

**SPECIAL MEETING AGENDA**  
**The City Council/Successor Agency of the City of Firebaugh**  
Vol. No.17/01-09

**Location of Meeting:** Andrew Firebaugh Community Center  
1655 13<sup>th</sup> Street, Firebaugh, CA 93622  
**Date/Time:** January 9, 2017/6:00 p.m.

**CALL TO ORDER**

**ROLL CALL**  
Mayor Brady Jenkins  
Mayor Pro Tem Felipe Perez  
Council Member Marcia Sablan  
Council Member Elsa Lopez  
Council Member Freddy Valdez

*In compliance with the Americans with Disabilities Act, if you need special assistance to access the Andrew Firebaugh Community Center to participate at this meeting, please contact the Deputy City Clerk at (559) 659-2043. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the Andrew Firebaugh Community Center.*

*Any writing or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall, in the Deputy City Clerk's office, during normal business hours.*

**PLEDGE OF ALLEGIANCE**

**PRESENTATION:**

**PUBLIC COMMENT**

**CONSENT CALENDAR**

Items listed on the calendar are considered routine and are acted upon by one motion unless any Council member requests separate action. Typical items include minutes, claims, adoption of ordinances previously introduced and discussed, execution of agreements and other similar items.

**1. APPROVAL OF MINUTES – The City Council regular meeting on December 19, 2016.**

**PUBLIC HEARING**

**2. ORDINANCE NO. 16-07 - AN ORDINANCE OF THE CITY OF FIREBAUGH ADDING A NEW SUBSECTION ENTITLED “WIRELESS TELECOMMUNICATIONS FACILITIES” TO CHAPTER 13 OF THE FIREBAUGH MUNICIPAL CODE, TO PROVIDE UNIFORM AND COMPREHENSIVE REGULATIONS AND STANDARDS, ALONG WITH PERMIT REQUIREMENTS FOR THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY – FIRST READING – CONTINUED PUBLIC HEARING.**

**Recommended Action:** Council receives public comment & takes action of Ord. No. 16-07.

**NEW BUSINESS**

**SUCCESSOR AGENCY**

**3. RESOLUTION NO. 16-47 - A RESOLUTION OF THE SUCCESSOR AGENCY OF THE FIREBAUGH REDEVELOPMENT AGENCY APPROVING A CONTRACT WITH RSG, INC. TO PROVIDE CONSULTING SERVICES TO THE SUCCESSOR AGENCY IN FISCAL YEAR 2017-18.**

**Recommended Action:** Successor Agency receives comments and approves Res. No. 16-47.

**4. RESOLUTION NO. 16-48 - A RESOLUTION OF THE SUCCESSOR AGENCY TO THE FIREBAUGH REDEVELOPMENT AGENCY APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JULY 1, 2017 THROUGH JUNE 30, 2018 AND THE ADMINISTRATIVE BUDGET FOR JULY 1, 2017 THROUGH JUNE 30, 2018**

**Recommended Action:** Successor Agency receives comments and approves Res. No. 16-48.

**STAFF REPORTS**

**PUBLIC COMMENT ON CLOSED SESSION ITEM ONLY**

**CLOSED SESSION**

**5. REAL ESTATE NEGOTIATION – Pursuant to Government Code Section #54956.8**

- Owner or Designative Rep. City Negotiator Ben Gallegos APN: 007-062-19
- Owner or Designative Rep. City Negotiator Ben Gallegos APN: 008-074-10T Successor Agency

**ANNOUNCEMENT AFTER CLOSED SESSION**

**ADJOURNMENT**

**Certification of posting the Agenda**

I declare under penalty of perjury that I am employed by the City of Firebaugh and that I posted this agenda on the bulletin boards at City Hall, January 5, 2017 at 5:00 p.m. by Pio Martin, Finance Director.

## MEETING MINUTES

### The City Council/Successor Agency of the City of Firebaugh Vol. No. 16/12-05

**Location of Meeting:** Andrew Firebaugh Community Center  
1655 13<sup>th</sup> Street, Firebaugh, CA 93622  
**Date/Time:** December 5, 2016/6:00 p.m.

**CALL TO ORDER** Meeting called to order by Mayor Valdez at 6:00 p.m.

#### ROLL CALL

**PRESENT:** Mayor Freddy Valdez  
Mayor Pro Tem Brady Jenkins  
Council Member Felipe Perez  
Council Member Craig Knight  
Council Member Marcia Sablan

#### **ABSENT:**

**OTHERS:** City Attorney Meggin Boranian; Acting City Manager/Public Works Director, Ben Gallegos; Finance Director, Pio Martin; Deputy City Clerk, Rita Lozano; Police Chief, Sal Raygoza; City Planner, Karl Schoettler; City Engineer, Mario Gouveia, Albert Peche, Connie Ortiz, Wanda Breshears & others.

**PLEDGE OF ALLEGIANCE** Council Member Jenkins led pledge of Allegiance.

#### PRESENTATION:

Albert Peche provided a presentation on the gross savings of \$644,206 for the Water Bond & gross savings of \$542,741 for the sewer bond due to refinancing them. He explained how important it is to have 1.25 coverage ration of the debt service (covenants in the indentures for both bonds). Council & staff should monitor for any decline in revenue or increases in operation to maintain the required bond covenants of at least 1.25x debt service, that the city agreed and if needed complete a rate study for future rate increases.

#### PUBLIC COMMENT/PRESENTATION:

Lucy Sanchez requested a waiver of fees & use of the Community Center for services of her daughter Dayla Sanchez, Monday, December 12, 2016.

*Motion to approve request by Council Member Knight, second by Council Member Sablan, motion pass by 5-0 vote.*

Connie Ortiz of the New Life Church request support and food donations for a drive their church has every year, the goal is to assist 30 families this Christmas. They have received many coats but need more food that is perishable, donations can be dropped off at the church and box will be placed in the lobby of City Hall. All donations should be received before December 18, when the church will hold a concert at 11:00 am to distribute to the families. Finance Director Martin advised Team Reckless has a box for a toy drive with donations going to Children's Hospital.

#### CONSENT CALENDAR

#### 1. APPROVAL OF MINUTES – The City Council regular meeting on November 21, 2016.

*Motion to approve minutes by Council Member Jenkins, second by Council Member Knight, motion pass by 5-0 vote.*

## MEETING MINUTES

### The City Council/Successor Agency of the City of Firebaugh Vol. No. 16/12-19

**Location of Meeting:** Andrew Firebaugh Community Center  
1655 13<sup>th</sup> Street, Firebaugh, CA 93622  
**Date/Time:** December 19, 2016/6:00 p.m.

**CALL TO ORDER** Meeting called to order by Mayor Valdez at 6:00 p.m.

#### ROLL CALL

**PRESENT:** Mayor Freddy Valdez  
Mayor Pro Tem Brady Jenkins  
Council Member Craig Knight  
Council Member Marcia Sablan  
**ABSENT:** Council Member Felipe Perez

**OTHERS:** City Attorney Meggin Boranian; Acting City Manager/Public Works Director, Ben Gallegos; Finance Director, Pio Martin; Deputy City Clerk, Rita Lozano; Police Chief, Sal Raygoza; Fire Chief, John Borboa, Randy Gonzalez, Wanda Breshears, Raquel Tabares, Ruthie Martinez, Susan Baez & others.

**PLEDGE OF ALLEGIANCE** Council Member Sablan led pledge of Allegiance.

#### PRESENTATION

Council Member Valdez thanked Council Member Knight for his services, assists and guidance to the previous Council Members.

**1. RESOLUTION NO. 16-43 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH CANVASSING AND DECLARING THE RESULTS OF THE GENERAL ELECTION HELD ON NOVEMBER 8, 2016.**

*Motion to approve Resolution No 16-43 by Council Member Jenkins, second by Council Member Knight, motion pass by 4-0 vote.*

#### REORGANIZATION

**2. SWEARING IN OF NEW AND RE-ELECTED COUNCIL MEMBERS.**

Deputy City Clerk preceded in swearing in City Council Members; Freddy Valdez, Brady Jenkins & Elsa Lopez.

**3. REORGANIZATION OF CITY COUNCIL.**

A.	Mayor	Change: Freddy Valdez to Brady Jenkins
B.	Mayor Pro Tem	Change: Brady Jenkins to Felipe Perez
C.	Council Member	Change: Craig Knight to Elsa Lopez

#### PUBLIC COMMENT

None

**CONSENT CALENDAR**

4. CITY OF FIREBAUGH 2017 HOLIDAY SCHEDULE.
5. CITY OF FIREBAUGH 2017 COUNCIL MEETING SCHEDULE.
6. CITY OF FIREBAUGH 2017 COMMITTEE ASSIGNMENT.
7. APPROVAL OF MINUTES – The City Council regular meeting on December 5, 2016.
8. WARRANT REGISTER – Period starting November 1, and ending on November 30, 2016.

November 2016	General Warrants	#34304 - #34404	\$ 436,898.37
	Payroll Warrants	#67562 - #67654	\$ 168,412.04
<b>TOTAL</b>			<b>\$ 605,310.41</b>

9. RESOLUTION NO. 16-44 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING AN EXTENSION OF THE AGREEMENT WITH BEN GALLEGOS AS ACTING CITY MANAGER.

Council Member Sablan requested suggestions on outreach to get more involvement from the public in the community for the Cantaloupe Round-up & Electric Christmas Committees. Ruthie Martinez stated she would like to have West Hills College more involved and provided her contact information for future discussion.

*Motion to approve consent calendar with the exception of item #8 (warrants) by Council Member Sablan, second by Council Member Valdez, motion pass by 4-0 vote.*

*Motion to approve consent calendar item #8 (warrants) by Council Member Valdez, second by Council Member Sablan, motion pass by 4-0 vote. Lopez abstained from check #34324.*

**PUBLIC HEARING**

10. ORDINANCE NO. 16-07 - AN ORDINANCE OF THE CITY OF FIREBAUGH ADDING A NEW SUBSECTION ENTITLED "WIRELESS TELECOMMUNICATIONS FACILITIES" TO CHAPTER 13 OF THE FIREBAUGH MUNICIPAL CODE, TO PROVIDE UNIFORM AND COMPREHENSIVE REGULATIONS AND STANDARDS, ALONG WITH PERMIT REQUIREMENTS FOR THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY – SECOND READING.

*Open Public Hearing at 6:20 pm – No Public Comment given - Continue Public Hearing.*

*Motion to continue Ord No 16-07 by Council Member Valdez, second by Council Member Sablan, motion pass by 4-0 vote.*

**NEW BUSINESS**

11. RESOLUTION NO. 16-45 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING THE DESIGNATION OF PERSONS ON SIGNATURE CARDS OF THE FINANCIAL INSTITUTIONS USED BY THE CITY WHICH AUTHORIZE SIGNATURE OF CITY WARRANTS & PAYROLL CHECKS.

*Motion to approve Resolution No 16-45 with amendment of Freddy Valdez to Marcia Sablan by Council Member Valdez, second by Council Member Sablan, motion pass by 4-0 vote.*

**12. RESOLUTION NO. 16-46 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH, AUTHORIZING DISSOLUTION OF THE WEST COUNTY SOLID WASTE PLANNING COMMITTEE AND GRANTING ITS APPROVAL FOR TERMINATION OF THE JPA BY MUTUAL AGREEMENT.**

*Motion to approve Resolution No 16-46 by Council Member Lopez, second by Council Member Valdez motion pass by 4-0 vote.*

**STAFF REPORTS**

- **Police Chief, Sal Raygoza** – Reported the City has had property crimes lately with solid leads, have a possible suspect has a warrant for his arrest.
- **Fire Chief Borboa** – Fire Department has been receiving high call volume on vehicle accidents, averaging three to four call a day, most of the incidents are in the county. Council Member Jenkins inquired if the alarm has to go off for every fire. Chief Borboa response, “Yes”.
- **Finance Director, Pio Martin** – VNS will start working tomorrow on the emails for tablets. City Website will be updated to list Council Member Lopez’s contact information, with Knight being removed. Auditor was at City Hall last week; hope to have a draft of the audit by tomorrow. Tuckfield completed the water rate study, which included the Las Deltas proposed new water rates; the study was paid for through the grant. Water rate fees will not be implemented unless the district was annexed in to the city.
- **Deputy City Clerk, Rita Lozano** – All Council Members leaving and assuming council positions and serving on committees with COG must complete form 700. Please turn in all agendas this week for the special meeting of January 9, 2017 because I will be out of the office starting next week.
- **Public Works Director, Ben Gallegos** – Had a conference call with Terra Verde to get an update.
- **City Attorney, Meggin Boranian** – Had a conference call with AT&T representatives regarding the wireless towers will have a discussion with City Planner and bring back final recommendations. Ordinance will not be exactly alike as other cities but they will be similar.
- **Council Member Valdez** – Meet with Sean Ramirez on rehab of bleachers at Dunkle Park, an event scheduled for January 22 to remold and demo the bleachers.
- **Council Member Lopez** – Stated she is looking forward to working for every one of the citizens in the community and thank citizens for their support and vote.

**PUBLIC COMMENT ON CLOSED SESSION ITEM ONLY:**      None

*Motion to enter closed session at 6:34 pm by Council Member Valdez, second by Council Member Sablan, motion pass by 4-0 vote.*

**CLOSED SESSION**

**13. REAL ESTATE NEGOTIATION – Pursuant to Government Code Section #54956.8**

Owner or Designative Rep.      City Negotiator Ben Gallegos      APN:    007-062-19

*Motion to enter open session at 7:06 pm, motion pass by 4-0 vote.*

**ANNOUNCEMENT AFTER CLOSED SESSION:**      *No Action Taken.*

**ADJOURNMENT - Motion to adjourn by Councilmember Sablan, second by Councilmember Valdez; motion passes by 4-0 vote at 7:08 p.m.**

**FIREBAUGH CITY COUNCIL**  
**MEMORANDUM**

**Date:** January 9, 2017  
**To:** Firebaugh City Council  
**From:** Karl Schoettler, Planning Consultant  
**Subject:** Public hearing for ordinance to regulate cell towers within the street right-of-way

**RECOMMENDED ACTION:**

The City Council should consider the staff report and vote to introduce the attached ordinance to regulate wireless telecommunications facilities that are proposed within the street rights-of-way.

**ANALYSIS:**

As noted at the October 17 City Council meeting, the City is aware of a company that is proposing cell towers and wireless equipment within the street right-of-way of many cities and counties across the state. Some of the towers are up to 120 feet high (see Figure 1). Firebaugh's existing regulations pertaining to these types of installations are minimal, so at the October 17 meeting the City Council directed staff to prepare an ordinance to establish standards to regulate wireless facilities within the right of way.

Staff reviewed ordinances adopted by other cities and primarily used an ordinance adopted by the City of Rancho Palos Verdes (in Southern California) as a template. The ordinance is proposed to be added to Chapter 13 of the Firebaugh Municipal Code. That chapter pertains to "Streets, Sidewalks and Sanitation".

More recently, concern was expressed by AT&T about the City's plans to pass a temporary moratorium on wireless telecommunication facilities within the right of way. Subsequent to that AT&T met with representatives from several agencies, including Fresno County, City of Fresno, City of Clovis and City of Firebaugh to discuss areas of concern as it relates to the regulation of wireless facilities in the right of way. AT&T's main concern is that ordinances designed to regulate the large towers could also prohibit very small installations of the kind that AT&T installs.

Based on these concerns, staff has revised the ordinance that was originally to be presented on December 5. Attachment "A" is the original ordinance from December 5, with edits shown for the current proposed ordinance. text proposed to be added is shown in **bold underline**; text to be deleted is shown with a ~~strike thru~~.

Key features of the current proposed ordinance include:

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- All new wireless facilities in the street right-of-way must be mounted to an existing utility pole or an existing street light pole. Such additions can extend no more than 4 feet above the top of the existing pole.
- An applicant must submit an application for an encroachment permit. Such permit would be reviewed by the Public Works Director. The City already requires encroachment permits for work being conducted in the street right-of-way for things like driveways, sidewalks, curbs and gutters, trenching for utilities, etc. The previous version of the ordinance required a Conditional Use Permit (a public hearing before the Planning Commission, with notification of all property owners within 300 feet of the site).

Since the ordinance limits wireless facilities to fairly small equipment, staff believes that an encroachment permit is all that is needed in terms of a permit.

The remaining section describes key sections and features of the proposed ordinance:

Section 13-4.2 lists a number of definitions for terms related to wireless telecommunications facilities that are used in the ordinance.

Section 13-4.4 identifies processing requirements for applications. As noted previously, all installations will require an encroachment permit.

Section 13-4.5 lists the requirements for an application submittal. Among other requirements, the City can require a justification study that demonstrates why there are no other feasible alternatives to establishment of a wireless antenna in the right-of-way. In addition, the City can require photo simulations of the installation.

Section 13-4.7 establishes design standards for wireless facilities. As noted previously, key standards include:

- Proposed antennas and associated equipment must be mounted on existing utility poles (power poles or telephone poles) or on existing street lights. Such installations may project no more than four feet above the top of the pole.
- A new pole may be permitted, but must be similar in height to the nearest existing utility pole or street light pole, and no closer than 90 feet to the nearest existing pole.
- Equipment shall be designed in a way to blend in with the existing pole and shall be made to be as minimally visible as possible.
- The City can require equipment (electrical boxes, equipment boxes, etc. that are associated with an antenna) be located underground.



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- All such installations must comply with the City's noise ordinance.

Section 13-4.7 a. establishes conditions the City can apply to a project. Key among these are that the City can require insurance for the structure, naming the City as insured.

Section 13-4.11 establishes operation and maintenance standards that the City can enforce.

Section 13-4.13 requires the removal of abandoned equipment.

**Environmental Review**

Adoption of the ordinance is exempt from review for environmental impacts under the California Environmental Quality Act (CEQA) per Section 15061(b) (3) (amendments to regulations).

**ATTACHMENTS**

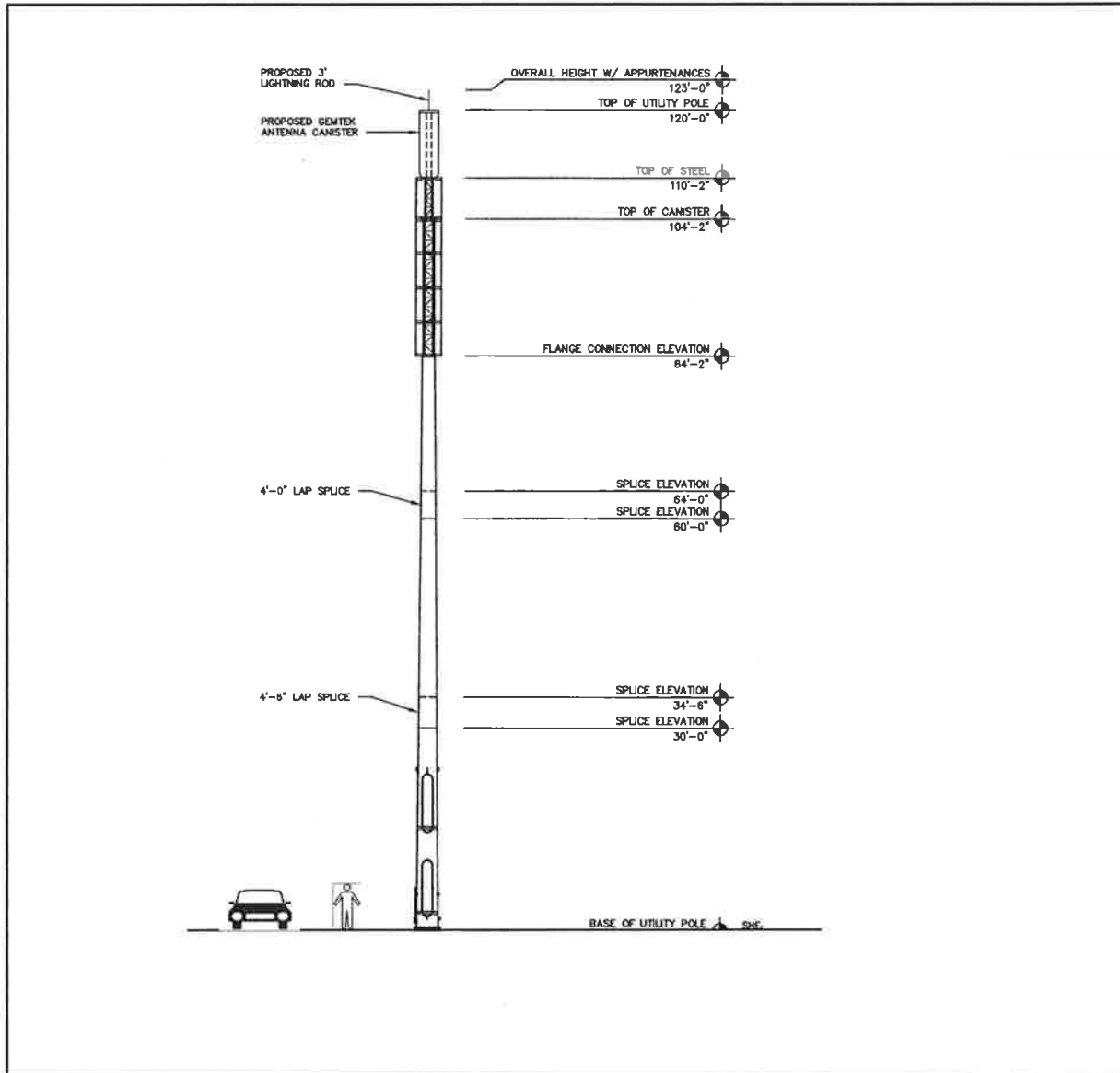
Figure 1: Scale Drawing of 120-foot high tower

Attachment "A": Previous ordinance from December 5, 2016 (with edits shown)

*Figure 1: Illustration Showing Typical Mobilitie Tower to Scale with Person and Auto*

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*Source: Drawing from Mobilitie application submitted to City of Firebaugh*

ATTACHMENT "A"  
Previous Ordinance with edits shown

**ORDINANCE NO. 16-###**

**AN ORDINANCE OF THE CITY OF FIREBAUGH, CALIFORNIA, ADDING A NEW SUBSECTION ENTITLED “WIRELESS TELECOMMUNICATIONS FACILITIES” TO CHAPTER 13 OF THE FIREBAUGH MUNICIPAL CODE, TO PROVIDE UNIFORM AND COMPREHENSIVE REGULATIONS AND STANDARDS, ALONG WITH PERMIT REQUIREMENTS FOR THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY.**

**SECTION 1.** Chapter 13 of the Firebaugh Municipal Code is amended to establish Section 13-4 (Wireless Telecommunications Facilities in the Right-of-way) as follows:

**13-4.1 Wireless Telecommunications Facilities in the Public Right-of-Way: Purpose.**

The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the city’s public right-of-way. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary (1) for the preservation of the public right-of-way in the city for the maximum benefit and use of the public, (2) to promote and protect public health and safety, community welfare, visual resources and the aesthetic quality of the city consistent with the goals, objectives and policies of the General Plan, and (3) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations.

**13-4.2 Definitions.**

“Accessory equipment” means any equipment associated with the installation of a wireless telecommunications facility, including but not limited to cabling, generators, fans, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

“Antenna” means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals.

“Cellular” means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

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“Code” means the Firebaugh Municipal Code.

“Collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signal for communication purposes.

“COW” means a “cell on wheels,” which is a wireless telecommunications facility temporarily rolled in or temporarily installed.

“Director” means the director of public works, or his or her designee.

“Facility(ies)” means wireless telecommunications facilities.

“Ground-Mounted” means mounted to a telecommunications tower.

“Modification” means a change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, or exterior material.

“Modification” does not include repair, replacement or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation.

“Monopole” means a structure composed of a pole or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalm and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole (e.g. water tower).

“Mounted” means attached or supported.

“Located within the public right-of-way” includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over or under the public right-of-way.

“Pole” means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of this Code.

“Public right-of-way” means any public highway, public street or alley, public place in the city of Firebaugh, either owned by the city or dedicated to the public for the purposes of travel. The term includes all or any part of the entire width of right-of-way, and above and below the same, whether or not such entire area is actually used for travel purposes.

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“Sensitive uses” means any residential use, public or private school, day care, playground, and retirement facility.

“Telecommunications tower” means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless telecommunications facility antennas.

“Utility Pole” means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.

“Wireless telecommunications facility,” “facility” or “facilities” mean any facility that transmits and/or receives electromagnetic waves. It includes, but is not limited to, antennas and/or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. The term “wireless telecommunications facility” does not apply to the following:

- a. Emergency medical care provider-owned and operated telecommunications facilities.
- b. Mobile services providing public information coverage of news events of a temporary nature.
- d. Any wireless telecommunications facilities exempted from this Code by federal law or state law.

“Wireless telecommunications services” means the provision of services using a wireless telecommunications facility or a wireless telecommunications collocation facility, and shall include, but not limited to, the following services: personal wireless services as defined in the federal Telecommunications Act of 1996 at 47 U.S.C. §332(c)(7)(C) or its successor statute, cellular service, personal communication service, and/or data radio telecommunications.

### **13-4.3 Applicability.**

- a. This chapter applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in the public right-of-way as follows:
  - a. All facilities for which applications were not approved prior to (insert adoption date) shall be subject to and comply with all provisions of this division.
  - 2. All facilities for which applications were approved by the city prior to (insert adoption date) shall not be required to obtain a new or amended permit until such

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time as a provision of this code so requires. Any wireless telecommunication facility that was lawfully constructed prior to (insert adoption date) that does not comply with the standards, regulations and/or requirements of this division, shall be deemed a nonconforming use and shall also be subject to the provisions of section 13-4.21.

3. All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this chapter governing the operation and maintenance (section 13-4.11), cessation of use and abandonment (section 13-4.13), removal and restoration (section 13-4.14) of wireless telecommunications facilities and the prohibition of dangerous conditions or obstructions by such facilities (section 13-4.12); provided, however, that in the event a condition of approval conflicts with a provision of this division, the condition of approval shall control until the permit is amended or revoked.
- b. This chapter does not apply to the following:
  7. Amateur radio facilities;
  8. Over the Air Reception Devices ("OTARD") antennas;
  9. Facilities owned and operated by the city for its use;
  10. Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement.

**13-4.4 Wireless Telecommunications Facility Permit Requirements.**

- a. ~~Major~~ Wireless Telecommunications Facilities Permit.

All new wireless facilities or collocations or modifications to existing wireless facilities shall require an Major Wireless Telecommunications Facilities Encroachment Permit subject to ~~planning commission~~ Director approval consistent with Section 13-2.19 (Encroachment Permits) as well as the standards in this Section ~~unless otherwise provided for in this chapter.~~

- b. ~~Administrative Wireless Telecommunications Facilities Permit.~~

1. ~~An Administrative Wireless Telecommunications Facilities Permit, subject to the director's approval, may be issued for collocations or modifications to existing facilities~~
2. ~~In the event that the director determines that any application submitted for an Administrative Wireless Telecommunications Facilities Permit does not meet the~~

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~~criteria established in this Code, the director shall convert the application to a Major Wireless Facilities Permit application and refer it to the planning commission.~~

- be.** Other Permits Required. In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other city departments, or state or federal agencies. Any permit granted under this chapter is subject to the conditions and/or requirements of other required prior permits or other approvals from other city departments, state or federal agencies.
- cd.** Eligible Applicants. Only applicants who have been granted the right to enter the public right-of-way pursuant to state or federal law, or who have entered into a franchise agreement with the city permitting them to use the public right-of-way, shall be eligible for a permit to install or modify a wireless telecommunications facility or a wireless telecommunications collocation facility in the public right-of-way.
- de.** Speculative Equipment Prohibited. The city finds that the practice of “pre- approving” wireless equipment or other improvements that the applicant does not presently intend to install but may wish to install at some undetermined future time does not serve the public’s best interest. The city shall not approve any equipment or other improvements in connection with a Wireless Telecommunications Facility Permit when the applicant does not actually and presently intend to install such equipment or construct such improvements.

**13-4.5 Application for Wireless Telecommunications Facility Permit.**

- a.** Application.
  - 1. ~~In addition to the information required of an applicant for an encroachment permit or any other permit required by this code,~~ Each applicant requesting approval of the installation or modification of a wireless telecommunications facility in the public right-of-way shall fully and completely submit to the city a written application on a form prepared by the director.
  - 2. No applicant seeking to install wireless antennas shall seek an encroachment permit for fiber or coaxial cable only. Applicants shall simultaneously request fiber installation or other cable installation when seeking to install antennas in the right-of-way.
- b.** Application Contents The director shall develop an application form and make it available to applicants upon request. The supplemental application form for a new wireless telecommunications facility installation in the public right-of-way shall require the following information, in addition to all other information determined necessary by the director:

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1. The name, address and telephone number of the applicant, owner and the operator of the proposed facility.
2. If the applicant is an agent, the applicant shall provide a duly executed letter of authorization from the owner of the proposed facility. If the owner will not directly provide wireless telecommunications services, the applicant shall provide a duly executed letter of authorization from the person(s) or entity(ies) that will provide those services.
3. If the facility will be located on or in the property of someone other than the owner of the facility (such as a street light pole, street signal pole, utility pole, utility cabinet, vault, or cable conduit), the applicant shall provide a duly executed written authorization from the property owner(s) authorizing the placement of the facility on or in the property owner's property.
4. A full written description of the proposed facility and its purpose.
5. Detailed engineering plans of the proposed facility and related report ~~prepared by a professional engineer registered in the state~~ documenting the following:
  - (a) Height, diameter and design of the facility, including 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. A layout plan, section and elevation of the ~~tower~~ structure shall be included.
  - (b) A photograph and model name and number of each piece of equipment included.
  - (c) Power output and operating frequency for the proposed antenna.
  - (d) Total anticipated capacity of the structure, indicating the number and types of antennas and power and frequency ranges, which can be accommodated.
  - (e) Sufficient evidence of the structural integrity of the pole or other supporting structure as required by the city.
6. A justification study which includes the rationale for selecting the proposed site; if applicable, a detailed explanation of the coverage gap that the proposed use would



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serve; and how the proposed use is the least intrusive means for the applicant to provide wireless service. Said study shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed facility and why said alternatives are not a viable option.

7. Site plan(s) to scale, specifying and depicting the exact proposed location of the pole, pole diameter, antennas, accessory equipment, access or utility easements, landscaped areas, existing utilities, adjacent land uses, and showing compliance with section 13-4.7.
8. Scaled elevation plans of proposed poles, antennas, accessory equipment, and related landscaping and screening.
- ~~9. A completed environmental questionnaire.~~
- ~~10. If the applicant requests an exception to the requirements of this chapter (in accordance with section 13-4.7), the applicant shall provide all information and studies necessary for the city to evaluate that request.~~
- 10~~11~~. An accurate visual impact analysis showing the maximum silhouette, color and finish palette and proposed screening for the facility, including scaled photo simulations from at least 3 different angles.
- 11~~12~~. Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the Federal Communications Commission's (FCC) "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the facility will be "categorically excluded" as that term is used by the FCC.
- 12~~13~~. For a facility 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 facility, as well as any facilities that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts Effective Radio 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.

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- ~~14. Copies of any documents that the applicant is required to file pursuant to Federal Aviation Administration regulations for the facility.~~
- 1315.** A traffic control plan when the proposed installation is on any street in a non-residential zone. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).
- ~~16. A written description identifying the geographic service area for the subject installation including geographic and propagation maps, that identifies the location of the proposed facility in relation to all existing and planned facilities maintained within the city by each of the applicant, operator, and owner, if different entities, as well as the estimated number of potentially affected uses in the geographic service area. The applicant shall depict all locations anticipated for new construction and/or modifications to existing facilities, including collocation, within two years of submittal of the application. Longer range conceptual plans for a period of five years shall also be provided, if available.~~
- (a) ~~In the event the applicant seeks to install a wireless telecommunications facility to address service coverage concerns, full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites;~~
- (b) ~~In the event the applicant seeks to address service capacity concerns, a written explanation identifying the existing facilities with service capacity issues together with competent evidence to demonstrate the inability of those facilities to meet capacity demands.~~
- 1420.** Certification that applicant is a telephone corporation or a statement providing the basis for its claimed right to enter the right-of-way. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.
- 1521.** An application fee, and a deposit for a consultant's review as set forth in paragraph "e" of this section in an amount set by resolution by the city council and in accordance with California Government Code section 50030.
- 1622.** Any other information and/or studies determined necessary by the director may be required.

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- c. Application Contents – Modification of Existing Facility. The content of the application form for a modification to an existing facility shall be determined by the director, and shall include but not be limited to the requirements listed in section 13-4.5 b. unless prohibited by state or federal law.
- d. Effect of State or Federal Law Change. In the event a subsequent state or federal law prohibits the collection of any information required by section 13-4.5 b., the director is authorized to omit, modify or add to that request from the city's application form with the written approval of the city attorney, which approval shall be a public record.
- e. Independent Expert. The director is authorized to retain on behalf of the city an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility. The review is intended to be a review of technical aspects of the proposed wireless telecommunications facility and shall address any or all of the following:
  - 1. Compliance with applicable radio frequency emission standards;
  - 2. Whether any requested exception is necessary to close a significant gap in coverage and is the least intrusive means of doing so;
  - 3. The accuracy and completeness of submissions;
  - 4. Technical demonstration of the unavailability of alternative sites or configurations and/or coverage analysis;
  - 5. The applicability of analysis techniques and methodologies;
  - 6. The validity of conclusions reached or claims made by applicant;
  - 7. The viability of alternative sites and alternative designs; and
  - 8. Any other specific technical issues identified by the consultant or designated by the city.
  - 9. The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule resolution. No permit shall be issued to any applicant which has not fully reimbursed the city for the consultants cost.

**13-4.6 Review Procedure**

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- a. Pre-submittal Conference. Prior to application submittal, the city strongly encourages all applicants to schedule and attend a pre-submittal conference with Public Works Department staff to receive informal feedback on the proposed location, design and application materials. The pre-submittal conference is intended to identify potential concerns and streamline the formal application review process after submittal. Public Works Department staff will endeavor to provide applicants with an appointment within approximately five (5) business days after receipt of a written request.
- b. Notice; Decisions. *All applications shall be reviewed consistent with the standards contained in Section 13-4.7* ~~The provisions in this section describe the procedures for approval and any required notice and public hearings for an application.~~
  - ~~1. Any permit application subject to a Major Wireless Telecommunications Facilities Permit under section 13-4.4 a. shall require notice and a public hearing before the Planning Commission. Notice of such hearing shall be provided in accordance with Municipal Code section 25-5.1. The planning commission may approve, or conditionally approve, an application only after it makes the findings required in section 13-4.8.~~
  - ~~2. Any permit application subject to an Administrative Wireless Telecommunications Facilities Permit under section 13-4.4 b. may be approved or conditionally approved by the director, only after they make the findings required in section 13-4.8. Within five days after the director approves or conditionally approves an application under this chapter, the director shall provide notice of the decision to the applicant.~~
13. Notice of Shot Clock Expiration. The city acknowledges there are federal and state shot clocks which may be applicable to a proposed wireless telecommunications facility. That is, federal and state law provide time periods in which the city must approve or deny a proposed wireless telecommunications facility. As such, the applicant is required to provide the city written notice of the expiration of any shot clock, which the applicant shall ensure is received by the city (e.g. overnight mail) no later than twenty (20) days prior to the expiration.
24. Written Decision Required. All final decisions made pursuant to this chapter shall be in writing and based on substantial evidence in the written administrative record. The written decision shall include the reasons for the decision.
- c. Appeals. Any aggrieved person or entity may appeal a decision by the director ~~or the planning commission~~ as provided in accordance with the provisions in Municipal Code chapter 13-2.19 d. ~~The appellate authority may hear the appeal de novo.~~

**13-4.7 Requirements for Facilities within the Public Right-of-Way**

- a. Design and Development Standards. All wireless telecommunications facilities that are located within the public right-of-way shall be designed and maintained as to minimize visual, noise and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the following:
  1. General Guidelines.
    - (a) The applicant shall employ screening, undergrounding and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually screened as possible, to prevent the facility from dominating the surrounding area and to minimize aesthetic impacts from surrounding properties all in a manner that achieves compatibility with the community.
    - (b) Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style, and quality.
  2. Traffic Safety. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
  3. Blending Methods. All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.
  4. Equipment. The applicant shall use the least visible equipment possible. Antenna elements shall be flush mounted, to the extent feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Unless otherwise provided in this section, antennas shall be situated as close to the ground as possible.
  5. Poles.
    - ~~(a) Facilities shall be located consistent with section 13-4.18 unless an exception pursuant to section 13-4.7 is granted.~~
    - (b) Only pole-mounted antennas **(as addressed in the following subparagraphs)**

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shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole. ~~(For exceptions see subparagraph (h) below and sections 13-4.17).~~

- (c) **Utility Poles.** The maximum height of any antenna shall not exceed forty-eight (48) inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than twenty-four (24) feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as may be revised or superseded.
- (d) **Light Poles.** The maximum height of any antenna shall not exceed four (4) feet above the existing height of a light pole. Any portion of the antenna or equipment mounted on a pole shall be no less than sixteen and a half (16 1/2) feet above any drivable road surface.
- (e) **Replacement Poles.** If an applicant proposes to replace a pole in order to accommodate a proposed facility, the pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible.
- (f) Pole mounted equipment, exclusive of antennas, shall not exceed six (6) cubic feet in dimension.
- (g) An exception shall be required to place a new pole in the public right-of-way. If an exception is granted for placement of new poles in the right-of-way:
  - i. Such new poles shall be designed to resemble existing poles in the right-of-way near that location, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced.
  - ii. Such new poles that are not replacement poles shall be located at least ninety (90) feet from any existing pole to the extent feasible.
  - iii. A new pole justification analysis shall be submitted to demonstrate why existing infrastructure cannot be utilized and demonstrating the new pole is the least intrusive means possible including a demonstration that the new pole is designed to be the minimum functional height and width required to support the proposed facility.

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- (h) All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the pole and shall be camouflaged or hidden to the fullest extent feasible. For all wooden poles wherein interior installation is infeasible, conduit and cables attached to the exterior of poles shall be mounted flush thereto and painted to match the pole.
- 7. Space. Each facility shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.
- 8. Wind Loads. Each facility shall be properly engineered to withstand wind loads as required by this Code or any duly adopted or incorporated code. An evaluation of high wind load capacity shall include the impact of modification of an existing facility.
- 9. Obstructions. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the right-of-way, or safety hazards to pedestrians and motorists and in compliance with sight visibility triangle requirements in Chapter 25 of the Municipal Code, so as not to obstruct visibility at intersections.
- 10. Public Facilities. A facility shall not be located within any portion of the public right-of-way interfering with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.
- 11. Screening. All ground-mounted facility, pole-mounted equipment, or walls, fences, landscaping or other screening methods shall be installed at least eighteen (18) inches from the curb and gutter flow line.
- 12. Accessory Equipment. Not including the electric meter, all accessory equipment shall be located underground, except as provided below:
  - (a) When above-ground is the only feasible location for a particular type of accessory equipment and will be ground-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five (5) feet and a total footprint of fifteen (15) square feet, and shall be fully screened and/or camouflaged, including the use of landscaping, architectural treatment, or acceptable alternate screening. Required electrical meter cabinets shall be screened and/or camouflaged.
  - (b) In locations where homes are only along one side of a street, above-ground

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accessory equipment shall not be installed directly in front of a residence. Such above-ground accessory equipment shall be installed along the side of the street with no homes.

13. Signage. No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.

~~14. Lighting.~~

- ~~(a) No facility may be illuminated unless specifically required by the Federal Aviation Administration or other government agency. Beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency.~~
- ~~—~~
- ~~(b) Legally required lightning arresters and beacons shall be included when calculating the height of facilities.~~
- ~~—~~
- ~~(c) Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods.~~
- ~~—~~
- ~~(d) Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion sensitive light controllers and lights, and must install such lights so as to avoid illumination impacts to adjacent properties to the maximum extent feasible. The city may, in its discretion, exempt an applicant from the foregoing requirement when the applicant demonstrates a substantial public safety need.~~
- ~~—~~
- ~~(e) The applicant shall submit a lighting study which shall be prepared by a qualified lighting professional to evaluate potential impacts to adjacent properties.~~

**1415.** Noise.

- (a) Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 PM and 7:00 AM.
- (b) At no time shall equipment noise from any facility exceed an exterior noise level of fifty-five (55) dBA three (3) feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within five hundred (500) feet of any property zoned residential



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or improved with a residential use, such equipment noise shall not exceed forty-five (45) dBA.

- 1517.** Security. Each facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. The director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, a facility has the potential to become an attractive nuisance. Additionally, no lethal devices or elements shall be installed as a security device.
- 1618.** Modification. Consistent with current state and federal laws and if permissible under the same, at the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.
- 1719.** The installation and construction approved by a wireless telecommunications facility **encroachment** permit shall begin within one (1) year after its approval or it will expire without further action by the city.
- b. Conditions of Approval. In addition to compliance with the design and development standards outlined in this section, all facilities shall be subject to the following conditions of approval (approval may be by operation of law), as well as any modification of these conditions or additional conditions of approval deemed necessary by the director:
1. The permittee shall submit an as built drawing within ninety (90) days after installation of the facility.
  2. The permittee shall submit and maintain current at all times basic contact and site information ~~on a form to be supplied by~~ to the city. The permittee shall notify the city of any changes to the information submitted within thirty (30) days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
    - (a) Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
    - ~~(b) The legal status of the owner of the wireless telecommunications facility.~~

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3. The permittee shall notify the city in writing at least ninety (90) days prior to any transfer or assignment of the permit. The written notice required in this section must include: (1) the transferee's legal name; (2) the transferee's full contact information, including a primary contact person, mailing address, telephone number and email address; and (3) a statement signed by the transferee that the transferee shall accept all permit terms and conditions. The director may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: federal, state and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission. Noncompliance with the permit and all its conditions of approval, if any, or failure to submit the materials required by the director shall be a cause for the city to revoke the applicable permits pursuant to and following the procedure set on in section 13-4.16.
4. At all times, all required notices and/or signs shall be posted on the site as required by the Federal Communications Commission, California Public Utilities Commission, any applicable licenses or laws, and as approved by the city. ~~The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.~~
5. Permittee shall pay for and provide a performance bond or other form of security approved by the city attorney's office, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and this code. The security instrument coverage shall include, but not be limited to, removal of the facility. (The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.) Before issuance of any building permit, permittee must submit said security instrument.
6. If a nearby property owner registers a noise complaint, the city shall forward the same to the permittee. Said complaint shall be reviewed and evaluated by the applicant. The permittee shall have ten (10) business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the city determines the complaint is valid and the applicant has not taken any steps to minimize the noise, the city may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant if the site is found in violation of this chapter. The matter shall be reviewed by the director. If the

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director determines sound proofing or other sound attenuation measures should be required to bring the project into compliance with the Code, the director may impose conditions on the project to achieve said objective.

- ~~7. A condition setting forth the permit expiration date in accordance with section 13-4.14 shall be included in the conditions of approval.~~
8. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the director for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with pedestrian and vehicular traffic; and/or (c) preventing damage to the public right-of-way or any adjacent property. The city may modify the permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the underlying permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the city by the permittee.
9. The permittee shall not transfer the permit to any person prior to the completion of the construction of the facility covered by the permit, unless and until the transferee of the permit has submitted the security instrument required by section 13.4-7 b. 5.
10. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the city shall be moved to accommodate a wireless telecommunications facility unless the city determines that such movement will not adversely affect the city or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the city's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right- of-way, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.
11. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
12. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to city streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems,

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underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the city engineer. Such time period for correction shall be based on the facts and circumstances, danger to the community and severity of the disrepair. Should the permittee not make said correction within the time period allotted the city engineer shall cause such repair to be completed at permittee's sole cost and expense.

13. No facility shall be permitted to be installed in the drip line of any tree in the right-of-way.
14. Insurance. The permittee shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies of public liability insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence and Four Million Dollars (\$4,000,000) in the aggregate, that fully protects the city from claims and suits for bodily injury and property damage. The insurance must name the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers as additional named insureds, be issued by an insurer admitted in the State of California with a rating of at least a A:VII in the latest edition of A.M. Best's Insurance Guide, and include an endorsement providing that the policies cannot be canceled or reduced except with thirty (30) days prior written notice to the city, except for cancellation due to nonpayment of premium. The insurance provided by permittee shall be primary to any coverage available to the city, and any insurance or self-insurance maintained by the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers shall be excess of permittee's insurance and shall not contribute with it. The policies of insurance required by this permit shall include provisions for waiver of subrogation. In accepting the benefits of this permit, permittee hereby waives all rights of subrogation against the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers. The insurance must afford coverage for the permittee's and the wireless provider's use, operation and activity, vehicles, equipment, facility, representatives, agents and employees, as determined by the city's risk manager. Before issuance of any building permit for the facility, the permittee shall furnish the city risk manager certificates of insurance and endorsements, in the form satisfactory to the city attorney or the risk manager, evidencing the coverage required by the city.

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15. Permittee shall defend, indemnify, protect and hold harmless city, its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the city, and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers to attack, set aside, void or annul, an approval of the city, planning commission or city council concerning this permit and the project. Such indemnification shall include damages of any type, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The city shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit city from participating in a defense of any claim, action or proceeding. The city shall have the option of coordinating the defense, including, but not limited to, choosing counsel after consulting with permittee and at permittee's expense.
16. Additionally, to the fullest extent permitted by law, the permittee, and every permittee and person in a shared permit, jointly and severally, shall defend, indemnify, protect and hold the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers harmless from and against all claims, suits, demands, actions, losses, liabilities, judgments, settlements, costs (including, but not limited to, attorney's fees, interest and expert witness fees), or damages claimed by third parties against the city for any injury claim, and for property damage sustained by any person, arising out of, resulting from, or are in any way related to the wireless telecommunications facility, or to any work done by or use of the public right-of- way by the permittee, owner or operator of the wireless telecommunications facility, or their agents, excepting only liability arising out of the sole negligence or willful misconduct of the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers.
17. Should the utility company servicing the facility with electrical service that does not require the use of an above ground meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within ninety (90) days of such service being offered and reasonably restore the area to its prior condition. An extension may be granted if circumstances arise outside of the control of the permittee.
18. Relocation. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to city, if and when made necessary by (i) any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or above ground facilities including but not limited to

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sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by city or any other public agency, (ii) any abandonment of any street, sidewalk or other public facility, (iii) any change of grade, alignment or width of any street, sidewalk or other public facility, or (iv) a determination by the director that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way. Such modification, removal, or relocation of the facility shall be completed within ninety (90) days of notification by city unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a modified permit pursuant to the Code including applicable notice and hearing procedures. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Code allow. In the event the facility is not modified, removed, or relocated within said period of time, city may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances including those of immediate or imminent threat to the public's health and safety, the city may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.

19. Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the wireless telecommunications facility permit within thirty (30) days of permit issuance. The permit shall be void and of no force or effect unless such written consent is received by the city within said thirty (30) day period.

**13-4.8 Findings.**

- a. **In addition to the standards contained in Section 13-2.19 (Encroachment Permits),** no permit shall be granted for a wireless telecommunications facility unless all of the following findings are made by the director:
- b. ~~All notices required for the proposed installation have been given.~~
- c. The proposed facility has been designed and located in compliance with all applicable provisions of this chapter.
- d. If applicable, the applicant has demonstrated its inability to locate on existing infrastructure.
- e. The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant

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has entered into a franchise agreement with the city permitting them to use the public right-of-way.

- f. The applicant has demonstrated the proposed installation is designed such that the proposed installation represents the least intrusive means possible and supported by factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process were technically infeasible or not available.

**13-4.9 Nonexclusive grant.**

No permit or approval granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as any warranty of title.

**13-4.10 Emergency Deployment.**

A COW shall be permitted for the duration of an emergency declared by the city or at the discretion of the director.

**13-4.11 Operation and Maintenance Standards.**

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards.

- a. Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent within forty-eight (48) hours:
  - 1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
  - 2. After permittee, owner, operator or any designated maintenance agent receives notification from the city.
- b. Each permittee of a wireless telecommunications facility shall provide the director with the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the maintenance of the facility ("contact information"). Contact information shall be updated within seven (7) days of any change.
- c. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are

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reasonably free of:

1. General dirt and grease;
  2. Chipped, faded, peeling, and cracked paint;
  3. Rust and corrosion;
  4. Cracks, dents, and discoloration;
  5. Missing, discolored or damaged artificial foliage or other camouflage;
  6. Graffiti, bills, stickers, advertisements, litter and debris;
  7. Broken and misshapen structural parts; and
  8. Any damage from any cause.
- d. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the director.
- e. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- f. Each facility shall be operated and maintained to comply with all conditions of approval. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the same and the standards set forth in this chapter.

**~~13-4.12 RF Emissions and Other Monitoring Requirements.~~**

~~The owner and operator of a facility shall submit within ninety (90) days of beginning operations under a new or amended permit, and every five years from the date the facility began operations, a technically sufficient report (“monitoring report”) that demonstrates the following:~~

- a. ~~The facility is in compliance with applicable federal regulations, including Federal Communications Commission RF emissions standards, as certified by a qualified radio frequency emissions engineer;~~



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- b. ~~The facility is in compliance with all provisions of this section and its conditions of approval.~~

**13-4.12 No Dangerous Condition or Obstructions Allowed**

No person shall install, use or maintain any facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

**13-4.14 Permit Expiration.**

- a. ~~Unless Government Code section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this Code it lapses sooner or is revoked. At the end of ten (10) years from the date of issuance, such permit shall automatically expire.~~
- b. ~~A permittee may apply for a new permit within one hundred and eighty (180) days prior to expiration. Said application and proposal shall comply with the city's current code requirements for wireless telecommunications facilities.~~

**13-4.13 Cessation of Use or Abandonment**

- a. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for ninety (90) or more consecutive days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two (2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- b. The operator of a facility shall notify the city in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten (10) days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the director of any discontinuation of operations of thirty (30) days or more.

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- c. Failure to inform the director of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:
  - 1. Litigation;
  - 2. Revocation or modification of the permit;
  - 3. Acting on any bond or other assurance required by this article or conditions of approval of the permit;
  - 4. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or
  - 5. Any other remedies permitted under this Code.

**13-4.14 Removal and Restoration – Permit Expiration, Revocation or Abandonment**

- a. ~~Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or~~ abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. The facility shall be removed from the property, at no cost or expense to the city.
- b. Failure of the permittee, owner or operator to promptly remove its facility and restore the property within ninety (90) days after ~~expiration, earlier termination or revocation of the permit, or~~ abandonment of the facility, shall be a violation of this Code. Upon a showing of good cause, an extension may be granted by the director where circumstances are beyond the control of the permittee after expiration. Further failure to abide by the timeline provided in this section shall be grounds for:
  - 1. Prosecution;
  - 2. Acting on any security instrument required by this chapter or conditions of approval of permit;
  - 3. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or

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4. Any other remedies permitted under this Code.
- c. **Summary Removal.** In the event the director or city engineer determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, “exigent circumstances”), the director or city engineer may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five (5) business days of removal and all property removed shall be preserved for the owner’s pick-up as feasible. If the owner cannot be identified following reasonable effort, or if the owner fails to pick-up the property within sixty (60) days, the facility shall be treated as abandoned property.
- d. **Removal of Facilities by city.** In the event the city removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the city for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the city may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this Code. Unless otherwise provided herein, the city has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the city destroys any such facility not timely removed by the permittee, owner or operator after notice, or removed by the city due to exigent circumstances.

**13-4.17 Exceptions.**

- a. ~~The city council recognizes that federal law prohibits a permit denial when it would effectively prohibit the provision of personal wireless services and the applicant proposes the least intrusive means to provide such services. The city council finds that, due to wide variation among wireless facilities, technical service objectives and changed circumstances over time, a limited exemption for proposals in which strict compliance with this chapter would effectively prohibit personal wireless services serves the public interest. The city council further finds that circumstances in which an effective prohibition may occur are extremely difficult to discern, and that specified findings to guide the analysis promotes clarity and the city’s legitimate interest in well-planned wireless facilities deployment. Therefore, in the event that any applicant asserts that strict compliance with any provision in this chapter, as applied to a specific proposed personal wireless services facility, would effectively prohibit the provision of personal wireless services, the planning commission may grant a limited, one-time exemption from strict compliance subject to the provisions in this section~~

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~~b. Required Findings. The planning commission shall not grant any exemption unless the applicant demonstrates with clear and convincing evidence all the following:~~

~~1. The proposed wireless facility qualifies as a “personal wireless services facility” as defined in United States Code, Title 47, section 332(c)(7)(C)(ii);~~

~~2. The applicant has provided the city with a clearly defined technical service objective and a clearly defined potential site search area;~~

~~3. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why any alternative location(s) or design(s) suggested by the city or otherwise identified in the administrative record, including but not limited to potential alternatives identified at any public meeting or hearing, are not technically feasible or potentially available; and~~

~~4. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why the proposed location and design deviates is the least noncompliant location and design necessary to reasonably achieve the applicant’s reasonable technical service objectives.~~

~~c. Scope. The planning commission shall limit its exemption to the extent to which the applicant demonstrates such exemption is necessary to reasonably achieve its reasonable technical service objectives. The planning commission may adopt conditions of approval as reasonably necessary to promote the purposes in this chapter and protect the public health, safety and welfare.~~

~~d. Independent Consultant. The city shall have the right to hire, at the applicant’s expense, an independent consultant to evaluate issues raised by the exception and to submit recommendations and evidence in response to the application.~~

**13-4.18 Location Restrictions.**

~~Locations Requiring an Exception. Wireless telecommunications facilities are strongly disfavored in certain areas. Therefore the following locations are permitted when an exception has been granted pursuant to section 13-4.18:~~

~~a. Public right of way of local streets as identified in the general plan if within the residential zones;~~

~~b. Public right of way if mounted to a new pole that is not replacing an existing pole in an otherwise permitted location.~~

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**13-4.15 Effect on Other Ordinances.**

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of this Code. In the event of a conflict between any provision of this division and other sections of this Code, this chapter shall control.

**13-4.16 State or Federal Law.**

- a. In the event it is determined by the city attorney that state or federal law prohibits discretionary permitting requirements for certain wireless telecommunications facilities, such requirement shall be deemed severable and all remaining regulations shall remain in full force and effect. Such a determination by the city attorney shall be in writing with citations to legal authority and shall be a public record. ~~For those facilities, in lieu of a minor conditional use permit or a conditional use permit, a ministerial permit shall be required prior to installation or modification of a wireless telecommunications facility, and all provisions of this division shall be applicable to any such facility with the exception that the required permit shall be reviewed and administered as a ministerial permit by the director rather than as a discretionary permit.~~ Any conditions of approval set forth in this provision or deemed necessary by the director shall be imposed and administered as reasonable time, place and manner rules.
- b. ~~If subsequent to the issuance of the city attorney's written determination pursuant to (A) above, the city attorney determines that the law has changed and that discretionary permitting is permissible, the city attorney shall issue such determination in writing with citations to legal authority and all discretionary permitting requirements shall be reinstated. The city attorney's written determination shall be a public record.~~
- c. All installations permitted pursuant to this chapter shall comply with all federal and state laws including but not limited to the American with Disabilities Act.

**13-4.17 Nonconforming Wireless Telecommunications Facilities in the Right-of-Way**

- a. Nonconforming wireless telecommunications facilities are those facilities that do not conform to this chapter.
- b. Nonconforming wireless telecommunications facilities shall, within ten (10) years from the date such facility becomes nonconforming, be brought into conformity with all requirements of this article; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change ~~in a conditional use~~, the owner shall comply with all applicable provisions of this Code at such time, to the extent the city can require such compliance under federal and state law.

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- c. An aggrieved person may file an appeal to the city council of any decision of the director made pursuant to this section. In the event of an appeal alleging that the ten (10) year amortization period is not reasonable as applied to a particular property, the City Council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond the prescribed amortization period, and set an amortization period accordingly for the specific property.

**SECTION 2.** Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 3.** The foregoing ordinance shall take effect after thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1) and a summary shall be published once in the , a newspaper printed and published in the City of Firebaugh, State of California, together with the names of the Council members voting for and against the same.

**SECTION 4.** Certification. The City Clerk of the City of Firebaugh shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

**SECTION 5.** Applicability. This ordinance shall apply to all pending applications.

The foregoing Ordinance No. 16-#### was introduced at a regular meeting of the City Council of the City of Firebaugh on the 9th day of January, 2017, and was passed and adopted

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at a regular meeting of the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

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Freddy Valdez, Mayor  
City of Firebaugh

ATTEST:

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Rita Lozano, Deputy City Clerk  
City of Firebaugh

## **ORDINANCE NO. 16-07**

### **AN ORDINANCE OF THE CITY OF FIREBAUGH, CALIFORNIA, ADDING A NEW SUBSECTION ENTITLED “WIRELESS TELECOMMUNICATIONS FACILITIES” TO CHAPTER 13 OF THE FIREBAUGH MUNICIPAL CODE, TO PROVIDE UNIFORM AND COMPREHENSIVE REGULATIONS AND STANDARDS, ALONG WITH PERMIT REQUIREMENTS FOR THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY.**

**SECTION 1.** Chapter 13 of the Firebaugh Municipal Code is amended to establish Section 13-4 (Wireless Telecommunications Facilities in the Right-of-way) as follows:

#### **13-4.1 Wireless Telecommunications Facilities in the Public Right-of-Way: Purpose.**

The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the city’s public right-of-way. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary (1) for the preservation of the public right-of-way in the city for the maximum benefit and use of the public, (2) to promote and protect public health and safety, community welfare, visual resources and the aesthetic quality of the city consistent with the goals, objectives and policies of the General Plan, and (3) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations.

#### **13-4.2 Definitions.**

“Accessory equipment” means any equipment associated with the installation of a wireless telecommunications facility, including but not limited to cabling, generators, fans, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

“Antenna” means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals.

“Cellular” means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

“Code” means the Firebaugh Municipal Code.

“Collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signal for



communication purposes.

“COW” means a “cell on wheels,” which is a wireless telecommunications facility temporarily rolled in or temporarily installed.

“Director” means the director of public works, or his or her designee.

“Facility(ies)” means wireless telecommunications facilities.

“Ground-Mounted” means mounted to a telecommunications tower.

“Modification” means a change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, or exterior material.

“Modification” does not include repair, replacement or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation.

“Monopole” means a structure composed of a pole or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalm and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole (e.g. water tower).

“Mounted” means attached or supported.

“Located within the public right-of-way” includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over or under the public right-of-way.

“Pole” means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of this Code.

“Public right-of-way” means any public highway, public street or alley, public place in the city of Firebaugh, either owned by the city or dedicated to the public for the purposes of travel. The term includes all or any part of the entire width of right-of-way, and above and below the same, whether or not such entire area is actually used for travel purposes.

“Sensitive uses” means any residential use, public or private school, day care, playground, and retirement facility.

“Telecommunications tower” means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless telecommunications facility antennas.

“Utility Pole” means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.

“Wireless telecommunications facility,” “facility” or “facilities” mean any facility that transmits and/or receives electromagnetic waves. It includes, but is not limited to, antennas and/or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. The term “wireless telecommunications facility” does not apply to the following:

- a. Emergency medical care provider-owned and operated telecommunications facilities.
- b. Mobile services providing public information coverage of news events of a temporary nature.
- d. Any wireless telecommunications facilities exempted from this Code by federal law or state law.

“Wireless telecommunications services” means the provision of services using a wireless telecommunications facility or a wireless telecommunications collocation facility, and shall include, but not limited to, the following services: personal wireless services as defined in the federal Telecommunications Act of 1996 at 47 U.S.C. §332(c)(7)(C) or its successor statute, cellular service, personal communication service, and/or data radio telecommunications.

### **13-4.3 Applicability.**

- a. This chapter applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in the public right-of-way as follows:
  - 1. All facilities for which applications were not approved prior to January 9, 2017, shall be subject to and comply with all provisions of this division.
  - 2. All facilities for which applications were approved by the city prior to January 9, 2017, shall not be required to obtain a new or amended permit until such time as a provision of this code so requires. Any wireless telecommunication facility that was lawfully constructed prior to January 9, 2017, that does not comply with the standards, regulations and/or requirements of this division, shall be deemed a nonconforming use and shall also be subject to the provisions of section 13-4.21.
  - 3. All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this chapter governing the operation and maintenance (section 13-4.11), cessation of use and abandonment (section 13-4.13), removal and restoration (section 13-4.14) of wireless telecommunications facilities and the prohibition of dangerous

conditions or obstructions by such facilities (section 13-4.12); provided, however, that in the event a condition of approval conflicts with a provision of this division, the condition of approval shall control until the permit is amended or revoked.

- b. This chapter does not apply to the following:
  - 1. Amateur radio facilities;
  - 2. Over the Air Reception Devices (“OTARD”) antennas;
  - 3. Facilities owned and operated by the city for its use;
  - 4. Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement.

#### **13-4.4 Wireless Telecommunications Facility Permit Requirements.**

- a. **Wireless Telecommunications Facilities Permit.** All new wireless facilities or collocations or modifications to existing wireless facilities shall require an Encroachment Permit subject to Director approval, consistent with Section 13-2.19 (Encroachment Permits) as well as the standards in this Section.
- b. **Other Permits Required.** In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other city departments, or state or federal agencies. Any permit granted under this chapter is subject to the conditions and/or requirements of other required prior permits or other approvals from other city departments, state or federal agencies.
- c. **Eligible Applicants.** Only applicants who have been granted the right to enter the public right-of-way pursuant to state or federal law, or who have entered into a franchise agreement with the city permitting them to use the public right-of-way, shall be eligible for a permit to install or modify a wireless telecommunications facility or a wireless telecommunications collocation facility in the public right-of- way.
- d. **Speculative Equipment Prohibited.** The city finds that the practice of “pre- approving” wireless equipment or other improvements that the applicant does not presently intend to install but may wish to install at some undetermined future time does not serve the public’s best interest. The city shall not approve any equipment or other improvements in connection with a Wireless Telecommunications Facility Permit when the applicant does not actually and presently intend to install such equipment or construct such improvements.

**13-4.5 Application for Wireless Telecommunications Facility Permit.**

a. Application.

1. Each applicant requesting approval of the installation or modification of a wireless telecommunications facility in the public right-of-way shall fully and completely submit to the city a written application on a form prepared by the director.
2. No applicant seeking to install wireless antennas shall seek an encroachment permit for fiber or coaxial cable only. Applicants shall simultaneously request fiber installation or other cable installation when seeking to install antennas in the right-of-way.

b. Application Contents The director shall develop an application form and make it available to applicants upon request. The supplemental application form for a new wireless telecommunications facility installation in the public right-of-way shall require the following information, in addition to all other information determined necessary by the director:

1. The name, address and telephone number of the applicant, owner and the operator of the proposed facility.
2. If the applicant is an agent, the applicant shall provide a duly executed letter of authorization from the owner of the proposed facility. If the owner will not directly provide wireless telecommunications services, the applicant shall provide a duly executed letter of authorization from the person(s) or entity(ies) that will provide those services.
3. If the facility will be located on or in the property of someone other than the owner of the facility (such as a street light pole, street signal pole, utility pole, utility cabinet, vault, or cable conduit), the applicant shall provide a duly executed written authorization from the property owner(s) authorizing the placement of the facility on or in the property owner's property.
4. A full written description of the proposed facility and its purpose.
5. Detailed plans of the proposed facility and related report documenting the following:
  - (a) Height, diameter and design of the facility, including 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. A layout plan, section and elevation of the structure shall be included.

- (b) A photograph and model name and number of each piece of equipment included.
  - (c) Power output and operating frequency for the proposed antenna.
  - (d) Total anticipated capacity of the structure, indicating the number and types of antennas and power and frequency ranges, which can be accommodated.
  - (e) Sufficient evidence of the structural integrity of the pole or other supporting structure as required by the city.
- 6. A justification study which includes the rationale for selecting the proposed site; if applicable, a detailed explanation of the coverage gap that the proposed use would serve; and how the proposed use is the least intrusive means for the applicant to provide wireless service. Said study shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed facility and why said alternatives are not a viable option.
  - 7. Site plan(s) to scale, specifying and depicting the exact proposed location of the pole, pole diameter, antennas, accessory equipment, access or utility easements, landscaped areas, existing utilities, adjacent land uses, and showing compliance with section 13-4.7.
  - 8. Scaled elevation plans of proposed poles, antennas, accessory equipment, and related landscaping and screening.
  - 10. An accurate visual impact analysis showing the maximum silhouette, color and finish palette and proposed screening for the facility, including scaled photo simulations from at least 3 different angles.
  - 11. Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the Federal Communications Commission's (FCC) "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the facility will be "categorically excluded" as that term is used by the FCC.
  - 12. For a facility 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 facility, as well as any facilities that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts Effective Radio 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.

13. A traffic control plan when the proposed installation is on any street in a non-residential zone. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).
  14. Certification that applicant is a telephone corporation or a statement providing the basis for its claimed right to enter the right-of-way. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.
  15. An application fee, and a deposit for a consultant's review as set forth in paragraph "e" of this section in an amount set by resolution by the city council and in accordance with California Government Code section 50030.
  16. Any other information and/or studies determined necessary by the director may be required.
- c. Application Contents – Modification of Existing Facility. The content of the application form for a modification to an existing facility shall be determined by the director, and shall include but not be limited to the requirements listed in section 13-4.5 b. unless prohibited by state or federal law.
- d. Effect of State or Federal Law Change. In the event a subsequent state or federal law prohibits the collection of any information required by section 13-4.5 b., the director is authorized to omit, modify or add to that request from the city's application form with the written approval of the city attorney, which approval shall be a public record.
- e. Independent Expert. The director is authorized to retain on behalf of the city an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility. The review is intended to be a review of technical aspects of the proposed wireless telecommunications facility and shall address any or all of the following:
1. Compliance with applicable radio frequency emission standards;
  2. Whether any requested exception is necessary to close a significant gap in coverage and is the least intrusive means of doing so;

3. The accuracy and completeness of submissions;
4. Technical demonstration of the unavailability of alternative sites or configurations and/or coverage analysis;
5. The applicability of analysis techniques and methodologies;
6. The validity of conclusions reached or claims made by applicant;
7. The viability of alternative sites and alternative designs; and
8. Any other specific technical issues identified by the consultant or designated by the city.
9. The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule resolution. No permit shall be issued to any applicant which has not fully reimbursed the city for the consultants cost.

#### **13-4.6 Review Procedure**

- a. Pre-submittal Conference. Prior to application submittal, the city strongly encourages all applicants to schedule and attend a pre-submittal conference with Public Works Department staff to receive informal feedback on the proposed location, design and application materials. The pre-submittal conference is intended to identify potential concerns and streamline the formal application review process after submittal. Public Works Department staff will endeavor to provide applicants with an appointment within approximately five (5) business days after receipt of a written request.
- b. Notice; Decisions. All applications shall be reviewed consistent with the standards contained in Section 13-4.7.
  1. Notice of Shot Clock Expiration. The city acknowledges there are federal and state shot clocks which may be applicable to a proposed wireless telecommunications facility. That is, federal and state law provide time periods in which the city must approve or deny a proposed wireless telecommunications facility. As such, the applicant is required to provide the city written notice of the expiration of any shot clock, which the applicant shall ensure is received by the city (e.g. overnight mail) no later than twenty (20) days prior to the expiration.
  2. Written Decision Required. All final decisions made pursuant to this chapter shall be in writing and based on substantial evidence in the written administrative record. The written decision shall include the reasons for the decision.
- c. Appeals. Any aggrieved person or entity may appeal a decision by the director as provided

in accordance with the provisions in Municipal Code chapter 13-2.19 d.

#### **13-4.7 Requirements for Facilities within the Public Right-of-Way**

- a. **Design and Development Standards.** All wireless telecommunications facilities that are located within the public right-of-way shall be designed and maintained as to minimize visual, noise and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the following:
  1. **General Guidelines.**
    - (a) The applicant shall employ screening, undergrounding and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually screened as possible, to prevent the facility from dominating the surrounding area and to minimize aesthetic impacts from surrounding properties all in a manner that achieves compatibility with the community.
    - (b) Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style, and quality.
  2. **Traffic Safety.** All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
  3. **Blending Methods.** All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.
  4. **Equipment.** The applicant shall use the least visible equipment possible. Antenna elements shall be flush mounted, to the extent feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Unless otherwise provided in this section, antennas shall be situated as close to the ground as possible.
  5. **Poles.**
    - (a) Only pole-mounted antennas (as described in the following subparagraphs) shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole.



- (b) Utility Poles. The maximum height of any antenna shall not exceed forty-eight (48) inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than twenty-four (24) feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as may be revised or superseded.
- (c) Light Poles. The maximum height of any antenna shall not exceed four (4) feet above the existing height of a light pole. Any portion of the antenna or equipment mounted on a pole shall be no less than sixteen and a half (16 1/2) feet above any drivable road surface.
- (d) Replacement Poles. If an applicant proposes to replace a pole in order to accommodate a proposed facility, the pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible.
- (e) Pole mounted equipment, exclusive of antennas, shall not exceed six (6) cubic feet in dimension.
- (f) An exception shall be required to place a new pole in the public right-of-way. If an exception is granted for placement of new poles in the right-of-way:
  - i. Such new poles shall be designed to resemble existing poles in the right-of-way near that location, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced.
  - ii. Such new poles that are not replacement poles shall be located at least ninety (90) feet from any existing pole to the extent feasible.
  - iii. A new pole justification analysis shall be submitted to demonstrate why existing infrastructure cannot be utilized and demonstrating the new pole is the least intrusive means possible including a demonstration that the new pole is designed to be the minimum functional height and width required to support the proposed facility.
- (g) All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the pole and shall be camouflaged or hidden to the fullest extent feasible. For all wooden poles wherein interior installation is infeasible, conduit and cables attached to the exterior of poles shall be mounted

flush thereto and painted to match the pole.

7. **Space.** Each facility shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.
8. **Wind Loads.** Each facility shall be properly engineered to withstand wind loads as required by this Code or any duly adopted or incorporated code. An evaluation of high wind load capacity shall include the impact of modification of an existing facility.
9. **Obstructions.** Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the right-of-way, or safety hazards to pedestrians and motorists and in compliance with sight visibility triangle requirements in Chapter 25 of the Municipal Code, so as not to obstruct visibility at intersections.
10. **Public Facilities.** A facility shall not be located within any portion of the public right-of-way interfering with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.
11. **Screening.** All ground-mounted facility, pole-mounted equipment, or walls, fences, landscaping or other screening methods shall be installed at least eighteen (18) inches from the curb and gutter flow line.
12. **Accessory Equipment.** Not including the electric meter, all accessory equipment shall be located underground, except as provided below:
  - (a) When above-ground is the only feasible location for a particular type of accessory equipment and will be ground-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five (5) feet and a total footprint of fifteen (15) square feet, and shall be fully screened and/or camouflaged, including the use of landscaping, architectural treatment, or acceptable alternate screening. Required electrical meter cabinets shall be screened and/or camouflaged.
  - (b) In locations where homes are only along one side of a street, above-ground accessory equipment shall not be installed directly in front of a residence. Such above-ground accessory equipment shall be installed along the side of the street with no homes.
13. **Signage.** No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.

14. Noise.
- (a) Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 PM and 7:00 AM.
  - (b) At no time shall equipment noise from any facility exceed an exterior noise level of fifty-five (55) dBA three (3) feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within five hundred (500) feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed forty-five (45) dBA.
15. Security. Each facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. The director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, a facility has the potential to become an attractive nuisance. Additionally, no lethal devices or elements shall be installed as a security device.
16. Modification. Consistent with current state and federal laws and if permissible under the same, at the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.
17. The installation and construction approved by a wireless telecommunications facility encroachment permit shall begin within one (1) year after its approval or it will expire without further action by the city.
- b. Conditions of Approval. In addition to compliance with the design and development standards outlined in this section, all facilities shall be subject to the following conditions of approval (approval may be by operation of law), as well as any modification of these conditions or additional conditions of approval deemed necessary by the director:
- 1. The permittee shall submit an as built drawing within ninety (90) days after installation of the facility.
  - 2. The permittee shall submit and maintain current at all times basic contact and site information to the city. The permittee shall notify the city of any changes to the

information submitted within thirty (30) days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:

- (a) Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
3. The permittee shall notify the city in writing at least ninety (90) days prior to any transfer or assignment of the permit. The written notice required in this section must include: (1) the transferee's legal name; (2) the transferee's full contact information, including a primary contact person, mailing address, telephone number and email address; and (3) a statement signed by the transferee that the transferee shall accept all permit terms and conditions. The director may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: federal, state and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission. Noncompliance with the permit and all its conditions of approval, if any, or failure to submit the materials required by the director shall be a cause for the city to revoke the applicable permits pursuant to and following the procedure set on in section 13-4.16.
4. At all times, all required notices and/or signs shall be posted on the site as required by the Federal Communications Commission, California Public Utilities Commission, any applicable licenses or laws, and as approved by the city.
5. Permittee shall pay for and provide a performance bond or other form of security approved by the city attorney's office, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and this code. The security instrument coverage shall include, but not be limited to, removal of the facility. (The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.) Before issuance of any building permit, permittee must submit said security instrument.
6. If a nearby property owner registers a noise complaint, the city shall forward the same to the permittee. Said complaint shall be reviewed and evaluated by the applicant. The permittee shall have ten (10) business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the city determines the complaint is valid and the applicant has not taken any steps to minimize the noise, the city may hire a consultant to study, examine and evaluate the

noise complaint and the permittee shall pay the fee for the consultant if the site is found in violation of this chapter. The matter shall be reviewed by the director. If the director determines sound proofing or other sound attenuation measures should be required to bring the project into compliance with the Code, the director may impose conditions on the project to achieve said objective.

8. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the director for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with pedestrian and vehicular traffic; and/or (c) preventing damage to the public right-of-way or any adjacent property. The city may modify the permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the underlying permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the city by the permittee.
9. The permittee shall not transfer the permit to any person prior to the completion of the construction of the facility covered by the permit, unless and until the transferee of the permit has submitted the security instrument required by section 13.4-7 b. 5.
10. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the city shall be moved to accommodate a wireless telecommunications facility unless the city determines that such movement will not adversely affect the city or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the city's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.
11. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
12. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to city streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee

shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the city engineer. Such time period for correction shall be based on the facts and circumstances, danger to the community and severity of the disrepair. Should the permittee not make said correction within the time period allotted the city engineer shall cause such repair to be completed at permittee's sole cost and expense.

13. No facility shall be permitted to be installed in the drip line of any tree in the right-of-way.
14. Insurance. The permittee shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies of public liability insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence and Four Million Dollars (\$4,000,000) in the aggregate, that fully protects the city from claims and suits for bodily injury and property damage. The insurance must name the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers as additional named insureds, be issued by an insurer admitted in the State of California with a rating of at least a A:VII in the latest edition of A.M. Best's Insurance Guide, and include an endorsement providing that the policies cannot be canceled or reduced except with thirty (30) days prior written notice to the city, except for cancellation due to nonpayment of premium. The insurance provided by permittee shall be primary to any coverage available to the city, and any insurance or self-insurance maintained by the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers shall be excess of permittee's insurance and shall not contribute with it. The policies of insurance required by this permit shall include provisions for waiver of subrogation. In accepting the benefits of this permit, permittee hereby waives all rights of subrogation against the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers. The insurance must afford coverage for the permittee's and the wireless provider's use, operation and activity, vehicles, equipment, facility, representatives, agents and employees, as determined by the city's risk manager. Before issuance of any building permit for the facility, the permittee shall furnish the city risk manager certificates of insurance and endorsements, in the form satisfactory to the city attorney or the risk manager, evidencing the coverage required by the city.
15. Permittee shall defend, indemnify, protect and hold harmless city, its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the city, and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers to attack, set aside, void or annul, an approval of the city, planning commission or city

council concerning this permit and the project. Such indemnification shall include damages of any type, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The city shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit city from participating in a defense of any claim, action or proceeding. The city shall have the option of coordinating the defense, including, but not limited to, choosing counsel after consulting with permittee and at permittee's expense.

16. Additionally, to the fullest extent permitted by law, the permittee, and every permittee and person in a shared permit, jointly and severally, shall defend, indemnify, protect and hold the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers harmless from and against all claims, suits, demands, actions, losses, liabilities, judgments, settlements, costs (including, but not limited to, attorney's fees, interest and expert witness fees), or damages claimed by third parties against the city for any injury claim, and for property damage sustained by any person, arising out of, resulting from, or are in any way related to the wireless telecommunications facility, or to any work done by or use of the public right-of-way by the permittee, owner or operator of the wireless telecommunications facility, or their agents, excepting only liability arising out of the sole negligence or willful misconduct of the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers.
17. Should the utility company servicing the facility with electrical service that does not require the use of an above ground meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within ninety (90) days of such service being offered and reasonably restore the area to its prior condition. An extension may be granted if circumstances arise outside of the control of the permittee.
18. Relocation. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to city, if and when made necessary by (i) any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or above ground facilities including but not limited to sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by city or any other public agency, (ii) any abandonment of any street, sidewalk or other public facility, (iii) any change of grade, alignment or width of any street, sidewalk or other public facility, or (iv) a determination by the director that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way. Such modification, removal, or relocation of the facility shall be completed within ninety (90) days of notification by city unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review

and approval of a modified permit pursuant to the Code including applicable notice and hearing procedures. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Code allow. In the event the facility is not modified, removed, or relocated within said period of time, city may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances including those of immediate or imminent threat to the public's health and safety, the city may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.

19. Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the wireless telecommunications facility permit within thirty (30) days of permit issuance. The permit shall be void and of no force or effect unless such written consent is received by the city within said thirty (30) day period.

#### **13-4.8 Findings.**

- a. In addition to the standards contained in Section 13-2.19 (Encroachment Permits), no permit shall be granted for a wireless telecommunications facility unless all of the following findings are made by the director:
- c. The proposed facility has been designed and located in compliance with all applicable provisions of this chapter.
- d. If applicable, the applicant has demonstrated its inability to locate on existing infrastructure.
- e. The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise agreement with the city permitting them to use the public right-of-way.
- f. The applicant has demonstrated the proposed installation is designed such that the proposed installation represents the least intrusive means possible and supported by factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process were technically infeasible or not available.

#### **13-4.9 Nonexclusive grant.**

No permit or approval granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as any warranty of title.



#### **13-4.10 Emergency Deployment.**

A COW shall be permitted for the duration of an emergency declared by the city or at the discretion of the director.

#### **13-4.11 Operation and Maintenance Standards.**

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards.

- a. Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent within forty-eight (48) hours:
  1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
  2. After permittee, owner, operator or any designated maintenance agent receives notification from the city.
- b. Each permittee of a wireless telecommunications facility shall provide the director with the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the maintenance of the facility ("contact information"). Contact information shall be updated within seven (7) days of any change.
- c. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
  1. General dirt and grease;
  2. Chipped, faded, peeling, and cracked paint;
  3. Rust and corrosion;
  4. Cracks, dents, and discoloration;
  5. Missing, discolored or damaged artificial foliage or other camouflage;
  6. Graffiti, bills, stickers, advertisements, litter and debris;
  7. Broken and misshapen structural parts; and

8. Any damage from any cause.
- d. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the director.
- e. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- f. Each facility shall be operated and maintained to comply with all conditions of approval. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the same and the standards set forth in this chapter.

#### **13-4.12 No Dangerous Condition or Obstructions Allowed**

No person shall install, use or maintain any facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

#### **13-4.13 Cessation of Use or Abandonment**

- a. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for ninety (90) or more consecutive days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two (2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- b. The operator of a facility shall notify the city in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten (10) days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the director of any discontinuation of operations of thirty (30) days or more.

- c. Failure to inform the director of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:
  - 1. Litigation;
  - 2. Revocation or modification of the permit;
  - 3. Acting on any bond or other assurance required by this article or conditions of approval of the permit;
  - 4. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or
  - 5. Any other remedies permitted under this Code.

**13-4.14 Removal and Restoration – Permit Expiration, Revocation or Abandonment**

- a. Upon abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. The facility shall be removed from the property, at no cost or expense to the city.
- b. Failure of the permittee, owner or operator to promptly remove its facility and restore the property within ninety (90) days after abandonment of the facility, shall be a violation of this Code. Upon a showing of good cause, an extension may be granted by the director where circumstances are beyond the control of the permittee after expiration. Further failure to abide by the timeline provided in this section shall be grounds for:
  - 1. Prosecution;
  - 2. Acting on any security instrument required by this chapter or conditions of approval of permit;
  - 3. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or
  - 4. Any other remedies permitted under this Code.
- c. Summary Removal. In the event the director or city engineer determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent

threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, “exigent circumstances”), the director or city engineer may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five (5) business days of removal and all property removed shall be preserved for the owner’s pick-up as feasible. If the owner cannot be identified following reasonable effort, or if the owner fails to pick-up the property within sixty (60) days, the facility shall be treated as abandoned property.

- d. Removal of Facilities by city. In the event the city removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the city for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the city may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this Code. Unless otherwise provided herein, the city has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the city destroys any such facility not timely removed by the permittee, owner or operator after notice, or removed by the city due to exigent circumstances.

#### **13-4.15 Effect on Other Ordinances.**

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of this Code. In the event of a conflict between any provision of this division and other sections of this Code, this chapter shall control.

#### **13-4.16 State or Federal Law.**

- a. In the event it is determined by the city attorney that state or federal law prohibits permitting requirements for certain wireless telecommunications facilities, such requirement shall be deemed severable and all remaining regulations shall remain in full force and effect. Such a determination by the city attorney shall be in writing with citations to legal authority and shall be a public record. -Any conditions of approval set forth in this provision or deemed necessary by the director shall be imposed and administered as reasonable time, place and manner rules.
- b. All installations permitted pursuant to this chapter shall comply with all federal and state laws including but not limited to the American with Disabilities Act.

#### **13-4.17 Nonconforming Wireless Telecommunications Facilities in the Right-of-Way**

- a. Nonconforming wireless telecommunications facilities are those facilities that do not conform to this chapter.

- b. Nonconforming wireless telecommunications facilities shall, within ten (10) years from the date such facility becomes nonconforming, be brought into conformity with all requirements of this article; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change, the owner shall comply with all applicable provisions of this Code at such time, to the extent the city can require such compliance under federal and state law.
- c. An aggrieved person may file an appeal to the city council of any decision of the director made pursuant to this section. In the event of an appeal alleging that the ten (10) year amortization period is not reasonable as applied to a particular property, the City Council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond the prescribed amortization period, and set an amortization period accordingly for the specific property.

**SECTION 2. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 3.** The foregoing ordinance shall take effect after thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1) and a summary shall be published once in the, a newspaper printed and published in the City of Firebaugh, State of California, together with the names of the Council members voting for and against the same.

**SECTION 4. Certification.** The City Clerk of the City of Firebaugh shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

**SECTION 5. Applicability.** This ordinance shall apply to all pending applications.

The foregoing Ordinance No. 16-07 was introduced at a special meeting of the City Council of the City of Firebaugh on the 9th day of January 2017, and was passed and adopted at a special meeting of the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

Firebaugh Planning Commission  
Ordinance 16-07 (Wireless Telecommunications Facilities in rights-of-way)

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

APPROVED:

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Brady Jenkins, Mayor  
City of Firebaugh

ATTEST:

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Rita Lozano, Deputy City Clerk  
City of Firebaugh

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**AGENDA ITEM**

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**TO:** SUCCESSOR AGENCY TO THE FIREBAUGH REDEVELOPMENT AGENCY  
**SUBJECT:** REDEVLEOPMENT DISSOLUTION CONSULTING SERVICES  
**DATE:** JANUARY 9, 2017

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**BACKGROUND**

The dissolution of the Firebaugh Redevelopment Agency is complex and arduous. Staff requires financial, real estate, and management consulting services to help deal with the numerous deadlines and requirements of ABx1 26, AB 1484, SB 107 and any new legislation that may come into effect.

***Redevelopment Dissolution Consulting Services***

The City of Firebaugh and the Successor Agency to the Firebaugh Redevelopment Agency have been working with RSG, Inc. ("RSG") to provide consulting services related to the dissolution of the former Firebaugh Redevelopment Agency since 2011. To date, RSG has assisted with:

- Operational startup activities to create the Successor Agency, Housing Successor Entity, and Oversight Board
- Recognized Obligation Payment Schedules (ROPS) covering six month periods from January 2012 to the present
- The Successor Agency's Administrative Budget for Fiscal Years 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, and 2017-18
- Ten-Year Cash Flow Analyses to aid preparation of the ROPS and inform other planning activities
- City Loan Agreements to cover shortfalls in prior ROPS periods
- Due Diligence Review advisory services
- Property and asset disposition services including the Long-Range Property Management Plan and the sale of four properties
- Review and analysis of contracts, agreements, and other documents
- Documents and presentations for City Council, Successor Agency, and Oversight Board Meetings
- Documents and presentations for meetings with State and County agencies
- Correspondence with State, County, and other agencies as needed
- General project advisory and management Services
- Legislative tracking, analysis, and advice
- Other services as needed

RSG will consult on all activities required by the Dissolution Act, which may include but are not limited to:

- Financial Planning and Transition Services, including preparation of Recognized Obligation Payment Schedules (ROPS), Administrative Budgets, and Cash Flows
- Asset Disposition Strategic Planning, including preparation of transfer documents for Successor Agency assets
- General Financial Advisory Services
- Project Advisory Services
- Project Management Services
- Meeting, Agenda, Staff Report Assistance for the City Council, Successor Agency, and Oversight Board
- Meeting Preparation and Attendance with State, County and other agencies as required
- Taxing Entity Consultations
- Property Disposition
- Monitoring of Legal Requirements and Agreements
- Legislative Analysis
- Others Services as Designated

The fee stated in the proposal matches the amount approved by the Successor Agency and Oversight Board in the FY 2017-18 Administrative Budget. Costs for services will be paid on a monthly basis as they accrue on a time and material basis by the Successor Agency.

### **RECOMMENDATIONS**

1. Approve the attached Proposal for Consulting Services from RSG relating to Successor Agency matters and enter into the contract subject to Oversight Board approval.

### **FISCAL IMPACT**

The cost associated with the FY 2017-18 RSG Contract for Consulting Services will be paid out of the Administrative Allowance of \$250,000. The Successor Agency has reduced its internal costs in recent ROPS cycles so it is anticipated that there will be sufficient Administrative Allowance to cover the costs of the RSG Contract.

Enclosures

1. Consulting Services Proposal from RSG dated January 9, 2017.



## **RESOLUTION NO. 16-47**

### **A RESOLUTION OF THE SUCCESSOR AGENCY OF THE FIREBAUGH REDEVELOPMENT AGENCY APPROVING A CONTRACT WITH RSG, INC. TO PROVIDE CONSULTING SERVICES TO THE SUCCESSOR AGENCY IN FISCAL YEAR 2017-18**

**WHEREAS**, the Oversight Board of the Successor Agency to the Firebaugh Redevelopment Agency ("Oversight Board") has been established to direct the Successor Agency to the Firebaugh Redevelopment Agency ("Successor Agency") to take certain actions to wind down the affairs of the Redevelopment Agency in accordance with the California Health and Safety Code; and

**WHEREAS**, the Successor Agency desires to enter into a contract with RSG, Inc ("RSG") to provide consulting services related to the dissolution of the Former Firebaugh Redevelopment Agency through Fiscal Year 2017-18 as detailed in the proposal attached as Exhibit "A" ("RSG Contract"); and

**WHEREAS**, the RSG Contract is to be funded by the administrative cost allowance pursuant to Health & Safety Code Section 34171(b); and

**WHEREAS**, Health & Safety Code Section 34177(j)(3) requires proposals for arrangements for administrative and operations services provided by a city, county, or other entity to be submitted to the oversight board for its approval; and

**WHEREAS**, Health & Safety Code Section 34177.3(b) states that successor agencies may create enforceable obligations to conduct the work of winding down the redevelopment agency, including acquiring necessary professional administrative services; and

**WHEREAS**, the Successor Agency approved the proposed RSG Contract on January 9, 2017; and

**WHEREAS**, the Oversight Board desires to approve the RSG Contract.

**NOW, THEREFORE, THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE FIREBAUGH REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The RSG Contract is hereby approved.

**SECTION 2.** The Oversight Board hereby authorizes the City Manager to take such other and further action consistent with this resolution and sign and transmit any documents, as necessary, in order to implement this Resolution on behalf of the Successor Agency.

**SECTION 3.** The Oversight Board Secretary shall certify to the adoption of this Resolution 19<sup>th</sup> day of January, 2017 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

\_\_\_\_\_  
Chairperson Oversight Board

\_\_\_\_\_  
ATTEST:  
Oversight Board Secretary

**EXHIBIT "A"**

**RSG PROPOSAL FOR FY 2017-18 SUCCESSOR AGENCY CONSULTING SERVICES**

**[Attached as a separate document]**



BETTER COMMUNITIES. BOLDER FUTURES

Exhibit A

RSG, INC.  
309 WEST 4TH STREET  
SANTA ANA, CALIFORNIA  
92701-4502

T 714 541 4585  
F 714 541 1175  
E INFO@WEBRSG.COM  
WEBRSG.COM

**Via Electronic Mail**

January 9, 2017

Mr. Ben Gallegos  
Interim City Manager  
CITY OF FIREBAUGH  
1133 "P" St.  
Firebaugh, CA 93622

## **PROPOSAL FOR SUCCESSOR AGENCY ADMINISTRATIVE CONSULTING SERVICES**

Dear Mr. Gallegos:

RSG is pleased to present this proposed scope of work and budget to provide the Successor Agency to the Redevelopment Agency of the City of Firebaugh ("Successor Agency") administrative consulting services for the 2017-18 fiscal year. RSG has been working with the Successor Agency since the beginning of the dissolution of the Firebaugh Redevelopment Agency in 2011. With RSG's assistance, the Successor Agency has overcome many hurdles, fulfilled numerous state reporting requirements, and sold former redevelopment Agency property. RSG would like to continue to serve the Successor Agency in its capacity as Administrative Consultants and see the Successor Agency through to the end of this arduous process.

### **SCOPE OF SERVICES**

The proposed Scope of Services is based upon our experience with the Successor Agency and upcoming tasks that we have identified. RSG is happy to discuss modifications to the scope as needed to satisfy the City's needs. RSG has identified the following tasks:

#### **Task 1: Budget and Cash Flow Work**

The Successor Agency has faced many challenges throughout the dissolution process, not the least of which has been budget shortfalls during Recognized Obligation Payment Schedule periods. RSG will continue to maintain a working cash flow model for the Successor Agency to anticipate any future budget shortfalls. In addition, RSG will assist the Successor Agency in working to close any budget gaps by employing the variety of methods.

#### **Task 2: Complete Annual ROPS and accompanying Administrative Budgets**

The Successor Agency must submit a Recognized Obligation Payment Schedule ("ROPS") to the Oversight Board and Department of Finance annually. RSG will assist the Successor Agency in completing the 2018-19 ROPS that will be addressed during the 2017-18 fiscal year. Should an issue arise during the Department of Finance's review of the ROPS, RSG would assist the

FISCAL HEALTH  
ECONOMIC DEVELOPMENT  
REAL ESTATE, HOUSING  
AND HEALTHY COMMUNITIES

Successor Agency in drafting a Meet and Confer request and is available to attend the meeting. The Successor Agency must submit an annual administrative budget supporting the use of the \$250,000 annual administrative allowance allowed by law. RSG will assist the Successor Agency in preparing the annual administrative budget for fiscal year 2018-19, which will be submitted along with ROPS. The Successor Agency is allowed to amend the ROPS once during the period. RSG can assist the Successor Agency if this needed arises.

**Task 3: Help the Successor Agency Navigate New Legislation and Transition to Single County-wide Oversight Board**

RSG will keep abreast of these changes and help the Successor Agency adapt and adjust their processes as needed. On July 1, 2018, there will be only oversight board for the entire county and your local oversight board will be terminated. RSG will assist the Successor Agency in this transition.

**Task 4: Assist the Successor Agency with Property Disposition**

With an approved Long-Range Property Management Plan, the Successor Agency must now work to dispose of all properties it proposed to sell. While specific services associated with property disposition such as brokerage services or the cost of conducting appraisals can be listed on the ROPS outside the Administrative Budget, RSG's continued guidance through this complex process will be paid for through its general contract.

**Task 5: Attend Meetings as Necessary**

RSG will make a staff member available to the Successor Agency should they need assistance at any Successor Agency or Oversight Board meetings.

**Task 6: Additional Administrative Services as Needed**

RSG will assist the Successor Agency with any additional administrative tasks as they arise.

**TIMELINE**

RSG will begin this portion of its contract with the Successor Agency July 1, 2017 and will conclude June 30, 2018.

**PROJECT TEAM**

Ms. Tara Matthews, Partner will be the principal in charge of this engagement. Jane Carlson, Associate will be the Project Manager, and will be assisted by additional staff as needed.

**FEE PROPOSAL**

We will provide FY 2017-18 services on a time-and-materials basis, with a not to exceed amount of \$50,000. RSG does not charge clients for mileage (except direct costs related to field surveys), parking, standard telephone/fax expenses, general postage or incidental copies. However, we do charge for messenger services, overnight shipping/express mail costs and teleconferencing services. We also charge for copies of reports, documents, notices, and support material in

Mr. Ben Gallegos, Interim City Manager  
CITY OF FIREBAUGH  
January 9, 2017  
Page 3

excess of five (5) copies. These costs are charged back at the actual expense plus a 10% surcharge.

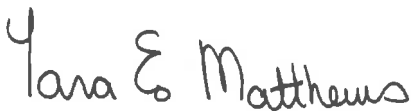
RSG issues monthly invoices payable upon receipt, unless otherwise agreed upon in advance. Invoices identify tasks completed to date, hours expended and the hourly rate.

HOURLY BILLING RATES:

Principal/Director	\$ 235
Senior Associate	180
Associate	160
Senior Analyst	135
Analyst	125
Research Assistant	110
Technician	80
Clerical	60
Reimbursable Expenses	Cost plus 10%

We appreciate the opportunity to submit our proposal to the City and Successor Agency, and look forward to working with you again. If you have any questions, please do not hesitate to contact me at 714.316.2111.

Sincerely,  
RSG, INC.



Tara Matthews  
Principal

**TO:** Successor Agency to the Firebaugh Redevelopment Agency  
**FROM:** Ben Gallegos, City Manager  
**MEETING DATE:** January 9, 2017  
**SUBJECT:** RECOGNIZED OBLIGATION PAYMENT SCHEDULE AND  
ADMINISTRATIVE BUDGET FOR JULY 1, 2017 THROUGH  
JUNE 30, 2018

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### **RECOMMENDATIONS**

1. To adopt a resolution of the Successor Agency to the Firebaugh Redevelopment Agency approving the Recognized Obligation Payment Schedule ("ROPS") 2017-18 and Administrative Budget for the July 1, 2017 through June 30, 2018 period.

### **BACKGROUND**

On December 29, 2011, the California Supreme Court issued its decision in CRA v. Matosantos, upholding AB 1X 26, which dissolves all redevelopment agencies in California, and overturning AB 1X 27, the "voluntary alternative redevelopment program." After the redevelopment program provided in AB 1X 27 was ruled unconstitutional by the Court, all California redevelopment agencies were required to dissolve. On February 1, 2012, redevelopment agencies throughout the State were eliminated and successor agencies assumed the responsibility of winding down the activities of their respective redevelopment agencies. The City of Firebaugh ("City") serves as the Successor Agency of the former Firebaugh Redevelopment Agency.

### **ANALYSIS**

#### **Recognized Obligation Payment Schedule**

Health and Safety Code Section (HSC) 34177(l) requires the Successor Agency to prepare a ROPS showing all the obligations of the former Redevelopment Agency and the sources of funds for the repayments. According to Health and Safety Code Section 34177(m), the ROPS covering the period July 1, 2016 through June 30, 2017 must be approved by the Oversight Board and sent to the Department of Finance (DOF) and County Auditor-Controller by February 1, 2017.

The Successor Agency anticipates that the Oversight Board will approve the ROPS during their meeting on January 19, 2017. Distribution of redevelopment property tax revenue will occur on June 1, 2017 and January 2, 2018.

The Successor Agency is requesting a total of \$750,998 in Redevelopment Property Tax Trust Fund money to fund ROPS obligations, \$479,373 for the first half of the fiscal year and \$271,625 for the second half of the fiscal year. The obligations listed on the ROPS include:

- 2014 Refunding Bond Debt Service
- Bond Disclosure Fees
- Successor Agency Employee Costs

### Last and Final ROPS

Pursuant to HSC section 34191.6 (a), beginning January 1, 2016, agencies that have received a Finding of Completion may submit a Last and Final ROPS if all the following conditions are met:

- 1) The remaining debt is limited to administrative costs and payments pursuant to enforceable obligations with defined payment schedules including, but not limited to, debt service, loan agreements, and contracts.
- 2) All remaining obligations have been previously listed on the ROPS and approved for payment by Finance pursuant to HSC section 34177 (m) or (o).
- 3) The agency is not a party to outstanding/unresolved litigation, except as specified in HSC section 34191.6 (a) (3).

A Last and Final ROPS will reduce the administrative burden on the Successor Agency and eliminate the need for Oversight Board meetings to approve the ROPS (the Oversight Board will still have to convene to approve property sales). The Successor Agency may consider submitting a Last and Final ROPS, however, the Successor Agency can only amend the Last and Final ROPS twice. RSG suggests that the Successor Agency consider this option once all Property Management Plan properties are sold and the Oversight Board will only meet to approve the ROPS. A Last and Final ROPS can be approved at any time throughout the year.

### Administrative Budget

HSC Section 34177(j) requires the Successor Agency to prepare an Administrative Budget and submit it to the Oversight Board for approval. The Administrative Budget includes the proposed administrative expenditures, including the reclassified items per DOF, for the 2017-18 Fiscal Year. The Successor Agency anticipates spending the entire \$250,000 minimum annual administrative allocation described in HSC Section 34171 (b).

### FISCAL IMPACT

Adoption and transmittal of the ROPS is necessary to receive revenue from the Redevelopment Property Tax Trust Fund to fund the Successor Agency's financial obligations from July 1, 2017 through June 30, 2018.

### ATTACHMENTS

Attachment 1: Resolution approving the Recognized Obligation Payment Schedule 2017-18 and Administrative Budget for July 1, 2017 through June 30, 2018.



## **RESOLUTION NO. 16-48**

### **A RESOLUTION OF THE SUCCESSOR AGENCY TO THE FIREBAUGH REDEVELOPMENT AGENCY APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JULY 1, 2017 THROUGH JUNE 30, 2018 AND THE ADMINISTRATIVE BUDGET FOR JULY 1, 2017 THROUGH JUNE 30, 2018**

**WHEREAS**, the City of Firebaugh has elected to serve as the Successor Agency to the former Firebaugh Redevelopment Agency (“Successor Agency”) pursuant to Assembly Bill x1 26 (“AB x1 26” or the “Dissolution Act”) as codified in the California Health & Safety Code (“H&SC”); and

**WHEREAS**, among the duties of successor agencies under the Dissolution Act is the preparation of a recognized obligation payment schedule (“ROPS”) for the ensuing twelve-month period for consideration by a local oversight board and California State Department of Finance (“DOF”) for purposes of administering the wind-down of financial obligations of the former Redevelopment Agency; and

**WHEREAS**, as amended by Assembly Bill 1484 (“AB 1484”), the Dissolution Act requires that the proposed ROPS be transmitted to the local oversight board, county auditor-controller, county executive officer, and DOF, after which time the oversight board may approve and transmit the adopted ROPS to DOF and the county auditor-controller for their consideration; and

**WHEREAS**, the proposed ROPS for the twelve-month period from July 1, 2017 through June 30, 2018 attached hereto as Exhibit “A” has been prepared by staff and consultants consistent with the provisions of the Dissolution Act and in the format made available by DOF; and

**WHEREAS**, Section 34177(j) of the Dissolution Act requires the Successor Agency to prepare a proposed administrative budget and submit it to the Oversight Board for approval; and

**WHEREAS**, pursuant to Section 34177(j), the Successor Agency’s “Administrative Budget” is to include all of the following: (a) estimated amounts of the Successor Agency’s administrative costs for the up-coming twelve-month fiscal period; (b) the proposed sources of payment for the costs identified in (a); and (c) proposals for arrangements for administrative and operations services provided by the city serving as Successor Agency; and

**WHEREAS**, the Successor Agency desires to approve ROPS 17-18 along with the administrative budget for the July 1, 2017 to June 30, 2018, and transmit it to various parties as required by the Dissolution Act and AB 1484.

**NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE FIREBAUGH REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.     Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

**Section 2.     Approval of ROPS and Administrative Budget.** The Successor Agency hereby approves and adopts the ROPS and Administrative Budget covering the period July 1, 2017 through June 30, 2018, in substantially the form attached hereto as Exhibit A, as required by the Dissolution Act and AB 1484.

**Section 3.     Posting; Transmittal to Appropriate Agencies.** The City Manager is hereby authorized and directed to post of copy of the ROPS and Administrative Budget on the City's website and transmit a copy of the ROPS and Administrative Budget to the Oversight Board for their approval and to the offices of the Fresno County Auditor-Controller, the Fresno County Executive Officer, and the State Controller's Office.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the Successor Agency, on the 9<sup>th</sup> day of January, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
RITA LOZANO, DEPUTY CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
MEGGIN BORANIAN, SUCCESSOR AGENCY COUNSEL

STATE OF CALIFORNIA    )  
COUNTY OF FRESNO     ) ss.  
CITY OF FIREBAUGH     )

I, RITA LOZANO, hereby certify that I am the duly appointed City Clerk of the City of Firebaugh and that the foregoing resolution was duly adopted at a regular meeting of the Successor Agency held on the 9<sup>th</sup> day of January, 2017.

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Rita Lozano  
Deputy City Clerk

**EXHIBIT A**

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE 17-18**

**AND**

**ADMINISTRATIVE BUDGET**

**July 1, 2017 through June 30, 2018**

# **Recognized Obligation Payment Schedule (ROPS 17-18) - Summary**

Filed for the July 1, 2017 through June 30, 2018 Period

**Successor Agency:**

Firebaugh

**County:**

Fresno

<b>Current Period Requested Funding for Enforceable Obligations (ROPS Detail)</b>		<b>17-18A Total (July - December)</b>	<b>17-18B Total (January - June)</b>	<b>ROPS 17-18 Total</b>
<b>A</b>	<b>Enforceable Obligations Funded as Follows (B+C+D):</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>B</b>	Bond Proceeds	-	-	-
<b>C</b>	Reserve Balance	-	-	-
<b>D</b>	Other Funds	-	-	-
<b>E</b>	<b>Redevelopment Property Tax Trust Fund (RPTTF) (F+G):</b>	<b>\$ 479,373</b>	<b>\$ 271,625</b>	<b>\$ 750,998</b>
<b>F</b>	RPTTF	354,373	146,625	500,998
<b>G</b>	Administrative RPTTF	125,000	125,000	250,000
<b>H</b>	<b>Current Period Enforceable Obligations (A+E):</b>	<b>\$ 479,373</b>	<b>\$ 271,625</b>	<b>\$ 750,998</b>

Certification of Oversight Board Chairman:

Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name

Title

/s/

Signature

Date

Firebaugh Recognized Obligation Payment Schedule (ROPS 17.15) - ROPS Detail

Report Amounts in Whole Dollars																																		
A	B	C	D	E	F	G	H	I	J	K	L	17-18A (July - December)						17-18B (January - June)						W										
												M	N	O	P	Q	R	S	T	U	V													
																						Fund Sources						Fund Sources						
																						Bond Proceeds	RDPS 17-18		Other Funds	RDPS 17-18	Other Funds	Bond Proceeds	RDPS 17-18	Other Funds	RDPS 17-18	Other Funds		
1	Successor Agency Item in reserve	Refuse Costs	01/12/012	01/12/012	01/12/012	Employee of Successor Agency Administrative Support	Various Projects, Del	13,724,551	N	250,000	13,724,551	250,000	13,724,551	250,000	13,724,551	250,000	13,724,551	250,000	13,724,551	250,000	17,148													
2	Property Acquisition Costs	Property Operations	11/21/015	11/21/015	11/21/015	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
3	Property Acquisition Costs	Property Operations	11/21/015	11/21/015	11/21/015	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
4	Infrastructure Improvement Program	Infrastructure Improvement Program	11/20/014	11/20/014	11/20/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
5	2014 Refunding Bonds Series A	Refunding Bonds Series A	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
6	2014 Refunding Bonds Series B	Refunding Bonds Series B	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
7	2014 Refunding Bonds Series C	Refunding Bonds Series C	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
8	2014 Refunding Bonds Series D	Refunding Bonds Series D	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
9	2014 Refunding Bonds Series E	Refunding Bonds Series E	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
10	2014 Refunding Bonds Series F	Refunding Bonds Series F	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
11	2014 Refunding Bonds Series G	Refunding Bonds Series G	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
12	2014 Refunding Bonds Series H	Refunding Bonds Series H	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
13	2014 Refunding Bonds Series I	Refunding Bonds Series I	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
14	2014 Refunding Bonds Series J	Refunding Bonds Series J	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
15	2014 Refunding Bonds Series K	Refunding Bonds Series K	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
16	2014 Refunding Bonds Series L	Refunding Bonds Series L	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
17	2014 Refunding Bonds Series M	Refunding Bonds Series M	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
18	2014 Refunding Bonds Series N	Refunding Bonds Series N	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
19	2014 Refunding Bonds Series O	Refunding Bonds Series O	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
20	2014 Refunding Bonds Series P	Refunding Bonds Series P	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
21	2014 Refunding Bonds Series Q	Refunding Bonds Series Q	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
22	2014 Refunding Bonds Series R	Refunding Bonds Series R	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
23	2014 Refunding Bonds Series S	Refunding Bonds Series S	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
24	2014 Refunding Bonds Series T	Refunding Bonds Series T	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
25	2014 Refunding Bonds Series U	Refunding Bonds Series U	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
26	2014 Refunding Bonds Series V	Refunding Bonds Series V	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
27	2014 Refunding Bonds Series W	Refunding Bonds Series W	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
28	2014 Refunding Bonds Series X	Refunding Bonds Series X	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
29	2014 Refunding Bonds Series Y	Refunding Bonds Series Y	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													
30	2014 Refunding Bonds Series Z	Refunding Bonds Series Z	12/22/014	12/22/014	12/22/014	Various Vendors	Various Projects, Del	4,621,500	N	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	4,621,500	250,000	17,148													

**Firebaugh Recognized Obligation Payment Schedule (ROPS 17-18) - Report of Cash Balances**  
**(Report Amounts in Whole Dollars)**

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see Cash Balance Tips Sheet.

A	B	C	D	E	F	G	H	I
	Cash Balance Information by ROPS Period	Fund Sources						Comments
		Bond Proceeds		Reserve Balance		Other	RPTTF	
		Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	
ROPS 15-16B Actuals (01/01/16 - 06/30/16)								
1	Beginning Available Cash Balance (Actual 01/01/16)							
2	Revenue/Income (Actual 06/30/16) RPTTF amounts should tie to the ROPS 15-16B distribution from the County Auditor-Controller during January 2016	408,082					56,295	
3	Expenditures for ROPS 15-16B Enforceable Obligations (Actual 06/30/16)						256,929	
4	Retention of Available Cash Balance (Actual 06/30/16) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	408,082					236,344	
5	ROPS 15-16B RPTTF Balances Remaining	No entry required						
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 76,880

**Firebaugh Recognized Obligation Payment Schedule (ROPS 17-18) - Notes July 1, 2017 through June 30, 2018**

[illegible]



# Exhibit A

## FIREBAUGH SUCCESSOR AGENCY ADMINISTRATIVE BUDGET (FISCAL YEAR 2017-18)

<b>External Consultants</b>		
Attorney Costs	\$	20,000
Annual Audit	\$	6,000
Consultant Costs	\$	50,000
	\$	76,000
<b>Successor Agency Expenses</b>		
Successor Agency rent and utilities	\$	7,500
Successor Agency supplies	\$	500
Successor Agency equipment	\$	500
Successor Agency publications	\$	500
Salaries and Benefits	\$	140,000
Internet hosting	\$	500
IT support	\$	1,000
Travel expenses/seminars	\$	500
Risk management/Insurance	\$	7,000
	\$	158,000
<b>Oversight Board Expenses</b>		
Legal Costs	\$	15,000
Materials	\$	1,000
	\$	16,000
<b>Estimated Grand Total</b>	\$	<b>250,000</b>
<b>FY 2016-7 Administrative Activities</b>		
County correspondence/coordination	Successor Agency Staff, RSG, Legal Counsel	
State correspondence/coordination	Successor Agency Staff, RSG, Legal Counsel	
Prepare ROPS	Successor Agency Staff, RSG, Legal Counsel	
Prepare admin budget	Successor Agency Staff, RSG, Legal Counsel	
Oversight Board staff support	Successor Agency Staff, RSG, Legal Counsel	
Management of dissolution activities	Successor Agency Staff, RSG, Legal Counsel	
Disclosure Services	Successor Agency Staff, RSG, Legal Counsel	
Annual Audit	A.M. Peche	
Manage/monitor finances	Bryant Jolley	
Agendas/minutes/Brown Act records assistance	Successor Agency Staff, RSG	
	Successor Agency Staff	