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Del Mar City Council Meeting Agenda

City of Del Mar, Town Hall
1050 Camino del Mar, Del Mar, California 92014

Civility Works: The Del Mar Code of Civil Discourse: Together we will promote inclusion; listen to understand; show respect; be clear and fair; and focus on the issue.

Regular Meeting
Monday, October 20, 2025, at 4:30 PM

Terry Gaasterland
Mayor

Tracy Martinez
Deputy Mayor

Dan Quirk
Council Member

John W. Spelich
Council Member

Ashley Jones
City Manager

Leslie E. Devaney
City Attorney

Sarah Krietor
Administrative Services Manager/City Clerk

Public Participation/Comment: Members of the public can participate in City Council meetings in-person or via written comment (Red Dot). Anyone may address the City Council for up to three minutes, at the Mayor's discretion, on items on the agenda. Members of the public wishing to speak on items not on the agenda may do so under Public Oral Communications. Agenda items may be considered in any order at the discretion of the Mayor. When addressing the Council, please state your name for the record. Any electronic presentations must be received before 9 a.m. on the date of the Council meeting. No PowerPoint presentations can be loaded during the meeting.

In-Person Participation: Please submit a completed "Speaker Slip", including the item number you wish to speak on, to the City Clerk prior to the Mayor announcing the agenda item. The forms are located near the door at the rear of the Meeting Room. When called to speak, please approach the podium and state your name for the record.

Written Comments: Members of the public can participate in the meeting by submitting a written red dot comment via email to cityclerk@delmar.ca.us. The deadline to submit written comments is 12 p.m. on the day of the meeting and the subject line of your email should clearly state the agenda item you are commenting on.

Viewing the Meeting and Access to Agenda Materials: Members of the public can watch the meeting live on the City's website at: http://delmar.12milesout.com/Video/Live and on Cable TV Spectrum Ch. 24, AT&T Ch. 99 starting at 4:30 PM. Agenda materials and communications from the public on agenda items, "Red Dots", are available on the City's website: http://www.delmar.ca.us/AgendaCenter and a hard copy of the agenda materials are available at Del Mar City Hall and the Del Mar Library during their business hours.

Assistance for Persons with Disabilities: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administrative Services Department at 1050 Camino del Mar or by calling (858) 755-9313. Notification of at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

I. CALL TO ORDER/ROLL CALL

II. CITY ATTORNEY CLOSED SESSION REPORT

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC ORAL COMMUNICATIONS

Each person wishing to speak before the City Council on any matter not on the agenda shall submit a "Speaker Slip" to the City Clerk when Public Oral Communication is announced. Each speaker will have up to three (3) minutes to speak at the discretion of the Mayor and may be asked clarifying questions. Information received during Public Oral Communication may be received, placed on a future agenda, or referred to the City Manager by the City Council. State law generally precludes the City Council from discussing or acting upon any topic presented during oral communications that is not described on the posted agenda.

Note: there is a time limit of 30 minutes for this section of public communications and each speaker will be heard in the order of the submission of their speaker slip. Speakers who have turned in a speaker slip prior to the time oral communications was called on the agenda, but were not heard during the initial time period shall be called to speak at the end of the agenda.

V. COMMUNITY ANNOUNCEMENTS

VI. CITY MANAGER'S REPORT

VII. PRESENTATIONS

1. Proclamation Honoring Peter Glaser on the Occasion of his 100th Birthday and His Notable Contributions to the Del Mar Community

Recommended Action: Mayor Terry Gaasterland will present a proclamation to Peter Glaser.

Reference: Clerk's File No. 1201-5

2. Fairgrounds Master Plan Presentation

Recommended Action: Receive presentation from Del Mar Fairgrounds Chief Executive Officer Carlene Moore.

Reference: Clerk's File No. 307-6

3. Wildlife Safety & Public Safety Power Shutoff (PSPS) Preparedness Update

Recommended Action: Receive presentation from San Diego Gas & Electric Director of Emergency Services Thom Porter.

Reference: Clerk's File No. 1002-3

VIII. CONSENT CALENDAR

All items listed on the Consent Calendar are considered to be routine and will be acted upon with one motion. There will be no separate discussion of these items unless a member of the City Council or the public so requests, in which event, the item will be pulled from the Consent Calendar and considered separately after the motion to approve the Consent Calendar. If you wish to remove an item from the Consent Calendar, please submit a "Speaker Slip" to the City Clerk.

4. Approval of Minutes: September 22, 2025, Regular and Special Meeting

Recommended Action: Approve Minutes.

Reference: Clerk's Minutes Book

5. Ratification of List of Demands dated October 6, 2025, and October 20, 2025

Recommended Action: Ratify the List of Demands.

Reference: Clerk's File No. 201-3

6. Waiver of Reading of Ordinances on Agenda

Recommended Action: Waive Reading of Ordinances.

Reference: Clerk's File No. 401-4

7. Agreement for Short-Term Rental Monitoring Services

Recommended Action: Staff recommends the City Council: 1) Approve a professional services agreement with Deckard Technologies, Inc. (Attachment A) to provide short-term rental (STR) monitoring services to the City for an initial three-year period effective October 20, 2025, through October 19, 2028; and 2) Authorize the City Manager to execute the agreement and any subsequent term extension amendments provided for in the Agreement contingent upon satisfactory performance by the consultant.

Reference: Clerk's File No. 301-19, 406-1

8. First Amendment to Business License Tax and Fee Administrative Services Agreement

Recommended Action: Staff recommends the City Council: 1) Approve the First Amendment to Agreement with Hinderliter De Llamas & Associates (HDL) (Attachment A) for business license tax and fee administrative services extending

the term for an additional two-year period ending October 17, 2027; and 2) Authorize the City Manager to execute the First Amendment.
Reference: Clerk's File No. 406-1

9. Approval of a Professional Services Agreement with Ascent Environmental Inc., to Create Visual Concept Illustrations for Affordable Housing Sites in Accordance with the City's Certified 6th Cycle Housing Element Program 1D

Recommended Action: Staff recommends the City Council: 1) Approve a Professional Services Agreement with Ascent Environmental Inc. to create visual concept illustrations for affordable housing sites (Attachment A); and 2) Authorize the City Manager to execute the agreement and any subsequent term extension amendments provided for in the Agreement contingent upon satisfactory performance by the consultant.

Reference: Clerk's File No. 304-7, 406-1

10. Amendments to As-Needed Economic Impact and Fiscal Analysis Services Agreements

Recommended Action: Staff recommends the City Council: 1) Approve First Amendments to Agreements with Keyser Marston Associates, Inc. (KMA) (Attachment A), and David Taussig and Associates, Inc., (DTA Public Finance, Inc.) (DTA) (Attachment B), for As-Needed Economic Impact and Fiscal Analysis Services (Amendments) extending the terms for an additional two-year period ending October 16, 2027, and adjusting fees for KMA due to inflation; and 2) Authorize the City Manager to execute the Amendments.

Reference: Clerk's File No. 406-1

11. Agreement with Schmidt Design Group for Shores Park Master Plan

Recommended Action: Staff recommends the City Council: 1) Approve a Professional Services Agreement with Schmidt Design Group for a one-year term ending October 19, 2026, with the option to extend the Agreement for an additional one- year period, to complete the Shores Park Master Plan in an amount up to $171,405 (Attachment A); and 2) Authorize the City Manager to execute the Agreement.

Reference: Clerk's File No. 307-8, 406-1

12. Approval of AT&T Aerial to Underground Conversion Agreement for the Stratford Court North (1B) Utility Undergrounding District

Recommended Action: Staff recommends the City Council approve the AT&T Aerial to Underground Conversion Agreement for the Stratford Court North (1B) Utility Undergrounding District with a cost of $78,100.50 (Attachment A) and authorize the City Manager to execute the Agreement.

Reference: Clerk's File No. 406-1, 1001-2

IX. PUBLIC HEARING

13. Re-Introduction of an Ordinance to Amend Municipal Code Chapter 23.50 and Repeal and Replace Chapter 23.51 Related to Trees, Scenic Views, and Sunlight Regulations (A25-001)

Recommended Action: Staff recommends that the City Council introduce an Ordinance (Attachment A) to: 1) Repeal and replace the City's Trees, Scenic Views, and Sunlight (TSVS) regulations within Del Mar Municipal Code (DMMC) Chapter 23.51 and 2) Amend related code sections of the City's Tree regulations within DMMC Chapter 23.50 (A25-001).

Reference: Clerk's File No. 401-4, 401-9

X. COUNCIL MEETING RECESS

XI. CITY COUNCIL OTHER BUSINESS

14. Initial Consideration of an Appeal of the Planning Commission's Approval of Setback Seawall Permit (SSP25-002)

Project Applicant/Property Owner: Oceans Investments LLC

Project Appellant: Steven Mack

Project Location: 2936 Camino Del Mar (APN: 299-020-12-00)

Recommended Action: Staff recommends that the City Council uphold the Planning Commission's approval of application Setback Seawall Permit (SSP25-002) and not set the appeal for a de novo hearing.

Reference: Clerk's File No. 301-12

15. 2026 City Council Meeting Schedule and Proposed 2025 and 2026 City Facility Holiday Closures

Recommended Action: Staff recommends that the City Council: 1) Review and consider the 2026 City Council Meeting Schedule options (Attachment A and B) provide direction to staff regarding changes to the proposed schedule; and 2)

Authorize the additional holiday related closures of City Hall and the Public Works Administrative Offices to the public in December 2025 and December 2026.

Reference: Clerk's File No. 401-1

XII. REGIONAL ORGANIZATION REPORTS

A Councilmember assigned as a liaison to a regional organization may make a written or oral report. State law precludes the Council from commenting on, discussing, or acting on a report unless the item of business within the report is described in the agenda.

A. Clean Energy Alliance JPA (CEA) Board of Directors (Spelich/Gaasterland)
B. CSA-17 Ambulance District Advisory Board (Martinez/Quirk)
C. Fire Governance Board, Solana Beach/Del Mar/Encinitas (Martinez/Spelich)
D. League of California Cities – San Diego Chapter (Gaasterland/Martinez)
E. North County Transit District (NCTD) (Martinez/Spelich)
F. Regional Solid Waste Association (Spelich/Quirk)
G. San Diego Association of Governments Board (SANDAG) (Gaasterland/Martinez/Spelich)
H. SANDAG Borders Committee
I. SANDAG Regional Planning Committee
J. SANDAG Shoreline Preservation Working Group (Spelich/Gaasterland/Martinez)
K. SANDAG LOSSAN Executive Task Force (Gaasterland/Martinez)
L. San Diego Metropolitan Wastewater Commission/JPA (Worden)
   Recommendation: Receive Written Report (Worden)
M. San Dieguito River Valley Regional Open Space Park JPA –Executive Committee (Gaasterland/Martinez)
N. Other Regional Organization Reports

XIII. COUNCIL COMMITTEES/SUBCOMMITTEES/COMMUNITY ORG REPORTS

A Councilmember assigned as a liaison to a City Committee, Council Subcommittee OR Community Organization may make a written or oral report. State law precludes the Council from commenting on, discussing, or acting on a report, unless the item of business within the report is described in this agenda.

A. Del Mar Community Connections (Martinez/Spelich)
B. Del Mar Village Association (Gaasterland/Martinez)
C. Finance Committee (Gaasterland/Spelich)
D. Housing Subcommittee (Gaasterland/Martinez)
E. Human Resources Subcommittee (Gaasterland/Martinez)
F. Legislative Subcommittee (Gaasterland/Martinez)
G. Measure Q Citizen Oversight Committee (Quirk/Gaasterland)
H. Parks and Recreation Committee (Martinez/Quirk)
I. Del Mar Railroad Subcommittee (Gaasterland/Martinez)
J. Lagoon Committee (Gaasterland/Spelich)
K. Planning Process Subcommittee (Includes Sea-Level Rise Adaptation Plan Implementation (Gaasterland/Spelich)
L. Shores Advisory Committee

M. Sustainability Advisory Committee (Martinez/Gaasterland)
N. Traffic and Parking Advisory Committee (Quirk/Spelich)
O. Undergrounding Program Advisory Committee (Gaasterland/Spelich)
P. Other Committee-Subcommittee Reports

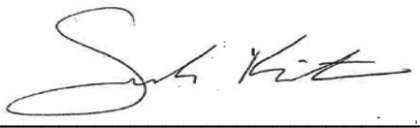
XIV. UPCOMING AGENDA ITEMS

The following topics/items are tentatively planned for upcoming agendas. The title, wording, and planned date for these items are subject to change. Final agendas are posted at City Hall 72 hours in advance of the meetings and are also posted on our web site with the accompanying staff report. Please watch our web site: www.delmar.ca.us for City Council Agendas.

November 3, 2025
Legislative Update from Townsend Public Affairs
Award of Contracts for As-Needed Civil Engineering, Traffic engineering, Development Review
2026 Advisory Committee Meeting Schedule
Amendments to As-Needed Geotechnical Services with Nova Utility Undergrounding As-Needed Contract
TSVS Ordinance Second Reading/Adoption
Shores Park Advisory Committee Appointments

XV. CERTIFICATION

I, Sarah Krietor, Administrative Services Manager/City Clerk for the City of Del Mar, hereby certify that a copy of this agenda was posted at City Hall on the 15th day of October, 2025 at approximately 6:15 p.m.



Sarah Krietor, Administrative Services Manager/
City Clerk

10/15/2025
Date

CITY OF DEL MAR
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2025
City of Del Mar Town Hall
1050 Camino del Mar, Del Mar California 92014
And via teleconference
8967 W Airport Dr, Spokane, WA

The minutes set forth the actions taken by the City Council on the matters stated. Audio/video recordings of the City Council proceedings are retained for a period of ten years, in accordance with the City's Records Retention Schedule. Audio/video recordings, as well as written materials presented to the City Council, including Red Dots (materials provided to the City Council after the agenda has published), are available on the City's website at www.delmar.ca.us/AgendaCenter or by contacting the Administrative Services Department at (858) 755-9313.

CALL TO ORDER
Mayor Terry Gaasterland called the Regular Meeting to order at 4:30 p.m.

ROLL CALL
Present: Mayor Terry Gaasterland; Deputy Mayor Tracy Martinez; Councilmembers Dan Quirk and John Spelich (remotely)

CITY ATTORNEY CLOSED SESSION REPORT
City Attorney Leslie Devaney reported that there were no reportable actions or recusals for the September 22, 2025, Closed Session. All Councilmembers were present and Councilmember Spelich appeared remotely via Zoom.

PLEDGE OF ALLEGIANCE
Mayor Gaasterland led the Pledge of Allegiance.

PUBLIC ORAL COMMUNICATIONS
Mayor Gaasterland opened public oral communications and Janet Wilson spoke. Mayor Gaasterland closed public oral communications.

CITY COUNCIL COMMUNITY ANNOUNCEMENTS
Mayor Gaasterland reported on her in-laws arriving to visit Del Mar this week.

CITY MANAGER'S REPORT
City Manager Ashley Jones reported on the successful Del Mar Recycles event held on September 13, 2025, which welcomed 100 participants and resulted in 17.42 tons of waste being diverted from the landfill.

CONSENT CALENDAR
Administrative Services Manager/City Clerk Sarah Krietor read the titles of the items included on the Consent Calendar. There were no public speakers for the consent calendar items.

IT WAS MOVED BY DEPUTY MAYOR MARTINEZ, SECONDED BY MAYOR GAASTERLAND TO APPROVE THE CONSENT CALENDAR ITEMS 1 THROUGH 6, 8, AND 11. (VOTE 4-0)

Ayes: Mayor Gaasterland; Deputy Mayor Martinez; Councilmembers Quirk and Spelich; Noes: 0; Recuse: 0; Absent: 0; Abstain: 0.

ITEM 1: APPROVAL OF MINUTES: SEPTEMBER 8, 2025 REGULAR AND SPECIAL MEETING (CLERK'S MINUTES BOOK)

Council approved the minutes, on consent.

ITEM 2: RATIFICATION OF LIST OF DEMANDS, DATED SEPTEMBER 22, 2025 (CLERK'S FILE NO. 201-3)

Council approved the list of demands, on consent.

ITEM 3: WAIVER OF READING OF ORDINANCES ON AGENDA (CLERK'S FILE NO. 401-4)

Council waived the reading of ordinances, on consent.

ITEM 4: SECOND READING AND ADOPTION OF AN ORDINANCE TO ADOPT THE 2025 CALIFORNIA BUILDING STANDARDS CODE AND LOCAL AMENDMENTS WITHIN CHAPTERS 23.12 AND 23.70 OF THE DEL MAR MUNICIPAL CODE (CLERK'S FILE NO. 401-4, 401-9)

Council adopted Ordinance 1022 “”AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING DEL MAR MUNICIPAL CODE CHAPTER 23.12 (CALIFORNIA CODES FOR CONSTRUCTION) BY AMENDING SECTIONS 23.12.010, 23.12.011, 23.12.012, 23.12.013, 23.12.014, 23.12.020, 23.12.030, 23.12.040, 23.12.050, 23.12.060, 23.12.061, 23.12.062, 23.12.063, 23.12.064, 23.12.065, 23.12.066, 23.12.070, 23.12.080 AND 23.12.090, 23.70.050; BY ADDING NEW SECTIONS 23.12.067 AND 23.12.100; BY ADDING NEW DIVISIONS, DIVISION 8, DIVISION 9 AND DIVISION 10; AND BY DELETING SECTIONS 23.12.018, 23.12.082, 23.12.084 AND ALL RELATING TO APPLICABILITY OF THE 2025 CALIFORNIA BUILDING STANDARDS CODE AND ASSOCIATED NATIONAL AND STATE BUILDING AND CONSTRUCTION CODES WITHIN THE CITY OF DEL MAR”, on consent.

ITEM 5: SECOND READING AND ADOPTION OF AN ORDINANCE TO ADOPT THE 2025 CALIFORNIA FIRE CODE, 2025 CALIFORNIA WILDLAND URBAN INTERFACE CODE, AND LOCAL AMENDMENTS (CLERK'S FILE NO.401-4, 401-9)

Council adopted Ordinance 1023 “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING DEL MAR MUNICIPAL CODE CHAPTER 10.04 (FIRE PREVENTION) BY AMENDING SECTIONS 10.04.010, 10.04.030, 10.04.040, 10.04.100 AND 10.04.110; BY CONFIRMING THAT THE LOCALLY ADOPTED AMENDMENTS IN EXISTING SECTIONS 10.04.050, 10.04.060, 10.04.070, 10.04.080, 10.04.090, 10.04.120 AND 10.04.130 WILL CONTINUE TO APPLY; BY ADDING NEW SECTIONS 10.04.140 AND 10.04.150; ALL RELATING TO THE APPLICABILITY OF THE 2025 CALIFORNIA BUILDING STANDARDS CODES AND ASSOCIATED STATE FIRE CODE WITHIN THE CITY OF DEL MAR”, on consent.

ITEM 6: RESOLUTION TO APPROVE ENCROACHMENT PERMIT 25-068 TO RETAIN EXISTING UNPERMITTED RETAINING WALLS AND TO EXTEND AN EXISTING WALL WITHIN THE PUBLIC RIGHT-OF-WAY AT 610 HOSKA DRIVE (CLERK'S FILE NO. 802-1)

Council adopted Resolution 2025-33 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, APPROVING ENCROACHMENT PERMIT 25-068 TO PERMIT AN EXISTING RETAINING WALL AND EXTEND THE WALL WITHIN PUBLIC RIGHT-OF-WAY ON THE SOUTH SIDE OF THE PROPERTY AT 610 HOSKA DRIVE (APN: 300-251-25-00) IN DEL MAR, CALIFORNIA", on consent.

COUNCIL MEETING RECESS:
The City Council took a very brief meeting recess from approximately 5:13 to 5:15 p.m.

CITY COUNCIL OTHER BUSINESS

ITEM 7: INITIAL CONSIDERATION OF COURTESY APPEAL PER DMMC 1.12.020 OF PLANNING DIRECTOR'S DETERMINATION- INCOMPLETE APPLICATION STATUS (CDP23-008) SEASIDE RIDGE HOUSING DEVELOPMENT (APPLICANT: CAROL LAZIER) PROPOSED 259 MULTI-UNIT RESIDENTIAL DEVELOPMENT AND DENSITY BONUS REQUEST AT 929 BORDER (APNS: 298-241-06, 298-241-07, AND 299-030-14) (CLERK'S FILE NO. 301-12)

Mayor Gaasterland provided an overview of the initial consideration procedure.

Council disclosures were as follows: Councilmember Quirk reported no disclosures; Deputy Mayor Martinez had no disclosures and confirmed she was present at a Fair Board meeting where the applicant made comments regarding their project; Councilmember Spelich reviewed the agenda materials and red dots and was present at the Fair Board meeting when the applicant commented on their project; and Mayor Gaasterland reviewed the materials and was present at the Fair Board meeting when the applicant commented on their project.

A staff presentation was provided by Principal Planner Matt Bator. Planning and Community Development Director Karen Brindley and Assistant City Attorney Ralph Hicks were available to answer questions.

A presentation on behalf of the applicant was provided by the applicant's representative and legal counsel Brooke Miller Special Counsel with Sheppard Mullin.

Council questions focused on clarification related to the square footage of the proposed development as included in the original and subsequent submittals to the City.

There were no public speakers for this item.

Mayor Gaasterland asked whether any Councilmember would like to hold a de novo hearing. There were none. Therefore, Council upheld the Planning and Community Development Director's determination that the Lazier development application (CDP23-008) status is incomplete.

ITEM 8: UPDATE REGARDING PAVING AND TRAFFIC STRIPING IMPROVEMENTS ON JIMMY DURANTE BOULEVARD AND APPROVAL OF TASK ORDER WITH MICHAEL BAKER INTERNATIONAL FOR ENGINEERING SERVICES FOR THE JIMMY DURANTE BOULEVARD PAVEMENTS IMPROVEMENT PROJECT (CLERK'S FILE NO. 406-1)

Council questions focused on timing for completing the stripping and whether the item would return to Council. Council consensus was for staff to return to the City Council with a project briefing prior to going out to bid for the construction contract.

The Council approved a $57,300 Task Order with Michael Baker International for Design Services and authorized the City Manager to execute the Task Order, on consent.

ITEM 9: CONSIDERATION OF SAN DIEGO GAS & ELECTRIC COST AGREEMENT FOR THE CREST CANYON (X1A) UTILITY UNDERGROUNDING DISTRICT (CLERK'S FILE NO. 1001-2)

An introduction to the item was provided by City Manager Jones. A presentation was provided by Principal Engineer Martin Boyd. Public Works Director Joe Bride was available to answer questions. Franchise and Project Management Manager Kelli Fitzgerald with SDG&E provided comments on the project and the related SDG&E costs.

Council questions focused on the reporting for the credit reported by SDG&E; whether temporary poles/cable poles can be reused or credited for a future project; and the credit for overhead equivalent included in the estimate and why contingency is applied.

There were no public speakers for the item.

Council discussion focused on SDG&E project costs across different City undergrounding projects; clarification on the linear feet estimate used by SDG&E which is based on linear feet of trench; whether material costs used by SDG&E are considered proprietary; whether SDG&E has a requirement to seek the lowest cost materials and clarification on whether the competitive bid process used by SDG&E considers cost; other factors considered by SDG&E including reliability and safety; current status of work for Utility Underground District (UUD) 1A due to multi-family sites not being prepared; whether the work currently taking place on 9th Street relates to the undergrounding project; purpose of the cable pole/pull; desire to learn more about cable pulls at a future Undergrounding Program Advisory Committee meeting; and clarification on whether an amendment to the cost agreement related to the overhead equivalent credit is needed.

IT WAS MOVED BY MAYOR GAASTERLAND AND SECONDED BY COUNCILMEMBER SPELICH TO APPROVE THE SDG&E COST AGREEMENT FOR THE CREST CANYON (X1A) UTILITY UNDERGROUNDING DISTRICT WITH A COST OF $2,776,128 AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT. (VOTE 4-0)

Ayes: Mayor Gaasterland; Deputy Mayor Martinez; Councilmembers Quirk and Spelich; Noes: 0; Recuse: 0; Absent: 0; Abstain: 0.

DRAFT

ITEM 10: UNDERGROUNDING PROGRAM FINANCING UPDATE AND DETERMINATION OF FINAL IBANK LOAN AMOUNT (CLERK'S FILE NO. 203-3, 1001-2)

An introduction to the item was provided by City Manager Jones. A presentation was provided by Finance Manager/Treasurer Marco Camacho. City consultants Craig Hill, Managing Principal and Matt DeFilippis, Senior Analyst with NHA Advisors LLC were available to answer questions.

Council questions focused on the loan amount; process for considering future borrowings; amount of debt service payments; when the Council last considered the Undergrounding Program cash flow options; and timing for receiving an update on future cash flows.

There were no public speakers for the item.

Council discussion focused on appreciation to staff and the Undergrounding Program Advisory Committee for their work on this project; whether the City could further reduce the loan amount; clarification on existing City debt and funding source for the debt service; and interest rate for existing IBank loan.

There was Council discussion about timing for City staff to complete an update to the long-term cash flow model for the Undergrounding Program and discussion of next steps and timing for the upcoming 25th Street and Beach Colony Districts. There was Council majority consensus in support of staff bringing this information to the Undergrounding Program Advisory Committee and City Council in spring 2026.

IT WAS MOVED BY COUNCILMEMBER QUIRK AND SECONDED BY MAYOR GAASTERLAND TO RETURN TO COUNCIL SOONER WITH THE CASHFLOW ANALYSIS DISCUSSION (VOTE 1-3 WITH MAYOR GAASTERLAND, DEPUTY MAYOR MARTINEZ AND COUNCILMEMBER SPELICH OPPOSED)

Ayes: Councilmembers Quirk; Noes: Mayor Gaasterland; Deputy Mayor Martinez; and Councilmember Spelich; Recuse: 0; Absent: 0; Abstain: 0.

IT WAS MOVED BY COUNCILMEMBER SPELICH AND SECONDED BY MAYOR GAASTERLAND TO APPROVE A $5 MILLION LOAN AMOUNT FOR THE LOAN WITH IBANK TO FUND THE CREST CANYON (UUD X1A) AND STRATFORD COURT NORTH (UUD 1B). (VOTE 4-0)

Ayes: Mayor Gaasterland; Deputy Mayor Martinez; Councilmembers Quirk and Spelich; Noes: 0; Recuse: 0; Absent: 0; Abstain: 0.

ITEM 11: FIRE MANAGEMENT UPDATE AND CONSIDERATION OF NOTICE REGARDING EXIT FROM COOPERATIVE AGREEMENT FOR FIRE MANAGEMENT SERVICES (CLERK'S FILE NO. 1101-8)

Council authorized the City Manager to provide notice to the cities of Encinitas and Solana Beach that the City of Del Mar may exit the Cooperative Agreement for Fire Management Services between January 1, and March 31, 2026, or a date thereafter as may be agreed upon by the parties, on consent.

REGIONAL ORGANIZATION AND COUNCIL COMMITTEES/SUBCOMMITTEES/COMMUNITY ORGANIZATION REPORTS

City Council representatives reported on the San Diego Association of Governments (SANDAG) Sustainable Community Work Group; SANDAG Regional Planning Committee; San Dieguito River Park JPA; SANDAG Board of Directors; and Ad-Hoc Shores Park Advisory Committee application deadline.

ADJOURNMENT

Mayor Gaasterland adjourned the meeting at 6:55 p.m.

Sarah Krietor, Administrative Services Manager/
City Clerk

DRAFT

DEL MAR CITY COUNCIL
SPECIAL MEETING MINUTES
CLOSED SESSION
SEPTEMBER 22, 2025
City of Del Mar Town Hall
1050 Camino del Mar, Del Mar, California 92014
And via teleconference
8967 W Airport Dr, Spokane, WA

CALL TO ORDER
Mayor Terry Gaasterland called the meeting to order at 3:37 p.m.

ROLL CALL
Present: Mayor Terry Gaasterland; Deputy Mayor Tracy Martinez; Councilmembers Dan Quirk (arrived at approximately 3:42 p.m.) and John Spelich (remotely)

CLOSED SESSION

A) Conference with Legal Counsel - Significant Exposure to Litigation
Number of Cases: One
Description: Seaside Ridge Project
Authority: Government Code Section 54956.9(d)(2)
Reportable Action: None.

B) Conference with Legal Counsel - Initiation of Litigation
Number of Cases: One
Description: Seaside Ridge Project
Authority: Government Code Section 54956.9(d)(4)
Reportable Action: None.

ADJOURNMENT
Mayor Gaasterland adjourned the meeting at 4:24 p.m.

_____
Sarah Krietor, Administrative Services Manager/
City Clerk

DRAFT

LIST OF DEMANDS

CITY OF DEL MAR
for
City Council Meeting
October 6, 2025

Vendor Payment Checks	$	132,576.63
Voids		(68,195.11)
Electronic Fund Transfers (EFT)		682,577.36
Electronic Wires		117,553.40
Total	$	864,512.28

Approved by:

Marco Camacho
Finance Manager/Treasurer

Date: 9/29/25

Approved by:

Terry Gaasterland
Mayor

Date:

Attachments: Check Registers

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
7176	9/16/2025	civ02	CIVIC SOLUTIONS INC	106920	9/3/2025	CONSULTING SRVCS AUG	13,920.00	
	Voucher:	7176		106921	9/3/2025	CONSULTING SRVCS AUG	984.00	14,904.00
7177	9/16/2025	phi01	CLEAN EARTH	72404381711	9/10/2025	HSHLD HAZ WASTE - AUG	461.40	461.40
	Voucher:	7177						
7178	9/16/2025	coa21	COAST NEWS GROUP	00158413	8/29/2025	AD- PUBLIC HEARING	220.88	
	Voucher:	7178		00158427	8/29/2025	AD - PUBLIC HEARING	162.75	
				00158414	8/29/2025	AD- PUBLIC HEARING	147.25	
				00158497	9/5/2025	AD - PUBLIC HEARING	143.38	
				00158498	9/5/2025	AD - PUBLIC HEARING	139.50	813.76
7179	9/16/2025	cor07	CORODATA RECORDS MGT	RS7107060	8/31/2025	STORAGE SRVCS AUG	166.98	166.98
	Voucher:	7179						
7180	9/16/2025	dev02	DEVANEY PATE MORRIS & C	10823	8/20/2025	LEGAL FEES JUL	13,147.33	
	Voucher:	7180		10821	8/20/2025	LEGAL FEES JUL	1,476.65	
				10825	8/20/2025	LEGAL FEES JUL	902.80	
				10822	8/20/2025	LEGAL FEES JUL	898.50	16,425.28
7181	9/16/2025	dix01	DIXIELINE LUMBER CO	06-0612332	8/28/2025	OPERATING SUPP PW	50.62	
	Voucher:	7181		06-0612766	9/2/2025	OPERATING SUPP PW	29.87	
				91-0276900	6/18/2025	OPERATING SUPP REFUND	-8.11	
				91-0274650	5/7/2025	OPERATING SUPP REFUND	-15.14	57.24
7182	9/16/2025	man12	MANERI TRAFFIC CONTROL	24214	9/1/2025	MAINT/REPAIR SUPP PW	826.50	826.50
	Voucher:	7182						
7183	9/16/2025	mic11	MICHAEL BAKER INTERNATI	1259994	9/5/2025	CITY ENGR SRVCS AUG	4,503.98	4,503.98
	Voucher:	7183						
7184	9/16/2025	mik03	MIKHAIL OGAWA ENGINEER	12183	9/8/2025	CLEAN WATER SRVCS AUG	27,796.45	
	Voucher:	7184		12184	9/8/2025	SAN DIEGUITO TMDL AUG	2,512.48	30,308.93
7185	9/16/2025	pru01	PRUDENTIAL OVERALL SUP	132332477	8/29/2025	UNIFORMS PW - 8/29	67.22	67.22
	Voucher:	7185						
7186	9/16/2025	san56	SAN ELIJO JOINT POWERS,	09032025	9/3/2025	OPERATIONS/MAINT 2Q	311,426.00	311,426.00
	Voucher:	7186						
7187	9/16/2025	sca12	SCA OF CA LLC	CA25001779	8/29/2025	SWEEPING SRVCS AUG	2,954.15	2,954.15
	Voucher:	7187						
7188	9/16/2025	tru09	TRUE NORTH COMPLIANCE	DM25-08	9/5/2025	BLDG CODE PC INSP AUG	39,228.39	39,228.39
	Voucher:	7188						

Sub total for EFT GENERAL ACCOUNT US BANK: 422,143.83

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140145	9/16/2025	ass03	ASSA ABLOY ENTRANCE SY	SEI 1898615	8/29/2025	LOCK REPAIRS CH	3,776.55	
	Voucher:	140145		SEI 1898633	8/29/2025	LOCK REPAIRS CH	882.25	4,658.80
140146	9/16/2025	sbc03	AT&T	9391059863	9/1/2025	TELEPHONE AUG	666.54	666.54
	Voucher:	140146						
140147	9/16/2025	coa10	COASTAL LIVESCAN SERVIC	43533	8/31/2025	LIVESCAN SRVCS AUG	124.00	124.00
	Voucher:	140147						
140148	9/16/2025	emc01	EMC CORPORATION	5201674329	9/8/2025	HARDWARE WARRANTY RWL	3,478.81	3,478.81
	Voucher:	140148						
140149	9/16/2025	gol16	GOLDFARB & LIPMAN LLP	485554	7/14/2025	LEGAL FEES JUN	238.00	
	Voucher:	140149		483260	5/25/2025	LEGAL FEES APR	136.00	374.00
140150	9/16/2025	jam08	JAMESON KENT HASLAM, D	1138-3	8/28/2025	PATIO COVER INSTALL CS	1,280.00	1,280.00
	Voucher:	140150						
140151	9/16/2025	con17	OCCUPATIONAL HEALTH CT	87943493	8/24/2025	EMPLOYEE TESTING AUG	211.00	211.00
	Voucher:	140151						
140152	9/16/2025	pro24	PROGRESSIVE TECHNOLOC	59250	9/1/2025	ALARM MONITORING TH OCT/DE	162.00	
	Voucher:	140152		59249	9/1/2025	ALARM MONITORING CH OCT/DI	162.00	324.00
140153	9/16/2025	rec01	RECON ENVIRONMENTAL IN	71822	8/27/2025	CDM SEAWALL	1,481.00	1,481.00
	Voucher:	140153						
140154	9/16/2025	sdg02	SAN DIEGO GAS & ELECTRI	2100 0065 8024 7	9/5/2025	UTILITIES AUG	815.48	
	Voucher:	140154		0067 3735 0888 1	9/5/2025	UTILITIES AUG	333.31	
				0085 7750 3585 7	9/5/2025	UTILITIES AUG	20.60	
				0096 3381 7034 7	9/5/2025	UTILITIES AUG	19.84	
				0053 7739 5442 0	9/5/2025	UTILITIES AUG	19.46	
				0097 5436 8967 5	9/5/2025	UTILITIES AUG	18.90	
				0066 5491 5032 1	9/3/2025	UTILITIES AUG	11.69	
				0081 7377 2988 5	9/5/2025	UTILITIES AUG	9,036.47	
				0066 5491 6833 1	9/5/2025	UTILITIES AUG	5,861.11	16,136.86
140155	9/16/2025	sdg06	SDG&E	09112025	9/11/2025	PERMIT REFUND	501.00	501.00
	Voucher:	140155						
140156	9/16/2025	sig12	SIGNA DIGITAL SOLUTIONS	AR-S334520	9/12/2025	COPIER MTC - FINANCE	489.75	489.75
	Voucher:	140156						
140157	9/16/2025	tei02	TEICHERT ENERGY & UTILIT	09032025	9/3/2025	UUD - 1A STRATFORD - JUL	44,830.50	44,830.50
	Voucher:	140157						
140158	9/16/2025	und01	UNDERGROUND SERVICE A	820250237	9/1/2025	CONT SRVCS AUG	148.00	148.00
	Voucher:	140158						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140159	9/16/2025	wax02	WAXIE'S ENTERPRISES, LLC	83481677	9/4/2025	JANITORIAL SUPPLIES	1,489.55	
	Voucher:	140159		83467554	8/27/2025	JANITORIAL SUPPLIES	259.43	
				83466175	8/27/2025	JANITORIAL SUPPLIES	259.43	
				83201346	5/7/2025	JANITORIAL SUPP REFUND	-218.19	1,790.22
140160	9/16/2025	zon02	ZONE TRAFFIC ENGINEERIN	INV 24001-05	8/29/2025	TRAFFIC ENGR SRVCS JUL	578.00	578.00
	Voucher:	140160						

Sub total for GENERAL ACCOUNT US BANK: 77,072.48

29 checks in this report.

Grand Total All Checks: 499,216.31

APPROVED
By lcarrillo at 1:16 pm, 9/15/25

Void Check Posting List

City of Del Mar

Document #: 914016 **Void Date:** 08/20/2025 **Posting #:** 36170 **Group:** eescalante
Check #: 7114 **Bank code:** eusbnk **Check Date:** 08/19/25
Vendor: bny01 THE BANK OF NY MELLON TRUST CO
Post into: 02/2026 **Check amount:** 51,225.00

Doc Source		Account Number	Description	Amount	
disb		B 65.2110.0000	A/P GENERAL	51,225.00	CR
disb	S*	B 65.1100.0000	CASH AND INVESTMENTS	51,225.00	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	51,225.00	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	51,225.00	CR

Balance Sheet Totals: 102,450.00 DB 102,450.00 CR Difference: 0.00

S* = Automatic Summary

Summary Documents

Document #: 914017 **Posting #:** 36170 **Date:** 08/20/25
Reference: 65
Description: disb - FUND 65 SUMMARY
Post into: 02/2026

	Account Number	Description	Amount	
B	65.1100.0000	Automatic Summary	51,225.00	DB

Balance Sheet Totals: 51,225.00 DB CR Difference:

Document #: 914018 **Posting #:** 36170 **Date:** 08/20/25
Reference: 72
Description: disb - FUND 72 SUMMARY
Post into: 02/2026

	Account Number	Description	Amount	
B	72.1160.0000	Automatic Summary	51,225.00	DB
B	72.1100.0000	Automatic Summary	51,225.00	CR

Balance Sheet Totals: 51,225.00 DB 51,225.00 CR Difference: 0.00

Balance Sheet Fund Totals

Fund		Debits	Credits	Difference
65	AD 2003-1 OCEAN VIEW/PINES	51,225.00	51,225.00	0.00
72	INVESTMENTS	51,225.00	51,225.00	0.00

Errors / Warnings

Documents with errors : 0
Documents with warnings : 0

Void Check Posting List

City of Del Mar

Document #: 914024 **Void Date:** 07/02/2025 **Posting #:** 36174 **Group:** eescalante
Check #: 139811 **Bank code:** gusbnk **Check Date:** 07/01/25
Vendor: gcf01 GILBERT CASTRO, DBA GC FENCE CORP
Post into: 01/2026 **Check amount:** 3,700.00

Doc Source		Account Number	Description	Amount	
disb		B 51.2110.0000	A/P-GENERAL	3,700.00	CR
disb	S*	B 51.1100.0000	CASH AND INVESTMENTS	3,700.00	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	3,700.00	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	3,700.00	CR

Balance Sheet Totals: 7,400.00 DB 7,400.00 CR Difference: 0.00

S* = Automatic Summary

Summary Documents

Document #: 914025 **Posting #:** 36174 **Date:** 07/02/25
Reference: 51
Description: disb - FUND 51 SUMMARY
Post into: 01/2026

	Account Number	Description	Amount	
B	51.1100.0000	Automatic Summary	3,700.00	DB

Balance Sheet Totals: 3,700.00 DB CR Difference:

Document #: 914026 **Posting #:** 36174 **Date:** 07/02/25
Reference: 72
Description: disb - FUND 72 SUMMARY
Post into: 01/2026

	Account Number	Description	Amount	
B	72.1160.0000	Automatic Summary	3,700.00	DB
B	72.1100.0000	Automatic Summary	3,700.00	CR

Balance Sheet Totals: 3,700.00 DB 3,700.00 CR Difference: 0.00

Balance Sheet Fund Totals

Fund		Debits	Credits	Difference
51	WATER	3,700.00	3,700.00	0.00
72	INVESTMENTS	3,700.00	3,700.00	0.00

Errors / Warnings

Documents with errors : 0
Documents with warnings : 0

Void Check Posting List

City of Del Mar

Document #: 914030 **Void Date:** 08/20/2025 **Posting #:** 36176 **Group:** eescalante
Check #: 140057 **Bank code:** gusbnk **Check Date:** 08/19/25
Vendor: lnc01 L.N. CURTIS & SONS
Post into: 02/2026 **Check amount:** 11,068.03

Doc Source		Account Number	Description	Amount	
disb		B 01.2110.0000	A/P GENERAL	11,068.03	CR
disb	S*	B 01.1100.0000	CASH AND INVESTMENTS	11,068.03	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	11,068.03	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	11,068.03	CR

Balance Sheet Totals: 22,136.06 DB 22,136.06 CR Difference: 0.00

S* = Automatic Summary

Summary Documents

Document #: 914031 **Posting #:** 36176 **Date:** 08/20/25
Reference: 01
Description: disb - FUND 01 SUMMARY
Post into: 02/2026

	Account Number	Description	Amount	
B	01.1100.0000	Automatic Summary	11,068.03	DB

Balance Sheet Totals: 11,068.03 DB CR Difference:

Document #: 914032 **Posting #:** 36176 **Date:** 08/20/25
Reference: 72
Description: disb - FUND 72 SUMMARY
Post into: 02/2026

	Account Number	Description	Amount	
B	72.1160.0000	Automatic Summary	11,068.03	DB
B	72.1100.0000	Automatic Summary	11,068.03	CR

Balance Sheet Totals: 11,068.03 DB 11,068.03 CR Difference: 0.00

Balance Sheet Fund Totals

Fund		Debits	Credits	Difference
01	GENERAL	11,068.03	11,068.03	0.00
72	INVESTMENTS	11,068.03	11,068.03	0.00

Errors / Warnings

Documents with errors : 0
Documents with warnings : 0

Void Check Posting List

City of Del Mar

Document #: 914035 **Void Date:** 01/06/2025 **Posting #:** 36178 **Group:** eescalante
Check #: 139141 **Bank code:** gusbnk **Check Date:** 01/03/25
Vendor: sta36 STANDARD PLUMBING SUPPLY CO, DBA MWI PLUMBERS
Post into: 07/2025 **Check amount:** 2,077.08

Doc Source		Account Number	Description	Amount	
disb		B 51.2110.0000	A/P-GENERAL	2,077.08	CR
disb	S*	B 51.1100.0000	CASH AND INVESTMENTS	2,077.08	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	2,077.08	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	2,077.08	CR

Balance Sheet Totals: 4,154.16 DB 4,154.16 CR Difference: 0.00

S* = Automatic Summary

Summary Documents

Document #: 914036 **Posting #:** 36178 **Date:** 01/06/25
Reference: 51
Description: disb - FUND 51 SUMMARY
Post into: 07/2025

	Account Number	Description	Amount	
B	51.1100.0000	Automatic Summary	2,077.08	DB

Balance Sheet Totals: 2,077.08 DB CR Difference:

Document #: 914037 **Posting #:** 36178 **Date:** 01/06/25
Reference: 72
Description: disb - FUND 72 SUMMARY
Post into: 07/2025

	Account Number	Description	Amount	
B	72.1160.0000	Automatic Summary	2,077.08	DB
B	72.1100.0000	Automatic Summary	2,077.08	CR

Balance Sheet Totals: 2,077.08 DB 2,077.08 CR Difference: 0.00

Balance Sheet Fund Totals

Fund		Debits	Credits	Difference
51	WATER	2,077.08	2,077.08	0.00
72	INVESTMENTS	2,077.08	2,077.08	0.00

Errors / Warnings

Documents with errors : 0
Documents with warnings : 0

Void Check Posting List

City of Del Mar

Document #: 914013 **Void Date:** 09/16/2025 **Posting #:** 36169 **Group:** eescalante
Check #: 140075 **Bank code:** gusbnk **Check Date:** 08/27/25
Vendor: fir01 FIRE ETC.
Post into: 03/2026 **Check amount:** 125.00

Doc Source		Account Number	Description	Amount	
disb		B 01.2110.0000	A/P GENERAL	125.00	CR
disb	S*	B 01.1100.0000	CASH AND INVESTMENTS	125.00	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	125.00	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	125.00	CR

Balance Sheet Totals: 250.00 DB 250.00 CR Difference: 0.00

S* = Automatic Summary

Summary Documents

Document #: 914014 **Posting #:** 36169 **Date:** 09/16/25
Reference: 01
Description: disb - FUND 01 SUMMARY
Post into: 03/2026

	Account Number	Description	Amount	
B	01.1100.0000	Automatic Summary	125.00	DB

Balance Sheet Totals: 125.00 DB CR Difference:

Document #: 914015 **Posting #:** 36169 **Date:** 09/16/25
Reference: 72
Description: disb - FUND 72 SUMMARY
Post into: 03/2026

	Account Number	Description	Amount	
B	72.1160.0000	Automatic Summary	125.00	DB
B	72.1100.0000	Automatic Summary	125.00	CR

Balance Sheet Totals: 125.00 DB 125.00 CR Difference: 0.00

Balance Sheet Fund Totals

Fund		Debits	Credits	Difference
01	GENERAL	125.00	125.00	0.00
72	INVESTMENTS	125.00	125.00	0.00

Errors / Warnings

Documents with errors : 0
Documents with warnings : 0

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
4162	9/19/2025	per01	PERS	Ben181810	9/19/2025	PERS CONTRIBUTIONS: PAYMEI	58,373.52	58,373.52
	Voucher:	4162						
4163	9/19/2025	irs01	IRS, UNITED STATES TREAS	Ben181812	9/19/2025	FEDERAL TAX: PAYMENT	43,230.48	43,230.48
	Voucher:	4163						
4164	9/19/2025	edd01	EMPLOYMENT DEVELOPME	Ben181814	9/19/2025	STATE TAX: PAYMENT	12,272.91	12,272.91
	Voucher:	4164						
4165	9/19/2025	per02	PERS 457	Ben181816	9/19/2025	CALPERS 457 DEFERRED COMF	2,976.49	2,976.49
	Voucher:	4165						

Sub total for GENERAL ACCOUNT US BANK: 116,853.40

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
7189	9/19/2025	mis07	107413 STATE ST BANK & TF	Ben181806	9/19/2025	401A PLAN: PAYMENT	555.16	555.16
	Voucher:	7189						
7190	9/19/2025	mis08	303845 STATE ST BANK & TF	Ben181798	9/19/2025	MISSION SQUARE 457B: PAYMEI	10,219.99	10,219.99
	Voucher:	7190						
7191	9/19/2025	mis09	803808 STATE ST BANK & TF	Ben181808	9/19/2025	RETIREMENT HEALTH SAVINGS	746.96	746.96
	Voucher:	7191						
7192	9/19/2025	uni21	DEL MAR CITY EMPLOYEES	Ben181800	9/19/2025	DMCEA DUES: PAYMENT	286.00	286.00
	Voucher:	7192						
7193	9/19/2025	nat15	NATIONAL BENEFIT SERVICI	Ben181804	9/19/2025	SEC. 125 FLEXIBLE SAVINGS AC	1,672.86	1,672.86
	Voucher:	7193						
7194	9/19/2025	par21	U.S. BANK PARS FFC 674602	Ben181802	9/19/2025	PUBLIC AGENCY RETIREMENT S	3,331.30	3,331.30
	Voucher:	7194						
						Sub total for EFT GENERAL ACCOUNT US BANK:		16,812.27

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
8118	9/19/2025	cal62	CALPERS	18034798	8/25/2025	GASB 68	700.00	700.00
	Voucher:	8118						
						Sub total for GENERAL ACCOUNT US BANK:		700.00

11 checks in this report.

Grand Total All Checks: 134,365.67

APPROVED
By Robert Silva at 4:39 pm, 9/17/25

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
7195	9/25/2025	ace02	ACE UNIFORMS LLC	VS0130778	9/11/2025	UNIFORMS FIRE	20.06	20.06
	Voucher:	7195						
7196	9/25/2025	cor23	CORODATA SHREDDING INC	DN 1538939	8/31/2025	SHREDDING SRVCS AUG	50.82	50.82
	Voucher:	7196						
7197	9/25/2025	dix01	DIXIELINE LUMBER CO	06-0613889	9/11/2025	OPERATING SUPP CS	409.02	
	Voucher:	7197		06-0614604	9/16/2025	MAINT/REPAIR SUPP PW	186.83	
				06-0614089	9/12/2025	OPERATING SUPP CS	139.25	
				06-0613915	9/10/2025	SMALL TOOL SUPP PW	94.76	
				06-0612906	9/3/2025	OPERATING SUPP PW	73.33	
				06-0612818	9/2/2025	OPERATING SUPP PW	66.19	
				06-0613026	9/4/2025	OPERATING SUPP PW	15.93	
				06-0613426	9/8/2025	OPERATING SUPP PW	14.67	
				06-0614684	9/16/2025	MAINT/REPAIR SUPP PW	13.67	
				06-0613196	9/5/2025	OPERATING SUPP PW	47.92	
				06-0613507	9/8/2025	OPERATING SUPP PW	32.17	
				06-0613730	9/10/2025	OPERATING SUPP PW	27.19	
				06-0613842	9/10/2025	OPERATING SUPP PW	26.42	
				06-0613756	9/10/2025	OPERATING SUPP PW	21.52	
				06-0613608	9/10/2025	OPERATING SUPP PW	18.65	1,187.52
7198	9/25/2025	pac28	PACIFIC MOBILE STRUCTUF	INV-00479113	10/1/2025	MOBILE OFFICE PW OCT	246.75	246.75
	Voucher:	7198						
7199	9/25/2025	pit01	PITNEY BOWES GLOBAL FIN	3107384186	9/10/2025	EQUIP RENTAL 7/30-10/29	974.94	974.94
	Voucher:	7199						
7200	9/25/2025	pru01	PRUDENTIAL OVERALL SUP	132333648	9/5/2025	MATS PW - 9/5	15.47	
	Voucher:	7200		132333649	9/5/2025	SHOP TOWELS PW - 9/5	4.41	19.88
7201	9/25/2025	san03	SAN DIEGO COUNTY WATEF	0825-2	9/9/2025	RAW WATER AUG	233,809.20	233,809.20
	Voucher:	7201						
7202	9/25/2025	tow05	TOWNSEND PUBLIC AFFAIR	23970	9/1/2025	LEGISLATIVE SRVCS SEP	4,500.00	4,500.00
	Voucher:	7202						
7203	9/25/2025	wex01	WEX BANK	0498-00-496530-7	9/6/2025	GAS & OIL PW	2,612.09	2,612.09
	Voucher:	7203						
7204	9/25/2025	gan04	WILLIAM GANDER, DBA RES	DM-RT20250905	9/5/2025	SOLAR MONITORING AUG	200.00	200.00
	Voucher:	7204						

Sub total for EFT GENERAL ACCOUNT US BANK: 243,621.26

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140161	9/25/2025	adt02	ADT SECURITY SERVICES	1164563521	9/13/2025	ALARM 1700 COAST OCT/DEC	143.82	143.82
	Voucher:	140161						
140162	9/25/2025	ame50	AMERICAN MEDICAL RESPC	DMF09082025-03	9/8/2025	AMBULANCE SUPP FIRE	290.93	290.93
	Voucher:	140162						
140163	9/25/2025	att10	AT&T, ATTN: CWO	CWO-45106	9/18/2025	UG - COST ESTIMATES	500.00	500.00
	Voucher:	140163						
140164	9/25/2025	aut06	AUTHORS ON WHEELS, ATT	09222025	9/22/2025	PHCC EVENT REFUND	800.00	800.00
	Voucher:	140164						
140165	9/25/2025	azt02	AZTEC LANDSCAPING INC, I	J2148	8/31/2025	JANITORIAL SRVCS CH AUG	2,564.00	
	Voucher:	140165		J2149	8/31/2025	JANITORIAL SRVCS PW AUG	501.00	3,065.00
140166	9/25/2025	bab03	BABCOCK LABORATORIES,	CI50931-10666	9/16/2025	WATER TESTING	635.00	
	Voucher:	140166		CI50946-10666	9/16/2025	WATER TESTING	198.20	
				CI50548-10666	9/10/2025	WATER TESTING	60.00	893.20
140167	9/25/2025	bak01	BAKER IRON WORKS INC.	98748	6/20/2025	TRAILER MAINT CS	165.00	165.00
	Voucher:	140167						
140168	9/25/2025	cal02	CALIFORNIA MUNICIPAL, ST/	25090803	9/8/2025	DEBT STATEMENT FY25	600.00	600.00
	Voucher:	140168						
140169	9/25/2025	emb02	CHRISTOPHER J GIAQUINTA	872394	9/8/2025	EMBROIDERY SRVCS PW	117.07	117.07
	Voucher:	140169						
140170	9/25/2025	cin02	CINTAS	5292496601	9/17/2025	FIRST AID KIT SUPP PW	227.07	227.07
	Voucher:	140170						
140171	9/25/2025	cou03	COUNTY OF SAN DIEGO-A/F	09222025	9/22/2025	2025 BLDG & FIRE CODE UPDAT	50.00	50.00
	Voucher:	140171						
140172	9/25/2025	del06	DEL MAR AUTOMOTIVE SER	50854	9/19/2025	VEHICLE MAINT CS	282.15	282.15
	Voucher:	140172						
140173	9/25/2025	dun02	DUNN-EDWARDS PAINTS	2082A32587	9/10/2025	PAINT SUPPLIES CS	488.97	488.97
	Voucher:	140173						
140174	9/25/2025	eri03	ERICSON, DARLA	09102025	9/10/2025	PHCC EVENT REFUND	1,420.00	1,420.00
	Voucher:	140174						
140175	9/25/2025	fis12	FISHER INTEGRATED INC	2278	9/1/2025	VIDEO STREAMING AUG	550.00	550.00
	Voucher:	140175						
140176	9/25/2025	glo06	GLOBAL POWER GROUP INC	106459	9/8/2025	PM GENERATOR MAINT CH	986.25	986.25
	Voucher:	140176						
140177	9/25/2025	int09	GREGORY CONLEY, DBA INT	484	9/7/2025	SCADA MAINT AUG	143.11	143.11
	Voucher:	140177						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140178	9/25/2025	hom01	HOME DEPOT CREDIT SRVC	6035 3225 0103 7	8/28/2025	OPER/MAINT SUPP PW	1,524.72	1,524.72
	Voucher:	140178						
140179	9/25/2025	hcu01	MG TRUCK & FLEET/ALEX M	012506	9/9/2025	VEH MAINT/REPAIR PW	1,205.00	1,205.00
	Voucher:	140179						
140180	9/25/2025	mis12	MISSION ELECTRIC SUPPLY	538360-00	9/10/2025	ELECTRICAL SUPP PW	157.69	
	Voucher:	140180		538360-01	9/10/2025	ELECTRICAL SUPP PW	126.15	283.84
140181	9/25/2025	mun12	MUNICIPAL RESOURCE GRF	250960	9/17/2025	COACHING CLASS	5,875.00	
	Voucher:	140181		250961	9/17/2025	ASSESSMENT SRVCS	1,750.00	7,625.00
140182	9/25/2025	boh02	NANCY K. BOHL INC. DBA:, T	INV106132	9/8/2025	EAP SERVICES SEP	390.00	390.00
	Voucher:	140182						
140183	9/25/2025	par35	PARADIGM MECHANICAL CC	113249	9/16/2025	HVAC SRVCS CH	2,062.00	2,062.00
	Voucher:	140183						
140184	9/25/2025	fir12	PAUL ROTTENBERG, DBA FI	2025-254	8/21/2025	FIRE STATS PROG JUL	125.00	
	Voucher:	140184		2025-279	9/14/2025	FIRE STATS PROG AUG	125.00	250.00
140185	9/25/2025	rcp01	RCP BLOCK & BRICK INC.	33455108	9/10/2025	FLAGSTONE PW	105.93	
	Voucher:	140185		33456614	9/11/2025	FLAGSTONE PW	34.60	140.53
140186	9/25/2025	san107	SAN DIEGO DIVERS	6178	8/30/2025	DIVE EQUIP MAINT	270.45	
	Voucher:	140186		2992	9/14/2024	DIVE EQUIP MAINT CS	15.00	285.45
140187	9/25/2025	sdg02	SAN DIEGO GAS & ELECTRI	0066 5392 2766 7	9/5/2025	UTILITIES AUG	1,468.31	
	Voucher:	140187		0069 0908 1676 1	9/5/2025	UTILITIES AUG	425.84	
				0092 4576 5583 8	9/12/2025	UTILITIES AUG	167.00	
				0099 5222 5392 9	9/3/2025	UTILITIES AUG	16.76	2,077.91
140188	9/25/2025	sig12	SIGNA DIGITAL SOLUTIONS	41781501	9/23/2025	COPIER CH SEP	812.64	812.64
	Voucher:	140188						
140189	9/25/2025	sou08	SOUTHWEST SIGNAL SERVI	84492	8/31/2025	SIGNAL MAINT - AUG	490.42	
	Voucher:	140189		84495	8/31/2025	TRAFFIC SIGNAL MAINT/REP AU	111.58	
				84493	8/31/2025	TRAFFIC SIGNAL MAINT/REP AU	55.79	
				84494	8/31/2025	TRAFFIC SIGNAL MAINT REP AU	15.57	673.36
140190	9/25/2025	con10	STATE CONTROLLER'S OFFI	FTB-00007989	5/7/2025	FTB OFFSETS 2024	537.30	537.30
	Voucher:	140190						
140191	9/25/2025	ste29	STEED, CHLOE	09102025	9/10/2025	PHCC EVENT REFUND	800.00	800.00
	Voucher:	140191						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140192	9/25/2025	ter11	TERMINIX COMMERCIAL	463550555	9/5/2025	PEST CONTROL CH - SEP	159.00	
	Voucher:	140192		461261302	7/1/2025	PEST CONTROL CH - JUL	159.00	
				460821719	6/18/2025	PEST CONTROL PW - JUN	140.98	
				461260020	7/1/2025	PEST CONTROL PHCC - JUL	128.26	
				463550678	9/5/2025	PEST CONTROL LIBRARY - SEP	113.26	
				461263907	7/1/2025	PEST CONTROL LIBRARY - JUL	113.26	
				463550456	9/5/2025	PEST CONTROL PHCC - SEP	109.18	
				461260075	7/1/2025	PEST CONTROL CS - JUL	109.18	1,032.12
140193	9/25/2025	ter01	TERMINIX INT CO LTD, PART	463942448	9/16/2025	PEST CONTROL PW - SEP	140.98	
	Voucher:	140193		463550402	9/5/2025	PEST CONTROL CS - SEP	128.26	269.24
140194	9/25/2025	hum06	THE HUMAN TRAFFICKING L	09102025	9/10/2025	PHCC EVENT REFUND	800.00	800.00
	Voucher:	140194						
140195	9/25/2025	usb03	US BANK CORP PYMT SYST	4246 0445 5565 0	8/22/2025	US BANK CHARGES AUG	19,233.37	19,233.37
	Voucher:	140195						
140196	9/25/2025	wax02	WAXIE'S ENTERPRISES, LLC	83513112	9/17/2025	JANITORIAL SUPPLIES	342.71	
	Voucher:	140196		83511428	9/16/2025	JANITORIAL SUPPLIES	194.58	
				83515155	9/18/2025	JANITORIAL SUPPLIES	47.89	
				83514663	9/17/2025	JANITORIAL SUPPLIES	43.50	
				83509953	9/16/2025	JANITORIAL SUPPLIES	1,521.95	
				83513106	9/17/2025	JANITORIAL SUPPLIES	965.06	
				83496922	9/10/2025	JANITORIAL SUPPLIES	854.00	
				83496904	9/10/2025	JANITORIAL SUPPLIES	381.41	4,351.10
140197	9/25/2025	act03	WILLIAMS SCOTSMAN INC	9024570017	9/12/2025	MOB OFFICE HVAC SRVCS	271.88	
	Voucher:	140197		9024581601	9/15/2025	MOBILE OFFICE PW OCT	156.12	428.00
						Sub total for GENERAL ACCOUNT US BANK:		55,504.15

47 checks in this report.

Grand Total All Checks: 299,125.41

APPROVED
By Robert Silva at 3:50 pm, 9/24/25

LIST OF DEMANDS

CITY OF DEL MAR
for
City Council Meeting
October 20, 2025

Vendor Payment Checks	$	220,937.50
Voids		(57,756.77)
Electronic Fund Transfers (EFT)		858,308.26
Electronic Wires		190,668.96
Total	$	1,212,157.95

Approved by:

Marco Camacho
Finance Manager/Treasurer

Date:

Approved by:

Terry Gaasterland
Mayor

Date:

Attachments: Check Registers

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
7205	9/30/2025	lif06	GEN DIGITAL INC.	100110614743	9/15/2025	VOL LIFELOCK BENEFITS	135.92	135.92
	Voucher:	7205						
7206	9/30/2025	leg04	LEGALACCESSPLANS USA,	56608	9/1/2025	VOL LEGAL EASE INSURANCE: F	143.60	143.60
	Voucher:	7206						
						Sub total for EFT GENERAL ACCOUNT US BANK:		279.52

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
8119	9/30/2025	hea02	HEALTH NET	BFC29AOCT25	9/15/2025	HEALTH INS OCT	44,641.40	44,641.40
	Voucher:	8119						
8120	9/30/2025	kai01	KAISER PERMANENTE	4753118405	9/10/2025	HEALTH INS OCT	16,393.18	16,393.18
	Voucher:	8120						
8121	9/30/2025	mut01	MUTUAL OF OMAHA	001956117911	9/16/2025	AD&D LIFE B&D OCT	4,884.81	4,884.81
	Voucher:	8121						
8122	9/30/2025	pri11	PRINCIPAL FINANCIAL GRO	1003938-10001OC	9/16/2025	DENTAL/VISION INS OCT	5,573.75	5,573.75
	Voucher:	8122						
8123	9/30/2025	sun11	SUN LIFE ASSURANCE CO, (	915639-0001OCT2	9/17/2025	FF LIFE INS OCT	54.00	54.00
	Voucher:	8123						
140198	9/30/2025	cap01	CAPF CA PUBLIC SAFETY AI	Ben181796	9/18/2025	CAPF: PAYMENT	234.00	234.00
	Voucher:	140198						

Sub total for GENERAL ACCOUNT US BANK: 71,781.14

8 checks in this report.

Grand Total All Checks:	72,060.66

APPROVED
By lcarrillo at 3:45 pm, 9/29/25

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
7207	9/30/2025	zep01	ACUITY SPECIALTY PRODUC	9011790605	9/19/2025	CLEANING SUPP FIRE	1,255.08	1,255.08
	Voucher:	7207						
7208	9/30/2025	cha71	CHARTER COMM HOLDINGS	189125601	9/14/2025	INTERNET CH - SEP	1,390.13	
	Voucher:	7208		189123701	9/14/2025	FIBER CONNECTION PW SEP	567.52	
				189125301	9/14/2025	CH FIBER TO LFGRDS SEP	490.13	
				189123101	9/14/2025	LIFEGUARD FIBER SEP	490.13	
				189123801	9/14/2025	LFGRD FIBER - SEP	412.74	
				189125701	9/14/2025	CH FIBER TO FIRE - SEP	412.74	
				189112801	9/14/2025	VIDEO TRANSPORT/PEG CH SEI	335.35	
				189125801	9/14/2025	VIDEO TRANSPORT/PEG	335.35	
				189123401	9/14/2025	CABLE/INTERNET PW SEP	231.19	
				8448 41 006 0171	9/13/2025	PUBLIC WIFI PHCC SEP	166.25	
				189125401	9/14/2025	DMTV INTERNET SEP	119.99	
				189125501	9/14/2025	PUBLIC WIFI CH - SEP	119.99	
				189123001	9/14/2025	LFGRD CABLE/INTERNET SEP	100.00	
				189125201	9/14/2025	INTERNET TV STUDIO SEP	93.34	5,264.85
7209	9/30/2025	cos06	COSCO FIRE PROTECTION I	1000738155	8/29/2025	ALARM MAINT/REPR CH	1,972.00	
	Voucher:	7209		1000738970	9/8/2025	QTLY FIRE SPKLR INSP CH	670.00	2,642.00
7210	9/30/2025	dev02	DEVANEY PATE MORRIS & C	10930	9/15/2025	CITY ATTORNEY AUG	29,297.20	
	Voucher:	7210		10927	9/15/2025	LEGAL FEES AUG	20,458.16	
				10925	9/15/2025	LEGAL FEES AUG	6,654.57	
				10929	9/15/2025	LEGAL FEES AUG	1,098.00	
				10917	9/15/2025	LEGAL FEES AUG	329.50	
				10926	9/15/2025	LEGAL FEES AUG	177.50	
				10928	9/15/2025	LEGAL FEES AUG	170.80	58,185.73
7211	9/30/2025	dix01	DIXIELINE LUMBER CO	06-0615126	9/19/2025	OPERATING SUPP PW	20.54	20.54
	Voucher:	7211						
7212	9/30/2025	duk01	DUDEK & ASSOCIATES	202506383	9/11/2025	SD LAGOON ENGR SVCS JUN	21,110.05	
	Voucher:	7212		202506384	9/11/2025	SD LAGOON ENGR SVCS JUL	12,538.08	33,648.13
7213	9/30/2025	kle01	KLEINFELDER	1550890	9/12/2025	CDM BRIDGE AUG	69,525.00	69,525.00
	Voucher:	7213						
7214	9/30/2025	ful01	KURT MORGAN	44226	9/24/2025	UTILITY BILLS SEP	1,381.78	1,381.78
	Voucher:	7214						

Bank : eusbnk EFT GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
7215	9/30/2025	mic11	MICHAEL BAKER INTERNATI	1258514	8/20/2025	CITY ENGR SRVCS JUL	19,858.19	19,858.19
	Voucher:	7215						
7216	9/30/2025	pho01	PHOENIX GROUP INFO SYS'	082025036	9/18/2025	CITE SRVCS - AUG	14,447.95	14,447.95
	Voucher:	7216						
7217	9/30/2025	pru01	PRUDENTIAL OVERALL SUP	132335951	9/19/2025	UNIFORMS PW - 9/19	79.92	
	Voucher:	7217		132334779	9/12/2025	UNIFORMS PW - 9/12	57.35	
				132333650	9/5/2025	UNIFORMS PW - 9/5	54.55	
				132335949	9/19/2025	MATS PW - 9/19	15.47	
				132335950	9/19/2025	SHOP TOWELS PW - 9/19	4.41	211.70
7218	9/30/2025	san12	SAN DIEGO COUNTY SHERI	09272025	9/27/2025	LAW ENF JUL	243,950.92	
	Voucher:	7218		09272025	9/27/2025	LAW ENF AUG	237,812.98	481,763.90
7219	9/30/2025	uti01	UTILITY SPECIALISTS INC	30408	8/31/2025	UP - 1B STRATFORD N JUL	17,597.25	
	Voucher:	7219		30409	8/31/2025	UP - 1A STRATFORD S JUL	15,155.00	
				30407	8/31/2025	UP - X1A CREST CNYN JUL	3,637.50	
				30410	8/31/2025	UP - 1A STRATFORD JUL	142.79	36,532.54
7220	9/30/2025	wex01	WEX BANK	0496-00-496745-1	9/23/2025	GAS & OIL CS	1,489.58	
	Voucher:	7220		0496-00-495760-1	9/6/2025	GAS & OIL FIRE AUG	899.16	2,388.74

Sub total for EFT GENERAL ACCOUNT US BANK: 727,126.13

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140199	9/30/2025	adt02	ADT SECURITY SERVICES	1164563987	9/13/2025	ALARM PW OCT	132.98	132.98
	Voucher:	140199						
140200	9/30/2025	air01	AIRGAS USA LLC	9164827441	9/12/2025	OXYGEN TANK SUPP PW	372.52	372.52
	Voucher:	140200						
140201	9/30/2025	amb03	AMBERWICK CORP	70742	9/17/2025	HAZARDOUS WAST DISP PW	1,422.31	1,422.31
	Voucher:	140201						
140202	9/30/2025	arc05	ARCHON ENERGY	09112025	9/11/2025	PERMIT REFUND	675.00	675.00
	Voucher:	140202						
140203	9/30/2025	sbc03	AT&T	9391054486	9/20/2025	TELEPHONE SEP	185.94	
	Voucher:	140203		9391026230	9/20/2025	TELEPHONE SEP	62.46	
				9391031506	9/20/2025	TELEPHONE SEP	61.27	309.67
140204	9/30/2025	bab03	BABCOCK LABORATORIES,	CI51287-10666	9/21/2025	WATER TESTING	604.06	604.06
	Voucher:	140204						
140205	9/30/2025	bee07	BEESON, BRIAN	20250806	9/19/2025	METER UPGRADE	16.01	16.01
	Voucher:	140205						
140206	9/30/2025	car58	CARY PENNINGTON, CARY F	00222	9/29/2025	CC PHOTOGRAPHY	266.44	266.44
	Voucher:	140206						
140207	9/30/2025	cin02	CINTAS	5292716002	9/18/2025	FIRST AID KIT SUPP CH	40.67	40.67
	Voucher:	140207						
140208	9/30/2025	sol01	CITY OF SOLANA BEACH	221016	2/4/2025	PALOMAR TRNG FALL FY25	142.00	142.00
	Voucher:	140208						
140209	9/30/2025	cou01	COUNTY OF SAN DIEGO	09112025	9/11/2025	PARKING BAIL AUG	37,265.00	37,265.00
	Voucher:	140209						
140210	9/30/2025	cou65	COUNTY OF SAN DIEGO, DE	DEH2005-HUPFP-	8/23/2025	UNIFIED PROG FAC PERMIT	608.00	608.00
	Voucher:	140210						
140211	9/30/2025	cra07	CRAFCO INC.	9403538287	8/28/2025	ASPHALT COLD PATCH	1,040.45	1,040.45
	Voucher:	140211						
140212	9/30/2025	cul06	CULLIGAN OF SAN DIEGO	1479518	8/27/2025	WATER CH	90.92	
	Voucher:	140212		1479516	8/31/2025	WATER CH	30.43	
				1479517	8/31/2025	WATER CH	8.43	129.78
140213	9/30/2025	hdl01	HDL COREN & CONE	SIN052869	7/31/2025	ACFR STAT DATA	795.00	795.00
	Voucher:	140213						
140214	9/30/2025	hil12	HILLSTONE RESTAURANT G	20250624	9/19/2025	METER UPGRADE	390.93	390.93
	Voucher:	140214						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140215	9/30/2025	cal90	ISAAC CALDERON	09172025	9/17/2025	PHCC EVENT REFUND	180.00	180.00
	Voucher:	140215						
140216	9/30/2025	kel12	KELLY SPICERS STORES	12036302	9/25/2025	COPY PAPER CH FY26	990.17	990.17
	Voucher:	140216						
140217	9/30/2025	kir09	KIRALY, ALEXIS B	09172025	9/17/2025	PHCC EVENT REFUND	800.00	800.00
	Voucher:	140217						
140218	9/30/2025	lew06	LEWIS, VALENTINA PANTON	09242025	9/24/2025	PHCC EVENT REFUND	800.00	800.00
	Voucher:	140218						
140219	9/30/2025	mar10	MARINE RESCUE PRODUCT	174380	5/15/2025	RESCUE TUBES LFGRDS	1,087.00	1,087.00
	Voucher:	140219						
140220	9/30/2025	mar11	MARSHALLS INDUSTRIAL H/	793900/1	9/23/2025	BEACH CLEANER SUPP PW	31.05	31.05
	Voucher:	140220						
140221	9/30/2025	pas06	PASCUAL Y PASCUAL BALTA	92014	9/12/2025	CHAIN LINK FENCE PW	3,980.00	3,980.00
	Voucher:	140221						
140222	9/30/2025	por10	PORTABLE STORAGE CORP	168818	9/23/2025	STORAGE CS OCT	176.00	176.00
	Voucher:	140222						
140223	9/30/2025	bic01	PRIME ACTUARIAL CONSUL	31759	9/15/2025	ACTUARIAL REVIEW	5,600.00	5,600.00
	Voucher:	140223						
140224	9/30/2025	rec01	RECON ENVIRONMENTAL IN	71918	9/12/2025	STORM WTR/SEWER IMPVTS	592.25	592.25
	Voucher:	140224						
140225	9/30/2025	cen02	SAN DIEGO CENTRE FOR, C	TCFOE5267	9/19/2025	SUP TRAINING PW	1,998.00	1,998.00
	Voucher:	140225						
140226	9/30/2025	san107	SAN DIEGO DIVERS	5373	6/25/2025	DIVE EQUIP CS	3,957.44	
	Voucher:	140226		5384	6/25/2025	DIVE EQUIP CS	2,545.40	6,502.84
140227	9/30/2025	sig12	SIGNA DIGITAL SOLUTIONS	41787421	9/11/2025	COPIER PW SEP	138.74	138.74
	Voucher:	140227						
140228	9/30/2025	sma03	SMARTSIGHTS TECHNOLOG	257736237	9/17/2025	WIN 911 SUBSCRPTN	3,050.00	3,050.00
	Voucher:	140228						
140229	9/30/2025	sou02	SOUTHCOAST HEATING & A	1451695	9/18/2025	HVAC SRVCS PW	190.00	190.00
	Voucher:	140229						
140230	9/30/2025	dis05	THE REINALT-THOMAS COR	1667518	9/17/2025	TIRE MAINT PW #81	1,267.58	1,267.58
	Voucher:	140230						
140231	9/30/2025	ver12	VERIZON	73473963	9/20/2025	TELEPHONE AUG	128.54	128.54
	Voucher:	140231						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140232	9/30/2025	ver03	VERIZON WIRELESS	570653198-00008	9/18/2025	TELEPHONE SEP	335.85	
	Voucher:	140232		872374736-00004	9/18/2025	TELEPHONE SEP	226.20	
				542070053-00002	8/20/2025	TELEPHONE AUG	168.00	
				570653198-00009	9/18/2025	TELEPHONE SEP	40.42	
				570653198-00007	9/18/2025	TELEPHONE SEP	38.01	808.48
140233	9/30/2025	wat04	WATSON, SUZANNE	09112025	9/11/2025	PERMIT REFUND	28.09	28.09
	Voucher:	140233						
140234	9/30/2025	wax02	WAXIE'S ENTERPRISES, LLC	83519469	9/19/2025	JANITORIAL SUPPLIES	663.27	
	Voucher:	140234		83521651	9/22/2025	JANITORIAL SUPPLIES	129.72	792.99
						Sub total for GENERAL ACCOUNT US BANK:		73,352.55

50 checks in this report.

Grand Total All Checks: 800,478.68

APPROVED
By lcarrillo at 3:28 pm, 9/30/25

Void Check Posting List

City of Del Mar

Document #: 914962 **Void Date:** 07/10/2025 **Posting #:** 36242 **Group:** eescalante
Check #: 139863 **Bank code:** gusbnk **Check Date:** 07/09/25
Vendor: san107 SAN DIEGO DIVERS
Post into: 01/2026 **Check amount:** 6,502.84

Doc Source		Account Number	Description	Amount	
disb		B 01.2110.0000	A/P GENERAL	6,502.84	CR
disb	S*	B 01.1100.0000	CASH AND INVESTMENTS	6,502.84	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	6,502.84	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	6,502.84	CR

Balance Sheet Totals: 13,005.68 DB 13,005.68 CR Difference: 0.00

S* = Automatic Summary

Summary Documents

Document #: 914963 **Posting #:** 36242 **Date:** 07/10/25
Reference: 01
Description: disb - FUND 01 SUMMARY
Post into: 01/2026

	Account Number	Description	Amount	
B	01.1100.0000	Automatic Summary	6,502.84	DB

Balance Sheet Totals: 6,502.84 DB CR Difference:

Document #: 914964 **Posting #:** 36242 **Date:** 07/10/25
Reference: 72
Description: disb - FUND 72 SUMMARY
Post into: 01/2026

	Account Number	Description	Amount	
B	72.1160.0000	Automatic Summary	6,502.84	DB
B	72.1100.0000	Automatic Summary	6,502.84	CR

Balance Sheet Totals: 6,502.84 DB 6,502.84 CR Difference: 0.00

Balance Sheet Fund Totals

Fund		Debits	Credits	Difference
01	GENERAL	6,502.84	6,502.84	0.00
72	INVESTMENTS	6,502.84	6,502.84	0.00

Errors / Warnings

Documents with errors : 0
Documents with warnings : 0

Void Check Posting List

City of Del Mar

Document #: 914965 **Void Date:** 06/30/2025 **Posting #:** 36243 **Group:** eescalante
Check #: 138688 **Bank code:** gusbnk **Check Date:** 09/03/24
Vendor: qua04 QUALITY CHEVROLET
Post into: 12/2025 **Check amount:** 44,235.31

Doc Source		Account Number	Description	Amount	
disb		B 51.2110.0000	A/P-GENERAL	15,482.36	CR
disb		B 55.2110.0000	A/P GENERAL	2,654.11	CR
disb		B 57.2110.0000	A/P GENERAL	15,482.36	CR
disb		B 01.2110.0000	A/P GENERAL	10,616.48	CR
disb	S*	B 01.1100.0000	CASH AND INVESTMENTS	10,616.48	DB
disb	S*	B 57.1100.0000	CASH AND INVESTMENTS	15,482.36	DB
disb	S*	B 55.1100.0000	CASH	2,654.11	DB
disb	S*	B 51.1100.0000	CASH AND INVESTMENTS	15,482.36	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	44,235.31	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	44,235.31	CR

Balance Sheet Totals: 88,470.62 DB 88,470.62 CR Difference: 0.00

S* = Automatic Summary

Summary Documents

Document #: 914966 **Posting #:** 36243 **Date:** 06/30/25
Reference: 51
Description: disb - FUND 51 SUMMARY
Post into: 12/2025

	Account Number	Description	Amount	
B	51.1100.0000	Automatic Summary	15,482.36	DB

Balance Sheet Totals: 15,482.36 DB CR Difference:

Document #: 914967 **Posting #:** 36243 **Date:** 06/30/25
Reference: 72
Description: disb - FUND 72 SUMMARY
Post into: 12/2025

	Account Number	Description	Amount	
B	72.1160.0000	Automatic Summary	44,235.31	DB
B	72.1100.0000	Automatic Summary	44,235.31	CR

Balance Sheet Totals: 44,235.31 DB 44,235.31 CR Difference: 0.00

Document #: 914968 **Posting #:** 36243 **Date:** 06/30/25
Reference: 55
Description: disb - FUND 55 SUMMARY
Post into: 12/2025

	Account Number	Description	Amount	
B	55.1100.0000	Automatic Summary	2,654.11	DB

Balance Sheet Totals: 2,654.11 DB CR Difference:

Document #: 914969 **Posting #:** 36243 **Date:** 06/30/25
Reference: 57

Document #: 914969 **Posting #:** 36243 **Date:** 06/30/25 **(Continued)**
Reference: 57
Description: disb - FUND 57 SUMMARY
Post into: 12/2025

	Account Number	Description	Amount	
B	57.1100.0000	Automatic Summary	15,482.36	DB

Balance Sheet Totals: 15,482.36 DB CR Difference:

Document #: 914970 **Posting #:** 36243 **Date:** 06/30/25
Reference: 01
Description: disb - FUND 01 SUMMARY
Post into: 12/2025

	Account Number	Description	Amount	
B	01.1100.0000	Automatic Summary	10,616.48	DB

Balance Sheet Totals: 10,616.48 DB CR Difference:

Balance Sheet Fund Totals

Fund		Debits	Credits	Difference
01	GENERAL	10,616.48	10,616.48	0.00
51	WATER	15,482.36	15,482.36	0.00
55	CLEAN WATER	2,654.11	2,654.11	0.00
57	WASTEWATER	15,482.36	15,482.36	0.00
72	INVESTMENTS	44,235.31	44,235.31	0.00

Errors / Warnings

Documents with errors : 0
Documents with warnings : 0

Void Check Posting List

City of Del Mar

Document #: 916008 **Void Date:** 08/06/2025 **Posting #:** 36302 **Group:** eescalante
Check #: 7061 **Bank code:** eusbnk **Check Date:** 08/05/25
Vendor: uni29 UNIVERSAL SITE SERVICES INC
Post into: 02/2026 **Check amount:** 7,018.62

Doc Source		Account Number	Description	Amount	
disb		B 21.2110.0000	A/P-GENERAL	6,316.76	CR
disb		B 55.2110.0000	A/P GENERAL	701.86	CR
disb	S*	B 55.1100.0000	CASH	701.86	DB
disb	S*	B 21.1100.0000	CASH AND INVESTMENT	6,316.76	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	7,018.62	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	7,018.62	CR
Balance Sheet Totals:		14,037.24 DB	14,037.24 CR	Difference:	0.00

S* = Automatic Summary

Summary Documents

Document #: 916009 **Posting #:** 36302 **Date:** 08/06/25
Reference: 21
Description: disb - FUND 21 SUMMARY
Post into: 02/2026

	Account Number	Description	Amount	
B	21.1100.0000	Automatic Summary	6,316.76	DB

Balance Sheet Totals: 6,316.76 DB CR Difference:

Document #: 916010 **Posting #:** 36302 **Date:** 08/06/25
Reference: 72
Description: disb - FUND 72 SUMMARY
Post into: 02/2026

	Account Number	Description	Amount	
B	72.1160.0000	Automatic Summary	7,018.62	DB
B	72.1100.0000	Automatic Summary	7,018.62	CR

Balance Sheet Totals: 7,018.62 DB 7,018.62 CR Difference: 0.00

Document #: 916011 **Posting #:** 36302 **Date:** 08/06/25
Reference: 55
Description: disb - FUND 55 SUMMARY
Post into: 02/2026

	Account Number	Description	Amount	
B	55.1100.0000	Automatic Summary	701.86	DB

Balance Sheet Totals: 701.86 DB CR Difference:

Balance Sheet Fund Totals

Fund		Debits	Credits	Difference
21	OPEN SPACE	6,316.76	6,316.76	0.00
55	CLEAN WATER	701.86	701.86	0.00
72	INVESTMENTS	7,018.62	7,018.62	0.00

Errors / Warnings

Documents with errors : 0
Documents with warnings : 0

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
4166	10/3/2025	irs01	IRS, UNITED STATES TREAS	Ben182038	10/3/2025	FEDERAL TAX: PAYMENT	45,026.26	45,026.26
	Voucher:	4166						
4167	10/3/2025	per01	PERS	Ben182040	10/3/2025	PERS CONTRIBUTIONS: PAYMEI	58,282.93	58,282.93
	Voucher:	4167						
4168	10/3/2025	edd01	EMPLOYMENT DEVELOPME	Ben182042	10/3/2025	STATE TAX: PAYMENT	12,836.14	12,836.14
	Voucher:	4168						
4169	10/3/2025	per02	PERS 457	Ben182044	10/3/2025	CALPERS 457 DEFERRED COMF	2,976.49	2,976.49
	Voucher:	4169						

Sub total for GENERAL ACCOUNT US BANK: 119,121.82

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
7221	10/3/2025	mis07	107413 STATE ST BANK & TF	Ben182034	10/3/2025	401A PLAN: PAYMENT	555.16	555.16
	Voucher:	7221						
7222	10/3/2025	mis08	303845 STATE ST BANK & TF	Ben182026	10/3/2025	MISSION SQUARE 457B: PAYMEI	10,488.47	10,488.47
	Voucher:	7222						
7223	10/3/2025	mis09	803808 STATE ST BANK & TF	Ben182036	10/3/2025	RETIREMENT HEALTH SAVINGS	748.81	748.81
	Voucher:	7223						
7224	10/3/2025	uni21	DEL MAR CITY EMPLOYEES	Ben182028	10/3/2025	DMCEA DUES: PAYMENT	286.00	286.00
	Voucher:	7224						
7225	10/3/2025	nat15	NATIONAL BENEFIT SERVICI	Ben182032	10/3/2025	SEC. 125 FLEXIBLE SAVINGS AC	1,672.86	1,672.86
	Voucher:	7225						
7226	10/3/2025	par21	U.S. BANK PARS FFC 674602	Ben182030	10/3/2025	PUBLIC AGENCY RETIREMENT S	2,132.87	2,132.87
	Voucher:	7226						
						Sub total for EFT GENERAL ACCOUNT US BANK:		15,884.17

10 checks in this report.

Grand Total All Checks: 135,005.99

APPROVED
By Robert Silva at 9:25 am, 10/2/25

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
140235	10/2/2025	jnh01 JNH CONSTRUCTION, INC.	10022025-01	10/2/2025	LIGHT REFIN PROJ #1	34,503.05	
	Voucher: 140235		10022025-02	10/2/2025	LIGHT REFIN PROJ #2	16,625.00	
			10022025-03	10/2/2025	LIGHT REFIN PROJ #3	15,970.45	67,098.50
					Sub total for GENERAL ACCOUNT US BANK:		67,098.50

1 checks in this report.

Grand Total All Checks: 67,098.50

APPROVED
By lcarrillo at 1:33 pm, 10/2/25

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
7227	10/8/2025	22n01	22ND DISTRICT AGRICULTUI	13922	7/29/2025	HSG HAP GRANT REIMB	9,657.95	9,657.95
	Voucher:	7227						
7228	10/8/2025	kay01	ADAM KAYE	SEP-25	9/29/2025	COMM SRVCS SEP	4,725.00	4,725.00
	Voucher:	7228						
7229	10/8/2025	coa21	COAST NEWS GROUP	00158693	9/26/2025	AD - PUBLIC HEARING	143.38	
	Voucher:	7229		00158695	9/26/2025	AD - ORDIN ADOPT	100.75	
				00158555	9/12/2025	AD - ORDIN INTRO	93.00	
				00158696	9/26/2025	AD - ORDIN ADOPT	89.13	
				00158556	9/12/2025	AD - ORDIN INTRO	81.38	507.64
7230	10/8/2025	cor07	CORODATA RECORDS MGT	RS7113394	9/30/2025	STORAGE SRVCS SEP	161.75	161.75
	Voucher:	7230						
7231	10/8/2025	cor15	CORONADO MOBILE STORA	OCT-25	10/1/2025	STORAGE CONTRS OCT	255.00	255.00
	Voucher:	7231						
7232	10/8/2025	cor22	CORVEL CORPORATION	1901097	9/18/2025	MED MAINT - SEP	256.00	
	Voucher:	7232		1901458	9/18/2025	FNOL FEES - AUG	37.89	293.89
7233	10/8/2025	del02	DEL MAR BLUE PRINT CO, I	630133	9/19/2025	PRINTING SRVCS CS	224.03	224.03
	Voucher:	7233						
7234	10/8/2025	del14	DEL MAR VILLAGE ASSOCIA	4	10/7/2025	DMVA AGRMNT AUG	39,819.41	39,819.41
	Voucher:	7234						
7235	10/8/2025	dix01	DIXIELINE LUMBER CO	06-0616048	9/29/2025	OPERATING SUPP CS	302.60	
	Voucher:	7235		06-0615702	9/30/2025	TOOL/EQUIP SUPP PW	226.79	
				06-0615677	9/24/2025	OPERATING SUPP PW	82.07	
				06-0616010	9/26/2025	OPERATING SUPP PW	52.20	
				06-0615836	9/25/2025	OPERATING SUPP PW	48.87	
				06-0614853	9/19/2025	OPERATING SUPP CS	45.94	
				06-0616338	9/30/2025	OPERATING SUPP PW	38.42	
				06-0615974	9/26/2025	OPERATING SUPP PW	35.22	
				06-0616430	9/30/2025	OPERATING SUPP PW	23.56	
				06-0615704	9/25/2025	OPERATING SUPP PW	20.54	
				06-0616437	9/30/2025	TOOL/EQUIP SUPP PW	4.28	880.49
7236	10/8/2025	fer07	FERGUSON ENTERPRISES I	0889092	9/24/2025	WATER METER PARTS	1,982.22	1,982.22
	Voucher:	7236						
7237	10/8/2025	ips02	IPS GROUP INC	INV116163	9/30/2025	PRKG MTR TRANS FEE SEP	3,711.73	3,711.73
	Voucher:	7237						

Bank : eusbnk EFT GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
7238	10/8/2025	mik03	MIKHAIL OGAWA ENGINEER	12214	10/2/2025	SAN DIEGUITO TMDL SEP	2,678.37	
	Voucher:	7238		12220	10/5/2025	CLEAN WATER SRVCS SEP	28,911.41	
				12213	9/16/2025	CLEAN WATER SRVCS REFUND	-2,000.00	29,589.78
7239	10/8/2025	nor13	NORTH COUNTY DISPATCH	202526-023	10/2/2025	DISPATCH FIRE - Q2	15,060.00	15,060.00
	Voucher:	7239						
7240	10/8/2025	pac28	PACIFIC MOBILE STRUCTUF	INV-00483624	9/26/2025	MOBILE OFFICE SUPP PW	2,599.82	2,599.82
	Voucher:	7240						
7241	10/8/2025	par51	PARKWOOD LANDSCAPE M/	109985	8/31/2025	LANDSCAPE SRVCS SHORES AL	784.00	784.00
	Voucher:	7241						
7242	10/8/2025	pho01	PHOENIX GROUP INFO SYS	0820251036	9/18/2025	ADMIN CITE SRVCS - AUG	96.38	96.38
	Voucher:	7242						
7243	10/8/2025	pru01	PRUDENTIAL OVERALL SUP	132337105	9/26/2025	UNIFORMS PW - 9/26	75.57	
	Voucher:	7243		132338271	10/3/2025	UNIFORMS PW - 10/3	73.90	
				132338269	10/3/2025	MATS PW - 10/3	15.47	
				132338270	10/3/2025	SHOP TOWELS PW - 10/3	4.41	169.35
7244	10/8/2025	tow05	TOWNSEND PUBLIC AFFAIR	24128	10/1/2025	LEGISLATIVE SRVCS OCT	4,500.00	4,500.00
	Voucher:	7244						

Sub total for EFT GENERAL ACCOUNT US BANK: 115,018.44

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140236	10/8/2025	sbc03	AT&T	9391059863	10/1/2025	TELEPHONE SEP	666.54	
	Voucher:	140236		9391065053	8/27/2025	TELEPHONE AUG	209.46	
				9391026231	9/20/2025	TELEPHONE SEP	61.27	
				9391026228	9/20/2025	TELEPHONE SEP	31.41	
				9391065056	9/27/2025	TELEPHONE SEP	29.88	
				9391065055	9/27/2025	TELEPHONE SEP	29.85	
				9391065053	7/27/2025	TELEPHONE JUL	-25.50	1,002.91
140237	10/8/2025	bab03	BABCOCK LABORATORIES,	CI51776-10666	9/29/2025	WATER TESTING	575.00	575.00
	Voucher:	140237						
140238	10/8/2025	bad01	BADGER METER INC	1759549	9/25/2025	MAINT/REPAIR SUPP PW	1,435.10	1,435.10
	Voucher:	140238						
140239	10/8/2025	nes01	BLUETRITON BRANDS INC, I	0518710074974	9/23/2025	WATER CH	17.49	17.49
	Voucher:	140239						
140240	10/8/2025	can08	CANTEEN	SAN134940	9/26/2025	COFFEE SUPP PW	370.45	370.45
	Voucher:	140240						
140241	10/8/2025	cit07	CITY OF SAN DIEGO	1000428961	8/26/2025	PENSAQUITOS LAGOON	389.43	389.43
	Voucher:	140241						
140242	10/8/2025	com20	COMFORT SOLUTIONS GRC	1600	9/19/2025	HVAC SRVCS CH - AUG	2,160.00	
	Voucher:	140242		1603	9/24/2025	HVAC SRVCS CH - SEP	887.00	3,047.00
140243	10/8/2025	del06	DEL MAR AUTOMOTIVE SER	050962	10/7/2025	VEH MAINT CS #392	226.33	226.33
	Voucher:	140243						
140244	10/8/2025	fai04	FAILSAFE TESTING LLC	14065	5/16/2025	GROUND LADDER TEST - FIRE	576.36	576.36
	Voucher:	140244						
140245	10/8/2025	fer01	FERRELLGAS LP	1131582378	9/19/2025	PROPANE FIRE	178.89	178.89
	Voucher:	140245						
140246	10/8/2025	fir20	FIRST ARRIVING IO, INC	5949	8/28/2025	DASHBOARD RENEWAL FIRE	822.97	822.97
	Voucher:	140246						
140247	10/8/2025	ats01	GARDA CL WEST LOCKBOX	10829560	10/1/2025	ARMORED SRVCS OCT	732.69	732.69
	Voucher:	140247						
140248	10/8/2025	gov02	GOVERNMENT TAX SEMINAI	0025198	10/7/2025	GOVT TAX SEMINAR	595.00	595.00
	Voucher:	140248						
140249	10/8/2025	gra02	GRAINGER	9655038777	9/26/2025	LOCK SUPPLIES PW	567.41	567.41
	Voucher:	140249						
140250	10/8/2025	gua02	GUARE, PHYLLIS	10012025	10/1/2025	PHCC EVENT REFUND	800.00	800.00
	Voucher:	140250						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140251	10/8/2025	hin06	HINDERLITER DE LLAMAS A	SIN054771	9/30/2025	SALES TAX SRVCS - JUL/SEP	1,270.37	1,270.37
	Voucher:	140251						
140252	10/8/2025	jac21	JACKSON, ROBERT H	Ref000182045	10/1/2025	UB Refund Cst #00008328	87.77	87.77
	Voucher:	140252						
140253	10/8/2025	jnh01	JNH CONSTRUCTION, INC.	09242025	9/24/2025	STAIN SMPLNG/ANALYSIS	2,200.00	
	Voucher:	140253		10062025-04	10/6/2025	LIGHT REFIN PROJ #4	25,745.00	27,945.00
140254	10/8/2025	mad01	MADRIGAL, SAMUEL	2025-004	9/24/2025	WATER DIST SRVCS SEP	1,200.00	
	Voucher:	140254		2025-002	9/24/2025	WATER DIST SRVCS JUL	600.00	1,800.00
140255	10/8/2025	mar11	MARSHALLS INDUSTRIAL H/	794160/1	10/1/2025	TOOL SUPP PW	297.35	297.35
	Voucher:	140255						
140256	10/8/2025	mis12	MISSION ELECTRIC SUPPLY	538178-00	9/25/2025	TOOL SUPPLIES PW	459.77	459.77
	Voucher:	140256						
140257	10/8/2025	boh02	NANCY K. BOHL INC. DBA:, T	INV106574	10/1/2025	EAP SERVICES OCT	390.00	390.00
	Voucher:	140257						
140258	10/8/2025	nor11	NORTH COUNTY FORD	425445	9/16/2025	FORD MAINT PLAN PW	3,845.00	3,845.00
	Voucher:	140258						
140259	10/8/2025	san10	PACIFIC SAFETY CENTER	87470	9/23/2025	TRAFF CNTRL/FLAGGER SFTY	895.00	
	Voucher:	140259		87351	8/28/2025	MBRSHP RWL 11/1/25-26	185.00	1,080.00
140260	10/8/2025	par35	PARADIGM MECHANICAL CC	113411	9/30/2025	HVAC SRVCS CH	530.00	530.00
	Voucher:	140260						
140261	10/8/2025	qua10	PRECISION CAD METALWOF	1015	9/23/2025	MACHINE BUSHING PW	67.97	67.97
	Voucher:	140261						
140262	10/8/2025	saf16	SAFEHARBOR RISK SOLUTI	10062025	10/6/2025	PHCC EVENT REFUND	800.00	800.00
	Voucher:	140262						
140263	10/8/2025	sdg01	SAN DIEGO GAS & ELECTRI	0042 2198 4063 2	9/16/2025	UTILITIES JUL/AUG	11,971.72	11,971.72
	Voucher:	140263						
140264	10/8/2025	sdg02	SAN DIEGO GAS & ELECTRI	0012 6209 1548 9	9/30/2025	UTILITIES SEP	130.27	
	Voucher:	140264		0065 9549 9411 6	10/7/2025	UTILITIES SEP	25.06	
				0065 9549 9411 6	9/5/2025	UTILITIES AUG	23.81	
				0099 5222 5392 9	10/2/2025	UTILITIES SEP	18.22	
				0066 5491 5032 1	10/2/2025	UTILITIES SEP	16.58	213.94
140265	10/8/2025	san112	SAN DIEGO HUMANE SOCIE	OCT-25	10/1/2025	ANIMAL SRVCS OCT	4,388.00	4,388.00
	Voucher:	140265						
140266	10/8/2025	sde01	SD ELECTRIC BIKE LLC, DB/	14564	10/3/2025	ELEC BIKE MTC CS	265.76	265.76
	Voucher:	140266						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
140267	10/8/2025	son02	SONSRAY MACHINERY LLC	SWO079113	9/30/2025	LOADER REPAIRS PW	2,598.38	
	Voucher:	140267		SWO080819	9/30/2025	MACHINE REPAIRS PW	2,438.60	
				SWO080817	9/30/2025	MACHINE REPAIRS PW	2,424.26	7,461.24
140268	10/8/2025	t-mo01	T-MOBILE USA INC	980755647	9/21/2025	TELEPHONE AUG/SEP	24.20	24.20
	Voucher:	140268						
140269	10/8/2025	und01	UNDERGROUND SERVICE A	920250240	10/1/2025	CONT SRVCS SEP	334.00	
	Voucher:	140269		25-260935	10/1/2025	CA STATE FEES	67.58	401.58
140270	10/8/2025	uni31	UNITED SITE SRVCS OF, CA	114-14128660	9/18/2025	PORTABLE RESTROOM - SEP	1,450.85	
	Voucher:	140270		114-14128663	9/18/2025	PORTABLE RESTROOM - SEP	565.25	
				114-14093611	7/10/2025	PORTABLE RESTROOM - JUL	320.82	
				114-14128662	9/18/2025	PORTABLE RESTROOM -SEP	265.25	2,602.17
140271	10/8/2025	ver12	VERIZON	Z1650356	9/8/2025	TELEPHONE JUL/AUG	5.28	5.28
	Voucher:	140271						
140272	10/8/2025	ver03	VERIZON WIRELESS	542070053-00002	9/20/2025	TELEPHONE SEP	168.02	168.02
	Voucher:	140272						
140273	10/8/2025	wax02	WAXIE'S ENTERPRISES, LLC	83524662	9/23/2025	JANITORIAL SUPPLIES	1,274.85	
	Voucher:	140273		83540474	9/30/2025	JANITORIAL SUPPLIES	537.37	
				83521656	9/22/2025	JANITORIAL SUPPLIES	129.72	
				83524026	9/22/2025	JANITORIAL SUPPLIES	98.34	2,040.28
140274	10/8/2025	wor10	WORKINGER, CALEB	10062025	10/6/2025	PHCC EVENT REFUND	800.00	800.00
	Voucher:	140274						

Sub total for GENERAL ACCOUNT US BANK: 80,252.45

57 checks in this report.

Grand Total All Checks: 195,270.89

APPROVED
By lcarrillo at 5:06 pm, 10/7/25

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Kseniia Izgarskaia, Senior Management Analyst
Sarah Krietor, Administrative Services Manager
Karen Brindley, Planning & Community Development Director
Marco Camacho, Finance Manager/Treasurer
Via Ashley Jones, City Manager

DATE: October 20, 2025

SUBJECT: Agreement for Short-Term Rental Monitoring Services

REQUESTED ACTION/RECOMMENDATION:
Staff recommends the City Council: 1) Approve a professional services agreement with Deckard Technologies, Inc. (Attachment A) to provide short-term rental (STR) monitoring services to the City for an initial three-year period effective October 20, 2025, through October 19, 2028; and 2) Authorize the City Manager to execute the agreement and any subsequent term extension amendments provided for in the Agreement contingent upon satisfactory performance by the consultant.

BACKGROUND:
On September 23, 2024, the City Council adopted Ordinance 1010 establishing short-term rental regulations for the City of Del Mar. The ordinance is now pending California Coastal Commission (CCC) certification which is expected to occur in December 2025. The Ordinance with any requested revisions from the CCC would then return for to Council for final consideration in early 2026. Please note that these dates are estimates and dependent upon CCC scheduling.

In preparation to implement the STR regulations once approved, on May 27, 2025, the City Council authorized staff to continue the procurement process for an STR administration platform that includes registration and permitting, maintaining an STR database, monitoring STR activity, compliance and code enforcement support, community outreach, and TOT remittance and auditing. The goal of the RFP was to initiate services as soon as possible and be ready to “go live” once the final STR ordinance, with any modifications from the CCC, is adopted by the City Council and becomes effective in 2026.

DISCUSSION/ANALYSIS:
In anticipation of the Council’s direction to procure an STR administration platform, on February 27, 2025, the City issued a Request for Proposal (RFP) #2025-01 soliciting

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City Council Action:

proposals from qualified service providers to manage STR administration for the City. Responsibilities would include oversight of STR registration and permitting, assistance with establishing an STR Permit fee, establishment and maintenance of a STR database, monitoring of STR activities, participation in related permit compliance and enforcement activities, management of a complaint hotline and/or web portal, and STR Transient Occupancy Tax (TOT) collection and analytics.

The City received three proposals from Azora Software, Deckard Technologies, Inc. (Deckard), and Avenu Insights & Analytics. The proposals were carefully evaluated by staff based on several criteria, including but not limited to: technical competence, responsiveness to the RFP including the monitoring and compliance enforcement approach and methodology, clarity and organization of the proposal, and cost.

Based on the review of the proposals submitted by the responsive firms, a series of interviews and demos, and references received from other client agencies, staff is recommending that the City enter into an agreement with Deckard Technologies for an initial three-year period, with an option to extend the agreement for an additional two-year period. The cost of services is approximately $60,000 for the initial three-year period (approximately $20,000 annually), which was deemed a competitive price in comparison to the other proposals submitted.

Headquartered in San Diego, California, Deckard Technologies was founded in 2018, to support compliance within the U.S. real estate market for the public sector. Deckard leverages data science expertise to assist local governments in managing compliance activities and enforcement, particularly regarding short-term rental (STR) properties.

Deckard's software Rentalscape, provides a comprehensive solution for short-term rental compliance and monitoring, maintaining a robust database that captures both permitted and unpermitted listings. Each record consolidates critical information including address, unit number, parcel data, zoning, host contact details, occupancy limits, off-street parking, and rental rates into a unified property profile. By precisely matching each listing to its correct address and parcel number, Rentalscape enables a direct line of communication for mailers and outreach campaigns conducted on behalf of the City, in coordination with City staff.

Deckard's STR Registration/Tax Collection Portal provides a fully integrated solution where short-term rental owners can manage their permits, pay TOT, and stay updated on evolving regulations. The portal allows hosts, even those overseeing multiple properties, to handle all registrations under a single login.

Deckard also offers a 24/7 Complaint Hotline that can be customized to the City's preferred workflow, allowing the hotline agent to contact either the designated local contact or City staff immediately upon receiving a complaint. The hotline is staffed by trained operators who document all calls, categorize the nature of the violation, and trigger follow-up actions as needed. Deckard also provides an Online Complaint Portal where the public can upload audio, video, or photographic evidence of potential STR violations, which the City would review.

Some of Deckard's clients in California include the counties of San Bernardino, Riverside, Kern, and Mariposa; and cities of Big Bear Lake, Mammoth Lakes, Carlsbad, Mission Viejo, Newport Beach, and Vista. City staff talked to staff in Carlsbad and Newport Beach, who are routinely using Deckard's Rentalscape platform and received very positive feedback.

FISCAL IMPACT:
The total cost of STR monitoring services for the initial three-year agreement term is approximately $60,000, or about $20,000 annually. Sufficient funds for the cost of these services are available in the adopted Fiscal Year 2025-2026 and 2026-2027 Operating and Capital Budget.

ENVIRONMENTAL IMPACT:
The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:
Implementation of STR regulations and procurement of an STR administration platform is a Tier 1 item on the Fiscal Year 2025-2026 Council list of Goals and Priorities.

ATTACHMENTS:
Attachment A – Agreement with Deckard Technologies, Inc.

PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF DEL MAR AND DECKARD TECHNOLOGIES, INC.
FOR SHORT-TERM RENTAL MONITORING

This Professional Services Agreement ("Agreement") is made and entered into this 20th day of October, 2025 by and between the City of Del Mar, a Charter City and a municipal corporation ("City"), and Deckard Technologies, Inc. ("Consultant") (collectively "Parties").

WHEREAS, the City desires to employ a consultant to manage short-term rental (STR) administration and monitoring with the City. ("Consulting Services"). Said work is to be performed in accordance with the terms and conditions set forth below and as described in the scope of services, attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the City has initially determined that Consultant is qualified by experience and ability to perform the services desired by City, and Consultant is willing to perform such services; and

WHEREAS, Consultant will conduct all the work as described and detailed in this Agreement to be provided to the City.

NOW, THEREFORE, the Parties hereto mutually covenant and agree with each other as follows:

1. CONSULTING SERVICES.

1.1 Scope of Services. The Consultant shall perform the Consulting Services as set forth in the written Scope of Services, attached hereto as **Exhibit "A"** and incorporated herein. Such services shall be provided at the direction of the City.

1.2. City Modification of Scope of Services. City may order changes to the Scope of Services within the general scope of this Agreement consisting of additions, deletions, or other revisions. If such changes cause a change in the Consultant's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to Consultant's compensation and/or contract time shall be made, subject to the City's approval. All such changes shall be authorized in writing, executed by Consultant and City. If such a change results in an extension of the term of this Agreement or increases the maximum amount to be paid under this Agreement, no such change shall have any force or effect unless an amendment to this Agreement is approved by the City Council.

2. DURATION OF AGREEMENT.

2.1 Term, Time for Performance. This Agreement shall be effective for a period of three (3) years beginning on the date first written above. The agreement may be extended for an additional two-year period, upon written approval of both parties.

Time is of the essence for this Agreement and each provision of this Agreement, unless otherwise specified in this Agreement.

2.2 Delay. Any delay occasioned by causes beyond the control of Consultant may merit an extension of time for the completion of the Scope of Services. When such delay occurs, Consultant shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the

extent of the delay and grant an extension of time for the completion of the Consulting Services when justified by the circumstances provided that no extension of time shall be granted which would extend the time for performance beyond the date specified in section 2.1 above.

2.3 City's Right to Terminate for Default. Should Consultant be in default of any covenant or condition hereof, City may immediately terminate this Agreement for cause if Consultant fails to cure the default within ten (10) calendar days of receiving written notice of the default.

2.4 City's Right to Terminate without Cause. Without limiting its rights in the event of Consultant's default, City may terminate this Agreement, without cause, by giving written notice to Consultant. Such termination shall be effective upon receipt of the written notice. Consultant shall be compensated for all effort and material expended on behalf of City under the terms of this Agreement, up to the effective date of termination. All personal property remaining in City facilities or on City property thirty (30) days after the expiration or termination of this Agreement shall be, at City's election, considered the property of City.

3. PERFORMANCE AFTER TERMINATION. Upon termination of this Agreement as provided herein, Consultant shall, within such reasonable time period as may be directed by City Manager, complete those items of work which are in various stages of completion and which City Manager determines are necessary to be completed by Consultant to allow the project to be completed in a timely, logical, and orderly manner. Upon termination, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, and other materials prepared by Consultant shall be delivered to the City Manager, upon his request, as property of City.

4. COMPENSATION.

4.1 Total Amount. Compensation to Consultant shall be provided in accordance with the rates described in the Fee Schedule contained in **Exhibit "B"** and incorporated herein. City shall pay invoices annually at the beginning of each contract year. Consultant acknowledges that it is not guaranteed any particular amount of work.

4.2 Additional Services. City may, as the need arises or in the event of an emergency, request additional services of Consultant. Should such additional services be required, Compensation therefore shall be paid to the Consultant in accordance with Scope of Services contained in Exhibit "A." City and Consultant shall agree to the costs prior to commencement of such work.

5. INDEPENDENT CONTRACTOR. Consultant is, for all purposes arising out of this Agreement, an independent contractor. The Consultant has and shall retain the right to exercise full control and supervision of all persons assisting the Consultant in the performance of said services hereunder, the City only being concerned with the finished results of the work being performed. Neither Consultant nor Consultant's employees shall in any event be entitled to any benefits to which City employees are entitled, including, but not limited to, overtime, any retirement benefits, workers' compensation benefits, any injury leave or other leave benefits, Consultant being solely responsible for all such matters, as well as, compliance with social security and income tax withholding and all other regulations and laws governing such matters.

6. STATEMENT OF EXPERIENCE. Consultant agrees that it has the financial resources, service experience, completion ability, personnel, and experience in dealing with public agencies necessary for performing the Scope of Services and that such performance shall be in accordance with the standards customarily adhered to by an experienced and

competent Consultant using the degree of care and skill ordinarily exercised by reputable Consultants practicing in the same field of service in the State of California. By executing this Agreement, Consultant represents that it has demonstrated trustworthiness and possesses the quality, fitness, and capacity to perform the Agreement in a manner satisfactory to City. Additionally, Consultant and all of Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Agreement.

7. AUDIT OF RECORDS.

7.1 At any time during normal business hours and as often as may be deemed necessary, the Consultant shall make available to a representative of City for examination all of its records with respect to all matters covered by this Agreement and shall permit City to audit, examine, and/or reproduce such records. Consultant shall retain such financial and program service records for at least four (4) years after termination or final payment under this Agreement.

7.2 The Consultant shall include the City's right to audit under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

8. CONFIDENTIALITY. All Consulting services performed by Consultant, including, but not limited to, all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to Consultant, at the time that it was disclosed to Consultant by the City, (b) subsequently becomes publicly known through no act or omission of Consultant or (c) otherwise becomes known to Consultant other than through disclosure by the City. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the City. The sole purpose of this section is to prevent disclosure of City's confidential and proprietary information by Consultant or subcontractors.

9. CONFLICTS OF INTEREST.

9.1 Consultant shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including, but not limited to, California Government Code §§ 81000 et seq. (Political Reform Act) and §§ 1090 et seq. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code § 87103. Consultant represents that it has no knowledge of any financial interests, which would require it to disqualify itself from any matter on which it might perform services for the City.

9.2 Consultant shall comply with all of the reporting requirements of the Political Reform Act. The Consultant shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the City's determination that the Consultant is subject to a conflict of interest code, if applicable. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

9.3 If, in performing the Consulting Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18704 of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests.

10. OWNERSHIP OF DOCUMENTS. All documents, data, studies, drawings, maps, models, photographs and reports prepared by Consultant under this Agreement shall be considered the property of City. Consultant shall be permitted to reference and use said materials for use in future studies, work, and marketing so long as said materials are considered "public documents" and are not subject to attorney-client privilege, or the subject of pending closed or executive session discussions.

11. INSURANCE

11.1 Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" and are admitted to do business in the State of California, unless otherwise approved in writing by the City's Risk Manager.

11.2 Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement.

11.3 Types and Amounts Required. Consultant shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

11.3.1 Commercial General Liability (CGL). Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

11.3.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$1,000,000** per accident for bodily injury and property damage. Insurance certificate shall reflect coverage for any automobile (any auto).

11.3.3 Workers' Compensation. For all of the Consultant's employees who are subject to this Agreement and to the extent required by applicable state or federal law,

a Workers' Compensation policy providing at minimum **$1,000,000** employers' liability coverage. The Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

11.3.4 Cyber Liability. Insurance, with limits not less than **$2,000,000** per occurrence or claim, **$2,000,000** aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

11.3.5 Technology Professional Liability Errors & Omissions. Insurance appropriate to the Consultant's profession and work hereunder, with limits not less than **$2,000,000** per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

This Policy shall include, or be endorsed to include, **property damage liability** coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City in the care, custody, or control of the Consultant.

11.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions are the responsibility of the Consultant and must be declared to and approved by the City. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers, or (2) the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

11.5 Additional Required Provisions. The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

11.5.1 The City, its officers, officials, employees, and representatives shall be named as additional insureds. The City's Additional Insured status must be reflected on additional insured endorsement form which shall be submitted to the City.

11.5.2 The policies are primary and non-contributory to any insurance that may be carried by the City, as reflected in an endorsement which shall be submitted to the City.

11.6 Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements affecting coverage required by this Section 11. The endorsement should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be

received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

12. DEFENSE AND INDEMNIFICATION.

12.1 Consultant agrees to indemnify, defend (with attorneys approved by City), and hold harmless the City, and its officers, officials, agents and employees (the "Indemnified Parties") from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the Consultant, its employees, agents, and subcontractors performance of services under this Agreement. Consultant's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the City or its elected officials, officers, agents, and employees. Consultant's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The Parties expressly agree that any payment, attorney's fees, costs or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

12.2 This indemnity is in addition to any other rights or remedies which City may have under the law or this Agreement. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, at its sole discretion, reserve, retain or apply any monies due to Consultant under this Agreement for the purpose of resolving such claims; provided however, that City may release such funds if Consultant provides City with reasonable assurances of protection of the City's interest. The City shall, in its sole discretion determine whether such assurances are reasonable.

12.3 Consultant agrees that its duty to defend arises upon an allegation of liability based upon the performance of services under this Agreement by Consultant, its officers, agents, representatives, employees, sub-consultants, or anyone for whom Consultant is liable and that an adjudication of Consultant's liability is not a condition precedent to Consultant's duty to defend.

13. SUBCONTRACTORS.

13.1 The Consultant's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the Project is subject to prior approval by the City.

13.2 All contracts entered into between the Consultant and its subcontractor shall also provide that each subcontractor shall obtain insurance policies, which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. The Consultant shall require the subcontractor to obtain all policies described in section 11 of this Agreement in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

13.3 In any dispute between the Consultant and its subconsultants, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in section 12 of this Agreement should the City be made a party to any judicial or administrative proceeding to resolve any such dispute or should the City incur any costs in responding to third-party discovery requests.

14. NON-DISCRIMINATION. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, military or veteran status, gender, gender identity, gender expression, sexual orientation, or any other class protected under state, federal, or local law. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to any class or category protected under state, federal, or local law and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places available to employees and applicants for employment any notices provided by City setting forth the provisions of this non-discrimination clause.

15. NOTICES. All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted below.

If to City:
City of Del Mar
City Clerk
1050 Camino del Mar
Del Mar, CA 92014
cityclerk@delmar.ca.us

If to Consultant:
Deckard Technologies, Inc.
Nickolas Del Pego, CEO
1620 Fifth Avenue
San Diego, CA 92101
admin@deckard.com

16 ASSIGNABILITY. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated or sub-contracted, without the express written consent of the City.

17. RESPONSIBILITY FOR EQUIPMENT. City shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by Consultant or any of Consultant's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to Consultant by City. The acceptance or use of any such equipment by Consultant, Consultant's employees, or subcontractors shall be construed to mean that Consultant accepts full responsibility for and agrees to exonerate, indemnify and hold harmless City from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

18. CALIFORNIA LAW; VENUE/MISC. This Agreement shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this Agreement shall be brought in the county of San Diego, California. Consultant hereby waives any and all rights it might have pursuant to California Code of Civil Procedure section 394.

19. COMPLIANCE WITH LAWS. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720, et seq., relating to payment of prevailing wages for public works projects, if applicable. Consultant shall indemnify and defend the Indemnified Parties from and against any liability incurred due to any failure on the part of Consultant to comply with any applicable Laws.

To the extent Consultant is required to comply with prevailing wage requirements, Consultant does hereby acknowledge that they are aware of, have read, and understand the terms and implications of SB 854 and Consultant and any subconsultants ensure that they are familiar with and comply with its requirements. Such requirements include, but are not limited to, the registration requirement with the Department of Industrial Relations, State of California (DIR), pursuant to Labor Code section 1725.5. As of March 1, 2015, in compliance with SB 854, the City requires all affected contractors and consultants to be registered with the DIR prior to submitting a bid or proposal on any eligible District project. As of April 1, 2015, failure to comply with the requirements of SB 854 by any contractor or consultant, including registration with the DIR pursuant to Labor Code section 1725.5, shall be a material breach of this Agreement which may be terminated by the City in its sole and absolute discretion. Where applicable, this project is subject to compliance monitoring and enforcement by the DIR.

20. CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986. Consultant certifies that Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors, and consultants that are included in this Agreement.

21. ENTIRE AGREEMENT. This Agreement sets forth the entire understanding of the Parties with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein.

22. AMENDMENTS. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless agreed to in writing by both Parties.

23. NO WAIVER. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement shall constitute a waiver of any such breach of such covenant, term or condition.

24. SEVERABILITY. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision unenforceable, invalid, or illegal.

25. DRAFTING AMBIGUITIES. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

26. LEGAL FEES. In the event of the bringing of any action or suit by either party hereto against the other party hereunder to enforce or interpret any of the provisions, covenants or conditions of this Agreement, or arising out of any tortious conduct by either party incident to this Agreement, the prevailing party in such action or suit shall be entitled to recover all costs and expenses of suit, including reasonable attorneys' fees. In any action or suit brought to enforce this Agreement, the damages available shall be limited to specific performance or other such equitable relief that the court may order.

27. CONFLICTS BETWEEN TERMS. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

28. EXHIBITS INCORPORATED. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

29. SIGNING AUTHORITY. The representative for each Party signing on behalf of a corporation, partnership, joint venture, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

DECKARD TECHNOLOGIES, Inc.
a Delaware corporation

By: _____
Thomas Hemmings, Chief Financial Officer

ATTEST:

_____
Sarah Krietor, Administrative Services Manager/City Clerk

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney

EXHIBIT "A"
SCOPE OF WORK

Consultant shall provide the following Scope of Work:

A. STR Registration and Permitting. Consultant shall collect, review, and verify, in partnership with City staff, compliance of STR applications with all applicable regulations and policies. The Consultant shall provide STR operators with TOT billing and remittance information and any other regulatory information identified by the City. The Consultant shall assist the City with assessing the Consultant costs associated with issuing STR permits (on a per permit basis) for initial permit approval and subsequent renewals to inform the City's STR permit fee development.

B. Short-Term Rental Database. The Consultant shall create and maintain a database of all STR units operating within the City (permitted and unpermitted) that is sufficient for the City to use for outreach, monitoring and compliance purposes. The database shall include, but is not limited to, the property address, unit number, parcel number, Zoning designation, listing URL, property type, maximum occupancy, number of bedrooms, number of off-street parking spaces, rental frequency, rental rate, minimum/maximum stay, TOT payments, and the responsible party/host/STR Operator. The Consultant shall regularly monitor STR listings in the City and update the database accordingly. The Consultant shall have the capability to export the data to be analyzed in GIS, CSV, Excel or other similar formats as specified by the City. The database shall be accessible and made available to City staff.

C. Short-Term Rental Activity Monitoring. The Consultant shall proactively monitor all short-term rental operations within the City and all activity relevant to the enforcement of the City's Short-Term Rental and TOT Regulations. This is to include, but not limited to, on-site posting of the permit number, designated local contact and responsiveness to complaints, advertised occupancy limit, rental duration, nightly rate, and revenue generated (permit fee revenue and TOT revenue). The Consultant shall also periodically document the short-term rental activity in a manner easily accessible to the City. This shall include monthly and quarterly reporting of all short-term rental activities.

D. Compliance Outreach and Code Enforcement Support. The Consultant shall assist with compliance outreach and provide code enforcement support. The Consultant shall monitor STRs for compliance with the City's regulations and issue notices, in collaboration with the City, for short-term rental operations determined to be in violation of the City's Short-Term Rental and/or TOT Regulations. This includes providing the City with screen capture and/or other evidence of unpermitted listing or other violations.

   The Consultant shall prepare and submit to the City weekly/monthly/as-needed a master list of STRs known or suspected to be operating in violation of the City's regulations. The Consultant shall receive, document, and immediately report to the City all complaints submitted in relation to a STR unit and provide a weekly summary of all reports. The Consultant shall have the capability to allow complainants to easily share evidence of alleged STR ordinance violations (i.e. photos, video, audio).

   The Consultant shall reach out to any non-registered, un-permitted, and/or otherwise non-compliant STRs to promptly resolve any violations and assist with other enforcement activities as needed.

E. Short-Term Rental Complaint Hotline and Online Portal. The Consultant shall develop, operate, and maintain, in collaboration with the City, a dedicated complaint hotline in which reporting parties can remit complaints regarding violations of the City's Short-Term Rental Regulations. The Consultant shall provide immediate and real time notification of any reports to City personnel and the local STR contact/operation/agent.

Additionally, the Consultant shall provide an online portal which would allow the public to upload audio, video, or photographs of potential short-term lodging violations. All portal submissions shall be forwarded to the City for a coordinated response.

F. STR Operators and Community Outreach. The Consultant shall notify all existing STRs in the City of the requirement to obtain a STR Permit, and pay all required taxes and permit fees; perform community outreach regarding the STR program requirements; the requirement to designate a local contact person to be available twenty-four hours per day, seven days per week for the purpose of responding to complaints within thirty (30) minutes.

The Consultant shall post content to a website for the public that will be linked to the City's website with details regarding the STR Permit requirements, operational requirements, location of STRs, and how to register complaints; and develop outreach materials and submit to the City for approval prior to notifications being posted to the website.

G. Transient Occupancy Tax Remittance and Auditing. The Consultant shall administer the City's STR TOT compliance program including collecting, processing, and submitting TOT to the City in a timely manner. This includes pursuing and collecting delinquent payments from hosts and providing reports to the City's Finance division for account reconciliation purposes.

Annually and as needed, the Consultant shall conduct or assist with conducting audits of TOT compliance for all STRs operating on identified platforms.

H. Enterprise Software System Integration. The Consultant shall have experience with and the ability to integrate its service and/or communicate with the City's Enterprise Management Software.

EXHIBIT "B"
FEE SCHEDULE

Base Product Pricing

Address Identification, Compliance Monitoring & Rental Activity Reporting • Estimated 145 properties • Identify property & address • Identify property owner address • Real-time reporting of all new listings & frequent calendar monitoring • 10,000+ Websites monitored Daily, worldwide • FutureCast™ - Identify future bookings as they are made on the rental platform • The Rentalscape Portal	$5,000 annually
Outreach Campaign • Letter campaign to inform STR illegal operators regarding compliance requirements and • procedures • All letter templates will receive City approval pre-campaign • Campaign includes one Introductory letter and two additional escalation letters • Letter Campaign	Included
STR Registration Portal • Online, intuitive portal for registration and renewal • Fields configurable to meet City needs • Identify properties that need registration fee • Provide daily reports on new and modified permits • Registration Portal	$5,000
Tax Payment Portal • Easy to use online tax payment portal • Configurable tax, late fee and interest rates on a per-property basis • Provide daily reports on tax payments and remittances to the City • Tax Payment Portal	$5,000
Complaint 24/7 Hotline and Online Form • 4/7 US bilingual (upon request) call center with live agents – Premiere • Online complaint form (Complaint Form only $2,000) • Complaint Line & Online Form	$3,900
Reporting and Analysis • On Demand, Dynamic reporting, offering multiple ad hoc reports • Filters allowing users to focus on specific segments of the STR population	Included
Dedicated Account Manager • Single Point of Contact for City staff for all matters • Ensures the «place» is following Industry best practices • Shepherds the implementation process from start to finish • Periodic meetings/calls throughout the life of the account	Included
Unlimited Account & Training Sessions • No limit on the number of Rentalscape user accounts • No per-session training costs • Single Sign-On (SSO) available • Dedicated client support staff available to assist with costumer request	Included
Total Year 1* **Annual price increase not to exceed 5%*	**$18,900**

Optional Product Pricing – Yearly Basis

Constituents Portal • Public facing portal (Link placed on Jurisdiction's website) • Permit/Licensing Data and Responsible Party Contact Info for every STR Property (Standard) • STR Constituent Portal	$5,000 (optional)
Inspection Module • Enables field agents to create notes, comments, complaints, or tickets directly from the field during the inspections (mobile enabled) • Record inspection data, including notes and complaints • E-mail inspection results to property owners and City staff • Inspection Module	$5,000 (optional)

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Kseniia Izgarskaia, Senior Management Analyst
Marco Camacho, Finance Manager/Treasurer
Via Ashley Jones, City Manager

DATE: October 20, 2025

SUBJECT: First Amendment to Business License Tax and Fee Administrative Services Agreement

REQUESTED ACTION/RECOMMENDATION:
Staff recommends the City Council: 1) Approve the First Amendment to Agreement with Hinderliter De Llamas & Associates (HDL) (Attachment A) for business license tax and fee administrative services extending the term for an additional two-year period ending October 17, 2027; and 2) Authorize the City Manager to execute the First Amendment.

BACKGROUND:
The City of Del Mar (City) issues business licenses and collects associated fees in accordance with Del Mar Municipal Code (DMMC) Title 5 Business Licenses. Business licenses are an important revenue source for the City and account for approximately $350,000 in general fund revenue annually. Additionally, maintaining accurate business license records enables the City to proactively reach out to businesses and ensure compliance with various City regulations including construction, zoning, and code enforcement.

On October 17, 2022, the City of Del Mar entered into a three-year agreement with HdL (Attachment B) to provide business license tax & fee administrative services. HdL provides a web-based business license application and renewal services, administers the software, and performs the actual issuance of the business licenses on behalf of the City. For quality control purposes, staff completes internal reviews of business license applications to confirm all City requirements are met before a license is issued.

Since the commencement of the agreement, HdL's software and services has significantly improved the City's business license experience for customers, who can now apply and renew licenses online. Additionally, outsourcing the business license administration process enhanced the ability of staff to focus on other critical City Council priorities and operational items. The software application and the related support services performed by HdL have exceeded the City's expectations.

City Council Action:

DISCUSSION/ANALYSIS:
The initial three-year term of the current agreement is set to expire on October 17, 2025. Section 2.1 of the agreement allows for a two-year extension to the term based on satisfactory performance and mutual agreement between the parties. Staff recommends extending the agreement for an additional two-year period. HdL's fees for service will remain the same through the end of the two-year amendment period.

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council related to this agenda item. Sufficient funds for business license administration services are available in the adopted Fiscal Year 2025-2026 and 2026-2027 Operating and Capital Budget.

ENVIRONMENTAL IMPACT:
The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:
This is an operational item and is not related to Council Goals and Priorities.

ATTACHMENTS:
Attachment A – First Amendment to Agreement with HdL
Attachment B – Original Agreement with HdL

FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF DEL MAR AND HINDERLITER DE LLAMAS & ASSOCIATES (HdL) FOR BUSINESS LICENSE TAX & FEE ADMINISTRATIVE SERVICES

THIS FIRST AMENDMENT to the Agreement (First Amendment) is made and entered into effective the 18th day of October, 2025, by and between the City of Del Mar, a Charter City and municipal corporation ("City"), and Hinderliter De Llamas & Associates (HdL) ("Consultant") (collectively "Parties").

RECITALS

WHEREAS, on October 17, 2022, the City and Consultant entered into an Agreement establishing the terms and conditions for Consultant to provide business license tax & fee administrative services to the City for a three-year period terminating October 17, 2025; and

WHEREAS, the Parties now desire to extend the term of the Agreement for an additional two-year period; and

WHEREAS, the First Amendment is necessary in order to extend the term of the Agreement.

NOW, THEREFORE, the Parties hereby agree to amend the Agreement as follows:

Section 1. Section 2.1 of the Agreement is amended as follows:

2. DURATION OF AGREEMENT

2.1 Term, Time for Performance. The term of the Agreement is for a period commencing on October 17, 2022, and terminating October 17, 2027, ("Termination Date") unless terminated earlier as set forth herein.

Section 3. Except as otherwise provided in this First Amendment, all terms and conditions, and attachments and exhibits thereto, of the Agreement shall remain in full force and effect.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this First Amendment to be effective as of the date first written above.

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

HINDERLITER DE LLAMAS & ASSOCIATES,
a California corporation

By: _____
Robert Gray, CIO

ATTEST:

By: _____
Sarah Krietor, Administrative Services Manager/City Clerk

APPROVED AS TO FORM:

By: _____
Leslie E. Devaney, City Attorney

PROFESSIONAL SERVICES AGREEMENT BETWEEN

THE CITY OF DEL MAR AND HINDERLITER DE LLAMAS & ASSOCIATES (HdL)

FOR BUSINESS LICENSE TAX & FEE ADMINISTRATIVE SERVICES

This Professional Services Agreement ("Agreement") is made and entered into this 17th day of October, 2022 by and between the City of Del Mar, a Charter City and a municipal corporation ("City"), and Hinderliter De Llamas & Associates (HdL) ("Consultant") (collectively "Parties").

WHEREAS, the City desires to employ a consultant to provide business license tax &fee administrative services ("Consulting Services"). Said work is to be performed in accordance with the terms and conditions set forth below and as described in the scope of services, attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the City has initially determined that Consultant is qualified by experience and ability to perform the services desired by City, and Consultant is willing to perform such services; and

WHEREAS, Consultant will conduct all the work as described and detailed in this Agreement to be provided to the City.

NOW, THEREFORE, the Parties hereto mutually covenant and agree with each other as follows:

1. CONSULTING SERVICES.

1.1 Scope of Services. The Consultant shall perform the Consulting Services as set forth in the written Scope of Services, attached hereto as **Exhibit "A"** and incorporated herein. Such services shall be provided at the direction of the City.

1.2. Project Coordinator. The Finance Manager is hereby designated as the Project Coordinator for City and will monitor the progress and execution of this Agreement. Consultant shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for Consultant. Robert Gray is hereby designated as the Project Director for Consultant. City shall provide Consultant access to appropriate staff and resources for the coordination and provision of services.

1.3. City Modification of Scope of Services. City may order changes to the Scope of Services within the general scope of this Agreement consisting of additions, deletions, or other revisions. If such changes cause a change in the Consultant's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to Consultant's compensation and/or contract time shall be made, subject to the City's approval. All such changes shall be authorized in writing, executed by Consultant and City. If such a change results in an extension of the term of this Agreement or increases the maximum amount to be paid under this Agreement, no such change shall have any force or effect unless an amendment to this Agreement is approved by the City Council.

2. DURATION OF AGREEMENT.

2.1 Term, Time for Performance. This Agreement shall be effective for an initial period of three years from the date first written above, with the option to extend for an additional two year period upon agreement of both parties.

Time is of the essence for this Agreement and each provision of this Agreement, unless otherwise specified in this Agreement.

2.2 Delay. Any delay occasioned by causes beyond the control of Consultant may merit an extension of time for the completion of the Scope of Services. When such delay occurs, Consultant shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the Consulting Services when justified by the circumstances provided that no extension of time shall be granted which would extend the time for performance beyond the date specified in section 2.1 above.

2.3 City's Right to Terminate for Default. Should Consultant be in default of any covenant or condition hereof, City may immediately terminate this Agreement for cause if Consultant fails to cure the default within ten (10) calendar days of receiving written notice of the default.

2.4 City's Right to Terminate without Cause. Without limiting its rights in the event of Consultant's default, City may terminate this Agreement, without cause, by giving written notice to Consultant. Such termination shall be effective upon receipt of the written notice. Consultant shall be compensated for all effort and material expended on behalf of City under the terms of this Agreement, up to the effective date of termination. All personal property remaining in City facilities or on City property thirty (30) days after the expiration or termination of this Agreement shall be, at City's election, considered the property of City.

3. PERFORMANCE AFTER TERMINATION. Upon termination of this Agreement as provided herein, Consultant shall, within such reasonable time period as may be directed by City Manager, complete those items of work which are in various stages of completion and which City Manager determines are necessary to be completed by Consultant to allow the project to be completed in a timely, logical, and orderly manner. Upon termination, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, and other materials prepared by Consultant shall be delivered to the City Manager, upon his request, as property of City.

4. COMPENSATION.

4.1 Total Amount. Compensation to Consultant shall be provided in accordance with the rates described in the Scope of Services contained in **Exhibit "B."** Consultant shall bill the City for work provided and shall present a written request for such payment monthly. City shall pay all invoices in arrears and shall in no event be required to pay for any services provided by Consultant in advance. Consultant acknowledges that it is not guaranteed any particular amount of work.

4.2 Additional Services. City may, as the need arises or in the event of an emergency, request additional services of Consultant. Should such additional services be

required, Compensation therefore shall be paid to the Consultant in accordance with Scope of Services contained in Exhibit "A." City and Consultant shall agree to the costs prior to commencement of such work.

5. INDEPENDENT CONTRACTOR. Consultant is, for all purposes arising out of this Agreement, an independent contractor. The Consultant has and shall retain the right to exercise full control and supervision of all persons assisting the Consultant in the performance of said services hereunder, the City only being concerned with the finished results of the work being performed. Neither Consultant nor Consultant's employees shall in any event be entitled to any benefits to which City employees are entitled, including, but not limited to, overtime, any retirement benefits, workers' compensation benefits, any injury leave or other leave benefits, Consultant being solely responsible for all such matters, as well as, compliance with social security and income tax withholding and all other regulations and laws governing such matters.

6. STATEMENT OF EXPERIENCE. Consultant agrees that it has the financial resources, service experience, completion ability, personnel, and experience in dealing with public agencies necessary for performing the Scope of Services and that such performance shall be in accordance with the standards customarily adhered to by an experienced and competent Consultant using the degree of care and skill ordinarily exercised by reputable Consultants practicing in the same field of service in the State of California. By executing this Agreement, Consultant represents that it has demonstrated trustworthiness and possesses the quality, fitness, and capacity to perform the Agreement in a manner satisfactory to City. Additionally, Consultant and all of Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Agreement.

7. AUDIT OF RECORDS.

7.1 At any time during normal business hours and as often as may be deemed necessary, the Consultant shall make available to a representative of City for examination all of its records with respect to all matters covered by this Agreement and shall permit City to audit, examine, and/or reproduce such records. Consultant shall retain such financial and program service records for at least four (4) years after termination or final payment under this Agreement. Consultant has no responsibility to retain any drafts, notes, communications, emails or other writings created or received by City in the course of performing the Services (other than the final documents and other final work product related to the Services and provided to City for the term of years referenced above).

7.2 The Consultant shall include the City's right to audit under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

8. CONFIDENTIALITY. All Consulting services performed by Consultant, including, but not limited to, all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to Consultant, at the time that it was disclosed to Consultant by the City, (b) subsequently becomes publicly known through no act or omission of Consultant or (c) otherwise becomes known to Consultant other than through disclosure by the

City. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the City. The sole purpose of this section is to prevent disclosure of City's confidential and proprietary information by Consultant or subcontractors.

9. CONFLICTS OF INTEREST.

9.1 Consultant shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including, but not limited to, California Government Code §§ 81000 et seq. (Political Reform Act) and §§ 1090 et seq. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code § 87103. Consultant represents that it has no knowledge of any financial interests, which would require it to disqualify itself from any matter on which it might perform services for the City.

9.2 Consultant shall comply with all of the reporting requirements of the Political Reform Act. The Consultant shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the City's determination that the Consultant is subject to a conflict of interest code, if applicable. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

9.3 If, in performing the Consulting Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests.

10. OWNERSHIP OF DOCUMENTS.

10.1 All documents, data, studies, drawings, maps, models, photographs and reports prepared by Consultant under this Agreement shall be considered the property of City. This does not include any software, programs, methodologies or systems used in the creation of such work product, nor does it include any drafts, notes or internal communications prepared by Consultant in the course of performing the Services that were not otherwise provided to City in either hardcopy or electronic form, all of which may be protected by Consultant or others' copyrights or other intellectual property. It is possible that any documents, drafts, communications or other work product provided to City may be considered public records under applicable law and/or may be discoverable through litigation. Consultant shall be permitted to reference and use said materials for use in future studies, work, and marketing so long as said materials are considered "public documents" and are not subject to attorney-client privilege, or the subject of pending closed or executive session discussions.

10.2 As used herein, the term "proprietary information" means all information, techniques, processes, services or material that has or could have commercial value or other utility in Consultant's Business, including without limitation: Consultant's (i) software, computer or data processing programs; (ii) data processing applications, routines, subroutines, techniques

or systems; (iii) desktop or web-based software; (iv) audit, tax or fee collection/administration or business processes, methods or routines; (v) marketing plans, analyses and strategies; and (vi) materials, techniques and intellectual property used. Except as otherwise required by law, City must hold in confidence and may not use (except as expressly authorized by this Agreement) or disclose to any other party any proprietary information provided, learned of or obtained by City in connection with this Agreement. If access to any software which Consultant owns is provided to City as part of this Agreement (including, without limitation, if City chooses to subscribe to such software and reports option as part of the Services) (such Consultant-owned software is, collectively, the "Software"), Consultant hereby provides a limited, non-exclusive, non-transferable license to City for the use by such of City's staff as may be designated from time to time by City and approved by Consultant in writing to use the Software pursuant to and during the Term of this Agreement. The Software must only be used by such authorized City staff, and City must not sublicense, sublet, duplicate, modify, decompile, reverse engineer, disassemble, or attempt to derive the source code of the Software. The license granted hereunder does not imply ownership by City or any of City's staff of the Software nor any rights of City or any of City's staff to sublicense, transfer or sell the Software, or rights to use the Software for the benefit of others. City may not create (or allow the creation of) any derivative work or product based on or derived from the Software or documentation, nor modify (or allow the modification of) the Software or documentation without the prior written consent of Consultant. In the event of a breach of this provision (and without limiting Consultant's remedies), such modification, derivative work or product based on the Software or documentation is hereby deemed assigned to Consultant. Upon termination of this Agreement or this Software license, this Software license will be deemed to have expired and City must immediately deactivate, cease using and remove, delete and destroy all the Software (including, without limitation, from City's computers and network). Consultant warrants that the Software will perform in accordance with the Software's documentation.

11. INSURANCE

11.1 Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" and are admitted to do business in the State of California, unless otherwise approved in writing by the City's Risk Manager.

11.2 Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement.

11.3 Types and Amounts Required. Consultant shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

11.3.1 Commercial General Liability (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of

$1,000,000 per occurrence and subject to an annual aggregate of **$2,000,000**. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

11.3.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of **$300,000** per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

11.3.3 Workers' Compensation. For all of the Consultant's employees who are subject to this Agreement and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum **$1,000,000** employers' liability coverage. The Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

11.3.4 Consulting Liability. Consulting liability (errors and omissions) coverage with a limit of **$1,000,000** per claim and **$2,000,000** annual aggregate. The Consultant shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss. All defense costs shall be outside the limits of the policy.

11.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions are the responsibility of the Consultant and must be declared to and approved by the City. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers, or (2) the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

11.5 Additional Required Provisions. The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

11.5.1 The City, its officers, officials, employees, and representatives shall be named as additional insureds. The City's Additional Insured status must be reflected on additional insured endorsement form which shall be submitted to the City.

11.5.2 The policies are primary and non-contributory to any insurance that may be carried by the City, as reflected in an endorsement which shall be submitted to the City.

11.6 Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the City or on other than the City’s forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require

complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

12. DEFENSE AND INDEMNIFICATION.

12.1 Consultant agrees to indemnify, defend (with attorneys approved by City), and hold harmless the City, and its officers, officials, agents and employees (the "Indemnified Parties") from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the Consultant, its employees, agents, and subcontractors performance of services under this Agreement. Consultant's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the City or its elected officials, officers, agents, and employees. Consultant's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The Parties expressly agree that any payment, attorney's fees, costs or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

12.2 This indemnity is in addition to any other rights or remedies which City may have under the law or this Agreement. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, at its sole discretion, reserve, retain or apply any monies due to Consultant under this Agreement for the purpose of resolving such claims; provided however, that City may release such funds if Consultant provides City with reasonable assurances of protection of the City's interest. The City shall, in its sole discretion determine whether such assurances are reasonable.

12.3 Consultant agrees that its duty to defend arises upon an allegation of liability based upon the performance of services under this Agreement by Consultant, its officers, agents, representatives, employees, sub-consultants, or anyone for whom Consultant is liable and that an adjudication of Consultant's liability is not a condition precedent to Consultant's duty to defend. In no event will Consultant be liable for any uncollected business license revenue. Consultant's duty to indemnify and hold harmless City shall not apply to claims for liability which arise from the issuance or non-issuance of any registration, license or permit.

13. SUBCONTRACTORS.

13.1 The Consultant's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the Project is subject to prior approval by the City.

13.2 All contracts entered into between the Consultant and its subcontractor shall also provide that each subcontractor shall obtain insurance policies, which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. The Consultant shall require the subcontractor to obtain all policies described in section 11 of this Agreement in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

13.3 In any dispute between the Consultant and its subconsultants, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in section 12 of this Agreement

should the City be made a party to any judicial or administrative proceeding to resolve any such dispute or should the City incur any costs in responding to third-party discovery requests.

14. NON-DISCRIMINATION. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, military or veteran status, gender, gender identity, gender expression, sexual orientation, or any other class protected under state, federal, or local law. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to any class or category protected under state, federal, or local law and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places available to employees and applicants for employment any notices provided by City setting forth the provisions of this non-discrimination clause.

15. NOTICES. All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted below.

If to City:
City of Del Mar
City Clerk
1050 Camino del Mar
Del Mar, CA 92014

If to Consultant:
Hinderliter De Llamas & Associates (HdL)
Contracts
120 S. State College Blvd., Suite 200
Brea, CA 92821

16 ASSIGNABILITY. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated or sub-contracted, without the express written consent of the City.

17. RESPONSIBILITY FOR EQUIPMENT. City shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by Consultant or any of Consultant's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to Consultant by City. The acceptance or use of any such equipment by Consultant, Consultant's employees, or subcontractors shall be construed to mean that Consultant accepts full responsibility for and agrees to exonerate, indemnify and hold harmless City from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

18. CALIFORNIA LAW; VENUE/MISC. This Agreement shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this Agreement shall be brought in the county of San Diego, California. Consultant hereby waives any and all rights it might have pursuant to California Code of Civil Procedure section 394.

19. COMPLIANCE WITH LAWS. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720, et seq., relating to payment of

prevailing wages for public works projects, if applicable. Consultant shall indemnify and defend the Indemnified Parties from and against any liability incurred due to any failure on the part of Consultant to comply with any applicable Laws.

To the extent Consultant is required to comply with prevailing wage requirements, Consultant does hereby acknowledge that they are aware of, have read, and understand the terms and implications of SB 854 and Consultant and any subconsultants ensure that they are familiar with and comply with its requirements. Such requirements include, but are not limited to, the registration requirement with the Department of Industrial Relations, State of California (DIR), pursuant to Labor Code section 1725.5. As of March 1, 2015, in compliance with SB 854, the City requires all affected contractors and consultants to be registered with the DIR prior to submitting a bid or proposal on any eligible District project. As of April 1, 2015, failure to comply with the requirements of SB 854 by any contractor or consultant, including registration with the DIR pursuant to Labor Code section 1725.5, shall be a material breach of this Agreement which may be terminated by the City in its sole and absolute discretion. Where applicable, this project is subject to compliance monitoring and enforcement by the DIR.

20. CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986. Consultant certifies that Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors, and consultants that are included in this Agreement.

21. ENTIRE AGREEMENT. This Agreement sets forth the entire understanding of the Parties with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein.

22. AMENDMENTS. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless agreed to in writing by both Parties.

23. NO WAIVER. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement shall constitute a waiver of any such breach of such covenant, term or condition.

24. SEVERABILITY. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision unenforceable, invalid, or illegal.

25. DRAFTING AMBIGUITIES. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

26. LEGAL FEES. In the event of the bringing of any action or suit by either party hereto against the other party hereunder to enforce or interpret any of the provisions, covenants or conditions of this Agreement, or arising out of any tortuous conduct by either party incident to this Agreement, the prevailing party in such action or suit shall be entitled to recover all costs and expenses of suit, including reasonable attorneys' fees. In any action or suit brought to enforce this Agreement, the damages available shall be limited to specific performance or other such equitable relief that the court may order.

27. CONFLICTS BETWEEN TERMS. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

28. EXHIBITS INCORPORATED. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

29. SIGNING AUTHORITY. The representative for each Party signing on behalf of a corporation, partnership, joint venture, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

Hinderliter De Llamas & Associates (HdL)
a California corporation

By: Robert Digitally signed by Robert Date: 2022.10.18 14:52:19 -07'00'
Robert Gray, CIO

ATTEST:

_____
Sarah Krietor, Administrative Services Manager/City Clerk

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney

EXHIBIT "A"
SCOPE OF SERVICES

Consultant will provide the following Services relative to Client's business license tax administration.

1. Operations Management Services

1.1. Establish and maintain database of Client businesses.
1.2. Receive and process applications, renewals and payments in a timely fashion.
1.3. Send renewal notices to active businesses within 30 days of the renewal period end date or at another interval specified by Client.
1.4. Provide businesses multiple options for submitting applications, renewals, payments, or support requests (including via website, email, mail, phone, and fax. Consultant license specialists will be available for live interactions Monday through Friday, 8:00am to 5:00pm Pacific).
1.5. Remit revenue to Client no less than monthly.
1.6. Provide Client staff access to website portal offering business registry inquiry, reporting, and electronic department approval capabilities.

2. Compliance Services: 1) Identify and register businesses which are subject to licensure or taxation, 2) collect known debt as pertains to business license or tax, and 3) identify under-reported tax liability.

2.1. **Discovery Services**

2.1.1. Develop a list of businesses subject to Client licensure or taxation.
2.1.2. Notify non-compliant businesses of their options to comply or dispute their non-compliant status. Notification and support to businesses will be facilitated through the website, mail, email, phone and fax.
2.1.3. Review information and forms submitted by the business for completion and accuracy, inclusive of any additional required documentation (i.e. home occupation permit). All submissions are filed and stored electronically and made available to Client upon request.
2.1.4. Provide businesses with detailed invoicing and options to pay via website, mail, and phone.
2.1.5. Remit revenue to Client no less than monthly, along with all business applications and any additional documentation.

2.2. **Collection Services**

2.2.1. Identify businesses subject to Client licensure or taxation which have known debt to Client and have failed to pay within an appropriate time frame.
2.2.2. Notify businesses of their options to comply or dispute their non-compliant status.
2.2.3. Provide businesses with detailed invoicing and options to pay via website, mail and phone.
2.2.4. Remit revenue to Client no less than monthly.

2.3. **Audit Services**

2.3.1. Identify potential under-reporting and/or misclassified businesses.

2.3.2. Audit businesses mutually agreed to by Client and Consultant that are identified as potential under-reporting businesses.
2.3.3. Submit audit summaries to Client and discuss further actions.
2.3.4. Educate businesses on proper reporting practices.
2.3.5. Invoice and collect identified delinquencies.

3. Online Payment Processing – Consultant's services include PCI compliant payment processing services powered by FIS Global, which supports both credit card and eCheck transactions.

3.1. **Client Responsibilities**

3.1.1. As a condition to its receipt of the Service, Client shall execute and deliver any and all applications, agreements, certifications or other documents required by FIS Global, Networks or other third parties whose consent or approval is necessary for the processing of Transactions by FIS Global. "Network" is an entity or association that operates, under a common service mark, a system which permits participants to authorize, route, and settle Transactions among themselves, including, for example, networks operated by VISA USA and Mastercard, Inc., NYCE Corporation, American Express, and Discover.

3.1.2. Client hereby grants Consultant the full right, power and authority to request, receive and review any Data or records reflected in a Transaction report. Client represents and warrants that it has the full right and authority to grant these rights.

EXHIBIT "B"
FEE SCHEDULE

1. Operations Management Services

1.1. Fees for performing operations management Services shall be:

- $17.00 for each processed account, which is any account for which an application or renewal/return was processed, or active account which was sent a renewal notice.
- $5,000.00 Implementation Fee

1.2. Fees will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics (the "CPI Change"). Increases to Fees will be no less than 3% and no more than 5% annually.

1.3. Fees related to travel and lodging expenses are billed at cost and apply to all meetings (including implementation, training, operations and support). Travel expenses only apply to out of scope travel and must therefore be pre-approved by Client.

1.4. Fees will be invoiced monthly to Client for Services performed during the prior month. Fees will be netted out of Client's monthly revenue disbursement. Client will submit payment for any balance due to Consultant within 30 days of receiving the invoice.

2. Compliance Services

2.1. Fees for performing compliance Services apply to all monies received for the current tax/license period and any other prior period collected (including monies received for taxes, penalties, interest, and fees).

2.1.1. Fees for performing discovery Services shall be a contingency Fee of 40% of the revenues received as a result of the Services.

2.1.2. In the event that Client discovers a non-compliant business and reports the business to Consultant (including a calculation of all taxes/fees due), Consultant will categorize the business as a collection service effort and thus apply the lower collection Services contingency Fee rate.

2.1.3. Fees for performing collection Services shall be a contingency Fee of 25% of the revenues received as a result of the Services.

2.1.4. Fees for performing audit Services shall be a contingency Fee of 25% of the revenues received as a result of the Services.

2.2. Consultant recognizes Client's authority to waive or reduce the tax/fee debt of a business. Should Client decide to do so for a business whose deficiency was identified by Consultant, Consultant shall be entitled to compensation in the amount of one half (1/2) of the Fees Consultant would have otherwise earned. Deficiencies which are uncollectable due to insolvency or dissolution of the business, or for deficiencies which are otherwise incapable of collection (i.e. statute of limitation or other legal defense) shall

not be considered a Client voluntary election to waive, and thus, Consultant would not be entitled to compensation related thereto under this provision.

2.3. Fees related to travel and lodging expenses are billed at cost and applied to all meetings (including implementation, training, operations, and support). Travel expenses only apply to out of scope travel and must therefore be pre-approved by Client.

2.4. Fees will be invoiced monthly to Client for Services performed during the prior month. Fees will be netted out of Client's monthly revenue disbursement. Client will submit payment for any balance due to Consultant within 30 days of receiving the invoice.

3. Payment Processing – Consultant will configure payment processing services to utilize either a taxpayer funded model (convenience fee) or Client funded model, as directed by Client. Client may switch between these models upon written request to Consultant. Fees for each of these payment processing models are detailed here.

3.1. Taxpayer funded model – Client authorizes Consultant to collect each convenience fee from the taxpayer at time of payment.
- 3.1.1. Credit and debit card processing – 2.9% of transaction amount, minimum of $2.00
- 3.1.2. ACH/e-Check processing - $1.25 per transaction

3.2. Client funded
- 3.2.1. Credit and debit card processing – 2.9% of transaction amount
- 3.2.2. ACH/e-Check processing - $0.50 per transaction

3.3. Returned payments/NSF fee – Each occurrence of a card chargeback, returned payment or insufficient funds will incur a fee of $25.00, to be applied to the taxpayers account.

3.4. Consultant reserves the right to review and adjust pricing related to payment processing services on an annual basis. Consultant will communicate any such adjustment to Client in writing, with 60 days advance notice. Items that will be considered in the review of fees may include, but are not limited to: regulatory changes, card association rate adjustments, card association category changes, bank/processor dues and assessments, average consumer payment amounts, card type utilization, and costs of service.

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Amanda Lee, Principal Planner
Nestor Machado, Management Analyst
Karen Brindley, Planning & Community Development Director
Via Ashley Jones, City Manager

DATE: October 20, 2025

SUBJECT: Approval of a Professional Services Agreement with Ascent Environmental Inc., to Create Visual Concept Illustrations for Affordable Housing Sites in Accordance with the City's Certified 6th Cycle Housing Element Program 1D

REQUESTED ACTION/RECOMMENDATION:
Staff recommends the City Council: 1) Approve a Professional Services Agreement with Ascent Environmental Inc. to create visual concept illustrations for affordable housing sites (Attachment A); and 2) Authorize the City Manager to execute the agreement and any subsequent term extension amendments provided for in the Agreement contingent upon satisfactory performance by the consultant.

BACKGROUND:
Program 1D of the City's certified 6th Cycle Housing Element commits the City to create an Affordable Housing Overlay Zone as a tool to provide incentives for specific housing sites to develop units for lower income households. This requirement was triggered because the City did not produce at least 30 lower income units by April 2025.

In 2023, consulting services provided by Stephen Dalton Architects (SDA) and Keyser Marston Associates Inc. (KMA) produced site-specific massing concepts for select sites in the Housing Element Appendix B Sites Analysis. To build upon this work, and as a preliminary step to facilitate future public outreach, preparation, and processing of an overlay zone, the City is seeking assistance from a consultant to create additional site-specific concepts that include expanded focus on visual illustrations to demonstrate development potential per applicable base zones in comparison to development potential under density bonus law in consideration of protected public scenic views and objective design standards.

DISCUSSION/ANALYSIS:
On October 6, 2025, staff requested a proposal from Ascent Environmental Inc., as a pre-qualified firm participating in the San Diego Association of Government's (SANDAG) "On-Call Sustainable Communities Consulting Services" program. This is consistent with Del Mar Municipal Code (DMMC) 7.04.090 Exemption (G) – professional services obtained from or

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City Council Action:

through agreement with any governmental, public or quasi-public agency where the agency contracted for goods, services and/or services through a competitive process.

As described above, Ascent will create additional site-specific concepts and produce exhibits that can be shared with the public and decision makers to convey what the massing of future development potential could look like. The visual concepts for up to 10 hypothetical affordable housing development scenarios (i.e., multiple dwelling units or mixed-use projects) will describe compliance with the City's Objective Design standards. The intent is to visually show a potential development envelope for sites that may be included in a new overlay zone such as sites being relied on to meet the 6th Cycle Regional Housing Needs Allocation (RHNA) in the North Commercial and Professional Commercial Zones and additional sites that allow 20 dwelling units per acre (i.e., Central Commercial Zone).

The task order will facilitate future work efforts to prepare an ordinance that clearly states objective standards for each site in the overlay zone in a way that is measurable and verifiable and involves no personal or subjective judgment by a decision maker. Once complete, the visual concepts will be presented to the City Council and will be followed by preparation and processing of an ordinance for the prospective new affordable housing overlay zone.

Staff reviewed Ascent's proposal and determined the firm is well-qualified to perform the task. Ascent exceeded the City's expectations on prior work to develop the City's Objective Design Standards. Ascent's cost proposal of $99,973 is within the budgeted amount of $100,000, and in line with market costs for this type of work.

If authorized by the City Council, the consultant is expected to begin work in November 2025 and timely complete concepts for presentation to the City Council by end of June 2026 to comply with the City's 6th Cycle Housing Element Program 1D commitment.

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council related to this agenda item. There is currently $152,000 available in a special project budget for this work in the adopted Fiscal Year 2025-2026 and 2026-2027 Operating and Capital Budget for various Tier 1 and Tier 2 planning projects.

ENVIRONMENTAL IMPACT:
The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA.

HOUSING IMPACT:
The proposed agreement is necessary to implement Housing Element Program 1D.

NEXUS TO CITY COUNCIL GOALS & PRIORITIES:
This item is listed as a Tier 1 City Council priority special project for FY 2025/26.

ATTACHMENT:
Attachment A – Professional Services Agreement with Ascent Environmental, Inc.

PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF DEL MAR AND ASCENT ENVIRONMENTAL, INC.
FOR THE CREATION OF VISUAL CONCEPTS ILLUSTRATIONS

This Professional Services Agreement ("Agreement") is made and entered into this 20th day of October, 2025 by and between the City of Del Mar, a Charter City and a municipal corporation ("City"), and Ascent Environmental, Inc. ("Consultant") (collectively "Parties").

WHEREAS, the City desires to employ a consultant to create visual concept illustrations for affordable housing sites in accordance with Program 1D of the City's 6th Cycle Housing Element ("Consulting Services"). Said work is to be performed in accordance with the terms and conditions set forth below and as described in the scope of services, attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the City has initially determined that Consultant is qualified by experience and ability to perform the services desired by City, and Consultant is willing to perform such services; and

WHEREAS, Consultant will conduct all the work as described and detailed in this Agreement to be provided to the City.

NOW, THEREFORE, the Parties hereto mutually covenant and agree with each other as follows:

1. CONSULTING SERVICES.

1.1 Scope of Services. The Consultant shall perform the Consulting Services as set forth in the written Scope of Services, attached hereto as **Exhibit "A"** and incorporated herein. Such services shall be provided at the direction of the City.

1.2. Designated Point of Contact. City shall provide Consultant access to appropriate staff and resources for the coordination and provision of services. Prior to the start of services, each Party shall identify for the other a designated point of contact for administration and oversight of the services to be provided under this Agreement, with notification of any change to the point of contact within thirty (30) days.

1.3. City Modification of Scope of Services. City may order changes to the Scope of Services within the general scope of this Agreement consisting of additions, deletions, or other revisions. If such changes cause a change in the Consultant's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to Consultant's compensation and/or contract time shall be made, subject to the City's approval. All such changes shall be authorized in writing, executed by Consultant and City. If such a change results in an extension of the term of this Agreement or increases the maximum amount to be paid under this Agreement, no such change shall have any force or effect unless an amendment to this Agreement is approved by the City Council.

2. DURATION OF AGREEMENT.

2.1 Term, Time for Performance. This Agreement shall be effective for a period of three (3) years beginning on October 20, 2025, to October 20, 2028. The agreement may be extended for an additional two (2) year period, upon written approval of both parties. Time

is of the essence for this Agreement and each provision of this Agreement, unless otherwise specified in this Agreement.

2.2 Delay. Any delay occasioned by causes beyond the control of Consultant may merit an extension of time for the completion of the Scope of Services. When such delay occurs, Consultant shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the Consulting Services when justified by the circumstances provided that no extension of time shall be granted which would extend the time for performance beyond the date specified in section 2.1 above.

2.3 City's Right to Terminate for Default. Should Consultant be in default of any covenant or condition hereof, City may immediately terminate this Agreement for cause if Consultant fails to cure the default within ten (10) calendar days of receiving written notice of the default.

2.4 City's Right to Terminate without Cause. Without limiting its rights in the event of Consultant's default, City may terminate this Agreement, without cause, by giving written notice to Consultant. Such termination shall be effective upon receipt of the written notice. Consultant shall be compensated for all effort and material expended on behalf of City under the terms of this Agreement, up to the effective date of termination. All personal property remaining in City facilities or on City property thirty (30) days after the expiration or termination of this Agreement shall be, at City's election, considered the property of City.

3. PERFORMANCE AFTER TERMINATION. Upon termination of this Agreement as provided herein, Consultant shall, within such reasonable time period as may be directed by City Manager, complete those items of work which are in various stages of completion and which City Manager determines are necessary to be completed by Consultant to allow the project to be completed in a timely, logical, and orderly manner. Upon termination, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, and other materials prepared by Consultant shall be delivered to the City Manager, upon his request, as property of City.

4. COMPENSATION.

4.1 Total Amount. Compensation to Consultant shall be provided in accordance with the rates described in the Fee Schedule contained in **Exhibit "B"** and incorporated herein. Consultant shall bill the City for work provided and shall present a written request for such payment monthly. City shall pay all invoices in arrears and shall in no event be required to pay for any services provided by Consultant in advance. Consultant acknowledges that it is not guaranteed any particular amount of work.

4.2 Additional Services. City may, as the need arises or in the event of an emergency, request additional services of Consultant. Should such additional services be required, Compensation therefore shall be paid to the Consultant in accordance with Scope of Services contained in Exhibit "A." City and Consultant shall agree to the costs prior to commencement of such work.

5. INDEPENDENT CONTRACTOR. Consultant is, for all purposes arising out of this Agreement, an independent contractor. The Consultant has and shall retain the right to exercise full control and supervision of all persons assisting the Consultant in the performance of said services hereunder, the City only being concerned with the finished results of the work being

performed. Neither Consultant nor Consultant's employees shall in any event be entitled to any benefits to which City employees are entitled, including, but not limited to, overtime, any retirement benefits, workers' compensation benefits, any injury leave or other leave benefits, Consultant being solely responsible for all such matters, as well as, compliance with social security and income tax withholding and all other regulations and laws governing such matters.

6. STATEMENT OF EXPERIENCE. Consultant agrees that it has the financial resources, service experience, completion ability, personnel, and experience in dealing with public agencies necessary for performing the Scope of Services and that such performance shall be in accordance with the standards customarily adhered to by an experienced and competent Consultant using the degree of care and skill ordinarily exercised by reputable Consultants practicing in the same field of service in the State of California. By executing this Agreement, Consultant represents that it has demonstrated trustworthiness and possesses the quality, fitness, and capacity to perform the Agreement in a manner satisfactory to City. Additionally, Consultant and all of Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Agreement.

7. AUDIT OF RECORDS.

7.1 At any time during normal business hours and as often as may be deemed necessary, the Consultant shall make available to a representative of City for examination all of its records with respect to all matters covered by this Agreement and shall permit City to audit, examine, and/or reproduce such records. Consultant shall retain such financial and program service records for at least four (4) years after termination or final payment under this Agreement.

7.2 The Consultant shall include the City's right to audit under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

8. CONFIDENTIALITY. All Consulting services performed by Consultant, including, but not limited to, all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to Consultant, at the time that it was disclosed to Consultant by the City, (b) subsequently becomes publicly known through no act or omission of Consultant or (c) otherwise becomes known to Consultant other than through disclosure by the City. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the City. The sole purpose of this section is to prevent disclosure of City's confidential and proprietary information by Consultant or subcontractors.

9. CONFLICTS OF INTEREST.

9.1 Consultant shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including, but not limited to, California Government Code §§ 81000 et seq. (Political Reform Act) and §§ 1090 et seq. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code § 87103. Consultant

represents that it has no knowledge of any financial interests, which would require it to disqualify itself from any matter on which it might perform services for the City.

9.2 Consultant shall comply with all of the reporting requirements of the Political Reform Act. The Consultant shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the City's determination that the Consultant is subject to a conflict of interest code, if applicable. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

9.3 If, in performing the Consulting Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests.

10. OWNERSHIP OF DOCUMENTS. All documents, data, studies, drawings, maps, models, photographs and reports prepared by Consultant under this Agreement shall be considered the property of City. Consultant shall be permitted to reference and use said materials for use in future studies, work, and marketing so long as said materials are considered "public documents" and are not subject to attorney-client privilege, or the subject of pending closed or executive session discussions.

11. INSURANCE

11.1 Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" and are admitted to do business in the State of California, unless otherwise approved in writing by the City's Risk Manager.

11.2 Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement.

11.3 Types and Amounts Required. Consultant shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

11.3.1 Commercial General Liability (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of **$1,000,000** per occurrence and subject to an annual aggregate of **$2,000,000**. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

11.3.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of **$300,000** per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

11.3.3 Workers' Compensation. For all of the Consultant's employees who are subject to this Agreement and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum **$1,000,000** employers' liability coverage. The Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

11.3.4 Consulting Liability. Consulting liability (errors and omissions) coverage with a limit of **$1,000,000** per claim and **$2,000,000** annual aggregate. The Consultant shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss. All defense costs shall be outside the limits of the policy.

11.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions are the responsibility of the Consultant and must be declared to and approved by the City. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers, or (2) the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

11.5 Additional Required Provisions. The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

11.5.1 The City, its officers, officials, employees, and representatives shall be named as additional insureds. The City's Additional Insured status must be reflected on additional insured endorsement form which shall be submitted to the City.

11.5.2 The policies are primary and non-contributory to any insurance that may be carried by the City, as reflected in an endorsement which shall be submitted to the City.

11.6 Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

12. DEFENSE AND INDEMNIFICATION.

12.1 Consultant agrees to indemnify, defend (with attorneys approved by City), and hold harmless the City, and its officers, officials, agents and employees (the "Indemnified Parties") from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the Consultant, its employees, agents, and subcontractors performance of services under this Agreement but only to the extent actually caused by the negligence or willful misconduct of Consultant. Consultant's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the City or its elected officials, officers, agents, and employees. Consultant's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The Parties expressly agree that any payment, attorney's fees, costs or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

12.2 This indemnity is in addition to any other rights or remedies which City may have under the law or this Agreement. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, at its sole discretion, reserve, retain or apply any monies due to Consultant under this Agreement for the purpose of resolving such claims; provided however, that City may release such funds if Consultant provides City with reasonable assurances of protection of the City's interest. The City shall, in its sole discretion determine whether such assurances are reasonable.

12.3 Consultant agrees that its duty to defend arises upon an allegation of liability based upon the negligent performance of services under this Agreement by Consultant, its officers, agents, representatives, employees, sub-consultants, or anyone for whom Consultant is liable and that an adjudication of Consultant's liability is not a condition precedent to Consultant's duty to defend.

13. SUBCONTRACTORS.

13.1 The Consultant's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the Project is subject to prior approval by the City.

13.2 All contracts entered into between the Consultant and its subcontractor shall also provide that each subcontractor shall obtain insurance policies, which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. The Consultant shall require the subcontractor to obtain all policies described in section 11 of this Agreement in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

13.3 In any dispute between the Consultant and its subconsultants, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in section 12 of this Agreement should the City be made a party to any judicial or administrative proceeding to resolve any such dispute or should the City incur any costs in responding to third-party discovery requests.

14. NON-DISCRIMINATION. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, military or veteran status, gender, gender identity, gender expression, sexual orientation, or any other class protected under state, federal, or local law. Consultant shall take affirmative action to insure that

applicants are employed and that employees are treated during employment without regard to any class or category protected under state, federal, or local law and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places available to employees and applicants for employment any notices provided by City setting forth the provisions of this non-discrimination clause.

15. NOTICES. All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted below.

If to City:
City of Del Mar
City Clerk
1050 Camino del Mar
Del Mar, CA 92014
cityclerk@delmar.ca.us

If to Consultant
Ascent Environmental, Inc.
Attn: Christine Babla
1230 Columbia Street, Suite 440
San Diego, CA 92101
christine.babla@ascent.inc

16 ASSIGNABILITY. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated or sub-contracted, without the express written consent of the City.

17. RESPONSIBILITY FOR EQUIPMENT. City shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by Consultant or any of Consultant's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to Consultant by City. The acceptance or use of any such equipment by Consultant, Consultant's employees, or subcontractors shall be construed to mean that Consultant accepts full responsibility for and agrees to exonerate, indemnify and hold harmless City from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

18. CALIFORNIA LAW; VENUE/MISC. This Agreement shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this Agreement shall be brought in the county of San Diego, California. Consultant hereby waives any and all rights it might have pursuant to California Code of Civil Procedure section 394.

19. COMPLIANCE WITH LAWS. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720, et seq., relating to payment of prevailing wages for public works projects, if applicable. Consultant shall indemnify and defend the Indemnified Parties from and against any liability incurred due to any failure on the part of Consultant to comply with any applicable Laws.

To the extent Consultant is required to comply with prevailing wage requirements, Consultant does hereby acknowledge that they are aware of, have read, and understand the terms and implications of SB 854 and Consultant and any subconsultants ensure that they are familiar with and comply with its requirements. Such requirements include, but are not limited to, the registration requirement with the Department of Industrial Relations, State of California (DIR),

pursuant to Labor Code section 1725.5. As of March 1, 2015, in compliance with SB 854, the City requires all affected contractors and consultants to be registered with the DIR prior to submitting a bid or proposal on any eligible District project. As of April 1, 2015, failure to comply with the requirements of SB 854 by any contractor or consultant, including registration with the DIR pursuant to Labor Code section 1725.5, shall be a material breach of this Agreement which may be terminated by the City in its sole and absolute discretion. Where applicable, this project is subject to compliance monitoring and enforcement by the DIR.

20. CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986. Consultant certifies that Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors, and consultants that are included in this Agreement.

21. ENTIRE AGREEMENT. This Agreement sets forth the entire understanding of the Parties with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein.

22. AMENDMENTS. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless agreed to in writing by both Parties.

23. NO WAIVER. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement shall constitute a waiver of any such breach of such covenant, term or condition.

24. SEVERABILITY. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision unenforceable, invalid, or illegal.

25. DRAFTING AMBIGUITIES. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

26. LEGAL FEES. In the event of the bringing of any action or suit by either party hereto against the other party hereunder to enforce or interpret any of the provisions, covenants or conditions of this Agreement, or arising out of any tortious conduct by either party incident to this Agreement, the prevailing party in such action or suit shall be entitled to recover all costs and expenses of suit, including reasonable attorneys' fees. In any action or suit brought to enforce this Agreement, the damages available shall be limited to specific performance or other such equitable relief that the court may order.

27. CONFLICTS BETWEEN TERMS. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees

of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

28. EXHIBITS INCORPORATED. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

29. SIGNING AUTHORITY. The representative for each Party signing on behalf of a corporation, partnership, joint venture, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

ASCENT ENVIRONMENTAL, INC.

By: _____
Christine Babla, Principal

ATTEST:

_____
Sarah Krietor, Administrative Services Manager/City Clerk

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney

SCOPE OF WORK
AHOZ STUDY
CITY OF DEL MAR

PROJECT UNDERSTANDING

To implement Housing Element Program 1D, the City plans to adopt an Affordable Housing Overlay Zone (AHOZ) to facilitate development of lower income housing in the North Commercial Zone and Professional Commercial Zone. The City completed feasibility studies in January 2023 for privately owned sites in the 6th Cycle Housing Element Sites Inventory and has prepared draft incentives for inclusion in the AHOZ. To facilitate public outreach and processing of the AHOZ, the City has requested a series of illustrations to demonstrate how incentives could accommodate affordable housing for each site context. Exhibits should show existing public scenic view locations and identify massing concepts that could fit in developable space for each parcel under a density bonus scenario in zones that allow 20 du per acre.

STUDY GOAL

Prepare concepts for each housing element site to demonstrate development feasibility, given existing constraints, application of zoning standards, objective design standards and the AHOZ.

SCOPE OF WORK

Ascent will work with the City to study the identified up to 10 Affordable Housing Overlay Zone sites (See *Site List*), as outlined in the following tasks.

1. Ascent will hold a kick-off meeting with the City to confirm the following:
    - Review scope and schedule.
    - Project goals.
    - Sites to be studied
    - The development context, constraints, potential incentives, and study parameters to be considered for each site.
2. Prepare base map diagrams for each site illustrating the existing parcel(s), adjacent context, existing zoning standards (setbacks, floor area ratio, lot coverage, height, parking), floodplain requirements, any known easements, and relationship to protected public scenic views. The intent is to visually demonstrate how a prospective overlay zone could more explicitly accommodate affordable housing development, at a base zone density of 20 dwelling units per acre, for a density bonus

project through incentives (i.e., setbacks, floor area ratio, lot coverage, height, parking) that provide relief from existing development standards currently applicable to these sites.

- Diagrams to include brief bulleted summary of goals for each Housing Element site, based on information provided in the study prepared by KMA and Steven Dalton Architects, and the City.
- As part of this effort, the City will identify preliminary concepts that have been discussed, including any goals related to development yield, building type, maximum building envelope (FAR, height, etc.), and known constraints.

3. Conduct site visits. Up to 2 members of the Ascent team will visit and photograph the sites to confirm site context and document views from public streets, at grade.

4. Prepare two preliminary sketch site concepts for each site, including one concept identifying the development envelope per the existing base regulations, and one concept showing potential for an expanded development envelope through application of incentives. All development concepts will be prepared in compliance with the Multi-family Objective Design Standards (ODS). Ascent will rely on previous studies as a starting point for the concepts in this task order. Concepts will include:

   - Plan view for each site that shows rough conceptual massing within the development envelope (existing and prospective development envelope with incentives).
   - Diagrammatic elevations that show rough conceptual massing and relationship to protected public scenic views.
   - Table of associated development yield.
   - Key conclusions addressing how incentives can remove any physical development constraints. If additional constraints are found through this study, those will be identified, with recommendations for addressing to increase feasibility.

5. Based on feedback from the City, Ascent will prepare final annotated site concepts for each site, refining items developed in Task 4 above.

   - Through this process, Ascent will work with the City to determine the preferred graphic style for all illustrations, so that the exhibits can be used for both internal city dialogue and public engagement.
   - It is assumed that illustrative 3-d sketches will be developed, as opposed to photorealistic renderings. Ascent will share samples for discussion, to confirm graphic approach. Ascent will then prepare a preliminary set of concepts, and revise based on feedback from the City
   - Ascent will provide a summary PowerPoint presentation or graphic report that includes two- and three-dimensional graphic outputs from the 3D model images, with callout annotations to communicate design strategies, standards, and incentives in an easy-to-understand format.

6. Assumes up to six coordination meetings, including:

   - Kick-off meeting.

- Up to two coordination meeting(s) to confirm base map diagrams, assumptions, and preliminary sketches.
- Up to three coordination meetings to review draft design concepts, discuss comments, and review revisions, if needed.

SCHEDULE

1. Kick-off: By November 6, 2025 (assumes City Council authorization October 20, 2025)
2. Base-mapping and site visit: November-December 2025
3. Preliminary Concepts: December2025-February 2026
4. Refined Concepts: March-April 2026
5. Final Deliverable: April/May 2026

BUDGET PROPOSAL
AHOZ STUDY
CITY OF DEL MAR

The proposed budget is presented below. Please note that the budget is estimated based on a good faith effort and current understanding of the project needs.

	Task	Price	Hours	Christine Babla, Principal	Matt Gelbman/ Anh Thai, PM/ Senior Urban Planner	Veronica Alatorre/ Team, Associate Planner	GIS
	hourly rate:			$273.16	$205.92	$164.32	$164.32
1	Kick-off and start up	$ 2,985	14	4	6	4	
2	Base mapping, GIS maps and tool	$ 9,646	52	4	16	8	24
	Summary documentation of sites (includes photos, matrices, zoning, etc)	$ 9,313	52	4	8	40	
3	Site Visit	$ 3,912	18	8	2	8	
4	Prelim Sketches						
	Mock-up/site 1 and template	$ 8,489	48	4	4	40	
	Remaining sites	$ 21,076	114	20	4	90	
5	Refinements (1)	$ 18,348	108	4	4	100	
	Refinements (2)	$ 10,627	60	4	8	48	
	Final powerpoint/book	$ 6,684	36	4	8	24	
6	Meetings	$ 5,341	26	6	10	10	
	Admin	$ 3,152	14	4	10		
	LABOR SUBTOTAL	**$ 99,573**	**542**	**66**	**80**	**372**	**24**
				$ 18,029	**$ 16,474**	**$ 61,127**	**$ 3,944**

REIMBURSABLE EXPENSES	**$**	**400**
Printing	**$**	**200**
Mileage / Parking / Travel	**$**	**200**

TOTAL PRICE	**$**	**99,973**

ASSUMPTIONS

1. Billing rates will be consistent with Ascent's SANDAG On-Call Sustainable Communities Consulting Services (Category 1) Contract No. S978783, starting with Year 4 rates.
2. No economic or financial analysis will be prepared.
3. No engineering studies or site surveys will be prepared.

4. Concepts will incorporate, where possible, recommendations from the study prepared by KMA and Steven Dalton Architects, related to amount/location of commercial development, lot consolidation assumptions, lot coverage, height, and FAR.
5. Schedule assumes an approximately 6-month schedule with project initiation in November 2025.
6. Public engagement activities, if needed, are assumed to follow this process and will be scoped under a separate task order and budget, when more information is known.

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Nestor Machado, Management Analyst
Karen Brindley, Planning & Community Development Director
Via Ashley Jones, City Manager

DATE: October 20, 2025

SUBJECT: Amendments to As-Needed Economic Impact and Fiscal Analysis Services Agreements

REQUESTED ACTION/RECOMMENDATION:
Staff recommends the City Council: 1) Approve First Amendments to Agreements with Keyser Marston Associates, Inc. (KMA) (Attachment A), and David Taussig and Associates, Inc., (DTA Public Finance, Inc.) (DTA) (Attachment B), for As-Needed Economic Impact and Fiscal Analysis Services (Amendments) extending the terms for an additional two-year period ending October 16, 2027, and adjusting fees for KMA due to inflation; and 2) Authorize the City Manager to execute the Amendments.

BACKGROUND:
On October 17, 2022, the City of Del Mar entered into three-year agreements with KMA and DTA (Attachment C) to provide as-needed economic impact and fiscal analysis services related to public and private development projects, policy and code development, and technical assistance. Since the approval of those agreements, both firms have assisted City staff with economic studies, data collection, feasibility analysis, and economic analysis on various City projects.

More notably, KMA assisted City staff with an assessment of the economic viability of programs within the 6th Cycle Housing Element implementation. DTA assisted City staff with collecting data to identify the number of short-term rentals operating in Del Mar in 2023, which included the preparation of a report of all STRs in the City of Del Mar at the time. The work performed by both firms to date met or exceeded the City's expectations.

DISCUSSION/ANALYSIS:
The initial three-year term of the current agreements expired on October 17, 2025. Section 2.1 of the agreements allows for a two-year extension to the term based on satisfactory performance and mutual agreement between the parties. While neither firm is currently working on tasks for the City, it is recommended to continue having both firms available on an as-needed basis should projects arise that require their specific services.

City Council Action:

The current Agreement with KMA does not provide for adjustments to fees during the term of the contract. Due to escalating labor costs resulting from inflation and a competitive labor market, KMA requested a 5% Consumer Price Index (CPI) increase for the fourth year of the extended term, and a 3% CPI increase for the fifth year of the extended term, as indicated in Exhibit A to Attachment A. The proposed fee schedule submitted by KMA was evaluated to ensure the revised fees remain in line with current market rates for the services to be provided.

The Amendments to the Agreements include a two-year term adjustment for both firms, and the Amendment with KMA additionally adjusts fees as described above. DTA's fees for service will remain the same through the end of the two-year amendment period.

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council related to this agenda item. Sufficient funds for economic impact and fiscal analysis consultant services are available in the adopted Fiscal Year 2025-2026 and 2026-2027 Operating and Capital Budget for various Tier 1 and Tier 2 planning projects.

ENVIRONMENTAL IMPACT:
The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA.

ATTACHMENTS:
Attachment A – First Amendment to Agreement with KMA
    Exhibit A to Attachment A – Updated Fee Schedule from KMA
Attachment B – First Amendment to Agreement with DTA
Attachment C – Original Agreements with the Firms

FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF DEL MAR AND KEYSER MARSTON ASSOCIATES INC. FOR AS-NEEDED ECONOMIC IMPACT AND FISCAL ANALYSIS SERVICES

THIS FIRST AMENDMENT to the Agreement (First Amendment) is made and entered into effective the 17th day of October, 2025, by and between the City of Del Mar, a Charter City and municipal corporation ("City"), and Keyser Marston Associates, Inc. ("Consultant") (collectively "Parties").

RECITALS

WHEREAS, on October 17, 2022, the City and Consultant entered into an Agreement establishing the terms and conditions for Consultant to provide economic impact and fiscal analysis services to the City for a three-year period terminating October 17, 2025; and

WHEREAS, the Parties now desire to extend the term of the Agreement for an additional two-year period; and

WHEREAS, the Parties now desire to amend the compensation rates for services included in Exhibit B of the Agreement to provide for a 5% Consumer Price Index (CPI) increase for the fourth year of the extended term, and a 3% CPI increase for the fifth year of the extended term, as indicated in Exhibit A to this First Amendment; and

WHEREAS, the First Amendment is necessary in order to extend the term of the Agreement and to amend the fee schedule for services.

NOW, THEREFORE, the Parties hereby agree to amend the Agreement as follows:

Section 1. Section 2.1 of the Agreement is amended as follows:

2. DURATION OF AGREEMENT

2.1 Term, Time for Performance. The term of the Agreement is for a period commencing on October 17, 2022, and terminating October 16, 2027, ("Termination Date") unless terminated earlier as set forth herein.

Section 2**.** The fee schedule in Exhibit B to the Agreement ("Fee Schedule") is hereby removed and replaced by the new fee schedule included with this First Amendment as Exhibit A.

Section 3. Except as otherwise provided in this First Amendment, all terms and conditions, and attachments and exhibits thereto, of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be effective as of the date first written above.

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

KEYSER MARSTON ASSOCIATES, INC.

By: _____
Linnie A. Gavino, Senior Principal

ATTEST:

By: _____
Sarah Krietor, Administrative Services Manager/City Clerk

APPROVED AS TO FORM:

By: _____
Leslie E. Devaney, City Attorney

KEYSER MARSTON
ASSOCIATES

PUBLIC SECTOR HOURLY RATES

	YEAR 4	YEAR 5
CHAIRMAN, PRESIDENT, MANAGING PRINCIPALS*	$305.00	$314.00
SENIOR PRINCIPALS*	$295.00	$304.00
PRINCIPALS*	$275.00	$283.00
MANAGERS*	$245.00	$252.00
SENIOR ASSOCIATES	$205.00	$211.00
ASSOCIATES	$185.00	$191.00
SENIOR ANALYSTS	$170.00	$175.00
ANALYSTS	$145.00	$149.00
TECHNICAL STAFF	$105.00	$108.00
ADMINISTRATIVE STAFF	$90.00	$93.00

Directly related job expenses not included in the above rates include auto mileage, parking, taxis/ride shares, air fares, car rentals, lodging, meals, delivery, electronic data processing, graphics and printing. Directly related job expenses will be billed at 110% of cost.

Monthly billings for staff time and expenses incurred during the period will be payable within thirty (30) days of invoice date.

* Rates for individuals in these categories will be increased by 50% for time spent in court testimony.

FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF DEL MAR AND DTA PUBLIC FINANCE, INC. FOR AS-NEEDED ECONOMIC IMPACT AND FISCAL ANALYSIS SERVICES

THIS FIRST AMENDMENT to the Agreement (First Amendment) is made and entered into effective the 17th day of October, 2025, by and between the City of Del Mar, a Charter City and municipal corporation ("City"), and DTA Public Finance, Inc. ("Consultant") (collectively "Parties").

RECITALS

WHEREAS, on October 17, 2022, the City and Consultant entered into an Agreement establishing the terms and conditions for Consultant to provide economic impact and fiscal analysis services to the City for a three-year period terminating October 17, 2025; and

WHEREAS, the Parties now desire to extend the term of the Agreement for an additional two-year period; and

WHEREAS, the First Amendment is necessary in order to extend the term of the Agreement.

NOW, THEREFORE, the Parties hereby agree to amend the Agreement as follows:

Section 1. Section 2.1 of the Agreement is amended as follows:

2. DURATION OF AGREEMENT

2.1 Term, Time for Performance. The term of the Agreement is for a period commencing on October 17, 2022, and terminating October 16, 2027, ("Termination Date") unless terminated earlier as set forth herein.

Section 2. Except as otherwise provided in this First Amendment, all terms and conditions, and attachments and exhibits thereto, of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be effective as of the date first written above.

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

DTA PUBLIC FINANCE, INC.
a California Corporation

By: _____
Kelly Wright, Chief Executive Officer

ATTEST:

By: _____
Sarah Krietor, Administrative Services Manager/City Clerk

APPROVED AS TO FORM:

By: _____
Leslie E. Devaney, City Attorney

PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF DEL MAR AND KEYSER MARSTON ASSOCIATES INC.
FOR AS-NEEDED ECONOMIC IMPACT AND FISCAL ANALYSIS SERVICES

This Professional Services Agreement ("Agreement") is made and entered into this 17th day of October, 2022 by and between the City of Del Mar, a Charter City and a municipal corporation ("City"), and Keyser Marston Associates, Inc. ("Consultant") (collectively "Parties").

WHEREAS, the City desires to employ a consultant to provide as-needed economic impact and fiscal analysis services ("Consulting Services"). Said work is to be performed in accordance with the terms and conditions set forth below and as described in the scope of services, attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the City has initially determined that Consultant is qualified by experience and ability to perform the services desired by City, and Consultant is willing to perform such services; and

WHEREAS, Consultant will conduct all the work as described and detailed in this Agreement to be provided to the City.

NOW, THEREFORE, the Parties hereto mutually covenant and agree with each other as follows:

1. CONSULTING SERVICES.

1.1 Scope of Services. The Consultant shall perform the Consulting Services as set forth in the written Scope of Services, attached hereto as **Exhibit "A"** and incorporated herein. Such services shall be provided at the direction of the City.

1.2. Project Coordinator. The Planning & Community Development Director is hereby designated as the Project Coordinator for City and will monitor the progress and execution of this Agreement. Consultant shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for Consultant. Paul Marra is hereby designated as the Project Director for Consultant. City shall provide Consultant access to appropriate staff and resources for the coordination and provision of services.

1.3. City Modification of Scope of Services. City may order changes to the Scope of Services within the general scope of this Agreement consisting of additions, deletions, or other revisions. If such changes cause a change in the Consultant's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to Consultant's compensation and/or contract time shall be made, subject to the City's approval. All such changes shall be authorized in writing, executed by Consultant and City. If such a change results in an extension of the term of this Agreement or increases the maximum amount to be paid under this Agreement, no such change shall have any force or effect unless an amendment to this Agreement is approved by the City Council.

2. DURATION OF AGREEMENT.

2.1 Term, Time for Performance. This Agreement shall be effective for a period of three (3) years beginning on October 17, 2022, and ending on October 17, 2025. The agreement may be extended for an additional two (2) year period, upon written approval of both parties.

Time is of the essence for this Agreement and each provision of this Agreement, unless otherwise specified in this Agreement.

2.2 Delay. Any delay occasioned by causes beyond the control of Consultant may merit an extension of time for the completion of the Scope of Services. When such delay occurs, Consultant shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the Consulting Services when justified by the circumstances provided that no extension of time shall be granted which would extend the time for performance beyond the date specified in section 2.1 above.

2.3 City's Right to Terminate for Default. Should Consultant be in default of any covenant or condition hereof, City may immediately terminate this Agreement for cause if Consultant fails to cure the default within ten (10) calendar days of receiving written notice of the default.

2.4 City's Right to Terminate without Cause. Without limiting its rights in the event of Consultant's default, City may terminate this Agreement, without cause, by giving written notice to Consultant. Such termination shall be effective upon receipt of the written notice. Consultant shall be compensated for all effort and material expended on behalf of City under the terms of this Agreement, up to the effective date of termination. All personal property remaining in City facilities or on City property thirty (30) days after the expiration or termination of this Agreement shall be, at City's election, considered the property of City.

3. PERFORMANCE AFTER TERMINATION. Upon termination of this Agreement as provided herein, Consultant shall, within such reasonable time period as may be directed by City Manager, complete those items of work which are in various stages of completion and which City Manager determines are necessary to be completed by Consultant to allow the project to be completed in a timely, logical, and orderly manner. Upon termination, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, and other materials prepared by Consultant shall be delivered to the City Manager, upon his request, as property of City.

4. COMPENSATION.

4.1 Total Amount. Compensation to Consultant shall be provided in accordance with the rates described in the Fee Schedule in Exhibit "B". Consultant shall bill the City for work provided and shall present a written request for such payment monthly. City shall pay all invoices in arrears and shall in no event be required to pay for any services provided by Consultant in advance. Consultant acknowledges that it is not guaranteed any particular amount of work.

4.2 Additional Services. City may, as the need arises or in the event of an emergency, request additional services of Consultant. Should such additional services be required, Compensation therefore shall be paid to the Consultant in accordance with Scope of Services contained in Exhibit "A." City and Consultant shall agree to the costs prior to commencement of such work.

5. INDEPENDENT CONTRACTOR. Consultant is, for all purposes arising out of this Agreement, an independent contractor. The Consultant has and shall retain the right to exercise full control and supervision of all persons assisting the Consultant in the performance of said services hereunder, the City only being concerned with the finished results of the work being performed. Neither Consultant nor Consultant's employees shall in any event be entitled to any benefits to which City employees are entitled, including, but not limited to, overtime, any retirement benefits, workers' compensation benefits, any injury leave or other leave benefits, Consultant being solely responsible for all such matters, as well as, compliance with social security and income tax withholding and all other regulations and laws governing such matters.

6. STATEMENT OF EXPERIENCE. Consultant agrees that it has the financial resources, service experience, completion ability, personnel, and experience in dealing with public agencies necessary for performing the Scope of Services and that such performance shall be in accordance with the standards customarily adhered to by an experienced and competent Consultant using the degree of care and skill ordinarily exercised by reputable Consultants practicing in the same field of service in the State of California. By executing this Agreement, Consultant represents that it has demonstrated trustworthiness and possesses the quality, fitness, and capacity to perform the Agreement in a manner satisfactory to City. Additionally, Consultant and all of Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Agreement.

7. AUDIT OF RECORDS.

7.1 At any time during normal business hours and as often as may be deemed necessary, the Consultant shall make available to a representative of City for examination all of its records with respect to all matters covered by this Agreement and shall permit City to audit, examine, and/or reproduce such records. Consultant shall retain such financial and program service records for at least four (4) years after termination or final payment under this Agreement.

7.2 The Consultant shall include the City's right to audit under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

8. CONFIDENTIALITY. All Consulting services performed by Consultant, including, but not limited to, all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to Consultant, at the time that it was disclosed to Consultant by the City, (b) subsequently becomes publicly known through no act or omission of Consultant or (c) otherwise becomes known to Consultant other than through disclosure by the City. Except for any subcontractors that may be allowed upon prior

agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the City. The sole purpose of this section is to prevent disclosure of City's confidential and proprietary information by Consultant or subcontractors.

9. CONFLICTS OF INTEREST.

9.1 Consultant shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including, but not limited to, California Government Code §§ 81000 et seq. (Political Reform Act) and §§ 1090 et seq. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code § 87103. Consultant represents that it has no knowledge of any financial interests, which would require it to disqualify itself from any matter on which it might perform services for the City.

9.2 Consultant shall comply with all of the reporting requirements of the Political Reform Act. The Consultant shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the City's determination that the Consultant is subject to a conflict of interest code, if applicable. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

9.3 If, in performing the Consulting Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests.

10. OWNERSHIP OF DOCUMENTS. All documents, data, studies, drawings, maps, models, photographs and reports prepared by Consultant under this Agreement, with the exception of Consultant's proprietary computer models, shall be considered the property of City. Consultant shall be permitted to reference and use said materials for use in future studies, work, and marketing so long as said materials are considered "public documents" and are not subject to attorney-client privilege, or the subject of pending closed or executive session discussions.

11. INSURANCE

11.1 Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" and are admitted to do business in the State of California, unless otherwise approved in writing by the City's Risk Manager.

11.2 Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the City

is entitled to thirty (30) days prior written notice (ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement.

11.3 Types and Amounts Required. Consultant shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

11.3.1 Commercial General Liability (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of **$1,000,000** per occurrence and subject to an annual aggregate of **$2,000,000**. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

11.3.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of **$300,000** per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

11.3.3 Workers' Compensation. For all of the Consultant's employees who are subject to this Agreement and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum **$1,000,000** employers' liability coverage. The Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

11.3.4 Consulting Liability. Consulting liability (errors and omissions) coverage with a limit of **$1,000,000** per claim and **$2,000,000** annual aggregate. The Consultant shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss.

11.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions are the responsibility of the Consultant and must be declared to and approved by the City. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers, or (2) the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

11.5 Additional Required Provisions. The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

11.5.1 The City, its officers, officials, employees, and representatives shall be named as additional insureds. The City's Additional Insured status must be reflected on additional insured endorsement form which shall be submitted to the City.

11.5.2 The policies are primary and non-contributory to any insurance that may be carried by the City, as reflected in an endorsement which shall be submitted to the City.

11.6 Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

12. DEFENSE AND INDEMNIFICATION.

12.1 Consultant agrees to indemnify, defend (with attorneys approved by City), and hold harmless the City, and its officers, officials, agents and employees (the "Indemnified Parties") from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the Consultant, its employees, agents, and subcontractors negligence or willful misconduct in the performance of services under this Agreement. Consultant's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the City or its elected officials, officers, agents, and employees. Consultant's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The Parties expressly agree that any payment, attorney's fees, costs or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

12.2 This indemnity is in addition to any other rights or remedies which City may have under the law or this Agreement. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, at its sole discretion, reserve, retain or apply any monies due to Consultant under this Agreement for the purpose of resolving such claims; provided however, that City may release such funds if Consultant provides City with reasonable assurances of protection of the City's interest. The City shall, in its sole discretion determine whether such assurances are reasonable.

12.3 Consultant agrees that its duty to defend arises upon an allegation of liability based upon the performance of services under this Agreement by Consultant, its officers, agents, representatives, employees, sub-consultants, or anyone for whom Consultant is liable and that an adjudication of Consultant's liability is not a condition precedent to Consultant's duty to defend.

13. SUBCONTRACTORS.

13.1 The Consultant's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the Project is subject to prior approval by the City.

13.2 All contracts entered into between the Consultant and its subcontractor shall also provide that each subcontractor shall obtain insurance policies, which shall be kept in

full force and effect during any and all work on this Project and for the duration of this Agreement. The Consultant shall require the subcontractor to obtain all policies described in section 11 of this Agreement in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

13.3 In any dispute between the Consultant and its subconsultants, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in section 12 of this Agreement should the City be made a party to any judicial or administrative proceeding to resolve any such dispute or should the City incur any costs in responding to third-party discovery requests.

14. NON-DISCRIMINATION. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, military or veteran status, gender, gender identity, gender expression, sexual orientation, or any other class protected under state, federal, or local law. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to any class or category protected under state, federal, or local law and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places available to employees and applicants for employment any notices provided by City setting forth the provisions of this non-discrimination clause.

15. NOTICES. All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted below.

If to City:
City of Del Mar
City Clerk
1050 Camino del Mar
Del Mar, CA 92014

If to Consultant
Keyser Marston Associates
Attn: Paul Marra
555 West Beech Street, Suite 460
San Diego, CA 92101

16 ASSIGNABILITY. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated or sub-contracted, without the express written consent of the City.

17. RESPONSIBILITY FOR EQUIPMENT. City shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by Consultant or any of Consultant's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to Consultant by City. The acceptance or use of any such equipment by Consultant, Consultant's employees, or subcontractors shall be construed to mean that Consultant accepts full responsibility for and agrees to exonerate, indemnify and hold harmless City from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

18. CALIFORNIA LAW; VENUE/MISC. This Agreement shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this Agreement shall be brought in the county of San Diego, California. Consultant hereby waives any and all rights it might have pursuant to California Code of Civil Procedure section 394.

19. COMPLIANCE WITH LAWS. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720, et seq., relating to payment of prevailing wages for public works projects, if applicable. Consultant shall indemnify and defend the Indemnified Parties from and against any liability incurred due to any failure on the part of Consultant to comply with any applicable Laws.

To the extent Consultant is required to comply with prevailing wage requirements, Consultant does hereby acknowledge that they are aware of, have read, and understand the terms and implications of SB 854 and Consultant and any subconsultants ensure that they are familiar with and comply with its requirements. Such requirements include, but are not limited to, the registration requirement with the Department of Industrial Relations, State of California (DIR), pursuant to Labor Code section 1725.5. As of March 1, 2015, in compliance with SB 854, the City requires all affected contractors and consultants to be registered with the DIR prior to submitting a bid or proposal on any eligible District project. As of April 1, 2015, failure to comply with the requirements of SB 854 by any contractor or consultant, including registration with the DIR pursuant to Labor Code section 1725.5, shall be a material breach of this Agreement which may be terminated by the City in its sole and absolute discretion. Where applicable, this project is subject to compliance monitoring and enforcement by the DIR.

20. CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986. Consultant certifies that Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors, and consultants that are included in this Agreement.

21. ENTIRE AGREEMENT. This Agreement sets forth the entire understanding of the Parties with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein.

22. AMENDMENTS. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless agreed to in writing by both Parties.

23. NO WAIVER. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement shall constitute a waiver of any such breach of such covenant, term or condition.

24. SEVERABILITY. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision unenforceable, invalid, or illegal.

25. DRAFTING AMBIGUITIES. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

26. LEGAL FEES. In the event of the bringing of any action or suit by either party hereto against the other party hereunder to enforce or interpret any of the provisions, covenants or conditions of this Agreement, or arising out of any tortuous conduct by either party incident to this Agreement, the prevailing party in such action or suit shall be entitled to recover all costs and expenses of suit, including reasonable attorneys' fees. In any action or suit brought to enforce this Agreement, the damages available shall be limited to specific performance or other such equitable relief that the court may order.

27. CONFLICTS BETWEEN TERMS. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

28. EXHIBITS INCORPORATED. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

29. SIGNING AUTHORITY. The representative for each Party signing on behalf of a corporation, partnership, joint venture, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written above.

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

KEYSER MARSTON ASSOCIATES INC.

By: _____
Paul Marra, Managing Principal

ATTEST:

_____
Sarah Krietor, Administrative Services Manager/City Clerk

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney

EXHIBIT "A"
SCOPE OF SERVICES

The Consultant shall, as directed from time to time during the Contract Term, provide on-going, on-call consulting services for various development projects, initiatives and studies including economic, project feasibility, real estate, and other analyses (collectively, the "Services"), as specified in and in accordance with any task order awarded to the Consultant in connection with some or all of the services mentioned in this section, or services similar in nature. Below are the topic areas covering the services the City seeks to retain.

Economic and Fiscal Impact Analysis
Scope may include the use of industry approved-models such as REMI, IMPLAN or RIMS II, or a model approved by the City, to quantify the direct and indirect economic impacts of a project including, but not limited to, number jobs created, earnings, wages and salaries, consumer spending, impacts on local stakeholders and municipal taxes, such as transient occupancy tax and property taxes. The consultant may also be asked to create a base fiscal impact model for multiple revenue inputs and application to varying land uses/building types including, but not limited to office, hotels, condos, industrial, manufacturing, multifamily, mixed use/retail, destination recreation/retail, parking facilities, and other as determined by the City.

Market Analysis & Project Feasibility
Scope may include the use of available data to evaluate current and potential demand for a specific project, or ancillary services a specific project may provide, and determining project viability based on the potential demand. This analysis may also include a review of competitive facilities in the immediate region, forecasting of occupancy levels, financing needs and expected revenue returns as well as the additional affordable housing opportunities needed as a direct result of a new project.

Real Estate Analysis
Scope may include verification of investment returns using industry approved financial metrics, recommendations of financial structures which optimize any potential public investment, and evaluation of public sector risk, and the identification of potential development sites most suitable for a specific project and/or development.

Nexus Studies
Scope may require work with City Departments to collect necessary data and develop additional data to fully support a comprehensive report and recommendation using industry backed methodology for conducting a nexus study. Additionally, the Consultant may be required to identify actors to be considered in evaluating the relationship between a proposed fee and the identified impact and its cost, provide background on similar fees from other jurisdictions and any legal challenges brought against nexus studies, and ultimately provide a final recommendation of a fee based on a legally defensible nexus.

Additional Services
The City reserves the right to request additional economic and fiscal services from the selected On-call Consultant(s) which are similar in nature to the services listed above.

5 – Compensation

5-A – Hourly Billing Rates

KMA proposes to undertake the as-needed services discussed in Section 1 of this proposal on a time-and-materials basis, subject to the hourly billing rate schedule below. For multi-year contracts, KMA projects an annual escalation rate of 3.0% at each contract renewal date.

KEYSER MARSTON ASSOCIATES, INC.
PUBLIC SECTOR HOURLY RATES

	2022/2023
CHAIRMAN, PRESIDENT, MANAGING PRINCIPALS*	$290.00
SENIOR PRINCIPALS*	$280.00
PRINCIPALS*	$260.00
MANAGERS*	$235.00
SENIOR ASSOCIATES	$195.00
ASSOCIATES	$175.00
SENIOR ANALYSTS	$160.00
ANALYSTS	$140.00
TECHNICAL STAFF	$100.00
ADMINISTRATIVE STAFF	$85.00

Directly related job expenses not included in the above rates are: auto mileage, parking, air fares, hotels and motels, meals, car rentals, taxies, telephone calls, delivery, electronic data processing, graphics and printing. Directly related job expenses will be billed at 110% of cost.

Monthly billings for staff time and expenses incurred during the period will be payable within thirty (30) days of invoice date.

* Rates for individuals in these categories will be increased by 50% for time spent in court testimony.

5-B – Estimated Project Budgets

As part of our cost proposal, the City has also requested budget estimates for the scope areas listed below. The RFQ does not identify the timeframe, specific project or assignment examples, level of detail required, number of deliverables, or extent of public/stakeholder involvement. Therefore, it is challenging to provide meaningful projections of potential budgets for future assignments. The figures presented below are provided as order-of-magnitude ranges only, based on KMA prior experience in other jurisdictions. Actual budgets will be determined on a case-by-case basis, as specific assignments are identified and KMA has a full understanding of the City's needs, the scope of the proposed project(s) or policy initiative(s), the number of alternatives/scenarios, and the range of services required.

Task	Description	Approximate Budget Range
Economic and Fiscal Impact Analysis	KMA will prepare assessments of fiscal and economic benefits for proposed developments, including residential, commercial, and visitor-serving uses.	$25,000 to $45,000 per project
Market Analysis and Project Feasibility	KMA will assist the City in reviewing the financial feasibility of proposed developments. Tasks may include comparison of competing proposals, estimate of land value, and/or estimate of warranted investment.	$20,000 to $35,000 per project/site/land use type
Real Estate Analysis	KMA will assist the City with market demand analyses, identification of appropriate development programs, and projection of absorption potential and achievable rents and prices.	$25,000 to $40,000 per project/site/land use type
Nexus Studies	KMA will prepare nexus analyses used to quantify the impacts of market-rate development on the need for affordable housing.	$45,000 to $65,000 per project/assignment
Additional Services	Additional services may include assignments such as: ❖ *Transaction structuring/negotiations* ❖ *Affordable housing transaction structuring* ❖ *Developer selection* ❖ *Specific Plan feasibility* ❖ *Policy planning* ❖ *Participation in public meetings*	Varies widely To be determined on a project/assignment basis

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PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DEL MAR AND DAVID TAUSSIG AND ASSOCIATES, INC. dba DTA FOR AS-NEEDED ECONOMIC IMPACT AND FISCAL ANALYSIS CONSULTING SERVICES

This Professional Services Agreement ("Agreement") is made and entered into this 17th day of October, 2022 by and between the City of Del Mar, a Charter City and a municipal corporation ("City"), and David Taussig and Associates, Inc. dba DTA ("Consultant") (collectively "Parties").

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1.1 Scope of Services. The Consultant shall perform the Consulting Services as set forth in the written Scope of Services, attached hereto as **Exhibit "A"** and incorporated herein. Such services shall be provided at the direction of the City.

1.2. Project Coordinator. The Planning and Community Development Director and Principal Planner are hereby designated as the Project Coordinator for City and will monitor the progress and execution of this Agreement. Consultant shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for Consultant. Kuda Wekwete is hereby designated as the Project Director for Consultant. City shall provide Consultant access to appropriate staff and resources for the coordination and provision of services.

1.3. City Modification of Scope of Services. City may order changes to the Scope of Services within the general scope of this Agreement consisting of additions, deletions, or other revisions. If such changes cause a change in the Consultant's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to Consultant's compensation and/or contract time shall be made, subject to the City's approval. All such changes shall be authorized in writing, executed by Consultant and City. If such a change results in an extension of the term of this Agreement or increases the maximum amount to be paid under this Agreement, no such change shall have any force or effect unless an amendment to this Agreement is approved by the City Council.

2. DURATION OF AGREEMENT.

2.1 Term, Time for Performance. This Agreement shall be effective for a period of three (3) years beginning on October 17, 2022, and ending on October 17, 2025. The agreement may be extended for an additional two (2) year period, upon written approval of both parties.

Time is of the essence for this Agreement and each provision of this Agreement, unless otherwise specified in this Agreement.

2.2 Delay. Any delay occasioned by causes beyond the control of Consultant may merit an extension of time for the completion of the Scope of Services. When such delay occurs, Consultant shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the Consulting Services when justified by the circumstances provided that no extension of time shall be granted which would extend the time for performance beyond the date specified in section 2.1 above.

2.3 City's Right to Terminate for Default. Should Consultant be in default of any covenant or condition hereof, City may immediately terminate this Agreement for cause if Consultant fails to cure the default within ten (10) calendar days of receiving written notice of the default.

2.4 City's Right to Terminate without Cause. Without limiting its rights in the event of Consultant's default, City may terminate this Agreement, without cause, by giving written notice to Consultant. Such termination shall be effective upon receipt of the written notice. Consultant shall be compensated for all effort and material expended on behalf of City under the terms of this Agreement, up to the effective date of termination. All personal property remaining in City facilities or on City property thirty (30) days after the expiration or termination of this Agreement shall be, at City's election, considered the property of City.

3. PERFORMANCE AFTER TERMINATION.

Upon termination of this Agreement as provided herein, Consultant shall, within such reasonable time period as may be directed by City Manager, complete those items of work which are in various stages of completion and which City Manager determines are necessary to be completed by Consultant to allow the project to be completed in a timely, logical, and orderly manner. Upon termination, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, and other materials prepared by Consultant shall be delivered to the City Manager, upon his request, as property of City.

4. COMPENSATION.

4.1 Total Amount. Compensation to Consultant shall be provided in accordance with the rates described in the Fee Schedule contained in **Exhibit "B."** Consultant shall bill the City for work provided and shall present a written request for such payment monthly in accordance with the Fee Schedule contained in Exhibit "B". City shall pay all invoices in arrears and shall in no event be required to pay for any services provided by Consultant in advance. Consultant acknowledges that it is not guaranteed any particular amount of work.

4.2 Additional Services. City may, as the need arises or in the event of an emergency, request additional services of Consultant. Should such additional services be required, Compensation therefore shall be paid to the Consultant in accordance with Scope of Services contained in Exhibit "A." City and Consultant shall agree to the costs prior to commencement of such work.

5. INDEPENDENT CONTRACTOR. Consultant is, for all purposes arising out of this Agreement, an independent contractor. The Consultant has and shall retain the right to exercise full control and supervision of all persons assisting the Consultant in the performance of said services hereunder, the City only being concerned with the finished results of the work being performed. Neither Consultant nor Consultant's employees shall in any event be entitled to any benefits to which City employees are entitled, including, but not limited to, overtime, any retirement benefits, workers' compensation benefits, any injury leave or other leave benefits, Consultant being solely responsible for all such matters, as well as, compliance with social security and income tax withholding and all other regulations and laws governing such matters.

6. STATEMENT OF EXPERIENCE. Consultant agrees that it has the financial resources, service experience, completion ability, personnel, and experience in dealing with public agencies necessary for performing the Scope of Services and that such performance shall be in accordance with the standards customarily adhered to by an experienced and competent Consultant using the degree of care and skill ordinarily exercised by reputable Consultants practicing in the same field of service in the State of California. By executing this Agreement, Consultant represents that it has demonstrated trustworthiness and possesses the quality, fitness, and capacity to perform the Agreement in a manner satisfactory to City. Additionally, Consultant and all of Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Agreement.

7. AUDIT OF RECORDS.

7.1 At any time during normal business hours and as often as may be deemed necessary, the Consultant shall make available to a representative of City for examination all of its records with respect to all matters covered by this Agreement and shall permit City to audit, examine, and/or reproduce such records. Consultant shall retain such financial and program service records for at least four (4) years after termination or final payment under this Agreement.

7.2 The Consultant shall include the City's right to audit under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

8. CONFIDENTIALITY. All Consulting services performed by Consultant, including, but not limited to, all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to Consultant, at the time that it was disclosed to Consultant by the City, (b) subsequently becomes publicly known through no act or omission of Consultant or (c) otherwise becomes known to Consultant other than through disclosure by the City. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent

of the City. The sole purpose of this section is to prevent disclosure of City's confidential and proprietary information by Consultant or subcontractors.

9. CONFLICTS OF INTEREST.

9.1 Consultant shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including, but not limited to, California Government Code §§ 81000 et seq. (Political Reform Act) and §§ 1090 et seq. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code § 87103. Consultant represents that it has no knowledge of any financial interests, which would require it to disqualify itself from any matter on which it might perform services for the City.

9.2 Consultant shall comply with all of the reporting requirements of the Political Reform Act. The Consultant shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the City's determination that the Consultant is subject to a conflict of interest code, if applicable. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

9.3 If, in performing the Consulting Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests.

10. OWNERSHIP OF DOCUMENTS. All documents, data, studies, drawings, maps, models, photographs and reports prepared by Consultant under this Agreement shall be considered the property of City. Consultant shall be permitted to reference and use said materials for use in future studies, work, and marketing so long as said materials are considered "public documents" and are not subject to attorney-client privilege, or the subject of pending closed or executive session discussions. Notwithstanding the above, computer software (including without limitation, financial models, compilations for formulas and spreadsheet models), prepared by the Consultant are Instrument of Service of Consultant and shall remain the property of Consultant. Consultant shall likewise retain all common law, statutory and other reserved rights, including the copyright thereto.

11. INSURANCE

11.1 Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" and are admitted to do business in the State of California, unless otherwise approved in writing by the City's Risk Manager.

11.2 Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement.

11.3 Types and Amounts Required. Consultant shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

11.3.1 Commercial General Liability (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of **$1,000,000** per occurrence and subject to an annual aggregate of **$2,000,000**. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

11.3.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of **$300,000** per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

11.3.3 Workers' Compensation. For all of the Consultant's employees who are subject to this Agreement and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum **$1,000,000** employers' liability coverage. The Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

11.3.4 Consulting Liability. Consulting liability (errors and omissions) coverage with a limit of **$1,000,000** per claim and **$2,000,000** annual aggregate. The Consultant shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss. All defense costs shall be outside the limits of the policy.

11.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions are the responsibility of the Consultant and must be declared to and approved by the City. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers, or (2) the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

11.5 Additional Required Provisions. The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

11.5.1 The City, its officers, officials, employees, and representatives shall be named as additional insureds. The City's Additional Insured status must be reflected on additional insured endorsement form which shall be submitted to the City.

11.5.2 The policies are primary and non-contributory to any insurance that may be carried by the City, as reflected in an endorsement which shall be submitted to the City.

11.6 Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

12. DEFENSE AND INDEMNIFICATION.

12.1 Consultant agrees to indemnify, defend (with attorneys approved by City), and hold harmless the City, and its officers, officials, agents and employees (the "Indemnified Parties") from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the Consultant, its employees, agents, and subcontractors performance of services under this Agreement. Consultant's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the City or its elected officials, officers, agents, and employees. Consultant's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The Parties expressly agree that any payment, attorney's fees, costs or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

12.2 This indemnity is in addition to any other rights or remedies which City may have under the law or this Agreement. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, at its sole discretion, reserve, retain or apply any monies due to Consultant under this Agreement for the purpose of resolving such claims; provided however, that City may release such funds if Consultant provides City with reasonable assurances of protection of the City's interest. The City shall, in its sole discretion determine whether such assurances are reasonable.

12.3 Consultant agrees that its duty to defend arises upon an allegation of liability based upon the performance of services under this Agreement by Consultant, its officers, agents, representatives, employees, sub-consultants, or anyone for whom Consultant is liable and that an adjudication of Consultant's liability is not a condition precedent to Consultant's duty to defend.

13. SUBCONTRACTORS.

13.1 The Consultant's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the Project is subject to prior approval by the City.

13.2 All contracts entered into between the Consultant and its subcontractor shall also provide that each subcontractor shall obtain insurance policies, which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. The Consultant shall require the subcontractor to obtain all policies described in section 11 of this Agreement in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

13.3 In any dispute between the Consultant and its subconsultants, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in section 12 of this Agreement should the City be made a party to any judicial or administrative proceeding to resolve any such dispute or should the City incur any costs in responding to third-party discovery requests.

14. NON-DISCRIMINATION. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, military or veteran status, gender, gender identity, gender expression, sexual orientation, or any other class protected under state, federal, or local law. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to any class or category protected under state, federal, or local law and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places available to employees and applicants for employment any notices provided by City setting forth the provisions of this non-discrimination clause.

15. NOTICES. All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted below.

If to City:
City of Del Mar
City Clerk
1050 Camino del Mar
Del Mar, CA 92014

If to Consultant:
DTA
David Taussig, President
100 Bayview Circle, Suite 100
Newport Beach, CA 92660

16 ASSIGNABILITY. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated or sub-contracted, without the express written consent of the City.

17. RESPONSIBILITY FOR EQUIPMENT. City shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by Consultant or any of Consultant's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to Consultant by City. The acceptance or use of any such equipment by Consultant, Consultant's employees, or subcontractors shall be construed to mean that Consultant accepts full responsibility for and agrees to exonerate, indemnify and

hold harmless City from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

18. CALIFORNIA LAW; VENUE/MISC. This Agreement shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this Agreement shall be brought in the county of San Diego, California. Consultant hereby waives any and all rights it might have pursuant to California Code of Civil Procedure section 394.

19. COMPLIANCE WITH LAWS. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720, et seq., relating to payment of prevailing wages for public works projects, if applicable. Consultant shall indemnify and defend the Indemnified Parties from and against any liability incurred due to any failure on the part of Consultant to comply with any applicable Laws.

To the extent Consultant is required to comply with prevailing wage requirements, Consultant does hereby acknowledge that they are aware of, have read, and understand the terms and implications of SB 854 and Consultant and any subconsultants ensure that they are familiar with and comply with its requirements. Such requirements include, but are not limited to, the registration requirement with the Department of Industrial Relations, State of California (DIR), pursuant to Labor Code section 1725.5. As of March 1, 2015, in compliance with SB 854, the City requires all affected contractors and consultants to be registered with the DIR prior to submitting a bid or proposal on any eligible District project. As of April 1, 2015, failure to comply with the requirements of SB 854 by any contractor or consultant, including registration with the DIR pursuant to Labor Code section 1725.5, shall be a material breach of this Agreement which may be terminated by the City in its sole and absolute discretion. Where applicable, this project is subject to compliance monitoring and enforcement by the DIR.

20. CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986. Consultant certifies that Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors, and consultants that are included in this Agreement.

21. ENTIRE AGREEMENT. This Agreement sets forth the entire understanding of the Parties with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein.

22. AMENDMENTS. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless agreed to in writing by both Parties.

23. NO WAIVER. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement shall constitute a waiver of any such breach of such covenant, term or condition.

24. SEVERABILITY. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision unenforceable, invalid, or illegal.

25. DRAFTING AMBIGUITIES. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

26. LEGAL FEES. In the event of the bringing of any action or suit by either party hereto against the other party hereunder to enforce or interpret any of the provisions, covenants or conditions of this Agreement, or arising out of any tortuous conduct by either party incident to this Agreement, the prevailing party in such action or suit shall be entitled to recover all costs and expenses of suit, including reasonable attorneys' fees. In any action or suit brought to enforce this Agreement, the damages available shall be limited to specific performance or other such equitable relief that the court may order.

27. CONFLICTS BETWEEN TERMS. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

28. EXHIBITS INCORPORATED. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

29. SIGNING AUTHORITY. The representative for each Party signing on behalf of a corporation, partnership, joint venture, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written above.

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

DAVID TAUSSIG AND ASSOCIATES, INC.
a California Corporation

By: _____
David Taussig, President

ATTEST:

_____
Sarah Krietor, City Clerk

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney

EXHIBIT "A"
SCOPE OF SERVICES

The Consultant shall, as directed from time to time during the Contract Term, provide on-going, on-call consulting services for various development projects, initiatives and studies including economic, project feasibility, real estate, and other analyses (collectively, the "Services"), as specified in and in accordance with any task order awarded to the Consultant in connection with some or all of the services mentioned in this section, or services similar in nature. Below are the topic areas covering the services the City seeks to retain.

Economic and Fiscal Impact Analysis
Scope may include the use of industry approved-models such as REMI, IMPLAN or RIMS II, or a model approved by the City, to quantify the direct and indirect economic impacts of a project including, but not limited to, number jobs created, earnings, wages and salaries, consumer spending, impacts on local stakeholders and municipal taxes, such as transient occupancy tax and property taxes. The consultant may also be asked to create a base fiscal impact model for multiple revenue inputs and application to varying land uses/building types including, but not limited to office, hotels, condos, industrial, manufacturing, multifamily, mixed use/retail, destination recreation/retail, parking facilities, and other as determined by the City.

Market Analysis & Project Feasibility
Scope may include the use of available data to evaluate current and potential demand for a specific project, or ancillary services a specific project may provide, and determining project viability based on the potential demand. This analysis may also include a review of competitive facilities in the immediate region, forecasting of occupancy levels, financing needs and expected revenue returns as well as the additional affordable housing opportunities needed as a direct result of a new project.

Real Estate Analysis
Scope may include verification of investment returns using industry approved financial metrics, recommendations of financial structures which optimize any potential public investment, and evaluation of public sector risk, and the identification of potential development sites most suitable for a specific project and/or development.

Nexus Studies
Scope may require work with City Departments to collect necessary data and develop additional data to fully support a comprehensive report and recommendation using industry backed methodology for conducting a nexus study. Additionally, the Consultant may be required to identify actors to be considered in evaluating the relationship between a proposed fee and the identified impact and its cost, provide background on similar fees from other jurisdictions and any legal challenges brought against nexus studies, and ultimately provide a final recommendation of a fee based on a legally defensible nexus.

Additional Services
The City reserves the right to request additional economic and fiscal services from the selected On-call Consultant(s) which are similar in nature to the services listed above.

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Table 8: Proposed Budget [1]

Phase	Tasks	Description	Objective	Frequency	Maximum Charge [2]
1	1.1-1.4	Updating Fiscal and Economic Impact Model	Each Fiscal Year, DTA Has a Model With Updated Assumptions to Analyze Each Project, As Needed	Annual Update	Time and Materials, Not to Exceed $5,000
			Subtotal (Phase 1)	**Annual Cost**	**Time and Materials, Not to Exceed $5,000**
2	-	Market Analysis	Project Consideration by Planning Commission/City Council	Per Project, As Needed	Time and Materials, Not to Exceed $12,500
2	2.1-2.9	Fiscal and Economic Impact Analysis by Project	For Each Project, DTA Will Utilize the Fiscal and Economic Impact Model and Prepare a Report With Findings	Per Project, As Needed	Time and Materials, Not to Exceed $7,500
			Subtotal (Phase 2)	**Per Project, As Needed**	**Time and Materials, Not to Exceed $20,000**
-	-	**Real Estate Analysis [3]**			
		SWOT/Evaluation of Public Sector Risk		Per Project, As Needed	$1,000
		Future Supply			$1,500
		Buyer/Renter Profile			$2,000
		Density Analysis			$3,000
		Identification of Potential Development Site			$4,000
		Affordable Housing Analysis			$4,000
		Land Residual Analysis			$1,500
		School Boundary Assessment			$5,000
			Subtotal	**Per Project, As Needed**	**Time and Materials, Not to Exceed $22,000**
-	1-8	Nexus Studies	For Each Project, DTA Shall Conduct a Comprehensive DIF Study	Per Project, As Needed	Time and Materials, Not to Exceed $30,000 per Project, Plus $7,500 per Fee Category
-	-	Additional Services	Additional Economic and Fiscal Services, Upon Request by the City	Per Project, As Needed	Time and Materials

Notes:

1. The proposed budget outlined in this table assumes the analysis of one land use alternative per project. If the evaluation of more than one land use alternative is required, additional effort will be needed and an amended budget can be provided upon request.
2. The costs listed do not include out-of-pocket expenses.
3. The tasks listed under this section represent standard tasks that may be performed as part of the requested analysis.

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SECTION V
COMPENSATION

For your reference, DTA's and Zonda's hourly rate schedules are provided in the table below. As stated earlier, DTA will be the lead firm on this engagement and Zonda will be a subconsultant to DTA. The budget amounts indicated above include the total budgeted amounts for the entire consultant team. DTA will have a separate billing agreement with Zonda.

Table 9: Hourly Fee Schedules

Labor Category	Labor Rate	Labor Category	Labor Rate
DTA		Zonda	
President/Managing Director	$300/Hour	Senior Managing Principal	$350/Hour
Senior Vice President	$275/Hour	Principal	$325/Hour
Vice President	$250/Hour	Senior Vice President	$300/Hour
Senior Manager	$210/Hour	Vice President	$250/Hour
Manager	$200/Hour	Senior Manager, Director	$225/Hour
Senior Associate	$190/Hour	Manager	$200/Hour
Associate III	$175/Hour	Senior Consultant	$150/Hour
Associate II	$165/Hour	Consultant	$115/Hour
Associate I	$150/Hour		
Research Associate II	$140/Hour		
Research Associate I	$125/Hour		

The proposed budget includes attendance at up to five (5) meetings. Additional meetings will be incorporated to the extent allowable by budget and will be billed on time and materials basis, not to exceed $1,500 per in-person meeting. DTA staff shall also schedule standing conference calls (i.e., weekly or bi-weekly) with City staff to stay on track with tasks and deliverables.

Out-of-pocket and administrative expenses shall be equal to 3% of DTA's billings for labor, plus travel costs and any outside vendor payments (including those for Zonda and IMPLAN). If it is necessary for any data to be pulled from CoStar (property analytics and land "comps") to complete the project, there shall be an additional charge of $500. On or about the first two weeks of each month during which consulting services are rendered hereunder, DTA shall present to the City an invoice covering the current consulting services performed and reimbursable expenses incurred pursuant to the agreement and exhibits thereto. Such invoices shall be paid by the City within 30 days of the date of each invoice. A 1.2% monthly charge may be imposed against accounts that are not paid within 30 days of the date of each invoice. DTA shall stop all work on the project if payment is not received within 45 days of submittal of an invoice.

All hourly rates for services apply through December 31, 2023, and are subject to a cost-of-living increase at that time.

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Clem Brown, Assistant City Manager
Ashlea Houston, Management Analyst
Via Ashley Jones, City Manager

DATE: October 20, 2025

SUBJECT: Agreement with Schmidt Design Group for Shores Park Master Plan

REQUESTED ACTION/RECOMMENDATION:
Staff recommends the City Council: 1) Approve a Professional Services Agreement with Schmidt Design Group for a one-year term ending October 19, 2026, with the option to extend the Agreement for an additional one-year period, to complete the Shores Park Master Plan in an amount up to $171,405 (Attachment A); and 2) Authorize the City Manager to execute the Agreement.

BACKGROUND:
On June 16, 2025, the City Council reinitiated the Shores Park master planning process after being on hold since 2019. At the meeting, staff reviewed the project's history and provided recommendations for next steps, which included the need to execute a new contract with the Schmidt Design Group (Schmidt) to complete the Master Plan (https://www.delmar.ca.us/DocumentCenter/View/10053/06162025-Item-12---Resume-Shores-Park-Master-Planning).

On September 8, 2025, the City Council reaffirmed the guiding principles and preferred park amenities for the Shores Park Master Plan, established the Shores Park Master Plan Ad-hoc Advisory Committee (Shores Committee) to advise on the completion of the Master Plan, and appointed Council Liaisons (Mayor Gaasterland and Councilmember Spelich) to the committee. The Council also directed staff to work with the consultant to evaluate options for a shared or separate off-leash dog area and potential relocation of the Alvarado House from its current location at the Fairgrounds into the updated design concepts for the Master Plan.

Staff explained that they would return to Council at an upcoming meeting with a revised scope of work and agreement with Schmidt to complete the Master Plan that incorporates this direction (https://www.delmar.ca.us/DocumentCenter/View/10109/08082025-Item-9-Guiding-Principles-and-Preferred-Park-Amenities).

City Council Action:

DISCUSSION/ANALYSIS:
Schmidt Design Group has prepared a scope of work (Exhibit A to Attachment A) to complete Phase III - "Create" of the master planning process. Schmidt will utilize the original design team that completed the project's prior work between 2014 and 2019 before the project was deferred. This team will review all previous studies, community feedback, and Council direction to build on the goals established during the initial outreach and design phases.

Due to their prior work on the project and satisfactory performance, there is sufficient justification to exempt the agreement from public biding requirements under Del Mar Municipal Code Section 7.04.090.V, Exemption from Bidding. Re-bidding completion of the Master Plan and potentially awarding an agreement to another firm puts the City at risk of duplicating prior work, inefficiencies, and incurring higher overall costs.

Master Plan Alternatives
Task 1 of the scope of work includes the development of master plan alternatives. As directed by Council on September 8, Schmidt will develop a total of three master plan alternatives that reflect the guiding principles, current site conditions, and preferred park amenities. Schmidt will develop concepts that include both shared and separate off-leash dog areas, and an alternative that incorporates the Alvarado House into the Shores Park site. Sub-consultant OBR Architecture (OBR) will also develop two options for the Del Mar Community Building located on the Shores property. The first option will show a modernized and expanded remodel of the existing building, whereas the second option will involve demolition and replacement with a new building.

The proposed master plan alternatives will be evaluated by a team of sub-consultants to estimate anticipated construction costs for the Master Plan. Leppert Engineering will prepare conceptual grading, utility plans, and preliminary earthwork calculations for the site. MPE Consulting will provide electrical engineering review to coordinate proposed electrical locations and infrastructure in the park alternatives and new building designs. OBR will review the site and building designs to provide architectural input. A rough order of magnitude construction cost estimate will be prepared for each of the three initial design alternatives, with park and building costs identified separately, to inform decisions for the final Master Plan design.

The three initial alternatives will be shared with staff and the Shores Committee to confirm the designs meet the project goals. Revisions will be made based on feedback provided by staff and the Shores Committee, and the three alternatives will then be developed into computer-rendered designs for City Council consideration.

Final Master Plan
In Task 2, Schmidt will create a preferred park Master Plan based on the direction provided by the City Council in Task 1. The final Master Plan will include an illustrative model of park amenities, site furnishings, lighting, a conceptual plant palette, and a design

statement. An image board and three 3D visual simulations will be prepared to clearly illustrate the proposed Shores Park space. A refined construction cost estimate will also be provided for the park and selected building alternative.

OBR Architecture will create a detailed floor plan, exterior 3D renderings, and colored elevations for the selected Del Mar Community Building design option. These renderings will be used in future fundraising efforts for the construction of the Community Building, which will be organized by the Del Mar Foundation and other local nonprofit organizations.

Meetings
The proposed scope of work includes meetings with the Shores Committee, community building users, two City Council presentations, and multiple meetings with staff throughout the project. Schmidt and OBR will meet with the community building users at the initial design stage to gather information on their current and future needs for the building space. The meetings with the Shores Committee will be an important step to gather feedback from key stakeholder, including representatives from the Del Mar Community Building and Winston School, prior to Council consideration of the refined alternatives and final Master Plan design.

Optional Tasks
Optional scope of work items include developing additional 3D illustrations, preparing a construction phasing strategy and Final Master Plan Report, and additional meetings if needed. The optional items and associated fees are included in the attached fee schedule (Exhibit A to Attachment A). The proposed agreement incorporates the base scope of work and optional task fees; however, staff will make recommendations to City Council on whether to complete the optional tasks during the master planning process.

Schmidt's proposed cost for the base scope of work described above is $149,605, with optional tasks totaling $21,800, for a total cost up to $171,405 (Exhibit A to Attachment A).

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council associated with this item. Sufficient funds have been included in the approved Fiscal Year 2025-2026 Operating and Capital Budget to cover the up to $171,405 in costs to complete the Shores Park Master Plan.

ATTACHMENTS:
Attachment A – Agreement with Schmidt Design Group
Exhibit A to Attachment A – Scope of Work and Fee Schedule

PROFESSIONAL SERVICES AGREEMENT BETWEEN

THE CITY OF DEL MAR AND SCHMIDT DESIGN GROUP

FOR PREPARATION OF THE SHORES PARK MASTER PLAN

This Professional Services Agreement ("Agreement") is made and entered into this 20th day of October, 2025 by and between the City of Del Mar, a Charter City and a municipal corporation ("City"), and Schmidt Design Group, Inc. ("Consultant") (collectively "Parties").

WHEREAS, the City desires to employ a consultant to provide landscape architectural services for preparation of the Shores Park Master Plan ("Consulting Services"). Said work is to be performed in accordance with the terms and conditions set forth below and as described in the scope of services, attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the City has initially determined that Consultant is qualified by experience and ability to perform the services desired by City, and Consultant is willing to perform such services; and

WHEREAS, Consultant will conduct all the work as described and detailed in this Agreement to be provided to the City.

NOW, THEREFORE, the Parties hereto mutually covenant and agree with each other as follows:

1. CONSULTING SERVICES.

1.1 Scope of Services. The Consultant shall perform the Consulting Services as set forth in the written Scope of Services, attached hereto as **Exhibit "A"** and incorporated herein. Such services shall be provided at the direction of the City.

1.2. Designated Point of Contact. City shall provide Consultant access to appropriate staff and resources for the coordination and provision of services. Prior to the start of services, each Party shall identify for the other a designated point of contact for administration and oversight of the services to be provided under this Agreement, with notification of any change to the point of contact within thirty (30) days.

1.3. City Modification of Scope of Services. City may order changes to the Scope of Services within the general scope of this Agreement consisting of additions, deletions, or other revisions. If such changes cause a change in the Consultant's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to Consultant's compensation and/or contract time shall be made, subject to the City's approval. All such changes shall be authorized in writing, executed by Consultant and City. If such a change results in an extension of the term of this Agreement or increases the maximum amount to be paid under this Agreement, no such change shall have any force or effect unless an amendment to this Agreement is approved by the City Council.

2. DURATION OF AGREEMENT.

2.1 Term, Time for Performance. This Agreement shall be effective for a period of one (1) year beginning on October 20, 2025 and ending on October 19, 2026. The Agreement may be extended for an additional one-year period upon agreement by both Parties. Such extension, if any, will be evidenced by a written amendment to this Agreement.

Time is of the essence for this Agreement and each provision of this Agreement, unless otherwise specified in this Agreement.

2.2 Delay. Any delay occasioned by causes beyond the control of Consultant may merit an extension of time for the completion of the Scope of Services. When such delay occurs, Consultant shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the Consulting Services when justified by the circumstances provided that no extension of time shall be granted which would extend the time for performance beyond the date specified in section 2.1 above.

2.3 City's Right to Terminate for Default. Should Consultant be in default of any covenant or condition hereof, City may immediately terminate this Agreement for cause if Consultant fails to cure the default within ten (10) calendar days of receiving written notice of the default.

2.4 City's Right to Terminate without Cause. Without limiting its rights in the event of Consultant's default, City may terminate this Agreement, without cause, by giving written notice to Consultant. Such termination shall be effective upon receipt of the written notice. Consultant shall be compensated for all effort and material expended on behalf of City under the terms of this Agreement, up to the effective date of termination. All personal property remaining in City facilities or on City property thirty (30) days after the expiration or termination of this Agreement shall be, at City's election, considered the property of City.

3. PERFORMANCE AFTER TERMINATION. Upon termination of this Agreement as provided herein, Consultant shall, within such reasonable time period as may be directed by City Manager, complete those items of work which are in various stages of completion and which City Manager determines are necessary to be completed by Consultant to allow the project to be completed in a timely, logical, and orderly manner. Upon termination, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, and other materials prepared by Consultant shall be delivered to the City Manager, upon his request, as property of City.

4. COMPENSATION.

4.1 Total Amount. Compensation to Consultant shall be provided at the rates described in the Cost Summary contained in **Exhibit "A."** Consultant shall bill the City for work provided and shall present a written request for such payment monthly. City shall pay all invoices in arrears and shall in no event be required to pay for any services provided by Consultant in advance. Consultant acknowledges that it is not guaranteed any particular amount of work.

4.2 Additional Services. City may, as the need arises or in the event of an emergency, request additional services of Consultant. Should such additional services be required, Compensation therefore shall be paid to the Consultant in accordance with the Fee Schedule contained in Exhibit "A." City and Consultant shall agree to the costs prior to commencement of such work.

5. INDEPENDENT CONTRACTOR. Consultant is, for all purposes arising out of this Agreement, an independent contractor. The Consultant has and shall retain the right to exercise full control and supervision of all persons assisting the Consultant in the performance of said services hereunder, the City only being concerned with the finished results of the work being performed. Neither Consultant nor Consultant's employees shall in any event be entitled

to any benefits to which City employees are entitled, including, but not limited to, overtime, any retirement benefits, workers' compensation benefits, any injury leave or other leave benefits, Consultant being solely responsible for all such matters, as well as, compliance with social security and income tax withholding and all other regulations and laws governing such matters.

6. STATEMENT OF EXPERIENCE. Consultant agrees that it has the financial resources, service experience, completion ability, personnel, and experience in dealing with public agencies necessary for performing the Scope of Services and that such performance shall be in accordance with the standards customarily adhered to by an experienced and competent Consultant using the degree of care and skill ordinarily exercised by reputable Consultants practicing in the same field of service in the State of California. By executing this Agreement, Consultant represents that it has demonstrated trustworthiness and possesses the quality, fitness, and capacity to perform the Agreement in a manner satisfactory to City. Additionally, Consultant and all of Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Agreement.

7. AUDIT OF RECORDS.

7.1 At any time during normal business hours and as often as may be deemed necessary, the Consultant shall make available to a representative of City for examination all of its records with respect to all matters covered by this Agreement and shall permit City to audit, examine, and/or reproduce such records. Consultant shall retain such financial and program service records for at least four (4) years after termination or final payment under this Agreement.

7.2 The Consultant shall include the City's right to audit under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

8. CONFIDENTIALITY. All Consulting services performed by Consultant, including, but not limited to, all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to Consultant, at the time that it was disclosed to Consultant by the City, (b) subsequently becomes publicly known through no act or omission of Consultant or (c) otherwise becomes known to Consultant other than through disclosure by the City. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the City. The sole purpose of this section is to prevent disclosure of City's confidential and proprietary information by Consultant or subcontractors.

9. CONFLICTS OF INTEREST.

9.1 Consultant shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including, but not limited to, California Government Code §§ 81000 et seq. (Political Reform Act) and §§ 1090 et seq. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code § 87103. Consultant represents that it has no knowledge of any financial interests, which would require it to disqualify itself from any matter on which it might perform services for the City.

9.2 Consultant shall comply with all of the reporting requirements of the Political Reform Act. The Consultant shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the City's determination that the Consultant is subject to a conflict of interest code, if applicable. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

9.3 If, in performing the Consulting Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests.

10. OWNERSHIP OF DOCUMENTS. All documents, data, studies, drawings, maps, models, photographs and reports prepared by Consultant under this Agreement shall be considered the property of City. Consultant shall be permitted to reference and use said materials for use in future studies, work, and marketing so long as said materials are considered "public documents" and are not subject to attorney-client privilege, or the subject of pending closed or executive session discussions.

11. INSURANCE

11.1 Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" and are admitted to do business in the State of California, unless otherwise approved in writing by the City's Risk Manager.

11.2 Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement.

11.3 Types and Amounts Required. Consultant shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

11.3.1 Commercial General Liability (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of **$1,000,000** per occurrence and subject to an annual aggregate of **$2,000,000**. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

11.3.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing

coverage at least as broad for bodily injury and property damage for a combined single limit of **$300,000** per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

11.3.3 Workers' Compensation. For all of the Consultant's employees who are subject to this Agreement and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum **$1,000,000** employers' liability coverage. The Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

11.3.4 Consulting Liability. Consulting liability (errors and omissions) coverage with a limit of **$1,000,000** per claim and **$2,000,000** annual aggregate. The Consultant shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss. All defense costs shall be outside the limits of the policy.

11.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions are the responsibility of the Consultant and must be declared to and approved by the City. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers, or (2) the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

11.5 Additional Required Provisions. The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

11.5.1 The City, its officers, officials, employees, and representatives shall be named as additional insureds. The City's Additional Insured status must be reflected on additional insured endorsement form which shall be submitted to the City.

11.5.2 The policies are primary and non-contributory to any insurance that may be carried by the City, as reflected in an endorsement which shall be submitted to the City.

11.6 Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the City or on other than the City’s forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

12. DEFENSE AND INDEMNIFICATION.

12.1 Indemnity for Professional Liability. Except for the sole negligence or willful misconduct of City, Consultant shall, to the fullest extent permitted by law, hold harmless, protect, defend (with attorneys approved by City) and indemnify the City, its council and each member thereof, its officers, employees, representatives and their successors and assigns from

and against all losses, liabilities, claims, suit, damage, expenses, cost, including reasonable attorney's fees and costs, and expert costs and investigation expenses, caused in whole or in part by the negligent, reckless or wrongful acts, errors or omissions of Consultant in the performance of the professional services under this Agreement and those of Consultant's sub-consultants or anyone for whom Consultant is liable regardless of whether or not such claim, loss or liability is caused in part by a party indemnified hereunder. Notwithstanding the foregoing, Consultant's defense obligations shall not exceed its proportionate percentage of fault, except as set forth in section 2782.8 of the Civil Code, as amended by Senate Bill 496.

12.2 Indemnity for Other than Professional Liability. With respect to operations other than the performance of the professional services under this Agreement, Consultant agrees to indemnify, defend (with attorneys approved by City), and hold harmless the City, and its officers, officials, agents and employees (the "Indemnified Parties") from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the Consultant, its employees, agents, and subcontractors performance of services under this Agreement. Consultant's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the City or its elected officials, officers, agents, and employees. Consultant's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The Parties expressly agree that any payment, attorney's fees, costs or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

12.3 This indemnity is in addition to any other rights or remedies which City may have under the law or this Agreement. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, at its sole discretion, reserve, retain or apply any monies due to Consultant under this Agreement for the purpose of resolving such claims; provided however, that City may release such funds if Consultant provides City with reasonable assurances of protection of the City's interest. The City shall, in its sole discretion determine whether such assurances are reasonable.

12.4 Consultant agrees that its duty to defend arises upon an allegation of liability based upon the performance of services under this Agreement by Consultant, its officers, agents, representatives, employees, sub-consultants, or anyone for whom Consultant is liable and that an adjudication of Consultant's liability is not a condition precedent to Consultant's duty to defend.

13. SUBCONTRACTORS.

13.1 The Consultant's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the Project is subject to prior approval by the City.

13.2 All contracts entered into between the Consultant and its subcontractor shall also provide that each subcontractor shall obtain insurance policies, which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. The Consultant shall require the subcontractor to obtain all policies described in section 11 of this Agreement in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

13.3 In any dispute between the Consultant and its subconsultants, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The

Consultant agrees to defend and indemnify the City as described in section 12 of this Agreement should the City be made a party to any judicial or administrative proceeding to resolve any such dispute or should the City incur any costs in responding to third-party discovery requests.

14. NON-DISCRIMINATION. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, military or veteran status, gender, gender identity, gender expression, sexual orientation, or any other class protected under state, federal, or local law. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to any class or category protected under state, federal, or local law and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places available to employees and applicants for employment any notices provided by City setting forth the provisions of this non-discrimination clause.

15. NOTICES. All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted below.

If to City:
City of Del Mar
City Clerk
1050 Camino del Mar
Del Mar, CA 92014
cityclerk@delmar.ca.us

If to Consultant:
Schmidt Design Group, Inc.
Glen Schmidt
1310 Rosecrans Street, Suite G
San Diego, CA 92106
GSchmidt@schmidtdesign.com

16 ASSIGNABILITY. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated or sub-contracted, without the express written consent of the City.

17. RESPONSIBILITY FOR EQUIPMENT. City shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by Consultant or any of Consultant's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to Consultant by City. The acceptance or use of any such equipment by Consultant, Consultant's employees, or subcontractors shall be construed to mean that Consultant accepts full responsibility for and agrees to exonerate, indemnify and hold harmless City from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

18. CALIFORNIA LAW; VENUE/MISC. This Agreement shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this Agreement shall be brought in the county of San Diego, California. Consultant hereby waives any and all rights it might have pursuant to California Code of Civil Procedure section 394.

19. COMPLIANCE WITH LAWS. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720, et seq., relating to payment of prevailing wages for public works projects, if applicable. Consultant shall indemnify and defend the Indemnified Parties from and against any liability incurred due to any failure on the part of Consultant to comply with any applicable Laws.

To the extent Consultant is required to comply with prevailing wage requirements, Consultant does hereby acknowledge that they are aware of, have read, and understand the terms and implications of SB 854 and Consultant and any subconsultants ensure that they are familiar with and comply with its requirements. Such requirements include, but are not limited to, the registration requirement with the Department of Industrial Relations, State of California (DIR), pursuant to Labor Code section 1725.5. As of March 1, 2015, in compliance with SB 854, the City requires all affected contractors and consultants to be registered with the DIR prior to submitting a bid or proposal on any eligible District project. As of April 1, 2015, failure to comply with the requirements of SB 854 by any contractor or consultant, including registration with the DIR pursuant to Labor Code section 1725.5, shall be a material breach of this Agreement which may be terminated by the City in its sole and absolute discretion. Where applicable, this project is subject to compliance monitoring and enforcement by the DIR.

20. CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986. Consultant certifies that Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors, and consultants that are included in this Agreement.

21. ENTIRE AGREEMENT. This Agreement sets forth the entire understanding of the Parties with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein.

22. AMENDMENTS. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless agreed to in writing by both Parties.

23. NO WAIVER. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement shall constitute a waiver of any such breach of such covenant, term or condition.

24. SEVERABILITY. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision unenforceable, invalid, or illegal.

25. DRAFTING AMBIGUITIES. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

26. LEGAL FEES. In the event of the bringing of any action or suit by either party hereto against the other party hereunder to enforce or interpret any of the provisions, covenants or conditions of this Agreement, or arising out of any tortious conduct by either party incident to this Agreement, the prevailing party in such action or suit shall be entitled to recover all costs and expenses of suit, including reasonable attorneys' fees. In any action or suit brought to enforce this Agreement, the damages available shall be limited to specific performance or other such equitable relief that the court may order.

27. CONFLICTS BETWEEN TERMS. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

28. EXHIBITS INCORPORATED. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

29. SIGNING AUTHORITY. The representative for each Party signing on behalf of a corporation, partnership, joint venture, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

SCHMIDT DESIGN GROUP,
a California corporation

By: _____
Glen Schmidt, Principal

ATTEST:

_____
Sarah Krietor, Administrative Services Manager/City Clerk

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney

SCHMIDT DESIGN GROUP

September 24, 2025

Clem Brown | Assistant City Manager
City of Del Mar
1050 Camino del Mar, Del Mar, CA 92014

RE: Landscape Architectural Services for Shores Park Master Planning

Dear Clem,

Thank you for the opportunity to provide the following proposal for restarting the design process for Shores Park in Del Mar. The scope of work includes design services for the concept design phase, as defined below.

We have assigned the same talented staff from our previous work prior to suspension of the project back in 2018. The original community outreach and design effort included several phases: Discover, Explore, Envision, and Create. We will re-engage in the "Create" Phase moving directly to alternatives and a final master plan document.

TEAM

- Architecture, OBR
- Civil Engineering, Leppert Engineering
- Electrical Engineering, MPE

SCOPE OF SERVICES – 'CREATE' PHASE

Task 1 – Master Plan Alternatives

1. Due Diligence: The design team will review our previous studies, notes, presentations, and community feedback to build on the ideas and goals established during the initial outreach and design phase.

2. Kick-off Meeting: Schmidt Design Group (SDG) and OBR Architecture (OBR) will attend a kick-off meeting with City staff to refine the project goals and objectives. See Meetings, Task 3 below.

3. Park Program: SDG will share an anticipated program list for three (3) alternatives. We anticipate that the 3 alternatives will include the following:
   Alt 1 - Joint-use athletic field and dog park
   Alt 2 - Separate athletic field and dog park
   Alt 3 - Scheme that includes the Alvarado House, likely with a joint use field and dog park.
   OBR will provide the anticipated program list for the community building (see OBR scope of work below). We anticipate that park and building program elements will be defined by City staff based on previous studies and Council direction, and will include feasibility evaluation of relocating the Alvarado House to the park site.

4. Loose Draft Master Plan Alternatives: The team will develop a series of three (3) loosely sketched master plan alternatives that reflect the community's vision and the modified program elements. Each alternative will explore potential program arrangement and

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preliminary grading strategies. The alternatives will be illustrative in nature, and color rendered. OBR architects will share alternatives for the community building direction in a similarly loose style (see OBR scope of work below). We will share these first alternatives for City staff to confirm the designs meet the project goals.

5. Draft Master Plan Alternatives: Based on review and feedback on the loose alternatives, SDG will prepare three (3) alternatives for the park. The plans will be computer rendered for sharing with the public at large, the Ad Hoc Committee, and City Council.

6. Consultant Reviews: Each alternative will be studied by our consultant team:
   - Architect, OBR will review the site design and provide input.
   - Civil Engineer, Leppert Engineering will prepare conceptual grading, on-site utility plans, and preliminary earthwork calculations.
   - Electrical Engineer, MPE will review the existing electrical system and electrical utilities and lighting, assess if they can be salvaged or need to be replaced.

   Team feedback and consulting will assist in estimating anticipated construction costs.

7. Precedent Image Boards: Precedent image boards will be prepared. The boards will contain design, program, and material imagery to further reinforce the vision of each master plan alternative.

8. OPTIONAL Simulations of Alternatives: If requested, SDG will provide graphic simulations of each of the three (3) park design alternatives, once it is determined that the plans meet the needs of staff and stakeholders, simulations will be prepared. One (1) 3D visual simulation would be provided for each of the three (3) plan alternatives.

9. Architectural Design: OBR will provide the following alternatives for the community building. Scheme 1 will include addition to, or modernization of, the existing structure. Scheme 2 will include demolition and replacement with a new structure.
   - Initial space plans, program spreadsheets, inspiration imagery and preliminary floor plans and preliminary elevations to assist the Ad hoc Committee and Council select one scheme to move forward.
   - As deemed appropriate by City staff, OBR will meet with the building user group to understand their current and future needs.

10. Estimate of Probable Cost: A rough order of magnitude construction cost estimate will be provided for each park and building alternative.

Task 2 – Final Master Plan

1. Final Master Plan: We anticipate that the City will provide direction for the preferred park master plan that may include a recommendation to move forward with one alternative, or with a final alternative that uses a combination of features. The plan will be illustrative in nature, computer rendered, and will include park amenities, site furnishings, lighting, a conceptual plant palette, and a design statement.

2. Consultant Reviews: The final Master Plan will be studied by our consultant team:
   - Architect, OBR will review the site design and provide input.
   - Civil Engineer, Leppert Engineering will prepare conceptual grading, on-site utility plans, and preliminary earthwork calculations.

- Electrical Engineer, MPE will coordinate locations of new proposed electrical with new building layout, estimate service size and location of new gear, provide park lighting locations, with specifications that meet the City lighting ordinance and meet the required footcandles to the IES standard light levels.
  Team feedback and consulting will assist in estimating anticipated construction costs.

3. Precedent Image Boards: Precedent image boards will be prepared for the final master plan. The boards will contain design, program, and material imagery which further reinforce the vision of the master plan.

4. Simulations: A 3D visual simulation will be prepared for the Final Master Plan. This graphic will be an invaluable tool to depict the alternatives from a variety of angles and clearly illustrate the composition and character of the spaces being proposed. The simulation will be in a high-resolution format and suitable for use by the City in press releases and promotional materials.

5. Architectural Design: We anticipate that the City will select one scheme to move forward. Based on the feedback received, OBR will further progress the selected scheme to include more detailed floor plans, exterior 3D renderings, and colored elevations.

6. Estimate of Probable Cost: The rough order of magnitude construction cost estimate will be provided for the park and building improvements.

7. Final Master Plan Submittal: Based on City feedback, the design team will provide one round of minor revisions to the final illustrative site plan.

8. OPTIONAL Phasing Strategy: If requested, the design team will develop a phasing strategy for the park improvements and building based on the City and Community's prioritization of the park program.

9. OPTIONAL Final Master Plan Report: If requested, we will prepare an illustrative report will be prepared. This document will articulate the robust community engagement process, document the master plan alternatives, and the final master plan and supporting exhibits.

Task 3 – Meetings

Meetings are anticipated as follows, and as noted above.

1. Stakeholder Meeting (total of 1): As deemed appropriate by City staff, SDG & OBR will meet with the community building user group to understand their current and future needs.

2. Ad Hoc Committee Presentations (total of 2): The design team will meet with the Ad Hoc Committee at key points during the design process. A PowerPoint presentation will be prepared to illustrate the design process and final solutions.

3. City Council Presentations (total of 2): The design team will meet with City Council to present the draft alternatives and final master plan. A PowerPoint presentation will be prepared to illustrate the design process and final solutions.

4. City Staff Meetings (total of 12): We will meet with City staff for 12 in person and remote meetings during the course of the anticipated work.

5. **OPTIONAL Meetings:** If requested, we will be available to prepare & participate in additional meetings/presentations. We included an hourly time & materials allowance not to exceed $5,000 for additional meetings.

COST SUMMARY

Task 1 - Master Plan Alternatives (Lump Sum)	
SDG	$23,000.00
Architect (OBR)	$17,050.00
Civil (Leppert)	$18,590.00
Electrical (MPE)	$6,270.00
Total	**$64,910.00**
Task 2 – Final Master Plan (Lump Sum)	
SDG	$29,000.00
Architect (OBR)	$26,950.00
Civil (Leppert)	$4,565.00
Electrical (MPE)	$4,180.00
Total	**$64,695.00**
Task 3 – Meetings (Hourly T&M)	
SDG	$13,500.00
Architect (OBR)	$5,500.00
Total	**$19,000.00**
Reimbursable Expenses (Allowance)	$1,000.00
TOTAL	**$149,605.00**

OPTIONAL TASK COST SUMMARY

Optional 3D Illustrations During Task 1 (3 Alternatives) (LS)	$7,000.00
Optional Phasing Strategy (Lump Sum)	$4,200.00
Optional Final Master Plan Report (Lump Sum)	$5,600.00
Optional Additional Meetings (Hourly T&M)	$5,000.00

PROJECT ASSUMPTIONS AND EXCLUSIONS

This proposal has been prepared with the following assumptions and exclusions:

A. Construction documents, precise grading, drainage, electrical, and structural plans are not included.
B. Designing to LEED or SITES standards and/or associated documentation are excluded.
C. Permit processing and entitlement approvals (i.e. site development permit, planned development permit, etc.), not included.
D. Additional submittals not specifically outlined in this scope of work will be considered additional services.
E. Structural engineering and waterproofing services for site structures, walls, etc. are excluded.
F. Environmental documentation is excluded.
G. The creation of existing condition/irrigation as-built plans is excluded.
H. Preparation of operations & maintenance budget is not included.

I. Scope related to the Alvarado House is anticipated to be high-level feasibility. This scope does not include cost construction cost estimates for restoring and moving the Alvarado House or detailed architectural design.

FEE AND PAYMENT SCHEDULE

Fees will be charged for technical work, consultation, and additional services. Charges will be made for typing, as in the preparation of reports, and for time and costs of printing. No direct charges will be made for normal secretarial service, office management, or general accounting; these items are included in overhead.

ADDITIONAL AND HOURLY SERVICES

Hourly Rates

Principal Landscape Architect/President	$300/hour
Principal Landscape Architect/Partner	$250/hour
Principal/Studio Director	$225/hour
Associate Landscape Architect	$175/hour
Senior Project Manager/Licensed Landscape Architect/Certified Arborist	$155/hour
Project Manager	$140/hour
Senior Landscape Designer	$125/hour
Landscape Designer	$110/hour
Clerical/Typist	$85/hour

Reimbursable Expenses

Reimbursable expenses such as reproduction printing, delivery service, soils testing, permits, parking, project specific supplies, etc., will be marked up by 10%.
In-house plotting will be charged per square-foot at the following rates: bond $2.00 per square-foot, vellum $3.00 per square-foot, mylar $4.00 per square-foot, and color $5.00 per square-foot. In-house color laser prints will be charged at $.50 for letter size, $.75 for legal size, and $1.00 for ledger size.

Sub-consultants

Expenses for consultants employed by Schmidt Design Group, Inc. will be marked up by 10%.

Mileage

Mileage in the interest of the client will be charged at the current U.S. General Services Administration Privately Owned Vehicle Mileage Reimbursement Rates.

Travel

Time spent in travel in the interest of the client will be charged at hourly rates. A minimum of one hour will be charged for any site visit. No more than eight (8) hours of travel time will be charged in any one day. Subsistence will be charged when it is necessary for personnel to be away from the office overnight.

Thank you for your consideration. We look forward to working with you on this exciting project. I

Very truly yours,

Glen Schmidt, FASLA
Principal
Schmidt Design Group, Inc.

September 24, 2025

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Martin Boyd, Principal Engineer
Joe Bride, Public Works Director
Via Ashley Jones, City Manager

DATE: October 20, 2025

SUBJECT: Approval of AT&T Aerial to Underground Conversion Agreement for the Stratford Court North (1B) Utility Undergrounding District

REQUESTED ACTION/RECOMMENDATION:
Staff recommends the City Council approve the AT&T Aerial to Underground Conversion Agreement for the Stratford Court North (1B) Utility Undergrounding District with a cost of $78,100.50 (Attachment A) and authorize the City Manager to execute the Agreement.

BACKGROUND:
The City of Del Mar continues to implement the citywide Undergrounding Program (UP), which will remove utility poles and replace overhead cables for electricity and telecommunications with underground lines. A map of the planned citywide Utility Undergrounding Districts (UUDs) is included with this report as Attachment B.

On October 16, 2023, the City Council authorized the formation of Utility Undergrounding District 1B, also referred to as “Stratford Court North”. Stratford Court North was identified as the next district to proceed into design after Stratford Court South (UUD 1A) and Crest Canyon (UUD X1A). Stratford Court North includes 36 poles and 3,825 linear feet of overhead conversion involving 175 properties and 239 residences. There are approximately fifty properties requiring undergrounding of their private service lateral at the expense of the property owner. A map of Stratford Court North is included as Attachment C.

The City’s undergrounding construction activities are primarily for trenching and installation of conduit and substructures. This includes joint trench excavation, hand digging within proximity of protected trees and parallel existing utilities, exploratory potholes, asphalt resurfacing, concrete driveways and curbs restoration, installation of retaining walls, pedestrian ramp installation, hydroseed, irrigation repairs, traffic control and safety for vehicles and pedestrians, construction staging, storm water pollution prevention and erosion control, and other required construction activities.

The utility companies are responsible for cable and connections, services cutovers, cable poles, and overhead and pole removals.

City Council Action:

DISCUSSION/ANALYSIS:
The 60% SDG&E design for Stratford Court North has undergone formal design review by staff and the consultant team and is nearing completion. Staff and the consultant team are also working on environmental review, extensive homeowner outreach, obtaining permit-to-enter forms, and the City civil and telecommunications design. Completion of upcoming preconstruction and bidding activities following the formal design review will cumulatively take approximately 10-15 months. Construction is currently anticipated in Fiscal Year 2027, contingent upon the City receiving the necessary easements and permit-to-enter forms from property owners. The City's construction duration is estimated at 6 months, with the full project timeline to pole removals estimated at 11 months.

The City's Undergrounding Program necessitates coordination with the utility companies: San Diego Gas & Electric (SDG&E), AT&T, Charter Communications/Spectrum, and Crown Castle. The design process involves extensive coordination with each of these four companies. In fact, the City contractor's work involves constructing the Underground Support Structure (USS) for their infrastructure, which includes underground conduit and structures for the installation of their equipment.

In particular, AT&T's involvement is governed by CPUC tariff rules, specifically Rule 32. The Stratford Court North project qualifies under CPUC Rule 32.A.2, which places responsibility on the City to construct the USS and to pay AT&T for designing and inspecting the USS. This action seeks Council authorization to pay AT&T $78,100.50 for these design and inspection services related to Stratford Court North. Approval of this item will enable AT&T to begin its design process, which is a critical path activity for the project. The proposed payment to AT&T is within the last approved project budget presented to Council on September 22, 2025, which included $97,825 for AT&T.

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council related to this agenda item. Council approval of the recommended action will result in execution of the AT&T Agreement and payment of $78,100.50 to AT&T for Stratford Court North (Attachment A). There are sufficient funds available in the adopted Fiscal Year 2025-26 Capital Budget to cover the cost of the Agreement.

ENVIRONMENTAL IMPACT:
The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:
Utility Undergrounding is listed as a Tier 1 City Council priority for Fiscal Year 2025-2026.

ATTACHMENTS:
Attachment A - AT&T Aerial to Underground Conversion Agreement
Attachment B - Citywide Map of Undergrounding Districts
Attachment C - UUD 1B Stratford Court North Map

ATTACHMENT A

AERIAL TO UNDERGROUND CONVERSION AGREEMENT (APPLICANT TO CONSTRUCT USS)

(RULE 32.A.2)

BETWEEN

CITY OF DEL MAR

and

PACIFIC BELL TELEPHONE COMPANY

DBA AT&T CALIFORNIA

RE

STRATFORD CT

PACIFIC LN

LOIS LN

OCEAN AVE

13TH ST

14TH ST

15TH ST

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THIS AGREEMENT ("Agreement") is between CITY OF DEL MAR, a CALIFORNIA Municipal corporation ("Applicant"), and PACIFIC BELL TELEPHONE COMPANY, a California corporation doing business as AT&T CALIFORNIA ("AT&T") (collectively the "Parties").

I. DEFINITIONS.

As used in this Agreement, the following terms apply:

A. The term "Tariff" refers to Schedule Cal. P.U.C. No. A2, Rule 32.A.2.

B. The terms "Underground Supporting Structure" and "USS" include, but are not limited to, conduit, inner duct, manholes, service boxes, and related equipment.

C. The terms "Trench" and "Trenching" include, but are not limited to, excavating, backfilling, compacting, and, as necessary, breaking and replacing pavement, sidewalks, driveways, curbs and gutters, and restoring all other surface features disturbed by underground construction including landscaping, plus the cost of performing such work.

D. The term "Hazardous Substance" refers to any substance, material or chemical that is or becomes regulated under applicable local, state, or federal law, regulation, or ordinance.

E. The term "District" refers to the area in/on/along Stratford Ct, Pacific Ln, Lois Ln, Ocean Ave, 13th St, 14th St, and 15th St within the City of Del Mar, where the undergrounding of existing aerial facilities is to take place.

F. The term "Project" means all of the work required to underground existing aerial facilities within the District.

G. The term "CPUC" refers to the California Public Utilities Commission.

II. RECITALS.

A. Applicant has asked AT&T to replace its existing aerial communication facilities with underground communication facilities within the District.

B. AT&T is willing to underground its existing aerial communication facilities within the District, subject to the terms and conditions of this Agreement.

In consideration of the above, the Parties agree as follows:

III. SPECIFIC PROVISIONS.

A. Tariff.

The Project will be conducted in accordance with the Tariff.

B. Construction.

1. Upon receipt of a copy of this Agreement that has been executed by Applicant and the advance payment described in Section III.F (WHICH DOES NOT INCLUDE THE ADVANCE ENGINEERING FEES ALREADY PAID BY A PRIVATE PARTY), AND FOLLOWING CONSTRUCTION BY THE Applicant of the USS, AT&T will engineer and perform the work required to convert its existing aerial facilities to underground facilities in the area in the District shown on Applicants' plans, which are attached hereto as Exhibit A.

2. If, during the installation or construction of communications facilities, AT&T employees, subcontractors, or agents encounter any Hazardous Substance(s) that may be disturbed by AT&T's activities:

   a. AT&T shall give prompt written notice of the discovery of the Hazardous Substance(s) to Applicant;

   b. AT&T shall suspend performance under this Agreement until (1) containment and removal of the Hazardous Substance(s) has been completed and approved by the appropriate governmental agency(ies), if such approval is required, or approved by AT&T if governmental agency(ies) approval is not required, or (2) Applicant reasonably demonstrates that the Hazardous Substance(s) will not be disturbed by AT&T's activities;

   c. AT&T's performance of its obligations under this Agreement is extended for the amount of time which it takes to complete containment/removal of the Hazardous Substance(s); and,

   d. If Applicant elects not to remove/contain the Hazardous Substance(s), AT&T may terminate this Agreement without further liability by giving advance notice to Applicant no later than ten (10) days after the date the Applicant notifies AT&T of its decision not to remove/contain the Hazardous Substance(s). In this case, Applicant shall reimburse AT&T for AT&T's share of the USS cost paid by AT&T and for the costs incurred by AT&T for the placement of cables and wiring on the Project and the wrecking associated with that placement up to the effective date of the termination. Upon such payment, Applicant shall become the owner of said wire and cables.

3. Applicant shall be responsible for the construction and installation of the necessary USS along the public way and utility rights of way in the District and shall prepare all documents necessary to coordinate and implement the Project plans. The documents shall include, but shall not be limited to: (a) Project Plans and Specifications, which shall be prepared in accordance with specifications and drawings furnished to Applicant by AT&T; (b) documents that delineate all USS to be constructed and installed within the District; (c) a Bid Package covering the construction and installation of the USS for which Applicant is responsible; (d) separate agreements with Participants pertaining to the construction of facilities for the Project; and (e) a contract ("Contract") with an independent contractor for the construction and installation of USS for which Applicant is responsible under the Project. **APPLICANT SHALL NOT DEVIATE FROM AT&T'S TRENCH SPECIFICATIONS WITHOUT AT&T'S PRIOR WRITTEN CONSENT.**

4. Applicant shall award the Contract to a qualified bidder. The terms and conditions of the Contract shall oblige the Contractor to furnish all materials, adhere to the Project Plans and Specifications, and install the USS at the locations designated on the map attached to this Agreement as Exhibit A. Applicant shall have full supervision of and control over the independent contractor's construction and installation of the USS. However, AT&T shall be given the opportunity to inspect the construction and installation of the USS and to coordinate with Applicant to ensure that the construction and installation are completed in accordance with the Project plans and specifications.

   Applicant shall require all property owners who are served by the aerial facilities to be replaced within the District to provide and maintain the USS on their property.

C. Term.

This Agreement is effective upon execution and shall continue in effect until terminated or canceled as provided by law or this Agreement.

D. Title

Upon inspection and acceptance in writing of the USS by AT&T, title to the USS and all associated communications facilities placed by or for AT&T, except the underground service connections, shall vest in AT&T, provided that such is free of all liens and encumbrances.

E. Tax Liability

Applicant shall pay, and hold AT&T harmless from and against, all penalties, interest, taxes or other charges that are levied or assessed against Applicant.

F. Payment.

Applicant shall pay to AT&T within forty-five (45) days after execution of this Agreement the sum of **seventy eight thousand one hundred dollars and fifty cents ($78,100.50)** which represents the estimated cost of AT&T preparing specifications and drawings for the USS and inspecting Applicant's trenching and installation of the USS. This amount does not include prior monies paid.

If applicable, Applicant shall also pay to AT&T a 0% tax component of **0** collected for Federal and State Income Tax in accordance with CPUC decision 87-09-026. CIAC charges are not applicable in this agreement between AT&T and the City of Del Mar.

Applicant shall send payments to:
AT&T ATTN: CWO
14575 Presidio Square Blvd, Floor 1, Room 111
Houston, Texas 77083

G. Cancellation, Modification or Deferment.

If Applicant cancels, modifies or defers its request for conversion of the aerial facilities to underground facilities within the District, Applicant shall pay all charges incurred by AT&T, in accordance with the Tariff.

H. Indemnity; Limitation of Liability.

1. Applicant shall indemnify, defend at AT&T's request and at no cost or expense to AT&T, and hold harmless AT&T and its officers, agents and employees, as well as its associated and affiliated companies and their respective officers, agents, and employees ("Indemnitees"), from and against any and all losses, damages, expenses, costs, penalties, fines, fees (including reasonable attorney's and consultant's fees), or liabilities (collectively "Liabilities"), incurred as a result of any injury to or death of any person(s) or damage to any property(ies) arising out of or in connection with the materials used or the work performed by Applicant under this Agreement or the condition of the Project's property, including environmental contamination, except where such Liabilities are caused by the negligence or willful misconduct of Indemnitees.

2. AT&T shall notify Applicant within a reasonable time of any written claim or demand against AT&T for which Applicant is responsible under this section. Applicant shall also (a) keep AT&T fully informed as to the progress of such defense, and (b) afford AT&T, at its own expense, an opportunity to participate with Applicant in the defense or settlement of such claims, demand, lawsuits or other legal proceedings.

3. AT&T shall indemnify, at Applicant's request, and at no cost or expense to Applicant, defend Applicant and its council, agents, and employees ("City Indemnitees") from and against any and all losses, damages, expenses, costs, penalties, fines, fees (including reasonable attorney's and consultant's fees), or liabilities (collectively "Liabilities"), incurred as a result of any injury to or death of any person(s) or damage to any property(ies) arising out of or in connection AT&T's installation of facilities in the USS, or the condition of AT&T facilities in the USS, except where such Liabilities are caused by the negligence or willful misconduct of Applicant. Applicant shall notify AT&T within a reasonable time of any written claims or demand against Applicant for which AT&T is responsible under this section.

4. These indemnities shall survive the termination or cancellation of this Agreement or any provision to the contrary herein.

5. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, WHETHER BY TORT OR CONTRACT, INCLUDING LOST REVENUES, LOSS OF PROFITS OR OTHER COMMERCIAL OR ECONOMIC LOSS ARISING OUT OF THE PERFORMANCE OF THIS CONTRACT, INCLUDING, WITHOUT LIMITATION, NEGLIGENT PERFORMANCE OR FAILURE TO PERFORM, OR A DEFECT OR FAILURE TO PERFORM OR DEFECT OF CABLE OR WIRING, REGARDLESS OF THE FORESEEABILITY THEREOF.

I. Insurance.

1. With respect to Applicant's performance under this Agreement, and in addition to Applicant's obligation to indemnify, Applicant shall at its sole cost and expense, maintain the insurance coverages and limits required by this Section and any additional insurance and/or bonds required by law:

   i. at all times during the term of this Agreement and until completion of all work associated with this Agreement, whichever is later; and

   ii. with respect to any coverage maintained in a "claims-made" policy, for two (2) years following the term of this Agreement or completion of all work associated with this Agreement, whichever is later. If a "claims-made" policy is maintained, the retroactive date must precede the commencement of work under this Agreement;

2. Applicant shall also require each subcontractor who may perform work under this Agreement or enter upon the work site to maintain coverages, requirements, and limits at least as broad as those listed in this section

from the time when the subcontractor begins work, throughout the term of the subcontractor's work and, with respect to any coverage maintained on a "claims-made" policy, for two (2) years thereafter;

a. procure the required insurance from an insurance company eligible to do business in the state or states where work will be performed and having and maintaining a Financial Strength Rating of "A-" or better and a Financial Size Category of "VII" or better, as rated in the A.M. Best Key Rating Guide for Property and Casualty Insurance Companies, except that, in the case of Workers' Compensation insurance, Applicant may procure insurance from the state fund of the state where work is to be performed; and

b. deliver to AT&T certificates of insurance stating the types of insurance and policy limits. Applicant shall provide or will endeavor to have the issuing insurance company provide at least 30 days advance written notice of cancellation, non-renewal, or reduction in coverage, terms, or limits to AT&T. Applicant shall deliver such certificates:

   i. prior to commencement of any work;

   ii. prior to expiration of any insurance policy required in this Section; and

   iii. for any coverage maintained on a "claims-made" policy, for two (2) years following the term of this Agreement or completion of all work associated with this Agreement, whichever is later.

3. The Parties agree:

   a. the failure of AT&T to demand such certificate of insurance or failure of AT&T to identify a deficiency will not be construed as a waiver of Applicant's obligation to maintain the insurance required under this Agreement;

   b. that the insurance required under this Agreement does not represent that coverage and limits will necessarily be adequate to protect Applicant, nor be deemed as a limitation on Applicant's liability to AT&T in this Agreement;

   c. Applicant may meet the required insurance coverages and limits with any combination of primary and Umbrella/Excess liability insurance; and

Applicant is responsible for any deductible or self-insured retention.

4. The insurance coverage required by this section includes:

a. Workers' Compensation insurance with benefits afforded under the laws of any state in which the work is to be performed and Employers Liability insurance with limits of at least:

$500,000 for Bodily Injury – each accident

$500,000 for Bodily Injury by disease – policy limits

$500,000 for Bodily Injury by disease – each employee

To the fullest extent allowable by Law, the policy must include a waiver of subrogation in favor of AT&T, its affiliates, and their directors, officers and employees.

In states where Workers' Compensation insurance is a monopolistic state-run system, Applicant shall add Stop Gap Employers Liability with limits not less than $500,000 each accident or disease.

b. Commercial General Liability insurance written on Insurance Services Office (ISO) Form CG 00 01 12 04 or a substitute form providing equivalent coverage, covering liability arising from premises, operations, personal injury, products/completed operations, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) with limits of at least:

$2,000,000 General Aggregate limit;

$1,000,000 each occurrence limit for all bodily injury or property damage incurred in any one (1) occurrence;

$1,000,000 each occurrence limit for Personal Injury and Advertising Injury;

$2,000,000 Products/Completed Operations Aggregate limit;

$1,000,000 each occurrence limit for Products/Completed Operations;

$1,000,000 Damage to Premises Rented to You (Fire Legal Liability).

The Commercial General Liability insurance policy must:

i. include AT&T, its affiliates, and their directors, officers, and employees as Additional Insureds. Applicant shall provide a copy of the Additional Insured endorsement to AT&T. The Additional Insured endorsement may either be specific to AT&T or may be "blanket" or "automatic" addressing any person or entity as required by contract. A copy of the Additional Insured endorsement must be provided within 60 days of execution of this Agreement and within 60 days of each Commercial General Liability policy renewal;

ii. include a waiver of subrogation in favor of AT&T, its affiliates, and their directors, officers and employees; and

iii. be primary and non-contributory with respect to any insurance or self-insurance that is maintained by AT&T.

c. Business Automobile Liability insurance with limits of at least $1,000,000 each accident for bodily injury and property damage, extending to all owned, hired, and non-owned vehicles.

d. Umbrella/Excess Liability insurance with limits of at least $1,000,000 each occurrence with terms and conditions at least as broad as the underlying Commercial General Liability, Business Auto Liability, and Employers Liability policies. Umbrella/Excess Liability limits will be primary and non-contributory with respect to any insurance or self-insurance that is maintained by AT&T.

J. Warranty.

1. Applicant warrants that that for a period of two (2) years following acceptance of the USS by AT&T, all work and materials to be furnished under this Agreement:

a. shall conform in all respects to the requirements of this Agreement;

b. are adequate for the purposes for which they are intended;

c. are free from any defects in design, materials, workmanship and title including, but not limited to, defects that will cause caving or sinking of the Trench, the USS, paving, or other materials.

2. Applicant warrants that qualified personnel will perform all work promptly and with diligence, to AT&T's reasonable satisfaction, and that all work and materials shall be subject to all statutory and express or implied warranties. This warranty shall survive inspection, acceptance, termination and payment.

3. Except as disclosed to and acknowledged by AT&T in writing, Applicant is not aware of the presence of any Hazardous Substance at the locations on the Project where AT&T will be installing cable and wiring and performing wrecking in association with such installations.

K. Liens.

Applicant and its agents and contractors shall keep the USS free from any statutory or common law lien arising out of any work performed, materials furnished or obligations incurred by Applicant, its agents or contractors. In the event a lien is recorded against the USS and it is not removed from the record within ten (10) days after notice is given by AT&T to Applicant to do so, AT&T shall have the right to pay and discharge the lien without regard to whether the lien shall be lawful, valid or correct. Applicant shall, within thirty (30) days after receiving written notice from AT&T, reimburse AT&T for any such claim paid by it.

L. Licenses and Easements.

Prior to construction of the Project, Applicant shall, at no cost to AT&T, furnish AT&T with any and all licenses or grants of easements that are necessary to accommodate the Project, including the construction and maintenance of AT&T's facilities.

M. (HAS BEEN REMOVED FOR THIS AGREEMENT)

N. Damage to Facilities.

Applicant and its employees, agents and contractors shall exercise special precaution and care to avoid causing damage to AT&T's facilities in performing work under the Project. Applicant, or it contractors, shall assume responsibility for any and all losses, costs and expenses arising out of, caused by, or in any way connected with such damages, including consequential damages. Applicant shall immediately report in writing the occurrence of any such damage to AT&T. Applicant shall, on demand, reimburse AT&T for the entire expense incurred in replacing or repairing the damage.

O. Schedule of Work.

AT&T shall not commence detailed engineering of the Project prior to receiving a copy of this Agreement that has been executed by Applicant. AT&T shall have its facilities converted contingent upon mutually acceptable schedules, timely obtaining of permits, licenses and other documents, and not being delayed by those uncontrollable forces described in Section III.P below.

P. Force Majeure.

Neither AT&T nor Applicant shall be held liable to the other party for any delay in performance under this Agreement from any cause beyond its control and

without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, the presence of archeological or historical artifacts or Hazardous Substances on, in, or near the Project, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities, or acts or omissions of carriers. If any of the foregoing events occur, AT&T agrees, if requested by Applicant, to accelerate its efforts hereunder if reasonably feasible in order to regain lost time, so long as Applicant agrees to reimburse AT&T for the incremental actual costs of such efforts.

Q. Compliance With Laws.

The Parties shall comply with all applicable federal, state, county, and local statutes, laws, ordinances, regulations, and codes. Applicant further agrees to comply with all applicable Executive Orders and regulations, including, but not limited to, those that are attached to this Agreement as Exhibit C. As used in Exhibit C, "Contractor" means Applicant.

IV. GENERAL PROVISIONS.

A. Assignment.

Applicant shall not wholly or partially assign this Agreement without the prior written consent of AT&T.

B. Binding Effect.

This Agreement shall be for the benefit of and is binding upon the respective successors and assigns of the parties hereto.

C. Termination.

This Agreement automatically terminates upon completion and acceptance of the USS by AT&T. In the event of any material default or breach of this Agreement by either Applicant or AT&T, in addition to all other rights and remedies which the non-breaching party may have at law or in equity, the non-breaching party shall have the immediate right to terminate this Agreement by giving ten (10) days prior written notice of termination. The notice shall specify the cause of termination and shall give the breaching party a reasonable opportunity to cure and correct any such cause. In the event this Agreement is terminated or suspended as provided herein, the non-breaching party shall not be liable to the breaching party or any other person or entity for any losses, damages or claims that arise as a result of termination. In the event of termination by AT&T after breach or default by Applicant, Applicant shall pay to AT&T all costs and expenses incurred by AT&T prior to termination of this Agreement. Any

termination of this Agreement in whole or in part shall not release the breaching party from any liability or obligation under this Agreement, whether of indemnity or otherwise, that accrued or that may be accruing or that arises out of any claim that may have accrued or may be accruing at the time of termination.

D. Attorneys' Fees.

If any action is brought to adjudicate the rights granted in this Agreement or to enforce any of the terms of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees in an amount to be determined by a court or a tribunal of competent jurisdiction.

E. Entire Agreement.

This Agreement and the Exhibits attached hereto that are incorporated herein by this reference constitute the entire Agreement between the parties with respect to the subject matter hereof. All prior agreements, representations, statements, negotiations and understandings are superseded.

F. Independent Contractor.

Applicant and its agents, employees and contractors shall perform all work under this Agreement as independent contractors and not as affiliates, partners, joint ventures, agents, employees, servants or assigns of AT&T.

G. Jurisdiction.

This Agreement shall be governed by the laws of the State of California and is subject to the applicable rules, regulations and tariffs on file with the CPUC.

H. Notices.

All notices and other communications hereunder shall be in writing addressed as follows and shall be deemed given when: delivered in person, delivered to an

agent, such as an overnight or similar delivery service, or three days after being deposited in the United States mail, postage prepaid:

APPLICANT	AT&T California
City of Del Mar	9670 Aero Dr
1050 Camino Del Mar	San Diego, CA 92123
Del Mar, CA 92014	

I. Waiver and Amendment.

The provisions of this Agreement shall not be waived, altered, or amended by any representations or promises of any party unless consented to in writing by all parties hereto.

The duly authorized representatives of Applicant and AT&T have executed this Agreement by affixing their signatures on the dates indicated below.

CITY OF DEL MAR	PACIFIC BELL TELEPHONE COMPANY
By:_____	By:_____
Title:_____	Title:_____
Printed Name:_____	Printed Name:_____
Date Signed:_____	Date Signed:_____

Exhibit A

Applicant's plans

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EXHIBIT B
AT&T'S ESTIMATED COSTS

CUSTOM WORK ESTIMATE
OF ACTUAL COST QUOTE BREAKDOWN

Customer Name: **CITY OF DEL MAR**
Billing Address: **1050 CAMINO DEL MAR, DEL MAR, CA 92014**

Contact Name: **MARTIN BOYD**
Contact Email: **MBOYD@DELMAR.CA.US**
Contact Phone Number: **(858) 375-9531**

Project Number: **A05BPYD**
Work Order ID: **CWO-45106**
Site Location: **CAMINO DEL MAR, DEL MAR, CA 92014**

AT&T has received a request from you to perform the following work:
ENGINEERING AND INSPECTION TIME FOR UNDERGROUNDING CONVERSION DESIGN OF STRATFORD CT 1B NORTH.

Estimated Actual Cost Quote

Engineering Labor	$78,600.50
Construction Labor	$0.00
Contractor Expense	$0.00
Material Expense	$0.00
Miscellaneous Expense	$0.00
Less Credit/Payments	$500.00
Total	$78,100.50

Project Number: **A05BPYD**
Work Order ID: **CWO-45106**

AT&T Design Engineer: **TAI NGUYEN AT&T**
Engineer Email: **TN256H@att.com**

Please send check payable to AT&T CWO along with signed agreement to:
14575 PRESIDIO SQUARE BLVD,
FLOOR 1, ROOM 111, HOUSTON, TX 77083

Exhibit C
Executive Orders and Associated Regulations

AT&T California and AT&T Nevada, as common carriers of telecommunications services, engage in work as contractors for various departments and agencies of the United States Government. Also, certain facilities may be constructed pursuant to federally assisted construction programs. Because of the foregoing, work under this contract may be subject to the provisions of certain Executive Orders, federal laws and associated regulations. To the extent that such Executive Orders, federal laws and associated regulations apply to the work under this contract, and only to that extent, Contractor agrees to comply with the provisions of all such Executive Orders, federal laws and associated regulations as no in force or as may be amended in the future, including, but not limited to the following:

1. **EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS.**
In accordance with Executive Order 11246, dated September 24, 1965, and 41 C.F.R. § 60-1.4, the parties incorporate herein by this reference the regulations and contract clauses required by those provisions to be made a part of nonexempt contracts and subcontracts.

2. **CERTIFICATION OF NONSEGREGATED FACILITIES.**
In accordance with Executive Order 11246, dated September 24, 1965, and 41 C.F.R. § 60-1.8, Contractor certifies that it does not and will not maintain or provide for its employees any facilities segregated on the basis of race, color, religion, sex, or national origin at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control, where such segregated facilities are maintained. The term "facilities" as used herein means waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, wash rooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, provided that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes. Contractor will obtain similar certifications from proposed subcontractors prior to the award of any nonexempt subcontract.

3. **CERTIFICATION OF AFFIRMATIVE ACTION PROGRAM**.
Contractor certified that it has developed and is maintaining an Affirmative Action Plan as required by 41 C.F.R. § 60-1.40.

4. **CERTIFICATION OF FILING**.
Contractor certifies that it will file annually, on or before the 31st of March, complete and accurate reports on Standard Form 100 (EEO-1) or such forms as may be promulgated in its place as required by 41 C.F.R. § 60-1.7.

5. **AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA.**
In accordance with Executive Order 11701, dated January 24, 1973, and 41 C.F.R. 60-250.20, the parties incorporate herein by this reference the regulations and contract clauses required by those provisions to be made a part of Government contracts and subcontracts.

6. **AFFIRMATIVE ACTION FOR HANDICAPPED PERSONS.**
In accordance with Executive Order 11758, dated January 15, 1974, and 41 C.F.R. § 60-741.20, the parties incorporate herein by this reference the regulations and contract clauses required by those provisions to be made a part of Government contracts and subcontracts.

7. **UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS.**
48 C.F.R., Ch. 1, § 19.740(4) and 19.708(a) require that the following clause is included:

Utilization of Small Business concerns and Small Disadvantaged Business Concerns (June, 1985)

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in performing contracts let by and Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:

(1) Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned businesses, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(2) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

Small Business and Small Disadvantaged Business Subcontracting Plan.
Contractor, unless it is a small business concern, as defined in section 3 of the Small Business Act, agrees to adopt and comply with a small business and small disadvantaged business subcontracting plan, which shall be included in and made a part of this contract. The parties incorporate herein by this reference the regulations and contract clauses required by 48 C.F.R., Ch. 1, §§ 19.704(4) and 19.708(b) to be made a part of Government contracts and subcontracts.

8. **WOMEN-OWNED SMALL BUSINESSES.**
As prescribed in 48 C.F.R., Ch. 1, § 19.902, the following clause is included in solicitations and contracts when the contract amount is expected to be over the small purchase threshold, unless (a) the contract is to be performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands, or (b) a personal services contract is contemplate:

(a) "Woman-owned small businesses," as used in this clause, means businesses that are at least 51 percent owned by women who are United States citizens and who also control and operate the business.

"Control," as used in this clause, means exercising the power to make policy decisions.

"Operate," as used in this clause, means being actively involved in the day-to-day management of the business.

(b) Policy. It is the policy of the Government to award contracts to concerns that agree to perform substantially in labor surplus areas (LSA's) when this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use its best efforts to place subcontracts in accordance with this policy.

(c) Order of Preference. In complying with paragraph (b) above and with paragraph (c) of the clause of this contract entitled Utilization of Small Business Concerns and Small Disadvantaged Business Concerns, the Contractor shall observe the following order of preference in awarding subcontracts: (1) small business concerns that are LSA concerns, (2) other small business concerns, and (3) other LSA concerns.

(d) Definitions. "Labor surplus area," as used in this clause, means a geographical area identified by the Department of Labor in accordance with 20 C.F.R. § 654, Subpart A, as an area of concentrated unemployment or underemployment or an area of labor surplus.

"Labor surplus area concern," as used in this clause, means a concern that together with its first-tier subcontractors will perform substantially in labor surplus areas. Performance is substantially in labor surplus area if the costs incurred under the contract on account of manufacturing, production, or performance of appropriate services in labor surplus areas exceed 50 percent of the contract price.

Labor Surplus Area Subcontract Program.

(a) See the Utilization of Labor Surplus Area Concerns clause of this contract for applicable definitions.

(b) The Contractor agrees to establish and conduct a program to encourage labor surplus area (LSA) concerns to compete for subcontracts within their capabilities at prices no higher than obtainable elsewhere. The contractor shall --

(1) Designate a liaison officer who will (i) maintain liaison with authorized representatives of the Government on LSA matters, (ii) supervise compliance with the Utilization of Labor Surplus Area Concerns clause, and (iii) administer the Contractor's labor surplus area subcontracting program;

(2) Provide adequate and timely consideration of the potentialities of LSA concerns in all make-or-buy decisions;

(3) Ensure that LSA concerns have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of offers, quantities, specifications, and delivery schedules so as to facilitate the participation of LSA concerns;

(4) include the Utilization of Labor Surplus Area Concerns clause in subcontracts that offer substantial LSA subcontracting opportunities; and

(5) Maintain records showing (i) the procedures adopted and (ii) the Contractor's performance, to comply with this clause. The records will be kept available for review by the Government until the expiration of 1 year after the award of this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulations.

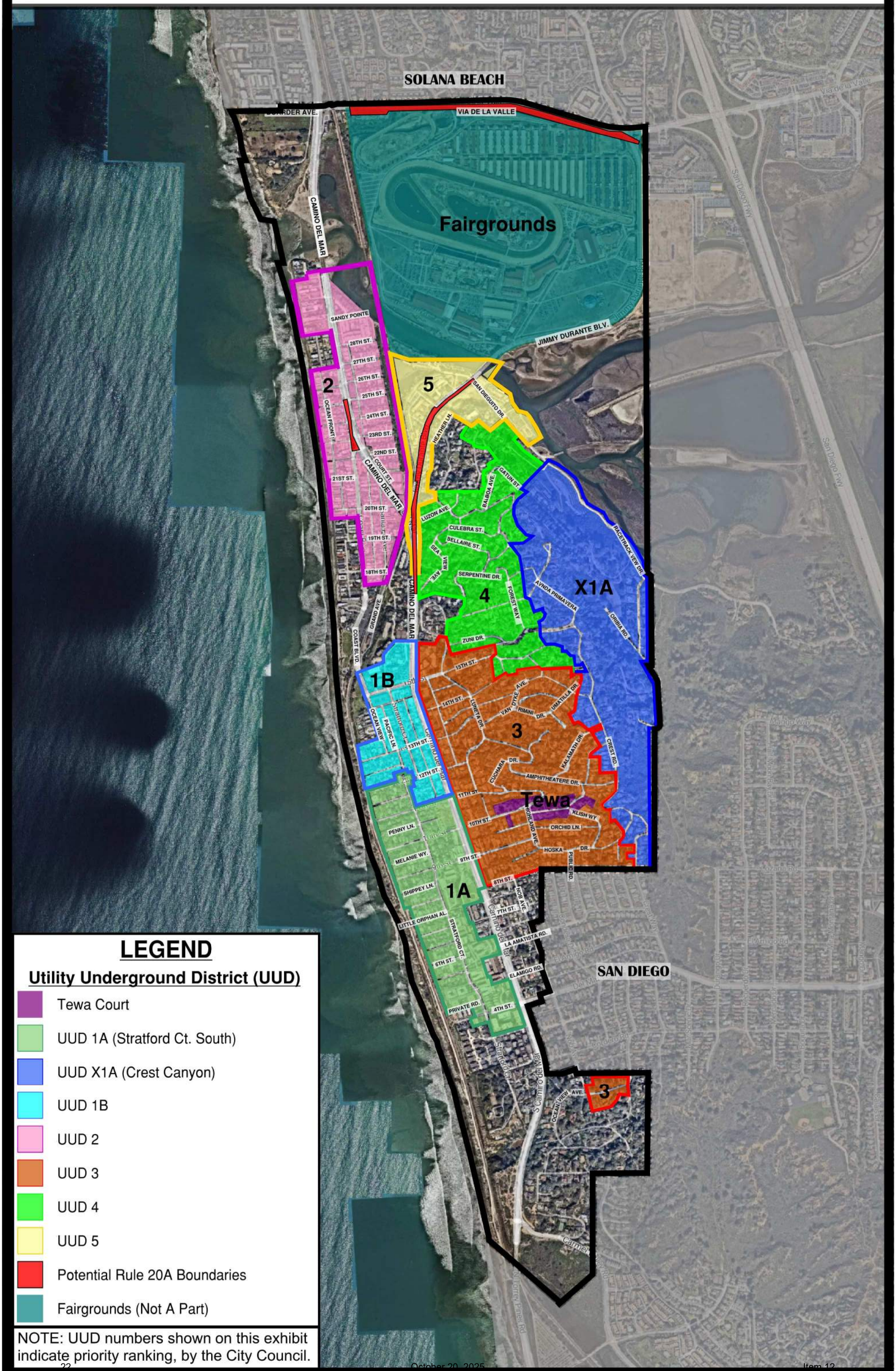
(c) The Contractor further agrees to insert in any related subcontract that may exceed $500,000 and that contains the Utilization of Labor Surplus Area Concerns clause, terms that conform substantially to the language of this clause, including this paragraph (c), and to notify the Contracting Officer of the names of subcontractor.

324596

05/06/2021

Citywide Utility Undergrounding Map

ATTACHMENT B



LEGEND

Utility Underground District (UUD)

- Tewa Court
- UUD 1A (Stratford Ct. South)
- UUD X1A (Crest Canyon)
- UUD 1B
- UUD 2
- UUD 3
- UUD 4
- UUD 5
- Potential Rule 20A Boundaries
- Fairgrounds (Not A Part)

NOTE: UUD numbers shown on this exhibit indicate priority ranking, by the City Council.

Utility Undergrounding District 1B (UUD 1B) - Stratford Court North

ATTACHMENT C

Legend

DISTRICT 1B LIMITS

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Matt Bator, AICP, Principal Planner
Karen Brindley, Planning and Community Development Director
Via Ashley Jones, City Manager

DATE: October 20, 2025

SUBJECT: Re-Introduction of an Ordinance to Amend Municipal Code Chapter 23.50 and Repeal and Replace Chapter 23.51 Related to Trees, Scenic Views, and Sunlight Regulations (A25-001)

REQUESTED ACTION/RECOMMENDATION:
Staff recommends that the City Council introduce an Ordinance (Attachment A) to: 1) Repeal and replace the City's Trees, Scenic Views, and Sunlight (TSVS) regulations within Del Mar Municipal Code (DMMC) Chapter 23.51 and 2) Amend related code sections of the City's Tree regulations within DMMC Chapter 23.50 (A25-001).

PREVIOUS CITY COUNCIL REVIEW:
On July 7, 2025, the City Council held a noticed public hearing to review and introduce an Ordinance to repeal and replace DMMC Chapter 23.51 (Trees, Scenic Views, and Sunlight), amend related subsections of DMMC Chapter 23.50, and amend DMMC Chapters 30.04 (Definitions) and 30.86 (Supplemental Regulations) to limit the maximum allowed height of hedges. After receiving a staff presentation, asking clarifying questions, receiving public testimony, and discussing the proposed DMMC amendments, the City Council directed staff to return to a future Council meeting for a re-introduction of the Ordinance with the following revisions:

1. Separate the proposed "Hedge Height" Zone Code Amendment (ZA25-001) from the proposed TSVS amendments;
2. Remove the proposed Indemnification subsection of the TSVS regulations;
3. Include "potted" or container plants as eligible "Trees" for TSVS review;
4. Expand Sunlight Obstruction eligibility from being just the Primary Living Area (PLA) to any affected areas within a residence; and
5. Reassess the proposed eligibility time period (look-back) of starting on a fixed date.

The re-introduction of the Ordinance with revisions discussed above was scheduled for the October 6, 2025, City Council meeting. However, the meeting was cancelled after the posting

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City Council Action:

and distribution of the meeting agenda and packet. The content of this agenda report and its attachments is largely the same of the October 6, 2025 agenda report, with the exception of the report date, the correction of minor typos in the proposed replacement to DMMC Chapter 23.51, and a proposed addition to DMMC section 23.51.150 that creates a "Pre-Application/Early Consultation Process" for residents seeking to restore scenic views and/or sunlight obstructed by City Trees, and attachment of "red dot" correspondence received prior to the October 6, 2025 hearing.

BACKGROUND:
The City Council Work Plan for Fiscal Year 2024-2025 included updating Del Mar Municipal Code (DMMC) Chapter 23.51, also known as the Trees, Scenic Views and Sunlight (TSVS) Ordinance. A detailed background and additional information pertaining to this update, including section by section summarizations of the proposed amendment to the TSVS regulations, is contained within an agenda report presented to the City Council on July 7, 2025, which can be accessed at Regular Meeting Agenda Packet 7-7-2025 (Item #17).

Following is a summary of the steps staff performed to accomplish the update:

- On October 7, 2024, staff presented to the City Council nine "Guiding Principles" to inform and influence the TSVS update process. The City Council-approved Guiding Principles are attached as Attachment B.

- Staff evaluated reoccurring issues that have arisen while processing TSVS applications since the original adoption of the TSVS Ordinance (No. 747) in July 2002.

- Staff reviewed information and reports pertaining to view regulations in twenty-seven (27) other jurisdictions, identifying common implementation issues and how the respective regulations have been modified and improved over time.

- On December 2, 2024, staff received City Council input and direction regarding significant policy and procedural issues to be addressed through the update. The City Council discussed the information presented and directed staff to proceed forward with proposed amendments to DMMC Chapter 23.51 (TSVS) and to further explore the possibility of regulating the heights of hedges through maximum height allowances. A copy of the December 2, 2024, City Council agenda report is included as Attachment C.

- Staff prepared draft amendments throughout DMMC Chapter 23.51 (TSVS). In order to thoroughly address all issues raised and discussed with the City Council, it is also necessary to amend specific sections of DMMC Chapter 23.50 (Trees).

- In addition to amending DMMC Chapter 23.51 and related sections of DMMC 23.50 (Trees), proposed amendments to Zone Code Chapters 30.04 (Zoning Definitions) and 30.86 (Supplemental Regulations) were prepared that would limit the height of

new or replacement hedges in required side and rear yards (setbacks) to a maximum of six feet.

- The Planning Commission reviewed, discussed, and suggested revisions to staff's proposed TSVS code amendments over the course of three separate, regularly scheduled Planning Commission meetings. Many of the Commission's recommended edits or revisions to the draft amendments, which addressed issues such as refining definitions, application material requirements, acceptable scenic view documentation, cost apportionment and others, have been incorporated into the draft replacement of Chapter 23.51 included in Attachment A.

- As mentioned previously, a draft Ordinance to repeal and replace DMMC Chapter 23.51 (Trees, Scenic Views, and Sunlight), amend related subsections of DMMC Chapter 23.50, and amend DMMC Chapters 30.04 (Definitions) and 30.86 (Supplemental Regulations) in relation to hedge heights was presented to the City Council on July 7, 2025, in a noticed public hearing and staff was directed to make revisions and return to City Council. The approved minutes of the July 7 City Council meeting are included as Attachment D.

DISCUSSION/ANALYSIS:

Staff is returning to the City Council with an Ordinance that would repeal and replace the City's Trees, Scenic Views, and Sunlight (TSVS) regulations within Del Mar Municipal Code (DMMC) Chapter 23.51 and amend related code regulations of the City's Tree regulations within DMMC Chapter 23.50 (A25-001). With the exception of five (5) issue area revisions directed by the City Council on July 7, 2025, the proposed text changes of DMMC Chapter 23.51 remain as presented on that date. Below is an overview of the revisions made since July 7, 2025:

1. **Separate the proposed Hedge Height Zone Code Amendment (ZA25-001) from the proposed TSVS amendments (DMMC Chapters 30.04 (Definitions) and 30.86 (Supplemental Regulations):**
    - This revision does not directly affect the proposed language and provisions of the TSVS regulations.
    - Staff will return to the City Council after adoption of the Ordinance to gain additional Council direction regarding addressing heights of existing and new hedges in Del Mar. Therefore, amendments to DMMC 30.04 and 30.86 are not included in the proposed Ordinance.

2. **Remove Proposed Indemnification subsection (DMMC Section 23.51.130)**
    - Eliminated per City Council direction.

3. **Include "potted" or container plants as eligible "Trees" for TSVS review**
    - Revised definition of "Tree" to clarify that the subject trees and plants could be growing in the ground or in an "above-ground container."

4. **Expand Sunlight Obstruction eligibility from just the Primary Living Area (PLA) to any affected areas within a residence**
    - Removed all references to “Primary Living Area” or “PLA” in relation to (only) Sunlight Obstruction. As revised, an Applicant can seek relief/restoration of sunlight obstructed from reaching any room or rooms of a residence instead of just the PLA.

5. **Eligibility time frame proposed to remain ten (10) years prior to the submittal of a complete TSVS application, not the date of 2002 TSVS Ordinance effectiveness**
    - Based on City Council comments and direction, and after revisiting concerns about the potential impacts a fixed eligibility date could have on mature trees and vegetation, it is staff’s determination that the 10-year look back/date of ownership criteria has generally worked well to strike a balance between the benefits of “trees” and “views” and encourages residents to address view and sunlight obstruction issues before vegetation matures and becomes part of a neighborhood’s, and the City’s, natural character.

    - Therefore, staff is removing its proposal to modify that specific criteria for application submittal, thus proposing leave the 10-year eligibility/date of ownership rule in place.

While not specifically directed by the City Council on July 7, 2025, three additional revisions to the TSVS regulations have been included in the draft Ordinance. First, staff added language to require a certified arborist to be on-site during all TSVS trimming/restoration activities (DMMC Section (23.51.080). Second, DMMC Section 23.51.080(B)(6) has been modified to require that the decision maker consider the feasibility of replacement plantings when Trees are removed for the restorative action. Lastly, on July 7, 2025, staff’s presentation of the proposed TSVS amendments recommended that additional language be added to the beginning of Section 23.51.150 (Process for Alleging Obstruction of Scenic Views and/or Sunlight by City Trees) of the updated code. Addition of the language will address a concern raised by the Planning Commission that a formal “early neighbor consultation” process is needed in the newly proposed procedures for residents seeking view restoration from City trees, prior to formal application submittal and payment of processing fees. This newly proposed code language has been added to DMMC Section 23.51.150 in Exhibit A of the draft Ordinance (Attachment A).

Given the large number of proposed changes to DMMC Chapter 23.51 (TSVS), it is recommended the City Council repeal and replace Chapter 23.51 in its entirety, and therefore, has not provided a redlined version of all proposed amendments. The proposed replacement of Chapter 23.51 is included with the draft Ordinance included as Attachment A and a copy of the current TSVS Chapter is included as Attachment E for reference and comparison. However, to easily identify text revisions made since the July 7, 2025, meeting, refer to Attachment F for a redlined version.

CORRESPONDENCE:
Following City Council hearing on July 7, 2025, resident Janet Wilson sent several letters regarding the proposed TSVS amendments to City staff and City Council members (Attachment G). In brief, the correspondence provided comment and suggestions regarding TSVS issues such as City Trees, sunlight obstruction, cost appropriation, and transferability of TSVS determinations to future property owners, which was taken into consideration by City staff.

In anticipation of the City Council public hearing scheduled for October 6, 2025, staff received several "red-dot" communications from the public regarding the proposed TSVS amendments. That correspondence has been included as Attachment H and, in summary, includes comments and suggestions regarding the importance of retaining trees and vegetation, sunlight protection, the protection of views/sunlight from potted plants, potential loss of privacy, and others. Staff has reviewed and acknowledges all of the suggestions received and will be prepared to comment on any of them at the October 20, 2025, public hearing.

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council related to this agenda item.

ENVIRONMENTAL IMPACT:
The requested action is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (General Rule) of the CEQA Guidelines because CEQA only applies to projects with the potential for causing a significant effect on the environment. With the proposed Ordinance, there is no change in baseline environmental conditions or potential to cause a significant effect on the environment. An Initial Study evaluation concluded that no environmental factors would be potentially affected by the TSVS amendments contemplated by the City Council. A Notice of Exemption will be prepared identifying that the activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:
Updating the Trees, Scenic Views, and Sunlight Ordinance is an identified Tier 2 Council priority for Fiscal Years 2024-25 and 2025-26.

ATTACHMENTS:
Attachment A – Draft Ordinance
Attachment B – Council Adopted Guiding Principles
Attachment C – December 2, 2024, City Council Agenda Report
Attachment D – July 7, 2025, City Council Meeting Minutes
Attachment E – Existing DMMC Chapter 23.51 (Trees, Scenic Views, and Sunlight)
Attachment F – TSVS Redlines of City Council-Directed Revisions
Attachment G - Public Correspondence after the July 7, 2025 City Council Meeting
Attachment H – Red-Dot Correspondence submitted for the October 6, 2025 Meeting.

ORDINANCE No. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA REPEALING AND REPLACING DEL MAR MUNICIPAL CODE CHAPTER 23.51 REGULATING TREES, SCENIC VIEWS AND SUNLIGHT AND AMENDING CHAPTER 23.50 RELATED TO TREE REMOVAL

WHEREAS, the City of Del Mar (City) submitted applications: A25-001, a request to repeal and replace Del Mar Municipal Code (DMMC) Chapter 23.51 (Trees, Scenic Views and Sunlight), and amend DMMC Chapter 23.50 (Trees); and ZA25-001, a request to amend DMMC Chapters 30.04 (Definitions) and 30.86 (Supplemental Regulations) under the Zoning Code (DMMC Title 30) regulating the maximum permitted height of hedges in the City; and

WHEREAS, the City recognizes that trees, scenic views and plentiful sunlight contribute to the special character of Del Mar and to the overall quality of life enjoyed by residents, property owners and visitors. Trees, scenic views and sunlight produce a wide variety of significant psychological and tangible benefits, and contribute to the economic value and comfortable enjoyment of the community, neighborhoods and individual properties; and

WHEREAS, trees, vegetation and other landscaping provide aesthetic value as part of an urban forest, visual and auditory privacy, carbon sequestration, climate control, wind screening, soil stability, and wildlife habitat; and

WHEREAS, scenic views, whether of the Pacific Ocean, nearby lagoons, canyons, the community and its landscapes and urban forest character, or other scenic vistas, encourage distinctive architecture, artistic expression, and provide creative inspiration; and

WHEREAS, plentiful sunlight provides an opportunity to utilize solar energy both actively and passively for home heating and climate control, reducing dependance on fossil fuels, and

WHEREAS, on February 13, 2023, the Del Mar City Council discussed the importance of updating DMMC Chapter 23.51, also known as the Trees, Scenic Views, and Sunlight (TSVS) Ordinance, and directed staff to process applicable Municipal Code amendments; and

WHEREAS, on October 7, 2024, the Del Mar City Council discussed and adopted Guiding Principles for amending the City's TSVS regulations and process; and

WHEREAS, on December 2, 2024, the Del Mar City Council received an informational update from City staff regarding specific areas of DMMC Chapter 23.51 that

need updating, and the City Council provided direction to staff regarding proposed issue areas within the Chapter to be amended; and

WHEREAS, at duly noticed public hearings on April 8, and May 13, 2025, the Del Mar Planning Commission accepted written and oral public testimony and discussed the proposed amendments to DMMC Chapters 23.50, 23.51, 30.04, and 30.86; and

WHEREAS, at a duly noticed public hearing on June 10, 2025, the Del Mar Planning Commission was not able to reach consensus for recommended amendments that would: add DMMC Section 23.51.150, a process for alleging obstruction of Scenic Views and/or Sunlight by City Trees; pause the removal of trees on the City's "Discouraged Tree List," and require tree replacement should be mandatory when restorative action involves tree removal in proposed DMMC Section 23.51.080, and

WHEREAS, at a duly noticed public hearing on June 10, 2025, the Del Mar Planning Commission accepted additional written and oral public testimony, considered proposed amendments to the DMMC, and recommended that the City Council 1) adopt amendments to DMMC Chapters 23.50 and 23.51 related to Trees, Scenic Views and Sunlight regulations (A 25-001) as recommended by staff with specific revisions to DMMC Sections 23.51.010.A.2.b; 23.51.010.B.2; 23.51.040.A.1.e; 23.51.050.B; 23.51.060.A.6; 23.51.060.A.7; 23.51.050.C; 23.51.090.B.1; and 23.51.090.B.2; 2) not adopt Zoning Code amendments to DMMC Chapters 30.04 and 30.86 related to the regulation of hedge height (ZA 25-001); and 3) approve a determination that adoption of the Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule); and

WHEREAS, on July 7, 2025, the City Council held a duly noticed public hearing and voted to continue the item to a future City Council meeting and provided direction to staff that the Ordinance be revised to: 1) Separate the proposed Hedge Height Zone Code Amendment (ZA25-001) from the proposed TSVS amendments; 2) Remove proposed Indemnification subsection of the TSVS regulations; 3) Include "potted" or container plants as eligible Trees for TSVS review; 4) Expand Sunlight Obstruction eligibility from being limited to the Primary Living Area (PLA) to any affected areas within a residence; and 5) Reassess the proposed eligibility time period (look-back) of starting on a fixed date; and

WHEREAS, further consideration of the TSVS process amendments was scheduled for a duly noticed public hearing to be held by the City Council on October 6, 2025; however the City Council meeting was canceled due to a lack of quorum; and

WHEREAS, on October 20, 2025, the City Council held a duly noticed public hearing accepted additional written and oral public testimony, considered the proposed amendments to the DMMC, as revised.

NOW, THEREFORE, the City Council of the City of Del Mar hereby ordains as follows:

SECTION ONE: That DMMC Chapter 23.51 (Trees, Scenic Views, and Sunlight) be repealed and replaced with "Exhibit A" to this Ordinance.

SECTION TWO: That DMMC Section 23.50.050 be amended as follows:

23.50.050 Exemptions.

A. No permit is required by this Chapter for pruning or trimming of any tree on private property.
B. No permit is required by this Chapter to cut down, remove, destroy, or move a Protected Tree under any of the following circumstances. This exemption does not apply to trees within the public right-of-way.
    1. When measured two feet above ground level, (a) the Protected Tree has a single trunk circumference of 20 inches or less and is not a replacement tree pursuant to Section 23.50.090, or (b) the Protected Tree has multi-trunks having a total circumference of 30 inches or less and is not a replacement tree pursuant to Section 23.50.090.
    2. When measured two feet above ground level, the trunk of the Protected Tree is located no more than 12 feet from the exterior wall of any Primary Structure or Accessory Structure.
    3. When both trees are measured two feet above ground level, the Protected Tree is located no more than 12 feet from another Protected Tree. Only one of the Protected Trees may be removed.
C. No permit is required by this Chapter for the emergency removal of a Protected Tree for reasons of public health, safety and welfare. The Planning and Community Development Department shall be promptly notified of emergency removal.
D. No permit is required by this Chapter to remove a Protected Tree when the Planning Commission, or City Council on appeal has determined by resolution that removal of the Tree is necessary to restore a scenic view and/or sunlight to a property pursuant to the provisions of DMMC Chapter 23.51.

SECTION THREE: That DMMC Section 23.50.080 be amended as follows:

23.50.080 Processing of Permits; Standards for Permits.

A. *Application.* A person who desires to cut down, remove, destroy, or move a Protected Tree shall make application for a Tree Removal Permit to the Planning and Community Development Department on a form provided by the City. A processing fee, established by resolution of the City Council, shall be required. The application shall contain the number, species, and size of the trees involved, a statement on the reason for the requested action, a site plan depicting the location of tree(s) proposed for removal and other trees located in the vicinity, and any other pertinent information determined necessary by the Planning and Community Development Director or Design Review Board. This additional information may include a report from a qualified, professional arborist selected and employed by the City. The applicant shall be required to reimburse the City for the cost of such a report.

B. *Noticing.* A notice of the filing of an application for a Tree Removal Permit shall be mailed by the City to persons owning property adjacent to the project site. The mailed notice of application shall advise persons of the date of action and that the application is available for public review at City Hall.

C. *Action.* The Director or the Design Review Board shall approve or conditionally approve a Tree Removal Permit if the Protected Tree is:

1. Dead, diseased or injured beyond reclamation, as certified by a tree condition report from an arborist;
2. Crowded by other healthier protected trees; thinning (removal) would promote healthier growth in the trees to remain, as certified by a tree condition report from an arborist;
3. Interfering with existing utilities and/or primary structures, as certified by a report from the public utility operator or a structural engineer;
4. Causing substantial damage to a Primary or Accessory Structure or associated utilities, as certified by a structural engineer when applicable;
5. Interfering with existing improvements, and/or is a danger to the public health, safety, or welfare in the Central Commercial, Open Space Overlay Zone, or on public property or right-of-way;
6. Deemed a safety hazard in a tree condition report from a Certified Arborist. The report shall include a completed ISA-Hazard Evaluation Form or other methodology acceptable to the City of Del Mar, as well as the observations and opinions of the Arborist. The City reserves the right to retain a Certified Arborist, at the expense of the Applicant, when needed to review a hazardous tree determination;
7. Located within 30 feet of a Primary or Accessory Structure, when measured two feet above ground level, and the canopy of the tree cannot be reduced so as to:
   (i) Avoid overhanging the roof of a Primary or Accessory Structure;
   (ii) Be at least ten feet from the canopy of any other tree; and
   (iii) Be at least ten feet from the chimney of any residence.

   The feasibility of reducing the tree(s) canopy shall be determined by the City's Arborist and Fire Chief;
8. Voluntarily replaced in accordance with Subsection 23.50.090.A.1. The replacement tree(s) shall be indicated in a covenant on the property on which the tree(s) are located. The replacement tree(s) shall not be eligible for removal in accordance with this Code until it has attained a circumference of at least 20 inches when measured two feet above ground level; or
9. Obstructing proposed improvements that cannot be reasonably designed to avoid the need for tree removal, as certified by a report from the project planner and determined by the Director of Planning and Community Development or the Design Review Board based on the following factors:
   (i) Early consultation with the City;
   (ii) Consideration of practical design alternatives;
   (iii) Saving the Protected Tree eliminates all reasonable use of the property; or
   (iv) Saving the Protected Tree requires the removal of more desirable trees.

Notwithstanding the existence of Subsections 1. through 10. above, the Director or the Design Review Board may deny a Tree Removal Permit if any of the following conditions exist:

1. The tree removal will, even after the imposition of permit conditions, endanger the public health, safety, peace, or welfare;
2. The tree removal will have an adverse impact on the aesthetics of the area surrounding the proposed activity;
3. Reasonable alternatives to a concurrent development proposal exist which would eliminate the need to remove a Protected Tree; or
4. The applicant has not agreed to perform the conditions of approval imposed by Section 23.050.090.

SECTION FOUR:

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

SECTION FIVE :

This Ordinance was introduced by the City Council on October 20, 2025.

SECTION SIX:

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION SEVEN:

If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

SECTION EIGHT:

Upon adoption, the Ordinance will take effect and be in force 30 days from the date of City Council adoption (“Effective Date”).

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California at the Regular Meeting held this 3rd day of November, 2025.

_____
Terry Gaasterland, Mayor
City of Del Mar

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney
City of Del Mar

_____

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. XXXX, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the XX day of _____, by the following vote:

AYES:

NOES:

RECUSE

ABSENT:

ABSTAIN:

_____
Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar

Chapter 23.51 TREES, SCENIC VIEWS AND SUNLIGHT

23.51.010 Purpose and Application of Chapter.

A. Purpose.

1. The City recognizes that Trees, Scenic Views and plentiful Sunlight contribute to the special character of Del Mar and to the overall quality of life enjoyed by residents, property owners and visitors.

2. The City further recognizes that Trees, Scenic Views and Sunlight produce a wide variety of significant psychological and tangible benefits, and contribute to the economic value and comfortable enjoyment of the community, neighborhoods and individual properties, including, but not limited to, the following:

   a. Trees, vegetation and other landscaping provide aesthetic value as part of an urban forest, visual and auditory privacy, carbon sequestration, climate control, wind screening, soil stability, and wildlife habitat.

   b. Scenic Views, whether of the Pacific Ocean, nearby lagoons, canyons, the community and its landscapes and urban forest character, or other scenic backcountry (eastern) vistas, encourage distinctive architecture, artistic expression, and provide creative inspiration.

   c. Plentiful Sunlight provides an opportunity to utilize solar energy both actively and passively for home heating and climate control, thereby reducing dependance on fossil fuels.

3. This Chapter acknowledges the benefits derived from Trees, Scenic Views and plentiful Sunlight, and balances the goal of maintaining each of them, when possible.

4. This Chapter further provides a process by which any Person may seek to preserve and restore Scenic Views and/or Sunlight when there is an unreasonable Obstruction of such Scenic Views and/or Sunlight by the growth, improper maintenance and/or installation of Trees and/or vegetation located on a property within three hundred (300) feet of the Applicant's property line.

B. Application.

1. This Chapter applies to all properties within the jurisdictional boundaries of the City of Del Mar, excluding property owned by governmental entities not subject to the City's regulatory jurisdiction.

2. Any Person shall have the right to file an Application with the City alleging Obstruction of pre-existing Scenic Views and/or Sunlight, and further seeking Restorative Action to restore the pre-existing Scenic Views and/or Sunlight that existed on or after the later of the following:

   a. Date the Applicant acquired Applicant's property; or

b. Ten (10) years prior to the submittal date of a complete Trees, Scenic Views and Sunlight application.

3. A decision by the Planning Commission, or City Council on appeal, that an Obstruction of Scenic Views and/or Sunlight has occurred, and any associated Restorative Action, is specific to the Applicant and does not run with the land. Any orders issued by the Planning Commission, or City Council on appeal, for ongoing maintenance of the Subject Tree are not binding on subsequent property owners and shall terminate with the transfer of property title. This paragraph does not apply when property title is transferred due to inheritance

23.51.020 Definitions.

For purposes of this Chapter, the following definitions shall apply:

A. *Applicant* shall mean any Person who owns residential real property within the jurisdictional boundaries of the City of Del Mar (or the legal occupant of said real property with written permission from the property owner of record to act on their behalf), who files an Application with the City pursuant to this Chapter.

B. *Application* shall mean a Trees, Scenic Views and Sunlight Application filed with the City alleging that any Tree located on the property of another Person is causing an unreasonable Obstruction of the Applicant's pre-existing Scenic Views and/or Sunlight, for which the Applicant seeks Restorative Action.

C. *Certified Arborist* shall mean a professional arborist who holds a valid ISA Certified Arborist credential from the International Society of Arboriculture (ISA). For purposes of this Chapter, a Registered Consulting Arborist (RCA) with current membership in the American Society of Consulting Arborists (ASCA) shall be considered a "Certified Arborist" for purposes of providing professional tree surveys, reports, recommendations, and other technical information related to arboriculture.

D. *City* shall mean the City of Del Mar.

E. *City Tree* shall mean any Tree planted, installed, owned, and/or maintained by the City, which is located in, within or on a City park, Parkway, street, median, or other property owned by the City. For purposes of this Chapter and consistent with Section 23.51.030 of this Chapter, the term "City Tree" does not include any Tree located within the public right-of-way between the improved street edge and the property boundary of a private lot.

F. *Crown Reduction/Shaping* shall mean a method of comprehensive trimming that reduces a Tree's height and/or spread. Crown Reduction/Shaping entails the reduction of the top, sides or individual limbs of a Tree by removal of leaders or the longest portion of limbs to a lateral large enough to assume the terminal role.

G. *Director* shall mean the City's Planning and Community Development Director, or his or her designee.

H. *Heading Back* shall mean a pruning process whereby overall reduction of the mass of a Tree is achieved by modification to major limbs.

I. *Hedge* shall mean generally dense vegetation so aligned as to form a physical barrier or fence.

J. *Imminent Danger* shall mean an immediate risk to the health, safety and/or welfare of any Person or property, whether privately- or publicly-owned.

K. *Lacing* shall mean a comprehensive method of Trimming that systematically and sensitively removes excess portions of a Tree and improves the structure of the Tree.

L. *Mediation* shall mean a private, voluntary process in which an impartial and qualified third-party professional negotiator facilitates communication between parties to a dispute to promote settlement and reach a mutually satisfactory solution, in this case regarding a claim for Obstruction of Scenic Views and/or Sunlight.

M. *Obstruction* shall mean any substantial and unreasonable blocking or diminishment of Scenic Views and/or Sunlight that is attributable to the growth, improper maintenance and/or the location of a Tree, as determined by the Planning Commission or City Council on appeal, consistent with the findings of fact required by this Chapter.

N. *Parkway* shall mean that area of the street between the back of curb and the sidewalk that is typically planted or landscaped.

O. *Person* shall mean any individual(s), corporation, partnership, firm, or other legal entity (including the City of Del Mar), owning real property or residing in real property within the Del Mar City limits.

P. *Primary Living Area (PLA)* shall mean that (single) portion of a primary residence (typically the living room, dining room or great room) determined by the Planning Commission, or City Council on appeal, to be the main gathering and entertainment room of the primary residence.

1. The determination of a PLA is to be made on a case-by-case basis and shall be consistent with any prior determinations made by the City. Each primary residence shall be limited to the designation of only one (1) PLA (a primary residence does not include "Accessory Dwelling Units", as that term is defined by Chapter 30.91 of this Municipal Code).

2. Under rare and extraordinary circumstances, the Planning Commission, or City Council on appeal, may determine that another area of a primary residence (other than the living room, dining room or great room) is the PLA.

3. Under no circumstances shall a bathroom, laundry room, storage room, stairwell, hallway, outdoor deck, patio, balcony, or any other area outside of the enclosing walls of a primary residence, be designated as a PLA. Additionally, a PLA may not be from any space within an Accessory Dwelling Unit (as that term is defined by Chapter 30.91 of this Municipal Code).

Q. *Protected Tree* shall mean any of the following:

1. A Tree of the species Hesperocyparis macrocarpa (Monterey Cypress);

2. A Tree of the species Pinus torreyana (Torrey Pine);

3. A Tree of any species and located on property within the Central Commercial or Open Space Overlay zones of the City, within a public right-of-way, or on public- or City-owned property; or

4. Any Tree planted as a result of required mitigation for the removal of another Protected Tree.

R. *Restorative Action* shall mean any specific action(s) and conditions required by the Planning Commission, or City Council on appeal, to be implemented to resolve a dispute relating to the Obstruction of the Applicant's pre-existing Scenic Views and/or Sunlight.

S. *Scenic View* shall mean a view of the ocean, lagoons, canyons, the community and its landscapes and urban forest character, or other scenic backcountry (eastern) vistas from the PLA of a primary residence. When observed through more than one window or multiple locations within the PLA, the full extent of the Scenic View shall be a culmination of all vantage points from within the PLA. A Scenic View shall not have been created by natural disaster/causes such as storms, fire, disease or pest infestation, or illegal activity.

T. *Severe Pruning* shall mean the cutting of branches and/or the trunk of a Tree in a manner which substantially reduces the overall size of the Tree or destroys the existing symmetrical appearance, natural shape and/or health of the Tree, and which results in the removal of main lateral branches leaving the trunk and branches of the Tree in a stub appearance. "Topping" and "Heading Back" as defined herein are considered to be Severe Pruning. As stated herein, Severe Pruning should be avoided due to the damage that such practices can cause to a Tree's form and health.

U. *Site of the Subject Tree* shall mean the property on which a Subject Tree is located, which shall be located within three hundred (300) feet of the Applicant's property boundary.

V. *Solar Energy System* shall have the same meaning as set forth in Section 801.5(a) of the California Civil Code, as that Section may be amended, renumbered, or redesignated from time to time. For purposes of this Chapter, the location of a Solar Energy System collector is required to comply with the local building and setback regulations.

W. *Subject Tree* shall mean a Tree for which an Application has been submitted regarding the alleged Obstruction of Scenic Views and/or Sunlight.

X. *Sunlight* shall mean the availability of direct and/or indirect sunlight to a room or rooms, or to the existing Solar Energy System of an Applicant's primary residence.

Y. *Thinning* shall mean the selective removal of entire branches from a Tree so as to improve visibility through the Tree and/or improve the Tree's structural condition.

Z. *Topping* shall mean eliminating the upper portion of the trunk or main leader of a Tree. Topping is not recommended in almost all cases.

AA. *Tree* shall mean any perennial plant growing on public or private property in the ground or in an above-ground container, with a self-supporting woody main stem or trunk. For purposes of this Chapter, "Tree" shall also include vegetation such as shrubs, Hedges, and bushes. References to "Tree" herein shall include both the singular and the plural form.

BB. *Tree Owner* shall mean the Person who holds title of the real property for the Site of the Subject Tree, or the Person responsible for maintenance of the Subject Tree in accordance with Section 23.51.030 of this Chapter.

CC. *Tree Removal* shall mean the elimination of any Tree from its present location.

DD. *Trimming* shall mean the selective removal of portions of branches from a Tree to modify the Tree shape or profile or otherwise alter the Tree's appearance.

23.51.030 Private Property Owner Maintenance of Adjacent Trees Located in Public Right-of-Way.

The maintenance of any Tree located within the public right-of-way, between the improved street edge and the property boundary of a private lot, shall be the responsibility of the adjacent private property owner, and not the City. As such, the adjacent private property owner shall be considered the "Tree Owner" for purposes of this Chapter.

23.51.040 Process for Alleging Obstruction of Scenic Views and/or Sunlight.

A. Application Submission to City.

1. Any Person alleging Obstruction of Scenic Views and/or Sunlight may submit an Application to the City Department of Planning and Community Development, which shall contain the following information and may be subject to review and approval by the Director:

    a. Uniform Development Application on a form provided by the City;

    b. Trees, Scenic Views and Sunlight Supplemental Questionnaire on a form provided by the City;

    c. Floor plan of the Applicant's PLA depicting the direction of the Scenic Views and/or floor plan and building elevation plans depicting the source of Sunlight (e.g., windows, doors, or other transparent surfaces);

    d. Photographic evidence `taken from the Applicant's PLA depicting both of the following:

        (1) Pre-existing Scenic Views– Photograph must have been taken at some point in time during the timeframe set forth in Section 23.51.010(B)(2) of this Chapter to the present; and

        (2) Alleged Obstruction of Scenic Views– Photograph must have been taken on or around the time of Application submittal;

    e. Shade study demonstrating the amount and duration of the alleged Obstruction of Sunlight from a PLA or Solar Energy System (for Applications alleging Obstruction of Sunlight only); and

f. Tree survey of the Subject Tree(s) signed and/or stamped by a Certified Arborist and providing the following information, which may be subject to review and approval by the City's Arborist:

(1) Species, common name and variety of the Subject Tree(s);

(2) Physical measurements of the Subject Tree(s) (e.g., height and trunk circumference at two (2) feet above the natural grade);

(3) Approximate age of the Subject Tree(s);

(4) Overall health and structural condition of the Subject Tree(s);

(5) Life expectancy and suitability for preservation of the Subject Tree(s);

(6) Desired Restorative Action, anticipated impact of such Restorative Action on the Subject Tree(s), and recommended maintenance activities (if any) for the long-term preservation of Applicant's Scenic Views and/or Sunlight; and

(7) Other recommendations for management of the Subject Tree(s) and/or pertinent information related to the Subject Tree(s).

If the Tree Owner does not grant Applicant's Certified Arborist access to the Site of the Subject Tree to conduct the tree survey required by this Subsection, then a tree survey shall be prepared containing as much of the above information as possible. Applicant's Certified Arborist may use other sources to obtain this information, such as photographs taken from other properties, satellite photographs from commercially-available sources, and public record permit information for work performed on the Tree Owner's property.

2. Together with the submission of an Application, the Applicant shall remit an Application fee to the City in an amount established by Ordinance or Resolution of the City Council.

3. Upon review of the Application for completeness, the Director may request additional information, if necessary, within thirty (30) days following Application submittal.

4. The Application will not be deemed complete for further processing by the City until all materials required by this Section and any additional information requested by the Director have been submitted in a format deemed acceptable by the Director.

5. By submitting an Application to the City, Applicant agrees to allow City staff and/or the Tree Owner to personally enter upon Applicant's property (under Applicant's supervision) to view and photograph the alleged Obstruction of Scenic Views from the Applicant's PLA, or in case of sunlight obstruction, from the affected room(s) and/or Solar Energy System.

6. Group Applications are not permitted. A single Application must be submitted for each Person alleging Obstruction of Scenic Views and/or Sunlight. Each Application will be considered on an individual basis at a public hearing before the Planning Commission, or City Council on appeal.

B. Mediation Efforts.

1. Together with the information required under Subsection (A) of this Section, Applicant shall also submit documentation to the City demonstrating the following:

   a. Applicant contacted the Tree Owner and made reasonable efforts to resolve the dispute alleging Obstruction of Scenic Views and/or Sunlight, including, at a minimum, offering to engage in Mediation.

   b. Proof of Applicant's efforts to meet and confer with the Tree Owner shall include:

      (1) Documented attempts offering to participate in Mediation (via certified mail, e-mail exchanges, text messages, etc.); and

      (2) An explanation of whether such offers to participate in Mediation were declined in writing by the Tree Owner, or if Mediation was unsuccessful between the parties.

2. The Tree Owner's failure to respond to Applicant's offer for Mediation within thirty (30) days following receipt of the offer shall be deemed a refusal by the Tree Owner to participate in Mediation.

3. If the Tree Owner agrees to Mediation, the Mediation shall be completed within one hundred and eighty (180) days following Tree Owner's acceptance of Applicant's offer for Mediation, unless an extension is granted by the Director.

C. Notice to Tree Owner. Within thirty (30) days following receipt of a complete Application, City staff shall provide notice to the Tree Owner including the following information:

1. Copy of the Application and any other materials submitted by the Applicant;

2. Copy of this Chapter 23.51;

3. Statement notifying the Tree Owner that there is still time and an opportunity for the parties to resolve the dispute prior to the public hearing;

4. Statement encouraging the Tree Owner to participate in Mediation and informational materials associated with the Mediation process, such as a referral to the National Conflict Resolution Center; and

5. Notice that a written response to the Application may be submitted in advance of the public hearing for review by the Planning Commission, the deadline for any such response, and the anticipated date and time of the public hearing.

D. Public Hearing and Decision.

1. The Application shall be presented at a noticed public hearing conducted by the City of Del Mar Planning Commission. The public hearing procedures shall be consistent with those contained in Section 7.2 of the Planning Commission's adopted Policy Manual.

2. The Applicant and the Tree Owner shall each be allowed one (1) request for a postponement of the public hearing, provided that the written request is received by the Director at least fourteen (14) days prior to the scheduled hearing date.

3. At least ten (10) days prior to the scheduled public hearing date, notice shall be published and mailed to all real property owners of record located within three hundred (300) feet of the Applicant's property boundary and the Site of the Subject Tree.

4. During the public hearing, the Applicant and the Tree Owner shall each be allowed an opportunity to present testimony and evidence relating to the Application and the Subject Tree(s). The public shall also be given an opportunity to provide comment on the Application and the Subject Tree(s).

5. The Planning Commission shall issue a decision regarding the Application to determine whether an Obstruction of Scenic Views and/or Sunlight has occurred based on the criteria set forth in Section 23.51.060 of this Chapter.

    a. The Planning Commission’s decision shall be documented in the form of a Resolution.

    b. If the Planning Commission finds in favor of the Applicant, the Planning Commission’s Resolution shall also include the requirement to perform Restorative Action work in accordance with Section 23.51.080 of this Chapter. If desired, the Planning Commission may choose to appoint a subcommittee of the Planning Commission to work with City staff on the creation of a draft Restorative Action plan for consideration and action by the Planning Commission at a future meeting.

    c. The Planning Commission's decision on the Application shall become final on the eleventh (11th) business day following the adoption of the Planning Commission’s Resolution, unless appealed to the City Council in accordance with Section 23.51.100 of this Chapter.

23.51.050 Criteria for Determining Unreasonable Obstruction of Scenic Views.

A. In considering whether an unreasonable Obstruction of Scenic Views has occurred pursuant to this Chapter, the Planning Commission, or City Council on appeal, shall determine whether the Subject Tree(s) obstructs the Applicant's Scenic Views (observed from the Applicant's PLA) by more than the permissible percentages listed for the type of Scenic Views identified in Table 1 of this Section.

B. The Planning Commission, or City Council on appeal, shall be responsible for determining the type(s) of Scenic View and appropriate view angle upon which to base its review from those listed in Table 1 of this Section. In making this determination, the recommendation of staff may be considered.

C. Scenic Views of a specific type (e.g., White Water, Blue Water, etc.) could possibly be observed from multiple vantage points and directions inside the Applicant's PLA, resulting in several separated views of a similar type. When this occurs, the Planning Commission, or the City Council on appeal, shall consider the Scenic View to be the culmination of all (separated) views that can be observed within a 180-degree corridor from the PLA, and shall apply the allowable percentages of Obstruction accordingly.

Table 1

ALLOWABLE SCENIC VIEW OBSTRUCTION – 180 DEGREE CORRIDOR			
Type of Scenic View	**Slot (< 45°)**	**Middle (45° – 90°)**	**Panorama (> 90°)**
White Water	0 – 5 %	0 – 5 %	0 – 10 %
Blue Water	0 – 10 %	0 – 10 %	0 – 15 %
Horizon/Back Country	0 – 15 %	0 – 20 %	0 – 20 %

23.51.060 Findings for Determining Unreasonable Obstruction of Scenic Views and/or Sunlight.

A. Obstruction of Scenic Views (from the Applicant's PLA). To render a decision in favor of the Applicant regarding unreasonable Obstruction of Scenic Views, the Planning Commission, or City Council on appeal, shall make all of the following findings of fact:

1. The Subject Tree(s) is/are located on the Tree Owner's property, which is located within three hundred (300) feet of the Applicant's property (also referred to herein as the "Site of the Subject Tree");

2. The Applicant's Scenic View is consistent with the definition of "Scenic View" as provided in Section 23.51.020 of this Chapter;

3. The Applicant's stated PLA is consistent with the definition of "Primary Living Area (PLA)" as provided in Section 23.51.020 of this Chapter;

4. The Applicant has contacted the Tree Owner and made reasonable efforts to resolve the dispute alleging Obstruction of Scenic Views, as required by Section 23.51.040(B) of this Chapter;

5. Consistent with Section 23.51.040(A) of this Chapter, the Applicant has provided photographic evidence of prior Scenic Views taken from the Applicant's PLA on or after the later of the following: (i) the date Applicant acquired Applicant's property; or (ii) ten (10) years prior to the submittal date of a complete Trees, Scenic Views and Sunlight application;

6. Based on a review of the photographic evidence submitted by the Applicant, the Applicant's Scenic View has been reduced by more than the maximum allowed percentage of Obstruction listed in Table 1 under Section 23.51.050 of this Chapter; and

7. Restoration of the Applicant's Scenic Views will not create an infringement on the Tree Owner's privacy that cannot be reasonably mitigated.

B. Obstruction of Sunlight (to the Applicant's Solar Energy System). To render a decision in favor of the Applicant regarding unreasonable Obstruction of Sunlight to Applicant's existing Solar Energy System, the Planning Commission, or City Council on appeal, shall make the following findings of fact:

1. The Subject Tree(s) is/are located on the Tree Owner's property, which is located within three hundred (300) feet of the Applicant's property (also referred to herein as the "Site of the Subject Tree");

2. The Applicant's Sunlight is consistent with the definition of "Sunlight" as provided in Section 23.51.020 of this Chapter;

3. The Applicant's Solar Energy System is consistent with the definition of "Solar Energy System" as provided in Section 23.51.020 of this Chapter;

4. The Applicant has contacted the Tree Owner and made reasonable efforts to resolve the dispute alleging Obstruction of Sunlight, as required by Section 23.51.040(B) of this Chapter;

5. Consistent with Section 23.51.040(A) of this Chapter, the Applicant has provided photographic or other documentable evidence of prior Sunlight to the Solar Energy System taken on or after the later of the following: (i) date Applicant acquired Applicant's property; or (ii) ten (10) years prior to the submittal date of a complete Trees, Scenic Views and Sunlight application;

6. The Applicant has provided an exhibit demonstrating the amount and duration of the Obstruction of Sunlight in a graphic format, such as a shadow study, as required by Section 23.51.040(A) of this Chapter;

7. Based on a review of the photographic evidence and exhibit submitted by the Applicant, the Subject Tree(s) cast(s) a shadow on the Applicant's Solar Energy System that is greater than ten percent (10%) of the Solar Energy System absorption area at any time between 10:00 a.m. and 2:00 p.m., Pacific Standard Time (PST); and

8. Restoration of Sunlight to the Applicant's Solar Energy System will not create an infringement on the Tree Owner's privacy that cannot be reasonably mitigated.

C. Obstruction of Sunlight (to a room or rooms of the Applicant's primary residence). To render a decision in favor of the Applicant regarding unreasonable Obstruction of Sunlight to one or more rooms in the Applicant's primary residence, the Planning Commission, or City Council on appeal, shall make the following findings of fact:

1. The Subject Tree(s) is/are located on the Tree Owner's property, which is located within three hundred (300) feet of the Applicant's property (also referred to herein as the "Site of the Subject Tree");

2. The Applicant's Sunlight is consistent with the definition of "Sunlight" as provided in Section 23.51.020 of this Chapter;

3. The Applicant has contacted the Tree Owner and made reasonable efforts to resolve the dispute alleging Obstruction of Sunlight, as required by Section 23.51.040(B) of this Chapter;

4. Consistent with Section 23.51.040(A) of this Chapter, the Applicant has provided photographic or other documentable evidence of prior Sunlight to one or more rooms taken on or after the later of the following: (i) the date Applicant acquired Applicant's property; or (ii) ten (10) years prior to the submittal date of a complete Trees, Scenic Views and Sunlight application;

5. The Applicant has provided an exhibit demonstrating the amount and duration of the Obstruction of Sunlight in a graphic format, such as a shadow study, as required by Section 23.51.040(A) of this Chapter;

6. Based on a review of the photographic evidence and exhibit submitted by the Applicant, the Subject Tree(s) cast(s) shadows greater than fifty percent (50%) of the total window glazing of a room or rooms within the Applicant's primary residence at any time between 10:00 a.m. and 2:00 p.m., Pacific Standard Time (PST); and

7. Restoration of Sunlight to the sunlight obstructed room or rooms will not create an infringement on the Tree Owner's privacy that cannot be reasonably mitigated.

23.51.070 Criteria for Determining Appropriate Restorative Action.

After it has been determined through the hearing process that an unreasonable Obstruction has occurred, then the following unweighted factors may be considered by the Planning Commission, or City Council on appeal, in determining the appropriate Restorative Action:

A. Any hazards posed by the Subject Tree(s) to any Persons or structures on the Applicant's property, including, but not limited to, fire danger, as determined by a City Fire Official, and the danger of falling limbs or Trees, as determined by a Certified Arborist;

B. The variety of the Subject Tree(s), its/their projected rate of growth and maintenance requirements;

C. The aesthetic quality of the Subject Tree(s), including but not limited to, species characteristics, size, growth, form and vigor;

D. The location of the Subject Tree(s) with respect to overall appearance, design and/or use of the Site of the Subject Tree(s);

E. Soil stability provided by the Subject Tree(s) considering soil structure, degree of slope and extent of the Subject Tree's root system per a report from a soils engineer licensed by the State of California;

F. Privacy (visual and auditory) and wind screening provided by the Subject Tree(s) to the Tree Owner and neighbors of the Tree Owner;

G. Energy conservation and/or climate control provided by the Subject Tree(s);

H. Wildlife habitat provided by the Subject Tree(s);

I. Whether the Subject Tree(s) is/are considered a "Protected Tree", as defined herein and in Chapter 23.50 (Trees) of this Municipal Code;

J. The value of the Subject Tree(s) to the community/neighborhood;

K. Whether the Subject Tree(s) is/are located on or in the public right-of-way or City-owned property; and

L. Whether the Subject Tree(s) has/have been deemed "discouraged" or undesirable by the City, as provided in the City's Public Tree Policy Manual.

23.51.080 Determination of Restorative Action Work to be Performed.

A. Consideration of Recommendations. In determining the type(s) of Restorative Action work to be performed under this Chapter, the Planning Commission, or City Council on appeal, shall first consider any recommendation(s) made by City staff, which could include recommendation(s) from a Certified Arborist retained by the Applicant, Tree Owner and/or City.

B. Types of Restorative Action. Restorative Action work may include, but is not limited to, any of the following (in order of preference):

1. Crown Cleaning. Removing dead, dying, diseased and broken branches from the crown of the Subject Tree(s).

2. Lacing/Thinning. Lacing is the preferred pruning technique, which removes excess foliage within the canopy, improves general views through the Subject Tree(s), and can improve the structure of the Subject Tree(s).

3. Crown Raising. Selectively removing the lower limbs from the crown of the Subject Tree(s).

4. Crown Reduction/Shaping. Crown Reduction/Shaping of the Subject Tree(s) is preferable to Topping or Tree Removal, if it is determined that the impact of Crown Reduction/Shaping would not destroy the visual proportions of the Subject Tree(s), adversely affect the Subject Tree's growth pattern or health, or otherwise constitute a detriment to the Subject Tree(s).

5. Heading Back. Heading Back should only be permitted if all of the following apply:

   a. The Subject Tree(s) is/are specifically planted and maintained as a Hedge, espalier, bonsai, or in pollard form;

   b. Restorative Actions 1 through 4 of this Section will not accomplish the intended Restorative Action; and

   c. Subsequent growth characteristics will not create a future Obstruction of greater proportions.

6. Tree Removal. Tree Removal of the Subject Tree(s) may be considered when the above-mentioned Restorative Actions are judged to be ineffective. Where Tree Removal is required, replacement by appropriate species shall be considered by the Planning Commission, or City Council on appeal for feasibility, but is not required.

7. Stand Thinning. The removal of a portion of the total number of Trees from a grove of Trees on the Site of the Subject Tree, including the removal of the Subject Tree(s), without any replacement plantings.

In cases where Trimming or any other type(s) of Restorative Action work may affect the health of a Tree that is intended to be preserved or trees in the vicinity, such Restorative Action work shall be carried out in accordance with the standards established by the International Society of Arboriculture (ISA) for use in the State of California and under the supervision of a Certified Arborist. Severe Pruning should be avoided due to the damage that such practices can cause to a Tree's form and health.

C. Written Conditions. Restorative Action imposed by the Planning Commission, or City Council on appeal, may also include written conditions (such as ongoing maintenance), and directions as to the appropriate timing of such conditions.

D. Ongoing Maintenance. If ongoing maintenance is required by the Planning Commission, or City Council on appeal, as part of the Restorative Action work to be performed, then such ongoing maintenance shall be performed according to the time schedule (e.g., annually, bi-annually, etc.) established by the Planning Commission, or City Council on appeal. On each such occasion that ongoing maintenance is scheduled to occur, the procedures set forth in Section 23.51.090(E) of this Chapter shall apply.

E. Consistency with Chapter. The performance of any Restorative Action work required under this Chapter shall be performed consistent with all other provisions of this Chapter.

F. Timeline for Compliance. Any Restorative Action work required under this Chapter shall be performed no later than the timelines set forth in Section 23.51.090 of this Chapter, unless an exception applies, as follows:

1. An exception applies if it is determined by the Planning Commission, or City Council on appeal, that it would be less harmful to the Subject Tree(s) for the Restorative Action work to occur at a specific time of the year.

2. If it is determined that an exception applies, then the Restorative Action work shall be performed no later than ninety (90) days following the specific date set forth by the Planning Commission, or City Council on appeal.

23.51.090 Allocation of Costs and Procedures for the Payment of Restorative Action Work.

A. Responsibility for Application Fees and Related Costs. The Applicant shall be responsible for the Application fee(s) owed to the City, and any other fees and costs relating to providing the required Application materials to the City, including other information requested by the City to review and process the Application, as well as the costs associated with the public noticing requirement under Section 23.51.040(D) of this Chapter.

B. Responsibility for Costs of Initial Restorative Action Work. When Restorative Action is required by the Planning Commission, or City Council on appeal, the costs for the initial Restorative Action work required to be performed under this Chapter (excluding any ongoing maintenance) shall be as follows:

1. The Applicant and the Tree Owner shall each pay fifty percent (50%) of all costs associated with the initial Restorative Action work, which includes the full cost of the Tree Survey required by DMMC Section 23.51.040(g), unless an exception applies, as set forth below.

2. The Tree Owner shall pay one hundred percent (100%) of all costs associated with the initial Restorative Action work, which includes the full cost of the Tree Survey required by DMMC Section 23.51.040(g), if the Planning Commission, or City Council on appeal, makes a determination that:

a. The Tree Owner has refused to participate in good faith attempts to resolve the dispute as required by Section 23.51.040(B) of this Chapter; and/or

b. The Subject Tree constitutes a hazard to the safety of the Applicant and/or the Applicant's property, and is being maintained by the Tree Owner in disregard for the safety of others and/or property.

C. Responsibility for Costs of Ongoing Maintenance. The Tree Owner shall pay one hundred percent (100%) of all costs associated with any ongoing maintenance of the Subject Tree(s) required by the

Restorative Action plan approved by the Planning Commission, or City Council on appeal, whether or not the Applicant paid any or all of the costs for the initial Restorative Action work.

D. Procedures for Payment, Scheduling and Completion of Initial Restorative Action Work.

1. Applicant Partially Responsible for Costs of Initial Restorative Action Work. When the Applicant is partially responsible for the cost of the initial Restorative Action work as set forth in Subsection (B)(1) of this Section, then the following procedures shall be enacted:

a. For any initial Restorative Action work, the Tree Owner shall submit to the City two (2) itemized written cost estimates for performing the initial Restorative Action work. The estimates shall be prepared by licensed and insured landscape or Tree service contractors, under the supervision of a Certified Arborist, and acceptable to the City. The estimates shall be submitted to the City within thirty (30) days following the adoption of the Resolution approving the Restorative Action plan. The estimates shall be subject to review for acceptance by the Director. The Director reserves the right to consult with a Certified Arborist retained by the City if both of the estimates appear to be substantially above the professional average for such services, and in that case, the Tree Owner shall be responsible for reimbursing the City for the cost of consultation with the City Arborist and may be required to submit additional estimates to the City.

b. Estimates provided by the Tree Owner shall only include, and the Applicant shall only be responsible for, payment of costs to perform the initial Restorative Action work (excluding any ongoing maintenance) as required by the Planning Commission, or City Council on appeal. Such costs may include debris removal/recycling fees, and the purchase and installation of mitigation Trees (if required by the Planning Commission, or City Council on appeal). Applicant shall not be responsible for any other costs associated with the Restorative Action work required to be performed, including, but not limited to, tarping, removal and/or replacement of fencing, walls or other improvements to bring equipment onto the Site of the Subject Tree, temporary relocation and re-installation or removal and replacement of appurtenances, structures, fixtures and other improvements on the Site of the Subject Tree, and/or any other costs not directly related to the costs of performing the Restorative Action work, as required by the Restorative Action plan approved by the Planning Commission, or City Council on appeal.

c. Within fifteen (15) days following the Director's acceptance of the cost estimates submitted by the Tree Owner, the Applicant shall deposit with the City an amount equal to the cost percentage required to be paid by the Applicant pursuant to Subsection (B) of this Section, using the lower amount of the two cost estimates. Failure of the Applicant to timely make the required deposit within these fifteen (15) days will render the City's Resolution requiring the Restorative Action work to become null and void.

d. Once the Applicant's deposit is received by the City, the Tree Owner shall, at the Tree Owner's sole discretion, choose which one of the two companies that submitted estimates accepted by the Director will perform the initial Restorative Action work, and shall notify the City of its decision. Within thirty (30) days following the City's receipt of the Applicant's deposit (or such other period of time as the Planning Commission, or City Council on appeal, may determine to be reasonable and appropriate), the Tree Owner shall schedule the initial

Restorative Action work to be completed. If the Tree Owner does not have the initial Restorative Action work completed within thirty (30) days or within the time-period indicated by the Planning Commission, or City Council on appeal, then the City may pursue any and all available remedies and enforcement mechanisms against the Tree Owner, in accordance with Section 23.51.110 of this Chapter.

e. The Tree Owner shall notify the City in advance of the date and time that the initial Restorative Action work is scheduled to take place. City staff, or a qualified third party designated by the City, shall inspect the initial Restorative Action work, upon completion, to determine whether the work complies with and satisfies the requirements and conditions contained in the Restorative Action plan. The City's inspection of the initial Restorative Action work shall be scheduled for a time when the contractors performing the initial Restorative Action work are still present at the Site of the Subject Tree and available to perform additional work, if deemed required by the City. The final determination of compliance with and satisfaction of the Restorative Action plan is made by the Director.

f. Following City approval of the initial Restorative Action work, the Tree Owner shall submit a copy of an invoice for the work performed to the City. Upon submittal of the invoice, the City shall transmit the funds held in the City's deposit account to the Tree Owner.

2. Tree Owner Fully Responsible for Costs of Initial Restorative Action Work. When the Tree Owner is fully responsible for the cost of the initial Restorative Action as set forth in Subsection (B)(2) of this Section, then the following procedures shall be enacted:

a. The initial Restorative Action work shall be completed within thirty (30) days following adoption of the Resolution approving the Restorative Action plan (or such other period of time as the Planning Commission, or City Council on appeal, may determine to be reasonable and appropriate). If the Tree Owner does not have the initial Restorative Action work completed within the time-period indicated by the Planning Commission or within thirty (30) days, then the City may pursue any and all available remedies and enforcement mechanisms against the Tree Owner, in accordance with Section 23.51.110 of this Chapter.

b. The Tree Owner shall notify the City in advance of the date and time that the initial Restorative Action work is scheduled to take place. City staff, or a qualified third party designated by the City, shall inspect the initial Restorative Action work, upon completion, to determine whether the work complies with and satisfies the requirements and conditions contained in the Restorative Action plan. The City's inspection of the initial Restorative Action work shall be scheduled for a time when the contractors performing the initial Restorative Action work are still present at the Site of the Subject Tree and available to perform additional work, if deemed required by the City. The final determination of compliance with and satisfaction of the Restorative Action plan is made by the Director.

E. Procedures for Scheduling and Completion of Ongoing Restorative Action Work.

1. Any ongoing maintenance required as part of the Restorative Action plan shall be completed according to the time schedule (e.g., annually, bi-annually, etc.) established by the Planning Commission, or City Council on appeal. If the Tree Owner does not timely complete the ongoing

maintenance work, then the City may pursue any and all available remedies and enforcement mechanisms against the Tree Owner, in accordance with Section 23.51.110 of this Chapter.

2. The Tree Owner shall notify the City in advance of the date and time that the ongoing maintenance work is scheduled to take place. City staff, or a qualified third party designated by the City, shall inspect the ongoing maintenance work upon its completion to determine whether the work complies with and satisfies the requirements and conditions contained in the Restorative Action plan. The City's inspection of the ongoing maintenance work shall be scheduled for a time when the contractors performing the work are still present at the Site of the Subject Tree and available to perform additional work, if deemed required by the City. The final determination of compliance with and satisfaction of the Restorative Action plan is made by the Director.

23.51.100 Appeal.

A. The Planning Commission's decision under this Chapter shall become final on the eleventh (11th) business day following the adoption of the Planning Commission's Resolution documenting the decision, unless the decision is appealed pursuant to this Section.

B. The Planning Commission's decision may be appealed to the City Council consistent with the appeal provisions of this Municipal Code.

C. The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of any final decision made by the City of Del Mar pursuant to this Chapter.

23.51.110 Enforcement.

Failure to comply with any provision under this Chapter shall constitute a misdemeanor or infraction, punishable in accordance with the provisions of Chapter 1.08 of this Municipal Code, and is further declared to be a public nuisance that may be enjoined or abated as provided by law.

23.51.120 Liability.

A. The City shall not be liable for any claims, demands, causes of actions, damages, injuries, litigation, costs, and/or liability arising out of or related to any agreement, decision, determination, or order concerning claims relating to Scenic Views and/or Sunlight that may result from Mediation or litigation.

B. Under no circumstances shall the City have any responsibility or liability to enforce or seek any legal redress (civil or criminal) for any agreement, decision, determination, or order that any other Person or entity makes concerning claims relating to Scenic Views and/or Sunlight.

23.51.140 Limitations.

A. It is not the intent of the City in adopting this Chapter to affect obligations imposed by an existing easement or a valid pre-existing covenant or agreement between private parties.

B. Nothing in the Chapter shall deny private parties the right to seek remedial action for any Imminent Danger caused by any Tree(s).

23.51.150 Process for Alleging Obstruction of Scenic Views and/or Sunlight by City Trees.

The below provisions shall apply when any Person alleges Obstruction of Scenic Views and/or Sunlight caused by City Trees. The process for determining whether an unreasonable Obstruction of Scenic Views and/or Sunlight has occurred as a result of City Trees is set forth below.

A. Pre-Application/Early Consultation Process.

1. Any Person who believes that the growth, improper maintenance and/or installation of a City Tree has caused an unreasonable Obstruction of Scenic Views and/or Sunlight may contact the City of Del Mar Planning and Community Development Department and request to meet with staff to explain the scenic view and/or sunlight obstruction.

2. During the early consultation process, City staff will gather information regarding the TSVS claim of obstruction, verify eligibility for the process, and observe the alleged obstruction.

3. Prior to submitting a TSVS/City Tree application, the Planning and Community Development Director will, in consultation with the Public Works Director and City Arborist, determine if unique factors exist that would cause the City to perform restorative action on the subject City Tree without need to submittal of an application.

B. Application Submittal.

1. Any Person who believes that the growth, improper maintenance and/or installation of a City Tree has caused an unreasonable Obstruction of Scenic Views and/or Sunlight may submit an Application to the City in accordance with the provisions of Section 23.51.040(A) of this Chapter.

2. Together with the submission of an Application, the Applicant shall remit an Application fee to the City in an amount established by Ordinance or Resolution of the City Council.

3. Upon review of the Application for completeness, the Director may request additional information, if necessary, within thirty (30) days following Application submittal.

4. The Application will not be deemed complete for further processing by the City until all materials required by this Section and any additional information requested by the Director have been submitted in a format deemed acceptable by the Director.

C. City's Review of the Alleged Obstruction. Upon receipt of a complete Application, the Director, in consultation with the City's Public Works Director and/or a City Arborist, shall:

1. Review and evaluate the Application to determine whether the required findings of fact can be made pursuant to Section 23.51.060 of this Chapter;

2. Perform a site visit to the Applicant's PLA, room or rooms affected by Sunlight Obstruction, or Solar Energy System; and

3. Consider the public interest in maintaining the public environment created by the existing City Tree(s) and its/their contribution to the community character.

D. City's Decision and Public Notice.

1. The Director shall approve or deny the Application by written decision within thirty (30) days following the Application has been deemed complete.

2. The Director's written decision shall specify findings of fact for Application approval or denial as provided in Section 23.51.060 of this Chapter.

3. Approval of an Application under this Section shall include appropriate Restorative Action based on a recommendation by City staff working in consultation with a City Arborist. The Restorative Action plan shall consider the criteria set forth in Section 23.51.070 of this Chapter, shall be consistent with Section 23.51.080 of this Chapter, and shall involve the least amount of impact necessary to the overall aesthetic of the City Tree(s).

4. If the Restorative Action plan requires Tree Removal of a Protected City Tree, the City shall provide public notice of the Director's decision, as follows:

   a. Notice shall be posted on the City's website and mailed to all owners of real property located within three hundred (300) feet of the location of the City Tree(s).

   b. Notice shall include a number assigned to the Application, a description of the City Tree(s) causing an Obstruction of Applicant's Scenic Views and/or Sunlight, and information on the process for appealing the Director's decision.

5. The Director's decision shall become final on the eleventh (11th) business day following the date of the posted/mailed public notice, unless appealed.

E. Appeal of Director's Decision. For purposes of this Section only, the Director's decision may be appealed to the Planning Commission pursuant to the provisions of this Municipal Code. The Planning Commission's decision shall become final on the eleventh (11th) business day following the adoption of the Planning Commission's Resolution, unless appealed to the City Council in accordance with Section 23.51.100 of this Chapter.

F. Procedures for Restorative Action Work and Allocation of Costs.

1. If any Restorative Action work is required to be performed in accordance with this Section, the City and the Applicant shall each be responsible for paying fifty percent (50%) of the cost to perform the Restorative Action work.

2. Within thirty (30) days following the date the Director's written decision approving the Application, City staff shall provide the written decision to the City's contracted tree maintenance company to obtain a cost estimate for the performance of the Restorative Action work.

3. Upon receipt of the cost estimate for the performance of the Restorative Action work, City staff shall provide the Applicant with an invoice for fifty percent (50%) of the total cost estimate.

4. Within fifteen (15) days following receipt of the invoice from the City, the Applicant shall remit the full invoiced amount to the City as a deposit for the performance of the Restorative Action work. Failure of the Applicant to timely make the required deposit within these fifteen (15) days will render the Director's decision requiring the Restorative Action work to become null and void.

5. Upon completion of the Restorative Action work, the deposited funds shall be used towards payment of the Applicant's fifty percent (50%) share of the total cost to perform the Restorative Action work.

    a. If the final cost of the Restorative Action work is less than the initial estimate, any unused amount of the deposit shall be returned to the Applicant.

    b. If the final cost of the Restorative Action work exceeds the initial estimate, the City shall provide the Applicant with an invoice for the remaining amount owed by the Applicant. Within fifteen (15) days following receipt of the invoice, the Applicant shall remit to the City the remaining amount of the Applicant's share owed to the City.

TSVS Code/Process Update
"Guiding Principles"

(Accepted by City Council on 10/7/2024)

1. Ensure administration of the new regulations will not overburden City resources (including staff/legal resources);

2. Establish objective application criteria and processing framework;

3. Rely upon precise, objective, and documentable decision findings to reduce appeals and legal challenges to the greatest extent possible;

4. Incorporate a clear and expedited process for applications involving "City" and "Protected" trees;

5. Ensure an equitable cost allocation process to initiate the view/sunlight restoration process, perform view restoration work, and maintain restored scenic views;

6. Encourage and create a pathway for neighbors to seek an alternative route to successful dispute resolution outside of the City TSVS process;

7. Balance and acknowledge the needs of private view/sunlight protection with all benefits provided by tree and vegetation growth, the goals of the Climate Action Plan, the goals and provisions of the Design Review process and the City's tree policies and regulations;

8. Address the applicability of "accidental" views (downed trees, fire impacts, etc.) and "good neighbor" view creation in the context of view rights established by the regulations;

9. Provide an objective balance between the privacy provided by hedges and a neighbor's established scenic views and/or sunlight through consideration of height regulations.

City of Del Mar Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Matt Bator, AICP, Principal Planner
Karen Brindley, Planning and Community Development Director
Via Ashley Jones, City Manager

DATE: December 2, 2024

SUBJECT: Identification of Issues for Updating the Trees, Scenic Views, and Sunlight Regulations

REQUESTED ACTION/RECOMMENDATION:
Staff recommends the City Council receive an informational update and provide feedback and direction regarding proposed issue areas to be amended in the City's Trees, Scenic Views, and Sunlight regulations.

BACKGROUND:
The City Council Work Plan for Fiscal Year 2024-2025 includes updating Del Mar Municipal Code (DMMC) Chapter 23.51, also known as the Trees, Scenic Views, and Sunlight (TSVS) Ordinance, and the City's Tree Policy Manual and associated code/regulations (DMMC Chapter 23.50) with the goal of protecting and enhancing the City's urban forest tree canopy while managing the City's wildfire risk.

On October 7, 2024, staff presented to the City Council nine "guiding principles" to inform and influence the updating of the TSVS. The City Council received public testimony, discussed the draft guiding principles, and provided additional direction to ensure that the preservation of "sunlight," in addition to scenic views, is given equal weight in the guiding principles and revisions to the TSVS regulations. The guiding principles have been included as Attachment A.

DISCUSSION:
Since the City Council's acceptance of the guiding principles, staff has evaluated the reoccurring issues that have arisen while processing TSVS applications since the original adoption of the TSVS Ordinance (No. 747) in July 2002. Additionally, staff has reviewed information and reports pertaining to view regulations in twenty-seven (27) other jurisdictions, identifying common implementation issues and how the respective regulations have been modified and improved over time.

Through this research staff has identified a series of amendments/revisions that implement the guiding principles and the direction they provide for improvement of Del Mar's TSVS regulations, process, and procedures. Staff also met with the City Council's

City Council Action:

NO ACTION TAKEN

Planning Process Subcommittee (Mayor Druker and Deputy Mayor Gaasterland) as part of this issue identification process.

Of the five issue areas identified, staff is seeking early input and direction prior to proceeding with draft language for introduction of an ordinance to amend the TSVS regulations (DMMC Chapter 23.51). The five specific issues are related to: 1) the time period for which view restoration can be sought; 2) required findings for determining unreasonable scenic view and/or sunlight obstruction; 3) cost apportionment; 4) claims against City trees; and 5) unregulated hedge heights. Staff review and discussion of these issue areas is provided in Attachment B, and each discussion includes a specific policy question, associated background information, staff's recommendation, and the guiding principles that apply. Following the five policy inquiries is a list of additional sections and components of the TSVS regulations identified for proposed revision.

Staff requests that the City Council review and provide feedback and direction as to whether staff should proceed with drafting amendments to DMMC Chapter 23.51 as indicated and recommended in Attachment B.

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council related to this agenda item.

ENVIRONMENTAL IMPACT:
There is no environmental impact on receiving the report. The proposed City Council action does not constitute a "project" under the definition set forth in the California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is not subject to CEQA.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:
Updating the Trees, Scenic Views, and Sunlight Ordinance is an identified Tier 2 Council priority for Fiscal Year 2024-25.

ATTACHMENTS:
Attachment A – TSVS Update Guiding Principles
Attachment B – Identification of TSVS Issues and Potential Revisions

TSVS Code/Process Update
"Guiding Principles"

(Accepted by City Council on 10/7/2024)

1. Ensure administration of the new regulations will not overburden City resources (including staff/legal resources);

2. Establish objective application criteria and processing framework;

3. Rely upon precise, objective, and documentable decision findings to reduce appeals and legal challenges to the greatest extent possible;

4. Incorporate a clear and expedited process for applications involving "City" and "Protected" trees;

5. Ensure an equitable cost allocation process to initiate the view/sunlight restoration process, perform view restoration work, and maintain restored scenic views;

6. Encourage and create a pathway for neighbors to seek an alternative route to successful dispute resolution outside of the City TSVS process;

7. Balance and acknowledge the needs of private view/sunlight protection with all benefits provided by tree and vegetation growth, the goals of the Climate Action Plan, the goals and provisions of the Design Review process and the City's tree policies and regulations;

8. Address the applicability of "accidental" views (downed trees, fire impacts, etc.) and "good neighbor" view creation in the context of view rights established by the regulations;

9. Provide an objective balance between the privacy provided by hedges and a neighbor's established scenic views and/or sunlight through consideration of height regulations.

TSVS Issue Identification for Code Amendment

Issue #1: Rights Established (DMMC §23.51.030)

"A person shall have the right to seek restoration and preservation of Scenic Views or Sunlight that existed at the time they purchased or occupied a property or in the last ten years, whichever is shorter…"

Policy Question - Should the "ten-year" criteria be kept, changed, or eliminated?

- Most view Ordinances allow for view rights dating back to property purchase, Ordinance adoption, or both.
- In order for residents to be able to use the new TSVS Ordinance to restore views obstructed prior to its adoption, the (then) City Council determined that going back ten years was an appropriate amount of time.
- Del Mar is the only city with a view Ordinance that provides a specified time limit in addition to the purchase/occupancy date.
- When the regulations were being created, it was important to the Council that property buyers would not have a right to a view that didn't exist at the time of purchase.

Staff Recommendation – Replace "ten years" with "the adoption of Ordinance No. 747 (July 1, 2002). This will allow residents to seek restoration of scenic views and/or sunlight obstructed since the time they purchased the property, or since adoption of the TSVS process, whichever timeframe is shorter.

Associated Guiding Principle - #1 Ensure administration of the new regulations will not overburden City resources (including staff/legal resources)

Issue #2: Standards of Determining Unreasonable Obstruction (Findings) are not Objective

Policy Question - Should the criteria in the City's Design Guidelines and California Solar Shade Control Act be used to make the Standards of Review "objective?"

- 100% view restoration was never the intent of the TSVS Ordinance, otherwise the word "unreasonable" would not have been incorporated as a metric.
- Objective criteria for view obstruction have already been adopted by City Council for proposed projects subject to Design Guidelines and considered by the Design Review Board.
- California Solar Shade Control Act criteria can be referenced to locally enforce existing State Code.
- DMMC §23.51.050(B) ("Standards for Determining Unreasonable Obstruction") factors 8-17 are already stated in DMMC §23.51.060 as "Criteria for Determining Appropriate Restorative Action."

- Thirty-six (36) applications have been submitted to the City in twenty-two (22) years since the regulations became effective:
    - Fifteen (15) resulted in City decisions (including five being denied); and
    - Only one (1) out of ten (10) determinations of unreasonable view obstruction resulted in an order to remove a tree (Deftos/White).
    - Updated application submittal materials will include photographic documentation and exhibits that visually calculate the percentage of obstruction.

Staff Recommendation – Narrow the "Standards of Review" down to specific, objective, verifiable findings of fact (5 or 6) for each view obstruction scenario (Scenic View, Sunlight to Solar Panels, Sunlight to Primary Living Area (PLA)).

Associated Guiding Principles:
#1 Ensure administration of the new regulations will not overburden City resources (including staff/legal resources); and #2 Establish objective application criteria and processing framework"

Issue #3: Allocation of Costs

Policy Question – Should some of the cost burden of the TSVS process be shifted to the Tree Owner and if so, how?

- The original apportionment of assigning all of the financial burden on the Applicant has been changed or updated by most jurisdictions to include the Tree Owner to some degree.
- Assigning part of the cost burden on the Tree Owner will encourage alternative conflict resolution.
- Improvement of the TSVS process by requiring more technical information at submittal, being more objective, and reducing staff time should reduce application costs.

Staff Recommendation - Inclusion of the following revisions:

A. Application fee should remain the responsibility of the Applicant.
B. Restoration cost is split 50/50 for Trees/Vegetation planted or sprouted after July 1, 2002 (initial adoption of TSVS Ordinance).
C. Tree Owner pays 100%:
    i. When refuses to resolve early or mediate;
    ii. Plants tree/vegetation against written objection of neighbor (Applicant);
    iii. For all on-going maintenance trimming in accordance with Restoration Plan; and
    iv. Applicant pays 100% for all other circumstances.
D. The applicant pays restoration costs in all other cases.

Associated Guiding Principles - #5 Ensure an equitable cost allocation process to initiate the view/sunlight restoration process, perform view restoration work, and maintain restored scenic views; and #6 Encourage and create a pathway for neighbors to seek an alternative route to successful dispute resolution outside of the City TSVS process

Issue #4: View/Sunlight Obstruction by City Trees

Policy Question – How should TSVS claims be handled when the obstruction is caused by City trees?

- City has been a "good neighbor" relative to the TSVS process, working with residents to resolve the view blockage concern through the Encroachment Permit process, allowing the Applicant to trim City trees in order to restore views when appropriate.
- The City's process for addressing City trees is not defined in the Ordinance.
- Trimming and cost have always been resident responsibility, but City trimming could be a consideration to discuss when the subject tree is identified for routine City trimming within the next trimming cycle.

Staff Recommendation – Differentiate City trees that are in the right-of-way fronting a private property vs. City trees in parks, medians, and City-owned lots. Residents are responsible for trees between the street and their property line. For "City Trees," create new DMMC subsection that includes a process similar to TSVS that uses the Encroachment Permit process, making the TSVS determination a staff decision, appealable to the City Council.

Associated Guiding Principle - #4 Incorporate a clear and expedited process for applications involving "City" and "Protected" trees

Issue #5: Hedge Height Regulations

Policy Question - Should the City consider creating regulatory height limits for hedges, similar to or the same as fence heights regulations?

- Thirteen (13) of twenty-six (26) jurisdictions with View Ordinances surveyed also have hedge height restrictions.
- Most jurisdictions with hedge regulations consider hedges the same as fences in the front, rear and side yard setbacks.
- Need to consider how existing over-height hedges would be addressed.
- Approximately 1/3 of all TSVS application submitted since 2002 involved hedges or hedge-like plantings of trees.
- Could add "hedges" where applicable in DMMC Section 30.86.090.A.1-3 (Fences/Retaining Walls), and this would not require a Local Coastal Program Amendment (LCPA).

Staff Recommendation – Regulate hedges with heights found to be appropriate by the City Council. Incorporating hedges into DMMC §30.86.090 would not allow hedges to exceed six (6) feet in most setback areas, solving traffic sightline issues, “tunnel effect” on streets, etc. Hedges taller than the fence/wall regulations could be planted in the “buildable” area of the lot and would be more susceptible to TVSV claims.

Associated Guiding Principle - #9 Provide an objective balance between the privacy provided by hedges and a neighbor’s established scenic views and/or sunlight through consideration of height regulations

Additional Proposed TSVS Amendments/Revisions

The following have been identified as proposed revisions to the TSVS regulations, process, and procedures.

A. Various revisions and additions to definitions section of Del Mar Municipal Code Chapter 23.51 (TSVS).

B. Prohibit “group” applications (multiple properties seeking restoration)

C. Require application materials to include a tree report and restoration recommendation from a certified arborist (at the cost of the applicant).

D. Add allowances and limitations on requested postponements of the public hearing.

E. Prohibit significantly excessive restoration costs.

F. Transfer oversight of Restorative Action from Planning staff to a 3rd Party.

Item 10

Issue Identification for an Update to the Trees, Scenic Views, and Sunlight (TSVS) Regulations

December 2, 2024

CITY OF DEL MAR

Background/Purpose

- On October 7, 2024, staff presented to the City Council nine “guiding principles” to inform and influence the updating of the TSVS. The City Council received public testimony, discussed the draft guiding principles, and provided additional direction to ensure that the preservation of “sunlight,” in addition to scenic views, is given equal weight in the guiding principles and revisions to the TSVS regulations.

- Evaluation of the TSVS regulations has identified many reoccurring issues to be addressed in an amendment to DMMC Chapter 23.51.

- Staff is seeking early City Council input and direction for five (5) specific issue areas at this time:

  1) The time-period for which view restoration can be sought
  2) Required findings for determining unreasonable scenic view and/or sunlight obstruction
  3) Cost apportionment
  4) Claims against City trees
  5) Hedge height regulations

Issue #1 – Established Rights

Policy Question – In DMMC Section 23.51.030, should the "ten-year" criteria be kept, changed, or eliminated?

*"A person shall have the right to seek restoration and preservation of Scenic Views or Sunlight that existed at the time they purchased or occupied a property or in the last **ten years**, whichever is shorter…"*

Staff Recommendation – Replace "ten years" with "the adoption of Ordinance No. 747 (July 1, 2002). This will allow residents to seek restoration of scenic views and/or sunlight obstructed since the time they purchased the property, or since adoption of the TSVS process, whichever timeframe is shorter.

Associated Guiding Principle:
#1 Ensure administration of the new regulations will not overburden City resources (including staff/legal resources)

Issue # 2 - Required Findings

Policy Question - Should the criteria in the City's Design Guidelines and California Solar Shade Control Act be used to make the Standards of Review "objective?"

Staff Recommendation – Narrow the "Standards of Review" down to specific, objective, verifiable findings of fact (5 or 6) for each view obstruction scenario (Scenic View, Sunlight to Solar Panels, Sunlight to Primary Living Area (PLA)).

Associated Guiding Principles:
#1 Ensure administration of the new regulations will not overburden City resources (including staff/legal resources); and
#2 Establish objective application criteria and processing framework"

Issue # 3 - Cost Apportionment

Policy Question – Should some of the cost burden of the TSVS process be shifted to the Tree Owner and if so, how?

Staff Recommendation - Inclusion of the following revisions:

A. Application fee should remain the responsibility of the Applicant.
B. Restoration cost is split 50/50 for Trees/Vegetation planted or sprouted after July 1, 2002 (initial adoption of TSVS Ordinance).
C. Tree Owner pays 100%:
    i. When refuses to resolve early or mediate
    ii. Plants tree/vegetation against written objection of neighbor (Applicant)
    iii. For all on-going maintenance trimming in accordance with Restoration Plan
    iv. Applicant pays 100% for all other circumstances
D. The applicant pays restoration costs in all other circumstances.

Associated Guiding Principles:

#5 Ensure an equitable cost allocation process to initiate the view/sunlight restoration process, perform view restoration work, and maintain restored scenic views

#6 Encourage and create a pathway for neighbors to seek an alternative route to successful dispute resolution outside of the City TSVS process

Issue # 4 – City Trees

Policy Question – How should TSVS claims be handled when the obstruction is caused by City trees?

Staff Recommendation – Differentiate trees that are in the public right-of-way fronting a private property vs. “City trees” in parks, medians, and City-owned lots.

- Residents are responsible for trees between the street and their property line.
- For “City Trees,” create new DMMC subsection that includes a process similar to TSVS that uses the Encroachment Permit process, making the TSVS determination a staff decision, appealable to the City Council.

Associated Guiding Principle:
#4 Incorporate a clear and expedited process for applications involving “City” and “Protected” trees

Issue # 5 - Regulating Hedge Heights

Policy Question - Should the City consider creating regulatory height limits for hedges, similar to or the same as fence heights regulations?

Staff Recommendation – Regulate hedges with heights found to be appropriate by the City Council. Incorporating hedges into DMMC §30.86.090 would not allow hedges to exceed six (6) feet in most setback areas, solving traffic sightline issues, "tunnel effect" on streets, etc. Hedges taller than the fence/wall regulations could be planted in the "buildable" area of the lot and would be more susceptible to TVSV claims.

Associated Guiding Principle:
#9 Provide an objective balance between the privacy provided by hedges and a neighbor's established scenic views and/or sunlight through consideration of height regulations

Additional Revisions Proposed

The following have been identified as proposed revisions to the TSVS regulations, process, and procedures.

A. Various revisions and additions to definitions section of Del Mar Municipal Code Chapter 23.51 (TSVS)

B. Prohibit “group” applications (multiple properties seeking restoration)

C. Require application materials to include a tree report and restoration recommendation from a certified arborist (at the cost of the applicant)

D. Add allowances and limitations on requested postponements of the public hearing

E. Prohibit significantly excessive restoration costs

F. Transfer oversight of Restorative Action from Planning staff to a 3rd Party

Recommended Action

Staff recommends the City Council receive an informational update and provide feedback and direction regarding proposed issue areas to be amended in the City's Trees, Scenic Views, and Sunlight regulations

Update of TSVS Regulations - Timeline

Project Initiation

Research Other Jurisdiction's Regulations (27)

Summer 2024

Fall 2024

Analyze Past TSVS Projects-Trends

Present Guiding Principles to Planning Subcommittee and City Council

Information Update/Direction to City Council on Primary Issues to Address

Winter 2024 (December)

Winter 2024 (Jan-Feb)

Prepare Draft TSVS Regulations/CEQA

Planning Commission

TSVS Regulations/CEQA

City Council

Spring 2024

* LCPA Not Required

Questions?

TSVS Update – Guiding Principles

1. Ensure administration of the new regulations will not overburden City resources (including staff/legal resources)
2. Establish objective application criteria and processing framework
3. Rely upon precise, objective, and documentable decision findings to reduce appeals and legal challenges to the greatest extent possible
4. Incorporate a clear and expedited process for applications involving “City” and “Protected” trees
5. Ensure an equitable cost allocation process to initiate the view/sunlight restoration process, perform view restoration work, and maintain restored scenic views
6. Encourage and create a pathway for neighbors to seek an alternative route to successful dispute resolution outside of the City TSVS process
7. Balance and acknowledge the needs of private view/sunlight protection with all benefits provided by tree and vegetation growth, the goals of the Climate Action Plan, the goals and provisions of the Design Review process and the City’s tree policies and regulations
8. Address the applicability of “accidental” views (downed trees, fire impacts, etc.) and “good neighbor” view creation in the context of view rights established by the regulations
9. Provide an objective balance between the privacy provided by hedges and a neighbor’s established scenic views and/or sunlight through consideration of height regulations

Potential Draft Objective Findings

1. The subject Tree(s) is located within 300 feet of the Applicant’s property.
2. The Applicant’s Scenic View is consistent with the definition provided in DMMC Section23.51.020 (M).
3. The Applicant’s stated Primary Living Area is consistent with the definition provided in DMMC Section 23.51.020 (J).
4. The Applicant has contacted the subject Tree owner and has made reasonable efforts to resolve the dispute as set forth in DMMC Subsection 23.51.040.B. Proof of the Applicant's efforts shall include documented attempts (registered mail, etc.) to reach and confer with the Subject Tree owner, and documentation supporting efforts to mediate the dispute.
5. Based on review of verified photographic documentation and calculations, the Applicant’s scenic view has been reduced more than the maximum allowed percentage of obstruction listed for the “View type,” as provided in the table contained in DMMC Section 23.51. XXX.
6. Restoration of the Applicant’s Scenic View will not create an infringement on the Tree Owner’s privacy that cannot be reasonably mitigated.

Melinda Gould

From: Camilla Rang <camillarang@yahoo.com>
Sent: Wednesday, November 27, 2024 9:53 AM
To: City Clerk Mail Box
Subject: Item #10, City Council meeting 12.02.2024

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

I am so grateful that you are updating the TSVS and putting an effort into making the view blocking neighbor be more active in the process and cost. The view blocking neighbor has to be aware that part of the cost will be shifted over to him/her if the case is decided against him/her, or there is absolutely no incentive for him/her to do anything to resolve the issue (which we have seen happening over and over).

I would even push it a little further. Since the application fee is so high, I would ask that the view blocking neighbor will have to either pay full or half that cost if the case is decided against him/her. In legal trials, the party who loses the case pays all. This is not a legal trial, but there should be a hefty cost to not participate in the process and being unwilling to be a good neighbor and following the rules. Rows of 30-80 foot trees as a wall is not OK.

Thank you again.

Sincerely,

Camilla Rang

ATTACHMENT D

Council discussion focused on the rationale of the Councilmembers who set this item for a de novo hearing.

IT WAS MOVED BY MAYOR GAASTERLAND AND SECONDED BY DEPUTY MAYOR MARTINEZ TO UPHOLD TO DRB'S DECISION WITH THE CONDITIONS OUTLINED IN THE RESOLUTION PREPARED BY STAFF AND ADOPTED RESOLUTION 2025-27, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, APPROVING DESIGN REVIEW PERMIT DRB24-006, A MAJOR REMODEL OF AN EXISTING 1,578 SQUARE-FOOT, ONE-STORY RESIDENCE THAT WOULD INCLUDE CONSTRUCTION A 689 SQUARE-FOOT ADDITION AND VARIOUS IMPROVEMENTS TO THE PROJECT SITE LOCATED WITHIN THE R1-10 ZONE AT 483 AVENIDA PRIMAVERA, DEL MAR, CALIFORNIA ASSESSOR PARCEL NUMBER (APN): 299-290-04-00." (VOTE 4-0)

Ayes: Mayor Gaasterland; Deputy Mayor Martinez; Councilmembers Quirk and Spelich; Noes: 0; Recuse: 0; Absent: 0; Abstain: 0.

ITEM 17: INTRODUCTION OF AN ORDINANCE TO AMEND MUNICIPAL CODE CHAPTERS 23.50 AND 23.51 RELATED TO TREES, SCENIC VIEWS, AND SUNLIGHT REGULATIONS (A25-001) AND AMENDMENTS TO CHAPTERS 30.04 AND 30.86 ESTABLISHING A MAXIMUM ALLOWED HEIGHT FOR HEDGES (ZA25-001) (CLERK'S FILE NO. 401-4, 401-9)

An introduction to the item was provided by Mayor Gaasterland. A presentation was provided by Principal Planner Matt Bator. Planning and Community Development Director Brindley was available to answer questions.

Councilmember Quirk left the meeting during staff's presentation at approximately 7:01 p.m.

Council questions focused on consideration to remove hedges from the TSVS ordinance updates and to address separately; length of the proposed look back period; whether prior TSVS without photos could be re-opened under the new regulations if adopted; proposed fees; rationale for inclusion of the indemnification language in the proposed ordinance; appeal procedure in the proposed ordinance; whether potted plants are covered by the proposed ordinance; protected trees definition related to tree removal permits; current tree removal permit procedure; 15 day period for payment prior to issuing penalties included in the proposed ordinance; City process for resolving hedges or other landscaping that creates safety issues in the public right-of-way; proposed grandfathering of hedges in the proposed ordinance; whether the fire marshal has reviewed the vegetation on the Staver property adjacent to Del Mar Woods; fire risk mitigation related to overgrown vegetation; sunlight provisions related to primary living area in the proposed ordinance; State of California Solar Rights Act; cost shifting in the proposed regulations; and how the proposed ordinance would affect or potentially change a cost sharing agreement for a prior TSVS with a restorative action plan.

Mayor Gaasterland opened the item to public comment and the following people spoke:

1) Catherine Cramton
2) Shirli Weiss with two donations of time from Shelly Duncan and Cindy Griffith
3) Janet Wilson with one donation of time from Nigel Hook
4) Lori Ritman
5) Judy Hunt
6) Karen Lare
7) John Stahl
8) Richard Jamison

9) Robert Anderson submitted a speaker slip but did not wish to speak. He indicated he supports regulating hedges but does not support grandfathering in existing hedges.
10) Graham Bernstein

Mayor Gaasterland closed the item to public comment.

Council discussion focused on hedge regulations; importance of sunlight provision; indemnification language; TSVS documentation requirements related to use of historical photos and/or Google Street View images; length of the proposed look back period; desire to maintain arborist oversight of any trimming or maintenance scheduled imposed by a TSVS restorative action plan; desire to address fire mitigation risk; proposed fee structure; and desire to cover potted trees under updated TSVS regulations.

Council consensus was for staff to return with a revised ordinance based on Council feedback including: protect sunlight access to all windows of a residence, not just the Primary Living Area; remove indemnification language; reassess the eligibility time period (look-back) and prevent "double jeopardy" situations; amend the proposed ordinance to consider potted trees as trees under the TSVS; the City Council directed staff to track fees recovered over a one-year period and report back to Council; and separate the proposed hedge height regulations from the TSVS ordinance update and to emphasize fire risk mitigation in any revisions to the hedge height standards.

VOTE TO CONTINUE MEETING

IT WAS MOVED BY MAYOR GAASTERLAND SECONDED BY DEPUTY MAYOR MARTINEZ TO CONTINUE THE MEETING TIME CERTAIN UNTIL 10:20 P.M. (VOTE 3-0-1 WITH COUNCILMEMBER QUIRK ABSENT)

Ayes: Mayor Gaasterland; Deputy Mayor Martinez; and Councilmember Spelich; Noes: 0; Recuse: 0; Absent: Councilmember Quirk; Abstain: 0.

COUNCIL MEETING RECESS:

The City Council took a meeting recess from approximately 6:33 p.m. to 6:49 p.m.

CITY COUNCIL OTHER BUSINESS

ITEM 18: RESOLUTION SUPPORTING A 2026 STATE BALLOT INITIATIVE SPONSORED BY OUR NEIGHBORHOOD VOICES TO RESTORE LOCAL AUTHORITY OVER LAND USE PLANNING & ZONING LAW RELATED TO HOUSING (CLERK'S FILE NO. 303-1, 401-14)

A presentation was provided by Mayor Gaasterland and Deputy Mayor Martinez.

There were no public speakers for the item.

Council discussion focused on support for affordable housing; desire for local control over housing policies; and concerns about the methodology used by the San Diego Association of Governments (SANDAG) for the Regional Housing Needs Assessment (RHNA) allocation.

IT WAS MOVED BY COUNCILMEMBER SPELICH AND SECONDED BY MAYOR GAASTERLAND TO ADOPT RESOLUTION 2025-28 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, IN SUPPORT OF THE "OUR NEIGHBORHOOD VOICES" BALLOT INITIATIVE TO AMEND ARTICLE IX OF THE CONSTITUTION OF THE STATE OF CALIFORNIA TO MAKE ZONING, DEVELOPMENT, AND LAND USE MATTERS OF LOCAL AUTHORITY." (VOTE 3-0-1 WITH COUNCILMEMBER QUIRK ABSENT)

23.51.010 - Purpose.

A. The City recognizes that Trees, Scenic Views and plentiful Sunlight contribute to the special character of Del Mar and to the overall quality of life enjoyed by residents, property owners, and visitors in Del Mar.

B. Trees, Vegetation, and other landscaping produce a wide variety of significant psychological and tangible benefits for residents, property owners, and visitors in Del Mar. Trees contribute to the economic value and comfortable enjoyment of the community, neighborhoods and individual properties. Trees provide aesthetic value as part of an urban forest, visual and auditory privacy, climate control, wind screening, soil stability, and wildlife habitat.

C. Scenic views, whether of the Pacific Ocean, nearby lagoons, canyons, the community and its landscapes and urban forest character, or other scenic vistas, produce a variety of significant and tangible benefits for residents, property owners and visitors. Scenic views provide inspiring vistas, encourage distinct and creative architecture, and contribute to the economic value and comfortable enjoyment of real property within the City of Del Mar.

D. Plentiful Sunlight provides an opportunity to utilize solar energy and contributes to the economic value and comfortable enjoyment of real property within the City of Del Mar.

E. The purpose of this Chapter is to acknowledge the benefits derived from Trees, Scenic Views and plentiful Sunlight and to balance the goal of maintaining each of them when possible. This Chapter also provides a process by which persons may seek to restore Scenic Views and/or Sunlight that has been unreasonably obstructed by the growth and/or installation of Trees and Vegetation.

(Ord. No. 747; Ord. No. 780)

23.51.020 - Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

A. *Applicant* shall mean any property owner (or legal occupant with written permission of the property owner) who alleges that Trees or Vegetation located on the property of another person unreasonably obstructs a pre-existing Scenic View or Sunlight and who has filed a (Trees, Scenic Views and Sunlight) Application with the City to restore said view or sunlight.

B. *Certified Arborist* shall mean Certified Arborist as that term is defined by the International Society of Arboriculture.

C. *Crown Reduction/Shaping* shall mean a method of comprehensive trimming that reduces a Tree's height and/or spread. Crown reduction entails the reduction of the top, sides or individual limbs of a Tree by removal of leaders or the longest portion of limbs to a lateral large enough to assume to terminal.

D. *Heading back* shall mean a pruning process where overall reduction of the mass of a Tree is achieved by modification to major limbs.

E. *Imminent Danger* shall mean the immediate risk to the health, safety or welfare of any person or real property, whether private or publicly owned.

F. *Lacing* shall mean a comprehensive method of trimming that systematically and sensitively removes excess portions of a Tree and improves the structure of the Tree.

G. *Mediation* shall mean a private, voluntary process in which an impartial and qualified third party facilitates communication between parties to a dispute to promote settlement.

H. *Obstruction* shall mean any substantial blocking or diminishment of Scenic Views and/or Sunlight that is attributable to the growth, improper maintenance or location of a Tree or Vegetation.

I. *Person* shall mean any individual, corporation, partnership, firm, or other legal entity (including the City of Del Mar), owning property or residing within the Del Mar City limits.

J. *Primary Living Area* shall mean that (single) portion of a residence from which a Scenic View is observed most often by the occupants and guests at the residence. The determination of Primary Living Area is to be made on a case-by case basis and shall be consistent with any prior determinations made by the City.

K. *Protected Tree* shall mean any of the following:

1. A Tree of the species Cupressus macrocarpa (Monterey Cypress);
2. A Tree of the species Pinus torreyana (Torrey Pine);
3. A Tree of any species and located on property within the Central Commercial, Open Space Overlay zones of the City, within a public right-of-way, or on public or City-owned property; or
4. Any Tree planted as a result of required mitigation for the removal of another Protected Tree.

L. *Restorative Action* shall mean any specific action required to resolve a dispute relating to the unreasonable obstruction of a pre-existing Scenic View or Sunlight.

M. *Scenic View* shall mean a view of the ocean, lagoons, canyons, the community and its landscapes and urban forest character, or other scenic vistas, from the Primary Living Area of a residence.

N.

Severe Pruning shall mean the cutting of branches and/or trunk of a Tree in a manner which substantially reduces the overall size of the Tree or destroys the existing symmetrical appearance, natural shape or health of the Tree and which results in the removal of main lateral branches leaving the trunk and branches of the Tree in a stub appearance. "Topping" and "Heading back" as defined herein are considered to be severe pruning.

O. *Site of Subject Tree* shall mean the property on which a Subject Tree is located.

P. *Subject Tree* shall mean a Tree for which a claim has been made by an Applicant regarding the unreasonable obstruction of a Scenic View or Sunlight.

Q. *Sunlight* shall mean the availability of direct or indirect Sunlight to the Primary Living Area or to the existing solar energy system of a residence.

R. *Thinning* shall mean the selective removal of entire branches from a Tree so as to improve visibility through the Tree and/or improve the Tree's structural condition.

S. *Tree* shall mean any perennial plant growing on public or private property, having a self-supporting woody main stem or trunk with the potential to obstruct Scenic Views or Sunlight, including but not limited to Trees, shrubs, hedges, and bushes or any plant material planted or growing in a dense continuous line so as to form a thicket barrier or naturally grown fence. References to "Tree" shall include the plural.

T. *Tree Removal* shall mean the elimination of any Tree or plant from its present location.

U. *Topping* shall mean eliminating the upper portion of the trunk or main leader of a Tree. Topping is not recommended in almost all cases.

V. *Trimming* shall mean the selective removal of portions of branches from a Tree so as to modify the Tree shape or profile or otherwise alter the Tree's appearance.

W. *Vegetation* shall mean all plant material, including but not limited to, those referenced in this Section for the term "Tree".

X. *Windowing* shall mean a form of thinning by which openings or "windows" are created to restore Scenic Views and/or Sunlight.

(Ord. No. 729; Ord. No. 780)

23.51.030 - Rights Established.

A. A person shall have the right to seek restoration and preservation of Scenic Views or Sunlight that existed at the time they purchased or occupied a property or in the last ten years, whichever is shorter, when such Scenic Views from the Primary Living Area, or Sunlight available to the Primary Living Area or solar energy system of a residence, have subsequently been unreasonably obstructed by the growth of Trees or Vegetation located within the Del Mar City limits and 300 feet of the Applicant's property boundary.

B.

In order to establish such rights pursuant to this Chapter, the Applicant shall follow the process established in this Chapter.

C. Any person whose Tree(s) is the subject of a Trees, Scenic Views and Sunlight application shall be granted the right to, under Applicant supervision, access the Applicant's Primary Living Area and personally view and/or document the alleged blockage and Scenic Views and/or Sunlight. By signing the Trees, Scenic Views and Sunlight application, the Applicant shall acknowledge and accept this right given to the Tree owner.

D. All persons are advised that the alteration and removal of certain Trees requires a permit under DMMC Chapter 23.50 (Trees). The applicability of DMMC Chapter 23.50 should be determined by the City prior to any action on Trees.

23.51.040 - Procedure.

A. Any person who desires to resolve a conflict between Trees, Scenic Views and Sunlight may submit an application to the Department of Planning and Community Development on a form approved by the Director.

B. The application shall be deemed to have been filed when:

1. The Director has determined that the application is complete, has been submitted in proper form and meets the criteria established in Subsection 23.51.030.A. of this Chapter;
2. The Applicant has submitted to the City the required fee, in an amount to be established by resolution of the City Council, to cover the administrative costs of processing the application; and
3. The Director has determined that the Applicant has contacted the Subject Tree owner and has made reasonable efforts, including documented efforts to engage in mediation, to resolve the dispute and that these efforts have not been successful.

C. The Director shall cause the application to be presented at a noticed public hearing conducted by the City of Del Mar Planning Commission.

D. Within ten working days after the application has been deemed filed, City staff shall notify the Subject Tree owner, in writing, and provide the following:

1. A copy of the Trees, Scenic Views and Sunlight application;
2. A copy of DMMC Chapter 23.51;
3. A statement explaining that there is still time and an opportunity to resolve the matter by discussions between the Applicant and the Subject Tree owner prior to the scheduled public hearing;
4. Information about the mediation process, including a handout from the Del Mar Community Mediation Advisory Committee, and encouragement to use mediation. Additional informational materials associated with dispute resolution shall be distributed as they are

made available; and

5. Notice that a written response to the application may be submitted for review by the Planning Commission prior to the hearing, the deadline for any such response, and the date and time of the hearing.

E. At least ten days prior to the public hearing, notice shall be published and mailed to property owners of record of real property within 300 feet of both the Applicant's property boundaries and of the site of the Subject Tree.

F. At the hearing, each party shall be allowed time to present evidence pertinent to the application/claim. The public shall also be given an opportunity to comment on the application. The Applicant shall not thereafter raise arguments that were not presented during the public hearing or in the written record.

G. The Planning Commission shall make a decision on the Application based on the criteria listed in Section 23.51.050 of this Chapter. An action approving an Application shall be set forth in a Resolution and accompanied by Conditions of Restorative Action that identify the specific manner in which the Subject Tree is to be trimmed, pruned, removed or otherwise altered in accordance with Section 23.51.070 of this Chapter. The Planning Commission's decision shall become final on the 11th working day following such determination, unless the decision is appealed to the City Council in accordance with the provisions of this Code (Section 23.51.100).

H. The Conditions of Restorative Action and required term of maintenance (if deemed appropriate) imposed by the Planning Commission may be recorded in a covenant against the deed for the property on which the Subject Tree is located. If required, the covenant shall run with the land to help guarantee permanent preservation of pre-existing Scenic Views and/or Sunlight.

(Ord. No. 780)

23.51.050 - Standards for Determining Unreasonable Obstruction.

Prior to rendering a decision in favor of the Applicant, the Planning Commission shall make the following findings of fact:

A. That the Applicant has contacted the Subject Tree owner and has made reasonable efforts to resolve the dispute as set forth in DMMC Subsection 23.51.040.B. Proof of the Applicant's efforts shall include documented attempts (registered mail, etc.) to reach and confer with the Subject Tree owner, and documentation supporting efforts to mediate the dispute; and

B. That the Scenic View from or the Sunlight reaching the real property of the Applicant is unreasonably obstructed and the manner in which the Scenic View and/or Sunlight is obstructed. In determining whether the Scenic View from and/or Sunlight reaching the real property of the Applicant is unreasonably obstructed, the Planning Commission shall consider several factors, which include but are not limited to, the following:

1. The extent of alleged Scenic View obstruction, expressed as a percentage of the total Scenic View, and calculated by means of a surveyor's transit or by photographs or both;
2. Documentable evidence that demonstrates the Scenic Views and/or Sunlight that existed at the time the Applicant purchased or began occupying a property, or in the last ten years, whichever is shorter;
3. The quality of the pre-existing Scenic View(s) and/or Sunlight being obstructed;
4. That the implementation of a Restorative Action will not create an unreasonable infringement of the Subject Tree owner's privacy that could not be mitigated;
5. The extent to which the Subject Tree interferes with efficient operation of an Applicant's pre-existing solar energy systems;
6. The extent to which the Subject Tree causes shadows or reduces air circulation and/or light;
7. The extent to which the Applicant's Scenic Views and/or Sunlight has been diminished over time by factors other than Subject Tree growth;
8. The variety of Subject Tree, its projected rate of growth and maintenance requirements;
9. The aesthetic quality of the Subject Tree, including but not limited to species characteristics, size, growth, form and vigor;
10. The extent to which the location of the Subject Tree with respect to overall appearance, design, or use benefits the Subject Tree owner's property;
11. The extent to which soil stability is provided by the Subject Tree, considering soil structure, degree of slope and extent of the Subject Tree's root system per a report from a licensed soils engineer (if applicable);
12. The extent to which privacy (visual and auditory) and wind screening is provided by the Subject Tree to the owner and to neighbors;
13. The extent to which energy conservation and/or climate control is provided by the Subject Tree;
14. The extent to which wildlife habitat is provided by the Subject Tree;
15. Whether the Subject Tree is a "Protected Tree", as defined herein and in Chapter 23.50 (Trees);
16. The value of the Subject Tree to the community/neighborhood; and
17. Whether the Subject Tree is located on public right-of-way or City-owned property.

(Ord. No. 780)

23.51.060 - Criteria for Determining Appropriate Restorative Action.

After it has been determined, through the hearing process, that unreasonable obstruction has occurred, then the following unweighted factors shall be considered in determining appropriate Restorative Action:

A. Any hazards posed by the Subject Tree to persons or structures on the property of the Applicant including, but not limited to, fire danger, as determined by a City Fire Official, and the danger of falling limbs or Trees, as determined by a Certified Arborist;

B. The variety of Subject Tree, its projected rate of growth and maintenance requirements;

C. The aesthetic quality of the Subject Tree, including but not limited to species characteristics, size, growth, form and vigor;

D. The location of the Subject Tree with respect to overall appearance, design, or use of the Subject Tree owner's property;

E. Soil stability provided by the Subject Tree considering soil structure, degree of slope and extent of the Subject Tree's root system per a report from a licensed soils engineer;

F. Privacy (visual and auditory) and wind screening provided by the Subject Tree to the owner and to neighbors;

G. Energy conservation and or climate control provided by the Subject Tree;

H. Wildlife habitat provided by the Subject Tree;

I. Whether the Subject Tree is a "Protected Tree", as defined herein and in Chapter 23.50 (Trees);

J. The value of the Subject Tree to the community/neighborhood; and

K. Whether the Subject Tree is located on public right-of-way or City-owned property.

23.51.070 - Hierarchy of Restorative Actions.

A. Restorative Action may include additional written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, and may be made to run with the land and apply to successors in interest. Where removal is required, replacement by appropriate species should be considered, but may not always be required.

B. View and/or Sunlight Restorative Actions must be consistent with all other provisions of this Chapter. In cases where Trimming, Windowing, or other Restorative Action may affect the health of a Tree which is to be preserved, such actions should be carried out in accordance with standards established by the International Society of Arboriculture for use in the State of California. Severe pruning should be avoided due to the damage such practice causes a Tree's form and health. Restorative Actions may include, but are not limited to the following, in order of preference:

1.

Lacing. Lacing is the most preferred pruning technique that removes excess foliage and can improve the structure of the Tree.

2. *Windowing.* Windowing may be utilized where possible, if it does not adversely affect the Tree's growth pattern or health. Topping should not be done to accomplish windowing.
3. *Crown reduction/shaping.* Crown reduction/shaping is preferable to topping or Tree removal, if it is determined that the impact of crown reduction does not destroy the visual proportions of the Tree, adversely affect the Tree's growth pattern or health, or otherwise constitute a detriment to the Tree in question.
4. *Heading back.* Heading back is only to be permitted for Trees specifically planted and maintained as a hedge, espalier, bonsai or in pollard form and if Restorative Actions 1 through 3 of this Section will not accomplish the determined restoration and the subsequent growth characteristics will not create a future obstruction of greater proportions.
5. *Tree Removal.* Tree removal may be considered when the above-mentioned Restorative Actions are judged to be ineffective and may be accompanied by replacement plantings of appropriate plant materials to restore the maximum level of benefits lost due to Tree removal. The City of Del Mar has designated certain Trees as "Protected Trees". Any alteration or removal of Protected Trees will require a permit from the City's Planning Director pursuant to DMMC Chapter 23.50.
6. *Stand Thinning.* The removal of a portion of the total number of Trees from a grove of Trees, without any replacement plantings.

23.51.080 - Restorative Work and Allocation of Costs.

When the Planning Commission has rendered a decision in favor of the Applicant, the following procedures shall be enacted:

A. 1. The Subject Tree owner shall submit to the Applicant and the City two itemized estimates for carrying out the Restorative Work required by the Resolution. The estimates shall be supplied by licensed landscape or licensed Tree service contractors, under the supervision of a Certified Arborist, acceptable to the City, within 30 days after the adoption of the Resolution.

2. Within 15 days of receiving the cost estimates, the Applicant shall deposit with the City an amount equal to the lower cost estimate. Failure of the Applicant to make the required deposit within 15 days will render the resolution of approval null and void. After the required deposit is received by the City, the Subject Tree owner will then, at her/his sole discretion, choose the company by which she/he wishes the work done, as found acceptable to the City, and shall order the work done within 30 days after receiving the Applicant's deposit or such other period of time as the Planning Commission may

determine to be reasonable and appropriate. If the Subject Tree owner does not have the work completed within the time period indicated by the Planning Commission or within 30 days, the City will order the work completed and charge the Subject Tree owner with any costs incurred above the estimate selected.

3. Upon completion of the work, the Subject Tree owner shall notify the City and shall submit a copy of an invoice showing that the work was performed. Upon submittal of the invoice and verification by City staff of the compliance, the City shall transmit the funds from the City deposit account to the Subject Tree owner. If the paid invoice submitted by the Subject Tree owner is for an amount less than the funds in the City's trust account, the Subject Tree owner shall only be transmitted an amount equal to the actual cost of the trimming. In such situations, the balance of the trust account shall be refunded back to the Applicant or applied to the Applicant's permit processing account, if that account contains a negative balance. If the paid invoice submitted by the Subject Tree owner is for an amount that exceeds the funds in the City's trust account, the Subject Tree owner shall only receive the funds from the City trust account, and the Subject Tree owner shall be responsible for paying the difference. If a Subject Tree owner chooses to do the required work himself/herself, then the Subject Tree owner shall not be compensated from the City trust account and the amount in the trust account shall be refunded to the Applicant(s).

B. In the event that the Planning Commission or Council makes the determination that the Subject Tree constitutes a hazard to the safety of the Applicant or his/her property, and is being maintained by the Subject Tree owner in disregard for the safety of others, the Subject Tree owner shall:

1. Cause appropriate corrective work to be performed within 30 days;
2. Pay all costs for work performed; and
3. Deposit with the City an amount equal to that expended by the Applicant as required by Subsection 23.51.040.B.2. of this Chapter and the fees shall be refunded to the Applicant.

(Ord. No. 780)

23.51.090 - Ongoing Maintenance.

If ongoing maintenance is required as a condition of the Planning Commission's approval in favor of the Applicant, said maintenance work shall be performed according to the time schedule (annually, bi-annually, etc.) established by the Planning Commission. On each occasion that scheduled maintenance is to occur, the procedures indicated in Section 23.51.080 shall apply.

(Ord. No. 780)

23.51.100 - Appeal.

The decision of the Planning Commission may be appealed to the City Council pursuant to this Code. The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of the City of Del Mar's decisions pursuant to this Chapter.

(Ord. No. 780)

23.51.110 - Enforcement.

The Subject Tree owner shall comply with any work prescribed by the Planning Commission or Council no later than 90 days after final action on the Application, unless, it is determined that it is less harmful to the Subject Tree for the work to occur at a specific time of the year, in which case, the work shall be performed no later than 90 days from a date set by the Planning Commission or Council. Thereafter, the continued maintenance (if required by Resolution) of the Subject Tree that is not in compliance with the final order prescribed by the Planning Commission or Council shall constitute a misdemeanor or infraction, punishable in accordance with the provisions of DMMC Chapter 1.08 and is declared a public nuisance which may be enjoined or abated as provided by law.

(Ord. No. 780)

23.51.120 - Limitations.

A. It is not the intent of the City in adopting this Chapter to affect obligations imposed by an existing easement or a valid pre-existing covenant or agreement.
B. Nothing in the Chapter shall deny private parties the right to seek remedial action for imminent danger caused by Trees.

Chapter 23.51 TREES, SCENIC VIEWS AND SUNLIGHT

23.51.010 Purpose and Application of Chapter.

A. Purpose.

1. The City recognizes that Trees, Scenic Views and plentiful Sunlight contribute to the special character of Del Mar and to the overall quality of life enjoyed by residents, property owners and visitors.

2. The City further recognizes that Trees, Scenic Views and Sunlight produce a wide variety of significant psychological and tangible benefits, and contribute to the economic value and comfortable enjoyment of the community, neighborhoods and individual properties, including, but not limited to, the following:

   a. Trees, vegetation and other landscaping provide aesthetic value as part of an urban forest, visual and auditory privacy, carbon sequestration, climate control, wind screening, soil stability, and wildlife habitat.

   b. Scenic Views, whether of the Pacific Ocean, nearby lagoons, canyons, the community and its landscapes and urban forest character, or other scenic backcountry (eastern) vistas, encourage distinctive architecture, artistic expression, and provide creative inspiration.

   c. Plentiful Sunlight provides an opportunity to utilize solar energy both actively and passively for home heating and climate control, thereby reducing dependance on fossil fuels.

3. This Chapter acknowledges the benefits derived from Trees, Scenic Views and plentiful Sunlight, and balances the goal of maintaining each of them, when possible.

4. This Chapter further provides a process by which any Person may seek to preserve and restore Scenic Views and/or Sunlight when there is an unreasonable Obstruction of such Scenic Views and/or Sunlight by the growth, improper maintenance and/or installation of Trees and/or vegetation located on a property within three hundred (300) feet of the Applicant's property line.

B. Application.

1. This Chapter applies to all properties within the jurisdictional boundaries of the City of Del Mar, excluding property owned by governmental entities not subject to the City's regulatory jurisdiction.

2. Any Person shall have the right to file an Application with the City alleging Obstruction of pre-existing Scenic Views and/or Sunlight, and further seeking Restorative Action to restore the pre-existing Scenic Views and/or Sunlight that existed on or after the later of the following:

   a. Date the Applicant acquired Applicant's property; or

b. ~~August 1, 2002 (the effective date of City Ordinance No. 747 relating to the adoption of the City's initial Trees, Scenic Views and Sunlight Ordinance).~~Ten (10) years prior to the submittal date of a complete Trees, Scenic Views and Sunlight application.

3. A decision by the Planning Commission, or City Council on appeal, that an Obstruction of Scenic Views and/or Sunlight has occurred, and any associated Restorative Action, is specific to the Applicant and does not run with the land. Any orders issued by the Planning Commission, or City Council on appeal, for ongoing maintenance of the Subject Tree are not binding on subsequent property owners and shall terminate with the transfer of property title. This paragraph does not apply when property title is transferred due to inheritance

23.51.020 Definitions.

For purposes of this Chapter, the following definitions shall apply:

A. *Applicant* shall mean any Person who owns residential real property within the jurisdictional boundaries of the City of Del Mar (or the legal occupant of said real property with written permission from the property owner of record to act on their behalf), who files an Application with the City pursuant to this Chapter.

B. *Application* shall mean a Trees, Scenic Views and Sunlight Application filed with the City alleging that any Tree located on the property of another Person is causing an unreasonable Obstruction of the Applicant's pre-existing Scenic Views and/or Sunlight, for which the Applicant seeks Restorative Action.

C. *Certified Arborist* shall mean a professional arborist who holds a valid ISA Certified Arborist credential from the International Society of Arboriculture (ISA). For purposes of this Chapter, a Registered Consulting Arborist (RCA) with current membership in the American Society of Consulting Arborists (ASCA) shall be considered a "Certified Arborist" for purposes of providing professional tree surveys, reports, recommendations, and other technical information related to arboriculture.

D. *City* shall mean the City of Del Mar.

E. *City Tree* shall mean any Tree planted, installed, owned, and/or maintained by the City, which is located in, within or on a City park, Parkway, street, median, or other property owned by the City. For purposes of this Chapter and consistent with Section 23.51.030 of this Chapter, the term "City Tree" does not include any Tree located within the public right-of-way between the improved street edge and the property boundary of a private lot.

F. *Crown Reduction/Shaping* shall mean a method of comprehensive trimming that reduces a Tree's height and/or spread. Crown Reduction/Shaping entails the reduction of the top, sides or individual limbs of a Tree by removal of leaders or the longest portion of limbs to a lateral large enough to assume the terminal role.

G. *Director* shall mean the City's Planning and Community Development Director, or his or her designee.

H. *Heading Back* shall mean a pruning process whereby overall reduction of the mass of a Tree is achieved by modification to major limbs.

I. *Hedge* shall mean generally dense vegetation so aligned as to form a physical barrier or fence.

J. *Imminent Danger* shall mean an immediate risk to the health, safety and/or welfare of any Person or property, whether privately- or publicly-owned.

K. *Lacing* shall mean a comprehensive method of Trimming that systematically and sensitively removes excess portions of a Tree and improves the structure of the Tree.

L. *Mediation* shall mean a private, voluntary process in which an impartial and qualified third-party professional negotiator facilitates communication between parties to a dispute to promote settlement and reach a mutually satisfactory solution, in this case regarding a claim for Obstruction of Scenic Views and/or Sunlight.

M. *Obstruction* shall mean any substantial and unreasonable blocking or diminishment of Scenic Views and/or Sunlight that is attributable to the growth, improper maintenance and/or the location of a Tree, as determined by the Planning Commission or City Council on appeal, consistent with the findings of fact required by this Chapter.

N. *Parkway* shall mean that area of the street between the back of curb and the sidewalk that is typically planted or landscaped.

O. *Person* shall mean any individual(s), corporation, partnership, firm, or other legal entity (including the City of Del Mar), owning real property or residing in real property within the Del Mar City limits.

P. *Primary Living Area (PLA)* shall mean that (single) portion of a primary residence (typically the living room, dining room or great room) determined by the Planning Commission, or City Council on appeal, to be the main gathering and entertainment room of the primary residence.

1. The determination of a PLA is to be made on a case-by-case basis and shall be consistent with any prior determinations made by the City. Each primary residence shall be limited to the designation of only one (1) PLA (a primary residence does not include "Accessory Dwelling Units", as that term is defined by Chapter 30.91 of this Municipal Code).

2. Under rare and extraordinary circumstances, the Planning Commission, or City Council on appeal, may determine that another area of a primary residence (other than the living room, dining room or great room) is the PLA.

3. Under no circumstances shall a bathroom, laundry room, storage room, stairwell, hallway, outdoor deck, patio, balcony, or any other area outside of the enclosing walls of a primary residence, be designated as a PLA. Additionally, a PLA may not be from any space within an Accessory Dwelling Unit (as that term is defined by Chapter 30.91 of this Municipal Code).

Q. *Protected Tree* shall mean any of the following:

1. A Tree of the species Hesperocyparis macrocarpa (Monterey Cypress);

2. A Tree of the species Pinus torreyana (Torrey Pine);

3. A Tree of any species and located on property within the Central Commercial or Open Space Overlay zones of the City, within a public right-of-way, or on public- or City-owned property; or

4. Any Tree planted as a result of required mitigation for the removal of another Protected Tree.

R. *Restorative Action* shall mean any specific action(s) and conditions required by the Planning Commission, or City Council on appeal, to be implemented to resolve a dispute relating to the Obstruction of the Applicant's pre-existing Scenic Views and/or Sunlight.

S. *Scenic View* shall mean a view of the ocean, lagoons, canyons, the community and its landscapes and urban forest character, or other scenic backcountry (eastern) vistas from the PLA of a primary residence. When observed through more than one window or multiple locations within the PLA, the full extent of the Scenic View shall be a culmination of all vantage points from within the PLA. A Scenic View shall not have been created by natural disaster/causes such as storms, fire, disease or pest infestation, or illegal activity.

T. *Severe Pruning* shall mean the cutting of branches and/or the trunk of a Tree in a manner which substantially reduces the overall size of the Tree or destroys the existing symmetrical appearance, natural shape and/or health of the Tree, and which results in the removal of main lateral branches leaving the trunk and branches of the Tree in a stub appearance. "Topping" and "Heading Back" as defined herein are considered to be Severe Pruning. As stated herein, Severe Pruning should be avoided due to the damage that such practices can cause to a Tree's form and health.

U. *Site of the Subject Tree* shall mean the property on which a Subject Tree is located, which shall be located within three hundred (300) feet of the Applicant's property boundary.

V. *Solar Energy System* shall have the same meaning as set forth in Section 801.5(a) of the California Civil Code, as that Section may be amended, renumbered, or redesignated from time to time. For purposes of this Chapter, the location of a Solar Energy System collector is required to comply with the local building and setback regulations.

W. *Subject Tree* shall mean a Tree for which an Application has been submitted regarding the alleged Obstruction of Scenic Views and/or Sunlight.

X. *Sunlight* shall mean the availability of direct and/or indirect sunlight to ~~the PLA~~a room or rooms, or to the existing Solar Energy System of an Applicant's primary residence.

Y. *Thinning* shall mean the selective removal of entire branches from a Tree so as to improve visibility through the Tree and/or improve the Tree's structural condition.

Z. *Topping* shall mean eliminating the upper portion of the trunk or main leader of a Tree. Topping is not recommended in almost all cases.

AA. *Tree* shall mean any perennial plant growing on public or private property in the ground or in an above-ground container, with a self-supporting woody main stem or trunk. For purposes of this Chapter, "Tree" shall also include vegetation such as shrubs, Hedges, and bushes. References to "Tree" herein shall include both the singular and the plural form.

BB. *Tree Owner* shall mean the Person who holds title of the real property for the Site of the Subject Tree, or the Person responsible for maintenance of the Subject Tree in accordance with Section 23.51.030 of this Chapter.

CC. *Tree Removal* shall mean the elimination of any Tree from its present location.

DD. *Trimming* shall mean the selective removal of portions of branches from a Tree to modify the Tree shape or profile or otherwise alter the Tree's appearance.

23.51.030 Private Property Owner Maintenance of Adjacent Trees Located in Public Right-of-Way.

The maintenance of any Tree located within the public right-of-way, between the improved street edge and the property boundary of a private lot, shall be the responsibility of the adjacent private property owner, and not the City. As such, the adjacent private property owner shall be considered the "Tree Owner" for purposes of this Chapter.

23.51.040 Process for Alleging Obstruction of Scenic Views and/or Sunlight.

A. Application Submission to City.

1. Any Person alleging Obstruction of Scenic Views and/or Sunlight may submit an Application to the City Department of Planning and Community Development, which shall contain the following information and may be subject to review and approval by the Director:

   a. Uniform Development Application on a form provided by the City;

   b. Trees, Scenic Views and Sunlight Supplemental Questionnaire on a form provided by the City;

   c. Floor plan of the Applicant's PLA depicting the direction of the Scenic Views and/or floor plan and building elevation plans depicting the source of Sunlight (e.g., windows, doors, or other transparent surfaces);

   d. Photographic evidence `taken from the Applicant's PLA depicting both of the following:

      (1) Pre-existing Scenic Views ~~and/or Sunlight~~ – Photograph must have been taken at some point in time during the timeframe set forth in Section 23.51.010(B)(2) of this Chapter to the present; and

      (2) Alleged Obstruction of Scenic Views ~~and/or Sunlight~~ – Photograph must have been taken on or around the time of Application submittal;

   e. Shade study demonstrating the amount and duration of the alleged Obstruction of Sunlight from a PLA or Solar Energy System (for Applications alleging Obstruction of Sunlight only); and

f. Tree survey of the Subject Tree(s) signed and/or stamped by a Certified Arborist and providing the following information, which may be subject to review and approval by the City's Arborist:

(1) Species, common name and variety of the Subject Tree(s);

(2) Physical measurements of the Subject Tree(s) (e.g., height and trunk circumference at two (2) feet above the natural grade);

(3) Approximate age of the Subject Tree(s);

(4) Overall health and structural condition of the Subject Tree(s);

(5) Life expectancy and suitability for preservation of the Subject Tree(s);

(6) Desired Restorative Action, anticipated impact of such Restorative Action on the Subject Tree(s), and recommended maintenance activities (if any) for the long-term preservation of Applicant's Scenic Views and/or Sunlight; and

(7) Other recommendations for management of the Subject Tree(s) and/or pertinent information related to the Subject Tree(s).

If the Tree Owner does not grant Applicant's Certified Arborist access to the Site of the Subject Tree to conduct the tree survey required by this Subsection, then a tree survey shall be prepared containing as much of the above information as possible. Applicant's Certified Arborist may use other sources to obtain this information, such as photographs taken from other properties, satellite photographs from commercially-available sources, and public record permit information for work performed on the Tree Owner's property.

2. Together with the submission of an Application, the Applicant shall remit an Application fee to the City in an amount established by Ordinance or Resolution of the City Council.

3. Upon review of the Application for completeness, the Director may request additional information, if necessary, within thirty (30) days following Application submittal.

4. The Application will not be deemed complete for further processing by the City until all materials required by this Section and any additional information requested by the Director have been submitted in a format deemed acceptable by the Director.

5. By submitting an Application to the City, Applicant agrees to allow City staff and/or the Tree Owner to personally enter upon Applicant's property (under Applicant's supervision) to view and photograph the alleged Obstruction of Scenic Views ~~and/or Sunlight~~ from the Applicant's PLA, or in case of sunlight obstruction, from the affected room(s) and/or Solar Energy System.

6. Group Applications are not permitted. A single Application must be submitted for each Person alleging Obstruction of Scenic Views and/or Sunlight. Each Application will be considered on an individual basis at a public hearing before the Planning Commission, or City Council on appeal.

B. Mediation Efforts.

1. Together with the information required under Subsection (A) of this Section, Applicant shall also submit documentation to the City demonstrating the following:

   a. Applicant contacted the Tree Owner and made reasonable efforts to resolve the dispute alleging Obstruction of Scenic Views and/or Sunlight, including, at a minimum, offering to engage in Mediation.

   b. Proof of Applicant's efforts to meet and confer with the Tree Owner shall include:

      (1) Documented attempts offering to participate in Mediation (via certified mail, e-mail exchanges, text messages, etc.); and

      (2) An explanation of whether such offers to participate in Mediation were declined in writing by the Tree Owner, or if Mediation was unsuccessful between the parties.

2. The Tree Owner's failure to respond to Applicant's offer for Mediation within thirty (30) days following receipt of the offer shall be deemed a refusal by the Tree Owner to participate in Mediation.

3. If the Tree Owner agrees to Mediation, the Mediation shall be completed within one hundred and eighty (180) days following Tree Owner's acceptance of Applicant's offer for Mediation, unless an extension is granted by the Director.

C. Notice to Tree Owner. Within thirty (30) days following receipt of a complete Application, City staff shall provide notice to the Tree Owner including the following information:

1. Copy of the Application and any other materials submitted by the Applicant;

2. Copy of this Chapter 23.51;

3. Statement notifying the Tree Owner that there is still time and an opportunity for the parties to resolve the dispute prior to the public hearing;

4. Statement encouraging the Tree Owner to participate in Mediation and informational materials associated with the Mediation process, such as a referral to the National Conflict Resolution Center; and

5. Notice that a written response to the Application may be submitted in advance of the public hearing for review by the Planning Commission, the deadline for any such response, and the anticipated date and time of the public hearing.

D. Public Hearing and Decision.

1. The Application shall be presented at a noticed public hearing conducted by the City of Del Mar Planning Commission. The public hearing procedures shall be consistent with those contained in Section 7.2 of the Planning Commission's adopted Policy Manual.

2. The Applicant and the Tree Owner shall each be allowed one (1) request for a postponement of the public hearing, provided that the written request is received by the Director at least fourteen (14) days prior to the scheduled hearing date.

3. At least ten (10) days prior to the scheduled public hearing date, notice shall be published and mailed to all real property owners of record located within three hundred (300) feet of the Applicant's property boundary and the Site of the Subject Tree.

4. During the public hearing, the Applicant and the Tree Owner shall each be allowed an opportunity to present testimony and evidence relating to the Application and the Subject Tree(s). The public shall also be given an opportunity to provide comment on the Application and the Subject Tree(s).

5. The Planning Commission shall issue a decision regarding the Application to determine whether an Obstruction of Scenic Views and/or Sunlight has occurred based on the criteria set forth in Section 23.51.060 of this Chapter.

    a. The Planning Commission's decision shall be documented in the form of a Resolution.

    b. If the Planning Commission finds in favor of the Applicant, the Planning Commission's Resolution shall also include the requirement to perform Restorative Action work in accordance with Section 23.51.080 of this Chapter. If desired, the Planning Commission may choose to appoint a subcommittee of the Planning Commission to work with City staff on the creation of a draft Restorative Action plan for consideration and action by the Planning Commission at a future meeting.

    c. The Planning Commission's decision on the Application shall become final on the eleventh (11th) business day following the adoption of the Planning Commission's Resolution, unless appealed to the City Council in accordance with Section 23.51.100 of this Chapter.

23.51.050 Criteria for Determining Unreasonable Obstruction of Scenic Views.

A. In considering whether an unreasonable Obstruction of Scenic Views has occurred pursuant to this Chapter, the Planning Commission, or City Council on appeal, shall determine whether the Subject Tree(s) obstructs the Applicant's Scenic Views (observed from the Applicant's PLA) by more than the permissible percentages listed for the type of Scenic Views identified in Table 1 of this Section.

B. The Planning Commission, or City Council on appeal, shall be responsible for determining the type(s) of Scenic View and appropriate view angle upon which to base its review from those listed in Table 1 of this Section. In making this determination, the recommendation of staff may be considered.

C. Scenic Views of a specific type (e.g., White Water, Blue Water, etc.) could possibly be observed from multiple vantage points and directions inside the Applicant's PLA, resulting in several separated views of a similar type. When this occurs, the Planning Commission, or the City Council on appeal, shall consider the Scenic View to be the culmination of all (separated) views that can be observed within a 180-degree corridor from the PLA, and shall apply the allowable percentages of Obstruction accordingly.

Table 1

ALLOWABLE SCENIC VIEW OBSTRUCTION – 180 DEGREE CORRIDOR			
Type of Scenic View	**Slot (< 45°)**	**Middle (45° – 90°)**	**Panorama (> 90°)**
White Water	0 – 5 %	0 – 5 %	0 – 10 %
Blue Water	0 – 10 %	0 – 10 %	0 – 15 %
Horizon/Back Country	0 – 15 %	0 – 20 %	0 – 20 %

23.51.060 Findings for Determining Unreasonable Obstruction of Scenic Views and/or Sunlight.

A. Obstruction of Scenic Views (from the Applicant's PLA). To render a decision in favor of the Applicant regarding unreasonable Obstruction of Scenic Views, the Planning Commission, or City Council on appeal, shall make all of the following findings of fact:

1. The Subject Tree(s) is/are located on the Tree Owner's property, which is located within three hundred (300) feet of the Applicant's property (also referred to herein as the "Site of the Subject Tree");

2. The Applicant's Scenic View is consistent with the definition of "Scenic View" as provided in Section 23.51.020 of this Chapter;

3. The Applicant's stated PLA is consistent with the definition of "Primary Living Area (PLA)" as provided in Section 23.51.020 of this Chapter;

4. The Applicant has contacted the Tree Owner and made reasonable efforts to resolve the dispute alleging Obstruction of Scenic Views, as required by Section 23.51.040(B) of this Chapter;

5. Consistent with Section 23.51.040(A) of this Chapter, the Applicant has provided photographic evidence of prior Scenic Views taken from the Applicant's PLA on or after the later of the following: (i) the date Applicant acquired Applicant's property; ; or (ii) ten (10) years prior to the submittal date of a complete Trees, Scenic Views and Sunlight application;~~or (ii) August 1, 2002;~~

6. Based on a review of the photographic evidence submitted by the Applicant, the Applicant's Scenic View has been reduced by more than the maximum allowed percentage of Obstruction listed in Table 1 under Section 23.51.050 of this Chapter; and

7. Restoration of the Applicant's Scenic Views will not create an infringement on the Tree Owner's privacy that cannot be reasonably mitigated.

B. Obstruction of Sunlight (to the Applicant's Solar Energy System). To render a decision in favor of the Applicant regarding unreasonable Obstruction of Sunlight to Applicant's existing Solar Energy System, the Planning Commission, or City Council on appeal, shall make the following findings of fact:

1. The Subject Tree(s) is/are located on the Tree Owner's property, which is located within three hundred (300) feet of the Applicant's property (also referred to herein as the "Site of the Subject Tree");

2. The Applicant's Sunlight is consistent with the definition of "Sunlight" as provided in Section 23.51.020 of this Chapter;

3. The Applicant's Solar Energy System is consistent with the definition of "Solar Energy System" as provided in Section 23.51.020 of this Chapter;

4. The Applicant has contacted the Tree Owner and made reasonable efforts to resolve the dispute alleging Obstruction of Sunlight, as required by Section 23.51.040(B) of this Chapter;

5. Consistent with Section 23.51.040(A) of this Chapter, the Applicant has provided photographic or other documentable evidence of prior Sunlight to the Solar Energy System taken on or after the later of the following: (i) date Applicant acquired Applicant's property; or (ii) ten (10) years prior to the submittal date of a complete Trees, Scenic Views and Sunlight application~~August 1, 2002~~;

6. The Applicant has provided an exhibit demonstrating the amount and duration of the Obstruction of Sunlight in a graphic format, such as a shadow study, as required by Section 23.51.040(A) of this Chapter;

7. Based on a review of the photographic evidence and exhibit submitted by the Applicant, the Subject Tree(s) cast(s) a shadow on the Applicant's Solar Energy System that is greater than ten percent (10%) of the Solar Energy System absorption area at any time between 10:00 a.m. and 2:00 p.m., Pacific Standard Time (PST); and

8. Restoration of Sunlight to the Applicant's Solar Energy System will not create an infringement on the Tree Owner's privacy that cannot be reasonably mitigated.

C. Obstruction of Sunlight (to a room or rooms of the Applicant's primary residence~~the Applicant's PLA~~). To render a decision in favor of the Applicant regarding unreasonable Obstruction of Sunlight to ~~Applicant's PLA~~one or more rooms in the Applicant's primary residence, the Planning Commission, or City Council on appeal, shall make the following findings of fact:

1. The Subject Tree(s) is/are located on the Tree Owner's property, which is located within three hundred (300) feet of the Applicant's property (also referred to herein as the "Site of the Subject Tree");

2. The Applicant's Sunlight is consistent with the definition of "Sunlight" as provided in Section 23.51.020 of this Chapter;

~~3. The Applicant's stated PLA is consistent with the definition of "Primary Living Area (PLA") as provided in Section 23.51.020 of this Chapter;~~

~~4.~~3. The Applicant has contacted the Tree Owner and made reasonable efforts to resolve the dispute alleging Obstruction of Sunlight, as required by Section 23.51.040(B) of this Chapter;

~~5.~~4. Consistent with Section 23.51.040(A) of this Chapter, the Applicant has provided photographic or other documentable ~~documentation~~ evidence of prior Sunlight to one or more rooms~~from the PLA~~ taken on or after the later of the following: (i) the date Applicant acquired Applicant's property; or (ii) ten (10) years prior to the submittal date of a complete Trees, Scenic Views and Sunlight application~~August 1, 2002~~;

~~6.~~5. The Applicant has provided an exhibit demonstrating the amount and duration of the Obstruction of Sunlight in a graphic format, such as a shadow study, as required by Section 23.51.040(A) of this Chapter;

~~7.~~6. Based on a review of the photographic evidence and exhibit submitted by the Applicant, the Subject Tree(s) cast(s) shadows greater than fifty percent (50%) of the total window glazing ~~in~~ of a room or rooms within the Applicant's primary residence~~the Applicant's PLA~~ at any time between 10:00 a.m. and 2:00 p.m., Pacific Standard Time (PST); and

~~8.~~7. Restoration of Sunlight to the sunlight obstructed room or rooms~~Applicant's PLA~~ will not create an infringement on the Tree Owner's privacy that cannot be reasonably mitigated.

23.51.070 Criteria for Determining Appropriate Restorative Action.

After it has been determined through the hearing process that an unreasonable Obstruction has occurred, then the following unweighted factors may be considered by the Planning Commission, or City Council on appeal, in determining the appropriate Restorative Action:

A. Any hazards posed by the Subject Tree(s) to any Persons or structures on the Applicant's property, including, but not limited to, fire danger, as determined by a City Fire Official, and the danger of falling limbs or Trees, as determined by a Certified Arborist;

B. The variety of the Subject Tree(s), its/their projected rate of growth and maintenance requirements;

C. The aesthetic quality of the Subject Tree(s), including but not limited to, species characteristics, size, growth, form and vigor;

D. The location of the Subject Tree(s) with respect to overall appearance, design and/or use of the Site of the Subject Tree(s);

E. Soil stability provided by the Subject Tree(s) considering soil structure, degree of slope and extent of the Subject Tree's root system per a report from a -soils engineer licensed by the State of California;

F. Privacy (visual and auditory) and wind screening provided by the Subject Tree(s) to the Tree Owner and neighbors of the Tree Owner;

G. Energy conservation and/or climate control provided by the Subject Tree(s);

H. Wildlife habitat provided by the Subject Tree(s);

I. Whether the Subject Tree(s) is/are considered a "Protected Tree", as defined herein and in Chapter 23.50 (Trees) of this Municipal Code;

J. The value of the Subject Tree(s) to the community/neighborhood;

K. Whether the Subject Tree(s) is/are located on or in the public right-of-way or City-owned property; and

L. Whether the Subject Tree(s) has/have been deemed "discouraged" or undesirable by the City, as provided in the City's Public Tree Policy Manual.

23.51.080 Determination of Restorative Action Work to be Performed.

A. Consideration of Recommendations. In determining the type(s) of Restorative Action work to be performed under this Chapter, the Planning Commission, or City Council on appeal, shall first consider any recommendation(s) made by City staff, which could include recommendation(s) from a Certified Arborist retained by the Applicant, Tree Owner and/or City.

B. Types of Restorative Action. Restorative Action work may include, but is not limited to, any of the following (in order of preference):

1. Crown Cleaning. Removing dead, dying, diseased and broken branches from the crown of the Subject Tree(s).

2. Lacing/Thinning. Lacing is the preferred pruning technique, which removes excess foliage within the canopy, improves general views through the Subject Tree(s), and can improve the structure of the Subject Tree(s).

3. Crown Raising. Selectively removing the lower limbs from the crown of the Subject Tree(s).

4. Crown Reduction/Shaping. Crown Reduction/Shaping of the Subject Tree(s) is preferable to Topping or Tree Removal, if it is determined that the impact of Crown Reduction/Shaping would not destroy the visual proportions of the Subject Tree(s), adversely affect the Subject Tree's growth pattern or health, or otherwise constitute a detriment to the Subject Tree(s).

5. Heading Back. Heading Back should only be permitted if all of the following apply:

    a. The Subject Tree(s) is/are specifically planted and maintained as a Hedge, espalier, bonsai, or in pollard form;

    b. Restorative Actions 1 through 4 of this Section will not accomplish the intended Restorative Action; and

    c. Subsequent growth characteristics will not create a future Obstruction of greater proportions.

6. Tree Removal. Tree Removal of the Subject Tree(s) may be considered when the above-mentioned Restorative Actions are judged to be ineffective. Where Tree Removal is required, replacement by appropriate species ~~may~~ shall be considered by the Planning Commission, or City Council on appeal for feasibility, but is not required.

7. Stand Thinning. The removal of a portion of the total number of Trees from a grove of Trees on the Site of the Subject Tree, including the removal of the Subject Tree(s), without any replacement plantings.

In cases where Trimming or any other type(s) of Restorative Action work may affect the health of a Tree that is intended to be preserved or trees in the vicinity, such Restorative Action work shall be carried out in accordance with the standards established by the International Society of Arboriculture (ISA) for use in the State of California and under the supervision of a Certified Arborist. Severe Pruning should be avoided due to the damage that such practices can cause to a Tree's form and health.

C. Written Conditions. Restorative Action imposed by the Planning Commission, or City Council on appeal, may also include written conditions (such as ongoing maintenance), and directions as to the appropriate timing of such conditions.

D. Ongoing Maintenance. If ongoing maintenance is required by the Planning Commission, or City Council on appeal, as part of the Restorative Action work to be performed, then such ongoing maintenance shall be performed according to the time schedule (e.g., annually, bi-annually, etc.)

established by the Planning Commission, or City Council on appeal. On each such occasion that ongoing maintenance is scheduled to occur, the procedures set forth in Section 23.51.090(E) of this Chapter shall apply.

E. Consistency with Chapter. The performance of any Restorative Action work required under this Chapter shall be performed consistent with all other provisions of this Chapter.

F. Timeline for Compliance. Any Restorative Action work required under this Chapter shall be performed no later than the timelines set forth in Section 23.51.090 of this Chapter, unless an exception applies, as follows:

1. An exception applies if it is determined by the Planning Commission, or City Council on appeal, that it would be less harmful to the Subject Tree(s) for the Restorative Action work to occur at a specific time of the year.

2. If it is determined that an exception applies, then the Restorative Action work shall be performed no later than ninety (90) days following the specific date set forth by the Planning Commission, or City Council on appeal.

23.51.090 Allocation of Costs and Procedures for the Payment of Restorative Action Work.

A. Responsibility for Application Fees and Related Costs. The Applicant shall be responsible for the Application fee(s) owed to the City, and any other fees and costs relating to providing the required Application materials to the City, including other information requested by the City to review and process the Application, as well as the costs associated with the public noticing requirement under Section 23.51.040(D) of this Chapter.

B. Responsibility for Costs of Initial Restorative Action Work. When Restorative Action is required by the Planning Commission, or City Council on appeal, the costs for the initial Restorative Action work required to be performed under this Chapter (excluding any ongoing maintenance) shall be as follows:

1. The Applicant and the Tree Owner shall each pay fifty percent (50%) of all costs associated with the initial Restorative Action work, which includes the full cost of the Tree Survey required by DMMC Section 23.51.040(g), unless an exception applies, as set forth below.

2. The Tree Owner shall pay one hundred percent (100%) of all costs associated with the initial Restorative Action work, which includes the full cost of the Tree Survey required by DMMC Section 23.51.040(g), if the Planning Commission, or City Council on appeal, makes a determination that:

a. The Tree Owner has refused to participate in good faith attempts to resolve the dispute as required by Section 23.51.040(B) of this Chapter; and/or

b. The Subject Tree constitutes a hazard to the safety of the Applicant and/or the Applicant's property, and is being maintained by the Tree Owner in disregard for the safety of others and/or property.

C. Responsibility for Costs of Ongoing Maintenance. The Tree Owner shall pay one hundred percent (100%) of all costs associated with any ongoing maintenance of the Subject Tree(s) required by the Restorative Action plan approved by the Planning Commission, or City Council on appeal, whether or not the Applicant paid any or all of the costs for the initial Restorative Action work.

D. Procedures for Payment, Scheduling and Completion of Initial Restorative Action Work.

1. Applicant Partially Responsible for Costs of Initial Restorative Action Work. When the Applicant is partially responsible for the cost of the initial Restorative Action work as set forth in Subsection (B)(1) of this Section, then the following procedures shall be enacted:

a. For any initial Restorative Action work, the Tree Owner shall submit to the City two (2) itemized written cost estimates for performing the initial Restorative Action work. The estimates shall be prepared by licensed and insured landscape or Tree service contractors, under the supervision of a Certified Arborist, and acceptable to the City. The estimates shall be submitted to the City within thirty (30) days following the adoption of the Resolution approving the Restorative Action plan. The estimates shall be subject to review for acceptance by the Director. The Director reserves the right to consult with a Certified Arborist retained by the City if both of the estimates appear to be substantially above the professional average for such services, and in that case, the Tree Owner shall be responsible for reimbursing the City for the cost of consultation with the City Arborist and may be required to submit additional estimates to the City.

b. Estimates provided by the Tree Owner shall only include, and the Applicant shall only be responsible for, payment of costs to perform the initial Restorative Action work (excluding any ongoing maintenance) as required by the Planning Commission, or City Council on appeal. Such costs may include debris removal/recycling fees, and the purchase and installation of mitigation Trees (if required by the Planning Commission, or City Council on appeal). Applicant shall not be responsible for any other costs associated with the Restorative Action work required to be performed, including, but not limited to, tarping, removal and/or replacement of fencing, walls or other improvements to bring equipment onto the Site of the Subject Tree, temporary relocation and re-installation or removal and replacement of appurtenances, structures, fixtures and other improvements on the Site of the Subject Tree, and/or any other costs not directly related to the costs of performing the Restorative Action work, as required by the Restorative Action plan approved by the Planning Commission, or City Council on appeal.

c. Within fifteen (15) days following the Director's acceptance of the cost estimates submitted by the Tree Owner, the Applicant shall deposit with the City an amount equal to the cost percentage required to be paid by the Applicant pursuant to Subsection (B) of this Section, using the lower amount of the two cost estimates. Failure of the Applicant to timely make the required deposit within these fifteen (15) days will render the City's Resolution requiring the Restorative Action work to become null and void.

d. Once the Applicant's deposit is received by the City, the Tree Owner shall, at the Tree Owner's sole discretion, choose which one of the two companies that submitted estimates accepted by the Director will perform the initial Restorative Action work, and shall notify the

City of its decision. Within thirty (30) days following the City's receipt of the Applicant's deposit (or such other period of time as the Planning Commission, or City Council on appeal, may determine to be reasonable and appropriate), the Tree Owner shall schedule the initial Restorative Action work to be completed. If the Tree Owner does not have the initial Restorative Action work completed within thirty (30) days or within the time-period indicated by the Planning Commission, or City Council on appeal, then the City may pursue any and all available remedies and enforcement mechanisms against the Tree Owner, in accordance with Section 23.51.110 of this Chapter.

e. The Tree Owner shall notify the City in advance of the date and time that the initial Restorative Action work is scheduled to take place. City staff, or a qualified third party designated by the City, shall inspect the initial Restorative Action work, upon completion, to determine whether the work complies with and satisfies the requirements and conditions contained in the Restorative Action plan. The City's inspection of the initial Restorative Action work shall be scheduled for a time when the contractors performing the initial Restorative Action work are still present at the Site of the Subject Tree and available to perform additional work, if deemed required by the City. The final determination of compliance with and satisfaction of the Restorative Action plan is made by the Director.

f. Following City approval of the initial Restorative Action work, the Tree Owner shall submit a copy of an invoice for the work performed to the City. Upon submittal of the invoice, the City shall transmit the funds held in the City's deposit account to the Tree Owner.

2. Tree Owner Fully Responsible for Costs of Initial Restorative Action Work. When the Tree Owner is fully responsible for the cost of the initial Restorative Action as set forth in Subsection (B)(2) of this Section, then the following procedures shall be enacted:

a. The initial Restorative Action work shall be completed within thirty (30) days following adoption of the Resolution approving the Restorative Action plan (or such other period of time as the Planning Commission, or City Council on appeal, may determine to be reasonable and appropriate). If the Tree Owner does not have the initial Restorative Action work completed within the time-period indicated by the Planning Commission or within thirty (30) days, then the City may pursue any and all available remedies and enforcement mechanisms against the Tree Owner, in accordance with Section 23.51.110 of this Chapter.

b. The Tree Owner shall notify the City in advance of the date and time that the initial Restorative Action work is scheduled to take place. City staff, or a qualified third party designated by the City, shall inspect the initial Restorative Action work, upon completion, to determine whether the work complies with and satisfies the requirements and conditions contained in the Restorative Action plan. The City's inspection of the initial Restorative Action work shall be scheduled for a time when the contractors performing the initial Restorative Action work are still present at the Site of the Subject Tree and available to perform additional work, if deemed required by the City. The final determination of compliance with and satisfaction of the Restorative Action plan is made by the Director.

E. Procedures for Scheduling and Completion of Ongoing Restorative Action Work.

1. Any ongoing maintenance required as part of the Restorative Action plan shall be completed according to the time schedule (e.g., annually, bi-annually, etc.) established by the Planning Commission, or City Council on appeal. If the Tree Owner does not timely complete the ongoing maintenance work, then the City may pursue any and all available remedies and enforcement mechanisms against the Tree Owner, in accordance with Section 23.51.110 of this Chapter.

2. The Tree Owner shall notify the City in advance of the date and time that the ongoing maintenance work is scheduled to take place. City staff, or a qualified third party designated by the City, shall inspect the ongoing maintenance work upon its completion to determine whether the work complies with and satisfies the requirements and conditions contained in the Restorative Action plan. The City's inspection of the ongoing maintenance work shall be scheduled for a time when the contractors performing the work are still present at the Site of the Subject Tree and available to perform additional work, if deemed required by the City. The final determination of compliance with and satisfaction of the Restorative Action plan is made by the Director.

23.51.100 Appeal.

A. The Planning Commission's decision under this Chapter shall become final on the eleventh (11th) business day following the adoption of the Planning Commission's Resolution documenting the decision, unless the decision is appealed pursuant to this Section.

B. The Planning Commission's decision may be appealed to the City Council consistent with the appeal provisions of this Municipal Code.

C. The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of any final decision made by the City of Del Mar pursuant to this Chapter.

23.51.110 Enforcement.

Failure to comply with any provision under this Chapter shall constitute a misdemeanor or infraction, punishable in accordance with the provisions of Chapter 1.08 of this Municipal Code, and is further declared to be a public nuisance that may be enjoined or abated as provided by law.

23.51.120 Liability.

A. The City shall not be liable for any claims, demands, causes of actions, damages, injuries, litigation, costs, and/or liability arising out of or related to any agreement, decision, determination, or order concerning claims relating to Scenic Views and/or Sunlight that may result from Mediation or litigation.

B. Under no circumstances shall the City have any responsibility or liability to enforce or seek any legal redress (civil or criminal) for any agreement, decision, determination, or order that any other Person or entity makes concerning claims relating to Scenic Views and/or Sunlight.

~~**23.51.130 Indemnification.**~~

~~By submitting the Application to the City, Applicant acknowledges and agrees to defend, indemnify and hold harmless the City of Del Mar and its officers, boards, commissions, agents, and employees (collectively, "City Indemnified Parties") from and against any and all claims, demands, causes of actions, damages, injuries, litigation, costs, and/or liability (collectively, "Claims") arising out of or related to any Claims brought against the City Indemnified Parties to attack, set aside, void, or annul any determination granted by the City relating to the Application, including, but not limited to, the adoption of a Resolution and issuance of a plan for Restorative Action work, including ongoing maintenance, required to be performed by the Planning Commission, or City Council on appeal, and any and all costs incurred in enforcing the same, except for those costs of enforcement that the City may recover from the Tree Owner. The City may, at its sole and absolute discretion, choose to participate in the defense of such Claims undertaken by the Applicant, or retain separate counsel whose attorneys' fees and costs shall be paid by the Applicant. Such participation by the City in the defense of such Claims or the retention of separate counsel by the City shall not relieve the Applicant of their obligations under this Section.~~

23.51.140 Limitations.

A. It is not the intent of the City in adopting this Chapter to affect obligations imposed by an existing easement or a valid pre-existing covenant or agreement between private parties.

B. Nothing in the Chapter shall deny private parties the right to seek remedial action for any Imminent Danger caused by any Tree(s).

23.51.150 Process for Alleging Obstruction of Scenic Views and/or Sunlight by City Trees.

The below provisions shall apply when any Person alleges Obstruction of Scenic Views and/or Sunlight caused by City Trees. The process for determining whether an unreasonable Obstruction of Scenic Views and/or Sunlight has occurred as a result of City Trees is set forth below.

A. Pre-Application/Early Consultation Process.

1. Any Person who believes that the growth, improper maintenance and/or installation of a City Tree has caused an unreasonable Obstruction of Scenic Views and/or Sunlight may contact the City of Del Mar Planning and Community Development Department and request to meet with staff to explain the scenic view and/or sunlight obstruction.

2. During the early consultation process, City staff will gather information regarding the TSVS claim of obstruction, verify eligibility for the process, and observe the alleged obstruction.

3. Prior to submitting a TSVS/City Tree application, the Planning and Community Development Director will, in consultation with the Public Works Director and City Arborist, determine if unique factors exist that would cause the City to perform restorative action on the subject City Tree without need to submittal of an application.

B~~A~~. Application Submittal.

1. Any Person who believes that the growth, improper maintenance and/or installation of a City Tree has caused an unreasonable Obstruction of Scenic Views and/or Sunlight may submit an Application to the City in accordance with the provisions of Section 23.51.040(A) of this Chapter.

2. Together with the submission of an Application, the Applicant shall remit an Application fee to the City in an amount established by Ordinance or Resolution of the City Council.

3. Upon review of the Application for completeness, the Director may request additional information, if necessary, within thirty (30) days following Application submittal.

4. The Application will not be deemed complete for further processing by the City until all materials required by this Section and any additional information requested by the Director have been submitted in a format deemed acceptable by the Director.

CB. City's Review of the Alleged Obstruction. Upon receipt of a complete Application, the Director, in consultation with the City's Public Works Director and/or a City Arborist, shall:

1. Review and evaluate the Application to determine whether the required findings of fact can be made pursuant to Section 23.51.060 of this Chapter;

2. Perform a site visit to the Applicant's PLA, room or rooms affected by Sunlight Obstruction, or Solar Energy System; and

3. Consider the public interest in maintaining the public environment created by the existing City Tree(s) and its/their contribution to the community character.

DC. City's Decision and Public Notice.

1. The Director shall approve or deny the Application by written decision within thirty (30) days following the Application has been deemed complete.

2. The Director's written decision shall specify findings of fact for Application approval or denial as provided in Section 23.51.060 of this Chapter.

3. Approval of an Application under this Section shall include appropriate Restorative Action based on a recommendation by City staff working in consultation with a City Arborist. The Restorative Action plan shall consider the criteria set forth in Section 23.51.070 of this Chapter, shall be consistent with Section 23.51.080 of this Chapter, and shall involve the least amount of impact necessary to the overall aesthetic of the City Tree(s).

4. If the Restorative Action plan requires Tree Removal of a Protected City Tree, the City shall provide public notice of the Director's decision, as follows:

    a. Notice shall be posted on the City's website and mailed to all owners of real property located within three hundred (300) feet of the location of the City Tree(s).

b. Notice shall include a number assigned to the Application, a description of the City Tree(s) causing an Obstruction of Applicant's Scenic Views and/or Sunlight, and information on the process for appealing the Director's decision.

5. The Director's decision shall become final on the eleventh (11th) business day following the date of the posted/mailed public notice, unless appealed.

ED. Appeal of Director's Decision. For purposes of this Section only, the Director's decision may be appealed to the Planning Commission pursuant to the provisions of this Municipal Code. The Planning Commission's decision shall become final on the eleventh (11th) business day following the adoption of the Planning Commission's Resolution, unless appealed to the City Council in accordance with Section 23.51.100 of this Chapter.

FE. Procedures for Restorative Action Work and Allocation of Costs.

1. If any Restorative Action work is required to be performed in accordance with this Section, the City and the Applicant shall each be responsible for paying fifty percent (50%) of the cost to perform the Restorative Action work.

2. Within thirty (30) days following the date the Director's written decision approving the Application, City staff shall provide the written decision to the City's contracted tree maintenance company to obtain a cost estimate for the performance of the Restorative Action work.

3. Upon receipt of the cost estimate for the performance of the Restorative Action work, City staff shall provide the Applicant with an invoice for fifty percent (50%) of the total cost estimate.

4. Within fifteen (15) days following receipt of the invoice from the City, the Applicant shall remit the full invoiced amount to the City as a deposit for the performance of the Restorative Action work. Failure of the Applicant to timely make the required deposit within these fifteen (15) days will render the Director's decision requiring the Restorative Action work to become null and void.

5. Upon completion of the Restorative Action work, the deposited funds shall be used towards payment of the Applicant's fifty percent (50%) share of the total cost to perform the Restorative Action work.

a. If the final cost of the Restorative Action work is less than the initial estimate, any unused amount of the deposit shall be returned to the Applicant.

b. If the final cost of the Restorative Action work exceeds the initial estimate, the City shall provide the Applicant with an invoice for the remaining amount owed by the Applicant. Within fifteen (15) days following receipt of the invoice, the Applicant shall remit to the City the remaining amount of the Applicant's share owed to the City.

Matt Bator

Subject: FW: TSVS Rewrite: Concerns Regarding "Run with the Land" Language
Attachments: Jurisdictional View Ordinance Comparison Chart.pdf; RunWithTheLand_Research.xlsx

From: Janet Wilson <janet@silverhook.com>
Sent: Tuesday, August 5, 2025 4:07 PM
To: Planning Mail Box <Planning@delmar.ca.us>; Tracy Martinez <tmartinez@delmar.ca.us>; Dan Quirk <dquirk@delmar.ca.us>; Terry Gaasterland <tgaasterland@delmar.ca.us>; John Spelich <jspelich@delmar.ca.us>
Cc: Janet Wilson <janet@silverhook.com>
Subject: TSVS Rewrite: Concerns Regarding "Run with the Land" Language

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning and City Councilmembers,

Thank you for your hard work rewriting Del Mar's TSVS ordinance. For this update, the Planning Department developed a Jurisdictional View Ordinance Comparison Chart of 27 other "view" cities and reviewed historical staff reports from Clyde Hill, which served as the original template for Del Mar's TSVS in 2002.
Aligning with other cities provides a solid foundation, promotes consistent decision-making, and enhances legal defensibility. These are meaningful goals that should guide the revision process. With this in mind, there are observations about two of the proposed changes in **Section 23.51.010 – Purpose**:

1. Look-back Window - A Consistent Change

When the Planning Commission asked why the 10-year look-back window was changing, the explanation was that Del Mar is the *only* city with such a limit, and that removing it would align our ordinance with other "view" cities.

While there doesn't appear to be controversy around the current 10-year window, **the rationale to align with other jurisdictions is sound**.

2. Run with the Land - An Inconsistent Shift

When asked why restorative actions shouldn't "run with the land", the Planning Commissioners were told that was never the intent.
The Staff reports (to both the Planning Commission and City Council) describe this change as follows:

> *"Language to **clarify and affirm** that approvals of TSVS applications and associated restorative actions do not run with the land, and rights provided by such approvals terminate upon the sale of applicant's property."*

These statements **contradict** our current ordinance, **DMMC 23.51.070(A)**, which says:

> *Restorative Action may include additional written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, and may be made to run with the land and apply to successors in interest.*
> https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT23BUCO_CH23.51TRSCVISU_23.51.070HIREAC

Describing this proposed change as a clarification may be misleading, because it is effectively a **reversal**.

Running with the Land - Comparable Cities:

Alameda County	C. Restorative action may include written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, **and may be made to run with the land and apply to successors in interest.**
Belvedere	Access to a view or sunlight **does not run with the land** as an easement.
Beverly Hills	10-8-107: DECISIONS **INTENDED TO RUN WITH THE LAND**; DISCLOSURE: Decisions regarding view restoration shall be binding on all current and future owners of view owner's property and foliage owner's property, and such decisions must be disclosed by each owner to subsequent owners of the property.
Clyde Hill WA	The hearing examiner may direct that the work prescribed pursuant to CHMC 17.38.070 be continuously maintained and that the examiner's decision **may be binding upon future owners and run with the land**, in which case the city shall record the examiner's decision with the King County recording office and shall be reimbursed by the complainant.
Culver City	C. Restoration action **may** include written conditions (including ongoing maintenance) and directions as to appropriate timing of such actions, as well as recordation of an agreement containing covenants or other documentation **to memorialize the conditions** and make them applicable.
Del Mar	A. Restorative Action may include additional written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, **and may be made to run with the land and apply to successors in interest.**
El Cerrito	10. Restorative action may include written conditions concerning ongoing maintenance and should be recorded, **made to run with the land and apply to successors in interest.**
Laguna Beach	§ 12.16.100 View decisions binding on future owners—Disclosure obligations. Decisions made by city staff and the view restoration committee regarding view restoration and view preservation **run with the land and shall be binding on the claimant and the vegetation owner and their heirs, successors and assigns**. Such decisions, to the extent permitted, shall be recorded in the official records of the county of Orange. In addition, such decisions shall be set forth in any real property report required by Chapter 14.76 and should be disclosed by each owner to prospective purchasers of their properties.
Malibu	Restorative action **may be made to run with the land** and apply to successors in interest.
Orinda	D. Restorative action may include written conditions (including ongoing maintenance) and directions as to timing for taking appropriate actions **and may be made to run with the land and apply to successors in interest.**
Rolling Hills Estates	It is also **not the intent** or purpose of this chapter for the city to create either a covenant **running with the land** (for example, CC&Rs or deed restriction) or an equitable servitude (for example, easement or license). However, the city will keep a record of agreements and decisions reached pursuant to Sections 17.55.070, 17.55.080, 17.55.090 and 17.55.110 of which it is notified, and provide those agreements and/or decisions as part of the pre-purchase inspection report it provides to prospective purchasers of property in the city who request such a report.
Santa Barbara	Not a Covenant or Servitude. It is **not the intent** and purpose of this chapter for the City to create either a covenant **running with the land** or an equitable servitude.
Tiburon	(c) Restorative action may include written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, **and may be made to run with the land and apply to successors in interest.**
Torrance	**Nor is it the intent** or purpose of this Article for the City to create either a covenant **running with the land** (for example, CC&Rs or deed restriction) or an equitable servitude (for example, easement or license). However, the City will keep a record of agreements and decisions reached pursuant to Sections 92.41.100, 92.41.110, and 92.41.120 of which it is notified, and provide those agreements and/or decisions to those who request such a report.
Ventura County	E. Not a Covenant or Servitude. It is **not the intent** and purpose of this Chapter for the City to create either a covenant **running with the land** or an equitable servitude.
Westlake Village	C. Restorative action may include written conditions (including ongoing maintenance) and directions as to appropriate timing of the required conduct. **Restorative action may be made to run with the land and apply to successors in interest.**

Comparison Snapshot:

- Only 5 cities explicitly state that view decisions <u>do not</u> run with the land.

- 11 cities (including Del Mar's current ordinance) state they may run with the land.
- The other 12 cities from the Jurisdictional View Ordinance Comparison Chart are silent, which typically implies the default legal assumption: that decisions tied to the land bind future owners.

In total, **81% of cities** either affirmatively or implicitly allow view decisions to run with the land.

Importantly, **none** of the comparison cities includes an exception based on inheritance. A scenic view doesn't change when ownership changes, so why should the protection? Linking rights to how a property is transferred (sold vs inherited) is inconsistent. Additionally, requiring a new owner to restart a process that was already resolved is unnecessary, burdensome, and may undermine the integrity of the original decision.

Adopting this change would put Del Mar **out of step with the majority of comparable cities.**
And should an inheritance exception be included, Del Mar would **stand alone as the only city** with such a clause.

Summary

The look-back window change makes sense because it follows the logic of **aligning with what other cities are doing.** But the "run with the land" proposal doesn't follow that same logic at all. In fact, it moves Del Mar in the opposite direction.

If one of the goals of this TSVS update is to align with other view cities, the "run with the land" language should be revisited. Laguna Beach offers a clear, well-written model that could serve as a template.

My research can be verified using the attached spreadsheet with direct links to the relevant ordinances.

Thank you for your time,
Janet Wilson

Matt Bator

Subject: FW: Strengthening Del Mar's Sunlight Provisions - Comment on July 7 Council Meeting
Attachments: SunshineArea.xlsx

From: Janet Wilson <janet@silverhook.com>
Sent: Thursday, August 7, 2025 6:28 PM
To: Planning Mail Box <Planning@delmar.ca.us>
Cc: Terry Gaasterland <tgaasterland@delmar.ca.us>; John Spelich <jspelich@delmar.ca.us>; Dan Quirk <dquirk@delmar.ca.us>; Tracy Martinez <tmartinez@delmar.ca.us>; Janet Wilson <janet@silverhook.com>
Subject: Strengthening Del Mar's Sunlight Provisions - Comment on July 7 Council Meeting

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning and City Councilmembers,

Although the restorative actions when obstructed are similar, **Views** and **Sunlight** differ in essential ways. Both contribute to a sense of openness which we all value, but Sunlight surrounds us daily, shaping quality of life, supporting health, and sustaining gardens. Therefore, I was pleased to hear during the July 7 City Council meeting that the scope of Sunlight protection will be revisited and that it will no longer be limited to only Del Mar's narrowly defined "primary living area."

How do other "View" cities manage Sunlight protections?
Reviewing 27 other "View" cities and 18 of them address Sunlight, of which 9 contain a Sunlight definition:

- 3 have "availability or access to light from the sun across **property lines"**
- 6 have "availability of **direct or indirect** Sunlight to the primary living area of a residence"

Overview Chart (the spreadsheet with a direct link is attached to double-check this information):

City	Wording	Defi
Del Mar	(single) portion	direct or
Alameda County	portion or portions of a residence	direct or
Belvedere	parcel of real property	-
Berkeley	view from a structure | access to sunlight to the real property	-
Clyde Hill WA	areas | which may include both interior and exterior spaces	-
Contra Costa	primary living areas | or exterior deck attached to a residence	-
Corte Madera	point(s) | portion or portions	direct or
Hillsboro	parcel of property	-
Kensington	primary living areas | or exterior deck attached to a residence	-
Laguna Beach	viewing locations or areas	-
Los Altos Hills	portion or portions of a residence	direct or
Martinez	those portions of a residence | primarily living areas	-
Orinda	the portion of a residence	direct or
Rolling Hills	one common interior or exterior space (can apply for one additional view)	property
San Francisco	available to the garden or home	-
Santa Barbara	real property | point(s)	property
Sausalito	primary living areas | property	-
Tiburon	portion or portions	direct or
Ventura County	benefiting the real property	property

Note: View cities that do NOT mention Sunlight protection are Beverly Hills, Culver City, El Cerrito, Malibu, Torrance, Oakland, Rancho Palos Verdes, and Westlake Village.

Interestingly, most jurisdictions allow Sunlight (and View) claims from multiple areas of a home and property and even Del Mar's "template" city, Clyde Hill, states:

> "*Living and entertainment areas" means areas from which a view is observed most often by the occupants relative to other portions of the residence, which may include both interior and exterior spaces.*"

The majority of View cities reference broader property areas or the entire real property; very few rely solely on a narrowly defined interior space.

While I understand it might be challenging to change Del Mar's definition of Primary Living Area, for Sunshine the broader definition makes sense especially if there aren't privacy issues!

Concerns about a Obstruction of Sunlight & Shade Study Requirement

It is being proposed to add the following language to 23.51.040:

> *"For applications involving sunlight obstruction, requires a shade study."*

This is entirely new territory. No other "View" city with Sunlight protection requires this. I wasn't sure what a shade study might be, so I looked it up:

> *A shade study, also known as a shadow study, is an analysis of how sunlight and shadows interact with a building or site at different times of the day and year. It helps architects, urban planners, and landscape designers understand how sunlight will affect a space, optimize building design, and ensure comfortable outdoor environments.*

Requiring residents to provide technical studies like a shade study places an **unreasonable burden on applicants.** Most homeowners would never anticipate needing to document "before" conditions or hire consultants to demonstrate a loss of sunlight.

Critically, Del Mar's ordinance defines sunlight as **both direct *and* indirect**.

Vegetation may not cast sharply defined shadows on windows, but it can still **significantly reduce the ambient light** around a property, such as the soft, diffused light typical in Del Mar during overcast coastal days (May Gray and June Gloom). Overgrown vegetation can also **lessen the quality** of low-angle sunlight during late afternoon or sunset year-round. Excessive vegetation can negatively impact daily livability and enjoyment, which is exactly what this ordinance aims to protect.

Shade studies are not designed to measure these qualitative aspects of natural sunlight, and residents should not be expected to have documented such subtle lighting conditions in advance. For all of these reasons, the following proposed language should be reconsidered as unrealistic and overly burdensome:

> *"Based on a review of the photographic evidence and exhibit submitted by the Applicant, the Subject tree(s) cast(s) shadows greater than fifty percent (50%) of the total window glazing in the Applicant's PLA at any time between 10:00 a.m. and 2:00 p.m., Pacific Standard Time (PST)."*

Balancing Burden & Justification

It's difficult and stressful for someone to take a stand and initiate conflict with a neighbor. However, it seems that conflict is a common outcome in every TSVS application. These situations should be more balanced and the property owner causing the issue should be required to justify that their vegetation does not create undue risk or negatively impact their neighbors for several reasons:

- Accountability **-** Property owners are responsible for maintaining their land, including trees and vegetation. If their property affects others, by blocking Views or Sunlight, they should be accountable for the impact and justify why no action is warranted.
- Precedent and Policy Consistency - Requiring justification helps build a consistent record for how similar cases are handled. This supports clearer future policies and reduces subjective or arbitrary outcomes.
- Encouraging Resolution - When both sides must justify their stance, it often encourages communication and compromise, leading to more amicable resolutions without prolonged disputes.

Current Definitions

Sunlight *shall mean the availability of direct or indirect Sunlight to the Primary Living Area or to the existing solar energy system of a residence.*

Primary Living Area *shall mean that (single) portion of a residence from which a Scenic View is observed most often by the occupants and guests at the residence. The determination of Primary Living Area is to be made on a case-by-case basis and shall be consistent with any prior determinations made by the City.*

Proposed Definitions

Sunlight *shall mean the availability of direct and/or indirect sunlight to the PLA or to the existing Solar Energy System of an Applicant's primary residence.*

Primary Living Area *(PLA) shall mean that (single) portion of a primary residence (typically the living room, dining room or great room) determined by the Planning Commission, or City Council on appeal, to be the main gathering and entertainment room of the primary residence.*

> *1. The determination of a PLA is to be made on a case-by-case basis and shall be consistent with any prior determinations made by the City. Each primary residence shall be limited to the designation of only one (1) PLA (a primary residence does not include "Accessory Dwelling Units", as that term is defined by Chapter 30.91 of this Municipal Code).*

2. Under rare and extraordinary circumstances, the Planning Commission, or City Council on appeal, may determine that another area of a primary residence (other than the living room, dining room or great room) is the PLA.
3. Under no circumstances shall a bathroom, laundry room, storage room, stairwell, hallway, outdoor deck, patio, balcony, or any other area outside of the enclosing walls of a primary residence, be designated as a PLA. Additionally, a PLA may not be from any space within an Accessory Dwelling Unit (as that term is defined by Chapter 30.91 of this Municipal Code)

Comments

Regarding the current and proposed Primary Living Area requirement of "consistent with any prior determinations," there are circumstances (such as a remodel) where the Primary Living Area or View Corridor might change.

Accessory Dwelling Units (ADU) are not currently part of Del Mar's TSVS. Is adding them just unnecessary wording and complications since none of the other View cities include ADU in their ordinance?

Sunlight and solar energy are closely connected, and Del Mar already has a Solar Energy Ordinance (DMMC 23.20). So, would it make sense for the TSVS ordinance to reference the Solar Energy Ordinance and recognize it as having precedence where solar access is concerned? Doing so would clarify the scope of each ordinance and allow this chapter to focus specifically on revising *general* Sunlight access, which is the primary purpose.

Consider Real Property or Property Lines vs Primary Living Area?

Berkeley does not have a definition for Sunlight, but it is addressed in the definition of Obstruction:

"*Obstruction" means any substantial blocking or diminishment of a **view from a structure** lawfully used as a dwelling or **access to sunlight to the real property** which is attributable to the growth, maintenance or location of tree(s).*"

Perhaps Del Mar follows that lead to update the definition of Obstruction (new words in green):

*Obstruction shall mean any substantial blocking or diminishment of Scenic Views **from the Primary Living area** and/or **access to** Sunlight **to the real property** that is attributable to the growth, improper maintenance or location of a Tree or Vegetation.*

I hope these observations help ensure that Sunlight access remains a clear, equitable, and enforceable right for every Del Mar resident.
Thank you for your continued attention to this important revision.

Janet Wilson

619.733.1428

Matt Bator

Subject: FW: TSVS Ordinance Rewrite - Regarding Section 23.51.090 – Concerns Regarding Cost Shifting and Fairness
Attachments: 23.51.090_AllocationsofCosts.pdf

From: Janet Wilson <janet@silverhook.com>
Sent: Wednesday, August 13, 2025 9:47 PM
To: Planning Mail Box <Planning@delmar.ca.us>; Dan Quirk <dquirk@delmar.ca.us>; John Spelich <jspelich@delmar.ca.us>; Tracy Martinez <tmartinez@delmar.ca.us>; Terry Gaasterland <tgaasterland@delmar.ca.us>
Cc: Janet Wilson <janet@silverhook.com>
Subject: TSVS Ordinance Rewrite - Regarding Section 23.51.090 – Concerns Regarding Cost Shifting and Fairness

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning and City Councilmembers,

For the TSVS rewrite, **Guiding Principle #5** states: *Ensure an equitable cost allocation process to initiate the view/sunlight restoration process, perform view restoration work, and maintain restored scenic views and sunlight.* Extensive revisions have been made to **Section 23.51.090** to support **Guiding Principle #5** and what has been called **Cost Shifting**. To better understand these significant changes, I created the attached flowchart. These are my observations.

Overall Observation — Burden on Applicants

The proposed revisions still place a disproportionate burden on Applicants, who must pay substantial up-front costs that are never reimbursed, even when the Reviewing Authority finds the Tree Owner at fault. This imbalance deters legitimate applications, and the expanded length and complexity of the revised ordinance will make the process harder to navigate and more intimidating.

1. Application Fees & Tree Survey Costs

Del Mar's application fees are among the highest compared to other View Cities. Under both the current ordinance and the proposed revisions, regardless of the decision, the Applicant is always responsible for the application fees. This policy should be reconsidered. By the time the Applicant pays the fee, *every* effort to resolve the matter amicably has already been made. When the Reviewing Authority determines restorative action is appropriate, reimbursement of the fees to the Applicant should be required.

Similarly, when the Reviewing Authority determines restorative action is appropriate, reimbursement of tree survey costs to the Applicant should be required *even* if the Tree Owner participated in mediation that failed to resolve the matter.

Partial cost-sharing should be allowed only when both parties share responsibility.

Matt Bator

Subject: FW: Chapter 23.51 - TSVS - Proposed changes - Comments regarding 'City Tree,' 'Parkway,' and right-of-way responsibilities

From: Janet Wilson <janet@silverhook.com>
Sent: Saturday, August 23, 2025 2:20 PM
To: Planning Mail Box <Planning@delmar.ca.us>; Dan Quirk <dquirk@delmar.ca.us>; Terry Gaasterland <tgaasterland@delmar.ca.us>; John Spelich <jspelich@delmar.ca.us>; Tracy Martinez <tmartinez@delmar.ca.us>; Ashley Jones <ajones@delmar.ca.us>
Cc: Janet Wilson <janet@silverhook.com>
Subject: Chapter 23.51 - TSVS - Proposed changes - Comments regarding 'City Tree,' 'Parkway,' and right-of-way responsibilities

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Dear Planning and City Councilmembers,

Chapter **23.51** addresses obstruction and restoration of Scenic Views and Sunlight, and "Trees" appears in the title only because they are the primary cause of an obstruction (and not because the chapter governs Trees).

The proposed changes to **23.51.020** include adding a definition for "City Tree", but removing the definition of "Tree".

> (E) ***City Tree*** shall mean any Tree planted, installed, owned, and/or maintained by the City, which is located in, within or on a City park, Parkway, street, median, or other property owned by the City. For purposes of this Chapter and consistent with Section 23.51.030 of this Chapter, the term "City Tree" does not include any Tree located within the public right-of-way between the improved street edge and the property boundary of a private lot.
>
> ~~(S) Tree shall mean any perennial plant growing on public or private property, having a self-supporting woody main stem or trunk with the potential to obstruct Scenic Views or Sunlight, including but not limited to Trees, shrubs, hedges, and bushes or any plant material planted or growing in a dense continuous line so as to form a thicket barrier or naturally grown fence. References to "Tree" shall include the plural.~~

This new definition of "City Tree" effectively places every tree into one of three categories:

1. Private Tree – owned and maintained by the property owner
2. Public Right-of-Way Tree – located on City property inside the public right-of-way, but maintained by the [adjacent] property owner
3. City Tree – located on City property outside the public right-of-way, and maintained by the City

The objective seems to be that the Applicant follows the normal TSVS application process (including associated fees) for both a Private Tree *and* a Public Right-of-Way Tree, but when a City Tree is causing the obstruction, the ordinance aims to streamline the process. By defining Public Right-of-Way Trees as a subset of City Trees, the ordinance calls out that it is the adjacent property owner (and not the City) who is responsible for maintenance when there is an obstruction under 23.51.

In Del Mar, many homeowners maintain their adjacent right-of-way, but others do not. Under this update, if trees in a property owner's adjacent right-of-way cause an obstruction, the owner is responsible whether they maintain the trees or even realize the obligation. This issue was raised at the last City Council meeting regarding properties backing onto Jimmy Durante, with many others likely in similar situations. Once clarified, responsibility for obstructions caused by right-of-way trees will be explicitly assigned, a goal behind these changes.

This raises two important questions: Shouldn't homeowners be formally notified of this new responsibility? And conversely, who is responsible for the public right-of-way when there is no obstruction?

California State Streets and Highways Code section 5610 states that landowners are responsible for maintaining sidewalks in safe and unobstructed condition, even if the sidewalk is publicly owned. This *implies* landscaping in the right-of-way is also the homeowner's responsibility.
Placing the definitions of 'City Tree' and 'Public Right-of-Way Tree' in 23.50 Trees would allow 23.51 to remain focused on obstruction, while making clear that homeowners are responsible for maintaining adjacent rights-of-way. Either way, this represents a significant change for all residents.

I hope this helps.
Janet Wilson
619.733.1428

The term "Public Right-of-Way Tree" is awkward. Many municipal codes use "Street Tree" or "Parkway Tree" to describe trees in the right-of-way maintained by adjacent property owners.

City Council Policy 110 addresses private encroachments into city rights-of-way, stating:

> "There are numerous circumstances in Del Mar where an improved (paved) section of a City right-of-way is narrower than the width of the right-of-way itself. This results in an area of unimproved right-of-way adjacent to private property. In many cases, the owner of the adjacent property, or designee, proposes to install landscaping and other landscape-related improvements in the unimproved portion of the right-of-way. This has the beneficial effect of beautifying the area adjacent to the paved roadway, without the City having to bear the costs for installing or maintaining the improvements. These are generally considered to be an appropriate use of a right-of-way but still subject to review under the Encroachment Permit process."
> https://www.delmar.ca.us/DocumentCenter/View/1956/110-Private-Encroachments-Into-City-Rights-of-Way-PDF

Del Mar Chapter **23.28 – Encroachment Permits**

> C. Encroachment shall mean development or use of any portion of a City Right-of-Way or Easement in a manner other than its intended use. Encroachment shall include, but not be limited to, any of the following:

2. Planting of any tree, shrub, grass or other growing thing within a City Right-of-Way or Easement;

https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT23BUCO_CH23.28ENPE

Cut-and-paste definitions are maintenance-intensive. Therefore, if 23.51 does require a definition of City Tree, it should be
(E) ***City Tree*** - *see 23.50.020 City Tree*

2. Mediation — Determination of "Good Faith"

The revised ordinance should define the standard and identify the decision-making body for determining whether a party has engaged in "good faith" mediation. Without a clear standard, determinations risk being subjective, potentially encouraging strategic behavior that undermines the intent of the cost allocation provisions.

3. Existing Decisions - Ongoing Maintenance

Existing decisions have placed an unfair burden on Applicants to pay for the ongoing maintenance of the Tree Owner's property. This is inequitable and should be eliminated. Landscaping owners must be responsible for the upkeep of their own property. In the case of Del Mar Woods, Applicants have paid approximately $70,000 over the past 10 years to maintain the Tree Owners' landscaping.

4. Omission

In Section 23.51.090(D)(2)(a), the second sentence omits ", *or City Council on appeal*."

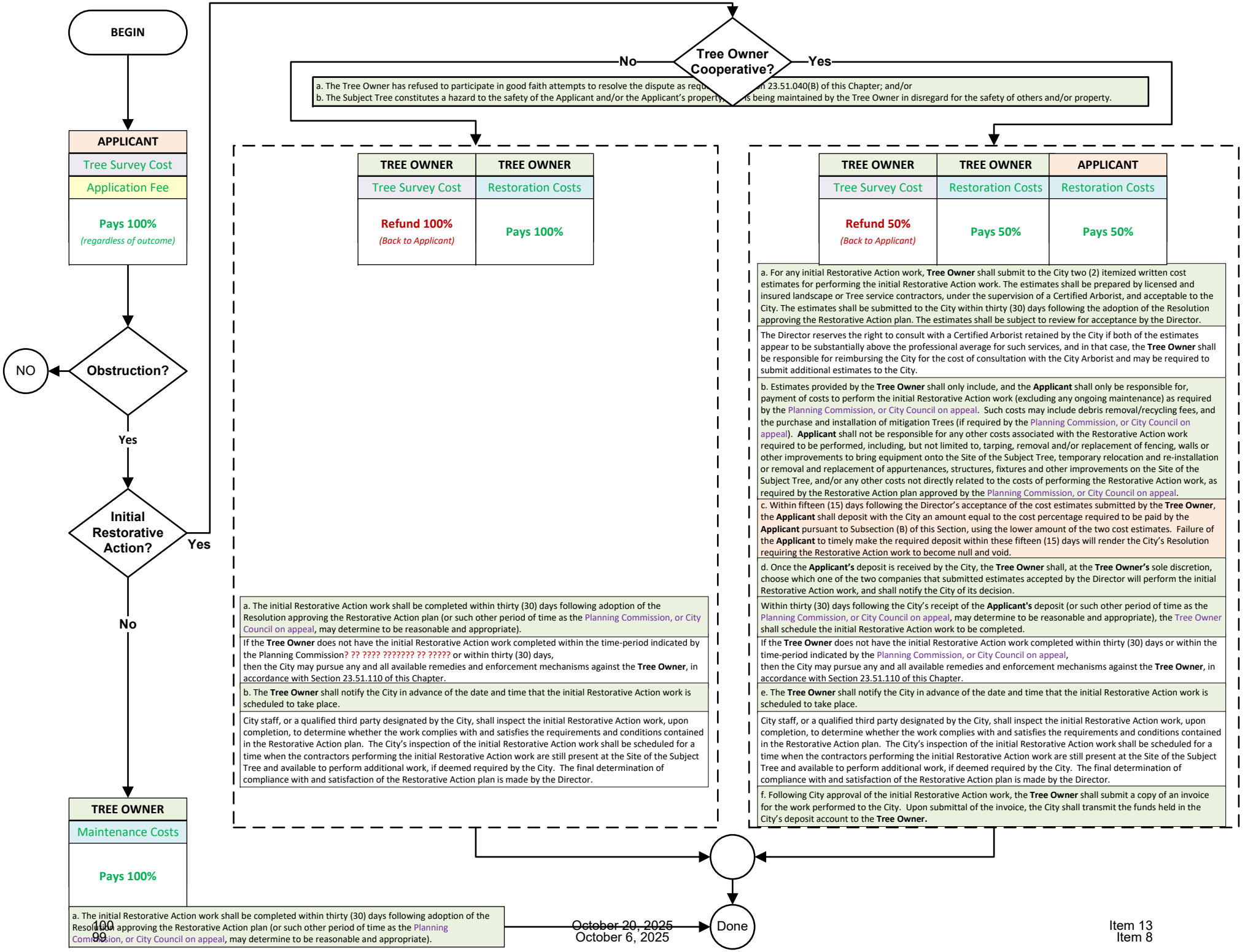
5. Excessive Language

a. Section 23.51.090 has expanded from about a half a page (550 words) to three pages (1,660 words) due to the incorporation of what I term the "nitty-gritty" what-if-then-else scenarios. Would it be more effective if the cost allocation structure were placed in the ordinance and the implementation details in a supporting Policy or Guidelines document?
b. Consider defining "Reviewing Authority" in Section 23.51.020 as "Planning Commission, or City Council on appeal" and using the term consistently to improve clarity and readability.

3.

Thank you again for your time and effort on this important rewrite. I hope this input is useful.

Janet Wilson
619.733.1428


BEGIN
APPLICANT
Tree Survey Cost
Application Fee
Pays 100%
(regardless of outcome)
Obstruction?
NO
Yes
Initial Restorative Action?
Yes
No
TREE OWNER
Maintenance Costs
Pays 100%
a. The initial Restorative Action work shall be completed within thirty (30) days following adoption of the Resolution approving the Restorative Action plan (or such other period of time as the Planning Commission, or City Council on appeal, may determine to be reasonable and appropriate).
Tree Owner Cooperative?
No
Yes
a. The Tree Owner has refused to participate in good faith attempts to resolve the dispute as req
23.51.040(B) of this Chapter; and/or
b. The Subject Tree constitutes a hazard to the safety of the Applicant and/or the Applicant's property
is being maintained by the Tree Owner in disregard for the safety of others and/or property.
TREE OWNER
Tree Survey Cost
Refund 100%
(Back to Applicant)
TREE OWNER
Restoration Costs
Pays 100%
a. The initial Restorative Action work shall be completed within thirty (30) days following adoption of the Resolution approving the Restorative Action plan (or such other period of time as the Planning Commission, or City Council on appeal, may determine to be reasonable and appropriate).
If the Tree Owner does not have the initial Restorative Action work completed within the time-period indicated by the Planning Commission? ?? ???? ??????? ?? ????? or within thirty (30) days,
then the City may pursue any and all available remedies and enforcement mechanisms against the Tree Owner, in accordance with Section 23.51.110 of this Chapter.
b. The Tree Owner shall notify the City in advance of the date and time that the initial Restorative Action work is scheduled to take place.
City staff, or a qualified third party designated by the City, shall inspect the initial Restorative Action work, upon completion, to determine whether the work complies with and satisfies the requirements and conditions contained in the Restorative Action plan. The City's inspection of the initial Restorative Action work shall be scheduled for a time when the contractors performing the initial Restorative Action work are still present at the Site of the Subject Tree and available to perform additional work, if deemed required by the City. The final determination of compliance with and satisfaction of the Restorative Action plan is made by the Director.
TREE OWNER
Tree Survey Cost
Refund 50%
(Back to Applicant)
TREE OWNER
Restoration Costs
Pays 50%
APPLICANT
Restoration Costs
Pays 50%
a. For any initial Restorative Action work, Tree Owner shall submit to the City two (2) itemized written cost estimates for performing the initial Restorative Action work. The estimates shall be prepared by licensed and insured landscape or Tree service contractors, under the supervision of a Certified Arborist, and acceptable to the City. The estimates shall be submitted to the City within thirty (30) days following the adoption of the Resolution approving the Restorative Action plan. The estimates shall be subject to review for acceptance by the Director.
The Director reserves the right to consult with a Certified Arborist retained by the City if both of the estimates appear to be substantially above the professional average for such services, and in that case, the Tree Owner shall be responsible for reimbursing the City for the cost of consultation with the City Arborist and may be required to submit additional estimates to the City.
b. Estimates provided by the Tree Owner shall only include, and the Applicant shall only be responsible for, payment of costs to perform the initial Restorative Action work (excluding any ongoing maintenance) as required by the Planning Commission, or City Council on appeal. Such costs may include debris removal/recycling fees, and the purchase and installation of mitigation Trees (if required by the Planning Commission, or City Council on appeal). Applicant shall not be responsible for any other costs associated with the Restorative Action work required to be performed, including, but not limited to, tarping, removal and/or replacement of fencing, walls or other improvements to bring equipment onto the Site of the Subject Tree, temporary relocation and re-installation or removal and replacement of appurtenances, structures, fixtures and other improvements on the Site of the Subject Tree, and/or any other costs not directly related to the costs of performing the Restorative Action work, as required by the Restorative Action plan approved by the Planning Commission, or City Council on appeal.
c. Within fifteen (15) days following the Director's acceptance of the cost estimates submitted by the Tree Owner, the Applicant shall deposit with the City an amount equal to the cost percentage required to be paid by the Applicant pursuant to Subsection (B) of this Section, using the lower amount of the two cost estimates. Failure of the Applicant to timely make the required deposit within these fifteen (15) days will render the City's Resolution requiring the Restorative Action work to become null and void.
d. Once the Applicant's deposit is received by the City, the Tree Owner shall, at the Tree Owner's sole discretion, choose which one of the two companies that submitted estimates accepted by the Director will perform the initial Restorative Action work, and shall notify the City of its decision.
Within thirty (30) days following the City's receipt of the Applicant's deposit (or such other period of time as the Planning Commission, or City Council on appeal, may determine to be reasonable and appropriate), the Tree Owner shall schedule the initial Restorative Action work to be completed.
If the Tree Owner does not have the initial Restorative Action work completed within thirty (30) days or within the time-period indicated by the Planning Commission, or City Council on appeal,
then the City may pursue any and all available remedies and enforcement mechanisms against the Tree Owner, in accordance with Section 23.51.110 of this Chapter.
e. The Tree Owner shall notify the City in advance of the date and time that the initial Restorative Action work is scheduled to take place.
City staff, or a qualified third party designated by the City, shall inspect the initial Restorative Action work, upon completion, to determine whether the work complies with and satisfies the requirements and conditions contained in the Restorative Action plan. The City's inspection of the initial Restorative Action work shall be scheduled for a time when the contractors performing the initial Restorative Action work are still present at the Site of the Subject Tree and available to perform additional work, if deemed required by the City. The final determination of compliance with and satisfaction of the Restorative Action plan is made by the Director.
f. Following City approval of the initial Restorative Action work, the Tree Owner shall submit a copy of an invoice for the work performed to the City. Upon submittal of the invoice, the City shall transmit the funds held in the City's deposit account to the Tree Owner.
Done

Matt Bator

Subject: FW: Chapter 23.51 - TSVS - Proposed changes - Comments regarding 'City Tree,' 'Parkway,' and right-of-way responsibilities

From: Janet Wilson <janet@silverhook.com>
Sent: Saturday, August 23, 2025 2:20 PM
To: Planning Mail Box <Planning@delmar.ca.us>; Dan Quirk <dquirk@delmar.ca.us>; Terry Gaasterland <tgaasterland@delmar.ca.us>; John Spelich <jspelich@delmar.ca.us>; Tracy Martinez <tmartinez@delmar.ca.us>; Ashley Jones <ajones@delmar.ca.us>
Cc: Janet Wilson <janet@silverhook.com>
Subject: Chapter 23.51 - TSVS - Proposed changes - Comments regarding 'City Tree,' 'Parkway,' and right-of-way responsibilities

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Dear Planning and City Councilmembers,

Chapter **23.51** addresses obstruction and restoration of Scenic Views and Sunlight, and "Trees" appears in the title only because they are the primary cause of an obstruction (and not because the chapter governs Trees).

The proposed changes to **23.51.020** include adding a definition for "City Tree", but removing the definition of "Tree".

> (E) ***City Tree*** shall mean any Tree planted, installed, owned, and/or maintained by the City, which is located in, within or on a City park, Parkway, street, median, or other property owned by the City. For purposes of this Chapter and consistent with Section 23.51.030 of this Chapter, the term "City Tree" does not include any Tree located within the public right-of-way between the improved street edge and the property boundary of a private lot.
>
> ~~(S) Tree shall mean any perennial plant growing on public or private property, having a self-supporting woody main stem or trunk with the potential to obstruct Scenic Views or Sunlight, including but not limited to Trees, shrubs, hedges, and bushes or any plant material planted or growing in a dense continuous line so as to form a thicket barrier or naturally grown fence. References to "Tree" shall include the plural.~~

This new definition of "City Tree" effectively places every tree into one of three categories:

1. Private Tree – owned and maintained by the property owner
2. Public Right-of-Way Tree – located on City property inside the public right-of-way, but maintained by the [adjacent] property owner
3. City Tree – located on City property outside the public right-of-way, and maintained by the City

The objective seems to be that the Applicant follows the normal TSVS application process (including associated fees) for both a Private Tree *and* a Public Right-of-Way Tree, but when a City Tree is causing the obstruction, the ordinance aims to streamline the process. By defining Public Right-of-Way Trees as a subset of City Trees, the ordinance calls out that it is the adjacent property owner (and not the City) who is responsible for maintenance when there is an obstruction under 23.51.

In Del Mar, many homeowners maintain their adjacent right-of-way, but others do not. Under this update, if trees in a property owner's adjacent right-of-way cause an obstruction, the owner is responsible whether they maintain the trees or even realize the obligation. This issue was raised at the last City Council meeting regarding properties backing onto Jimmy Durante, with many others likely in similar situations. Once clarified, responsibility for obstructions caused by right-of-way trees will be explicitly assigned, a goal behind these changes.

This raises two important questions: Shouldn't homeowners be formally notified of this new responsibility? And conversely, who is responsible for the public right-of-way when there is no obstruction?

California State Streets and Highways Code section 5610 states that landowners are responsible for maintaining sidewalks in safe and unobstructed condition, even if the sidewalk is publicly owned. This *implies* landscaping in the right-of-way is also the homeowner's responsibility.
Placing the definitions of 'City Tree' and 'Public Right-of-Way Tree' in 23.50 Trees would allow 23.51 to remain focused on obstruction, while making clear that homeowners are responsible for maintaining adjacent rights-of-way. Either way, this represents a significant change for all residents.

I hope this helps.
Janet Wilson
619.733.1428

The term "Public Right-of-Way Tree" is awkward. Many municipal codes use "Street Tree" or "Parkway Tree" to describe trees in the right-of-way maintained by adjacent property owners.

City Council Policy 110 addresses private encroachments into city rights-of-way, stating:

> "There are numerous circumstances in Del Mar where an improved (paved) section of a City right-of-way is narrower than the width of the right-of-way itself. This results in an area of unimproved right-of-way adjacent to private property. In many cases, the owner of the adjacent property, or designee, proposes to install landscaping and other landscape-related improvements in the unimproved portion of the right-of-way. This has the beneficial effect of beautifying the area adjacent to the paved roadway, without the City having to bear the costs for installing or maintaining the improvements. These are generally considered to be an appropriate use of a right-of-way but still subject to review under the Encroachment Permit process."
> https://www.delmar.ca.us/DocumentCenter/View/1956/110-Private-Encroachments-Into-City-Rights-of-Way-PDF

Del Mar Chapter **23.28 – Encroachment Permits**

> C. Encroachment shall mean development or use of any portion of a City Right-of-Way or Easement in a manner other than its intended use. Encroachment shall include, but not be limited to, any of the following:

2. Planting of any tree, shrub, grass or other growing thing within a City Right-of-Way or Easement;

https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT23BUCO_CH23.28ENPE

Cut-and-paste definitions are maintenance-intensive. Therefore, if 23.51 does require a definition of City Tree, it should be

(E) ***City Tree*** - *see 23.50.020 City Tree*

Leslie Carrillo

-----Original Message-----
From: Juliana Maxey-Allison <jmaxeyallison@gmail.com>
Sent: Wednesday, October 1, 2025 12:07 PM
To: Terry TG. Gaasterland <gaasterland@gmail.com>; Tracy Martinez <tmartinez@delmar.ca.us>; Dan Quirk <dquirk@delmar.ca.us>; John Spelich <jspelich@delmar.ca.us>; Ashley Jones <ajones@delmar.ca.us>
Subject: Red Dot re October 6, 2025 City Council meeting

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Mayor Gaasterland, Deputy Mayor Martinez, City Council Members Quirk and Spelich, City Manager Jones

Red Dot

Re: Introduction of an Ordinance to Amend Municipal Code Chapters 23.50 and 23.51 related to Trees, Scenic Views, and Sunlight regulations (A25-001)

TREE VS VIEW=TRIM

Julie Maxey-Allison
10 Street

As Del Mar evolves into a town of troubled neighbor negotiations regarding existing trees, it is time to stress the key importance of the interconnectedness of trees to our ecosystem and our health. Of course a sick or dangerous tree should be taken out. But most are not. To accommodate concerns about views and light trees can be artfully trimmed rather than removed. Left alive, trees will continue to contribute to our well being adding their beauty to landscape of our city, providing needed shade, sequestering carbon into their roots aiding in combatting the effects of climate change as we heat up now and in the coming years.

.

Robert Silva

From: Michael Deftos <mdeftos@gmail.com>
Sent: Thursday, October 2, 2025 7:50 PM
To: City Clerk Mail Box
Subject: Red Dot Item Item 8 TSVS Amendments October 6, 2025 City Council meeting

Follow Up Flag: Flag for follow up
Flag Status: Flagged

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Del Mar City Council,

The following are some issues with the proposed new TSVS ordinance, many of which could be disadvantageous to Applicants seeking view restoration. I respectfully suggest some revisions to address these concerns.

1. The proposed new TSVS ordinance requires photographic evidence of the prior view taken from the PLA to establish the existence of the prior view, rather than allowing consideration of other documentable evidence, as the current ordinance does. This could limit the ability of applicants to restore their scenic view. Reasoned consideration of other documentable evidence can establish the existence and extent of a prior view. For example, consideration of a Google Street View image that fortuitously captures the primary scenic view or clearly documents the prior height and extent of the offending vegetation can establish the existence of a prior view. Other jurisdictions do not limit the evidence to photographic evidence from the PLA.

2 The proposed new TSVS ordinance codifies a permissible amount of view obstruction rather than allowing the unreasonableness of view obstruction to be determined using discretion on a case-by-case basis. When an adjacent property is developed, the new ordinance would effectively double the amount of view that can be taken (first by the structure, then by subsequent planting and/or growth of landscaping). In contrast, under the current ordinance, any degree of view obstruction subsequently taken by the landscaping could be deemed unreasonable. The new ordinance would limit the ability to seek view restoration early, before the threshold of allowed view obstruction has been exceeded, and when less drastic measures could restore and preserve the view. The application of photographs to the table could also frequently be less than objective due to issues such as perspective and multiple scenic view vantage points from the PLA, which might not have precisely corresponding historical photographs.

The balancing of the burdens and benefits of trees and scenic views is inherently subjective and should not be reduced to a table. The application of a blend of objective and subjective criteria to the determination of unreasonable view obstruction, as is done by the current ordinance, can achieve the balancing goal. No other jurisdiction uses the new approach being proposed.

If the city is intent on the proposed new methodology, **consider adding language to indicate that this method for determining unreasonable view obstruction is encouraged but not required, and that other documentable evidence of the prior view can be considered**.

In addition, I respectfully believe the subjective balancing of the burdens and benefits of trees and scenic views should be done by the planning commission or city council, without influence from city staff. **Consider eliminating the allowance for a recommended restorative action plan from city staff and instead have the decision makers choose between recommendations for restorative actions from the Applicant's and Tree Owner's arborists.** The time and resources city staff spend on TSVS cases could be

substantially reduced if their role were restricted to organizing the evidence and argument presented by the Applicant and Tree Owner and explaining the decision-making process to the decision-makers.

3. The proposed new TSVS ordinance does not explicitly state that the restorative action should completely restore the view to the reasonableness standard established by the table. This could result in the unsettling outcome for an Applicant of a finding of unreasonable view obstruction, but a restorative action plan that results in only limited view restoration. Relatedly, the purpose of the Criteria for Determining Appropriate Restorative Action (23.51.070) in the proposed new ordinance is not clear. For example, could the status of the subject tree as a protected tree or its subjective value to the community/neighborhood be used to justify limiting view restoration to something less than indicated by the reasonableness standard established by the table? **Consider explicitly stating that the intent is to restore the view to the reasonableness standard and clarifying the intended use of the Criteria for Determining Appropriate Restorative Action.**

5. The proposed new TSVS ordinance increases the cost to the Applicant by requiring them to pay for, in addition to the cost of the Application, a Tree Survey (before a finding of unreasonable view obstruction has been made) (23.51.040 (A)(1)(f)), the costs associated with the public noticing requirement ((23.51.090 (A)) and the costs of any other information requested by the city ((23.51.090 (A)).

6. The Tree Survey, particularly the requirement for a Desired Restorative Action ((23.51.040(1)(f)6)), could bias the decision-making on whether the view is unreasonably obstructed if strictly objective criteria for determining unreasonable view obstruction are not adhered to. For example, if removal of a protected tree is requested or deemed by an arborist to be necessary to restore the view, this could bias the decision-maker against a determination of unreasonable view obstruction. In the current ordinance, such a Tree Survey is not required, and the restorative action necessary to restore the view is not one of the factors for determining whether the view is unreasonably obstructed. **Consider eliminating the requirement for a Tree Survey to be submitted by the applicant.**

7. While the indemnification clause has been removed, there remains a requirement for a Uniform Development Application, which was not previously required (23.51.040 (A)(1)(a)). The city's Uniform Development Application contains similar indemnification language. In addition, the language in section 23.51.120 seems to be intended to indemnify the city (the purpose of this section is not clear to me). This raises the possibility that, for example, a successful Applicant could be required to defend in court the city's final decision in their favor in a legal challenge mounted by the Tree Owner. Concern regarding this was clearly articulated by a thoughtful resident in an earlier hearing. What is the reason for a Uniform Development Application (with its indemnification clause)? The TSVS Application could presumably be designed to provide all necessary information (without an indemnification clause). Similarly, what is the purpose of section 23.51.120? **Consider eliminating the requirement for a Uniform Development Application and section 23.51.120.**

8. The language in section 23.51.010(B)(3) regarding whether the decision runs with the land is unclear. Which "subsequent property owners" is the following intended to refer to: the tree owner, the applicant, or both? *"Any orders issued by the Planning Commission, or City Council on appeal, for ongoing maintenance of the Subject Tree are not binding on **subsequent property owners** and shall terminate with the transfer of property title. This paragraph does not apply when property title is transferred due to inheritance."* If ownership of the tree owner's property changes, can the new property owner be required to continue with the ongoing maintenance requirements? What if this property is inherited? Or is this paragraph intended to only refer to the Applicant as a property owner?

I agree with Janet Wilson and suggest **adding language that the final decision either <u>should</u> or <u>may be</u> made to run with both the tree owner's and applicant's land, and that this be officially recorded.**

9. In the case where an Applicant inherits a property, then seeks view restoration, does the lookback time window extend to before they inherited the property (up to 10 years), or only to the date they inherited (acquired) the property? **Consider clarifying the rights of an owner who inherits their property to seek restoration of their family's prior view.**

10. The exclusion from protection of views created by “natural disaster/causes such as storms, fire, disease or pest infestation” (23.51.020 (S)) should be reconsidered. Protection of such naturally created views would help balance out views lost throughout the city due to the natural process of tree growth where view restoration is not sought, not granted, or cannot be granted due to the offending vegetation being located >300 ft from the site of the view. **Consider allowing the protection of such naturally created scenic views.**

11. **Consider fixing the lookback window to the date of adoption of the new ordinance.** This is a reasonable compromise between keeping it at 10 years versus extending it to when the current ordinance was adopted 23 years ago.

12. The definition of Scenic View (23.51.020 (S)) unnecessarily restricts scenic "backcountry" vistas to being eastward. Properties on the south end of the city have excellent scenic vistas southwards of the distant hillside of the Torrey Pines State Natural Reserve that warrant protection. Scenic vistas toward the north from the northern hillside of the city should similarly be protected. **Consider changing the language to allow protection of all "scenic vistas" or "distant scenic vistas" not just those of the "backcountry" to the east.**

12. Typo: Section 23.51.060 (5) still references photographic evidence from “August 1, 2002.”

13. Janet Wilson astutely points out many nuances to the protection of access to sunlight. Perhaps this should be **considered in a separate ordinance**, as is wisely being done for hedge height restrictions.

In sum, I think the current ordinance is superior to the proposed new ordinance, including its evidentiary standard and largely subjective process for determining unreasonably view obstruction. If the proposed new paradigm is preferred, please consider the suggested changes above.

Thanks for your consideration,
Michael Deftos

Robert Silva

From: janice batter <janicebats@sbcglobal.net>
Sent: Friday, October 3, 2025 1:07 PM
To: City Clerk Mail Box
Subject: Red Dot Letter concerning Changes to Tree Ordinance

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Council Members,

We object to the changes proposed to the existing Trees, Scenic Views, and Sunlight ordinance.

#3 is ridiculous since potted plants are by nature non-permanent and can be moved, besides usually being rather short.

#4 is unimaginable since we all live on such small lots, houses often 10' apart, and any tree over 8' will cause a shallow at some point during the day to carry across that distance. What would Del Mar look and feel like without its trees. Please consider all our privacy which is so dependent on our vegetation and, yes, our trees.

#5 We assume this is now retroactive to any tree which isn't "protected"…like the enormous trees at the top of 9th Street. Those tree most certainly cast shallows on someone's house. And they are magnificent.

Please do not pass this ordinance. Do not even consider any of it.

This is going to be a legal nightmare for Del Mar.

Janice and Michael Batter

Robert Silva

From: Janet Wilson <janet@silverhook.com>
Sent: Friday, October 3, 2025 2:14 PM
To: City Clerk Mail Box; Dan Quirk; Terry TG. Gaasterland; Tracy Martinez; John Spelich
Cc: Janet Wilson
Subject: Item 8 City Council - Concerns Regarding "Run with the Land" Language
Attachments: RunWithTheLand_Research.xlsx

Follow Up Flag: Flag for follow up
Flag Status: Flagged

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Dear City Councilmembers,

One of the proposed changes to the TSVS Ordinance explicitly *prevents* a TSVS decision from running with the land (unless inherited). **PROPOSED 23.51.010(B)(3)**

> A decision by the Planning Commission, or City Council on appeal, that an Obstruction of Scenic Views and/or Sunlight has occurred, and any associated Restorative Action, is specific to the Applicant and **does not run with the land**. Any orders issued by the Planning Commission, or City Council on appeal, for ongoing maintenance of the Subject Tree **are not binding on subsequent property owners and shall terminate with the transfer of property title**. This paragraph **does not apply** when property title is transferred due to **inheritance.**

1 - Inheritance Exception

- The Scenic View and/or Sunlight doesn't change when ownership changes, so why should the associated decision change?
- Linking rights to *how* a property is transferred (sold vs inherited) is inconsistent.
- **Not one** of the other 27 comparison cities includes an *exception* based on inheritance.

2 - Complete Reversal of Existing Ordinance

There are two references that clearly state a decision/restorative action may run with the land. **CURRENT:**

> **23.51.040(A)**
> The Conditions of Restorative Action and required term of maintenance (if deemed appropriate) imposed by the Planning Commission may be recorded in a covenant against the deed for the property on which the Subject Tree is located. If required, the covenant **shall run with the land to help guarantee permanent preservation of pre-existing Scenic Views and/or Sunlight**.
>
> **23.51.070 Hierarchy of Restorative Actions**
>
> 1. Restorative Action may include additional written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, and **may be made to run with the land and apply to successors in interest**.

Why should the existing "run with the land" provision be reversed?

3 - Unreasonable Burden

Requiring a new owner to restart a process that was already resolved is unnecessary, burdensome, and may undermine the integrity of the original decision.

4 - Comparable Cities (see attached)

Reversing our current policy would put Del Mar **out of step with the majority of comparable cities.**
And should an inheritance exception be included, Del Mar would **stand alone as the only city** with such a clause.

In total,
81% of comparable cities either affirmatively or implicitly allow view decisions to run with the land.
0% of comparable cities have excepts based on inheritance
Comparison Snapshot

- Only 5 cities explicitly state that view decisions do not run with the land.
- 11 cities (including Del Mar's current ordinance) state they may run with the land.
- The other 12 cities from the Jurisdictional View Ordinance Comparison Chart are silent, which typically implies the default legal assumption: that decisions tied to the land bind future owners.

My research can be verified using the attached spreadsheet with direct links to the relevant ordinances.

Thank you,
Janet Wilson

Running with the Land - Comparable Cities:

Alameda County	C. Restorative action may include written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, **and may be made to run with the land and apply to successors in interest.**
Belvedere	Access to a view or sunlight **does not run with the land** as an easement.
Beverly Hills	10-8-107: DECISIONS **INTENDED TO RUN WITH THE LAND**; DISCLOSURE: Decisions regarding view restoration shall be binding on all current and future owners of view owner's property and foliage owner's property, and such decisions must be disclosed by each owner to subsequent owners of the property.
Clyde Hill WA	The hearing examiner may direct that the work prescribed pursuant to CHMC 17.38.070 be continuously maintained and that the examiner's decision **may be binding upon future owners and run with the land**, in which case the city shall record the examiner's decision with the King County recording office and shall be reimbursed by the complainant.
Culver City	C. Restoration action **may** include written conditions (including ongoing maintenance) and directions as to appropriate timing of such actions, as well as recordation of an agreement containing covenants or other documentation **to memorialize the conditions** and make them applicable.
Del Mar	A. Restorative Action may include additional written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, **and may be made to run with the land and apply to successors in interest.**
El Cerrito	10. Restorative action may include written conditions concerning ongoing maintenance and should be recorded, **made to run with the land and apply to successors in interest.**
Laguna Beach	§ 12.16.100 View decisions binding on future owners—Disclosure obligations. Decisions made by city staff and the view restoration committee regarding view restoration and view preservation **run with the land and shall be binding on the claimant and the vegetation owner and their heirs, successors and assigns**. Such decisions, to the extent permitted, shall be recorded in the official records of the county of Orange. In addition, such decisions shall be set forth in any real property report required by Chapter 14.76 and should be disclosed by each owner to prospective purchasers of their properties.
Malibu	Restorative action **may be made to run with the land** and apply to successors in interest.
Orinda	D. Restorative action may include written conditions (including ongoing maintenance) and directions as to timing for taking appropriate actions **and may be made to run with the land and apply to successors in interest.**
Rolling Hills Estates	It is also **not the intent** or purpose of this chapter for the city to create either a covenant **running with the land** (for example, CC&Rs or deed restriction) or an equitable servitude (for example, easement or license). However, the city will keep a record of agreements and decisions reached pursuant to Sections 17.55.070, 17.55.080, 17.55.090 and 17.55.110 of which it is notified, and provide those agreements and/or decisions as part of the pre-purchase inspection report it provides to prospective purchasers of property in the city who request such a report.
Santa Barbara	Not a Covenant or Servitude. It is **not the intent** and purpose of this chapter for the City to create either a covenant **running with the land** or an equitable servitude.

Tiburon	(c) Restorative action may include written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, **and may be made to run with the land and apply to successors in interest.**
Torrance	**Nor is it the intent** or purpose of this Article for the City to create either a covenant **running with the land** (for example, CC&Rs or deed restriction) or an equitable servitude (for example, easement or license). However, the City will keep a record of agreements and decisions reached pursuant to Sections 92.41.100, 92.41.110, and 92.41.120 of which it is notified, and provide those agreements and/or decisions to those who request such a report.
Ventura County	E. Not a Covenant or Servitude. It is **not the intent** and purpose of this Chapter for the City to create either a covenant **running with the land** or an equitable servitude.
Westlake Village	C. Restorative action may include written conditions (including ongoing maintenance) and directions as to appropriate timing of the required conduct. **Restorative action may be made to run with the land and apply to successors in interest.**

Robert Silva

From: janice batter <janicebats@sbcglobal.net>
Sent: Friday, October 3, 2025 2:23 PM
To: City Clerk Mail Box
Subject: REVISED: Red Dot Letter concerning Changes to Tree Ordinance

Follow Up Flag: Flag for follow up
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Council Members,

We object to the changes proposed to the existing Trees, Scenic Views, and Sunlight ordinance.

#3 is ridiculous since potted plants are by nature non-permanent and can be moved, besides usually being rather short.

#4 is unimaginable since we all live on such small lots, houses often 10' apart, and any tree over 8' will cause a shadow at some point during the day to carry across that distance. What would Del Mar look and feel like without its trees. Please consider all our privacy which is so dependent on our vegetation and, yes, our trees.

#5 We assume this is now retroactive to any tree which isn't "protected"…like the enormous trees at the top of 9th Street. Those trees most certainly cast shadows on someone's house. And they are magnificent.

Please do not pass this ordinance. Do not even consider any of it.

This is going to be a legal nightmare for Del Mar.

Janice and Michael Batter

Robert Silva

From: Jonathan Polikoff <jonpff@att.net>
Sent: Friday, October 3, 2025 2:32 PM
To: City Clerk Mail Box
Cc: Patti P
Subject: Red Dot Letter (email)

Follow Up Flag: Flag for follow up
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Comment concerning discussion of new tree ordinance at the upcoming Council Meeting (Oct 6).

I support measures to make it easier for the residents of Del Mar to remove protected trees.
We need to acknowledge the new realities of climate change - increased frequency of weather events that lead to conflagrations such as occurred in Pacific Palisades and Altadena.
I see Del Mar as being vulnerable to a similar event.
I am generally supportive of the changes outlined in the amended ordinance however I would go further and **not require removed protected trees to be replaced**.
Thank you for your consideration.

Jonathan Polikoff
640 Nob Ave. Del Mar

Robert Silva

From: Alice McNally <alimcnally8@gmail.com>
Sent: Friday, October 3, 2025 4:11 PM
To: City Clerk Mail Box
Subject: RED DOT Re: Introduction of an Ordinance to Amend Municipal Code Chapters 23.50 and 23/51 related to Trees, Scenic Views and Sunlight regulations)A23-001

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor Gaasterland Deputy Mayor Tracy Martinez council members Dan Quirk and John Spelich and City Manager Ashley Jones,

I am a 1943 native of Del Mar, and so lucky to have grown up on tree lined Stratford Ct. We even had a Woods, full of eucalyptus trees, just South of 4th street.

Our trees are what make Del Mar, Del Mar.

Trees Combat Climate change!
. Trees remove climate warming carbon dioxide and emit oxygen.
. Regulate Temperature
. Reduce Air Pollution
. Tree roots and canopies help slow water runoff, prevent erosion, improve water infiltration into the soil adding to water conservation and reducing flood risk.
. Reduce wind, noise and pollution from the train, and cars going through town.

I have a many Torrey Pines, a eucalyptus, and Italian Stone pine and several Cyprus in my yard, which keeps my house and yard at least 10 degrees cooler and comfortable, eliminating the need for an air conditioner.

On a hot day, do you choose to stand in the sun, or under the shade of a tree?

Thank you,
Alice McNally
1332 Stratford Ct.
Del Mar, CA 92014
858-342-3244

Leslie Carrillo

From: Kevin <kevnol2005@yahoo.com>
Sent: Friday, October 3, 2025 4:24 PM
To: City Clerk Mail Box
Subject: Del Mar TSVS Ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

The proposed amendments to the existing TSVS go too far. These proposed amendments will erode much of the privacy we have and deserve as neighbors. A broad code based reform is not necessary to solve the issues a few neighbors may have with each other. It is likely to be weaponized, leading to more disputes the city will have to resolve, rather than neighbors figuring it out on their own. The future litigation responsibilities should not be taken lightly as an unrecognized cost this city will bear.

Further, the ordinance goes to protect all views, versus primary views. This is also a rather broad and ambiguous, which may be the design of staff, but is also ripe for litigation.

This proposed ordinance appears to be crafted for the few at the expense of the rest. We hope you strongly oppose the ordinance and send a message to staff that this type of proposal falls well short of what should be brought in front of this council.

Kevin and Juliet Nolen
858-342-3895
Sent from Yahoo Mail for iPhone

Leslie Carrillo

From: Janet Wilson <janet@silverhook.com>
Sent: Friday, October 3, 2025 5:28 PM
To: City Clerk Mail Box; John Spelich; Tracy Martinez; Dan Quirk; Terry Gaasterland
Cc: Janet Wilson
Subject: Item 8 City Council Meeting - Sunshine & Shade Study Requirement
Attachments: SunshineArea.xlsx

Follow Up Flag: Follow up
Flag Status: Flagged

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Dear City Councilmembers,

Plentiful sunlight in a home contributes to its economic value and comfortable enjoyment. Sunlight surrounds us daily, shaping the quality of our life, supporting health, and sustaining gardens; therefore, I am very pleased to see the importance of Sunlight acknowledged in this rewrite.

By definition, Del Mar has always protected both direct *and* indirect Sunlight:

23.51.020 Definitions (X)

Sunlight shall mean the availability of direct and/or **indirect sunlight** to **a room or rooms**, or to the existing Solar Energy System of an Applicant's primary residence.

Application Requirements for Sunlight Obstruction

A Shade Study is a new requirement when submitting a Sunlight application:

23.51.040(A)(e):

Shade study demonstrating the amount and duration of the alleged Obstruction of Sunlight **from a PLA** ***(PLA should be changed to room or rooms?)***
or Solar Energy System (for Applications alleging Obstruction of Sunlight only);

Since no other "View" city requires a Shade Study, is entirely new territory. What exactly is a Shade Study?

A shade study, also known as a shadow study, is an analysis of how sunlight and shadows interact with a building or site at different times of the day and year. It helps architects, urban planners, and landscape designers understand how sunlight will affect a space, optimize building design, and ensure comfortable outdoor environments.

Requiring residents to provide technical studies, such as a shade study, places an **unreasonable burden on applicants.**

And most homeowners would never expect to document "before" conditions or hire consultants to prove a loss of Sunlight.

Across Del Mar, many have seen their Sunlight access disappear after a sudden growth spurt or diminish gradually over time with no practical recourse.
In that context, a 10-year look-back limit feels inequitable.

A fair approach would allow relief for any homeowner with demonstrably obstructed Sunlight (assuming no privacy issues).

Note: per this rewrite, a Sunlight application does not require a photograph (meaning a photograph is specifically for a Scenic View claim).

Findings for Sunlight Obstruction

23.51.060(C)(5)

The Applicant has provided an exhibit demonstrating the amount and duration of the Obstruction of Sunlight in a graphic format, such as a **shadow study**, as required by Section 23.51.040(A) of this Chapter;

23.51.060(C)(6)

Based on a review of the **photographic evidence** *(not required)* and exhibit submitted by the Applicant, the Subject Tree(s) cast(s) shadows greater than fifty percent (50%) of the total window glazing of a room or rooms within the Applicant's primary residence at any time between 10:00 a.m. and 2:00 p.m., Pacific Standard Time (PST);

On our overcast coastal days (May Gray and June Gloom), the diffused ambient light can be further diminished by tall trees and dense vegetation, leaving interiors noticeably darker. Overgrowth also degrades low-angle light in late afternoon and at sunset throughout the year. Excessive vegetation will filter light, negatively impacting daily livability and enjoyment, which is precisely what this ordinance aims to protect.

By definition, Del Mar protects both direct *and* indirect Sunlight and a Shade Study overlooks qualitative impacts, including how rooms actually feel and function. In cases without privacy concerns, a Reviewing Authority should be able to determine an unreasonable blockage of Sunlight without too much difficulty.

I hope these observations ensure that Sunlight access remains a clear, equitable, and enforceable right for every Del Mar resident.
Thank you for your continued attention to this important revision.

Janet Wilson
619.733.1428

Note: Sunlight should not be limited to existing Solar Energy Systems. If someone wants to install a new system and there are no alternative sitings, they should be allowed access to Sunlight (assuming there are no privacy issues).

Note: And why not expand to include patios and other outdoor entertainment areas (assuming there are no privacy issues).

Berkeley addresses Sunlight in their definition of Obstruction:

> "*Obstruction" means any substantial blocking or diminishment of a **view from a structure** lawfully used as a dwelling or **access to sunlight to the real property** which is attributable to the growth, maintenance or location of tree(s).*"

Perhaps Del Mar follows that lead to update the definition of Obstruction:

> *Obstruction shall mean any substantial blocking or diminishment of Scenic Views **from the Primary Living area** and/or **access to** Sunlight **to the real property** that is attributable to the growth, improper maintenance or location of a Tree or Vegetation.*

Del Mar	**Yes**	**(single)** portion	J.Primary Living Area shall mean that **(single) portion** of a residence from which a Scenic View is observed most often by the occupants and guests at the residence. The determination of Primary Living Area is to be made on a case-by case basis and **shall be consistent with any prior determinations made by the City.**	https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT23BUCO_CH23.51TRSCVISU_23.51.020DE	Sunlight shall mean the availability of direct or indirect Sunlight to the Primary Living Area or to the existing solar energy system of a residence.
Alameda County	**Yes**	**portion or portions of a residence**	1.The county recognizes that residents and property owners cherish their **outward views** from the Hayward Hills, and that they also cherish the benefits of plentiful **sunlight** reaching their buildings and yards. The county recognizes that both outward views and plentiful **sunlight** reaching property contribute greatly to the quality of life in the Fairview area, and promote the general welfare of the entire community. **"Sunlight"** means the availability of direct or indirect **sunlight** to the primary living area of a residence. Primary living area means the **portion or portions of a residence** from which a view is observed most often by the occupants relative to other portions of the residence	https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodeId=TIT6HESA_CH6.66VISUAIDI_6.66.020DE	"Sunlight" means the availability of direct or indirect sunlight to the primary living area of a residence.
Belvedere	**Yes**	**parcel of real property**	B. To prevent the diminution in enjoyment and value of private property caused by the growth of trees, shrubs or hedges that unreasonably obstruct the view from or sunlight reaching such property; I. "Unreasonable Obstruction" as used in this Chapter means an obstruction of a Preexisting View that impairs the economic value, use or comfortable enjoyment of a **parcel of real property** and ... F. Hedges—Height Limitations. No hedge, as defined in Section 8.28.020, shall be permitted to grow to a height exceeding the authorized height of fences as set forth in this Code, if in so doing such hedge interferes with the view from or sunlight reaching any parcel of private property in the City. (Ord. 98-8 § 1, 1998.)	https://belvedere.municipal.codes/Code/8.28.020	Not defined
Berkeley	**Yes**	**view from a structure** **access to sunlight to the real property**	6. "Obstruction" means any substantial blocking or diminishment of a **view from a structure** lawfully used as a dwelling or **access to sunlight to the real property** which is attributable to the growth, maintenance or location of tree(s).	https://berkeley.municipal.codes/BMC/12.45.020	Not defined
Clyde Hill WA	**Yes**	**areas** **which may include both interior and exterior spaces**	"Living and entertainment areas" means **areas** from which a view is observed most often by the occupants relative to other portions of the residence **which may include both interior and exterior spaces**. The determination of living and entertainment areas is to be made on a case-by-case basis by the hearing examiner following receipt of evidence from the complainant, but in any case shall not include bathrooms, hallways, garages, closets, and laundry rooms. That the view from or the sunlight reaching **living and entertainment areas** of the home is now unreasonably obstructed by a tree ...	https://www.codepublishing.com/WA/ClydeHill/#!/ClydeHill17/ClydeHill1738.html#17.38.020	Not defined
Contra Costa	**Yes**	**primary living areas** **or** **exterior deck attached to a residence**	View means a range of sight including pleasing vistas or scenes **from the primary living areas of a residence or from an exterior deck attached to a residence.**	https://library.municode.com/ca/contra_costa_county/codes/ordinance_code?nodeId=TIT8ZO_DIV816TR_CH816-2TROBVIOVCODI_816-2.208DE	Not defined
Corte Madera	**Yes**	**point(s)** **portion or portions**	15.50.160 - Standards for evaluation of claims. In determining the extent to which the complainant may exercise his/her view and/or sunlight rights otherwise established hereunder, the following factors shall be considered: (1)The vantage **point(s)** from which the view is obtained; (1)"Active use area" means the most frequently actively used portion or **portions** of a residential building or site, or nonresidential building, from which views and/or sunlight are available. (22)"Sunlight" means the availability of direct or indirect sunlight to the active use area of a building and/or property.	https://library.municode.com/ca/corte_madera/codes/municipal_code?nodeId=TIT15BUCO_CH15.50TR_IIIVISUPR_15.50.160STEVCL	In "TREES"ordinance (22)"Sunlight" means the availability of direct or indirect sunlight to the active use area of a building and/or property.
Hillsboro	**Yes**	**parcel of property**	No tree, grove, shrub or other vegetation shall be planted, maintained or permitted to grow upon any parcel of property in the town in such manner as to obstruct unreasonably the view from, or the sunlight reaching, any other adjoining **parcel of property**.	https://library.municode.com/ca/hillsborough/codes/code_of_ordinances?nodeId=TIT8HESA_CH8.28VOREDIRETRVI_8.28.020UNOBPREFCETE	Not defined
Kensington	**Yes**	**primary living areas** **or** **exterior deck attached to a residence**	View means a range of sight including pleasing vistas or scenes from the **primary living areas** of a residence **or from an exterior deck attached to a residence.**	https://library.municode.com/ca/contra_costa_county/codes/ordinance_code?nodeId=TIT8ZO_DIV816TR_CH816-2TROBVIOVCODI_816-2.208DE	Not defined
Laguna Beach	**Yes**	**viewing locations or areas**	The city council recognizes that residents, property owners and businesses cherish their outward views, and that they also cherish the benefits of plentiful sunlight reaching their buildings and yards. Pre-existing views means one or more visual scenes from selected **viewing locations or areas** that are not significantly impaired by vegetation and that existed on or after either the date of acquisition of the claimant's property or November 4, 2003 (the effective date of Ordinance No. 1430 relating to view preservation), whichever is earlier.	https://ecode360.com/42893181	Not defined
Los Altos Hills	**Yes**	**portion or portions of a residence**	The Town recognizes that residents cherish their outward views from the hills, and that they also cherish the benefits of plentiful sunlight reaching their buildings and yards. Primary living area means the portion or **portions of a residence** from which a view is observed most often by the occupants relative to other portions of the residence The determination of primary living area is to be made on a case-by-case basis. Landscape screening means a method by which trees and vegetation are planted in order to separate and partially obstruct the view of adjacent and nearby structures and properties from one another. Landscape screening shall generally not exceed the height of the ridgeline of the primary structure.	https://ecode360.com/43815153	Sunlight means the availability of direct or indirect sunlight to the primary living area of a residence.

Martinez	**Yes**	**those portions of a residence** **primarily living areas**	G."Primary living **areas**" are those **portions** of a residence from which observed<u>most often by the occupants relative to other portions of the residence</u> Primary living areas **include decks or other permanent, human-made structures** (1) immediately adjacent to the main residence and (2) occupied or regularly used by the occupants of the main residence. The determination of primarily living areas is made on a case-by-case basis; R."Unreasonable obstruction" means the obstruction of a view or sunlight, or both, which is determined to be unreasonable applying the criteria set forth in Section 8.13.040. An unreasonable obstruction shall be further defined as an impairment, diminution, obscuring, interference and/or blocking of a view from or sunlight to a primary living area which, when analyzed using the criteria set forth in Section 8.13.040, is determined to (1) materially and adversely affect said views and/or sunlight and (2) so affect views and/or sunlight which have a character or quality which outweighs the benefits derived by the tree(s) which are causing the obstruction;	https://librarystage.municode.com/ca/martinez/codes/code_of_ordinances?nodeId=COOR_TIT8HESA_CH8.13VISUPR_8.13.020DE	Not defined
Orinda	Yes	**<u>the portion</u>** of a residence	outward views from their properties and the benefits of plentiful sunlight reaching their buildings and yards "Sunlight" means the availability of direct or indirect sunlight to the primary living area of a residence. Primary living area means the portion of a residence from which a view is observed<u>most often by the occupants relative to other portions of the residence</u> The determination of primary living area is made on a case-by-case basis. No person may maintain a tree which unreasonably obstructs the view from, or sunlight reaching, the primary living area or active use area of any other parcel of property within the city.	https://library.municode.com/ca/orinda/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.22VIPR_17.22.4DE	"Sunlight" means the availability of direct or indirect sunlight to the primary living area of a residence.
Rolling Hills Estates	**Yes**	**<u>one</u>** common interior or exterior space Properties which have more than one unique or different view shall be permitted to apply for preservation or restoration of **<u>one</u>** additional view	"Sunlight" means the availability or access to light from the sun across property lines. In addition, a view seeker may only seek to preserve or restore a **view** from **one common interior or exterior space** used by the view seeker, including but not limited to, the living, family, and dining rooms, rooms that have features such as picture windows, sliding glass doors, and French doors, and common exterior areas such as patios, balconies, decks, pool areas, and gazebos designed to take advantage of views.**Properties which have more than one unique or different view shall be permitted to apply for preservation or restoration of one additional view.**	https://library.municode.com/ca/rolling_hills_estates/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.55VIPR_17.55.040VIEQCLLI	"Sunlight" means the availability or access to light from the sun across property lines.
San Francisco	**Yes**	**available to the garden or home**	A complaining party who believes in good faith that the growth, maintenance or location of a tree on the private property of a tree owner diminishes the beneficial use or economic value of his or he**property** because the tree interferes with the access to sunlight or views naturally accruing to the property, shall notify the tree owner in writing of these concerns. (2) The extent to which the tree diminishes the amount of sunlight available to the garden or home of the complaining party.	https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_publicworks/0-0-0-4303	
Santa Barbara	**Yes**	**real property** **point(s)**	Complainant. Any property owner, group of property owners (or an authorized agent thereof) who allege that tree(s)/vegetation located within the immediate vicinity of their property as set forth in Section 22.76.040 is causing unreasonable obstruction of the view or blocking the sunlight benefiting the**real property** of the Complainant. The vantage **point(s)** in the Complainant's home from which the view or sunlight is obtained or received;	https://ecode360.com/44108725	Sunlight. The availability or access to light from the sun across property lines.
Sausalito	**Yes**	**primary living areas** **property**	V. "View" means a vista of San Francisco-Richardson Bay, neighboring communities, surrounding hills or a nearby or distant wooded area from the**primary living areas** of the home. A. Unreasonable Obstruction of View or Sunlight Prohibited. A tree, shrub, hedge, or other vegetation shall not be maintained in such manner as to unreasonably obstruct the view from**or the sunlight reaching other property.**	https://www.codepublishing.com/CA/Sausalito/html/Sausalito11/Sausalito1112.html	Not defined
Tiburon	**Yes**	**portion or portions**	"Sunlight" means the availability of direct or indirect sunlight to the primary living area of a residence. "Primary living area" means the portion or **portions** of a residence from which a view is observed<u>most often by the occupants relative to other portions of the residence</u> The determination of primary living area is to be made on a case-by-case basis. cherish their outward views from the Tiburon Peninsula, and that they also cherish the benefits of plentiful sunlight reaching their buildings and yards.	https://library.municode.com/ca/tiburon/codes/code_of_ordinances?nodeId=TITIVLAIMUS_CH15VISUOBTR_15-2DE	"Sunlight" means the availability of direct or indirect sunlight to the primary living area of a residence.
Ventura County	**Yes**	**benefiting the real property**	J. COMPLAINANT. Any property owner, group of property owners (or an authorized agent thereof) who allege that tree(s)/vegetation located within the immediate vicinity of their property as set forth in Section 8.900.040 is causing unreasonable obstruction of the view or blocking the sunlight benefiting the**real property** of the Complainant.	https://www.cityofventura.ca.gov/DocumentCenter/View/7484/2014-002-View-Dispute-Ordinance	SUNLIGHT. The availability or access to light from the sun across property lines.
Beverly Hills	NO	**There may be one or more viewing areas** **areas**	VIEWING AREA: An area from which a protectable view is assessed, located on the level pad that contains the primary residential structure. A viewing area shall be a**room** of the primary residential structure (excluding hallways, laundry rooms, closets and garages), o**r a patio, deck or landscaped area adjacent to the primary residential structure** that does not extend beyond the level pad.**There may be one or more viewing areas on a property**. The reviewing authority shall establish the viewing area or**areas** as part of its finding that the view owner has a protectable view. The reviewing authority may designate a location as a viewing area if, in the opinion of the reviewing authority, an average resident would often observe a protectable view from that area. (Ord. 11-O-2616, eff. 1-6-2012)	https://codelibrary.amlegal.com/codes/beverlyhillsca/latest/beverlyhills_ca/0-0-0-20406	NO SUNLIGHT PROTECTION
Culver City	NO	**the portion or portions**	PRIMARY LIVING AREA. The portion or **portions** of a residence from which a view is observed<u>most often by the occupants relative to other portions of the residence</u> The determination of PRIMARY LIVING AREA is to be made on a case-by-case basis.	https://codelibrary.amlegal.com/codes/culvercity/latest/culvercity_ca/0-0-0-7539	NO SUNLIGHT PROTECTION

El Cerrito	NO	**the portion or portions**	Primary living area means the portion or **portions** of the primary residence structure from which a view is observed. The determination of primary living area is to be made on a case-by-case basis, by mutual agreement or by a mediator, arbitrator or judge.	https://library.municode.com/ca/el_cerrito/codes/code_of_ordinances?nodeId=TIT10PUPEMOWE_CH10.90OBVITRPRPR_10.90.130DE	NO SUNLIGHT PROTECTION
Malibu	No	only **one** primary view area	"Primary view area" means that **portion** of a residence within the Malibu Country Estates subdivision (excluding bathrooms, closets, garages and hallways) from which the primary view is observed. A property shall have **only one primary view area.**	https://ecode360.com/44338396	NO SUNLIGHT PROTECTION
Oakland	NO	**property**	A.Initial Reconciliation. A claimant who believes in good faith that the growth, maintenance, or location of trees situated on the property of another diminishes the beneficial use, economic value and enjoyment of views naturally accruing to the claimant's **property** may notify the tree owner in writing of such concerns.	https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT15BUCO_CH15.52VI_15.52.090PR	NO SUNLIGHT PROTECTION
Rancho Palos Verdes	NO	**area of a structure or that area of a lot**	15.Viewing area means that **area of a structure** (excluding bathrooms, hallways, garages or closets) **or that area of a lot** (excluding the setback areas) where the owner and city determine the best and most important view exists. In structures, the finished floor elevation of any viewing area must be at or above existing grade adjacent to the exterior wall of the part of the building nearest to said viewing area.	https://library.municode.com/ca/rancho_palos_verdes/codes/code_of_ordinances?nodeId=TIT17ZO_ARTIREDI_CH17.02SIMIRERSDI_17.02.040VIPRRE	NO SUNLIGHT PROTECTION
Solana Beach	NO	**area of the structure or lot** **best and most important view exists**	I. "Viewing area" shall be that **area** of the **structure** (excluding bathrooms, hallways, garages or closets) **or lot** (excluding the building setback areas) where the view assessment committee, or the city council on appeal, determines the **best and most important view exists**.	https://www.codepublishing.com/CA/SolanaBeach/html/SolanaBeach17/SolanaBeach1763.html	NO SUNLIGHT PROTECTION
Torrance	No (defines Sunlight not referenced)	**one** common interior or developed exterior space	A "view" shall be limited to **one common interior** or **developed exterior space** used by the view seeker, including but not limited to the living, family, and dining rooms, bedrooms, rooms that have features such as picture windows, sliding glass doors, and French doors, and common exterior areas such as patios, balconies, decks, pool areas, and gazebos designed to take advantage of views.	https://www.codepublishing.com/CA/Torrance/html/Torrance09/Torrance0902.html#92.41	NO SUNLIGHT PROTECTION
Westlake Village	No	only **one** primary view area	"Primary view area" means that portion of a residence or nonresidential building (excluding bathrooms, closets, garages and hallways) from which the best view is observed by the occupants. A property shall have **only one primary view area**.	https://library.municode.com/ca/westlake_village/codes/code_of_ordinances?nodeId=ART4PUPE_CH4.11VIPR_4.11.030DE	NO SUNLIGHT PROTECTION

Leslie Carrillo

From: Susan Schneider <scs416@outlook.com>
Sent: Saturday, October 4, 2025 7:31 AM
To: City Clerk Mail Box
Subject: Re: TSVS Ordinance changes

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

As 35-year residents of Olde Del Mar, we have seen many changes, both good and bad, in our beautiful community.

But it has mostly retained its charm and uniqueness by preserving the incredible natural beauty around us.

And, we have always been focused on the creatures we share our paradise with- ocean life, birds, bees, rabbits, butterflies and more.

Why in heaven's name would we put buildings' views as a priority over all our gorgeous greenery and the habitats and beauty they provide?

We are a community of environmentalists, not developers, aren't we? Do we want to look like Carmel Valley? Will we change what attracts people here in the first place?

A hard no on the changes to the TSVS Ordinance. We have enough ways for neighbors to compromise.

Susan & Mark Schneider
Luneta Drive

Leslie Carrillo

From: Payson Stevens <payson.stevens@gmail.com>
Sent: Monday, October 6, 2025 8:15 AM
To: City Clerk Mail Box; Terry Gaasterland; Tracy Martinez; Dan Quirk; John Spelich
Subject: RED DOT LETTER: Tree ordinance and Scenic Views

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To the Honorable Mayor and Members of the Del Mar City Council,

Subject: Support for TSVS Ordinance (A25-001) with Essential Inclusion of Property Privacy

Dear Mayor and Council Members:

My wife and I have been Del Mar homeowners and residents for many decades and appreciate the need for balanced ordinances on views.

In general, we support the goals of the updated Trees, Scenic Views, and Sunlight (TSVS) Ordinance. Your recognition that views, sunlight, and a healthy urban forest contribute to Del Mar's quality of life and economic value is appreciated.

However, we urge you to explicitly and equally protect property privacy within the final ordinance.

As the findings already note, trees and vegetation provide crucial **visual and auditory privacy** for residents. This landscaping often serves as the only essential barrier protecting our private living areas from direct view by neighbors or public spaces.

The current focus on view restoration must not inadvertently force residents to sacrifice this necessary privacy. Without a dedicated standard in DMMC Chapter 23.51, view restoration for one property may result in the complete and/or unreasonable loss of privacy for another.

We all know how views can become contentious issues and create conflicts between neighbors and this privacy protection based on vegetation and trees must be included.

Another important omission is protection against impacts from neighboring jurisdictions. Del Mar residents living below **San Diego's Del Mar Heights** face an acute regulatory imbalance: we are held to strict local controls, yet **San Diego's zoning** permits denser, taller development directly above us, compromising our protected views and privacy without recourse. Our City Council must proactively bridge this gap. We urge the Council to implement **inter-jurisdictional agreements or**

formal advocacy mechanisms to ensure Del Mar citizens' protected rights are respected by San Diego's development policies, preventing unilateral harm to our community's comfortable enjoyment and property value.

We therefore respectfully request that the final ordinance include clear provisions to:

1. **Protect Property Privacy:** Formally recognize and protect property privacy as an interest that must be weighed equally with view restoration during any TSVS review.
2. **Ensure Balanced Resolution:** Require a balancing test in dispute resolution, ensuring view restoration for one property does not unreasonably compromise the established, reasonable privacy of the property providing the vegetation.
3. **Address External Zoning Impacts:** Implement **inter-jurisdictional agreements or formal advocacy mechanisms** to protect Del Mar citizens' views and privacy rights from adverse development policies in neighboring jurisdictions like San Diego's Del Mar Heights.

Including privacy as an explicit element will ensure a fair and holistic regulatory framework for all Del Mar residents.

Thank you for your consideration.

Please confirm the receipt of this email and include it in your upcoming/October deliberations on **TSVS Ordinance (A25-001).**

Sincerely,
Payson R. Stevens
Kamla K. Kapur

Leslie Carrillo

From: Ann Dempsey <anntdempsey@gmail.com>
Sent: Monday, October 6, 2025 10:11 AM
To: City Clerk Mail Box
Subject: Item 8 - Changes to Del Mar Tree Ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

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Item 8 on Agenda for meeting on October 6, 2025

To the Members of Del Mar City Council

I urge you to reject the changes to the current Del Mar Tree Ordinance. The Torrey Pines are Del Mar's treasure.

Ann Dempsey
owner of 1250 Crest Road

Leslie Carrillo

From: ulla rang <ullarang@gmail.com>
Sent: Monday, October 6, 2025 5:18 PM
To: City Clerk Mail Box
Subject: TSVS amendment, Oct 20 City Council meeting

Follow Up Flag: Follow up
Flag Status: Flagged

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Dear CIty Council,

I support the red dots of Michael Deftos and Janet Wilson.

Also the letter by Ally MacNally has to be taken into consideration. Magnificent, old trees should not lightly be taken down for someone's slight convenience without it for example disturbing sewage (roots), breaking up foundations or having grown out of proportions and now hinder access to garages etc. An absolutely beautiful tree was just taken down in the south/east corner of 10th and Stratford. Everyone loved that magnificent tree, including the neighborhood owl who sat there every night, calling us with its hooing nightly, reminding us of the beautiful earth we are living on. I cried the day I came home and that tree was gone. Who could do such a thing? That tree bothered nobody, nobody! No one's view was restored, no one's sewage worked better or no one's access to anywhere became better. To remove that tree was an abomination and I wish that whoever that removed that tree would have had to apply for permission and see if there was a different solution to whatever the problem that tree could have caused.

I am however one hundred percent behind ruling against people planting 60-80 foot tall protected trees around their property for their own highly unnecessary 60 foot privacy tree wall, taking every neighbor's view. That is just shameful and should not be allowed.

At the same time, I'm a little taken aback by the suggestion that a regular hedge can only be 6 foot tall. Are people now supposed to cut down their gorgeous hedges that again is bothering no one and have been there for decades? That is just ridiculous. Especially now with the ADU's that doesn't have to follow the same setback as regular homes, a hedge is the only way to protect your backyard from being the window entertainment for the ADU that now is looming over your backyard. If I understand things correctly, this suggested mandatory hedge height is not going into this amendment, and I hope it never will.

Thank you for all that you are doing.

SIncerely,

Camilla Rang

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Jean Crutchfield, Associate Planner
Karen Brindley, Planning and Community Development Director
Via Ashley Jones, City Manager

DATE: October 20, 2025

SUBJECT: Initial Consideration of an Appeal of the Planning Commission's Approval of Setback Seawall Permit (SSP25-002)

Project Applicant/Property Owner: Oceans Investments LLC

Project Appellant: Steven Mack

Project Location: 2936 Camino Del Mar (APN: 299-020-12-00)

REQUESTED ACTION/ RECOMMENDATION

Staff recommends that the City Council uphold the Planning Commission's approval of application Setback Seawall Permit (SSP25-002) and not set the appeal for a de novo hearing.

EXECUTIVE SUMMARY

This is an initial consideration hearing pursuant to Del Mar Municipal Code (DMMC) Section 1.12.040 to determine whether to set the subject appeal for a de novo public hearing.

On August 12, 2025, the Planning Commission (PC) conditionally approved application SSP25-002 submitted by Oceans Investments LLC ("Applicant") to remove an existing nonconforming seawall, rock revetment (rip rap) and wooden stairs and construct a new seawall designed and located in conformance with standards of DMMC Chapter 30.50 Beach Overlay Zone and the City of Del Mar Local Coastal Program (LCP) at 2936 Camino Del Mar in the R1-5 Beach Zone.

The new seawall would span the full width of the property (total length of 80-feet) and would align with the landward (easterly) side of the Shoreline Protection Area (SPA) line. The new seawall would not encroach into the SPA (which is the area generally known as the public beach), and therefore, the project does not require mitigation or payment of a user fee.

City Council Action:

The project scope includes removing improvements that are nonconforming with respect to the Beach Overlay Zone and Local Coastal Program requirements for shoreline protective devices. The removal of existing improvements would return approximately 1,000 square feet of sandy beach for public recreation opportunities in the area that is currently encumbered by private improvements.

On August 26, 2025, Julie Hamilton, representative for Steven Mack ("Appellant), the neighbor to the south at 2932 Camino Del Mar, filed an appeal of the PC's decision (Attachment A). The Appellant's concern is with the vibration impacts caused from the pile driving construction activities which they fear might result in damage to their property.

This concern was also raised at the PC meeting on August 12, 2025, by Ms. Hamilton on behalf of Mr. Mack, at which time they requested that the PC impose a condition that would require the Applicant to post a surety bond to be used should Mr. Mack's home become damaged from the construction of this seawall.

After hearing extensive testimony from the applicant and public, the PC's approval did not include a special condition requiring the Applicant to obtain a surety bond to cover any damage to the Appellant's property. Should there be allegations of property damage, that would be a private matter between the parties and not a municipal matter. As such, it is staff's determination that: 1) the PC thoroughly reviewed and considered the application in accordance with the DMMC and the Local Coastal Program; 2) the appeal does not warrant a de novo hearing; and 3) the City Council should uphold the PC's approval of the application.

BACKGROUND

On August 12, 2025, the PC conducted a public hearing to consider the Applicant's request to remove existing nonconforming seawall, rip rap and wooden stairs and construct a new seawall designed and located in conformance with standards of the Beach Overlay Zone and the City of Del Mar Local Coastal Program (LCP) at 2936 Camino Del Mar in the R1-5 Beach Zone.

The proposed seawall is designed as a vertical sheet-pile wall with reinforced concrete cap. The steel sheet-pile would extend down to an elevation, along its vertical face, of -24.2 feet NGVD (National Geodetic Vertical Datum). The concrete cap is a structural feature of the wall and supports the sheet-pile. The cap would extend down to an elevation of +3.8 feet NGVD. The top of the concrete cap would be +14.8 feet NGVD. For reference, the 29th Street elevation is at approximately +12 feet NGVD. Typically, during normal summer beach profiles, the only portion of the wall visible would be the concrete cap.

The new seawall would include an engineered cut-out with concrete steps at the northern end to allow the property owner beach access from their patio deck. A movable

barrier (stop log) would allow the access to be closed off during storm events and protect the property. To the north, the applicant's proposed seawall would connect to the existing BPI-compliant seawall at 2938 Sandy Lane. To the south, the seawall would include a 10'6" return wall to provide flank protection of the Appellant's property at 2932 Camino Del Mar, which does not have a BPI-compliant seawall.

During the public hearing, the PC received public testimony from the Applicant's representatives, project engineer Walter Crampton, and legal counsel Lee Andelin. Julie Hamilton, representative for the southerly abutting property owner Steven Mack, raised concerns about the potential for damage to Mr. Mack's property from vibration impacts caused by the pile driving construction activities. In response, Mr. Crampton discussed his experience with designing most of the code compliant seawalls in Del Mar since the mid-1980's, concluding that using state-of-the-art pile driving equipment would minimize vibration and it is unlikely that damage to adjoining structures would occur.

Following the close of the public hearing, the PC deliberated on the project's consistency with the standards of the Del Mar Municipal Code (DMMC Chapter 30.51 Setback Seawall Permit) and the City's Local Coastal Program. The PC also discussed whether a condition to require a surety bond should be included in the project approval. Based on guidance provided by the City Attorney's office during the meeting explaining that the issues raised by Mr. Mack's representative would be a private matter between the applicant and their neighbor, the Planning Commission did not address the concerns as a condition for issuance of a seawall permit.

Following deliberations, the PC voted 4-0-1 (4 approved, 1 absent) to approve Setback Seawall Permit SSP25-002 with staff's recommended conditions in the Resolution, Attachment B.

The staff report for the August 12, 2025, PC meeting with more information and analysis is included as Attachment C. The "red dot" correspondence from the Appellant for the PC hearing is included. The meeting video for the August 12, 2025 hearing can be found here: Del Mar, CA | Planning Commission Meeting - 8/12/2025

APPEAL

Pursuant to DMMC Chapter 1.12, an interested person may file an appeal with the City Clerk within ten working days following the determination for which a review is sought. DMMC 1.12.020(B) identifies the following Grounds for Appeal:

1. **Factual Error**. The statements or evidence relied upon by the decision maker when approving, conditionally approving or denying a permit, map, or other matter were inaccurate.

2. **New Information**. New information is available to the applicant or the interested person that was not available through reasonable efforts or due diligence at the time of the decision.

3. **Findings Not Supported**. The decision maker's stated findings to approve, conditionally approve, or deny the permit, map or other matter are not supported by the information provided to the decision maker.

4. **Conflicts**. The decision to approve, conditionally approve, or deny the permit is in conflict with a land use plan, a City policy, or the Municipal Code.

In the documents submitted by the Appellant on August 26, 2025 (Attachment A – Appeal Request), the Appellant contends that the PC's approval of application SSP25-002 contains "findings not supported" and should be heard as a de novo ("new") hearing by the City Council. Below is the Appellant's reason for appeal (shown in bold text) followed by staff's response and the Applicant's response (Attachment D):

Appeal Point 1: Planning Commission's Findings for DMMC § 30.51.040 Not Supported By Information Provided to the Decision Maker

The Appellant contends that the grounds to appeal the Planning Commission's findings to approve the Application are not supported by the information provided to the PC. The Appellant contends that DMMC Section 30.51.040 "requires the Planning Commission find the proposed seawall will neither create nor contribute significantly to the destruction of the site or surrounding area."

Ms. Hamilton stated in the appeal request (and at the PC meeting) that Mr. Mack has hired a firm to conduct a comprehensive pre-construction inspection as well as vibration and movement monitoring throughout construction. Ms. Hamilton also referenced damage to the floors and windows of Mr. Mack's residence, which they believe was caused by the seawall construction at 2920 Camino del Mar (Naftzger). She stated that without a condition on measures to protect Mr. Mack's property from damage, there is no assurance that the project would neither create nor contribute to the destruction of Mr. Mack's property and therefore the PC cannot make the findings required in DMMC 30.51.040.

STAFF RESPONSE TO APPEAL:
Although Appellant claims the grounds for appeal include "findings not supported," the Appeal lacks sufficient information, documentation or arguments to demonstrate how the PC's findings were not supported by the information provided.

In their appeal, the Appellant did not cite the full code as is provided below:

Setback Seawall Permit DMMC Section 30.51.040 – C. (Criteria for Approval)
"Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs."

The Applicant's civil engineer submitted construction plans and a Geotechnical/Coastal Engineering Report for the proposed seawall design. The justifications for the location, height and design of the seawall are fully analyzed in the Geotechnical Report prepared for the proposal, which discusses the geotechnical, coastal engineering and design parameters for the project (Exhibit B in PC staff report).

The Project plans and Geotechnical Reports have been reviewed by the City's consulting geotechnical engineers and determined to be technically acceptable. The design is found to comply with Chapters 30.50 and 30.51, the Program EIR for the Beach Preservation Initiative and the City's certified Local Coastal Program, specifically that the design of the proposed seawall, effectively protect the subject property and would not contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The subject property is not located near natural landforms along bluffs and cliffs.

The Appellant has not provided evidence to substantiate the alleged damage to their property related to the seawall construction at 2920 Camino Del Mar (Naftzger) and has acknowledged that project used different and inferior construction equipment than what is proposed for the Applicant's project. Regardless, private property damage related to another project is a civil matter and should not be taken into consideration or addressed by the City as part of the review and approval for the Applicant's project.

The project is a standard seawall project consistent with the requirements of the Beach Overlay Zone, Beach Preservation Initiative, and Del Mar's certified Local Coastal Program. The Planning Commission approval includes standard project conditions for a seawall project. Further, DMMC 30.51.040 (1) requires an indemnity agreement which is included as Condition S-7 in the Planning Commission Resolution of approval.

PROJECT APPLICANT'S RESPONSE TO APPEAL:
The Applicant's legal counsel, Lee Andelin, has submitted a response to the appeal, which has been included as Attachment D to this report. In summary, Mr. Andelin contends that the Planning Commission's findings for DMMC 30.51.040 (C) correctly recites the evidence in support of the finding, which states: "The proposed seawall has been designed using contemporary standards and methods of engineering in accordance the design and location requirements of Chapters 30.50 and 30.51 of the Del Mar Municipal Code. Submitted analysis from a qualified civil engineer (and reviewed and verified by expert third party) specifically confirms that the design of the proposed seawall, effectively protect the subject property and would not contribute

significantly to erosion, geologic instability, or destruction of the site or surrounding area…." Mr. Andelin also contends that the proposed seawall is based on the City's standard seawall design that has been implemented without incident all along the City's coastline. Further, he contends that the Appellant has not provided sufficient evidence to substantiate the alleged damage from another project, and that other projects using the same high-grade equipment planned for the Applicant's project have been successfully completed in the surrounding area without reports of damage.

NEXT STEPS

The City's appeal process is a two-step process. Pursuant to DMMC Section 1.12.040, the first step is an Initial Consideration during which the City Council shall consider the written appeal document, any written response from the applicant(s), the City response, any testimony received, and the record from the public hearing that is the subject of the appeal. In addition, both the Appellant and the Applicant may each have up to three minutes for oral comments. No rebuttal arguments will be heard.

The decision for which the appeal has been made will be deemed affirmed unless two (2) or more members of the City Council vote to hear the matter. If two (2) or more City Councilmembers vote to hear the matter, then the project will be set for a de novo hearing by the City Council and the determination by the PC shall be advisory only.

CONCLUSION

It is staff's recommendation that the concerns cited within the appeal have been addressed to the greatest extent feasible by the PC. In rendering its determination, the PC considered standards enumerated in the Del Mar Municipal Code, Del Mar's certified Local Coastal Program, staff's report, site visits to the Applicant's and Appellant's property, submitted materials, and testimony (written and oral) from the Applicant and Appellant.

Based upon facts in the record, staff recommends that the City Council uphold the PC's action to approve application SSP25-002 and not set the appeal for a de novo hearing.

FISCAL IMPACT

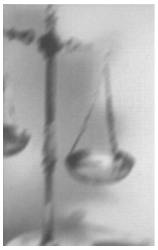
There is no fiscal impact or action to be taken by the City Council related to this agenda item, as this is a private development application. The Appellant has paid all fees associated with the appeal.

ATTACHMENTS:

Attachment A- Appellant's Appeal Request
Attachment B- Planning Commission Resolution
Attachment C- August 12, 2025 PC Staff Report with Red Dot Correspondence
Attachment D- Applicant's Response to Appellant's Appeal Request

RECEIVED
By Skrietor at 1:48 pm, 8/26/25

ATTACHMENT A



The Law Office of
Julie M. Hamilton

August 26, 2025

City Clerk
City of Del Mar
1050 Camino Del Mar
Del Mar, CA 92014

RE: Appeal of Setback Seawall Permit, SSP 25-002
2936 Camino Del Mar (Revised)

Dear Madam Clerk:

On behalf of my client Steve Mack, I am appealing the Planning Commission approval of the above setback seawall permit on August 12, 2025. Mr. Mack owns the home at 2932 Camino Del Mar which is located immediately to the south of the proposed seawall, his phone number is [redacted]. Mr. Mack is appealing the Planning Commission approval because the findings are not supported by the information provided to the decision maker.

Del Mar Municipal Code §30.51.040 requires the Planning Commission find the proposed seawall will neither create nor contribute significantly to destruction of the site or surrounding area. Mr. Mack's home was designed by architect Sim Bruce Richards, a student of Frank Lloyd Wright. The home is organic in that it is characterized by soaring spaces and glass expanses. The walls are redwood, cedar, stained glass and brick. The floors are wood blocks of varying woods. Due to the unique materials and methods of construction, this home is particularly sensitive to vibrations and movement. The home suffered significant damage during the construction of the seawall at 2920 Camino Del Mar – which has since been repaired.

Although Mr. Mack is not opposed to the concept of a seawall construction in general, it is critical that any approval be conditioned on measures to protect the adjacent property from damage. Without this protection there is no assurance construction of the seawall at 2936 Camino Del Mar will neither create nor contribute to destruction of Mr. Mack's property.

501 W. Broadway, Suite 800 San Diego, CA 92101 Ph: 619.278.0701 Fx: 619.278.0705
www.jmhamiltonlaw.com

Thank you for your consideration of this appeal.

Regards,

Julie M. Hamilton
Attorney for Steve Mack

Enclosures

Setback Seawall Permit 2936 Camino Del Mar

Concerns of Steve Mack

2932 Camino Del Mar

Del Mar Municipal Code Section 30.51

- 30.51.040 Criteria for Approval
- C. Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs.

- 2932 is a unique home designed by Sim Bruce Richards; a student of Frank Lloyd Wright
- Due to the construction methods and materials used in the home design, the construction of a seawall on the adjoining property may cause significant damage.
- Construction of the seawall at 2920 Camino Del Mar caused significant damage to Mr. Mack's home requiring substantial remediation.

Sim Bruce Richards

Sim Bruce Richards was discovered by Frank Lloyd Wright through his early abstract rug designs while attending UC Berkeley (1930-34)15. Upon an invitation from Mr. Wright, impressed by Bruce's early work, Richards worked directly for Wright in the Taliesin Fellowship between 1934-3516. Bruce moved to San Diego in 1938 and drafted for the 11th Naval District and later William Templeton Johnson15. Following a brief stint with architect Harold Abrams (1946)15, Bruce began a multi-decade career designing some of the finest hand-crafted residences that followed Wright's principles of organic architecture [Among them: Siting a project in the manner the site dictated; using organic and even native materials to the site and surrounding areas; and incorporating plenty of natural light with a project designed at a "human" scale].

- Midcentury modern-inspired post and beam construction.
- Characterized by soaring spaces and glass expanses that bring the outdoors in.
- Redwood, walls of cedar, stained glass, stone and brick

The wood block floors of varying woods are particularly susceptible to damage and require a craftsman to repair.

Damage to Surrounding Area

- The home at 2932 Camino Del Mar, designed by noted architect Sim Bruce Richards, is a unique example of organic architecture and is constructed with materials and methods that make it particularly sensitive to vibrations and movement. During the construction of a previous seawall at 2920 Camino Del Mar, Mr. Mack's home experienced significant damage, including flooring and window seal failures, which required extensive repairs by specialized craftsmen.
- While Mr. Mack is not opposed to the concept of seawall construction in general, it is critical that any approval be conditioned on measures to protect adjacent properties from damage.
- Mr. Mack has retained the firm of Josephson and Werdowatz to conduct a comprehensive pre-construction inspection as well as vibration and movement monitoring throughout construction.

Liability

- Mr. Mack is asking for a surety to cover the cost of any damage to his home and provide for alternate accommodations during repairs/
- The applicant has indicated a willingness to come to an agreement; but parties have not had the time to develop a special condition or agreement that will address the problem.
- It is incumbent upon the City to require the project is completed in a manner that does not damage or destroy the surrounding area, including Mr. Mack's home at 2932 Camino Del Mar.

ATTACHMENT B

RESOLUTION NO. PC 2025-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DEL MAR CERTIFYING AN ADDENDUM TO A PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 88092919) AND APPROVING SETBACK SEAWALL PERMIT SSP25-002 TO REMOVE EXISTING SEAWALL AND ROCK REVETMENT (RIP RAP) LOCATED WITHIN THE SHORELINE PROTECTION AREA AND TO CONSTRUCT A NEW 80-FOOT-LONG SEAWALL DESIGNED AND LOCATED EAST OF THE SHORELINE PROTECTION AREA LINE IN CONFORMANCE WITH STANDARDS OF THE BEACH OVERLAY ZONE AND THE CITY OF DEL MAR LOCAL COASTAL PROGRAM, AND CONCUR WITH THE APPLICANT'S REQUEST TO CONSOLIDATE THE REQUIRED COASTAL DEVELOPMENT PERMIT FOR PROCESSING AND APPROVAL BY THE CALIFORNIA COASTAL COMMISSION FOR PROPERTY LOCATED AT 2936 CAMINO DEL MAR, DEL MAR, CALIFORNIA

WHEREAS, Oceans Investments, LLC (APPLICANT) is the owner of real property commonly referred to as 2936 Camino Del Mar (APN: 299-020-12-00) (PROPERTY); and

WHEREAS, the Applicant filed verified application for a Setback Seawall Permit SSP25-002 (PROJECT) to remove existing shoreline protective devices consisting of a seawall and rock revetment located within the Shoreline Protection Area and construct a new vertical sheet-pile seawall approximately 80-feet long to be located easterly of the Shoreline Protection Area (SPA) line, adjacent to 2936 Camino Del Mar; and

WHEREAS, said verified application constitute a request as provided by Title 30 of the Del Mar Municipal Code (DMMC); and

WHEREAS, a Coastal Development Permit from the City of Del Mar and the California Coastal Commission is required for the project and the Applicant has requested to consolidate the permit processing with the California Coastal Commission; and

WHEREAS, a Program Environmental Impact Report for the Beach Preservation Initiative was certified by Resolution 89-56 by the City Council of the City of Del Mar following circulation to the public, responsible agencies, and other interested persons for their review and comment as required by the California Environmental Quality Act (CEQA); and

WHEREAS, since the time of the original certification of the Program Environmental Report, the City of Del Mar received development applications (Shoreline Protection Permit and Setback Seawall Permit) to remove existing shoreline protective devices located on beachfront properties and construct a new BPI compliant seawall; and

WHEREAS, an Addendum to the Program Environmental Impact Report, dated July 29, 2025, and prepared for the City of Del Mar by RECON Environmental Inc., has been prepared in accordance with applicable law, including the CEQA, Public Resources Code of Regulations

section 21000 et seq., and the CEQA Guidelines, 14 California Code of Regulations section 15000 et seq.; and

WHEREAS, the Addendum to the Program Environmental Report determined that the proposed changes to remove existing shoreline protective devices and construct a new seawall on the PROPERTY would not result in any new significant impacts or substantially change the severity of the impacts from the adopted Program Environmental Impact Report, and no new mitigation is required; and

WHEREAS, on July 23, 2025, the Design Review Board of the City of Del Mar, serving as the advisory body to the Planning Commission on design related matters to ensure the use of good design which encompasses the use of harmonious material and color, held a duly noticed public hearing to review the referenced entitlements pursuant to Section 6 of the Implementation Guidelines for the Beach Preservation Initiative, and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

a. Plans submitted by the Applicant.
b. Written information submitted with the application.
c. Staff Report, dated July 23, 2025 which is incorporated by this reference as though fully set forth herein; and
d. Oral testimony from City staff, the Applicant and the public (if any)
e. Additional information submitted during the hearing (if any); and

WHEREAS, on July 23, 2025, the Design Review Board of the City of Del Mar, recommended to the Planning Commission approval of the design aesthetic of the seawall; and

WHEREAS, on August 12, 2025, the Planning Commission of the City of Del Mar held a duly noticed public hearing to review the referenced entitlements, to consider the referenced Addendum to the previously certified Programmatic EIR, and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

a. Plans submitted by the Applicant.
b. Written information submitted with the application.
c. Staff Report, dated August 12, 2025 which is incorporated by this reference as though fully set forth herein; and
d. Oral testimony from City staff, the Applicant and the public (if any)
e. Additional information submitted during the hearing (if any); and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Del Mar certifies the Addendum to the Certified Program Environmental Impact Report for the Beach Preservation Initiative, based on the following findings:

1. That the Addendum to the Certified Program Environmental Report (SCH No. 288092919) for the Beach Preservation Initiative has been prepared in compliance with

the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the CEQA Guidelines thereto (14 California Code of Regulations Section 15000 et seq.).

2. That the Addendum to the Program Environmental Impact Report for the Beach Preservation Initiative reflects the independent judgment of the City of Del Mar as the Lead Agency.

3. That the Addendum to the Program Environmental Impact Report for the Beach Preservation Initiative is accurate and complete.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar, that **S**etback Seawall Permit SSP25-002 is hereby approved based on the following findings in DMMC Setback Seawall Permit Section 30.51.040 (Criterial for Approval):

A. Is required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts to local shoreline sand supply.

The proposed seawall would be designed and located in compliance with standards enumerated in Chapter 30.51 of the Del Mar Municipal Code and would serve to protect land zoned for development with residential uses. Analysis submitted by a licensed civil engineer and with concurring third-party review by a city-contracted consultant verifies that the construction of a new seawall at the subject property will not have an adverse effect on the erosion or accretion of sand either immediately ocean-ward or up and down the coast from the subject property.

B. Will minimize risks to life and property in areas of flood hazards.

The proposed seawall has been designed and would be located in accordance with standards of Chapter 30.51 of the Del Mar Municipal Code, ensuring that the structure would serve to minimize risks to life and property for property located within the Federal Emergency Management Agency (FEMA) VE (Coastal High Hazard) Zone, properties subject to special flood hazard extending from offshore to any area subject to high velocity wave action from storms, seismic forces or tsunamis, to the greatest extent feasible.

C. Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs.

The proposed seawall has been designed using contemporary standards and methods of engineering in accordance the design and location requirements of Chapter 30.51 of the Del Mar Municipal Code. Submitted analysis from a qualified civil engineer (and reviewed and verified by expert third-party) specifically confirms that the design of the

proposed seawall, effectively protect the subject property and would not contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The subject property is not located near natural landforms along bluffs and cliffs.

D. Is in conformity with the certified Local Coastal Program;

Subject to review and approval of Setback Seawall Permit, seawalls are a permitted use in the R1-10 Beach zoning designations for the property. The structure has been reviewed for conformance with applicable standards of the Beach Overlay Zone by the Planning and Engineering Departments as well as a third-party civil engineer, found to comply, and so would be in conformity with the City of Del Mar's certified Local Coastal Program. The seawall would not obstruct public coastal views, nor would it impact public parking or beach access. Public access is currently provided at the 29th Street street end approximately 270-feet to the south and at the southwest end of the Camino Del Mar Bridge/San Dieguito Lagoon approximately 400-feet to the north. Public parking is provided at the 29th Street street end and along Camino Del Mar located between these beach access points.

E. Is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act;

The proposed seawall would facilitate lateral public access that is presently reduced due to the nonconforming location of the property's existing seawall within the Shoreline Protection Area. With removal of the existing rock revetment and seawall placed on public beach westerly of the Shoreline Protection Area (SPA) delineation line and construction of a new BPI compliant wall located landward (easterly) of the SPA line, additional sandy beach (approximately 1,000 square-feet) would be made available to the public bringing the property into compliance with the City's Local Coastal Program, itself acting as the implementing mechanism for the public access and public recreation policies of Chapter 3 of the California Coastal Act. Vertical public access is currently provided at the 29th Street street end approximately 270-feet to the south and at the southwest end of the Camino Del Mar Bridge/San Dieguito Lagoon approximately 400-feet to the north. Public parking is provided on 29th Street and along Camino Del Mar located between these beach access points in proximity to the project site.

F. Will involve materials and a design that are consistent with good engineering practices;

The proposed seawall has been designed utilizing contemporary standards and methods of engineering in accordance with Chapter 30.51 of the Del Mar Municipal Code and reviewed for compliance by both by the Applicant's civil engineer, as well as the City's chosen third-party civil engineer. Surfacing for the proposed wall would be comprised of concrete similar to and complementary of existing up down coast seawalls.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar that SSP25-002 shall be subject to the following conditions:

Note: Gaps in numbering and lettering are intentional.

GENERAL CONDITIONS

G-1 ***[Business License]***
Prior to commencement of any work on site, all contractors and subcontractors shall obtain a valid City of Del Mar Business License. The general contractor shall be responsible for ensuring that all subcontractors obtain required Business License and shall retain copies of said permits on site for verification by City staff.

G-3 ***[Development Authorization Limited to Plan Set]***
This permit is granted based on submitted plans dated **August 12, 2025**, and so identified by the staff of the Del Mar Planning and Community Development Department. Revisions to these plans and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

G-4 ***[Encroachment Permit for Work in Right-of-Way]***
Any work proposed or required within a City of Del Mar public right-of-way or access easement, or required within a public right-of-way or access easements pursuant to the conditions of approval of this Permit, shall be subject to the prior receipt of a City of Del Mar Encroachment Permit. Applications for Encroachment Permits shall include plans depicting all proposed private and public improvements including, but not limited to, improvements involving drainage, grading and/or public utilities. The required Encroachment Permit shall be subject to review and approval by the City of Del Mar in accordance with the procedures set forth in the DMMC and may include requirements for inspections and/or submittal of a security deposit(s). Please note that project plans indicating right-of-way improvements/access does not constitute approval of the separately required Encroachment Permit.

G-8 ***[Height and Setback Certifications Prior to Final Sign Off]***
Prior to final project sign-off by the Planning Department, the Applicant shall provide a statement from a Licensed Surveyor or registered civil engineer certifying that the wall height, location and alignment are in compliance with approved plans. The submitted certification shall be made using approved City of Del Mar elevation benchmarks or reference points.

G-11 ***[Plan for Construction-Phase Impacts]***
Prior to issuance of Building Permits or commencement of project implementation (whichever comes first), the Applicant shall provide a plan to the Planning Department for construction-phase parking and equipment/materials storage for the project. The plan must include the following:

a. Identification of an on-site material storage location;
b. Identification of an on-site equipment storage location;
c. Identification of at least two on-site parking space which will remain available throughout the duration of the project;

d. Location of any temporary sanitary facilities;
e. A note stating that "If on-street parking is utilized, a minimum street access clearance of 20ft. will be maintained";
f. Map displaying any/all haul routes; and
g. Contact information (phone number and Email) for the on-site supervisor(s);
    1. This information must also be posted on-site in a location which is readily visible from the public right-of-way for the duration of the project.

The plan required herein shall be subject to the review and written approval of the Planning and Community Development Director, working in consultation with Community Services/Parking Enforcement and Public Works Departments. Haul routes and work and/or storage of material or equipment within a City right-of-way will require the receipt of an Encroachment Permit. The requirements mentioned above may be modified by the Planning and Community Development Director, or his designee, upon a determination that sufficient alternatives have been proposed which achieve a similar level of compliance.

G-11A In addition to the submittal of a Construction Phase Impact Plan, the applicant must place a Construction Parking Placard in all vehicles associated with the project which will be parked off-site. The placard must remain in plain view on the dashboard of the vehicle throughout the duration of the project. A Construction Parking Placard can be obtained from the City of Del Mar Planning Department.

G-13 ***[Permit Expiration]***
This Permit shall expire three years from the date of approval, on **August 12, 2028** unless a Building Permit has been issued (if required by the DMMC) and substantial construction has been accomplished in reliance upon the permit. Pursuant to the DMMC, substantial construction is defined as: completion of a minimum of 10% of the total amount of construction authorized by the permit, based on the monetary value of construction costs including grading, site preparation and construction but specifically excluding all costs associated with the acquisition of interest in the project site and all costs associated with the preparation and processing of permits or plans.

G-14 **[*Preconstruction Meeting]***
Prior to any demolition, construction, and/or land disturbances occurring on-site, a pre-construction meeting shall be held. Attendees to this meeting shall include representatives from the City of Del Mar's Planning and Community Development Department, City Engineer, the Project Contractor/Superintendent, the Project Architect, the Project Engineer, the property owner and any others essential for the proper implementation and completion of this project. At a minimum, the following issues shall be reviewed at this meeting:

a. City of Del Mar inspection requirements.
b. Process for requests for plan modification and determinations of substantial conformance.
c. Discretionary permit conditions and requirements.
d. Construction hour limitations and noise standards.
e. Construction access and parking including equipment/materials storage and maintenance.

f. Work within public rights-of-way and/or easements.
g. Stormwater Best Management Practices.
h. Tree-preservation requirements.
i. Demolition permit requirements.
j. Signage requirements/limitations.
k. Neighborhood impact issues.
l. Key contact information.
m. Business license requirements.
n. Construction and demolition waste diversion requirements
o. Any other pertinent construction related activities and or information.

G-16 [*Compliance with City Noise Regulations]*
The applicant and all parties involved with implementation of the project shall comply with the regulations of the DMMC with regard to construction noise. The regulations stipulate that all construction activities are limited to the following periods: between 7:00 a.m. and 7:00 p.m. / Monday through Friday and between 9:00 a.m. and 7:00 p.m. on Saturdays. Construction activities are prohibited during other hours and on Sundays and City Holidays. The City's Noise Ordinance, Chapter 9.20 of the Del Mar Municipal Code, includes the dates of City Holidays, and can be viewed on the City's web page (www.delmar.ca.us).

G-17 *[Dig Alert]*
Prior to excavation or trenching, the applicant shall call Underground Service Alert of Southern California (Dig Alert- 1-800-227-2600) for a mark out of service utilities.

G-18 *[Rules for Construction-related Signage]*
All construction-related signage posted at the project site shall comply with DMMC Chapter 30.84 (Signs). The pertinent sections of the Sign Chapter allow installation of a total 5.5 square feet of temporary signage on a residential property (that is cumulative of all signs posted). Such signs may be posted for a maximum of sixty (60) days in a calendar year.

The restrictions noted above do not apply to the Development Pending, Construction Noise Notice and Building Permit signs required by the City as part of the project review process.

All construction related signage, including City required signs, shall be removed prior to final approval of the project.

ENGINEERING CONDITIONS

E-1 [*Authorization for off-site work*]
Prior to the issuance of Building Permits, the Applicant shall obtain letters of permission from any affected property owners if any construction or construction access is required across property lines.

E-2 [*Compliance with Appendix C-5 - Construction Urban Runoff*]
This project shall conform to Appendix C-5, the "Construction Urban Runoff Requirements Manual" as depicted in the latest edition of the City of Del Mar's "Jurisdictional Urban Runoff

Management Program". In addition, the construction practices are subject to inspection, and must conform to the "Low Priority Urban Runoff Management Plan" and corresponding "Urban Runoff Construction Site Inspection Record" as depicted in Appendix C-5.

STORMWATER CONDITIONS

SW-1 ***[Storm Drain Protection]***
Down gradient storm drains shall be protected at all times with perimeter controls, such as gravel bags or straw wattles. All sediment accumulation shall be removed (swept up, etc.) periodically, and prior to removal of controls.

SW-2 ***[Building Material Storage]***
All building materials and fuel stored on-site must be properly contained and covered.

SW-3 ***[Perimeter Controls]***
Perimeter controls must be used to surround the entire site to control run-on and run-off water flows. Gravel bags, silt fences, and/or straw wattles may be used as perimeter controls. All controls must be checked and maintained daily. In the event that perimeter controls are damaged, they will be replaced at the earliest possible time, not to exceed 2 days.

SW-4 ***[On-Site Storage]***
Construction materials must be stored on-site at all times unless a City of Del Mar Encroachment Permit has been obtained. Building materials should be covered when not in use to prevent run-off caused by wind or rain.

SW-5 ***[Refuse Containment]***
All dumpsters on-site must be covered. If a fixed-cover is not used, a rollback tarp shall be made available. Perimeter controls must be installed surrounding the dumpster. Areas around dumpsters should be swept daily and damaged perimeter controls replaced as necessary. If dumpsters are kept in the right-of-way, appropriate permits must be obtained.

SW-6 ***[Portable Toilets]***
Perimeter controls must be installed surrounding all Port-a-Potties. Perimeter controls shall be replaced as necessary to prevent discharge. If Port-a-Potties are kept in the right-of-way, appropriate permits must be obtained.

SW-7 ***[Concrete Containment]***
All concrete trucks/pumpers/mixers shall be surrounded by perimeter controls, such as gravel bags. Plastic sheets or tarps shall be placed beneath concrete pumpers at all times, and all residual materials swept up. Washout areas must be used whenever cleaning trucks, pumpers, or mixers. Under no condition will run-off from wash-out of materials be allowed to discharge into the storm drain.

SW-8 ***[Wet Material Disposal]***
Disposal of “wet” construction materials shall be handled in the washout area. This shall include paint, stucco, and concrete. A berm and/or plastic sheet shall be used to collect and contain liquids

and prevent run-off in nearby areas. The wash-out area shall be checked and maintained daily to ensure compliance. All washout liquids shall be disposed of properly.

SW-9 ***[Dirt/Gravel Coverage]***
Mounds of dirt or gravel shall be stored on-site, and out of the right-of-way, unless a City of Del Mar Encroachment Permit has been obtained. All mounds shall be covered daily with a tarp, coconut mat, or other form of protection. Visqueen and/or tarps must be available and on-site to cover 125% of exposed areas during the rainy season (October-April).

SW-10 ***[Heavy Equipment]***
All earthmoving equipment shall be stored on-site. Any required maintenance shall also be conducted on-site. Any tracks or trails left by equipment leading to and from the site shall be cleaned up immediately. If power washing is used to clean-up tracks and/or trails, all run-off shall be directed to vegetated or permeable areas and prevented from entering the municipal stormwater conveyance system. If permeable areas are unavailable, and power washing used, all washout shall be collected and disposed of properly.

SW-11 ***[Contractor Instruction]***
All subcontractors shall be instructed by the General Contractor on the proper use of stormwater controls at the site. It shall be the responsibility of the General Contractor (or their delegated representative) to ensure that stormwater controls are maintained throughout construction operations.

SW-12 ***[Landscape Materials/Trench Materials]***
All stockpiles of landscaping materials (including topsoil and/or manure) or trench spoils placed in the right-of-way shall be surrounded by perimeter controls, such as gravel bags. Plastic sheets or tarps shall be placed beneath the stored material at all times, and all residual materials swept up. For any materials stored in the right-of-way, appropriate permits must be obtained.

SW-13 ***[Debris Containment]***
All construction debris shall be contained in a secured, city approved container. Debris container shall be free of leaks and securely covered during non working hours.

SW-14 ***[Storm Event]***
In the event of a predicted storm event, additional stormwater BMPs may be required dependent on site conditions.

SW-15 ***[JURMP Compliance]***
The Project shall conform to the City of Del Mar "Construction Urban Runoff Requirements Manual as in accordance with the latest edition of the City of Del Mar Jurisdictional Urban Runoff Management Program (JURMP). In addition, all construction practices are subject to inspection, and must conform to the "Urban Runoff Management Plan" and corresponding "Urban Runoff Construction Site Inspection Record".

SW-16 ***[All Priority Development Projects with structural BMPs & O&M plans]***
Prior to occupancy, the Project Applicant shall provide the City of Del Mar Clean Water Manager with two (2) copies of Project "as-built" plans, stamped/signed final Stormwater Mitigation Plan, and final Operations & Maintenance Plans for inclusion of the Project in the City of Del Mar Annual Inspection Program.

SPECIAL CONDITIONS

S-1 [*No Encroachments of Private Improvements Located on or West of Shoreline Protection Area Line*]
There shall be no encroachments of private improvements located on or west of the Shoreline Protection Area line, to include but not limited to, transitional ladders/stairs for beach access.

S-5 [*Beach Access during Construction*]
Vertical and lateral pedestrian and lifeguard beach access shall be maintained during construction and lateral access shall be maintained as required by the Community Services Department of the City of Del Mar, in no event shall lateral access be disrupted below the Mean High Tide Line.

S-6 [*Sand Sifting*]
Prior to backfilling and final approval of the project by the City, the contractor shall sift sand such that material is free of stones or lumps exceeding 1 inch in greatest dimension, or organic and unsatisfactory material. The area to be sifted is along the length of the site, from the SPA line to 30 feet west, and to elevation +4 feet MSL.

S-7 [*Indemnification and Hold Harmless*]
The Applicant/owners agree to indemnify, defend and save the City of Del Mar, its authorized agents, officers, representatives and employees harmless from and against any and all costs, penalties, liabilities, annoyances or loss resulting from claims or court action arising out of, or related to the issuance of this permit or the work hereunder, including but not limited to any accident, loss or damage to persons or property happening or occurring as a result of any work undertaken under the permit granted pursuant to the application.

S-8 [*Equipment Removal*]
The Applicant/owner agrees that if any tank, pipe, conduit, duct, tunnel or other installation of any nature or kind placed in the structure for which the permit is issued which shall at any time in the future interfere with the use, repair, improvement, widening, or change of grade of the affected public property, the Applicants, or their successors or assigns, within ten (10) working days after the receipt of a written notice from the City Manager to do so, will at their own expense either remove such tank, pipe, conduit, duct, tunnel or other installation, or subject to the approval of the City Manager, relocate them to a site which may be designated by the City Manager.

S-10 [*Notice of Construction- City*]
The contractor/owner hereby agree to notify the Planning Department, the Superintendent of Public Works and the Community Services Department, in writing at least twenty-four (24) hours in advance of the time when work will be started. Contractor/Applicant will, upon completion of the work, immediately notify the Planning Director in writing of such completion.

S-11 [*Notice of Construction- Public Utility*]
Contractor/owner shall notify the appropriate utility owner forty-eight (48) hours prior to performing any work on or adjacent to any public utility. All such work shall be done only with authorization and with inspection by the appropriate utility owner.

S-12 [*Flag Person*]
The contractor shall provide a minimum of one (1) flag person to be onsite at all times during the operation of heavy equipment. In addition, the contractor shall be subject to all safety measures required by the Community Service Department during construction.

S-13 [*Staging Plan*]
If the contractor/Applicant propose to stockpile equipment or materials, a staging plan shall be submitted to the City of Del Mar, in advance, for the approval of the City Manager. No material or equipment shall be stored on public streets or rights-of-ways without prior written authority from the City Manager.

S-14 [*Sand Removal*]
All sand removed from the beach shall be replaced to the satisfaction of the City Manager.

S-15 [*Damage Repair*]
A qualified consultant shall document existing conditions along the beach frontage of neighboring properties, construction access points, and adjacent roadways. Documentation shall include video, still-images, reports, and any other means necessary to accurately assess the existing conditions. The documentation shall be reviewed by the City Engineer. Any damage caused by construction activities and/or construction traffic shall be repaired to the satisfaction of the City Engineer prior to final City of Del Mar acceptance.

S-16 [*Third-party Geotechnical Review*]
Prior to project implementation, the Applicant shall submit detailed construction drawings, geotechnical report, and engineering calculations for third-party review and approval by the City's designated Geotechnical/Coastal Engineer. The third-party review shall address, but not limited to review the design scour depth, pail capacity and deformation characteristics, post-construction deflections, concrete cap specifications, and flank protection.

S-18 [*Acceptance of Conditions*]
The owner and permittee shall file a statement of acceptance of conditions stating that the owners/permittee have read and understand and accept the conditions listed above and shall (prior to the commencement of construction) return a signed statement accepting said conditions.

S-20 *[Coastal Commission Coastal Development Permit]*
This PROJECT requires approval of a Coastal Development Permit issued by the California Coastal Commission. Prior to commencement of the project, the applicant shall provide evidence of the receipt of the Coastal Development Permit to the Director of Planning and Community Development.

PASSED AND ADOPTED by the Planning Commission of the City of Del Mar this 12th day of August, 2025 by the following vote:

AYES: Chair Posner, Commissioner Leonard, Rittenbaum, and Spieker

NOES: None

RECUSED: None

ABSENT: Commissioner Grewal

ABSTAIN: None

_____
Philip Posner, Chair
Planning Commission Chair
City of Del Mar, California

ATTEST:

_____
Karen Brindley
Planning and Community Development Director
City of Del Mar, California

ATTACHMENT C

City of Del Mar
Staff Report

PLANNING COMMISSION
STAFF REPORT
AUGUST 12, 2025

APPLICATION: SSP25-002

REQUEST:
A request for Planning Commission action as follows:

1. Certify the Addendum to a previously certified Programmatic Environmental Impact Report (State Clearinghouse No. 88092919) for the Beach Preservation Initiative in accordance with the California Environmental Quality Act (CEQA); and

2. Adopt a Resolution to approve a Setback Seawall Permit to remove an existing seawall and existing rock revetment (rip rap) and construct a new seawall designed and located in conformance with standards of the Beach Overlay Zone and the City of Del Mar Local Coastal Program (LCP).; and

3. Concur with the applicant's request to consolidate the required Coastal Development Permit for processing and permit approval by the California Coastal Commission.

APPLICANT/OWNER: Oceans Investments, LLC

OWNER'S AGENT: Walter F. Crampton, RCE, ENGEO

SITE LOCATION: 2936 Camino Del Mar

ASSESSOR PARCEL NUMBER (APN): 299-020-12-00

COMMUNITY PLAN DESIGNATION: Low Density Residential - Beach

ZONING: R1-10B

OVERLAYS: Beach Overlay Zone and Floodplain Overlay Zone

ENVIRONMENTAL STATUS:
Pursuant to requirements of the California Environmental Quality Act (CEQA), an Addendum to a previously certified Programmatic Environmental Impact Report (State Clearinghouse No. 88092919) was prepared and is included for Planning Commission review and certification prior to any approval of the subject application. More detailed discussion is included in the environmental review section of this report.

HOUSING IMPACT:
This project would propose site improvements to a property containing an existing single-unit dwelling in the "Low Density Residential - Beach (R1-10B) Zone. Therefore, approval of the requested discretionary development application would have no impact on the City of Del Mar's housing supply or housing affordability.

COMMUNITY PLAN AND ZONING DESIGNATIONS:
The Community Plan designates R1-10B Zone for Low Density Residential – Beach and is designed to provide for an area of one-family residential development at a density level of 1-4 units/net acre. The standards of the zone are intended to preserve an open and uncrowded character and protect the unique residential environment of Del Mar. The standards are intended to promote and protect those special amenities associated with a district of single-family homes.

The site is located within the Beach Overlay Zone and is composed of properties abutting the beach. The purpose of regulations of the Chapter is to establish and regulate the uses of the Del Mar beach area, a distinct and valuable natural resource, for the benefit of present and future generations. The regulations contained shall be administered so as to protect public access to and along the shoreline, while promoting public safety, health and welfare, and providing for the protection of private property.

The site is located within the Floodplain Overlay Zone and is composed of those properties located within the 100-year floodplains of the San Dieguito River and the Los Penasquitos Lagoon which have been identified by the Federal Insurance Administration as being subject to periodic inundation due to flooding and from off-shore high velocity wave action from coastal storm and wave inundation for beachfront properties. The purpose of the regulations of this Chapter is to promote the public health, safety and general welfare by ensuring that new development is appropriately sited and constructed so as to avoid hazards to those who will occupy the development; and to avoid damage or hazards to the surrounding area.

BACKGROUND:
In April 1988, the voters of Del Mar approved Measure D, the Beach Preservation Initiative (BPI). The purpose of the BPI is to regulate uses of the Del Mar beach area (shoreline development) and provide regulations for the construction of new shoreline protection devices on private and public property. Construction of new shoreline protection structures, depending on their location and proximity to the Shoreline Protection Area (SPA) line, may be authorized by the City Council through the issuance of a Shoreline Protection Permit (for shoreline protective devices located seaward/west

of the SPA line) or by the Planning Commission through the issuance of a Setback Seawall Permit (for shoreline protective devices located landward/east of the SPA line). The SPA line typically coincides with the western property line of beachfront properties. However, within this area located between 29th Street and the San Dieguito River, the western property line extends to the Mean High Tide Line. The SPA line for these properties is approximately aligned with the western extent of the seawall to the north of the project site at 2938 Sandy Lane, which was recently constructed and in conformance with the BPI (Exhibit A, aerial photo and vicinity map).

PROJECT DESCRIPTION:
The applicant is proposing to remove existing (BPI non-compliant) shoreline protection devices (existing seawall and rock revetment) and wood access stairs and replace them with a BPI compliant seawall. The applicant has submitted project plans for the Commission's review.

The new seawall fronting the property would be located along the full width of the property (total length of 80-feet) and would align with the landward (easterly) side of the SPA. The new seawall would not require any rip rap (rock revetment) element. The removed rock revetement would return approximately 1,000 square feet of sandy beach which would then be available for the public's use and enjoyment. This type of seawall design complies with the requirements of the LCP, and DMMC Chapters 30.50 and 30.51 and would be similar to the majority of the more recently constructed seawalls along the Del Mar shoreline. Therefore, this seawall would require a Setback Seawall Permit and, as previously discussed, would be subject to review and approval by the Planning Commission, whose action can be appealed to the City Council.

The proposed seawall is designed as a vertical sheet-pile wall with reinforced concrete cap. The steel sheet-pile would extend down to an elevation, along its vertical face, of -24.2 feet NGVD (National Geodetic Vertical Datum). The concrete cap is a structural feature of the wall and supports the sheet-pile. The cap would extend down to an elevation of +3.8 feet NGVD. The top of the concrete cap would be +14.8 feet NGVD. For reference, the 29th Street elevation is at approximately +12 feet NGVD. Typically, during normal summer beach profiles, the only portion of the wall visible would be the concrete cap. The new seawall would include an engineered cut-out with concrete steps at the northern end to allow the property owner beach access from their patio deck. A movable barrier (stop log) would allow the access to be closed off during storm events and protect the property. To the north, the applicant's proposed seawall would connect to the existing BPI-compliant seawall at 2938 Sandy Lane. To the south, the seawall would include a 10'6" return wall to provide flank protection of 2932 Camino Del Mar, which does not have a BPI-compliant seawall.

The justifications for the location, height and design of the seawall are fully analyzed in the Geotechnical Report prepared for the proposal, which discusses the geotechnical, coastal engineering and design parameters for the project (Exhibit B). The Geotechnical Reports have been reviewed by the City's consulting geotechnical engineers and determined to be technically acceptable.

Existing public beach access is via the western terminus of 29th Street, approximately 270-feet to the south and at the southwestern end of the Camino Del Mar Bridge/San Dieguito River approximately

400-feet to the north. Public parking is provided on the north side of 29th Street and along Camino Del Mar.

The project site is located within the California Coastal Zone. The project requires approval of a Coastal Development Permit and Setback Seawall Permit by the City. Additionally, Coastal Commission approval of a Coastal Development Permit is required for the project components located west of the SPA line and both permit types are subject to appeal to the California Coastal Commission (Coastal Commission). Therefore, the applicant has requested approval to consolidate processing of the Coastal Development Permit with the Coastal Commission, which would be reviewed and considered by the Coastal Commission subsequent to the City's final action on SSP25-002.

PROJECT REVIEW BY THE DESIGN REVIEW BOARD:
On July 23, 2025, the Design Review Board reviewed the design aspects associated with the proposed Shoreline Protection Permit. Section 6 of the BPI Guideline states:

The Board serves as an advisory body to the Planning Commission and City Council to insure "the use of good design which encompasses the use of harmonious materials and colors." The applicant proposes the new seawall to be of a material and color similar to the seawalls found on the beach front.

The adjacent neighbor to the south, Steven Mack at 2932 Camino Del Mar, submitted red dot correspondence via their legal counsel, Julie Hamilton for the DRB meeting on July 23, 2025. Ms. Hamilton stated her client's concern of potential construction impacts to his residence and requested the DRB continue the item so he can have time to discuss with the applicant to develop a protocol to protect the property from damage during construction of the seawall. Since the DRB's purview is to review the design aesthetic of the seawall for a recommendation to the Planning Commission, the DRB had no concerns regarding the seawall design and recommended approval of the Setback Seawall Permit.

SETBACK SEAWALL PERMIT (SSP) STANDARDS OF REVIEW/PROPOSED FINDINGS
The project proposes removal of an existing seawall and rock revetment and construction of a new seawall compliant with the design and location requirements of DMMC Chapters 30.50 and 30.51. Section 30.51.040 stipulates the findings for approval of a seawall (or similar shoreline protection device). As the subject project is found to comply with all applicable standards of development, recommended findings to approve the SSP request can be made and are listed below.

A. Is required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts to local shoreline sand supply.

The proposed seawall would be designed and located in compliance with standards enumerated in Chapters 30.50 and 30.51 of the Del Mar Municipal Code and would serve

to protect land zoned for development with residential uses. Analysis submitted by a licensed civil engineer and with concurring third-party review by a city-contracted consultant verifies that the construction of a new seawall at the subject property will not have an adverse effect on the erosion or accretion of sand either immediately ocean-ward or up and down the coast from the subject property.

B. Will minimize risks to life and property in areas of flood hazards.

The proposed seawall has been designed and would be located in accordance with standards of Chapters 30.50 and 30.51 of the Del Mar Municipal Code, ensuring that the structure would serve to minimize risks to life and property for property located within the Federal Emergency Management Agency (FEMA) VE (Coastal High Hazard) Zone, properties subject to special flood hazard extending from offshore to any area subject to high velocity wave action from storms, seismic forces or tsunamis, to the greatest extent feasible.

C. Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs.

The proposed seawall has been designed using contemporary standards and methods of engineering in accordance the design and location requirements of Chapters 30.50 and 30.51 of the Del Mar Municipal Code. Submitted analysis from a qualified civil engineer (and reviewed and verified by expert third-party) specifically confirms that the design of the proposed seawall, effectively protect the subject property and would not contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The subject property is not located near natural landforms along bluffs and cliffs.

D. Is in conformity with the certified Local Coastal Program;

Subject to review and approval of Setback Seawall Permit, seawalls are a permitted use in the R1-10 Beach zoning designations for the property. The structure has been reviewed for conformance with applicable standards of the Beach Overlay Zone by the Planning and Engineering Departments as well as a third-party civil engineer, found to comply, and so would be in conformity with the City of Del Mar's certified Local Coastal Program. The seawall would not obstruct public coastal views, nor would it impact public parking or beach access. Public access is currently provided at the 29th Street streetend approximately 270-feet to the south and at the southwest end of the Camino Del Mar Bridge/San Dieguito Lagoon approximately 400-feet to the north. Public parking is provided at the 29th Street streetend and along Camino Del Mar located between these beach access points.

E. Is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act;

The proposed seawall would facilitate lateral public access that is presently reduced due to the nonconforming location of the property's existing seawall within the Shoreline Protection Area. With removal of the existing rock revetment and seawall placed on public beach westerly of the Shoreline Protection Area (SPA) delineation line and construction of a new BPI compliant wall located landward (easterly) of the SPA line, additional sandy beach (approximately 1,000 square-feet) would be made available to the public bringing the property into compliance with the City's Local Coastal Program, itself acting as the implementing mechanism for the public access and public recreation policies of Chapter 3 of the California Coastal Act. Vertical public access is currently provided at the 29th Street street end approximately 270-feet to the south and at the southwest end of the Camino Del Mar Bridge/San Dieguito Lagoon approximately 400-feet to the north. Public parking is provided on 29th Street and along Camino Del Mar located between these beach access points in proximity to the project site.

F. Will involve materials and a design that are consistent with good engineering practices;

The proposed seawall has been designed utilizing contemporary standards and methods of engineering in accordance with Chapters 30.50 and 30.51 of the Del Mar Municipal Code and reviewed for compliance by both by the Applicant's civil engineer, as well as the City's chosen third-party civil engineer. Surfacing for the proposed wall would be comprised of concrete similar to and complementary of existing up down coast seawalls.

ENVIRONMENTAL REVIEW:
A Program Environmental Impact Report (PEIR) for the Beach Preservation Initiative was certified by Council Resolution No. 89-56 on August 21, 1989. Pursuant to the provisions of CEQA (Public Resources Code, Section 21000 et seq.), the City prepared an Addendum to the Certified Program PEIR to address removal of the existing shoreline protection devices (rock revetment and seawall) and construction of a new seawall at 2936 Camino Del Mar. Based on information contained in the Addendum, it was determined that the proposed project would not result in any new environmental impacts of seawall replacement located landward of the SPA line. Project implementation would not result in any new significant impacts or substantially change the severity of the impacts identified in the Program EIR. The applicable mitigation measures identified in the certified Program EIR, as detailed in Section 5.0 Mitigation Monitoring and Reporting Program, would reduce potential impacts to less than significant.

In accordance with CEQA Guidelines Section 15164(c), the Addendum does not require circulation for a public comment. However, the document was made available for public review on the City's website at the following link: Addendum to the Certified Final Program Environmental Impact Report for the Beach Preservation Initiative Ordinance (SCH No. 88092919): 2936 Camino Del Mar Seawall Project Hard copies have been provided for review during normal business hours at Del Mar City Hall and the Del Mar Library.

Planning Commission is asked to adopt the draft Resolution (Exhibit C) to certify the Addendum in compliance with CEQA Guidelines, approve application SSP25-002, and concur with the applicant's request to consolidate the required Coastal Development Permit for processing and approval by the California Coastal Commission.

CORRESPONDENCE:
Ms. Hamilton's red dot correspondence for the DRB meeting of July 23, 2025, is included as Exhibit D. Ms. Hamilton cites concerns of potential construction impacts to the residence at 2932 Camino Del Mar. Staff determined that the conditions of approval (S-15) for the permit would satisfactorily address this concern consistent with the typical standards and protocol for construction of a seawall in accordance with the certified LCP.

RECOMMENDATION:
The Project has been reviewed by the Planning Department and found to comply with applicable regulations of the Municipal Code and Local Coastal Program. Staff recommends the Planning Commission adopt the Resolution (Exhibit C) to certify the Addendum and approve the Setback Seawall Permit SSP25-002 subject to the conditions of approval contained therein.

Respectfully Submitted,

Jean Crutchfield
Associate Planner

EXHIBITS:

Exhibit A – Aerial Photo/Vicinity Map
Exhibit B – Coastal and Geotechnical Engineering Report (dated, February 19, 2025) – Prepared by ENGEO
Exhibit C – Draft Planning Commission Resolution PC2025-xx
Exhibit D – Red Dot for DRB meeting July 23, 2025 from Julie Hamilton

EXHIBIT A

3010
3008
3006
3004
3002
2998
3000
2996
2986
2984
Del Mar Dog Beach
2940
2938
2936
2932
2928
2920
2902
2830
2828
2820
2825
Sandy Ln
Camino del Mar
S21
S21
29th St

EXHIBIT B

SEAWALL AND RIPRAP REMOVAL AND CONSTRUCTION OF NEW SEAWALL LANDWARD OF CITY OF DEL MAR SPA LINE
2936 CAMINO DEL MAR
DEL MAR, CALIFORNIA

COASTAL AND GEOTECHNICAL ENGINEERING REPORT

SUBMITTED TO
Ocean Investments, LLC
2936 Camino Del Mar
Del Mar, CA 92014

PREPARED BY
ENGEO Incorporated

February 19, 2025

PROJECT NO.
26084.000.001

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ENGEO
Expect Excellence

Project No.
26084.000.001

February 19, 2025

Ocean Investments, LLC
2936 Camino Del Mar
Del Mar, CA 92014

Subject: Seawall and Riprap Removal and Construction of New Seawall
Landward of City of Del Mar SPA Line
2936 Camino Del Mar, Del Mar, California

COASTAL AND GEOTECHNICAL ENGINEERING REPORT

Dear Ocean Investments:

We prepared this Coastal and Geotechnical Engineering Report for requirements of your Coastal Development Permit application package. Our study was performed to address the coastal environment affecting your property at 2936 Camino Del Mar, including wave environment, coastal hazards, and the effects of future sea level rise within the lifetime of the project.

This report summarizes our field observations and our findings pertaining to the general coastal processes in the area. A discussion of alternatives to, and design criteria for, the seawall are also provided.

This report also addresses geotechnical considerations for new seawall design and the impact of tsunamis and considers the influence of sea level rise research summarized by the Ocean Protection Council (2024), which resulted in the California Coastal Commission's 2024 update of its 2018 Sea Level Rise Guidance document.

We appreciate the opportunity to be of service. If you have any questions or comments regarding this report, please call and we will be glad to discuss them with you.

Sincerely,

ENGEO Incorporated

Taylor Strack, PE, GE

Walter F. Crampton, GE, D.CE

awr/ts/wfc/ar

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1.0 INTRODUCTION

At your request, we performed a coastal study and geotechnical evaluation of the proposed removal of the non-compliant seawall and riprap and its replacement with a City of Del Mar SPA-compliant seawall along the western side of the property located at 2936 Camino Del Mar in Del Mar, California. The primary purpose of our study is to understand the coastal environment affecting the subject beachfront property and address coastal design consideration as it relates to new seawall design and construction. In addition, we also discuss current threats and risks with existing structures, which illustrate the need for the subject improvements.

For our use, we reviewed the following reports.

1. Preliminary Geotechnical Investigation, 2936 Camino Del Mar, Del Mar, California prepared by UES dated January 29, 2025. Project No. 4830.2400025.
2. Construction Drawings for the 2936 Camino Del Mar Seawall prepared by ENGEO Incorporated dated December 23, 2024.

2.0 GENERAL SITE CONDITIONS

2.1 SITE DESCRIPTION

The project site is located at 2936 Camino Del Mar in Del Mar, California (Figure 1). The two-story residential structure is bounded by existing residential structures to the north and south, Camino Del Mar to the east, and by an existing seawall and revetment to the west.

EXHIBIT 2.1-1: 2936 Camino Del Mar (looking east from beach)

The existing seawall to the west of the site is a reinforced concrete structure (shown above in Exhibit 2.1-1), with a top-of-wall elevation of approximately Elevation 16 feet (NAVD 88). Additionally, to the west of site, an existing riprap revetment can be observed in Exhibit 2.1-1, which consists of ¼-ton to 4-ton rocks. The proposed improvements are planned to consist of demolition of the existing concrete seawall, removal of the riprap, and replacement with steel sheet piles with an architectural treatment along the exposed section. The proposed seawall is planned to have to have a top-of-wall of Elevation 17 feet (NAVD 88) and a tip of Elevation -22 feet (NAVD 88) and be located completely landward of the City SPA line.

2.2 TOPOGRAPHY AND BATHYMETRY

The project area is generally flat and contains a westerly seawall and rock revetment. Beach profile data has been surveyed for the Del Mar beach area by personnel from Scripps Institution of Oceanography since early 1974. Data collected at Range 3 (20th Street) and Range 4 (15th Street) have indicated maximum seasonal variations in beach sand elevations within the active beach area ranging from 5 to 10 feet. Our review of bathymetric charts showing the sea floor topography off the coastline in the vicinity of the site indicates a relatively uniform foreshore slope of 1 in 60, extending to several miles offshore.

2.3 GEOLOGIC SETTING

The study area is located within the low-lying lands southerly of the present mouth of the San Dieguito River. Based on our review of the Geologic Map of the San Diego 30'x60' Quadrangle (Kennedy & Tan, 2008), we understand that the surficial geologic units underlying the site include Qop, "old paralic deposits undivided (late to middle Pleistocene)" (Figure 3). These deposits generally consist of medium dense to dense, poorly graded, fine to medium sand with occasional gravel and shell fragments. The presence of these relatively deep alluvial and nearshore sandy deposits suggests that the San Dieguito River mouth at one time discharged into the ocean across the area when sea level was lower.

The active sand beach is subject to seasonal onshore and offshore movement. In winter, heavy surf moves sand from an onshore berm and deposits it along offshore bars, resulting in lower beach elevations. Summer swell moves sand back onshore, again building up the beach. Severe storms in the late 1970s and early 1980s necessitated the placement of the existing sheet-pile wall and riprap to protect the residential structures in the area.

The study area is underlain at depth by the Eocene-age (approximately 50 million year old) Delmar Formation. This formation is exposed along the coastal bluff just north of the San Dieguito River, and likely exists below approximately Elevation -100 to -120 feet in the site vicinity.

3.0 GEOLOGIC HAZARDS EVALUATION

3.1 FAULTING AND SEISMICITY

Our review of geologic maps and literature indicates that there are no known active or potentially active faults near or projecting toward the subject property. The site is, however, located in a seismically active region of Southern California that is subject to significant hazards from moderate to large earthquakes. Ground shaking could affect the site in the event of an earthquake on any of the active fault zones located in, or offshore of, Southern California.

The nearest known active faults are within the Newport-Inglewood (offshore) fault zone located approximately 3.5 miles west of the site. Other active fault zones within about 30 miles of the site, which could generate ground shaking at the site, are the San Joaquin Hills, Oceanside, and Palos Verdes fault zones. A Fault and Seismicity Map is provided as Figure 4.

3.2 GROUND SURFACE RUPTURE

The project site area is not mapped as being located within an Alquist-Priolo fault zone. The potential for ground surface rupture at the site is considered negligible since no known faults cross the site.

3.3 LIQUEFACTION

The potential for liquefaction or seismically induced ground settlement due to an earthquake is considered moderate to high within the near-surface overburden soil above the relatively dense older Eocene-age deposits due to the grain-size characteristics of the sandy soil and the presence of near-surface groundwater at the site.

3.4 LANDSLIDES

Our review of geologic maps and literature indicates that the site is not mapped as being underlain by active or potential landslides, nor was any evidence of landsliding observed during our site observations.

3.5 TSUNAMIS

An online “Tsunami Inundation Map for Emergency Planning (Del Mar Quadrangle), San Diego County, California” was prepared jointly by the California Emergency Management Agency, California Geological Survey, and the University of Southern California (California Emergency Management Agency, 2009). The Tsunami Inundation Map and information are presented in Figure 5. The Tsunami Inundation Map indicates an inundation area throughout the low-lying areas of Del Mar and the San Dieguito River mouth. While exact inundation elevations are not available through the University of Southern California Tsunami Research Center, tsunami inundation elevations can be approximated by comparing topographic map elevations along the tsunami inundation limits. Using this method, we approximate that the estimated inundation elevation is on the order of about Elevation 11 feet (NGVD 29), inundating the site.

3.6 COASTAL HAZARDS

As discussed in Section 5.4 – Wave Runup and Overtopping Analysis, for most any storm condition, including the 1982-83 El Niño storms, significant overtopping of the seawall occurs. Moreover, with 3.1 feet of sea level rise (SLR), the maximum runup is approximately Elevation 20 feet above the top of the seawall, with the horizontal jet from overtopping waves having a velocity of over 10 feet per second, with sufficient velocity to injure people in front of the buildings and wave forces that will also damage the seaward portions of the property improvements. Any structures should be a minimum of 30 feet from overtopping waves to reduce the damaging effects of these overtopping waves.

4.0 COASTAL ENVIRONMENT

Along this portion of coastline, protection from storm surf has previously been provided mainly by the active beach, with the beach berm providing a secondary line of defense prior to storms overwashing the berm and flooding the low-lying lands adjacent to, and easterly of, Camino Del Mar. As a result of the continuing loss of beach sand (primarily due to conflicting interests allowing the construction of dams and mining of mineral aggregates on the coastal rivers), more stress has been placed on the beach berm from more frequent wave attack and from the public desiring more recreational beach area. The ultimate selection of the approved Shoreline Protection Area (SPA) line is a reaffirmation of this fact.

In evaluating the wave climate, which controls coastal erosion, considerable hindcast data is available to provide an indication of future trends and, hence, design criteria for design of coastal structures. Wave energy approaching the Southern California coastline has been relatively benign during the first 80 years of the 20th century (Seymour, et al., 1984). Extreme deep-water wave episodes exceeding 6 meters were reported on only eight occasions during the period 1900 to 1979, while the period from February 1980 through February 1984 experienced a total of ten storm events with deep-water waves exceeding 6 meters. It should be noted that the storm of January 17, 1987, produced the highest measured deep-water waves of record approaching the Southern California coast since deployment of deep-water wave gauges by Scripps Institution of Oceanography, further corroborating a more energetic wave environment.

Continued coastal erosion, in part accelerated by more energetic wave activity during the last 40 years, has subjected the site vicinity to a progressively more severe wave environment than that experienced during the preceding 50+ years, suggesting more frequent severe winters and the likelihood for more severe coastal storm damage during the design life of the proposed structure.

4.1 WATER LEVELS

Past water elevations are based on tide gauge data from La Jolla, which has been collected by the National Oceanic and Atmospheric Administration (NOAA) since 1924. These data are applicable to the San Diego County region open-ocean coastline. The tidal and geodetic reference relationships at La Jolla (the closest station with historical data) are provided below in Table 4.1-1.

TABLE 4.1-1: Tidal Datums (Station 9410230, 1983 to 2001 Tidal Epoch)

DESCRIPTION	DATUM	ELEVATION (feet MLLW)	ELEVATION (feet NGVD 29)	ELEVATION (feet NAVD 88)
Highest Observed Tide (11/25/2015)	Max Tide	7.81	5.25	7.62
Highest Astronomical Tide	HAT	7.20	4.64	7.01
Mean Higher-High Water	MHHW	5.32	2.17	5.13
Mean High Water	MHW	4.60	2.04	4.41
Mean Tide Level	MTL	2.75	0.19	2.56
Mean Sea Level	MSL	2.73	0.17	2.54
Mean Diurnal Tide Level	DTL	2.66	0.10	2.47
NGVD 29	NGVD 29	2.56	0.00	2.37
Mean Low Water	MLW	0.90	-1.66	0.71
North American Vertical Datum of 1988	NAVD 88	0.19	-2.37	0.00
Mean Lower-Low Water	MLLW	0.00	-2.56	-0.19

DESCRIPTION	DATUM	ELEVATION (feet MLLW)	ELEVATION (feet NGVD 29)	ELEVATION (feet NAVD 88)
Lowest Astronomical Tide	LAT	-2.01	-4.44	-2.20
Lowest Observed Tide (12/17/1933)	Min Tide	-2.87	-5.43	-3.06
Station Datum	STND	-4.37	-6.93	-4.56
Great Diurnal Range	GT	5.33	5.33	5.33
Mean Range of Tide	MN	3.69	3.69	3.69

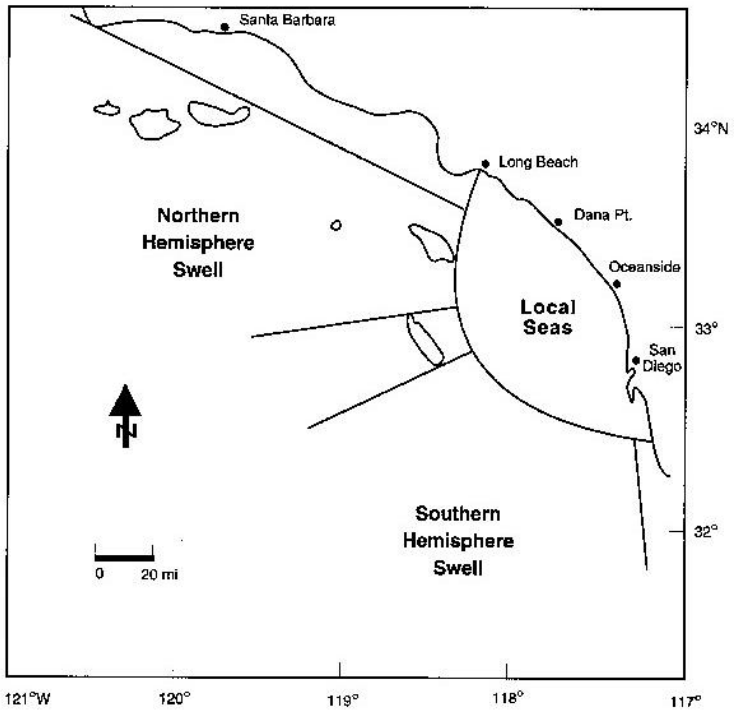
(*Source: NOAA 2023*)

Tide gauges measure total water level outside the breaker zone, which includes contributions from the tide, as well as storm surges and other factors that raise sea level over the short and long term, including the effects of El Niño.

4.2 WAVE CONDITIONS

A factor that influences coastal erosion is the wave environment. Waves provide most of the energy input that drives shoreline processes along the California coast. As illustrated in Exhibit 4.2-1, incoming waves along the Southern California coast fall into three main categories: (1) longer period northern hemisphere swell, (2) longer period southern hemisphere swell, and (3) short-period locally generated seas. Northern hemisphere swell from the North Pacific Ocean dominates the winter wave conditions off California, while southern hemisphere swell is more dominant in the summer. Short-period seas are produced by storms sweeping through the area. Offshore islands, shallow banks, submarine canyons, and the generally complex bathymetry off the Southern California coast greatly complicate the wave climate at the coast.

EXHIBIT 4.2-1: Map Showing Generalized Wave Exposure for Southern California



Coastline orientation and the islands and offshore banks greatly influence swells propagating toward shore by partially sheltering Southern California, especially from northern hemisphere swell. Exhibit 4.2-1 shows the approximate directions from which incoming swells are blocked by the islands. The coastline at the subject property faces southwest and is occasionally exposed to southern hemisphere swell. Because of the complicated effects of bathymetry and island shadowing, the wave height at the shoreline is sensitive to relatively small changes in the incoming direction of the deep ocean waves.

4.3 SHORT-TERM SEA LEVEL CHANGE

The effect of waves on the coast is highly dependent on the sea level during the wave episode. Large waves at low sea level cause limited erosion, since they break well offshore. When episodes of large waves combine with short-term high sea level from tides and other factors, rapid retreat may occur along vulnerable coastlines.

4.4 TIDES

Tides are caused by the gravitational pull of astronomical bodies, primarily the moon and sun, on the Earth. Tides along the Southern California coast have a semi-diurnal inequality. On an annual average basis, the mean high tide line is at approximately Elevation 4 feet (NAVD 88), with the highest observed tide recorded in the year 2005 during an El Niño year at an Elevation 7.62 feet (NAVD 88), which was recorded at the La Jolla station gauge.

4.5 EL NIÑO EVENTS

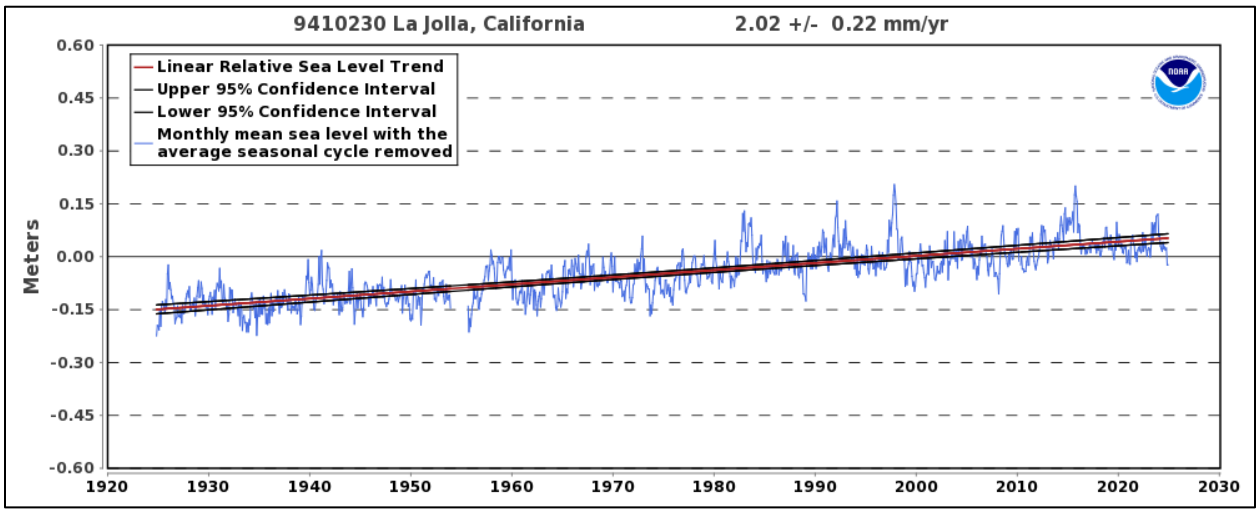
Large-scale warming periods in the Pacific Ocean occur episodically and are related to the El Niño phenomenon. These meteorological events are characterized by low atmospheric pressures and persistent onshore winds. During these events, average sea levels in Southern California can rise up to 0.5 foot above normal. Tidal data indicates that seven episodes have occurred since 1905. These events occurred in 1914, 1930 through 1931, 1941, 1957 through 1959, 1982 through 1983, 1997 through 1998, and 2015 through 2016. Mild El Niño-type conditions were also reported in 1988 and 1992. Further analysis suggests that these events have an average return period of 14 years, with 0.2-foot tidal departures lasting for 2 to 3 years. The added probability of experiencing more severe winter storms during El Niño periods increases the likelihood of coincident storm waves and higher storm surge.

4.6 RELATIVE SEA LEVEL RISE

Sea level rise (SLR) is not the same everywhere around the world. Because of local differences in tectonic uplift, subsidence caused by oil, gas, and groundwater extraction, and saltwater intrusion, the land itself is moving vertically. The difference between the local land motion and global rise of sea level gives the relative SLR that will determine the magnitude of local SLR impacts. Vertical land motion in some studies would identify this relative rate from local tide gauges.

Past and possible future changes in mean sea level (MSL) are of interest in design and planning for coastal cities, as well as for engineering activities on the coast. Exhibit 4.6-1 shows the relative sea level trend observed at the La Jolla tide gauge from 1924 to 2024. These data are routinely tabulated by the NOAA as part of their national tide gaging program (Flick *et al.*, 2003).

EXHIBIT 4.6-1: NOAA's Relative SLR Trend at La Jolla Tide Gauge



The relative sea level trend is 2.02 millimeters/year (mm/year) with a 95 percent confidence interval of +/- 0.22 mm/yr based on monthly MSL data from 1924 to 2024, which is equivalent to a change of 0.66 foot in 100 years.

5.0 DESIGN CONSIDERATIONS

5.1 DESIGN MEAN SEA LEVEL RISE SCENARIO

The California Coastal Commission recognizes the Ocean Protection Council's (OPC) State of California Sea Level Rise Guidance 2024 Update as the current best available science on SLR projections for California. The new OPC guidance details five mean sea level rise (MSLR) projections for 14 tide gauges along the California coast. The considered global MSLR scenarios include the following.

- Low (0.9 foot of MSLR by 2100)
- Intermediate-Low (1.6 feet of MSLR by 2100)
- Intermediate (3.1 feet of MSLR by 2100)
- Intermediate-High (4.8 feet of MSLR by 2100)
- High (6.6 feet of MSLR by 2100)

OPC (2024) presents results for each tide gauge location in a series of tables that specify several time sequences of global mean sea level (GMSL) from 2020 through 2150. The MSLR projections use the year 2000 as the base year, and project MSLR in specified future years relative to MSL in 2000. The OPC (2024) MSL elevation projections for La Jolla from 2020 through 2150 are provided in Table 5.1-1 below.

TABLE 5.1-1: Projected Sea Level Rise (in feet) for La Jolla

YEAR	LOW	INTERMEDIATE -LOW	INTERMEDIATE	INTERMEDIATE -HIGH	HIGH
2020	0.2	0.2	0.3	0.3	0.3
2030	0.3	0.4	0.4	0.4	0.5
2040	0.4	0.5	0.6	0.7	0.8
2050	0.5	0.7	0.8	1.0	1.3
2060	0.6	0.8	1.1	1.6	2.0
2070	0.7	1.0	1.4	2.3	3.0
2080	0.8	1.2	1.8	3.1	4.1
2090	0.9	1.4	2.4	3.9	5.3
2100	0.9	1.6	3.1	4.8	6.6
2110	1.0	1.8	3.8	5.7	7.9
2120	1.1	2.0	4.4	6.4	9.0
2130	1.2	2.2	4.9	7.1	9.9
2140	1.2	2.4	5.5	7.6	10.9
2150	1.3	2.6	6.0	8.2	11.8

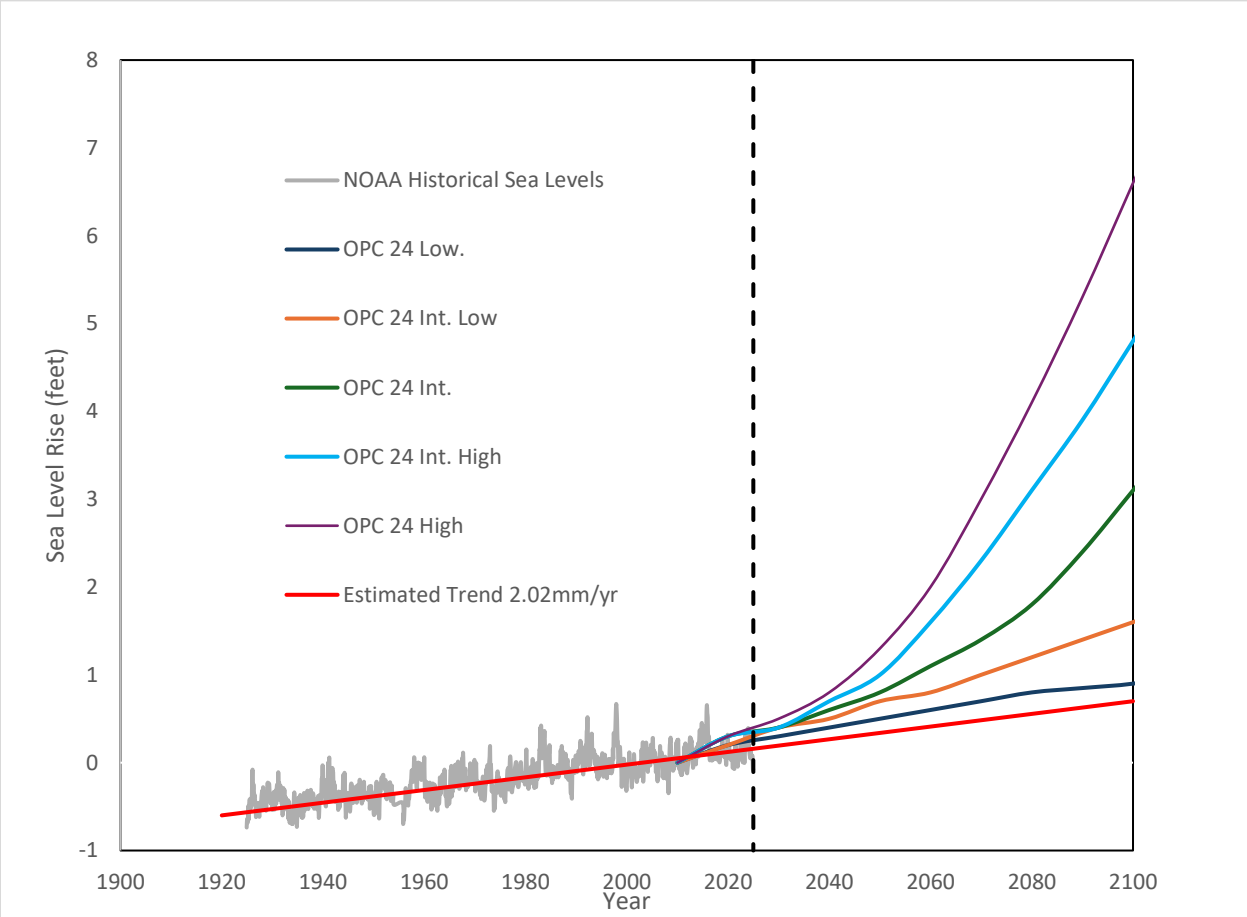
Source: Ocean Protection Council, 2024
Median values of Sea Level Scenarios, in feet, for each decade from 2020 to 2150, with a baseline of 2000. All median scenario values incorporate the local estimate of vertical land motion.

Five different global MSLR scenarios are presented for each of the 14 NOAA tide gauge locations along the California coast. These scenarios incorporate the local estimate of vertical land motion into the relative SLR projection. For this project location, the Intermediate SLR scenario projects 3.1 feet of SLR, with a 5 percent probability of exceedance by the year 2100. The Intermediate-High SLR scenario projects 4.8 feet of SLR, with a 0.1 percent probability of exceedance by the year 2100. Accordingly, we have included the 1982-83 El Niño storm season, which is considered to be the 100-year design level event without SLR, along with these two SLR scenarios in our evaluation to define the design wave environment.

In addition to the Ocean Protection Council's (OPC) 2024 guidance document, the California Coastal Commission (CCC) updated its Sea Level Policy Guidance document with a Science Update dated November 13, 2024. This 2024 document updates the CCC's 2018 document with additional findings, conclusions, and recommendations, and incorporates much of the 2024 OPC State of California Sea Level Rise 2024 Update.

To provide additional perspective for the design MSLR scenario, we have reproduced as Exhibit 5.1-1, the CCC's five suggested scenarios through the year 2100 from the CCC's 2024 Sea Level Rise Policy Guidance Document, ranging from the lowest at 0.9 foot, to the highest at 6.6 feet. On Exhibit 5.1-1, we have also plotted NOAA's 100-year record of SLR for La Jolla (Exhibit 4.6-1) at the relatively uniform rate of 2.02 mm/year, which from 2000 through 2024 has resulted in 4.8 centimeters (cm) of SLR in the past 24 years, which is relatively similar to the CCC's 2024 lowest MSLR scenario.

EXHIBIT 5.1-1: Modified California Coastal Commission Sea Level Rise Policy Guidance Document, Adopted November 13, 2024



The real significance of the various MSLR scenarios is the design breaking wave height and the overtopping and damage to the existing structure. We have analyzed the 1982-83 El Niño storms considered to be the 100-year design event without SLR, along with the 3.1 and 4.8-foot SLR scenarios recommended by the OPC and have included these in our wave height and wave runup and overtopping calculations.

5.2 DESIGN STILLWATER

The maximum design stillwater level (SWL) is critical to any wave analyses, as it determines the wave energy that can be propagated into the shoreline, eventually impacting and overtopping structures. It is the deep-water wave height superimposed upon the extreme SWL that defines the joint probability of the design storm condition, creating the largest wave forces on structures, along with the maximum runup and overtopping volume. In addition to tidal fluctuation, water levels at the shoreline are influenced by storm surge, wave setup, and surf beat. These influences, combined with the astronomical high tide, allow offshore storm waves to run up the elevated back beach and impact coastal structures. For the Del Mar area, excluding SLR, the likely maximum 100-year design SWL would be on the order of 7.62 feet (NAVD 88), not including wave runup. To account for SLR, we have used the criteria provided in Table 5.1-1, evaluating two different SLR scenarios of 3.1 and 4.8 feet by the year 2100. We have also evaluated the 100-year design storm in the absence of SLR, assumed to be the 1982-83 El Niño storm season.

5.3 DESIGN WAVE HEIGHT

Selection of a design wave requires consideration of such factors as the maximum anticipated deep-water wave height and the wave period that can be expected to occur over the life of the structure. As large deep-water waves approach a coastline, friction on the rising sea floor eventually causes the wave to collapse or break. This wave-breaking depth is equal to about 1.3 times the wave height. During periods of extreme high tides, and in the absence of the protective back beach, small swells (possibly 3 to 5 feet in height) may actually maintain most of their wave energy and break directly on the coast. During periods of heavy storms, deep-water waves, tens of feet high, break quite a distance offshore, reform as small waves, and eventually impart a portion of their original wave energy onto the coastal bluff.

Wave conditions at the site depend critically on the water level and corresponding beach elevation at the base of the bluff. Consequently, a design SWL or a range of SWLs must be established in determining wave forces on coastal bluffs.

The foreshore slope also affects the height of a particular design wave approaching the coast. For a given beach, a steeper foreshore slope allows a larger wave to break closer to shore.

We used a contemporary design SWL of 7.62 feet (NAVD 88) determined from Table 4.1-1 above), which is the highest observed tide reported. We then added 2.02 mm/year from 2001 through 2025 to account for the contemporary rate of SLR from the year 2001 (the latest NOAA tidal epoch). This results in an additional design water level of 0.16 feet for a design stillwater of Elevation 7.78 feet (NAVD 88).

Our evaluation of the maximum design wave for the seawall is based on criteria set forth in the U.S. Army Corps of Engineers Shore Protection Manual (1984 Edition). For purposes of computing the maximum wave height, we have also considered a design scour elevation in front of the structure of +2.37 and -1.63 feet (NAVD 88) (0 feet and -4 feet NAVD 29), which is discussed in further detail in Section 5.4, and a foreshore slope of 1 to 60. The three design SWLs were selected as described below.

- Case 1 represents the 100-year storm event with an estimated design SWL of 8.28 feet with a design scour of Elevation 2.37 feet (NAVD 88).
- Case 2 represents the Intermediate SLR scenario, which has an expected exceedance probability of 5 percent and a design SWL of 11.38 feet in the year 2100. In addition, this case assumes a design scour of Elevation 2.37 feet (NAVD 88).
- Case 3 represents the Intermediate-High SLR scenario, which has an expected exceedance probability of 0.1 percent and a design SWL of 13.08 feet in the year 2100. In addition, this case assumes a design scour of Elevation 2.37 feet (NAVD 88).

Additionally, Cases 4 to 6 are the same conditions as noted in Cases 1 to 3, with the exception of a higher design scour of Elevation -1.63 feet (NAVD 88). All of the above cases also assume an El Niño temporary SLR of 0.5 foot.

The maximum wave height (tabulated below) that can reach the structure occurs during the period when the maximum depth of standing water exists in front of the structure, which includes both the maximum SWL combined with the maximum scour at the base of the structure. The maximum water depths at the base of the structure, d_s, for the three design scenarios considered are tabulated below. We have also assumed a wave period of 18 seconds. The resultant maximum breaking wave height occurs when a specific deep-water wave is allowed to shoal and break directly upon the structure. Using the design criteria set forth in the Army Corps of Engineers Shore Protection Manual, the design breaking wave height, H_b, is slightly less than d_s, also tabulated below.

TABLE 5.3-1: Design SLR and SWL for Wave Height Analysis

DESIGN LOADING CONDITION	ASSUMED MSLR (feet)	EL NIÑO TEMPORARY SLR (feet)	DESIGN SWL (feet, NAVD 88)	DESIGN SCOUR ELEVATION (feet, NAVD88)	ds (feet)	Hb, ft
Case 1	0	0.5	8.28	2.37	7.32	7.0
Case 2	3.1	0.5	11.38	2.37	10.88	10.3
Case 3	4.8	0.5	13.08	2.37	12.79	12.0
Case 4	0	0.5	8.28	-1.63	11.90	11.3
Case 5	3.1	0.5	11.38	-1.63	15.40	14.5
Case 6	4.8	0.5	13.08	-1.63	17.30	16.3

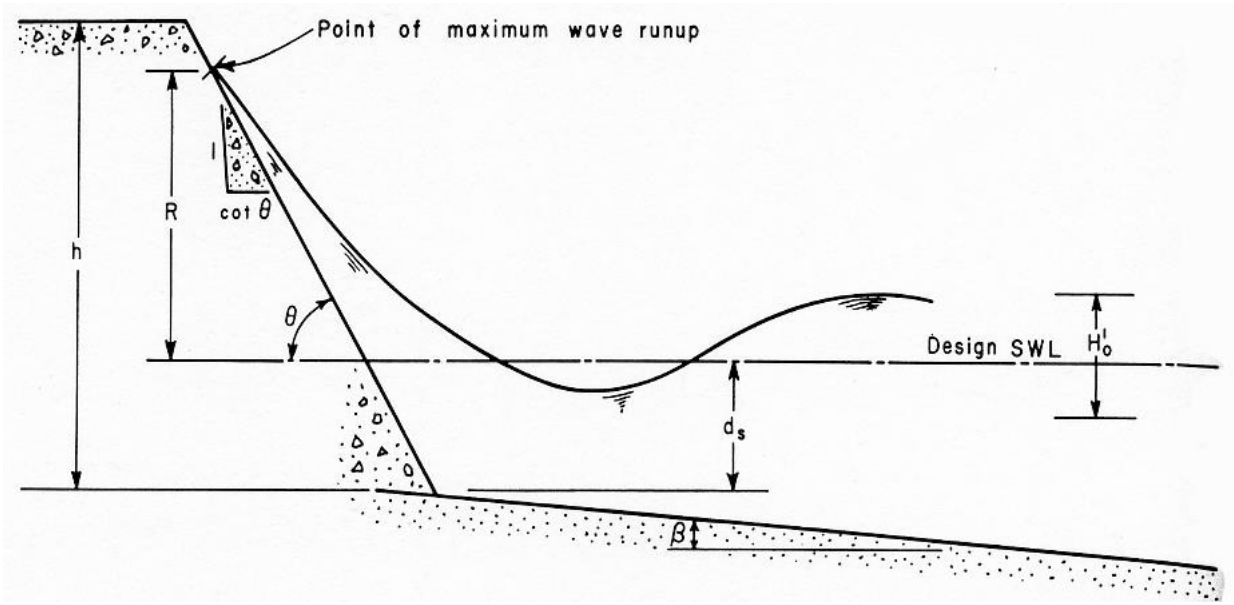
5.4 WAVE RUNUP AND OVERTOPPING ANALYSIS

Wave runup is defined as the rush of water up a beach or coastal structure that is caused by, or associated with, breaking waves. The maximum runup is the highest vertical elevation that the runup will reach above the SWL. If the maximum runup is higher than the top of a coastal structure, the excess represents overtopping. Runup elevation depends on the incident wave characteristics, the beach profile, including profile elevation, and other factors. Most wave runup and overtopping analyses are based upon equations and nomographs provided in the U.S. Army Corps of Engineers Shore Protection Manual (SPM, USACE, 1984), the Internet-based Coastal Engineering Manual (Part VI-Chapter 5, 2022), and the more recent Handbook of Coastal and Ocean Engineering by Kim (2010).

Previous studies of the coastal processes in the site vicinity is provided in the July 22, 1983, "Preliminary Engineering Study, Beach and River Protective Devices, for the City of Del Mar," report prepared by R.M. Noble and Associates. From their study, a design scour of Elevation -4 feet (NGVD 29) (-1.63 feet NAVD 88) was considered.

The following definition sketch for both wave runup and overtopping, reproduced from the 1984 SPM, graphically illustrates the point of maximum wave runup for a particular design condition.

EXHIBIT 5.4-1: Definition Sketch: Wave Runup and Overtopping



It should also be clear from the sketch that any wave runup exceeding the height of the structure then represents overtopping.

We evaluated both the maximum height of runup and volume of overtopping based on the 2010 Handbook of Coastal and Ocean Engineering (Kim, 2010) for the six design scenarios assumed above. We also assumed a wave period of 18 seconds assuming storms out of the west, which results in the maximum design wave runup elevations and calculated overtopping volumes, as tabulated below. Summary calculations are also provided in Appendix A.

TABLE 5.4-1: Design Wave Runup Results

DESIGN CONDITION	ASSUMED SLR in 2100 (feet)	DESIGN SWL (feet, NAVD 88)	ds (feet)	WAVE RUNUP HEIGHT (feet)	MAXIMUM DESIGN WAVE RUNUP ELEVATION (feet)	OVERTOPPING VOLUME (liters/second per m)
Case 1	0	8.28	7.32	11.3	21.0	16
Case 2	3.1	11.38	10.88	16.8	30.0	588
Case 3	4.8	13.08	12.79	19.5	34.7	1844
Case 4	0	8.28	11.90	18.4	28.6	244
Case 5	3.1	11.38	15.40	23.5	37.3	1795
Case 6	4.8	13.08	17.30	26.4	42.1	3960

In selecting both the design wave height and the anticipated design wave runup and overtopping, the controlling criteria is the design maximum SWL combined with scoured Elevation 0 feet or -4 feet (NGVD 29) (2.37 feet to -1.63 feet NAVD88). Ultimately, the design SLR sets the design criteria, with OPC 2024, and hence the CCC, recommending that all designs consider the intermediate risk aversion scenario of 3.1 feet of SLR by the year 2100 with a corresponding probability of exceedance of 5 percent.

5.5 WALL DESIGN

The existing seawall has a crown elevation around Elevation 16 feet (NAVD 88). All cases have a maximum design wave runup elevation in excess of the top of the existing seawall, resulting in overtopping for all cases. Even in the absence of any SLR, severe storms may result in scour of the soil supporting the wall foundation to an approximately Elevation -1.63 feet (NAVD 88), which corresponds to a previously established scour elevation as discussed above. Based on the likely overtopping from the above scenarios, the owner should expect future wave runup hazards with the planned top of wall of Elevation 17 feet (NAVD 88).

5.6 CANTILEVERED VS. TIED-BACK VERTICAL SEAWALLS

As indicated in the 1983 Noble report, a vertical seawall is generally the configuration of coastal protection preferred by most regulatory agencies. Additionally, a vertical seawall is usually less disruptive and occupies only a fraction of the space taken up by a stone revetment. Vertical seawalls incorporating a properly designed wave deflector substantially reduce the wave runup and overtopping more typically encountered with stone revetments.

Vertical seawalls may be designed as either cantilevered or tied-back structures. Wall loads increase roughly with the square of the unsupported height, and cantilevered walls are typically limited to unsupported wall heights on the order of 15 feet.

Vertical sheet-pile walls are loaded by the active earth pressure (including any surcharge loads) behind the wall. Resistance to overturning is developed through deflection in the wall, which mobilizes the reaction of the soil into which the wall is embedded. The resisting pressure applied by the soil to a sheet-pile wall depends upon the relative stiffness of the pile and soil, as well as the depth of embedment.

If sufficient embedment is not available, overturning forces must then be resisted by a tied-back system utilizing tie rods attached to concrete anchors some distance behind the wall. Schematic designs were provided for both cantilevered and tied-back vertical seawalls in the 1983 Noble report. Both options were provided in the report because relatively dense formational deposits exist at shallow depths along portions of the Del Mar coastline, eliminating the use of cantilevered walls in these areas. Cantilevered vertical walls are usually less expensive than tied-back walls, are easier to construct, and are generally less susceptible to a potential failure. One disadvantage, however, is the post-construction deflections that occur after the beach has been scoured down to the design scour level, allowing the wall to rotate outward; a necessary requisite to mobilize the strength of the soil fronting the wall.

Actual wall deflection is a function of the active earth pressure loading the wall, and is very sensitive to the differential water level on both sides of the wall. An important consideration then becomes the effect of severe wave overtopping during a major storm that may tend to saturate the wall backfill, with a worst-case condition being total hydrostatic pressures developing within the backfill behind the wall. In considering this worst-case design scenario, one must address the water surface elevation in front of the wall, and ultimately the differential in water surface elevations in front of and behind the wall. The most severe wave overtopping will occur during the highest tides, thereby reducing the differential water level on both sides of the wall. The worst-case design scenario would be to assume full hydrostatic conditions behind the wall and a water surface of Elevation -1.63 feet (NAVD 88) in front of the wall (equal to the design scour depth). This worst-case condition is highly unlikely, however, in view of the fact that severe wave overtopping can only occur during tidal highs when significant storm waves can actually reach and break upon the structure.

Considering the type of seawalls used both north and south of the subject property, in addition to the advantages mentioned above, it is our opinion that a cantilevered vertical sheet-pile wall is still the most desirable type of seawall for the subject site.

6.0 CANTILEVERED SHEET PILE DESIGN

Vertical seawalls are loaded by the active earth pressure (including any surcharge loads) behind the wall. Resistance to overturning of cantilevered vertical seawalls is developed through deflection in the seawall, which mobilizes the reaction of the soil into which the sheet-pile wall is embedded. The resisting pressure applied by the soil to a pile depends upon the relative stiffness of the pile and soil, as well as depth of embedment.

Failure of a laterally loaded pile takes place either when the maximum bending moment in the loaded pile reaches the ultimate or yield resistance of the pile section, or when the lateral earth pressures reach the ultimate lateral resistance of the soil along the total length of the pile. For purposes of definition, failure of piles with relatively “short embedment” takes place when the pile rotates as a unit with respect to a point located close to its toe. Failures of piles with relatively “long embedment” occur when the maximum bending moment applied to the pile exceeds the yield resistance of the pile section and a plastic hinge forms at the section of maximum bending moment. Investigators have suggested that piles be grouped relative to their dimensionless depth of embedment, L/T, where:

L = embedment length of the pile in feet, and

$$T = \left(\frac{EI}{f}\right)^{\frac{1}{5}}$$ (divided by 12 to convert inches to feet)

The quantity EI is the stiffness of the pile section, and f (coefficient of variation of soil modulus) for the on-site soil would be on the order of 8 pounds per cubic inch (pci). The actual modulus value is approximately 32 pci (however, this value must be reduced by a factor of 4 to account for the case of full bridging of isolated piles resulting from the continuous wall). Short piles are generally defined as L/T being less than 2.0, and long piles are generally defined as L/T being larger than 4.0. Thus, minimum pile embedment was selected based on an L/T equal to 4.0 to develop the full moment capacity and minimum deflection of the pile.

Design loading conditions were based on active earth pressures and a combination of hydrostatic pressures evaluating three separate loading conditions. The beach sand fronting the wall appear to have an average relative density of approximately 75 percent, and a porosity on the order of 40 percent. Thus, active wall pressures for an unsaturated backfill, assuming all pore space is essentially filled with water but not saturated (a condition that may exist after considerable wave overtopping), would be approximately 37 pounds per cubic foot (pcf). Active wall pressures for buoyant soil would be approximately 18 pcf, and active wall pressures for a saturated backfill subjected to full hydrostatic conditions would be approximately 82 pcf (64 pcf [weight of sea water] + 18 pcf).

In order to determine the structural requirements for the proposed sheet-pile wall, we have evaluated the soil-induced moment, shear, and deflection of a vertical wall using the elastic theory approach developed by Matlock and Reese (1962). Calculations are also provided in Appendix A.

We have selected a PZ-35 Grade 50 steel sheet pile having a minimum yield stress of 50,000 psi. A corresponding minimum required tip elevation for the PZ-35 would be Elevation -22 feet (NAVD 88).

It should be noted, post-storm wall deflections can be fairly significant, resulting in ground surface settlements immediately behind the wall approaching that of the horizontal wall deflection. If it is desired to minimize future post-storm wall deflections, the steel sheet-pile wall can be pre-loaded or pre-deflected by excavating down as deep as practical in front of the wall, allowing the wall to deflect and the soil behind the wall to settle into the deflected wall shape.

7.0 SHEET PILE INSTALLATION CHARACTERISTICS

Sheet piles are generally installed through the use of an impact hammer, by vibratory techniques, or by hydraulically jetting piles down to design tip elevation (jetting of piles still requires dynamic driving for the last several feet to redensify soil loosened by the jetting process). Displacement piles, as proposed in the 1983 Noble report, will likely be difficult to drive to the depths indicated in that report, or as recommended herein. Hydraulic jetting requires a water source and may result in some lost ground, which may adversely affect the adjacent improvements to the east. Vibratory techniques are most effective when using a non-displacement pile, such as a steel sheet pile. Steel sheet piles are economical and facilitate installation, minimizing disruptive construction activities on the beach.

It should be noted that any of the installation techniques described above will meet refusal on any existing riprap left in place. The contractor should be aware of the presence of existing riprap extending to an undetermined depth along the sheet pile alignment, which will require removal prior to sheet pile installation.

Regardless of installation technique, some vibration-induced damage may occur in nearby structures. It is important to realize that installation of a conventional sheet-pile wall in close proximity to existing structures will likely cause damage, with the intensity of damage becoming progressively more severe with proximity to the structure. When utilizing the United States Bureau of Mines Damage Criteria, and anticipated human response criteria as presented by John Wiss (1981), it is reasonable to conclude that the installation of conventional sheet-pile walls will cause damage to structures within 12 feet of the alignment and; for structures within 4 feet of the alignment, severe damage should be anticipated.

8.0 ALTERNATIVES ANALYSIS

An analysis of alternatives to the currently proposed project was completed. The proposed project consists of the construction of a new cantilevered sheet-pile wall to perform as a coastal protection structure. The following alternatives were considered.

8.1 CANTILEVERED SHEET-PILE SEAWALL – CURRENTLY PROPOSED PROJECT

A new sheet-pile wall would consist of vibratory-installed steel sheet piles with a concrete cap. To comply with City guidelines, the front face of the seawall provides a visual marker to indicate fairly significant beach erosion and for visual consistency. This compliant seawall would have a top-of-wall of Elevation 17.0 feet, with the seaward edge of the proposed concrete cap located behind the City's SPA line. As part of this project, the existing seawall and all riprap rock fronting

the current seawall would be removed. The new seawall would be entirely landward of the City's SPA line.

8.2 SECANT PILE WALL

A secant pile wall is formed by constructing overlapping concrete piles. A benefit of the secant pile wall is that the concrete wall is more resistant to corrosion and can be placed along most any alignment, and thus easily constructed behind the SPA line. This alternative would have no impact on the amount of usable beach, similar to the cantilevered sheet-pile wall alternative.

8.3 ROCK RIPRAP REVETMENT

As with seawalls, rock riprap is a conventional structural measure for mitigating marine erosion. Although arguably having some value as an alternative for stabilization, it has a variety of negative environmental impacts, including visual aesthetics and encroachment into the active beach face. Additionally, this alternative, as with the existing conditions, would extend the revetment beyond the SPA line, requiring the property owners to obtain a Coastal Development Permit from the California Coastal Commission, and incur the additional expense of a significant mitigation fee.

8.4 "SOFT" PROTECTION

"Soft" protection might include sand replenishment, dune creation, and native plantings on the beach in front of the westerly facing beach property. These alternatives would provide habitat to wildlife, would add sand to the beach, and would appear more natural. "Soft" protection alternatives were rejected for multiple reasons. The property owners own only the narrow strip of land where the seawall exists. This strip would not provide enough area to implement any "soft" form of protection. Such projects would have to be implemented on a broader community-wide basis for the beach in front of the properties. "Soft" protection would require large amounts of manpower, large volumes of sand, and continuous monitoring and maintenance, making it an extremely burdensome undertaking for a private entity. Note that SANDAG performs irregular sand replenishment projects on this beach, which we understand the property owners fully support, but these sand replenishment projects do not eliminate the need for shore protection in the event of an extreme high tide or storm surge. Dunes and vegetation did not exist naturally on this beach before development, suggesting that they might be difficult to establish and maintain artificially. Furthermore, dunes and vegetation would negatively impact the recreational value of the heavily used beach. More importantly, "soft" protection strategies are not likely to provide sufficient protection against flooding of the existing structure at 2936 Camino Del Mar.

8.5 RETREAT

A retreat alternative would mean removing the existing house and relocating it inland some undetermined distance. A retreat option is not feasible because sufficient area is not available on the property to relocate the structure and, in any event, because the entire project site is at a low elevation, merely relocating the protective structure would not eliminate the threat of inundation to the entire area, public streets, surrounding homes, and adjacent properties.

8.6 NO PROJECT = NO MAINTENANCE

Although this alternative may be considered, it is our opinion that it is not an acceptable option. Failure of the existing seawall, partially or in its entirety, would not only expose the existing residential structure to inundation and damage from marine flooding, but the failure would also

present an unacceptable public health and safety hazard to both the beach-going public and the low elevation properties east of Camino Del Mar, all of which would experience flooding as occurred during the 1983 storms. Additionally, retaining the existing non-compliant seawall and riprap seaward of the SPA line would not advance the goals and objectives of the SPA to remove encroachments and enhance public access to and along the shoreline and beach.

9.0 LIMITATIONS

Coastal engineering and the earth sciences are characterized by uncertainty. Professional judgments represented herein are based partly on our evaluation of the technical information gathered, partly on our understanding of the proposed construction, and partly on our general experience. Our engineering work and judgments rendered meet the current professional standards and there is no warranty, express or implied. There are risks of earth movement and property damage inherent in buildings on or with earth materials. We are unable to eliminate all risks; therefore, we are unable to guarantee or warrant the results of our services.

This report is based upon field and other conditions discovered at the time of report preparation. We developed this report with limited subsurface exploration data. We assumed that the subsurface exploration data are representative of the actual subsurface conditions in the vicinity of the project location. If unexpected conditions are encountered, ENGEO must be notified immediately to review these conditions and provide additional and/or modified recommendations, as necessary.

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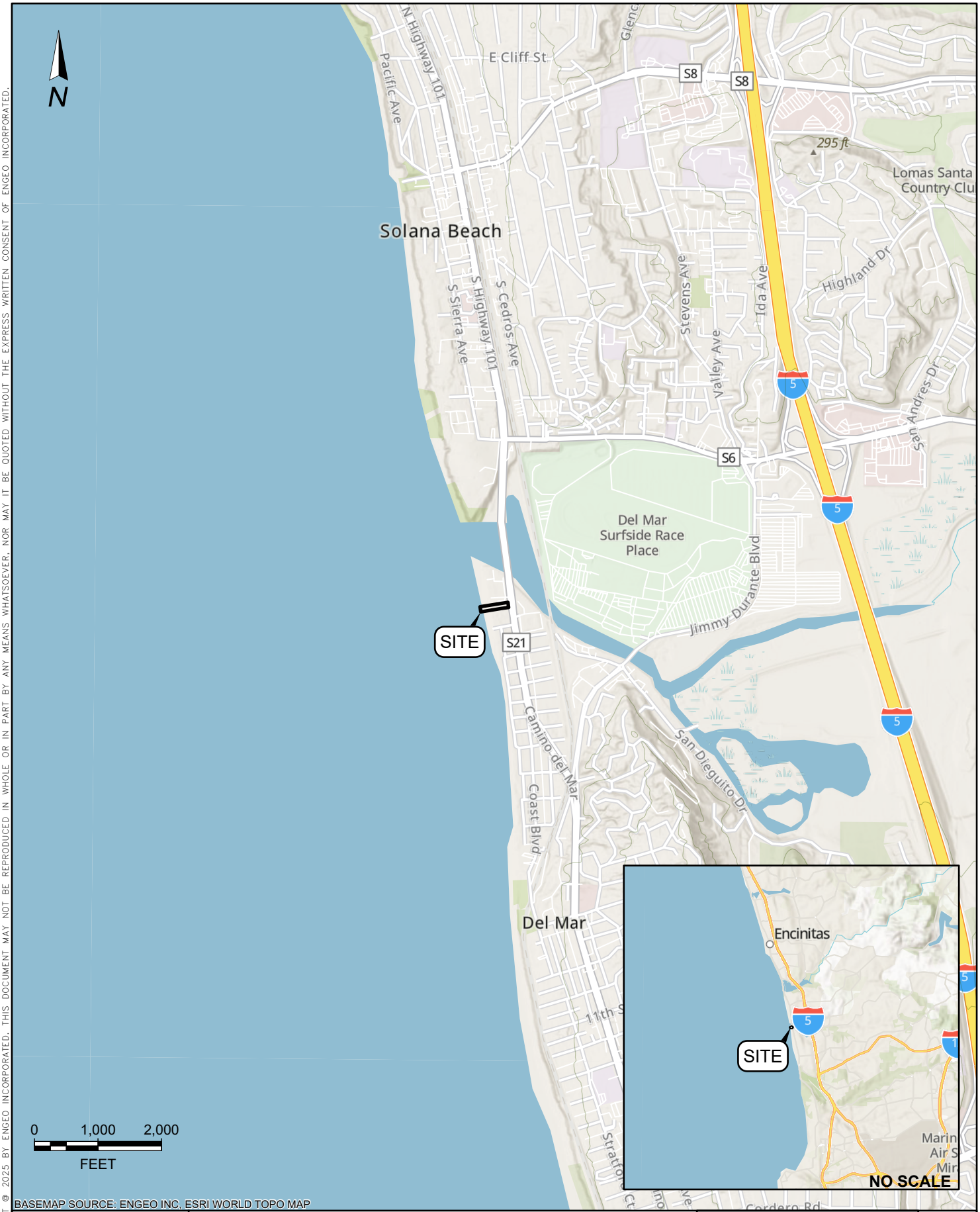
FIGURES

FIGURE 1: Vicinity Map
FIGURE 2: Site Plan
FIGURE 3: Geologic Map
FIGURE 4: Fault and Seismicity Map
FIGURE 5: Tsunami Inundation Map



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VICINITY MAP

2936 CAMINO DEL MAR
DEL MAR, CALIFORNIA

PROJECT NO. :	26084.000.001
SCALE:	AS SHOWN
DRAWN BY: NWC	CHECKED BY: TJS

FIGURE NO. 1

ORIGINAL FIGURE PRINTED IN COLOR

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LAYOUT: 01. VICINITY 8.5 X 11 PORTRAIT USER: NCLOUGH

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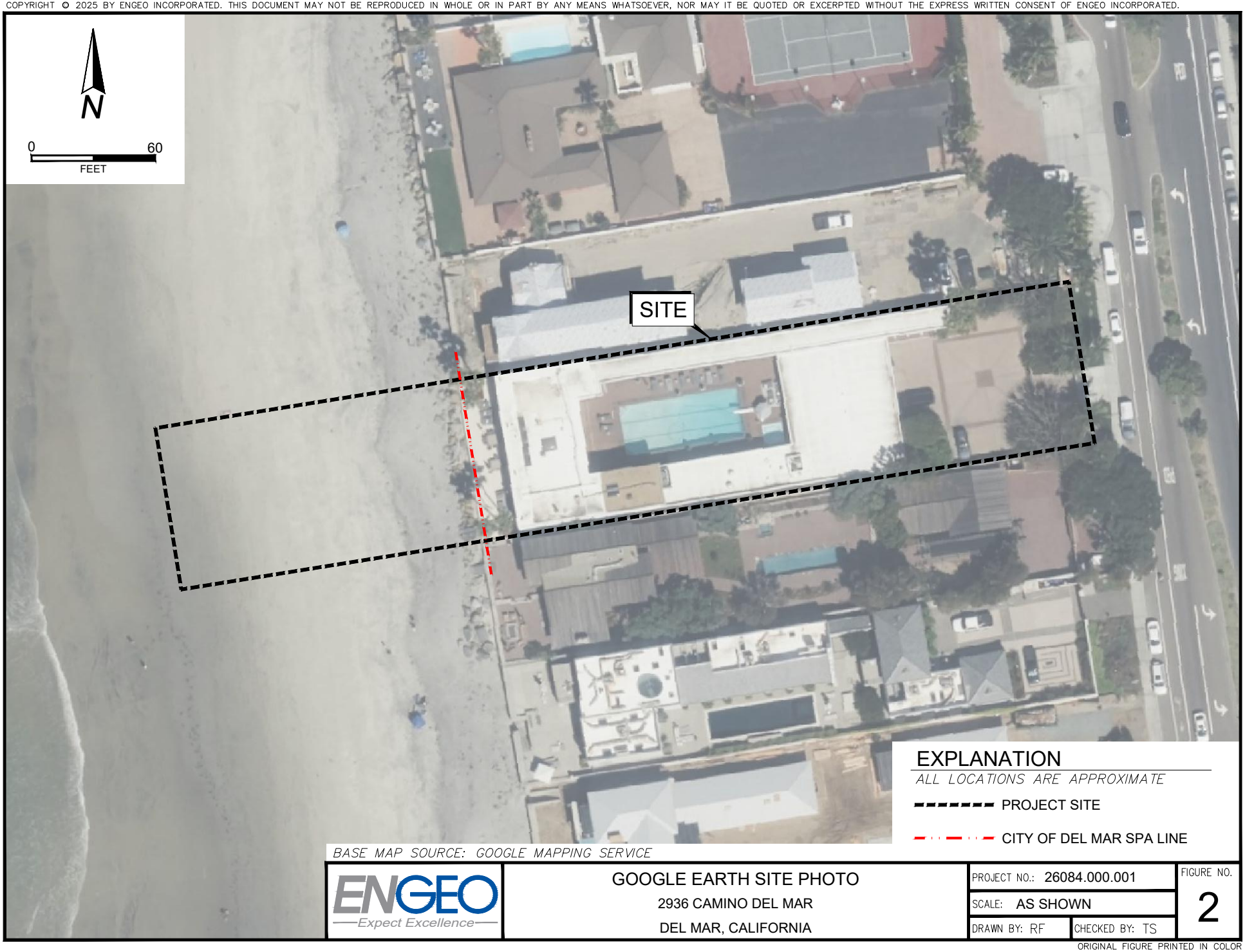

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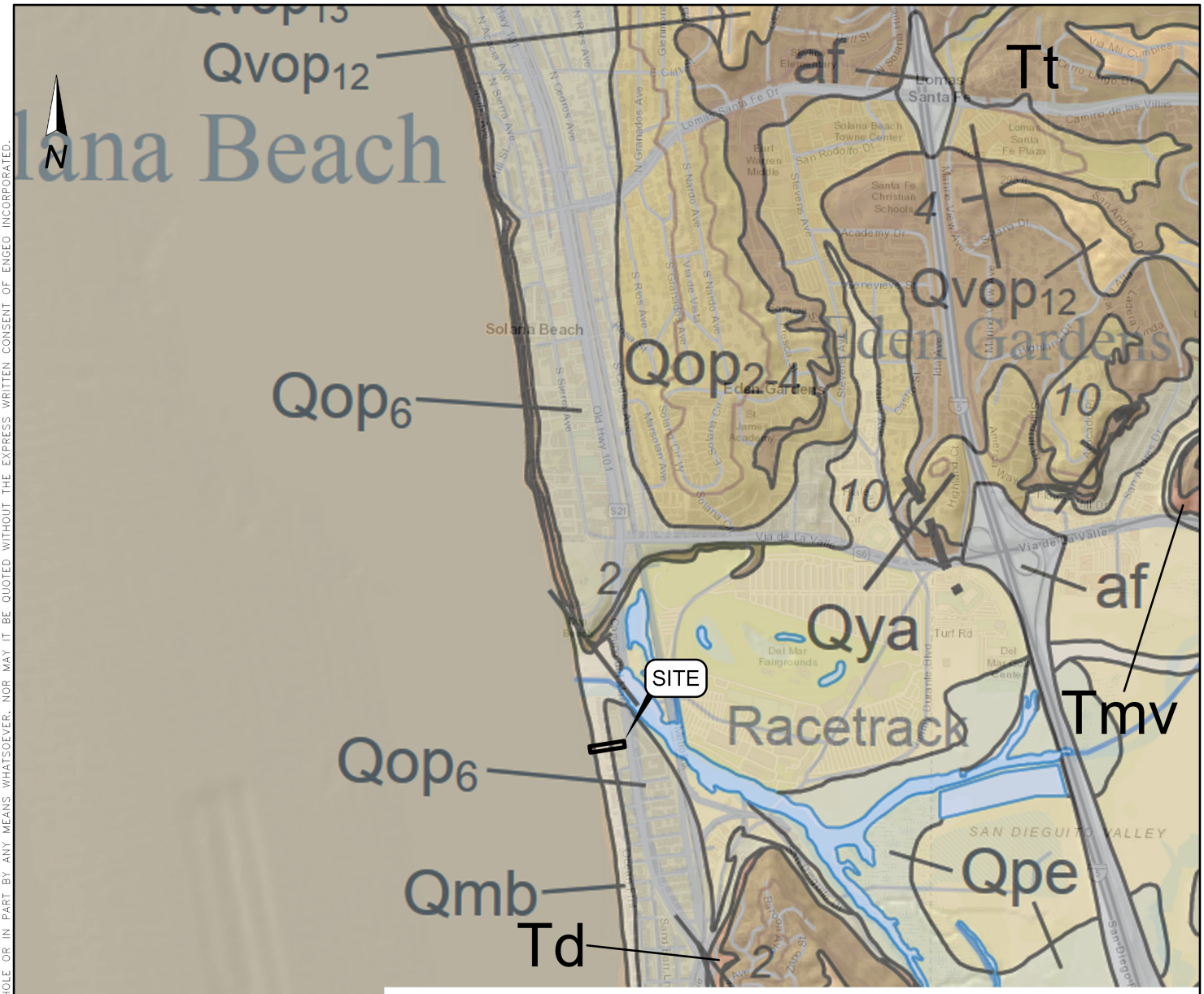
GOOGLE EARTH SITE PHOTO
2936 CAMINO DEL MAR
DEL MAR, CALIFORNIA

PROJECT NO.: 26084.000.001
SCALE: AS SHOWN
DRAWN BY: RF
CHECKED BY: TS

FIGURE NO. 2

ORIGINAL FIGURE PRINTED IN COLOR



BASEMAP SOURCE: ESRI TOPO MAP; AND, KENNEDY AND TAN, 2008

EXPLANATION

- af — Artificial Fill (Late Holocene)
- Qmb — Marine Beach Deposits (Late Holocene)
- Qpe — Paralic Estuarine Deposits (Late Holocene)
- Qya — Young Alluvial Flood-Plain Deposits (Holocene and Late Pleistocene)
- Qop_6 — Old Paralic Deposits, Undivided, Unit 6 (Late to Middle Pleistocene)
- Qop_{2-4} — Old Paralic Deposits, Undivided, Units 2-4(Late to Middle Pleistocene)
- $Qvop_{12}$ — Very Old Paralic Deposits, Undivided, Unit 12 (Middle to Early Pleistocene)
- $Qvop_{10}$ — Very Old Paralic Deposits, Undivided, Unit 10 (Middle to Early Pleistocene)
- Tmv — Mission Valley Formation (Middle Eocene)
- Tt — Torrey Sandstone (Middle Eocene)
- Td — Delmar formation (Middle Eocene)

Contact - Contact Between Geologic Units; Dotted Where Concealed

Fault - Solid Where Accurately Located; Dashed Where Approximately Located; Dotted Where Concealed

70 — Strike and Dip of Beds - Inclined

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GEOLOGIC MAP
2936 CAMINO DEL MAR
DEL MAR, CALIFORNIA

PROJECT NO. :	26084.000.001
SCALE:	AS SHOWN
DRAWN BY: NWC	CHECKED BY: TJS

FIGURE NO. 3

PATH: G:\DRAFTING\PROJECTS_26000 TO 27999\26084\26084000001\GEX\26084000001 – GEX.APRX
LAYOUT: 03. GEOLOGIC 8.5 X 11 PORTRAIT USER: NCLOUGH

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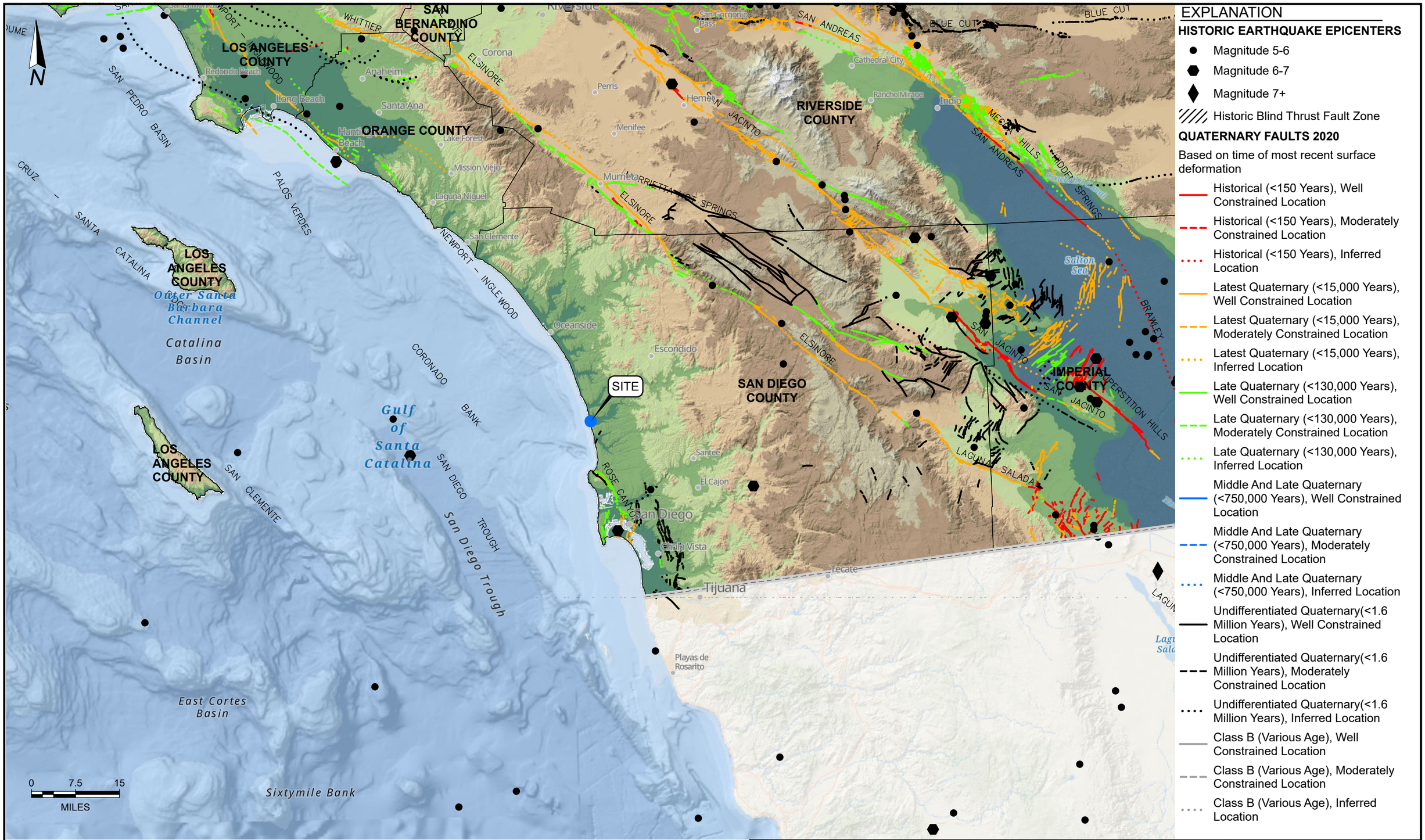

EXPLANATION

HISTORIC EARTHQUAKE EPICENTERS

- Magnitude 5-6
- Magnitude 6-7
- Magnitude 7+
- Historic Blind Thrust Fault Zone

QUATERNARY FAULTS 2020

Based on time of most recent surface deformation

- Historical (<150 Years), Well Constrained Location
- Historical (<150 Years), Moderately Constrained Location
- Historical (<150 Years), Inferred Location
- Latest Quaternary (<15,000 Years), Well Constrained Location
- Latest Quaternary (<15,000 Years), Moderately Constrained Location
- Latest Quaternary (<15,000 Years), Inferred Location
- Late Quaternary (<130,000 Years), Well Constrained Location
- Late Quaternary (<130,000 Years), Moderately Constrained Location
- Late Quaternary (<130,000 Years), Inferred Location
- Middle And Late Quaternary (<750,000 Years), Well Constrained Location
- Middle And Late Quaternary (<750,000 Years), Moderately Constrained Location
- Middle And Late Quaternary (<750,000 Years), Inferred Location
- Undifferentiated Quaternary(<1.6 Million Years), Well Constrained Location
- Undifferentiated Quaternary(<1.6 Million Years), Moderately Constrained Location
- Undifferentiated Quaternary(<1.6 Million Years), Inferred Location
- Class B (Various Age), Well Constrained Location
- Class B (Various Age), Moderately Constrained Location
- Class B (Various Age), Inferred Location

BASE MAP SOURCE: SANGIS, CALIFORNIA STATE PARKS, ESRI, TOMTOM, GARMIN, SAFEGRAPH, FAO, METI/NASA, USGS, BUREAU OF LAND MANAGEMENT, EPA, NPS, USFWS, ESRI, GEBCO, GARMIN, NATURALVUE
COLOR HILLSHADE IMAGE BASED ON THE NATIONAL ELEVATION DATA SET (NED) AT 30 METER RESOLUTION
U.S.G.S. QUATERNARY FAULT DATABASE, 2020
C.G.S. HISTORIC EARTHQUAKE DATABASE

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FAULT AND SEISMICITY MAP

2936 CAMINO DEL MAR
DEL MAR, CALIFORNIA

PROJECT NO.: 26084.000.001	FIGURE NO. 4
SCALE: AS SHOWN	
DRAWN BY: NWC	CHECKED BY: TJS

ORIGINAL FIGURE PRINTED IN COLOR

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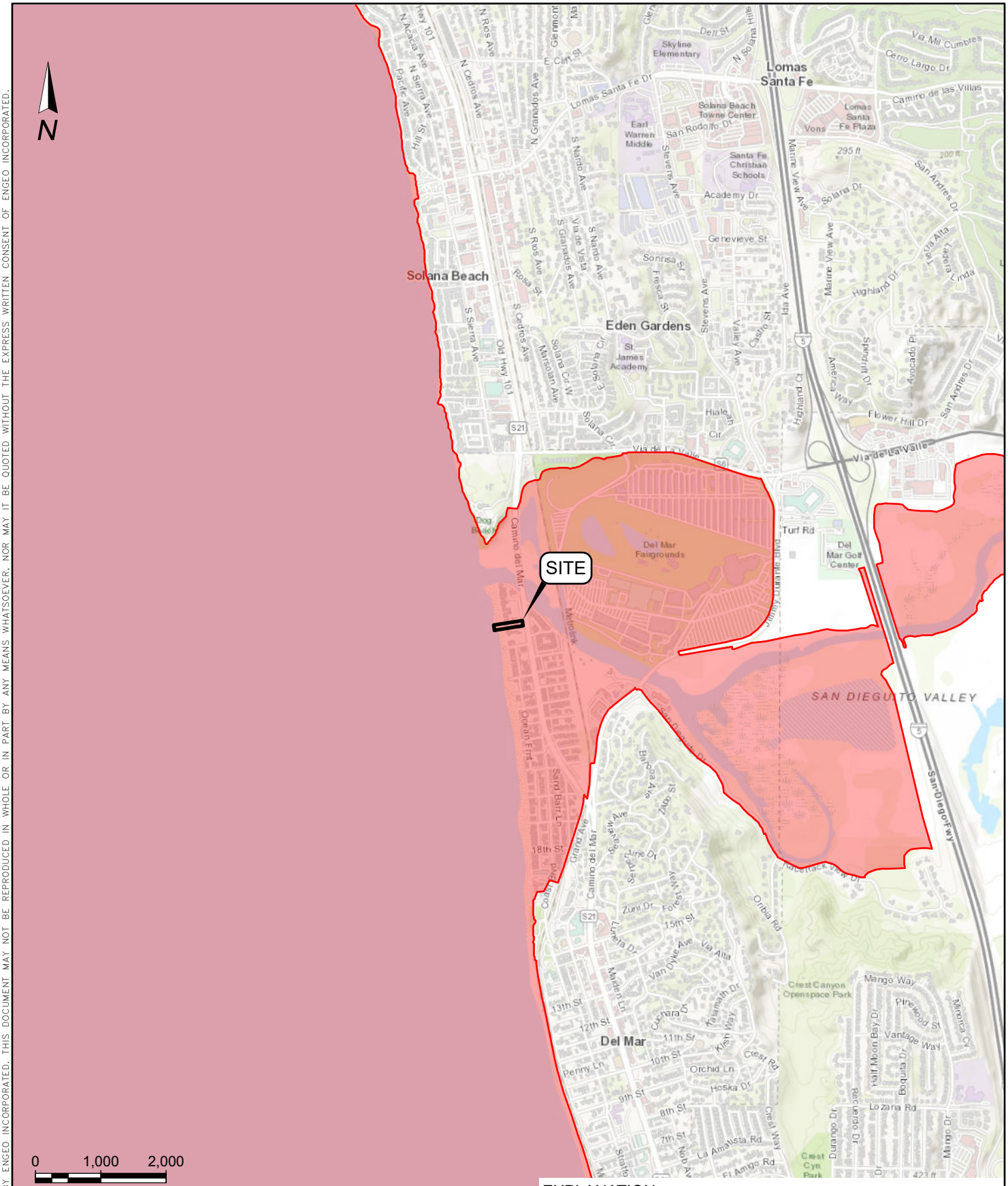

BASEMAP SOURCE: ESRI WORLD TOPO MAP; AND, CALIFORNIA GEOLOGICAL SURVEY

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TSUNAMI INUNDATION MAP

2936 CAMINO DEL MAR

DEL MAR, CALIFORNIA

PROJECT NO. :	26084.000.001
SCALE:	AS SHOWN
DRAWN BY: NWC	CHECKED BY: TJS

FIGURE NO. 5

PATH: G:\DRAFTING\PROJECTS_26000 TO 27999\26084\26084000001\GEX\26084000001 – GEX.APRX
LAYOUT: 05. TSUNAMI INUNDATION MAP USER: NCLOUGH

ORIGINAL FIGURE PRINTED IN COLOR

APPENDIX A

CALCULATIONS

2936 Camino Del Mar
Runup and Overtopping Analyses

26084.000.001
February 2025

Condition	Crest Elev. ft (NAVD88)	SWL (NAVD88)	MWL (NAVD88)	Design Scour, ft	d_s (ft)	Wset (ft)	T (s)	Runup and Overtopping Analysis based on Kim (2010)									
								d_s/gT^2	H_b/d_s	H_b (ft)	Wset/ Hb	Rc (ft)	Runup, ft Eq. 15-1	R* (NAVD88)	q (cfs/ft)	q (gpm/ft)	q (liters/s per m)
Case 1 - 2024 storms w/out SLR, scoured to el 0 ft	17	8.28	9.69	2.37	7.32	0.91	18	0.0007	0.95	7.0	0.13	7.31	11.30	20.99	0.17	77.7	16.1
Case 2 - w/2.8 ft SLR, scoured to el 0 ft	17	11.38	13.25	2.37	10.88	1.37	18	0.0010	0.95	10.3	0.13	3.75	16.80	30.05	6.33	2843.0	588.4
Case 3 - w/4.5 ft SLR, scoured to el 0 ft	17	13.08	15.16	2.37	12.79	1.58	18	0.0012	0.94	12.0	0.13	1.84	19.54	34.70	19.85	8911.1	1,844.4
Case 4 - Case 1 w/Top of wall el 22 ft	17	8.28	10.27	-1.63	11.90	1.49	18	0.0011	0.95	11.3	0.13	6.73	18.37	28.64	2.63	1178.5	243.9
Case 5 - Case 2 w/Top of wall el 22 ft	17	11.38	13.77	-1.63	15.40	1.89	18	0.0015	0.94	14.5	0.13	3.23	23.53	37.30	19.32	8670.4	1,794.6
Case 6 - Case 3 w/Top of wall el 22 ft	17	13.08	15.67	-1.63	17.30	2.09	18	0.0017	0.94	16.3	0.13	1.33	26.43	42.10	42.63	19133.6	3,960.3

MWL = SWL + wave setup + El Nino temp slr
R* = R + MWL
Top of wall elev = 17 ft, NAVD88

Shoreline Protection Manual

H_b/d_s from SPM Fig 7-4 assuming 60:1 offshore slope

Wave Setup, Wset

Wset - f(Hb, Hb/gT^2, m).....eq 3-75, fig 3-50 of SPM, 2984

This is a trial & error solution. Assume a Wset (H5), use the calculated Hb (D22), which solves for Wset (D26). Compare this with the assumed Wset and change the assumed to make both the same.

Hb =	16.30	ft
T =	18	sec
Hb/gT^2 =	0.0015624	
Wset/Hb =	0.128	from fig 3-50
Wset =	2.09	ft

El Nino temp slr = 0.5 ft

Wave Runup from Kim (2010)

$R_{u\%} = H_b*1.65*\gamma_b*\gamma_f*\gamma_\beta*\xi m\text{-}1,0$ .....Eq 15.1

where:	γ_b =	1
	γ_f =	0.5
	γ_β =	1
	$\xi m\text{-}1,0$ =	1.97

Wave Overtopping from Kim (2010)

$q = (g*H_b^3)^0.5*(0.067/\tan\alpha)*\gamma_b*\xi m\text{-}1,0*\exp(-4.3(Rc/\xi m\text{-}1,0*H_b*\gamma_b*\gamma_f*\gamma_\beta*\gamma_v)$ .....Eq 15.7

where:	γ_v =	1

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RESOLUTION NO. PC2025-xx

EXHIBIT C

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DEL MAR CERTIFYING AN ADDENDUM TO A PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 88092919) AND APPROVING SETBACK SEAWALL PERMIT SSP25-002 TO REMOVE EXISTING SEAWALL AND ROCK REVETMENT (RIP RAP) LOCATED WITHIN THE SHORELINE PROTECTION AREA AND TO CONSTRUCT A NEW 80-FOOT-LONG SEAWALL DESIGNED AND LOCATED EAST OF THE SHORELINE PROTECTION AREA LINE IN CONFORMANCE WITH STANDARDS OF THE BEACH OVERLAY ZONE AND THE CITY OF DEL MAR LOCAL COASTAL PROGRAM, AND CONCUR WITH THE APPLICANT'S REQUEST TO CONSOLIDATE THE REQUIRED COASTAL DEVELOPMENT PERMIT FOR PROCESSING AND APPROVAL BY THE CALIFORNIA COASTAL COMMISSION FOR PROPERTY LOCATED AT 2936 CAMINO DEL MAR, DEL MAR, CALIFORNIA

WHEREAS, Oceans Investments, LLC (APPLICANT) is the owner of real property commonly referred to as 2936 Camino Del Mar (APN: 299-020-12-00) (PROPERTY); and

WHEREAS, the Applicant filed verified application for a Setback Seawall Permit SSP25-002 (PROJECT) to remove existing shoreline protective devices consisting of a seawall and rock revetment located within the Shoreline Protection Area and construct a new vertical sheet-pile seawall approximately 80-feet long to be located easterly of the Shoreline Protection Area (SPA) line, adjacent to 2936 Camino Del Mar; and

WHEREAS, said verified application constitute a request as provided by Title 30 of the Del Mar Municipal Code (DMMC); and

WHEREAS, a Coastal Development Permit from the City of Del Mar and the California Coastal Commission is required for the project and the Applicant has requested to consolidate the permit processing with the California Coastal Commission; and

WHEREAS, a Program Environmental Impact Report for the Beach Preservation Initiative was certified by Resolution 89-56 by the City Council of the City of Del Mar following circulation to the public, responsible agencies, and other interested persons for their review and comment as required by the California Environmental Quality Act (CEQA); and

WHEREAS, since the time of the original certification of the Program Environmental Report, the City of Del Mar received development applications (Shoreline Protection Permit and Setback Seawall Permit) to remove existing shoreline protective devices located on beachfront properties and construct a new BPI compliant seawall; and

WHEREAS, an Addendum to the Program Environmental Impact Report, dated July 29, 2025, and prepared for the City of Del Mar by RECON Environmental Inc., has been prepared in accordance with applicable law, including the CEQA, Public Resources Code of Regulations

section 21000 et seq., and the CEQA Guidelines, 14 California Code of Regulations section 15000 et seq.; and

WHEREAS, the Addendum to the Program Environmental Report determined that the proposed changes to remove existing shoreline protective devices and construct a new seawall on the PROPERTY would not result in any new significant impacts or substantially change the severity of the impacts from the adopted Program Environmental Impact Report, and no new mitigation is required; and

WHEREAS, on July 23, 2025, the Design Review Board of the City of Del Mar, serving as the advisory body to the Planning Commission on design related matters to ensure the use of good design which encompasses the use of harmonious material and color, held a duly noticed public hearing to review the referenced entitlements pursuant to Section 6 of the Implementation Guidelines for the Beach Preservation Initiative, and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

a. Plans submitted by the Applicant.
b. Written information submitted with the application.
c. Staff Report, dated July 23, 2025 which is incorporated by this reference as though fully set forth herein; and
d. Oral testimony from City staff, the Applicant and the public (if any)
e. Additional information submitted during the hearing (if any); and

WHEREAS, on July 23, 2025, the Design Review Board of the City of Del Mar, recommended to the Planning Commission approval of the design aesthetic of the seawall; and

WHEREAS, on August 12, 2025, the Planning Commission of the City of Del Mar held a duly noticed public hearing to review the referenced entitlements, to consider the referenced Addendum to the previously certified Programmatic EIR, and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

a. Plans submitted by the Applicant.
b. Written information submitted with the application.
c. Staff Report, dated August 12, 2025 which is incorporated by this reference as though fully set forth herein; and
d. Oral testimony from City staff, the Applicant and the public (if any)
e. Additional information submitted during the hearing (if any); and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Del Mar certifies the Addendum to the Certified Program Environmental Impact Report for the Beach Preservation Initiative, based on the following findings:

1. That the Addendum to the Certified Program Environmental Report (SCH No. 288092919) for the Beach Preservation Initiative has been prepared in compliance with

the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the CEQA Guidelines thereto (14 California Code of Regulations Section 15000 et seq.).

2. That the Addendum to the Program Environmental Impact Report for the Beach Preservation Initiative reflects the independent judgment of the City of Del Mar as the Lead Agency.

3. That the Addendum to the Program Environmental Impact Report for the Beach Preservation Initiative is accurate and complete.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar, that **S**etback Seawall Permit SSP25-002 is hereby approved based on the following findings in DMMC Setback Seawall Permit Section 30.51.040 (Criterial for Approval):

A. Is required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts to local shoreline sand supply.

The proposed seawall would be designed and located in compliance with standards enumerated in Chapters 30.50 and 30.51 of the Del Mar Municipal Code and would serve to protect land zoned for development with residential uses. Analysis submitted by a licensed civil engineer and with concurring third-party review by a city-contracted consultant verifies that the construction of a new seawall at the subject property will not have an adverse effect on the erosion or accretion of sand either immediately ocean-ward or up and down the coast from the subject property.

B. Will minimize risks to life and property in areas of flood hazards.

The proposed seawall has been designed and would be located in accordance with standards of Chapters 30.50 and 30.51 of the Del Mar Municipal Code, ensuring that the structure would serve to minimize risks to life and property for property located within the Federal Emergency Management Agency (FEMA) VE (Coastal High Hazard) Zone, properties subject to special flood hazard extending from offshore to any area subject to high velocity wave action from storms, seismic forces or tsunamis, to the greatest extent feasible.

C. Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs.

The proposed seawall has been designed using contemporary standards and methods of engineering in accordance the design and location requirements of Chapters 30.50 and 30.51 of the Del Mar Municipal Code. Submitted analysis from a qualified civil engineer (and reviewed and verified by expert third-party) specifically confirms that

the design of the proposed seawall, effectively protect the subject property and would not contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The subject property is not located near natural landforms along bluffs and cliffs.

D. Is in conformity with the certified Local Coastal Program;

Subject to review and approval of Setback Seawall Permit, seawalls are a permitted use in the R1-10 Beach zoning designations for the property. The structure has been reviewed for conformance with applicable standards of the Beach Overlay Zone by the Planning and Engineering Departments as well as a third-party civil engineer, found to comply, and so would be in conformity with the City of Del Mar's certified Local Coastal Program. The seawall would not obstruct public coastal views, nor would it impact public parking or beach access. Public access is currently provided at the 29th Street streetend approximately 270-feet to the south and at the southwest end of the Camino Del Mar Bridge/San Dieguito Lagoon approximately 400-feet to the north. Public parking is provided at the 29th Street streetend and along Camino Del Mar located between these beach access points.

E. Is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act;

The proposed seawall would facilitate lateral public access that is presently reduced due to the nonconforming location of the property's existing seawall within the Shoreline Protection Area. With removal of the existing rock revetment and seawall placed on public beach westerly of the Shoreline Protection Area (SPA) delineation line and construction of a new BPI compliant wall located landward (easterly) of the SPA line, additional sandy beach (approximately 1,000 square-feet) would be made available to the public bringing the property into compliance with the City's Local Coastal Program, itself acting as the implementing mechanism for the public access and public recreation policies of Chapter 3 of the California Coastal Act. Vertical public access is currently provided at the 29th Street street end approximately 270-feet to the south and at the southwest end of the Camino Del Mar Bridge/San Dieguito Lagoon approximately 400-feet to the north. Public parking is provided on 29th Street and along Camino Del Mar located between these beach access points in proximity to the project site.

F. Will involve materials and a design that are consistent with good engineering practices;

The proposed seawall has been designed utilizing contemporary standards and methods of engineering in accordance with Chapters 30.50 and 30.51 of the Del Mar Municipal Code and reviewed for compliance by both by the Applicant's civil engineer, as well as the City's chosen third-party civil engineer. Surfacing for the proposed wall would be comprised of concrete similar to and complementary of existing up down coast seawalls.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar that SSP25-002 shall be subject to the following conditions:

Note: Gaps in numbering and lettering are intentional.

GENERAL CONDITIONS

G-1 ***[Business License]***
Prior to commencement of any work on site, all contractors and subcontractors shall obtain a valid City of Del Mar Business License. The general contractor shall be responsible for ensuring that all subcontractors obtain required Business License and shall retain copies of said permits on site for verification by City staff.

G-3 ***[Development Authorization Limited to Plan Set]***
This permit is granted based on submitted plans dated **[August 12, 2025]**, and so identified by the staff of the Del Mar Planning and Community Development Department. Revisions to these plans and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

G-4 ***[Encroachment Permit for Work in Right-of-Way]***
Any work proposed or required within a City of Del Mar public right-of-way or access easement, or required within a public right-of-way or access easements pursuant to the conditions of approval of this Permit, shall be subject to the prior receipt of a City of Del Mar Encroachment Permit. Applications for Encroachment Permits shall include plans depicting all proposed private and public improvements including, but not limited to, improvements involving drainage, grading and/or public utilities. The required Encroachment Permit shall be subject to review and approval by the City of Del Mar in accordance with the procedures set forth in the DMMC and may include requirements for inspections and/or submittal of a security deposit(s). Please note that project plans indicating right-of-way improvements/access does not constitute approval of the separately required Encroachment Permit.

G-8 ***[Height and Setback Certifications Prior to Final Sign Off]***
Prior to final project sign-off by the Planning Department, the Applicant shall provide a statement from a Licensed Surveyor or registered civil engineer certifying that the wall height, location and alignment are in compliance with approved plans. The submitted certification shall be made using approved City of Del Mar elevation benchmarks or reference points.

G-11 ***[Plan for Construction-Phase Impacts]***
Prior to issuance of Building Permits or commencement of project implementation (whichever comes first), the Applicant shall provide a plan to the Planning Department for construction-phase parking and equipment/materials storage for the project. The plan must include the following:

a. Identification of an on-site material storage location;
b. Identification of an on-site equipment storage location;
c. Identification of at least two on-site parking space which will remain available throughout the duration of the project;

d. Location of any temporary sanitary facilities;
e. A note stating that "If on-street parking is utilized, a minimum street access clearance of 20ft. will be maintained";
f. Map displaying any/all haul routes; and
g. Contact information (phone number and Email) for the on-site supervisor(s);
    1. This information must also be posted on-site in a location which is readily visible from the public right-of-way for the duration of the project.

The plan required herein shall be subject to the review and written approval of the Planning and Community Development Director, working in consultation with Community Services/Parking Enforcement and Public Works Departments. Haul routes and work and/or storage of material or equipment within a City right-of-way will require the receipt of an Encroachment Permit. The requirements mentioned above may be modified by the Planning and Community Development Director, or his designee, upon a determination that sufficient alternatives have been proposed which achieve a similar level of compliance.

G-11A In addition to the submittal of a Construction Phase Impact Plan, the applicant must place a Construction Parking Placard in all vehicles associated with the project which will be parked off-site. The placard must remain in plain view on the dashboard of the vehicle throughout the duration of the project. A Construction Parking Placard can be obtained from the City of Del Mar Planning Department.

G-13 ***[Permit Expiration]***
This Permit shall expire three years from the date of approval, on **August 12, 2028** unless a Building Permit has been issued (if required by the DMMC) and substantial construction has been accomplished in reliance upon the permit. Pursuant to the DMMC, substantial construction is defined as: completion of a minimum of 10% of the total amount of construction authorized by the permit, based on the monetary value of construction costs including grading, site preparation and construction but specifically excluding all costs associated with the acquisition of interest in the project site and all costs associated with the preparation and processing of permits or plans.

G-14 **[*Preconstruction Meeting]***
Prior to any demolition, construction, and/or land disturbances occurring on-site, a pre-construction meeting shall be held. Attendees to this meeting shall include representatives from the City of Del Mar's Planning and Community Development Department, City Engineer, the Project Contractor/Superintendent, the Project Architect, the Project Engineer, the property owner and any others essential for the proper implementation and completion of this project. At a minimum, the following issues shall be reviewed at this meeting:

a. City of Del Mar inspection requirements.
b. Process for requests for plan modification and determinations of substantial conformance.
c. Discretionary permit conditions and requirements.
d. Construction hour limitations and noise standards.
e. Construction access and parking including equipment/materials storage and maintenance.

f. Work within public rights-of-way and/or easements.
g. Stormwater Best Management Practices.
h. Tree-preservation requirements.
i. Demolition permit requirements.
j. Signage requirements/limitations.
k. Neighborhood impact issues.
l. Key contact information.
m. Business license requirements.
n. Construction and demolition waste diversion requirements
o. Any other pertinent construction related activities and or information.

G-16 [*Compliance with City Noise Regulations]*
The applicant and all parties involved with implementation of the project shall comply with the regulations of the DMMC with regard to construction noise. The regulations stipulate that all construction activities are limited to the following periods: between 7:00 a.m. and 7:00 p.m. / Monday through Friday and between 9:00 a.m. and 7:00 p.m. on Saturdays. Construction activities are prohibited during other hours and on Sundays and City Holidays. The City's Noise Ordinance, Chapter 9.20 of the Del Mar Municipal Code, includes the dates of City Holidays, and can be viewed on the City's web page (www.delmar.ca.us).

G-17 *[Dig Alert]*
Prior to excavation or trenching, the applicant shall call Underground Service Alert of Southern California (Dig Alert- 1-800-227-2600) for a mark out of service utilities.

G-18 *[Rules for Construction-related Signage]*
All construction-related signage posted at the project site shall comply with DMMC Chapter 30.84 (Signs). The pertinent sections of the Sign Chapter allow installation of a total 5.5 square feet of temporary signage on a residential property (that is cumulative of all signs posted). Such signs may be posted for a maximum of sixty (60) days in a calendar year.

The restrictions noted above do not apply to the Development Pending, Construction Noise Notice and Building Permit signs required by the City as part of the project review process.

All construction related signage, including City required signs, shall be removed prior to final approval of the project.

ENGINEERING CONDITIONS

E-1 [*Authorization for off-site work*]
Prior to the issuance of Building Permits, the Applicant shall obtain letters of permission from any affected property owners if any construction or construction access is required across property lines.

E-2 [*Compliance with Appendix C-5 - Construction Urban Runoff*]
This project shall conform to Appendix C-5, the "Construction Urban Runoff Requirements Manual" as depicted in the latest edition of the City of Del Mar's "Jurisdictional Urban Runoff

Management Program". In addition, the construction practices are subject to inspection, and must conform to the "Low Priority Urban Runoff Management Plan" and corresponding "Urban Runoff Construction Site Inspection Record" as depicted in Appendix C-5.

STORMWATER CONDITIONS

SW-1 ***[Storm Drain Protection]***
Down gradient storm drains shall be protected at all times with perimeter controls, such as gravel bags or straw wattles. All sediment accumulation shall be removed (swept up, etc.) periodically, and prior to removal of controls.

SW-2 ***[Building Material Storage]***
All building materials and fuel stored on-site must be properly contained and covered.

SW-3 ***[Perimeter Controls]***
Perimeter controls must be used to surround the entire site to control run-on and run-off water flows. Gravel bags, silt fences, and/or straw wattles may be used as perimeter controls. All controls must be checked and maintained daily. In the event that perimeter controls are damaged, they will be replaced at the earliest possible time, not to exceed 2 days.

SW-4 ***[On-Site Storage]***
Construction materials must be stored on-site at all times unless a City of Del Mar Encroachment Permit has been obtained. Building materials should be covered when not in use to prevent run-off caused by wind or rain.

SW-5 ***[Refuse Containment]***
All dumpsters on-site must be covered. If a fixed-cover is not used, a rollback tarp shall be made available. Perimeter controls must be installed surrounding the dumpster. Areas around dumpsters should be swept daily and damaged perimeter controls replaced as necessary. If dumpsters are kept in the right-of-way, appropriate permits must be obtained.

SW-6 ***[Portable Toilets]***
Perimeter controls must be installed surrounding all Port-a-Potties. Perimeter controls shall be replaced as necessary to prevent discharge. If Port-a-Potties are kept in the right-of-way, appropriate permits must be obtained.

SW-7 ***[Concrete Containment]***
All concrete trucks/pumpers/mixers shall be surrounded by perimeter controls, such as gravel bags. Plastic sheets or tarps shall be placed beneath concrete pumpers at all times, and all residual materials swept up. Washout areas must be used whenever cleaning trucks, pumpers, or mixers. Under no condition will run-off from wash-out of materials be allowed to discharge into the storm drain.

SW-8 ***[Wet Material Disposal]***
Disposal of “wet” construction materials shall be handled in the washout area. This shall include paint, stucco, and concrete. A berm and/or plastic sheet shall be used to collect and contain liquids

and prevent run-off in nearby areas. The wash-out area shall be checked and maintained daily to ensure compliance. All washout liquids shall be disposed of properly.

SW-9 ***[Dirt/Gravel Coverage]***
Mounds of dirt or gravel shall be stored on-site, and out of the right-of-way, unless a City of Del Mar Encroachment Permit has been obtained. All mounds shall be covered daily with a tarp, coconut mat, or other form of protection. Visqueen and/or tarps must be available and on-site to cover 125% of exposed areas during the rainy season (October-April).

SW-10 ***[Heavy Equipment]***
All earthmoving equipment shall be stored on-site. Any required maintenance shall also be conducted on-site. Any tracks or trails left by equipment leading to and from the site shall be cleaned up immediately. If power washing is used to clean-up tracks and/or trails, all run-off shall be directed to vegetated or permeable areas and prevented from entering the municipal stormwater conveyance system. If permeable areas are unavailable, and power washing used, all washout shall be collected and disposed of properly.

SW-11 ***[Contractor Instruction]***
All subcontractors shall be instructed by the General Contractor on the proper use of stormwater controls at the site. It shall be the responsibility of the General Contractor (or their delegated representative) to ensure that stormwater controls are maintained throughout construction operations.

SW-12 ***[Landscape Materials/Trench Materials]***
All stockpiles of landscaping materials (including topsoil and/or manure) or trench spoils placed in the right-of-way shall be surrounded by perimeter controls, such as gravel bags. Plastic sheets or tarps shall be placed beneath the stored material at all times, and all residual materials swept up. For any materials stored in the right-of-way, appropriate permits must be obtained.

SW-13 ***[Debris Containment]***
All construction debris shall be contained in a secured, city approved container. Debris container shall be free of leaks and securely covered during non working hours.

SW-14 ***[Storm Event]***
In the event of a predicted storm event, additional stormwater BMPs may be required dependent on site conditions.

SW-15 ***[JURMP Compliance]***
The Project shall conform to the City of Del Mar "Construction Urban Runoff Requirements Manual as in accordance with the latest edition of the City of Del Mar Jurisdictional Urban Runoff Management Program (JURMP). In addition, all construction practices are subject to inspection, and must conform to the "Urban Runoff Management Plan" and corresponding "Urban Runoff Construction Site Inspection Record".

SW-16* ***[All Priority Development Projects with structural BMPs & O&M plans]***

Prior to occupancy, the Project Applicant shall provide the City of Del Mar Clean Water Manager with two (2) copies of Project "as-built" plans, stamped/signed final Stormwater Mitigation Plan, and final Operations & Maintenance Plans for inclusion of the Project in the City of Del Mar Annual Inspection Program.

SPECIAL CONDITIONS

S-1 [*No Encroachments of Private Improvements Located on or West of Shoreline Protection Area Line*]
There shall be no encroachments of private improvements located on or west of the Shoreline Protection Area line, to include but not limited to, transitional ladders/stairs for beach access.

S-5 [*Beach Access during Construction*]
Vertical and lateral pedestrian and lifeguard beach access shall be maintained during construction and lateral access shall be maintained as required by the Community Services Department of the City of Del Mar, in no event shall lateral access be disrupted below the Mean High Tide Line.

S-6 [*Sand Sifting*]
Prior to backfilling and final approval of the project by the City, the contractor shall sift sand such that material is free of stones or lumps exceeding 1 inch in greatest dimension, or organic and unsatisfactory material. The area to be sifted is along the length of the site, from the SPA line to 30 feet west, and to elevation +4 feet MSL.

S-7 [*Indemnification and Hold Harmless*]
The Applicant/owners agree to indemnify, defend and save the City of Del Mar, its authorized agents, officers, representatives and employees harmless from and against any and all costs, penalties, liabilities, annoyances or loss resulting from claims or court action arising out of, or related to the issuance of this permit or the work hereunder, including but not limited to any accident, loss or damage to persons or property happening or occurring as a result of any work undertaken under the permit granted pursuant to the application.

S-8 [*Equipment Removal*]
The Applicant/owner agrees that if any tank, pipe, conduit, duct, tunnel or other installation of any nature or kind placed in the structure for which the permit is issued which shall at any time in the future interfere with the use, repair, improvement, widening, or change of grade of the affected public property, the Applicants, or their successors or assigns, within ten (10) working days after the receipt of a written notice from the City Manager to do so, will at their own expense either remove such tank, pipe, conduit, duct, tunnel or other installation, or subject to the approval of the City Manager, relocate them to a site which may be designated by the City Manager.

S-10 [*Notice of Construction- City*]
The contractor/owner hereby agree to notify the Planning Department, the Superintendent of Public Works and the Community Services Department, in writing at least twenty-four (24) hours in advance of the time when work will be started. Contractor/Applicant will, upon completion of the work, immediately notify the Planning Director in writing of such completion.

S-11 [*Notice of Construction- Public Utility*]
Contractor/owner shall notify the appropriate utility owner forty-eight (48) hours prior to performing any work on or adjacent to any public utility. All such work shall be done only with authorization and with inspection by the appropriate utility owner.

S-12 [*Flag Person*]
The contractor shall provide a minimum of one (1) flag person to be onsite at all times during the operation of heavy equipment. In addition, the contractor shall be subject to all safety measures required by the Community Service Department during construction.

S-13 [*Staging Plan*]
If the contractor/Applicant propose to stockpile equipment or materials, a staging plan shall be submitted to the City of Del Mar, in advance, for the approval of the City Manager. No material or equipment shall be stored on public streets or rights-of-ways without prior written authority from the City Manager.

S-14 [*Sand Removal*]
All sand removed from the beach shall be replaced to the satisfaction of the City Manager.

S-15 [*Damage Repair*]
A qualified consultant shall document existing conditions along the beach frontage of neighboring properties, construction access points, and adjacent roadways. Documentation shall include video, still-images, reports, and any other means necessary to accurately assess the existing conditions. The documentation shall be reviewed by the City Engineer. Any damage caused by construction activities and/or construction traffic shall be repaired to the satisfaction of the City Engineer prior to final City of Del Mar acceptance.

S-16 [*Third-party Geotechnical Review*]
Prior to project implementation, the Applicant shall submit detailed construction drawings, geotechnical report, and engineering calculations for third-party review and approval by the City's designated Geotechnical/Coastal Engineer. The third-party review shall address, but not limited to review the design scour depth, pail capacity and deformation characteristics, post-construction deflections, concrete cap specifications, and flank protection.

S-18 [*Acceptance of Conditions*]
The owner and permittee shall file a statement of acceptance of conditions stating that the owners/permittee have read and understand and accept the conditions listed above and shall (prior to the commencement of construction) return a signed statement accepting said conditions.

S-20 *[Coastal Commission Coastal Development Permit]*
This PROJECT requires approval of a Coastal Development Permit issued by the California Coastal Commission. Prior to commencement of the project, the applicant shall provide evidence of the receipt of the Coastal Development Permit to the Director of Planning and Community Development.

PASSED AND ADOPTED by the Planning Commission of the City of Del Mar this 12th day of August, 2025 by the following vote:

AYES:

NOES:

RECUSED:

ABSENT:

ABSTAIN:

_____
Philip Posner, Chair
Planning Commission Chair
City of Del Mar, California

ATTEST:

_____
Karen Brindley
Planning and Community Development Director
City of Del Mar, California

EXHIBIT D

Setback Seawall Permit 2936 Camino Del Mar

Concerns of Steve Mack

2932 Camino Del Mar

Del Mar Municipal Code Section 30.51

- 30.51.040 Criteria for Approval
- C. Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs.

- 2932 is a unique home designed by Sim Bruce Richards; a student of Frank Lloyd Wright
- Due to the construction methods and materials used in the home design, the construction of a seawall on the adjoining property may cause significant damage.
- Construction of the seawall at 2920 Camino Del Mar caused significant damage to Mr. Mack's home requiring substantial remediation.

Sim Bruce Richards

Sim Bruce Richards was discovered by Frank Lloyd Wright through his early abstract rug designs while attending UC Berkeley (1930-34)15. Upon an invitation from Mr. Wright, impressed by Bruce's early work, Richards worked directly for Wright in the Taliesin Fellowship between 1934-3516. Bruce moved to San Diego in 1938 and drafted for the 11th Naval District and later William Templeton Johnson15. Following a brief stint with architect Harold Abrams (1946)15, Bruce began a multi-decade career designing some of the finest hand-crafted residences that followed Wright's principles of organic architecture [Among them: Siting a project in the manner the site dictated; using organic and even native materials to the site and surrounding areas; and incorporating plenty of natural light with a project designed at a "human" scale].

- Midcentury modern-inspired post and beam construction.
- Characterized by soaring spaces and glass expanses that bring the outdoors in.
- Redwood, walls of cedar, stained glass, stone and brick

The wood block floors of varying woods are particularly susceptible to damage and require a craftsman to repair.

Continuance

- Mr. Mack is asking that you continue this hearing to allow him tine to work with the applicant and the City to develop a protocol to protect his property from damage during the construction of the seawall.

Setback Seawall Permit 2936 Camino Del Mar

Concerns of Steve Mack

2932 Camino Del Mar

Del Mar Municipal Code Section 30.51

- 30.51.040 Criteria for Approval
- C. Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs.

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Item 2

Item 2

- Midcentury modern-inspired post and beam construction.
- Characterized by soaring spaces and glass expanses that bring the outdoors in.
- Redwood, walls of cedar, stained glass, stone and brick

The wood block floors of varying woods are particularly susceptible to damage and require a craftsman to repair.

Item 2.

Damage to Surrounding Area

- The home at 2932 Camino Del Mar, designed by noted architect Sim Bruce Richards, is a unique example of organic architecture and is constructed with materials and methods that make it particularly sensitive to vibrations and movement. During the construction of a previous seawall at 2920 Camino Del Mar, Mr. Mack's home experienced significant damage, including flooring and window seal failures, which required extensive repairs by specialized craftsmen.
- While Mr. Mack is not opposed to the concept of seawall construction in general, it is critical that any approval be conditioned on measures to protect adjacent properties from damage.
- Mr. Mack has retained the firm of Josephson and Werdowatz to conduct a comprehensive pre-construction inspection as well as vibration and movement monitoring throughout construction.

Liability

- Mr. Mack is asking for a surety to cover the cost of any damage to his home and provide for alternate accommodations during repairs/
- The applicant has indicated a willingness to come to an agreement; but parties have not had the time to develop a special condition or agreement that will address the problem.
- It is incumbent upon the City to require the project is completed in a manner that does not damage or destroy the surrounding area, including Mr. Mack's home at 2932 Camino Del Mar.

ATTACHMENT D

AANNESTAD ANDELIN & CORN LLP
160 CHESTERFIELD DRIVE • SUITE 102
CARDIFF-BY-THE-SEA • CALIFORNIA 92007
www.aac.law • (760) 944-9006

Coastal Property Rights, Land Use & Litigation

September 22, 2025

VIA EMAIL

Jean Crutchfield, Associate Planner
City of Del Mar
1050 Camino del Mar
Del Mar, California 92014
jcrutchfield@delmar.ca.us

Re: Initial Consideration – Planning Commission Determination Regarding Setback Seawall Permit SSP 25-002 (2936 Camino del Mar)

Dear Ms. Crutchfield:

I am counsel for the applicant for the above-referenced project. There is no basis for City Council to accept the appeal filed on behalf of Steve Mack. The appellant states that he "is not opposed to the concept of a seawall construction in general …." The appeal relies entirely on Del Mar Municipal Code section 30.51.040(C), which requires the Planning Commission to find the project "neither create[s] nor contribute[s] significantly to erosion, geologic instability, or destruction of the site or surrounding area …."

The Planning Commission's resolution, at paragraph C, correctly recites the evidence in support of this finding: "The proposed seawall has been designed using contemporary standards and methods of engineering in accordance the design and location requirements of Chapters 30.50 and 30.51 of the Del Mar Municipal Code. Submitted analysis from a qualified civil engineer (and reviewed and verified by expert third-party) specifically confirms that the design of the proposed seawall, effectively protect the subject property and would not contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.…" Indeed, the seawall plans are based on the City's standard seawall design that has been implemented without incident all along the City's coastline.

The only evidence cited to the contrary is counsel's own unverified statement that "[the appellant's] home suffered significant damage during the construction of the seawall at 2920 Camino Del Mar—which has since been repaired." What counsel fails to mention, as she conceded on the record at the Planning Commission meeting, is that the construction at 2920 Camino Del Mar used older and inferior equipment for driving the sheet piles into the ground.

Notably, 2920 is two lots south of the appellant's property. Construction of the seawall for the property at 2928 Camino Del Mar, immediately adjacent to the appellant's, used higher grade equipment—the same that the applicant's contractor plans to use here—and did *not* cause any damage to the appellant's property, even though it was in closer proximity.

Thus, the proposed project is not expected to cause any damage to the appellant's property.

Protection of the appellant's property is further assured by Special Condition No. S-15, which provides: "A qualified consultant shall document existing conditions along the beach frontage of neighboring properties, construction access points, and adjacent roadways. Documentation shall include video, still-images, reports, and any other means necessary to accurately assess the existing conditions. The documentation shall be reviewed by the City Engineer. *Any damage caused by construction activities* and/or construction traffic *shall be repaired to the satisfaction of the City Engineer* prior to final City of Del Mar acceptance." (Italics added.) In short, in the unlikely event that any damage is caused, the applicant will be required to repair the damage under the supervision of the City Engineer.

The foregoing should be more than enough to satisfy the appellant's demand that "any approval be conditioned on measures to protect the adjacent property from damage."

Thank you for your consideration. I would be happy to provide any additional information you might need.

Very truly yours,

AANNESTAD ANDELIN & CORN LLP

Lee M. Andelin

cc: Sarah Krietor
Karen Brindley
Matt Bator
Walter F. Crampton
Peter McInish

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Kseniia Izgarskaia, Senior Management Analyst
Sarah Krietor, Administrative Services Manager/City Clerk
Via Ashley Jones, City Manager

DATE: October 20, 2025

SUBJECT: 2026 City Council Meeting Schedule and Proposed 2025 and 2026 City Facility Holiday Closures

REQUESTED ACTION/RECOMMENDATION:
Staff recommends that the City Council: 1) Review and consider the 2026 City Council Meeting Schedule options (Attachment A and B) provide direction to staff regarding changes to the proposed schedule; and 2) Authorize the additional holiday related closures of City Hall and the Public Works Administrative Offices to the public in December 2025 and December 2026.

BACKGROUND:
Del Mar Municipal Code (DMMC) Section 2.20.040(A) states that, “Regular meetings of the City Council shall be held on the first and third Monday of each month,” and further states that, “The City Council may, by resolution, designate another date, time, and location for a regular meeting.” The DMMC, and the procedures adopted by the City Council through Resolution 2009-40, require the City Council to annually adopt a meeting schedule for the upcoming calendar year, identify any regular meeting dates to be cancelled, and designate any new dates as regular meetings.

Additionally, City facilities are closed each year in December and January for the following designated City holidays: Christmas Eve, Christmas Day, New Year’s Eve and New Year’s Day. In past years, the City Council authorized staff to close City facilities for additional days around holidays when it is practical to do so.

For several years, City Hall and the Public Works Administrative Office have been closed to the public between the Christmas and New Year’s holidays. This closure takes into account normal paid City holidays and includes additional non-paid days between Christmas and New Years, which is historically a very slow time of year for the City.

The original proposed 2025 and 2026 Holiday Closures and 2026 City Council Meeting Schedule was included on the Council meeting agenda for consideration on October 6, 2025; however, the meeting was cancelled. In preparation for that meeting, Councilmembers had

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City Council Action:

an opportunity to review the published agenda report and proposed meeting schedule. As a result, two Councilmembers requested that staff create an alternative schedule for the Council's consideration, which is described below and included with this report as Attachment B. Based on City Council's direction, staff will return with a formal resolution approving the final 2026 Council meeting schedule at the next Council meeting on November 3, 2025.

DISCUSSION/ANALYSIS:

2026 Council Meeting Schedule - Option 1 (Original Schedule Proposed by Staff)

The original proposed 2026 City Council Meeting Schedule calendar, which is based on the Council's regular meeting schedule as specified in the DMMC, is included as Attachment A and visually displays the meeting schedule in a calendar format. If the City Council finds that additional meetings are needed during the calendar year, the Council can add meetings by scheduling a special meeting or adjourning a regular meeting to a new date.

Proposed 2026 City Council Regular Meeting Schedule

Typically, the City Council meets twice per month on the first and third Monday. However, it is not uncommon for the Council to modify the meeting schedule, when necessary, such as for City observed holidays and the Council's summer meeting recess. Proposed 2026 Council Meeting Schedule changes include:

1) Holding the second meeting of January 2026 on Tuesday, January 20 to account for the Martin Luther King Holiday on Monday, January 19.

2) Holding the second meeting of February 2026 on Tuesday, February 17, to account for the President's Day holiday on February 16.

3) Traditionally, the City Council takes a month-long summer recess. Consistent with the break timing for the last few years, staff recommends that the Council forego the second regularly scheduled meeting in July 2026 (July 20) and first regularly scheduled meeting in August 2026 (August 3), resuming the meetings on August 17, 2026. If the City Council finds that a meeting is needed during the Council recess, the Council can call a special meeting.

4) Holding the first meeting of September 2026 on Tuesday, September 8 to account for the Labor Day holiday on Monday, September 7.

5) Holding the single Council meeting in November 2026, on Monday, November 16, which takes into account the City General Election (Council Policy 107) and the Thanksgiving Holiday.

The City Council may direct staff to make any additional changes to this schedule, as needed.

2026 Council Meeting Schedule - Option 2 (Tuesday Meetings with Additional Changes)

Two Councilmembers requested that staff create an alternative schedule (Attachment B) for the Council's consideration that shifts Council meetings from being held on Mondays to Tuesdays, following the same first and third week of the month meeting schedule, and

incorporates additional changes as described below. If approved, holding Council meetings on Tuesdays instead of Mondays would occur during 2026 as a one-year pilot program, which would be formalized via resolution at the next City Council meeting. If at the end of 2026 the Council determines that the Tuesday Council meeting day works well, the Council could adopt an ordinance amending the Del Mar Municipal Code to make the Tuesday meetings permanent.

Additional requested schedule changes reflected on the Option 2 proposed meeting calendar include changing the single August meeting date from August 18 to August 25, and adjusting the September meeting dates to September 8 and September 22 to allow for sufficient time between meetings in light of the modified August meeting date. It was also suggested that the one meeting to be held in November should occur on November 10 instead of November 17.

Special Meetings

The City Council typically holds a Goals and Priorities Workshop in the first part of the calendar year. Once the Mayor and Deputy Mayor are seated for 2026, staff will schedule a meeting to discuss possible dates and a format for the 2026 Council Goals and Priorities Workshop, which will be presented Council for discussion and feedback prior to scheduling.

In past election years, the City Council has called a special meeting to certify election results in December if the certified election results were not received from the County of San Diego Registrar of Voters in time to be certified at a regularly scheduled Council meeting. Staff anticipates the certified election results will be available prior to the last December meeting. However, if they are not available for that meeting, a special meeting will be required.

Proposed 2025 and 2026 City Facility Holiday Closures

In 2025, the designated paid City holidays fall on December 24 (Wednesday), 25 (Thursday), 31 (Wednesday), and January 1 (Thursday). Based on the closures of City Hall and the Public Works Administrative Office in past years between Christmas and New Years with minimal public impact, staff proposes additional non-paid closure days on December 26 (Friday), 29 (Monday), 30 (Tuesday), 2025, with the City re-opening for remote services on January 2 (Friday), 2026, and full in-person services on Monday, January 5, 2026.

In 2026, the designated paid City holidays fall on December 24 (Thursday), 25 (Friday), 31 (Thursday), and January 1 (Friday). Staff proposes additional non-paid closure days on December 28 (Monday), 29 (Tuesday), and 30 (Wednesday), 2026. City Hall would reopen to the public on Monday, January 4, 2027.

If the recommendation is approved by the City Council, staff that choose to work on the additional non-paid closure days can do so or they would be able to use accrued leave and take additional time off. Although the City Hall and Public Works Offices would be closed to the public, City field operations would continue as normal and beach maintenance, public safety, parking enforcement, and public works field staff would still provide a standard level of service to the public during that time.

As in past years, if approved, staff will notify the public of the holiday closure dates via several channels, such as sending out eblasts and including in the Del Mar Weekly, posting the dates on the City website calendar, posting signs on the City Hall front doors, making announcements at the December Council meetings, noting the close on Google, and providing notifications through the City's social media.

FISCAL IMPACT:
There is no fiscal impact or action to be taken related to this agenda item.

ATTACHMENTS:
Attachment A – Proposed 2026 City Council Meeting Calendar
Attachment B – Alternative Proposed 2026 City Council Meeting Calendar

2026 Del Mar City Council Meeting Calendar

January						
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Key:

City Council Meeting

City Holiday

Special Meetings: City Council Goals and Priorities Setting Workshop - TBD

Approved xx/xx/2025

2026 Del Mar City Council Meeting Calendar

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August						
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September						
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November						
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December						
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27	28	29	30	31		

Key:

City Council Meeting

City Holiday

Special Meetings: City Council Goals and Priorities Setting Workshop - TBD

Approved xx/xx/2025

City of Del Mar
Council Liaison Report

TO: Honorable Mayor and City Council Members

FROM: Dwight Worden, Del Mar Representative to the Metro JPA

DATE: October 2, 2025

The Metro JPA Board/Commission met on October 2, 2025. The Metro Board approved the Second Amended and Restated Agreement (SARA). This is the new document governing the relationship between the Metro agencies (including the City of Del Mar) and the City of San Diego as owner of the metro system. The SARA is not binding unless and until approved by each of the Metro member Participating Agencies (PA's) and by the City of San Diego. Today's action was to recommend approval to the PA's. It will be transmitted to the PA's shortly. City of San Diego staff is also recommending it for approval to the San Diego City Council.

COMMENTS

Of the 11 Metro JPA members, one, Padre Dam, voted "no" on the SARA. All 10 other members voted "yes." To be effective the SARA needs to be approved by all 11 PA's. Extensive discussions have been held with Padre Dam's representative to the Metro JPA, and there is hope that they will eventually come on board, but at the moment they are a "no." The issue of concern to Padre is the provision in SARA that certain decisions can be made by 2/3 vote of the JPA. Padre wants it to be unanimous. This is not acceptable to the City of San Diego which owns the system or to the other 10 JPA members as it would effectively give every member a veto. Discussions are continuing. I will keep you posted.

The SARA has been extensively reviewed by me, by Public Works Director Joe Bride and by City Manager Ashley Jones. It is good for Del Mar. Del Mar will officially receive a copy from the JPA soon, and JPA staff will be offering a traveling road show to present it to the legislative bodies of the PAs. I am also available to answer questions.