A. As a courtesy to those in attendance, we ask that cell phones be turned off or set to their silent mode and that you keep talking to a minimum so that all persons can hear the comments of the public and City Council.

B. A member of the public who wishes to speak under Public Comments must fill out a “Speaker Card” and submit it to the City Clerk BEFORE the Mayor calls for Public Comments on an agenda item. Each agenda item up will be open for public comments before taking action. Public comments on subjects that are not on the agenda can be made during the “Public Appearance/Comments” portion of the agenda.

C. Members of the public who wish to comment on the CONSENT CALENDAR may do so during the Public Comment portion of the Agenda prior to the adoption of the Consent Calendar.

D. As a courtesy to others and to assure that each person wishing to be heard has an opportunity to speak, please limit your comments to 3 minutes.

1. 7:00 P.M. - CALL TO ORDER AND ROLL CALL FOR REGULAR SESSION

   - Brian Berkson, Mayor
   - Anthony Kelly, Jr., Mayor Pro Tem
   - Chris Barajas, Council Member
   - Lorena Barajas, Council Member
   - Micheal Goodland, Council Member

2. INVOCATION

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

5. PRESENTATIONS

6. PUBLIC APPEARANCE/COMMENTS
7.  INTRODUCTIONS, ACKNOWLEDGEMENTS, COUNCIL COMMENTS AND ANNOUNCEMENTS

8.  CITY COUNCIL MEMBER ORAL/WRITTEN REPORTS REGARDING REGIONAL BOARDS AND COMMISSIONS

A.  MAYOR PRO TEM ANTHONY KELLY, JR.
1.  UPDATE ON THE NORTHWEST MOSQUITO AND VECTOR CONTROL DISTRICT MEETING OF AUGUST 15, 2019

B.  COUNCIL MEMBER CHRIS BARAJAS
1.  UPDATE ON THE WESTERN COMMUNITY ENERGY MEETING OF AUGUST 15, 2019

C.  COUNCIL MEMBER MICHEAL GOODLAND
1.  UPDATE ON THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS MEETING OF AUGUST 5, 2019
2.  UPDATE ON THE HEALTHY JURUPA VALLEY COMMUNITY MEETING OF AUGUST 6, 2019

9.  CITY MANAGER'S UPDATE

10.  APPROVAL OF MINUTES

A.  AUGUST 1, 2019 REGULAR MEETING

11.  CONSENT CALENDAR (COMMENTS ON CONSENT AGENDA TAKEN HERE)

(All matters on the Consent Calendar are to be approved in one motion unless a Councilmember requests a separate action on a specific item on the Consent Calendar. If an item is removed from the Consent Calendar, it will be discussed individually and acted upon separately.)
A. COUNCIL APPROVAL OF A MOTION TO WAIVE THE READING OF THE TEXT OF ALL ORDINANCES AND RESOLUTIONS INCLUDED IN THE AGENDA

Requested Action: That the City Council waive the reading of the text of all ordinances and resolutions included in the agenda.

B. CONSIDERATION OF CHECK REGISTER IN THE AMOUNT OF $3,154,835.00

Requested Action: That the City Council ratify the check registers dated July 25, and August 1 as well as the payroll registers dated July 31, 2019.

C. ADOPTION OF RESOLUTION DENYING DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY NO. 19002 AND DENYING CONDITIONAL USE PERMIT NO. 18010 (COLLECTIVELY, MA NO. 18224) TO ALLOW THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION AT AN EXISTING CHEVRON GAS STATION AND CONVENIENCE STORE LOCATED ON THE NORTHWEST CORNER OF VAN BUREN BOULEVARD AND JURUPA ROAD

Requested Action: That the City Council pass and adopt Resolution No. 2019-69, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY, CALIFORNIA, GRANTING AN APPEAL OF AND REVERSING THE PLANNING COMMISSION’S DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY NO. 19002 AND APPROVAL OF CONDITIONAL USE PERMIT NO. 18010 (COLLECTIVELY, MA NO. 18224) TO ALLOW THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION AT AN EXISTING CHEVRON GAS STATION AND CONVENIENCE STORE LOCATED IN CENSUS TRACT 404.03 AT 9267 JURUPA ROAD (APN: 167-160-044) IN THE SCENIC HIGHWAY COMMERCIAL (C-P-S) ZONE, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA GUIDELINE SECTION 15270(A)

D. ADOPTION OF RESOLUTION OF INTENTION TO ESTABLISH CITY OF JURUPA VALLEY COMMUNITY FACILITIES DISTRICT NO. 2019-002 (EMERALD RIDGE) GENERALLY LOCATED NORTH AND WEST OF AVALON STREET AND EAST OF CANAL STREET

Requested Action: That the City Council pass and adopt Resolution No. 2019-70, entitled:

A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY TO ESTABLISH THE CITY OF JURUPA VALLEY
E. FIRST AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF JURUPA VALLEY AND EPIC LAND SOLUTIONS, INC. FOR RIGHT-OF-WAY APPRAISAL AND ACQUISITION SERVICES FOR THE LIMONITE AVENUE WIDENING, BAIN TO HOMESTEAD PROJECT, CIP PROJECT NO. 17-B-2

Requested Action: That the City Council approve the attached First Amendment to Professional Consultant Services Agreement between the City of Jurupa Valley and Epic Land Solutions, Inc. and authorize the City Manager to execute the Agreement in substantially the form attached and in such final form as approved by the City Attorney.

F. ADOPTION OF RESOLUTIONS REGARDING THE ANNEXATION OF ZONE 2-D (SPACE CENTER) TO THE CITY OF JURUPA VALLEY LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED (“CITY OF JURUPA VALLEY L&LMD 89-1-C”) VOLUME 2, 11100 IBERIA STREET & 11200 IBERIA STREET

1. Requested Action: That the City Council pass and adopt Resolution No. 2019-71, entitled:


2. That the City Council pass and adopt Resolution No. 2019-72, entitled:

3. That the City Council pass and adopt Resolution No. 2019-73, entitled:


G. APPROVAL OF AN AGREEMENT WITH T & B PLANNING, INC. FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE “RUBIDOX COMMERCE PARK” PROJECT, CASE NUMBER: MA 17132 (PROFICIENCY RUBIDOX, LLC)

Requested Action: That the City Council approve the Agreement for Consulting Services with T & B Planning, Inc. for the completion of an Environmental Impact Report (EIR) for the proposed Rubidoux Commerce Park project in an amount not to exceed $303,293.70 to be funded entirely by an advance deposit made by Proficiency Rubidoux, LLC, the “applicant”, sufficient to cover completion of the EIR document and authorize the City Manager to sign the Agreement on the City Council’s behalf.

H. AUTHORIZATION OF TRAVEL FOR ATTENDANCE AT EVIDENTIARY HEARING IN SAN FRANCISCO FOR RIVERSIDE TRANSMISSION RELIABILITY PROJECT

That the City Council authorize travel expenditures for City witnesses, personnel and attorneys to attend and testify at the evidentiary hearing before the Administrative Law Judge for the California Public Utilities Commission in the proceedings for the Riverside Transmission Reliability Project (RTRP) as described in the Agenda Report.

12. CONSIDERATION OF ANY ITEMS REMOVED FROM THE CONSENT CALENDAR

13. PUBLIC HEARINGS

14. COUNCIL BUSINESS

A. AN ORDINANCE ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES
1. Requested Action: That the City Council conduct a first reading and introduce Ordinance No. 2019-11, entitled:

AN ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

2. That the City Council by a 4/5 vote, adopt Urgency Ordinance No. 2019-12, entitled:

AN URGENCY ORDINANCE OF THE CITY OF JURUPA VALLEY ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

18. CITY ATTORNEY’S REPORT

19. COUNCIL MEMBER REPORTS AND COMMENTS

20. ADJOURNMENT

Adjourn to the Regular Meeting of September 5, 2019 at 7:00 p.m. at the City Council Chamber, 8930 Limonite Avenue, Jurupa Valley, CA 92509.

In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if you need special assistance to participate in a meeting of the Jurupa Valley City Council or other services, please contact Jurupa Valley City Hall at (951) 332-6464. Notification at least 48 hours prior to the meeting or time when services are needed will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Agendas of public meetings and any other writings distributed to all, or a majority of, Jurupa Valley City Council Members in connection with a matter subject to discussion or consideration at an open meeting of the City Council are public records. If such writing is distributed less than 72 hours prior to a public meeting, the writing will be made available for public inspection at the City of Jurupa Valley, 8930 Limonite Avenue, Jurupa Valley, CA 92509, at the time the writing is distributed to all, or a majority of, Jurupa Valley City Council Members. The City Council may also post the writing on its Internet website at www.jurupavalley.org.

Agendas and Minutes are posted on the City’s website at www.jurupavalley.org.
MINUTES
OF THE REGULAR MEETING
OF THE JURUPA VALLEY CITY COUNCIL
August 1, 2019

The meeting was held at the Jurupa Valley City Council Chamber, 8930 Limonite Avenue, Jurupa Valley, CA 92509.

1. 6:15 P.M. - CALL TO ORDER AND ROLL CALL FOR CLOSED SESSION

- Brian Berkson, Mayor
- Anthony Kelly, Jr., Mayor Pro Tem
- Chris Barajas, Council Member
- Lorena Barajas, Council Member
- Micheal Goodland, Council Member

Mayor Berkson called the closed session meeting to order at 6:20 p.m. Council Member Michael Goodland was absent.

City Attorney Peter Thorson announced that Mayor Pro Tem Anthony Kelly will not participate in the Closed Session due to the fact that he lives close to the subject of the Closed Session.

2. CLOSED SESSION

A. PUBLIC COMMENTS PERTAINING TO CLOSED SESSION ITEMS

There were no public comments regarding the closed session items.

B. CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION.

The City Council met in closed session with the City Attorney pursuant to Government Code Section 54956.9(d)(4) with respect to one matter of potential litigation. A point has been reached where, in the opinion of the City Attorney, based on existing facts and circumstances, there is a significant exposure to litigation involving the City. Based on existing facts and circumstances, the City Council will decide whether to defend or initiate litigation.

3. 7:00 P.M. - RECONVENE IN OPEN SESSION

A. ANNOUNCEMENT OF ANY REPORTABLE ACTION IN CLOSED SESSION

Mayor Berkson announced that there were no reportable actions taken.
4. **CALL TO ORDER AND ROLL CALL FOR REGULAR SESSION**

- Brian Berkson, Mayor
- Anthony Kelly, Jr., Mayor Pro Tem
- Chris Barajas, Council Member
- Lorena Barajas, Council Member
- Micheal Goodland, Council Member

Mayor Berkson called the regular meeting to order at 7:07 p.m. Council Member Michael Goodland was absent.

5. **INVOCATION** was given by Pastor Kermit R. Perry, 3Ps Christian Ministries.

6. **PLEDGE OF ALLEGIANCE** was led by Terri Rollings, Assistant to the City Manager/PIO.

7. **APPROVAL OF AGENDA**

A motion was made by Council Member Chris Barajas, seconded by Mayor Pro Tem Anthony Kelley, to approve the Agenda.

- **Ayes:** C. Barajas, L. Barajas, B. Berkson, A. Kelly
- **Noes:** None
- **Absent:** M. Goodland

8. **PRESENTATIONS**

A. **JURUPA ROAD GRADE SEPARATION PROJECT STATUS AND DIRECTION TO STAFF**

Jim Smith, Special Projects Advisor introduced Patrick Somerville, Project Manager representing HNTB, who gave a presentation on the Jurupa Road Grade Separation Project. It was noted that the project has been environmentally cleared and the project design is 65% complete. As all funds must be expended by June 30, 2023, this project is on a very tight schedule. The right-of-way acquisition has commenced and meetings have been held with the community and the stakeholders.

In response to Council Member Lorena Barajas, it was noted that the project has a very aggressive construction schedule due to the funding requirements. Mayor Berkson reviewed the additional improvements on Rutile Street, 52nd Street and Pedley Road. He also inquired about how long the intersection would be closed (approximately 24 months) and the improvements to the south side of Jurupa Road.

Council Member Chris Barajas spoke about the impact to the businesses affected by the project. He inquired if a community outreach meeting could be held with
the businesses sooner than the one planned in early 2020. Discussion was held regarding the types of assistance available to businesses and it was noted that additional outreach would be provided. Mr. Somerville confirmed that equestrians will be able to use the buttons at the new traffic signals. He also indicated to Council Member Chris Barajas that parking restrictions could be implemented along the detour routes.

Mayor Pro Tem Anthony Kelly reviewed the equestrian and pedestrian trails to be provided for the project. He also reviewed the planned landscaping, and inquired about the large piece of land owned by Union Pacific Railroad, which will be gated to restrict access to the property. Council Member Chris Barajas suggested that the landscaping design could be modified to help deter panhandlers from the intersections.

B. SOLID WASTE PROGRAM – PRESENTED BY WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

Kyle Rodriguez, Staff Analyst, WRCOG, presented an update on the work the Solid Waste Committee has been doing and the development of solid waste regulations on recycling by the State. He addressed the mandatory commercial recycling program in Assembly Bill 341, the mandatory organics recycling guidelines in Assembly Bill 1826 and the short lived climate pollutants identified in Senate Bill 1383. He noted that WRCOG and the Solid Waste Committee will continue to provide resources and assist member agencies in meeting California’s recycling goals.

Sean McGovern, Senior Management Analyst noted that the compliant numbers are being increased but there is still much work to do. He indicated the need to consider a more formal enforcement program to help the City remain in compliance with the State’s goals.

C. PRESENTATION FROM ONEBODY CHARITABLE ORGANIZATION

Pastor Kermit Perry and Pastor Calvin Belcher provided information about ONEBODY, which is an organized group of local congregations, community groups and businesses committed to the physical and spiritual well-being of families in the Inland Empire area. In response to Council Member Lorena Barajas, it was noted that funding for 500 pairs of shoes is needed.

D. PRESENTATION FROM HABITAT FOR HUMANITY RIVERSIDE

Matt Friedlander, Director of Resource Development provided information about Habitat for Humanity Riverside. He spoke about the construction of 26 energy efficient, single-family homes in Jurupa Valley for veterans. Mr. Friedlander announced the 4th Annual Over the Edge fundraiser on Saturday, August 24, 2019.
9. PUBLIC APPEARANCE/COMMENTS

Spencer Rogers appreciated the work of code enforcement in curbing the illegal food truck vendors. He supports the mobile food trucks that operate legally in the City.

Bernard Murphy spoke about the need for CalTrans to clean up the landscaping along Limonite and Van Buren. He also encouraged the use of drought resistant landscaping.

Eddie Torres was present representing Assembly Member Sabrina Cervantes. He reported that the State budget has been passed and outlined the projects in the budget that benefit the City.

Jennifer Snyder indicated that she owned poultry and spoke about her concerns with the California Department of Food and Agriculture. She stated that residents can bring their birds to the front gate to be inspected, with the understanding that someone will still need to conduct a security check on the back yard.

Dennis John White indicated that his birds are kept at his father’s home. As his father is illiterate, clarification was needed on the notification that was received from the California Department of Food and Agriculture. Mr. White expressed concerns with the actions of the CDFA, noting that they did not follow proper protocol when they inspected the property.

Scott Lewis expressed concerns with homeless individuals in the medians. He indicated that the police are not responsive to this concern, nor did they respond to calls regarding illegal fireworks in the City. In response Mayor Berkson noted that concerned residents can contact the Sheriff’s Department and obtain an update on their call for service.

10. INTRODUCTIONS, ACKNOWLEDGEMENTS, COUNCIL COMMENTS AND ANNOUNCEMENTS

Mayor Pro Tem Anthony Kelly reported on a Backpack Drive at the Rubidoux Missionary Baptist Church on Saturday, August 3, 2019 from 11:00 a.m. to 2:00 p.m.

Mayor Brian Berkson reported that National Night Out will be held on Tuesday, August 6, 2019 at Silverlakes. Also, he reported that the City of Jurupa Valley’s first annual parade will be on Saturday, November 2, 2019.

11. CITY COUNCIL MEMBER ORAL/WRITTEN REPORTS REGARDING REGIONAL BOARDS AND COMMISSIONS

A. MAYOR BRIAN BERKSON

2. Mayor Brian Berkson provided an update on the Metrolink / Southern California Regional Rail Authority Board workshop meeting on July 26, 2019.

B. MAYOR PRO TEM ANTHONY KELLY, JR.


12. CITY MANAGER’S UPDATE

There was no report.

13. APPROVAL OF MINUTES

A. JULY 18, 2019 REGULAR MEETING

A motion was made by Mayor Pro Tem Anthony Kelly, seconded by Council Member Lorna Barajas, to approve the Minutes of the July 18, 2019 regular meeting and the Minutes of the July 18, 2019 special meeting.

Ayes: C. Barajas, L. Barajas, B. Berkson, A. Kelly
Noes: None
Absent: M. Goodland

14. CONSENT CALENDAR

A. COUNCIL APPROVAL OF A MOTION TO WAIVE THE READING OF THE TEXT OF ALL ORDINANCES AND RESOLUTIONS INCLUDED IN THE AGENDA

Requested Action: That the City Council waive the reading of the text of all ordinances and resolutions included in the agenda.

B. CONSIDERATION OF CHECK REGISTER IN THE AMOUNT OF $1,892,764.17

Requested Action: That the City Council ratify the check registers dated July 11, and 18 as well as the payroll registers dated July 17, 2019.

C. ORDINANCE NO. 2019-08

Requested Action: That the City Council conduct a second reading and adopt Ordinance No. 2019-08, entitled:

AN ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, AMENDING SECTION 9.100.030 (“MINIMUM AREA FOR ZONE”) OF
CHAPTER 9.100 (“R-4 ZONE (PLANNED RESIDENTIAL)”) OF TITLE 9 (“PLANNING AND ZONING”) OF THE JURUPA VALLEY MUNICIPAL CODE CONCERNING LIMITED WAIVERS OF THE MINIMUM AREA REQUIREMENTS FOR PREMISES IN THE R-4 ZONE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(B)(3) OF THE CEQA GUIDELINES (HIGHLAND PARK 2)

D. ORDINANCE NO. 2019-09

Requested Action: That the City Council conduct a second reading and adopt Ordinance No. 2019-09, entitled:

AN ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, APPROVING AN AMENDMENT TO THE CITY OF JURUPA VALLEY OFFICIAL ZONING MAP CHANGING THE ZONE OF APPROXIMATELY 6.74 GROSS ACRES OF REAL PROPERTY LOCATED SOUTH OF THE INTERSECTION OF 30TH STREET AND SIERRA AVENUE (APNs: 177-020-018, 177-020-012, 177-110-005) FROM ONE (1) FAMILY DWELLINGS (R-1) ZONE TO PLANNED RESIDENTIAL (R-4) ZONE, AND MAKING FINDINGS PURSUANT TO CEQA (HIGHLAND PARK 2)

E. APPROVAL OF PARCEL MAP 37165 LOCATED ON THE SOUTHWEST CORNER OF SOTO AVENUE (PRIVATE) AND JURUPA ROAD INCLUDING ACCEPTANCE OF OFFERS OF DEDICATION, APPROVAL OF SUBDIVISION AGREEMENTS, AND ACCEPTANCE OF IMPROVEMENT BONDS (R&R ROSAS 2008 FAMILY TRUST)

1. Requested Action: That the City Council approve Parcel Map 37165 and accept the dedications as follows:

   a. Accept the real property described as an easement for public utility purposes together with the right of ingress and egress for emergency vehicles Lots “A” and “B”, inclusive as shown on Parcel Map 37165.

   b. Accept the real property described as an easement for public utility purposes within a five foot wide strip easement on Parcel 1 indicated as “sewer easement”, with the right of ingress and egress for maintenance purposes as shown on Parcel Map 37165.

2. Authorize the Mayor and City Clerk to sign Parcel Map 37165.

3. Approve and authorize the Mayor and City Clerk to execute the Survey Monument Agreement.

4. Accept the Survey Monumentation Bond as a cash deposit in the amount of $2,160.
F. APPROVAL OF PARCEL MAP 37125 BOUNDED BY VAN BUREN BOULEVARD ON THE NORTH, ETIWANDA AVENUE ON THE EAST, RIVERSIDE DRIVE ON THE SOUTH, AND DAY CREEK CHANNEL ON THE WEST INCLUDING ACCEPTANCE OF OFFERS OF DEDICATION, APPROVAL OF SUBDIVISION AGREEMENTS, AND ACCEPTANCE OF IMPROVEMENT BONDS (GREENS INV 6, LLC)

1. Requested Action: That the City Council approve Parcel Map 37125 and accept the dedications as follows:
   a. Accept the real property for streets and public utility purposes over all of Lots “A” and “B” as shown on Parcel Map 37125.
   b. Accept the easement for pedestrian access as shown on Parcel Map 37125.

2. Authorize the Mayor and City Clerk to sign Parcel Map 37125.

3. Approve and authorize the Mayor and City Clerk to execute the Subdivision Improvement Agreements.

4. Accept the Faithful Performance Bond No. SUR0055797 in the amount of $2,219,000 and Material and Labor Bond No. SUR0055797 in the amount of $1,109,500 from Argonaut Insurance Company for the construction of Improvements and Subdivision Monumentation Bond as a cash deposit in the amount of $2,160.

G. ADOPTION OF RESOLUTIONS REGARDING THE ANNEXATION OF ZONE L (PM 37125 FLABOB) TO CITY OF JURUPA VALLEY LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED (“CITY OF JURUPA VALLEY L&LMD 89-1-C”), 42ND STREET AT FORT DRIVE AND TWINSI STREET, AND RUBIDOUX BLVD. SOUTH OF TILTON AND NORTH OF 42ND STREET

1. Requested Action: That the City Council adopt Resolution No. 2019-64, entitled:

CALIFORNIA STREETS AND HIGHWAYS CODE AND ARTICLE XIII D OF THE CALIFORNIA CONSTITUTION

2. That the City Council adopt Resolution No. 2019-65, entitled:


3. That the City Council adopt Resolution No. 2019-66, entitled:


A motion was made by Council Member Lorena Barajas, seconded by Mayor Pro Tem Anthony Kelly, to approve the Consent Calendar.

Ayes: C. Barajas, L. Barajas, B. Berkson, A. Kelly
Noes: None
Absent: M. Goodland

15. CONSIDERATION OF ANY ITEMS REMOVED FROM THE CONSENT CALENDAR

16. PUBLIC HEARINGS

A. PUBLIC HEARING TO CONSIDER MASTER APPLICATION 19096 (MA19096) AND ZONING CODE AMENDMENT 19002 (ZCA19002) TO CHANGE SECTION 9.240.510 OF THE CITY OF JURUPA VALLEY ZONING CODE ADDING PROVISIONS AND DEVELOPMENT
STANDARDS FOR METAL SHIPPING CONTAINERS IN THE MANUFACTURING-MEDIUM (M-M) ZONE

Mayor Berkson opened the public hearing and called for any public comments.

Jean Ward, Senior Planning Consultant presented the staff report.

Further discussion followed.

Jeff Heitmann, representing McGrath Rentcorp., spoke in support of the proposed Ordinance.

Spencer Rogers inquired if the proposed Ordinance would allow metal shipping containers to be used by the public. He noted that they could be modified to provide sleeping arrangements for the homeless or a secure place for hay and tack.

Betty Anderson expressed a concern with McGrath Rentcorp’s landscaping. She also pointed out the number of illegal metal storage containers that are all over the City. Ms. Anderson voiced opposition to the Ordinance as it would encourage everyone to keep their illegal metal shipping containers.

There being no further comments, the public hearing was closed.

Further discussion followed.

A motion was made by Mayor Pro Tem Anthony Kelly, seconded by Mayor Brian Berkson, to introduce Ordinance No. 2019-10, entitled:

AN ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, AMENDING SECTION 9.240.510 OF THE JURUPA VALLEY MUNICIPAL CODE TO MODIFY THE PERMITTED ZONING AND DEVELOPMENT STANDARDS FOR METAL SHIPPING CONTAINERS

Ayes: B. Berkson, A. Kelly
Noes: C. Barajas, L. Barajas
Absent: M. Goodland
MOTION FAILED

B. PUBLIC HEARING REGARDING THE ANNEXATION OF TERRITORY (ZONE N) TO THE CITY OF JURUPA VALLEY LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED (THE “DISTRICT”) AND THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN SUCH TERRITORY; SOUTHEAST CORNER OF RUBIDOUX BOULEVARD AND 26TH STREET (MIDLAND CARRIERS)
Steve Loriso, City Engineer, presented the staff report.

Mayor Berkson opened the public hearing.

Debra McNay, Deputy City Clerk, reported that one owner cast one ballot. All votes cast were in favor of the annexation.

A motion was made by Council Member Chris Barajas, seconded by Mayor Pro Tem Anthony Kelly, to adopt Resolution No. 2019-67 entitled:


Ayes: C. Barajas, L. Barajas, B. Berkson, A. Kelly
Noes: None
Absent: M. Goodland

17. COUNCIL BUSINESS

A. ADOPTION OF COMMUNITY SERVICE GRANTS FUNDING POLICY AND AWARD OF COMMUNITY SERVICES GRANTS TO ONEBODY SHOE DRIVE AND HABITAT FOR HUMANITY

City Attorney Peter Thorson presented the staff report.

Council Member Lorena Barajas discussed a request made by the ONEBODY charitable organization for its OneShoe Campaign that would pay for 500 pairs of shoes.

Kim Johnson expressed a concern with the use of taxpayer dollars to fund non-profits in the City. She noted the many projects that the City should be funding. While she appreciated the work that these non-profits are doing, she opposed the approval of the Community Service Grant Policy and the award of the grants.

Further discussion followed about the possible use of Community Development Block Grant funding. As the CDBG funds have already been allocated, Council
Member Chris Barajas suggested that the Community Service Grants Funding policy be revised to include the CDBG rules.

Mayor Brian Berkson indicated that the revised policy should also provide for an application period, preferably prior to the adoption of the City’s budget. Also, the policy should provide a maximum dollar amount, reporting requirements and penalty for not adhering to the policy.

Further discussion followed.

By consensus, the City Council tabled the matter for 45 days so that the Community Service Grants Funding Policy could be revised.

By consensus, the City Council tabled the matter for 45 days so that the Community Service Grants Funding Policy could be revised.

Ayes: C. Barajas, L. Barajas, B. Berkson, A. Kelly
Noes: None
Absent: M. Goodland

B. ADOPTION OF A RESOLUTION AMENDING THE SCHEDULE OF PARKING FINES AND LATE PAYMENT PENALTIES FOR PARKING VIOLATIONS WITHIN THE CITY OF JURUPA VALLEY

Steve Loriso, City Engineer, presented the staff report.

Betty Anderson voiced concern that the truck drivers are ignoring the parking restrictions on Riverside Drive. Also, she stressed that the curbs should be thoroughly marked and enforced.

Further discussion followed.

In response to the City Council, City Attorney Peter Thorson clarified that the maximum fine provided by the County of Riverside is $1,000.00.

Mayor Pro Tem Anthony Kelly referenced Jurupa Valley Municipal Code Section 12.25.020, noting that providing a fine to the homeless population could be considered harassment. In response, City Attorney Peter Thorson stressed the need to enforce the regulations equally.

A motion was made by Council Member Chris Barajas, seconded by Mayor Pro Tem Anthony Kelly, to adopt Resolution 2019-68 as amended to list a $40.00 fine for Violating JVMC Section 12.25.020, a $1,000.00 fine for Violating JVMC Section 12.25.130 (Commercial Vehicle over 10K GVWR) and a $1,000.00 fine for Violating JVMC Section 12.25.130 (Commercial or Semi-Trailer in Residential Area), entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY, CALIFORNIA, AMENDING THE SCHEDULE OF PARKING
PENALTIES FOR PARKING VIOLATIONS AND LATE PAYMENT
PENALTIES PURSUANT TO THE AUTHORITY OF THE CALIFORNIA
VEHICLE CODE SECTION 40203.5 AND THE MUNICIPAL CODE OF
THE CITY OF JURUPA VALLEY; AND

Repeal Resolution 2018-44.

Ayes:  C. Barajas, L. Barajas, B. Berkson, A. Kelly
Noes:  None
Absent: M. Goodland

C. INITIAL STUDY, MITIGATED NEGATIVE DECLARATION AND
MITIGATION MONITORING AND REPORTING PROGRAM FOR THE
MARKET STREET BRIDGE REPLACEMENT PROJECT

Mike Myers, Assistant City Engineer, presented the staff report.

Further discussion followed.

Council Member Lorena Barajas left the meeting at 9:20 p.m.

A motion was made by Mayor Pro Tem Anthony Kelly, seconded by Council
Member Chris Barajas, to adopt Resolution 2019-69, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JURUPA
VALLEY, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE
DECLARATION AND MITIGATION MONITORING AND REPORTING
PROGRAM FOR THE PROPOSED MARKET STREET BRIDGE
REPLACEMENT PROJECT

Ayes:  C. Barajas, B. Berkson, A. Kelly
Noes:  None
Absent: L. Barajas, M. Goodland

D. WESTERN COMMUNITY ENERGY UPDATE - REAFFIRMATION OF
PARTICIPATION IN THE COMMUNITY CHOICE AGGREGATION
PROGRAM

Tyler Masters, Western Community Energy Program Manager, presented the
report.

Further discussion followed.

A motion was made by Council Member Chris Barajas, seconded by Mayor
Pro Tem Anthony Kelly, to reaffirm the City’s membership in the Western
Community Energy Community Choice Aggregation program.
Ayes: C. Barajas, B. Berkson, A. Kelly
Noes: None
Absent: L. Barajas, M. Goodland

18. CITY ATTORNEY’S REPORT

City Attorney Peter Thorson had no report.

19. COUNCIL MEMBER REPORTS AND COMMENTS

Mayor Brian Berkson requested an update in 30 days on the participation/cost sharing agreement to evaluate the feasibility of creating a Police Services Joint Powers Authority.

Mayor Pro Tem Anthony Kelly noted the need to perform traffic studies and improve the residential streets that will be affected by the Market Street Bridge project.

20. ADJOURNMENT

There being no further business before the City Council, Mayor Berkson adjourned the meeting at 9:45 p.m.

The next meeting of the Jurupa Valley City Council will be held August 15, 2019 at 7:00 p.m. at the City Council Chamber, 8930 Limonite Avenue, Jurupa Valley, CA 92509.

Respectfully submitted,

Debra McNay, MMC
Deputy City Clerk
STAFF REPORT

DATE: AUGUST 15, 2019

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ALAN KREIMEIER, INTERIM CITY MANAGER
BY: CONNIE CARDENAS, DEPUTY DIRECTOR OF ADMINISTRATIVE SERVICES

SUBJECT: AGENDA ITEM NO. 11.B

CHECK REGISTERS

RECOMMENDATION

That the City Council ratify the check registers dated July 25, and August 1 as well as the payroll registers dated July 31, 2019.

The City Council of the City of Jurupa Valley authorizes expenditures through the annual budget process. The FY 2018-19 Budget was adopted on June 7, 2018. Expenditures not included in the annual budget process are approved by resolution throughout the fiscal year.

ANALYSIS

All expenditures on the attached check registers have been approved by the City Council and are in conformance with the authority provided by Section 37208 of the Government Code.

OTHER INFORMATION

None.

FINANCIAL IMPACT

Check registers:

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07/31/19  $ 45,055.46
TOTAL  $ 3,154,835.00

ALTERNATIVES

1. Not ratify the attached check registers.

Prepared by:

Connie Cardenas
Deputy Director of Administrative Services

Submitted by:

Alan Kreimeier
Interim City Manager

Attachments:

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<td>Check #</td>
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<td>Description</td>
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Sub total for CHASE BANK: $1,740,017.41
36 checks in this report.

Grand Total All Checks: 1,740,017.41
Void Checks

Bank code: chase

(none)
# CASH REQUIREMENTS

CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR ELECTRONIC FUNDS TRANSFERS (EFT) FOR CHECK DATE 07/31/19: $45,055.46

## TRANSACTION SUMMARY

<table>
<thead>
<tr>
<th>Summary by Transaction Type</th>
<th>Amount</th>
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<tbody>
<tr>
<td>TOTAL ELECTRONIC FUNDS TRANSFER (EFT)</td>
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<td>CASH REQUIRED FOR NEGOTIABLE CHECKS &amp; OR EFT</td>
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## TRANSACTION DETAIL

**ELECTRONIC FUNDS TRANSFER** - Your financial institution will initiate transfer to Paychex at or after 12:01 A.M. on transaction date.

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<tr>
<th>Trans. Date</th>
<th>Bank Name</th>
<th>Account Number</th>
<th>Product</th>
<th>Description</th>
<th>Bank Draft Amounts &amp; Other Totals</th>
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<td>07/30/19</td>
<td>JPMORGAN CHASE BANK</td>
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**EFT FOR 07/30/19**

| Bank Draft Amounts & Other Totals | 35,092.15 |

**EFT FOR 07/31/19**

| Bank Draft Amounts & Other Totals | 9,963.31 |

**TOTAL EFT**

| Bank Draft Amounts & Other Totals | 45,055.46 |

## REMAINING DEDUCTIONS / WITHHOLDINGS / LIABILITIES

Paychex does not remit these funds. You must ensure accurate and timely payment of applicable items.

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<th>Trans. Date</th>
<th>Bank Name</th>
<th>Account Number</th>
<th>Product</th>
<th>Description</th>
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<td>Other Items 401a ER</td>
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STAFF REPORT

DATE: AUGUST 15, 2019
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ALAN KREIMEIER, INTERIM CITY MANAGER
SUBJECT: AGENDA ITEM NO. 11.C

ADOPTION OF RESOLUTION DENYING DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY NO. 19002 AND DENYING CONDITIONAL USE PERMIT NO. 18010 (COLLECTIVELY, MA NO. 18224) TO ALLOW THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION AT AN EXISTING CHEVRON GAS STATION AND CONVENIENCE STORE LOCATED ON THE NORTHWEST CORNER OF VAN BUREN BOULEVARD AND JURUPA ROAD

RECOMMENDATION

1) That the City Council adopt Resolution No. 2019-74, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY, CALIFORNIA, GRANTING AN APPEAL OF AND REVERSING THE PLANNING COMMISSION’S DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY NO. 19002 AND APPROVAL OF CONDITIONAL USE PERMIT NO. 18010 (COLLECTIVELY, MA NO. 18224) TO ALLOW THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION AT AN EXISTING CHEVRON GAS STATION AND CONVENIENCE STORE LOCATED IN CENSUS TRACT 404.03 AT 9267 JURUPA ROAD (APN: 167-160-044) IN THE SCENIC HIGHWAY COMMERCIAL (C-P-S) ZONE, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA GUIDELINE SECTION 15270(A)

ANALYSIS

On July 18, 2019, the City Council held a public hearing on the appeal of the decision of the Planning Commission to approve the Determination of Public Convenience or Necessity No. 19002 and approve Conditional Use Permit No. 18010 to allow the sale of beer and wine for off-premises consumption at an existing Chevron gas station and
convenience store located on the northwest corner of Jurupa Road and Van Buren Boulevard.

Following the public hearing, the Council directed Staff to prepare a Resolution that would reverse the Planning Commission’s approval of Conditional Use Permit No. 18010 and a determination of Public Convenience or Necessity (PCN No. 19002) (collectively, MA No. 18224) to allow the sale of beer and wine for off-premises consumption at the existing Chevron gas station and convenience store, deny the applications and grant the Appeal of the Appellant.

The proposed Resolution makes the findings necessary to support denial of the applications.

Following the public hearing, the attorney for the Applicant, Harry O. Shenk, filed a letter dated July 27, 2019 objecting to the Council’s direction to the Staff and requesting reconsideration. All of the concerns of Mr. Shenk have been addressed in the proposed Resolution.

FINANCIAL IMPACT

None

ALTERNATIVES

1. Provide comments to Staff and request changes to the Resolution of Denial
2. Request additional information and schedule a public hearing and further review of the matter for September 5, 2019.

Reviewed by:  
Thomas G. Merrell
Planning Director

Submitted by:  
Alan Kreimeier
Interim City Manager

Reviewed by:  
Peter M. Thorson
City Attorney
Attachments:

1. Proposed Resolution No. 2019-74
4. Letter from attorney Harry O. Shenk
RESOLUTION NO. 2019-74

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY, CALIFORNIA, GRANTING AN APPEAL OF AND REVERSING THE PLANNING COMMISSION'S DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY NO. 19002 AND APPROVAL OF CONDITIONAL USE PERMIT NO. 18010 (COLLECTIVELY, MA NO. 18224) TO ALLOW THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION AT AN EXISTING CHEVRON GAS STATION AND CONVENIENCE STORE LOCATED IN CENSUS TRACT 404.03 AT 9267 JURUPA ROAD (APN: 167-160-044) IN THE SCENIC HIGHWAY COMMERCIAL (C-P-S) ZONE, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA GUIDELINE SECTION 15270(A)

THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY DOES RESOLVE AS FOLLOWS:

Section 1. Project. G&M Oil, LLC (the "Applicant") has applied for Conditional Use Permit No. 18010 and a determination of Public Convenience or Necessity (PCN No. 19002) (collectively, Master Application No. 18224 or MA No. 18224) to allow the sale of beer and wine for off-premises consumption at an existing Chevron gas station and convenience store located in Census Tract 404.03 at 9267 Jurupa Road (APN: 167-160-044) in the Scenic Highway Commercial (C-P-S) Zone and designated Commercial Retail (CR) (the "Project").

Section 2. Conditional Use Permit.

(a) The Applicant is seeking approval of Conditional Use Permit No. 18010 to allow the sale of beer and wine for off-premises consumption at an existing Chevron gas station and convenience store located at 9267 Jurupa Road (APN: 167-160-044) in the Scenic Highway Commercial (C-P-S) Zone.

(b) Section 9.125.020.B.(21) of the Jurupa Valley Municipal Code provides that gasoline service stations, with the concurrent sale of beer and wine for off-premises consumption, are permitted in the C-P-S Zone provided a conditional use permit has been granted pursuant to Section 9.240.280 of the Jurupa Valley Municipal Code.

(c) Section 9.240.490.B.(1) of the Jurupa Valley Municipal Code provides that the sale of alcoholic beverages for off-premises consumption shall be allowed in the C-P-S Zone provided a conditional use permit has been approved pursuant to Section 9.240.280 of the Jurupa Valley Municipal Code.
(d) Section 9.240.280.(3) of the Jurupa Valley Municipal Code provides that a public hearing shall be held on the application for a conditional use permit in accordance with the provisions of either Section 9.240.250 or 9.240.260 of the Jurupa Valley Municipal Code, whichever is applicable, and all of the procedural requirements and rights of appeal as set forth therein shall govern the hearing. Further, the hearing body in Section 9.240.250 of the Jurupa Valley Municipal Code is defined as the Planning Commission of the City of Jurupa Valley.

(e) Section 9.240.250.(6) of the Jurupa Valley Municipal Code provides that for any decision where the hearing body is the Planning Commission and it has rendered a final decision rather than a recommendation to the City Council, an appeal of that decision shall be filed and processed pursuant to the provisions of Section 9.05.100 and subject to the provisions of Section 9.05.110.

(f) Section 9.05.100.A. of the Jurupa Valley Municipal Code provides that for any quasi-judicial decision of the Planning Commission in which it has rendered a final decision, rather than a recommendation to the City Council, that decision shall be considered final unless a written appeal, with the required appeal fee, is filed with the City Clerk within ten (10) calendar days after the date of the decision and the appeal shall be processed and resolved in accordance with the provisions of Section 9.05.100.

(g) Section 9.05.100.B. of the Jurupa Valley Municipal Code provides that an appeal may be filed by an individual Council Member, provided, however, that any such appeal shall be solely on the basis that the issues related to the application are important to the City and should be decided by the entire City Council, and, provided further, that an appeal by an individual Council Member shall not mean, nor shall it be construed to mean, that the individual Council Member is expressing a view in favor of or in opposition to the application. Any appeal filed by an individual Council Member does not require the payment of a fee.

(h) Section 9.05.100.C. of the Jurupa Valley Municipal Code provides that upon the filing of an appeal, the decision of the Planning Commission appealed from shall be suspended until such time as the appeal is decided by the City Council or is otherwise resolved as provided in Section 9.05.100.

(i) Section 9.05.100.D. of the Jurupa Valley Municipal Code provides that in the event there are two (2) or more quasi-judicial land use applications for a project decided by the Planning Commission, an appeal of one (1) or more of those applications shall be deemed to be an appeal of all of the quasi-judicial land use applications for the project. The purpose of Section 9.05.100.D. is to enable the City Council to hear and decide all of the land use entitlements for a project in a comprehensive and coordinated manner.

(j) Section 9.05.100.E. of the Jurupa Valley Municipal Code provides that after an appeal is filed with the City Clerk as provided in Section 9.05.100., the City Clerk shall set the matter for public hearing before the City Council not less than thirteen (13) nor more than sixty (60) days after the date the appeal is filed. Unless otherwise provided in the Jurupa Valley Municipal Code, public hearings for appeals shall be noticed using the same procedures applicable to the Planning Commission’s hearing on the application.
(k) Section 9.05.100.F. of the Jurupa Valley Municipal Code provides that the City Council shall hear the appeal de novo; however, the documents and the minutes of the hearing before the Planning Commission shall be a part of the City Council’s record at its hearing on the matter.

(l) Section 9.05.100.G. of the Jurupa Valley Municipal Code provides that the City Council shall hear relevant testimony and receive written comments from interested persons prior to or at the hearing. Within a reasonable time after the close of the hearing, the City Council shall make its decision sustaining, reversing, or modifying the decision of the Planning Commission. The decision of the City Council shall be made by resolution and shall require three (3) affirmative votes of the City Council. In making its decision sustaining the decision of the Planning Commission or sustaining the decision of the Planning Commission with modifications, the City Council may adopt by reference the findings of the Planning Commission. In making its decision reversing a decision of the Planning Commission, the City Council shall make the findings required by law and the Jurupa Valley Municipal Code and shall approve, conditionally approve, or disapprove the applications appealed. The decision of the City Council shall be final.

(m) Section 9.05.100.H. of the Jurupa Valley Municipal Code provides that in the event of a tie vote on an appeal or an affirmative vote of less than three (3) members of the City Council on an appeal, the decision of the Planning Commission being appealed shall be deemed sustained and the Planning Commission decision reinstated and final as to the applications.

(n) Section 9.240.280.(4) of the Jurupa Valley Municipal Code provides that a conditional use permit shall not be granted unless the applicant demonstrates that the proposed use will not be detrimental to the health, safety, or general welfare of the community. Any permit that is granted shall be subject to such conditions as shall be necessary to protect the health, safety, or general welfare of the community.

Section 3. Determination of Public Convenience or Necessity.

(a) Sections 23958 and 23958.4 of the California Business and Professions Code provide that the California Department of Alcoholic Beverage Control ("ABC") must deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except that ABC may issue the license if the local governing body of the area in which the applicant’s premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period commences upon receipt by the local governing body of (i) notification by ABC of an application for licensure, or (ii) a completed application according to local requirements, if any, whichever is later.

(b) The subject convenience store is located in Census Tract 404.03, in which an overconcentration of off-sales liquor licenses exists. California alcoholic beverages licensing regulations allow for a maximum of three (3) off-sale liquor licenses in Census Tract 404.03. A total of three (3) off-sales liquor licenses exist within Census Tract 404.03.
(c) Section 9.240.490.E.(4)(a) of the Jurupa Valley Municipal Code provides that the Planning Commission shall serve as the approving body subject to a public hearing, as required by Section 9.240.250 of the Jurupa Valley Municipal Code.

(d) Section 9.240.250.(6) of the Jurupa Valley Municipal Code provides that for any decision where the hearing body is the Planning Commission and it has rendered a final decision rather than a recommendation to the City Council, an appeal of that decision shall be filed and processed pursuant to the provisions of Section 9.05.100 and subject to the provisions of Section 9.05.110.

(e) Section 9.05.100.A. of the Jurupa Valley Municipal Code provides that for any quasi-judicial decision of the Planning Commission in which it has rendered a final decision, rather than a recommendation to the City Council, that decision shall be considered final unless a written appeal, with the required appeal fee, is filed with the City Clerk within ten (10) calendar days after the date of the decision and the appeal shall be processed and resolved in accordance with the provisions of Section 9.05.100.

(f) Section 9.05.100.B. of the Jurupa Valley Municipal Code provides that an appeal may be filed by an individual Council Member, provided, however, that any such appeal shall be solely on the basis that the issues related to the application are important to the City and should be decided by the entire City Council, and, provided further, that an appeal by an individual Council Member shall not mean, nor shall it be construed to mean, that the individual Council Member is expressing a view in favor of or in opposition to the application. Any appeal filed by an individual Council Member does not require the payment of a fee.

(g) Section 9.05.100.C. of the Jurupa Valley Municipal Code provides that upon the filing of an appeal, the decision of the Planning Commission appealed from shall be suspended until such time as the appeal is decided by the City Council or is otherwise resolved as provided in Section 9.05.100.

(h) Section 9.05.100.D. of the Jurupa Valley Municipal Code provides that in the event there are two (2) or more quasi-judicial land use applications for a project decided by the Planning Commission, an appeal of one (1) or more of those applications shall be deemed to be an appeal of all of the quasi-judicial land use applications for the project. The purpose of Section 9.05.100.D. is to enable the City Council to hear and decide all of the land use entitlements for a project in a comprehensive and coordinated manner.

(i) Section 9.05.100.E. of the Jurupa Valley Municipal Code provides that after an appeal is filed with the City Clerk as provided in Section 9.05.100., the City Clerk shall set the matter for public hearing before the City Council not less than thirteen (13) nor more than sixty (60) days after the date the appeal is filed. Unless otherwise provided in the Jurupa Valley Municipal Code, public hearings for appeals shall be noticed using the same procedures applicable to the Planning Commission's hearing on the application.

(j) Section 9.05.100.F. of the Jurupa Valley Municipal Code provides that the City Council shall hear the appeal de novo; however, the documents and the minutes of the
hearing before the Planning Commission shall be a part of the City Council’s record at its hearing on the matter.

(k) Section 9.05.100.G. of the Jurupa Valley Municipal Code provides that the City Council shall hear relevant testimony and receive written comments from interested persons prior to or at the hearing. Within a reasonable time after the close of the hearing, the City Council shall make its decision sustaining, reversing, or modifying the decision of the Planning Commission. The decision of the City Council shall be made by resolution and shall require three (3) affirmative votes of the City Council. In making its decision sustaining the decision of the Planning Commission or sustaining the decision of the Planning Commission with modifications, the City Council may adopt by reference the findings of the Planning Commission. In making its decision reversing a decision of the Planning Commission, the City Council shall make the findings required by law and the Jurupa Valley Municipal Code and shall approve, conditionally approve, or disapprove the applications appealed. The decision of the City Council shall be final.

(l) Section 9.05.100.H. of the Jurupa Valley Municipal Code provides that in the event of a tie vote on an appeal or an affirmative vote of less than three (3) members of the City Council on an appeal, the decision of the Planning Commission being appealed shall be deemed sustained and the Planning Commission decision reinstated and final as to the applications.

(m) Section 9.240.490.E.(5) of the Jurupa Valley Municipal Code provides that the Planning Commission must make the following findings in making a determination of public convenience or necessity and approving or conditionally approving an application for Issuance of a Letter of Determination of Public Convenience or Necessity:

1) That the proposed use will not be detrimental to the health, safety and welfare of the community;

2) That the proposed use will enhance the economic viability of the area in which it is proposed to be located;

3) That the proposed use is compatible with the surrounding area;

4) That the background of the proposed licensee and the history of the premises or any premises the applicant has operated in the past were not detrimental to the health, safety and welfare of the community; and

5) That the applicant will agree, in writing, to the conditions placed upon the license and application.

(n) Section 9.240.490.E.(6) of the Jurupa Valley Municipal Code provides that the Planning Commission may impose such conditions as are necessary to protect the health, safety and welfare of the community and fulfill the findings required for the determination of public convenience or necessity.
Section 4. **Procedural Findings.** The City Council of the City of Jurupa Valley does hereby find, determine and declare that:

(a) The application for MA No. 18224 was processed including, but not limited to, a public notice, in the time and manner prescribed by State law and Jurupa Valley Ordinances.

(b) On May 22, 2019, the Planning Commission of the City of Jurupa Valley held a public hearing on MA No. 18224, at which time all persons interested in the Project had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony the Planning Commission closed the public hearing. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2019-05-22-03, approving Conditional Use Permit No. 18010, making a determination of Public Convenience or Necessity (PCN No. 19002)) to allow the sale of beer and wine for off-premises consumption at an existing Chevron gas station and convenience store located in Census Tract 404.03 at 9267 Jurupa Road (APN: 167-160-044) in the Scenic Highway Commercial (C-P-S) Zone, and making a determination of exemption under CEQA Guidelines Section 15301.

(c) On May 23, 2019, the Planning Director mailed a copy of the Notice of the Planning Commission’s Decision to the Applicant and all persons who made written requests for a copy of the decision.

(d) On May 30, 2019, Council Member Chris Barajas (“Appellant”) filed a timely appeal of the Planning Commission’s approval of MA No. 18224 (the “Appeal”).

(e) On July 18, 2019, the City Council of the City of Jurupa Valley held public hearing on the Appeal, at which time all persons interested in the Project had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing, and, after weighing the evidence and considering the adequacy of proposed MA 18224, applied its own independent judgment and analysis to the review and desired to take action to reverse the Planning Commission’s approval of MA No. 18224 and sustain the appeal based on the findings herein. The City Council continued the item and directed staff to prepare this resolution, consistent with the City Council’s direction, reversing the Planning Commission’s approval of MA No. 18224 for the City Council’s consideration.

(f) On August 15, 2019, the City Council of the City of Jurupa Valley conducted a continued public meeting on the Appeal.

(g) All legal preconditions to the adoption of this Resolution have occurred.

Section 5. **California Environmental Quality Act Findings.** The City Council of the City of Jurupa Valley, based on its own independent judgment, does hereby find, determine and declare that the Project is exempt from the requirements of the California Environmental Quality Act (“CEQA”) (Cal. Pub. Res. Code, § 21000 *et seq.*) and the State Guidelines (the “CEQA Guidelines”) (14 Cal. Code Regs. § 15000 *et seq.*) pursuant to Section 15270(a) of the
CEQA Guidelines because CEQA does not apply to projects which a public agency rejects or disapproves.

Section 6. **Findings for Denial of Conditional Use Permit.** The City Council of the City of Jurupa Valley does hereby find, determine, and declare that the proposed Conditional Use Permit No. 18010 be denied because the proposed sale of alcoholic beverages (beer and wine) for off-premises consumption will adversely affect and be materially detrimental to the public health, safety, or general welfare of the community.

(a) There currently exists two (2) off-sale retail ABC Type 20 licenses (off-sale beer and wine) within .6 miles of the subject property. Additionally, ABC is currently reviewing a retail Type 20 license application for a gas station and convenience store located at 9306 Jurupa Road (76 Gas Station), which is currently under construction and located within .2 miles of the subject property. Further, evidence from testimony presented in the record shows that there are at least four (4) establishments (e.g., convenience stores and supermarkets) within a one mile radius of the subject property and within the adjacent ABC census tract that sell alcoholic beverages under various ABC licenses.

(b) Also, evidence from testimony presented in the record and studies referenced at the public hearing shows that a high density of alcohol outlets is associated with increases in alcohol consumption in a given geographic area. (See Exhibit “A,” Kathryn Stewart, *How Alcohol Outlets Affect Neighborhood Violence*<http://resources.prev.org/documents/AlcoholViolenceGruenewald.pdf>). Increased alcohol consumption leads to automobile crashes, alcohol-related hospital admissions, injury, death, and increased crime. Research has also found that people who live near an abundance of fast-food restaurants and convenience stores compared to grocery stores and fresh produce vendors, have a significantly higher prevalence of obesity and diabetes. (See Exhibit “B,” The San Francisco Indicator Project, *Alcohol Outlet Density*<http://www.sfindicatorproject.org/indicators/view/73>.)

(c) Further, potential adverse effects on the peace, health, safety and welfare of residents in nearby areas, including, without limitation, littering and loitering, will arise from the undue proliferation and/or inappropriate location and/or closeness of establishments selling alcoholic beverages. The subject property is located within .7 miles of a residential neighborhood located to the west, and within .4 miles of a residential neighborhoods located to the south of the subject property. The proposed sale of alcoholic beverages (beer and wine) for off-premises consumption would also occur in close proximity to other sensitive uses including the Van Buren Elementary School approximately 1,000 feet from the subject property. With respect to the Van Buren Elementary School, in order to travel to and from school, children will pass within 20 feet of the subject convenience store, as well as through the area having an excess concentration of stores selling alcohol on both sides of Van Buren Boulevard.

(d) The proposed sale of alcoholic beverages (beer and wine) for off-premises consumption will result in adverse nuisances and other adverse secondary effects on of alcohol sales near sensitive uses. Given the specific conditions of the area surrounding the subject property, including an excess of off-sale retail ABC Type 20 licenses, in conjunction with the location of nearby sensitive uses, and recognizing there is an inter-relationship between the sale...
and consumption of liquor and excess concentration of licenses with crimes and nuisances, the City Council finds that proposed sale of alcoholic beverages (beer and wine) for off-premises consumption will be materially detrimental to the public health, safety, or general welfare of the community.

Section 7. Determination of Public Convenience or Necessity Denial Findings. The City Council of the City of Jurupa Valley does hereby find, determine, and declare that the proposed sale of alcoholic beverages for off-site consumption will adversely affect and be materially detrimental to the public health, safety, or general welfare of the community. To avoid undue concentration levels, ABC has established that Census Tract No. 404.03 should not have more than three (3) "off-sale" licenses for alcohol. Currently, there are two (2) businesses with retail Type 20 licenses within Census Tract No. 404.03 located at 9790 Jurupa Road (Perez Market) and 9775 Jurupa Road (Jurupa Dairy). ABC is also currently reviewing a retail Type 20 license application for a gas station and convenience store located at 9306 Jurupa Road (75 Gas Station) that is currently under construction. With ABC's approval of the license application for the gas station and convenience store located at 9306 Jurupa Road, the proposed sale of alcoholic beverages (beer and wine) for off-premises consumption would constitute a fourth license within Census Tract No. 404.03. Given the existence of three (3) retail Type 20 licenses within Census Tract No. 404.03, the City Council finds that public convenience or necessity would not be served by an additional fourth use for the sale of alcoholic beverages (beer and wine) for off-premises consumption.

Section 8. Jurupa Road/Van Buren Bl. Grade Separation Project Not Considered. While it is known in the community that the County of Riverside has made an offer to acquire the subject property and its improvements as part of the right of way for the Jurupa Road/Van Buren Bl. Grade Separation Project, which was confirmed by the Applicant's representative at the public hearing, the City Council has not and does not base its decision on this fact. The City Council bases its decision only on the facts and findings set forth in Sections 6 and 7 of this Resolution.

Section 9. Denial of Master Application No. 18224. Based on the foregoing, the City Council of the City of Jurupa Valley hereby reverses the Planning Commission's approval of Conditional Use Permit No. 18010 and a determination of Public Convenience or Necessity (PCN No. 19002) (collectively, MA No. 18224) to allow the sale of beer and wine for off-premises consumption at an existing Chevron gas station and convenience store located in Census Tract 404.03 at 9267 Jurupa Road (APN: 167-160-044) in the Scenic Highway Commercial (C-P-S) Zone and designated Commercial Retail (CR), denies MA No. 18224, and grants the Appeal of the Appellant.
Section 10. **Certification.** The City Clerk shall certify to the adoption of this Resolution.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Jurupa Valley on this 15\textsuperscript{th} day of August, 2019.

Brian Berkson  
Mayor

ATTEST:

Victoria Wasko, CMC  
City Clerk
CERTIFICATION

STATE OF CALIFORNIA )
COUNTY OF RIVERSIDE ) ss.
CITY OF JURUPA VALLEY )

I, Victoria Wasko, City Clerk of the City of Jurupa Valley, do hereby certify that the foregoing Resolution No. 2019-74 was duly passed and adopted at a meeting of the City Council of the City of Jurupa Valley on the 15th day of August, 2019 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Jurupa Valley, California, on the 15th day of August, 2019.

Victoria Wasko, City Clerk
City of Jurupa Valley
How Alcohol Outlets Affect Neighborhood Violence

Kathryn Stewart

Prevention Research Center
PACIFIC INSTITUTE FOR RESEARCH AND EVALUATION

www.resources.prev.org

Pacific Institute for Research and Evaluation is one of the nation’s preeminent independent, nonprofit organizations merging scientific knowledge and proven practice to create solutions that improve the health, safety and well-being of individuals, communities, nations, and the world.
Introduction

Neighborhoods where bars, restaurants and liquor and other stores that sell alcohol are close together suffer more frequent incidences of violence and other alcohol-related problems, according to recent research by the Prevention Research Center and others. The strong connection between alcohol and violence has been clear for a long time — but now we know that this connection also relates to the location of places that sell alcohol.

Government agencies with authority over land-use and/or liquor licenses can help fight crime and blight and improve quality of life by controlling licenses to sell alcohol and the location of licensees. Governments can make rules that set minimum distances between alcohol outlets; they can limit new licenses for areas that already have outlets too close together; they can stop issuing licenses when a particular location goes out of business; and they can permanently close outlets that repeatedly violate liquor laws.

This paper presents some of the questions and answers about alcohol sales outlets and alcohol problems — especially the relationship between outlet location and violence.

What is the relationship between outlet density and violence?

A number of studies have found that in and near neighborhoods where there is a high density of places that sell alcohol, there is a higher rate of violence. That is, when bars, liquor stores, and other businesses that sell alcohol are close together, more assaults and other violent crimes occur.

Some of the important findings about outlet density and violence are described below.

- In a study of Camden, New Jersey, neighborhoods with alcohol outlet density had more violent crime (including homicide, rape, assault, and robbery). This association was strong even when other neighborhood characteristics such as poverty and age of residents were taken into account.¹
- In a study of 74 cities in Los Angeles County, California, a higher density of alcohol outlets was associated with more violence, even when levels of unemployment, age, ethnic and racial characteristics and other community characteristics were taken into account.²
- In a six-year study of changes in numbers of alcohol outlets in 551 urban and rural zip code areas in California, an increase in the number of bars and off-premise places (e.g., liquor, convenience
and grocery stores) was related to an increase in the rate of violence. These effects were largest in poor, minority areas of the state, those areas already saturated with the greatest numbers of outlets.3

- Violence committed by youth was more common in minority neighborhoods where there are many outlets that sell alcohol for consumption off the premises (such as liquor and convenience stores).4 This finding makes sense because underage drinkers are more likely to purchase alcohol in a store than in a bar or restaurant.

- In neighborhoods where there are many outlets that sell high-alcohol beer and spirits, more violent assaults occur.5

- Large taverns and nightclubs and similar establishments that are primarily devoted to drinking have higher rates of assaults among customers.6

A larger number of alcohol outlets and a higher rate of violence might be expected in poorer neighborhoods or in neighborhoods with a larger population young people. But as the research described above shows, even when levels of poverty and the age and the ethnic background of residents are taken into account, a high density of outlets is strongly related to violence regardless of a neighborhood’s economic, ethnic or age status.

All of the characteristics of alcohol outlet location can be important. It is easy to see that a town with many bars, restaurants, and stores that sell alcohol could be different from one that has fewer outlets. It is also easy to see that a neighborhood that has a bar on each corner and a liquor store on each block has a completely different environment than one that has few outlets or none at all. Other characteristics of the environment make a difference, too. For example, a strip of bars near a college campus presents a different environment from a similar density of bars in an upscale city center and also different from a similar density in a poor neighborhood. But in each case, some form of increased violence would be expected as compared to comparable areas with fewer alcohol outlets. A study of changes in outlet density over time as related to violence in California found that regardless of other neighborhood characteristics, an increase in outlets increased violence. In neighborhoods with a high minority population and low incomes, the effect was more than four times greater than for the statewide sample of communities.
What accounts for the relationship between outlet density and violence?

The research that has been done so far cannot pinpoint exactly why having more outlets in a small area seems to result in more violence. Various explanations have been proposed. One is that alcohol outlets can be a source of social disorder. A liquor store parking lot full of people drinking in their cars or on the curb and broken bottles littering the area outside a bar may send a message that this is a neighborhood in which normal rules about orderly behavior are not enforced. Another possible explanation is that a neighborhood with a large number of outlets acts as a magnet for people who are more inclined to be violent or more vulnerable to being assaulted. It is also possible that a high number of outlets results in a large number of people under the influence of alcohol — which makes them both more likely to be violent and less able to defend themselves. It is most probable that all of these factors come into play.

What is the relationship of outlet density to other alcohol problems?

The density of alcohol outlets has also been found to be related to other alcohol problems such as drinking and driving, higher rates of motor vehicle-related pedestrian injuries, and child abuse and neglect.

How do governments regulate outlet density?

States and communities can regulate the number of bars, restaurants, and stores that sell alcohol in a given area. Sometimes the number and location of alcohol outlets is not limited at all. In some jurisdictions, the number of alcohol outlets is limited based on the population of the area — only so many outlets per thousand residents, for example. In other cases, the location of outlets is regulated — for example, some states or communities set minimum distances from schools or churches. Research increasingly finds, however, that geographic density is the key aspect of outlet location — that is, the distance between outlets. Where over-concentrations of outlets occur, greater problems arise.

Governments can use their regulatory powers to reduce violence by:

- Making rules that set minimum distances between alcohol outlets;
- Limiting new licenses for areas that already have outlets too close together;
- Not issuing a new license when a particular location goes out of business;
- Permanently closing outlets that repeatedly violate liquor laws (such as by selling alcohol to minors or to intoxicated persons or allowing illicit drug sales or prostitution on the premises).
What implications do these findings have for state and local licensing policies?

The research strongly suggests that limits on outlet density may be an effective means of reducing alcohol problems, especially violence. States and communities can use controls on the number and location of alcohol outlets as a tool for reducing violence, creating a safer and healthier alcohol environment, and improving the quality of life of a community.

What other alcohol policies are important?

Alcohol is a legal and widely consumed commodity; but it is also a commodity that can create a variety of serious health and social problems. Alcohol policies are an important tool for preventing these problems. Every day, states and communities make decisions about the sale of alcohol: who can sell it, when and where it can be sold, who it can be sold to. State and local laws and policies control many aspects of the system by which alcohol is manufactured, marketed, sold, purchased, and consumed.

Regulations serve a variety of purposes, for example, they help ensure that tax revenues are collected. But the regulation of the business of selling alcohol goes beyond economic concerns. Each element of the regulatory system provides opportunities for creating a healthier social environment with respect to alcohol. For example, regulations can prevent unsafe sales practices – such as prohibiting all-you-can-drink specials that encourage intoxication. Regulations can control advertising and promotion that appeals to minors and establish the minimum age and training qualifications for people who sell and serve alcohol. Each type of regulation has the potential to ensure that alcohol is consumed in a safe and healthy manner.

What aspects of alcohol availability can be regulated?

The regulation of alcohol sales can have an impact on the availability of alcohol – that is, how easy and convenient it is to buy. Some states and communities try to make alcohol less available by selling it only in limited places – for example, state liquor stores. Other communities sell it more freely – making it available in grocery stores, convenience stores, gas stations, laundromats, drive-through windows, and so forth. States and communities can also limit the hours and days of sale, and other aspects of the conditions of sale. The regulation of availability is important because research generally shows that when alcohol is more easily available, people drink more and more alcohol problems occur.
References


7 Gorman, et al. (2001).


Notice! This page is currently being updated. The data shown may be incomplete. Thank you for your patience.

C.1.e Alcohol outlet density

Descriptive Title: Density of off-sale alcohol outlets per square mile

Geographic Unit of Analysis: Point

Density of Off-sale Alcohol Outlets

- Off-sale alcohol outlet*

* Off-sale alcohol outlets are retail establishments authorized to sell beer, wine and/or distilled spirits for consumption off the premises where sold.

Source: California Department of Alcoholic Beverage Control, 2011/12

City and County of San Francisco Department of Public Health Environmental Health Section

Available at www.thedirect.org

(/img/indicators/pdf/Alcohol_Outlets.pdf)

Download PDF map.
## Density of off-sale* alcohol outlets (2011)

<table>
<thead>
<tr>
<th>Neighborhood</th>
<th>Number of off-sale alcohol outlets</th>
<th>Density of off-sale alcohol outlets per square mile</th>
<th>Off-sale alcohol outlets per 1,250 population</th>
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<td>Neighborhood</td>
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<td>Density of off-sale alcohol outlets per square mile</td>
<td>Off-sale alcohol outlets per 1,250 population</td>
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Density of off-sale* alcohol outlets (2011)

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<th>Neighborhood</th>
<th>Number of off-sale alcohol outlets</th>
<th>Density of off-sale alcohol outlets per square mile</th>
<th>Off-sale alcohol outlets per 1,250 population</th>
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<tr>
<td>Western Addition</td>
<td>68</td>
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Why Is This An Indicator Of Health and Sustainability?

Research strongly suggests that density of alcohol outlets is closely related to crime and violence. For example, one study in New Jersey found that neighborhoods with alcohol outlet density, controlling for age and poverty, had more violent crimes, including homicide, rape, assault, and robbery. In Los Angeles, a higher density of alcohol outlets was also associated with more violence, even when controlling for unemployment, age, ethnic and racial characteristics, and other community characteristics. In a six-year study of changes in numbers of alcohol outlets in 551 urban and rural zip code areas in California, an increase in the number of bars and off-premise places (e.g., liquor, convenience and grocery stores) was related to an increase in the rate of violence. These effects were largest in poor, minority areas of the state, those areas already saturated with the greatest numbers of outlets. Finally, people who live near an abundance of fast-food restaurants and convenience stores compared to grocery stores and fresh produce vendors, have a significantly higher prevalence of obesity and diabetes.

Interpretation and Geographic Equity Analysis

"Off-sale alcohol outlets" are those authorized by the State of California to sell all types of alcoholic beverages for consumption off the premises in original, sealed containers, such as grocery stores, liquor stores, mini-marts, and package stores. This excludes restaurants, bars and other types of facilities where alcohol is consumed onsite. Off-sale alcohol permits are either "general" for the sale of beer, wine, and distilled spirits, or are "beer and wine" where only beer and wine can be sold. Per Section 23817.5 of the California ABC Act, there the number of licenses for each off-sale type is limited to 1 for every 2,500 inhabitants of a county, or 1 for every 1,250 inhabitants for both types combined.

This indicator illustrates the density of off-sale alcohol outlets per square mile and per person. As of 2011, one of every ten off-sale alcohol outlets in San Francisco was located in the Mission and one of every eleven was located in Downtown/Civic Center. The neighborhoods with the highest density of off-sale alcohol outlets per square mile are Chinatown, Downtown/Civic Center, Nob Hill, the Mission, and North Beach. The neighborhoods with the highest density of off-sale alcohol outlets per population are the Financial District, North Beach, Chinatown, Potrero Hill and South of Market. Sixteen neighborhoods have fewer than 1 outlet per 1,250 persons, while seven neighborhoods have at least twice the State standard.

According to the Pacific Institute for Research and Evaluation, "Neighborhoods where bars,
restaurants and liquor and other stores that sell alcohol are close together suffer more frequent incidences of violence and other alcohol-related problems, according to recent research by the Prevention Research Center and others. The strong connection between alcohol and violence has been clear for a long time -- but now we know that this connection also relates to the location of places that sell alcohol."

Because the density of off-sale alcohol outlets in San Francisco exceeds the state threshold (more than one for every 1,250 people in the county) as defined in ABC Act, Section 23817.5, San Francisco currently is under moratorium and no new alcohol outlet licenses are permitted. When an existing business with a liquor license closes or ceases to use its license, that license may be bought or traded by another business owner within the city, if the proposed new business is not in an area of "undue concentration" (defined as 1) police districts where the number of reported crimes is 20% or greater than the city average and 2) census tracts where the ratio of off-sale alcohol licenses per population is greater than the county wide ratio). More information about the licensing process is available on the Alcohol and Beverage Control Department's website: http://www.abc.ca.gov/cbnpc.html (http://www.abc.ca.gov/cbnpc.html).

Recognizing that certain neighborhoods have disproportionate access to bars and alcohol outlets, the city of San Francisco established "Alcoholic Beverage Special Use Subdistricts" in the Mission, Haight, Lower Haight, Third Street and Divisadero Street to further limit alcohol sales in the neighborhoods by prohibiting new establishments from selling alcoholic beverages in bars and off-sale liquor establishments, except for in restaurants and non-profit theaters (see SF Planning Code Sections 781.8, 781.9-784).

Methods

List of alcohol outlets obtained from the California Department of Alcohol Beverage Control (ABC) in October 2011 from: www.abc.ca.gov/datport/AHCityRep.asp (http://www.abc.ca.gov/datport/AHCityRep.asp). San Francisco businesses included have License Type 20 and 21.

Limitations

As illustrated by the map, take-out alcohol outlets are not evenly distributed within neighborhoods. The clustering of outlets in certain locations means that certain areas of a neighborhood may be disproportionately impacted by proximity to multiple alcohol outlets whereas other areas in the same neighborhood have few outlets.

At the same time, not all take-out alcohol outlets are the same. The stores may vary in hours open, what types of other products or types of alcohol they sell, what languages are spoken, and what clientele they serve. The presence of a full-service grocery store likely has a very different impact on a neighborhood's access to healthy food resources than the presence of a package or liquor store.

Although there is officially a moratorium on new alcohol outlet licenses in San Francisco, the trading of licenses with another business owner does occur and may impact the distribution of alcohol outlets across the city.
Although various research studies have found that a higher concentration of alcohol outlets is associated with higher rates of violence in neighborhoods, the presence of alcohol outlets does not mean there definitely will be more violence, nor does their absence ensure there will be no violence.

Data Source

Location of Alcohol Outlets from California Department of Alcohol Beverage Control (ABC), downloaded October of 2011.

Population data from the 2010 US Census.

Map prepared by City and County of San Francisco, Department of Public Health, Environmental Health Section using ArcGIS software.

Table data is presented by planning neighborhood.

Detailed information regarding census data, geographic units of analysis, their definitions, and their boundaries can be found at the following links:

Interactive boundaries map
(http://sfgov.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=e4927a261ae044959ec4d4932b047ff8)

http://sfindicatorproject.org/resources/data_map_methods
(http://www.sfindicatorproject.org/resources/data_map_methods)


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July 27, 2019

Vicki Wesco  
Jurupa Valley City Clerk  
8930 Limonite Avenue  
Jurupa Valley, CA  92509

Peter Thorson  
Jurupa Valley City Attorney  
8930 Limonite Avenue  
Jurupa Valley, CA  92509

Re:  G & M Oil Company – application for ABC License  MA18224 (CUP18010 & PCN19002)

Dear Ms. Wesco and Mr. Thorson, Members of the City Council, and Mayor,

This office represents G & M oil Co. LLC. Our client has a pending application to obtain a beer and wine license for their property.

Dear Mayor and Members of the City Council,

This office represents G & M oil Co. LLC. Our client has a pending application to obtain a beer and wine license for their property, as described below. G & M has been doing business in the Jurupa community for many years.

On May 22, 2019 the planning commission approved our (G & M’s) CUP#18010 and PCN#19002 to allow the sale of beer and wine for off-sale consumption at 9267 Jurupa Road. The conditional use findings for CUP #18010 were made and supported under section 7 of the staff report and adopted by the planning commission.

Since that time, it appears that the Counsel, has, without any stated substantive basis decided to deny the application supported by the planning department. Ironically, the counsel approved a nearly identical permit for a competitor of G & M across the street,
not only giving an unfair advantage to a competitive gas station business, but in fact discriminating against G & M, whether intentionally or by failing to afford due process to G & M. California Code of Civil Procedure section 1094.5 provides that administrative agencies must conduct hearings that are fair, supported by the evidence, and not based upon speculation or conjecture. Here, G & M has met all of the rigorous requirements of the planning commission and the ABC, and yet there is no substantive basis given for the denial of a license this applicant, and that was readily given to a competitor across the street two years ago.

BACKGROUND

As explained at the hearing according to the statistics provided by the Department of Alcoholic Beverage Control, the above referenced premises is NOT located in a census tract in which an undue concentration of licenses exists pursuant to 23958.4 of the Business and Professions Code. Based on the "ABC" information, it is our understanding that the City of Jurupa Valley did not need to make these findings, nor should they have been a part of their staff report or presentation to the commission (section 4 of staff report). Department of Alcohol Beverage Control provides these counts and makes this request from the applicant or city if needed.

GM Oil has applied for an original type 20 off-sale beer and wine license with the Department of Alcoholic Beverage Control. The Department of Alcoholic Beverage Control has determined that the proposed Chevron is located within Census Tract 404.03 and is not over concentrated, pursuant to §23958.4 of the California Business and Professions Code. The Department determined that Census Tract 404.03 is allowed 3 off-sale licenses and that 2 licenses currently exists within the tract. Therefore, public convenience or necessity is not required. However, support was still made for these findings.

On June 11, 2019 the applicant was notified that a council-member appealed the planning Commission action. On July 18, 2019 our hearing was held by City Council. Council informed the applicant that they could not support the findings from the planning commission. The City Council stated that there are nearby locations in the vicinity that alcohol may be purchased.

The applicant explained that it was a matter of public convenience and we deserve the same equal footing as the others in the area. It was also noted that the Sheriff’s department did not oppose our location. We find it very discriminatory that less than 300’ away from our location, these same CUP findings were made for the 76 station located at 9306 Jurupa Valley and approved. No appeal was ever brought up to council. Not only were these findings made to a direct competitor, but right next door to a resident and closer to a school.

CONCLUSION

G & M has been at this location for many years and operates a clean and safe environment, well-lit and professional business. It does not create a policing issue and it has every safe guard within it’s business to mitigate any concerns. We are frankly very
puzzled and deeply concerned why the city would not give G & M the same opportunity as it has to a competitor, knowing our site has generated tax dollars to the city for over 40 years.

Moreover, neither the ABC nor any existing study finds that there are too many licenses in the subject area. To the contrary, the city relatively recently provided a license to the competitor across from G & M, and the planning commission who takes all of these issues into account supports the issuance of the license.

We are requesting the council to reconsider their action and adopt the planning commission findings. Should the council reject reconsideration, please allow this to serve as a request for all facts and findings upon which the city bases its decision.

Sincerely,

Very truly yours,

HARRY O. SCHENK, A Professional Corp.

HARRY O. SCHENK

HOS:jeff
Encl.
STAFF REPORT

DATE: AUGUST 15, 2019

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ALAN KREIMEIER, INTERIM CITY MANAGER

BY: STEVE R. LORISO, P.E.,
    CITY ENGINEER/ DIRECTOR OF PUBLIC WORKS

SUBJECT: AGENDA ITEM NO. 11.D

RESOLUTION OF INTENTION TO ESTABLISH CITY OF JURUPA VALLEY COMMUNITY FACILITIES DISTRICT NO. 2019-002 (EMERALD RIDGE) GENERALLY LOCATED NORTH AND WEST OF AVALON STREET AND EAST OF CANAL STREET

RECOMMENDATION

1) That the City Council adopt Resolution No. 2019-70, entitled:

A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY TO ESTABLISH CITY OF JURUPA VALLEY COMMUNITY FACILITIES DISTRICT NO. 2019-002 (EMERALD RIDGE) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN CITY OF JURUPA VALLEY COMMUNITY FACILITIES DISTRICT NO. 2019-002 (EMERALD RIDGE)

BACKGROUND

The State legislature enacted the Mello-Roos Act of 1982 (the “Act”) to assist public agencies in financing certain public services. The developer, Jurupa Valley, LLC, a Delaware limited liability company, requested that the City assist them in forming a district for the City to cover the costs associated with the maintenance of public improvements within the proposed district. The costs involve services for streetlights maintenance including energy charges, operation, maintenance, and administrative costs of streetlights located on Avalon Street and 30th Street; the maintenance of landscape and all landscaping materials such as turf, ground cover, shrub, trees, plants, irrigation and drainage systems, weed control and other abatements, sidewalks, monuments, lights, electricity, and related repair, replacement and inspection; the maintenance, administration and inspections of stormwater facilities and BMPs including open space area drains, catch basins, open space areas, and any other
NPDES/WQMP/BMP related devices; litter and graffiti removal on walls and other amenities, plus normal painting as required within CFD boundaries on Avalon Street; and all other services necessary or useful for, or in connection with, the authorized services listed above, including, but not limited to, building a reserve fund for replacement.

The development is proposed to include a total of 215 residential parcels; 97 single family residential properties and 118 multifamily residential properties. The CFD is comprised of approximately 11.44 taxable acres of residentially zoned land.

ANALYSIS

Approval of the attached Resolution is required under the Act to levy a special tax and fund certain services. The attached Resolution declares the City Council’s intention to form the proposed CFD No. 2019-002 (Emerald Ridge) and to authorize the levy of a special tax in accordance with an attached Rate and Method of Apportionment of Special Tax. The attached Resolution is the initial step for forming the CFD pursuant to the procedures prescribed by the Act, which include holding a public hearing and submitting the formation of the proposed CFD No. 2019-002 to the landowners at special election to be conducted by mailed ballot.

The proposed district will have a Maximum Special Tax in the amount of $132.00 per taxable unit per year for single family residential and multifamily residential parcels, and a Maximum Special Tax of $1,153.00 per acre for Non-Residential property. These rates will increase based on the percentage increase in the Consumer Price Index, for Riverside-San Bernardino-Ontario area, with a maximum annual increase of 6% and a minimum annual increase of 2% of the Maximum Special Tax in effect in the previous fiscal year. The owners have filed a petition representing their willingness to move forward.

A public hearing on this matter will take place on September 19, 2019, and at that time the Council will hear any testimony concerning the formation and take action to adopt the “Resolution of Formation.”

OTHER INFORMATION

The Mello-Roos Community Facilities Act of 1982 (the “Act”) authorizes the initiation of the establishment of community facilities districts upon receipt by the City of a petition requesting institution of proceedings by owners of not less than 10% of the area of land proposed to be included within the district. The City has received the signed petition from the land owner.
FINANCIAL IMPACT

The individual property owners are responsible for the annual payments of special taxes. The City will work with the County concerning the filing of the annual special tax to the County Auditor-Controller.

The property owner posted a deposit with its application to form the CFD in order to cover City costs incurred in connection with the formation. Approval of this resolution does not in any way commit the City to any financial contribution or liability by the CFD. The City’s cost to administer the CFD annually will be reimbursed through the special taxes charged to property owners.

ALTERNATIVES

1. Take no action.

2. Provide staff with further direction.

**************************SIGNATURES ON FOLLOWING PAGE**************************
Prepared by:

[Signature]
Carolina Fernandez, E.I.T.
Assistant Engineer

Reviewed by:

[Signature]
Steve R. Lorio, P.E.
City Engineer/Public Works Director

Reviewed by:

[Signature]
Connie Cardenas
Administrative Services Director

Reviewed by:

[Signature]
George A. Wentz
Deputy City Manager

Approved as to form:

[Signature]
Peter Thorson
City Attorney

Submitted by:

[Signature]
Alan Kreimeier
Interim City Manager

Attachments:

1) Resolution No. 2019-70
2) Rate and Method of Apportionment
RESOLUTION NO. 2019-70

A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY, CALIFORNIA, TO ESTABLISH CITY OF JURUPA VALLEY COMMUNITY FACILITIES DISTRICT NO. 2019-002 (EMERALD RIDGE) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN CITY OF JURUPA VALLEY COMMUNITY FACILITIES DISTRICT NO. 2019-002 (EMERALD RIDGE)

RECITALS:

WHEREAS, this City Council (the “City Council”) of the City of Jurupa Valley (the “City”) has received a petition (the “Petition”) requesting the institution of proceedings, which is signed by the owner of the land proposed for inclusion in a proposed community facilities district (the “Owner”) and which meet the requirements of Sections 53318 and 53319 of the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Division 2 of Title 5 of the California Government Code (the “Act”); and

WHEREAS, the Act authorizes the City Council to establish a community facilities district and to levy special taxes within that district; and

WHEREAS, in accordance with the request set forth in the Petition, the City Council desires to undertake proceedings to establish a community facilities district pursuant to the Act to finance certain services which are in addition to services currently provided in the territory of the proposed district and are necessary to meet increased demands placed upon the City as a result of the development of such land;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY:

1. Intention. The City Council hereby declares its intention to conduct proceedings for the formation of a community facilities district under the terms of the Act.

2. Name of District. The name of the proposed community facilities district is "City of Jurupa Valley Community Facilities District No. 2019-002 (Emerald Ridge)" (the "District").

3. Boundaries of District. The exterior boundaries of the District are shown on the map now on file in the office of the City Clerk entitled “Proposed Boundary - Community Facilities District No. 2019-002 (Emerald Ridge)” (the “Map”). The Map indicates by a boundary line, the extent of the territory included in the proposed District and shall govern for all details as to the extent of the District. On the original and one copy of the Map, the City Clerk shall endorse the certificate evidencing the date and adoption of this Resolution. The City Clerk shall file the original of the Map in her office and, within fifteen days after the adoption of this Resolution, the City Clerk shall file a copy of the Map so endorsed in the records of the County Recorder, County of Riverside, State of
California, and in any event this Map shall be filed no later than fifteen days before the public hearing specified in Section 6 below.

4. **Services.** The type of services proposed to be provided within the District and to be financed under the Act shall consist of those services set forth on Exhibit "A" (the "Services"), attached hereto and incorporated herein by reference. The Services are in addition to services currently provided in the District and are necessary to meet increased demands placed upon the City as a result of the development occurring in the District.

5. **Special Tax.**

   a. Except where funds are otherwise available to pay for the Services, it is the intention of the City Council, commencing Fiscal Year 2020-2021, to levy annually in accordance with procedures contained in the Act a special tax (the "Special Tax") within the District sufficient to pay for the costs thereof, including incidental expenses. The types of incidental expenses proposed to be incurred are set forth in Exhibit "B." The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the District and will be collected in the same manner as ordinary ad valorem property taxes are collected, or in such other manner as may be provided by the City Council including, without limitation, direct billing of the affected property owner, and shall be subject to the same penalties, procedure, sale and lien priority in case of delinquency as applicable for ad valorem property taxes. In the first year in which the Special Tax is levied, the levy shall include a sum sufficient to repay to the City all amounts, if any, transferred to the District pursuant to Section 53314 of the Act and interest thereon.

   b. The proposed Rate and Method of Apportionment of the Special Tax (the "Rate and Method") among parcels of real property in the District, in sufficient detail to allow each resident or landowner within the proposed District to estimate the maximum amount such resident or owner will have to pay, is shown in Exhibit "C," attached hereto and incorporated herein by reference. The City Council hereby determines the Rate and Method set forth in Exhibit "C" to be reasonable.

6. **Hearing.** A public hearing on the establishment of the District, the extent of the District, the furnishing of Services within the District, and the proposed Rate and Method (the "Hearing") shall be held on September 19, 2019, at 7:00 p.m., or as soon thereafter as practicable, at the chambers of the City Council of the City of Jurupa Valley, 8930 Limonite, Jurupa Valley, California 92509. At the Hearing, any interested person or taxpayer, including all persons owning lands or registered to vote within the proposed District, may appear and be heard.

7. **Report.** The Staff of the City is directed to study the proposed District and prepare for filing at the Hearing the report required by Section 53321.5 of the Act.
The staff of the City may delegate to consultants of the City the duty to perform the study and prepare the report.

8. **Advances.** The City may accept advances of funds or work in-kind from any source, including, but not limited to, private persons or private entities, and is authorized and directed to use such funds or that work in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the District. The City may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by the City Council, with or without interest.

9. **Published Notice.** The City Clerk is hereby directed to publish a notice of the Hearing ("Notice") pursuant to Section 6061 of the California Government Code in a newspaper of general circulation published in the area of the proposed District. Such Notice shall be substantially in the form specified in Section 53222 of the Act. Publication of the Notice shall be completed at least seven days prior to the date of the Hearing.

10. **Mailed Notice.** The City Clerk is hereby directed to send a copy of the Notice of the Hearing by first-class mail, postage prepaid, to each registered voter and to each landowner within the proposed District as shown on the last equalized assessment roll. Mailing of the Notice shall be completed at least fifteen days prior to the date of the Hearing.

11. **Voting.** Should the City Council determine to form the District, a special election will be held within the District to authorize the levy of the Special Tax in accordance with the procedures contained in Section 53326 of the Act. If held, the proposed voting procedure at the election will be a landowner vote with each landowner who is the owner of record of land within the District at the close of the Hearing, or the authorized representative thereof, having one vote for each acre or portion thereof owned within the District. Ballots for the special election may be distributed by mail with return postage prepaid or by personal service.

12. **Exemptions from Special Tax.** Except as may otherwise be provided in Exhibit "C" hereto or by law, all lands owned by any public entity, including the United States, the State of California and/or the City, or any departments or political subdivisions thereof, shall be omitted from the levy of the Special Tax to be made to cover the costs and expenses of the Facilities and Services. In addition, reference is hereby made to Exhibit "C" for a description of other lands which shall be omitted from the levy of the Special Tax.

13. **Election to Perform Work.** Pursuant to 53329.5(c) of the Act, the City Council finds that, in its opinion, the public interest will not be served by allowing property owners in the District to enter into a contract pursuant to Section 53329.5(a)
PASSED, APPROVED AND ADOPTED by the City Council of the City of Jurupa Valley on this 15th day of August, 2019.

Brian Berkson
Mayor

ATTEST:

Victoria Wasko, CMC
City Clerk
CERTIFICATION

STATE OF CALIFORNIA )
COUNTY OF RIVERSIDE ) ss.
CITY OF JURUPA VALLEY )

I, Victoria Wasko, City Clerk of the City of Jurupa Valley, do hereby certify that the foregoing Resolution No. 2019-70 was duly passed and adopted at a meeting of the City Council of the City of Jurupa Valley on the 15th day of August, 2019 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Jurupa Valley, California, on the 15th day of August, 2019.

______________________________
Victoria Wasko, City Clerk
City of Jurupa Valley
EXHIBIT "A"

DESCRIPTION OF SERVICES

Authorized Services shall be the following:

- Streetlights maintenance including energy charges, operation, maintenance, and administrative costs of streetlights located on Avalon Street and 30th Street, and identified on the City approved Street Light Plans for Avalon Street – Canal Street – 30TH Street Tract No. 37640, by WestLAND Group, Inc., 2019.

- The maintenance of landscape and all landscaping materials such as turf, ground cover, shrub, trees, plants, irrigation and drainage systems, weed control and other abatements, sidewalks, monuments, lights, electricity, and related repair, replacement and inspection; as identified on the City approved CFD Landscape Plans for Emerald Ridge South Tract No. 37640, by Salt Landscape Architects, 2019.

- The maintenance, administration and inspections of stormwater facilities and BMPs including open space area drains, catch basins, open space areas, and any other NPDES/WQMP/BMP related devices.

- Litter and graffiti removal on soundwalls and other amenities, plus normal painting as required within CFD boundaries on Avalon Street.

- All other services necessary or useful for, or in connection with, the authorized services listed above, including, but not limited to, building a reserve fund for replacement.
EXHIBIT "B"

INCIDENTAL EXPENSES

The cost of the Services shall include incidental expenses, including costs associated with formation of the District, determination of the amount of the Special Tax, collection of the Special Tax, payment of the Special Tax, costs incurred in order to carry out the authorized purposes of the District, and the costs of engineering, inspecting, coordinating, completing, planning and designing the Services, including the costs of environmental evaluations.

The following incidental expenses are examples of those that may be incurred in the formation of the District: engineering services, publishing, mailing and posting of notices, governmental notification and filing costs, Election costs, and charges and fees of the City other than those waived.

The following incidental expenses are examples of those that may be incurred in each annual Special Tax levy: necessary consultant costs, costs of posting and collecting the special taxes, and administrative costs of the City related to each annual Special Tax levy.
EXHIBIT “C”

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

(Please see attached)
RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR
COMMUNITY FACILITIES DISTRICT NO. 2019-002 (EMERALD RIDGE)
of the City of Jurupa Valley, County of Riverside
State of California

A Special Tax (all capitalized terms are defined in Section A., "Definitions, below) shall be applicable to each Parcel of Taxable Property located within the boundaries of Community Facilities District No. 2019-002 (Emerald Ridge). The amount of Special Tax to be levied on a Parcel in each Fiscal Year, commencing in Fiscal Year 2020-2021, shall be determined by the City Council of the City of Jurupa Valley, acting in its capacity as the legislative body of the CFD by applying the appropriate Special Tax as set forth in Sections B., C., and D., below. All of the real property within the CFD, unless exempted by law or by the provisions of Section E. below, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of a Parcel as indicated on the most recent Assessor's Parcel Map, or if the land area is not shown on the Assessor's Parcel Map, the land area shown on the applicable Final Map, condominium plan, or other recorded County map or the land area calculated to the reasonable satisfaction of the Administrator using the boundaries set forth on such map or plan. The square footage of a Parcel is equal to the Acreage of such Parcel multiplied by 43,560.


"Administrative Expenses" means all actual or reasonably estimated costs and expenses of the CFD that are chargeable or allocable to carry out its duties as the Administrator of the CFD as allowed by the Act, which shall include without limitation, all costs and expenses arising out of or resulting from the annual levy and collection of the Special Tax (whether by the City or designee thereof or both), any litigation or appeal involving the CFD, and other administrative expenses of the City or designee thereof, or both, directly related to the CFD. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD for attorney's fees and other costs related to commencing and pursuing to completion any foreclosure as a result of delinquent Special Taxes.

"Administrator" means an official of the City, or designee thereof, responsible for determining the annual amount of the levy and collection of the Special Taxes.

"Approved Property" means all Parcels of Taxable Property: (i) that are included in a Final Map that was recorded prior to the January 1st preceding the Fiscal Year in which the Special Tax is being levied, and (ii) that have not been issued a Building Permit prior to the April 1st preceding the Fiscal Year in which the Special Tax is being levied.
“Assessor” means the Assessor of the County.

“Assessor’s Parcel Map” means an official map of the Assessor of the County designating Parcels by Assessor’s Parcel Number.

“Assessor’s Parcel Number” means the number assigned to a lot or Parcel for purposes of identification as determined from an Assessor Parcel Map or the applicable assessment roll.

“Base Year” means the Fiscal Year ending June 30, 2021.

“Boundary Map” means a recorded map of the CFD which indicates by a boundary line the extent of the territory identified to be subject to the levy of Special Taxes.

"Building Permit" means the first legal document issued by a local agency giving official permission for new construction. For purposes of this definition, "Building Permit" shall not include any subsequent Building Permits issued or changed after the first issuance.

“CFD” means Community Facilities District No. 2019-002 (Emerald Ridge) of the City of Jurupa Valley.

“City” means the City of Jurupa Valley, California.

“Consumer Price Index” means the Consumer Price Index published by the U.S. Bureau of Labor Statistic for “All Urban Consumers in the Riverside-San Bernardino-Ontario Area, measured as of the month of April in the Calendar Year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the Administrator that is reasonably comparable to the Consumer Price Index for the Riverside-San Bernardino-Ontario Area.

“Council” means the City Council of the City acting as the legislative body of the CFD.

“County” means the County of Riverside, California.

“Developed Property” means all Parcels of Taxable Property: (i) that are included in a Final Map that was recorded prior to January 1st preceding the Fiscal Year in which the Special Tax is being levied, and (ii) for which a Building Permit for new construction has been issued prior to April 1st preceding the Fiscal Year in which the Special Tax is being levied.

“Dwelling Unit” or “(D/U)” means a residential unit that is used or intended to be used as a domicile by one or more persons, as determined by the Administrator.

“Exempt Property” means any Parcel which is exempt from Special Taxes pursuant to Section E., below.
“Final Map” means a subdivision of property by recordation of an Assessor’s Parcel Map or lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or recordation of a condominium plan pursuant to California Civil Code 1352 that creates individual lots for which Building Permits may be issued without further subdivision.

“Fiscal Year” means the 12 month period starting on July 1 of any calendar year and ending the following June 30.

“Land Use Class” means any of the classes listed in Table 1 of Section C. below.

“Maximum Special Tax” means for each Parcel in each Fiscal Year, the greatest amount of Special Tax, determined in accordance with Section C., below, which may be levied on such Parcel in such Fiscal Year.

“Multifamily Residential Property” means all Parcels of Developed Property that consists of a building or buildings comprised of attached Dwelling Units available for rental by the general public, not for sale to an end user, and under common management.

“Non-Residential Property” means all Parcels of Developed Property for which a Building Permit was issued, permitting the construction of one or more non-residential structures.

“Parcel(s)” means a lot or parcel within the CFD shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number valid as of July 1st for the Fiscal Year for which the Special Tax is being levied.

“Property Owner’s Association Property” means all Parcels which have been conveyed, dedicated to, or irrevocably offered for dedication to a property owner association, including any master or sub-association, prior to April 1st preceding the Fiscal Year in which the Special Tax is being levied.

“Proportionately” means for Parcels of Taxable Property that are (i) Developed Property, that the ratio of the actual Special Tax levy to Maximum Special Tax is the same for all Parcels of Developed Property, (ii) Approved Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is the same for all Parcels of Approved Property, and (iii) Undeveloped Property, Public Property or Property Owner’s Association Property, that the ratios of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is the same for all Parcels of Undeveloped Property, Public Property and Property Owner’s Association Property.

“Public Property” means all Parcels which, as of April 1st preceding the Fiscal Year in which the Special Tax is being levied, are (i) used for rights-of-way or any other purpose and is owned by, dedicated to, or irrevocably offered for dedication to the federal government, the State, the County, City or any other public agency, provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use; or
(ii) encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

“Residential Property” means all Parcels of Developed Property for which a Building Permit has been issued permitting the construction of one or more residential Dwelling Units.

“Single Family Property” means all Parcels of Residential Property, other than Multifamily Residential Property.

“Special Tax” means the special tax to be levied in each Fiscal Year on each Parcel of Taxable Property in accordance with Section D to fund the Special Tax Requirement.

“Special Tax Requirement” means for each Fiscal Year, that amount required to: (i) pay the estimated cost of Special Tax Services for such Fiscal Year as determined by the City; (ii) fund the Special Tax Reserve Fund in an amount equal to the lesser of (a) 20% of the Specia Tax Reserve Fund Requirement or (b) the amount needed to fund the Special Tax Reserve Fund up to the Special Tax Reserve Fund Requirement, (ii) pay Administrative Expenses; (iv) pay for the actual or anticipated shortfall due to Special Tax delinquencies in the current or prior Fiscal Year; and (v) less a credit for funds available to reduce the annual Special Tax levy as determined by the Administrator.

“Special Tax Reserve Fund” means a fund to be used for capital replacement and maintenance costs related to the Special Tax Services.

“Special Tax Reserve Fund Requirement” means an amount up to 150% of the anticipated annual cost of Special Tax Services of $42,341 for the Base Year. The Special Tax Reserve Fund Requirement shall be increased annually, commencing July 1, 2021, based on the percentage increase in the Consumer Price Index with a maximum annual increase of six percent (6%) and a minimum annual increase of two percent (2%) of the amount in effect in the previous Fiscal Year.

“Special Tax Services” means: (i) Streetlights maintenance including energy charges, operation, maintenance, and administrative costs of streetlights located on Avalon Street and 30th Street, and identified on the City approved Street Light Plans for Avalon Street – Canal Street – 30TH Street Tract No. 37640, by WestLAND Group, Inc., 2019; (ii) the maintenance of landscape and all landscaping materials such as turf, ground cover, shrub, trees, plants, irrigation and drainage systems, weed control and other abatements, sidewalks, monuments, lights, electricity, and related repair, replacement and inspection; as identified on the City approved CFD Landscape Plans for Emerald Ridge South Tract No. 37640, by Salt Landscape Architects, 2019; (iii) The maintenance, administration and inspections of stormwater facilities and BMPs including open space area drains, catch basins, open space areas, and any other NPDES/WQMP/BMP related devices; (iv) litter and graffiti removal on soundwalls and other amenities, plus normal painting as required within CFD boundaries on Avalon Street; and (v) all other services necessary or useful for, or in connection with, the authorized services listed above, including, but not limited to, building a reserve fund for replacement. Inspection is inclusive of scheduling, travel time, visual inspection process
and procedures, GPS location recording, reporting by device, annual reporting, visual inspection for functionality, vegetated as designed, irrigation is complete and in working order, noting any of the following: any deficiencies, erosion, trash, silt, sediment, structural deficiencies. Maintenance is inclusive of repair or replacing any of the items noted as deficient or needing to be corrected to not be deficient. Administration is inclusive of quality assurance and control of inspection and maintenance, general contract administration, including phone calls and procurement of goods and services.

"State" means the State of California.

"Taxable Property" means all Parcels within the boundary of the CFD pursuant to the Boundary Map which are not exempt from the Special Tax pursuant to Section E., below.

"Taxable Unit" means either a Dwelling Unit or an Acre, as shown in Table 1.

"Undeveloped Property" means all Parcels of Taxable Property not classified as Developed Property, Approved Property, Public Property or Property Owner's Association Property.

B. ASSIGNMENT TO LAND USE CLASS

Each Fiscal Year, commencing with Fiscal Year 2020-2021, all Parcels of Taxable Property shall be classified as either Developed Property, Approved Property, Undeveloped Property, Public Property or Property Owner's Association Property, and subject to the levy of Special Taxes in accordance with this Rate and Method of Apportionment as determined pursuant to Sections C. and D.

Parcels of Developed Property shall further be classified as Residential Property or Non-Residential Property. Parcels of Residential Property shall further be classified as Single Family Property or Multifamily Residential Property.

C. MAXIMUM SPECIAL TAX RATES

1. Developed Property

   The Maximum Special Tax that may be levied and escalated, as explained further in Section C.1. (a) below, in any Fiscal Year for each Parcel classified as Developed Property shall be determined by reference to Table 1, below.
<table>
<thead>
<tr>
<th>Land Use Class</th>
<th>Description</th>
<th>Taxable Unit</th>
<th>Maximum Special Tax per Taxable Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Single Family Residential Property</td>
<td>D/U</td>
<td>$132.00</td>
</tr>
<tr>
<td>2</td>
<td>Multifamily Residential Property</td>
<td>Acre</td>
<td>$1,153.00</td>
</tr>
<tr>
<td>3</td>
<td>Non-Residential Property</td>
<td>Acre</td>
<td>$1,153.00</td>
</tr>
</tbody>
</table>

(a) Increase in the Maximum Special Tax

On each July 1, following the Base Year, the Maximum Special Tax, identified in Table 1, above, shall be increased annually, commencing July 1, 2021, based on the percentage increase in the Consumer Price Index with a maximum annual increase of six percent (6%) and a minimum annual increase of two percent (2%) of the Maximum Special Tax in effect in the previous Fiscal Year.

(b) Multiple Land Use Classes

In some instances, a Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax that may be levied on such Parcel shall be the sum of the Maximum Special Tax that can be levied for each Land Use Class located on that Parcel. For a Parcel that contains more than one Land Use Class, the Acreage of such Parcel shall be allocated to each type of property based on the amount of Acreage designated for each land use as determined by reference to the site plan approved for such Parcel. The Administrator’s allocation to each Land Use Class shall be final.

2. Approved Property

The Maximum Special Tax for each Parcel of Approved Property shall be equal to the product of the applicable Undeveloped Property Maximum Special Tax per Acre times the Acreage of such Parcel; provided, however, for a Parcel of Approved Property that is expected to become Single Family Property as reasonably determined by the Administrator based on the Final Map for such Parcel, the Maximum Special Tax for such Parcel of Approved Property shall be calculated pursuant to Section C.1 as if such Parcel were already designated as Single Family Property.

The Maximum Special Tax for Approved Property shall be increased annually, commencing July 1, 2021, based on the percentage increase in the Consumer Price Index with a maximum annual increase of six percent (6%) and a minimum annual increase of two percent (2%) of the corresponding Maximum Special Tax in effect in the previous Fiscal Year.
3. Undeveloped Property

The Maximum Special Tax that may be levied and escalated for each Parcel classified as Undeveloped Property shall be $1,153 per Acre.

The Maximum Special Tax for Undeveloped Property shall be increased annually, commencing July 1, 2021, based on the percentage increase in the Consumer Price Index with a maximum annual increase of six percent (6%) and a minimum annual increase of two percent (2%) of the corresponding Maximum Special Tax in effect in the previous Fiscal Year.

4. Public Property and/or Property Owner’s Association Property

The Maximum Special Tax that may be levied and escalated for each Parcel classified as Public Property and/or Property Owner’s Association Property shall be $0.00 per Acre. There shall be no levy on Public Property and/or Property Owner’s Association Property.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2020-2021 and for each following Fiscal Year, the Administrator shall levy the Special Tax on all Taxable Property until the amount of Special Tax equals the Special Tax Requirement in accordance with the following steps:

First: The Special Tax shall be levied Proportionately on each Parcel of Developed Property at up to 100% of the applicable Maximum Special Tax as needed to satisfy the Special Tax Requirement;

Second: If additional moneys are needed to satisfy the Special Tax Requirement after the first step has been completed, the Special Tax shall be levied Proportionately on each Parcel of Approved Property at up to 100% of the Maximum Special Tax for Approved Property.

Third: If additional moneys are needed to satisfy the Special Tax Requirement after the first two steps have been completed, the Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property at up to 100% of the applicable Maximum Special Tax for Undeveloped Property.

Notwithstanding the above, under no circumstances will the Special Taxes levied in any Fiscal Year against any Parcel of Residential Property for which a Certificate of Occupancy has been issued be increased by more than ten percent (10%) as a result of a delinquency in the payment of the Special Tax applicable to any other Parcel above the amount that would have been levied in that Fiscal Year had there never been any such delinquency or default.

E. EXEMPTIONS
The CFD shall not levy Special Taxes on Public Property and Property Owner’s Association Property within the CFD.

F. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes and shall be subject to the same penalties, the same procedure, sale and lien priority in the case of delinquency; provided, however, that the Administrator may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the CFD, and provided further that the CFD may covenant to foreclose and may actually foreclose on Parcels having delinquent Special Taxes as permitted by the Act.

G. APPEALS

Any taxpayer may file a written appeal of the Special Tax on his/her Parcel(s) with the Administrator, provided that the appellant is current in his/her payments of Special Taxes. During pendency of an appeal, all Special Taxes must be paid on or before the payment due date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The Administrator shall review the appeal, meet with the appellant if the Administrator deems necessary, and advise the appellant of its determination. If the Administrator agrees with the appellant, the Administrator shall grant a credit to eliminate or reduce future Special Taxes on the appellant’s Parcel(s). No refunds of previously paid Special Taxes shall be made.

The Administrator shall interpret this Rate and Method of Apportionment and make determinations relative to the annual levy and administration of the Special Tax and any taxpayer who appeals, as herein specified.

H. TERM OF THE SPECIAL TAX

The Special Tax shall be levied annually in perpetuity unless terminated earlier by the City.
STAFF REPORT

DATE: AUGUST 15, 2019

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ALAN KREIMEIER, INTERIM CITY MANAGER
BY: STEVE R. LORISO, P.E., CITY ENGINEER/DIRECTOR OF PUBLIC WORKS

SUBJECT: AGENDA ITEM NO. 11.E

FIRST AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF JURUPA VALLEY AND EPIC LAND SOLUTIONS, INC. FOR RIGHT-OF-WAY APPRAISAL AND ACQUISITION SERVICES FOR THE LIMONITE AVENUE WIDENING, BAIN TO HOMESTEAD PROJECT, CIP PROJECT NO. 17-B.2

RECOMMENDATION

1. That the City Council approve the “First Amendment to Professional Consultant Services” between the City of Jurupa Valley and Epic Land Solutions, Inc. and authorize the City Manager to execute the Amendment in substantially the form attached and in such final form as approved by the City Attorney.

BACKGROUND

At its meeting of August 2, 2018, the City Council approved an agreement with Epic Land Solutions, Inc. (Epic) to perform right-of-way appraisal and acquisition services for the proposed Limonite Avenue Widening, Bain to Homestead Project.

ANALYSIS

Since the agreement was authorized, Epic has been working on the right-of-way aspects of the project, but the original agreement has since expired. Staff has been satisfied with the services of Epic and wishes to extend the date of the agreement in order to complete the acquisition services for the project.

OTHER INFORMATION

Previous Actions:

- August 2, 2018 the City Council approved an agreement with Epic Land Solutions, Inc. for right-of-way appraisal and acquisition services
FINANCIAL IMPACT

No additional financial impact with the approval of this Amendment No. 1.

ALTERNATIVES

1. Do not approve Amendment No. 1
2. Provide alternate direction to Staff

************************************************ SIGNATURES ON FOLLOWING PAGE ************************************************
Prepared by:

Chase Keys, P.E.
CIP Manager

Reviewed by:

Steve R. Lorisio, P.E.
City Engineer/Director of Public Works

Reviewed by:

Connie Cardenas
Administrative Services Director

Reviewed by:

George A. Wentz
Deputy City Manager

Approved as to form:

Peter Thorson
City Attorney

Submitted by:

Alan Kreimeier
Interim City Manager

Attachments:

1. First Amendment to the Agreement for Professional Services between the City of Jurupa Valley and Epic Land Solutions, Inc.
ATTACHMENT 1

First Amendment to the Agreement for Professional Services between the City of Jurupa Valley and Epic Land Solutions, Inc.
FIRST AMENDMENT TO PROFESSIONAL CONSULTANT SERVICES
AGREEMENT BETWEEN EPIC LAND SOLUTIONS, INC. AND THE
CITY OF JURUPA VALLEY FOR RIGHT-OF-WAY APPRAISAL AND
ACQUISITION SERVICES FOR THE LIMONITE AVENUE WIDENING,
BAIN TO HOMESTEAD PROJECT

This First Amendment is made and effective as of August 15, 2019 between the City of Jurupa Valley, a municipal corporation ("City") and Epic Land Solutions, Inc., a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. This First Amendment is made with the respect to the following facts and purposes:

   1.1 On August 2, 2018, the City and Consultant entered into that certain Agreement entitled "Agreement for Consultant Services between the City of Jurupa Valley and Epic Land Solutions, Inc. for right-of-way appraisal and acquisition services for the Limonite Avenue Widening, Bain to Homestead Project in the City of Jurupa Valley" ("Agreement").

   1.2 The parties now desire to amend the Agreement as set forth in this Amendment.

2. Section 1, Term, of the Agreement is hereby amended to read as follows:

   "1. Term

   This Agreement shall commence on August 2, 2018, and shall remain and continue in effect until tasks described herein are completed in accordance with the Scope of Services, but in no event later than June 30, 2020, unless sooner terminated pursuant to the provisions of the Agreement."
IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and executed personally or on its behalf by its duly authorized representative.

EPIC LAND SOLUTIONS, INC.

By: _____________________________
Name: ___________________________
Title: ____________________________

By: _____________________________
Name: ___________________________
Title: ____________________________

[SIGNATURES OF TWO CORPORATE OFFICERS OR CORPORATE AUTHORITY RESOLUTION REQUIRED]

CITY OF JURUPA VALLEY,
A California Municipal Corporation

_______________________________
Alan Kreimeier, Interim City Manager
City of Jurupa Valley, California

ATTEST:

_______________________________
VICTORIA WASKO
City Clerk

APPROVED AS TO FORM:

_______________________________
PETER M. THORSCN
City Attorney
RETURN TO AGENDA

City of Jurupa Valley

STAFF REPORT

DATE: AUGUST 15, 2019
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ALAN KREIMEIER, INTERIM CITY MANAGER
BY: STEVE R. LORISO, P.E.,
    CITY ENGINEER/ DIRECTOR OF PUBLIC WORKS

SUBJECT: AGENDA ITEM NO. 11.F

ADOPTION OF RESOLUTIONS REGARDING THE ANNEXATION OF ZONE 2-D (SPACE CENTER) TO CITY OF JURUPA VALLEY LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED (“CITY OF JURUPA VALLEY L&LMD 89-1-C”) VOLUME 2, 11100 IBERIA STREET & 11200 IBERIA STREET

RECOMMENDATION

1. That the City Council adopt Resolution No. 2019-71, entitled:


2. That the City Council adopt Resolution No. 2019-72, entitled:

3. That the City Council adopt Resolution No. 2019-73, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY, CALIFORNIA, DECLARING ITS INTENTION TO ANNEX TERRITORY TO CITY OF JURUPA VALLEY LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED AS ZONE 2-D AND TO LEVY AND COLLECT ASSESSMENTS WITHIN SUCH TERRITORY FOR FISCAL YEAR 2020-2021 PURSUANT TO THE PROVISIONS OF PART 2 OF DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE AND ARTICLE XIII D OF THE CALIFORNIA CONSTITUTION AND APPOINTING A TIME AND PLACE FOR HEARING PROTESTS

BACKGROUND

Upon incorporation on July 1, 2011, the City of Jurupa Valley assumed the responsibility for certain City of Jurupa Valley L&LMD 89-1-C zones now within the City’s jurisdictional boundaries. As such, the City is now responsible for the services and charges provided by the City of Jurupa Valley L&LMD 89-1-C zones within its boundaries. City of Jurupa Valley L&LMD No. 89-1-C currently maintains and services 57 locations (48 zones) throughout the City of Jurupa Valley. The District contains 31 landscaping assessment zones and 17 street lighting assessment zones. The annual levy of assessments on the parcels within the boundaries of L&LMD No. 89-1-C is consistent with the Landscaping and Lighting Act of 1972.

On February 4th, 2016 the City adopted resolution 2016-01 clarifying that the City of Jurupa Valley L&LMD 89-1-C is distinct from the County of Riverside Landscaping and Lighting Maintenance District No. 89-1-Consolidated and assumes all responsibility for such district, including annexation of territory to the district.

The parcel owner, Space Center Mira Loma, Inc., requested annexation of the parcel into the existing City of Jurupa Valley L&LMD 89-1-C in order to cover costs associated with the maintenance of streetlight improvements within the annexation known as Zone 2-D. The territory proposed to be annexed will include 2 assessable parcels located at 11100 Iberia Street & 11200 Iberia Street. The annexation was formed in order to provide for the operation cost associated with streetlights installed benefiting this zone. The benefits associated with streetlight improvements include:

- Enhanced deterrence of crime such as vandalism and other criminal activities which would reduce damage to improvement or property.
- Improved visibility to assist police in the protection of property.
- Improved visibility for egress and ingress to the property.
ANALYSIS

Adoption of Resolution Nos. 2019-71, 2019-72, 2019-73 will initiate the process for the City of Jurupa Valley to levy and collect assessments to maintain Zone 2-D of the City of Jurupa Valley L&LMD 89-1-C.

The proposed annexation will have an initial Maximum Assessment in the amount of $831.28 for Zone 2-D, $415.64 per assessable parcel. The Maximum Assessment will be adjusted annually by the greater of two percent (2%) or the cumulative percentage increase in the Consumer Price Index over the base year of 2019. The owners have filed a petition representing their willingness to move forward.

The attached resolutions declare the City’s intention to annex territory to the District and call a public hearing scheduled for 7:00 p.m. on September 19, 2019 to receive testimony for and against the proposed assessments and to provide for a majority protest proceeding.

OTHER INFORMATION

None.

FINANCIAL IMPACT

The property owners are responsible for the annual payments of the special assessment. The City will file the special assessment with the County Auditor-Controller for inclusion on the annual property tax roll. The property owners have posted a deposit with their application to form Zone 2-D, in order to cover City costs incurred in connection with the annexation. Approval of these resolutions does not in any way commit the City to any financial contribution or liability by Zone 2-D. The City’s cost to administer Zone 2-D annually will be paid through the special assessment charged to property owners.

The revenue from this special assessment will be deposited into City of Jurupa Valley L&LMD 89-1-C and will be used to pay for the services as listed above. Both the revenue and expenses will be part of the City’s FY 2020-2021 Adopted Budget, and there is no anticipated impact to the general fund.

ALTERNATIVES

1. Take no action.
2. Provide staff with further direction.

**********************SIGNATURES ON FOLLOWING PAGE**********************
Prepared by:

[Signature]
Carolina Fernandez, E.I.T.
Assistant Engineer

Reviewed by:

[Signature]
Steve R. Loriso, P.E.
City Engineer /Director of Public Works

Reviewed by:

[Signature]
Connie Cardenas
Administrative Services Director

Approved as to form:

[Signature]
Peter Thorson
City Attorney

Submitted by:

[Signature]
Alan Kreimeier
Interim City Manager

Attachments:

1) Resolution No. 2019-71
2) Resolution No. 2019-72
3) Resolution No. 2019-73
4) Engineer’s Report

THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The City Council of the City of Jurupa Valley proposes to annex territory, described below in Section 2 of this Resolution, to an existing landscaping and lighting district located within the City of Jurupa Valley, which was established pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act") and which is designated as City of Jurupa Valley Landscape and Lighting Maintenance District No. 89-1-Consolidated (hereinafter referred to as the "District") and to levy and collect assessments pursuant to the Act and Article XIII D of the California Constitution against lots and parcels within such territory to pay for the costs and expenses of the improvements described below in Section 3 of this Resolution for the fiscal year commencing July 1, 2020 and ending June 30, 2021.

Section 2. The territory proposed to be annexed to the District includes 2 parcels located at 11100 Iberia Street & 11200 Iberia Street. Such territory is shown on a map on file in the office of the City Clerk and open to public inspection.

Section 3. The proposed improvements are briefly described as follows: The operating energy cost and maintenance of streetlights.

Section 4. After the proposed territory is annexed to the District, the District shall continue to be designated as City of Jurupa Valley Landscape and Lighting Maintenance District No. 89-1-Consolidated.

Section 5. Lots or parcels of land within the territory proposed to be annexed to the District that are owned or used by any county, city, city and county, special district or any other local governmental entity, the State of California, or the United States shall be assessed unless the City demonstrates by clear and convincing evidence that such lots or parcels receive no special benefit from the proposed improvements.

Section 6. The City Council hereby orders the City Engineer, or his designee, to prepare and file with the City Clerk a report in writing in connection with the annexation of territory described herein to the District and the levy and collection of assessments against lots and parcels of land within such territory. This report shall be prepared in accordance with the Act and Section 4 of Article XIII D of the California Constitution.
PASSED, APPROVED AND ADOPTED by the City Council of the City of Jurupa Valley on this 15th day of August, 2019.

__________________________________________
Brian Berkson
Mayor

ATTEST:

__________________________________________
Victoria Wasko, CMC
City Clerk
CERTIFICATION

STATE OF CALIFORNIA  )
COUNTY OF RIVERSIDE  ) ss.
CITY OF JURUPA VALLEY  )

I, Victoria Wasko, City Clerk of the City of Jurupa Valley, do hereby certify that the foregoing Resolution No. 2019-71 was duly passed and adopted at a meeting of the City Council of the City of Jurupa Valley on the 15th day of August, 2019 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Jurupa Valley, California, on the 15th day of August, 2019.

________________________________
Victoria Wasko, City Clerk
City of Jurupa Valley
RESOLUTION NO. 2019-72


THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The City Council of the City of Jurupa Valley, pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act"), did by previous resolution order the City Engineer, or the City Engineer’s designee, to prepare and file a written report in accordance with the Act and Article XIII D of the California Constitution in connection with the proposed annexation of territory to City of Jurupa Valley Landscape and Lighting Maintenance District No. 89-1-Consolidated as Zone 2-D and the levy and collection of assessments against lots and parcels of land within City of Jurupa Valley Landscape and Lighting Maintenance District No. 89-1-Consolidated for the fiscal year commencing July 1, 2020 and ending June 30, 2021.

Section 2. The Engineer has prepared and filed with the City Clerk of the City of Jurupa Valley and the City Clerk has presented to the City Council such report entitled "Engineer’s Report for City of Jurupa Valley Landscape & Lighting Maintenance District No. 89-1-Consolidated, Volume 2, Zone 2-D, Space Center" (the "Report").

Section 3. The City Council has carefully examined and reviewed the Report, and the Report is hereby approved as filed.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Jurupa Valley on this 15th day of August, 2019.

________________________________________
Brian Berkson
Mayor
CERTIFICATION

STATE OF CALIFORNIA  )
COUNTY OF RIVERSIDE  ) ss.
CITY OF JURUPA VALLEY  )

I, Victoria Wasko, City Clerk of the City of Jurupa Valley, do hereby certify that the foregoing Resolution No. 2019-72 was duly passed and adopted at a meeting of the City Council of the City of Jurupa Valley on the 15th day of August, 2019 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Jurupa Valley, California, on the 15th day of August, 2019.

____________________________
Victoria Wasko, City Clerk
City of Jurupa Valley
RESOLUTION NO. 2019-73

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY, CALIFORNIA, DECLARING ITS INTENTION TO ANNEX TERRITORY TO CITY OF JURUPA VALLEY LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED AS ZONE 2-D SPACE CENTER AND TO LEVY AND COLLECT ASSESSMENTS WITHIN SUCH TERRITORY FOR FISCAL YEAR 2020-2021 PURSUANT TO THE PROVISIONS OF PART 2 OF DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE AND ARTICLE XIII D OF THE CALIFORNIA CONSTITUTION AND APPOINTING A TIME AND PLACE FOR HEARING PROTESTS

THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. Pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act") and as provided by Article XIII D of the California Constitution, the City Council of the City of Jurupa Valley, by previous Resolution, has initiated proceedings for the annexation of territory described below in Section 4 of this Resolution to City of Jurupa Valley Landscape and Lighting Maintenance District No. 89-1-Consolidated (hereinafter referred to as the "District") as Zone 2-D, and the levy and collection of assessments against the lots and parcels of land within such territory for fiscal year 2020-2021 to pay for the costs and expenses of the improvements described below in Section 6 of this Resolution.

Section 2. The Engineer selected by the City Council has prepared and filed with the City Clerk of the City of Jurupa Valley and the City Clerk has presented to the City Council a report in connection with the proposed annexation of territory to the District and the levy and collection of assessments against the lots and parcels of land within such territory for fiscal year 2020-2021, and the City Council did by previous Resolution approve such report.

Section 3. The City Council hereby declares its intention to order the annexation of territory described below in Section 4 of this Resolution to the District and to levy and collect assessments against the lots and parcels of land within such territory for fiscal year 2020-2021 to pay for the costs of the improvements described below in Section 6 of this Resolution. The Council hereby determines that the public interest requires this annexation to the District and levy and collection of assessments.

Section 4. The territory proposed to be annexed to the District includes 2 parcels. Said parcels located at 11100 Iberia Street and 11200 Iberia Street, more specifically described as Assessor’s Parcel Numbers: 154-140-060 and 156-140-061. Such territory is shown on a map on file in the office of the City Clerk and open to public inspection.
**Section 5.** After the proposed territory is annexed to the District, the District shall continue to be designated as City of Jurupa Valley Landscape and Lighting Maintenance District No. 89-1-Consolidated.

**Section 6.** The proposed improvements are briefly described as follows: The operating energy cost and maintenance of streetlights.

**Section 7.** Lots or parcels of land within the District that are owned or used by any county, city, city and county, special district or any other local governmental entity, the State of California, or the United States shall be assessed unless the City demonstrates by clear and convincing evidence that such lots or parcels receive no special benefit from the proposed improvements.

**Section 8.** Reference is hereby made to the report of the Engineer entitled "Engineer’s Report for City of Jurupa Valley Landscape & Lighting Maintenance District 89-1-Consolidated, Volume 2, Zone 2-D, Space Center" on file with the City Clerk for a full and detailed description of the improvements, the boundaries of the territory proposed to be annexed to the District, the boundaries of the existing District and the zones therein, and the proposed assessments upon assessable lots and parcels of land within the territory proposed to be annexed to the District.

**Section 9.** NOTICE IS HEREBY GIVEN THAT ON OR AFTER THURSDAY, THE 19TH DAY OF SEPTEMBER, 2019, AT 7:00 P.M., IN THE CITY COUNCIL CHAMBERS AT 8930 LIMONITE AVENUE, JURUPA VALLEY, CALIFORNIA, IS THE TIME AND PLACE FIXED FOR A PUBLIC HEARING BY THE CITY COUNCIL ON THE QUESTION OF THE ANNEXATION OF THE TERRITORY TO THE DISTRICT DESCRIBED ABOVE IN SECTION 4 OF THIS RESOLUTION TO THE DISTRICT AND THE LEVY AND COLLECTION OF THE ASSESSMENT FOR FISCAL YEAR 2020-2021 AGAINST THE LOTS AND PARCELS OF LAND WITHIN SUCH TERRITORY. All interested persons shall be afforded the opportunity to hear and be heard.

**Section 10.** The City Clerk is hereby authorized and directed to give notice of such hearing as provided by law by causing a notice of the public hearing and an assessment ballot to be mailed by first class mail to the record owners of the parcels in the territory proposed to be annexed to the District no less than 45 days before the date of the public hearing.

**Section 11.** The City Council hereby Designates Victoria Wasko, City Clerk, 8930 Limonite Avenue, Jurupa Valley, California, (951) 332-6464 to answer inquiries regarding the hearing, protest proceedings, and procedural or technical matters.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Jurupa Valley on this 15th day of August, 2019.
Brian Berkson  
Mayor

ATTEST:

__________________________________________
Victoria Wasko, CMC  
City Clerk

CERTIFICATION

STATE OF CALIFORNIA   )
COUNTY OF RIVERSIDE  ) ss.
CITY OF JURUPA VALLEY )

I, Victoria Wasko, City Clerk of the City of Jurupa Valley, do hereby certify that the foregoing Resolution No. 2019-73 was duly passed and adopted at a meeting of the City Council of the City of Jurupa Valley on the 15th day of August, 2019 by the following vote, to wit:

AYES: 

NOES: 

ABSENT: 

ABSTAIN: 

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Jurupa Valley, California, on the 15th day of August, 2019.

__________________________________________
Victoria Wasko, City Clerk  
City of Jurupa Valley
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SUBJECT: ANNEXATION OF 11100 IBERIA STREET AND 11200 IBERIA STREET TO CITY OF JURUPA VALLEY LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO.89-1-CONSOLIDATED VOLUME 2 (“CITY OF JURUPA VALLEY L&LMD NO.89-1-C”) AS ZONE 2-D
TO: CITY OF JURUPA VALLEY CITY COUNCIL

Pursuant to the direction from the City Council of the City of Jurupa Valley (“City Council”), California, this Engineer’s Report (“Report”) is prepared and hereby submitted for the City of Jurupa Valley (“City”) in compliance with the provisions of Section 22565 through 22574 of the Landscaping and Lighting Act of 1972 (“1972 Act”), said Act being Part 2 of Division 15 of the Streets and Highways Code of the State of California, Section 4 of Article XIII D of the California Constitution.

This Report provides for the annexation of The Space Center to City of Jurupa Valley L&LMD No. 89-1-C as Zone 2-D and establishes the Maximum Assessment to be levied in the Fiscal Year commencing July 1, 2020 to June 30, 2021 (2020-2021) and continuing in all subsequent Fiscal Years, for this area to be known and designated as:

CITY OF JURUPA VALLEY L&LMD NO. 89-1-C ZONE 2-D

Space Center

I do hereby assess and apportion the total amount of the costs and expenses upon several parcels of land within said designated area liable therefor and benefited thereby, in proportion to the estimated benefits that each parcel receives, respectively, from said services.

NOW, THEREFORE, I, the appointed ENGINEER, acting on behalf of the City of Jurupa Valley, pursuant to the 1972 Act, do hereby submit the following:

Pursuant to the provisions of law, the costs and expenses of the Zone have been assessed upon the parcels of land in the Zone benefited thereby in direct proportion and relation to the estimated benefits to be received by each of said parcels. For particulars as to the identification of said parcels, reference is made to the Assessment Diagram/Boundary Map, a reduced copy of which is included herein.

As required by law, an Assessment Diagram/Boundary Map is filed herewith, showing the Zone, as well as the boundaries and dimensions of the respective parcels and subdivisions of land within said Zone as they exist, as of the date of this Report, each of which subdivisions of land or parcels or lots, respectively, have been assigned a parcel/lot number within a specific tract map and indicated on said Assessment Diagram/Boundary Map and in the Assessment Roll contained herein.

The separate numbers given the subdivisions and parcels of land, as shown on said Assessment Diagram/Boundary Map and Assessment Roll, correspond with the numbers assigned to each parcel by the Riverside County Assessor. Reference is made to the County Assessor Roll for a description of the lots or parcels.
As of the date of this Report, there are no parcels or lots within Zone 2-D that are owned by a federal, state or other local governmental agency that will benefit from the services to be provided by the assessments to be collected.

August 15, 2019.

______________________________
Steve Loriso, R.C.E. 64701
EXECUTIVE SUMMARY

INTRODUCTION
Pursuant to the provisions of law, the costs and expenses of the Zone have been assessed upon the parcels of land in the Zone benefited thereby in direct proportion and relation to the estimated benefits to be received by each of said parcels. For particulars as to the identification of said parcels, reference is made to the Assessment Diagram/Boundary Map, a reduced copy of which is included herein. On this 15th day of August, 2019 the City Council, City of Jurupa Valley, State of California, ordering the preparation of the Report providing for the annexation of The Space Center to L&LMD No. 89-1-C Volume 2 as Zone 2-D, pursuant to the provisions of the 1972 Act, being Division 15 of the Streets and Highways Code of the State of California, adopt Resolution No. 2019-XXXX for a special assessment district zone known and designated as:

ZONE 2-D
Space Center

As of the date of this Report, August 15th, 2019, the annexation of Zone 2-D includes annexation of that portion of land identified by the Assessor Parcel Numbers 154-140-060 and 156-140-061. As required by law, an Assessment Diagram/Boundary Map is filed herewith, showing the Zone, as well as the boundaries and dimensions of the respective parcels and subdivisions of land within said Zone as they exist, as of the date of this Report, each of which subdivisions of land or parcels or lots, respectively, have been assigned a parcel/lot number within a specific tract and indicated on the Assessment Diagram/Boundary Map and in the Assessment Roll contained herein.

The following report presents the engineering analysis for the annexation of Zone 2-D and the establishment of the Maximum Assessment, based on Proposition 218 and the Act of 1972, to be levied and collected commencing Fiscal Year 2020-2021 and all subsequent fiscal years.

DEFINITIONS
Agency – Means the local government, City of Jurupa Valley.
Capital cost – Means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by the Agency.
District – Means an area determined by the Agency to contain all parcels which will receive a special benefit from a proposed public improvement of property-related service.
Maintenance and operation expenses - Means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.
Ad Valorem Reduction – Means the corresponding general benefit value of the improvements.
Special benefit – Means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute “special benefit.”
PART I – BOUNDARIES OF THE DISTRICT

LOCATION OF THE ASSESSMENT ZONE

Zone 2-D shall consist of a benefit zone encompassing the properties within the industrial development located east of Iberia Street and west of Etiwanda Avenue. The proposed improvements described in this Report are based on current development and improvement plans provided as of the date of this Report; streetlight plans prepared by KCT Consultants, Inc.

Zone 2-D encompasses the properties located at 11100 Iberia Street and 11200 Iberia Street, in the City of Jurupa Valley, in the County of Riverside, State of California. It includes 2 parcels, identified as the industrial development Space Center.

Zone 2-D consists of all lots/units, parcels, and subdivisions of land located in the following development area:

Space Center – Assessor Parcel Numbers as of date of this Report: 154-140-060 and 156-140-061.
PART II – IMPROVEMENTS AND SERVICES FOR CITY OF JURUPA VALLEY
L&LMD NO. 89-1-C ZONE 2-D

The services to be funded by City of Jurupa Valley L&LMD No. 89-1-C Zone 2-D include the operating
energy cost and maintenance of the streetlights (6) required for the industrial development designated
as Space Center; the streetlights are located on the west side of Etiwanda Avenue along the frontage
of the development. The proposed improvements, the associated costs, and assessments have been
carefully reviewed, identified, and allocated based on special benefit. Zone 2-D was reviewed and specific
areas of special benefit within the District were identified, based on:
   a. Level of Service
   b. Improvement Types
   c. Proximity to Improvement
   d. Levels of Special Benefit from Zone (on Public versus Private)

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing
certain public improvements, which include the construction, maintenance, and servicing of public lights,
landscaping, dedicated easements for landscape use, and appurtenant facilities. The 1972 Act further
provides that assessments may be apportioned upon all assessable lot(s) or parcel(s) of land within an
assessment district in proportion to the estimated benefits to be received by each lot or parcel from the
improvements rather than by assessed value.

It was determined that the improvements identified by this report will directly benefit the parcels to be
assessed within Zone 2-D. The assessments and method of apportionment is based on the premise that
the assessments will be used for lighting improvements within the existing district as well as provide for
annual maintenance of those improvements and the assessment revenues generated by the Zone will be
used solely for such purpose.

STREET LIGHTING IMPROVEMENTS
The assessment will provide for the operating energy cost of the street lights servicing the industrial
development, as shown in the Street Lighting Improvement Plan by KTC Consultants, Inc. prepared for
Space Center.

The benefits associated with streetlight improvements include:

1. Enhanced deterrence of crime such as vandalism and other criminal activities which would reduce
damage to improvements or property.
2. Improved visibility to assist police in the protection of property.
3. Improved visibility for egress from and ingress to the property.
PART III – FINANCIAL ANALYSIS

INTRODUCTION
The formula used for calculating assessments reflects the composition of the parcels and the improvements and services provided by the Zone to fairly apportion the costs based on the estimated benefit to each parcel.

The streetlight improvements within Zone 2-D provide direct and special benefit to the lots or parcels within the Zone. Therefore, the maintenance of these improvements also provides direct and special benefit by maintaining the functionality of the improvements and allowing the improvements to operate in a proper manner.

Because all benefiting properties consist of a uniform land use, it is determined that all parcels benefit equally from the improvements and the costs and expenses for the maintenance and servicing of streetlights are apportioned on a per parcel basis.

The total benefit from the works of improvement is a combination of the special benefits to the parcels within the Zone and the general benefits to the public at large and to adjacent property owners. A portion of the total maintenance costs for the streetlights, if any, associated with general benefits will not be assessed to the parcels in the Zone, but will be paid from other City of Jurupa Valley funds.

No property is assessed in excess of the reasonable cost of the proportional special benefit conferred on that property. Additionally, because the benefiting parcels within the zone consist of a uniform land use, it is determined that each of the parcels within the Zone benefit equally form the improvements. Therefore, the proportionate share of the costs and expenses for the provisions of streetlights, as well as costs and expenses for the maintenance of the streetlights apportioned equally on a per parcel basis.

MAXIMUM ASSESSMENT METHODOLOGY
The following methodology was adopted by City Council in Resolution No. 2016-01 dated February 4, 2016. Such methodology has been maintained in preparation of this Report. The purpose of establishing a Maximum Assessment formula is to provide for reasonable increases and inflationary adjustments to annual assessments without requiring costly noticing and mailing procedures, which would add to the Zone 2-D costs and assessments.

The Maximum Assessment formula shall be applied to all assessable parcels of land within the Zone. For Zone 2-D, the initial Maximum Assessment(s) for Fiscal Year 2020-2021 are as follows:

1. The initial Total Maximum Assessment established within Zone 2-D (Space Center) shall be $831.28.
2. The initial Maximum Assessment per assessable parcel/lot/unit established within Zone 2-D, composed of 2 assessable lots in Space Center, is anticipated to be $415.64.

In compliance with California Constitution Article XIIIID (Proposition 218), the assessment established for Zone 2-D on this report, include an adjustment formula to account for reasonable increase in cost for maintenance and inflation. The initial Maximum Assessment shall be adjusted by the greater of two percent (2%) or the cumulative percentage increase in the CPI-U Index published by the Bureau of Labor Statistics of the United States Department of Labor for Riverside-San Bernardino-Ontario.

The Maximum Assessment is adjusted annually and is calculated independent of Zone 2-D’s annual budget and proposed annual assessment. The proposed annual assessment (rate per assessable parcel) applied in any fiscal year is not considered to be an increased assessment if less than or equal to the Maximum Assessment amount. In no case shall the annual assessment exceed the Maximum Assessment.

Although the Maximum Assessment will increase each year, the actual Zone 2-D assessments may remain virtually unchanged. The Maximum Assessment adjustment is designed to establish reasonable limits on Zone 2-D assessments. The Maximum Assessment calculated each year does not require or facilitate an increase of the annual assessment and neither does it restrict assessments to the adjusted maximum amount. If the budget and assessments for the fiscal year require an increase and the increase is more than the adjusted Maximum Assessment, it is considered an increased assessment.

To impose an increase assessment, the City of Jurupa Valley must comply with the provisions of the California Constitution Article XIII D Section 4c, that requires a public hearing and certain protest procedures including mailed notice of the public hearing and property owner protest balloting. Property owner through the balloting process must approve the proposed assessment increase. If the proposed assessment is approved, then a new Maximum Assessment is established for Zone 2-D. If the proposed assessment is not approved, the City may not levy an assessment greater than the adjusted Maximum Assessment previously established for Zone 2-D.

COST ESTIMATE
The Ad Valorem reduction is the corresponding general benefit value of the improvements, and it is determined by identifying the general public benefit from the installation and upkeep of the improvements identified on this report. All proposed lighting improvements contained within this report are located in front of or leading to the assessed boundary zone and the construction and installation of the improvements were only necessary for the development of properties within the Zone. Therefore, it was determined that any public access or use of these local improvements by others is incidental and there is no measurable general benefit to properties outside the one or to the public at large. The Ad Valorem reduction for this assessment is zero.

The Assessment for each assessable parcel within Zone 2-D is calculated by dividing the total Annual Balance to Levy minus the Ad Valorem Reduction by the total number of assessable subdivided parcels within Zone 2-D to determine the Annual Assessment per assessable parcel.
\[
\frac{\text{Annual Balance to Levy} - \text{Ad Valorem Reduction}}{\text{Total number of assessable parcels}} = \text{Annual Assessment per assessable parcel}
\]

The Annual Balance to Levy is the Total Annual Landscaping Costs as seen in the following summary table:
CITY OF JURUPA VALLEY L&LMD NO. 89-1-C ZONE 2-D
Space Center
FY 2020-2021

Total Assessable Parcels/Lots: 2

<table>
<thead>
<tr>
<th>Cost Description</th>
<th>Total Cost for Zone 2-D</th>
<th>Cost per Parcel/Lot for Zone 2-D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Lighting:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual Energy Charge of $111.15 per street light for 6 Street Lights – 150 Watt LED: Administration :</td>
<td>$701.50</td>
<td>$350.75</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL ANNUAL STREET LIGHTING COSTS :</td>
<td>$831.28</td>
<td>$415.64</td>
</tr>
</tbody>
</table>

AD VALOREM REDUCTION

| AD VALOREM REDUCTION | $0 | $0 |

INITIAL MAXIMUM ASSESSMENT PER ASSESSABLE LOT/UNIT OR PARCEL OF SPACE CENTER : $415.64
PART IV – ASSESSMENT DIAGRAM

(See next page)
PART V – ASSESSMENT ROLLS

Parcel identification for each lot/unit or parcel within Zone 2-D shall be the parcels as shown on the Riverside County Secured Roll for the year in which this Report is prepared and reflective of the Assessor’s Parcel Maps. Zone 2-D includes the following Assessor’s Parcel Numbers (APNs) as of the date of this Report: 156-140-060 and 156-040-061.

The initial Maximum Assessment shall be adjusted annually by the greater of two percent (2%) or the cumulative percentage increase in the CPI-U for All Items Index published by the BLS.

When subdivided, the initial Maximum Assessments per assessable lot/unit or parcel for Zone 2-D are as follows:

<table>
<thead>
<tr>
<th>Parcel/ Lot No.</th>
<th>Maximum Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>156-140-060</td>
<td>$415.64</td>
</tr>
<tr>
<td>156-140-061</td>
<td>$415.64</td>
</tr>
</tbody>
</table>
STAFF REPORT

DATE: AUGUST 15, 2019
TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS
FROM: ALAN KREIMEIER, INTERIM CITY MANAGER
BY: THOMAS G. MERRELL, AICP, PLANNING DIRECTOR

SUBJECT: AGENDA ITEM NO. 11.G

APPROVAL OF AN AGREEMENT WITH T & B PLANNING, INC. FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE “RUBIDOUX COMMERCE PARK” PROJECT, CASE NUMBER: MA17132, (APPLICANT: PROFICIENCY RUBIDOUX, LLC)

RECOMMENDATION

That the City Council approve the attached Agreement for Consulting Services with T & B Planning, Inc. for the completion of an Environmental Impact Report (EIR) for the proposed Rubidoux Commerce Park project in an amount not to exceed $303,293.70 to be funded entirely by an advance deposit made by Proficiency Rubidoux, LLC, the “applicant,” sufficient to cover completion of the EIR document and authorize the City Manager to sign the Agreement on the City Council’s behalf.

BACKGROUND

Proficiency Rubidoux, LLC is proposing a warehousing project north of 28th Street and east of Avalon Street. See Exhibit A for the conceptual site plan and location.

On July 5, 2018, the City Council initiated a General Plan Amendment for staff to analyze and review the applicant’s request to amend the General Plan to allow logistics use on the project site, which is located outside of the Mira Loma Warehouse and Distribution Center Overlay. The Mira Loma Warehouse and Distribution Center Overlay allows warehouse and distribution use only within the Overlay.

In January 2019, the applicant submitted the proposed Rubidoux Commerce Park project for approximately 81 acres. The entitlements include a General Plan Amendment, Development Agreement, Tentative Parcel Map, and Site Development Permit. Each building square-footage is listed below:
- Building 1 is 837,962 square-feet
- Building 2 is 263,175 square-feet
- Building 3 is 117,237 square-feet
- Building 4 is 36,570 square-feet

The conceptual plan (see Exhibit A) presents the project site with a total of 1,256,260 square-feet of building area, and would permit logistics and industrial uses on the project site.

EXHIBIT A. CONCEPTUAL SITE PLAN

Staff has received only this one proposal and it was reviewed based on several important criterions, including the complexity of the proposed project and the proposer’s ability to maintain work schedules. After staff’s review and with applicant’s concurrence, staff has selected T & B Planning, Inc. The contract value of $303,298.70 includes a 13% contingency.
CONCLUSION
Staff recommends the City Council to approve the attached Agreement with T & B Planning, Inc. to prepare the Environmental Impact Report and perform related tasks for the proposed Rubidoux Commerce Park project and authorize the City Manager to sign the Agreement on the Council's behalf.

FINANCIAL IMPACT
The proposed contract will have no effect on City costs or revenues. Full cost recovery will occur inasmuch as the City will require the total amount of the contract to be deposited by the applicant prior to commencement of work.

ALTERNATIVES
1. Decline to approve the proposed Agreement for the EIR and give appropriate direction.
2. Defer action and request additional information.

Prepared by: Thomas G. Merrell, AICP Planning Director

Submitted by: Alan Kreimeier Interim City Manager

Reviewed by: Connie Cardenas Deputy Director of Administrative Services

Reviewed by: Peter M. Thorson City Attorney

Reviewed by: George A. Wentz Deputy City Manager
AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF JURUPA VALLEY AND T&B PLANNING, INC. FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE RUBIDOUX COMMERCE PARK PROJECT

THIS AGREEMENT is made and effective as of August 15, 2019 corporation (“Consultant”). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **Term**

   This Agreement shall commence on August 15, 2019, and shall remain and continue in effect until tasks described herein are completed in accordance with the Scope of Services, unless sooner terminated pursuant to the provisions of this Agreement.

2. **Services**

   Consultant shall prepare an Environmental Impact Report (the “services”) for the Rubidoux Commerce Park Project, as the services and related tasks are described and set forth on pages 2 through 3 of Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance that is set forth on pages 10 through 11 of Exhibit A.

3. **Performance**

   Consultant shall at all time faithfully, competently and to the best of its ability, experience and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. **Payment**

   A. City agrees to cause Consultant to be paid monthly, in accordance with the payment rates and terms and the schedule of payment as set forth on pages 12 through 13 of Exhibit A, based upon actual time spent on the above tasks. This amount shall not exceed Three Hundred Three Thousand Two Hundred Ninety-Three Dollars and Seventy Cents ($303,293.70) for the total term of this Agreement, unless additional payment is approved as provided in this Agreement.
B. City shall only reimburse Consultant for those expenses expressly set forth in Exhibit A. The amount set forth in Section 4.A. shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement.

C. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Council.

D. Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted between the first (1st) and fifteenth (15th) business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) calendar days of receipt of each invoice as to all non-disputed fees. If City disputes any of consultant’s fees it shall give written notice to Consultant within thirty (30) calendar days of receipt of an invoice of any disputed fees set forth on the invoice.

5. Suspension or Termination of Agreement without Cause

A. City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon Consultant at least ten (10) calendar days’ prior written notice. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

B. In the event this Agreement is terminated pursuant to this Section, City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to City. Upon termination of this Agreement pursuant to this Section, Consultant will submit an invoice to City pursuant to Section 4.

6. Default of Consultant

A. Consultant’s failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to Consultant. If such failure by Consultant to make progress in the performance of work hereunder arises out of causes beyond Consultant’s control, and without fault or negligence of Consultant, it shall not be considered a default.
B. If the City Manager or his delegate determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, he or she shall serve Consultant with written notice of the default. Consultant shall have (10) calendar days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

7. Ownership and Maintenance of Documents

A. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts thereof as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of two (2) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without Consultant’s permission. With respect to computer files containing data generated for the work, Consultant shall make available to City, upon reasonable written request by the City Manager, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. Indemnification.

Consultant shall defend, hold harmless and indemnify City, its elected officials, officers, employees, designated volunteers and those City agents serving as independent contractors in the
role City officials (collectively “Indemnitees”) with respect to any and all claims, demands, damages, liabilities, losses, costs or expenses, including attorneys’ fees and costs of defense (collectively, “Claims” hereinafter), including, but not limited to, Claims relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate to acts or omissions of Consultant or any of its officers, employees, subcontractors, or agents in the performance of this Agreement, except for such loss or damage arising from the negligence or willful misconduct of City, as determined by final arbitration or court decision or by the agreement of the parties. Consultant shall defend Indemnitees in any action or actions filed in connection with any such Claims with counsel of City’s choice, and shall pay all costs and expenses, including all attorneys’ fees and experts’ costs actually incurred in connection with such defense. Consultant’s duty to defend pursuant to this Section shall apply independent of any prior, concurrent or subsequent misconduct, negligent acts, errors or omissions or Indemnitees.

9. **Insurance Requirements.**

A. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees.

1) **Minimum Scope of Insurance.** Coverage shall be at least as broad as:

a) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.

b) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If Consultant owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

c) Worker’s Compensation insurance as required by the State of California and Employer’s Liability Insurance. If Consultant has no employees while performing under this Agreement, worker’s compensation insurance is not required, but Consultant shall execute a declaration that it has no employees.

d) Professional liability insurance shall be written on a policy
form providing professional liability for Consultant’s profession.

2) Minimum Limits of Insurance. Consultant shall maintain limits no less than:

   a) General Liability: One million dollars ($1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

   b) Automobile Liability: One million dollars ($1,000,000) per accident for bodily injury and property damage.

   c) Worker’s Compensation as required by the State of California; Employer’s Liability: One million dollars ($1,000,000) per accident for bodily injury or disease.

   d) Professional liability insurance in the amount of one million dollars ($1,000,000) per claim and in the aggregate.

3) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall not exceed twenty-five thousand dollars ($25,000) unless otherwise approved in writing by the City Manager in his sole discretion.

B. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) City, its elected officials, officers, employees, designated volunteers and those City agents serving as independent contractors in the role City officials (“Additional Insured”) shall be covered as insured’s as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.

2) For any claims related to this project, Consultant’s insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self-insured maintained by the Additional Insureds shall be excess of Consultant’s insurance and
shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.

4) Consultant’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

5) Each insurance policy required by this clause shall be endorsed to state that the insurer shall endeavor to provide thirty (30) calendar days’ prior written notice, by certified mail, return receipt requested, to City prior to any action to suspend, void, cancel or otherwise reduce in coverage or in limits.

6) Within one (1) business day following receipt by Consultant of any notice correspondence or notice, written or oral, of an action or proposed action to suspend, void, cancel or otherwise reduce in coverage or in limits of the required insurance, Consultant shall notify City of such action or proposed action.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A-:VII, unless otherwise acceptable to City. Self insurance shall not be considered to comply with these insurance requirements.

D. Verification of Coverage. Consultant shall furnish City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by City. All endorsements are to be received and approved by City before work commences. As an alternative to City’s forms, Consultant’s insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

E. Modifications. City Manager may, with the consent of the City Attorney, waive the provisions of this paragraph or provided for other forms of insurance as may be necessary to enable City to receive adequate insurance protection as contemplated in this Section.

10. Independent Contractor
A. Consultant is and shall at all times remain as to City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant’s exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Consultant or any of Consultant’s officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

B. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

11. **Legal Responsibilities**

Consultant shall keep itself informed of all local, state, and federal ordinances, laws and regulations that in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall at all times observe and comply with all such ordinances, laws, and regulations. City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

12. **Confidentiality; Release of Information**

A. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City’s prior written authorization.

B. Consultant, its officers, employees, agents, or subcontractors, shall not without written authorization from the City Manager, or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the services performed under this Agreement or relating to any project or property located within City. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives City notice of such court order or subpoena.
13. **Assignment**

Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without City’s prior written consent. City consents to the use of the sub-consultants described in Exhibit A to this Agreement provided the costs of such sub-consultants shall be borne by Consultant and shall not exceed the costs described in Paragraph 5 of this Agreement.

14. **General Provisions**

A. **Notices**

Any notices that either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, including, without limitation, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Jurupa Valley 8304 Limonite Suite M Jurupa Valley, CA 92509 Attention: City Manager

To Consultant: T&B Planning, Inc. 17542 East 17th Street, Suite 100 Tustin, California 92780 Attention: Tracy Zinn, President

B. **Licenses.** At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

C. **Governing Law; Venue**
1) City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

2) Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Jurupa Valley. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court’s judgment, shall be entitled to reasonable attorneys’ fees and litigation expenses for the relief granted.

D. Prohibited Interest. No City officer or employee who has participated in the development of this Agreement or its administration shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, Consultant, or Consultant’s sub-consultants, during his or her tenure or for one (1) year thereafter. Consultant hereby warrants and represents to City that no officer or employee of the City Council or City of Jurupa Valley has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of Consultant or Consultant’s sub-consultants on this project. Consultant further agrees to notify City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

E. Entire Agreement. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party’s own independent investigation of any and all facts such party deems material.

F. Time is of Essence. In carrying out the provisions of this Agreement, both parties acknowledge and agree that time is of the essence.

G. Authority to Execute This Agreement. The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.
CITY OF JURUPA VALLEY

_____________________________
Brian Berkson, Mayor

ATTEST:

_____________________________
Victoria Wasko, CMC
City Clerk

APPROVED AS TO FORM

_____________________________
Peter M. Thorson
City Attorney

CONSULTANT

By: ___________________________
Name: __________________________
Title: Board Chairman, President or VP

By: ___________________________
Name: __________________________
Title: Secretary, Asst. Secretary, CFO or Asst. Treasurer

[SIGNATURES OF TWO CORPORATE OFFICERS OR CORPORATE AUTHORITY RESOLUTION REQUIRED]
EXHIBIT A

SCOPE OF SERVICES
(Attached)
June 28, 2019

Annette Tam, Senior Planner
Ernest Perea, CEQA Administrator
City of Jurupa Valley
8930 Limonite Avenue
Jurupa Valley, CA 92509

Submitted electronically to: atam@jurupavalley.org and eperea@jurupavalley.org

RE: PROPOSAL TO PROVIDE CEQA CONSULTING SERVICES FOR THE RUBIDOUX COMMERCE PARK PROJECT

Dear Ms. Tam and Mr. Perea:

T&B Planning, Inc. (dba T&B Planning) is pleased to present this proposal to provide CEQA Consulting services for the preparation of a Project Environmental Impact Report (EIR) that meets all of the requirements set forth in the California Environmental Quality Act (CEQA) Statute and Guidelines for the proposed Rubidoux Commerce Park Project. T&B Planning will work under the supervision of the City to ensure that the EIR represents the independent judgment of the City.

We understand that the project entails the proposed construction and operation of four industrial warehouse buildings that would total approximately 1,256,260 square feet (SF) and include associated improvements (e.g., parking areas, landscaping, walls/fences, utility infrastructure). The project site is approximately 80.8 acres and located outside of the Mira Loma Warehouse Distribution Center Overlay area.

T&B Planning has been in business since 1974 and has served many public and private sector clients over our 45-year history, including the City of Jurupa Valley. Pursuant to the City’s Request for Proposals (RFP), the enclosed proposal consists of the following exhibits, which concisely set forth our qualifications and professional methodology for completing services in a timely and efficient manner.

- UNDERSTANDING AND APPROACH - EXHIBIT I
- LOCAL EXPERIENCE - EXHIBIT II
- EXPERIENCE AND TIME COMMITMENT - EXHIBIT III
- ABILITY TO MEET PROJECT SCHEDULE - EXHIBIT IV
- BUDGET - EXHIBIT V

Thank you for the opportunity to submit this proposal. If you have questions or require any clarification pertaining to this proposal, please contact me at (714) 505-6360 ext. 350 or by e-mail at tzinn@tbplanning.com.

Sincerely,
T&B Planning, Inc.

Tracy Zinn, President

www.tbplanning.com
EXHIBIT I: UNDERSTANDING AND APPROACH TO THE PROJECT AND SCOPE OF SERVICES

Understanding of the Project
Pursuant to the City’s RFP, the project applicant proposes the construction and operation of four industrial warehouse buildings that would total approximately 1,256,260 SF and include associated improvements (e.g., parking areas, landscaping, walls/fences, utility infrastructure) on an approximately 80.8-acre property. The Project site is located easterly of Montana Avenue, westerly of West Riverside Canal, southerly of 25th Street, and northerly of 28th Street in the City of Jurupa Valley, outside of the Mira Loma Warehouse Distribution Center Overlay area.

Master Application (MA) 17132 requests the following land use entitlements:

1. General Plan Amendment (GPA): Amendment to the City of Jurupa Valley General Plan to allow warehouse distribution/logistics buildings outside of the Mira Loma Warehouse Distribution Center Overlay.
2. Development Agreement (DA): Agreement between the project applicant and the City on certain terms.
3. Tentative Parcel Map (TPM): Subdivision of approximately 80.8 acres into four parcels (one parcel for each building).
4. Site Development Permit (SDP): Detailed plans proposing the construction of four buildings totaling approximately 1,256,260 SF of warehouse and distribution use on approximately 80.8 acres of land.

Approach to the Project and Scope of Services
Based on our review of the City’s RFP and our recent, prior experience preparing CEQA compliance documents for the City of Jurupa Valley, we do not propose any modifications to the scope of services set forth in the RFP dated June 14, 2019. However, assistance with Native American SB 18 and AB 52 consultation is not listed in the RFP, and our staff is available to assist the City with that process, if requested. Assistance with Native American consultation is not currently budgeted in this proposal outside of the 40 hours requested by the RFP in Task 14. Therefore, the approach, schedule, and budget provided herein reflect the tasks identified in the RFP provided by the City of Jurupa Valley without modification.

T&B Planning’s approach will be to prepare a thorough and objective EIR that has a high level of legal defensibility and contains mitigation measures that the project applicant can feasibly implement and that the City of Jurupa Valley can enforce. Given that the project entails proposed warehousing development outside of the Mira Loma Warehouse Distribution Center Overlay area, an extremely thorough and objective EIR will be critical that complies with the CEQA Statute and Guidelines and is responsive to public concerns.

Our staff has a strong skill set in CEQA compliance for industrial warehousing projects, and also has familiarity with the City of Jurupa Valley through our preparation of CEQA compliance documents for other private applicant projects in the City. Our staff will review the Project’s technical reports to ensure that each report contains appropriate analysis methodology, covers all of the analytical subject matter required under CEQA, is responsive to agency and public concerns, and is in conformance with applicable CEQA requirements. Concurrently with technical report review, we will work with the City to prepare and release the NOP for public review and conduct the Scoping Meeting. All agency and public comments made on the NOP will be carefully considered to ensure that the EIR covers every environmental topic of concern in a comprehensive manner.
Our immediate next priority will be to initiate preparation of the Screencheck Administrative Draft EIR as expeditiously as possible. T&B Planning will prepare the EIR in accordance with the Checklist included as Appendix G of the CEQA Guidelines, and following the structural format preferred by the City, with applicable Plans, Policies, and Programs (PPPs) listed before Mitigation Measures (MMs). Due to T&B Planning’s extensive experience preparing EIRs for industrial warehousing projects, including those with a high degree of public scrutiny, our familiarity with the City of Jurupa Valley through our recent work on the Pilot Flying J Travel Center EIR and the Rubidoux Commercial Center EIR, and our internal diligent quality control review and refinement process for all CEQA documents before delivery, we anticipate that the focus of City staff and City Attorney review cycles will be to recommend refinements that will bolster responsiveness to City concerns and the sensitivities of its decision-making bodies and constituents.

**Quality Control and Project Management**

For the proposed project, a T&B Planning Principal-in-Charge will provide direction on strategic decision-making, provide expertise on highly sensitive or potentially litigious issues, and provide final quality control review of each deliverable before release to the City. Tracy Zinn and Tina Andersen are T&B Planning’s Principals-in-Charge with widespread experience in industrial warehousing project types. Either Tracy or Tina, at the City’s preference, will lead T&B Planning’s efforts on this project. A T&B Planning Senior Project Manager, identified herein as David Ornelas, will serve as the day-to-day project manager and point-person for internal and external communications and project management. The Principal and Senior Project Manager will work with the City to guide the project through its environmental compliance process and prepare and spearhead the preparation of the EIR. David will lead internal document production and provide internal oversight of the EIR prior to final quality control review by the Principal-in-Charge.

**Meeting Project Schedules and Budgets**

We will be diligent in meeting the project schedule and completing services within budget. T&B Planning understands the importance of keeping CEQA projects on schedule and we will prioritize tasks in a manner that ensures the timely delivery of work products. Our internal philosophy is that the best defense against a scheduling delay is to be highly proactive and communicative from project initiation through project approval in order to quickly identify and overcome impediments that could otherwise materialize into a potential delay for the proposed project.
EXHIBIT II: LOCAL EXPERIENCE

T&B Planning is very familiar with the City of Jurupa Valley, its processes, and its staff. We most recently provided CEQA consulting services on behalf of the City for the Pilot Flying J Travel Center EIR and the Rubidoux Commercial Center EIR. We have also provided CEQA consulting services for the Vernola Marketplace MND and the Riverbend MND.

Relevant to the proposed project, from 2010-2019, specifically in the latter years of that time frame, we have provided or are currently providing CEQA consulting services for 55 industrial/warehousing projects collectively totaling 62.1 million SF of building space, many of which are located in the Inland Empire. T&B Planning is recognized as an expert by many lead agencies, professional groups, and attorneys that defend CEQA documents in the legal system, for providing CEQA consulting services and CEQA documents for projects similar to the proposed Rubidoux Commerce Park. To-date, no EIR prepared by T&B Planning has ever been successfully challenged.

We have been providing CEQA consulting services and preparing CEQA documents for development projects in the County of Riverside for decades and throughout our 28 years of providing CEQA compliance consulting services, approximately 75% of the projects we have worked on have been located in the Inland Empire. What this means is that we know the geography, environmental resources, environmental constraints and opportunities, and the political context of our “workplace,” and we have first-hand experience resolving and overcoming issues encountered by other projects in the region. This experience enables us to anticipate and foresee possible environmental compliance issues that projects such as the Rubidoux Commerce Park project, may encounter and to identify practical solutions.

T&B Planning’s primary service market covers the counties of Riverside, San Bernardino, Orange, Los Angeles, and San Diego. We currently serve as an on-call or directly-contracted CEQA consulting firm for active projects located in the Inland Empire cities of Fontana, Grand Terrace, Lake Elsinore, and Moreno Valley, and the County of San Bernardino. In addition, we currently serve as the private-applicant selected CEQA consultant for projects in the cities of Chino, Colton, Compton, Fontana, Fountain Valley, Fullerton, Irvine, Irwindale, Lake Elsinore, Menifee, Mission Viejo, Perris, Rancho Cucamonga, San Bernardino, San Diego, and unincorporated Riverside County. In addition, we are approved to provide CEQA consulting services in numerous other jurisdictions throughout southern California. We have provided CEQA and Planning services for the following cities in Riverside County and San Bernardino County: Banning, Beaumont, Calimesa, Cathedral City, Coachella, Corona, Desert Hot Springs, Eastvale, Hemet, Indian Wells, Indio, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Palm Springs, Perris, Riverside, San Jacinto, Temecula, Wildomar, Adelanto, Barstow, Chino, Chino Hills, Colton, Fontana, Grand Terrace, Hesperia, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Rialto, San Bernardino, Upland, Victorville, and Yucaipa.

Provided on the following pages are several examples of projects that demonstrate our local experience providing CEQA consulting services.
Moreno Valley Logistics Center EIR  
Lead Agency: City of Moreno Valley  
Completion Date: April 2018

T&B Planning continued its long-standing working relationship with the City of Moreno Valley and the project applicant, Prologis, by providing CEQA compliance services for the Moreno Valley Logistics Center project. T&B Planning prepared the EIR for the 1,700,000 square foot Class A logistics center to be comprised of four light industrial/warehouse buildings on an 89-acre site located in the Moreno Valley Industrial Area Plan (MVIAP). The MVIAP is an important industrial and economic center that covers approximately 1,500 acres in southern Moreno Valley. The project site is transected by the Perris Valley Storm Drain Channel and is located east of the March Air Reserve Base in the southern portion of Moreno Valley, Riverside County. Due to the site’s location within the March Air Reserve Base Influence Area, the project’s compatibility with the March Air Reserve Base Airport Land Use Compatibility Plan (ALUCP) was analyzed. The project will be constructed to meet LEED standards and to incorporate a densely planted ornamental landscape buffer along its eastern boundary to minimize potential edge effects to existing residential uses east of Indian Street. The Moreno Valley City Council unanimously approved the project’s Specific Plan Amendment, Tentative Parcel Map, and four Plot Plans and certified the project’s EIR in April 2018.

Knox Business Park Buildings D and E EIR  
Lead Agency: County of Riverside  
Completion Date: June 2018

T&B Planning served as the CEQA Consultant to the County of Riverside for the Knox Business Park Buildings D and E project, proposed by Trammell Crow Company. The 58.6-acre project site is located south of Oleander Avenue and west of Harvill Avenue in the Mead Valley community of unincorporated Riverside County. The project entailed the proposed construction of two business park warehouse buildings with a combined maximum floor space of over 1.1 million square feet. Because the two proposed buildings were adjacent and proposed by the same applicant, CEQA required that they be evaluated as a single project. Governmental approvals requested from the County of Riverside to implement the project included General Plan Amendments, Changes of Zone, and Plot Plans for each building. Riverside County Airport Land Use Commission approval also was required. T&B Planning prepared the CEQA Initial Study, Draft EIR, Final EIR, MMRP, Findings and Statement of Overriding Considerations, and associated CEQA notices, and also coordinated and evaluated the environmental technical studies for each building site to make sure the studies addressed all required issues in a manner consistent with CEQA requirements. The CEQA compliance process was met with a high level of scrutiny from the local community due to the project’s adjacency to a rural residential area. T&B Planning worked very closely with the County, County Counsel, and the applicant’s attorney to thoroughly and objectively respond to written and verbal comments received at the EIR Scoping Meeting and the Project’s Planning Commission and Board of Supervisors hearings for placement into the administrative record. The Building D and Building E projects were approved and the Final EIR was certified by the Riverside County Board of Supervisors in June 2018.
Exhibit II: Local Experience

Pilot Flying J Travel Center EIR
Lead Agency: City of Jurupa Valley
Client: City of Jurupa Valley
Completion Date: December 2018

T&B Planning worked under contract to the City of Jurupa Valley to prepare an EIR for the proposed development of a Pilot Flying J Travel Center adjacent to State Route 60 (SR-60) and within 1.5 miles of Interstate 15 (I-15). The project consisted of the proposed development of a 11.95-acre property to include a fueling station, convenience store, fast-food restaurant, and other supporting uses. Key issues considered in the environmental evaluation involved the project’s proposed 24-hour per day operation and the travel route that vehicle operators would use to drive between the site and SR-60. Although the property is completely surrounded by other commercial and industrial uses, a residential neighborhood is located north of SR-60 that was the focus of environmental justice concerns. The City of Jurupa Valley certified the EIR and approved the project’s proposed Site Development Permit, Tentative Parcel Map, as well as a Zoning Variance to accommodate the installation of a high-rise pylon sign in late 2018.

Rubidoux Commercial Development EIR
Lead Agency: City of Jurupa Valley
Client: City of Jurupa Valley
Completion Date: November 2018

T&B Planning prepared an EIR for the City of Jurupa Valley that involved the analysis of a project that proposed the construction and operation of an industrial park comprised of nine buildings totaling 306,894 square feet and ranging in size from 23,000 square feet to 48,000 square feet. Each building was designed to contain office space, warehouse space, manufacturing space, and truck loading docks. The approximately 26.4-acre project site is located on the east and west sides of Caterpillar Court and is bounded by 20th Street on the immediate south and undisturbed hillside to the immediate north. The City of Jurupa Valley certified the EIR in late 2018.

Alliance California Gateway South Building 4 EIR
Lead Agency: City of San Bernardino
Completion Date: December 2017

T&B Planning provided environmental compliance consulting services for four logistics buildings in the Alliance California Master Plan Area of the City of San Bernardino, San Bernardino County. One of the buildings was constructed on former lumber mill property that now contains a 1,000,000 square foot warehouse occupied by Amazon. Two of the buildings are under construction and one is pending construction. For the most recent project in the Alliance California Master Plan Area, T&B Planning prepared an EIR for a high-cube logistics warehouse project located on 62 acres in the City of San Bernardino, located close to the I-10, I-215, I-210 Freeways and near the Burlington Northern Santa Fe (BSNF) rail facility and the Yellow Freight hubs. The project applicant proposed to redevelop land occupied by the economically challenged San Bernardino Public Golf Club
with one high-cube logistics warehouse building having 1,063,852 square feet of interior floor space, 188 truck loading dock doors, and 1,171 auto and truck parking stalls and associated improvements. As part of the project, Riverside Public Utilities (RPU) inactive water well sites would be abandoned and other RPU assets would either be realigned or protected in place. T&B Planning prepared the EIR, managed the quality control review of all of the required technical studies and prepared the MMRP, Findings, Statement of Overriding Considerations, and the CEQA required notices. The client was especially grateful for T&B Planning’s ability to complete the EIR in an expeditious manner, spanning only 10 months from NOP issuance to EIR certification. The project was unanimously approved by the City of San Bernardino City Council in December 2017. According to Hillwood, the 1,000,000 square foot facility will be available for occupancy in the first quarter of 2019.

Brodiaea Commerce Center EIR
Lead Agency: City of Moreno Valley
Completion Date: September 2018

T&B Planning prepared an EIR for the Brodiaea Commerce Center project proposed at the northwest corner of the Brodiaea Avenue and Heacock Street intersection in the City of Moreno Valley, Riverside County. The project included a Plot Plan and Change of Zone to change the site’s zoning designation from Business Park and Business Park – Mixed Use to Light Industrial. The project entails the development of an approximately 12.0-acre property with a high-cube warehouse building consisting of 248,807 square feet of warehouse space, 8,000 square feet of office space, and 5,000 square feet of mezzanine. The EIR also analyzed the project’s proposed improvements to the storm drain channel that abuts the subject property and the construction of a multi-use trail segment along Heacock Street. T&B Planning prepared the project’s EIR, peer-reviewed the project’s technical reports, and coordinated with City staff to streamline the project’s review process. The project was unanimously approved by the Moreno Valley City Council in September 2018 and construction is anticipated to begin in 2019.

Watson Industrial Park EIR
Lead Agency: City of Chino
Completion Date: January 2016

T&B Planning prepared an EIR for a General Plan Amendment, Specific Plan Amendment, and Master Site Plan application for a 189.1-acre industrial warehouse development project located in the City of Chino, San Bernardino County. Primary issues addressed by the EIR included agricultural land conversion, hydrology, traffic, and air quality. The project was approved in January 2016 and is currently under construction to redevelop former dairy lands with economically-competitive logistics warehouse buildings having approximately 3,700,000 square feet of floor space. The project comprises eight of the eleven buildings in the Watson Industrial Park Chino, a master-planned business park. Some of the current building users include Topson Downs, Caleres, and Synnex Corporation.
EXHIBIT III: EXPERIENCE AND TIME COMMITMENT OF KEY PERSONNEL

For the Rubidoux Commerce Park project, either Tracy Zinn or Tina Andersen will serve as Principal-in-Charge. Both Principals have available capacity for the project and have extensive experience with industrial warehouse project types, and we are agreeable to assignment based on City preference. Senior Project Manager David Ornelas will serve as day-to-day project manager. The Principal and Project Manager will be supported by our environmental analysts, technical writers, and GIS/graphics specialists. The division of workload for this project will be divided among T&B Planning staff as follows: Principal-in-Charge (15%), Senior Project Manager (40%), Environmental Analysts (40%), GIS/graphics specialists (5%).

TRACY ZINN, AICP, PRINCIPAL

Tracy Zinn is T&B Planning’s President and CEO and has 26 years of CEQA compliance and land entitlement experience, with all of those years at T&B Planning. Tracy has a clear understanding of the practical realities associated with CEQA compliance and is known and respected for her insight, knowledge, responsiveness, and dedication to preparing legally-defensible CEQA documents. She oversees T&B Planning’s client services and represents CEQA documents at public hearings, public meetings, neighborhood meetings, and workshops. She is respected for preparing environmental compliance documents that are easily understood and technically and legally adequate.

Tracy has managed, prepared, and quality-control reviewed hundreds of CEQA documents for a wide range of project types, including logistics warehousing, industrial, manufacturing, parcel-delivery, commercial, mixed-use, residential, resource extraction, and infrastructure-related land uses, for both public and private sector clients. Between 2010-2018, Tracy personally managed the preparation of CEQA compliance documents for residential projects, mixed-use projects, and over 41 million square feet of industrial, warehouse, and business park building space. Tracy holds a B.S. degree in Urban and Regional Planning from Indiana University of Pennsylvania, is certified by the American Institute of Certified Planners (AICP), and is a member of the California Association of Environmental Professionals (AEP) and the Commercial Real Estate Development Association (NAIOP).

TINA ANDERSEN, PRINCIPAL

Tina Andersen joined T&B Planning in 2019 (from Psomas and formerly BonTerra Consulting) and brings 30 years of experience in the preparation and management of environmental compliance documents pursuant to CEQA. She manages the CEQA compliance process for various public and private sector clients throughout Southern California and has an understanding of the technical issues critical to the completion of legally adequate documents. Through her decades of experience, Tina has established long-term relationships with public agencies, including various local jurisdictions and educational institutions, and land development clients that rely on her CEQA expertise. Tina provides strategic consulting and is recognized for preparing high quality environmental documents that are technically and legally adequate in a time-efficient manner. Her experience includes, but is not limited to, project- and program-level environmental compliance documents for urban infill and transit-oriented developments; master planned residential communities; mixed-used developments; higher education projects; industrial projects; recreational facilities; and specific plans, master plans and long-range development plans. Tina holds a B. A. degree in Social Ecology from the University of California, Irvine and
is a member of the California Association of Environmental Professionals (AEP) and a member of the Urban Land Institute (ULI) Women’s Leadership Initiative.

**DAVID ORNELAS, SENIOR PROJECT MANAGER**

David Ornelas joined T&B Planning in 2006 and is a dependable, knowledgeable project manager. He is responsible for day-to-day project management including, preparing and managing environmental impact analysis documents, and providing project coordination between public agencies, private clients, and project technical experts, including biologists, archaeologists, civil engineers, architects, landscape architects, and others. David prepares and manages environmental compliance documents for residential, commercial, and industrial projects for both public and private clients. He is also skilled at preparing and coordinating all types of public notices and procedural compliance documentation. David directs project teams during the preparation of environmental compliance documents by providing direction and guidance to technical experts and lead agency staff. He also manages project schedules and coordinates the submittals of documents. David is respected for his ability to manage the day-to-day activities of large project teams while staying focused on a project’s overall goals. He is experienced in processing entitlement applications and has a strong understanding of the complex local, state, and federal requirements for a wide variety of project types and is admired for his ability to integrate this information into planning documents. David has a B.A. degree in Urban Studies and Planning with a minor in Economics from the University of California, San Diego.

**ENVIRONMENTAL ANALYSTS**

T&B Planning’s team of in-house environmental analysts are highly skilled in CEQA compliance for industrial warehouse projects. Our analysts all have Bachelor or Masters degrees in Environmental Science, Environmental Studies, or related fields and have received training on the CEQA Statute and Guidelines.
EXHIBIT IV ABILITY TO MEET PROJECT SCHEDULE

T&B Planning understands the City’s expectation to complete the EIR in an expeditious and efficient manner and in a timeframe of between 6 to 8 months after the total receipt of the technical studies and plans by the applicant. Due to the location of the project site outside of the Mira Loma Warehouse Distribution Center Overlay, need for a full scope EIR, and number of review cycles requested by the City in the RFP, we estimate that the schedule will be at least 16 months in length. This timeframe accounts for all City review cycles and CEQA required review periods.

T&B Planning shall provide the services set forth in the RFP dated June 14, 2019 for the Rubidoux Commerce Park project, pursuant to the following schedule.

**Months 1-2**
Task 1: Project Initiation
Task 2: Notice of Preparation and Scoping Meeting
Task 3: Review Technical Reports (1st and 2nd rounds)
Task 4: Begin Preparation of the Screencheck Administrative Draft EIR
Task 14: Management and Coordination (ongoing)

**Months 3-4**
Task 3: Complete Review of Technical Reports (3rd round)
Task 4: Continue Preparation of the Screencheck Administrative Draft EIR (includes 1st round City review/comment and associated revisions).
Task 14: Management and Coordination (ongoing)

**Months 5-7**
Task 4: Complete Preparation of the Screencheck Administrative Draft EIR (includes 2nd and 3rd rounds City review/comment and associated revisions)
Task 5: Administrative Draft EIR (includes 1st round City Attorney review/comment and associated revisions).
Task 14: Management and Coordination (ongoing)

**Months 8-10**
Task 5: Complete Administrative Draft EIR (includes 2nd round City Attorney review/comment and associated revisions).
Task 6: Prepare Public Review Draft EIR
Task 7: Circulation of the EIR and Public Notification
DEIR Public Review
Task 14: Management and Coordination (ongoing)

**Months 11-12**
Task 8: Prepare Responses to Comment and Screencheck Administrative Final EIR (includes 1st and 2nd rounds City review/comment and associated revisions)
Exhibit IV: Ability to Meet Project Schedule

Months 13-14
Task 9: Prepare Administrative Final EIR (includes City Attorney review/comment and associated revisions)
Task 10: Prepare Final EIR
Task 11 - Task 12: Prepare Findings and Statement of Overriding Considerations
Task 14: Management and Coordination (ongoing)

Months 15-16+
Task 15: Attend Public Meetings / Hearings on the Project
Task 13: Prepare Notice of Determination
Task 14: Management and Coordination (ongoing)
Task 16: Project Close-Out
T&B Planning will provide the *Scope of Services* set forth in the City’s RFP dated June 14, 2019 for the provision of environmental consulting services necessary to complete the preparation of a Project Level EIR for the proposed Rubidoux Commerce Park project pursuant to the following **not-to-exceed** budget. Pursuant to the City’s RFP, the budget includes a 13% contingency.

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<th>Task</th>
<th>Task Description</th>
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**Cont. Contingency Fee 13%**

**Total Project Budget:** $296,410.30

**Reimbursable Expense Allowance (printing, deliveries, etc.):** $6,883.40

**Total Project Budget (Including Reimbursables):** $303,293.70
T&B Planning, Inc. Hourly Rates and Billing Policy

If at any time during the completion of this project, we are requested to perform services beyond the Scope of Work or if T&B Planning, Inc. is authorized to provide services on a Time and Materials basis, we will invoice for such work in accordance with the hourly rates provided below. The rates identified below shall be in effect for the duration of the contract.

- Principal ................................................................. $205.00 - $245.00/Hour
- Senior Associate .................................................. $170.00 - $205.00/Hour
- Senior Project Manager ........................................... $145.00 - $170.00/Hour
- Senior Planner/GIS Manager ................................. $125.00 - $160.00/Hour
- Project Manager ..................................................... $110.00 - $135.00/Hour
- Assistant Project Manager ................................. $95.00 - $125.00/Hour
- Graphics/GIS Specialist ........................................ $85.00 - $115.00/Hour
- Project Planner/Environmental Analyst .................. $85.00 - $115.00/Hour
- Staff Planner/Graphics/GIS Technician .................... $70.00 - $85.00/Hour
- Administrative Assistant/Assistant Planner .......... $55.00 - $70.00/Hour

Reimbursable Expenses:

T&B Planning's hourly rates do not include out-of-pocket expenses (including, but not limited to, blueprinting, duplicating/copying, reproduction, GIS data acquisition fees, aerial photography, and delivery services). Provided below are the estimated costs of such expenses.

- CD-ROM ............................................................... $10.00/each
- Black/White 8.5 x 11 Copy/Print .......................... $0.10/page
- Black/White 11 x 17 Copy/Print .......................... $0.20/page
- Color 8.5 x 11 Copy/Print ........................................ $1.00/page
- Color 11 x 17 Copy/Print ........................................ $1.50/page
- Color Bond Plot .................................................. 10.00/sq. ft.
- Binding Materials .................................................... $3.00
- Book Folding ....................................................... $0.15/page
- Aerial Photographs ............................................... $200.00/each
- Mileage ............................................................... Current IRS Rate
- Mailing ............................................................... Current U.S. Postal Rate
- Same-Day Deliveries ........................................... Current Messenger Service Rate
STAFF REPORT

DATE: AUGUST 15, 2019

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ALAN KREIMEIER, INTERIM CITY MANAGER

SUBJECT: AGENDA ITEM NO. 11.H

AUTHORIZATION OF TRAVEL FOR ATTENDANCE AT EVIDENTIARY HEARING IN SAN FRANCISCO FOR RIVERSIDE TRANSMISSION RELIABILITY PROJECT

RECOMMENDATION

That the City Council authorize travel expenditures for City witnesses, personnel and attorneys to attend and testify at the evidentiary hearing before the Administrative Law Judge for the California Public Utilities Commission in the proceedings for the Riverside Transmission Reliability Project (RTRP) as described in this Agenda Report.

ANALYSIS

The City of Jurupa Valley has continually opposed the efforts of Southern California Edison and City of Riverside to construct above-ground electrical transmission line towers along the I-15 Corridor in the City for the RTRP. The City is a party to the proceedings before the California Public Utilities Commission in which SCE and Riverside have applied for the approval of the RTRP.

On September 4-6, 2019, the Administrative Law Judge assigned to the RTRP Proceedings will hold an evidentiary hearing in San Francisco at which time the witnesses supporting the positions of Southern California Edison, City of Riverside, City of Jurupa Valley, and the owners of property that will be acquired for the electrical transmission line towers (Sky Country Investment Co./East LLC, Lesso Mall Development Jurupa Valley Ltd.)

The City will present the testimony of four witnesses at the evidentiary hearing: Planning Commissioner Penny Newman; former City Manager Gary Thompson; City Engineer Steve Loriso; and economic consultant Steven Dukett of Urban Futures. Additionally, the attorneys from the City Attorney’s Office, Tilden Kim and Stephen Lee
will attend along with the City Council’s ad hoc RTRP Subcommittee Members, Mayor Brian Berkson and Council Member Chris Barajas.

Southern California Edison and the City of Riverside will be presenting the testimony of four witnesses plus additional witness in rebuttal. The Office of Public Advocate will present testimony in opposition to the Application. The California Independent System Operator Corporation (CAISO) will also present testimony in support of the Application.

All members of the City’s Team will be staying at the Club Quarters Hotel in San Francisco. This Hotel is within walking distance from California Public Utilities Commission building where the hearing will be held. It is also within walking distance from the offices of the attorney for the property owners so as to facilitate meetings of the parties during lunch and after the day’s hearing. The hotel is a business hotel with efficiency rooms. The cost of the rooms is $389 per night. Every effort was made to find the lowest priced rooms in this area of San Francisco given the logistical needs of the Team during the Hearing. Additionally, the reservations may be cancelled in the event of a continuance of the Hearing, which increases the cost of the rooms.

Airfare will be arranged by the City Staff.

The City will subpoena former City Manager Gary Thomson for testimony at the hearing. Pursuant to Government Code Section 68096.1, the City is required to pay to his current employer, Riverside County LAFCO, the costs of his daily salary and to pay his travel expenses in connection with appearance at the hearing.

It is recommended that the meal budget for each member of the City’s Team be a total of $80 per day for all three meals. This amount is $20 more per day than the amount provided in the City Expense Reimbursement Policy approved in 2001, but it reflects the very high costs of food and doing business in San Francisco and the fact that these reimbursement amounts have not been updated since 2011. All meal expenditures shall comply with the other provisions of the City’s Expense Reimbursement Policy, including documentation of expenditures.

There is always a possibility that the Hearing will be continued. Therefore it is recommended that this authorization remain in effect until the hearing is completed.

Additionally, it is recommended that this authorization extend to any other trips to San Francisco for travel related to the RTRP.

**FINANCIAL IMPACT**

Approximately $15,000 for required hotel, airfare and food.

**ALTERNATIVES**

1. Provide comments to Staff and/or reconsider travel authorization.
Reviewed by:
Connie Cardenas  
Interim Director of Administrative Services

Submitted by:
Alan Kreimeier  
Interim City Manager

Reviewed by:
Peter M. Thorson  
City Attorney
STAFF REPORT

DATE: AUGUST 15, 2019

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ALAN KREIMEIER, INTERIM CITY MANAGER
      TIM JONASSON, SENIOR MANAGER

SUBJECT: AGENDA ITEM NO. 14.A

AN ORDINANCE ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

RECOMMENDATION

1. That the City Council conduct a first reading and introduce Ordinance No. 2019-11, entitled:

   AN ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

2. That the City Council by a 4/5 vote, adopt Urgency Ordinance No. 2019-12, entitled:

   AN URGENCY ORDINANCE OF THE CITY OF JURUPA VALLEY ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

BACKGROUND

Since 2003, cell phone use with increased data transmitting and receiving capabilities
have increased to the point that additional wireless broadband infrastructure is needed to meet the growing demand for data capacity and speed, particularly in populous areas throughout the country. The 5th Generation (5G) broadband network will be designed for the "internet of things", everyday objects with imbedded technologies allowing them to send and receive data that are expected to proliferate exponentially in the future due to high consumer demand. Additionally, 5G broadband technologies on the horizon will support Smart Cities technologies that will improve traffic flow, provide public safety benefits such as advanced communication with first responders, as well as provide better resident access to government and educational services all of which will require greater speed and reliability than is currently provided by 4G broadband systems. However, to create a true 5G broadband network small cell facilities, typically 3'-4' diameter antennas mounted 30' or higher from ground level with supporting network equipment in a small refrigerator size box, are required in much higher numbers and at much shorter intervals (500'-1500' apart) than existing cell towers.

The Telecommunications Act of 1996 makes it unlawful for local governments to prohibit "the provision of personal wireless service," prevents local governments from "unreasonably discriminating among providers of functionally equivalent services" and requires that local governments "act on any authorization to place, construct or modify wireless service facilities within a reasonable period of time". On September 27, 2018, the Federal Communications Commission (FCC) released the declaratory ruling and order titled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment" (the FCC Order). The FCC Order, which went into effect on January 14, 2019, is intended to facilitate 5G implementation in the United States by shortening review time frames, limiting cost and establishing aesthetic standards the telecom industry can rely on for locating small cell antennas necessary for the deployment of 5G technology in the public rights-of-way. The portion of the FCC Order related to aesthetic standards went into effect on April 15, 2019.

This means that under Federal Law, the City has no authority to prohibit small cell wireless facilities and very limited authority to regulate their location and aesthetics.

**ANALYSIS**

The FCC Order places a number of requirements on local governments including:

1. Once an applicant makes a small cell application to the City the City is required to render decision on a small wireless facility within a specified time period (60 days for installations on existing structures, and 90 days for new structures), the failure for which will be presumed to violate federal law as this would constitute both a failure to act within a reasonable period and an effective prohibition of personal wireless services.

2. All fees for permit review and inspection must be based on a reasonable approximation of the local government’s costs, which normally requires a fee study to support, or default to the FCC’s “safe harbors” rate presumed to be reasonable at $500 for a single application for up to five satellite installations,
plus $100 for each additional facility and $1,000 for each new pole. Recurring
fees (i.e., rent for attaching to a public facility such as a street light) are
presumed to be reasonable at $270 per facility per year.

3. Aesthetic standards, including undergrounding, will not be preempted if they are:
reasonable, no more burdensome than those applied to other types of
infrastructure deployments, and objective and published in advance.

Per a previous FCC ruling in August 2018 cities are prohibited from imposing a
moratorium on wireless installations to better study their existing wireless policies.
Federal Law also prohibits the City from banning wireless installations all together.
Therefore, it is imperative that the City revise its wireless facilities requirements to
meet the FCC Order while protecting the City’s interest within the new regulations.

The key elements addressed in the ordinance include:

1. Complies with new federal regulations regarding small cell facilities as outlined
above;

2. Provides for development of Wireless Facilities Application Policy and Installation
Guidelines to be provided by the City’s Engineering and Planning staff at a future
date, however, most of the requirements for small wireless facilities are
contained in Section 13.30.040 of the proposed ordinance;

3. Outlines permit and process requirements that allow the City to meet the
shortened application approval time frames (i.e., “shot clock requirements”); and,

4. Requires an encroachment permit form Public Works in addition to a City-issued
Small Wireless Facility permit for small wireless facilities in the public right-of-way
to be approved by the Planning Director. Since Southern California Edison
(SCE), Jurupa Area Parks and Recreation District (JARPD) and Rubidoux
Community Service District (RCSD) own most of the streetlights in the City, it is
the responsibility of applicants to obtain permission from these entities to utilize
their structures for attaching and operating a small cell facility.

Since the FCC Order is already in effect and staff has already received requests for
these permits staff recommends adopting these provisions on an emergency basis to
avoid delaying permitting of small wireless facilities in the City.

OTHER INFORMATION

On July 24, 2019 the Planning Commission adopted Planning Commission Resolution
No. 2019-07-24-01 recommending that the City Council approve amendment to Section
9.275.020 ("Exclusions") of Chapter 9.275 ("Wireless communication Facilities") of Title
9 ("Planning") of the Jurupa Valley Municipal Code excluding small wireless facilities
from the wireless communication facilities regulations, and found that the proposed
amendment was exempt from CEQA.
FINANCIAL IMPACT
None.

ALTERNATIVES
None recommended.

Prepared by:

Timothy R. Jonasson, PE
Senior Manager

Submitted by:

Alan Kreimeier
Interim City Manager

Reviewed by:

George A. Wentz
Deputy City Manager

Reviewed by:

Peter M. Thorson
City Attorney

Attachments:
1) Proposed Small Wireless Facilities Ordinance No. 2019-11
2) Proposed Small Wireless Facilities Urgency Ordinance No. 2019-12
ORDINANCE NO. 2019-11

AN ORDINANCE OF THE CITY OF JURUPA VALLEY, CALIFORNIA
ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION
AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC
RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL
CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER
SECTION 15061(b)(3) OF THE CEQA GUIDELINES

THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY DOES ORDAIN AS
FOLLOWS:

Section 1. Recitals. The City Council of the City of Jurupa Valley does hereby find, determine, and declare that:


(b) The Report and Order purports to give providers of wireless services rights to utilize public rights-of-way and to attach so-called “small wireless facilities” to public infrastructure including infrastructure of the City of Jurupa Valley, subject to payment of “presumed reasonable”, non-recurring and recurring fees. The ability of local agencies to regulate use of their rights-of-way is substantially limited under the Report and Order.

(c) Notwithstanding the limitations imposed on local regulation of small wireless facilities in public rights-of-way by the Report and Order, local agencies retain the ability to regulate the aesthetics of small wireless facilities, including location, compatibility with surrounding facilities, spacing, and overall size of the facility, provided the aesthetic requirements are: (i) “reasonable”, i.e., “technically feasible and reasonably directed to avoiding or remedies the intangible public harm or unsightly or out-of-character deployments”; (ii) “objective”, i.e., they “incorporate clearly-defined and ascertainable standards, applied in a principled manner”; and (iii) published in advance. Regulations that do not satisfy the foregoing requirements are likely to be subject to invalidation, as are any other regulations that “materially inhibit wireless service” (e.g., overly restrictive spacing requirements).

(d) Local agencies also retain the ability to regulate small wireless facilities in the public rights-of-way in order to more fully protect the public health and safety, ensure continued quality of telecommunications services, and safeguard the rights of consumers.

(e) It is the intent of the City Council in adopting this Ordinance to supersede regulations of the City that conflict with the Report and Order, and to establish consistent regulations governing deployment of small wireless facilities in the public rights-of-way, in order to more fully protect the public health, safety, and welfare. The City Council declares that it adopts this Ordinance with the understanding that the City expressly reserves all rights to re-enact and/or establish new regulations consistent with State and federal law as it existed prior to
adoption of the Report and Order in the event the Report and Order is invalidated, modified, or limited in any way.

Section 2. Amendment to Section 9.275.020., Exclusions. Section 9.275.020., Exclusions, of Chapter 9.275, Wireless Communication Facilities, of Title 9, Planning and Zoning, of the Jurupa Valley Municipal Code is hereby amendment to read as follows:

“Sec. 9.275.020. - Exclusions.

This chapter shall not apply to the following:

(1) Any tower or antenna that is less than one hundred and five (105) feet in total height and that is owned and operated by a federally-licensed amateur radio station operator.

(2) This chapter shall also not apply to any tower or antenna used for commercial radio or television purposes; and

(3) Any small wireless facility, as defined in section 13.30.020.”

Section 3. Addition of Chapter 13.30, Regulations of Small Wireless Facilities in the Public Rights-of-Way. A new Chapter 13.30 is hereby added to Title 13 of the Jurupa Valley Municipal Code to read as follows:

“CHAPTER 13.30
REGULATION OF SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

Sections:

13.30.010 Purpose.
13.30.020 Definitions.
13.30.030 Installation requirements for small wireless facilities.
13.30.040 Permit required.
13.30.050 Fees.

Sec. 13.30.010. - Purpose.

The City Council of the City of Jurupa Valley expressly finds that the installation of small wireless facilities in City rights-of-way requires City regulation, consistent with State and federal law as it currently exists, in order to more fully protect the public health and safety, preserve and protect the City’s aesthetic interests, protect City infrastructure and other public facilities, and provide for the orderly deployment of small wireless facilities in order to ensure the continued quality of telecommunication services to the public.

The City Council further finds that regulations established herein are not intended to, nor shall they be interpreted or applied to:
(1) Prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services;

(2) Prohibit or effectively prohibit any personal wireless service provider’s ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;

(3) Unreasonably discriminate among providers of functionally equivalent services;

(4) Deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission’s regulations concerning such emissions;

(5) Prohibit any collocation or modification that the City may not deny under federal or State law;

(6) Impose any unfair, unreasonable, discriminatory or arbitrary fees that exceed the reasonable cost to provide the services for which the fee is charged; or

(7) Otherwise authorize the City to act in conflict with any applicable federal or State law or regulation.

Sec. 13.30.020. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative Review means ministerial review of an application by the City relating to the review and issuance of a permit, including review by the Planning Director and City Engineer to determine whether the issuance of a Permit is in conformity with the applicable provisions of this chapter.

Antenna means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

Applicant means any person who submits an application under this chapter.

Application means a written request, on a form provided by the City, for a SWF permit.

City means the City of Jurupa Valley.
Collocate means to install or mount a SWF in the PROW on infrastructure, an existing support structure, an existing tower, a utility-owned structure, or an existing pole to which another SWF is attached at the time of the application. Collocation has a corresponding meaning.

Communications Facility means, collectively, the equipment at a fixed location or locations within the PROW that enables communications services, including: (i) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A communications facility does not include the pole, tower or support structure to which the equipment is attached.

Communications Service means telecommunications service, as defined in 47 U.S.C. Section 153(53), including wireless broadband internet service.

Communications Service Provider or Provider means a provider of communications services.

Construction Codes means California Building, Fire, Electrical, Plumbing, and/or Mechanical Codes adopted by the City.

CPUC means the California Public Utilities Commission.

Discretionary Review means review of an application by the City relating to the review and issuance of a permit that is other than an administrative review.

FCC means the Federal Communications Commission.

Infrastructure means any City-owned or operated facility, equipment, pole, pipe, cabinet, or other structure located in the PROW. “Infrastructure” shall include poles, street lights, and/or other structures in the PROW owned by utilities, except to the extent any specific requirement is preempted or prohibited by State or federal law related to utility pole attachments by wireless providers.

Laws means, collectively, any and all Federal, State, or local laws, statutes, common law, codes, construction codes, rules, regulations, orders, and/or ordinances.

Master Agreement means an agreement between the City and a permittee authorizing the installation and maintenance of one or more SWFs.

Permit means a written authorization (in electronic or hard copy format) to install a SWF at a specified location(s) in the PROW. A permit may also consist of a master agreement between the applicant and City to install and maintain one or more SWFs in the PROW.

Permittee means an applicant that has received a permit under this chapter.
Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

Pole means a legally constructed City or utility owned pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the PROW. A pole does not include a tower or support structure and does not include a pole or structure that supports electric transmission lines.

Public Rights-of-Way or PROW means the area on, below, or above property that has been designated for use as or is used for a City-owned or controlled roadway, highway, street, sidewalk, alley or similar purpose. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the City.

Replace or Replacement means, in connection with an existing pole, support structure or tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this chapter and any other applicable Jurupa Valley Municipal Code provisions, in order to address limitations of the existing structure to structurally support collocation of a Communications Facility.

Small Wireless Facility or SWF means a wireless facility that meets the following qualifications: (i) each antenna could fit within an enclosure of no more than three (3) cubic feet in volume; (ii) all other wireless equipment associated with the antenna, including the provider’s preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume; and (iii) the facility is the type of facility otherwise described in 47 C.F.R. Section 1.1312(e)(2).

State means the State of California.

Support Structure means a structure in the PROW other than a pole or a tower to which a wireless facility is attached at the time of the application.

Tower means any structure in the PROW built for the sole or primary purpose of supporting a wireless facility. A tower does not include a pole or a support structure.

Wireless Facility means the equipment at a fixed location or locations in the PROW that enables wireless services. The term does not include: (i) the support structure, tower or pole on, under, or within which the equipment is located or collocated; or (ii) coaxial, fiber-optic or other cabling that is between communications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A SWF is one type of wireless facility.

Wireless Services means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

Wireless Services Provider means a person who provides wireless services.
Sec. 13.30.030. - Installation requirements for small wireless facilities.

A. Site Selection.

(1) The preferred location for SWF shall be on existing infrastructure such as utility poles or street lights. The infrastructure selected should be located at street intersections and/or near property line prolongations. If the SWF is not able to be placed on existing infrastructure, the applicant shall provide a map of existing infrastructure in the service area and describe why each such site was not feasible.

(2) When existing infrastructure sites have been exhausted or there is no available infrastructure in the proposed location, the City will consider entering into a master agreement with an applicant on mutually agreeable terms, but which will require that the applicant dedicate new infrastructure such as a street light, on which the SWF can be installed. The installation shall be subject to any of the size, attachment, and other physical restrictions set forth in subsections B.(1) and B.(2) below, as determined necessary by the City Engineer. The City Engineer shall approve all plans and specifications, including the means of providing electrical power.

B. Existing Infrastructure Requirements.

(1) Street Light.

(a) The antenna shall be the smallest possible volume but in no case greater than three cubic feet. Antenna installations will be top of pole mount and shall not increase the height by more than ten (10) percent or ten (10) feet, whichever is greater, over other street lights in the immediate vicinity. The antenna shall be as small as technically possible, and RF screen and/or color treatment shall be utilized if possible to camouflage the installation.

(b) Equipment, other than antennas, shall be mounted as prescribed by the City Engineer in one of the manners described herein:

(i) Equipment shall be mounted in a base shroud of approved design to be retrofitted to an existing light standard. The base shroud shall be coated or painted with an approved color to match the existing pole.

(ii) Equipment shall be mounted directly to the pole a minimum of eight (8) feet above the existing grade and be coated or painted with an approved color to match the existing pole.

(iii) Equipment shall be mounted to the pole in an equipment box a minimum of eight (8) feet above the existing grade. The equipment box shall be coated or painted an approved color to match the existing pole and will be no wider than two (2) times the diameter of the pole at the point it is mounted nor protrude from the surface of the pole by more than sixteen (16) inches. All equipment, cables and wiring shall be fully contained in the equipment box unless technically infeasible as determined by the City Engineer based on technical specifications provided by the
applicant. Full containment shall not be found to be technically infeasible if an alternative equipment enclosure providing similar functionality, capable of full containment, is generally available to wireless service providers.

(c) The applicant may propose or the City may require that the existing light standard be replaced with a City-approved pole that is manufactured with a base shroud designed to accept wireless equipment.

(2) Utility Pole.

(a) The antenna shall be the smallest possible volume but in no case greater than three (3) cubic feet and shall be mounted at the top of the pole or on the side of the pole with a bracket. When mounted with a bracket, the bracket will be coated or painted to match the existing pole and may extend no more than eighteen (18) inches from the surface of the pole unless a greater distance is required by applicable laws. The antenna shall be as small as technically possible, and RF screen and/or color treatment shall be utilized if possible to camouflage the installation.

(b) Equipment, other than antennas, shall be mounted as prescribed by the Director in one of the manners described herein:

(i) Equipment shall be mounted directly to the pole a minimum of eight (8) feet above the existing grade and be coated or painted with an approved color to match the existing pole.

(ii) Equipment shall be mounted in an equipment box that is mounted directly to the pole a minimum of eight (8) feet above the existing grade. The equipment or box shall be coated or painted to match the existing pole and will be no wider than the diameter of the pole at the point it is mounted nor protrude from the surface of the pole by more than eight (8) inches. All equipment, cables and wiring shall be fully contained in the equipment box unless technically infeasible as determined by the City Engineer based on technical specifications provided by the applicant. Full containment shall not be found to be technically infeasible if an alternative equipment enclosure providing similar functionality, capable of full containment, is generally available to wireless service providers.

(c) If the existing utility pole already has more than two (2) existing risers/drops, the pole must be replaced with a metal pole that allows the new cable and wires to be located inside the pole, in conduit. The existing drops will also be relocated inside the new pole and underground entry into the pole through the foundation is required. When the installation will result in two (2) or fewer risers/drops on the pole, the wires and cable may be installed as a riser/drop in conduit painted to match the pole, or as directed by the City.

(3) Alternative Infrastructure. The Planning Director and City Engineer shall be authorized to consider and allow use of other infrastructure not described above and not otherwise prohibited herein, when the Planning Director or City
Engineer determines that the proposed alternate infrastructure: (i) is substantially similar in physical characteristics to a preferred structure; and (ii) the visual impact that would be suffered by the public is no greater than the impact if installed on a preferred structure; and (iii) the proposed alternative infrastructure can accommodate the proposed SWF without creating any risk to the public health or safety. Any approved alternate infrastructure shall be subject to all requirements for SWFs set forth in this section 13.30.030.

C. Prohibited locations. The City Engineer has determined that, in order to ensure protection of the public health and safety, no SWF may be installed or maintained (i) where any hazard to normal traffic flow could occur or exist, such as obscuring of drivers’ visibility or sight lines; or (ii) which would result in any obstruction or restriction of pedestrian movement or risk to pedestrian safety; or (iii) which would or could result in violation of any law, including any ADA standard; or (iv) which would or could result in violation of any applicable federal, State, County or local standard including standards of the American Association of State Highway and Transportation Officials.

Sec. 13.30.040. - Permit Required.

A. A SWF permit must be obtained from the City before a SWF may be installed or maintained in the PROW. A standard City of Jurupa Valley encroachment permit may also be required as a condition of SWF permit approval. A SWF permit is valid for ten (10) years. However, to ensure the greatest availability to other applicants of preferred locations for SWFs, installation of each SWF for which the permit is issued shall be completed within one (1) year of issuance. Upon a showing of good cause not based on fault of the permittee, the Planning Director may extend the time to complete the installation under a SWF permit, for an additional six (6) months. Upon a failure of a permittee to complete installation in the required period of time, the permit shall be deemed abandoned and the proposed SWF location shall be made available to other SWF applicants.

In the event that an application is deemed granted by rule of law or court decision, all conditions and design guidelines set forth in this chapter are still applicable to the installation.

An application for a permit to install a SWF shall be made in writing on such forms as detailed in the Wireless Facilities Application Policy and Installation Guidelines established pursuant to this chapter and shall comply with the following minimum requirements, in addition to all other information and documentation determined to be necessary by the Planning Director and City Engineer to effectuate the purpose and intent of this section. A review of an application for a SWF that complies in all respects with this chapter, shall be deemed an administrative review. Any proposed wireless facility not satisfying all requirements of this chapter for SWFs, or for any kind of wireless facility that is not a SWF, shall be subject to discretionary review unless ministerial review is required by law. Any “eligible facilities request” under 47 U.S.C. Section 1455(a), shall be processed consistent with federal law and the requirements of this Code.
The application form shall specify the number, size and format of the project plans and application materials to be provided, including, but not limited to, electronic format. The City Engineer may waive certain submittal requirements or require additional information based on specific project factors. Unless an exemption or waiver applies, all applications shall include all of the following and will not be accepted if any submittal material is missing or not fully completed. An application shall not be deemed complete by the City unless all required information, submittals, and documentation has been submitted to the City as follows:

1. Complete Application. A fully completed and executed City application form for the type of approval sought, and all information, materials, fees, attachments, submittals, and proof of insurance specified in the City-approved application form, must be submitted.

2. Executed Under Penalty of Perjury. All applications shall be signed under penalty of perjury under the laws of the state of California by an authorized representative of the applicant.

3. Applicant Information. Complete legal name and contact information for the facility owner, facility operator, agent (if any), and property owner (for any collocation facility on any existing SWF), and related letter(s) of authorization if the owner is other than the City.

4. Detailed Description of the SWF. A full written description of the proposed facility, its purpose, and specifications.

   a. Distributed Antenna System. Applications for a SWF permit for a DAS shall be submitted as a single SWF application for the entire project. Each individual location within the system shall be processed and considered for approval separately. Permitting fees will be applied to each such location. Each location will be evaluated and must comply with the all design and development standards as defined by this chapter.

   b. Utility Pole Attachments. For any SWF proposed to be collocated on a pole or structure owned by a public utility such as Southern California Edison, the application shall include written evidence of the utility’s approval of applicant’s proposed attachment including any and all applicable terms and conditions, and detailed description of the approved SWF. A SWF authorized by law and approved by the utility company for attachment to a utility owned pole or structure, shall be subject to all provisions of this chapter except to the extent any such provisions are preempted by State or federal law related to utility pole attachments by wireless providers.

5. Inventory. An inventory list and map of the applicant’s existing SWFs, including but not limited to collocations, operated by the applicant within two miles of the proposed site (“service area”), and longer range conceptual plans for a period of five (5) years shall also be provided, if available. The inventory list must include specific information as to location, height, and design of each facility. The City may
share such information with other applicants seeking to locate SWFs within the service area, in order to encourage collocation.

(6) Geographic Service Area. A written description identifying the geographic service area for the subject installation, accompanied by a two-year master plan of anticipated future installations and/or modifications, including maps.

(7) Report on Alternatives. A report explaining why the SWF is needed at the requested location, including a written statement explaining the rationale for selecting the proposed site; and how the proposed SWF is the least intrusive means for the applicant to provide wireless service in the proposed service area. Such statement shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed SWF and why such alternatives are not a viable option. If the City has requested that the applicant collocate its SWF on a site, the applicant shall explain why collocation is not feasible, including efforts made to develop such an alternative.

(8) SWF Plans. Detailed engineering plans of the proposed SWF showing all equipment and antennas, including height, shape, size and nature of construction in accordance with the requirements established by the City Engineer. The plans shall include, but are not limited to, a fully dimensioned diagram of the proposed SWF and antennas, including height, diameter, design, shape, size, structural integrity, power output and frequency, back-up power source (if any), nature of construction, purpose of the facility, and technical engineering specifications, economic and other pertinent factors governing selection of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site. The plans for any new free-standing structure must provide sufficient detail to demonstrate that the structure will be able to accommodate at least one other similar telecommunications provider in addition to the applicant. The plans shall include a diagram showing the separation between the proposed SWF and any existing facility or facilities on the same support structure or site, if collocation is planned. In order to minimize visual impact of equipment boxes, every applicant seeking to collocate with another SWF shall utilize its best efforts to arrange with the existing SWF operator to share equipment enclosures. The collocating wireless provider shall provide a written description of its efforts made to share any equipment enclosure. If unable to achieve a sharing arrangement, the applicant’s written description shall clearly state the reasons why.

(9) Site Plans. A fully-dimensioned site/landscaping plan that includes, at a minimum, the following information: specific placement of the proposed equipment shelters, antenna(s), and any other SWF on the site; setbacks from adjacent property lines; the location of existing structures, trees, and other significant site features; the type and locations of materials proposed to screen SWF antennas and other components, if any; the proposed materials and color(s) for the SWF; and all other information required by the Planning Director.
(10) Photographs and Visual Analysis. Photo-simulations showing views of the proposed SWF from surrounding properties and adjoining PROW at varying distances and angles with a map indicating the locations used for the analysis and their distances from the site.

(11) Documentation of Federal and State Compliance. Copies of all applicable licenses, permits, and/or other approvals required by the FCC, CPUC, and any other federal, state, and/or local agency with authority to regulate SWFs, and documentation of compliance with all conditions imposed in conjunction with such licenses or approvals. The required documentation shall include, but is expressly not limited to, the following:

   (a) Engineering calculations demonstrating that the proposed SWF will comply with all applicable FCC rules, regulations, and/or specifications.

   (b) Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the FCC’s “Local Government Official's Guide to Transmitting Antenna RF Emission Safety”, or any successor regulations, to determine whether the SWF will be “categorically excluded”, as that term is used by the FCC.

   (c) For a SWF that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the City that certifies that the proposed SWF, as well as any SWFs that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards, exposure limits and emission levels. The RF report must include the actual frequency and power levels (in watts effective radiated power “ERP”) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

(12) Any environmental documentation required to obtain such federal and/or state license, permit or other approval.

(13) CPUC. A copy of the certificate of public convenience and necessity issued by the CPUC to the applicant, and a copy of the CPUC decision that authorizes the applicant to provide the wireless telecommunications service for which the facilities are proposed to be constructed in the PROW. Any applicant that, prior to 1996, provided telecommunications service under administratively equivalent documentation issued by the CPUC may submit copies of that documentation in lieu of a certificate of public convenience and necessity.
(14) Environmental compliance. A completed environmental assessment and documentation establishing that all applicable environmental mitigation measures imposed by the CPUC, City and any other federal or state environmental determinations (i) have been met, (ii) will be met as part of the proposed SWF, or (iii) are not applicable.

(15) Noise Compliance. A statement made under penalty of perjury that the level of noise to be emitted by the proposed SWF will comply with the noise standards contained in this Code.

(16) Traffic Control Plan. A traffic control plan when the proposed installation will require use of any active traffic lane on any street.

(17) Any other information, studies and/or other documentation determined necessary by the City Engineer.

B. Application of federal “shot clocks.”

Applications shall be processed in compliance with the following federally established timelines:

1. Subject to tolling provisions in subsection B. of this section the City shall have sixty (60) days from the date of receipt of an application for a permit for a SWF to collocate one or more SWFs on infrastructure, within which to act on the application. The foregoing period shall be ninety (90) days for applications to install one or more SWFs in the PROW involving no collocation, or where SWFs identified in the application will be both collocated and not collocated.

2. Unless otherwise agreed upon in writing by the applicant and City, for an initial application to install one or more SWFs, if the City notifies the applicant on or before the tenth (10th) day after submission that the application is materially incomplete, and identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the time for the City to act on the application is tolled, and the shot clock date calculation shall restart at zero (0) on the date on which the applicant submits all the documents and information identified by the City to render the application complete.

3. For any resubmitted application following the City’s notice of deficiency, the time for the City to act on the application shall be tolled for the number of days from:

   a. The day after the date when the City notifies the applicant in writing that the applicant’s supplemental submission was not sufficient to render the application complete and identifies the missing documents or information that need to be submitted based on the City’s original request under subsection B.(2), above, until;

   b. The date when the applicant submits all the documents and information identified by the City to render the application complete, provided the notice
pursuant to subsection B.(3)(a), above is served on or before the tenth (10th) day after the date when the applicant makes a supplemental submission in response to the City’s request under subsection B.(2), above.

(4) The “shot clock date” or starting date for a SWF application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in this subsection B., provided, that if the date calculated in this manner is a local, State, or federal holiday within the City or State (“legal holiday”), the shot clock date is the next business day after such date. The term “business day” means any week day that is not a legal holiday of the City or State. Note that “business day” includes any Friday when the City’s business offices are closed.

C. Construction requirements. Every permitted SWF shall be constructed/installed in strict compliance with the approved plans and specifications, provisions of this Chapter, all laws, and all written policies and direction of the City Engineer related to installation of utilities and/or other physical encroachments into the PROW. All cabling and wiring must be contained in conduit, affixed directly to the face of the pole, for as long as it is technically feasible. No exposed slack or extra cable will be allowed. No visible electrical meters will be allowed. The applicant shall negotiate directly with the electric utility to determine a flat rate for installation. The applicant is responsible for the cost of all electrical usage.

All work shall be done in accordance with latest City of Jurupa Valley Public Works, State, Caltrans, California Manual on Uniform Traffic Control Devices, Work Area Traffic Control Handbook, County and Federal Standards and Specifications or as otherwise required by the City Engineer. It is the permittee’s contractor’s responsibility to obtain the City of Jurupa Valley Engineering Standards and Specifications before starting work. Any work done without inspection or not conforming to such standards and specifications shall be subject to removal and replacement in the presence of the City Engineer or a designee.

D. Insurance and Indemnity. As a condition of approval of every SWF permit, and by accepting such permit, the permittee, to the fullest extent permitted by law, agrees to and shall indemnify, defend and pay reasonable attorneys’ fees and costs, and hold the City of Jurupa Valley, its elected officials, officers, employees, attorneys, contractors, agents, and volunteers harmless, with respect to any and all claims, liabilities, and legal actions, allegedly or actually arising out of or related to, the acts and/or omissions of the applicant, its owners, officers, employees, contractors, agents, and any other person or entity acting on behalf of the applicant, in the exercise of rights and/or performance of obligations, in connection with any SWF or other permit issued to the permittee pursuant to this chapter.

Prior to entering any PROW pursuant to a SWF permit, the permittee shall procure, provide satisfactory evidence of, and maintain commercial general auto liability, and workers compensation insurance in such form and with such limits as required by the City Engineer or designee or otherwise as required as a condition of the issuance of a
City encroachment permit. Unless approved in writing by the City Engineer or designee, self-insurance shall not be deemed to satisfy the requirements of this chapter.

E. Written Policy and Guidelines. Due to rapidly changing technology and regulatory requirements, the City Council authorizes the Planning Director and City Engineer to establish Wireless Facilities Application Policy and Installation Guidelines to serve as further regulatory guidance and clarification concerning wireless facilities in the City. The Wireless Facilities Application Policy and Installation Guidelines shall be approved by resolution of the City Council and subsequently published in a newspaper of general circulation. The Wireless Facilities Application Policy and Installation Guidelines may be updated at the discretion of the Planning Director and City Engineer to adjust for new technologies and regulations, and following adoption and publication of the updated Wireless Facilities Application Policy and Installation Guidelines, compliance therewith is required by this chapter, and is a condition of approval in every SWF application and permit. The provisions of this chapter shall govern in the event of any conflict or inconsistency between any of its provisions and the provisions of the most current Wireless Facilities Application Policy and Installation Guidelines.

F. Abandonment. Whenever a wireless permittee intends to abandon a wireless facility, including any SWF, the permittee must notify the City Engineer in writing of its planned abandonment. A wireless facility including SWF shall be removed within ninety (90) days of abandonment with attainment of all required permits. Any wireless facility not in use for a period of six (6) months shall be considered abandoned and shall be removed pursuant to this chapter.

G. Administrative Variance. An administrative variance from the strict locational or physical requirements of section 13.30.030 or section 13.30.040 may be granted at the discretion of the Planning Director, when it is shown to the satisfaction of the Planning Director and City Engineer based on substantial evidence that, because of special, unique circumstances applicable to the proposed location, the strict application of the requirements of the section would deprive the applicant of privileges enjoyed by other permittees in the vicinity operating a similar SWF. Any administrative variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other wireless providers seeking to locate any SWF in or around the proposed location.

Sec. 13.30.050. - Fees.

Each applicant/permittee shall pay one-time and recurring fees, per each SWF, in amounts (i) not less than those amounts deemed presumptively reasonable under then-in effect federal law or regulations; or (ii) established by the City by resolution as a reasonable, non-discriminatory approximation of the City’s costs; or (iii) agreed upon by the City and a permittee in a master agreement.

The provisions of this Chapter shall govern and supersede any conflicting provisions of the Jurupa Valley Municipal Code with respect to the permitting and regulation of SWFs in PROW.”

Section 4. CEQA Finding. The proposed Code Amendment is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Code Amendment, establishing regulations applicable to the location and installation of small wireless facilities in the public rights-of-way, will have a significant effect on the environment. The proposed Code Amendment is an administrative process of the City that will not result in direct or indirect physical changes in the environment. The City Council has reviewed the administrative record concerning the proposed Code Amendment and the proposed CEQA exemption, and based on its own independent judgment, finds that the Code Amendment set forth in this Ordinance is exempt from the requirements of CEQA and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3).

Section 5. Future Modifications. The City Council declares that it is adopting this Ordinance in order to more fully protect and preserve the public health and safety with respect to City rights-of-way in light of the adoption of the Report and Order. Notice is hereby given to any and all wireless providers obtaining a permit pursuant to the Jurupa Valley Municipal Code chapter adopted herein, that the City expressly reserves any and all rights it possessed prior to the adoption of the Report and Order concerning its authority to regulate its public rights-of-way. In the event the Report and Order is invalidated, modified, or limited in any way, the City Council reserves the right, subject to reasonable notice and due process, to modify the terms and conditions applicable to any permit issued hereunder including, but not limited to, the term, fees charged, and scope of any future wireless deployments within the City’s rights-of-way.

Section 6. Severability. If any sections, subsections, sentence, clause, or phrase of the chapter adopted by this Ordinance is for any reason held to be invalid or unconstitutional by the decision or legislation of any court of competent jurisdiction, or by reason of preemptive legislation, such decision or legislation shall not affect the validity of the remaining portions of the chapter. The City Council declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses, or phrases thereof is declared invalid or unconstitutional.

Section 7. Effect of Ordinance. This Ordinance is intended to supersede any ordinance or resolution of the County of Riverside adopted by reference by the City of Jurupa Valley in conflict with the terms of this Ordinance.

Section 8. Certification. The City Clerk of the City of Jurupa Valley shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

Section 9. Effective Date. This Ordinance shall take effect on the date provided in Section 36937 of the California Government Code.
PASSED, APPROVED, AND ADOPTED by the City Council of the City of Jurupa Valley on this 5th day of September, 2019.

________________________________________
Brian Berkson
Mayor

ATTEST:

________________________________________
Victoria Wasko, CMC
City Clerk
CERTIFICATION

STATE OF CALIFORNIA       )
COUNTY OF RIVERSIDE      ) ss.
CITY OF JURUPA VALLEY    )

I, Victoria Wasko, CMC, City Clerk of the City of Jurupa Valley, do hereby certify that the foregoing Ordinance No. 2019-11 was regularly introduced at a regular meeting of the City Council held on the 15th day of August, 2019 and thereafter at a regular meeting held on the 5th day of September, 2019 it was duly passed and adopted by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Jurupa Valley, California, this 5th day of September, 2019.

________________________________
Victoria Wasko, CMC
City Clerk
ORDINANCE NO. 2019-12

AN URGENCY ORDINANCE OF THE CITY OF JURUPA VALLEY
ESTABLISHING REGULATIONS APPLICABLE TO THE LOCATION
AND INSTALLATION OF SMALL WIRELESS FACILITIES IN PUBLIC
RIGHTS-OF-WAY, AMENDING THE JURUPA VALLEY MUNICIPAL
CODE, AND FINDING AN EXEMPTION FROM CEQA UNDER
SECTION 15061(b)(3) OF THE CEQA GUIDELINES

THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY DOES ORDAIN AS
FOLLOWS:

Section 1. Recitals. The City Council of the City of Jurupa Valley does hereby find, determine, and declare that:


(b) The Report and Order purports to give providers of wireless services rights to utilize public rights-of-way and to attach so-called “small wireless facilities” to public infrastructure including infrastructure of the City of Jurupa Valley, subject to payment of “presumed reasonable”, non-recurring and recurring fees. The ability of local agencies to regulate use of their rights-of-way is substantially limited under the Report and Order.

(c) Notwithstanding the limitations imposed on local regulation of small wireless facilities in public rights-of-way by the Report and Order, local agencies retain the ability to regulate the aesthetics of small wireless facilities, including location, compatibility with surrounding facilities, spacing, and overall size of the facility, provided the aesthetic requirements are: (i) “reasonable”, i.e., “technically feasible and reasonably directed to avoiding or remedying the intangible public harm or unsightly or out-of-character deployments”; (ii) “objective”, i.e., they “incorporate clearly-defined and ascertainable standards, applied in a principled manner”; and (iii) published in advance. Regulations that do not satisfy the foregoing requirements are likely to be subject to invalidation, as are any other regulations that “materially inhibit wireless service” (e.g., overly restrictive spacing requirements).

(d) Local agencies also retain the ability to regulate small wireless facilities in the public rights-of-way in order to more fully protect the public health and safety, ensure continued quality of telecommunications services, and safeguard the rights of consumers.

(e) It is the intent of the City Council in adopting this urgency Ordinance to supersede regulations of the City that conflict with the Report and Order, and to immediately establish consistent regulations governing deployment of small wireless facilities in the public rights-of-way, in order to more fully protect the public health, safety, and welfare. The City Council declares that it adopts this Ordinance with the understanding that the City expressly reserves all rights to re-enact and/or establish new regulations consistent with State and federal
law as it existed prior to adoption of the Report and Order in the event the Report and Order is invalidated, modified, or limited in any way.

(f) The City Council finds that the public health need of the community is met by the immediate adoption of the Amendments since wireless communications facilities can be aesthetically displeasing and out of harmony with the character of this community so as to constitute visual blight which reduces the quality of life within the community to the extent that the overall public health is detrimentally affected. Given the short time the City has to process applications for small wireless communication facilities, there is an immediate need to adopt procedures and policies for the processing of small cell wireless applications. Due to the foregoing circumstances, the City Council finds and determines that the immediate preservation of the public health, safety, and welfare requires that this Urgency Ordinance be enacted as an urgency ordinance pursuant to Government Code sections 36934, 36937 and 65858, and that it take effect immediately upon adoption, and that its urgency is hereby declared.

(g) The City Council further finds that, as a result of the regulations adopted by the Federal Communications Commission effective as of January 14, 2019, as more fully described in this section, some City regulations governing third party use of its public rights-of-way will be invalidated which will result in an absence of standards designed to protect the public. Therefore, unless this Urgency Ordinance is effective and its regulations are immediately put in place, the public health, safety and welfare will be at risk. Therefore the immediate preservation of the public health, safety and welfare requires that this Urgency Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b) and take effect immediately upon adoption, and its urgency is hereby declared.

Section 2. Amendment to Section 9.275.020., Exclusions. Section 9.275.020., Exclusions, of Chapter 9.275, Wireless Communication Facilities, of Title 9, Planning and Zoning, of the Jurupa Valley Municipal Code is hereby amendment to read as follows:

“Sec. 9.275.020. - Exclusions.

This chapter shall not apply to the following:

(1) Any tower or antenna that is less than one hundred and five (105) feet in total height and that is owned and operated by a federally-licensed amateur radio station operator;

(2) This chapter shall also not apply to any tower or antenna used for commercial radio or television purposes; and

(3) Any small wireless facility, as defined in section 13.30.020.”

Section 3. Addition of Chapter 13.30, Regulations of Small Wireless Facilities in the Public Rights-of-Way. A new Chapter 13.30 is hereby added to Title 13 of the Jurupa Valley Municipal Code to read as follows:

“CHAPTER 13.30
REGULATION OF SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

Sections:

13.30.010 Purpose.
13.30.020 Definitions.
13.30.030 Installation requirements for small wireless facilities.
13.30.040 Permit required.
13.30.050 Fees.

Sec. 13.30.010. - Purpose.

The City Council of the City of Jurupa Valley expressly finds that the installation of small wireless facilities in City rights-of-way requires City regulation, consistent with State and federal law as it currently exists, in order to more fully protect the public health and safety, preserve and protect the City’s aesthetic interests, protect City infrastructure and other public facilities, and provide for the orderly deployment of small wireless facilities in order to ensure the continued quality of telecommunication services to the public.

The City Council further finds that regulations established herein are not intended to, nor shall they be interpreted or applied to:

(1) Prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services;

(2) Prohibit or effectively prohibit any personal wireless service provider’s ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;

(3) Unreasonably discriminate among providers of functionally equivalent services;

(4) Deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission’s regulations concerning such emissions;

(5) Prohibit any collocation or modification that the City may not deny under federal or State law;

(6) Impose any unfair, unreasonable, discriminatory or arbitrary fees that exceed the reasonable cost to provide the services for which the fee is charged; or

(7) Otherwise authorize the City to act in conflict with any applicable federal or State law or regulation.
Sec. 13.30.020. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative Review means ministerial review of an application by the City relating to the review and issuance of a permit, including review by the Planning Director and City Engineer to determine whether the issuance of a Permit is in conformity with the applicable provisions of this chapter.

Antenna means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

Applicant means any person who submits an application under this chapter.

Application means a written request, on a form provided by the City, for a SWF permit.

City means the City of Jurupa Valley.

Collocate means to install or mount a SWF in the PROW on infrastructure, an existing support structure, an existing tower, a utility-owned structure, or an existing pole to which another SWF is attached at the time of the application. Collocation has a corresponding meaning.

Communications Facility means, collectively, the equipment at a fixed location or locations within the PROW that enables communications services, including: (i) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A communications facility does not include the pole, tower or support structure to which the equipment is attached.

Communications Service means telecommunications service, as defined in 47 U.S.C. Section 153(53), including wireless broadband internet service.

Communications Service Provider or Provider means a provider of communications services.

Construction Codes means California Building, Fire, Electrical, Plumbing, and/or Mechanical Codes adopted by the City.

CPUC means the California Public Utilities Commission.
Discretionary Review means review of an application by the City relating to the review and issuance of a permit that is other than an administrative review.

FCC means the Federal Communications Commission.

Infrastructure means any City-owned or operated facility, equipment, pole, pipe, cabinet, or other structure located in the PROW. “Infrastructure” shall include poles, street lights, and/or other structures in the PROW owned by utilities, except to the extent any specific requirement is preempted or prohibited by State or federal law related to utility pole attachments by wireless providers.

Laws means, collectively, any and all Federal, State, or local laws, statutes, common law, codes, construction codes, rules, regulations, orders, and/or ordinances.

Master Agreement means an agreement between the City and a permittee authorizing the installation and maintenance of one of more SWFs.

Permit means a written authorization (in electronic or hard copy format) to install a SWF at a specified location(s) in the PROW. A permit may also consist of a master agreement between the applicant and City to install and maintain one or more SWFs in the PROW.

Permittee means an applicant that has received a permit under this chapter.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

Pole means a legally constructed City or utility owned pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the PROW. A pole does not include a tower or support structure and does not include a pole or structure that supports electric transmission lines.

Public Rights-of-Way or PROW means the area on, below, or above property that has been designated for use as or is used for a City-owned or controlled roadway, highway, street, sidewalk, alley or similar purpose. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the City.

Replace or Replacement means, in connection with an existing pole, support structure or tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this chapter and any other applicable Jurupa Valley Municipal Code provisions, in order to address limitations of the existing structure to structurally support collocation of a Communications Facility.

Small Wireless Facility or SWF means a wireless facility that meets the following qualifications: (i) each antenna could fit within an enclosure of no more than three (3) cubic feet in volume; (ii) all other wireless equipment associated with the antenna, including the
provider’s preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume; and (iii) the facility is the type of facility otherwise described in 47 C.F.R. Section 1.1312(e)(2).

State means the State of California.

Support Structure means a structure in the PROW other than a pole or a tower to which a wireless facility is attached at the time of the application.

Tower means any structure in the PROW built for the sole or primary purpose of supporting a wireless facility. A tower does not include a pole or a support structure.

Wireless Facility means the equipment at a fixed location or locations in the PROW that enables wireless services. The term does not include: (i) the support structure, tower or pole on, under, or within which the equipment is located or collocated; or (ii) coaxial, fiber-optic or other cabling that is between communications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A SWF is one type of wireless facility.

Wireless Services means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

Wireless Services Provider means a person who provides wireless services.

Sec. 13.30.030. - Installation requirements for small wireless facilities.

A. Site Selection.

(1) The preferred location for SWF shall be on existing infrastructure such as utility poles or street lights. The infrastructure selected should be located at street intersections and/or near property line prolongations. If the SWF is not able to be placed on existing infrastructure, the applicant shall provide a map of existing infrastructure in the service area and describe why each such site was not feasible.

(2) When existing infrastructure sites have been exhausted or there is no available infrastructure in the proposed location, the City will consider entering into a master agreement with an applicant on mutually, agreeable terms, but which will require that the applicant dedicate new infrastructure such as a street light, on which the SWF can be installed. The installation shall be subject to any of the size, attachment, and other physical restrictions set forth in subsections B.(1) and B.(2) below, as determined necessary by the City Engineer. The City Engineer shall approve all plans and specifications, including the means of providing electrical power.

B. Existing Infrastructure Requirements.

(1) Street Light.
(a) The antenna shall be the smallest possible volume but in no case greater than three cubic feet. Antenna installations will be top of pole mount and shall not increase the height by more than ten (10) percent or ten (10) feet, whichever is greater, over other street lights in the immediate vicinity. The antenna shall be as small as technically possible, and RF screen and/or color treatment shall be utilized if possible to camouflage the installation.

(b) Equipment, other than antennas, shall be mounted as prescribed by the City Engineer in one of the manners described herein:

(i) Equipment shall be mounted in a base shroud of approved design to be retrofitted to an existing light standard. The base shroud shall be coated or painted with an approved color to match the existing pole.

(ii) Equipment shall be mounted directly to the pole a minimum of eight (8) feet above the existing grade and be coated or painted with an approved color to match the existing pole.

(iii) Equipment shall be mounted to the pole in an equipment box a minimum of eight (8) feet above the existing grade. The equipment box shall be coated or painted an approved color to match the existing pole and will be no wider than two (2) times the diameter of the pole at the point it is mounted nor protrude from the surface of the pole by more than sixteen (16) inches. All equipment, cables and wiring shall be fully contained in the equipment box unless technically infeasible as determined by the City Engineer based on technical specifications provided by the applicant. Full containment shall not be found to be technically infeasible if an alternative equipment enclosure providing similar functionality, capable of full containment, is generally available to wireless service providers.

(c) The applicant may propose or the City may require that the existing light standard be replaced with a City-approved pole that is manufactured with a base shroud designed to accept wireless equipment.

(2) Utility Pole.

(a) The antenna shall be the smallest possible volume but in no case greater than three (3) cubic feet and shall be mounted at the top of the pole or on the side of the pole with a bracket. When mounted with a bracket, the bracket will be coated or painted to match the existing pole and may extend no more than eighteen (18) inches from the surface of the pole unless a greater distance is required by applicable laws. The antenna shall be as small as technically possible, and RF screen and/or color treatment shall be utilized if possible to camouflage the installation.

(b) Equipment, other than antennas, shall be mounted as prescribed by the Director in one of the manners described herein:
(i) Equipment shall be mounted directly to the pole a minimum of eight (8) feet above the existing grade and be coated or painted with an approved color to match the existing pole.

(ii) Equipment shall be mounted in an equipment box that is mounted directly to the pole a minimum of eight (8) feet above the existing grade. The equipment or box shall be coated or painted to match the existing pole and will be no wider than the diameter of the pole at the point it is mounted nor protrude from the surface of the pole by more than eight (8) inches. All equipment, cables and wiring shall be fully contained in the equipment box unless technically infeasible as determined by the City Engineer based on technical specifications provided by the applicant. Full containment shall not be found to be technically infeasible if an alternative equipment enclosure providing similar functionality, capable of full containment, is generally available to wireless service providers.

(c) If the existing utility pole already has more than two (2) existing risers/drops, the pole must be replaced with a metal pole that allows the new cable and wires to be located inside the pole, in conduit. The existing drops will also be relocated inside the new pole and underground entry into the pole through the foundation is required. When the installation will result in two (2) or fewer risers/drops on the pole, the wires and cable may be installed as a riser/drop in conduit painted to match the pole, or as directed by the City.

(3) Alternative Infrastructure. The Planning Director and City Engineer shall be authorized to consider and allow use of other infrastructure not described above and not otherwise prohibited herein, when the Planning Director or City Engineer determines that the proposed alternate infrastructure: (i) is substantially similar in physical characteristics to a preferred structure; and (ii) the visual impact that would be suffered by the public is no greater than the impact if installed on a preferred structure; and (iii) the proposed alternative infrastructure can accommodate the proposed SWF without creating any risk to the public health or safety. Any approved alternate infrastructure shall be subject to all requirements for SWFs set forth in this section 13.30.030.

C. Prohibited locations. The City Engineer has determined that, in order to ensure protection of the public health and safety, no SWF may be installed or maintained (i) where any hazard to normal traffic flow could occur or exist, such as obscuring of drivers’ visibility or sight lines; or (ii) which would result in any obstruction or restriction of pedestrian movement or risk to pedestrian safety; or (iii) which would or could result in violation of any law, including any ADA standard; or (iv) which would or could result in violation of any applicable federal, State, County or local standard including standards of the American Association of State Highway and Transportation Officials.

Sec. 13.30.040. - Permit Required.

A. A SWF permit must be obtained from the City before a SWF may be installed or maintained in the PROW. A standard City of Jurupa Valley encroachment
permit may also be required as a condition of SWF permit approval. A SWF permit is valid for ten (10) years. However, to ensure the greatest availability to other applicants of preferred locations for SWFs, installation of each SWF for which the permit is issued shall be completed within one (1) year of issuance. Upon a showing of good cause not based on fault of the permittee, the Planning Director may extend the time to complete the installation under a SWF permit, for an additional six (6) months. Upon a failure of a permittee to complete installation in the required period of time, the permit shall be deemed abandoned and the proposed SWF location shall be made available to other SWF applicants.

In the event that an application is deemed granted by rule of law or court decision, all conditions and design guidelines set forth in this chapter are still applicable to the installation.

An application for a permit to install a SWF shall be made in writing on such forms as detailed in the Wireless Facilities Application Policy and Installation Guidelines established pursuant to this chapter and shall comply with the following minimum requirements, in addition to all other information and documentation determined to be necessary by the Planning Director and City Engineer to effectuate the purpose and intent of this section. A review of an application for a SWF that complies in all respects with this chapter, shall be deemed an administrative review. Any proposed wireless facility not satisfying all requirements of this chapter for SWFs, or for any kind of wireless facility that is not a SWF, shall be subject to discretionary review unless ministerial review is required by law. Any “eligible facilities request” under 47 U.S.C. Section 1455(a), shall be processed consistent with federal law and the requirements of this Code.

The application form shall specify the number, size and format of the project plans and application materials to be provided, including, but not limited to, electronic format. The City Engineer may waive certain submittal requirements or require additional information based on specific project factors. Unless an exemption or waiver applies, all applications shall include all of the following and will not be accepted if any submittal material is missing or not fully completed. An application shall not be deemed complete by the City unless all required information, submittals, and documentation has been submitted to the City as follows:

1. Complete Application. A fully completed and executed City application form for the type of approval sought, and all information, materials, fees, attachments, submittals, and proof of insurance specified in the City-approved application form, must be submitted.

2. Executed Under Penalty of Perjury. All applications shall be signed under penalty of perjury under the laws of the state of California by an authorized representative of the applicant.

3. Applicant Information. Complete legal name and contact information for the facility owner, facility operator, agent (if any), and property owner
(for any collocation facility on any existing SWF), and related letter(s) of authorization if the owner is other than the City.

(4) Detailed Description of the SWF. A full written description of the proposed facility, its purpose, and specifications.

(a) Distributed Antenna System. Applications for a SWF permit for a DAS shall be submitted as a single SWF application for the entire project. Each individual location within the system shall be processed and considered for approval separately. Permitting fees will be applied to each such location. Each location will be evaluated and must comply with the all design and development standards as defined by this chapter.

(b) Utility Pole Attachments. For any SWF proposed to be collocated on a pole or structure owned by a public utility such as Southern California Edison, the application shall include written evidence of the utility’s approval of applicant’s proposed attachment including any and all applicable terms and conditions, and detailed description of the approved SWF. A SWF authorized by law and approved by the utility company for attachment to a utility owned pole or structure, shall be subject to all provisions of this chapter except to the extent any such provisions are preempted by State or federal law related to utility pole attachments by wireless providers.

(5) Inventory. An inventory list and map of the applicant’s existing SWFs, including but not limited to collocations, operated by the applicant within two miles of the proposed site (“service area”), and longer range conceptual plans for a period of five (5) years shall also be provided, if available. The inventory list must include specific information as to location, height, and design of each facility. The City may share such information with other applicants seeking to locate SWFs within the service area, in order to encourage collocation.

(6) Geographic Service Area. A written description identifying the geographic service area for the subject installation, accompanied by a two-year master plan of anticipated future installations and/or modifications, including maps.

(7) Report on Alternatives. A report explaining why the SWF is needed at the requested location, including a written statement explaining the rationale for selecting the proposed site; and how the proposed SWF is the least intrusive means for the applicant to provide wireless service in the proposed service area. Such statement shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed SWF and why such alternatives are not a viable option. If the City has requested that the applicant collocate its SWF on a site, the applicant shall explain why collocation is not feasible, including efforts made to develop such an alternative.

(8) SWF Plans. Detailed engineering plans of the proposed SWF showing all equipment and antennas, including height, shape, size and nature of construction in accordance with the requirements established by the City Engineer. The
plans shall include, but are not limited to, a fully dimensioned diagram of the proposed SWF and antennas, including height, diameter, design, shape, size, structural integrity, power output and frequency, back-up power source (if any), nature of construction, purpose of the facility, and technical engineering specifications, economic and other pertinent factors governing selection of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site. The plans for any new free-standing structure must provide sufficient detail to demonstrate that the structure will be able to accommodate at least one other similar telecommunications provider in addition to the applicant. The plans shall include a diagram showing the separation between the proposed SWF and any existing facility or facilities on the same support structure or site, if collocation is planned. In order to minimize visual impact of equipment boxes, every applicant seeking to collocate with another SWF shall utilize its best efforts to arrange with the existing SWF operator to share equipment enclosures. The collocating wireless provider shall provide a written description of its efforts made to share any equipment enclosure. If unable to achieve a sharing arrangement, the applicant’s written description shall clearly state the reasons why.

(9) Site Plans. A fully-dimensioned site/landscaping plan that includes, at a minimum, the following information: specific placement of the proposed equipment shelters, antenna(s), and any other SWF on the site; setbacks from adjacent property lines; the location of existing structures, trees, and other significant site features; the type and locations of materials proposed to screen SWF antennas and other components, if any; the proposed materials and color(s) for the SWF; and all other information required by the Planning Director.

(10) Photographs and Visual Analysis. Photo-simulations showing views of the proposed SWF from surrounding properties and adjoining PROW at varying distances and angles with a map indicating the locations used for the analysis and their distances from the site.

(11) Documentation of Federal and State Compliance. Copies of all applicable licenses, permits, and/or other approvals required by the FCC, CPUC, and any other federal, state, and/or local agency with authority to regulate SWFs, and documentation of compliance with all conditions imposed in conjunction with such licenses or approvals. The required documentation shall include, but is expressly not limited to, the following:

(a) Engineering calculations demonstrating that the proposed SWF will comply with all applicable FCC rules, regulations, and/or specifications.

(b) Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the FCC’s “Local Government Official's Guide to Transmitting Antenna RF Emission Safety”, or any successor regulations, to determine whether the SWF will be “categorically excluded”, as that term is used by the FCC.
(c) For a SWF that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the City that certifies that the proposed SWF, as well as any SWFs that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards, exposure limits and emission levels. The RF report must include the actual frequency and power levels (in watts effective radiated power “ERP”) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

(12) Any environmental documentation required to obtain such federal and/or state license, permit or other approval.

(13) CPUC. A copy of the certificate of public convenience and necessity issued by the CPUC to the applicant, and a copy of the CPUC decision that authorizes the applicant to provide the wireless telecommunications service for which the facilities are proposed to be constructed in the PROW. Any applicant that, prior to 1996, provided telecommunications service under administratively equivalent documentation issued by the CPUC may submit copies of that documentation in lieu of a certificate of public convenience and necessity.

(14) Environmental compliance. A completed environmental assessment and documentation establishing that all applicable environmental mitigation measures imposed by the CPUC, City and any other federal or state environmental determinations (i) have been met, (ii) will be met as part of the proposed SWF, or (iii) are not applicable.

(15) Noise Compliance. A statement made under penalty of perjury that the level of noise to be emitted by the proposed SWF will comply with the noise standards contained in this Code.

(16) Traffic Control Plan. A traffic control plan when the proposed installation will require use of any active traffic lane on any street.

(17) Any other information, studies and/or other documentation determined necessary by the City Engineer.

B. Application of federal “shot clocks.”

Applications shall be processed in compliance with the following federally established timelines:

(1) Subject to tolling provisions in subsection B. of this section the City shall have sixty (60) days from the date of receipt of an application for a permit for a
SWF to collocate one or more SWFs on infrastructure, within which to act on the application. The foregoing period shall be ninety (90) days for applications to install one or more SWFs in the PROW involving no collocation, or where SWFs identified in the application will be both collocated and not collocated.

(2) Unless otherwise agreed upon in writing by the applicant and City, for an initial application to install one or more SWFs, if the City notifies the applicant on or before the tenth (10th) day after submission that the application is materially incomplete, and identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the time for the City to act on the application is tolled, and the shot clock date calculation shall restart at zero (0) on the date on which the applicant submits all the documents and information identified by the City to render the application complete.

(3) For any resubmitted application following the City’s notice of deficiency, the time for the City to act on the application shall be tolled for the number of days from:

(a) The day after the date when the City notifies the applicant in writing that the applicant’s supplemental submission was not sufficient to render the application complete and identifies the missing documents or information that need to be submitted based on the City’s original request under subsection B.(2), above, until;

(b) The date when the applicant submits all the documents and information identified by the City to render the application complete, provided the notice pursuant to subsection B.(3)(a), above is served on or before the tenth (10th) day after the date when the applicant makes a supplemental submission in response to the City’s request under subsection B.(2), above.

(4) The “shot clock date” or starting date for a SWF application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in this subsection B., provided, that if the date calculated in this manner is a local, State, or federal holiday within the City or State (“legal holiday”), the shot clock date is the next business day after such date. The term “business day” means any week day that is not a legal holiday of the City or State. Note that “business day” includes any Friday when the City’s business offices are closed.

C. Construction requirements. Every permitted SWF shall be constructed/installed in strict compliance with the approved plans and specifications, provisions of this Chapter, all laws, and all written policies and direction of the City Engineer related to installation of utilities and/or other physical encroachments into the PROW. All cabling and wiring must be contained in conduit, affixed directly to the face of the pole, for as long as it is technically feasible. No exposed slack or extra cable will be allowed. No visible electrical meters will be allowed. The applicant shall negotiate directly with the electric utility to determine a flat rate for installation. The applicant is responsible for the cost of all electrical usage.
All work shall be done in accordance with latest City of Jurupa Valley Public Works, State, Caltrans, California Manual on Uniform Traffic Control Devices, Work Area Traffic Control Handbook, County and Federal Standards and Specifications or as otherwise required by the City Engineer. It is the permittee’s contractor’s responsibility to obtain the City of Jurupa Valley Engineering Standards and Specifications before starting work. Any work done without inspection or not conforming to such standards and specifications shall be subject to removal and replacement in the presence of the City Engineer or a designee.

D. Insurance and Indemnity. As a condition of approval of every SWF permit, and by accepting such permit, the permittee, to the fullest extent permitted by law, agrees to and shall indemnify, defend and pay reasonable attorneys’ fees and costs, and hold the City of Jurupa Valley, its elected officials, officers, employees, attorneys, contractors, agents, and volunteers harmless, with respect to any and all claims, liabilities, and legal actions, allegedly or actually arising out of or related to, the acts and/or omissions of the applicant, its owners, officers, employees, contractors, agents, and any other person or entity acting on behalf of the applicant, in the exercise of rights and/or performance of obligations, in connection with any SWF or other permit issued to the permittee pursuant to this chapter.

Prior to entering any PROW pursuant to a SWF permit, the permittee shall procure, provide satisfactory evidence of, and maintain commercial general auto liability, and workers compensation insurance in such form and with such limits as required by the City Engineer or designee or otherwise as required as a condition of the issuance of a City encroachment permit. Unless approved in writing by the City Engineer or designee, self-insurance shall not be deemed to satisfy the requirements of this chapter.

E. Written Policy and Guidelines. Due to rapidly changing technology and regulatory requirements, the City Council authorizes the Planning Director and City Engineer to establish Wireless Facilities Application Policy and Installation Guidelines to serve as further regulatory guidance and clarification concerning wireless facilities in the City. The Wireless Facilities Application Policy and Installation Guidelines shall be approved by resolution of the City Council and subsequently published in a newspaper of general circulation. The Wireless Facilities Application Policy and Installation Guidelines may be updated at the discretion of the Planning Director and City Engineer to adjust for new technologies and regulations, and following adoption and publication of the updated Wireless Facilities Application Policy and Installation Guidelines, compliance therewith is required by this chapter, and is a condition of approval in every SWF application and permit. The provisions of this chapter shall govern in the event of any conflict or inconsistency between any of its provisions and the provisions of the most current Wireless Facilities Application Policy and Installation Guidelines.

F. Abandonment. Whenever a wireless permittee intends to abandon a wireless facility, including any SWF, the permittee must notify the City Engineer in writing of its planned abandonment. A wireless facility including SWF shall be removed within ninety (90) days of abandonment with attainment of all required permits. Any
wireless facility not in use for a period of six (6) months shall be considered abandoned and shall be removed pursuant to this chapter.

G. Administrative Variance. An administrative variance from the strict locational or physical requirements of section 13.30.030 or section 13.30.040 may be granted at the discretion of the Planning Director, when it is shown to the satisfaction of the Planning Director and City Engineer based on substantial evidence that, because of special, unique circumstances applicable to the proposed location, the strict application of the requirements of the section would deprive the applicant of privileges enjoyed by other permittees in the vicinity operating a similar SWF. Any administrative variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other wireless providers seeking to locate any SWF in or around the proposed location.

Sec. 13.30.050. - Fees.

Each applicant/permittee shall pay one-time and recurring fees, per each SWF, in amounts (i) not less than those amounts deemed presumptively reasonable under then-in effect federal law or regulations; or (ii) established by the City by resolution as a reasonable, non-discriminatory approximation of the City’s costs; or (iii) agreed upon by the City and a permittee in a master agreement.


The provisions of this Chapter shall govern and supersede any conflicting provisions of the Jurupa Valley Municipal Code with respect to the permitting and regulation of SWFs in PROW.”

Section 4. CEQA Finding. The proposed Code Amendment is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Code Amendment, establishing regulations applicable to the location and installation of small wireless facilities in the public rights-of-way, will have a significant effect on the environment. The proposed Code Amendment is an administrative process of the City that will not result in direct or indirect physical changes in the environment. The City Council has reviewed the administrative record concerning the proposed Code Amendment and the proposed CEQA exemption, and based on its own independent judgment, finds that the Code Amendment set forth in this Ordinance is exempt from the requirements of CEQA and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3).

Section 5. Future Modifications. The City Council declares that it is adopting this Ordinance in order to more fully protect and preserve the public health and safety with respect to City rights-of-way in light of the adoption of the Report and Order. Notice is hereby given to any and all wireless providers obtaining a permit pursuant to the Jurupa Valley Municipal Code chapter adopted herein, that the City expressly reserves any and all rights it possessed prior to the adoption of the Report and Order concerning its authority to regulate its public rights-of-way. In
the event the Report and Order is invalidated, modified, or limited in any way, the City Council reserves the right, subject to reasonable notice and due process, to modify the terms and conditions applicable to any permit issued hereunder including, but not limited to, the term, fees charged, and scope of any future wireless deployments within the City’s rights-of-way.

Section 6. Severability. If any sections, subsections, sentence, clause, or phrase of the chapter adopted by this Ordinance is for any reason held to be invalid or unconstitutional by the decision or legislation of any court of competent jurisdiction, or by reason of preemptive legislation, such decision or legislation shall not affect the validity of the remaining portions of the chapter. The City Council declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses, or phrases thereof is declared invalid or unconstitutional.

Section 7. Effect of Ordinance. This Ordinance is intended to supersede any ordinance or resolution of the County of Riverside adopted by reference by the City of Jurupa Valley in conflict with the terms of this Ordinance.

Section 8. Certification. The City Clerk of the City of Jurupa Valley shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

Section 9. Effective Date. Based upon the findings contained in Section 1 of this Ordinance, this Ordinance shall take effect immediately upon adoption pursuant to Government Code Sections 36937(b) and 36934.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Jurupa Valley on this 15th day of August, 2019

______________________________
Brian Berkson
Mayor

ATTEST:

______________________________
Victoria Wasko, CMC
City Clerk
CERTIFICATION

STATE OF CALIFORNIA
COUNTY OF RIVERSIDE
CITY OF JURUPA VALLEY

I, Victoria Wasko, CMC, City Clerk of the City of Jurupa Valley, do hereby certify that
the foregoing Urgency Ordinance No. 2019-12 was duly adopted at a meeting of the City
Council of the City of Jurupa Valley on the 15th day of August, 2019, by the following vote, to
wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of
the City of Jurupa Valley, California, this 15th day of August, 2019.

________________________________
Victoria Wasko, CMC
City Clerk