property; and (vii) any damages, fines, costs or fees whether taxable as costs or not, incurred before, at or after any administrative or judicial proceeding, appeal or any other judicial review.

"Environmental Laws" means any and all Laws which govern materials, substances, regulated wastes, emissions, pollutants, water, storm water, ground water, wellfield and wellhead protection, cultural resources protection, animals or plants, noise or products and relate to protection for health, safety or the environment and natural resources, including land, sediments, water, groundwater and stormwater.

"Equipment" means a communications facility, including tower structures, equipment shelters, cabinets, meter boards, utilities, antennas, antenna support structures and any associated utility or equipment boxes, and battery backup, transmitters, receivers, radios, amplifiers, ancillary fiber-optic cables, wiring and ancillary equipment for the transmission and reception of radio communication signals for voice and other data transmission, including the means and devices used to install Equipment at the License Area, peripherals, and ancillary equipment and installations, including wiring, cabling, power feeds and any approved signage attached to Equipment, and other things that are or may be reasonably related to Licensee's communication facility as shown in Exhibit B attached hereto and incorporated herein, as may be amended by Exhibit C.

"ETF" is an acronym for "early termination fee" and is defined in Section 16 (Termination).

"Governmental Approvals" means any governmental or regulatory licenses, permits and other approvals necessary for Licensee to install, operate and maintain Equipment on the License Area.

"Government Claims Act" means California Government Code §§ 810 *et seq.*, as may be amended or superseded.

"Hazardous Substance" means any and all substances, materials, pollutants, contaminants or products defined as or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any applicable Environmental Laws. The term "Hazardous Substance" also includes, but is not limited to, (1) fuels, petroleum or petroleum-based products; or (2) 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, as both may be amended or superseded.

“Holdover Fee” means the increased fee assessed in the event that Licensee continues to use or occupy the License Area after this License expires or terminates, and as is defined in Section 4.2 (Holdover Term).

“Holdover Term” means the month-to-month license on the same terms and conditions that this License automatically converts to in the event that Licensee continues to use or occupy the License Area after this License expires or terminates, and as is defined in Section 4.2 (Holdover Term).

“Impositions” means any and all taxes, assessments, charges, excises and exactions whatsoever, and as is defined in Section 9.3 (Licensee’s Tax and Assessment Obligations).

“Indemnified Parties” means the City, its Agents, Invitees, employees and their respective heirs, successors and assigns.

“Interference” means the same as defined by 47 C.F.R. § 2.1, as may be amended, which defines the term as the effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception in a radio communication system, manifested by any performance degradation, misinterpretation or loss of information which could be extracted in the absence of such unwanted energy.

“Invitee” means any client, customer, invitee, guest, tenant, subtenant, licensee, site manager or assignee and sublicensee of a party to this License in relation to the License Area.

“Laws” means all present and future statutes, ordinances, codes, orders, regulations and implementing requirements and restrictions of federal, state, county and municipal authorities, whether foreseen or unforeseen, ordinary as well as extraordinary, as adopted or as amended at the time in question.

“License Area” means that certain ground space on the Property more particularly described and depicted in Exhibit B attached hereto and incorporated herein, as may be amended by Exhibit C.

“Permitted Use” means construct, install, operate, maintain, remove and repair the Equipment, in certain locations and configurations to transmit and receive wireless communications signals operated in compliance with all applicable Laws, and as is defined in Section 3.1 (Permitted Use; Equipment).

“Release” means, with respect to any Hazardous Substance, any actual or imminent discharging, disposing, dumping, emitting, emptying, escaping, injecting, jettisoning,

leaching, leaking, pouring, pumping, releasing, or spilling on, under or about the License Area, Access Route, Utilities Route or Property.

"Staging Area" means certain space on the Property contiguous with the License Area to the extent reasonably necessary to construct and/or install the Equipment that Licensee may use on a temporary and non-exclusive basis, and as is defined in Section 3.8.6 (Staging Area).

"Tests" means tests, surveys and other reasonably necessary inspections, and as is defined in Section 3.5 (Tests and Surveys).

"Utilities Route" means the non-exclusive license for utility installation on, under or over the Property from Trailblazer Way to the License Area in the location shown on Exhibit B, as may be amended by Exhibit C.

2. LICENSE AREA

2.1. Grant and Scope

Subject to the terms and conditions in this License, the City licenses to Licensee exclusive use of the License Area, together with a non-exclusive right to use the Access Route and Utilities Route, for only the Permitted Use under this License and for no other purpose whatsoever without the City's prior written consent, which the City may withhold in its sole and absolute discretion for any or no reason. Licensee acknowledges that this License does not grant Licensee any ownership interest in the Property in whole or in part. This License and all Licensee's rights and/or privileges to use the License Area will remain subject and subordinate to all leases, subleases, licenses, sublicenses, easements, reservations, covenants, conditions, restrictions and exceptions, whether recorded or unrecorded, that exist prior to the Effective Date.

2.2. License Area Condition

Except as may be specifically and explicitly provided otherwise in this License, the City makes no warranties or representations whatsoever about the Property's condition, fitness or suitability for Licensee's use. Licensee expressly warrants and represents to the City that Licensee or its agent inspected the Property and the License Area, and any environmental or other conditions on the Property and the License Area, and accepts the License Area in its present **"AS-IS"** and **"WITH ALL FAULTS"** condition. Licensee expressly acknowledges and agrees that neither the City nor its Agents made any warranties, representations or promises to Licensee or its Agents about the condition of the Property, in whole or in part, the condition of the License Area, in whole or in part, or the condition of any aspect about the Property or License Area including without limitation any structures or improvements, utilities or Hazardous Substances.

2.3. Certified Access Specialist Disclosure

Pursuant to California Civil Code § 1938, 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 § 55.52) has not inspected the License Area in whole or in part to determine whether it meets all applicable construction-related accessibility requirements.

2.4. No Right to Record

This License does not create or convey any real property ownership right, title or interest in the License Area, in whole or in part, except as expressly provided otherwise herein. Licensee shall not have the right to record a memorandum of this License.

3. USE

3.1. Permitted Use; Equipment

During the term of this License, Licensee may use the License Area to construct, install, operate, maintain, remove and repair the Equipment, in the locations and configurations more particularly described in **Exhibit B** attached hereto and incorporated herein, as may be amended by Exhibit C (the "**Approved Plans**"), to transmit and receive wireless communications signals operated in compliance with all applicable Laws (the "**Permitted Use**"), for purposes reasonably necessary to accomplish the Permitted Use, but for no other purpose whatsoever without the City's prior written consent, which the City may withhold for any or no reason in the City's sole discretion.

3.2. Prohibited Uses

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 materially interferes with the maintenance or operation of the City's park, or constitutes a nuisance under applicable Laws. Licensee shall take all reasonable precautions to eliminate any such nuisances or hazards in connection with its uses and activities on or about the License Area. Licensee acknowledges and agrees that its rights under this License do 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 signs that may be required under applicable Laws.

3.3. Access

3.3.1. Licensee Access

Except as may be specifically provided otherwise in this License, Licensee may use the Access Route, twenty-four (24) hours per day and seven (7) days per week, for overland

vehicular and pedestrian ingress and egress between the License Area and Trailblazer Way for purposes reasonably related to the Permitted Use. The City may, upon thirty (30) days' written notice to Licensee, impose reasonable rules and regulations on the manner in which Licensee uses the Access Route that do not materially alter or impair Licensee's access to the License Area or interfere with Licensee's Permitted Use, as follows: (1) for the locations in which Licensee, its Agents, Invitees and other personnel may park vehicles and equipment on the Access Route; (2) necessary to secure the Property; (3) necessary to ensure access to the Property for all users authorized by the City; and (4) necessary to maintain the safety of the traveling public on and around the Property. The City will issue to Licensee, and Licensee shall safeguard and not share with others, any keys or codes necessary to access the License Area via the Access Route, except for Licensee's authorized employees, agents, contractors, sublessees, licensees and their authorized employees, agents and contractors.

3.3.2. Entry and Inspection

The City and its Agents may, after seventy-two (72) hours' written notice to Licensee and with an escort designated by Licensee, enter onto and inspect the License Area. In the event of emergency, where the City cannot reasonably comply with the foregoing notice requirement, the City shall have the right to access the License Area and the City shall, within forty-eight (48) hours following actual notice of emergency access, inform Licensee of (i) the date and time of emergency access and (ii) the nature of the event requiring emergency access. If, under such emergency circumstances, Licensee is not present to open the License Area, the City may enter by any means without liability to Licensee except for failure to exercise reasonable care under the circumstances. The City's actions under this Section 3.3.2 will not constitute an actual or constructive eviction or relieve Licensee of any obligation with respect to making any repair, replacement, or improvement or complying with any Laws. No provision of this Section 3.3.2 shall be construed as obligating the City to perform any maintenance, repairs, alterations or improvements.

3.4. Utilities

Licensee shall be solely responsible to secure its own utilities for its Permitted Use and will not be permitted to submeter from any electrical service provided to the City. Licensee shall timely pay when due all charges for all utilities furnished to the Equipment. The City shall reasonably cooperate, at no cost to the City, with Licensee's efforts to secure such utilities for Licensee's Permitted Use.

3.5. Tests and Surveys

At any time throughout the Term, Licensee will have the right, but not the obligation, to conduct necessary tests, surveys and other reasonably necessary inspections (collectively "Tests") on the License Area, Access Route and/or Utilities Route to determine suitability for the Permitted Use; provided that (1) Licensee has first furnished the City with all up-to-date insurance documentation required in Section 13 (Insurance)

under this License; (2) Licensee complies with all the City's reasonable rules and regulations necessary to avoid undue interference with other authorized activities or operations on the Property; and (3) Licensee shall promptly return any areas on the Property affected by any Tests to the condition that existed immediately prior to such Tests, reasonable wear and tear excepted.

3.6. Modifications; Alterations

Except as expressly provided otherwise in this License, Licensee may not modify or alter the Equipment or the License Area in any manner other than as shown on the Approved Plans without the City's prior written consent, which the City will not unreasonably withhold, condition or delay ("**City's Consent**"). Following completion of the initial construction of the wireless communications facility on the License Area, Licensee shall provide the City with a copy of an "as-built" survey, which shall depict and identify the boundaries of the License Area, the Access Route, Utilities Route, Equipment and other improvements, and replace and supersede the depiction and description attached hereto as Exhibit B upon City's Consent. The "as-built" survey shall be deemed to be incorporated into this License as Exhibit C even if not physically affixed hereto. The description of the License Area, Access Route, Utilities Route, Equipment and other improvements set forth in Exhibit C shall control in the event of discrepancies between Exhibit B and Exhibit C. After Licensee completes any approved modification or alteration, Licensee shall produce or cause to be produced a revised Exhibit C that shows all Equipment and other improvements in their current, as-built location and configuration, which revised Exhibit C will not become effective until both parties sign each page thereto.

3.7. Equipment Removal; Replacements; Routine Maintenance

At any time after the Effective Date, Licensee will have the right to remove, repair or replace any Equipment with "like-for-like" or substantially similar and technologically equivalent Equipment and perform routine maintenance without the City's prior consent; provided, however, that Licensee must provide the City notice within thirty (30) days after any removal, repair or replacement work occurs, excluding routine maintenance and repairs.

3.8. Construction and Installation Activities

3.8.1. Structural Review

Licensee may not commence any construction or installation activities on the Property that involve new structures or any material increased loading on existing structures without prior written approval from the City Engineer or the City Engineer's designee. Licensee shall submit its written request for approval together with complete engineering plans, specifications and a structural analysis report, all in a form reasonably acceptable to the City Engineer. The City Engineer may (but is not obligated to) review all or part of such materials and may reasonably approve or reject them for cause.

3.8.2. Performance Standards

Licensee, its Agents, employees, contractors and subcontractors shall perform all work on the Property and License Area in a good, safe and workmanlike manner, in strict compliance with the Approved Plans and all applicable Laws. All installed Equipment must be high quality, safe, fire resistant, and approved by the City if required by any applicable Laws.

3.8.3. Licensee's Contractors

Licensee shall use only qualified and trained persons and appropriately licensed contractors for all work performed on or about the License Area. At least ten (10) business days before any work commences on or about the License Area that requires the City's prior approval herein, Licensee shall provide notice to the City with: (1) a schedule with all activities to be performed in connection with the work; and (2) a list with all the names, contractor's license numbers and business addresses for all contractors who will perform the work.

3.8.4. Labor and Material Costs

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 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.

3.8.5. Coordination; Supervision

Licensee must coordinate all its installation, construction and other work on or about the License Area with the City so as to avoid any material interference (physical, electronic or otherwise) with any existing utilities, substructures, facilities, the City or the City's municipal functions and/or operations. The City may, but will not be obligated to, supervise any construction activities in connection with this License that require the City's prior review and approval.

3.8.6. Staging Area

For no more than ninety (90) continuous days after Licensee commences construction work, Licensee may use, on a temporary and non-exclusive basis, certain space on the Property contiguous with the License Area to the extent reasonably necessary to construct and/or install the Equipment and subject to the City's prior approval not to be unreasonably withheld, conditioned or delayed ("**Staging Area**"). The City may withhold or revoke its consent to allow Licensee to use any Staging Area when Licensee's use materially interferes with other persons or entities authorized to use the Property.

3.8.7. As-Built Site Plans

Within ninety (90) days after Licensee completes any construction work on the Property that requires the City's prior review and approval herein, Licensee shall furnish the City with as-built site plans that depict all the Equipment and any improvements in the then-current location and configuration. Licensee shall also provide such as-built site plans in a native or portable document format.

3.9. Mineral and Water Rights

3.9.1. General

The City reserves the right to install, lay, construct, maintain, repair and operate such sanitary sewers, drains, stormwater sewers, pipelines, manholes and connections; water, oil, and gas pipelines; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across and along the License Area, and any part thereof, and to enter the License Area for any and all such purposes. The City also reserves the right to grant franchises, easements, rights-of-way and permits in, over, upon, through, across and along any and all portions of the License Area for all such purposes described in the preceding sentence. The City shall not exercise any rights reserved under this Section 3.9.1 so as to interfere unreasonably with Licensee's operations or access under this License or to impair the security of any secured creditor of Licensee. The City shall provide seventy-two (72) hours advance notice to Licensee to access the License Area pursuant to this Section, whether by the City or a third party, and the City or third party shall be accompanied by a representative of Licensee. The City agrees that rights granted to third parties by reason of this Section 3.9.1 must contain provisions that the surface of the License Area will be restored as nearly as practicable to its original condition upon the completion of any construction.

3.9.2. Mineral Rights

The City reserves to itself, its successors and assigns, and excepts from the License Area, any and all oil, oil rights, petroleum, minerals, mineral rights, natural gas rights, and other hydrocarbon substances by any name known whatsoever, geothermal resources (as defined in California Public Resources Code § 6903), and all products derived from any of the foregoing, that may be within or under the land, together with the perpetual right of drilling, mining, exploring, prospecting and operating therefore and storing in and removing the same from the License Area or any other land, including the right to whipstock or directionally drill and mine from lands other than those conveyed hereby, oil or gas wells, tunnels and shafts into, through or across the subsurface of the License Area, and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to re-drill, re-tunnel, equip, maintain, repair, deepen and operate any such wells or mines; without, however, the right to enter, drill or re-drill, tunnel or re-tunnel, equip, maintain, repair, mine, store, explore, prospect, remove, whipstock or directionally drill or to bottom and/or operate on, from or

through the surface or the upper 500 feet of the subsurface of the License Area. The City further reserves to itself, its successors and assigns and exempts from the License Area, any rights to subsurface storage of brine, carbon, water or other substances. The City further reserves to itself, its successors and assigns, the exclusive right to grant and transfer all or a portion of the rights reserved in this Section 3.9.2. All rights contemplated by this Section 3.9.2 shall be subject to Section 3.9.3, below.

3.9.3. Notice and Relocation

In the event that the City determines in good faith that the License Area is needed by the City for the purposes contemplated by Section 3.9.2, above, following the expiration of the Initial Term, the City shall have the one-time right to require the relocation of the Equipment, or any part thereof, to an alternate ground location ("Relocation Right") provided that (i) the relocation shall be performed exclusively by Licensee or its agents at Licensee's sole cost and expense, (ii) the relocation shall not result in any interruption of the communications services provided by Licensee to its customers, including, but not limited to, Licensee's continuous access, maintenance and operation of the Equipment, until such time that all licensees and sublicensees are successfully relocated, and (iii) the relocation shall not unreasonably impair, or in any manner unreasonably alter, the quality of communications services provided by Licensee to its customers on and from the Relocation Site as defined below.

3.9.3.1. Relocation Process

To exercise the Relocation Right, the City shall provide written notice to Licensee not less than twenty-four (24) months prior to the relocation date and shall propose an alternate site to which Licensee may relocate the Equipment ("Alternate Site Location"). Licensee shall have sixty (60) days from the date of the notice to evaluate the Alternate Site Location, including, but not limited to, conducting tests to determine the technological feasibility of the Alternate Site Location and obtaining written approval of all wireless telecommunications providers on the License Area. If Licensee fails to approve the Alternate Site Location in writing within such sixty (60) day period, Licensee will be deemed to have not approved such Alternate Site Location. If Licensee does not approve such Alternate Site Location, the City may then propose another Alternate Site Location by providing notice to Licensee in the manner set forth above; provided, however, that the City shall not have to give Licensee 24-months' notice for a subsequent Alternative Site Location. Upon Licensee's approval of any proposed Alternate Site Location, both parties will enter into a written agreement concerning the relocation of the Equipment ("Relocation Agreement") to the Alternate Site Location ("Relocation Site"). The City shall undertake reasonable efforts to provide an Alternate Site Location reasonably acceptable to Licensee. If no Alternate Site Location is available or if Licensee does not approve an Alternate Site Location, the City or Licensee may, upon twenty-four (24) months' written notice, terminate this License in accordance with the notice requirements set forth herein.

3.9.3.2. No Additional Terms

Upon relocation of the Equipment, all references to the License Area in this License shall be deemed to refer to the Relocation Site (including any access and utility easements). The Relocation Site shall be surveyed by a licensed surveyor at the sole cost of Licensee, in which event such survey shall replace and supersede the description of the License Area contained in Exhibit B to this License, as may be amended by Exhibit C. Unless otherwise provided in the Relocation Agreement or any other written agreement of the parties, the relocation of the Equipment shall not affect, alter, modify or otherwise change any of the terms and conditions of this License.

3.9.3.3. Relocation Period

The "Relocation Period" shall mean that period of time commencing on the date Licensee has received all required permits and approvals for the Relocation Site and ending twelve (12) months thereafter. The relocation of the Equipment to the Relocation Site shall be substantially completed within the Relocation Period, to the extent reasonably feasible. The then-current License Fee shall be reduced by one hundred percent (100%) during the Relocation Period and the term of this License shall extend by a period of time equivalent to the Relocation Period.

4. TERM

4.1. Initial Term; Renewal Term(s)

The initial term under this License (the "**Initial Term**") will commence on the Effective Date and will automatically expire three (3) years from the Effective Date, unless earlier terminated in accordance with this License. After the Initial Term expires, this License will renew for three (3) additional 1-year terms (each a "**Renewal Term**") upon written approval from the City Manager, which approval shall not be unreasonably withheld, conditioned or delayed unless Licensee irrevocably notifies the City that Licensee does not intend to renew this License within ninety (90) days before the expiration of the Initial Term or any Renewal Term. (The parties refer to the Initial Term and any applicable Renewal Term(s) as the "**Term**".)

4.2. Holdover Term

Licensee will have no right or privilege whatsoever to use or occupy the License Area in any manner or for any purpose after this License expires or terminates. In the event that Licensee continues to use or occupy the License Area after this License expires or terminates, this License will automatically convert to a month-to-month license on the same terms and conditions (the "**Holdover Term**"), except that (1) the License Fee will be automatically increased to **one hundred fifty percent (150%)** over the License Fee payable in the immediately previous year (the "**Holdover Fee**"), unless the City and Licensee are negotiating in good faith to extend the term of this License or enter into a new agreement, then the Holdover Fee will be reduced to one hundred twenty-five

percent (125%) for the first twelve (12) months following expiration or earlier termination of this License, and will continue to increase in accordance with Section 5.2 (Annual Adjustments); and (2) either the City or Licensee may terminate such license on thirty (30) days' written notice for any or no reason.

4.3. Right of First License

If at any time during the Term of this License, the City develops the Property for a use compatible with communications towers, antennas or equipment and the City receives an offer to enter into a license with a third party for any portion of the Property or an offer to create any other contractual right for all or a portion of the Property for the purpose of locating communications tower(s), antenna(s) or equipment thereon, the City shall provide written notice to Licensee ("**City's Notice**"), and Licensee shall have a right of first refusal to license the Property on the same terms and conditions in the offer, excluding any terms or conditions that are (i) not imposed in good faith; or (ii) directly or indirectly designed to defeat or undermine Licensee's possessory or economic interest in the Property (the "Option"). City's Notice shall include the third party's name, the consideration to be paid for the proposed license or contract, the other terms and conditions of the offer, the due diligence period, the proposed closing date and, if a portion of the Property is to be licensed, a description of said portion. If the City's Notice shall provide for a due diligence period of less than sixty (60) days, then the due diligence period shall be extended to be sixty (60) days from exercise of the right of first refusal. If Licensee does not exercise its right of first refusal by written notice to the City given within thirty (30) days after City's Notice, the City may license the property described in the City's Notice in accordance with the City's Notice. The right of first refusal granted herein is a covenant running with the Property and shall not be extinguished by Licensee's non-exercise of such right on one or more occasions during the Term of this License. In the event Licensee licenses use of a portion of the Property pursuant to this Section, the Option shall extinguish and Licensee shall not be entitled to the right of first refusal for any future offers. Licensee shall have the right, at its sole discretion, to assign the right of first refusal to an Affiliate (as defined in this License), either separate from an assignment of this License or as part of an assignment of this License. Such assignment may occur either prior to or after Licensee's receipt of City's Notice and the assignment shall be effective upon written notice to the City.

5. LICENSE FEE; OTHER PAYMENTS TO THE DISTRICT

5.1. Base License Fee

Commencing on the date of issuance of Licensee's building permit ("Commencement Date"), Licensee shall pay the City Three Thousand Nine Hundred Sixty-Five Dollars (\$3,965.00) (the "**License Fee**") each month, in advance, without any prior demand, setoff, deduction or counterclaim for any reason, unless otherwise allowed pursuant to this License or agreed to in writing by the City and Licensee. Licensee shall pay to Licensor the first License Fee payment within sixty (60) days of the Commencement Date.

5.2. Annual Adjustments

On the anniversary of the Commencement Date and each year throughout the Term thereafter, the License Fee will be automatically increased by three percent (3%) over the License Fee payable in the immediately previous year.

5.3 [Intentionally Omitted]

5.4. Late Charges

In the event that Licensee fails to pay any License Fee or any other amount payable to the City within ten (10) days after such amounts are due and unpaid, such amounts will be subject to a late charge equal to **six percent (6%)** of unpaid amounts. Licensee and the City agree that the late charge is a reasonable estimate of the amount that the lateness of the License Fee will cost the City.

5.5. Interest

Any License Fees and all other amounts payable to the City other than late charges will bear interest at **ten percent (10%)** per annum or the highest rate permitted by Law (whichever is greater) from the due date when not paid within ten (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 principle amount owed. Any interest or late charge payments will not alone excuse or cure any default by Licensee.

5.6. Park Improvement Fees

Within sixty (60) days after the parties fully execute this License, Licensee shall pay to the City a nonrefundable park improvement fee equal to **Ten Thousand and 00/100 Dollars (\$10,000.00)** to cover the City's costs to review and execute this License. Within sixty (60) days after the Commencement Date, Licensee shall pay to the City an additional nonrefundable park improvement fee equal to **Forty Thousand and 00/100 Dollars (\$40,000.00)** for park improvements ("Second Park Improvement Fee"). In the event that the Commencement Date does not occur for any reason, Licensee shall have no obligation to pay the Second Park Improvement Fee to the City. In addition, for any approval under this License for which the City's prior consent is required, Licensee shall reimburse the City for its reasonable costs directly related to the City's review and consideration of the request within sixty (60) days of Licensee's receipt of documentation reasonably evidencing such costs. In no event shall such reimbursement exceed Five Hundred and 00/100 Dollars (\$500.00).

5.7. Flat Fee Based Revenue Share

In addition to the License Fee to be paid by Licensee to the City pursuant to this License, if Licensee subleases, licenses or grants a similar right of use or occupancy in the License

Area (each a "Sublicense") to an unaffiliated third party collocator (each a "Collocator"), Licensee agrees to pay to the City Five Hundred Fifty and 00/100 Dollars (\$550.00) per month or as escalated at the time of collocation in accordance with the annual escalation set forth in Section 5.2 of this License ("Sublicense Fee") for so long as such Sublicense is in effect. For illustrative purposes only, the monthly Sublicense Fee per Sublicense shall be: \$550.00 during the first year of the Term; \$566.50 during the second year of the Term; \$583.50 during the third year of the Term; \$601.00 during the fourth year of the Term; \$619.03 during the fifth year of the Term; and \$637.60 during the sixth year. The first payment of the Sublicense Fee shall be due on the first day of the month following the commencement date of the applicable agreement with such Collocator, and each subsequent payment shall be due on the first day of each month thereafter. If any such agreement with a Collocator expires or terminates for any reason, Licensee shall no longer be obligated to pay the Sublicense Fee for such Sublicense. Licensee shall have sole discretion as to whether, and on what terms, to sublease, license or otherwise allow occupancy of the License Area and there shall be no express or implied obligation for Licensee to do so. Notwithstanding the foregoing, the parties agree that Licensee's obligation to pay a Sublicense Fee to the City applies only to the second and subsequent Collocators. No Sublicense Fee will be paid to the City in the event that there are one (1) or fewer total Collocators on the License Area.

5.8. Access Route Repair

Throughout the Term, and in addition to the License Fee and any other sums paid by Licensee to the City in connection with this License, Licensee shall repair, at Licensee's sole cost and expense, any surface or other portion of the Access Route that is damaged by or during Licensee's access to the License Area to the condition immediately prior to such damage. In the event Licensee fails to make such repairs, the City may demand that Licensee reimburse the City within sixty (60) days after the City tenders to Licensee a reasonably detailed statement with reasonable supporting documentation evidencing the City's reasonable costs and expenses for such repair. In the event that Licensee objects to any expense on such statement, Licensee will be permitted to reasonably inspect any invoices and/or receipts directly related to the disputed expenses so long as Licensee first pays the full amount under protest. In the event such dispute is resolved in favor of Licensee, the City shall reimburse Licensee such amounts paid under protest to the City to the extent resolved in favor of Licensee.

5.9. Payment Procedures

Licensee shall deliver all payments due under this License to 1635 Faraday Ave., Carlsbad, CA 92008. The designated place of payment may be changed from time-to-time upon written notice. Payments must be made by check payable to the City of Carlsbad. No payment by Licensee or receipt by the City of a lesser amount than payment due will be deemed to be other than a payment made on account for the total payment due, nor will any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction. The City's acceptance of such

checks or payment will be without prejudice to the City's right to recover the balance of the amount due or pursue any other remedy in this License.

6. GOVERNMENTAL APPROVALS

6.1. Proprietary Capacity Acknowledgment

The City and Licensee expressly acknowledge and agree the City enters this License solely in its proprietary capacity as the owner or controller of the Property and not in its regulatory capacity as a local public agency. Licensee acknowledges and agrees that any federal or state Laws applicable to the City in its regulatory capacity will not be applicable to the City in its proprietary capacity and Licensee will not seek to have such Laws applied to the City or any approval, disapproval, act or failure to act in connection with this License. Licensee further acknowledges and agrees that (1) only the terms and conditions in this License will govern the criteria and timeframes for the City's decisions or actions in its proprietary capacity in response to Licensee's requests for approvals in connection with this License; (2) any approval or disapproval the City may issue in its proprietary capacity in connection with this License will not be deemed to be an approval or disapproval the City may be required to issue in its regulatory capacity; and (3) any approval or disapproval the City may issue in its proprietary capacity will not give preference to Licensee or Licensee's applications over other persons or applications in any regulatory proceeding solely based on this proprietary relationship.

6.2. Permits and Other Governmental Approvals

Licensee shall not commence any new work at the License Area until Licensee obtains all necessary Governmental Approvals, which includes without limitation a conditional use permit, grading permit, building permit, and/or any other permit obtained through any other governmental agency with jurisdiction over the Property or the Equipment, and tenders full and complete copies for each Governmental Approval to the City. Subject to the provisions and limitations in Section 6.1 (Proprietary Capacity Acknowledgment), and only to the extent permissible under applicable Laws, the City, in its proprietary capacity as the owner and licensor of the Property, will reasonably cooperate with Licensee's efforts to obtain and maintain all necessary Governmental Approvals.

7. MAINTENANCE

7.1. Licensee's Maintenance Obligations

At all times throughout the Term, Licensee shall maintain, repair and secure its Equipment and all other personal property and improvements brought onto the Property in a reasonably good, orderly and safe condition. Licensee shall keep the License Area free of debris, graffiti and any other dangerous, noxious or offensive condition which would create a hazard or undue vibration, heat, noise or interference, and shall correct any such conditions within forty-eight (48) hours after notice. Licensee shall post, and at all times maintain in good condition, a sign on the License Area, in a location reasonably

acceptable to both the City and Licensee, that contains (1) the site operator name; (2) the site identification or reference number that corresponds with this facility; and (3) a working telephone number that connects to a live person that can exert power-down control over the Equipment.

7.2. City's Maintenance Obligations

The City shall not be responsible for repairs to or maintenance of the License Area or Staging Area while being used by Licensee, or Equipment, or for any associated costs except to the extent caused by the intentional misconduct or negligent acts or omissions of City or its Agents. The City shall maintain, at its sole expense, the Access Route in a manner sufficient to allow access, weather and seasonal conditions permitting. For Access Route maintenance purposes, the City may assess Licensee any reasonable Access Route maintenance fees pursuant to Section 5 above. Licensee acknowledges that the Access Route as currently constructed and maintained is sufficient to provide it with access. The City, under no circumstances, shall be required to expand or enlarge the Access Route. The Access Route may be altered in design or location by the City provided that the alteration does not materially impair Licensee's ability to access the License Area. If Licensee causes any damage to the Access Route, Licensee shall promptly repair same at its sole expense in accordance with Section 5.8 of this License.

8. INTERFERENCE

8.1. Licensee's Interference Obligations

Licensee shall not operate the Equipment, cause or allow others to operate the Equipment or use the License Area in a manner that causes Interference with other communication transmission or reception equipment lawfully used by the City, its Agents or any third parties authorized by the City to use the Property that predate this License. Any such Interference will be deemed a default under this License and, after Licensee receives notice that such Interference exists, Licensee will be responsible to promptly eliminate any such Interference at no cost to the City. The City agrees to reasonably cooperate with Licensee's efforts to locate the Interference source. In the event that Licensee does not promptly cure such Interference, the parties acknowledge that continued Interference with communication transmission or reception equipment lawfully used by the City, its Agents or any third parties authorized by the City to use the Property may result in irreparable harm and, therefore, the City will have the right to bring an action against Licensee to enjoin such Interference or terminate this License, subject to applicable cure periods.

8.2. City's Interference Obligations

The City shall not operate communications equipment on the Property, or cause or allow any third parties authorized by the City to use the Property to operate communications equipment on the Property, in a manner that causes Interference with other communication transmission or reception equipment lawfully used by Licensee, its Agents

or Invitees. Any such Interference will be deemed a default under this License and, after the City receives notice that such Interference exists, the City, at no cost to Licensee, will be responsible to eliminate such Interference within seventy-two (72) hours or as soon thereafter as is reasonably practicable. Licensee agrees to reasonably cooperate with the City's efforts to locate the Interference source. In the event that the City does not promptly cure such Interference, the parties acknowledge that continued Interference with communication transmission or reception equipment lawfully used by Licensee, its Agents or Invitees may result in irreparable harm and, therefore, Licensee will have the right to bring an action to enjoin such Interference or terminate this License, subject to applicable cure periods. Nothing in this Section 8.2 is intended to limit, prohibit or enjoin the City from entering into any agreements with any third parties for uses on the Property similar to the Permitted Use.

8.3. City's Governmental Communications

Licensee acknowledges that the City uses communications equipment on the Property in connection with its governmental, regulatory and/or operational functions and that such equipment and/or the frequencies on which such equipment operates may change from time to time. Notwithstanding anything in this License to the contrary, any temporary Interference with Licensee's operations or Equipment caused by any communications equipment used during an emergency by the City in its capacity as a local public agency in connection with its governmental or regulatory functions will not entitle Licensee to terminate this License, but shall entitle Licensee to bring an action to enjoin such Interference.

9. TAXES

9.1. Title to Licensee's Equipment and Improvements

All Equipment and other improvements constructed, installed or placed on the License Area by Licensee or at Licensee's request or direction will be and at all times remain Licensee's personal property and will not be deemed fixtures or real property for any purpose, whether such objects would be deemed fixtures or real property under applicable Laws or not.

9.2. Taxes

Licensee understands and acknowledges that (1) Licensee is responsible for all property taxes imposed as a result of the use of the Property by Licensee; and (2) this License may subject Licensee to certain taxes under California Revenue and Taxation Code § 107.6, as may be amended or superseded, and agrees it is solely responsible for the payment of these taxes.

9.3. Licensee's Tax and Assessment Obligations

Licensee agrees to pay when due and prior to delinquency any and all taxes, assessments, charges, excises and exactions pursuant to Section 9.2 (collectively, "Impositions"). Licensee shall not allow or suffer any lien for any Impositions to be imposed on any portion of the Property. In the event that the City receives any Imposition notices on or in connection with the License Area or 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 evidencing any increases in the taxable or assessable amount attributable to Licensee's use of the Property.

9.4. Licensee's Right to Contest Taxes or Assessments

Licensee will have the right to contest any Impositions that Licensee disputes in good faith, so long as no lien attaches to the Property and Licensee complies with any bond, deposit, collateral or other requirements under applicable Law.

10. 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 thirty (30) days after discovery) cause such lien or imposition to be released. However, if Licensee shall in good faith contest the validity of any such claim, lien, or demand, then Licensee shall, at its expense, defend itself and the City against same and shall pay and satisfy any settlement or adverse judgment that may be entered thereupon prior to the execution thereof. In the event of any such contest, Licensee shall provide the City with a security bond in a form and amount the City deems sufficient to allow the lien of record to be discharged as a matter of law. In the event that Licensee does not cause such lien or imposition to be released within the thirty (30) day period or provide the City with a security bond, 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 prior written notice to Licensee. Licensee shall reimburse the City for all reasonable costs and expenses incurred to cause such lien or imposition to be released (which includes without limitation reasonable attorneys' fees) within sixty (60) days after Licensee receives a written demand from the City together with reasonable documentation to support such costs and expenses.

11. INDEMNIFICATION

11.1. Licensee's General Indemnification Obligations

Licensee, for itself and its successors and assigns, shall indemnify, defend and hold the Indemnified Parties harmless from and against any and all Claims incurred in connection with or arising in whole or in part from: (1) death or personal injury to any person or property damage or other loss that occurred on or about the License Area or arises in connection with Licensee's, its Agents' or Invitees' authorized or unauthorized uses on or about the License Area; (2) any failure or refusal by Licensee to observe or perform any term, covenant or condition in this License to be observed or performed on Licensee's part; (3) Licensee's, its Agents' or Invitees' uses or occupancy, or manner of use or occupancy, of the License Area; (4) any unlawful exposure to RF emissions or EMFs from Licensee's Equipment or uses on or about the License Area; (5) the License Area condition or any occurrence on or about the License Area attributable to the events described in clauses (1), (2), (3) or (4) in this Section 11; or (6) any act, omission or negligence of Licensee, its Agents or Invitees in, on or about the License Area; all whether liability without fault is imposed or sought to be imposed on the Indemnified Parties, but except to the extent that such Claim(s) arise from the Indemnified Parties' willful misconduct or negligence. Licensee's obligations under this Section 11 include, without limitation, reasonable fees, costs and expenses for attorneys, consultants and experts, and the City's costs to investigate any Claim. Licensee specifically acknowledges and agrees that it has an independent obligation to defend the Indemnified Parties from any Claim that actually falls within this Section 11, and which obligation arises at the time the Indemnified Parties tender such Claim to Licensee and continues at all times until such Claim's final resolution. Licensee's obligations under this Section 11 will survive the expiration or termination of this License.

11.2. Licensee's Indemnification for Personnel Injuries

Licensee acknowledges that (1) the City has delegated to Licensee control over the License Area; and (2) the City is not a co-employer of any employee of Licensee or any employee of Licensee's Agents, and the City shall not be liable for any Claim by Licensee's or its Agent's employee(s). Licensee agrees to fully indemnify, defend and hold the City harmless in the same manner as provided in Section 11.1 (Licensee's General Indemnification Obligations) against any Claim by any employee of Licensee or its Agents that arises in connection with Licensee's or its Agents' access, uses or other activities on or about the License Area, except to the extent that such Claim(s) arise from the Indemnified Parties' intentional misconduct or negligent acts or omissions.

11.3. Licensee's Defense of the City

In the event that any action or proceeding is brought against any Indemnified Party in connection with any Claim, the City will use good faith efforts to send prompt written notice to Licensee. At the time Licensee receives such written notice, Licensee shall, at Licensee's sole cost and expense, resist and defend such action or proceeding with legal

counsel reasonably acceptable to the City. Licensee shall not admit any liability or enter into any compromise or settlement on any Indemnified Party's behalf without the City's prior written consent, which may not be unreasonably withheld or delayed. If City's delay in providing such consent will adversely affect any compromise or settlement decision Licensee has full rights to proceed in the best interest of Licensee and the Indemnified Parties and enter into such settlement. The City's legal counsel, at the City's sole expense, will be permitted to cooperate with Licensee and its legal counsel and to participate in any action or proceeding brought against any Indemnified Party in connection with any Claim.

12. ENVIRONMENTAL PROVISIONS

12.1. Licensee's General Environmental Obligations

Licensee shall manage and conduct its, its Agents' and Invitees' activities on or in connection with the Property: (1) in compliance with all applicable Environmental Laws and applicable provisions in this License; (2) in cooperation with the City and the City's efforts to maintain compliance with all applicable Environmental Laws; and (3) in accordance with all Best Management Practices applicable to the Equipment and the Permitted Use. Licensee shall manage its, its Agents' and Invitees' activities on or about the Property, and as may be appropriate, secure the License Area, so as to prevent any noncompliance with any applicable Environmental Law or any applicable environmental provision in this License.

12.2. Hazardous Substances

Licensee, its Agents and Invitees may use only those Hazardous Substances on or about the Property that are normally associated with the Permitted Use, and only in strict compliance with all applicable Environmental Laws. Licensee shall use best efforts to minimize Hazardous Substance use on the Property and, to the extent commercially reasonable, use non-hazardous alternatives in Licensee's operations.

12.3. Licensee's Response to Hazardous Substance Release

In the event any actual, threatened or reasonably suspected Release occurs for which Licensee is responsible under this License, Licensee shall immediately undertake and diligently pursue, at Licensee's sole cost and expense, all action or actions necessary or appropriate to investigate, contain, stop, accomplish source control, remove and perform interim remediation in connection with such Release. Licensee shall promptly send the City written notice after Licensee discovers facts about (1) an actual or reasonably suspected violation in connection with any Environmental Law related to the Property or this License; or (2) an actual or reasonably suspected Release on, under, from or adjacent to the Property arising from Licensee's use of the License Area.

12.4. Self Help

Except in an emergency or pursuant to a governmental order that requires immediate action, the City shall have the right (but not the obligation) to perform Licensee's environmental obligations under this Section 12 or any applicable Environmental Laws after the City provides Licensee with seven (7) days' written notice and a demand to perform the obligations in issue. The City shall charge Licensee, and Licensee shall promptly reimburse the City upon demand, for any reasonable Environmental Costs, which shall bear interest at the statutory rate then in effect from the date the City expends any such funds. However, the City may not perform Licensee's obligations under this Section 12 when, within the Seven (7) day notice period, Licensee promptly notifies the City, begins and continues thereafter to diligently pursue full performance to completion for all obligations stated in the City's notice.

12.5. Licensee's Environmental Indemnification Obligations

In the event that Licensee breaches or fails to perform any of its environmental obligations contained in this Section 12, or if any act, omission or negligence by Licensee or its Agents or Invitees results in any contamination on or about the Property or the License Area, in whole or in part, or in a Release from, on, about, in or beneath the Property or the License Area, in whole or in part, or any Environmental Law violation, then Licensee, for itself and its successors and assigns, shall indemnify, defend and hold harmless the City, including its Agents, and their respective successors and assigns from and against any and all Claims (including damages for decrease in value of the Property or License Area, any loss or restriction on the use of usable space on the Property or the License Area and sums paid to settle any Claims, which include without limitation attorneys' fees, consultants' fees, experts' fees and related costs) that arise during or after the Term and in relation to such Release or violation; provided, however, Licensee shall not be liable for any Claims to the extent such Release or violation was caused by the City's or its Agents' negligence or willful misconduct. Licensee's Indemnification obligation includes costs incurred in connection with any activities required to investigate and remediate any Hazardous Substance brought onto the Property or the License Area by Licensee, its Agents or Invitees and to restore the Property or the License Area to its condition that existed immediately before Licensee introduced such Hazardous Substance or to correct any Environmental Law violation(s). Licensee specifically acknowledges and agrees that it has an independent obligation to defend the City and the other Indemnified Parties from any Claim that actually falls within this Indemnification provision, and which obligation arises at the time such Claim is tendered to Licensee by the Indemnified Party and continues until the Claim is finally resolved. 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 involving Hazardous Substances.

12.6. Licensee's Liability for Hazardous Substance Release

Without limiting the Indemnification obligations in Section 12.5 (Licensee's Environmental Indemnification Obligations), Licensee will be responsible for all response, remediation and restoration obligations in connection with any Release and associated Environmental Costs that results from or occurs in connection with Licensee's occupation, possession or use of the Property and/or License Area from the Effective Date, throughout the Term and after this License expires or terminates. Notwithstanding the preceding sentence, as between the City and Licensee, Licensee will not be responsible for any Releases or associated Environmental Costs caused by the City, its Agents, contractors, invitees, licensees or other lessees after the Effective Date so long as Licensee has complied with all applicable conditions for non-liability established in 42 U.S.C. §§ 9607(b) or (q) as may be amended.

13. INSURANCE

13.1. Licensee's Insurance Obligations

Licensee shall procure and keep in effect at all times during the Term, at Licensee's cost, insurance in the following amounts and coverages: (1) Commercial General Liability insurance (including premises operations; explosion, collapse and underground hazard; broad form property damage; products/completed operations; contractual liability meeting the indemnification obligations herein; independent contractors; personal injury) with limits of at least Two Million and 00/100 Dollars (\$2,000,000.00) combined single limit for each occurrence; (2) Worker's Compensation Insurance per California statutory limits with Employer's Liability Limits not less than One Million and 00/100 Dollars (\$1,000,000.00) each accident or disease; (3) Commercial Automobile Liability Insurance with limit not less than Two Million and 00/100 Dollars (\$2,000,000.00) each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles. The required limits may be met by a combination of primary and excess or umbrella insurance. Excess insurance policy must follow form of or be at least as broad as the primary policy.

13.1.1. 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 of insurance; (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,

injury or damage that occurred or arose (or the onset occurred or arose) in whole or in part during the policy period.

All insurance policies required to be maintained by Licensee under this License shall be endorsed to provide prior written notice of cancellation for any reason, except for 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, including notice for non-payment of premium, Licensee shall forward such notice to the City within two (2) business days and promptly take action to prevent cancellation, reinstate cancelled coverage or obtain coverage from a different insurer qualified under Section 13.1.4 (Insurer Qualifications).

13.1.2. 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 (3) years after this License expires or terminates, to the effect that such Claims will be covered under Licensee's claims-made policies should any event during the Term give rise to a Claim brought after this License expires or terminates.

13.1.3. 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 13.1 (Licensee's Insurance Obligations) 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.

13.1.4. Insurer Qualifications

Licensee's insurance providers must be authorized to do business in California and must meet or exceed an A.M. Best's Key Rating A-X or its equivalent.

13.1.5. Certificates; Effective Dates

Within ten (10) business days after the Effective Date of this License, Licensee shall deliver to the City all insurance certificates and additional insured 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 after Licensee receives a request from the City. The City shall not authorize Licensee to access or perform any work on the License Area until and unless all insurance coverages required to be carried by Licensee under this License have been obtained. Licensee shall ensure that all insurance coverages required to be carried by Licensee under this License remain in effect at all time until all Equipment has been removed from the License Area. The requirements in this Section 13.1.5 shall survive the expiration or termination of this License.

13.1.6. Self-Insurance

Licensee and its Affiliate assignees may meet the insurance obligations under this License through self-insurance. Notwithstanding the foregoing, any non-Affiliate assignee shall not be permitted to meet its insurance obligations under this License through self-insurance without the prior written consent from the City, which the City shall not unreasonably withhold, condition or delay. In the event the City consents to allow a non-Affiliate assignee to self-insure as an alternative insurance program, such consent will not be deemed an amendment or implied waiver to any other requirement in this License. Any amendment to any insurance requirement must be in a written agreement.

13.2. No Limitation on Indemnification Obligations

Licensee's insurance obligations under this Section 13 in no way relieves or decreases Licensee's liability under Section 11 (Indemnification) or any other provision in this License.

13.3. City's Termination Right

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 (3) days after Licensee receives such written notice.

14. ASSIGNMENT; SUBLICENSE

14.1. Assignment

Licensee may assign this License at any time without the City's consent (i) to any of Licensee's partners or parent firms; (ii) to Licensee's successors-in-interest; (iii) in connection with the sale, exchange, or other transfer of Licensee's FCC authorization for the geographic market area in which the License Area is located or substantially all of Licensee's assets in the geographic market area where the License Area is located; or (iv) in connection with any financing, loan, security interest, pledge, or mortgage of Licensee's property (collectively, "Affiliate Assignments"). An Affiliate Assignment of this License by Licensee shall be effective upon Licensee sending written notice to the City, which notice shall contain the assignees name and contact information, and shall relieve Licensee from any further liability or obligation under this License. Any other assignment shall require the City's prior written approval, which approval the City shall not unreasonably withhold, delay or condition. Any assignment that violates this Section 14.1 shall, subject to applicable cure periods, be voidable at the City's option and grant the City the right (but not the obligation) to terminate this License upon written notice to Licensee pursuant to Section 15. This Section 14.1 shall not preclude Licensee's right to enter into a standard roaming agreement allowing subscribers of other wireless carriers to use the Equipment specifically constructed for Licensee's use.

14.2. Sublicense (Collocation)

Licensee may sublicense or in any other manner allow a third party to occupy or use the License Area. Licensee shall provide written notice to Licensor within sixty (60) days after such sublicense or license is fully executed.

14.3. Continuing Obligation (Novation)

Excluding an Affiliate Assignment, no other assignment or sublicense will relieve Licensee of its obligation to pay the License Fee and to perform all other obligations to be performed by Licensee under this License, unless the City expressly releases Licensee from such obligations. The acceptance of any payment due under this License by the City from any other person or entity will not be deemed to be a waiver by the City of any provision of this License or be construed to be consent to any assignment or sublicense.

15. DEFAULT; REMEDIES

15.1. Defaults and Cure Periods

The parties agree that it will be a default under this License when either the City or Licensee: (1) fails to tender any sums payable pursuant to this License when due, and such failure continues for ten (10) days after notice from the non-defaulting party; (2) fails to perform any non-monetary term, provision, covenant or obligation under this License, and such failure continues for thirty (30) days after notice from the non-defaulting party; provided, however, that said 30-day cure period will be reasonably extended when the default cannot be cured within thirty (30) days and the defaulting party commences to cure within said 30-day cure period and diligently pursues the cure to completion.

15.2. Sums Paid During Default

Any sums paid from Licensee to the City after Licensee's default will not constitute a cure by Licensee or waiver by the City unless the City acknowledges such cure or waiver in a signed writing.

15.3. No Consequential Damages

The parties expressly acknowledge and agree that the License Fee or any other sums payable under this License do not take into account any potential liabilities for consequential or incidental damages. The parties would not willingly enter this License without a complete, mutual waiver of liability, to the fullest extent permitted by Law, for consequential or incidental damages arising from either party's acts or omissions. Accordingly, without limiting Licensee's Indemnification obligations or other waivers contained in this License and as a material consideration for this License, both parties fully release, waive and discharge forever any and all Claims against each other for consequential and/or incidental damages that arise from or in connection with this

License, which includes without limitation any lost profits from disruption to Equipment, any interference with uses or activities conducted by either party under this License, from any cause whatsoever, and whether due to either party's, or its Agents', active or passive negligence or willful misconduct or not, and covenant not to sue each other, or their Agents for such damages.

15.4. No Personal Liability for City Officials, Employees or Agents

No elected or appointive board, agency, member, officer, employee or other Agent of the City will be personally liable to Licensee, its successors and assigns, in the event of any default or breach by the City or for any amount which may become due to Licensee, its successors and assigns, or for any obligation of the City under this License.

15.5. Cumulative Remedies

Except as may be specifically provided otherwise in this License, any and all rights, benefits and/or remedies provided or afforded to either the City or Licensee under this License or any other instrument or document executed pursuant to this License are and will be cumulative and not exclusive of any legal or equitable rights, benefits or remedies available to either the City or Licensee under applicable Laws.

16. TERMINATION

16.1. Grounds for Termination

In addition to any other provision in this License that authorizes the City or Licensee to terminate this License, this License may be terminated as follows:

- (1) by either the City or Licensee upon thirty (30) days' written notice when the other remains in default beyond any applicable cure period;
- (2) by Licensee upon written notice to the City at any time prior to the Effective Date if any Tests show, in Licensee's opinion, that the License Area is not suitable for the Permitted Use;
- (3) by Licensee upon written notice to the City at any time prior to the Effective Date if Licensee cannot obtain all Governmental Approvals required for the Permitted Use after Licensee exhausts in good faith all administrative remedies available to Licensee in connection with an application for such Governmental Approvals;
- (4) by Licensee upon thirty (30) days' written notice to the City at any time after the Effective Date for any or no reason;
- (5) by Licensor upon one-hundred eighty (180) days' written notice to Licensee at any time following the expiration of the Initial Term.

16.2. Early Termination Fee

In the event that Licensee elects to terminate this License pursuant to Section 16.1(4) (Grounds for Termination), Licensee shall include with its termination notice a lump sum payable to the City equal to the then-current monthly License Fee multiplied by either twelve (12) or the number of months remaining on the Term (whichever is less) (the "ETF"). Licensee will not be obligated to pay any ETF if Licensee terminates this License pursuant to Section 16.1(1), (2) or (3) (Grounds for Termination).

17. REMOVAL AND RESTORATION

Licensee shall remove all Equipment at its sole expense upon the expiration or termination of this License, including but not limited to facilities used to house Equipment that the City does not elect to retain. Licensee shall repair any damage to the License Area caused by such removal, and shall return the License Area to the condition which existed on the Effective Date, reasonable wear and tear and damage beyond the control or without the fault or neglect of Licensee excepted. Without limiting the generality of the foregoing, Licensee shall remove all footings, foundations, utilities, wiring and conduits. Licensee shall be deemed in actual possession of the License Area until and unless it completely removes its personal property and restores the License Area consistent with this Section 17.

18. CONDEMNATION

18.1. Permanent Takings.

In the event that any entity with the power to condemn permanently takes the License Area in whole or in part, or in the event that the City transfers the License Area in whole or in part to such entity in lieu of eminent domain, the following provisions will apply:

18.1.1. Termination and Award.

This License will automatically terminate 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 hereby expressly waives any right or claim to any portion thereof, including any claim for loss of business or goodwill. All damages, whether awarded as compensation for diminution in value of the license or to the fee of the License Area, shall belong to the City. 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.

18.1.2. No Statutory Right to Terminate.

The parties understand, acknowledge and agree that this Section 18.1 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.

18.2. Temporary Takings.

Any taking that affects any License Area in whole or in part for less than 90 days will have no effect on this License, except that Licensee will be entitled to a pro-rata abatement in the License Fee to the extent that such temporary taking materially impairs Licensee's use of the License Area. Furthermore, in the event that the City receives an award, if any, in connection with such temporary taking, Licensee will receive the portion from the award that represents compensation for the use or occupancy of the License Area during the Term but not to exceed the License Fees payable by Licensee for the period of the taking, and the City will retain the balance of the award.

19. DESTRUCTION

In the event that the License Area, in whole or in part, becomes damaged or destroyed, the City will have no obligation to repair, rebuild or replace the damaged or destroyed License Area. Notwithstanding the foregoing, the City shall have an obligation to repair, rebuild or replace any portion of the License Area that is damaged or destroyed due to the City's intentional misconduct or negligent acts or omissions.

In the event that the License Area, in whole or in part, becomes so damaged or destroyed that it materially impairs Licensee's Permitted Use, and such damage or destruction resulted from a cause not attributable to Licensee or any other person or entity affiliated with Licensee or under Licensee's direction or control, Licensee may elect to terminate this License within 60 days after such damage or destruction occurs.

20. NOTICES

Except as may be specifically provided otherwise in this License, all notices, demands or other correspondence required to be given under this License must be written and delivered through (1) an established national courier service that maintains delivery records and confirmations; (2) hand delivery; or (3) certified or registered U.S. Mail with prepaid postage and return receipt requested, and addressed as follows:

TO CITY: City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92008
Attn: Curtis M. Jackson
Telephone: 760-434-2836
Email: curtis.jackson@carlsbadca.gov

TO LICENSEE: Crown Castle Towers 06-2 LLC
c/o Crown Castle USA Inc.
General Counsel
Attn: Legal – Real Estate Dept.
2000 Corporate Drive
Canonsburg, PA 15317-8564
Telephone: 1-866-482-8890

All notices will be deemed effective on receipt or on attempted delivery when delivery is refused. Telephone, facsimile and email information are provided for convenience and for couriers who may require such information, and any notice given solely through electronic means will not be deemed to be effective notice. Any copies required to be given constitute an administrative step 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.

21. BANKRUPTCY

In the event that Licensee becomes a debtor in any voluntary or involuntary bankruptcy proceeding under the Bankruptcy Code, the City and Licensee expressly intend, acknowledge and agree that this License will be treated as either an unexpired commercial lease or an executory contract for all purposes in connection with Bankruptcy Code § 365 and subject to the provisions Bankruptcy Code §§ 365(d)(3) and 365(d)(4) as those provisions may be amended or superseded in the future. Any person or entity to which this License is assigned pursuant to the Bankruptcy Code will be deemed without any further act to have assumed all Licensee's obligations under this License which arose before or may arise after such assignment, and any such assignee shall execute and deliver to the City a written instrument that confirms such assumption promptly upon a written demand from the City. Any monies or other consideration payable or otherwise to be delivered in connection with such assignment will be promptly paid to the City, will be the City's exclusive property and will not constitute Licensee's or its estate's property for the purposes under the Bankruptcy Code. Any such monies or other consideration not paid to the City will be held in trust for the City's benefit as paid to the City as soon as possible.

22. SECURITY DEPOSIT

22.1. Amount

At the time Licensee tenders to the City the first License Fee due under this License, Licensee must also tender to the City for deposit a sum equal to **Five Thousand Five Hundred and 00/100 Dollars (\$5,500.00)** (the "**Security Deposit**") to secure Licensee's faithful performance of all terms, covenants and conditions in this License. In the event that the City, in its reasonable discretion, following notice and expiration of cure periods pursuant to this License, applies or uses the Security Deposit in whole or in part for the actual costs to cure any default by Licensee under this License, the City shall submit to Licensee reasonable supporting documentation evidencing such costs or expenses within thirty (30) days following the City's use of the Security Deposit (the "Supporting Documentation"). Licensee shall, within sixty (60) days of receipt of written notice with the Supporting Documentation, replenish the Security Deposit in the amount required to maintain the Security Deposit at the amount stated herein. In the event that the costs and expenses exceed the Security Deposit amount, Licensee shall reimburse the City for the difference between the total cost and the Security Deposit and the City shall be entitled to keep such sums. Notwithstanding anything in this License to the contrary, the City shall not be prohibited from applying funds from the Security Deposit, in whole or in part, to cure any non-monetary default by Licensee that remains uncured for more than sixty (60) days after notice to the Licensee. The City may, in the City's reasonable judgment, require Licensee to increase the Security Deposit amount from time-to-time when the City determines that Licensee's past acts or omissions in connection with the License Area warrants additional security.

22.2. Application or Use

Licensee agrees that the City may use the Security Deposit in whole or in part to remedy any damage to the License Area caused by Licensee, its Agents or Invitees or any failure by Licensee to perform any term, covenant or condition in this License (including without limitation any failure to pay any License Fee or other sums due under this License after any default and following notice and expiration of cure periods pursuant to this License). In the event that the City uses the Security Deposit in whole or in part, the City will not be deemed to have waived any rights under this License, or legal or equitable rights whatsoever. In the event the Property is transferred, the City shall have a duty at the time of the conveyance to return the Security Deposit to the Licensee.

The City's obligations with respect to the Security Deposit shall be in the nature of a debtor, and the City shall not be deemed to hold the Security Deposit in trust for any reason. The City may (but shall not be obligated to) keep the Security Deposit separate from general funds. Licensee shall not be entitled to any interest on the Security Deposit. In the event of early termination or expiration of this License, the City shall refund the Security Deposit to Licensee within thirty (30) days following full performance of this License by Licensee.

23. MISCELLANEOUS

23.1. Interpretation; Construction

The City and Licensee acknowledge and agree that:

- (1) both parties have been represented by counsel and that both parties have participated in the negotiation and drafting process;
- (2) the language in this License will always be construed simply and in accordance with its fair and ordinary meaning, without any reference to any common practices, interpretations, customs or definitions that may exist in any industry or trade to which either the City or Licensee may belong;
- (3) this License will never be construed either for or against either the City or Licensee for any reason;
- (4) any defined term in this License will be construed to have the same definition when used in both the singular and plural form;
- (5) the word "or" will not be interpreted as a limitation and will be construed to mean "and/or" unless expressly provided otherwise in this License;
- (6) the word "including" or phrase "which includes" will not be interpreted as a limitation and will be construed to be followed by the phrase "without limitation" whenever such phrase does not appear in the text;
- (7) all references to any "Section" or "Exhibit" will be construed to mean a section or exhibit attached to this License unless expressly provided otherwise in this License;
- (8) the captions contained in this License (a) are only for convenience, (b) will not be used to interpret or construe any term or provision in this License and (c) will not carry any legal effect whatsoever; and
- (9) this License is not intended to create, does not create and will not be construed to create any third-party benefit or beneficiaries, or any joint venture, partnership, employment or agency relationship between the City and Licensee.

23.2. Unenforceability; Severability

In the event that a court with competent jurisdiction over this License holds any provision in this License invalid or unenforceable with respect to either the City or Licensee, or any third parties to whom this License may become applicable or enforceable, (1) the valid or enforceable provisions will not be affected whatsoever; (2) the application of such invalid

or unenforceable provision to persons or entities other than those as to whom it is held invalid or unenforceable shall not be affected; and (3) each provision in this License shall be valid and enforceable to the fullest extent permitted under Law.

23.3. Time for Performance; Force Majeure

Time is of the essence of this License. Notwithstanding the provisions in this Section 23.3, the time for performance for any term, provision, covenant or obligation under this License will be deemed extended to account for any time lost due to delays that arise from strikes, civil riots, floods, labor or material shortages or restrictions, governmental intervention or any other cause not within the control of the party whose performance is due.

23.4. Integration; Entire Agreement

This License contains the entire agreement and understanding between the parties as to the subject matter concerned in this License, and this License supersedes all prior or contemporaneous agreements, commitments, conditions, discussions, instruments, offers, promises and/or proposals between or among the City and Licensee in connection with the License Area, whether oral or written.

23.5. Successors and Assigns

The parties intend and agree that this License will extend to and bind the parties' respective heirs, personal representatives, successors and assigns.

23.6. Amendments or Modifications

All amendments or modifications to this License, if any, must be in a written and fully executed agreement signed by both parties.

23.7. Waivers

No provision in this License may be waived or deemed waived, except in a written waiver signed by the party against whom enforcement of such waiver is attempted. No custom or practice which may develop between the parties in the implementation or administration of the terms of this License will be construed to waive or lessen any right to insist upon strict and/or timely performance of the terms of this License. Any waiver by either party of any provision of this License will not be deemed to constitute a waiver of any other provision; nor will such waiver constitute a continuing waiver.

23.8. Governing Law; Venue; Attorneys' Fees

This License shall be governed and construed in accordance with the laws of the State of California without regard to conflicts of laws principles. Sole and exclusive venue for any action or claim between the parties that arises from or in connection with this License will reside exclusively in the Superior Court of the County of San Diego (the "**Court**"). All

parties to this License agree to be subject to the Court's jurisdiction and waive all claims whatsoever that would defeat the Court's jurisdiction to hear and adjudicate any action or claim between the parties that arises from or in connection with this License. The prevailing party in any final or non-appealable decision on the merits that arises from or in connection with this License may be entitled to its reasonable attorneys' fees and costs, which includes without limitation reasonable witness, expert and consultant fees, at the Court's sole discretion. With respect to any provision in this License that provides for payment of attorneys' fees, such fees will be deemed to include reasonable fees incurred through any applicable appeal process and will include, but not be limited to, fees attributable to legal services provided by any in-house counsel and staff to the prevailing or indemnified party. For purposes in this License, all services rendered by all attorneys and their staff will be valued at the average rates for independent counsel prevailing in the County of San Diego, California.

23.9. Government Claims Act

Any claim for money damages by Licensee against the City hereunder will be subject to California Government Code §§ 810 *et seq.* (the "**Government Claims Act**"). Neither the City nor its council members, commissioners, elected or appointed officers or officials, administrators, directors, managers, employees, attorneys, agents or volunteers will be personally liable to Licensee in the event of any default or breach of the City, or for any amount which may become due to Licensee or any successor in interest, or for any obligations directly or indirectly incurred under this License.

23.10. Public Records Act Disclosure

Licensee acknowledges that the City is a public entity under the laws of the State of California. Furthermore, the parties acknowledge that this License constitutes a public record that the City must publicly disclose under (i) the California Public Records Act, California Government Code §§ 6250 *et seq.*; (ii) Title 17, California Code of Regulations §§ 91000 *et seq.*; (iii) Article I, § 3, of the California State Constitution; and (iv) any other applicable Law that may require the City to disclose public records.

23.11. Estoppels

Licensee, at any time and from time-to-time on not less than 30 days' notice from the City, shall execute, acknowledge and deliver to the City or its designee, an estoppel certificate which states: (a) that Licensee has accepted the License Area (or, if Licensee has not done so, that Licensee has not accepted all or any part of the License Area and specifying the applicable portions of the License Area and reasons for non-acceptance); (b) the Effective Date, Effective Date and expiration date for this License; (d) that this License is unmodified and in full force and effect or, if modified, the manner in which this License is modified; (e) whether any defenses then exist against the enforcement of any of Licensee's obligations under this License (and if so, specifying the same); (f) whether any of the City's obligations under this License are outstanding (and if so, identifying any City obligations that Licensee believes that the City has failed to meet); (g) the dates, if any,

to which the License Fees have been paid; and (h) any other information that may be reasonably required by any such persons.

23.12. Brokers

Neither the City nor License has had any contact or dealings in connection with the license of the License Area, or any communication in connection therewith, through a Broker, whose commission, if any is due, is to be paid pursuant to a separate written agreement between such Broker and the party through which such Broker contracted. In the event that any Broker perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, Licensee shall indemnify the City from all Claims brought by the Broker. The representations and indemnification obligations in this Section 23.12 will survive expiration or earlier termination of this License.

23.13. Survival

The parties to this License intend that all terms and conditions within this License that by their sense or context should survive this License's expiration, termination or cancellation, which includes without limitation Section 4.2 (Holdover Term), Section 11 (Indemnification), Section 13.1.5 (Certificates; Effective Dates), Section 17 (Removal and Restoration), Section 12 (Environmental Provisions), Section 23.8 (Governing Law; Venue; Attorneys' Fees) and Section 23.12 (Brokers), or any provision in this License which necessarily requires performance after this License expires or terminates, will survive this License's expiration, termination or cancellation.

23.14. Submission for Inspection; No Offer

Prior to the Effective Date, the parties may submit this License to each other for inspection and examination purposes and such submission will not constitute an offer to license the License Area. This Licensee will become effective only upon full execution by both the City and Licensee.

23.15. Execution; Counterparts.

This License may be executed simultaneously or in one or more counterparts. In the event that the parties elect to execute this License in one or more counterparts, Licensee shall execute first, the City shall execute second, each executed counterpart will be deemed to be an original but all counterparts taken together will constitute one and the same agreement.

[END OF LICENSE – SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this License on the Effective Date first written above:

LICENSOR:

CITY OF CARLSBAD,
a municipal corporation of the State of
California

By: _____

Its: _____

Date: _____

APPROVED AS TO FORM:

By: _____

Celia Brewer
City Attorney

Date: _____

APPROVED BY CITY COUNCIL
RESOLUTION NO. _____

ATTEST:

By: _____

Barbara Engleson
City Clerk

Date: _____

LICENSEE:

CROWN CASTLE TOWERS 06-2 LLC,
a Delaware limited liability company

By: C. Hamill

Its: Director, Nat'l RE ops

Date: 7/21/20

By: _____

Its: _____

Date: _____

[END OF SIGNATURES – EXHIBITS BEGIN ON NEXT PAGE]

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

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

PARCEL I

THAT PORTION OF PARCEL 2 OF LOT LINE ADJUSTMENT ADJ 01-13 PER CERTIFICATE OF COMPLIANCE CE 01-55, RECORDED NOVEMBER 28, 2001 AS FILE NO. 2001-0865065, IN THE CITY OF CARLSBAD, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY POINT OF THAT PROPERTY DESCRIBED IN DOCUMENT NO. 08-435947 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT BEING ON A 1,730.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, A RADIAL TO SAID POINT BEARS NORTH 26°07'03" WEST; THENCE SOUTHWESTERLY ALONG THE NORTHERLY LINE OF SAID PROPERTY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°33'01" AN ARC DISTANCE OF 1,043.22 FEET; THENCE LEAVING SAID NORTHERLY LINE NORTH 48°21'33" WEST 8.42 FEET; THENCE NORTH 51°15'33" WEST 43.67 FEET; THENCE NORTH 52°23'29" WEST 35.98 FEET; THENCE NORTH 52°25'37" WEST 29.91 FEET; THENCE NORTH 48°39'14" WEST 23.08 FEET; THENCE NORTH 53°46'31" WEST 41.98 FEET; THENCE NORTH 54°41'34" WEST 39.70 FEET; THENCE NORTH 56°01'32" WEST 36.13 THENCE 56°52'22" WEST 37.20 FEET; THENCE NORTH 53°18'58" 26.23 FEET; THENCE 53°46'06" WEST 20.48 FEET; THENCE 43°13'05" WEST 20.44 FEET; THENCE NORTH 04°24'40" WEST 20.65 FEET; THENCE NORTH 15°05'50" EAST 17.77 FEET; THENCE NORTH 27°19'12" EAST 25.25 FEET; THENCE NORTH 19°00'56" EAST 53.80 FEET; THENCE NORTH 15°24'50" EAST 44.23 FEET; THENCE NORTH 14°21'09" WEST 17.42 FEET; THENCE NORTH 08°31'45" EAST 16.96 FEET; THENCE NORTH 32°56'33" EAST 24.91 FEET; THENCE NORTH 14°39'44" EAST 24.34 FEET; THENCE NORTH 15°04'00" EAST 29.09 FEET; THENCE NORTH 29°25'43" WEST 12.21 FEET; THENCE NORTH 02°09'19" EAST 21.18 FEET; THENCE NORTH 32°10'41" EAST 96.78 FEET; THENCE NORTH 19°51'30" EAST 24.56 FEET; THENCE NORTH 19°24'35" EAST 37.42 FEET; THENCE NORTH 18°02'54" EAST 38.98 FEET; THENCE NORTH 18°38'34" EAST 24.61 FEET; THENCE NORTH 00°14'53" WEST 44.78 FEET; THENCE SOUTH 60°10'35" EAST 365.48 FEET; THENCE NORTH 42°31'50" EAST 78.50 FEET; THENCE NORTH 78°36'30" EAST 74.10 FEET TO THE BEGINNING OF A TANGENT 42.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27°18'10" AN ARC DISTANCE OF 20.01 FEET; THENCE NORTH 51°18'20" EAST 244.09 FEET; THENCE SOUTH 86°15'37" EAST 99.25 FEET; THENCE SOUTH 41°40'54" EAST 37.97 FEET; THENCE SOUTH 82°50'17" EAST 88.59 FEET TO A POINT ON THE WESTERLY LINE OF WIND TRAIL WAY RECORDED JUNE 8, 2007 AS FILE NO. 2007-0388769 OF SAID COUNTY, SAID POINT BEING ON A NON-TANGENT 61.00 FOOT RADIUS CURVE CONCAVE TO THE EAST, A RADIAL TO WHICH POINT BEARS NORTH 85°00'16" WEST; THENCE

Exhibit A

Site Name: Trailblazer Park
Business Unit #: 831227

SOUTHERLY ALONG SAID WESTERLY LINE, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 36°38'54" AN ARC DISTANCE OF 39.02 FEET TO THE BEGINNING OF A 50.00 FOOT REVERSING CURVE; THENCE, CONTINUING ALONG SAID WESTERLY LINE, ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 23°25'24" AN ARC DISTANCE OF 20.44 FEET TO THE POINT OF BEGINNING.

PARCEL ID#: 208-010-42-00

THIS BEING THE SAME PROPERTY CONVEYED TO CITY OF CARLSBAD, A MUNICIPAL CORPORATION FROM GARY ROBERTSON AND BRIAN ROBERTSON, CO-TRUSTEES OF THE ROBERTSON FAMILY TRUST 1995 TRUST, DATED APRIL 19, 1995, AS TO AN UNDIVIDED 50% INTEREST; GARY ROBERTSON AND BRIAN ROBERTSON, CO-TRUSTEES UNDER DECLARATION OF TRUST DATED OCTOBER 8, 1976, AS TO AN UNDIVIDED 7% INTEREST; AND GARY ROBERTSON AND BRIAN ROBERTSON, CO-TRUSTEES OF THE ELSIE M. KELLY IRREVOCABLE TRUST DATED JUNE 19, 1989 AS TO AN UNDIVIDED 43% INTEREST IN A DEDICATION DATED JULY 18, 2011 AND RECORDED JULY 20, 2011 AS INSTRUMENT NO. 2011-0368561. THE LEGAL DESCRIPTION PROVIDED HEREIN IS SOURCED FROM THE IRREVOCABLE OFFER TO DEDICATE REAL PROPERTY DATED MARCH 8, 2007 AND RECORDED AUGUST 14, 2008 AS INSTRUMENT NO. 2008-0435946.

PARCEL II

THAT PORTION OF PARCEL 2 OF LOT LINE ADJUSTMENT ADJ 01-13 PER CERTIFICATE OF COMPLIANCE CE 01-55, RECORDED NOVEMBER 28, 2001 AS FILE NO. 2001-0865065, IN THE CITY OF CARLSBAD, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID PARCEL 2, SAID POINT BEING THE MOST SOUTHERLY CORNER OF THAT PORTION OF WIND TRAIL WAY GRANTED TO THE CITY OF CARLSBAD ACCORDING TO DOCUMENT NO. 2007-0388769 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY ON JUNE 8, 2007; THENCE ALONG SAID EASTERLY LINE THE FOLLOWING BEARINGS AND DISTANCES:

SOUTH 04°56'41" EAST 35.81 FEET;
SOUTH 67°15'16" WEST 15.60 FEET;
SOUTH 53°49'59" WEST 241.03 FEET;
SOUTH 46°32'58" WEST 281.65 FEET;
SOUTH 24°02'16" WEST 40.09 FEET;
SOUTH 37°46'23" WEST 139.56 FEET;
SOUTH 42°27'17" WEST 23.56 FEET;
SOUTH 31°48'12" WEST 60.19 FEET;
SOUTH 29°07'38" WEST 77.37 FEET;
SOUTH 25°38'31" WEST 9.96 FEET;

Exhibit A

Site Name: Trailblazer Park
Business Unit #: 831227

THENCE LEAVING SAID EASTERLY LINE NORTH 47°23'48" WEST 71.12 FEET; THENCE NORTH 66°34'56" WEST 16.06 FEET; THENCE 49°00'19" WEST 21.99 FEET; THENCE NORTH 50°46'26" WEST 46.12 FEET; THENCE NORTH 47°39'34" WEST 32.41 FEET; THENCE NORTH 47°55'10" WEST 40.97 FEET; THENCE NORTH 48°21'33" WEST 30.47 FEET TO A POINT ON A NON-TANGENT 1,730.00 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST, A RADIAL TO SAID POINT BEARS NORTH 60°40'04" EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°33'01" AN ARC DISTANCE OF 1,043.22 FEET TO A POINT ON THE WESTERLY LINE OF SAID WIND TRAIL WAY, SAID POINT BEING ON A NON-TANGENT 50.00 FOOT RADIUS CURVE CONCAVE TO THE WEST, A RADIAL TO SAID POINT BEARS NORTH 81°46'14" EAST; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID WIND TRAIL WAY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 3°54'16" AN ARC DISTANCE OF 3.41 FEET TO THE BEGINNING OF A REVERSING 594.00 FOOT RADIUS CURVE; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID WIND TRAIL WAY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 20°03'38" AN ARC DISTANCE OF 207.97 FEET TO THE POINT OF BEGINNING.

PARCEL ID#: 208-010-38-00

THIS BEING THE SAME PROPERTY CONVEYED TO CITY OF CARLSBAD, A MUNICIPAL CORPORATION FROM GARY ROBERTSON AND BRIAN ROBERTSON, CO-TRUSTEES OF THE ROBERTSON FAMILY TRUST 1995 TRUST, DATED APRIL 19, 1995, AS TO AN UNDIVIDED 50% INTEREST; GARY ROBERTSON AND BRIAN ROBERTSON, CO-TRUSTEES UNDER DECLARATION OF TRUST DATED OCTOBER 8, 1976, AS TO AN UNDIVIDED 7% INTEREST; AND GARY ROBERTSON AND BRIAN ROBERTSON, CO-TRUSTEES OF THE ELSIE M. KELLY IRREVOCABLE TRUST DATED JUNE 19, 1989 AS TO AN UNDIVIDED 43% INTEREST IN A DEED DATED AUGUST 2, 2008 AND RECORDED AUGUST 14, 2008 AS INSTRUMENT NO. 2008-0435947.

PARCEL III

THAT PORTION OF PARCEL 2 OF LOT LINE ADJUSTMENT ADJ 01-13 PER CERTIFICATE OF COMPLIANCE CE 01-55, RECORDED NOVEMBER 28, 2001 AS FILE NO. 2001-0865065, IN THE CITY OF CARLSBAD, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF THAT PROPERTY DESCRIBED IN DOCUMENT NO. 2008-0435946 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY ON AUGUST 14, 2008; THENCE NORTH 00°14'53" WEST 4.75 FEET; THENCE NORTH 16°32'33" EAST 22.22 FEET; THENCE NORTH 17°41'43" EAST 25.83 FEET; THENCE NORTH 20°05'59" EAST 24.51 FEET; THENCE NORTH 23°44'32" EAST 26.06 FEET; THENCE NORTH 28°18'16" EAST 27.22 FEET; THENCE NORTH 31°28'07" EAST 28.46 FEET; THENCE NORTH 33°10'05" EAST 30.06 FEET; THENCE NORTH 37°23'17" EAST 15.91 FEET; THENCE SOUTH 60°10'35" EAST 489.73 FEET TO A POINT ON THE NORTHERLY LINE OF SAID PROPERTY; THENCE ALONG SAID NORTHERLY LINE SOUTH 51°18'20" WEST 65.43 FEET TO THE BEGINNING OF A

Exhibit A

Site Name: Trailblazer Park
Business Unit #: 831227

TANGENT 42.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE CONTINUING ALONG SAID NORTHERLY LINE, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27°18'10" AN ARC DISTANCE OF 20.01 FEET; THENCE CONTINUING ALONG SAID NORTHERLY LINE THE FOLLOWING BEARINGS AND DISTANCES:

SOUTH 78°36'30" WEST 74.10 FEET;
SOUTH 42°31'50" WEST 78.50 FEET;
NORTH 60°10'35" WEST 365.48 FEET TO THE POINT OF BEGINNING.

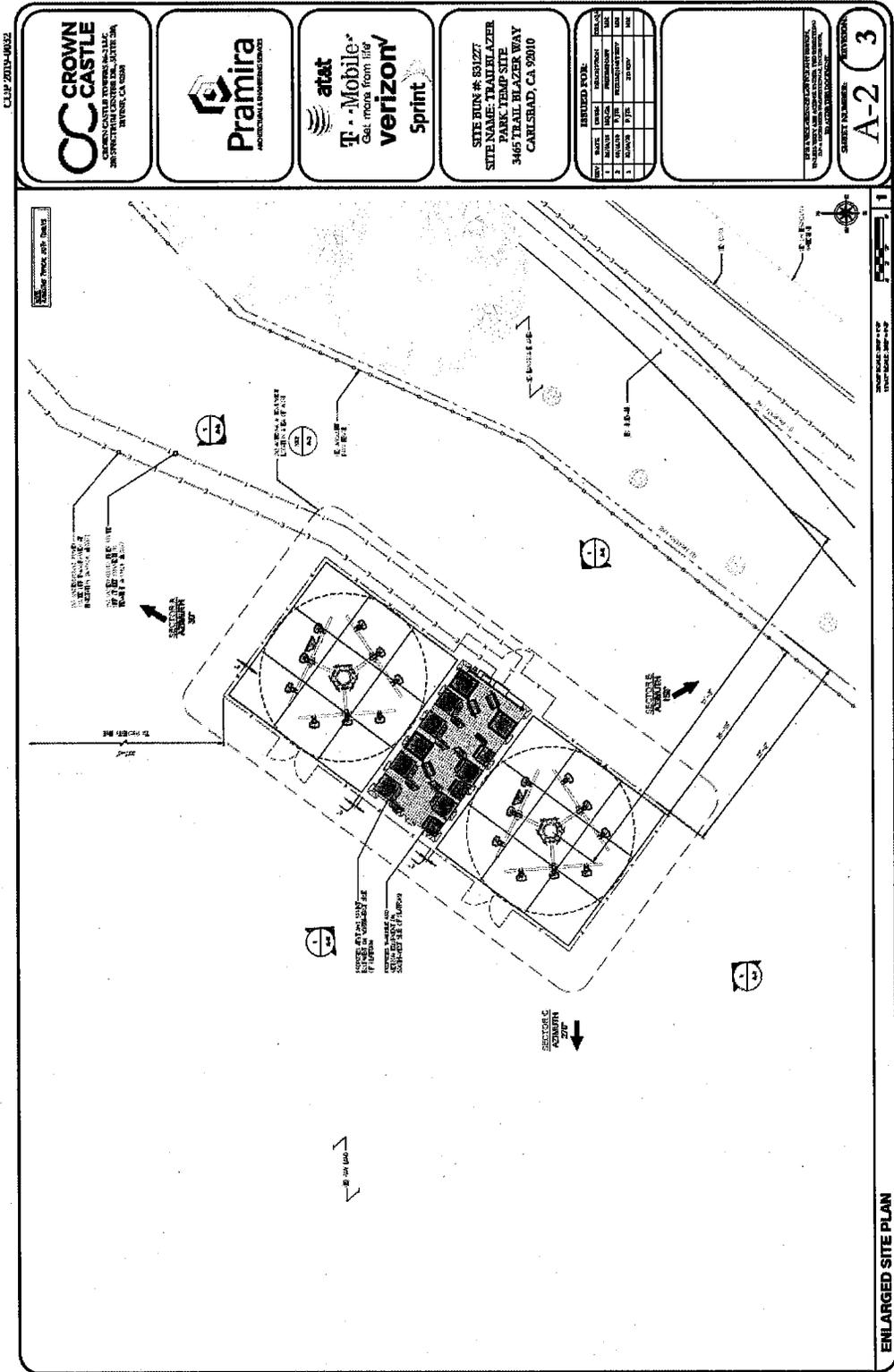
PARCEL ID#: 208-010-39-00

THIS BEING THE SAME PROPERTY CONVEYED TO CITY OF CARLSBAD, A MUNICIPAL CORPORATION FROM GARY ROBERTSON AND BRIAN ROBERTSON, CO-TRUSTEES OF THE ROBERTSON FAMILY TRUST 1995 TRUST, DATED APRIL 19, 1995, AS TO AN UNDIVIDED 50% INTEREST; GARY ROBERTSON AND BRIAN ROBERTSON, CO-TRUSTEES UNDER DECLARATION OF TRUST DATED OCTOBER 8, 1976, AS TO AN UNDIVIDED 7% INTEREST; AND GARY ROBERTSON AND BRIAN ROBERTSON, CO-TRUSTEES OF THE ELSIE M. KELLY IRREVOCABLE TRUST DATED JUNE 19, 1989 AS TO AN UNDIVIDED 43% INTEREST IN A DEED DATED NOVEMBER 6, 2008 AND RECORDED DECEMBER 15, 2008 AS INSTRUMENT NO. 2008-0635707 AND IN A CORRECTIVE DEED DATED FEBRUARY 26, 2009 AND RECORDED MAY 11, 2009 AS INSTRUMENT NO. 2009-0247694.

EXHIBIT B

**LICENSE AREA, ACCESS ROUTE, UTILITIES ROUTE, EQUIPMENT AND OTHER
IMPROVEMENTS**

(see depictions attached behind this cover)



CLIP 2019-0002



SITE BUN #: 831227
 SITE NAME: TRAILBLAZER
 PARK TEMP SITE
 3465 TRAILBLAZER WAY
 CARLSBAD, CA 92010

ISSUED FOR:	
DATE	DESCRIPTION
1	ISSUED FOR PERMITTING
2	ISSUED FOR PERMITTING
3	ISSUED FOR PERMITTING

THIS PLAN IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE AN OFFER OF SERVICE. THE SERVICE PROVIDER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AUTHORITIES.

SHEET NO. 3

Site Name: Trailblazer Park
 Business Unit #: 831227

Exhibit B

EXHIBIT C
AS-BUILT SURVEY

Site Name: Trailblazer Park
Business Unit #: 831227

July 28, 2020

Item #2

Page 53 of 53

Exhibit C



CITY COUNCIL
Staff Report

Meeting Date: July 28, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: John Kim, City Traffic Engineer
John.kim@carlsbadca.gov, 760-602-2757
Subject: Approval of Plans and Specifications, Appropriation of Additional Funds and Authorization to Request Bids on the Tamarack Avenue and Valley Street Pedestrian Improvement Project

Recommended Action

Adopt a resolution approving the plans and specifications, appropriation of additional gas tax funds in the amount of \$150,261 and authorizing the city clerk to advertise for bids for the Tamarack Avenue and Valley Street Pedestrian Improvement Project, Capital Improvement Program Project No. 6335.

Executive Summary

The project will install curb extensions and replace the existing rectangular rapid flashing beacon system on Tamarack Avenue at Valley Street with a pedestrian hybrid traffic signal to increase safety for pedestrians.

Carlsbad Municipal Code Section No. 3.28.080 requires the City Council to approve plans and specifications for all construction projects that are to be formally bid when the value exceeds \$200,000. The construction cost estimate for this project is \$338,663, and is therefore subject to this requirement.

Discussion

The Mobility Element in the General Plan designates Tamarack Avenue as a “neighborhood connector street.” The portion of Tamarack Avenue near Valley Street is currently configured with one vehicle lane, a bike lane and on-street parking in both directions. Tamarack Avenue is not classified as a residential street, as defined by the California Vehicle Code, but adjacent land uses include residential homes and nearby schools.

On June 3, 2019, staff presented the results of an all-way stop analysis at the intersection of Tamarack Avenue and Valley Street to the Traffic and Mobility Commission, which voted unanimously to not establish an all-way stop at the intersection. Based on public concerns regarding traffic speeds, the commission made a subsequent motion for staff to consider alternatives consistent with the General Plan Mobility Element to address safety, speeding and visibility issues at the intersection.

On Sept. 24, 2019, staff presented a report to City Council outlining traffic-calming strategies on three corridors, including Tamarack Avenue. Staff proposed curb extensions and a hybrid pedestrian traffic signal at Tamarack Avenue and Valley Street and informed the City Council that staff would be moving forward with this project as part of the capital improvement program.

Staff presented the project to the commission as an informational item on Jan. 6, 2020. The project will replace the existing rectangular rapid flashing beacons with a hybrid pedestrian traffic signal, also known as a high-intensity activated crosswalk beacon, which is designed to control vehicular traffic at an unsignalized location and allow for a controlled pedestrian crossing. The proposed beacon signal will stop road traffic when a pedestrian presses a button to activate the system. The signal indications will then cycle from dark to flashing yellow, which will alert drivers that pedestrians have activated the signal. The flashing yellow light will transition to solid red, requiring drivers to make a complete stop and allow pedestrians to cross. When the pedestrian interval has expired, the beacons will go dark until it is activated again.

The curbs on the west side of the intersection will be extended into the existing parking lane, reducing the pedestrian crossing distance across Tamarack Avenue and increasing the visibility of pedestrians. These curb extensions will also reduce the corner curb radius to encourage slower turning speeds.

The total construction cost for this project is estimated to be \$338,663.

Staff recommends that the City Council adopt a resolution approving the plans and specifications, approving the appropriation of additional gas tax funds in the amount of \$150,261 and authorizing the city clerk to advertise for bids for the Tamarack Avenue and Valley Street Pedestrian Improvement Project.

Fiscal Analysis

There is currently \$290,000 appropriated from gas tax funds in Capital Improvement Project No. 6335. Staff estimates an additional \$150,261 will be necessary to complete the project. The available funds and estimated construction costs are shown in the table below:

TAMARACK AVENUE AND VALLEY STREET PEDESTRIAN IMPROVEMENT, CIP PROJECT NO. 6335	
Current appropriation	\$290,000
Current year expenditures/encumbrances	\$0
TOTAL AVAILABLE	\$290,000
TAMARACK AVENUE AND VALLEY STREET PEDESTRIAN IMPROVEMENT, CIP PROJECT NO. 6335	
Construction contract (estimated)	\$338,663
Construction contingency (estimated)	\$50,799
Construction management, inspection and material testing (estimated)	\$50,799
TOTAL ESTIMATED CONSTRUCTION COSTS	\$440,261
REMAINING BALANCE AFTER CIP PROJECT	\$0
ADDITIONAL APPROPRIATION NEEDED	\$150,261

Next Steps

After approval of the project plans and specifications, and appropriation of additional funds, the city clerk will advertise the project for construction bids. Received bid packages will be evaluated and the lowest responsive and responsible bidder, which will be identified by city staff. Staff will then return to the City Council with a recommendation to award a construction contract to the identified bidder, which is expected to be in fall 2020.

Environmental Evaluation (CEQA)

The project is exempt from the California Environmental Quality Act under CEQA Guidelines Section 15301(c) – minor alteration of existing facilities including streets, sidewalks, gutters and similar facilities, including pedestrian crossings, involving negligible or no expansion.

Public Notification

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. Resolution
2. Location map
3. Plans, specifications and contract documents ([on file in the Office of the City Clerk](#))

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING THE PLANS AND SPECIFICATIONS, APPROPRIATION OF ADDITIONAL GAS TAX FUNDS IN THE AMOUNT OF \$150,261, AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS FOR THE TAMARACK AVENUE AND VALLEY STREET PEDESTRIAN IMPROVEMENT PROJECT, CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECT NO. 6335 (PROJECT).

WHEREAS, the City Council of the City of Carlsbad, California has determined it necessary, desirable and in the public interest to construct the Project; and

WHEREAS, the plans and specifications for the Project have been prepared, are on file at the city clerk's office and are incorporated herein by reference; and

WHEREAS, the scope of work for the Project includes replacement of the existing rectangular rapid flashing beacons with a hybrid pedestrian traffic signal; and

WHEREAS, the scope of work for the Project includes curbs on the west side of the intersection on Tamarack Avenue to be extended to the parking lane; and

WHEREAS, the City Planner has considered the potential environmental effects of the installation of a hybrid pedestrian traffic signal and has determined that the Project will not have a significant effect on the environment because it involves a minor alteration of existing streets, involving negligible or no expansion of use; and

WHEREAS, staff has determined that an additional appropriation of \$150,261 from the Gas Tax Fund is required to complete the Project.

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

1. That the above recitations are true and correct.
2. That the City Council approves the plans and specifications of the Tamarack Avenue and Valley Street Pedestrian Improvement Project, CIP Project No. 6335, which are attached hereto as Attachment A.
3. That the City Planner has determined that installation of a hybrid pedestrian traffic signal that reduces the pedestrian crossing distance across Tamarack Avenue and increases the visibility of pedestrians is categorically exempt from CEQA pursuant to

CEQA Guidelines section 15301(c) and that no exception to the exemption as set forth in CEQA Guidelines section 15300.2 applies.

4. That the deputy city manager, administrative services, is authorized and directed to appropriate funds from the Gas Tax Fund in an amount of \$150,261 to CIP Project No. 6335 to complete the Project.
5. That the city clerk of the City of Carlsbad is hereby authorized and directed to publish in accordance with state law, a Notice to Contractors Inviting Bids for construction of the Project, in accordance with the plans, specifications and contract documents referred to herein.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

LOCATION MAP



Traffic Calming Tamarack Avenue Pedestrian Improvement Project

EXHIBIT

2



CITY COUNCIL
Staff Report

Meeting Date: July 28, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: John Maashoff, Public Works Manager
John.maashoff@carlsbadca.gov, 760-802-7807
Subject: Approval of Plans and Specifications and Authorization for the City Clerk to Advertise for Bids for the New Village Arts Building Roof and Exterior Refurbishment Project

Recommended Action

Adopt a resolution approving the plans and specifications and authorizing the city clerk to advertise for bids for the New Village Arts Building Roof and Exterior Refurbishment Project, Capital Improvement Program Project No. 4739.

Executive Summary

This project will replace the asphalt shingle roof and exterior siding on the west wall of the city-owned property located at 2787 State Street. The city currently leases the building to New Village Arts, a nonprofit theater group.

Carlsbad Municipal Code Section 3.28.080(E) requires the City Council to approve plans and specifications for all construction projects that are to be formally bid when the value exceeds the limits established by the Public Contract Code Section 22032(c), including the alternative provisions of the Uniform Public Construction Cost Accounting Act. The public contract code limit is \$200,000, and the estimated construction contract for the Project is \$226,000, excluding construction contingency and construction management costs so the Project is subject to this requirement.

Staff recommends approval of the project plans and specifications and requests the council's authorization for the city clerk to advertise for construction bids for the Project.

Discussion

The building on the city-owned property at 2787 State Street is leased to New Village Arts, the nonprofit theater group that's operated a theater in the city-owned property since 2006.

The building roof consists of a flat built-up roof and a pitched asphalt shingle roof. The Faithful and Gould Facility Condition Assessment report, which was completed in 2012, identified the need for scheduling replacement of the flat built-up roof in 2014 and the pitched asphalt shingle roof and skylights in 2020. The flat built-up roof was refurbished in 2016, while the pitched asphalt shingle roof was last refurbished around 1995.

Recent roof leaks during rain storms and recent annual roof inspections and condition assessments performed by Weatherproofing Technologies Inc., a large commercial roofing maintenance service provider under contract with the city, confirmed the existing asphalt shingle roof has reached the end of its useful life and needs replacement.

In early 2019, New Village Arts provided guidance to staff on revisions to the original project scope, which included refurbishing the west and south elevations of the building. Based on the group’s input, staff proceeded to develop plans and specifications that focus on improvements to the exterior siding on the west elevation of the building.

On July 12, 2019, staff entered into a contract with domusstudio architecture LLP to prepare plans and specifications for replacing the asphalt shingle roof and exterior siding on the west side of the building. The plans have been reviewed by the city’s building division and are ready to be permitted. Staff is requesting that City Council approve the plans and specifications and authorize the city clerk to advertise the project for construction bids.

Fiscal Analysis

The project is funded using money from the Infrastructure Replacement Fund. Funding for the project was originally appropriated during fiscal year 2017-18, with an additional appropriation in fy 2019-20 to account for potential cost escalations. Sufficient funds are currently not available to complete the project as estimated.

The available funds and estimated construction costs for the Project are shown in the following table.

NEW VILLAGE ARTS BUILDING ROOF AND EXTERIOR REFURBISHMENT CIP PROJECT NO. 4739	
TOTAL FUNDS AVAILABLE – Current appropriation	\$202,239
Construction contract (engineer’s estimate)	\$226,000
Construction contingency (estimated)	\$33,900
Construction management and inspection (estimated)	\$30,000
TOTAL ESTIMATED CONSTRUCTION COSTS	\$289,900
REMAINING BALANCE AFTER CIP PROJECT NO. 4739	(\$87,661)
POTENTIAL ADDITIONAL APPROPRIATION NEEDED	\$87,661

Adequate funds exist in the Infrastructure Replacement Fund to accommodate the potential additional appropriation needed. If needed, depending on the amount of the bid, staff will return to City Council to request approval to award the construction contract and perhaps an additional appropriation from the Infrastructure Replacement Fund.

Next Steps

After approval of the project plans and specifications and the authorization to bid, the city clerk will advertise the project for construction bids. Received bid packages will be evaluated and the lowest responsive and responsible bidder will be identified by city staff.

If the construction award amount is beyond the city manager's authority, staff will return to City Council with a recommendation to award a construction contract to the identified bidder and request additional appropriation from the Infrastructure Replacement Fund. Construction is expected to take about two months and is anticipated to begin in fall 2020, in coordination with New Village Arts' schedule.

Environmental Evaluation (CEQA)

This project is exempt from California Environmental Quality Act review under CEQA Guidelines Section 15301(d)- Existing Facilities- restoration or rehabilitation of existing facilities that are deteriorated or damaged and are required to meet current standards of public health and safety involving negligible or no expansion of use.

Public Notification

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. Resolution
2. Location map
3. Plans, specifications and contract documents ([on file in the Office of the City Clerk](#))

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS FOR THE NEW VILLAGE ARTS (NVA) BUILDING ROOF AND EXTERIOR REFURBISHMENT PROJECT, CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECT NO. 4739 (PROJECT).

WHEREAS, the City Council of the City of Carlsbad, California has determined that it is necessary and in the public interest to refurbish the asphalt shingle roof and exterior siding on the west wall of the city-owned building at 2787 State Street, which is currently leased by NVA, in accordance with CIP Project No. 4739; and

WHEREAS, the plans, specifications and contract documents for the Project have been prepared, are on file at the city clerk's office and are incorporated herein by reference; and

WHEREAS, the City Planner has considered the potential environmental effects of the installation of a new roof and exterior siding on this city-owned building and has determined that the project will not have a significant effect on the environment because it involves a restoration or rehabilitation of existing facilities that are deteriorated or damaged and are required to meet current standards of public health and safety involving negligible or no expansion of use; and

WHEREAS, staff will return to City Council to request additional funding be appropriated if needed to award the contract.

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

1. That the above recitations are true and correct.
2. That the City Planner has determined that installing the new roof and exterior siding on the city-owned building at 2787 State Street, which will protect the building from further roof leaks, is categorically exempt from CEQA pursuant to CEQA Guidelines section 15301(d) and that no exception to the exemption as set forth in CEQA Guidelines section 15300.2 applies.
3. That the plans, specifications and contract documents, which are attached hereto as Attachment A, are hereby approved.
4. That the city clerk of the City of Carlsbad is hereby authorized and directed to publish in accordance with state law, a Notice to Contractors Inviting Bids for construction of the

Project, in accordance with the plans, specifications and contract documents referred to herein.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

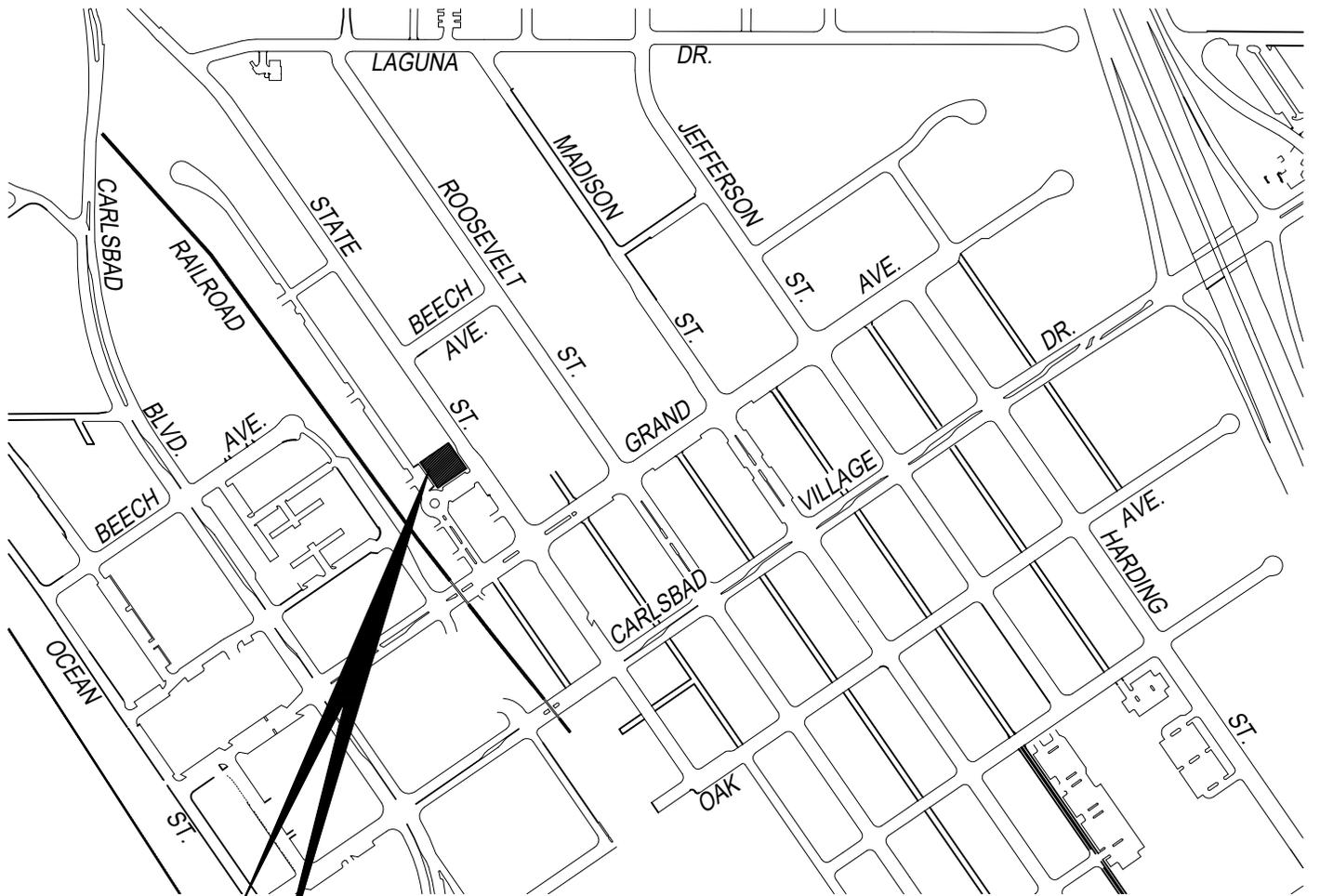
ABSENT:

MATT HALL, Mayor

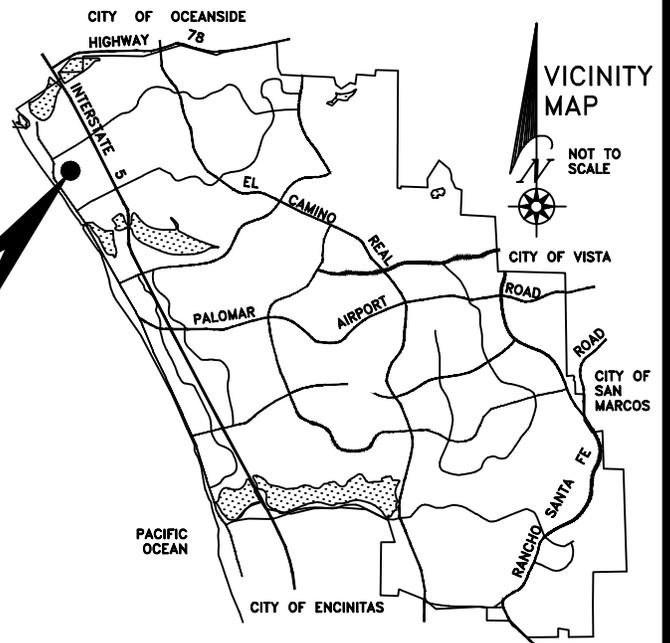
BARBARA ENGLESON, City Clerk

(SEAL)

LOCATION MAP



SITE



SITE

VICINITY MAP

NOT TO SCALE



PROJECT NAME **NEW VILLAGE ARTS ROOF AND EXTERIOR REFURBISHMENT PROJECT**

PROJECT NUMBER **4739**

EXHIBIT **2**



MUNICIPAL WATER DISTRICT

Staff Report

Meeting Date: July 28, 2020

To: President and Board Members

From: Scott Chadwick, Executive Manager

Staff Contacts: Stephanie Harrison, Utilities Asset Manager
stephanie.harrison@carlsbadca.gov, 760-603-7310
Vicki Quiram, General Manager
vicki.quiram@carlsbadca.gov, 760-603-7307

Subject Plans and specifications approval and authorization to advertise for bids for the Valve Replacement Phase II Project

Recommended Action

Adopt a resolution approving the plans and specifications and authorizing the secretary to the Carlsbad Municipal Water District Board of Directors to advertise for bids for the Valve Replacement Phase II, Capital Improvement Program Project No. 5019-E (Project).

Executive Summary

The repair or replacement of inoperable valves is an integral component of a well-managed water distribution system. The water district's Water Valve Repair/Replacement Program ensures reliable water delivery, helps maintain high service levels to customers and reduces water loss by repairing or replacing broken valves throughout the system. Phase II of the multi-year program will install 62 valves at 20 prioritized locations throughout the districts' service area. Staff recommends that the board approve the plans and specifications and authorize the board's secretary to advertise and receive bids for the project.

Discussion

The Carlsbad Municipal Water District is focused on managing assets to maintain a high level of service. The water district has developed a multi-year capital improvement project, the Water Valve Repair/Replacement Program, CIP No. 5019, to protect these assets, including repair or replacement of valves determined to be inoperable during routine maintenance or operations.

The district has prioritized replacement of broken valves throughout the system based on the anticipated consequence to the public if a valve fails. A valve is determined to have a higher consequence of failure if the loss of that valve would have a greater public impact. This includes valves near critical public service facilities, major transportation routes, major transmission lines or sensitive environmental areas.

The first phase of the program, Valve Replacement Phase I, CIP Project No. 5019-A, was completed in 2019 and replaced broken valves at 19 prioritized locations throughout the district's service area. This second phase of the program, (Valve Replacement Phase II, CIP

Project No. 5019-E, will replace broken valves at 20 additional locations throughout the service area. Subsequent phases will replace other broken valves.

Because excavation to replace these broken valves will have associated costs and service disruption, the district identified other improvements that could be conducted at the same time to minimize this disruption. In addition to replacing broken valves, the district plans to replace any valves that are on the same fitting as the broken valves and of the same age. Staff will also install an additional valve on the same fitting if that would help provide better system control.

In addition to these valves, the project includes the installation of various pieces of equipment at each site that enable the safe draining, refilling and protection of the pipelines during maintenance activities.

The project will install 62 new valves at 20 key locations, categorized in the following table. The 20 locations are shown in Exhibit 2.

VALVES TO BE INSTALLED UNDER VALVE REPLACEMENT PHASE II, CIP PROJECT NO. 5019-E	
Broken valves to be replaced	20
Existing valves adjacent to broken valves and of similar age to be replaced	28
New valves to be installed to improve system operations	14
TOTAL	62

The district is also conducting an innovative Condition Assessment Program to better characterize the state of asbestos cement water pipelines. A final component of the project will be to complete an assessment of the condition of these asbestos cement pipes while the pipes are exposed for the valve replacement work. During the valve replacement process, a sample of the adjacent pipe will be removed and sent to a lab to assess the pipe's remaining useful life. The information gathered will help the district prioritize future pipeline maintenance and improvements.

The construction contract for the project will contain general performance standards, technical specifications, sequencing and notification requirements to minimize disruptions and a one-year warranty period. Construction is expected to take about a year. The construction contract includes charges that may be assessed for each day in excess of the time specified for completion of the work.

Staff requests the district board of directors approve the plans and specifications and authorize the board's secretary to advertise for construction bids. (These plans and specifications are available for inspection at the office of the secretary to the board.)

Fiscal Analysis

The total project cost of \$2,368,531, which consists of \$2,328,531 for water valve repair/replacement CIP Project No. 5019 and \$40,000 for valve condition assessment for CIP Project No. 5051. This includes:

- The engineer's estimates of construction contract costs: \$1,894,825 for both valve repair and replacement and condition assessment
- A contingency fund for change orders: \$284,224 for the valve repair and replacement portion only
- Funds for construction management and inspection, engineering and administrative support for contractor shop drawings, requests for information, meetings and community outreach: \$189,482, again for only the valve repair and replacement portion

The project will be funded as part of the Water Valve Repair/Replacement Program (CIP Project No. 5019), except for the condition assessment work. An estimated \$40,000 from the Water Infrastructure Assessment Program (CIP Project No. 5051) will cover the costs of assessing the condition on the existing pipes adjacent to the valves being replaced. There are sufficient funds available in both programs and no additional appropriations are needed.

Summaries of available funds and estimated construction costs for the two CIP projects are shown below:

WATER VALVE REPAIR/REPLACEMENT PROGRAM, CIP PROJECT NO. 5019	
Current appropriation – Water Valve Repair/Replacement Program, CIP Project No. 5019	\$5,990,000
Current expenditures and encumbrances – Water Valve Repair/Replacement Program, CIP Project No. 5019	\$3,593,649
TOTAL AVAILABLE – WATER VALVE REPAIR/REPLACEMENT PROGRAM, CIP PROJECT NO. 5019	\$2,396,351
VALVE REPLACEMENT PHASE II, CIP PROJECT NO. 5019-E	
Construction contract (engineer's estimate)	\$1,854,825
Construction contingency (estimated)	\$284,224
TOTAL ESTIMATED CONSTRUCTION COSTS	\$2,139,049
Engineering and construction support during construction, staff and consultant (estimated)	\$189,482
TOTAL ESTIMATED PROJECT COSTS FOR WATER VALVE REPAIR/REPLACEMENT PORTION	\$2,328,531
REMAINING BALANCE AFTER VALVE REPLACEMENT PHASE II, CIP PROJECT NO. 5019-E	\$67,820
ADDITIONAL APPROPRIATION NEEDED	\$0

WATER CONDITION ASSESSMENT PROGRAM, CIP PROJECT NO. 5051	
Current appropriation – Water Condition Assessment Program, CIP Project No. 5051	\$990,000
Current expenditure and /encumbrances– Water Condition Assessment Program, CIP Project No. 5051	\$80,730
TOTAL AVAILABLE - WATER CONDITION ASSESSMENT PROGRAM, CIP PROJECT NO. 5051	\$909,270
CONDITION ASSESSMENT	
Construction contract (engineer's estimate)	\$40,000
TOTAL ESTIMATED PROJECT COSTS FOR CONDITION ASSESSMENT PORTION	\$40,000
REMAINING BALANCE AFTER CONDITION ASSESSMENT	\$869,270
ADDITIONAL APPROPRIATION NEEDED	\$0

Next Steps

Upon approval of the plans and specifications by the water district board, a notice to contractors inviting bids for the project will be advertised by the secretary to the board on the city's bid site. Staff will then return to the board to recommend awarding a contract to the lowest responsive and responsible bidder.

Environmental Evaluation (CEQA)

This project is exempt from California Environmental Quality Act review under CEQA Guidelines Section 15302(c) - replacement or reconstruction of an existing utility system and/or facility involving negligible or no expansion of capacity.

Public Notification

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. Resolution
2. Location map
3. Plans, specifications and contract documents ([on file in the Office of the City Clerk](#))

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CARLSBAD MUNICIPAL WATER DISTRICT (CMWD BOARD), APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE SECRETARY TO THE CMWD BOARD TO ADVERTISE FOR BIDS FOR THE VALVE REPLACEMENT PHASE II, CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECT NO. 5019-E (PROJECT).

WHEREAS, the CMWD Board of the City of Carlsbad, California has determined it necessary, desirable and in the public interest to replace broken valves at prioritized locations and concurrently make other improvements and conduct a pipe condition assessment at the same locations; and

WHEREAS, the plans and specifications to provide all labor, materials, tools, equipment, transportation and other expenses necessary, or incidentals of the Project, have been prepared and are on file at the office of the secretary to the CMWD Board and are incorporated by reference herein; and

WHEREAS, the City of Carlsbad's City Planner has considered the potential environmental effects of the repair or replacement of inoperable valves in the Valve Replacement Phase II Project and has determined that the project will not have a significant effect on the environment because it involves replacement or reconstruction of an existing utility system and/or facility involving negligible or no expansion of capacity; and

WHEREAS, the total engineer's estimate of the construction contractor's bid is \$1,894,825; and

WHEREAS, sufficient funds exist in the Water Valve Repair/Replacement Program (CIP Project No. 5019) and Water Condition Assessment Program (CIP Project No. 5051).

NOW, THEREFORE, BE IT RESOLVED by the Carlsbad Municipal Water District Board of Directors of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That the plans, specifications and contract documents for the Valve Replacement Phase

II, CIP Project No. 5019-E, on file at the office of the secretary to the CMWD Board are hereby approved.

3. The secretary to the Board is hereby authorized and directed to publish, in accordance with State law, a Notice to Contractors Inviting Bids for construction of the Valve Replacement Phase II, CIP Project No. 5019-E, in accordance with the plans, specifications, and contract documents referred to herein.

4. That the City Planner has determined that the Valve Replacement Phase II Project, which will install 62 valves at 20 prioritized locations throughout the districts' service area, is categorically exempt from CEQA pursuant to CEQA Guidelines section 15302(c) and that no exception to the exemption as set forth in CEQA Guidelines section 15300.2 applies.

PASSED, APPROVED AND ADOPTED at a Special Meeting of the Board of Directors of the Carlsbad Municipal Water District of the City of Carlsbad, California on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

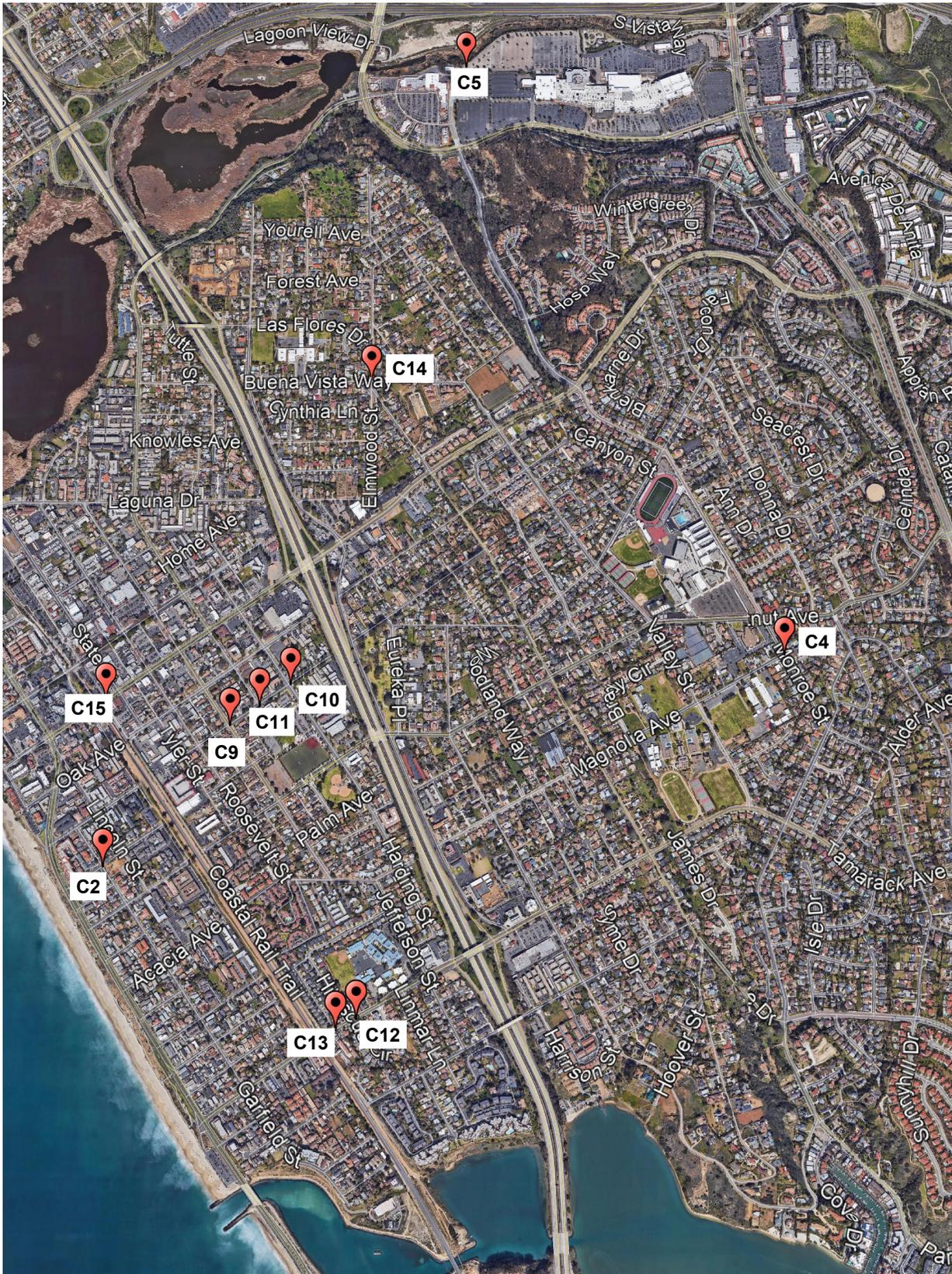
MATT HALL, PRESIDENT

BARBARA ENGLESON, SECRETARY

(SEAL)

L O O O O d
 S

EXHIBIT 2



G-3

REVIEWED BY: _____		RECORD DRAWING _____	
INSPECTOR _____		DATE _____	
<small>THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED ON INFORMATION PROVIDED BY OTHERS. TO THE BEST KNOWLEDGE OF THE INSPECTOR INFORMATION PROVIDED IS REASONABLY ACCURATE.</small>		DRAWING NO. XXX-X	DWN BY: <u>CPR</u> CHKD BY: <u>BW</u> RVWD BY: <u>KH/EM</u>
		SHEET <u>3</u> OF <u>48</u>	PROJECT NO. 5019-E

July 28, 2020

CITY OF CARLSBAD
 ENGINEERING DEPARTMENT

IMPROVEMENT PLANS FOR:
 CMWD VALVE REPLACEMENT
 PHASE II – BID DOCUMENTS

KEYMAP I

ACCEPTED BY: _____
 Item #5 Page 7 of 8
 DISTRICT ENGINEER _____ DATE _____

L d
 S



G-4

REVIEWED BY: _____		RECORD DRAWING	
INSPECTOR _____		DATE _____	
<small>THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED ON INFORMATION PROVIDED BY OTHERS. TO THE BEST KNOWLEDGE OF THE INSPECTOR INFORMATION PROVIDED IS REASONABLY ACCURATE.</small>	DRAWING NO. XXX-X	DWN BY: <u>CPR</u>	CHKD BY: <u>BW</u>
			RVWD BY: <u>KH/EM</u>
	SHEET 4 OF 48	PROJECT NO. 5019-E	

CITY OF CARLSBAD ENGINEERING DEPARTMENT	
IMPROVEMENT PLANS FOR: CMWD VALVE REPLACEMENT PHASE II - BID DOCUMENTS	
KEYPLAN II	
ACCEPTED BY: _____	
DISTRICT # _____	ENGINEER _____

July 28, 2020



CITY COUNCIL
Staff Report

Meeting Date: July 28, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Sheila Cobian, Assistant to the City Manager
Sheila.cobian@carlsbadca.gov or 760-434-2917
Subject: Acceptance of the Americans with Disabilities Act Beach Access Feasibility Study

Recommended Action

Adopt a resolution accepting the Americans with Disabilities Act Beach Access Feasibility Study, including the corresponding concept plans, and directing staff to prepare a request for proposals to pursue the environmental review, agency permitting, engineering and construction documentation phases of the project.

Executive Summary/Discussion

At the July 21, 2020, City Council meeting, City Council voted unanimously (4-0) to amend the resolution accepting the Americans with Disabilities Act Beach Access Feasibility Study. The original resolution included approval of the Trail Connectivity to Tamarack State Beach Feasibility Study which the City Council voted to remove from the resolution. The attached resolution (Exhibit 1) reflects the removal of the Trail Connectivity to Tamarack State Beach Feasibility Study.

Fiscal Analysis

The estimated cost of the ADA Beach Access Project, including design, state environmental clearance and construction, was approximately \$5,600,000, \$2,800,000 for each ramp. A detailed breakdown of the costs can be found in Appendix F of the Carlsbad ADA Beach Access Feasibility Study. The total available funding for this project is reflected in the table below.

ADA BEACH ACCESS PROJECT - CIP PROJECT NO. 6065	
Current appropriation – CIP Project No. 6065	\$375,000
Current expenditures/encumbrances – CIP Project No. 6065	\$103,110
TOTAL AVAILABLE FUNDING – CIP PROJECT NO. 6065	\$271,890

Next Steps

Staff will prepare a request for proposals for a firm to address the environmental review, agency permitting, engineering and construction documentation phases of the project.

Environmental Evaluation (CEQA)

In keeping with California Environmental Quality Act Guidelines Section 15262, feasibility studies for possible future actions which the city has not approved, adopted or funded are exempt from environmental review provided that environmental factors are considered. The feasibility study includes a brief analysis of environmental constraints. Selecting project alternatives for which to pursue the environmental review, agency permitting, engineering and construction documentation does not commit the city to any definite course of action and does not foreclose the potential for alternatives or mitigation measures.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to scheduled meeting date.

Exhibit

1. Resolution with Attachments A & B

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ACCEPTING THE AMERICANS WITH DISABILITIES ACT BEACH ACCESS FEASIBILITY STUDY, INCLUDING THE CORRESPONDING CONCEPT PLANS, AND DIRECTING STAFF TO PREPARE A REQUEST FOR PROPOSALS TO PURSUE THE ENVIRONMENTAL REVIEW, AGENCY PERMITTING, ENGINEERING AND CONSTRUCTION DOCUMENTATION PHASES OF THE PROJECT.

WHEREAS, on July 24, 2018, the City Council adopted a resolution authorizing the execution of a Professional Services Agreement with Chen Ryan for the preparation of feasibility studies for the Americans with Disabilities Act (ADA) Beach Access Project, Capital Improvement Program (CIP) Project No. 6065; and

WHEREAS, the development of the ADA Beach Access Feasibility Study involved a public outreach process to help inform the final recommendations; and

WHEREAS, the combined team of Public Works Branch staff, Parks & Recreation Department staff, and the integrated transportation and land use planning consultant's staff conducted community and stakeholder outreach to help identify the level of support for this project; and

WHEREAS, these events included a stakeholder group meeting held on Thursday, Nov. 15, 2018 and a follow-up stakeholder group meeting on Wednesday, Aug. 28, 2019, and on-site "pop-up" events Friday, Nov. 16, 2018 and Saturday, Nov. 17, 2018, to gather further community input; and

WHEREAS, throughout the public outreach process, participants expressed that Carlsbad Village is great for wheelchair users due to the generally flat topography; and

WHEREAS, the overwhelming consensus of participants was that the preferred location for ADA access to the beach would be near Pine Avenue, due to its proximity to Carlsbad Village; and

WHEREAS, an ADA access at Tamarack Avenue was identified as an additional location - due to the high levels of pedestrian activity and available amenities at Tamarack State Beach; and

WHEREAS, the ADA Beach Access Feasibility Study evaluated five alternatives using criteria established by the project team; and

WHEREAS, the project team goals were to develop up to two preferred alternatives for ADA access to the beach; and

WHEREAS, the two preferred alternatives selected for this purpose are located north of Pine Avenue and at the Tamarack Avenue restroom; and

WHEREAS, the two preferred alternatives would provide ADA accessible connections to the lower seawall, which is designated as a city trail; and

WHEREAS, staff recommends pursuing the environmental review, agency permitting, engineering and construction documentation phases on both preferred alternatives, to provide ADA access at each end of the lower seawall; and

WHEREAS, staff has met with, and electronically communicated with, the California Coastal Commission (CCC) local staff and the California Department of Parks and Recreation (State Parks) local staff regarding the feasibility study on multiple occasions since the project's inception; and

WHEREAS, the CCC would have appeal authority on the city's issuance of a Coastal Development Permit for the ADA Beach Access Project; and

WHEREAS, State Parks would have permitting authority on the project, relative to property ownership rights; and

WHEREAS, the estimated cost of the ADA Beach Access Project was approximately \$5,600,000 (\$2,800,000 per ramp); and

WHEREAS, Proposition H, codified in Carlsbad Municipal Code Chapter 1.24, states in relevant part that "the city shall make no real property acquisition and/or no improvement to real property the

cost of which exceeds one million dollars in city funds, unless the proposed acquisition and/or improvement project and the cost in city funds is first placed upon the ballot and approved by a majority of the voters voting thereon at an election;” and

WHEREAS, the Guidelines implementing Proposition H, adopted pursuant to the Carlsbad Municipal Code Section 1.24.050, states that the term “‘Improvement to Real Property’ shall not include replacement, repair, maintenance, routine refurbishment or upgrades of existing facilities as they are considered to be routine ongoing capital expenditures necessary to carry out the normal and routine business of the city. The City Council may make findings on a case-by-case basis on whether the above exceptions are applicable to a proposed project;” and

WHEREAS, the ADA Beach Access Project does not constitute “‘Improvements to Real Property’” as defined by the guidelines implementing Proposition H because the proposed project is an upgrade of existing facilities necessary to provide ADA access to beaches and trails in the City of Carlsbad; and

WHEREAS, Proposition C, approved by a majority of voters in the City of Carlsbad in 2001, authorized “‘spending city funds from various sources including the General Fund in an amount over \$1 million to construct capital facilities including ... trail linkages and open space...’”; and

WHEREAS, the ADA Beach Access Project is a trail linkage; and

WHEREAS, staff is recommending City Council accept the feasibility study, including the corresponding concept plans, and direct staff to proceed with the issuance of a request for proposals for the environmental review, agency permitting, engineering and construction documentation phases of the ADA Beach Access Project; and

WHEREAS, the City Planner has determined that City Council’s acceptance of the feasibility study is categorically exempt per the California Environmental Quality Act (CEQA) pursuant to CEQA

Guidelines section 15262 and will not have a significant effect on the environment because it is the acceptance of a consultant's feasibility study for possible future actions which the city has not approved, adopted or funded; and

WHEREAS, selecting project alternatives for which to pursue the environmental review, agency permitting, engineering and construction documentation does not commit the city to any definite course of action and does not foreclose the potential alternatives or mitigation measures.

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

1. That the above recitations are true and correct.
2. That the ADA Beach Access Feasibility Study (Attachment A), including corresponding concept plans (Attachment B), are accepted.
3. That the City Council selected the two preferred alternatives for the ADA Beach Access Project as (1) located north of Pine Avenue and (2) at the Tamarack Avenue restroom.
4. That staff is directed to prepare a request for proposals to pursue the environmental review, agency permitting, engineering and construction documentation phases of the ADA Beach Access project.
5. That funding the proposed ADA Beach Access project, CIP Project No. 6065, using General Fund money would comply with Proposition H because Proposition C authorized expenditures of city funds over \$1 million for trail linkages, and the proposed project would not be an Improvement to Real Property, as defined by the guidelines implementing Proposition H.
6. That the City Planner has considered the environmental factors and determined that this action is categorically exempt from CEQA pursuant to CEQA Guidelines section 15262 and that an exception to the exemption does not apply. Selecting project alternatives for which to pursue the environmental review, agency permitting, engineering and construction documentation does not commit the city to any definite

course of action and does not foreclose the potential for alternatives or mitigation measures.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

ADA Beach Access Feasibility Study

Final Report

Prepared for:

City of
Carlsbad
Transportation Planning & Mobility
Public Works Department
City of Carlsbad
1635 Faraday Avenue
Carlsbad, CA 92008-7314

Prepared by:

CHEN  RYAN
3900 5th Avenue, Suite 310
San Diego, CA 92103

January 2020

Table of Contents

1.0	Introduction	2
1.1	Overview	2
1.2	Project Identification and Goals	2
1.3	Project Study Area	2
2.0	Existing Conditions	4
3.0	Feasibility Study Approach	4
3.1	Existing Access Utilization	4
3.2	Community Input	5
3.3	Vegetation Constraints Analysis	6
3.4	Engineering Evaluation	9
3.5	Development and Evaluation of Ramp Alternatives	10
3.6	Evaluation criteria to select preferred ramp	10
4.0	Feasibility Study Results	11
4.1	Preferred Alternatives	11
4.2	Conceptual Design	12
4.3	Opinion of Probable Construction Costs	19
4.4	CEQA Clearance	19

Appendices

Appendix A	Pedestrian Activity Analysis
Appendix B	Vegetation Constraints Memorandum
Appendix C	Existing Conditions Slope Analysis
Appendix D	Pine Avenue and Tamarack Avenue Ramp Options
Appendix E	Pine Avenue and Tamarack Avenue Ramps
Appendix F	OPCC and Structures Estimate
Appendix G	Environmental Constraints Table

List of Figures

Figure 1	Project Study Area	3
Figure 2	Habitat Value Assessment	8
Figure 3	Pine Avenue Beach Access.....	13
Figure 4	Pine Avenue Ramp.....	14
Figure 5	Tamarack Avenue Beach Access.....	15
Figure 6	Tamarack Avenue Restroom Ramp	16
Figure 7	Design Character.....	17
Figure 8	Plant Materials.....	18

List of Tables

Table 3.1	24-Hr Pedestrian Activity – Saturday, August 11, 2018.....	5
Table 4.1	The Criteria for Evaluating Alternatives With Associated Weighting.....	11

1.0 Introduction

1.1 Overview

The City of Carlsbad Public Works – Transportation Department commissioned a feasibility study to evaluate alternatives to provide access to Carlsbad State Beach (beach) that are compliant with the Americans with Disabilities Act (ADA) requirements.

Purpose

The purpose of the project is to provide access for all pedestrians, regardless of ability, to one of the area’s premiere beaches. The importance of this project cannot be understated since it will allow the community to enjoy a beautiful natural-resource that is unique to the region. The proposed project promotes the spirit and vision of both the California Coastal Act and the Americans with Disabilities Act.

1.2 Project Identification and Goals

ADA Beach Access Study, CIP No. 60651

The project’s main objective is to evaluate the feasibility of constructing one or more ADA access ramps to provide a connection from Carlsbad Boulevard to the beach. A number of alternatives were considered and evaluated using criteria established by the project team. The project goal was to develop up to two preferred alternatives for this connection between Carlsbad Boulevard and the beach.

1.3 Project Study Area

The ADA Beach Access Study project area is along Carlsbad Boulevard and the beach from to the parking lot just north of Pine Avenue to the Cold-Water Inlet Bridge (bridge), just south of Tamarack Avenue.

Figure 1 displays the project’s study area.

Figure 1 – Project Study Area



2.0 Existing Conditions

Carlsbad State Beach, also known as Tamarack State Beach, stretches from the warm water jetties, just south of Tamarack Avenue, to Frazee Beach, near Carlsbad Village Drive.

Carlsbad Boulevard runs along the bluffs above the beach along this stretch of coastline. At the north end of the project (near Pine Avenue), the roadway is approximately 30 feet above the beach; at the south end (bridge), the roadway is about 12 feet above the parking lot. Along these 4,200 lineal feet, pedestrian access is provided via six stairways and two ramps. Vehicular access is provided as an extension of Tamarack Avenue to Tamarack State Beach. The slopes of the two ramps at Pine Avenue and Tamarack Avenue exceed the allowable slopes defined by ADA at 15.6% and 9.9%, respectively and with no landings.

The Carlsbad Seawall, a paved walking path along the coast, extends from Pine Avenue to Tamarack Avenue. The lower seawall runs along the bottom of the bluffs at the back beach and provides shoreline protection for the walking path and the bluffs. Stairs are provided to connect to lower seawall to the beach. The upper seawall includes a paved walking trail along the west side of Carlsbad Boulevard. The section of the coastline is highly utilized by people walking, jogging, and cycling.

3.0 Feasibility Study Approach

This chapter describes the various studies performed as part of the selection process for the location of the proposed ramps.

3.1 Existing Access Utilization

In order to determine utilization at the existing points of access to the beach, pedestrian counts were conducted at eight (8) locations (see below) along Carlsbad Boulevard on an average Saturday (Saturday, August 11, 2018).

1. Pine Avenue Beach Access Ramp;
2. Sycamore Avenue Stairway;
3. Maple Avenue Stairway;
4. Cherry Avenue Stairway;
5. Hemlock Avenue Stairway;
6. Tamarack Avenue Stairway;
7. Tamarack Beach Parking Lot Access Road Walkway; and
8. Cold-Water Inlet Stairway.

Table 3.1 displays the pedestrian counts collected Saturday, August 11, 2018.

TABLE 3.1 – 24-HR PEDESTRIAN ACTIVITY – SATURDAY, AUGUST 11, 2018

Location	Total Pedestrian Counts	Peak Hour	Peak Hour Volume
1 – Pine Avenue Beach Access Ramp	5,720	7:00 PM	536
2 – Sycamore Avenue Stairway	1,599	2:00 PM	191
3 – Maple Avenue Stairway	1,249	1:00 PM	126
4 – Cherry Avenue Stairway	2,042	7:00 PM	206
5 – Hemlock Avenue Stairway	1,686	4:00 PM	173
6 – Tamarack Avenue Stairway	3,477	7:00 PM	316
7 – Tamarack Beach Parking Lot Access Road Walkway	1,758*	7:00 PM	215*
8 – Cold-Water Inlet Stairway	1,007	9:00 AM	120

Source: Chen Ryan Associates, June 2019.

Notes:

*Pedestrian volumes obtained using ratios developed based on counts from Friday, August 10th.

As shown in Table 3.1, the Pine Avenue Beach Access Ramp was identified as the location with the highest pedestrian activity with 5,720 pedestrians on an average summer Saturday. It should also be noted that the combined number of pedestrians at the two available access points at Tamarack Avenue was 5,235. The Cold-Water Inlet Stairway was identified as the location with the lowest pedestrian activity with 1,007 pedestrians on an average summer Saturday. See **Appendix A** for pedestrian count worksheets.

3.2 Community Input

The project team conducted community and stakeholder outreach initiatives to identify the level of support and obtain community input for the ADA Beach Access Feasibility Study. These efforts included:

- Stakeholder Meeting (November 15, 2018);
- On-site “pop-up” events (November 16 and 17, 2018).

The people who were invited to the Stakeholder Meeting were residents that had previously expressed a desire for better access to Carlsbad State Beach. Many of these stakeholders are wheelchair users and lived in the Carlsbad Village. They expressed that the village is a great for them due to the generally flat topography. The overwhelming consensus from this group was that their most ideal location for ADA access would be near Pine Avenue. Tamarack Avenue was identified as a potential

location if more than one ramp could be built. The reason for this overwhelming consensus is due to the close proximity to Carlsbad Village of a Pine Avenue ADA Ramp compared to other locations further to the south.

The two “pop-up” events were held on-site. One was held on a Friday afternoon near Pine Avenue and the second was held on a Saturday morning near Tamarack Avenue. There was board support from the community for the project at these two events.



“Pop-up” event held near Pine Avenue on November 16, 2018

3.3 Vegetation Constraints Analysis

To aid in siting considerations that may minimize impacts to native habitats, the project team conducted a qualitative assessment of bluff habitats supporting native plants along the coastal bluffs in the project vicinity.

This assessment included a field inspection of the site to determine species composition and relative cover values for native plants, non-native plants, and unvegetated areas. Bluff habitats were divided into areas (polygons) of similar cover proportions and depicted on a map.

Common native species observed in the study area included coast prickly pear (*Opuntia littoralis*), California fuchsia (*Epilobium canum*), seacliff buckwheat (*Eriogonum parvifolium*), California boxthorn (*Lycium californicum*), coastal goldenbush (*Isocoma menziesii*), coast cholla (*Cylindropuntia prolifera*), and California encelia (*Encelia californica*). Common non-native species observed included, ngaio (*Myoporum laetum*), sea lavender (*Limonium perezii*), and natal plum (*Carissa macrocarpa*).

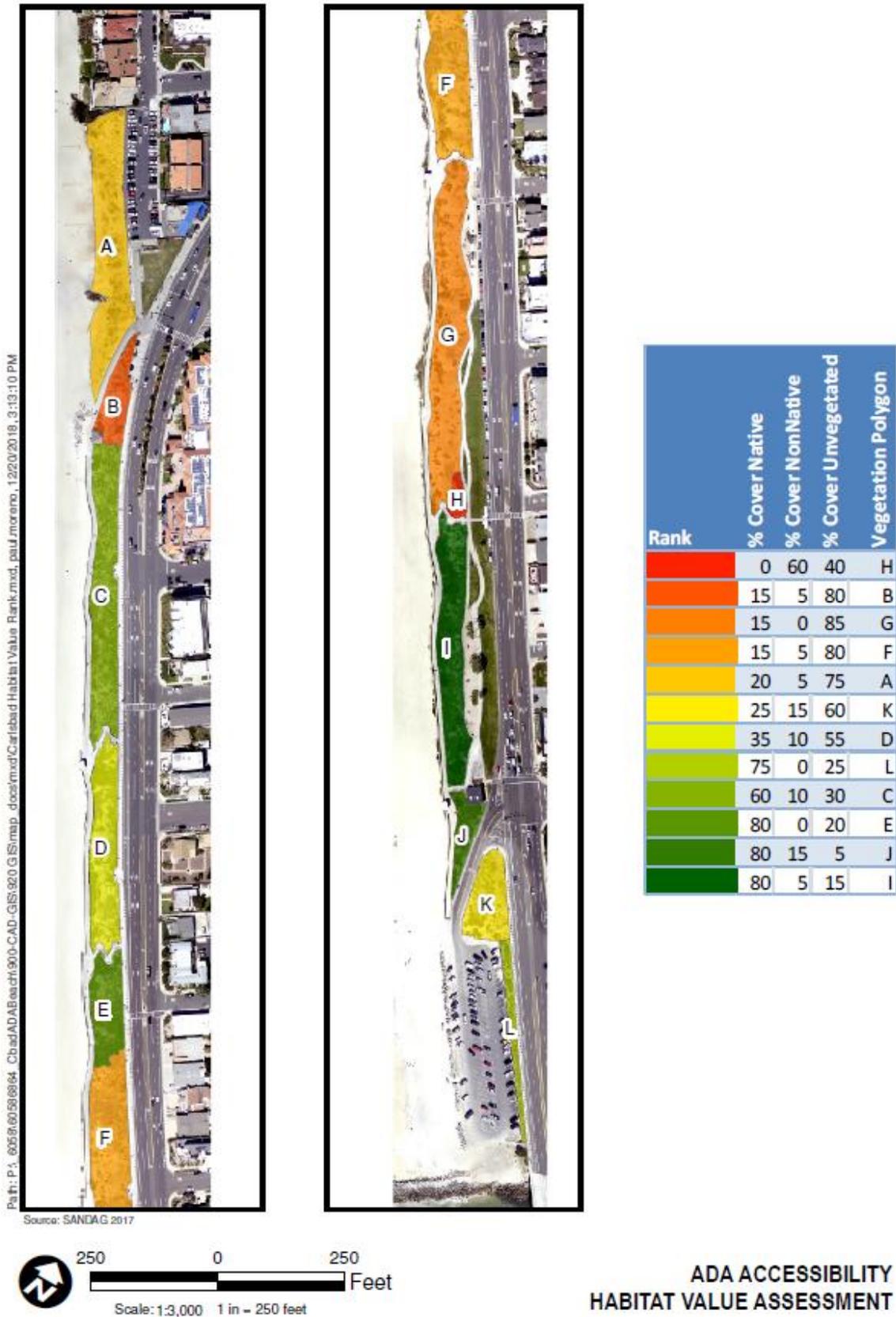
On the basis of the relative cover values, each of the 12 mapped polygons were then ranked from highest potential impact to native plant resources (Rank of 1) to lowest potential impact to native plant resources (Rank of 12) on the basis of the assigned cover value using the following assumptions:

- Higher relative cover value of native plant implies higher potential impacts
- Higher relative cover value of non-native plants implies lower potential impacts
- Higher relative cover value of unvegetated implies lower potential impacts

See **Appendix B** for the Vegetation Constraints Memorandum.

The vegetation assessment provides a ranking for potential habitat impacts associated with construction of ADA access along Carlsbad Boulevard. **Figure 2** displays polygons and their respective ranking with the highest rankings reflect the lowest degree of impact to native and/or dense vegetation along the bluffs, while those with lower rankings represent those areas that should be avoided if feasible. For example, Polygon “I” had the lowest ranking and would result in the highest amount of impacts to native and/or dense vegetation, therefore this area was to be avoided. Polygon H has the highest ranking of 12 and would result in the least amount of impacts. Impacts to this resource represent one consideration among many, and helped inform siting efforts for the preferred alternatives.

Figure 2 – Habitat Value Assessment



3.4 Engineering Evaluation

A number of steps were taken to evaluate the engineering feasibility of ADA access ramp(s) from Carlsbad Boulevard to the beach. Two key factors that were considered throughout this evaluation were landform alteration and shoreline protection. This is due to the project team's understanding of the California Coastal Commission's (CCC) desire to minimize landform alteration and installation of new shoreline protection along the coastline.

A review of existing conditions was completed, including an evaluation of how long ADA compliant ramps would need to be at various locations within the study area. Existing utilities were also identified within the project area. These included the storm drain outfall at Pine Avenue and above ground irrigation within along the bluffs.

In order to determine if the ramps could be constructed at grade while minimizing landform alteration, a slope analysis was completed along the bluffs within the study area.

See **Appendix C** for slope analysis exhibits.

Land Form Alteration

Land form alteration is identified in the California Coastal Act as a significant environmental concern for the following reasons:

- Land form alteration often leads to loss of habitat, erosion, runoff and water quality degradation.
- Once land form alteration has occurred, it is difficult, if not impossible for an engineered area to replicate all the functions of an unaltered area.
- Land form alteration in steep slope areas can have far more impact than in low relief areas.
- Development in steep areas often proposes vast amounts of land form alteration to make the area safe and buildable.

Slope Analysis Results

The slope analysis showed slopes of steeper than 2:1 within the bluffs throughout the study area. These steep slopes led the project team to determine that an **elevated ramp system** with pile supports would be seen as more favorable compared to an at-grade ramp by both the CCC and CA State Parks.

Geotechnical

Based on preliminary review of existing conditions and the Geotechnical Investigation Report for the Tamarack Coastal Improvements Project prepared by AECOM on March 2018, since the proposed pile supports are entirely in the bluffs, putting it in formational soil (Terrace Deposits), liquefaction would not be an issue.

3.5 Development and Evaluation of Ramp Alternatives

Based on the existing access utilization, community input, the vegetation constraints analysis, and the engineering evaluation, all described above, five (5) different alternative ramp locations were identified for further evaluation:

- North of Pine Avenue
- Pine Avenue
- Cherry Street
- Tamarack Avenue Restroom
- South of Tamarack Avenue Access Road

3.6 Evaluation criteria to select preferred ramp

The project team identified fourteen (14) potential criterion for evaluation of the five alternatives. These included the following:

1. Usage / Demand
2. Safety and Convenience
3. Construction Feasibility / Complexity
4. California Coastal Commission Acceptance
5. Aesthetics
6. Public Input
7. State Parks Concurrence
8. Sea Level Rise / Storm Damage Vulnerability
9. Biological Resources
10. Geotechnical / Geology
11. Transportation / Traffic
12. Noise
13. Greenhouse Gas Emissions
14. Air Quality

The project team participated in an online survey to rank the fourteen (14) potential criterion based on each team member's opinion of what should be considered as most important. These ranking led to the elimination of the four (4) lowest scoring criterion, leaving the team with ten (10) criterion for ranking the alternative ramp locations. Further, the project team utilized the ranking from the survey to assign weights to each of the scoring criterion with the highest being worth a maximum of 13 points and the lowest being worth a maximum of 6 points out of 100. **Table 4.1** depicts the final criteria and associated weight given to each criterion. It should be noted each of the five (5) ramp alternative locations would have received very similar scores for each of the four criterion that were eliminated (Transportation/Traffic, Noise, Greenhouse Gas Emissions, and Air Quality).

TABLE 4.1 displays the criteria for evaluating alternatives with associated weighting

#	Criteria	Weight	Weighted Max
1	Usage/Demand	1.3	13
2	Safety/Convenience	1.3	13
3	Construction Feasibility/Complexity	1.1	11
4	CCC Acceptance	1.1	11
5	Aesthetics	1.1	11
6	Public Input	1.0	10
7	State Parks Concurrence	1.0	10
8	Vulnerability	0.8	8
9	Biological Resources Impact	0.7	7
10	Geotech / Geology	0.6	6
Total		10.0	100

Source: Chen Ryan Associates, June 2019.

4.0 Feasibility Study Results

4.1 Preferred Alternatives

The project team utilized the criteria for evaluating alternative locations to score each of the five (5) alternative locations compared to one another.

Summary of the evaluation for each alternative:

- North of Pine Avenue – **preferred alternative #1**. The alternative location scored high across the board with high scores for usage/demand, construction feasibility/complexity, CCC acceptance, public input, State Parks concurrence, and biological resources impact. The only real mark against this alternative is vulnerability. This is because the end of the ramp is at grade and not protected by shoreline protection. However, some of the existing rip-rap could be moved around to enhance this deficiency.
- Pine Avenue – This alternative scored lower than North of Pine due to the complexity of constructing the ramp in the narrow area between the existing restroom and the upper sea wall walkway. It would also result in greater impacts to biological resources and require some landform alteration at the end of the ramp.
- Cherry Street - **lowest score**. This alternative scored poorly on usage/demand, safety/convenience, and public input.
- Tamarack Avenue Restroom – **preferred alternative #2**. This alternative location scored second highest overall.

- South of Tamarack Avenue Access Road – This alternative scored lower than the Tamarack Avenue Restroom due to vulnerability (it does not land behind the lower seawall) and safety/convenience (it requires crossing vehicle drive aisle to access the beach and does not allow for ADA access to the existing restroom).

4.2 Conceptual Design

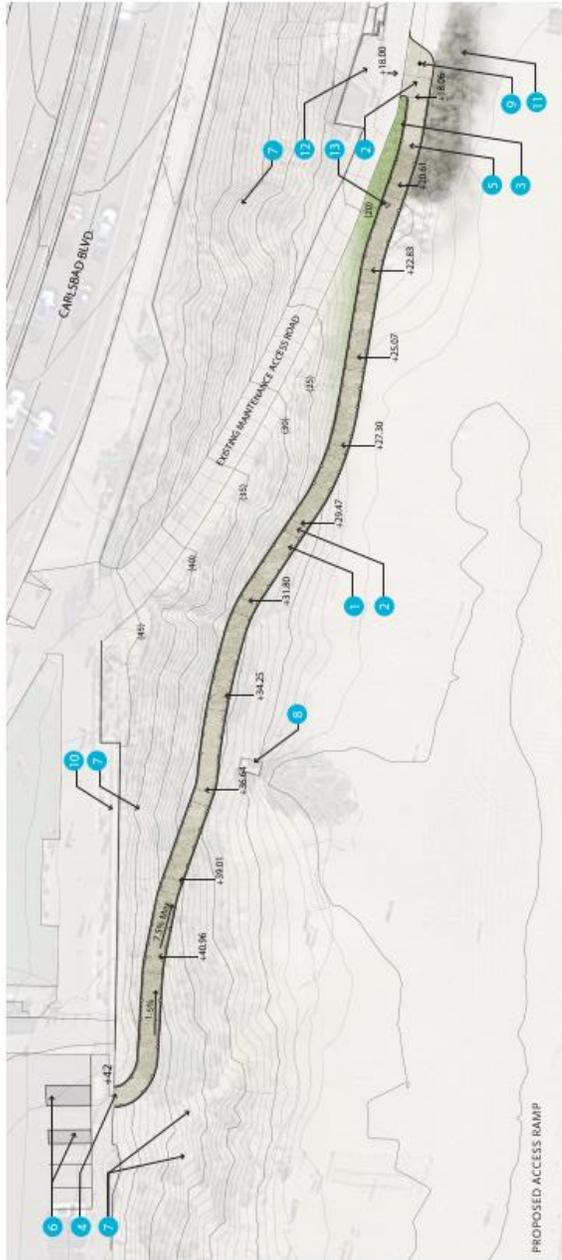
Schmidt Design Group developed a number of rough sketches for the two preferred alternatives (see **Appendix D**). These were refined utilizing input from the project team and city staff (see **Appendix E**). Some of the key decisions that were made during this process included the following:

- North of Pine Avenue Ramp –
 - Land the ramp near the existing rip-rap adjacent to the existing restroom. This approach mitigates the vulnerability to raising sea levels and provides access to the ADA compliant restroom. Landing on the sand as shown on some of the initial sketches was not seen as ideal.
 - Do not include stairs. The project team decided that inclusion of stairs that provide access to a different portion of the beach does not meet the reasonable accommodation requirements of ADA.
 - Ramp to be 8’ wide.
 - Maintain existing informal railroad tie access trails at the parking lot.
- Tamarack Avenue Restroom Ramp –
 - Minimize ramp length within the bluffs. This approach lessens impact to biological resources.
 - Revise existing ramp to existing restroom to be ADA compliant. This allows for ADA access to the existing restrooms and also allows a large portion of the ramp system to be built at-grade (much lower cost) on previously disturbed land.
 - Ramp to be 8’ wide.

Figures 4-7 display the North of Pine Avenue Ramp and Tamarack Avenue Restroom Ramp final concepts and photo simulations.

Figures 8 and 9 display the conceptual design character and plant materials for the projects.

Figure 3 – North of Pine Avenue Ramp



- KEY**
- 1 PROPOSED 8'-0" RAMP WITH HANDRAILING
 - 2 2% MAX. LANDINGS; TYPICAL
 - 3 PROPOSED PLANTING AREA; TYPICAL
 - 4 START OF ELEVATED ACCESSIBLE PATH ON STRUCTURAL COLUMNS
 - 5 END OF ELEVATED ACCESSIBLE PATH ON STRUCTURAL COLUMNS. PATH CONTINUES AT GRADE TO THE SOUTH
 - 6 EXISTING ADA ACCESSIBLE PARKING
 - 7 EXISTING BLUFF & TRAILS TO REMAIN; REPAIR AS NEEDED
 - 8 EXISTING STORM DRAIN
 - 9 PROPOSED LOCATION FOR RELOCATED SHOWER
 - 10 EXISTING SIDEWALK
 - 11 EXISTING RIP RAP
 - 12 EXISTING RESTROOM
 - 13 EXISTING SHOWER TO BE RELOCATED

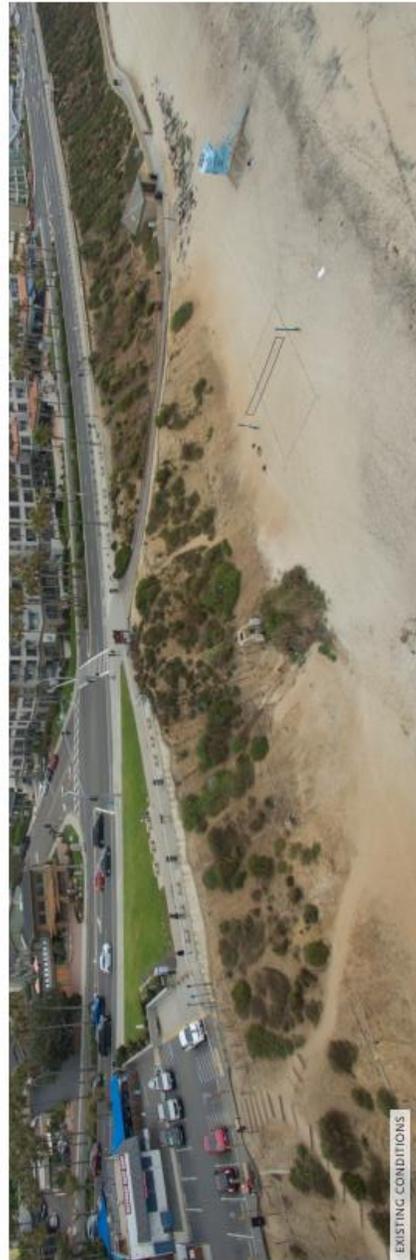


Figure 4 – North of Pine Avenue Ramp – Photosimulation



Figure 5 – Tamarack Avenue Restroom Ramp



- KEY**
- 1 PROPOSED 8'-0" WIDE CONCRETE RAMP WITH HANDRAILING
 - 2 PROPOSED 8' ELEVATED WOOD RAMP ON STRUCTURAL COLUMNS
 - 3 PROPOSED STAIRCASE
 - 4 PROPOSED PLANTING AREA; TYPICAL
 - 5 PROPOSED RETAINING WALL
 - 6 PROPOSED ACCESSIBLE PATH TO PARKING LOT
 - 7 EXISTING SEAWALL
 - 8 EXISTING RETAINING WALL
 - 9 EXISTING PLANTING AREA
 - 10 EXISTING GUARDRAILING
 - 11 RELOCATE EXISTING PICNIC TABLE
 - 12 RELOCATE EXISTING TRASH RECEPTACLES
 - 13 EXISTING PICNIC TABLE
 - 14 EXISTING SHOWERS AND PLAZA
 - 15 EXISTING FENCE
 - 16 EXISTING PAVING
 - 17 EXISTING LIFEGUARD TOWER
 - 18 EXISTING AC SIDEWALK

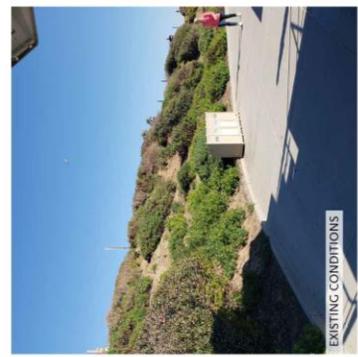


Figure 6 – Tamarack Avenue Restroom Ramp – Photosimulation



Figure 7 – Conceptual Design Character

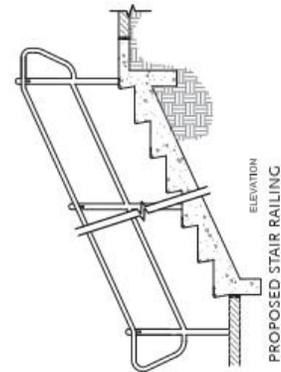
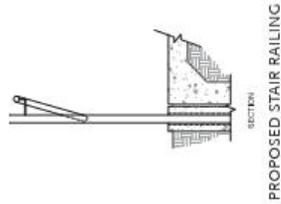


Figure 8 – Proposed Plant Materials



4.3 Opinion of Probable Construction Costs

The project team developed a planning level opinion of probable construction costs for the ramps. The estimated cost, including design and CEQA clearance, was **\$2.8M for each ramp**. A breakdown of costs can be found in **Appendix F**.

4.4 CEQA Clearance

The project team completed an evaluation of environmental constraints to help transition into the next phase of the project. The biggest constraint are the existing biological resources that would be impacted by construction. However, these impacts can be mitigated. The Environmental Constraints Analysis Table can be found in **Appendix G**.

Appendix A Pedestrian Activity Analysis

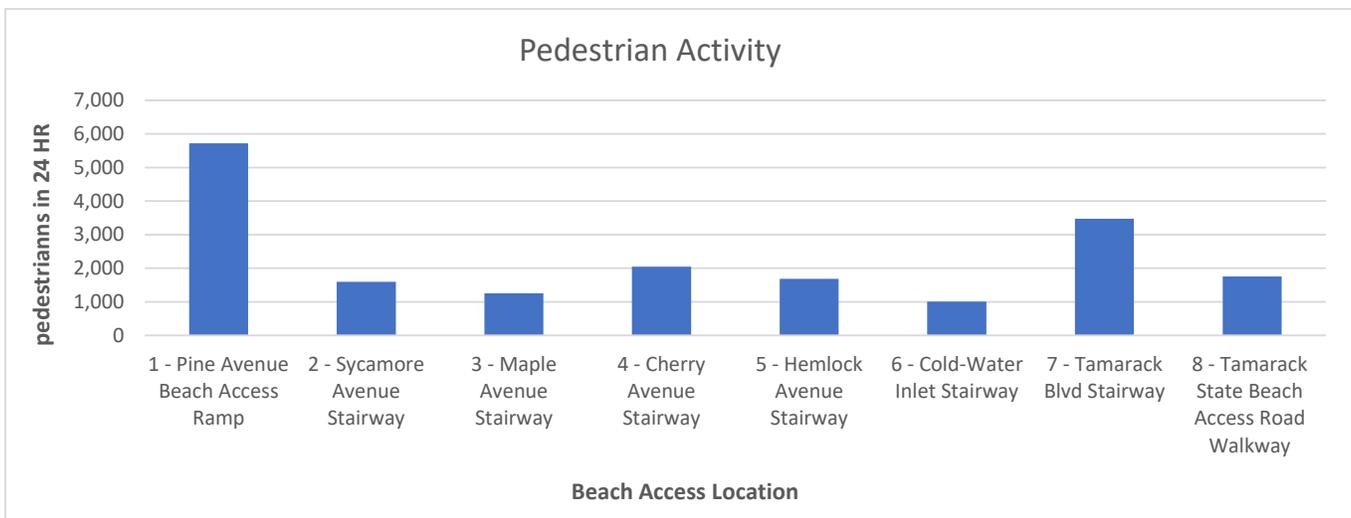
24-Hr Pedestrian Activity - Friday, August 10, 2018

Total Pedestrian			
Location	Counts	Peak Hour	Peak Hour Volume
7 - Tamarack Blvd Stairway	2,162	7:00 PM	203
8 - Tamarack State Beach Access Road Walkway	1,140	7:00 PM	138

24-Hr Pedestrian Activity - Saturday, August 11, 2018

Total Pedestrian			
Location	Counts	Peak Hour	Peak Hour Volume
1 - Pine Avenue Beach Access Ramp	5,720	7:00 PM	536
2 - Sycamore Avenue Stairway	1,599	2:00 PM	191
3 - Maple Avenue Stairway	1,249	1:00 PM	126
4 - Cherry Avenue Stairway	2,042	7:00 PM	206
5 - Hemlock Avenue Stairway	1,686	4:00 PM	173
6 - Cold-Water Inlet Stairway	1,007	9:00 AM	120
7 - Tamarack Blvd Stairway	3,477	7:00 PM	316
8 - Tamarack State Beach Access Road Walkway	1,758*	7:00 PM	215*

*Pedestrian volumes obtained using ratios developed based on counts from Friday, August 10th



Location 1 - Pine Avenue Beach Access Ramp experienced the highest pedestrian activity with 5,720 pedestrians.

Location 6 - Cold-Water Inlet Stairway experienced the lowest pedestrian activity with 1,007 pedestrians.

PEDESTRIAN BEACH ACCESS STUDY			
SATURDAY - AUGUST 11, 2018			
CITY:		CARLSBAD	
PROJECT:		PTD18-0810-02	
LOCATION 1- Pine Avenue Beach Access Ramp			

1	00:00	→	01:00	31
2	01:00	→	02:00	33
3	02:00	→	03:00	0
4	03:00	→	04:00	0
5	04:00	→	05:00	2
6	05:00	→	06:00	15
7	06:00	→	07:00	75
8	07:00	→	08:00	189
9	08:00	→	09:00	325
10	09:00	→	10:00	447
11	10:00	→	11:00	361
12	11:00	→	12:00	418
13	12:00	→	13:00	388
14	13:00	→	14:00	410
15	14:00	→	15:00	371
16	15:00	→	16:00	360
17	16:00	→	17:00	363
18	17:00	→	18:00	426
19	18:00	→	19:00	436
20	19:00	→	20:00	536
21	20:00	→	21:00	316
22	21:00	→	22:00	96
23	22:00	→	23:00	69
24	23:00	→	00:00	53

DAILY LOCATION TOTAL	5720
----------------------	------

PACIFIC TECHNICAL DATA, LLC

PEDESTRIAN BEACH ACCESS STUDY			
SATURDAY - AUGUST 11, 2018			
CITY: CARLSBAD			
PROJECT: PTD18-0810-02			
LOCATION 2 - Sycamore Avenue Stairway			

1	00:00	→	01:00	8
2	01:00	→	02:00	2
3	02:00	→	03:00	0
4	03:00	→	04:00	0
5	04:00	→	05:00	4
6	05:00	→	06:00	6
7	06:00	→	07:00	27
8	07:00	→	08:00	24
9	08:00	→	09:00	71
10	09:00	→	10:00	86
11	10:00	→	11:00	109
12	11:00	→	12:00	91
13	12:00	→	13:00	115
14	13:00	→	14:00	131
15	14:00	→	15:00	191
16	15:00	→	16:00	137
17	16:00	→	17:00	122
18	17:00	→	18:00	129
19	18:00	→	19:00	105
20	19:00	→	20:00	128
21	20:00	→	21:00	64
22	21:00	→	22:00	5
23	22:00	→	23:00	16
24	23:00	→	00:00	28

DAILY LOCATION TOTAL	1599
----------------------	------

PACIFIC TECHNICAL DATA, LLC

PEDESTRIAN BEACH ACCESS STUDY			
SATURDAY - AUGUST 11, 2018			
CITY: CARLSBAD			
PROJECT: PTD18-0810-02			
LOCATION 3 - Maple Avenue Stairway			

1	00:00	→	01:00	7
2	01:00	→	02:00	2
3	02:00	→	03:00	0
4	03:00	→	04:00	0
5	04:00	→	05:00	4
6	05:00	→	06:00	2
7	06:00	→	07:00	8
8	07:00	→	08:00	44
9	08:00	→	09:00	55
10	09:00	→	10:00	62
11	10:00	→	11:00	88
12	11:00	→	12:00	96
13	12:00	→	13:00	74
14	13:00	→	14:00	126
15	14:00	→	15:00	116
16	15:00	→	16:00	93
17	16:00	→	17:00	107
18	17:00	→	18:00	124
19	18:00	→	19:00	95
20	19:00	→	20:00	75
21	20:00	→	21:00	54
22	21:00	→	22:00	8
23	22:00	→	23:00	8
24	23:00	→	00:00	1

DAILY LOCATION TOTAL	1249
----------------------	------

PACIFIC TECHNICAL DATA, LLC

PEDESTRIAN BEACH ACCESS STUDY			
SATURDAY - AUGUST 11, 2018			
CITY:		CARLSBAD	
PROJECT:		PTD18-0810-02	
LOCATION 4 - Cherry Avenue Stairway			

1	00:00	→	01:00	6
2	01:00	→	02:00	4
3	02:00	→	03:00	6
4	03:00	→	04:00	0
5	04:00	→	05:00	0
6	05:00	→	06:00	4
7	06:00	→	07:00	17
8	07:00	→	08:00	67
9	08:00	→	09:00	79
10	09:00	→	10:00	95
11	10:00	→	11:00	121
12	11:00	→	12:00	155
13	12:00	→	13:00	137
14	13:00	→	14:00	158
15	14:00	→	15:00	149
16	15:00	→	16:00	189
17	16:00	→	17:00	180
18	17:00	→	18:00	154
19	18:00	→	19:00	156
20	19:00	→	20:00	206
21	20:00	→	21:00	62
22	21:00	→	22:00	27
23	22:00	→	23:00	23
24	23:00	→	00:00	47

DAILY LOCATION TOTAL	2042
----------------------	------

PACIFIC TECHNICAL DATA, LLC

PEDESTRIAN BEACH ACCESS STUDY			
SATURDAY - AUGUST 11, 2018			
CITY:		CARLSBAD	
PROJECT:		PTD18-0810-02	
LOCATION 5 - Hemlock Avenue Stairway			

1	00:00	→	01:00	4
2	01:00	→	02:00	0
3	02:00	→	03:00	0
4	03:00	→	04:00	2
5	04:00	→	05:00	2
6	05:00	→	06:00	3
7	06:00	→	07:00	27
8	07:00	→	08:00	68
9	08:00	→	09:00	57
10	09:00	→	10:00	93
11	10:00	→	11:00	81
12	11:00	→	12:00	121
13	12:00	→	13:00	115
14	13:00	→	14:00	172
15	14:00	→	15:00	150
16	15:00	→	16:00	134
17	16:00	→	17:00	173
18	17:00	→	18:00	145
19	18:00	→	19:00	111
20	19:00	→	20:00	124
21	20:00	→	21:00	39
22	21:00	→	22:00	35
23	22:00	→	23:00	24
24	23:00	→	00:00	6

DAILY LOCATION TOTAL	1686
----------------------	------

PACIFIC TECHNICAL DATA, LLC

PEDESTRIAN BEACH ACCESS STUDY			
SATURDAY - AUGUST 11, 2018			
CITY:		CARLSBAD	
PROJECT:		PTD18-0810-02	
LOCATION 6 - Cold-Water Inlet Stairway			

1	00:00	→	01:00	5
2	01:00	→	02:00	0
3	02:00	→	03:00	0
4	03:00	→	04:00	0
5	04:00	→	05:00	0
6	05:00	→	06:00	3
7	06:00	→	07:00	34
8	07:00	→	08:00	68
9	08:00	→	09:00	111
10	09:00	→	10:00	120
11	10:00	→	11:00	101
12	11:00	→	12:00	49
13	12:00	→	13:00	54
14	13:00	→	14:00	36
15	14:00	→	15:00	48
16	15:00	→	16:00	41
17	16:00	→	17:00	70
18	17:00	→	18:00	63
19	18:00	→	19:00	78
20	19:00	→	20:00	69
21	20:00	→	21:00	32
22	21:00	→	22:00	21
23	22:00	→	23:00	2
24	23:00	→	00:00	2

DAILY LOCATION TOTAL	1007
----------------------	------

PACIFIC TECHNICAL DATA, LLC

ADA Beach Access - Tamarack Blvd Stairway

Fri Aug 10, 2018

Full Length (12AM-12AM (+2))

All Classes (Pedestrians, Pedestrians, Bicycles, Bicycles)

All Channels

ID: 553192, Location: 33.147429, -117.345717

Provided by: City of Carlsbad (CA)
1635 Faraday Ave, Carlsbad, CA, 92008, US

Leg Direction	North Southbound		South Northbound		
Time	T	App	T	App	Int
2018-08-10 12:00AM	0	0	0	0	0
1:00AM	0	0	0	0	0
2:00AM	0	0	0	0	0
3:00AM	0	0	0	0	0
4:00AM	0	0	0	0	0
5:00AM	1	1	2	2	3
6:00AM	17	17	8	8	25
7:00AM	31	31	35	35	66
8:00AM	29	29	32	32	61
9:00AM	51	51	37	37	88
10:00AM	81	81	45	45	126
11:00AM	76	76	86	86	162
12:00PM	100	100	88	88	188
1:00PM	86	86	105	105	191
2:00PM	74	74	86	86	160
3:00PM	69	69	109	109	178
4:00PM	83	83	109	109	192
5:00PM	70	70	97	97	167
6:00PM	70	70	87	87	157
7:00PM	79	79	124	124	203
8:00PM	45	45	88	88	133
9:00PM	25	25	19	19	44
10:00PM	9	9	1	1	10
11:00PM	3	3	5	5	8
2018-08-11 12:00AM	1	1	1	1	2
1:00AM	2	2	2	2	4
2:00AM	0	0	1	1	1
3:00AM	0	0	0	0	0
4:00AM	1	1	0	0	1
5:00AM	7	7	4	4	11
6:00AM	30	30	9	9	39
7:00AM	59	59	49	49	108
8:00AM	71	71	70	70	141
9:00AM	91	91	87	87	178
10:00AM	111	111	82	82	193
11:00AM	147	147	101	101	248
12:00PM	122	122	113	113	235
1:00PM	156	156	142	142	298
2:00PM	156	156	168	168	324
3:00PM	113	113	163	163	276
4:00PM	116	116	191	191	307
5:00PM	126	126	143	143	269
6:00PM	136	136	162	162	298
7:00PM	117	117	199	199	316
8:00PM	66	66	79	79	145
9:00PM	30	30	28	28	58
10:00PM	4	4	19	19	23
11:00PM	0	0	2	2	2
Total	2661	2661	2978	2978	5639
% Approach	100%	-	100%	-	-
% Total	47.2%	47.2%	52.8%	52.8%	-
Pedestrians	0	0	0		
% Pedestrians	0%	0%	0%	0%	0%
Bicycles	0	0	0		

Leg Direction	North Southbound	South Northbound		
Time	T	App	T	App Int

% Bicycles	0%	0%	0%	0%	0%
Pedestrians	2661	2661	2977	2977	5638
% Pedestrians	100%	100%	100%	100.0%	100.0%
Bicycles	0	0	1	1	1
% Bicycles	-	0%	100%	0%	0.0%

*T: Thru

ADA Beach Access - Tamarack State Beach Access Road Walkway

Fri Aug 10, 2018

Full Length (12AM-9:45AM (+1))

All Classes (Pedestrians, Pedestrians)

All Channels

ID: 554529, Location: 33.147551, -117.345407

Provided by: City of Carlsbad (CA)
1635 Faraday Ave, Carlsbad, CA, 92008, US

Leg Direction	North Southbound		South Northbound		Int
	T	App	T	App	
Time					
2018-08-10 12:00AM	0	0	0	0	0
12:15AM	0	0	0	0	0
12:30AM	0	0	0	0	0
12:45AM	0	0	0	0	0
Hourly Total	0	0	0	0	0
1:00AM	0	0	0	0	0
1:15AM	0	0	0	0	0
1:30AM	0	0	0	0	0
1:45AM	0	0	0	0	0
Hourly Total	0	0	0	0	0
2:00AM	0	0	0	0	0
2:15AM	0	0	0	0	0
2:30AM	0	0	0	0	0
2:45AM	0	0	0	0	0
Hourly Total	0	0	0	0	0
3:00AM	0	0	0	0	0
3:15AM	0	0	0	0	0
3:30AM	0	0	0	0	0
3:45AM	0	0	0	0	0
Hourly Total	0	0	0	0	0
4:00AM	0	0	0	0	0
4:15AM	0	0	0	0	0
4:30AM	0	0	0	0	0
4:45AM	0	0	0	0	0
Hourly Total	0	0	0	0	0
5:00AM	0	0	0	0	0
5:15AM	1	1	0	0	1
5:30AM	1	1	0	0	1
5:45AM	1	1	2	2	3
Hourly Total	3	3	2	2	0
6:00AM	0	0	2	2	2
6:15AM	2	2	1	1	3
6:30AM	0	0	4	4	4
6:45AM	2	2	3	3	5
Hourly Total	4	4	10	10	0
7:00AM	4	4	5	5	9
7:15AM	13	13	3	3	16
7:30AM	15	15	7	7	22
7:45AM	7	7	9	9	16
Hourly Total	39	39	24	24	0
8:00AM	7	7	5	5	12
8:15AM	3	3	10	10	13
8:30AM	5	5	4	4	9
8:45AM	6	6	4	4	10
Hourly Total	21	21	23	23	0
9:00AM	11	11	7	7	18
9:15AM	11	11	5	5	16
9:30AM	18	18	7	7	25
9:45AM	13	13	5	5	18
Hourly Total	53	53	24	24	0
10:00AM	12	12	7	7	19
10:15AM	18	18	11	11	29
10:30AM	13	13	3	3	16
10:45AM	10	10	3	3	13

Leg Direction	North Southbound		South Northbound		
Time	T	App	T	App	Int
Hourly Total	53	53	24	24	0
11:00AM	16	16	5	5	21
11:15AM	8	8	4	4	12
11:30AM	19	19	7	7	26
11:45AM	14	14	18	18	32
Hourly Total	57	57	34	34	0
12:00PM	4	4	1	1	5
12:15PM	6	6	7	7	13
12:30PM	6	6	5	5	11
12:45PM	9	9	8	8	17
Hourly Total	25	25	21	21	0
1:00PM	3	3	4	4	7
1:15PM	10	10	9	9	19
1:30PM	15	15	5	5	20
1:45PM	0	0	4	4	4
Hourly Total	28	28	22	22	0
2:00PM	8	8	3	3	11
2:15PM	12	12	5	5	17
2:30PM	12	12	18	18	30
2:45PM	1	1	4	4	5
Hourly Total	33	33	30	30	0
3:00PM	13	13	4	4	17
3:15PM	17	17	3	3	20
3:30PM	8	8	4	4	12
3:45PM	14	14	14	14	28
Hourly Total	52	52	25	25	0
4:00PM	20	20	12	12	32
4:15PM	12	12	10	10	22
4:30PM	16	16	8	8	24
4:45PM	10	10	15	15	25
Hourly Total	58	58	45	45	0
5:00PM	8	8	4	4	12
5:15PM	16	16	7	7	23
5:30PM	6	6	9	9	15
5:45PM	9	9	3	3	12
Hourly Total	39	39	23	23	0
6:00PM	13	13	4	4	17
6:15PM	6	6	6	6	12
6:30PM	23	23	13	13	36
6:45PM	31	31	4	4	35
Hourly Total	73	73	27	27	0
7:00PM	19	19	19	19	38
7:15PM	12	12	8	8	20
7:30PM	32	32	6	6	38
7:45PM	30	30	12	12	42
Hourly Total	93	93	45	45	0
8:00PM	24	24	13	13	37
8:15PM	21	21	10	10	31
8:30PM	15	15	2	2	17
8:45PM	1	1	1	1	2
Hourly Total	61	61	26	26	0
9:00PM	3	3	3	3	6
9:15PM	0	0	5	5	5
9:30PM	2	2	6	6	8
9:45PM	1	1	5	5	6
Hourly Total	6	6	19	19	0
10:00PM	0	0	0	0	0
10:15PM	0	0	1	1	1
10:30PM	4	4	2	2	6
10:45PM	4	4	0	0	4

Leg Direction	North		South		Int
	Southbound		Northbound		
Time	T	App	T	App	
Hourly Total	8	8	3	3	0
11:00PM	0	0	2	2	2
11:15PM	1	1	2	2	3
11:30PM	0	0	0	0	0
11:45PM	0	0	2	2	2
Hourly Total	1	1	6	6	0
2018-08-11 12:00AM	0	0	0	0	0
12:15AM	0	0	0	0	0
12:30AM	0	0	0	0	0
12:45AM	0	0	0	0	0
Hourly Total	0	0	0	0	0
1:00AM	0	0	0	0	0
1:15AM	0	0	3	3	3
1:30AM	0	0	0	0	0
1:45AM	0	0	0	0	0
Hourly Total	0	0	3	3	0
2:00AM	0	0	0	0	0
2:15AM	0	0	0	0	0
2:30AM	0	0	0	0	0
2:45AM	0	0	0	0	0
Hourly Total	0	0	0	0	0
3:00AM	0	0	0	0	0
3:15AM	0	0	0	0	0
3:30AM	1	1	3	3	4
3:45AM	1	1	0	0	1
Hourly Total	2	2	3	3	0
4:00AM	0	0	0	0	0
4:15AM	0	0	0	0	0
4:30AM	0	0	0	0	0
4:45AM	0	0	0	0	0
Hourly Total	0	0	0	0	0
5:00AM	0	0	0	0	0
5:15AM	0	0	0	0	0
5:30AM	0	0	1	1	1
5:45AM	3	3	1	1	4
Hourly Total	3	3	2	2	0
6:00AM	1	1	2	2	3
6:15AM	3	3	2	2	5
6:30AM	7	7	4	4	11
6:45AM	7	7	1	1	8
Hourly Total	18	18	9	9	0
7:00AM	7	7	6	6	13
7:15AM	8	8	11	11	19
7:30AM	8	8	8	8	16
7:45AM	7	7	5	5	12
Hourly Total	30	30	30	30	0
8:00AM	8	8	19	19	27
8:15AM	21	21	19	19	40
8:30AM	11	11	13	13	24
8:45AM	10	10	5	5	15
Hourly Total	50	50	56	56	0
9:00AM	15	15	12	12	27
9:15AM	14	14	18	18	32
9:30AM	18	18	8	8	26
9:45AM	2	2	1	1	3
Hourly Total	49	49	39	39	0
Total	859	859	575	575	1434
% Approach	100%	-	100%	-	-
% Total	59.9%	59.9%	40.1%	40.1%	-
Pedestrians	0	0	0		

Leg Direction	North Southbound		South Northbound		
Time	T	App	T	App	Int
% Pedestrians	0%	0%	0%	0%	0%
Pedestrians	859	859	575	575	1434
% Pedestrians	100%	100%	100%	100%	100.0%

*T: Thru

Appendix B
Vegetation Constraints Memorandum

Memorandum

To	Matt Capuzzi, Chen Ryan	Page	1
CC			
Subject	ADA Accessibility - Vegetation Constraints Review		
From	Cindy Kinkade, AECOM		
Date	December 20, 2018		

Various siting options for ADA access to Carlsbad State Beach along Carlsbad Boulevard between Pine Avenue and Tamarack Avenue are currently being considered. One consideration in siting may be quality and density of native vegetation along the existing bluff. To aid in siting considerations that may minimize impacts to native habitats, this qualitative assessment was conducted of bluff habitats supporting native plants along the coastal bluffs in the project vicinity. Bluffs in the project area have received various levels of habitat restoration/enhancement in recent years through the coordinated efforts of the City of Carlsbad, Carlsbad State Park, and community volunteers. These restoration activities have included the installation of irrigation systems, the planting of native species, and the treatment and removal of invasive species. Specific areas within the proposed project area continue to be characterized by sparse vegetation and/or bare patches and/or the presence of non-native or invasive species.

This assessment included a field inspection of the site to determine species composition and relative cover values for native plants, non-native plants, and unvegetated areas. Bluff habitats were divided into areas (polygons) of similar cover proportions and depicted on a map (attached). Relative cover values (totaling 100%) were assigned to each polygon by visual inspection of recent aerial imagery (SANDAG 2017) and comparison to a California Native Plant Society cover diagram (https://cnps.org/wp-content/uploads/2018/03/percent_cover_diag-cnps.pdf).

Common native species observed in the study area included coast prickly pear (*Opuntia littoralis*), California fuchsia (*Epilobium canum*), seacliff buckwheat (*Eriogonum parvifolium*), California boxthorn (*Lycium californicum*), coastal goldenbush (*Isocoma menziesii*), coast cholla (*Cylindropuntia prolifera*), and California encelia (*Encelia californica*). Common non-native species observed included, ngaio (*Myoporum laetum*), sea lavender (*Limonium perezii*), and natal plum (*Carissa macrocarpa*).

On the basis of the relative cover values, each of the 12 mapped polygons was then ranked from *highest potential impact to native plant resources* (Rank of 1) to *lowest potential impact to native plant resources* (Rank of 12) on the basis of the assigned cover value using the following assumptions:

- Higher relative cover value of native plant *implies higher potential impacts*
- Higher relative cover value of non-native plants *implies lower potential impacts*
- Higher relative cover value of unvegetated *implies lower potential impacts*

The assigned cover values and overall rank are presented in the attached table, and a graphical representation of the overall ranking is presented in the attached figure.

Vegetation Polygon (North to South)	% Cover Native	% Cover NonNative	% Cover Unvegetated	Rank
A	20	5	75	8
B	15	5	80	11
C	60	10	30	4
D	35	10	55	6
E	80	0	20	3
F	15	5	80	9
G	15	0	85	10
H	0	60	40	12
I	80	5	15	1
J	80	15	5	2
K	25	15	60	7
L	75	0	25	5

The vegetation assessment provides a ranking for potential habitat impacts associated with construction of ADA access along Carlsbad Boulevard. Polygons with the highest ranking (red on the attached figure) would result in the lowest degree of impact to native and/or dense vegetation along the bluffs, while those with lower rankings (green on the attached figure) represent those areas that should be avoided if feasible. For example, Polygon I has the lowest ranking of 1 and would result in the highest amount of impacts to native and/or dense vegetation, therefore this area should be avoided if possible. Polygon H has the highest ranking of 12 and would result in the least amount of impacts. Impacts to this resource represent one consideration among many, and may help inform siting efforts for the proposed project. Please feel free to contact me at (619) 610-7801 or cindy.kinkade@aecom.com to discuss the project and we will expedite any requests for additional information.

Sincerely,

Cindy Kinkade
AECOM Project Manager

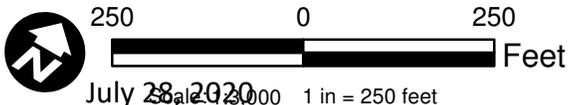
Attachments:
ADA Accessibility Habitat Value Assessment Map

Path: P:_6058\60586864_CbadADABeach\900-CAD-GIS\920 GIS\map_docs\mxd\Carlsbad Habitat Value Rank.mxd, 12/20/2018, 3:13:10 PM



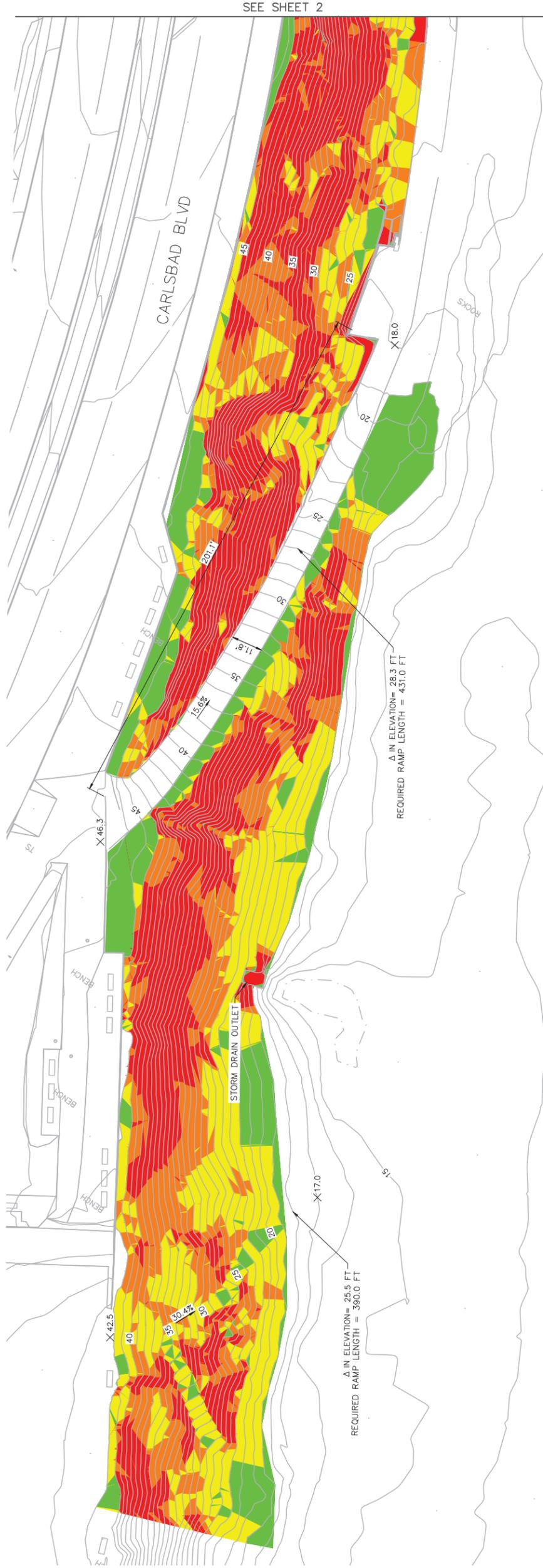
Rank	% Cover Native	% Cover NonNative	% Cover Unvegetated	Vegetation Polygon
0	60	40	H	
15	5	80	B	
15	0	85	G	
15	5	80	F	
20	5	75	A	
25	15	60	K	
35	10	55	D	
75	0	25	L	
60	10	30	C	
80	0	20	E	
80	15	5	J	
80	5	15	I	

Source: SANDAG 2017



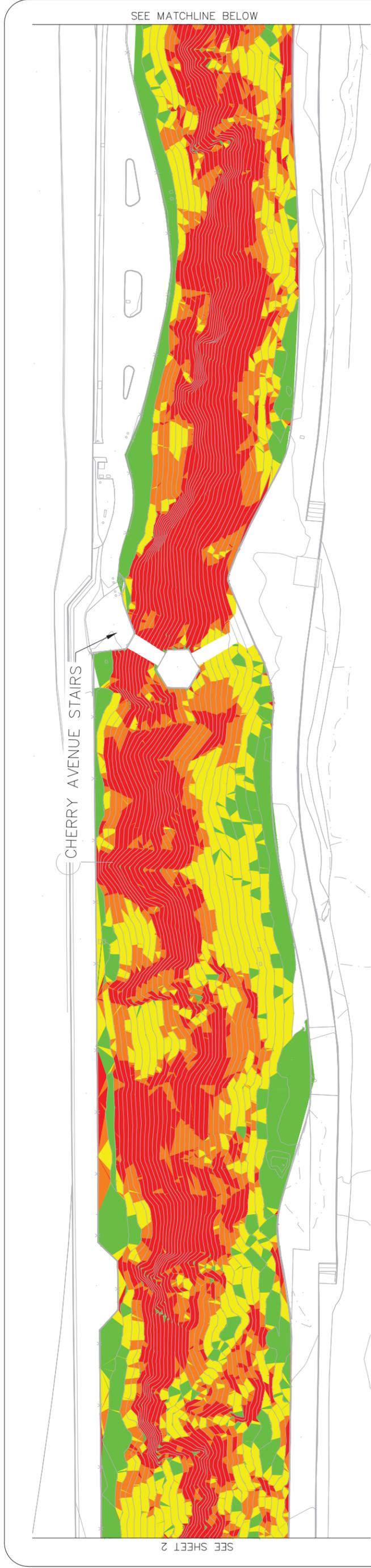
Appendix C

Existing Conditions Analysis



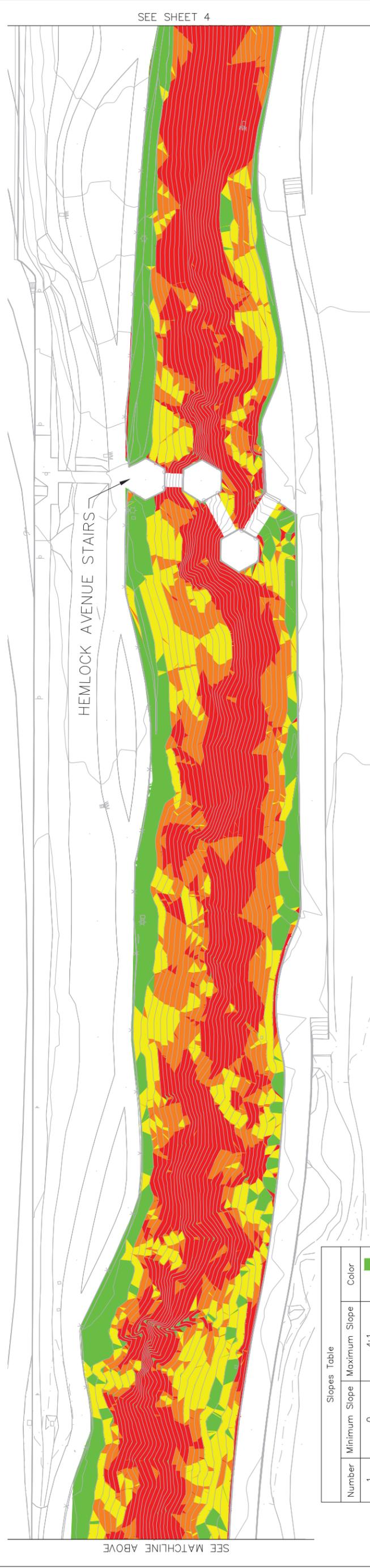
Slopes Table

Number	Minimum Slope	Maximum Slope	Color
1	0	4:1	
2	4:1	2.5:1	
3	2.5:1	2:1	
4	GREATER THAN 2:1		



SEE SHEET 2

SEE MATCHLINE BELOW



SEE MATCHLINE ABOVE

SEE SHEET 4

Number	Minimum Slope	Maximum Slope	Color
1	0	4:1	Green
2	4:1	2.5:1	Yellow
3	2.5:1	2:1	Orange
4	GREATER THAN 2:1		Red

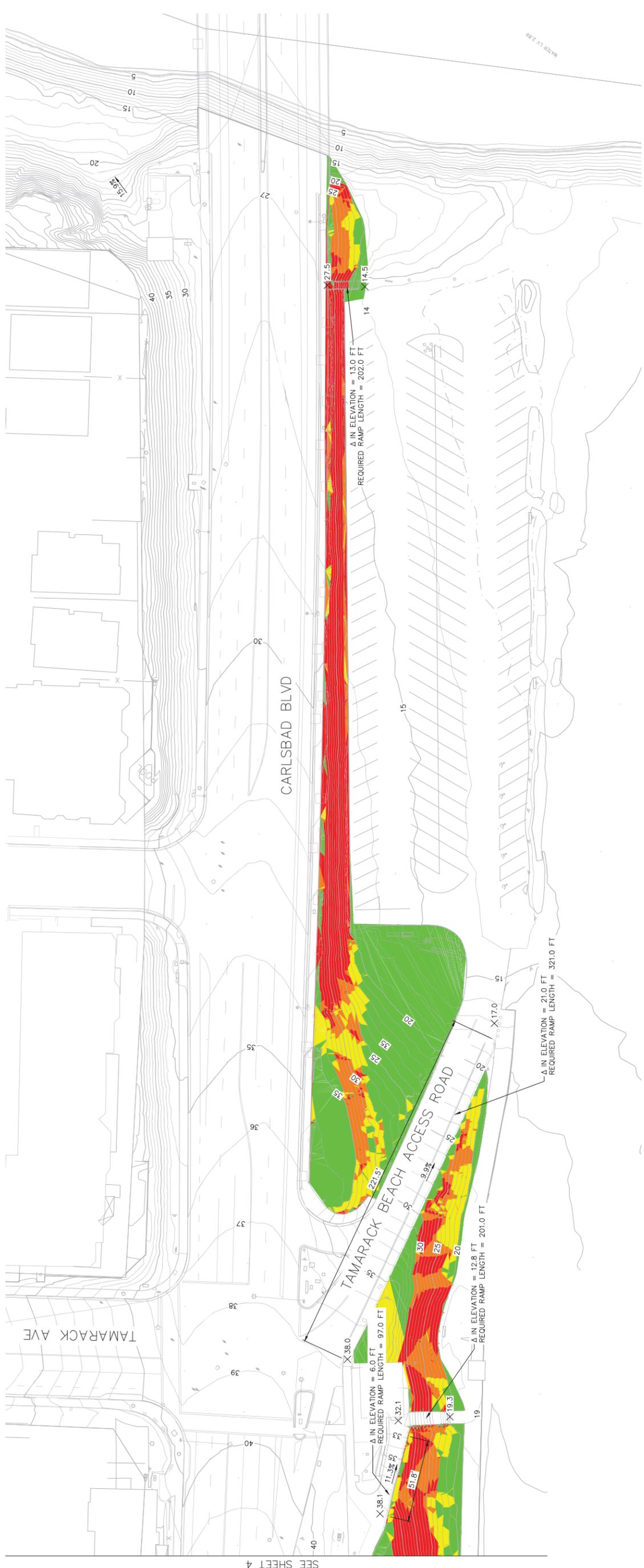


P:\Project\2018\2018_Carlsbad ADA Feasibility Study\CAD\CAD\2024_Existing Conditions Slope Analysis - Turnback to Pre-Design Plot_Janathon U. Sanchez Date: 10/25/2018 15:45:22 PM



Slopes Table			
Number	Minimum Slope	Maximum Slope	Color
1	0	4:1	
2	4:1	2.5:1	
3	2.5:1	2:1	
4	GREATER THAN 2:1		





Slopes Table			
Number	Minimum Slope	Maximum Slope	Color
1	0	4:1	Green
2	4:1	2.5:1	Yellow
3	2.5:1	2:1	Orange
4	GREATER THAN 2:1		Red

Appendix D

Pine Avenue and Tamarack Avenue Ramp Options



PINE AVE RAMP

CARLSBAD BEACH AND LAGOON
CARLSBAD, CA



0 10 20 40
SCALE: 1" = 20'-0"

Project Number: 18-106
Date: June 3, 2019



July 28, 2020

Item #6 Page 64 of 82

**SCHMIDT
DESIGN
GROUP**



1310 Rosecrans St., Suite G, San Diego, CA 92106
619.236.1462
LIC. CA. 21381 | NV. 219 | AZ. 34139
SCHMIDTDIGNS.COM

PINE AVE RAMP

CARLSBAD BEACH AND LAGOON

CARLSBAD, CA



SCALE: 1" = 20'-0"

Project Number: 18-106
Date: June 3, 2019



PINE AVE RAMP

CARLSBAD BEACH AND LAGOON
CARLSBAD, CA



SCALE: 1" = 20'-0"

Project Number: 18-106
Date: June 3, 2019



PINE AVE RAMP

CARLSBAD BEACH AND LAGOON
CARLSBAD, CA

N. PINE AVE. OPT. 4
2-18-2019

38' = 2.5' RISE + LANDING
40' RAMP



SCALE: 1" = 20'-0"





TAMARACK - OPTION 1 (10' wide)

CARLSBAD BEACH AND LAGOON
CARLSBAD, CA



SCALE : 1" = 20'-0"





July 28, 2020

Item #6 Page 58 of 82

**SCHMIDT
DESIGN
GROUP**

1310 Rosecrans St., Suite G, San Diego, CA 92106
619.236.1462
LIC. CA 2138 | NV 219 | AZ 34139
SCHMIDTDESIGN.COM



TAMARACK - OPTION 2 (6' wide)

CARLSBAD BEACH AND LAGOON
CARLSBAD, CA



Project Number: 18-106
Date: March 6, 2019



July 28, 2020

Item #6 Page 59 of 82



SCALE : 1" = 20'-0"

Project Number: 18-106
Date: March 6, 2019

TAMARACK - OPTION 2 (10' wide)

CARLSBAD BEACH AND LAGOON
CARLSBAD, CA

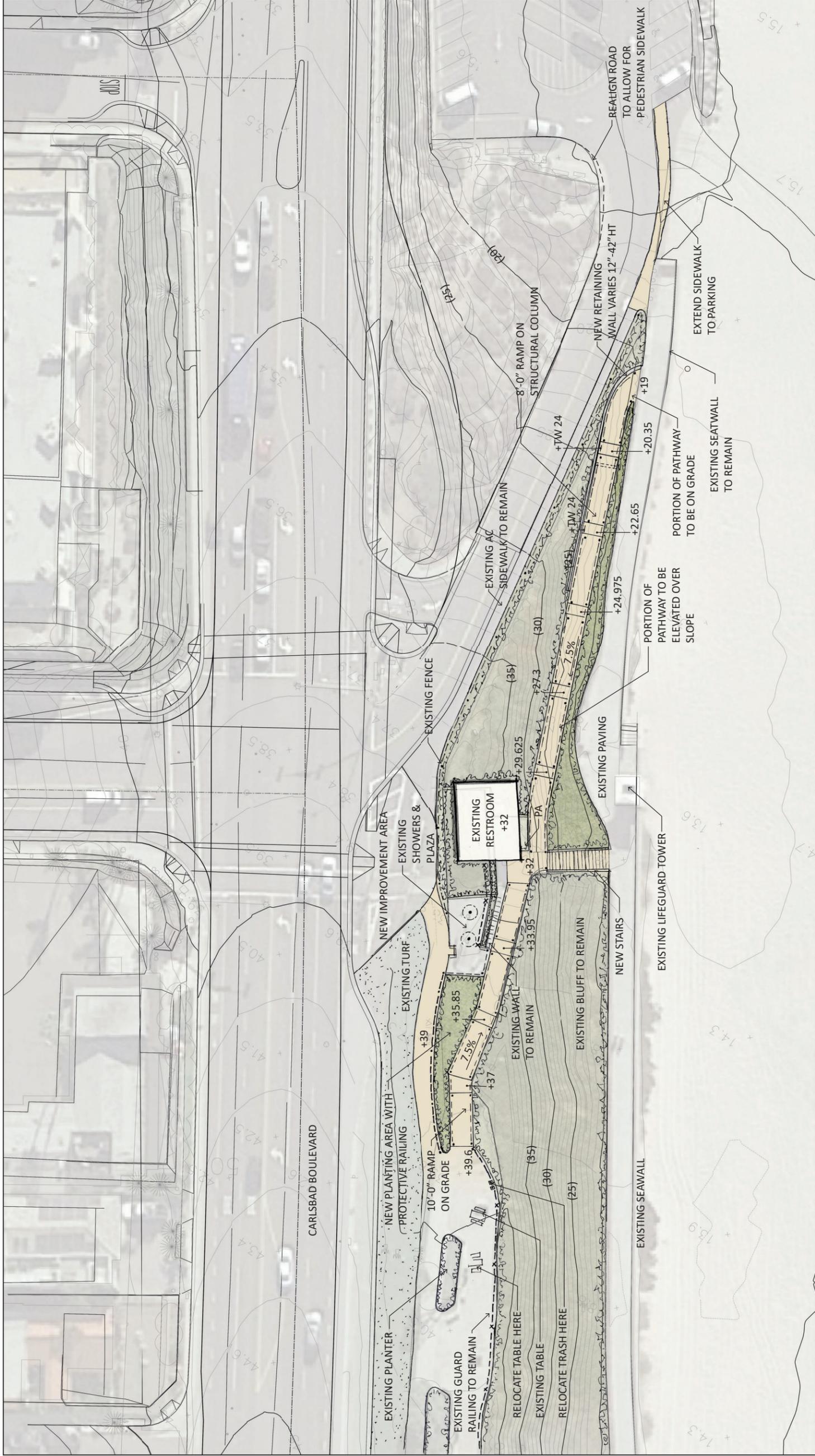
**SCHMIDT
DESIGN
GROUP**



1310 Rosecrans St., Suite G, San Diego, CA 92106
619.236.1462
LIC. CA 2138 | NV 219 | AZ 34139
SCHMIDTDESIGN.COM

Appendix E

Pine Avenue and Tamarack Avenue Ramps



SCALE: 1" = 20'-0"
 Project Number: 18-106
 Date: April 5, 2019

TAMARACK RAMP BEACH ACCESS

CARLSBAD BEACH AND LAGOON
 CARLSBAD, CA

**SCHMIDT
 DESIGN
 GROUP**



1310 Rosecrans St., Suite G, San Diego, CA 92106
 619.236.0462
 LIC. CA. 2138 | INV. 219 | AZ. 34139
 SCHMIDTDESIGN.COM

Appendix F OPCC and Structures Estimate

Carlsbad ADA Beach Access Feasibility Study
 Opinion of Probable Construction Costs

Type		ADA Beach Access from Carlsbad
Structural		
	Raised ramp (1) supported on pile extensions at each landing	
Lump Sum		\$1,700,000.00
Civil		
	Site Prep, Clearing and Grubbing, Traffic Control, Staging, Erosion Control, Staking, Utility Adjustments, BMPs	
Lump Sum		\$500,000.00
Landscape & Aesthetics		
	Landscape, Irrigation, Custom Railings, Etc.	
Lump Sum		\$300,000.00
Engineering & Environmental		
	CEQA and PS&E	
Lump Sum		\$300,000.00
	TOTAL	\$2,800,000.00

Cost includes 25% contingency
 Cost does not include escalation

July 28, 2020

1. ADA Beach Access from Carlsbad Boulevard

Structure Type: Raised ramp supported on pile extension at each landing.

Ramp Length	476	ft	Based on information provided by Chen Ryan Associates via email on 1/2/19.
Ramp Width	10	ft	As requested by City during February PDT meeting
Ramp Area=	4,760	SF	
Cost/ SF=	\$ 325		Based on previous projects with similar structure type and Caltrans Comparative Bridge Costs, scaled by the appropriate Bridge Cost index ratio. 48" CIDH Piles assumed at each landing.
Structure Cost=	\$ 1,547,000		Includes 25% Contingency

For Budget, Use \$ 1,600,000

Appendix G Environmental Constraints Table

Carlsbad ADA Beach Access Feasibility Study – Environmental Constraints Analysis Table

Alternatives Summary

The Pine Avenue Americans with Disabilities Act (ADA) Ramp project would involve constructing an ADA compliant ramp that begins at the parking lot north of the intersection of Pine Avenue and Carlsbad Boulevard. The 389-foot ramp would change direction once, extending the pathway southward within the bluffs. The ramp would be designed with an incline of 7.8 percent. One bench would be installed at the top of the ramp to provide a viewing point for the public. The ramp would be elevated as it descends the bluff, ranging at distances of approximately 2 to 9 feet above the existing bluff below. Two or three disabled parking places would be designated in the existing parking lot.

The proposed Tamarack Avenue ADA Ramp is approximately 3,500 feet south of the Pine Avenue ADA Ramp, across from the intersection of Tamarack Avenue and Carlsbad Boulevard. The ramp would begin at the top of the bluff near existing facilities (i.e., showers, plaza, and restrooms) and would extend southward, parallel to the existing access road to the California State Parks (State Parks) parking lot. Current facilities at this access point are not ADA accessible. Construction of the Tamarack Avenue ADA Ramp would create an ADA compliant pathway and would generally improve public access to the beach and Lower Sea Wall at this access point. The existing road/sidewalk south of the proposed ramp would remain the same. Additionally, the existing staircase located perpendicular to the new ramp would be reconstructed. A portion of the ramp would be elevated along the bluff (approximately 60 percent) ranging between 2 and 5 feet above the existing bluff. The ramp would be 196 feet, starting at the access to the existing restroom, and have an incline of 7.5 percent. The existing ramp down to the restrooms would also be rebuilt to be ADA compliant. The design of the Tamarack Avenue Ramp uses existing access points and disturbed areas to the extent possible in order to minimize impacts to the previously undisturbed bluff.

Issue Area	Existing Conditions/Assumptions	Pine Avenue ADA Ramp	Tamarack Avenue ADA Ramp	Constraints Summary
Aesthetics	<ul style="list-style-type: none"> The existing bluff is mostly unvegetated at the proposed Pine Avenue ADA Ramp location, while the majority of the bluff is vegetated (planted) near the Tamarack Avenue ADA Ramp. There are no designated scenic resources in the area. 	<ul style="list-style-type: none"> Construction of the ramp would begin at the existing parking lot elevation (i.e., would not rise higher than current bluff elevation). Landscaping of native vegetation would be established adjacent to ramp. Design would be less intrusive compared to other existing structures of stairs along this segment of beach, since this ramp would be built closer to grade along the slope of the bluff as compared to existing staircases along the coastline. 	<ul style="list-style-type: none"> Construction of the ramp and staircase would begin at the same level of existing facilities and would not rise higher than the current bluff elevation. Landscaping of native vegetation would be established adjacent to ramp. The existing staircase would be updated, which is built to grade along the bluff. 	<ul style="list-style-type: none"> Overall, the difference in aesthetics between both options would be minimal aside from the existing staircase which would remain built to grade along the bluff. However, the Tamarack Avenue ADA Ramp incorporates planting to complement the existing facilities area. The raised structures could be perceived as large from vantage points along the beach. However, these structures would be less intrusive compared to the existing staircases along this section of coastline and impacts would be minimal. Both options would not interfere with pedestrian/traffic views of the coastline.
Air Quality	<ul style="list-style-type: none"> It is assumed that no operational sources are associated with either option; therefore, only construction impacts are evaluated. Sensitive receptors are not located in the vicinity of the proposed projects. 	<ul style="list-style-type: none"> Potential impacts due to construction would be temporary. Standard construction equipment would be used and applicable avoidance and minimization measures would be implemented. 	<ul style="list-style-type: none"> Potential impacts due to construction would be temporary. Standard construction equipment would be used and applicable avoidance and minimization measures would be implemented. 	<ul style="list-style-type: none"> Potential air quality impacts related to construction of the proposed ramps would be similar between the two projects. Air quality emissions associated with the proposed projects include emissions from construction. However, operations associated with construction would minimize emissions through standard construction measures, storm water pollution prevention plan measures, and best management practices. It is assumed impacts would not occur to sensitive receptors as none are located in the vicinity of the proposed projects.

Carlsbad ADA Beach Access Feasibility Study – Environmental Constraints Analysis Table

Issue Area	Existing Conditions/Assumptions	Pine Avenue ADA Ramp	Tamarack Avenue ADA Ramp	Constraints Summary
Biological Resources	<ul style="list-style-type: none"> In the Vegetation Constraints Review Memo prepared by AECOM for the proposed projects, the North of Pine Avenue Ramp footprint evaluated along this section of bluff is identified as 20% natives, 5% nonnatives, and 75% unvegetated (AECOM 2018a). This area has a ranking of 8 out of 12 (where a rank of 12 is the lowest potential impact to native plant resources). The Tamarack Avenue Ramp footprint covers two areas identified in the memo, known as I and J. These areas encompass 80% native, 5% nonnative, 15% unvegetated and 80% native, 15% nonnative, 5% unvegetated, respectively. They rank 1 and 2 for potential habitat impacts (where a rank of 1 is the highest potential to impact native plant resources). Endangered, threatened, or proposed for listing/rare wildlife are not known to use the proposed project site since habitat is low quality, fragmented vegetation interspersed with sandy bluff too minimal to support species. Implementation of both projects would avoid the aquatic environment. This area is not located within the City of Carlsbad's Habitat Management Plan (HMP) and is not designated as a significant wildlife corridor (City of Carlsbad 2004). 	<ul style="list-style-type: none"> Equipment staging during construction would most likely occur in existing developed areas (e.g., parking lot at top of ramp). Impacts to vegetation may occur with installation of the ramp (e.g., vegetation removal). Once constructed, the shadow created by the ramp may shade vegetation and could potentially inhibit plant growth. 	<ul style="list-style-type: none"> Equipment staging during construction would most likely occur in existing developed areas. Impacts to vegetation may occur with installation of the ramp and staircase (e.g., vegetation removal). Once constructed, the shadow created by the elevated portions of the ramp may shade vegetation and could potentially inhibit plant growth. The existing staircase that would be updated as part of this design is currently at grade and is not expected to contribute to shadowing effects from vegetation. 	<ul style="list-style-type: none"> The Pine Avenue ADA Ramp would have a slightly larger impact area compared to the Tamarack Avenue ADA Ramp as the design of the ramp is primarily focused on an undisturbed segment of bluff. Design of the Tamarack Avenue ADA Ramp incorporates the existing access footprint to the extent possible. For example, the existing staircase at the Tamarack Avenue ADA Ramp is in need of repair and upgrades are proposed to the existing structure within the previously disturbed footprint. Additionally, the new ramp which would provide access to the existing restrooms and associated improvements are within previously disturbed areas. In both options, vegetation is proposed along the access ramp. The ramp footprint in the Pine Avenue ADA Ramp would impact more undisturbed bluff than the Tamarack Avenue ADA Ramp. However, while more undisturbed bluff is expected to be impacted at North of Pine Avenue, this area is of lesser habitat value than the cover type existing in the vicinity of the Tamarack Avenue ADA Ramp (AECOM 2018a). The Tamarack Avenue ADA Ramp design uses existing infrastructure at the staircase and north of the public facilities, which would minimize impacts to previously planted vegetation. Since vegetation in the Tamarack Avenue Ramp footprint has grown in successfully, this recruitment shows temporary vegetation impacts along the bluff could be successfully established post-construction. Best management practices would be implemented to ensure plant establishment along the bluff in both locations. Neither proposed project footprint functions as a terrestrial wildlife movement corridor. The movement of marine species would not be affected by the proposed projects' activities, as there would be no permanent or temporary blockage of the open water corridor. No impacts are anticipated to wildlife movement/corridors with implementation of either project. Avoidance and minimization measures would be implemented to minimize potential impacts to wildlife species, if found, such as clearance surveys for birds or other sensitive species (e.g., silvery legless lizard, a California Department of Fish and Wildlife species of special concern) as required, or vegetation removal outside of the breeding season.
Cultural/Tribal Cultural Resources	<ul style="list-style-type: none"> A previous records search was conducted in the vicinity of the proposed projects for the Carlsbad Boulevard and Tamarack Avenue Improvement Project in 2017 (AECOM 2018b). The records search area encompassed all of the Tamarack Avenue ADA Ramp option and a portion of the Pine 	<ul style="list-style-type: none"> The proposed project would be constructed on previously undisturbed bluffs known as the Santiago Formation (AECOM 2018b). Potential for impact could occur if a previously unknown 	<ul style="list-style-type: none"> For the most part, the proposed project would be constructed on previously disturbed ground, although excavation for footings/foundations could extend into previously undisturbed bluff 	<ul style="list-style-type: none"> Standard surveys, analysis, and mitigation measures (e.g., consulting a qualified archaeologist and a Native American representative, if applicable) would be implemented prior to and during construction because cultural sites have been identified within a 0.5-mile radius of the proposed project areas, and the coastal region of

Carlsbad ADA Beach Access Feasibility Study – Environmental Constraints Analysis Table

Issue Area	Existing Conditions/Assumptions	Pine Avenue ADA Ramp	Tamarack Avenue ADA Ramp	Constraints Summary
	<p>Avenue ADA Ramp footprint. The previous records search indicated 20 studies have been conducted, four cultural resources were previously recorded, and one cultural resource was identified during a pedestrian survey, all within a 0.5 mile vicinity of the proposed projects. After consulting with the Native American Heritage Council, it was determined that no Native American places or sites were on file in the vicinity of the proposed project sites.</p> <ul style="list-style-type: none"> One cultural resource has been identified within the Tamarack Avenue ADA Ramp option footprint, known as the Tamarack Avenue Comfort Station. A historical background study and determination of eligibility was prepared in 2016 and indicated that the Comfort Station is potentially eligible for listing on the California Register of Historical Resources and National Register of Historic Places (AECOM 2018b; Bevil 2016). Separate record and Sacred Lands File searches could be completed to confirm cultural and/or tribal cultural resources are not in the proposed footprint for the Pine Avenue ADA Ramp. Given the recent results in the Cultural Resources Phase 1 Survey Report conducted for the Carlsbad Boulevard and Tamarack Avenue Improvement Project, it is assumed cultural and/or tribal cultural resources are not in the vicinity of the Pine Avenue ADA Ramp. 	<p>resource was discovered during ground disturbing activities.</p>	<p>formations (e.g., Santiago Formation). Potential for impact could occur if a previously unknown resource was discovered during ground disturbing activities.</p>	<p>San Diego County retains a high level of cultural sensitivity to Native American tribes (AECOM 2018b).</p> <ul style="list-style-type: none"> If feasible, project design would avoid the Comfort Station at the Tamarack Avenue ADA Ramp; the proposed project would provide ADA access as well as improved general public access to this structure. The Pine Avenue ADA Ramp may present more of an opportunity to encounter unknown resources since more ground disturbance would occur on undeveloped bluff. Both options would follow standard procedures for protecting cultural resources.
Geotechnical/Geology	<ul style="list-style-type: none"> There are no active faults identified through Carlsbad, and the California Geologic Survey does not include Carlsbad on list of cities affected by the Alquist-Priolo Earthquake Fault Zones. However, Carlsbad is in a seismically active region and is subject to ground-shaking during an earthquake. Geotechnical stability analyses were performed, indicating the coastal bluffs in the project area currently have adequate factors of safety against deep instability and would not be located on an unstable geologic unit or on expansive soils (AECOM 2016a). As stated in the General Plan, the city of Carlsbad is located within the coastal portion of the Peninsular Ranges Geomorphic Province, a region characterized by northwest-trending structural blocks and intervening fault zones (City of Carlsbad 2015a). The proposed project areas consist of fill material and terrace deposits where the base of the bluffs is characterized by the Santiago Formation and relatively resistant sandstone forms the lower 	<ul style="list-style-type: none"> The proposed project would be constructed on a previously undeveloped site where soil removal would be required to install piles for the elevated ramp design. Potential impacts could occur with soil removal, which would be required to install piles for the elevated ramp design. 	<ul style="list-style-type: none"> The majority of the proposed project would be constructed on a previously developed site and generally the same footprint as the existing walkway and staircase. Potential impacts could occur with soil removal, required to install piles for the elevated ramp design. 	<ul style="list-style-type: none"> Although loss of topsoil from project implementation is not anticipated to be substantial, and erosion would most likely decrease with project implementation due to reduced use of informal trails, in order to minimize the potential impacts of soil erosion or the loss of topsoil, avoidance and minimization measures would be adopted with implementation of both options (e.g., erosion control and revegetation/planting plan, City review of site grading plan to ensure compliance with code requirements). The proposed project may decrease informal trail use, especially in the vicinity of the Pine Avenue ADA Ramp, which contributes to substantial soil erosion estimated to be approximately 1 foot per year along the northern part of the bluffs (AECOM 2016b). Both options would adhere to all applicable building and seismic codes and regulations therefore, not exposing people or structures to potential substantial adverse effects, including risk of loss, injury, or death due to severe ground shaking. Due to the nature of the site as described under existing conditions, impacts related to increased slope instability,

Carlsbad ADA Beach Access Feasibility Study – Environmental Constraints Analysis Table

Issue Area	Existing Conditions/Assumptions	Pine Avenue ADA Ramp	Tamarack Avenue ADA Ramp	Constraints Summary
Greenhouse Gas Emissions	<p>portion of the bluff (AECOM 2016a). Pleistocene terrace deposits compose the upper portion of the bluff, above an elevation of approximately 8 to 12 feet above mean sea level (AECOM 2016a).</p> <ul style="list-style-type: none"> It is assumed that no operational sources are associated with either project; therefore, only construction impacts are evaluated. The City of Carlsbad adopted a Climate Action Plan (CAP) that outlines actions that the city will undertake to achieve its proportional share of the state greenhouse gas (GHG) emissions reductions. The CAP is a plan for the reduction of GHG emissions in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15183.5. Pursuant to CEQA Guidelines Sections 15064(h)(3), 15130(d), and 15183(b), a project's incremental contribution to a cumulative GHG emissions effect may be determined not to be cumulatively considerable if it complies with the requirements of the CAP. 	<ul style="list-style-type: none"> Standard construction equipment would be used and standard emissions controls would be implemented. 	<ul style="list-style-type: none"> Standard construction equipment would be used and standard emissions controls would be implemented. 	<p>landslides, or other adverse seismic-induced geologic hazards are not anticipated.</p> <ul style="list-style-type: none"> GHG emissions related to construction of the project would be similar between projects. Similar construction equipment would likely be used, and vehicle trips to the construction site would be similar. Both options are expected to be in compliance with the Carlsbad CAP and would not emit at or above the CAP screening threshold of 900 metric tons of CO2 equivalent, as outlined in the CAP Consistency Checklist. Additionally, both options' incremental contribution to a cumulative GHG emissions effect would not be considered cumulatively considerable, because they would comply with requirements of the CAP.
Land Use	<ul style="list-style-type: none"> Both proposed projects are surrounded by residential development to the east and the Pacific Ocean to the west. Both options are in the coastal zone and subject to regulations per the California Coastal Act. Proposed ramp improvements are located at Carlsbad State Beach, which State Parks has jurisdiction over. 	<ul style="list-style-type: none"> The proposed project would comply with applicable land use policies and guidelines. 	<ul style="list-style-type: none"> The proposed project would comply with applicable land use policies and guidelines. 	<ul style="list-style-type: none"> Both options would conform to applicable land use policies and guidelines (e.g., Coastal Act) and appropriate resource agencies would be involved during the permitting process (e.g., California Coastal Commission, California State Parks). Proposed ramps would establish ADA compliant features along the bluff, improve general public access to the beach, and would be consistent with existing land use and recreation for the area.
Noise	<ul style="list-style-type: none"> It is assumed that no operational sources are associated with either option, therefore only construction impacts are evaluated. The closest noise sensitive receptors to the Pine Avenue ADA Ramp is a single-family residential structure located approximately 150 feet north of the site and multi-residential units approximately 150 feet east of the nearest construction boundary. The closest noise sensitive receptor to the Tamarack Ramp Avenue option is a multi-residential structure located approximately 250 feet southeast of the project limits. Given the open space and recreational nature of both proposed project sites, public using the beach could be considered a sensitive noise receptor during construction. 	<ul style="list-style-type: none"> Noise impacts associated with construction would be temporary and standard construction equipment would be used. 	<ul style="list-style-type: none"> Noise impacts associated with construction would be temporary and standard construction equipment would be used. 	<ul style="list-style-type: none"> Construction equipment and techniques used would be similar or the same for both projects. Potential impacts due to construction noise would be similar or the same for both projects. During construction of both projects, noise minimization measures would be implemented and local noise ordinance would be followed as detailed in Chapter 8.48, Noise of the City of Carlsbad Municipal Code, which sets limitations for construction hours. While the public using the beach during construction hours may experience higher noise levels anticipated with construction, other portions of the beach where temporary construction noise could be avoided will remain open for use.
Recreation	<ul style="list-style-type: none"> Existing informal trails are located along the Pine Avenue ADA Ramp footprint. 	<ul style="list-style-type: none"> Construction would temporarily interrupt access via informal trails. During construction, multiple access points along the coastline 	<ul style="list-style-type: none"> Construction would temporarily interrupt recreation and access to the beach and facilities at this location. Additionally, multiple 	<ul style="list-style-type: none"> Localized recreation and public access would be temporarily interrupted during construction of both projects; however, impacts between the two projects would be similar. Portions of parking lots may be

Carlsbad ADA Beach Access Feasibility Study – Environmental Constraints Analysis Table

Issue Area	Existing Conditions/Assumptions	Pine Avenue ADA Ramp	Tamarack Avenue ADA Ramp	Constraints Summary
	<ul style="list-style-type: none"> There are multiple existing access points along this portion of coastline, none of which are currently ADA compliant. 	<p>could continue to be used to access the beach.</p>	<p>access points along the coastline could continue to be used in order to access the beach instead of the current access point at Tamarack Avenue.</p>	<p>temporarily closed in order to stage equipment. Numerous existing access points between the two proposed project sites would remain available for use during construction, including the ramp at Pine Avenue and four staircases. These existing access areas would remain open during construction and would continue to provide adequate access to the beach during construction. If feasible, proposed project work would be conducted outside of the busy summer season.</p> <ul style="list-style-type: none"> Post-construction, recreation and access would be enhanced via the proposed ADA compliant ramps.
Sea Level Rise/Storm Damage Vulnerability	<ul style="list-style-type: none"> Both structures are subject to influence from sea level rise but would be constructed along the existing bluff above the elevation of the existing walkway, which is protected by a sea wall. 	<ul style="list-style-type: none"> To the extent practicable, structures have been designed to provide resilience to sea level rise scenarios. 	<ul style="list-style-type: none"> To the extent practicable, structures have been designed to provide resilience to sea level rise scenarios. 	<ul style="list-style-type: none"> Structures are designed to be above the elevation of an existing boardwalk and behind a protective sea wall, which protects from potential storm damage and sea level rise influence.
Transportation/Traffic	<ul style="list-style-type: none"> It is assumed that no operational sources are associated with either option, therefore only construction impacts are evaluated. Increased traffic to the site due to improved access is assumed to be minimal and most likely by existing users or residents using this improved route to access the beach, because the proposed project would create an ADA compliant ramp and safer/more direct pedestrian access. 	<ul style="list-style-type: none"> Traffic may be temporarily interrupted during construction. 	<ul style="list-style-type: none"> Traffic may be temporarily interrupted during construction. 	<ul style="list-style-type: none"> Applicable measures would be implemented during construction to avoid and/or minimize temporary traffic impacts (e.g., timing of project work, traffic control plan).

References

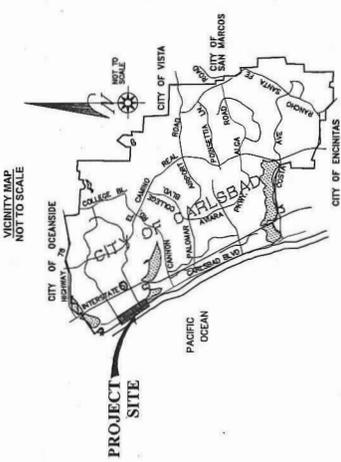
AECOM
 2016a Geotechnical Investigations Carlsbad Boulevard and Tamarack Avenue Pedestrian Improvements Project.
 2016b Tamarack Area Coastal Improvements Project Mitigated Negative Declaration.
 2018a ADA Accessibility – Vegetation Constraints Review.
 2018b Cultural Resources Phase I Survey Report for the Carlsbad Boulevard and Tamarack Avenue Improvement Project.

Bevil, A.D.
 2016 The Tamarack Avenue Comfort Station at Carlsbad State Beach Historical Background Study and Determination of Eligibility. On file at the California Department of Parks and Recreation Southern Service Center.

City of Carlsbad
 2004 Habitat Management Plan for the Natural Communities in the City of Carlsbad. Available at: <http://www.carlsbadca.gov/civicax/filebank/blobdownload.aspx?BlobID=27193>. Accessed August 2016.
 2015a General Plan. Available at: <http://www.carlsbadca.gov/services/depts/planning/general.asp>. Accessed July 2019.
 2015b General Plan and Climate Action Plan Final Environmental Impact Report. Available at: <http://www.carlsbadca.gov/civicax/filebank/blobdownload.aspx?BlobID=28464>. Accessed August 2016.

ADA BEACH ACCESS AND TRAIL CONNECTIVITY FEASIBILITY STUDY

CONCEPTUAL PLANS FOR:
AND TRAIL CONNECTIVITY
CITY OF CARLSBAD, CALIFORNIA

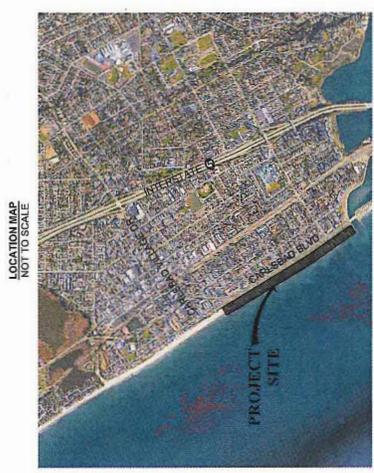


CITY COUNCIL

MATT HALL - MAYOR
KEITH BLACKBURN - MAYOR PRO-TEM
PRIYA BHAT-PATEL - COUNCIL MEMBER
CORI SCHUMACHER - COUNCIL MEMBER

PAZ GOMEZ
DEPUTY CITY MANAGER,
PUBLIC WORKS

GARY BARBERO
DEPUTY CITY MANAGER,
COMMUNITY SERVICES



- SHEET 1 TITLE SHEET
- SHEET 2 KEY MAP
- SHEET 3 PINE AVENUE
- SHEET 4 ANTON - PINE AVENUE
- SHEET 5 TAMARACK AVENUE
- SHEET 6 PHOTO SIMULATION - TAMARACK AVENUE
- SHEET 7 PHOTO SIMULATION - PINE AVENUE
- SHEET 8 COLD WATER TUNNEL ACCESS
- SHEET 9 PHOTO SIMULATION - COLD WATER TUNNEL
- SHEET 10 DESIGN CHARACTER
- SHEET 11 PAVEMENT MATERIAL

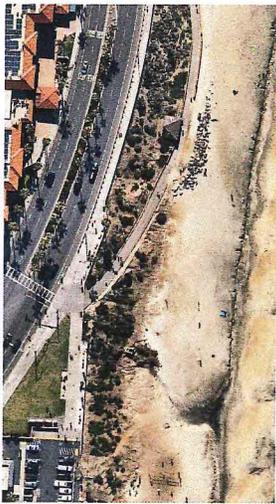
ADA BEACH & TRAIL CONNECTIVITY

Feasibility Study
Carlsbad, California

SDG Project Number: 18-106
Date: January 23, 2020



July 28, 2020



A PINE AVENUE



B TAMARACK STATE BEACH



C COLD WATER TUNNEL



Item #6

Page

~~ADA BEACH & TRAIL CONNECTIVITY~~
Feasibility Study
Carlsbad, California

SDC Project Number: 18-106
Date: January 23, 2020

Key Map

NTS

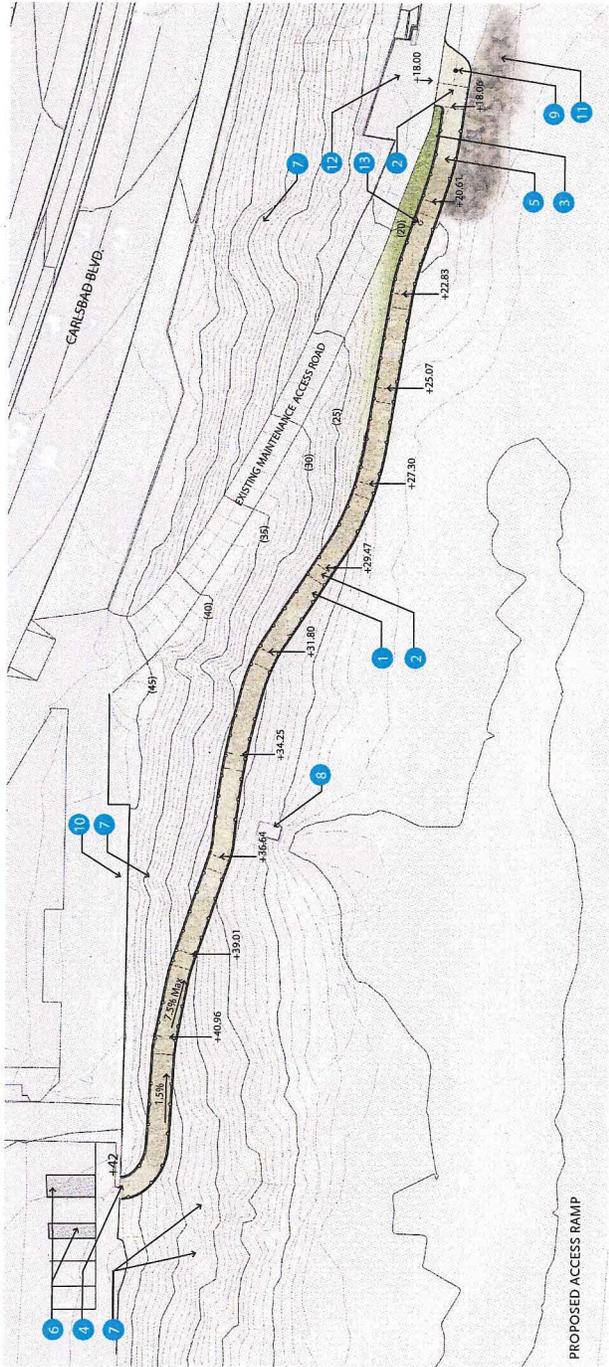


CHEN RYAN


SCHMIDT DESIGN GROUP
1330 Riverway St., Suite C, San Diego, CA 92106
TEL: 619.434.1211 FAX: 619.434.1212
WWW.SCHMIDTDESIGN.COM

Sheet 2 of 11

July 28, 2020



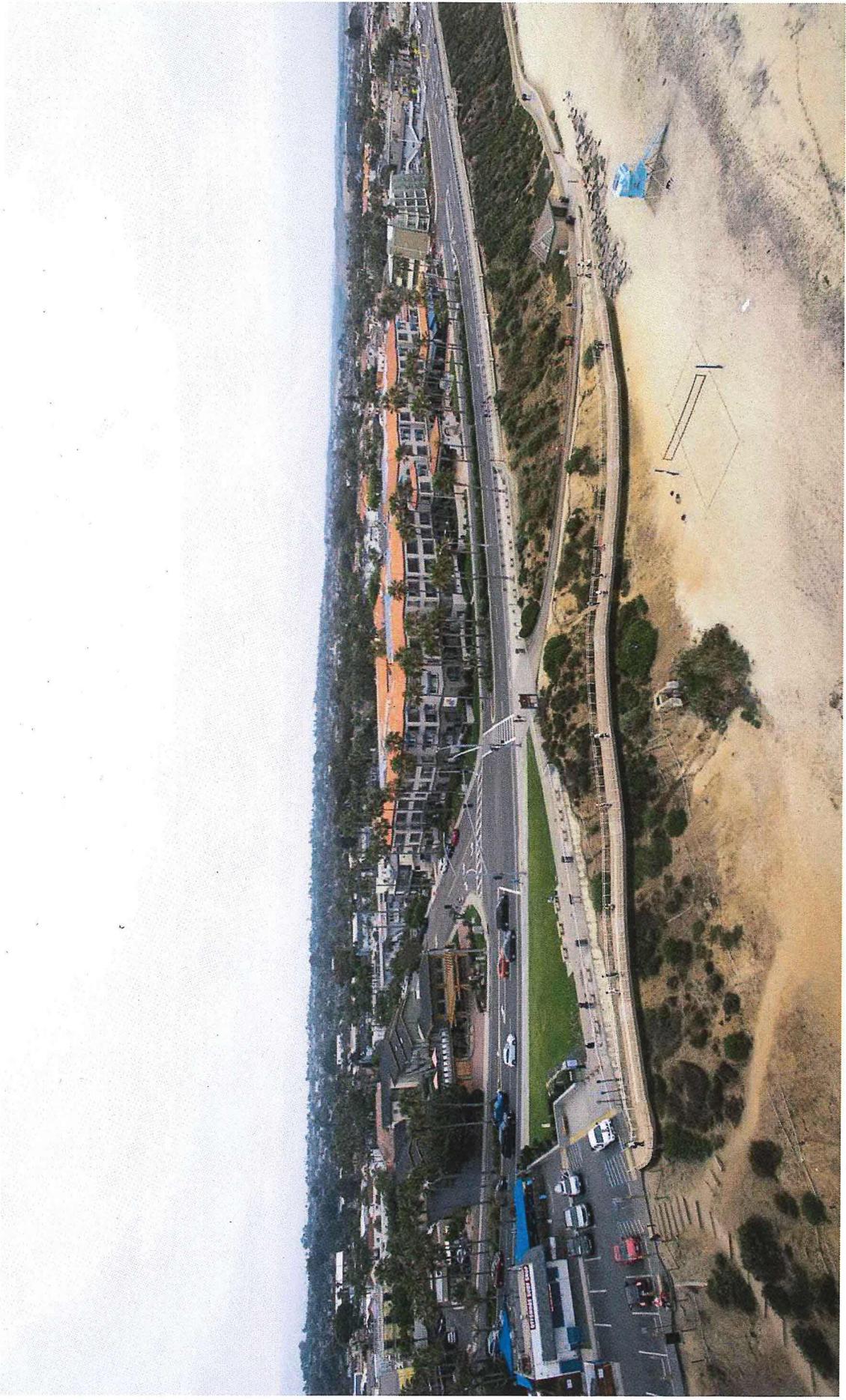
KEY

- 1 PROPOSED 8'-0" RAMP WITH HANDRAILING
- 2 2% MAX. LANDINGS; TYPICAL
- 3 PROPOSED PLANTING AREA; TYPICAL
- 4 START OF ELEVATED ACCESSIBLE PATH ON STRUCTURAL COLUMNS
- 5 END OF ELEVATED ACCESSIBLE PATH ON STRUCTURAL COLUMNS. PATH CONTINUES AT GRADE TO THE SOUTH
- 6 EXISTING ADA ACCESSIBLE PARKING
- 7 EXISTING BLUFF & TRAILS TO REMAIN; REPAIR AS NEEDED
- 8 EXISTING STORM DRAIN
- 9 PROPOSED LOCATION FOR RELOCATED SHOWER
- 10 EXISTING SIDEWALK
- 11 EXISTING RIP RAP
- 12 EXISTING RESTROOM
- 13 EXISTING SHOWER TO BE RELOCATED



Item #6

Page



July 28, 2020

Item #6

Page

ADA BEACH & TRAIL CONNECTIVITY

Feasibility Study

Carlsbad, California

SBC Project Number: 18-106

Date: January 23, 2020

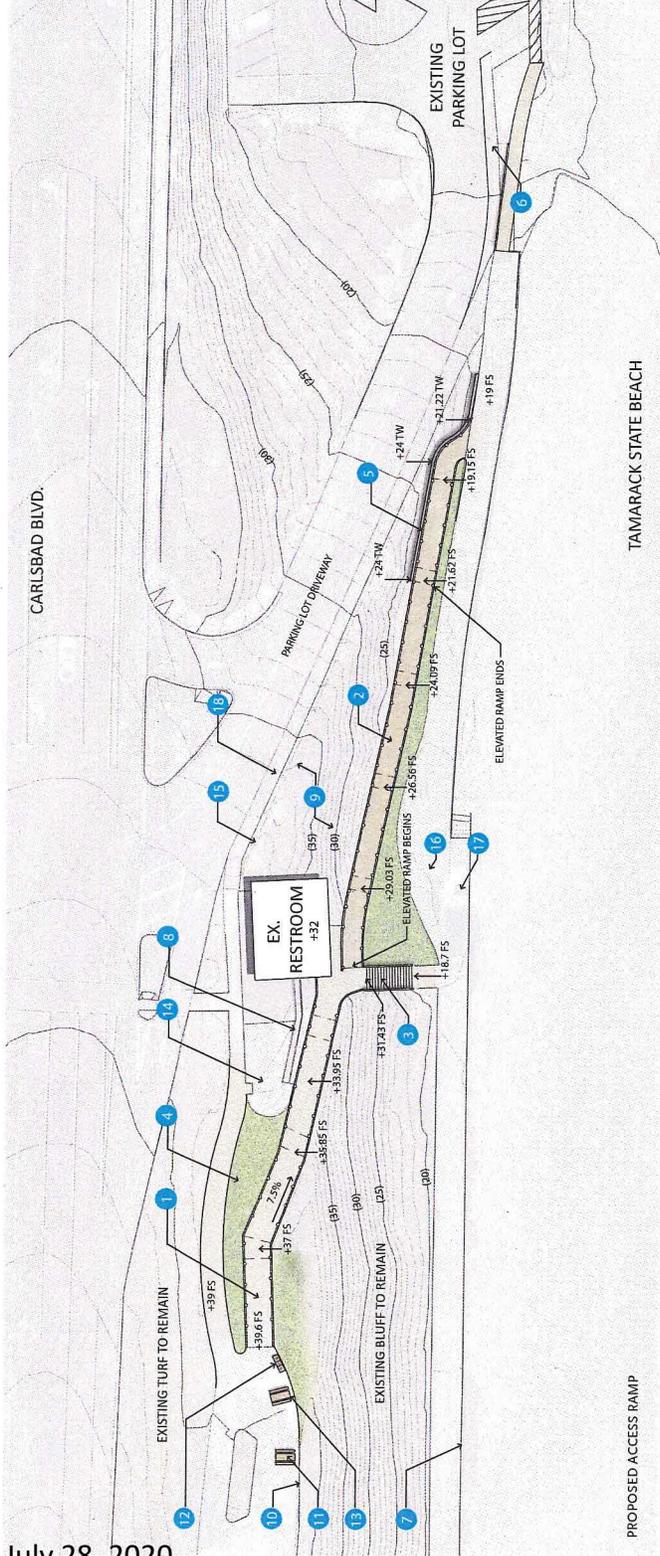
Photo Simulation
Pine Avenue Access

CHEN RYAN  **City of Carlsbad**

SCHMIDT DESIGN GROUP
120 Broadway St., Suite C, San Diego, CA 92102
Tel: 619.255.1414 Fax: 619.255.1419
SCHMIDTDESIGN.COM

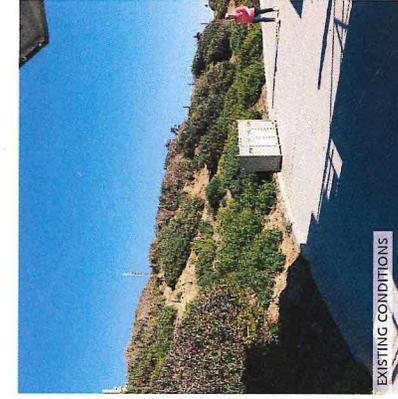
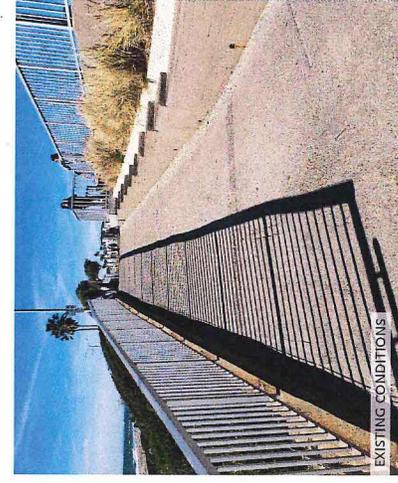
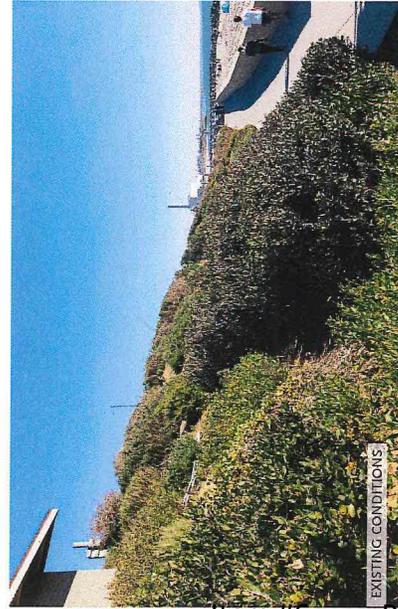
Sheet 4 of 11

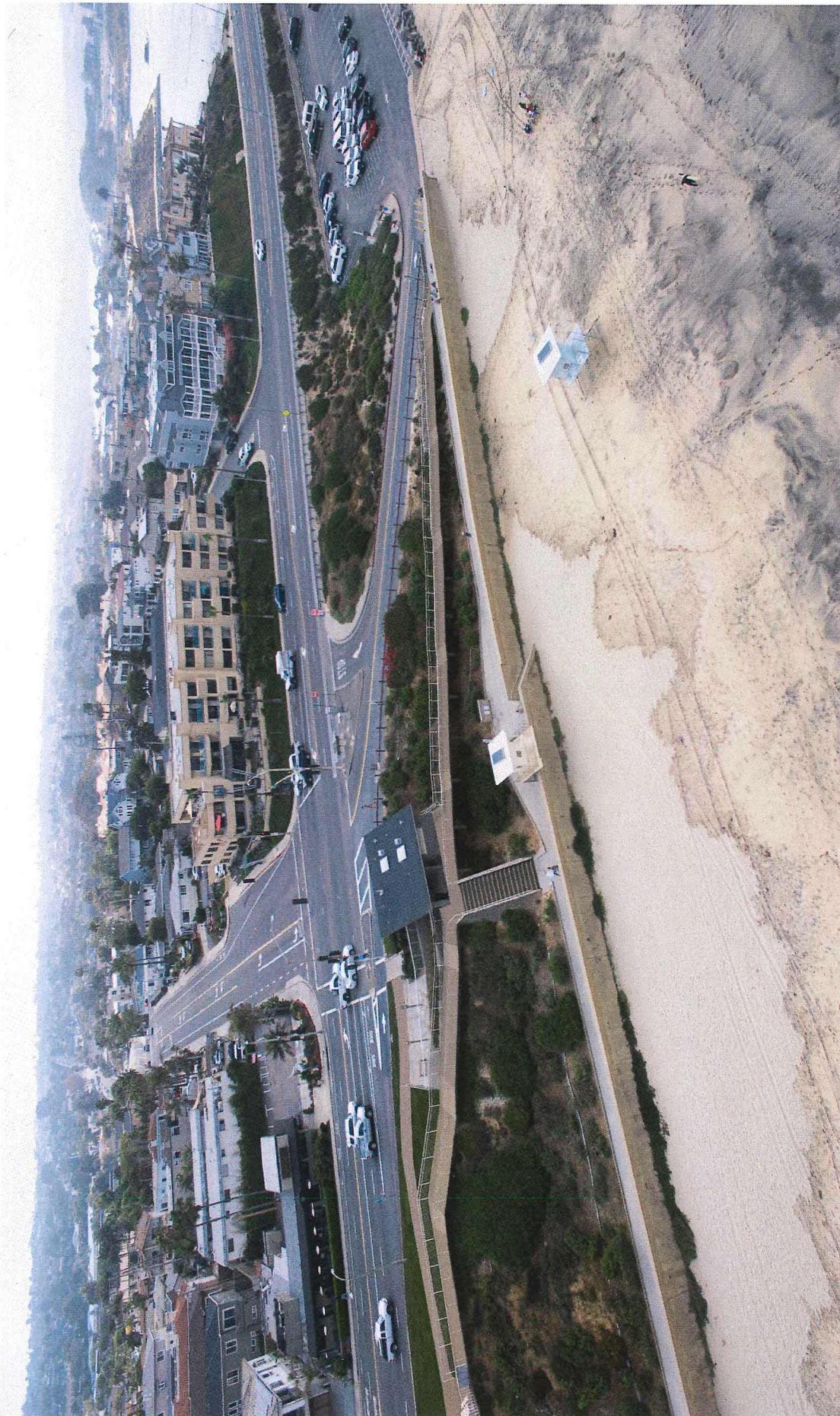
July 28, 2020



KEY

- 1 PROPOSED 8'-0" WIDE CONCRETE RAMP WITH HANDRAILING
- 2 PROPOSED 8' ELEVATED WOOD RAMP ON STRUCTURAL COLUMNS
- 3 PROPOSED STAIRCASE
- 4 PROPOSED PLANTING AREA; TYPICAL
- 5 PROPOSED RETAINING WALL
- 6 PROPOSED ACCESSIBLE PATH TO PARKING LOT
- 7 EXISTING SEAWALL
- 8 EXISTING RETAINING WALL
- 9 EXISTING PLANTING AREA
- 10 EXISTING GUARDRAILING
- 11 RELOCATE EXISTING PICNIC TABLE
- 12 RELOCATE EXISTING TRASH RECEPTACLES
- 13 EXISTING PICNIC TABLE
- 14 EXISTING SHOWERS AND PLAZA
- 15 EXISTING FENCE
- 16 EXISTING PAVING
- 17 EXISTING LIFE GUARD TOWER
- 18 EXISTING AC SIDEWALK





July 28, 2020

Item #6

Page

ADA BEACH & TRAIL CONNECTIVITY

Feasibility Study

Carlsbad, California

SDC Project Number: 18-106

Date: January 23, 2020

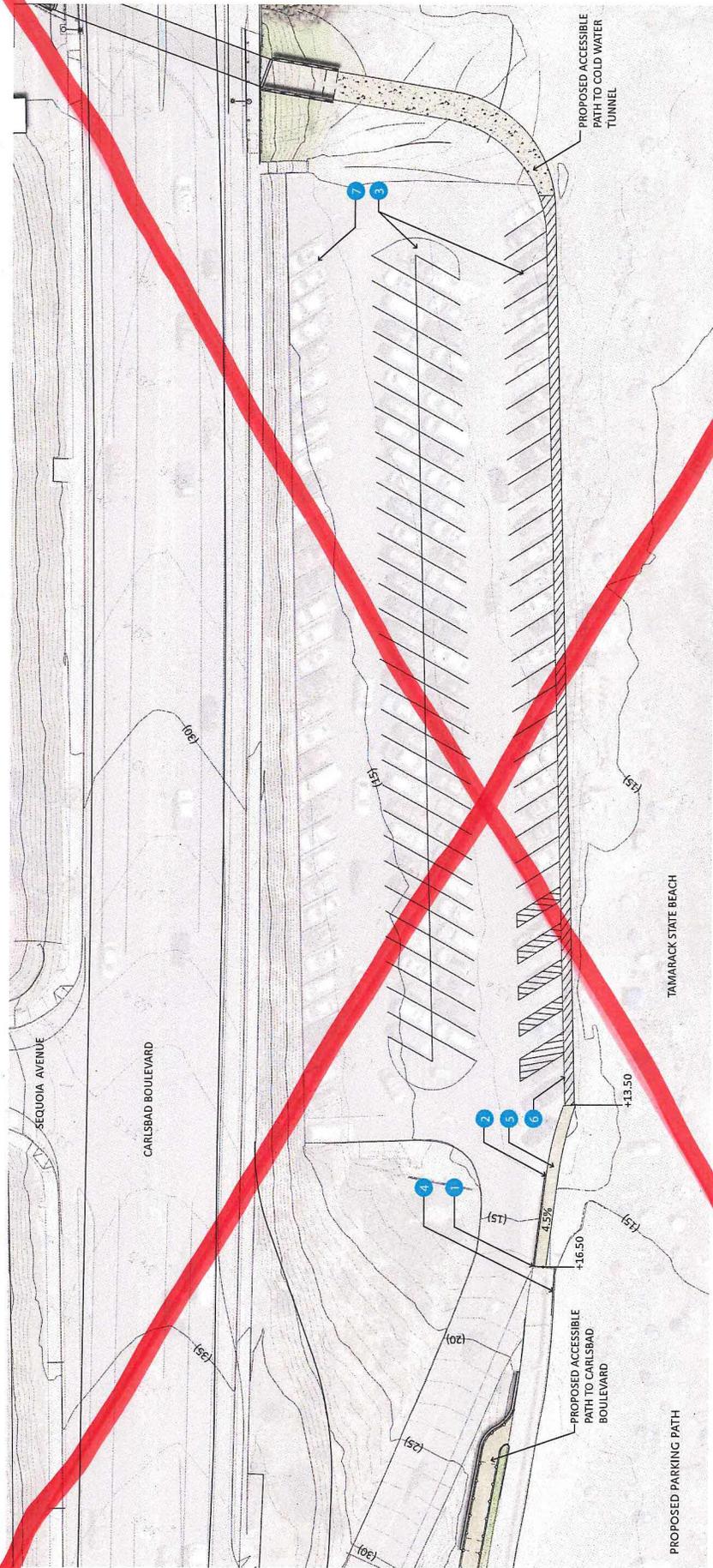
Photo Simulation
Tamarack Beach Access

City of Carlsbad
CHEN RYAN

SCHMIDT DESIGN GROUP
1215 River Street, Suite G, San Diego, CA 92106
Tel: 619.434.7811 Fax: 619.434.7819
www.schmidtgroup.com

Sheet 6 of 11

July 28, 2020



KEY

- 1 DEMO 5'-0" OF EXISTING SEA WALL
- 2 EXISTING CURB TO REMAIN
- 3 RESTRIPE EXISTING PARKING STALLS
- 4 EXISTING SEA WALL
- 5 PROPOSED 5'-0" CONCRETE WALKWAY
- 6 PROPOSED ACCESSIBLE STRIPING
- 7 EXISTING PARKING STRIPING TO REMAIN
- 8 EXISTING SAND TO BE REMOVED AT NEW WALKWAY

Item #6

Page

~~TAMARACK BEACH & TRAIL CONNECTIVITY~~
 Feasibility Study
 Carlsbad, California

SDG Project Number: 18-106
 Date: January 23, 2020

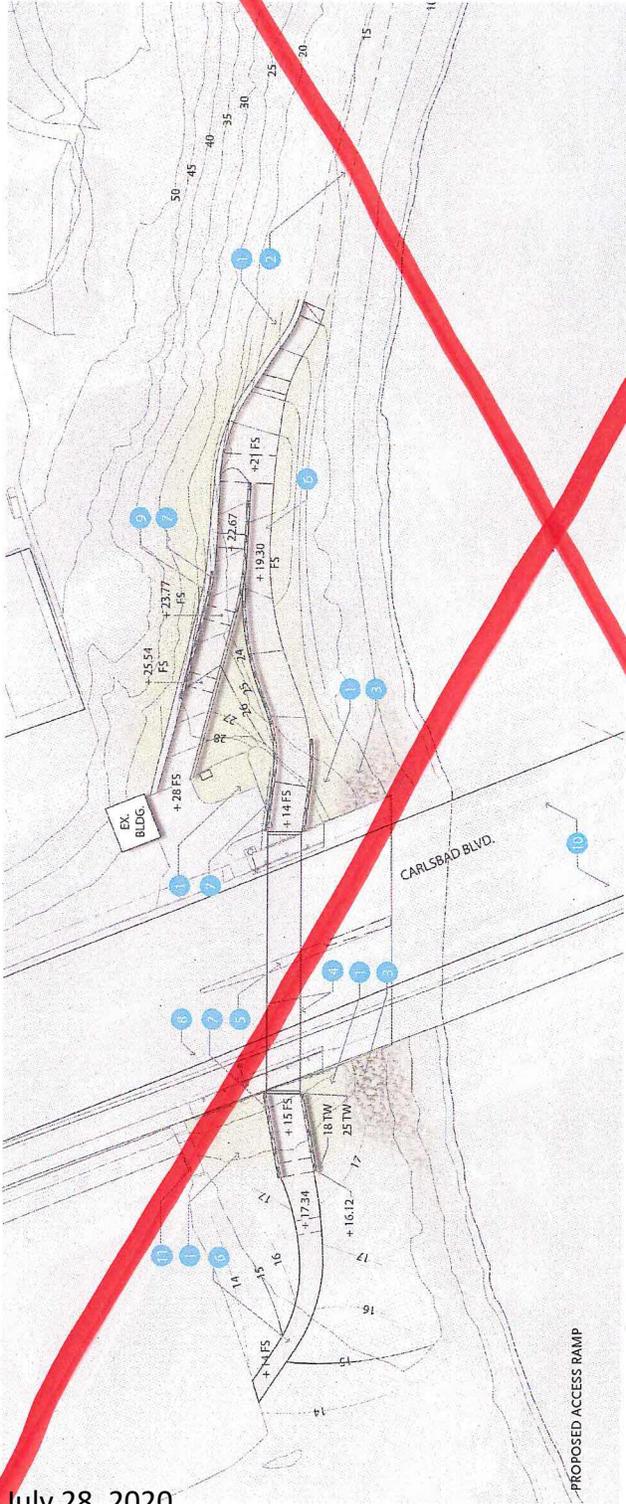
Tamarack Parking Access



City of
Carlsbad

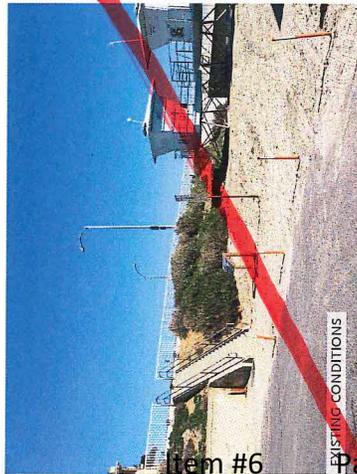
SCHMIDT
 DESIGN
 GROUP
 1510 Riverway, S. Suite G, San Diego, CA 92108
 TEL: 619.434.1100 FAX: 619.434.1109
 WWW.SCHMIDTDESIGN.COM

July 28, 2020

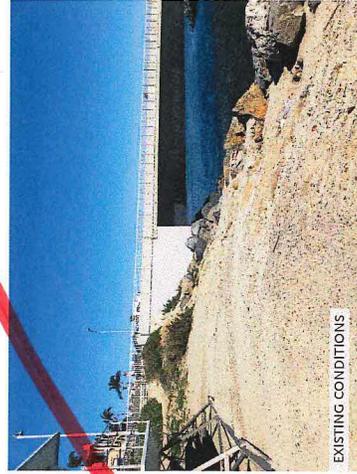


KEY

- 1 PROPOSED PLANTING AREA; TYPICAL
- 2 EXISTING AGUA HEDIONDA TRAIL - REPAIR AS NEEDED
- 3 EXISTING RIP RAP
- 4 LIMITS OF PROPOSED BOX CULVERT UNDER ROAD
- 5 PROPOSED SKYLIGHT OPENING IN MEDIAN
- 6 PROPOSED 8'-0" INTEGRAL COLOR CONCRETE ADA RAMP
- 7 PROPOSED RETAINING WALLS & HANDRAILS
- 8 PROPOSED 18" RCP STORM DRAIN
- 9 PROPOSED CONCRETE "V" GUTTER
- 10 EXISTING BRIDGE
- 11 EXISTING STAIRCASE



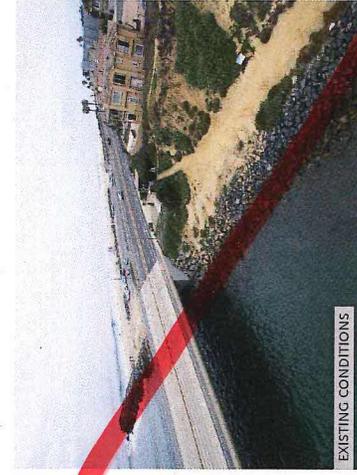
EXISTING CONDITIONS



EXISTING CONDITIONS



EXISTING CONDITIONS



EXISTING CONDITIONS

~~AGUA BEACH & TRAIL CONNECTIVITY~~

Feasibility Study
 Carlsbad, California
 Project Number: 18-106
 Date: January 23, 2020

Cold Water Tunnel

CHEN + RYAN
 SCALE: 1" = 20'-0"
 0 10 20 40

City of
 Carlsbad

SCHMIDT
 DESIGN
 GROUP
 1200 Rivercenter St., Suite 405, San Diego, CA 92106
 U.S. CA 310.438.7891 FAX 310.438.7899
 SCHMIDTDESIGN.COM



July 28, 2020

Item #6

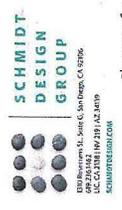
Page 8

~~SDA BEACH & TRAIL CONNECTIVITY~~

Feasibility Study
Carlsbad, California
Job Number: 18-106
Date: January 23, 2020

Photo Simulation
Cold Water Tunnel Access

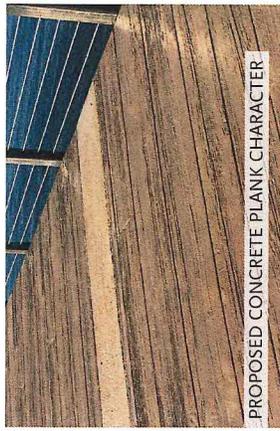

CHEN + RYAN
City of Carlsbad


SCHMIDT
DESIGN
GROUP
1200 River Street, Suite 650, San Diego, CA 92106
Tel: 619.434.1100 / Fax: 619.434.1101
www.schmidtgroup.com

Sheet 9 of 11



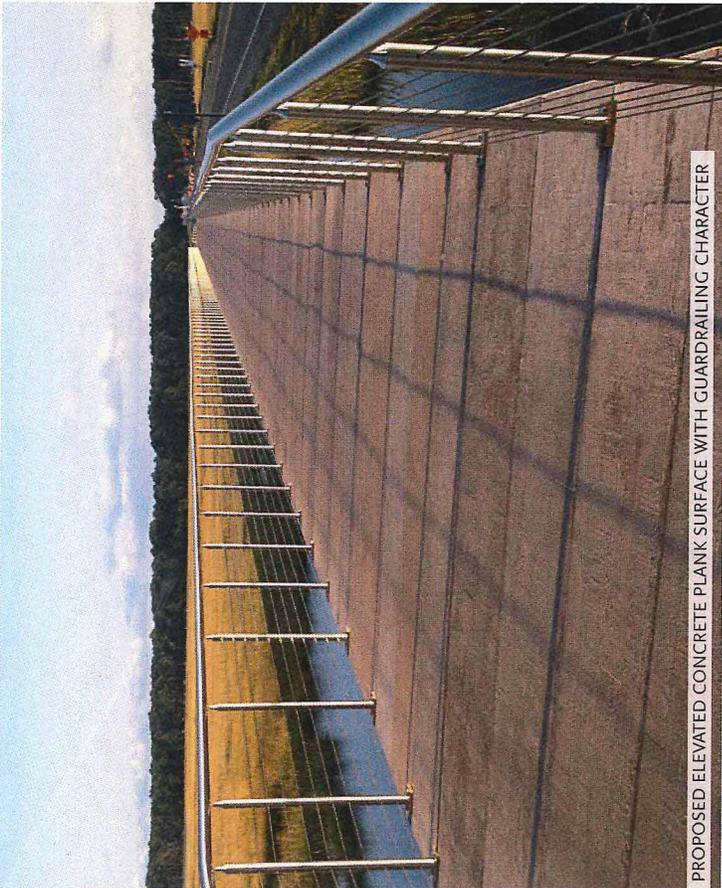
PROPOSED HANDRAIL CHARACTER



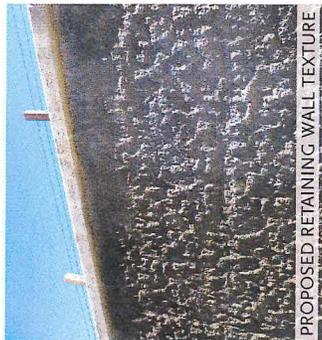
PROPOSED CONCRETE PLANK CHARACTER



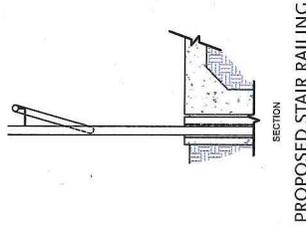
PROPOSED STRUCTURAL COLUMN CHARACTER



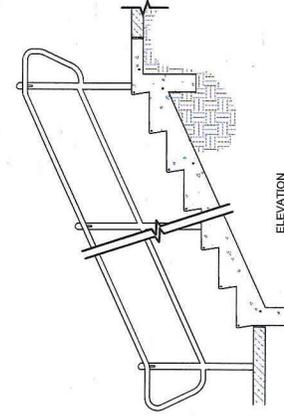
PROPOSED ELEVATED CONCRETE PLANK SURFACE WITH GUARDRAILING CHARACTER



PROPOSED RETAINING WALL TEXTURE



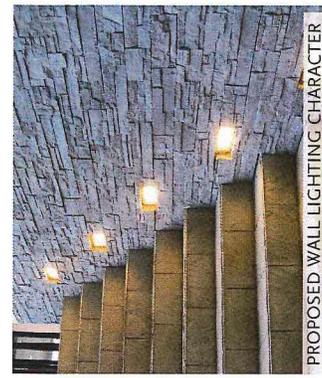
SECTION
PROPOSED STAIR RAILING



ELEVATION
PROPOSED STAIR RAILING



PROPOSED LIGHTING INTEGRATED WITH HANDRAIL



PROPOSED WALL LIGHTING CHARACTER

July 28, 2020

Item #6

Page



COASTAL AGAVE
Agave shawii



MANZANITA
Arctostaphylos x 'Howard McMinn'



DWARF COYOTE BUSH
Baccharis p. 'Pigeon Point'



WILD LILAC
Ceanothus maritimus



SEA DAHLIA
Coreopsis maritima



CHALK LIVEFOREVER
Dudleya pulverulenta



SEASIDE DAISY
Erigeron g. 'Wayne Roderick'



SANTA CRUZ ISLAND BUCKWHEAT
Eriogonum arborescens



RED BUCKWHEAT
Eriogonum grande rubescens



BEACH STRAWBERRY
Fragaria chilensis



ISLAND SNAPDRAGON
Galvezia speciosa



COASTAL GUM PLANT
Grindelia stricta



ARTEMISIA CALIFORNICA
California Sagebrush



ISLAND SHRUB MALLOW
Lavatera assurgentiflora



COASTAL ENCELIA
Encelia californica



CITY COUNCIL
Staff Report

Meeting Date: July 28, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Faviola Medina, City Clerk Services Manager
 faviola.medina@carlsbadca.gov, 760-434-5989
Subject: November 3, 2020 Council Compensation Ballot Measure

Recommended Action

1. Adopt a resolution ordering the submission to the qualified electors of the City of Carlsbad a certain measure relating to City Council compensation, requesting that the County Board of Supervisors place the measure on the ballot and provide consolidation services and appropriating the necessary funds.
2. Adopt a resolution setting the priorities for filing written arguments regarding a city measure pertaining to City Council compensation and directing the City Attorney to prepare an impartial analysis.
3. Adopt a resolution setting the priorities for filing of rebuttal arguments regarding a city measure pertaining to City Council compensation.

Executive Summary /Discussion

The City of Carlsbad is scheduled to conduct the general municipal election on November 3, 2020, for the purpose of electing one council member from District 2 and one council member from District 4. Resolutions to commence the election process in conformance with the State of California's election laws were adopted on June 23, 2020.

On July 14, 2020, the City Council directed staff to prepare the documents necessary to place a council-sponsored measure on the Nov. 3, 2020 general municipal election ballot relating to City Council compensation, in addition to the already scheduled council seats. The measure primarily consists of the current language in Carlsbad Municipal Code Section 2.04.010(A), which is:

The compensation of each member of the city council shall be set at \$2,052.17 per month upon the effective date of this ordinance. Adjustments to city council compensation shall not exceed the amount established by the San Diego Regional Consumer Price Index. Adjustments to city council compensation must be made or permanently waived by ordinance in January of each year. The city council is prohibited from enacting retroactive increases for years in which a salary increase was waived.

The companion ballot question is:

<p>MEASURE ____ . CITY COUNCIL COMPENSATION. Shall Title 2, Chapter 2.04, Section 2.04.010(A) of the Carlsbad Municipal Code be adopted to prohibit city council compensation adjustments from exceeding the amount established by the San Diego Regional Consumer Price Index, to require the city council to either make or waive a compensation adjustment in January of each year, and to prohibit the city council from enacting retroactive increases for years in which the city council waived a compensation adjustment?</p>	YES
	NO

If the resolutions are approved by the City Council, the council is required to take certain actions to place the measure before the voters, set the priorities for filing written arguments, direct the City Attorney to prepare an impartial analysis and provide for the filing of rebuttal arguments for the ballot measure.

Two questions to be considered by the council are:

- Does the City Council wish to allow its members to submit an argument in favor or against the measure?

California Elections Code 9282 allows the City Council to authorize council members to write arguments in favor of, or against, the measure. It is not necessary to identify which council members will make such arguments, or to limit council members' arguments to one side or the other of the measure.

- Does the City Council wish to allow rebuttals to the arguments in favor of or against the measure?

Whether council members are authorized to file written arguments, under California Elections Code Sections 9285, the City Council must also consider whether rebuttal arguments are to be allowed. If so, staff recommends the council authorize the same individual or group writing the argument in favor of or against the measure to also be authorized to write the rebuttal.

Members of the public may also file a written argument for or against the measure. If there are multiple arguments for or against the measure, California Evidence Code Section 9287 prioritizes which arguments are selected for printing and distribution to the voters.

Arguments may not to exceed 300 words in length and rebuttals may not exceed 250 words in length. Additionally, arguments and rebuttals may not be signed by more than five people.

Since the city will be consolidating the general municipal election with the statewide general election, the deadlines for the submittal of arguments and rebuttals will be the same deadlines as set by the San Diego County Registrar of Voters and the Elections Code as follows:

- August 13:** Arguments for or against a measure are due at the City Clerk's Office
- August 14:** City Attorney's impartial analysis is due at the City Clerk's Office
- August 14-24:** Examination period for impartial analysis and all arguments filed
- August 18:** Rebuttal arguments are due at the City Clerk's Office

Fiscal Analysis

Based on an estimate provided by the San Diego County Registrar of Voters, staff estimates the cost of adding the ballot measure to the Nov. 3, 2020, general municipal election ballot will be approximately \$60,000 to \$100,000. The City Clerk's Office requests the City Council authorize deputy city manager, administrative services to appropriate funds to reimburse the County of San Diego for the ballot measure's costs from the City Council contingency account upon receipt of the County's bill for its services.

Next Steps

Staff will file the resolution with the San Diego County Board of Supervisors and Registrar of Voters requesting that the measure be added to the general municipal election already consolidated with the statewide general election on Nov. 3, 2020. In addition, staff will publish notice of the measure on the city's website and in the local newspapers of general circulation authorized to publish legal notices.

Environmental Evaluation (CEQA)

This action does not constitute a "project" within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to scheduled meeting date.

Exhibits

1. Resolution ordering the submission to the qualified electors of the City of Carlsbad a certain measure relating to City Council compensation; requesting that the County Board of Supervisors place the measure on the ballot and provide consolidation services; and appropriating the necessary funds
2. Resolution setting the priorities for filing written arguments regarding a city measure pertaining to City Council compensation and directing the City Attorney to prepare an impartial analysis
3. Resolution setting the priorities for filing of rebuttal arguments regarding a city measure pertaining to City Council compensation

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF CARLSBAD A CERTAIN MEASURE RELATING TO CITY COUNCIL COMPENSATION ON THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, REQUESTING THAT THE SAN DIEGO COUNTY BOARD OF SUPERVISORS PLACE THE MEASURE ON THE BALLOT AND PROVIDE CONSOLIDATION SERVICES AND APPROPRIATING THE NECESSARY FUNDS

WHEREAS, the City Council has called a general municipal election on Tuesday, November 3, 2020 by Resolution No. 2020-120, adopted on June 23, 2020, for the purpose of electing one Councilmember from District 2 and one Councilmember from District 4 for the full term of four years; and

WHEREAS, the City Council has requested that the San Diego County Board of Supervisors consolidate the city's general municipal election with the statewide election to be held on November 3, 2020, by Resolution No. 2020-121, adopted on June 23, 2020, for the purpose of electing one Councilmember from District 2 and one Councilmember from District 4 for the full term of four years; and

WHEREAS, the City Council also desires to submit to the voters at the election a ballot question and Measure relating to City Council compensation.

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

1. That the above recitations are true and correct.
2. That the City Council orders submitted to the voters at the general municipal election the following ballot question:

<p>MEASURE ____ . CITY COUNCIL COMPENSATION. Shall Title 2, Chapter 2.04, Section 2.04.010(A) of the Carlsbad Municipal Code be adopted to prohibit city council compensation adjustments from exceeding the amount established by the San Diego Regional Consumer Price Index, to require the city council to either make or waive a compensation adjustment in January of each year, and to prohibit the city council from enacting retroactive increases for years in which the city council waived a compensation adjustment?</p>	YES
	NO

- That the City Council orders submitted to the voters at the general municipal election the following Measure:

MEASURE ____
CITY COUNCIL COMPENSATION

The people of the City of Carlsbad do ordain as follows:

Title 2, Chapter 2.04, Section 2.04.010(A) of the Carlsbad Municipal Code is adopted to read:

The compensation of each member of the city council shall be set at \$2,052.17 per month upon the effective date of this ordinance. Adjustments to city council compensation shall not exceed the amount established by the San Diego Regional Consumer Price Index. Adjustments to city council compensation must be made or permanently waived by ordinance in January of each year. The city council is prohibited from enacting retroactive increases for years in which a salary increase was waived.

- That the vote requirement for the Measure to pass is a majority (50 percent +1) of the votes cast.
- That the ballots used at the election shall be in the form and content as required by law, and in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

6. That pursuant to the requirements of California Elections Code Section 10403, the San Diego County Board of Supervisors is requested to consent and agree to the inclusion of the Measure in the previously submitted request for consolidation of the general municipal election with the statewide general election on Tuesday, November 3, 2020, for purposes of electing one Councilmember from District 2 and one Councilmember from District 4.
7. That the San Diego County Registrar of Voters is authorized to canvass the returns of the general municipal election. The election shall be held in all respects as if there were only one election and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating a general municipal election.
8. That the city clerk services manager is authorized, instructed and directed to coordinate with Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.
9. That the Board of Supervisors is requested to issue instructions to the Registrar of Voters to take any and all steps necessary for the holding of the consolidated election.
10. That the City of Carlsbad recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County of San Diego for any costs.
11. That the city clerk services manager is directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters.
12. That notice of the time and place of holding the election is given and the city clerk services manager is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner as required by law.
13. The City Council authorizes the deputy city manager, administrative services, to appropriate the necessary funds to reimburse the County's costs upon presentation of a properly submitted bill.

14. That the city clerk services manager shall certify to the passage and adoption of this resolution.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE PERTAINING TO CITY COUNCIL COMPENSATION AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, a general municipal election is to be held in the City of Carlsbad, California, on November 3, 2020, at which there will be submitted to the voters the following Measure:

MEASURE ____

CITY COUNCIL COMPENSATION

The people of the City of Carlsbad do ordain as follows:

Title 2, Chapter 2.04, Section 2.04.010(A) of the Carlsbad Municipal Code is adopted to read:

The compensation of each member of the city council shall be set at \$2,052.17 per month upon the effective date of this ordinance. Adjustments to city council compensation shall not exceed the amount established by the San Diego Regional Consumer Price Index. Adjustments to city council compensation must be made or permanently waived by ordinance in January of each year. The city council is prohibited from enacting retroactive increases for years in which a salary increase was waived.

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

1. That the above recitations are true and correct.
2. That the City Council authorizes its members to file written arguments, not to exceed 300 words, in favor of or against the Measure as described above. All written arguments filed by any person in favor of or against the Measure shall be accompanied by the

printed names and signatures of the persons submitting the arguments in accordance with California Elections Code 9283. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the Measure may be submitted to the City Clerk. The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Form of Statement to be Filed by the Author(s) of Argument.

3. That if the City Clerk receives more than one argument for or more than one argument against the Measure within the prescribed time, the City Clerk shall select one of the arguments in favor and one of the arguments against the Measure for printing and distribution to the voters. In selecting the arguments, the City Clerk shall give preference and priority in the order specified in California Elections Code Section 9287.
4. That the City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure not to exceed 500 words, showing the effects of the Measure on the existing law and the operation of the Measure. The analysis shall include a statement indicating the Measure was placed on the ballot by the City Council. In the event the entire text of the Measure is not printed on the ballot, or in the voter information of the sample ballot, there shall be printed immediately below: “The above statement is an impartial analysis of Measure _____. If you desire a copy of the Measure, please call the City Clerk’s Office at 760-434-2808 and a copy will be mailed at no cost to you.”

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, SETTING PRIORITIES FOR FILING OF REBUTTAL ARGUMENTS REGARDING A CITY MEASURE PERTAINING TO CITY COUNCIL COMPENSATION THAT WILL BE SUBMITTED AT THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION

WHEREAS, California Elections Code Section 9285 authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments to City measures submitted at municipal elections;

WHEREAS, a general municipal election is to be held in the City of Carlsbad, California, on November 3, 2020, at which there will be submitted to the voters the following Measure:

MEASURE ____

CITY COUNCIL COMPENSATION

The people of the City of Carlsbad do ordain as follows:

Title 2, Chapter 2.04, Section 2.04.010(A) of the Carlsbad Municipal Code is adopted to read:

The compensation of each member of the city council shall be set at \$2,052.17 per month upon the effective date of this ordinance. Adjustments to city council compensation shall not exceed the amount established by the San Diego Regional Consumer Price Index. Adjustments to city council compensation must be made or permanently waived by ordinance in January of each year. The city council is prohibited from enacting retroactive increases for years in which a salary increase was waived.

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

1. That the above recitations are true and correct.

2. That pursuant to California Elections Code Section 9285, when the elections official has selected the arguments for and against the Measure which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the Measure and a copy of an argument against the Measure to the authors of any argument in favor of the Measure immediately upon receiving the arguments. The author or a majority of the authors of an argument relating to a City Measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument may not be signed by more than five authors. The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than 10 days after the final date for filing direct arguments. The rebuttal arguments shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.
3. That the above provisions shall apply only to the election to be held on November 3, 2020.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)